



Avon Weir Act 1992

1992 CHAPTER v

PART VII

MISCELLANEOUS AND GENERAL

57 Application of Act to Feeder Canal and Floating Harbour

- (1)
 - (a) The provisions of this Act mentioned in subsection (2) below shall, at such time or times as may be fixed for the purpose in accordance with subsections (3) and (4) below by resolution of the Corporation, apply to the Feeder Canal and the Floating Harbour as they apply to the impounded river.
 - (b) Different days may be fixed for different provisions and for different parts of the Feeder Canal and the Floating Harbour.
- (2) The provisions referred to in subsection (1) above are the following:—
 - section 24 (Status of works in impounded river);
 - Part V—
The impounded river, except sections 37, 39, 44 and 45;
 - Part VI—
;Protective provisions; and
 - section 58 (Management arrangements).
- (3) The Corporation shall not without the consent of the City Council pass a resolution under this section as respects any part of the Feeder Canal or the Floating Harbour outwith the urban development area.
- (4) The Corporation shall publish in a newspaper circulating in the city notice—
 - (a) of the passing of each resolution referred to in subsection (1) above and of the day fixed thereby; and
 - (b) of the general effect of the resolution;and the day so fixed shall not be earlier than the expiration of 28 days from the date of publication of the notice.

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- (5) A photostatic or other reproduction certified by an officer of the Corporation designated by it for the purposes of this subsection to be a true reproduction of a page, or part of a page, of any newspaper, being a page or part of a page bearing the date of its publication and containing the notice mentioned in subsection (4) above, shall be evidence of the publication of the notice and of the date of publication.
- (6) Nothing in this section affects prejudicially any private rights enjoyed under or by virtue of the Bristol Dock Acts and Orders 1848 to 1986.
- (7) In this section “the Corporation” includes any successor of the Corporation by virtue of an order made under section 165 of the Local Government, Planning and Land Act 1980 (transfer of undertakings of urban development corporation) or section 61 (Transfer of functions) of this Act.

58 Management arrangements

- (1) Subject to subsection (5) below, the Corporation may enter into and carry into effect agreements with respect to the construction, maintenance, use, management and operation by any other person of all or part of the works, lands, facilities, functions and activities comprising the undertaking of the Corporation, including the impounded river as authorised by or established under, or in connection with, this Act, and any other matters incidental or subsidiary thereto or consequential thereon, including the defraying of, or the making of contributions towards, the cost thereof by the Corporation or by any other person.
- (2) Any agreement under subsection (1) above may provide (inter alia) for the exercise of the powers of the Corporation in respect of the said undertaking or any part or parts thereof.
- (3) The Corporation may at any time lease any part of the said undertaking on such terms and conditions as may be agreed.
- (4) The exercise of the powers of any enactment by any person in pursuance of any agreement under subsection (1) above or any lease under subsection (3) above shall be subject to the same restrictions, liabilities and obligations as would apply under this Act if those powers were exercised by the Corporation.
- (5)
 - (a) The Corporation shall not enter into any agreement under this section as regards Part IV of this Act without the consent of the rivers authority and as regards Part V of this Act without the consent of the City Council, in either case consent not to be unreasonably withheld.
 - (b) Any difference as to the withholding of such consent (other than a difference as to meaning or construction) shall be referred to and settled by arbitration.

59 Covenants, etc., binding successive owners

Section 33 of the Local Government (Miscellaneous Provisions) Act 1982 (which relates to the enforceability by local authorities of covenants affecting land) shall apply to the Corporation as if the Corporation were a principal council and as though the reference therein to section 111 of the Local Government Act 1972 were a reference to section 136 of the Local Government, Planning and Land Act 1980 and to section 13 (Agreements with owners of land and others for construction of works) and section 58 (Management arrangements) of this Act.

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60 Corporation's undertaking

The powers and duties conferred or imposed on the Corporation by or by virtue of this Act shall form a part of the undertaking of the Corporation for the purposes of sections 165 and 166 of the Local Government, Planning and Land Act 1980 (which relate to the transfer of undertakings and dissolution of urban development corporations).

