

ELIZABETH II



1977 CHAPTER i

An Act to provide for the development of certain rivers and waterways for recreational purposes; to constitute the Anglian Water Authority as the navigation authority for such rivers and waterways and to provide for the control of such rivers and waterways by the Authority; to provide for the transfer to the Authority of the undertaking of a navigation authority for the river Stour; to empower the Authority to make further discharges of water from the works constructed under the Ely Ouse-Essex Water Act 1968 and for that purpose to carry out works; to confer further powers on the Authority in relation to the performance of their functions; to extend to the area of the Authority certain enactments in force in parts of that area; and for other purposes. [17th March 1977]

WHEREAS the Anglian Water Authority (hereinafter in this Act referred to as "the Authority") were constituted in pursuance of the Water Act 1973 (hereinafter in this Act referred to as "the Act of 1973") as the authority responsible for water conservation, the supply of water, land drainage, prevention of pollution, the provision of public sewerage and sewage disposal, water recreation and the management and improvement of salmon, trout and freshwater fisheries within an area which includes the counties of Cambridgeshire, Lincolnshire, Norfolk and Suffolk, and parts of the counties of 1973 c. 37.

Bedfordshire, Buckinghamshire, Essex, Hertfordshire, Humberside, Leicestershire, Northamptonshire, Nottinghamshire and Oxfordshire and part of the London Borough of Havering:

And whereas there are within the area of the Authority a number of navigable rivers and other waterways in respect of which there are public rights of navigation:

And whereas for many years commercial navigation of these rivers and waterways has been diminishing but the use thereof for boating, angling and other forms of recreation has increased and will continue to increase:

And whereas it would be of public and local advantage to foster, improve and extend the use of these rivers and waterways for recreational purposes:

And whereas the Authority are the navigation authority in respect of some of the said rivers and waterways but there are no authorities exercising effective control over the remainder of such rivers and waterways:

And whereas it would be expedient for the Authority to have improved powers of management and control in respect of those rivers and waterways in respect of which they are the navigation authority:

And whereas it would also be expedient for the Authority to undertake responsibility for the management and control of certain rivers and waterways in respect of which they are not at present the navigation authority, and for provision to be made to enable them to undertake such responsibility in respect of other rivers and waterways suitable for use as recreational waterways, and for those purposes to confer upon them additional powers as in this Act provided:

1968 c. xxvi.

And whereas it is expedient to empower the Authority to make discharges of water from the works constructed under the powers of the Ely Ouse-Essex Water Act 1968 into a tributary of the river Colne in the county of Essex to augment the yield of the Ardleigh reservoir and to meet increasing demands for a supply of water from consumers within the catchment area of the said river, and for that purpose to carry out certain works:

And whereas to enable the Authority to discharge their statutory functions with greater efficiency it is expedient that they should be granted the other additional powers conferred upon them by this Act and that certain statutory provisions in force in parts of the area of the Authority should be extended so as to apply to the whole of that area:

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

And whereas 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:—

PART I

PRELIMINARY

1. This Act may be cited as the Anglian Water Authority Act Short title. 1977.

2.—(1) In this Act, unless the subject or context otherwise Interpretation, requires, the following expressions shall have the meanings hereby assigned to them:—

“ the Act of 1945 ” means the Water Act 1945; 1945 c. 42.

“ the Act of 1963 ” means the Water Resources Act 1963; 1963 c. 38.

“ the Act of 1972 ” means the Local Government Act 1972; 1972 c. 70.

“ the Act of 1973 ” means the Water Act 1973; 1973 c. 37.

“ the Act of 1976 ” means the Land Drainage Act 1976; 1976 c. 70.

“ the area of the Authority ” means in relation to any function of the Authority the area which is for the time being the area of the Authority for the purposes of that function;

“ the Authority ” means the Anglian Water Authority;

“ the chief executive ” means the chief executive of the Authority and includes any person authorised to exercise his functions;

“ district ” has the same meaning as in the Act of 1972;

“ 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 Authority;

“ land ” includes land covered with water and any interest in or right over land;

“ the Minister ” means the Minister of Agriculture, Fisheries and Food;

“ the Ministers ” means the Secretary of State and the Minister;

“ Toppesfield Brook ” means the ditch which is a tributary of the river Colne and is known as Toppesfield Brook in the parishes of Steeple Bumpstead, Finchingfield, Stambourne and Toppesfield in the district of Braintree in the county of Essex.

(2) In this Act, unless the subject or context otherwise requires, “ navigation authority ”, “ harbour authority ” and “ conservancy authority ” have the same respective meanings as in the Act of 1963.

PART I
—cont.

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

PART II

RECREATIONAL WATERWAYS

Interpretation
for purposes
of Part II of
Act.

3. In this Part of this Act unless the subject or context otherwise requires—

“pleasure boat” means any vessel (including an amphibious craft) other than a seaplane or a vessel being used solely as a tug or for the carriage of goods;

“recreational waterways” means the waterways in respect of which the Authority are for the time being the navigation authority whether by virtue of this Act or some other enactment;

“the statutory navigations” means the navigations specified in Parts I and II of Schedule 1 to this Act;

“transferred undertaking” in relation to the statutory navigation specified in Part II of Schedule 1 to this Act means—

(a) all the property of the undertakers (both real and personal) which immediately before the passing of this Act was held or used solely for the purposes of the navigation;

(b) all powers, rights, functions, obligations and liabilities of the undertakers subsisting immediately before the passing of this Act solely for those purposes other than rights and duties for the rendering of personal service;

“the tribunal” means the Lands Tribunal;

“the undertakers” means in relation to the transferred undertaking the navigation authority for the waterway to which the undertaking relates;

“vessel” includes any ship, lighter, keel, barge, boat, raft, pontoon, tug, hovercraft, hydrofoil and craft of any kind howsoever navigated, propelled or moved and any seaplane on the surface of the water;

“waterway” means so much of any river, stream or other watercourse, whether natural or artificial and whether tidal or not, as is within the area of the Authority and includes part of a waterway and any cut, inlet, creek, lock, weir and barrier to the passage of vessels in a waterway.

4.—(1) On the passing of this Act the transferred undertaking shall by virtue of this Act be transferred to and vest in the Authority without payment.

PART II
—cont.

Transfer to
Authority of
Stour
navigation.

(2) (a) The production of a copy of this Act together with a statutory declaration by the chief executive shall be sufficient authority to the Chief Land Registrar of Her Majesty's Land Registry to enter the name of the Authority as proprietor of any registered land forming part of the transferred undertaking or to any company in whose books any stock forming part of the transferred undertaking is standing to transfer the stock into the name of the Authority and to pay any dividend, interest or bonuses thereon to the Authority.

(b) A statutory declaration made under the last foregoing paragraph shall describe for the purpose of identification the land or stock to which it relates.

(c) In respect of unregistered land a statutory declaration by the chief executive containing the particulars required by the last foregoing paragraph shall be conclusive proof in favour of a successor in title to the Authority that the land to which it relates formed part of the transferred undertaking.

(d) In this subsection—

“ company ” includes the Bank of England and any corporation or person keeping books in which any stock is registered or inscribed; and

“ stock ” includes any share, bond, fund, annuity or other security.

5.—(1) Notwithstanding the transfer to the Authority of the transferred undertaking and the repeal of the enactments relating to that undertaking mentioned in Part II of Schedule 1 to this Act—

Continuation
of proceedings,
etc.

(a) any action, arbitration or proceeding or any cause of action, arbitration or proceeding pending or existing at the passing of this Act by or against or in favour of the undertakers shall not abate or be discontinued or be in any wise prejudicially affected by reason of the transfer to the Authority of the transferred undertaking or of anything in the last preceding section of this Act, but may be continued, prosecuted and enforced by, or against or in favour of, the Authority as and when it might have been continued, prosecuted or enforced by or against or in favour of the undertakers if the said section had not been enacted, but not further or otherwise;

PART II
—cont.

(b) all agreements, conveyances, contracts, deeds and other instruments entered into or made with or by the undertakers and in force on the passing of this Act shall, as from that date, be as binding and of as full force and effect in every respect against or in favour of the Authority and may be enforced as fully and effectually as if the Authority had been a party thereto or bound thereby or entitled to the benefit thereof, but nothing in the said section or done thereunder shall prejudice or affect the right of the Authority to terminate any such agreement, conveyance or contract at such time and in such manner as it might have been terminated if the said section had not been enacted;

(c) all rents, rates and charges and other sums and debts on the passing of this Act due and payable or accruing due and payable to the undertakers shall be payable to and may be collected, recovered and enforced by the Authority in the same manner and with and by the same benefits and processes as those with and by which the undertakers might have collected, recovered and enforced them and shall be applied by the Authority for the purposes of their functions under this Part of this Act.

(2) References in this section to the undertakers shall include references to a body which was formerly such undertakers but has ceased to exist and to a body which no longer has any members but, if it had members, would be such undertakers.

Repeal of enactments relating to statutory navigations.

6. So much of the enactments mentioned in Schedule 2 to this Act as relates to navigation is hereby repealed.

Authority to be navigation authority for certain recreational waterways.

7. Notwithstanding the repeal by section 6 (Repeal of enactments relating to statutory navigations) of this Act of the enactments mentioned in that section the Authority—

(a) shall continue to be the navigation authority for the waterways specified in Part I of Schedule 1 to this Act, and

(b) shall be the navigation authority for the waterways specified in Parts II and III of the said Schedule.

Maintenance of navigations.

8. The Authority shall take such steps as are reasonably practicable to maintain the main navigation channels and navigation works of the waterways specified in Schedule 1 to this Act to at least as good a standard for the purpose of navigation by pleasure boats as that to which they were maintained in the period of nine months immediately preceding 8th December, 1975.

9. Notwithstanding in the case of the statutory navigations the repeal by this Act of the enactments mentioned in Schedule 2 to this Act, members of the public shall have the like rights to navigate the waterways specified in Schedule 1 to this Act and to pass through and use any locks or other works constructed to facilitate navigation as they had before the passing of this Act but the exercise of such rights shall be subject to the following conditions and restrictions:—

- (a) payment of any charges, tolls or dues lawfully demanded by the Authority under any enactment; and
- (b) observance of any rules, regulations or byelaws relating to the recreational waterway and for the time being in force.

10.—(1) The Secretary of State may, on the application of the Authority and on being satisfied that it is in the best interests of recreation and the occupation of leisure, make an order providing for—

Power to make orders with regard to recreational waterways.

- (a) the creation of public rights of navigation in respect of any waterway in the area of the Authority which is not under the jurisdiction of or does not form part of the undertaking of a navigation authority, harbour authority or conservancy authority; or
- (b) constituting the Authority as the navigation authority in respect of any waterway in the area of the Authority, not being a waterway which is—
 - (i) under the jurisdiction of or part of the undertaking of a navigation authority, harbour authority or conservancy authority; or
 - (ii) in any part seaward of the limits specified in Schedule 3 to this Act, for the waterways respectively also there specified.

(2) An order made under paragraph (a) of the last foregoing subsection creating public rights of navigation may create either all such rights or only such rights in respect of vessels of particular classes or descriptions as may be specified in the order.

(3) The provisions of Schedule 4 to this Act shall have effect with respect to applications and orders under this section.

(4) An order under this section may contain such transitional, incidental, supplementary and consequential provisions as the Secretary of State considers necessary or expedient, including (but without prejudice to the generality of this subsection) such provisions as he considers necessary or expedient with respect to the amendment, adaptation or repeal of enactments (including local enactments).

PART II
—cont.

(5) If it is shown that the value of an interest of a person in land is depreciated or that a person has suffered damage by being disturbed in his enjoyment of land, in consequence of the creation of public rights of navigation by an order under paragraph (a) of subsection (1) of this section, that person shall be entitled to be paid by the Authority compensation equal to the amount of the depreciation or damage to be determined, in default of agreement, by the tribunal.

In this subsection “interest”, in relation to land, includes any estate in land and any right over land, whether the right is exercisable by virtue of the ownership of an interest in land or by virtue of a licence or agreement, and in particular includes sporting rights.

General duty
of the
Authority in
relation to
recreational
waterways.

11.—(1) The Authority shall take such steps as are reasonably practicable to ensure that a recreational waterway is put to the best use for the purposes of recreation and the occupation of leisure having regard to its other lawful uses.

(2) The Secretary of State may give the Authority such general or special directions as he considers appropriate in relation to their functions under this Part of this Act, and it shall be the duty of the Authority to comply with those directions.

General
powers of
Authority in
relation to
recreational
waterways.

12.—(1) In the performance of their functions under section 20 of the Act of 1973 and under this Part of this Act the Authority may develop, improve, preserve and manage the recreational waterways as places for recreation and the occupation of leisure.

(2) In the exercise of their powers under subsection (1) of this section the Authority may maintain and improve existing works, buildings and other facilities and construct, lay out, equip and maintain all such further works, buildings and facilities, provide all such facilities, equipment and services and provide or do all such other acts or things as they may think necessary or expedient for that purpose.

(3) Without prejudice to the generality of the foregoing provisions of this section the Authority may—

(a) place, lay down, maintain and use moorings in the recreational waterways or on the banks thereof on land owned by or leased to the Authority or in which they have a sufficient interest and on any other land with the consent of the owner or lessee of such land;

(b) from time to time deepen, dredge, scour and improve and remove obstructions from the bed and banks of a recreational waterway.

(4) The Authority shall pay compensation to all persons for any damage sustained by them by reason of the exercise by the Authority of the powers of paragraph (b) of subsection (3) of this section. Any question as to the amount of the compensation to be so paid shall be determined by the tribunal.

(5) The powers conferred upon the Authority by this section may be exercised notwithstanding interference with public rights of navigation.

(6) As early as possible, and except in case of emergency not less than twenty-eight days, before any exercise of their powers under paragraph (b) of subsection (3) of this section within a distance of 50 metres of any subaqueous cable or telegraphic line belonging to or used by the Post Office the Authority shall give notice in writing to the Post Office of such intended exercise:

Provided that this subsection shall not apply in relation to any such subaqueous cable or telegraphic line unless the Post Office has supplied the Authority with a plan showing the position in which the subaqueous cable or telegraphic line is laid in or under a recreational waterway.

(7) In this section the expression “ telegraphic line ” has the same meaning as in the Telegraph Act 1878.

1878 c. 76.

13. In their application to the Authority for the purposes of this Part of this Act the powers of section 65 of the Act of 1963 for the acquisition of land compulsorily shall extend to enable the Authority to acquire such land only as they may require for placing and laying down moorings on any bank of a recreational waterway or in the bed of a recreational waterway adjacent to such a bank, being in either case land to which users of the moorings have a subsisting right of access.

