



Water Resources Act 1963

1963 CHAPTER 38

PART I

FUNCTIONS OF MINISTERS IN RELATION TO WATER RESOURCES

1 Functions of Ministers

- (1) The duty of the Minister of Housing and Local Government (in this Act referred to as "the Minister") under section 1 of the Water Act 1945 (which requires him to promote the conservation and proper use of water resources and the provision of water supplies in England and Wales, and to secure the effective execution by water undertakers, under his control and direction, of a national policy relating to water) shall be extended so as to require the Minister—
 - (a) in formulating a national policy relating to water, to include such measures as he may consider necessary or expedient for augmenting the water resources of areas in England and Wales, for re-distributing water resources in any such area or for transferring water resources from one such area to another, and
 - (b) to secure that, under his control and direction, that policy will be effectively executed by the river authorities and the Water Resources Board to be established under this Act, as well as by statutory water undertakers, in so far as that policy relates to matters falling within the functions of those bodies respectively.
- (2) In this Act, subject to any express provision for including the Minister of Transport, "the Ministers" means the Minister and the Minister of Agriculture, Fisheries and Food and, in the case of anything falling to be done by the Ministers, means those Ministers acting jointly.

2 Meaning of "water resources"

- (1) In this Act "water resources", in relation to any area, means water for the time being contained in any source of supply in that area, and "source of supply", in relation to any area, means either of the following, that is to say—

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- (a) so much of any inland water, other than any inland water falling within subsection (3) of this section, as is situated in that area, and
 - (b) any underground strata in that area.
- (2) For the purposes of this Act water for the time being contained in—
- (a) a well, borehole or similar work, including any adit or passage constructed in connection with it for facilitating the collection of water in the well, borehole or work, or
 - (b) any excavation into underground strata, where the level of water in the excavation depends wholly or mainly on water entering it from those strata,
- shall be treated as water contained in the underground strata into which the well, borehole or work was sunk, or the excavation was made, as the case may be.
- (3) Except as provided by the last preceding subsection, an inland water which either—
- (a) is a lake, pond or reservoir which does not discharge to any other inland water, or
 - (b) is one of a group of two or more lakes, ponds or reservoirs (whether near to or distant from each other) and of watercourses or mains connecting them, where none of the inland waters in the group discharges to any inland water outside the group,
- does not constitute a source of supply for the purposes of this Act.

PART II

RIVER AUTHORITIES AND WATER RESOURCES BOARD

River authorities

3 Establishment of river authorities

- (1) The Ministers shall, as soon as practicable after the passing of this Act, and after consultation with such persons, or bodies representative of persons, as they consider appropriate, by order establish authorities, to be called " river authorities ".
- (2) The names of the river authorities established by virtue of this section shall be those specified in the second column of Schedule 1 to this Act; and, subject to the following provisions of this section, the area for which any such river authority is so established shall be an area consisting of the river board area, or combination of river board areas, specified in relation to that river authority in the third column of that Schedule.
- (3) The area for which a river authority is for the time being established by virtue of this section or of section 10 of this Act shall be called a " river authority area ".
- (4) All the river authorities established by virtue of this section—
 - (a) shall come into existence on such day as may be appointed for the purposes of this paragraph by an order made by the Ministers (in this Act referred to as " the first appointed day "), and
 - (b) on and after such day (subsequent to the first appointed day) as may be appointed for the purposes of this paragraph by an order made by the Ministers (in this Act referred to as " the second appointed day ") shall perform the functions assigned or transferred to them by or under this Act.

- (5) The functions assigned by or under this Act to river authorities, other than functions transferred to them by or under section 5 or (except as otherwise provided in that section) section 82 of this Act, are in this Act referred to as their " new functions "; and the functions transferred to river authorities by or under those sections (except as otherwise provided in the said section 82) are in this Act referred to as their " transferred functions ".
- (6) In this section, and in Schedule 1 to this Act, any reference to a river board area is a reference to that area as it exists immediately before the first appointed day for the purposes of the functions of river boards relating to land drainage.
- (7) The provisions of Schedule 2 to this Act shall have effect for the purposes of this section.

4 General duty of river authorities in relation to water resources

Without prejudice to any other functions assigned or transferred to them by or under this Act, it shall be the duty of each river authority, as from the second appointed day, to take all such action as they may from time to time consider necessary or expedient, or as they may be directed to take by virtue of this Act, for the purpose of conserving, re-distributing or otherwise augmenting water resources in their area, of securing the proper use of water resources in their area, or of transferring any such resources to the area of another river authority.

5 Transfer to river authorities of functions of river boards

- (1) As from the second appointed day, all the functions which immediately before that day were exercisable by river boards by virtue of—
 - (a) section 4 of the River Boards Act 1948 (which provided for the transfer to river boards of functions relating to land drainage, fisheries, river pollution and other matters), or
 - (b) section 8 of that Act (which provided for the transfer to river boards of functions of navigation authorities, conservancy authorities and harbour authorities), or
 - (c) the Rivers (Prevention of Pollution) Acts 1951 to 1961, or
 - (d) any other statutory provision not contained in, or made or issued under, the River Boards Act 1948,shall be transferred to the river authorities established under this Act.
- (2) In accordance with the preceding subsection, the provisions of Schedule 3 to this Act shall have effect for adapting statutory provisions as mentioned in that Schedule.

6 Constitution of river authorities

- (1) A river authority shall consist of not less than twenty-one members and (excluding any additional members) not more than thirty-one members, or such greater number (if any) as may be prescribed under subsection (5) of this section.
- (2) Such number of members of a river authority as is sufficient (but not more than sufficient) to constitute a majority of the total membership of the authority (including any additional members thereof) shall, subject to the provisions of the next following section, be appointed by or on behalf of all the constituent councils.

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- (3) The remainder of the members of a river authority (other than additional members) shall consist of the following, that is to say—
- (a) one or more members appointed by the Minister of Agriculture, Fisheries and Food as being qualified in respect of land drainage generally or as being qualified in respect of the protection of land against erosion or encroachment by the sea or any other particular aspects of land drainage;
 - (b) one or more members appointed by (that Minister as being qualified in respect of fisheries;
 - (c) one or more members appointed by that Minister as being qualified in respect of agriculture;
 - (d) one or more members appointed by the Minister as being qualified in respect of public water supply; and
 - (e) one or more members appointed by the Minister as being qualified in respect of industry other than agriculture.
- (4) In the last preceding subsection " qualified ", in relation to any subject mentioned in paragraphs (a) to (e) of that subsection, means qualified as having had experience of, and shown capacity in, or otherwise as having special knowledge of, matters which relate to that subject as it affects the area of the river authority.
- (5) If in the case of a particular river authority it appears to the Ministers that, by reason of special circumstances, the number of members of the authority, other than additional members, ought to exceed thirty-one, the order establishing the authority may provide that the number of members of the authority (excluding additional members) shall be such number, greater than thirty-one, as may be specified in the order.
- (6) The provisions of Schedule 4 to this Act shall have effect with respect to river authorities.
- (7) In this Act " constituent council", in relation to a river authority, means the council of a county or county borough any part of which is comprised in the area of the river authority.

7 Local authority members of river authorities

- (1) Members of a river authority appointed as mentioned in subsection (2) of the last preceding section (in this Act referred to as " local authority members " of a river authority) may be either members of the constituent councils or other persons.
- (2) The number of local authority members of a river authority to be appointed by each constituent council shall be specified in the order establishing the river authority, and for that purpose shall be determined by the Ministers having regard to the appropriate penny rate product for the relevant area of each such council for the relevant year (calculated in accordance with section 121 of this Act).
- (3) Where, in the case of a particular constituent council, the Ministers, having regard to the proportion which the appropriate penny rate product for the relevant area of that council for the relevant year bears to the aggregate of the appropriate penny rate products for the relevant areas of all the comparable constituent councils for that year.
 - (a) consider it to be inappropriate that that council should appoint a local authority member of the river authority, or

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- (b) consider that one or more local authority members of the river authority should be appointed jointly by that council and one or more of the other comparable constituent councils,

the order establishing the river authority may provide accordingly.

In this subsection "comparable constituent councils", in relation to a county council, means constituent councils which are county councils, and, in relation to a county borough council, means constituent councils which are county borough councils.

- (4) Where in accordance with paragraph (b) of the last preceding subsection the order provides for the joint appointment of one or more local authority members, and the councils by whom that appointment is to be made are unable to agree on an appointment, the local authority members in question shall be appointed by the Ministers on behalf of those councils.
- (5) Where local authority members of a river authority are to be appointed by the council of a county, and, in the case of a particular county district in that county, the appropriate penny rate product for the relevant area of the county district council for the relevant year bears to the aggregate of the appropriate penny rate products for that year for the relevant areas of all the constituent county councils of the river authority a proportion greater than that borne by the number one to the total number of local authority members of the river authority to be appointed by county councils.—
 - (a) the order establishing the river authority shall specify a number determined by the Ministers having regard to that proportion, and
 - (b) the local authority members appointed by that county council shall include that number of persons appointed from among persons nominated by the council of that county district.
- (6) In the appointment of local authority members of a river authority, the constituent councils shall, so far as may be practicable, select persons appearing to them to have a practical knowledge of the matters to which the functions of the river authority will relate; and where two or more local authority members are to be appointed by the council of a county, the council (subject to the last preceding subsection) shall, so far as may be practicable, select persons each of whom has local associations with a different county district or group of county districts, having regard to the appropriate penny rate product for the relevant area of each county district council for the relevant year.
- (7) A person shall not be eligible to be a local authority member of a river authority if he is an officer or servant of a local authority (whether one of the constituent councils or not) unless either—
 - (a) he is an officer or servant of statutory water undertakers, not being one of the constituent councils, or
 - (b) he is a member of the council, or one of the councils, by whom or on whose behalf he is appointed.

8 Additional members of river authorities

- (1) In this Act "additional members", in relation to a river authority, means members of the authority (including local authority members thereof) appointed in pursuance of the following provisions of this section.
- (2) The Yorkshire Ouse and Hull River Authority and the Trent River Authority shall each include one additional member to be appointed by the National Coal Board.

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- (3) Where it appears to the Minister, the Minister of Agriculture, Fisheries and Food and the Minister of Transport, in the case of a particular river authority, that, in comparison with the generality of river authorities.—
- (a) the authority will have exceptionally important functions relating to navigation, or
 - (b) the performance of any functions of the authority will affect to an exceptional extent the functions of a navigation authority, harbour authority or conservancy authority in relation to a navigable waterway or harbour in the area of the river authority,

the order establishing the river authority may provide for the appointment by the Minister of Transport of an additional member or members to represent the interests of those affected by the performance of those functions of the river authority.

- (4) Where for any year a drainage charge has been raised and levied on occupiers of chargeable hereditaments in a river authority area (whether it has been raised and levied by the river authority or, before the second appointed day, by a river board) the Minister of Agriculture, Fisheries and Food may appoint not more than two additional members of the river authority for that area from amongst persons appearing to him to represent occupiers of chargeable hereditaments in that area.

In this subsection " drainage charge " and " chargeable hereditaments " have the same meanings as in Part I of the Land Drainage Act 1961.

- (5) Where the membership of a river authority includes one or more members appointed by virtue of subsection (2) or subsection (3) of this section, the order establishing the authority shall provide for the appointment of such additional local authority members (if any) as may be needed to make up the number required by section 6 (2) of this Act; and where that membership includes one or more members appointed by virtue of subsection (4) of this section, there shall also be appointed by or on behalf of the constituent councils, in such manner as the Ministers may direct, such additional local authority members (if any) as may be needed to make up the number so required.

9 Areas of river authorities for purposes of transferred functions

- (1) For the purposes of the functions of a river authority relating to fisheries, the area of the authority shall include those tidal waters and parts of the sea adjoining the coast of the river authority area in which Her Majesty's subjects have the exclusive right of fishing, in so far as, apart from this subsection, those waters and parts of the sea would not be included in the river authority area for the purposes of the enactments relating to fisheries.
- (2) Any question arising under the preceding subsection as to the extent of the tidal waters and parts of the sea included in the area of a river authority for the purposes mentioned in that subsection shall be determined by the Minister of Agriculture, Fisheries and Food, whose decision shall be final.
- (3) For the purposes of the functions of a river authority relating to river pollution, the area of the authority shall include those tidal waters and parts of the sea adjoining the coast of the river authority area to which any of the provisions of the Rivers (Prevention of Pollution) Act 1951 for the time being apply by virtue of an order made, or having effect as if made, under section 6 of that Act, in so far as, apart from this subsection, those waters and parts of the sea would not be included in the river authority area for the purposes of the enactments relating to river pollution.

- (4) The designation by or under this Act of the area of a river authority shall not be construed as affecting the performance by the authority, outside the limits of the area so designated, of any functions by virtue of—
 - (a) section 19 (1) of the Land Drainage Act 1961 (which relates to sea defence works), or
 - (b) the Rivers (Prevention of Pollution) Acts 1951 to 1961, or any order made under any of those Acts, whether before or after the passing of this Act.
- (5) Nothing in this section shall affect the construction of any reference in this Act to a river authority area, other than any such reference in this section or in Schedule 3 to this Act.

10 Alteration of river authority areas

- (1) Subject to the provisions of this section, the Ministers may at any time by order—
 - (a) alter any of the areas of river authorities, or
 - (b) designate a new area (consisting of any part of England and Wales, whether wholly or partly comprised in one or more of the areas specified in Schedule 1 to this Act or not) and establish a new river authority for the area so designated.
- (2) The provisions of sections 6 to 8 of this Act shall have effect in relation to any new river authority established under this section.
- (3) Any order under this section may contain such transitional, incidental, supplementary and consequential provisions as the Ministers consider necessary or expedient for the purposes of the order, including (but without prejudice to the generality of this subsection) such provisions as they consider necessary or expedient with respect to the transfer of functions, assets and liabilities, the amendment, adaptation or repeal of local enactments, or the application (subject to such exceptions, adaptations and modifications as may be specified in the order) of any of the provisions of Part IX of this Act or any regulations made thereunder.
- (4) The provisions of Schedule 5 to this Act shall have effect with respect to orders under this section.

11 Maps of river authority areas

- (1) On or as soon as practicable after the second appointed day, the Ministers shall send to each of the river authorities established under section 3 of this Act a map of the area of the river authority; and, as soon as practicable after an order under the last preceding section comes into operation, the Ministers shall send to the river authority to whom the order relates—
 - (a) in the case of an order altering the area of a river authority, a map of the area as altered by the order, or
 - (b) in the case of an order designating a new area, a map of that area.
- (2) On or as soon as practicable after the second appointed day, the Minister of Agriculture, Fisheries and Food shall send to each of the river authorities established under section 3 of this Act a map—
 - (a) showing by a distinctive colour the extent to which any watercourse in the river authority area was treated as the main river, or part of the main river, for the purposes of the map or maps which, immediately before the second

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appointed day, were for the time being in force under section 6 of the River Boards Act 1948 with respect to the river board or river boards whose area or areas is or are comprised in the river authority area, and

- (b) indicating (by a distinctive colour or otherwise) which (if any) of those watercourses are watercourses designated in a scheme made under section 3 of the Land Drainage Act 1961 (which relates to the designation of watercourses for drainage works in the interests of agriculture).

(3) Where any of the following events occurs, that is to say—

- (a) by an order under the last preceding section a river authority is established for a new area designated in the order, or
- (b) by an order under that section the area of a river authority is altered so as to affect any of the particulars shown on a main river map, or
- (c) a scheme under section 3 of the Land Drainage Act 1961 is confirmed by the Minister of Agriculture, Fisheries and Food,

that Minister shall take action in accordance with the following provisions of this section.

(4) Subject to the next following subsection, the action to be taken by the Minister of Agriculture, Fisheries and Food in the circumstances mentioned in the last preceding subsection shall be such action, either—

- (a) by requiring a river authority to send to him a main river map kept by the authority, and altering the map and sending it back to the river authority, or
- (b) by preparing a new map and sending it to a river authority, and, where a main river map is already kept by that authority, directing that the new map is to be in substitution for that map,

as that Minister may consider appropriate for securing that, in each river authority area, there will be kept by the river authority a main river map—

- (i) showing by a distinctive colour the extent to which any watercourse in the area is to be treated as the main river, or part of the main river, for the purposes of Part II of the Land Drainage Act 1930, and
- (ii) indicating (by a distinctive colour or otherwise) which (if any) of those watercourses are watercourses designated in a scheme made under section 3 of the Land Drainage Act 1961.

(5) Before altering a map, or preparing a new map, under the last preceding subsection, the Minister of Agriculture, Fisheries and Food shall give notice of his intention to do so in such manner as he thinks best adapted for informing persons affected, and shall consider any objections made to him within the time and in the manner specified in that notice, and may then alter or prepare the map, whether in accordance with the proposals contained in the notice or otherwise:

Provided that this subsection shall not apply to the variation of a main river map (whether by way of altering the map or preparing a new map in substitution for it) where the variation is limited to that required in consequence of the confirmation of a scheme under section 3 of the Land Drainage Act 1961.