61 Transfer of functions

- (1) Notwithstanding any other provision of this Act or any provision of the Local Government, Planning and Land Act 1980, the Secretary of State, on the application of the Corporation, may by order made by statutory instrument at any time transfer to any person all or any part of the undertaking authorised by this Act or all or any of the functions conferred on the Corporation by this Act and thereafter, in relation to the undertaking or part thereof, or to the functions so transferred, that person shall have and may exercise all or any of the powers conferred upon the Corporation by this Act or which the Corporation has or might exercise under this Act and shall be subject to all the liabilities and obligations to which the Corporation is subject under this Act and shall perform all the duties of the Corporation under this Act.
- (2) The Corporation shall not apply for an order under this section—
 - (a) transferring any of its functions under section 53 (For protection of port authority) of this Act to the City Council;
 - (b) transferring any of its functions under this Act to the City Council or the rivers authority without the consent of the City Council or, as the case may be, the rivers authority as transferee;
 - (c) transferring any of its functions under Parts II, III or IV of this Act to any person other than the City Council or the rivers authority without the consent of the City Council and the rivers authority; or
 - (d) transferring any of its functions under Part V or section 57 (Application of Act to Feeder Canal and Floating Harbour) of this Act to any person other than the City Council without the consent of the City Council.
- (3)
 - (a) Consent under subsection (2) (c) or (d) above shall not be unreasonably withheld, and any difference as to the withholding of such consent (other than a difference as to meaning or construction) shall be referred to and settled by arbitration.
 - (b) The withholding of consent to the transfer of any function to any person under subsection (2) (c) or (d) above shall be deemed to be unreasonable if consent to the transfer of that function under subsection (2) (b) above has also been withheld, unless consent has been given to the transfer of that function to some other person who has agreed to accept such transfer and who is acceptable to the Corporation.
- (4) Before in any case making application to the Secretary of State under subsection (1) above the Corporation shall give not less than three months' notice of its intention in that behalf to the City Council and the rivers authority and shall forward with the application any written representations submitted to the Corporation by that council or authority within the period of such notice.

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62 Obstructing execution of Act

A person who intentionally obstructs any person acting in the execution of this Act, or without reasonable excuse pulls up any peg or stake driven into the ground for the purposes of setting out the line, level or site of any works authorised by this Act, or otherwise intentionally or recklessly interferes with equipment or materials used in the construction of those works, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

63 Defence of due diligence

- (1) In proceedings for an offence under the provisions of this Act mentioned in subsection (2) below it shall be a defence for the Corporation to prove that it took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.
- (2) The provisions referred to in subsection (1) above are the following:—
section 20 (Provision against danger to navigation); and
section 23 (Lights on tidal works).
- (3) If in any case the defence provided under subsection (1) above involves the allegation that the commission of the offence was due to the act or default of another person, the Corporation shall not, without leave of the court, be entitled to rely on that defence unless, not less than 7 clear days before the hearing, it has served on the prosecutor a notice in writing giving such information as was then in its possession, identifying, or assisting in the identification of, that other person.

64 Restriction on powers of Corporation

For the purposes of section 138 of the Local Government, Planning and Land Act 1980 (which permits restrictions to be imposed on the exercise of the powers of an urban development corporation under that Act) that section shall apply to the powers of the Corporation conferred by or by virtue of this Act as if they were powers under that Act.

65 Modification of Town and Country Planning General Development Order 1988

- (1) In their application to development authorised by this Act, article 3 of, and Class A in Part 11 of Schedule 2 to, the Town and Country Planning General Development Order 1988 (which permit development authorised by private Act designating specifically both the nature of the development thereby authorised and the land on which it may be carried out) shall have effect as if the authority to develop given by this Act were limited to such development begun within 10 years after the passing of this Act.
- (2) Subject to subsection (3) of section 40 (Works in impounded river) of this Act, for the purposes of article 3 of, and Class B in Part 17 of Schedule 2 to, the said Order of 1988 (which permit development by dock, pier, harbour, water transport, canal or inland navigation undertakers) the Corporation shall, in relation to the undertaking authorised by this Act, be deemed to be an undertaker carrying on an undertaking within the description of that Part.

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66 Arbitration

Where under any provision of this Act any difference (other than a difference as to the meaning or construction of any such provision) is to be referred to and settled by arbitration, then, unless otherwise provided, such difference shall be referred to and settled by a single arbitrator to be agreed between the parties, or, failing agreement, to be appointed on the application of either party (after notice in writing to the other)—

- (a) in any case where a difference arises under the following provisions of this Act:—
 - subsection (6) (a) of section 40 (Works in impounded river);
 - section 53 (For protection of port authority);
 - subsection (5) of section 58 (Management arrangements);
 - subsection (3) of section 61 (Transfer of functions); by the President of the Institute of Arbitrators;
- (b) in any other case by the President of the Institution of Civil Engineers.