Acquisition
of land for
water
recreation.

14.—(1) The Authority may exercise the powers of section 65 of the Act of 1963 (as applied by the last preceding section of this Act) so as to purchase, by means of a compulsory purchase order, such new rights over land as are specified in the order; and in this section “ new rights ” means rights purchased in pursuance of the foregoing provisions of this subsection and which are not in existence when the order specifying them is made.

Acquisition
of new rights
over land.

(2) (a) If the value of any interest in land to which this subsection applies is depreciated by the compulsory purchase of new rights, the person entitled to that interest shall be entitled to compensation from the Authority of an amount equal to the amount of the depreciation.

(b) This subsection applies to any interest in any land over which new rights are purchased, and to any interest in any land which, on the appropriate date, is held with that land.

PART II
—cont.

(3) (a) Where the person entitled to an interest in land to which the last preceding subsection applies sustains loss or damage which—

- (i) is attributable to the purchase of new rights; and
- (ii) does not consist of depreciation of the value of that interest; and
- (iii) is loss or damage for which, if his interest in the land over which the new rights are acquired had been compulsorily acquired under subsection (2) of section 65 of the Act of 1963 (as applied by the last preceding section of this Act) and in pursuance of a notice to treat served on the appropriate date, he would have been entitled to compensation by way of compensation for disturbance or injurious affection;

he shall be entitled to compensation from the Authority in respect of that loss or damage, in addition to compensation under the last preceding subsection.

1973 c. 26.

(b) The modifications subject to which subsection (1) of section 44 of the Land Compensation Act 1973 is to have effect, as applied by subsection (2) of that section to compensation for injurious affection under this section, are that for the words “land is acquired or taken” there shall be substituted the words “a right over land is purchased” and for the words “acquired or taken from him” there shall be substituted the words “over which the right is exercisable”.

1965 c. 56.

(4) Subsections (2) and (3) of this section shall have effect without prejudice to any right to compensation under section 10 of the Compulsory Purchase Act 1965 but, subject to the provisions of this section, no person shall be entitled to compensation, in respect of the compulsory acquisition of new rights, otherwise than in accordance with subsections (2) and (3) of this section.

1946 c. 49.

(5) The Acquisition of Land (Authorisation Procedure) Act 1946 and the Compulsory Purchase Act 1965 shall have effect with the modifications necessary to make them apply to the compulsory purchase of rights as they apply to the compulsory purchase of land so that, in appropriate contexts, references in those Acts to land are read as referring, or as including references, to the rights or to land over which the rights are or are to be exercisable, according to the requirements of the particular context.

(6) Without prejudice to the generality of the preceding subsection, in relation to the purchase of new rights—

- (a) Part III of Schedule 1 to the said Act of 1946 (which provides for special parliamentary procedure in the case of the purchase of land of certain descriptions) shall have effect with the adaptations specified in Part I of Schedule 5 to this Act;

(b) Part I of the said Act of 1965 (which relates to compulsory purchases under the said Act of 1946) shall have effect with the modifications specified in Part II of Schedule 5 to this Act; and

PART II
—cont.

(c) the enactments relating to compensation for the compulsory purchase of land shall apply with the necessary modifications as they apply to such compensation.

(7) In this section “ compulsory purchase order ” has the same meaning as in the said Act of 1946, and “ the appropriate date ” means the date of service of the notice to treat in pursuance of which the new right is acquired.

15.—(1) The Authority may temporarily prohibit, restrict or regulate the use or navigation of a recreational waterway for any of the following purposes:—

Temporary closure of recreational waterways.

(a) the construction, maintenance or alteration of any lock or other work in or adjoining the waterway; or

(b) to facilitate the holding of functions in connection with the use of the waterway as a place of recreation and the occupation of leisure:

Provided that the Authority shall not prohibit, restrict or regulate the use or navigation of a recreational waterway for a purpose specified in paragraph (b) of this subsection for more than one half-hour in any period of one hour or for more than eight periods each of one half-hour in any period of twenty-four hours.

(2) (a) Before exercising their powers under subsection (1) of this section the Authority shall, except in an emergency, publish notice in one or more local newspapers circulating in the district in which the recreational waterway is situated.

(b) The notice shall be published not less than one month before the powers are to be exercised and shall state the extent to which, the period during and the purpose for which the use or navigation of the recreational waterway is to be prohibited, restricted or regulated.

(3) A copy of the notice published under subsection (2) of this section shall be conspicuously displayed in such one or more places on or adjacent to the recreational waterway to which it relates as the Authority consider appropriate for bringing its contents to the notice of persons using or navigating the waterway.

16.—(1) The Authority may in the performance of their functions under section 20 of the Act of 1973 and this Part of this Act appoint officers of the Authority to act as wardens or bailiffs for the purpose of enforcing or securing compliance with the

Appointment of wardens or bailiffs.

PART II
—cont.

provisions of this Part of this Act and of any byelaws relating to the recreational waterways and made under section 79 of the Act of 1963 or under section 18 (Byelaws) of this Act.

(2) Without prejudice to the provisions of any other enactment any person who intentionally obstructs an officer of the Authority appointed under subsection (1) of this section duly acting for the purposes stated therein shall be liable on summary conviction for each offence to a fine not exceeding £20.

Charges.

17.—(1) In its application to charges in respect of the use by vessels of recreational waterways section 30 of the Act of 1973 shall have effect as if the exercise of the functions of the Authority in relation to the use of those waterways for navigation under this Part of this Act were services performed or facilities provided by the Authority for or in respect of all users of those waterways.

Provided that no charge shall be payable in respect of the use or navigation of a recreational waterway by a vessel belonging to or employed in the service of any highway authority, police authority or fire authority for the purpose of the exercise of their functions.

(2) A list showing the charges for the use by vessels of any recreational waterway which are for the time being in force shall be displayed at one or more convenient places on or adjacent to the waterway and copies of the list shall on request be supplied by the Authority free of charge.

Byelaws.

18.—(1) The Authority may make byelaws in relation to the recreational waterways for any matter falling within their functions as the authority responsible for maintaining and improving those waterways for the purposes of recreation and the occupation of leisure and for controlling the navigation of those waterways and in particular, but without prejudice to the generality of those powers, for all or any of the following purposes:—

- (a) to secure the conservation and improvement of a recreational waterway and its amenities for the purposes of recreation and the occupation of leisure and to promote the ease, convenience or safety of navigation;
- (b) to regulate vessels in a recreational waterway and their launching on or entry into, departure from and movement in the waterway, and, without prejudice to the generality of the foregoing, to prescribe the speed of vessels and rules for navigation;
- (c) to prescribe recreational waterways—
 - (i) where vessels or a specified class of vessels may not moor, anchor or be otherwise secured;
 - (ii) which vessels of a specified class may not enter

- (iii) where activities of a specified type may not be carried on, or may only be carried on in accordance with specified conditions;
- (d) to prescribe periods (including days and parts of a day) when vessels of a specified class or description may not navigate the whole or part of a recreational waterway;
- (e) to provide for the registration of pleasure boats using or navigating a recreational waterway and prohibiting the use or navigation of a recreational waterway by pleasure boats which are not for the time being registered by the Authority;
- (f) with a view to ensuring the safety of passengers in vessels in a recreational waterway and of other vessels or persons using such a waterway, to prescribe standards for any engines, appliances, fittings or equipment in such vessels, and to make provision with regard to the use and operation of such vessels, engines, appliances, fittings and equipment and, without prejudice to the generality of the foregoing—
 - (i) to make provision with regard to the construction, maintenance and use of engines used for the propulsion of powered boats and with regard to the storage and supply of fuel for such engines;
 - (ii) to require the provision of effective fire extinguishers;
 - (iii) to regulate appliances for cooking, heating, lighting or refrigeration, and the storage and supply of fuel for such appliances;
- (g) to regulate the placing, maintenance and use of moorings in a recreational waterway;
- (h) to regulate the use and to prevent the misuse of and damage to the bed and banks of a recreational waterway and to services, locks, landing places and other facilities (including moorings) provided by the Authority in or adjoining a recreational waterway;
- (i) to promote the safety of persons and vessels in a recreational waterway including the provision of life-saving equipment;
- (j) to prescribe a minimum age for persons in control of or navigating a powered boat or any class or description of powered boats;
- (k) to regulate the conduct of persons using a recreational waterway or its banks whether for business, recreation, training or any other purposes;
- (l) for the preservation of flora and fauna in, or on the banks of, a recreational waterway.

PART II
—cont.

(2) Different byelaws may be made under this section in relation to different recreational waterways and to different classes of vessels navigating or using any such waterway.

(3) Byelaws made under paragraph (e) of subsection (1) of this section may authorise the Authority—

(a) to make reasonable charges in respect of the registration of pleasure boats under those byelaws;

(b) to attach conditions to and provide for the revocation of the registration of such boats;

(c) to grant exemptions from the requirements of such byelaws as to registration.

(4) No byelaw made under this section shall render unlawful the doing on private land outside a recreational waterway of any act by, or with the lawful authority of, the owner or occupier which does not injure or endanger any person lawfully using a recreational waterway or enjoying the amenities thereof.

In this subsection “private land” means any land other than land to which the public has access (whether as of right or by express or implied permission).

(5) If any person contravenes, or fails to comply with, any byelaws made by virtue of this section he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50; and if the contravention or failure to comply is continued after the conviction, he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding £10 for each day on which it is so continued.

1972 c. xxxix.

(6) The power to make byelaws conferred by this section shall be in addition to and not in derogation of the power to make byelaws conferred by section 79 of the Act of 1963 (as extended by section 15 (Extension of section 79 of Act of 1963) of the Essex River Authority Act 1972 set out in Part III of Schedule 8 to this Act).

1974 c. 37.

(7) Nothing in any byelaw made under this section shall prejudice or affect the operation of the relevant statutory provisions as defined in section 53 of the Health and Safety at Work etc. Act 1974.

(8) In this section “powered boat” means a vessel which is mechanically propelled.

Continuance
of existing
byelaws,
regulations
and charges.

19.—(1) Notwithstanding the repeal of the enactments mentioned in Schedule 2 to this Act—

(a) any byelaws or regulations made by the appropriate authority regulating or controlling any of the waterways specified in Schedule 1 to this Act; and

(b) any tolls, rates and charges payable in respect of the use or navigation of any such waterway;

PART II
—cont.

in force immediately before the passing of this Act shall continue to apply thereto until, in the case of the byelaws and regulations, they are varied or revoked by byelaws made under section 18 (Byelaws) of this Act, or under section 79 of the Act of 1963 (as extended and applied to the Authority), and, in the case of the tolls, rates and charges, the Authority otherwise determine, as if, in the case of the byelaws and regulations, they had been made under the said section 18 and, in the case of the tolls, rates and charges, they had been fixed under section 30 of the Act of 1973 as applied by section 17 (Charges) of this Act.

(2) In this section “the appropriate authority” means, in relation to any of the waterways specified in Schedule 1 to this Act, the authority who immediately before the passing of this Act were the navigation authority in respect of that waterway.

20.—(1) The Authority may enter into agreements with any other authority which is authorised to require registration of vessels navigating any waterway under the jurisdiction of that authority for the purpose of integrating the administration of provisions of any byelaws made under paragraph (e) of subsection (1) of section 18 (Byelaws) of this Act regarding the registration of pleasure boats with the administration by that authority of their provisions regarding the registration of vessels of the same class or description, and without prejudice to the generality of the foregoing any such agreement may provide—

Agreements with other authorities with regard to registration.

- (a) for treating registration certificates issued by one of the parties to the agreement as registration certificates issued by the other;
- (b) for treating distinguishing marks or numbers assigned to vessels registered by one party to the agreement as having been assigned to that vessel by the other; and
- (c) for apportioning any registration fees or other charges between the parties to the agreement.

(2) Any registration certificate issued by an authority who are a party to an agreement made under subsection (1) of this section shall for the purposes of the byelaws referred to in the said subsection be deemed to have been issued by the Authority under the said byelaws, and any mark, number or other distinguishing sign displayed on a vessel in accordance with the requirements of an authority who are a party to such an agreement shall be treated as complying with the requirements of the said byelaws.

21.—(1) Whenever any vessel is sunk, stranded or abandoned in any recreational waterway, or without lawful authority left or moored therein, the Authority may after giving (except in an

Removal of vessels.

PART II
—cont.

emergency) not less than three months' notice to the owner of the vessel, unless it is not practicable after reasonable inquiry to ascertain the name and address of the owner, raise and remove the vessel.

(2) The Authority may recover from the owner of any such vessel all expenses reasonably incurred by the Authority in respect of the raising, removal and storage thereof or in raising, removing or storing any furniture, tackle and apparel thereof or any goods, chattels and effects raised or removed therefrom.

(3) If any vessel to which subsection (1) of this section applies be not within six weeks of its removal by the Authority proved to the satisfaction of the Authority to belong to any claimant it shall together with any such furniture, tackle and apparel vest in the Authority:

Provided that if within six months of its removal a claim is made to the vessel by a person who subsequently proves to the satisfaction of the Authority that he is the owner thereof then the Authority shall, if the vessel is unsold, permit the owner to retake it with any furniture, tackle, apparel, goods, chattels and effects thereupon upon payment of the expenses referred to in subsection (2) of this section or, if the vessel and the furniture, tackle and apparel thereupon have been sold, the Authority shall pay to such owner the amount of the proceeds of such sale after deducting the said expenses, and in case such proceeds shall be insufficient to reimburse the Authority such expenses the deficiency may be recovered by the Authority as a simple contract debt in any court of competent jurisdiction.

(4) In this section—

“owner” in relation to any vessel sunk, stranded, abandoned, left or moored as aforesaid means the owner of the vessel at the time of the sinking, stranding, abandonment, leaving or mooring thereof; and

“vessel” includes any part of a vessel.

Powers of
entry.

22. Sections 111 and 112 of the Act of 1963 shall apply to the performance by the Authority of their functions under this Part of this Act.

PART III

ADDITIONAL AND EXTENDED POWERS

Discharge
of water.
1968 c. xxvi.

23. The Authority may by means of Work No. 17 authorised by section 7 (Power to Essex Authority to construct works) of the Ely Ouse-Essex Water Act 1968 discharge water into Toppesfield Brook.

Power to improve and regulate flow of Toppesfield Brook.