(6) A river authority may apply to the Minister of Agriculture, Fisheries and Food for the variation of the main river map kept by the authority and for that purpose shall send the map to that Minister; and on any such application that Minister—

- (a) if he intends to vary the map, whether in accordance with the proposals contained in the application or otherwise, shall give notice of his intention

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- to do so in such manner as he thinks, best adapted for informing persons affected, and shall consider any objections made to him within the time and in the manner specified in that notice, and may then vary the map, whether in accordance with the proposals contained in the notice or otherwise ;
- (b) if he varies it, shall as soon as practicable send to the river authority either the map as varied or a new map prepared by him in substitution for it;
 - (c) if he determines not to vary the map, shall as soon as practicable send it back to the river authority.
- (7) Subject to the preceding provisions of this section, any map sent to a river authority under this section, except a map which has been superseded by a subsequent map sent thereunder, shall be kept at the principal office of the river authority; and the authority shall provide reasonable facilities for the inspection of the map by any person wishing to inspect it, and for the taking of copies of, and extracts from, the map.
- (8) Any map which in accordance with the last preceding subsection is required to be kept at the principal office of a river authority—
- (a) if it is a map sent under subsection (1) of this section, shall be conclusive evidence for all purposes as to the boundaries of the river authority area, and
 - (b) if it is a main river map, shall be conclusive evidence for all purposes as to what is the main river.
- (9) Any map sent to a river authority under this section shall be taken to be a document within the meaning of the Documentary Evidence Act 1868, as applied to the Minister and to the Minister of Agriculture, Fisheries and Food respectively; and that Act, as so applied, shall have effect in relation to any map sent under subsection (1) of this section as if it had been issued by each of those Ministers acting separately and not jointly.
- (10) In this section " main river map " means a map sent to a river authority under this section, otherwise than under subsection (1) thereof, in the form in which that map is for the time being in force.

Water Resources Board

12 Establishment and principal functions of Water Resources Board

- (1) There shall be established a Board, to be called the " Water Resources Board ", which shall come into existence on such day as may be appointed by order made by the Minister.
- (2) The Water Resources Board shall be charged with the duty of advising river authorities with respect to the performance of their new functions, and of advising the Minister with respect to the performance of his functions under section 1 of the Water Act 1945, as extended by section 1 of this Act, and with respect to such other matters (if any) as may be referred to the Board by the Minister.
- (3) Without prejudice to the last preceding subsection, it shall be the duty of the Water Resources Board—
- (a) to consider in what way action needs to be taken for the purposes of conserving, re-distributing or otherwise augmenting water resources, or of securing the proper use of water resources, either in England and Wales generally or in relation to any particular river authority area, and to give to

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- the Minister (and, where the Board consider it appropriate, to other Ministers) and to river authorities the earliest possible notice of action which in the opinion of the Board will be needed for any of those purposes, together with such recommendations with respect thereto as may appear to the Board to be necessary or expedient;
- (b) to keep under review the progress made from time to time in fulfilling the purposes mentioned in the preceding paragraph, and to make to the Minister (and, where the Board consider it appropriate, to other Ministers) and to river authorities such representations as may appear to the Board to be necessary or expedient as to any matters affecting the fulfilment of those purposes;
 - (c) to give advice, at the request of any river authority, with respect to any matter relating to the performance by the authority of their functions under Parts III and IV of this Act;
 - (d) to bring to the notice of the Minister and of the river authority concerned any case where it appears to the Board that the arrangements in force in any river authority area with respect to any such matter as is mentioned in the last preceding paragraph need to be revised;
 - (e) to encourage and assist river authorities in the formulation of such plans as the Board think necessary for augmenting water resources in a river authority area by transferring water from another river authority area ;
 - (f) to bring to the notice of the river authority concerned any case where it appears to the Board that, for the purpose of securing the proper use of water resources in a river authority area, the quality of the water contained in an inland water in that area needs to be improved, and that the requisite improvement could be obtained through the exercise of powers conferred by the Rivers (Prevention of Pollution) Acts 1951 to 1961;
 - (g) to collate and from time to time publish information from which assessments can be made of the actual and prospective demand for water, and of actual and prospective water resources, in England and Wales, and (in so far as the Board consider it appropriate to do so) to collaborate with others in collating and publishing the like information relating to the demand for water, and water resources, in Great Britain generally.
- (4) In connection with any of the matters referred to in the last preceding subsection, the Board may, and shall if so required by any Minister, carry out such research, make such inquiries and submit such reports as the Board may consider necessary or expedient or as the Minister in question may require; and for the purposes of their functions under this subsection the Board may give directions requiring any river authority to furnish the Board with such information relating to water resources in the area of the river authority as may be specified in the directions.
- (5) In the performance of their functions under this section, it shall be the duty of the Board to keep themselves informed as to the requirements, in respect of the supply of water, of such classes of users of water as are likely to make major demands on the water resources of river authority areas.
- (6) Nothing in subsections (2) to (5) of this section shall be construed as modifying the effect of any provision of this Act whereby any specific power or duty is conferred or imposed on the Water Resources Board or whereby an obligation is imposed on any other person to consult the Board.

13 Constitution of Water Resources Board

- (1) The members of the Water Resources Board, of whom there shall be not more than eight, shall be appointed by the Minister, and he shall appoint one of them to be chairman and one to be deputy chairman.
- (2) The members of the Board shall include at least one member appointed by the Minister as having special knowledge or experience of matters relating to the conservation and use of water resources in Wales.
- (3) Subject to the following provisions of this section, a member of the Board, and the chairman and deputy chairman, shall hold and vacate office as such in accordance with the terms of his appointment.
- (4) If the chairman or deputy chairman of the Board ceases to be a member of the Board, he shall also cease to be chairman or deputy chairman.
- (5) A member of the Board may, by notice in writing addressed to the Minister, resign his membership, and the chairman or deputy chairman may, by the like notice, resign his office as such.
- (6) If the Minister is satisfied that a member of the Board—
 - (a) has become bankrupt, or made an arrangement with his creditors, or
 - (b) is incapacitated by physical or mental illness, or
 - (c) has been absent from meetings of the Board for a period longer than three consecutive months without the permission of the Board, or
 - (d) is otherwise unable or unfit to discharge the functions of a member, or is unsuitable to continue as a member,the Minister may remove him from his office as a member of the Board.
- (7) A member of the Board who ceases to be a member, or ceases to be chairman or deputy chairman, shall be eligible for reappointment.
- (8) The Minister may pay to persons holding office as chairman, deputy chairman or member of the Board such remuneration in respect of that office as he may with the consent of the Treasury determine, and may pay to those persons such reasonable allowances as may be so determined in respect of expenses properly incurred by them in the performance of their duties.
- (9) In the case of any such person as the Minister may with the consent of the Treasury determine, the Minister may, in respect of that person's office as chairman, deputy chairman or member of the Board, pay such pension, allowance or gratuity to or in respect of him on his retirement or death, or such contributions or other payments towards provision for such a pension, allowance or gratuity, as may be so determined.
- (10) As soon as may be after the making of any determination under the last preceding subsection, the Minister shall lay before each House of Parliament a statement of the amount of the pension, allowance or gratuity, or the contributions or other payments towards pension, allowance or gratuity, as the case may be, payable in pursuance of the determination.
- (11) The provisions of Schedule 6 to this Act (which relate to the procedure of, and other matters concerning, the Water Resources Board) shall have effect with respect to the Board.

PART III

ASSESSMENT OF WATER RESOURCES AND RELATED MATTERS

14 Periodical surveys

- (1) It shall be the duty of each river authority, as soon as practicable after the second appointed day.—
 - (a) to carry out a survey of the water resources of their area, and of the existing demand, on the part of statutory water undertakers and other persons, for the supply of water from those resources, and to prepare a report setting out the results of the survey ;
 - (b) to prepare an estimate of the future demand, on the part of statutory water undertakers and other persons, for the supply of water from those resources during the period of twenty years from the date on which the survey is completed or such longer or shorter period from that date as the Water Resources Board may in any particular case direct; and
 - (c) to formulate proposals as to action to be taken by the river authority (whether by way of executing works or securing the execution of works by other persons or otherwise) for any of the purposes mentioned in section 4 of this Act, including action for giving effect to any notice or advice given to them by the Water Resources Board under section 12 of this Act.
- (2) Each river authority shall keep under review the particulars contained in any report or estimate prepared by them, and any proposals formulated by them, in accordance with the preceding subsection, and shall in accordance with the next following subsection from time to time revise all such particulars and proposals, either by way of amendment or by carrying out a new survey and preparing a new report, preparing a new estimate, or formulating new proposals, as the authority may consider appropriate having regard to changes which have occurred since the previous survey or (as the case may be) the revision last effected by them under this subsection.
- (3) A river authority shall carry out revisions in pursuance of the last preceding subsection at intervals of not more than seven years, and, subject to that requirement, at such times as they consider appropriate, having particular regard to the times at which like revisions are proposed to be carried out by other river authorities.
- (4) The reference in section 4 of this Act to action which a river authority consider necessary or expedient as therein mentioned shall be taken to include action in accordance with any proposals of the authority (whether as originally formulated or as subsequently revised) in pursuance of this section.
- (5) In the performance of their functions under this section a river authority shall consult the Water Resources Board; and every river authority—
 - (a) shall send to the Ministers, to the Water Resources Board and to the council of every county or county borough any part of which is comprised in the river authority area a copy of any report prepared by them in consequence of a survey under this section, and of any amendments made by them in any such report, and
 - (b) shall furnish the Board with such other information as the Board may reasonably require with respect to anything done by the authority in pursuance of this section.

15 Hydrometric schemes

- (1) Not later than the end of the period of one year beginning with the second appointed day, or of such extended period as the Water Resources Board may in any particular case allow, each river authority shall prepare and submit to the Board a scheme (in this Act referred to as a "hydrometric scheme") for obtaining and recording such measurements and other particulars of—
 - (a) rainfall in the area of the authority,
 - (b) the evaporation of water in that area,
 - (c) the flow, level or volume of inland waters in that area, other than inland waters falling within section 2 (3) of this Act, and
 - (d) other matters appearing to the authority to affect, or to be likely to affect, water resources in their area, as the river authority may consider necessary or expedient for the performance of any of their functions, or as may be required for complying with any directions of the Water Resources Board.
- (2) A hydrometric scheme prepared by a river authority shall include provision as to the works required to be constructed or altered, and apparatus required to be installed or modified, for the purposes of the scheme, and provision as to the way in which any such works and apparatus are to be maintained and used.
- (3) In so far as it appears to the Water Resources Board that hydrometric schemes are needed for any such purposes as are mentioned in section 4 of this Act, the Board may give directions, either to river authorities generally or to any particular river authority, as to the measurements or particulars relating to—
 - (a) any of the matters specified in paragraphs (a) to (c) of subsection (1) of this section, or
 - (b) any other matters appearing to the Board to affect, or to be likely to affect, water resources in the river authority areas or area in question,for which provision is to be made in a hydrometric scheme, as to the form of any hydrometric scheme, and as to the period within which the action provided for by such a scheme is to be carried out.
- (4) Where a river authority have submitted a hydrometric scheme to the Water Resources Board, and the Board approve the scheme, with or without modifications, it shall be the duty of the river authority to take all such steps as are reasonably practicable for carrying out the scheme as approved by the Board:

Provided that the Board shall not approve a scheme with modifications except after consultation with the river authority concerned.
- (5) At any time when required to do so by the Water Resources Board, and, subject to any such requirement, at intervals of not more than seven years, each river authority shall review the provisions of the hydrometric scheme submitted by the authority and approved (with or without modifications) by the Board under this section, and shall submit to the Board such proposals for alterations or additions to the scheme as the authority may consider necessary or expedient in consequence of the review.
- (6) Where any such proposals have been submitted to the Board, the Board, after consultation with the river authority concerned, may amend the scheme to such extent as they consider appropriate having regard to those proposals and to any other material considerations; and it shall be the duty of the river authority to take all such steps as are reasonably practicable for carrying out the scheme as amended by the Board under this subsection.

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- (7) Subsections (2) and (3) of this section shall apply (with the necessary modifications) in relation to any proposals for alterations or additions to a hydrometric scheme as they apply in relation to the preparation of such a scheme.
- (8) In the following provisions of this Act, any reference to a hydrometric scheme is a reference to such a scheme in the form in which (whether as originally approved by the Board or as subsequently amended) that scheme is for the time being in force.

16 Information obtained in pursuance of hydrometric schemes

- (1) The Water Resources Board may give directions requiring any river authority to furnish the Board with such information obtained by the authority in pursuance of a hydro-metric scheme as may be specified in the directions.
- (2) Without prejudice to the preceding subsection, each river authority shall provide reasonable facilities for the inspection of records kept by them in pursuance of a hydrometric scheme, and for the taking of copies of, and extracts from, such records.
- (3) Facilities provided by a river authority in accordance with the last preceding subsection—
 - (a) shall be available free of charge to all local authorities and internal drainage boards whose areas or districts are wholly or partly comprised in the area of the river authority, and
 - (b) shall be available to all other persons on payment of such fees as may be approved by the Minister after considering any recommendation of the Water Resources Board relating thereto.

17 Gauges and records kept by other persons

- (1) Any person, other than a river authority, who proposes, on or after the second appointed day, to instal a gauge for measuring and recording the flow, level or volume of any inland water in a river authority area, other than an inland water falling within section 2 (3) of this Act.—
 - (a) shall give notice to the river authority of his proposal to instal the gauge, and shall not begin the work of installing it before the end of the period of three months beginning with the date of service of the notice or such shorter period as the river authority may in any particular case allow, and
 - (b) not more than one month after the work is completed, shall give notice to the river authority stating where the records obtained by means of the gauge are to be kept:

Provided that this subsection shall not apply to any gauge installed for the sole purpose of indicating the level of an inland water for the benefit of persons who fish in it, or to any gauge which is removed at or before the end of the period of twenty-eight days beginning with the date on which it is installed.

- (2) A river authority shall have the right, at all reasonable hours, to inspect any records kept by any other person of the flow, level or volume of any inland water in the area of the authority, other than an inland water falling within section 2 (3) of this Act, and to take copies of, and extracts from, any such records.
- (3) Any person who contravenes subsection (1) of this section, or who without reasonable excuse refuses or fails to permit any inspection, or the taking of any copy or extract,

reasonably required in pursuance of the last preceding subsection, shall be guilty of an offence and liable on summary conviction to a fine not exceeding twenty pounds.

18 Investigation of water in underground strata

- (1) A river authority may after consultation with the Water Resources Board, and shall if so directed by the Board, formulate proposals for the construction of wells, boreholes or other works for either or both of the following purposes, that is to say—
 - (a) ascertaining the presence of water in any underground strata in the river authority area or the quality or quantity of any such water, and
 - (b) ascertaining the effect of abstracting any such water on the abstraction of water from any other source of supply in that area or on the flow, level or volume of water in any such source of supply.
- (2) A river authority shall submit to the Water Resources Board any proposals formulated by them under this section; and if the proposals are approved by the Board, with or without modification, it shall be the duty of the river authority to take all such steps as are reasonably practicable for carrying out the proposals as approved by the Board.

19 Minimum acceptable flows

- (1) As soon as practicable after the second appointed day, each river authority shall consider—
 - (a) for which inland waters in their area (other than inland waters falling within section 2 (3) of this Act) minimum acceptable flows ought to be determined under this Act, and
 - (b) whether, for the purpose of determining minimum acceptable flows for those waters, they ought to be dealt with simultaneously or successively, and, if successively, how for that purpose they should be grouped or arranged and in what order.
- (2) In the performance of their functions under the last preceding subsection a river authority shall consult the Water Resources Board; and, if a river authority and the Board are unable to agree with respect to any question arising under that subsection, the matter shall be referred to the Minister, who may determine it and give directions to the river authority as to the action to be taken by them in relation thereto.
- (3) When a river authority have completed consideration of the matters referred to in subsection (1) of this section, they shall as soon as practicable thereafter prepare and submit to the Minister a draft statement or a series of draft statements (in accordance with their determination of the questions referred to in subsection (1) (b) of this section) indicating with respect to each of the inland waters for which minimum acceptable flows are to be determined—
 - (a) the control points at which the flow of water is to be measured, and the method of measurement to be used at each control point, and
 - (b) the flow which is to be the minimum acceptable flow at each such control point.
- (4) Before preparing so much of any draft statement under this section as relates to any particular inland water, the river authority shall consult—
 - (a) any statutory water undertakers having the right to abstract water therefrom;

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- (b) any other statutory water undertakers having the right to abstract water from any underground strata, where it appears to the river authority, having regard to the extent to which the level of water in those strata depends on the flow of that inland water, that the exercise of that right may be substantially affected by the draft statement in so far as it relates to that inland water;
 - (c) any internal drainage board from whose drainage district water is discharged into that inland water or in whose district any part of it is situated;
 - (d) any navigation authority, harbour authority or conservancy authority having functions in relation to that inland water, or, if it is a tidal water and there is no such navigation authority, harbour authority or conservancy authority, the Minister of Transport;
 - (e) any navigation authority, harbour authority or conservancy authority having functions in relation to any other inland water, where it appears to the river authority that changes in the flow of the inland water in question may affect the flow of that other inland water, or, if that other inland water is a tidal water and there is no such navigation authority, harbour authority or conservancy authority, the Minister of Transport; and
 - (f) the Central Electricity Generating Board.
- (5) In determining the flow to be specified in relation to any inland water under subsection (3)(b) of this section, the river authority shall have regard to the character of the inland water and its surroundings (and, in particular, any natural beauty which the inland water and its surroundings may possess) and to the flow of water therein from time to time; and the flow so specified shall be not less than the minimum which in the opinion of the river authority is needed for safeguarding the public health and for meeting (in respect both of quantity and quality of water) the requirements of existing lawful uses of the inland water, whether for agriculture, industry, water supply or other purposes, and the requirements of land drainage, navigation and fisheries, both in relation to that inland water and in relation to other inland waters whose flow may be affected by changes in the flow of that inland water.
- (6) The provisions of Part I, and, where applicable, Part IV, of Schedule 7 to this Act shall have effect with respect to draft statements under this section and with respect to the approval of statements submitted as draft statements thereunder.