24.—(1) The Authority for the purposes of improving or regulating the flow in the section of Toppesfield Brook to which this section applies may by agreement with the owner and occupier of the land—

- (a) dredge, cleanse and scour the said section;
- (b) reduce or remove any shoals, shelves, banks or other accumulations therein;
- (c) alter or remove or cause to be altered or removed any weirs, sluices, culverts, fords or other impediments or obstructions whatsoever therein or on the banks thereof;
- (d) construct any new bridges, culverts, fords or other works therein or on the banks thereof which may be required to accommodate the owner or occupier of the land.

(2) An agreement entered into under subsection (1) of this section may provide for the execution by the Authority of works in, on, under or over that land for or in connection with or ancillary to the purposes mentioned in the said subsection, or any of them, including the widening, deepening, culverting, straightening, diverting, altering the course of, fencing, or otherwise improving or maintaining the section of the Toppesfield Brook to which this section applies and the filling, wholly or partially, thereof.

(3) Paragraph 7 of Schedule 8 to the Act of 1963 shall apply to the exercise of the powers of this section as it applies to the exercise of compulsory powers and shall have effect as if—

- (a) for references therein to the order there were substituted references to this Act; and
- (b) for references to the coming into operation of the order there were substituted references to the passing of this Act.

(4) This section applies to the section of Toppesfield Brook between National Grid map reference points TL 67398 37860 and TL 74610 36110.

25.—(1) The Authority may by agreement with the highway authority, alter, reconstruct or replace—

Power to alter a bridge and a public footpath over Toppesfield Brook.

- (a) the bridge or culvert and the approaches thereto which carries the road (classified road No. B1057) over Toppesfield Brook at National Grid map reference TL 68460 36880 either on the same site or on a new site within two hundred yards of the first-mentioned site; and
- (b) the culvert carrying a public footpath over the brook at National Grid map reference TL 70140 36319.

PART III
—cont.

(2) The Authority may by agreement with the owner and occupier of the land carry out any works in, on, under or over Toppesfield Brook and the approaches thereto made necessary by the exercise of the power conferred by subsection (1) of this section, and subsections (2) and (3) of the last preceding section shall apply to any agreement entered into under this subsection.

Power to
construct
tunnels.

26.—(1) The power to lay pipes conferred on the Authority or on a statutory water company to which this section applies by the provisions of the Third Schedule to the Act of 1945, as incorporated in any enactment relating to the supply of water by the Authority or such a company or, in the case of the Authority, as applied by any enactment relating to the conservation of water, shall be deemed to include a power to construct tunnels; and the expression “main”, as defined in section 1 of that schedule, shall be construed accordingly.

(2) This section applies to a statutory water company (as defined in the Act of 1973) whose limits of supply are within the water supply area of the Authority.

(3) Notwithstanding anything in, or omitted from, any enactment by which the provisions referred to in subsection (1) of this section are incorporated or applied as there mentioned, section 93 of the said Third Schedule shall have effect in relation to the exercise of powers to construct tunnels by virtue of the foregoing provisions of this section as if that section were incorporated without modification in each such enactment.

Flood
prevention.

27.—(1) If the Authority determine that any building, wharf or other structure forms part of or makes a contribution to the efficiency of the defences of any part of their area against flooding by the sea or other tidal waters, they may serve a notice (hereinafter in this section referred to as “a flood prevention notice”) upon the occupier of such building, wharf or other structure designating such building, wharf or other structure as a structure to which this section applies (hereinafter in this section referred to as a “designated structure”) and such notice shall be in the form set out in Schedule 6 to this Act or in a form to the like effect.

(2) (a) Any person on whom a flood prevention notice has been served may, within twenty-eight days after the receipt of the notice, object to the notice on the grounds that the designated structure in respect of which the notice was served does not form a part of or (as the case may be) does not make a contribution to the efficiency of the defences of any part of the area of the Authority against flooding by the sea or other tidal waters and, unless the notice is withdrawn, the objection shall be referred to and determined by arbitration.

(b) The arbitrator may confirm, vary or rescind the notice and if he varies the notice, the notice, as so varied, shall be deemed to be the notice served on the occupier under subsection (1) of this section.

PART III
—cont.

(3) (a) An occupier of a designated structure shall not begin to alter, demolish or otherwise interfere with the structure in such a manner as would or might impair the effectiveness of that structure as a structure forming part of or making a contribution to the efficiency of the defences of the area against flooding by the sea or other tidal waters unless, not less than twenty-eight days before doing so, he serves on the Authority a notice (in this section referred to as a "works notice") describing the operations he is proposing to carry out in relation to the designated structure and giving particulars (including, where necessary, a plan and section) of any works proposed to be carried out.

(b) The Authority may serve a counter-notice prohibiting the carrying out of all or some of the operations described in the works notice for such period not exceeding three months as may be specified in the counter-notice.

(c) A counter-notice shall be served within twenty-eight days from the date of service on the Authority of a works notice and, if no counter-notice is served within that period or if the counter-notice is subsequently withdrawn, the occupier of the designated structure in respect of which the works notice has been served may carry out the operations described in the works notice or, as the case may be, those to which the counter-notice relates.

(4) (a) The Authority may on any land on which a designated structure is situated erect and thereafter maintain, repair or replace one or more notices of such size or type and in such position or positions and giving such information as in the opinion of the Authority will draw to the notice of persons concerned with the designated structure the fact that a flood prevention notice is in force in respect of that structure.

(b) Subsection (1) of section 111 of the Act of 1963 in its application to the 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 paragraph (a) of this subsection, but the Authority shall not enter upon such land for the purpose of erecting a notice until the flood prevention notice has come into effect and unless not less than three days' notice has been given to the occupier of the designated structure.

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

PART III
—cont.

(5) Not less than twenty-eight days before in any case, in respect of any structure to which this subsection applies, serving a flood prevention notice pursuant to subsection (1) of this section, the Authority shall consult the navigation authority, harbour authority or conservancy authority concerned; and if (on so consulting prior to serving a flood prevention notice) the Authority are so required by such navigation authority, harbour authority or conservancy authority, the Authority shall also consult that authority before thereafter in respect of that structure—

(a) serving any counter-notice pursuant to subsection (3) (b) thereof; or

(b) erecting any notice pursuant to subsection (4) (a) thereof.

This subsection applies to any building, wharf or other structure occupied by, or lying wholly or partly within the jurisdiction of, a navigation authority, harbour authority or conservancy authority.

(6) (a) The contents of a flood prevention notice given or deemed to have been given under this section shall be registrable as a local land charge as if they were such prohibitions or restrictions as are registrable in pursuance of the provisions of paragraph (b) of subsection (7) of section 15 of the Land Charges Act 1925 (which, as amended, is set out in Schedule 4 to the Land Charges Act 1972), and subject to the provisions of that section shall be binding upon the occupier for the time being of the land upon which the designated structure stands is situated.

(b) The Authority shall send a copy of any such contents to the proper officer of the council of each district or London borough in which the designated structure to which the flood prevention notice relates is situated, and the proper officer shall cause it to be registered in the register of local land charges in such manner as may be prescribed by rules made in reference to local land charges under subsection (6) of section 15 of the said Act of 1925; and the power conferred by the said subsection (6) to make rules for giving effect to the provisions of the said section 15 shall be exercisable for giving effect to the provisions of this paragraph.

(c) Where a flood prevention notice has been varied or rescinded by an arbitrator under paragraph (b) of subsection (2) of this section, the Authority shall within seven days of the receipt of the arbitrator's award send a copy of the award to the proper officer of the district or London borough in which the designated structure to which the notice relates is situated and he shall make an appropriate alteration in the register of local land charges.

(7) Any person who—

(a) carries out, or causes or permits to be carried out, operations in relation to a designated structure in respect of which a works notice is required by paragraph (a) of

subsection (3) of this section without serving such a notice on the Authority, or before the expiration of twenty-eight days from the service of a works notice, or during the time when a counter-notice is in force, shall be guilty of an offence and liable on summary conviction to a fine not exceeding £400, or on conviction on indictment to a fine; and if the offence is continued after conviction he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding £50 for each day on which the offence is without reasonable excuse continued, or on conviction on indictment to a fine;

(b) intentionally obstructs members or officers of the Authority in the exercise of any of the powers of the Authority under subsection (4) of this section, or without reasonable excuse removes or obstructs such a notice as is referred to in that subsection, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £100.

(8) Where a building, wharf or other structure is unoccupied, the owner thereof shall be deemed, for the purposes of this section, to be the occupier.

28.—(1) (a) Subsection (2) of section 78 of the Act of 1963 in its application to the area of the Authority shall include proposals to excavate minerals, and accordingly (but without prejudice to the provisions of subsection (3) of this section) any person intending to excavate minerals in the area of the Authority shall give notice to the Authority of his intention (in this section referred to as “an excavation notice”).

Extension of section 78 of Act of 1963 to excavation of minerals.

(b) An excavation notice shall be in the form specified in Schedule 7 to this Act or in a form to the like effect.

(2) Subsections (3) to (7) of the said section 78 shall apply to a conservation notice given in respect of an excavation notice as they apply to a conservation notice given under the said subsection (3).

(3) This section shall not apply to a proposal to excavate minerals in respect of which planning permission was granted before 31st December, 1976, or to a proposal to excavate minerals in a mine (as defined for the purposes of the Mines and Quarries Act 1954).

1954 c. 70.

(4) In this section “excavate minerals” means—

(a) the carrying out of any works or operations connected with the excavation; and

PART III
—cont.

- (b) where minerals are being excavated at the date when a conservation notice is given, and the excavation is being carried out according to a scheme whereby the whole of the land comprised in a planning permission is to be worked in stages, an extension of the excavation from the land comprised in one such stage to land comprised in another and “excavation” shall be construed accordingly;

but does not include dredging or any similar work or operation carried out in tidal waters—

- (i) by a harbour authority; or
(ii) in pursuance of a licence granted for the purpose by a harbour authority.

Power to
Authority to
carry out trial
borings, etc.

29.—(1) (a) The Secretary of State may on the application of the Authority authorise them—

- (i) to place and leave on or in any land any apparatus for use in connection with any survey of that or any other land (whether from the air or on the ground) and to remove such apparatus; and
(ii) to search and bore on or in any land for the purpose of ascertaining the nature of the subsoil or the presence of water therein or the quantity or quality of such water:

Provided that notice of any such application shall be given by the Authority to the owner and occupier of the land and that notice of any application under sub-paragraph (ii) of this paragraph shall be given by the Authority to the British Gas Corporation specifying the situation of the land.

(b) For the purposes of this subsection where the surface of any land (whether it is above or below the surface of any adjoining land) has been raised by the deposit thereon of refuse or waste or other materials, any material lying below the surface as so raised shall be deemed to be part of the subsoil of that 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 fourteen days after the receipt of the notice given to him under the proviso to paragraph (a) of the foregoing subsection and, unless the representations are disposed of by agreement between the 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 Authority an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

(3) The British Gas Corporation may object to the carrying out of boring on the ground that it would be seriously detrimental to the carrying on of their undertaking and in that event the boring shall not be carried out except with the authority of the Secretary of State for Energy.

(4) (a) Paragraph (b) of subsection (1) of section 111 of the Act of 1963 in its application to the 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.

(b) Section 112 of the Act of 1963 in its application to the 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) Section 112 of the Act of 1976 shall have effect in relation to the exercise by the Authority of the powers of this section as it has effect in relation to the exercise of the powers conferred by any enactment contained in that Act.

30.—(1) (a) Every undertaking given to the Authority by the owner of a legal estate in land (hereinafter referred to in this section as “the owner”) and every agreement made between the Authority and the owner, being an undertaking or agreement—

Undertakings and agreements binding successive owners.

- (i) given or made in connection with the land; and
- (ii) expressed to be given or made in pursuance of this section; and
- (iii) which defines that land as land the legal estate in which at the date of execution is vested in the owner;

shall be binding (without any limit of time) upon the owner and all persons deriving title by, through or under him.

(b) The proper officer of the council of each district or London borough in which the land to which any such undertaking or agreement relates is situate shall on receipt of a copy thereof cause it to be registered in the register of local land charges in such manner as is prescribed by the rules made in reference to local land charges under subsection (6) of section 15 of the Land Charges Act 1925 (which, as amended, is set out in Schedule 4 to the Land Charges Act 1972).

1925 c. 22.
1972 c. 61.

(c) For the purpose of effecting the registration of an undertaking or agreement under paragraph (b) of this subsection (but for no other purpose) any such undertaking or agreement as is referred to therein shall be deemed to relate to a restriction on the user or mode of user of land or buildings enforceable by a local authority under a covenant or agreement made with them.

PART III
—cont.

(2) Without prejudice to the generality of subsection (1) of this section it is hereby declared that an undertaking or agreement made binding thereby may consist of or include provision—

- (a) for covenants by the owner to carry out any works or do any thing on or in relation to the land in question (including the making of any payment of a sum or sums of money);
- (b) whereby the owner for valuable consideration agrees not to exercise a right conferred by any enactment.

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

Application and modification of section 19 of Third Schedule to Act of 1945.

1936 c. 49.

31.—(1) Where in any area forming part of the water supply area of the Authority within which immediately before 1st April, 1974, a supply of water was furnished by former statutory water undertakers under powers conferred by local enactments not incorporating or applying provisions authorising the laying and maintenance of water mains by reference to the powers to lay and maintain sewers conferred by Part II of the Public Health Act 1936—

- (a) section 19 of the Third Schedule to the Act of 1945 was incorporated with the local enactments under which the supply of water was furnished, paragraph (b) of subsection (1) of that section as set out in paragraph (6) of Article 9 of the Water Authorities, etc. (Miscellaneous Provisions) Order 1974 shall be substituted for paragraph (b) of subsection (1) of that section as so incorporated;
- (b) the said section 19 was not so incorporated, the section as modified by the said paragraph (6) shall be deemed to be so incorporated.

(2) The powers of this section shall cease to have effect upon the revocation or repeal of the Water Authorities, etc. (Miscellaneous Provisions) Order 1974.

Amendment of section 25 of Bath Side Bay Development Act 1972.
1972 c. xxxvi.
1976 c. 70.

32. Section 25 (For protection of Essex County Council) of the Bath Side Bay Development Act 1972 is hereby amended by the addition at the end of paragraph (2) of the following words:—

“ Nothing in this paragraph shall prejudice or affect the operation of section 29 of the Land Drainage Act 1976.”.

PART IV

MISCELLANEOUS AND GENERAL

Application of section 229 of Act of 1972 to Authority.

33. Section 229 of the Act of 1972 shall apply to the Authority as if they were a local authority.

PART IV
—cont.

Service of documents.

34. In its application to the Authority section 120 of the Act of 1963 shall have effect as if the reference in subsection (1) of that section to that Act included references to the Act of 1976, the Rivers (Prevention of Pollution) Acts 1951 to 1961 and any local enactment (including this Act and any local enactment applied to the Authority by this Act) relating to any of the functions of the Authority.

35.—(1) Any Minister of the Crown may cause such local inquiries to be held as he may consider necessary for the purpose of any of his functions under any local enactment relating to the Authority and for the time being in force within the area of the Authority.

Local inquiries.

(2) Subsections (2) to (5) of section 250 of the Act of 1972 shall apply in relation to any such inquiry but with the omission of the word “local” from subsection (4).

(3) In this section “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975.

1975 c. 26.

36. In arbitrations under a provision of this Act mentioned in the first column of the following table the reference shall be to a single arbitrator to be appointed by agreement between the parties, or, in default of agreement, to be appointed by the person mentioned in the second column of that table on the application of any party after giving notice in writing to the other party or parties:—

Arbitration.

Provision of Act	Person appointing arbitrator
Section 5 (Continuation of proceedings, etc.)	President of the Chartered Institute of Public Finance and Accountancy.
Section 27 (Flood prevention)	President of the Institution of Civil Engineers.
Section 28 (Extension of section 78 of Act of 1963 to excavation of minerals)	President of the Royal Institution of Chartered Surveyors.
Section 39 (For protection of electricity undertakers)	President of the Institution of Civil Engineers.

37. Upon the coming into force of the Local Land Charges Act 1975 the following amendments to this Act shall have effect:—

Local land charges.

1975 c. 76.

(1) For subsection (6) of section 27 (Flood prevention) there shall be substituted the following:—

“ (6) A flood prevention notice shall be a local land charge.”

PART IV
—cont.

(2) For paragraphs (b) and (c) of subsection (1) of section 30 (Undertakings and agreements binding successive owners) there shall be substituted the following:—

“(b) An undertaking or agreement given or made in pursuance of this section shall be a local land charge.”;

(3) For paragraph (a) of the proviso to subsection (2) of section 64 (Guarantees in respect of water supplies for new buildings) of the Welland and Nene (Empingham Reservoir) and Mid-Northamptonshire Water Act 1970, as set out in Part III of Schedule 8 to this Act there shall be substituted the following:—

“(a) any such agreement shall be a local land charge; and”

(4) For subsection (6) of section 68 (Closing of flood dams) of the Thames Barrier and Flood Prevention Act 1972 as set out in Part III of the said Schedule 8 there shall be substituted the following:—

“(6) A notice given under this section shall be a local land charge.”.

1970 c. vii.

1972 c. xiv.

For protection
of nature
conservation.

38.—(1) In the performance of its functions under this Act, the Authority shall consult the Nature Conservancy Council before undertaking, or giving permission to others to undertake, any operations which might be detrimental to the flora, fauna or geological or physiographical features of any land to which this section applies.

(2) This section applies to—

(a) land forming part of a nature reserve (within the meaning of section 15 of the National Parks and Access to the Countryside Act 1949) maintained or managed by the Nature Conservancy Council under section 1 of the Nature Conservancy Council Act 1973; or

(b) land notified to the Authority as a site of special scientific interest under section 22 (3) of the Act of 1973.

1949 c. 97.

1973 c. 54.

For protection
of electricity
undertakers.

39.—(1) In this section—

“electricity work” means any electric line, apparatus, building, structure or other work of any nature belonging to or maintained by the electricity undertakers;

“electricity undertakers” means the Central Electricity Generating Board, the Eastern Electricity Board, the East Midlands Electricity Board and the Yorkshire Electricity Board, or any of them, as the case may be.

(2) In the exercise of the powers of section 12 (General powers of Authority in relation to recreational waterways), section 21 (Removal of vessels) and section 24 (Power to improve and

regulate flow of Toppesfield Brook) of this Act the Authority shall not damage or injuriously affect any electricity work or, without the consent of the electricity undertakers, interfere with or remove any such work and the powers of the said sections shall be so exercised as not to render unreasonably inconvenient the access to any electricity work or operational land (as defined in section 222 of the Town and Country Planning Act 1971) of the electricity undertakers. 1971 c. 78.

PART IV
—cont.

(3) Nothing in this section shall impose on the Authority any duty or any liability with respect to damage to any electricity work unless it be shown that the Authority knew or ought reasonably to have known of the presence and positioning of that work.

(4) Any difference which may arise between the Authority and the electricity undertakers under this section shall be determined by arbitration.

40. Nothing in this Act affects prejudicially any estate, right, power, privilege or exemption of the Crown and, in particular and without prejudice to the generality of the foregoing, nothing herein contained authorises the Authority to take, use or in any manner interfere with any land or hereditaments or any rights of whatsoever description— Crown rights.

(a) 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; or

(b) 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:

Provided that nothing in this section shall affect the application of section 27 (Flood prevention) of this Act to any such land to the extent of any interest therein for the time being held otherwise than by or on behalf of the Crown.

41. 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.

PART IV
—cont.

Repeals and
re-enactment
of certain
enactments.

42.—(1) Subject to the provisions of subsection (2) of this section—

(a) the enactments specified in column (1) of Part I of Schedule 8 to this Act (being enactments which are rendered unnecessary by subsection (2) of this section or by other provisions of this Act or the Act of 1963) are hereby repealed to the extent specified in column (2) of that Part;

(b) the enactments specified in Part II of the said Schedule (being other enactments which are rendered unnecessary to the Authority by the said subsection (2) or by provisions of the Act of 1976) shall cease to have effect in relation to the Authority.

(2) (a) Notwithstanding the provisions of subsection (1) of this section, the provisions set out in Part III of Schedule 8 to this Act (being provisions replacing with modifications certain of the enactments specified in Part I or Part II of the said Schedule 8, and under which functions are exercisable by the Authority as respects parts only of their area) shall—

(i) so far as they relate to the Authority alone, have effect as amended and set out in that Part;

(ii) so far as they relate to the Authority as one among other authorities, have effect, in their application to the Authority, as set out in that Part;

and shall, except where a contrary intention is expressed, be construed in all respects as conferring functions exercisable by the Authority throughout the area of the Authority.

(b) In the said Part III, unless the subject or context otherwise requires—

(i) expressions to which meanings are assigned by subsections (1) and (2) of section 2 (Interpretation) of this Act, or by the Act of 1963, shall have the same respective meanings;

(ii) subsection (3) of the said section 2 shall have effect as respects any reference in the said Part to any enactment, as that subsection has effect in relation to the other provisions of this Act; and

(iii) “the Act of 1974” shall mean the Control of Pollution Act 1974;

1974 c. 40.

and expressions to which meanings are assigned by any Act any provisions of which are replaced by provisions of the said Part III shall have those respective meanings:

Provided that if any difference arises between the meaning assigned to any expression (except the expression “the Authority”) by or by virtue of sub-paragraph (i) of this paragraph and any meaning assigned to any such expression by any such Act, the latter meaning shall prevail.

SCHEDULES

SCHEDULE 1

Sections 3, 5, 7,
8, 9 & 19.

PART I

STATUTORY NAVIGATIONS IN RESPECT OF WHICH THE AUTHORITY ARE THE NAVIGATION AUTHORITY

1. The New River Ancholme from Ferriby Sluice in the Parish of South Ferriby in the District of Glanford and the County of Humberside to Bishops Bridge formerly known as Bishops Briggs in the Parish of Glentham in the District of West Lindsey in the County of Lincolnshire.

2. The River Nene Navigation from the outfall of the Northampton Arm of the Grand Union Canal at Cotton End in the Parish, District and County of Northampton to Bevis Hall in the Parish of Wisbech St. Mary in the District of Fenland in the County of Cambridgeshire.

3. The River Welland from Fosdyke Bridge in the Parish of Fosdyke in the District of Boston in the County of Lincolnshire to National Grid reference point TF 350345.

PART II

STATUTORY NAVIGATION TO BE TRANSFERRED TO THE AUTHORITY

4. The River Stour from Brundon Mill in the Parish of Sudbury in the District of Babergh in the County of Suffolk to the Cattawade Barrage partly in the Parish of Brantham in the same District and partly in the Parish of Lawford in the District of Tendring in the County of Essex.

PART III

OTHER WATERWAYS IN RESPECT OF WHICH THE AUTHORITY ARE TO BE THE NAVIGATION AUTHORITY AND WHICH ARE TO BECOME RECREATIONAL WATERWAYS

5. The River Great Ouse system comprising—

(a) The River Great Ouse from National Grid reference point TF 6028 0712 to Denver Sluice in the Parish of Denver in the District of West Norfolk in the County of Norfolk:

(b) The Old Bedford River from the Old Bedford Sluice in the said Parish of Denver to Welches Dam Lock in the Parish of Manea in the said District of Fenland:

(c) The Hundred Foot River, otherwise known as the New Bedford River, from Denver Sluice aforesaid to its confluence with the River Great Ouse in the Parish of Earith in the District of Huntingdon in the County of Cambridgeshire:

SCH. 1
—cont.

- (d) The River Great Ouse, also known as the Ten Mile River and the Ely Ouse River, from Denver Sluice aforesaid to Popes Corner in the Parish of Thetford in the District of East Cambridgeshire in the County of Cambridgeshire:
 - (e) The Old West River from Popes Corner aforesaid to its confluence with the Hundred Foot River in the said Parish of Earith:
 - (f) The River Great Ouse, also known as the Bedford Ouse, from the Hundred Foot River in the said Parish of Earith to Kempston Mill in the Parish of Kempston Urban in the District of Bedford in the County of Bedfordshire:
 - (g) The River Little Ouse from Brandon Staunch in the Parish of Weeting-with-Broomhill in the District of Breckland in the County of Norfolk to its confluence with the River Great Ouse, when it is also known as the Ten Mile River and the Ely Ouse River, at Brandon Creek in the Parish of Southery in the said District of West Norfolk:
 - (h) The River Lark from Judes Ferry in the Parish of Mildenhall in the District of Forest Heath in the County of Suffolk to its confluence with the River Great Ouse, when it is also known as the Ten Mile River and the Ely Ouse River, at Pypers Hill in the Parish of Littleport in the said District of East Cambridgeshire:
 - (i) The River Cam from Bottisham Lock in the Parish of Horningsea in the District of South Cambridgeshire in the County of Cambridgeshire to its confluence with the River Great Ouse, when it is also known as the Ten Mile River and the Ely Ouse River, at Popes Corner aforesaid:
 - (j) Reach Lode from Reach in the Parish of Reach in the said District of East Cambridgeshire to its confluence with the River Cam in the Parish of Wicken in the same district:
 - (k) Burwell Lode from Burwell in the Parish of Burwell in the said District of East Cambridgeshire to its confluence with Reach Lode in the same parish:
 - (l) Wicken Lode from Wicken Fen in the said Parish of Wicken to its confluence with Reach Lode in the Parish of Swaffham Prior in the said District of East Cambridgeshire:
 - (m) The River Wissey from one mile upstream of Stoke Ferry Bridge in the Parish of Stoke Ferry in the said District of West Norfolk to its confluence with the River Great Ouse, when it is also known as the Ten Mile River and the Ely Ouse River, in the Parish of Fordham in the same district.
6. The River Welland from Hudd's Mill in the Parish of Stamford in the District of South Kesteven in the County of Lincolnshire to Fosdyke Bridge in the said Parish of Fosdyke.

7. The River Glen from Tongue End in the Parish of Bourne in the District of South Holland in the County of Lincolnshire to its confluence with the River Welland in the Parish of Surfleet in the same district.

SCH. 1
—cont.

SCHEDULE 2

Sections 6, 9 &
19.

REPEAL OF ENACTMENTS RELATING TO STATUTORY NAVIGATIONS

An Act passed in the seventh year of the Reign of His Majesty King George the Third, Chapter 98, Intituled "An Act for the more effectual Draining the Lands lying in the Level of Ancholme, in the County of Lincoln, and making the River Ancholme navigable from the River Humber, at or near a Place called Ferraby Sluice, in the County of Lincoln, to the Town of Glamford Briggs, and for continuing the said Navigation up or near to the said River, from thence to Bishop Briggs in the said County of Lincoln."

An Act passed in the thirty-fourth year of the Reign of His Majesty King George the Third, Chapter 102, Intituled "An Act for improving the Outfall of the River Welland, in the County of Lincoln, and for the better Drainage of the Fen Lands, Low Lands and Marshes discharging their waters through the same into the Sea; and for altering and improving the Navigation of the said River Welland by means of a New Cut, to commence below a certain place called the Reservoir, and to be carried from thence through the inclosed Marshes and open Salt Marshes into Wyberton Roads, between the Port of Boston and a place called The Scalp and for disposing of the bare or white Sands adjoining the said River, and for building a Bridge over the said Cut."

An Act passed in the forty-second year of the Reign of His Majesty King George the Third, Chapter cxvi, Intituled "An Act for Altering and enlarging the Powers of an Act, passed in the Seventh year of the Reign of His present Majesty, intituled, 'An Act for the more effectual draining the Lands lying in the Level of Ancholme, in the County of Lincoln, and making the River Ancholme navigable from the River Humber, at or near a Place called Ferraby Sluice, in the County of Lincoln, to the Town of Glamford Briggs, and for continuing the said Navigation, up or near to the said River, from thence to Bishop Briggs, in the said County of Lincoln'."

An Act passed in the forty-seventh year of the Reign of His Majesty King George the Third, Intituled "An Act to Amend and render more effectual an Act passed in the Thirty fourth year of His Majesty for improving the Outfall of the River Welland, in the County of Lincoln."

An Act passed in the fifth year of the Reign of His Majesty King George the Fourth, Chapter xcvi, Intituled "An Act for explaining, amending and rendering more effectual an Act of his late Majesty for improving the Outfall of the River Welland in the County of Lincoln."

SCH. 2
—cont.

An Act passed in the sixth year of the Reign of His Majesty King George the Fourth, Chapter clxv, Intituled “An Act for altering and enlarging the Powers of Two Acts of his late Majesty King George the Third, for draining Lands within the Level of Ancholme, in the County of Lincoln, and making certain parts of the River Ancholme Navigable.”

An Act passed in the third and fourth years of the Reign of His Majesty King William the Fourth, Chapter cxi, Intituled “An Act to alter and amend three several Acts made in the seventh and forty-second years of the Reign of King George the Third, and the sixth year of the Reign of his late Majesty King George the Fourth, for draining Lands within the Level of Ancholme, in the County of Lincoln, and making certain parts of the River Ancholme navigable.”