20 Periodical review of minimum acceptable flows

- (1) Each river authority shall keep under review any statement of minimum acceptable flows relating to inland waters in their area (being a statement approved under the last preceding section or under this section) and shall at the requisite intervals submit to the Minister—
- (a) any such draft statement, in substitution for a statement of minimum acceptable flows for the time being in force, or
 - (b) such proposals for amending any statement of minimum acceptable flows for the time being in force,
- as they consider appropriate in consequence of the review.
- (2) For the purposes of the preceding subsection each river basin in a river authority area shall be dealt with separately, but all inland waters comprised in any one such basin shall be taken together, and time shall be reckoned from the earliest date on which a statement under the last preceding section relating to any one or more inland waters in the river basin in question was approved; and the requisite intervals for those purposes,

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in relation to inland waters comprised in any such river basin, shall be such intervals, not exceeding seven years, as the river authority consider appropriate.

- (3) The provisions of subsections (2) to (5) of the last preceding section shall apply (with the necessary modifications) to draft statements and proposals under this section.
- (4) The provisions of Part I, and, where applicable, Part IV, of Schedule 7 to this Act shall have effect with respect to draft statements under subsection (1) (a) of this section and with respect to the approval of statements submitted as draft statements thereunder; and the provisions of Part II, and, where applicable, Part IV, of that Schedule shall have effect with respect to proposals under subsection (1) (b) of this section.
- (5) In the following provisions of this Act, any reference to the minimum acceptable flow, in relation to an inland water, is a reference to that flow as specified in a statement approved under the last preceding section or under this section, in the form in which (whether as originally approved or as subsequently amended) that statement is for the time being in force.

21 Additional powers of Minister in relation to minimum acceptable flows

- (1) Where a draft statement relating to any inland waters is submitted to the Minister under section 19 or section 20 of this Act, and is not approved thereunder, with or without modifications, the Minister, after consultation with the Water Resources Board and the river authority by whom the statement was submitted, may require the Board to prepare and submit to him a draft statement relating to those inland waters.
- (2) The Water Resources Board, where required to do so under the preceding subsection, shall prepare and submit to the Minister a draft statement accordingly; and the provisions of Part III, and, where applicable, Part IV, of Schedule 7 to this Act shall have effect with respect to any draft statement submitted under this subsection and with respect to the approval of statements submitted as draft statements thereunder.
- (3) Without prejudice to the provisions of the last preceding section as to the amendment of statements in pursuance of proposals submitted by river authorities, the Minister may at any time himself prepare proposals for amending any statement of minimum acceptable flows for the time being in force; and the provisions of Part III, and, where applicable, Part IV, of Schedule 7 to this Act shall have effect with respect to any proposals of the Minister for amending such a statement under this subsection:

Provided that, before preparing proposals under this subsection with respect to any inland water, the Minister, except where he is acting on the application of the river authority in whose area the inland water is situated, shall consult that river authority and the Water Resources Board.

- (4) The provisions of section 19(3) to (5) of this Act shall apply (with the necessary modifications) to draft statements submitted to the Minister, and to proposals of the Minister, under this section; and in section 20 of this Act any reference to a statement approved under section 19 of this Act shall be construed as including a reference to a statement approved under this section.

22 Measurement of level or volume instead of, or in addition to, flow

- (1) Where it appears to a river authority, in the case of any particular inland water, that it would be appropriate to measure the level or the volume, either instead of, or in addition to, the flow, the river authority may determine that sections 19 and 20 of this Act shall

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apply in relation to that inland water as if any reference to the flow were, or (as the case may be) included, a reference to the level or the volume, as the case may be.

- (2) Where a river authority so determine with respect to any inland water, any draft statement prepared under those sections, in so far as it relates to that inland water, shall state whether the level or the volume is to be measured, and whether instead of, or in addition to, the flow; and the provisions of section 21 (3) and Part IV of this Act shall apply in relation to that inland water as if any reference therein to the flow were, or (as the case may be) included, a reference to the level or the volume, as the case may be, and " minimum acceptable flow " in those provisions shall be construed accordingly.
- (3) Where in accordance with the last preceding section the Water Resources Board prepare a draft statement, or the Minister (otherwise than on the application of a river authority) proposes to amend a statement, the preceding provisions of this section shall apply, with the necessary modifications, as if any reference to a river authority were a reference to the Board or the Minister, as the case may be.

PART IV

CONTROL OF ABSTRACTION AND IMPOUNDING OF WATER

General provisions as to abstraction of water

23 General restrictions

- (1) Subject to the following provisions of this Part of this Act, as from the end of the period of three months beginning with the second appointed day (in this Act referred to as " the initial period ") no person shall abstract water from any source of supply in a river authority area, or cause or permit any other person so to abstract any water, except in pursuance of a licence under this Act granted by the river authority and in accordance with the provisions of that licence.
- (2) Where by virtue of the preceding subsection the abstraction of water contained in any underground strata is prohibited except in pursuance of a licence under this Act, no person shall after the end of the initial period begin, or cause or permit any other person to begin, to—
 - (a) construct any well, borehole or other work whereby water may be abstracted from those strata, or
 - (b) extend any such well, borehole or other work, or
 - (c) instal or modify any machinery or apparatus whereby additional quantities of water may be abstracted from those strata by means of a well, borehole or other work,

unless the abstraction of the water, or the additional quantities of water, as the case may be, is authorised by a licence under this Act, and the well, borehole or work as constructed or extended, or the machinery or apparatus as installed or modified, fulfils the requirements of that licence as to the means whereby water is authorised to be abstracted.
- (3) Subject to the provisions of Part X of this Act with respect to the Water Act 1958, the restrictions imposed by this section shall have effect notwithstanding anything in any other enactment contained in any Act passed before the passing of this Act, or in any

statutory provision made or issued, whether before or after the passing of this Act, by virtue of such an enactment.

24 Exceptions from general restrictions

- (1) The restriction imposed by subsection (1) of the last preceding section does not apply to any abstraction of a quantity of water not exceeding one thousand gallons, if it does not form part of a continuous operation, or of a series of operations, whereby in the aggregate more than one thousand gallons of water are abstracted.
- (2) The restriction imposed by subsection (1) of the last preceding section does not apply to any abstraction from an inland water by or on behalf of an occupier of land contiguous to that water at the place where the abstraction is effected, in so far as the water—
 - (a) is abstracted for use on a holding consisting of that land with or without other land held therewith, and
 - (b) is abstracted for use on that holding for either or both of the following purposes, that is to say, the domestic purposes of the occupier's household and agricultural purposes other than spray irrigation:

Provided that, where under section 55 of this Act it is so determined, this subsection shall apply as if any reference to use on such a holding as is mentioned in this subsection were a reference to use on the relevant part of such a holding as determined under that section.

- (3) The restriction imposed by subsection (1) of the last preceding section does not apply to the abstraction of water from underground strata, in so far as the water is abstracted by or on behalf of an individual as a supply of water for the domestic purposes of his household.
- (4) The restriction imposed by subsection (1) of the last preceding section does not apply to any abstraction of water from a source of supply—
 - (a) in the course of, or resulting from, any operations for purposes of land drainage, or
 - (b) in so far as the abstraction (where it does not fall within the preceding paragraph) is necessary to prevent interference with any mining, quarrying, engineering, building or other operations (whether underground or on the surface) or to prevent damage to works resulting from any such operations ;and where in the course of any such operations as are mentioned in paragraph (b) of this subsection water is abstracted from an excavation to which section 2(2)(b) of this Act applies, and the abstraction is necessary as mentioned in paragraph (b) of this subsection, the exemption conferred by this subsection shall apply notwithstanding that the water is used for the purposes of the operations.
- (5) In the case of any abstraction of water from underground strata which falls within subsection (3) or subsection (4) of this section, the restriction imposed by subsection (2) of the last preceding section does not apply to the construction or extension of any well, borehole or other work, or the installation or modification of machinery or other apparatus, for the purpose of abstracting the water.
- (6) The restriction imposed by subsection (1) of the last preceding section does not apply to any transfer of water from one inland water to another in the course of, or resulting from, any operations carried out by a navigation authority, harbour authority or conservancy authority in the performance of their functions as such an authority.

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- (7) The restriction imposed by subsection (1) of the last preceding section does not apply to any abstraction by machinery or apparatus installed on a vessel, where the water is abstracted for use on that, or any other, vessel.
- (8) The restrictions imposed by the last preceding section do not apply to the doing of anything for fire-fighting purposes (within the meaning of the Fire Services Act 1947) or for the purpose of testing apparatus used for those purposes or of training or practice in the use of such apparatus.
- (9) The restrictions imposed by the last preceding section do not apply to the abstraction of water, or to the construction or extension of any well, borehole or other work, or the installation or modification of machinery or other apparatus, if it is for the purpose—
 - (a) of ascertaining the presence of water in any underground strata or the quality or quantity of any such water, or
 - (b) of ascertaining the effect of abstracting water from the well, borehole or other work in question on the abstraction of water from, or the level of water in, any other well, borehole or other work or any inland water,and it is carried out with the consent of the river authority and in compliance with any conditions imposed by that authority.

25 Power to provide further exceptions

- (1) Any of the relevant authorities, after consultation with the other relevant authorities (if any), may apply to the Minister for an order excepting any one or more sources of supply in a river authority area from the restriction imposed by section 23(1) of this Act, on the grounds that the restriction so imposed is not needed in relation to that source of supply or those sources of supply, as the case may be.
- (2) An application under this section may be made in respect of—
 - (a) any one or more inland waters specified in the application, or any class of inland waters so specified, or
 - (b) any underground strata described in the application, whether by reference to their formation or their location in relation to the surface of the land or in relation to other strata subjacent to that surface or partly in one way and partly in another,

and an order may be made under this section accordingly :

Provided that any one order under this section shall be limited to one river authority area and shall not extend to any source of supply outside that area.

- (3) For the purposes of this section—
 - (a) a river authority is a relevant authority in relation to all sources of supply in their area;
 - (b) a navigation authority, harbour authority or conservancy authority having functions in relation to any inland water is a relevant authority in relation to that inland water.
- (4) Before applying to the Minister for an order under this section, the applicant authority shall consult the Water Resources Board, and may then submit to the Minister a draft order together with a statement of any observations made by the Board with respect to the application.

- (5) Part I, and, where applicable, Part IV, of Schedule 7 to this Act shall have effect in relation to any application under this section, as if—
- (a) any reference to a draft statement were a reference to a draft order, and any reference to the approval of a statement were a reference to the making of an order,
 - (b) any reference to an inland water to which the draft statement relates were a reference to a source of supply to which the draft order relates, and
 - (c) paragraph 4 (g) of that Schedule were omitted.
- (6) In relation to any application under this section made by a relevant authority other than a river authority, the provisions of Schedule 7 to this Act applied by the last preceding subsection shall have effect subject to the following further modifications, that is to say:—
- (a) except in paragraphs 9 and 16 of that Schedule, any reference to the river authority, unless the reference is to the river authority area, shall be construed as a reference to the applicant authority ;
 - (b) in paragraph 9 of that Schedule, the first reference to the river authority shall be construed as a reference to the applicant authority, and the second such reference shall be construed as a reference to the river authority and the applicant authority ;
 - (c) the river authority shall be included among the bodies on whom, under paragraph 4 of that Schedule, a copy of the notice is required to be served.
- (7) If, in the case of a source of supply in a river authority area.—
- (a) it appears to the Minister, after consultation with the river authority and the Water Resources Board, that the question whether the restriction imposed by section 23 (1) of this Act is needed in relation to that source of supply ought to be determined, but
 - (b) no application for an order under this section has been made,
- the Minister may direct the river authority to submit to him a draft order under this section with respect to that source of supply.
- (8) Part I, and, where applicable, Part IV, of Schedule 7 to this Act shall have effect in relation to any draft order submitted to the Minister in pursuance of the last preceding subsection, subject to the modifications specified in subsection (5) of this section and to the further modification that paragraph 8 of that Schedule shall apply in relation to any objection received by the Minister from the river authority as it applies in relation to an objection received by him from a person on whom a notice is required by that Schedule to be served.
- (9) On the coming into operation of an order under this section—
- (a) the restriction imposed by subsection (1) of section 23 of this Act (and, in the case of any underground strata, the restriction imposed by subsection (2) of that section) shall cease to apply to any source of supply to which the order relates, and
 - (b) any licence granted under this Act which is for the time being in force shall cease to have effect in so far as it authorises abstraction from any such source of supply.

26 Protected rights to abstract water

- (1) For the purposes of the following provisions of this Part of this Act—
- (a) a person who is for the time being the holder of a licence under this Act to abstract water shall be taken to have a right to abstract water to the extent authorised by the licence and in accordance with the provisions contained in it;
 - (b) a person who is in a position to abstract water in such circumstances that, by virtue of section 24 (2) or section 24 (3) of this Act, the restriction imposed by section 23 (1) of this Act does not apply thereto shall be taken to have a right to abstract water to the extent specified in section 24 (2) or section 24 (3) of this Act, as the case may be ;
- and " protected right under this Act" means such a right as a person is taken to have by virtue of this subsection, and any reference to the person entitled to such a right shall be construed accordingly.
- (2) Any reference in this Act to abstracting water so as to derogate from a protected right under this Act is a reference to abstracting water in such a way, or to such an extent, as to prevent the person entitled to that right from abstracting water to the extent mentioned in paragraph (a) or paragraph (b) of the preceding subsection, as the case may be.

27 Who may apply for a licence

- (1) Subject to the following provisions of this Part of this Act as to licences of right, no application for a licence under this Act to abstract water shall be entertained unless it is made by a person entitled to make the application in accordance with the following provisions of this section.
- (2) In relation to abstractions from an inland water, a person shall be entitled to make such an application if, at the place (or, if more than one, at each of the places) at which the proposed abstractions are to be effected, either—
- (a) he is the occupier of land contiguous to that inland water, or
 - (b) he satisfies the river authority that he has, or at the time when the proposed licence is to take effect will have, a right of access to such land.
- (3) In relation to abstractions from underground strata, any person who is the occupier of land consisting of or comprising those underground strata shall be entitled to make such an application.
- (4) Any reference in this section to a person who is the occupier of land of any description includes a reference to a person who satisfies the river authority that he has entered into negotiations for the acquisition of an interest in land of that description such that, if the interest is acquired by him, he will be entitled to occupy that land.

28 Publication of application for licence

- (1) A river authority shall not entertain an application for a licence under this Act to abstract water, other than a licence of right, unless it is accompanied by a copy of a notice in the prescribed form, and by the prescribed evidence—
- (a) that the notice has been published in the London Gazette and at least once in each of two successive weeks in one or more newspapers (other than the London Gazette) circulating in the relevant locality, and

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- (b) where the licence applied for is for abstraction from an inland water, that a copy of the notice has, not later than the date on which it was first published (otherwise than in the London Gazette) as mentioned in the preceding paragraph, been served on any navigation authority, harbour authority or conservancy authority having functions in relation to that inland water at any proposed point of abstraction, and on any internal drainage board within whose district any proposed point of abstraction is situated.
- (2) Any such notice as is mentioned in the preceding subsection shall (in addition to any other matters required to be contained therein)—
 - (a) name a place within the relevant locality where a copy of the application, and of any map, plan or other document submitted with it, will be open to inspection by the public, free of charge, at all reasonable hours during a period specified in the notice in accordance with the next following subsection, and
 - (b) state that any person may make representations in writing to the river authority with respect to the application at any time before the end of that period.
 - (3) The period specified in a notice in pursuance of the last preceding subsection shall be a period beginning not earlier than the date on which the notice is first published in a newspaper other than the London Gazette, and ending not less than twenty-eight days from that date and not less than twenty-five days from the date on which the notice is published in the London Gazette; and a river authority shall not determine any such application as is mentioned in subsection (1) of this section before the end of the period so specified.
 - (4) In this section "relevant locality", in relation to an application for a licence under this Act, means the locality in which any proposed point of abstraction is situated, and "proposed point of abstraction" means a place where a licence, if granted in accordance with the application, would authorise water to be abstracted.