1852 c. cxxviii. The Nene Valley Drainage and Navigation Improvement Act 1852 other than section 36.

1854 c. lxxxii. The Nene Valley Drainage and Navigation Improvement (Amendment) Act 1854.

1862 c. clxiv. The Nene Valley Act 1862.

An Act passed in the fourth and fifth years of the Reign of Her Majesty Queen Anne, Chapter 2, Intituled “An Act for making the River Stower Navigable, from the Town of Manningtree in the County of Essex to the Town of Sudbury in the County of Suffolk.”

An Act passed in the twenty-first year of the Reign of His Majesty King George the Third, Chapter 75, Intituled “An Act for appointing new Commissioners for continuing to carry into Execution the Trusts and Powers of an Act passed in the Fourth and Fifth years of the Reign of her late Majesty Queen Anne, intituled an Act for making the River Stower Navigable from the Town of Manningtree in the County of Essex to the Town of Sudbury in the County of Suffolk, in the Room and Place of those named in the said Act who are since dead; and for explaining and amending the said Act; and for other purposes therein mentioned.”

Section 10.

SCHEDULE 3

PARTS OF WATERWAYS EXCLUDED FROM CERTAIN ORDERS UNDER SECTION 10 (POWER TO MAKE ORDERS WITH REGARD TO RECREATIONAL WATERWAYS) OF THIS ACT

References in this Schedule to Grid References shall be construed as references to National Grid reference points.

1. The river Blackwater to a straight line projected from the centre line of Heybridge Basin lock (Grid Ref.: TL 87220684) to Northey Island seawall at Grid Ref.: TL 87880694.

2. Flag Creek to a point at Grid Ref.: TM 09941780.

3. Thorrington Creek to the sluice at the head thereof at Great-marsh. Grid Ref.: TM 10931838.

4. Walton Channel to the sluice at the head thereof at Walton-on-the-Naze. Grid Ref.: TM 25312214.

5. Kirby Creek to the footbridge at Kirby Quay, Kirby-le-Soken. Grid Ref.: TM 22742250.

6. Beaumont Cut to the sluice at the head thereof at Beaumont Quay. Grid Ref.: TM 18902394.

7. Martlesham Creek to the sluice at the head thereof at Grid Ref.: TM 25894720.

8. The river Deben to Wilford Bridge, Melton. Grid Ref.: TM 29115014.

9. Butley River to the floodgate at Butley Mills. Grid Ref.: TM 38585171.

10. The river Alde to the sluice west of Snape Bridge, Snape. Grid Ref.: TM 39095763.

11. The river Blyth to Ford Bridge, Blythburgh. Grid Ref.: TM 43487612.

12. Cley Channel to the sluice at the head thereof on the A149 road. Grid Ref.: TG 04354378.

13. Blakeney Channel and Agar Creek (including Morston Creek) to the Quay, Blakeney. Grid Ref.: TG 02634403.

14. The river Stiffkey to Stiffkey Sluices. Grid Ref.: TF 98984407.

15. Wells Creek and Stonemeal Creek at Wells-next-the-Sea.

16. Overy Creek to Norton Sluice, Burnham Norton. Grid Ref.: TF 83474391.

17. Brancaster and Mow Creeks to the sea bank at Saltingsgarth, Brancaster. Grid Ref.: TF 77304433.

18. Thornham Creek to a point at Grid Ref.: TF 73124384.

19. Wainfleet Haven to the sluice at Clough Bridge. Grid Ref.: TF 54295961.

20. Saltfleet Haven to Black Gowt Bridge, Saltfleet. Grid Ref.: TF 45609346.

21. Tetney Haven to the bridge over Tetney locks. Grid Ref.: TA 34200213.

22. East Halton Skitter to the sluice at the head thereof. Grid Ref.: TA 14462289.

SCH. 3
—cont.

23. Barrow Haven to the sluice at the head thereof. Grid Ref.: TA 06432255.

24. Wintringham Haven to the sluice at the head thereof. Grid Ref.: SE 93452279.

Section 10.

SCHEDULE 4

ORDERS UNDER SECTION 10 (POWER TO MAKE ORDERS WITH REGARD TO RECREATIONAL WATERWAYS) OF THIS ACT

1. Where the Authority apply to the Secretary of State for an order under subsection (1) of section 10 (Power to make orders with regard to recreational waterways) of this Act, the Authority shall submit to the Secretary of State a draft of the order, and shall publish at least once in each of two successive weeks, in one or more local newspapers circulating in the district where the waterway to which the order relates is situated, a notice—

- (a) stating the general effect of the order as prepared in draft;
- (b) specifying a place in each district to which the order relates where a copy of the draft order and of any relevant map or plan may be inspected by any person free of charge at all reasonable times during the period of twenty-eight days beginning with the date of the first publication of the notice; and
- (c) stating that any person may, within that period, by notice in writing to the Secretary of State object to the making of the order.

2. Not later than the date on which the notice is first published in pursuance of the preceding paragraph, the Authority shall serve a copy of the notice together with a copy of the draft order—

- (a) on every local authority (as defined in the Act of 1972) within whose area any waterway to which the order relates is situated;
- (b) on any internal drainage board having jurisdiction over any waterway to which the order relates;
- (c) on the Charity Commissioners for England and Wales.

3. The Authority shall also publish a notice in the London Gazette stating that the draft order has been submitted to the Secretary of State, naming every local authority on whom a notice is required to be served under the last preceding paragraph, specifying a place where a copy of the draft order and of any relevant map or plan may be inspected, and giving the name of the newspaper or newspapers in which the notice under paragraph 1 of this Schedule was published and the date of an issue containing the notice.

4. The Authority shall, at the request of any person, furnish him with a copy of the draft order on payment of such charge as the Authority think reasonable.

SCH. 4
—cont.

5. The Secretary of State may make the order either in the terms of the draft order or in those terms as altered in such manner as he thinks fit; but where he proposes to make any alteration, and considers that any persons are likely to be adversely affected by it, the Authority shall give and publish such additional notices, and in such manner, as the Secretary of State may require.

6. If before the end of the period of twenty-eight days referred to in paragraph 1 of this Schedule, or of twenty-five days from the publication in the London Gazette of the notice under paragraph 3 of this Schedule, or of any period specified in notices under the last preceding paragraph, notice in writing of an objection is received by the Secretary of State from any person on whom a notice is required to be served under this Schedule, or from any other person appearing to the Secretary of State to be affected by the order as prepared in draft or as proposed to be altered, and the objection is not withdrawn, the Secretary of State, before making the order, shall either—

(a) cause a local inquiry to be held; or

(b) afford to the objector and to the Authority an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

7.—(1) After making the order, the Secretary of State shall, if an objection has been duly made by any body on whom notice is required to be served under paragraph 2 of this Schedule and has not been withdrawn, serve notice of the making of the order and the effect thereof on every such body who has duly made objection which has not been withdrawn.

(2) Where a notice is required to be served under the preceding sub-paragraph, the order shall not have effect before the expiry of a period of twenty-eight days from the date of service of that notice; and if within that period any such body gives notice to the Secretary of State objecting to the order, and the objection is not withdrawn, the order shall be subject to special parliamentary procedure.

8. After making the order, the Secretary of State shall publish in the London Gazette, and in such other manner as he thinks best adapted for informing persons affected, a notice stating that the order has been made, and naming a place where a copy thereof may be seen at all reasonable hours:

Provided that, in the case of an order to which sub-paragraph (1) of the last preceding paragraph applies, the notice shall not be published until the expiry of the period of twenty-eight days referred to in sub-paragraph (2) of that paragraph, and shall state whether or not the order is to be subject to special parliamentary procedure.

9.—(1) If any person aggrieved by an order under section 10 (Power to make orders with regard to recreational waterways) of this Act desires to question its validity on the grounds that it is not within the

SCH. 4
—cont.

powers of the said section, or that any requirement of this Schedule has not been complied with in relation to the order, he may, within six weeks after the first publication of the notice required by the last preceding paragraph, make an application for the purpose to the High Court; and if any such application is duly made, the court, if satisfied that the order is not within the powers of the said section or that the interests of the applicant have been substantially prejudiced by any requirements of this Schedule not having been complied with, may quash the order either generally or in so far as it affects the applicant.

1945 c. 18
(9 & 10 Geo. 6).

(2) The preceding sub-paragraph shall not apply to any order which is confirmed by Act of Parliament under section 6 of the Statutory Orders (Special Procedure) Act 1945, and shall have effect in relation to any other order which is subject to special parliamentary procedure by virtue of the provisions of this Schedule as if, for the reference to the first publication of the notice required by the last preceding paragraph, there were substituted a reference to the date on which the order becomes operative under the said Act of 1945.

(3) Except as provided by sub-paragraph (1) of this paragraph, the validity of an order under the said section 10 shall not, either before or after the order has been made, be questioned in any legal proceedings whatsoever.

Section 14.

SCHEDULE 5

ADAPTATION OF ENACTMENTS IN CONNECTION WITH COMPULSORY PURCHASE OF RIGHTS

PART I

ADAPTATION OF PART III OF SCHEDULE 1 TO THE ACT OF 1946

1946 c. 49.

1. In paragraph 9 of Schedule 1 to the Acquisition of Land (Authorisation Procedure) Act 1946 (which relates to land belonging to local authorities, statutory undertakers or the National Trust) for references to the purchase of land there shall be substituted references to the purchase of rights over land.

2. In paragraph 10 of that Schedule (which relates to land belonging to statutory undertakers)—

- (a) for the words “comprised in” there shall be substituted the words “over which a right is to be acquired by virtue of”;
- (b) after the words “purchase of” there shall be inserted the words “a right over”;
- (c) for the words “it can be purchased and not replaced” there shall be substituted the words “the right can be purchased”;
- and
- (d) for sub-paragraph (ii) there shall be substituted the following:—

“(ii) that any detriment to the carrying on of the undertaking, in consequence of the acquisition of the right, can be made good by the undertakers by the use of other land belonging to or available for acquisition by them”.

3. In paragraph 11 of that Schedule (which relates to land forming part of a common, open space or allotment) for sub-paragraph (1) there shall be substituted the following:—

SCH. 5
—cont.

“ (1) In so far as a compulsory purchase order authorises the purchase of a right over land forming part of a common, open space or fuel or field garden allotment, it shall be subject to special parliamentary procedure unless the Secretary of State is satisfied—

- (a) that the land, when burdened with that right, will be no less advantageous to those persons in whom it is vested and to the persons, if any, entitled to rights of common or other rights, and to the public, than it was before; or
- (b) that there has been or will be given in exchange for the right additional land which will, as respects the persons in whom there is vested the land over which the right is to be purchased, the persons, if any, entitled to rights of common or other rights over that land and the public, be adequate to compensate them for the disadvantages which result from the purchase of the right, and that the additional land has been or will be vested in the persons in whom there is vested the land over which the right is to be purchased and subject to the like rights, trusts and incidents as attach to that land apart from the compulsory purchase order; or
- (c) that the land affected by the right to be purchased does not exceed 250 square yards in extent and that the giving of other land in exchange for the right is unnecessary, whether in the interests of the persons, if any, entitled to rights of common or other rights or in the interests of the public;

and certifies accordingly”.

4. In sub-paragraph (3) of the said paragraph 11, after the words “the land” there shall be inserted the words “over which any right is to be” and at the end of the sub-paragraph there shall be inserted the words “so far as their continuance would be inconsistent with the exercise of that right”.

5. In paragraph 12 of that Schedule (which among other things relates to ancient monuments), after the words “purchase of” there shall be inserted the words “rights over”.

PART II

ADAPTATION OF PART I OF THE ACT OF 1965

6. In the Compulsory Purchase Act 1965 (hereafter in this Schedule referred to as “the Act”) section 7 (which relates to compensation) shall be omitted. 1965 c. 56.

SCH. 5
—cont.

7. For section 8 of the Act (which relates to cases in which a vendor cannot be required to sell part only of a building or garden) there shall be substituted the following:—

“ 8.—(1) Where in consequence of the service on a person in pursuance of section 5 of this Act of a notice to treat in respect of a right over land consisting of a house, building or manufactory or of a park or garden belonging to a house (hereafter in this subsection referred to as ‘ the relevant land ’)—

(a) a question of disputed compensation in respect of the purchase of the right would apart from this section fall to be determined by the Lands Tribunal (hereafter in this section referred to as ‘ the Tribunal ’); and

(b) before the Tribunal has determined that question the person satisfies the Tribunal that he has an interest which he is able and willing to sell in the whole of the relevant land and—

(i) where that land consists of a house, building or manufactory, that the right cannot be purchased without material detriment to that land; or

(ii) where that land consists of such a park or garden, that the right cannot be purchased without seriously affecting the amenity or convenience of the house to which that land belongs;

the compulsory purchase order to which the notice to treat relates shall, in relation to that person, cease to authorise the purchase of the right and be deemed to authorise the purchase of that person’s interest in the whole of the relevant land including, where the land consists of such a park or garden, the house to which it belongs, and the notice shall be deemed to have been served in respect of that interest on such date as the Tribunal directs.

(2) Any question as to the extent of the land in which a compulsory purchase order is deemed to authorise the purchase of an interest by virtue of the preceding subsection shall be determined by the Tribunal.

(3) Where in consequence of a determination of the Tribunal that it is satisfied as mentioned in subsection (1) of this section a compulsory purchase order is deemed by virtue of that subsection to authorise the purchase of an interest in land, the acquiring authority may, at any time within the period of six weeks beginning with the date of the determination, withdraw the notice to treat in consequence of which the determination was made; but nothing in this subsection prejudices any other power of the authority to withdraw the notice.

(4) The modifications subject to which subsection (1) of section 58 of the Land Compensation Act 1973 is to have effect, as applied by subsection (2) of that section to the duty of the Tribunal in determining whether it is satisfied as mentioned in

subsection (1) of this section, are that at the beginning of paragraphs (a) and (b) there shall be inserted the words ' a right over ', for the word ' severance ' there shall be substituted the words ' right on the whole of the house, building or manufactory or of the house and the park or garden ' and for the words ' part proposed ' and ' part is ' there shall be substituted respectively the words ' right proposed ' and ' right is '."

SCH. 5
—cont.