29 Determination by river authority of application for licence

- (1) The provisions of this section shall have effect where application is made to a river authority for a licence under this Act to abstract water, other than a licence of right.
- (2) The river authority shall not grant a licence authorising the abstraction of water so as to derogate from any rights which, at the time when the application is determined by the river authority, are protected rights under this Act.
- (3) Without prejudice to the last preceding subsection, the river authority, in dealing with the application, shall have regard to—
 - (a) any representations in writing relating to the application which are received by them before the end of the period mentioned in subsection (2) of the last preceding section, and
 - (b) the requirements of the applicant, in so far as they appear to the river authority to be reasonable requirements.
- (4) In the following provisions of this section "the preceding provisions" means the provisions of subsections (2) and (3) of this section.
- (5) Where the application relates to abstraction from an inland water, and is made at a time when no minimum acceptable flow for that inland water has been determined under this Act, the river authority, in dealing with the application, shall (without prejudice to the preceding provisions) have regard to the considerations by reference to which, in

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accordance with section 19(5) of this Act, a minimum acceptable flow for that inland water would fall to be determined.

- (6) Where the application relates to abstraction from an inland water, and is made at a time after a minimum acceptable flow for that inland water has been determined under this Act, the river authority, in dealing with the application, shall (without prejudice to the preceding provisions) have regard to the need to secure that the flow at any control point will not be reduced below the minimum acceptable flow at that point, or (if it is already less than that minimum acceptable flow) will not be further reduced below that minimum acceptable flow.
- (7) Where the application relates to abstraction from underground strata—
 - (a) the river authority shall (without prejudice to the preceding provisions) have regard to the requirements of existing lawful uses of water abstracted from those strata, whether for agriculture, industry, water supply or other purposes, and
 - (b) if it appears to them that the proposed abstraction is likely to affect the flow, level or volume of an inland water (not being an inland water falling within section 2(3) of this Act or an inland water comprised in an order under section 25 of this Act), subsection (5) or subsection (6) of this section, as the case may be, shall apply (without prejudice to the preceding provisions or to paragraph (a) of this subsection) as if the application related to abstraction from that inland water.
- (8) Subject to the preceding subsections, and to the following provisions of this Act, on any application to a river authority for a licence under this Act, other than a licence of right, the river authority—
 - (a) may grant a licence containing such provisions as they consider appropriate, or
 - (b) if, having regard to the provisions of this Act, they consider it necessary or expedient to do so, may refuse to grant a licence.

30 Matters to be specified in licences

- (1) Every licence under this Act to abstract water—
 - (a) shall make provision as to the quantity of water authorised to be abstracted in pursuance of the licence from the source of supply to which the licence relates during a period or periods specified in the licence, including provision as to the way in which that quantity is to be measured or assessed for the purposes of this Act, and
 - (b) shall make provision for determining, by measurement or assessment, what quantity of water is to be taken to have been abstracted during any such period by the holder of the licence from the source of supply to which the licence relates.
- (2) Every such licence shall indicate the means whereby water is authorised to be abstracted in pursuance of the licence, by reference either to specified works, machinery or apparatus or to works, machinery or apparatus fulfilling specified requirements.
- (3) Every such licence, except a licence granted to a river authority, or to water undertakers (whether statutory or not) for the purposes of their undertaking as water undertakers,

shall also specify the land on which, and the purposes for which, water abstracted in pursuance of the licence is to be used.

- (4) Every such licence shall specify the person to whom the licence is granted.
- (5) Every such licence shall state whether the licence is to remain in force until revoked or is to expire at a time specified in the licence.
- (6) Different provision may be made by the same licence with respect to any one or more of the following matters, that is to say—
 - (a) the abstraction of water during different periods;
 - (b) the abstraction of water from the same source of supply but at different points or by different means;
 - (c) the abstraction of water for use for different purposes,and any such provision as is mentioned in subsection (1) of this section may be made separately in relation to each of the matters for which (in accordance with this subsection) different provision is made in the licence.
- (7) Nothing in the last preceding subsection shall be construed as preventing two or more licences from being granted to the same person to be held concurrently in respect of the same source of supply, if the licences authorise the abstraction of water at different points or by different means.

31 Effect of licence

- (1) Subject to the following provisions of this section, in any action brought against a person in respect of the abstraction of water from a source of supply, it shall be a defence for him to prove that the water was abstracted in pursuance of a licence under this Act, and that the provisions of the licence were complied with.
- (2) The preceding subsection shall have effect without prejudice to the transitional provisions contained in section 56(5) of this Act
- (3) Nothing in subsection (1) of this section shall exonerate a person from any action for negligence or breach of contract.
- (4) Subject to—
 - (a) the next following section, and
 - (b) any power under this Act to vary licences,the person to whom a licence under this Act to abstract water is granted is for the purposes of this Act the holder of the licence.
- (5) Where, in accordance with the provisions contained in a licence in pursuance of paragraph (b) of subsection (1) of the last preceding section, or in pursuance of that paragraph as modified by subsection (6) of that section, it has been determined what quantity of water is to be taken—
 - (a) to have been abstracted during any period from a source of supply by the holder of the licence, or
 - (b) to have been so abstracted at a particular point or by particular means, or for use for particular purposes,that determination shall, for the purposes of any proceedings under this Act, be conclusive evidence of the matters to which it relates.

32 Succession to licences to abstract water

- (1) Where the holder of a licence under this Act to abstract water (in this section referred to as " the original holder ") is the occupier of the whole of the land specified in the licence as the land on which water abstracted in pursuance of the licence is to be used (in this section referred to as " the relevant land "), and either, being an individual, he dies, or by reason of any other act or event the original holder, whether an individual or not, ceases to be the occupier of the whole of the relevant land and does not continue to be the occupier of any part of that land, and (either immediately after his death or the occurrence of that other act or event or subsequently) another person (in this section referred to as " the successor ") becomes the occupier of the whole of the relevant land.—
 - (a) the original holder (except where, being an individual, he has died) shall cease to be the holder of the licence, and
 - (b) the successor shall become the holder of the licence.
- (2) Where the preceding subsection applies, the successor shall cease to be the holder of the licence at the end of the period of one month beginning with the date on which he became the occupier of the relevant land unless before the end of that period he has given to the river authority notice of the change in the occupation of the relevant land.
- (3) Provision may be made by regulations under this Act for conferring on a person who, after the death of the original holder or the occurrence of any other act or event whereby the original holder ceases to be the occupier of the relevant land or of part of that land, becomes the occupier of part of the relevant land, a right in such circumstances as may be specified in the regulations—
 - (a) to become the holder of the licence, subject to provisions corresponding to the last preceding subsection, or
 - (b) to apply for, and to the grant of, a new licence containing provisions (as to quantities of water and otherwise) determined in accordance with the regulations by reference to the provisions of the original licence,or for conferring on the original holder, where he continues to be the occupier of part of the relevant land but ceases to be the occupier of another part of that land, a right, in such circumstances as may be specified in the regulations, to apply for, and to the grant of, a new licence as mentioned in paragraph (b) of this subsection.
- (4) Any regulations made in pursuance of the last preceding subsection may provide that, in relation to an application for a licence made by virtue of the regulations, or to a person entitled to make such an application, the provisions of this Part of this Act shall have effect subject to such exceptions and modifications as may be specified in the regulations.
- (5) Where an order under section 9 or section 23 of the Water Act 1945 provides for the transfer of, or the constitution of a joint board or joint committee to carry on, exercise or perform, any undertaking, rights or functions of the holder of a licence under this Act to abstract water, the order shall also provide for the transfer of the licence; and where such a licence is transferred by virtue of any such order, or by virtue of any other statutory provision, or is included in any sale or lease under section 122 of the Public Health Act 1936, the person to whom it is transferred, sold or leased shall become (in the case of such a transfer, to the extent specified in the statutory provision in question, and, in the case of a lease, for the period of the lease) the holder of the licence for the purposes of this Act.

- (6) Where any person who becomes the holder of a licence by virtue of the provisions of this section or of regulations made thereunder gives notice to the river authority in accordance with those provisions, or any person who becomes the holder of a licence by virtue of the last preceding subsection notifies the river authority that he has become the holder of the licence, the river authority shall vary the licence accordingly ; and where, by virtue of the provisions of this section or of any such regulations a person ceases to be the holder of a licence in such circumstances that no other person thereupon becomes the holder of it, the licence shall cease to have effect.
- (7) The preceding provisions of this section shall have effect without prejudice to the exercise of any power to revoke or vary licences under this Part of this Act.

Licences of right

33 Entitlement to licence of right

- (1) Where a person—
- (a) by virtue of any statutory provision in force on the second appointed day, other than an order under the Water Act 1958, is entitled to abstract water from a source of supply in a river authority area, or
 - (b) has, otherwise than by virtue of a statutory provision, abstracted water from such a source of supply at any time within the period of five years ending with the second appointed day,
- he shall, on application made to the river authority under this section before the end of the initial period, be entitled to the grant of a licence under this Act.
- (2) In sections 34 and 35 of this Act, any reference to the predecessors of an applicant—
- (a) in relation to a case falling within subsection (1)(a) of this section, is a reference to persons, other than the applicant, who abstracted water from the source of supply in question by virtue of the statutory provision referred to in that paragraph, and
 - (b) in any other case, is a reference to any person who was the predecessor in title of the applicant.
- (3) For the purposes of this section, and of sections 34 and 35 of this Act, no account shall be taken of any water abstracted in contravention of section 14 (5) of the Water Act 1945 (which restricts the abstraction of underground water in areas to which that section is applied).
- (4) Where, in a case falling within subsection (1)(a) of this section, there are in force on the second appointed day two or more separate statutory provisions (other than orders under the Water Act 1958) whereby the same person is entitled to abstract water from the same source of supply at different points or by different means, subsections (1) to (3) of this section, and the next following section, shall have effect separately in relation to each of those statutory provisions, and the applicant shall be entitled to two or more licences under this section accordingly:
- Provided that this subsection shall have effect subject to any regulations made in accordance with the next following subsection.
- (5) Provision may be made by regulations under this Act for securing that where, on any application under this section, it appears to the river authority—

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- (a) that the applicant would, apart from the regulations, be entitled to two or more licences under this section, by reason that he was entitled to abstract water by virtue of two or more separate statutory provisions in force on the second appointed day, whether those statutory provisions relate to different sources of supply or to abstraction from the same source of supply but at different points or by different means, and
- (b) that those sources of supply, or those different points or different means, as the case may be, have been, or are intended to be, used by the applicant in conjunction with each other (whether simultaneously or as alternatives or otherwise), and
- (c) that it is expedient that (instead of two or more licences) there should be granted to the applicant one licence under this section providing for them to be so used in pursuance of the licence,

the river authority may determine that a licence shall be granted in accordance with paragraph (c) of this subsection; and any such regulations may provide that, in relation to a licence so granted, the provisions of section 30 of this Act and of the next following section shall have effect subject to such exceptions and modifications as may be specified in the regulations.

- (6) In this section " separate statutory provision " does not include a statutory provision which only amends or varies a previous statutory provision; but any reference in this or the next following section to a statutory provision (except where the reference is to the coming into operation thereof) shall, in relation to a statutory provision which has been amended or varied, be construed as a reference to that provision in the form in which it is for the time being in force.
- (7) Any licence granted in pursuance of an application under this section, or in pursuance of an appeal consequential upon such an application, is referred to in this Act as a " licence of right ".

34 Licences of right for statutory users

- (1) The provisions of this section shall have effect where an application under the last preceding section is made in a case falling within subsection (1)(a) of that section; and in this section—
 - (a) " the relevant statutory provision " means the statutory provision by virtue of which the applicant is entitled to abstract water as mentioned in that paragraph, and
 - (b) " the relevant period " means the period of five years ending with the second appointed day or the period beginning with the coming into operation of the relevant statutory provision and ending with that day, whichever is the shorter.
- (2) Subject to the following provisions of this section, the provisions of the licence, including those relating to the quantity of water authorised to be abstracted, shall be such as appear to the river authority to correspond as nearly as may be to those of the relevant statutory provision, and may, if the river authority think fit, be expressed by reference to that statutory provision.
- (3) If the relevant statutory provision does not specify or otherwise limit the quantity of water authorised to be abstracted, any quantity specified in the licence as a quantity of water authorised to be abstracted in pursuance of the licence during a period or periods so specified shall, subject to the following provisions of this section, be determined by reference to the requirements of the applicant, as indicated by (and not, except by

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virtue of the next following subsection, to be taken to exceed) the quantities of water proved to the reasonable satisfaction of the river authority to have been abstracted from the source of supply in question by the applicant or his predecessors from time to time during the relevant period by virtue of the relevant statutory provision.

- (4) In determining any quantity to be specified in the licence, in a case falling within the last preceding subsection, the river authority shall have regard to the terms of the relevant statutory provision and to such of the following matters as are proved to their reasonable satisfaction (in addition to the quantities of water proved to have been abstracted as mentioned in the last preceding subsection) that is to say—
- (a) the seasons of the year during which the quantities of water abstracted during the relevant period, as mentioned in the last preceding subsection, were so abstracted;
 - (b) the extent to which the abstraction of water has during the relevant period been, or is intended to be, limited to special occasions when, by reason of accident or other emergency, there has been, or may be, a temporary deficiency of water from other sources of supply;
 - (c) the extent to which works, machinery or apparatus authorised by the relevant statutory provision were reasonably provided by the applicant or his predecessors in anticipation of future requirements.
- (5) In any case falling within subsection (3) of this section, the provision made by the licence as to the quantity of water authorised to be abstracted shall be such as will not permit the abstraction of water in excess of the quantity shown to the reasonable satisfaction of the river authority to be capable of being abstracted by means of either or both of the following, that is to say—
- (a) works, machinery or apparatus which were constructed or installed before the second appointed day, or were in the course of being constructed or installed on that day, and
 - (b) any other works, machinery or apparatus the construction or installation of which was authorised by the relevant statutory provision,
- not being (in either case) works, machinery or apparatus provided or authorised to be provided for use only in the event of an accident or other emergency involving a total or partial failure of other works, machinery or apparatus.

35 Licences of right for non-statutory users

- (1) The provisions of this section shall have effect where an application under section 33 of this Act is made in a case falling within subsection (1)(b) of that section ; and in this section " the relevant period " means the period of five years ending with the second appointed day or the period beginning with the date on which the applicant or his predecessors began to abstract water from the source of supply in question and ending with the second appointed day, whichever is the shorter.
- (2) Subject to the following provisions of this section, any quantity specified in the licence as a quantity of water authorised to be abstracted in pursuance of the licence during a period or periods so specified shall be determined by reference to the requirements of the applicant, as indicated by (and not, except by virtue of the next following subsection, to be taken to exceed) the quantities of water proved to the reasonable satisfaction of the river authority—
- (a) to have been abstracted from the source of supply in question by the applicant or his predecessors from time to time during the relevant period, and

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- (b) to have been so abstracted for use on the land on which, and for the purposes for which, water abstracted in pursuance of the licence is authorised by the licence to be used:

Provided that paragraph (b) of this subsection shall not apply in the case of a licence granted to water undertakers for the purposes of their undertaking as water undertakers.

- (3) In determining any quantity to be specified in the licence, the river authority shall have regard to such of the following matters as are proved to their reasonable satisfaction (in addition to the quantities of water proved to have been abstracted as mentioned in the last preceding subsection) that is to say—
 - (a) the seasons of the year during which the quantities of water abstracted during the relevant period, as mentioned in the last preceding subsection, were so abstracted;
 - (b) the extent to which the abstraction of water has during the relevant period been, or is intended to be, limited to special occasions when, by reason of accident or other emergency, there has been, or may be, a temporary deficiency of water from other sources of supply;
 - (c) the extent to which works, machinery or apparatus were reasonably provided by the applicant or his predecessors in anticipation of future requirements.
- (4) Any provision made by the licence as to the quantity of water authorised to be abstracted shall be such as will not permit the abstraction of water in excess of the quantity shown to the reasonable satisfaction of the river authority to be capable of being abstracted by means of works, machinery or apparatus which were constructed or installed before the second appointed day, or were in the course of being constructed or installed on that day, not being works, machinery or apparatus provided for use only in the event of an accident or other emergency involving a total or partial failure of other works, machinery or apparatus.
- (5) Where the purposes specified in the licence as the purposes for which water abstracted in pursuance of the licence is to be used consist of or include spray irrigation, then, unless it is proved to the reasonable satisfaction of the river authority either—
 - (a) that the applicant or his predecessors has before the passing of this Act abstracted water from the source of supply in question for the purpose of spray irrigation, or
 - (b) that before the passing of this Act the applicant or his predecessors began to construct a reservoir for the storage of water to be abstracted from that source of supply and used for the purpose of spray irrigation, and that reservoir was completed and brought into use for that purpose before the second appointed day,

subsection (2) of this section shall not apply, and subsection (5) or subsection (7) (as the case may require) of section 29 of this Act shall apply in relation to the application as if it were an application for a licence other than a licence of right, and as if, in those subsections, any reference to " the preceding provisions " were a reference to subsections (3) and (4) of this section.