8. The following provisions of the Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), namely:—

section 9 (4) (Failure of owners to convey);

paragraph 10 (3) of Schedule 1 (Owners under incapacity);

paragraph 2 (3) of Schedule 2 (Absent and untraced owners);
and

paragraphs 2 (3) and 7 (2) of Schedule 4 (Common land);

shall be so modified as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be purchased compulsorily is vested absolutely in the acquiring authority.

9. Section 11 of the Act (Powers of entry) shall be so modified as to secure that, as from the date on which the acquiring authority has served notice to treat in respect of any right, it has power, exercisable in the like circumstances and subject to the like conditions, to enter for the purpose of exercising that right (which shall be deemed for this purpose to have been created on the date of service of the notice); and sections 12 (Penalty for unauthorised entry) and 13 (Entry on sheriff's warrant in the event of obstruction) of the Act shall be modified correspondingly.

10. Section 20 of the Act (Compensation for short term tenants) shall apply with the modifications necessary to secure that persons with such interests as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition of the interests but taking into account only the extent (if any) of such interference with such interests as is actually caused, or likely to be caused, by the exercise of the right in question.

11. Section 22 of the Act (Protection of acquiring authority's possession of land where by inadvertence an interest in the land has not been purchased) shall be so modified as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right in question, subject to compliance with that section as respects compensation.

Section 27.

SCHEDULE 6

FORM OF FLOOD PREVENTION NOTICE
ANGLIAN WATER AUTHORITY ACT 1977
FLOOD PREVENTION NOTICE

To the occupier
of the premises known as.....(a)

1. You are hereby informed that the Anglian Water Authority have determined that(b) being part of the above-mentioned premises, forms part of, or contributes to the efficiency of, the tidal defences of some part of the Anglian Water Authority's area against flooding by sea water or tidal water.

2. By virtue of section 27 (Flood prevention) of the Anglian Water Authority Act 1977 the service of this notice causes the said(c) to become a designated structure for the purposes of the said section.

3. A copy of the said section is enclosed with this notice.

Date.....

.....
(Signature of officer authorised to serve this notice).

(a) Sufficient description of premises of which the designated structure is part which may refer to a plan.

(b) Description of the wall, building, etc., forming the designated structure, which may refer to a plan.

(c) Brief, but sufficient, description of designated structure, e.g., "wall", "wharf", etc.

SCHEDULE 7

Section 28.

NOTICE OF INTENTION TO EXCAVATE MINERALS

Notice is hereby given that (a).....

.....

intends on or after (b).....

to begin to excavate minerals [at the place[s] marked] [in the area shown] on the accompanying† map.

Details of *[the] [each] proposed extraction are as follows:—

(c)

.....

*[It is proposed to dispose of any water entering [the] [a] workings during or after the excavation of the minerals in the following manner:—

(d)

.....].

I declare that to the best of my knowledge the statements made above are true.

Communications about this notice should be addressed to

*[(a)] [(e).....]

at (f).....

Signed.....

*[On behalf of.....]

Date.....

* Delete where inappropriate.

† Enclose an Ordnance Survey map on which the (or each) place in question is marked or, as the case may be, the area in question is delineated or coloured. Unless otherwise agreed with the water authority, the map scale should be not less than six inches to one mile.

- (a) Insert name of person who intends to excavate the minerals.
- (b) The date inserted should be such as to allow the water authority a reasonable period to consider the matter, say, not less than one month. Compliance with the requirements of any conservation notice which the water authority may decide to serve under section 78 (3) of the Water Resources Act 1963 (as extended by section 28 of the Anglian Water Authority Act 1977) may entail additional expense if the work is begun before such notice can be served. 1963 c. 38.
- (c) Give relevant details, e.g. (depth and geological strata) of the (or each) proposed excavation, describe briefly the way in which the (or each) proposed excavation will be carried out and in which the minerals will be removed.
- (d) Give details of the proposals, if any, e.g., the extent to which the water will be caused or allowed to run off the site, the extent to which it will be abstracted for use for any purpose and the proportion which will be discharged after use and where it will be discharged.
- (e) Insert name of professional adviser or agent.
- (f) Insert address to which communications are to be sent.

Sections 18, 37
& 43.

SCHEDULE 8

PART I

ENACTMENTS REPEALED

	Act (1)	Extent of repeal (2)
1968 c. xxvi.	Ely Ouse-Essex Water Act 1968	Section 32 (Provision of substituted sites). Section 34 (Power to reinstate owners or occupiers of property).
1970 c. vii.	Welland and Nene (Empingham Reservoir) and Mid-Northamptonshire Water Act 1970	Subsection (4) of section 44 (Application and extension of Act of 1963). Section 45 (Discharge of water into streams). Section 46 (Power to River Authority to carry out trial borings). Section 47 (Power to require information as to ownership of land). Section 56 (Insurance fund). Section 64 (Guarantees in respect of supplies for new buildings). Section 65 (Supplies to premises in area of development).
1972 c. xxxix.	Essex River Authority Act 1972	Section 8 (River Stour). Section 16 (Extended powers with regard to water recreation).

PART II

ENACTMENTS CEASING TO HAVE EFFECT IN RELATION TO THE AUTHORITY

	Act (1)	Provision ceasing to have effect (2)
	Ely Ouse-Essex Water Act 1968	Subsection (4) of section 41 (Application and extension of Act of 1963). Section 42 (Discharge of water into streams).
1969 c. xlix.	Essex River and South Essex Water Act 1969	Section 26 (Provision of substituted sites). Section 28 (Power to reinstate owners or occupiers of property). Section 41 (Compulsory powers to discharge into sources of supply). Section 42 (Power to River Authority to take action in case of pollution of underground water). Section 43 (Power to require information as to ownership of land).
1971 c. xiii.	Trent and Lincolnshire Water Act 1971	Section 53 (Discharge of water into streams). Section 54 (Power to Trent and Lincolnshire Authorities to carry out trial borings). Section 55 (Power to Trent and Lincolnshire Authorities to require information as to ownership of land).

Act (1)	Provision ceasing to have effect (2)
Essex River Authority Act 1972	<p>Section 4 (Provision of substituted sites). Section 5 (Power to reinstate owners or occupiers of property). Section 7 (Suspension of restrictive covenants, etc.). Section 12 (Pollution of underground water). Section 13 (Reduced fishing licence duties for multiple licences). Section 15 (Extension of section 79 of the Act of 1963). Section 17 (Power to carry out trial borings, etc.). Section 18 (Temporary stopping up of watercourses, highways, etc.). Section 19 (Power to sell houses to employees). Section 20 (Housing advances to employees). Section 21 (Power to allow former employees to continue in occupation of houses provided by the Authority). Section 22 (Recreational, etc., facilities for employees). Section 24 (Insurance fund). Section 27 (Photographic copies of documents). Section 28 (Offences in respect of apparatus). Section 29 (Evidence of proceedings, appointments, etc.). Section 30 (Extension of section 120 of Act of 1963 to enactments relating to land drainage and pollution). Section 31 (Protection of members and officers from personal liability). Schedule 2 (Orders providing that section 79(4)(a) or (b) shall not apply to specified tidal waters or inland waters).</p>
Thames Barrier and Flood Prevention Act 1972	<p>Section 60 (Temporary stopping up of watercourses, etc.). Section 61 (Extension of section 111 of Act of 1963). Section 63 (Fines for contravention of sea defence byelaws). Section 64 (Agreements for carrying out sea defence works). Section 68 (Closing of flood dams). Section 70 (Penalty for obstructing execution of Act). Section 71 (Offences by corporations).</p>

1972 c. xlv.

SCH. 8
—cont.

PART III

ENACTMENTS APPLIED THROUGHOUT THE AREA OF THE AUTHORITY

1968 c. xxvi.

Ely Ouse-Essex Water Act 1968

Application
and extension
of Act of
1963.

41.—

* * * * *

(4) Sections 19, 20 and 22 of the Third Schedule to the Act of 1945 as applied generally to the Authority by subsection (3) of section 6 of the Act of 1963 and section 9 of the Act of 1973 shall have effect as if the expression “ main ” included—

- (a) any pipe used by the Authority in the performance of any of their new functions as defined in section 3 of the Act of 1963; and
- (b) discharge pipes or drains.

Discharge of
water into
streams.

42.—(1) For the purpose of constructing, altering, enlarging, repairing, cleaning, examining or operating any works carried out in the performance of any of their functions, except that of supplying water, the 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.

(2) In the exercise of the powers conferred by this section the 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 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, 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, and except in so far as may be otherwise agreed in writing between the Authority and the other water authority, the following provisions shall have effect:—

- (a) not less than seven days before commencing to discharge any water into a watercourse within the area of some other water authority through a pipe exceeding nine inches in diameter the Authority shall give notice of their intentions to the other authority;

(b) the Authority shall have due regard to any representations which may be made to them by the other water authority as to the time, mode and rate of discharge with a view to avoiding or minimising injury or inconvenience therefrom:

SCH. 8
—cont.

Provided that whenever the Authority propose to discharge water on a number of occasions during a period, the giving by them of a general notice to that effect, accompanied by such particulars as it is reasonably practicable for them to give, shall constitute sufficient compliance by them with the provisions of paragraph (a) of this subsection.

Essex River and South Essex Water Act 1969

1969 c. xlix.

41.—(1) An order under section 67 of the Act of 1963 conferring on the Authority compulsory powers for the purpose of carrying out engineering or building operations may, in any case where such operations consist of or include the construction of works for making any discharge into any source of supply for the purpose of augmenting the water resources therein, authorise the Authority to make such discharge.

Compulsory powers to discharge into sources of supply.

(2) In its application to a draft order submitted to the Secretary of State which proposes to authorise the Authority to exercise such a power as is referred to in the foregoing subsection, sub-paragraph (b) of paragraph 2 of Schedule 8 to the Act of 1963 shall have effect as if the only land in relation to which compulsory powers for that purpose are being sought were the land on or from which the discharge is to be made.

42.—(1) Where it appears to the 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—

Power to Authority to take action in case of pollution of underground water.

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

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

Provided that nothing in this section shall authorise the carrying out of any operations in or at any mine (as defined for the purposes of the Mines and Quarries Act 1954) vested in the National Coal Board or at any premises on which there is situated a tip of that Board that is, or is deemed to be, a closed tip as defined for the purposes of the Mines and Quarries (Tips) Act 1969 without the prior consent of the Board, which shall not be unreasonably withheld and which may be given subject to such reasonable conditions as the Board may think fit.

1954 c. 70.

1969 c. 10.

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

SCH. 8
—cont.

(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 Authority the powers conferred on them by this section.

(4) Nothing in this section shall be construed as derogating from any duty of the Authority to enforce the provisions of the Rivers (Prevention of Pollution) Acts, 1951 to 1961 or, to the extent to which they are for the time being in force, of the Act of 1974 in their area.

Power to
require
information
as to
ownership of
land.

43.—(1) The Authority may for the purpose of enabling them to perform any of their functions, except those conferred upon them by the Act of 1974 (section 93 whereof contains provisions corresponding to those in this section), 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 without reasonable excuse, having been required by the 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—

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

“interest” includes any legal estate or interest in land or in any rentcharge issuing out of land.

1970 c. vii.

*Welland and Nene (Empingham Reservoir) and
Mid-Northamptonshire Water Act 1970*Guarantees in
respect of
water supplies
for new
buildings.

64.—(1) Where in pursuance of section 37 of the Act of 1945 the owner of any land (in this section including any interest in or right over land) requires the Authority to construct any works for the purpose of affording a supply of water to any new buildings which he proposes to erect, the Authority instead of requiring the owner to give an undertaking to pay in respect of each year such sum as is provided in paragraph (a) of the proviso to subsection (1) of the said section 37, may agree with him for the payment by him to the Authority of a sum in composition of any liability to make annual payments which he would incur if such an undertaking were given.

(2) If the Authority and the owner of any land have entered into an agreement in pursuance of section 37 of the Act of 1945, then such agreement shall be binding not only upon the Authority and the owner joining in the agreement but also upon the successors in title of any owner so joining and upon any person claiming through, or under, them:

SCH. 8
—cont.

Provided that—

- (a) any such agreement shall be treated as a local land charge for the purposes of the Land Charges Act, 1925; and
- (b) any person upon whom such agreement is binding shall be entitled to require from the Authority a copy thereof.

1925 c. 22.

65. Where the Authority are required to lay mains or to construct any other works to bring water to any area for the purpose of affording a supply to any premises and the Authority (in anticipation of further development in the area in which such supply is required) provide and lay mains or construct other works of greater capacity than may be necessary to bring to the area the quantity of water to be supplied to such premises, and within the period of twelve years from the completion thereof a requisition is made for a supply to any other premises, and it appears to the Authority to be desirable to use the mains or works aforesaid, or any part thereof, for the purpose of affording such last-mentioned supply, the Authority may, before complying with such requisition—

Water supplies
to premises in
area of
development.

- (a) in the case of a requisition made under section 29 of the Third Schedule to the Act of 1945 in its application to the Authority, require that for the purpose of determining the validity of the requisition there shall be brought into account the portion of the expense incurred by them in providing and laying the mains aforesaid, or the part thereof (as the case may be) which would be used by the Authority to afford the supply to which the requisition relates, as if that portion of such expense would be incurred by the Authority in providing and laying mains necessary for compliance with the requisition; and
- (b) in the case of a requisition made under section 37 of the Act of 1945, require the person making the requisition to undertake to pay in respect of each year a sum calculated in accordance with the proviso to subsection (1) of the said section 37 in respect of the portion of the expense incurred by them in constructing the works aforesaid comprising service reservoirs or mains, or the part thereof (as the case may be), which would be used by the Authority to afford the supply to which the requisition relates, as if that portion of such expense would be incurred by the Authority in constructing the service reservoirs and providing and laying mains necessary for compliance with the requisition:

Provided that, if the person making the requisition so desires, the Authority may, instead of requiring the payment of an annual sum as aforesaid, agree with him for the payment by him to the Authority of such capital contribution as they may determine towards the cost

SCH. 8
—cont.

so incurred by the Authority in constructing such works aforesaid comprising service reservoirs or mains, or the part thereof, which would be used by the Authority to afford the supply to which the requisition relates.

1972 c. xxxix.

Essex River Authority Act 1972

Provision of substituted sites.

4. 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.

Power to reinstate owners or occupiers of property.

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

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

Suspension of restrictive covenants, etc.

7.—(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 during the period in which they are the owners of the land.

(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—

SCH. 8
—cont.

(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

SCH. 8
—cont.

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.

1965 c. 56.

(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.

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—

(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 are for the time being authorised to take;

(iii) the protection or benefit of the British Airports Authority in relation to their undertaking as represented by the aerodromes which they for the time being own or manage;

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

1969 c. 48.

In this paragraph “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.

1971 c. 78.

(12) 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.

12.—(1) If any person is guilty of any act or neglect whereby water in any underground strata in the area of the Authority is contaminated or likely to be contaminated by any poisonous, noxious or polluting matter (whether liquid or solid) he shall be guilty of an offence:

SCH. 8
—cont.
Pollution of
underground
water.

Provided that nothing in this subsection shall be construed as penalising—

- (i) any act which is in accordance with good agricultural practice;
- (ii) the reasonable use of oil or tar on any highway, so long as the person responsible for the construction or maintenance (as the case may be) of the highway takes all reasonable steps for preventing the oil or tar, or any liquid or matter resulting from the use thereof, from polluting any such water;
- (iii) the deposit or disposal of house, trade, industrial or other similar refuse (whether liquid or solid) on land which was lawfully being used for that purpose at the passing of this Act if the character of the refuse deposited or disposed of after the passing of this Act is not materially different from that which was being deposited or disposed of before that date;
- (iv) the interment of human remains in a burial ground (as defined in subsection (8) of section 128 of the Town and Country Planning Act 1971);
- (v) any act done or neglect arising outside the former area of the Essex River Authority before the passing of the Anglian Water Authority Act 1977, or any act or neglect within that former area before the passing of this Act;
- (vi) the discharge of effluent or other matter in respect of which the consent of the Authority is required by section 72 of the Act of 1963 (or, after it has come into force, section 32 of the Act of 1974) if that consent has been duly given or, if the consent has been refused, it has been allowed on appeal to the Secretary of State under subsection (6) of the said section 72 (or under section 39 of the Act of 1974, as the case may be) and in either case if the discharge complies with such conditions (if any) as may have been imposed by the Authority or the Secretary of State (as the case may be);
- (vii) the disposal of any matter (whether liquid or solid) to which the said section 72 (or the said section 32, as the case may be) does not apply if it has been approved under subsection (2) of this section, or the disposal of any matter under and in accordance with the conditions of a disposal licence issued in pursuance of section 5 of the Act of 1974 or the conditions of a resolution in force under section 11 of that Act; or
- (viii) any act committed in the course of the carrying on without negligence by the National Coal Board of colliery production activities or colliery activities (as respectively defined in the Coal Industry Nationalisation Act 1946) or the filling in of any mine of coal (as defined in the said Act of 1946) or any part thereof in the interests of public safety.

1971 c. 78.

1946 c. 59.

SCH. 8
—cont.

(2) (a) Subject to paragraph (d) of this subsection, if any person (in this subsection referred to as “the applicant”) who proposes to dispose of any matter (whether liquid or solid) within the area of the Authority applies to the Authority for approval of the disposal thereof and supplies to the Authority such particulars as the Authority may reasonably require as to—

- (i) the site on which the matter is to be disposed of;
- (ii) the method of disposal;
- (iii) the nature and the quantity of the matter to be disposed of; and
- (iv) any other relevant information;

the Authority may either approve the proposals subject to such stipulations (if any) as they may reasonably consider necessary to prevent an offence being committed under subsection (1) of this section or refuse their approval:

Provided that if within three months of receiving such an application the Authority have neither approved the proposals with or without stipulations nor refused their approval, they shall be deemed to have approved the proposals in the terms of the application.

(b) If the applicant is dissatisfied by the refusal of the Authority to approve his proposals or by any stipulations which they make in their approval, he may within twenty-eight days of receiving notification of the decision of the Authority refer the matter to the Secretary of State.

(c) On any such reference the Secretary of State may deal with the application as if it had been made to him in the first place, and accordingly may make such decision in the matter as he considers appropriate.

(d) Subsections (5) and (6) of section 39 and subsection (2) of section 54 of the Act of 1963 shall apply (with the necessary modifications) to references under this section as they apply to appeals under Part IV of that Act.

(e) This subsection shall not apply to the disposal of controlled waste (within the meaning of that expression for the purposes of section 3 of the Act of 1974) except as respects activities to which, by virtue of subsection (1) of section 4 of that Act, section 3 of that Act does not apply.

(3) (a) Any person who contravenes this section, or (in circumstances not constituting such a contravention) does not comply with a stipulation subject to which proposals made under this section have been approved, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £100, or on conviction on indictment to a fine.

(b) Proceedings in respect of an offence against this section shall not be instituted except with the consent of the Attorney-General or by the Authority.

(4) (a) In any proceedings for an offence under this section it shall be a defence for the person charged to prove—

SCH. 8
—cont.

- (i) that the commission of the offence was due to an accident or to some other cause beyond his control; and
- (ii) that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence by himself or by any person under his control; or
- (iii) that, in so far as the prosecution is based on an allegation that the contravention was due to neglect, it was impracticable to avoid or prevent the contravention.

(b) Proceedings under this section shall not be instituted against a local authority in respect of the disposal outside the former area of the Essex River Authority within twelve months after the passing of the Anglian Water Authority Act 1977 of domestic refuse, trade refuse or the contents of cesspools even if either the disposal is on other land than was in use for that purpose before the date of the passing of that Act, or, if the disposal is on land so used, the matter disposed of is materially different in character from the refuse disposed of before that date; but this paragraph shall cease to have effect as from the date on which the Authority notify the local authority that the deposit of such material must be discontinued.

In this paragraph "local authority" means the Greater London Council or the council of a London borough or a district.

(5) (a) An approval granted by the Authority under this section shall for the purposes of subsection (7) of section 1 of the Deposit of Poisonous Waste Act 1972 have effect only so as to prevent a person, who has deposited waste or caused or permitted waste to be deposited in such a manner or in such quantity as to threaten the pollution or contamination of any water supply contained in any underground strata, being treated as having contravened subsection (1) of the said section 1. 1972 c. 21.

(b) Where proceedings are being or have been instituted against a person under the said Act of 1972, no proceedings shall be instituted under this section against him in respect of the same offence.

(6) The functions of the Authority under this section shall be deemed to be part of their transferred functions, as defined in section 3 of the Act of 1963.

(7) For the purposes of subsection (3) of section 108 of the Act of 1974 (which provides for consequential amendments and repeals of enactments) this section shall be deemed to be a provision of a local Act passed before the Act of 1974.

13. Schedule 2 of the Salmon and Freshwater Fisheries Act 1975 in its application to the Authority shall have effect as if after paragraph 2 thereof there were added the following new paragraph:— Reduced fishing licence duties for multiple licences.

"2A. Where more than one licence is granted by a water authority to one person the Authority may charge for any licence after the first such amount less than the amount which would otherwise be payable as they think fit." 1975 c. 51.

SCH. 8
—cont.

Extension of
section 79
of Act of
1963.

15.—(1) Section 79 of the Act of 1963 shall in its application to the Authority and their area have effect as if—

(a) the purposes for which the Authority may make byelaws under subsection (3) included the improvement of the amenities of such of the inland waters in the area of the Authority as may be specified in the byelaws and the good rule of, and the regulation of the conduct of, those resorting to such inland waters so specified and the adjoining land;

(b) in subsection (4) paragraph (c) and the words “and not falling within the said section 2 (3)” in paragraph (d) were omitted.

(2) (a) The Secretary of State may on the application of the Authority by order provide that—

(i) paragraph (a) of subsection (4) of the said section 79 shall not apply to such tidal waters in the area of the Authority;

(ii) paragraph (b) of the said subsection (4) shall not apply to such inland waters in the area of the Authority;

as may be specified in the order; but no such order shall be made in respect of any of the waterways specified in Schedule 3 to the Anglian Water Authority Act 1977, or in respect of any inland water in relation to which functions are exercisable by a navigation authority, harbour authority or conservancy authority except with the consent of that authority.

(b) Before the Authority apply for an order under this subsection they shall consult every local authority within whose area any tidal waters or inland waters to which the order relates are situated and every navigation authority, harbour authority and conservancy authority having waters under their jurisdiction which adjoin such tidal waters or inland waters.

(c) An order made under this subsection may contain such incidental and supplementary provisions, including provisions for amending, adapting or repealing local enactments, as the Secretary of State considers necessary or expedient.

(d) The provisions of Schedule 2 to this Act shall have effect with respect to applications and orders made under this section.

(3) Byelaws made under subsection (3) of the said section 79 which apply to tidal waters in the area of the Authority by virtue of an order made under paragraph (a) (i) of subsection (2) of this section shall not prohibit such tidal waters from being used for boating but may, for the purpose of protecting persons lawfully and peaceably using such tidal waters for boating, swimming or other recreational purposes, provide for the exclusion from such stretches of the tidal waters as may be specified in the byelaws of boats of such types or sizes as may also be so specified.

(4) Before making any byelaws under subsection (3) of the said section 79 applying to any tidal waters in the area of the Authority to which an order made under paragraph (a) (i) of subsection (2) of this section relates the Authority shall consult with the authorities on whom notice of the application for the order was served under paragraph 2 (b) of Schedule 2 to this Act.

(5) Subsection (5) of section 111 of the Act of 1963 shall in its application to the Authority have effect as if after the word "pollution" there were inserted the words "and of any byelaws made under section 79 (3) of this Act".

SCH. 8
—cont.

(6) Any person duly authorised by the Authority may require any person whom he has reasonable grounds for believing to have committed an offence against any byelaws made under subsection (3) of section 79 of the Act of 1963 to furnish his name and address and if any person, on being required to furnish his name and address, fails to state his name and address correctly, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding twenty pounds.

18.—(1) Subject to the provisions of this section, the Authority during and for the purposes of executing any work carried out in the performance of any of their functions may temporarily stop up, alter, divert or otherwise interfere with any watercourse or highway or any private right of way, and, in the case of any highway or right of way, may for any reasonable time divert the traffic therefrom and prevent all persons other than those bona fide going to or from any land, house or building abutting on the highway or right of way from passing along and using the same.

Temporary
stopping up
of water-
courses,
highways, etc.

(2) The Authority shall provide reasonable access for foot-passengers, with or without animals, bona fide going to or from any such land, house or building.

(3) (a) The powers of subsection (1) of this section shall not be exercised in relation to—

- (i) any highway outside the area of the former Essex River Authority;
- (ii) a trunk road except with the consent of the Secretary of State but such consent shall not be unreasonably withheld; and
- (iii) any other highway without the consent of the highway authority, and, in the case of a road which is vested in any person other than the highway authority, that person, but such consent shall not be unreasonably withheld and may be given subject to such reasonable conditions (other than a condition requiring a monetary payment) as the highway authority or other person may require, and any difference arising between the Authority and the highway authority or other person under this sub-paragraph may be referred to and determined by an arbitrator to be appointed on the application of either party (after notice in writing to the other of them) by the President of the Institution of Civil Engineers.

(b) The powers of subsection (1) of this section shall not be exercised in relation to any watercourse without providing a proper substitute before interrupting the passage of water in or through such watercourse, and the Authority shall make compensation for any damage caused to any person by the exercise of such powers in relation to any watercourse, the amount of such compensation being, in case of dispute, determined by the Lands Tribunal.

SCH. 8
—cont.

(c) The powers of subsection (1) of this section shall not be exercised so as unreasonably to obstruct or interfere with access to any station or depot of passenger road transport operators.

(d) The temporary stopping up or diversion of any highway or right of way under the powers of this section shall not prejudice or affect any right of statutory undertakers—

(A) to place, maintain, inspect, repair, renew or remove any apparatus in the highway or right of way; or

(B) for the purpose of such placing, maintenance, inspection, repair, renewal or removal to enter upon or break open that highway or right of way.

(4) Except in the case of emergency the Authority shall, not less than seven days before stopping up any highway under the powers of this section, cause notice to be published in one or more newspapers circulating in the district in which the highway is situate of their intention so to do and such notice shall contain a description of the alternative route or routes available for traffic.

(5) So long as any highway remains stopped up a notice describing the alternative route or routes available for traffic shall be kept posted in a conspicuous manner at each end of the highway and at the points at which it will be necessary for vehicles to diverge from the highway.

Power to
sell houses to
employees.

19. The Authority may subject to subsections (2), (3) and (4) of section 70 of the Act of 1963 sell to any person in their employment any house provided by them for such persons subject to such covenants and conditions as they think fit to impose in regard to the maintenance or use of the house and upon any such sale they may, if they think fit, agree to the price being paid by instalments or to the price or part thereof being secured by a mortgage of the premises.

Housing
advances to
employees.

20. The Authority shall have power to make advances to, and to guarantee the repayment of advances made to, persons who are in their employment or who propose to enter their employment for the provision of housing accommodation for such persons, and for this purpose the provisions of sections 43 and 45 of the Housing (Financial Provisions) Act 1958, and Part II of the Housing Subsidies Act 1967, shall, subject to any necessary modifications, apply to the Authority as if they were a county council.

1958 c. 42.
1967 c. 29.

Power to
allow former
employees to
continue in
occupation
of houses
provided by
the Authority.

21. Where a person employed by the Authority occupying any housing accommodation provided by the Authority ceases to be employed by them or dies, the Authority may permit him or any of his dependants to remain in occupation of the premises until other accommodation has been found, and where the Authority do so they may take from such person or his dependant such compensation for the retention of the premises as may be agreed without thereby creating a tenancy:

Provided that if the Authority permit any such person or his dependant to remain in occupation of the premises for twelve months

or longer they shall before the expiration of the period of twelve months grant him a tenancy of the premises on such terms and conditions as they consider to be appropriate in the circumstances of the case.

SCH. 8
—cont.

22.—(1) The Authority may within or outside the area of the Authority provide and maintain recreational, social and welfare facilities for their employees. Recreational, etc., facilities for employees.

(2) For the purposes aforesaid the Authority may—

- (a) erect or maintain buildings;
- (b) make such charges as they think fit for the use of facilities provided under this section;
- (c) make regulations for the management of such premises.

(3) No power conferred upon the Authority by this section shall be exercised in such a manner—

- (a) as to be at variance with any trust subject to which any land or building is held, managed or controlled by the Authority without an order of the High Court or of the Charity Commissioners, or of the Secretary of State for Education and Science or (where the trust instrument reserves to the donor or any other person the power to vary the trust) without the consent of the donor or that other person; or
- (b) as to contravene any covenant or condition (other than a covenant or condition which was subsisting immediately before the date of the gift or lease to the Authority) subject to which a gift or lease of any land or building has been accepted by or granted to the Authority without the consent of the donor, grantor, lessor or other person entitled in law to the benefit of the covenant or condition.