Control of impounding

36 General restriction on impounding works

- (1) Subject to the following provisions of this section, no person shall after the end of the initial period begin, or cause or permit any other person to begin, to construct or alter any impounding works at any point in an inland water in a river authority area (not being an inland water falling within section 2 (3) of this Act) unless—
 - (a) a licence under this Act granted by the river authority to obstruct or impede the flow of that inland water at that point by means of impounding works is in force, and
 - (b) the impounding works will not obstruct or impede the flow of the inland water except to the extent, and in the manner, authorised by the licence, and
 - (c) any other requirements of the licence, whether as to the provision of compensation water or otherwise, are complied with.
- (2) The restriction imposed by the preceding subsection does not apply to the construction or alteration of any impounding works, if—
 - (a) the construction or alteration of those works, or
 - (b) the obstruction or impeding of the flow of the inland water resulting from the construction or alteration of the works,is authorised (in whatsoever terms, and whether expressly or by implication) by virtue of an alternative statutory provision which is for the time being in force.
- (3) In the last preceding subsection " alternative statutory provision " means a statutory provision which is not contained in, or made or issued under, this Act or the Water Act 1958, and is or was passed, made or issued either—
 - (a) before the end of the initial period, whether before or after the passing of this Act, or
 - (b) after the end of that period, but in pursuance of an application made to the Minister before the end of that period, whether before or after the passing of this Act.
- (4) The restriction imposed by subsection (1) of this section does not apply to the construction or alteration of impounding works in the course of the performance by a navigation authority, harbour authority or conservancy authority of their functions as such an authority.
- (5) Subject to subsections (2) to (4) of this section, and to the provisions of Part X of this Act with respect to the Water Act 1958, the restriction imposed by subsection (1) of this section shall have effect notwithstanding anything in any other enactment contained in any Act passed before the passing of this Act or in any statutory provision made or issued, whether before or after the passing of this Act, by virtue of such an enactment.
- (6) In this Part of this Act " impounding works" means either of the following, that is to say—
 - (a) any dam, weir or other works in an inland water whereby water may be impounded, and
 - (b) any works for diverting the flow of an inland water in connection with the construction or alteration of any dam, weir or other works falling within the preceding paragraph,

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and in section 26(2) of this Act the first and second references to abstracting water shall be construed as including references to obstructing or impeding the flow of an inland water by means of impounding works.

37 Provisions as to licences under s. 36

- (1) Subject to the following provisions of this section, the person to whom a licence under the last preceding section is granted, and no other person, is for the purposes of this Act the holder of the licence.
- (2) In any action brought against a person in respect of any obstruction or impeding of the flow of an inland water at any point by means of impounding works, it shall be a defence for him to prove that the flow was so obstructed or impeded in pursuance of a licence under this Act, and in the manner specified in that licence, and to an extent not exceeding the extent so specified, and that any other requirements of the licence were complied with:

Provided that nothing in this subsection shall exonerate a person from any action for negligence or breach of contract.

- (3) Where a licence under the last preceding section is required for constructing or altering impounding works at a point in an inland water, for the purpose of abstracting water therefrom at or near that point.—
 - (a) an application may be made to the river authority for a combined licence under this Act to obstruct or impede the flow of the inland water by means of impounding works at that point and to abstract the water, and
 - (b) the river authority (subject to the provisions of this Part of this Act as to procedure and as to the matters to be taken into account in dealing with applications for licences) may grant such a licence accordingly.
- (4) Section 32 (5) of this Act shall apply to a licence under the last preceding section, or to a combined licence granted in accordance with the last preceding subsection, as it applies to a licence which relates only to the abstraction of water.
- (5) Subject to the preceding provisions of this section, the provisions of sections 28 and 29 of this Act shall have effect in relation to applications for licences under the last preceding section (including a combined licence in so far as it is to be a licence under that section) as they have effect in relation to applications for licences to abstract water, as if any reference to abstracting water were a reference to obstructing or impeding the flow of an inland water by means of impounding works.

Minister's powers in relation to applications for licences

38 Reference of applications to Minister

- (1) The Minister may give directions requiring applications for licences under this Act, other than licences of right, to be referred to him instead of being dealt with by river authorities.
- (2) A direction under this section—
 - (a) may be given either to a particular river authority or to river authorities generally, and

- (b) may relate either to a particular application or to applications of a class specified in the direction.
- (3) Before determining an application referred to him under this section, the Minister may, if he thinks fit, and shall, if a request is made by the applicant or the river authority to be heard with respect to the application, cause a local inquiry to be held or afford to the applicant and the river authority an opportunity of appearing before, and being heard by, a person appointed by the Minister for the purpose.
- (4) The decision of the Minister on any application referred to him under this section shall be final; and where the decision is that a licence is to be granted, it shall include a direction to the river authority to grant a licence containing such provisions as may be specified in the direction.

39 Appeal against decision of river authority

- (1) Where an application is made to a river authority for a licence under this Act, and the applicant is dissatisfied with the decision of the river authority on the application, he may by notice in writing under this section appeal to the Minister.
- (2) Any notice under this section shall be served within such time (not being less than twenty-eight days from the date on which the decision to which it relates was notified to the applicant) and in such manner as may be prescribed, and the applicant shall within that time serve a copy of the notice on the river authority.
- (3) Where an appeal is brought under this section, the Minister, subject to the following provisions of this Part of this Act, may allow or dismiss the appeal, or may reverse or vary any part of the decision of the river authority, whether the appeal relates to that part thereof or not, and may deal with the application as if it had been made to him in the first instance,
- (4) Where any representations in writing with respect to the application were made within the period mentioned in section 28(2) of this Act, the Minister, before determining the appeal, shall require the river authority to serve a copy of the notice of appeal on each of the persons who made those representations ; and the Minister, in determining the appeal, shall take into account any further representations in writing received by him from those persons within a prescribed period.
- (5) Before determining an appeal under this section, the Minister may, if he thinks fit, and shall, if a request is made by the applicant or the river authority to be heard with respect to the appeal, cause a local inquiry to be held or afford to the applicant and the river authority an opportunity of appearing before, and being heard by, a person appointed by the Minister for the purpose.
- (6) The decision of the Minister on any appeal under this section shall be final; and where the decision is that a licence is to be granted or to be varied or revoked, it shall include a direction to the river authority to grant a licence containing, or vary the licence so as to contain, such provisions as may be specified in the direction, or to revoke the licence, as the case may be.

40 Appeal in default of decision of river authority

Where an application is made to a river authority for a licence under this Act, then unless within such period as may be prescribed, or within such extended period as may

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at any time be agreed upon in writing between the applicant and the river authority, the river authority either—

- (a) give notice to the applicant of their decision on the application, or
- (b) give notice to him that the application has been referred to the Minister in accordance with directions given under section 38 of this Act,

the provisions of the last preceding section shall apply in relation to the application as if the licence had been refused by the river authority, and as if notification of their decision had been received by the applicant at the end of the prescribed period or at the end of the said extended period, as the case may be.

41 Provisions supplementary, to ss. 38 to 40

- (1) The provisions of this section shall have effect in relation to—
 - (a) applications referred to the Minister under section 38 of this Act;
 - (b) appeals to the Minister under section 39 of this Act where the application to the river authority was for a licence other than a licence of right; and
 - (c) appeals to the Minister under section 39 of this Act where the application to the river authority was for a licence of right.
- (2) In relation to any application referred to the Minister as mentioned in paragraph (a) of the preceding subsection, the provisions of subsections (1) and (3) of section 28 and of subsection (3) and subsections (5) to (7) of section 29 of this Act shall apply as if in those provisions, except in section 29 (3) (a), any reference to the river authority were a reference to the Minister.
- (3) In determining any application referred to him under section 38 of this Act, and, in particular, in determining what (if any) direction to give under subsection (4) of that section, the Minister shall consider whether any such direction would require the grant of a licence so as to authorise derogation from protected rights.
- (4) Subject to the provisions of subsections (2) and (3) of this section and of section 30 of this Act, on any such application the Minister—
 - (a) may determine that a licence shall be granted containing such provisions as he considers appropriate, or
 - (b) if, having regard to the provisions of this Act, he considers it necessary or expedient to do so, may determine that no licence shall be granted.
- (5) In relation to any such appeal as is mentioned in paragraph (b) of subsection (1) of this section—
 - (a) the provisions of subsection (3) (with the omission of paragraph (a)) and of subsections (5) to (7) of section 29 of this Act shall apply as if in those provisions any reference to the river authority were a reference to the Minister; and
 - (b) in determining the appeal, and, in particular, in determining what (if any) direction to give under section 39 (6) of this Act, the Minister shall consider whether any such direction would require the grant or variation of a licence so as to authorise derogation from protected rights.
- (6) In relation to any such appeal as is mentioned in paragraph (c) of subsection (1) of this section, section 33 (4) and (5) and section 34 of this Act, or section 35 of this Act, as the case may be, shall apply as if any reference to the river authority were a reference to the Minister.

- (7) The provisions of this section shall have effect without prejudice to section 38 (3) and section 39 (4) and (5) of this Act.
- (8) In subsections (5) to (7) of section 29 of this Act, as applied by any enactment contained in this section, any reference to " the preceding provisions " shall be construed as a reference to—
 - (a) subsection (3) of that section as so applied, and
 - (b) subsection (3) or subsection (5)(b) of this section, as the case may be.
- (9) References in this section to section 39 of this Act include references to the provisions of that section as applied by section 40 of this Act; and any reference in this section to authorising derogation from protected rights is a reference to authorising the abstraction of water, or, as the case may be, authorising the flow of an inland water to be obstructed or impeded by means of impounding works, so as to derogate from rights which, at the time when the direction in question is given, are protected rights under this Act.

Revocation and variation of licences

42 Revocation or variation on application of holder of licence

- (1) The holder of a licence under this Act may apply to the river authority to revoke the licence; and on any such application the river authority shall revoke the licence accordingly.
- (2) The holder of a licence under this Act may apply to the river authority to vary the licence; and the provisions of sections 28 and 29 and 38 to 41 of this Act shall apply (with the necessary modifications) to applications under this subsection, and to the variation of licences in pursuance of such applications, as they apply to applications for, and the grant of, licences under this Act:

Provided that, where the proposed variation is limited to reducing the quantity of water authorised to be abstracted in pursuance of the licence during one or more periods, sections 28 and 39 (4) of this Act shall not apply.

43 Proposal by river authority to revoke or vary licence

- (1) Where it appears to a river authority that a licence under this Act granted by the authority should be revoked or varied, the authority may formulate proposals for revoking or varying the licence.
- (2) Where, ether in consequence of representations made to the Minister or otherwise, it appears to the Minister that a licence under this Act granted by a river authority ought to be reviewed, but no proposals for revoking or varying the licence have been formulated by the river authority under the preceding subsection, the Minister may, as he may consider appropriate in the circumstances.—
 - (a) direct the river authority to formulate proposals for revoking the licence, or
 - (b) direct the river authority to formulate proposals for varying the licence in such manner as may be specified in the direction.
- (3) Notice in the prescribed form of any proposals formulated under ether of the preceding subsections shall be served on the holder of the licence and published in the London Gazette and at least once in each of two successive weeks in one or more newspapers

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(other than the London Gazette) circulating in the relevant locality; and, if the licence relates to an inland water, and the proposals provide for variation of that licence, a copy of the notice shall, not later than the date on which it is first published otherwise than in the London Gazette, be served on any navigation authority, harbour authority or conservancy authority having functions in relation to that inland water at a place where the licence, if varied in accordance with the proposals, would authorise water to be abstracted or impounded.

- (4) Any such notice as is mentioned in the last preceding subsection shall (in addition to any other matters required to be contained therein)—
- (a) name a place within the relevant locality where a copy of the proposals, and of any map, plan or other document prepared in connection with them, will be open to inspection by the public, free of charge, at all reasonable hours during a period specified in the notice in accordance with the next following subsection, and
 - (b) state that, at any time before the end of that period, the holder of the licence may give notice in writing to the river authority objecting to the proposals, and any other person may make representations in writing to the river authority with respect to the proposals.
- (5) The period specified in a notice in pursuance of the last preceding subsection shall be a period beginning not earlier than the date on which the notice is first published in a newspaper other than the London Gazette, and ending not less than twenty-eight days from that date and not less than twenty-five days from the date on which the notice is published in the London Gazette ; and a river authority shall not proceed with any such proposals before the end of the period so specified.
- (6) If before the end of that period the holder of the licence gives notice in writing to the river authority objecting to the proposals, the river authority shall refer the proposals to the Minister, with a copy of the notice of objection.
- (7) If no notice under the last preceding subsection is given before the end of the period mentioned in subsection (4) of this section, the river authority may proceed with the proposals; and, where the proposals are proposals for varying the licence, the provisions of subsections (2) to (7) of section 29 of this Act shall apply (with the necessary modifications) to any action of the river authority in proceeding with the proposals as they apply to the action of a river authority in dealing with an application for a licence.
- (8) Subject to the provisions of subsections (5) to (7) of this section, the river authority—
- (a) if the proposals are for the revocation of the licence, may revoke the licence;
 - (b) if the proposals are proposals for varying the licence, may vary it in accordance with those proposals or, with the consent of the holder of the licence, may vary it in any other way.
- (9) In this section " the relevant locality " means the locality in which the place or places where the licence authorises water to be abstracted or impounded is or are situated.

44 Reference of proposals to Minister

- (1) Where any proposals of a river authority under the last preceding section are referred to the Minister in accordance with subsection (6) of that section, the Minister shall consider the proposals and the objection of the holder of the licence, and any representations in writing relating to the proposals which were received by the river

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authority before the end of the period mentioned in subsection (4) of the last preceding section, and, subject to the next following subsection, shall determine whether—

- (a) if the proposals were for the revocation of the licence, the licence should be revoked, or
 - (b) if the proposals were proposals for varying the licence, the licence should be varied as mentioned in subsection (8)(b) of the last preceding section.
- (2) Before determining under this section whether a licence should be revoked or varied, the Minister may, if he thinks fit, and shall, if a request is made by the holder of the licence or the river authority to be heard with respect to the proposals, cause a local inquiry to be held or afford to the holder of the licence and the river authority an opportunity of appearing before, and being heard by, a person appointed by the Minister for the purpose.
 - (3) A decision of the Minister under this section with respect to any proposals shall be final; and where the decision is that the licence should be revoked or varied, it shall include a direction to the river authority to revoke the licence, or, as the case may be, to vary it so as to contain such provisions as may be specified in the direction.
 - (4) The provisions of subsections (5) to (7) of section 29 of this Act shall apply in relation to any proposals referred to the Minister as mentioned in subsection (1) of this section as if in those provisions any reference to the river authority were a reference to the Minister and any reference to the application were a reference to the proposals.
 - (5) In determining under this section whether a licence should be varied, and, if so, what direction should be given under subsection (3) of this section, the Minister shall consider whether any such direction would require the licence to be varied so as to authorise derogation from protected rights.
 - (6) In subsections (5) to (7) of section 29 of this Act, as applied by subsection (4) of this section, any reference to " the preceding provisions " shall be construed as a reference to subsections (1) and (5) of this section.
 - (7) Any reference in this section to authorising derogation from protected rights shall be construed in accordance with subsection (9) of section 41 of this Act.

45 Special provisions as to spray irrigation

- (1) The provisions of this section shall have effect where at any time—
 - (a) one or more licences under this Act are in force in relation to a source of supply in a river authority area, authorising water abstracted in pursuance of the licences to be used for the purpose of spray irrigation, or for that purpose together with other purposes, and
 - (b) by reason of exceptional shortage of rain or other emergency, it appears to the river authority that it is necessary to impose a temporary restriction on the abstraction of water for use for that purpose.
- (2) In so far as any such licence authorises water to be used for the purpose of spray irrigation, the river authority may serve a notice on the holder of the licence reducing, during such period as may be specified in the notice, the quantity of water authorised to be abstracted in pursuance of the licence from the source of supply in question for use for that purpose, and, in relation to that period, the licence shall have effect subject to that reduction accordingly:

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Provided that the river authority shall not serve such a notice in respect of abstraction of water from underground strata unless it appears to them that such abstraction is likely to affect the flow, level or volume of an inland water (not being an inland water falling within section 2(3) of this Act or an inland water comprised in an order under section 25 of this Act).

- (3) In the exercise of the power conferred by the last preceding subsection, in a case where there are two or more such licences in force authorising abstraction from the same source of supply either at the same point or at points which, in the opinion of the river authority, are not far distant from each other.—
- (a) the river authority shall not serve such a notice on the holder of one of the licences unless a like notice is served on the holders of the other licences in respect of the same period, and
 - (b) the reductions imposed by the notices on the holders of the licences shall be so calculated as to represent, as nearly as appears to the river authority to be practicable, the same proportion of the quantity of water authorised by the licences (apart from the notices) to be abstracted for use for the purpose of spray irrigation.
- (4) The provisions of this section shall have effect without prejudice to the exercise of any power conferred by sections 42 to 44 of this Act.

46 Compensation for revocation or variation of licence

- (1) Where a licence is revoked or varied under section 44 of this Act, and it is shown that the holder of the licence—
- (a) has incurred expenditure in carrying out work which is rendered abortive by the revocation or variation, or
 - (b) has otherwise sustained loss or damage which is directly attributable to the revocation or variation,
- the river authority shall pay to him compensation in respect of that expenditure, loss or damage.
- (2) For the purposes of this section, any expenditure incurred in the preparation of plans for the purposes of any work, or upon other similar matters preparatory to any work, shall be taken to be included in the expenditure incurred in carrying out that work.
- (3) Subject to the last preceding subsection, no compensation shall be paid under this section in respect of any work carried out before the grant of the licence which is revoked or varied, or in respect of any other loss or damage arising out of anything done or omitted to be done before the grant of that licence:

Provided that this subsection shall not apply to a licence of right.

- (4) No compensation shall be payable under this section in respect of a licence to abstract water, if it is shown that no water was abstracted in pursuance of the licence during the period of seven years ending with the date on which notice of the proposals for revoking or varying the licence was served on the holder of the licence.
- (5) Any question of disputed compensation under this section shall be referred to and determined by the Lands Tribunal; and in relation to the determination of any such compensation the provisions of sections 2 and 4 of the Land Compensation Act 1961 shall apply, subject to any necessary modifications.

- (6) For the purpose of assessing any compensation under this section, in so far as that compensation is in respect of loss or damage consisting of depreciation of the value of an interest in land, the rules set out in section 5 of the Land Compensation Act 1961 shall, so far as applicable and subject to any necessary modifications, have effect as they have effect for the purpose of assessing compensation for the compulsory acquisition of an interest in land.
- (7) Where the interest in land, in respect of which any compensation falls to be assessed in accordance with the last preceding subsection, is subject to a mortgage—
- (a) the compensation shall be assessed as if the interest were not subject to the mortgage ;
 - (b) a claim for the compensation may be made by any mortgagee of the interest, but without prejudice to the making of a claim by the person entitled to the interest;
 - (c) no such compensation shall be payable in respect of the interest of the mortgagee (as distinct from the interest which is subject to the mortgage); and
 - (d) any such compensation which is payable in respect of the interest which is subject to the mortgage shall be paid to the mortgagee, or, if there is more than one mortgagee, to the first mortgagee, and shall in either case be applied by him as if it were proceeds of sale.

47 Application by owner of fishing rights for revocation or variation of licence

- (1) Where a licence under this Act, not being a licence of right, authorises abstraction from an inland water in respect of which no minimum acceptable flow has been determined under Part III of this Act, then, at any time after the end of the period of one year beginning with the date on which the licence was granted but before such a minimum acceptable flow has been so determined, any person who is the owner of fishing rights in respect of that inland water may apply to the Minister for the revocation or variation of the licence.
- (2) Any application under this section made by a person as owner of fishing rights in respect of an inland water shall be made on the grounds that, in his capacity as owner of those rights, he has sustained loss or damage which is directly attributable to the abstraction of water in pursuance of the licence in question, and either—
- (a) he is not entitled to a protected right under this Act in respect of that inland water, or
 - (b) the loss or damage which he has sustained in his capacity as owner of those rights is not attributable to any such breach of statutory duty as is mentioned in subsection (1) or subsection (2) of section 50 of this Act or is in addition to any loss or damage attributable to any such breach.
- (3) Where an application is made under this section, the applicant shall serve notice in the prescribed form on the river authority and on the holder of the licence, stating that each of them is entitled, at any time before the end of the period of twenty-eight days beginning with the date of service of the notice, to make representations in writing to the Minister with respect to the application; and the Minister, in determining the application, shall take into account any representations in writing received by him from the river authority or from the holder of the licence within that period.
- (4) On an application under this section, the Minister shall not determine that the licence in question shall be revoked or varied unless—

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- (a) the grounds of the application, as mentioned in subsection (2) of this section, are established to his satisfaction, and
 - (b) the Minister is satisfied that the extent of the loss or damage which the applicant has sustained, as mentioned in that subsection, is such as to justify the revocation or variation of the licence,
- or if he is satisfied that the fact that the abstraction of water in pursuance of the licence caused that loss or damage was wholly or mainly attributable to exceptional shortage of rain, or to an accident or other unforeseen act or event not caused by, and outside the control of, the river authority; and, where the Minister determines that the licence shall be varied, the variation shall be limited to that which, in the opinion of the Minister, is requisite having regard to that loss or damage.
- (5) Subsections (2) and (3) of section 44 of this Act shall apply in relation to any matter required to be determined by the Minister under the last preceding subsection as they apply in relation to matters required to be determined by him under that section, but with the modification that an applicant under this section (as well as the holder of the licence) shall have the like rights to request a hearing, and to be heard, as the holder of the licence has under subsection (2) of that section.
 - (6) Section 46 of this Act shall have effect in relation to the revocation or variation of a licence under this section as it has effect in relation to the revocation or variation of a licence under section 44 of this Act.
 - (7) Where a licence is revoked or varied on an application under this section, the applicant shall be entitled to compensation from the river authority in respect of the loss or damage which he has sustained as mentioned in subsection (2) of this section.
 - (8) Where, on an application under this section for the revocation or variation of a licence, the Minister determines that the grounds of the application (as mentioned in subsection (2) of this section) have been established to his satisfaction, but that the licence shall not be revoked or varied in pursuance of that application, he shall certify accordingly; and thereupon, unless within the period of six months from the date on which that certificate is granted either—
 - (a) notice to treat for the acquisition of the fishing rights of the applicant, or of an interest in land which includes those rights, has been served by the river authority, or
 - (b) an offer has been made by the river authority to the owner of those rights to acquire those rights (or, where they subsist only as rights included in an interest in land, to acquire that interest) on terms that the price payable shall be equal to (and shall, in default of agreement, be determined in like manner as) the compensation which would be payable in respect thereof if the rights or interest were acquired compulsorily by the river authority,the owner of the fishing rights shall be entitled to compensation from the river authority.
 - (9) The amount of the compensation payable under the last preceding subsection in respect of any fishing rights shall be the amount by which the value of those rights (or, where they subsist only as rights included in an interest in land, the value of that interest) is depreciated by the operation of section 31(1) of this Act in relation to the licence to which the application related.
 - (10) Any question of disputed compensation under subsection (7) or under subsections (8) and (9) of this section shall be referred to and determined by the Lands Tribunal; and in relation to the determination of any such compensation the provisions of sections

2 and 4 of the Land Compensation Act 1961 shall apply, subject to any necessary modifications.

- (11) In this section " fishing rights", in relation to an inland water, means any right (whether it is an exclusive right or a right in common with one or more other persons) to fish in that water, where the right in question either constitutes an interest in land or is included in an interest in land or is exercisable by virtue of an exclusive licence granted for valuable consideration ; any reference to an owner of fishing rights is a reference to the person for the time being entitled to those rights; and any reference to a right included in an interest in land is a reference to a right which is exercisable only by virtue of, and as a right incidental to, the ownership of that interest.

48 Revocation or variation of authorisation to impound under alternative statutory provision

- (1) Where by virtue of an alternative statutory provision which is for the time being in force statutory water undertakers or other persons are authorised to obstruct or impede the flow of an inland water by means of impounding works (whether those works have already been constructed or not), the provisions of this Part of this Act and of section 103 thereof shall have effect (with the necessary modifications) as if any reference in those provisions to a licence under this Act, or to the holder of a licence under this Act, where the reference is to the revocation or variation of such a licence, included a reference to that authorisation, or to those undertakers or other persons, as the case may be. .
- (2) In this section " alternative statutory provision" has the meaning assigned to it by section 36 (3) of this Act, and " authorised" means authorised in whatsoever terms, and whether expressly or by implication, and " authorisation " shall be construed accordingly.

Enforcement of restrictions and protected rights

49 Penalties

Any person who contravenes section 23 (1), section 23 (2) or section 36 (1) of this Act, or who (in circumstances not constituting such a contravention) does not comply with a condition or requirement imposed by the provisions (as for the time being in force) of a licence under this Act of which he is the holder, shall be guilty of an offence and shall, on conviction on indictment or on summary conviction, be liable to a fine:

Provided that an offence under this section shall not be punishable on summary conviction by a fine exceeding one hundred pounds.

50 Right of action against river authority

- (1) A breach of the duty imposed by section 29 (2) of this Act, or by that subsection as applied by any other provision of this Part of this Act, shall not invalidate the grant or variation of a licence; and that duty shall not be enforceable by any criminal proceedings or by prohibition or injunction, but shall be enforceable, at the suit of any person entitled to a protected right under this Act, by an action against the river authority (but not against any other person) for damages for breach of statutory duty.

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- (2) Where under any provision of this Part of this Act a river authority are directed by the Minister to grant or vary a licence, then (without prejudice to the duty of the river authority, as between that authority and the Minister, to comply with that direction) if the licence as granted or varied in compliance with the direction authorises derogation from protected rights—
- (a) the grant or variation of the licence shall, as between the river authority and the person entitled to those rights, have effect as a breach on the part of the river authority of a statutory duty not to authorise derogation from those rights;
 - (b) the preceding subsection shall apply in relation to that statutory duty as it applies in relation to the duty imposed by section 29 (2) of this Act; and
 - (c) the duty of the river authority to comply with the direction of the Minister shall not afford any defence in an action brought in pursuance of that subsection as applied by the last preceding paragraph:

Provided that this subsection shall not apply to a direction given in consequence of an appeal against the decision of the river authority on an application for the grant of a licence of right.

- (3) In any action brought against a river authority in pursuance of subsection (1) of this section (including that subsection as applied by the last preceding subsection) it shall be a defence for them to prove that the fact that the abstraction of water (or, as the case may be, the obstruction or impeding of the flow of the inland water) authorised by the licence, as granted or varied by the river authority, derogated from the protected right under this Act of the plaintiff was wholly or mainly attributable to exceptional shortage of rain or to an accident or other unforeseen act or event not caused by, and outside the control of, the river authority.
- (4) Where the plaintiff in any such action is entitled to a protected right under this Act by reason only that he is the holder of, or has applied for, a licence of right, it shall be a defence for the river authority to prove—
- (a) that the plaintiff could have carried out permissible alterations in the means whereby he abstracted water from the source of supply in question, and
 - (b) that, if he had carried out such alterations, the abstraction (or, as the case may be, the obstruction or impeding of the flow of the inland water) authorised by the licence to which the action relates would not have derogated from his protected right under this Act.
- (5) In the last preceding subsection " permissible alterations "—
- (a) in relation to a person who is the holder of a licence of right, means any alteration of works, or modification of machinery or apparatus, which would fulfil the requirements of the licence as to the means whereby water is authorised to be abstracted ;
 - (b) in relation to a person who is not the holder of a licence of right, but has applied for one as being entitled to it by virtue of section 33(1)(a) of this Act, means any alteration of works, or modification of machinery or apparatus, which he is empowered to make by virtue of a statutory provision in force on the second appointed day; and
 - (c) in relation to a person who is not the holder of a licence of right, but has applied for one as being entitled to it by virtue of section 33(1)(b) of this Act, means any alteration of the works, or modification of the machinery or apparatus, by means of which he abstracted water from the source of supply in question during the period of five years ending with the second appointed day, being

an alteration or modification which would be within the scope of the licence if granted in accordance with the application.

- (6) In this section any reference to authorising derogation from protected rights shall be construed in accordance with section 41(9) of this Act.

51 Minister may indemnify river authority in certain cases

- (1) Where under the last preceding section a river authority are liable to pay damages to any person in consequence of the grant or variation of a licence in compliance with a direction given by the Minister, whether an action for recovery of those damages has been brought or not, and the river authority pay to that person any sum in satisfaction of that liability, the Minister may, if he thinks fit, pay to the river authority the whole or such part as he considers appropriate of—
- (a) the amount of that sum, and
 - (b) if an action has been brought against the river authority in respect of that liability, the amount of any costs reasonably incurred by the river authority in connection with the action, including any costs of the plaintiff which they were required to pay.
- (2) If, in a case falling within the preceding subsection, the river authority formulate proposals for revoking or varying the licence in question, and in consequence of those proposals the licence is revoked or varied and compensation in respect of the revocation or variation is payable by the river authority under section 46 of this Act, the Minister may, if he thinks fit, pay to the river authority the whole or such part as he considers appropriate of—
- (a) the amount of that compensation, and
 - (b) if any question relating to that compensation is referred to the Lands Tribunal, the amount of any costs reasonably incurred by the river authority in connection with that reference, including any costs of the claimant which they are required to pay.
- (3) Where under section 47 of this Act—
- (a) the Minister determines that a licence shall be revoked or varied, and in consequence of that determination compensation is payable by a river authority in respect of the revocation or variation of the licence, or
 - (b) the Minister determines that a licence shall be revoked or varied, and in consequence of that determination compensation is payable by the river authority under subsection (7) of that section in a case where the licence was granted in compliance with a direction given by the Minister, or
 - (c) the Minister determines that a licence shall not be revoked or varied, and in consequence of that determination compensation is payable by a river authority under subsection (8) of that section,

the last preceding subsection shall have effect in relation to that compensation as it has effect in relation to compensation payable in the circumstances mentioned in the last preceding subsection.

Supplementary provisions

52 Abstraction and impounding of water by river authorities

- (1) In relation to the abstraction of water by river authorities from sources of supply in their areas, and in relation to the construction or alteration by river authorities of impounding works in their areas, the provisions of this Part of this Act shall have effect subject to such exceptions and modifications as may be prescribed by regulations made under this Act.
- (2) Any such regulations may in particular provide for securing—
 - (a) that any licence required by a river authority in relation to the matters mentioned in the preceding subsection shall be granted (or be deemed to be granted) by the Minister and not granted by the river authority;
 - (b) that, in such cases and subject to such conditions as may be prescribed by the regulations, any licence so required by a river authority shall be deemed to be granted by the Minister unless the Minister requires an application for the licence to be made to him by the river authority; and
 - (c) that where a licence is deemed to be granted as mentioned in the last preceding paragraph, the river authority shall give such notice of that fact as may be prescribed by the regulations.

53 Register of applications and licences

- (1) Every river authority shall keep, in such manner as may be prescribed by regulations made under this Act, a register containing such information as may be so prescribed with respect to applications made to that authority for the grant, revocation or variation of licences, including information as to the way in which such applications have been dealt with, and also containing such information as may be so prescribed with respect to persons becoming the holders of licences by virtue of section 32 of this Act or regulations made under that section.
- (2) Every such register kept by a river authority shall also contain such information as may be prescribed with respect to applications made by the river authority in accordance with regulations made under the last preceding section, and with respect to licences granted or deemed to be granted, and licences revoked or varied, in accordance with regulations made under that section.
- (3) Every register kept under this section shall be available for inspection by the public at all reasonable hours.

54 General regulations relating to licences

- (1) Any application for a licence under this Act shall be made in such manner as may be prescribed by regulations under this Act, and shall include such particulars, and be verified by such evidence, as may be so prescribed.
- (2) Provision may be made by regulations under this Act as to the manner in which applications for the grant, revocation or variation of licences under this Act, and appeals against decisions on such applications, are to be dealt with, including provision requiring the giving of notices of, and information relating to, the making of, or decisions on, such applications or appeals.

- (3) Without prejudice to the generality of the last preceding subsection, provision shall be made by regulations under this Act for securing that in such circumstances as may be prescribed, being circumstances in which it appears to the Minister that applications for licences under this Act, other than licences of right, would be of special concern to National Park planning authorities.—
- (a) notice of any such application will be given to such one or more National Park planning authorities as may be determined in accordance with the regulations;
 - (b) the matters to which the river authority or the Minister, as the case may be, is to have regard in dealing with the application will include any representations made by any such National Park planning authority within such period and in such manner as may be prescribed ; and
 - (c) on any appeal against the decision on the application, notice of the appeal will be served on any National Park planning authority who made representations falling within the last preceding paragraph, and, in determining the appeal, the Minister will take account of any further representations made by such an authority within such period and in such manner as may be prescribed.

In this subsection "National Park planning authority " means a local planning authority whose area consists of or includes the whole or part of a National Park.

- (4) Provision may also be made by regulations under this Act as to the form of licences under this Act or of any class of such licences.
- (5) Subsections (1) to (4) of this section shall have effect subject to any express provision contained in, or having effect by virtue of, any other enactment contained in this Part of this Act; and any regulations made under this section shall have effect subject to any such express provision.