(4) The Authority may contribute towards expenses incurred by any other person in providing and maintaining within or outside the area of the Authority any of the facilities for their employees mentioned in subsection (1) of this section and any such contribution may be by means of a loan on such terms and conditions as the Authority think fit.

24.—(1) The Authority may establish a fund to be called “the insurance fund” with a view to providing a sum of money which shall be available for making good such losses, damages, costs and expenses as may from time to time arise in respect of such risks as may be specified in a resolution of the Authority (in this section referred to as “the specified risks”). Insurance fund.

(2) The establishment of an insurance fund under this section shall not prevent the Authority from insuring in one or more insurance offices against the whole or any part of all or any of the specified risks.

(3) When the insurance fund shall amount to the prescribed amount the Authority shall discontinue the appropriations to the fund under subsection (4) of this section but, if the fund is at any time reduced below the prescribed amount, the Authority shall recommence and continue such appropriations until the fund be restored to the prescribed amount

SCH. 8
—cont.

and, if at any time the Authority reduce the prescribed amount so that there are more moneys in the insurance fund than the sum so prescribed, such moneys as are in excess of the prescribed amount shall be transferred to the revenue account and any moneys so transferred shall be apportioned between the several divisions of that account in such proportions as the Authority consider equitable.

(4) The Authority may from time to time appropriate to the insurance fund such sums as they think fit from the revenue account and shall show the same in their accounts under the separate heading or division in respect of the particular service of the Authority which if the specified risks were insured against in an insurance office would be properly chargeable with the payment of the premium of such insurance.

(5) Except so far as the insurance fund and the proceeds of sale of securities in which that fund is invested may be necessary to meet losses, damages, costs and expenses in respect of the specified risks, or any of them, all moneys for the time being standing to the credit of the insurance fund shall, unless applied in any other manner authorised by any enactment, be invested, and the interest and other annual proceeds received by the Authority in respect of such investments shall be carried to and form part of the insurance fund.

(6) The insurance fund shall be applied to meet any losses, damages, costs or expenses sustained by the Authority in respect of the specified risks which are payable out of the insurance fund in the order of the dates on which such losses, damages, costs or expenses become ascertained, and if at any time and from time to time the insurance fund shall be insufficient to make good any such losses, damages, costs or expenses the amount of such deficiency shall be paid out of the revenue account and charged under the separate headings or divisions in respect of such services of the Authority and in such proportions as the Authority may determine having regard to the risks through which such deficiency arises.

(7) Any covenant or obligation binding on the Authority to insure against any risk shall (except in so far as the terms of such covenant or obligation otherwise specifically provide) be deemed to be satisfied by a resolution of the Authority under subsection (1) of this section and that risk shall be one of the specified risks.

(8) In this section—

“ insurance office ” means—

- (i) an insurance company; or
- (ii) an underwriter being a member of an association of underwriters; and

“ the prescribed amount ” means such sum as may from time to time be prescribed by the Authority.

Offences in
respect of
apparatus.

28.—(1) If any person, without lawful authority or excuse, wilfully and without the consent of the Authority alters or interferes with any apparatus, appliance, instrument or equipment belonging to the Authority and installed for the purposes of or in connection with the exercise by the Authority of any of their functions or any structure containing

or any fence, wall or other erection surrounding such apparatus, appliance, instrument or equipment he shall be liable on summary conviction to a fine not exceeding fifty pounds and the Authority may recover from him summarily as a civil debt the expense of making good or replacing the apparatus, appliance, instrument or equipment, structure, fence, wall or other surrounding erection.

SCH. 8
—cont.

(2) No proceedings shall be taken under this section for an offence in respect of which proceedings could be taken under any of the following enactments—

Paragraphs (a) and (c) of subsection (1) of section 12 of the Salmon and Freshwater Fisheries Act 1975;

1975 c. 51.

Byelaws made under section 34 of the Act of 1976;

Sections 67 and 68 of the Third Schedule to the Act of 1945 (as applied to the Authority by subsection (3) of section 69 of the Act of 1963 and section 9 of the Act of 1973).

29.—(1) In proceedings under any enactment, a document purporting to be certified by the chief executive as a copy of a resolution passed, order made, or report received, by the Authority or a committee thereof on a specified date shall be evidence that that resolution, order or report was duly passed, made or received by the Authority or committee on that date.

Evidence of proceedings, appointments, etc.

(2) In proceedings under any enactment, a document purporting to be certified as aforesaid as a copy of the appointment of, or of an authority given to, an officer of the Authority or a committee thereof on a specified date shall be evidence that that appointment was duly made, or that that authority was duly given, by the Authority or committee on that date.

(3) In this section “ officer ” includes a servant and an agent.

31. Section 265 of the Public Health Act 1875 shall apply to the Authority as if—

Protection of members and officers of Authority from personal liability.

(a) references in that section to a local authority were references to the Authority or to a committee of the Authority;

(b) references in that section to a member of a local authority were references to a member of the Authority and included references to a member of a committee of the Authority;

1875 c. 55.

(c) for the words “ for the purpose of executing this Act ” there were substituted the words “ for the purpose of carrying out any of the functions of the Authority except functions under the Act of 1974 (section 86 whereof contains provisions corresponding to those in this section) ”;

(d) for the words “ out of the fund or rate applicable by such authority to the general purposes of the Act ” there were substituted the words “ by the Authority ”; and

(e) at the end of that section as amended by subsection (2) of section 27 of the Local Government (Miscellaneous Provisions) Act 1976 there were added the words “ as applied to the accounts of water authorities by paragraph 39 of Schedule 3 to the Water Act 1973 ”.

1976 c. 57.

1973 c. 37.

SCH. 8
—cont.

SCHEDULE 2

ORDERS PROVIDING THAT SECTION 79 (4) (a) OR (b) OF THE ACT OF 1963 SHALL NOT APPLY TO SPECIFIED TIDAL WATERS OR INLAND WATERS

1. Where the Authority apply to the Secretary of State for an order under subsection (2) of section 15 (Extension of section 79 of Act of 1963) of this Act, the Authority shall submit to the Secretary of State a draft of the order, and shall publish at least once in each of two successive weeks, in one or more newspapers circulating in the locality where the tidal waters specified in the order are situated, a notice—

- (a) stating the general effect of the order as prepared in draft;
- (b) specifying a place in the area of the Authority where a copy of the draft order and of any relevant map or plan may be inspected by any person free of charge at all reasonable times during the period of twenty-eight days beginning with the date of the first publication of the notice; and
- (c) stating that any person may, within that period, by notice in writing to the Secretary of State object to the making of the order.

2. Not later than the date on which the notice is first published in pursuance of the preceding paragraph, the Authority shall serve a copy of the notice—

- (a) on every local authority within whose area any tidal waters or inland waters to which the order relates are situated; and
- (b) on any navigation authority, harbour authority or conservancy authority exercising functions in relation to the tidal waters or inland waters to which the order relates.

3. The Authority shall also publish a notice in the London Gazette stating that the draft order has been submitted to the Secretary of State, naming every local authority on whom a notice is required to be served under the last preceding paragraph, specifying a place where a copy of the draft order and of any relevant map or plan may be inspected, and giving the name of the newspaper in which the notice under paragraph 1 of this schedule was published and the date of an issue containing the notice.

4. The Authority shall, at the request of any person, furnish him with a copy of the draft order on payment of such charge, as the Authority think reasonable.

5. The Secretary of State may make the order either in the terms of the draft order or in those terms as altered in such manner as he thinks fit; but where he proposes to make any alteration, and considers that any persons are likely to be adversely affected by it, the Authority shall give and publish such additional notices, and in such manner, as the Secretary of State may require.

6. If before the end of the period of twenty-eight days referred to in paragraph 1 of this schedule, or of twenty-five days from the publication in the London Gazette of the notice under paragraph 3 of this schedule, or of any period specified in notices under the last preceding paragraph, notice in writing of an objection is received by the Secretary of State from any person on whom a notice is required to be served under this schedule, or from any other person appearing to the Secretary of State to be affected by the order as prepared in draft or as proposed to be altered, and the objection is not withdrawn, the Secretary of State, before making the order, shall either—

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

Thames Barrier and Flood Prevention Act 1972

1972 c. xlv.

64. The power of the Authority under section 23 of the Act of 1976 to enter into an agreement with any local authority or navigation authority for the carrying out by that authority, on such terms as to payment and otherwise as may be specified in the agreement, of any work for the purpose of defence against the sea or other tidal water which the Authority are authorised to carry out, shall be exercisable anywhere in the area of the Authority, irrespective of whether it is a work in connection with the main river.

Agreements
for carrying
out sea
defence
works.

68.—(1) This section applies to any opening which is situated in the area of the Authority and which consists of—

Closing of
flood dams.

- (a) an opening from the river, or from the sea or other tidal water, to any dock, lock, canal or watercourse;
- (b) any other opening provided for access to any land; or
- (c) an opening used or intended to be used for or in connection with any abstraction from, or discharge to, the river, the sea or other tidal water;

being an opening which is furnished with one or more caissons, lock gates, gates, doors, dams, dam boards, sluice gates, sluices, valves or any other similar structures, appliances or apparatus (hereafter in this section referred to as “flood dams”) which in the opinion of the Authority form, when in a closed position, an effectual and necessary part of the defences of their area against floods or inundations from the overflow of the river or from the sea or other tidal water.

(2) Whether or not the Authority in the exercise of their functions under the Act of 1976 have provided or contributed to, or maintain, the flood dams of an opening to which this section applies, they may, after consultation (if reasonably practicable) with the occupier of the land on which such opening is situated, by notice given to him in writing require him to comply with such arrangements and conditions as the Authority consider necessary, and as may be specified in the notice, for securing that the flood dams are closed at such times, and are kept closed throughout such periods, as may be so specified, and

SCH. 8
—cont.

generally requiring him to keep the flood dams closed whenever necessary for preventing floods or inundations from the overflow of the river or from the sea or other tidal water through the opening:

Provided that in giving any notice under this section to—

- (a) the Central Electricity Generating Board in respect of any such opening as is referred to in paragraph (c) of subsection (1) of this section and is maintained by that board for the purposes of the cooling water system of an electricity generating station, the Authority shall have proper regard to the need for securing that compliance with the requirements of the notice will cause no unnecessary interference with the generation of electricity at such generating station;
- (b) any navigation authority, harbour authority or conservancy authority the Authority shall have proper regard to the need for securing that compliance with the requirements of the notice will cause no unnecessary interference with navigation or with the carrying on of the undertaking, or the exercise of the functions, of that authority.

(3) (a) If any flood dams of an opening to which this section applies have not been closed, or have not been kept closed, at any time in compliance with the requirements of a notice given under this section and for the time being in force, then—

- (i) without prejudice to any right of entry conferred under any other enactment, any person duly authorised by the Authority may enter on the land on which the opening is situated and close the flood dams or cause them to be closed;
- (ii) the occupier of the said land shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding four hundred pounds or on conviction on indictment to a fine or imprisonment for a term not exceeding two years or both:

Provided that where the commission by any person of an offence under this subsection is due to the act or default of some other person that other person shall be guilty of the offence, and a person may be charged and convicted of the offence by virtue of this proviso whether or not proceedings are taken against the first-mentioned person.

(b) Where a person who is charged with an offence under this subsection proves to the satisfaction of the court—

- (i) that he exercised all due diligence to secure that the provisions of this subsection would not be contravened; and
- (ii) that the offence was due to the act or default of another person the first-mentioned person shall, subject to the next following paragraph, be acquitted of the offence.

(c) A person shall not, without the leave of the court, be entitled to rely on the defence provided by the last foregoing paragraph unless not later than seven clear days before the date of the hearing, he has

served on the prosecutor a notice in writing giving such information identifying, or assisting in the identification of, the other person in question as was then in his possession.

(4) The Authority may from time to time, by notice in writing given to the occupier of the land after consultation (if reasonably practicable) with him, alter or revoke any notice previously given under this section.

(5) The occupier of any land in respect of which a notice has been given under this section and is for the time being in force shall keep a copy of the notice displayed in a prominent position on that land.

(6) (a) The requirements of a notice given under this section shall be registrable as a local land charge as if they were such prohibitions or restrictions as are registrable in pursuance of the provisions of paragraph (b) of subsection (7) of section 15 of the Land Charges Act, 1925, and subject to the provisions of that section shall be binding upon the occupier for the time being of the land. 1925 c. 22.

(b) The Authority shall send a copy of any such requirements to the proper officer of the council of each London borough or district in which the land to which the requirements relate is situated and the proper officer shall cause it to be registered in the register of local land charges in such manner as may be prescribed by rules made in reference to local land charges under subsection (6) of section 15 of the said Act of 1925; and the power conferred by the said subsection (6) to make rules for giving effect to the provisions of the said section 15 shall be exercisable for giving effect to the provisions of this paragraph.

(7) Any person aggrieved by a notice given to him under this section may within fourteen days of the receipt of such notice appeal to the Minister on the ground that the notice is unreasonable in character or extent, and on any such appeal the Minister may confirm, vary or rescind the notice.

(8) A person entitled under this section to enter on any land may take with him such other persons and such equipment as may be necessary and, if the land is unoccupied, he shall, on leaving it, leave it as effectually secured against trespassers as he found it.

* * * * *

(11) (a) Any reference in this section to flood dams being in a closed position shall include a reference to flood dams being secured in such a manner and in such a position as, in the opinion of the Authority, will most effectively seal the opening in respect of which they are furnished against floods or inundations from the overflow of the river, or from the sea or other tidal water, through that opening, and the word "closed" shall be construed accordingly.

(b) Where any land on which there is an opening to which this section applies is unoccupied, the owner thereof shall be deemed for the purposes of this section to be the occupier.

SCH. 8
—cont.

(12) In this section, “ opening ”, without prejudice to the generality of that word, includes an opening from or into any pipe, tunnel or culvert.

Penalty for
obstructing
execution of
Act.

70. A person who wilfully obstructs or impedes any person acting—
(a) in the execution of this Act or of any order or byelaw made thereunder; or
(b) in compliance with any notice or direction given under this Act;

shall be guilty of an offence and, if no other penalty for such offence is provided by or under this Act, shall be liable on summary conviction to a fine not exceeding one hundred pounds.

Offences by
corporations.

71.—(1) Where a body corporate is guilty of an offence under this Act, or under any byelaws made under or in pursuance of this Act, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, the foregoing subsection shall apply to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

PRINTED IN ENGLAND BY OYEZ PRESS LIMITED
FOR BERNARD M. THIMONT

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

Anglian Water Authority Act 1977

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