55 Curtailment of certain protected rights

- (1) The provisions of this section shall have effect where a person (in this section referred to as " the occupier ") is entitled to a protected right (under this Act by virtue of section 26(1)(b) thereof by reason of his being the occupier of such a holding as is mentioned in section 24 (2) of this Act (in this section referred to as " the holding ")).
- (2) If it appears to the river authority that the occupier is entitled, as against other occupiers of land contiguous to the inland water in question, to abstract water therefrom for use on part of the holding, but is not so entitled to abstract water for use on other parts of the holding.—
- (a) the river authority may serve on him a notice in writing specifying the first mentioned part of the holding, and
 - (b) subject to the following provisions of this section, the notice shall have effect as a determination under this section, and the part specified in the notice shall be the relevant part of the holding for the purposes of the proviso to section 24 (2) of this Act.
- (3) Where a notice is served under the last preceding subsection, and .the occupier objects to the notice on the grounds—
- (a) that he is entitled, as against other occupiers of land contiguous to the inland water in question, to abstract water therefrom for use on every part of the holding, or

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- (b) that he is so entitled to abstract water for use on a larger part of the holding than that specified in the notice,
 he may, within such time (not being less than twenty-eight days from the date of service of the notice) and in such manner as may be prescribed, appeal to the court against the notice.
- (4) On any such appeal the court shall determine the matter in dispute, and either confirm, quash or vary the river authority's notice in accordance with its decision.
- (5) Where the court quashes a notice served under subsection (2) of this section, paragraph (b) of that subsection shall not have effect; and where the court varies such a notice, that paragraph shall have effect, but with the substitution, for the reference to the part of the holding specified in the notice, of a reference to the part specified in the notice as varied by the court.
- (6) In this section " the court" means the county court for the district in which the holding, or the part of the holding which is contiguous to the inland water in question, is situated, and " entitled " (except in subsection (1) of this section) means entitled apart from this Act or any other statutory provision.

56 Transitional provisions for purposes of Part IV

- (1) Where an application for a licence under this Act is made before the end of the initial period, then, until the application has been disposed of, the following provisions of this Part of this Act, that is to say—
- (a) if the application is for a licence to abstract water, other than a licence of right, sections 23, 31 and 49 of this Act;
 - (b) if the application is for a licence of right, those sections and section 26 of this Act; and
 - (c) if the application is for a licence to obstruct or impede the flow of an inland water by means of impounding works, section 36, subsections (1) and (2) of section 37 and section 49 of this Act,
- shall have effect as if the licence had been granted on the date of the application and the provisions of the licence had been in accordance with the proposals contained in the application; and for the purposes of those provisions of this Part of this Act any licence granted on the application shall be treated as not having effect until the application has been disposed of.
- (2) Where, in pursuance of an application made (whether before or after the passing of this Act) before the end of the initial period, a statutory provision—
- (a) comes into operation after the second appointed day, and
 - (b) apart from this Act, would authorise a person to do anything which is restricted by section 23 of this Act,
- the river authority, on the application of that person, shall grant to him a licence under this Act to abstract water, containing such provisions as appear to the river authority to correspond as nearly as may be to those of that statutory provision.
- (3) Sections 27 to 29 and section 54 (3) of this Act shall not have effect with respect to applications made to a river authority under the last preceding subsection, but—
- (a) section 34 (3) to (5) and section 41 of this Act shall have effect in relation to any such application, or to an appeal against the decision on such an application, as if it were an application for a licence of right, and

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- (b) section 50 (2) of this Act shall not apply to any direction given in consequence of such an appeal.
- (4) Section 47 of this Act shall not apply to a licence granted in pursuance of an application under subsection (2) of this section.
- (5) Subsection (1) of section 31 of this Act shall not afford any defence to an action brought before the end of the relevant transitional period if the licence referred to in that subsection is a licence of right granted to a person as being entitled to it by virtue only of section 33(1)(b) of this Act; and that subsection as applied by subsection (1) of this section shall not afford any defence to such an action if the application in question was made by a person as being entitled to a licence of right by virtue only of the said section 33(1)(b).

In this subsection " the relevant transitional period", in relation to a licence granted by a river authority, means the period beginning with the second appointed day and ending with the coming into operation of a charging scheme prepared by that river authority under Part V of this Act.

- (6) No compensation shall be payable under section 46 of this Act in respect of the revocation or variation of a licence of right, if the revocation or variation is for giving effect to the decision of the court in an action in respect of which the last preceding subsection has effect or in any proceedings in consequence of such an action.
- (7) For the purposes of this section an application shall be taken to be disposed of on (but not before) the occurrence of whichever of the following events last occurs, that is to say—
 - (a) on the determination of the application by the river authority, a licence is granted and the provisions of that licence are in accordance with the proposals contained in the application;
 - (b) on a reference of the application to the Minister under section 38 of this Act, the Minister refuses to grant a licence;
 - (c) the period (if any) within which the applicant is entitled to give notice of appeal against the decision on the application expires without such a notice having been given;
 - (d) an appeal against that decision is determined or withdrawn ;
 - (e) in compliance with a direction given by the Minister in consequence of such an appeal or (in the case of an application referred to the Minister under section 38 of this Act) in consequence of a decision of the Minister on the application, the river authority grants, varies or revokes a licence under this Act;and in this subsection any reference to a decision includes a reference to a decision which is to be treated as having been made by virtue of section 40 of this Act.

PART V

CHARGES FOR LICENCES TO ABSTRACT OR IMPOUND WATER

57 Licence fees

- (1) On the granting of a licence under this Act to abstract water, and annually thereafter so long as such a licence continues in force, there shall be payable to the river authority by the holder of the licence a fee of which the amount (subject to subsection (4) of

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this section) shall be five pounds or such other sum as is for the time being prescribed for the purposes of this subsection by order of the Minister.

- (2) The preceding subsection shall apply to a combined licence granted in accordance with section 37 (3) of this Act as it applies to licences which relate only to abstracting water.
- (3) On the granting of a licence under section 36 of this Act, there shall be payable to the river authority by the holder of the licence a fee of five pounds or such other sum as is for the time being prescribed for the purposes of this subsection by order of the Minister:

Provided that this subsection shall not apply to such a combined licence as is mentioned in the last preceding subsection.

- (4) In respect of any licence under this Act which relates only to the abstraction of water from underground strata for agricultural purposes other than spray irrigation, the amount of any fee payable under subsection (1) of this section shall be one-fifth of the amount which would be payable apart from this subsection.

58 Charging schemes

- (1) As soon as practicable after the second appointed day, each river authority shall prepare and submit to the Minister a scheme (in this Act referred to as a " charging scheme ") providing for the levying of charges (in addition to fees charged under the last preceding section) in respect of licences to abstract water granted under this Act.
- (2) A charging scheme shall provide that the charges to be levied under the scheme in the case of any licence shall be calculated by reference to the quantity of water authorised to be abstracted from time to time in pursuance of the licence.
- (3) Subject to the last preceding subsection, a charging scheme may provide for the levying of charges thereunder at different rates in respect of water authorised to be abstracted in different relevant circumstances; but (without prejudice to the effect of any agreement made under the following provisions of this Part of this Act relating to exemption from and reduction of charges) the charges levied under a charging scheme in any financial year of the river authority shall be levied on all persons at the same rates in respect of the same quantity of water authorised to be abstracted in the same relevant circumstances.
- (4) For the purposes of the last preceding subsection the following shall be taken to be relevant circumstances, that is to say—
 - (a) the characteristics (whether generator special) of the source of supply from which the water is authorised to be abstracted;
 - (b) the season of the year at which the water is authorised to be abstracted;
 - (c) the purposes for which, in accordance with the provisions of the licence, the water is authorised to be used ; and
 - (d) the way in which the water is to be disposed of after being used for the purposes specified in the licence.
- (5) Subject to the preceding provisions of this section—
 - (a) the rates of charges specified in a charging scheme shall be maximum rates, and shall be calculated with a view to their remaining in force without variation (save in exceptional circumstances) over a period of five years from the time when the scheme was prepared, and

- (b) the charges levied under the scheme in any financial year of the river authority shall be levied at such rates (not exceeding the maximum rates specified in the scheme) as appear to the river authority to be requisite for balancing their water resources account.
- (6) In the last preceding subsection the reference to balancing the water resources account of a river authority is a reference to securing that, taking one year with another, the receipts of the river authority which, in accordance with the provisions of Part VIII of this Act, are credited to their water resources account are, as nearly as may be, equal to (but not greater than) the expenses and other amounts which, in accordance with those provisions, are debited to that account.

59 Supplementary provisions as to charging schemes

- (1) The provisions of Part I of Schedule 7 to this Act shall have effect in relation to a charging scheme, as if any reference to a draft statement were a reference to a charging scheme as prepared by the river authority:

Provided that paragraph 4 of that Schedule shall have effect in relation to a charging scheme with the omission of sub-paragraphs (c) to (h).

- (2) A charging scheme approved by the Minister (with or without modifications) shall come into operation on such date as may be specified in the scheme as so approved.
- (3) The date so specified shall be not later than the 1st April 1969:

Provided that the Minister may in any particular case fix a later date for the coming into operation of a charging scheme if, after consultation with the river authority and with each of the constituent councils of the river authority, he considers that by reason of special circumstances it is necessary or expedient to do so.

60 Exemptions from, and reduction of, charges

- (1) A river authority, either before or after the coming into operation of a charging scheme prepared by the authority, may, on the application of any person, make an agreement with him either exempting him from the payment of charges under the scheme or providing for charges to be levied on him under the scheme at reduced rates specified in the agreement.
- (2) In the exercise of their powers under the preceding subsection in relation to any person, a river authority shall have regard to—
- (a) the extent to which any works constructed (whether before or after the passing of this Act) by that person or any works to be constructed by him have made, or will make, a beneficial contribution towards the fulfilment of the purposes of the river authority's new functions;
 - (b) any financial assistance which that person has rendered, or has agreed to render, towards the carrying out of works by the river authority in the performance of those functions;
 - (c) any other material considerations.
- (3) The Minister may give directions as to the exercise by river authorities of their powers under subsection (1) of this section.

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- (4) Without prejudice to the exercise of the power conferred by the last preceding subsection, if on any application under this section the river authority refuse to make an agreement with the applicant as mentioned in subsection (1) of this section, or the applicant objects to the terms of such an agreement as proposed by the river authority and that objection is not withdrawn, the applicant or the river authority may refer the question in dispute to the Minister; and on any such reference the Minister shall determine that question, having regard to the matters to which, in accordance with subsection (2) of this section, the river authority were required to have regard in relation to the applicant.
- (5) Any decision of the Minister on a reference under the last preceding subsection shall be final; and the Minister may give directions to the river authority requiring them to make an agreement with the applicant in accordance with his decision.
- (6) Every charging scheme shall make provision for securing that no charges will be levied under the scheme in respect of water authorised by a licence to be abstracted from underground strata, in so far as the water is authorised to be abstracted for use for agricultural purposes other than spray irrigation.

61 Revision of charging schemes

- (1) Where a charging scheme prepared by a river authority is for the time being in force—
 - (a) the river authority, or
 - (b) any statutory water undertakers who are the holders of a licence under this Act to abstract water from a source of supply in the area of the river authority, or
 - (c) any persons who are in the aggregate the holders of not less than ten licences for the time being in force under this Act to abstract water from sources of supply in that area,may apply to the Minister for a revision of that scheme.
- (2) Any application under this section shall include the submission of a new charging scheme prepared by the applicants, either by way of variation of, or in substitution for, the charging scheme as in force at the time of the application.
- (3) The Minister shall not entertain an application under this section which is made before the end of the period of five years beginning with the date on which, in the case of the river authority in question, the charging scheme originally prepared by them or (as the case may be) the revision last applied for under this section was approved by the Minister (with or without modifications), unless it appears to the Minister that there are exceptional circumstances which render an earlier revision necessary or expedient.
- (4) Subsections (2) to (6) of section 58, subsection (6) of section 60, and, where the applicants are the river authority, subsection (1) of section 59 of this Act shall have effect in relation to a charging scheme prepared under this section as they have effect in relation to a charging scheme prepared under section 58 of this Act.
- (5) In relation to a charging scheme prepared under this section by applicants other than the river authority, the provisions of Part I of Schedule 7 to this Act shall have effect subject to the following modifications, that is to say:—
 - (a) any reference to a draft statement shall be construed as a reference to a charging scheme as prepared by the applicants;

- (b) except in paragraph 9 of that Schedule, any reference to the river authority, unless the reference is to the river authority area, shall be construed as a reference to the applicants;
 - (c) in paragraph 9 of that Schedule, the first reference to the river authority shall be construed as a reference to the applicants and the second such reference shall be construed as a reference to the river authority and the applicants;
 - (d) the river authority shall be included among the bodies on whom, under paragraph 4 of that Schedule, a copy of the notice is required to be served, and sub-paragraphs (c) to (h) of that paragraph shall be omitted.
- (6) A charging scheme prepared under this section which is approved by the Minister (with or without modifications) shall come into operation on such date as may be specified in the scheme as so approved.
- (7) Where a charging scheme prepared by a river authority has been revised under this section, any reference in the last preceding section to a charging scheme prepared by the river authority shall be construed as a reference to the charging scheme relating to licences granted by that authority, in the form in which such a scheme is for the time being in force.

62 Charges pending commencement of charging schemes

- (1) In respect of water authorised to be abstracted in pursuance of a licence under this Act granted by a river authority, other than a licence of right, during the period beginning with the date on which the licence comes into force and ending with the date of the coming into operation of a charging scheme prepared by the river authority, charges shall be payable at such rates as may be agreed between the river authority and the holder of the licence, or, in default of such agreement, at such rates as, on a reference of the matter to the Minister, may be determined by him to be appropriate in accordance with the next following subsection.
- (2) In agreeing or determining the rates of charges under this section, a river authority or the Minister, as the case may be, shall have regard to the principles which in accordance with sections 58 and 60 of this Act, would apply to rates under a charging scheme and to exemptions from, or reductions of, rates under such a scheme.

63 Special charges in respect of spray irrigation

- (1) Where a person (in this section referred to as "the applicant") is for the time being the holder of a licence under this Act to abstract water, and in accordance with the provisions of the licence (in this section referred to as "the relevant licence")—
- (a) the water is to be used on land of which the applicant is the occupier, and
 - (b) the purposes for which water abstracted in pursuance of the licence is to be used consist of or include spray irrigation,
- the applicant, either before or after the coming into operation of a charging scheme prepared by the river authority, may apply to the river authority to make an agreement with him under this section, and, subject to the following provisions of this section, the river authority may make such an agreement accordingly.
- (2) During any period for which an agreement under this section is in force, charges shall be payable by the applicant to the river authority in respect of the relevant licence, in so far as it relates to water authorised to be abstracted and used on the relevant land, as follows, that is to say—

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- (a) basic charges calculated in accordance with the agreement by reference to the quantity of water authorised to be so abstracted and used from time to time in pursuance of the licence, and
 - (b) supplementary charges calculated in accordance with the agreement by reference to the quantity of water which is measured or assessed as being abstracted from time to time by or on behalf of the applicant from the source of supply to which the relevant licence relates for use on the relevant land.
- (3) In determining whether to make an agreement with the applicant under this section, and in determining the charges to be leviable under such an agreement, the river authority shall have regard to the extent to which, in any year within the period proposed to be specified in the agreement as the period for which it is made, the quantity of water referred to in paragraph (a) of the last preceding subsection is likely to exceed the quantity referred to in paragraph (b) of that subsection.
- (4) The period specified in an agreement under this section as the period for which it is made shall not be less than five years.
- (5) An agreement under this section shall remain in force until the occurrence of whichever of the following events first occurs, that is to say—
 - (a) the period specified in the agreement, as mentioned in the last preceding subsection, comes to an end ;
 - (b) the relevant licence expires or is revoked;
 - (c) the applicant ceases to be the occupier of the relevant land, or, if he has previously ceased to be the occupier of a part or parts of that land, ceases to be the occupier of the remainder of it;
 - (d) the agreement is terminated under the next following subsection.
- (6) At any time while an agreement under this section is in force, the applicant may apply to the river authority to terminate the agreement; and if on any such application the river authority are satisfied that, by reason of any change of circumstances since the agreement was made, it ought to be terminated, the river authority may terminate the agreement, either unconditionally or subject to such conditions (whether as to any payment to be made by the applicant or otherwise) as the river authority and the applicant may agree.
- (7) The provisions of subsections (3) to (5) of section 60 of this Act shall have effect in relation to applications and to the exercise of powers under this section as they have effect in relation to applications and to the exercise of powers under that section, as if in those provisions any reference to the making of an agreement or to the terms of an agreement included a reference to the termination of an agreement or to the conditions subject to which an agreement is to be terminated, as the case may be.
- (8) Where the relevant licence authorises water abstracted in pursuance of the licence to be used on the relevant land for purposes which include spray irrigation and other purposes.—
 - (a) any agreement made under this section shall provide for apportioning, as between those purposes respectively, the quantity referred to in paragraph (a) and the quantity referred to in paragraph (b) of subsection (2) of this section ;
 - (b) subsection (2) of this section shall have effect as if in each of those paragraphs the reference to the quantity of water therein mentioned were a reference to so much of that quantity as in accordance with the agreement is apportioned to the purpose of spray irrigation ;

- (c) in subsection (3) of this section any reference to either of those paragraphs shall be construed as a reference to that paragraph as modified by paragraph (b) of this subsection; and
 - (d) subject to the provisions of this Part of this Act other than this section, charges shall be leviable in accordance with any charging scheme for the time being in force in respect of so much of the quantity referred to in paragraph (a) of subsection (2) of this section as in accordance with the agreement is apportioned to purposes other than spray irrigation.
- (9) Subject to the last preceding subsection, where an agreement under this section is in force, then in so far as the relevant licence relates to water authorised to be abstracted and used on the relevant land, the provisions of this section shall have effect notwithstanding anything contained in any other provision of this Part of this Act or in any charging scheme; but—
- (a) nothing in this section or in any agreement made thereunder shall affect the operation of any other provision of this Part of this Act or of any charging scheme in relation to a licence in so far as it authorises water abstracted in pursuance of the licence to be used on any land other than the relevant land, and
 - (b) nothing in this section or in any such agreement shall affect the operation of section 57 of this Act.
- (10) An application under subsection (1) of this section may be made by a person who has applied for, but is not yet the holder of, a licence under this Act to abstract water; and, in relation to an application so made or to an agreement made on such an application.—
- (a) the reference in that subsection to the provisions of the relevant licence shall be construed as a reference to the proposals contained in the application for a licence, and
 - (b) any other reference in this section to the relevant licence shall be construed as a reference to any licence granted to the applicant in pursuance of the last-mentioned application or in pursuance of an appeal consequential upon the last-mentioned application.
- (11) In this section "the relevant land" means the land on which the relevant licence, as for the time being in force, authorises water abstracted in pursuance of the licence to be used for purposes which consist of or include spray irrigation, and "year" means a period of twelve months beginning with the date on which an agreement under this section comes or is proposed to come into force or beginning with an anniversary of that date.

64 Enforcement of charges

- (1) Any fees or other charges payable to a river authority by virtue of this Part of this Act shall be recoverable by the authority as a simple contract debt in any court of competent jurisdiction.
- (2) Without prejudice to the recovery of any such charges in accordance with the preceding subsection, if the charges payable in respect of a licence under this Act are not paid within fourteen days after a notice in writing demanding them has been served on the holder of the licence, the river authority may by notice in writing suspend the operation of the licence until the charges have been paid.

PART VI

POWERS OF RIVER AUTHORITIES IN RELATION TO LAND AND WORKS

65 Powers to acquire land

- (1) A river authority shall have power to acquire by agreement any land which they require for any purpose in connection with the performance of any of their functions:

Provided that a river authority shall not, except with the consent of the appropriate Minister or Ministers, acquire any land under this subsection for any purpose if the land is outside their area and is not immediately required by the river authority for that purpose.

- (2) A river authority shall have power to acquire compulsorily any land which they require for any purpose in connection with the performance of any of their functions, on being authorised by the appropriate Minister or Ministers to do so.
- (3) The Acquisition of Land (Authorisation Procedure) Act 1946 shall apply to the compulsory acquisition 74 of land under this section, and accordingly shall have effect as if this section had been in force immediately before the commencement of that Act.
- (4) In subsections (1) to (3) of this section references to land shall be construed as including references to any interest in or right over land (except in so far as the proviso to subsection (1) refers to land as being outside the area of a river authority); and, in relation to the acquisition of interests in or rights over land, references to land in the said Act of 1946 as applied by the last preceding subsection shall be construed as references to any such interest or right, or as references to the land in or over which an interest or right is to be acquired, as the context may require.

66 Acquisition of new interests or rights over land

- (1) A river authority may exercise the powers conferred by the last preceding section so as to acquire interests in or rights over land by way of the creation of new interests or rights, as well as interests or rights already in existence before the acquisition thereof by a river authority, and an interest or right may be so acquired either in perpetuity or for a term of years certain or so as to be terminable by notice.
- (2) Where those powers are exercised so as to acquire compulsorily an interest in or right over any land (in this section referred to as "the servient land") by way of the creation of a new interest or right (in this section referred to as "the new right"), the provisions of subsections (3) to (5) of this section shall have effect with respect to compensation in respect of the acquisition of the new right.
- (3) If the value of any interest in land to which this subsection applies is depreciated by the acquisition of the new right, the person entitled to that interest shall be entitled to compensation from the river authority of an amount equal to the amount of the depreciation.

This subsection applies to any interest in any of the servient land, and to any interest in any land which, on the relevant date, is held with any of the servient land.

- (4) Where the person entitled to an interest in land to which the last preceding subsection applies sustains loss or damage which—
- (a) is attributable to the acquisition of the new right, and

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- (b) does not consist of depreciation of the value of that interest, and
 - (c) is loss or damage for which, if his interest in the servient land had been compulsorily acquired under the last preceding section in pursuance of a notice to treat served on the relevant date, he would have been entitled to compensation by way of compensation for disturbance,
- he shall be entitled to compensation from the river authority in respect of that loss or damage, in addition to compensation under the last preceding subsection.
- (5) Subsections (3) and (4) of this section shall have effect without prejudice to any right to compensation under section 68 of the Lands Clauses Consolidation Act 1845 (which relates to compensation for injurious affection): but, subject to the preceding provisions of this subsection and to any regulations made under this section, no person shall be entitled to compensation, in respect of the compulsory acquisition of the new right, otherwise than in accordance with subsections (3) and (4) of this section.
 - (6) In relation to the acquisition under this Act of interests or rights by way of the creation of new interests or rights, provision may be made by regulations made by the Ministers under this section—
 - (a) as to the exceptions and modifications subject to which any enactments are to apply for the purposes of any such acquisition;
 - (b) as to the way in which any such acquisition, if compulsory, may be completed, whether by deed poll or otherwise, and (whether compulsory or not) may be made binding upon persons (other than the river authority) who are entitled to interests in the servient land and on the successors in title of such persons;
 - (c) as to the application, subject to any exceptions and modifications specified in the regulations, of any provisions of the Land Charges Act 1925 or the Land Registration Act 1925 in relation to any such acquisition ;
 - (d) as to the assessment of compensation, in such cases as may be prescribed by the regulations, by way of an annual sum payable during such period as may be so prescribed, instead of being payable as a capital sum ;
 - (e) as to any exceptions and modifications subject to which the provisions of subsections (3) to (5) of this section are to have effect where an interest in any of the servient land is subject to a mortgage, or is subject to a rentcharge, chief rent or other rent, payment or incumbrance;
 - (f) as to any other matters for which, in the opinion of the Ministers, it is necessary or expedient to provide in connection with, or in consequence of, such acquisitions.
 - (7) In this section " the relevant date " means the date of service of the notice to treat in pursuance of which the new right is acquired.

67 Compulsory powers for carrying out engineering or building operations

- (1) Where in the performance of their new functions a river authority propose to carry out any engineering or building operations, and it appears to them that for the purpose of carrying out those operations they need compulsory powers, whether consisting of or including powers of compulsory acquisition or not, the authority may apply to the Minister for an order under this section.
- (2) The provisions of Schedule 8 to this Act shall have effect with respect to applications and orders under this section:

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Provided that, where the powers applied for by an application under this section do not consist of or include any powers of compulsory acquisition, Part II of that Schedule shall not have effect with respect to that application or to any order made thereon, and an order made on that application shall not confer any powers of compulsory acquisition.

- (3) Subject to the provisions of that Schedule and of the last preceding subsection, where application is made to the Minister for an order under this section, the Minister may make an order conferring on the river authority such compulsory powers, for the purpose of carrying out the engineering or building operations in question, as the Minister may consider necessary or expedient for that purpose; and (subject to that Schedule and the last preceding subsection) an order under this section may contain such incidental and supplementary provisions, including provisions for amending, adapting or repealing local enactments, as the Minister considers necessary or expedient.
- (4) In relation to any order under this section, except in so far as it confers any powers of compulsory acquisition, section 61 of the Land Drainage Act 1930 (which contains provisions for the protection of certain public utility and other undertakings) shall have effect as it has effect in relation to any order under that Act.
- (5) Nothing in this section or in any order made thereunder shall exempt a river authority from any restriction imposed by Part IV of this Act.
- (6) The preceding provisions of this section shall have effect without prejudice to any compulsory powers (including powers of compulsory acquisition) which a river authority can exercise, or can be authorised to exercise, apart from this section.
- (7) In this section and in Schedule 8 to this Act " powers of compulsory acquisition " means any power to acquire compulsorily any land, or an interest in or right over land, including any power to acquire compulsorily such an interest or right by way of the creation of a new interest or right.

68 Special provisions for protection of water against pollution

- (1) In section 65 of this Act references to land which a river authority require for any such purpose as is therein mentioned shall (without prejudice to the generality of that section) be taken to include land which the river authority require for the purpose of protecting against pollution water in—
 - (a) any reservoir owned or operated by the river authority, or proposed to be acquired or constructed by the river authority for the purpose of its being operated by them, or
 - (b) any underground strata in their area from which the river authority are for the time being authorised to abstract water in pursuance of a licence granted or deemed to be granted under this Act,
 and section 65 (3) of this Act shall have effect accordingly.
- (2) Subsection (2) (except the proviso to that subsection) and subsections (3) and (4) of section 22 of the Water Act 1945 (which subsections relate to works for protecting water against pollution) shall have effect in relation to river authorities as if—
 - (a) references in those subsections to statutory water undertakers were references to river authorities;

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- (b) in subsection (2) the reference to water which belongs to the undertakers or which they are for the time being authorised to take were a reference to such water as is mentioned in subsection (1) of this section; and
 - (c) in subsection (3) the reference to the limits of supply of the undertakers were a reference to the area of the river authority.
- (3) In this section " land " includes any interest in or right over land; and section 65 (4) of this Act shall apply for the purposes of the Acquisition of Land (Authorisation Procedure) Act 1946 as that Act has effect in accordance with subsection (1) of this section.

69 General powers in relation to land and works

- (1) Without prejudice to any other powers conferred on them by or under this or any other Act, a river authority shall (subject to the provisions of section 71 of this Act) have power to carry out such engineering or building operations as they consider necessary or expedient for the purposes of any of their functions.
- (2) The powers conferred on a river authority by the preceding subsection shall (without prejudice to the generality of that subsection) include power to provide housing accommodation for persons employed by the authority; and the provision of such accommodation is accordingly included among the purposes for which a river authority may exercise their powers under sections 65 and 66 of this Act.
- (3) For the purposes of anything done or to be done by river authorities in the performance of their new functions, sections 9, 12 to 17, 19, 20, 22, 28, 67 and 68 of Schedule 3 to the Water Act 1945 (which relate to the execution of works by statutory water undertakers) shall have effect in relation to river authorities subject to the modifications specified in Schedule 9 to this Act.
- (4) Section 61 of the Land Drainage Act 1930 shall have effect, in relation to any provisions of the Water Act 1945 as applied by the last preceding subsection, as it has effect in relation to any enactment contained in the said Act of 1930.

70 Powers to dispose of land

- (1) Subject to the provisions of this section, a river authority may sell, exchange or let any land vested in them which is not required for the purposes of any of their functions.
- (2) A river authority shall not, except with the consent of the appropriate Minister or Ministers, sell, exchange or let any land which was compulsorily acquired by the river authority or was acquired by the river authority by agreement at a time when they were authorised by or under this Act to acquire it compulsorily.
- (3) A river authority shall not, except with the consent of the appropriate Minister or Ministers, sell, exchange or let any land for a price, consideration or rent less than the best price, best consideration or best rent (as the case may be) that can reasonably be obtained, having regard to any restrictions or conditions (including conditions as to payment or the giving of security for payment) subject to which the land is sold, exchanged or let.
- (4) On any application by a river authority of capital money received by them in respect of land sold, exchanged or let by the authority, such adjustment shall be made in the accounts of the authority as may be requisite in the circumstances.

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- (5) Where a river authority are entitled to an interest in or right over land, other than the fee simple or a tenancy thereof, the river authority shall have power, with the consent of the appropriate Minister or Ministers, to dispose of that interest or right for any purpose by way of sale, exchange or lease (in so far as any such mode of disposition is applicable to the interest or right in question) or by way of releasing it, or suspending the operation or exercise thereof, wholly or in part, as the river authority may think fit.

71 Supplementary provisions as to powers in relation to land and works

- (1) The provisions of this Act imposing duties or conferring powers on river authorities, other than—
- (a) sections 65 to 68 and 69 (3) of this Act, and
 - (b) the provisions of Part X of this Act as to rights of entry and inspection,
- shall not be construed as authorising, on the part of a river authority, any act or omission which, apart from the provisions imposing those duties or conferring those powers, would be actionable at the suit of any person on any grounds other than a limitation imposed by law on the capacity of the river authority by virtue of its constitution.

- (2) Where a river authority propose to construct or alter any inland water in an internal drainage district, or to construct or alter any works situated on or in such an inland water, otherwise than in the exercise of any compulsory powers exercisable by the authority, the authority shall consult the internal drainage board for that district:

Provided that this subsection does not apply to an inland water which forms part of the main river for the purposes of the Land Drainage Act 1930.

- (3) Where, on an application under section 47 of this Act, the Minister—
- (a) determines that the licence to which the application relates shall not be revoked or varied, and
 - (b) grants a certificate under subsection (8) of that section,
- and notice to treat for the acquisition of the fishing rights to which the application related, or of an interest in land in which those rights are included, has been served by the river authority within the period of six months from the date on which that certificate is granted, then, for the purpose of assessing compensation in respect of any compulsory acquisition in pursuance of that notice to treat, no account shall be taken of any depreciation of the value of the fishing rights, or of the interest in question, which is applicable to the operation, in relation to that licence, of section 31 (1) of this Act.

Subsection (11) of section 47 of this Act shall apply for the purposes of this subsection as it applies for the purposes of that section.

- (4) Without prejudice to the operation, in relation to any statutory provision contained in or made or issued under this Act, of section 41 of the Town and Country Planning Act 1962 (whereby planning permission may be deemed to be granted in certain cases), nothing in this Act shall be construed as authorising any development (within the meaning of that Act) to be carried out without the grant of planning permission where such permission is required by that Act.
- (5) For the avoidance of doubt it is hereby declared that, in the Acquisition of Land (Authorisation Procedure) Act 1946, and in the Town and Country Planning Act 1962, "local authority " includes a river authority.

- (6) The preceding provisions of this Part of this Act shall have effect without prejudice to the exercise by river authorities of any power conferred by the Salmon and Freshwater Fisheries Act 1923 or by section 76 of the Land Drainage Act 1930 (which relates to the acquisition of accretions of land resulting from drainage works and land required in connection therewith).

PART VII

ADDITIONAL FUNCTIONS OF RIVER AUTHORITIES

72 Control of discharges into underground strata

- (1) Subject to the provisions of the next following section, it shall not be lawful after the end of the initial period, by means of any well, borehole or pipe, to discharge into any underground strata within a river authority area—
- (a) any trade effluent or sewage effluent, or
 - (b) any poisonous, noxious or polluting matter not falling within the preceding paragraph,
- except with the consent of the river authority, which consent shall not be unreasonably withheld, and subject to any conditions imposed by the river authority in accordance with the next following subsection.
- (2) On an application for consent under this section the river authority, if they grant consent, may grant it either unconditionally or subject to such conditions as they may reasonably impose as to any one or more of the following matters, that is to say—
- (a) the nature, composition and volume of the effluent or other matter to be discharged;
 - (b) the strata into which it may be discharged;
 - (c) measures to be taken for protecting water contained in other underground strata through which any well, borehole or pipe containing the effluent or other matter will pass;
 - (d) the provision of facilities for inspection, including the provision, maintenance and use of observation wells and boreholes.
- (3) Where an application is made to a river authority for consent under this section, and the authority either—
- (a) refuse consent, or
 - (b) grant it subject to conditions,
- the applicant, if he is aggrieved by their decision, may, by notice in writing under this subsection, appeal against it to the Minister.
- (4) If, within the period of three months beginning with the date on which an application is made to a river authority for consent under this section or within such extended period as may at any time be agreed upon in writing between the applicant and the river authority, the river authority do not give notice to the applicant of their decision on the application, the authority shall be treated for the purposes of this section as having refused consent.
- (5) Any notice under subsection (3) of this section shall be served within such time and in such manner as may be prescribed by regulations under this Act:

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Provided that the time so prescribed shall not be less than twenty-eight days from the date on which the applicant is notified by the river authority of the decision to which the notice relates, or, in a case falling within the last preceding subsection, from the end of the period after which the river authority are to be treated as having refused consent on his application.

- (6) On any appeal to the Minister under this section, the Minister may allow or dismiss the appeal or may reverse or vary any part of the decision of the river authority, and may deal with the application as if it had been made to him in the first instance.
- (7) Subsections (5) and (6) of section 39, and section 54 (2), of this Act shall apply (with the necessary modifications) to appeals under this section as they apply to appeals under Part IV of this Act.
- (8) Any person who contravenes subsection (1) of this section, or (in circumstances not constituting such a contravention) does not comply with a condition subject to which a consent granted under this section for the time being has effect, shall be guilty of an offence and shall be liable, on conviction on indictment or on summary conviction, to a fine :

Provided that an offence under this section shall not be punishable on summary conviction by a fine exceeding one hundred pounds.

- (9) In this section " trade effluent" and " sewage effluent " have the same meanings as in the Rivers (Prevention of Pollution) Act 1951.

73 Transitional exemption of discharges from control

- (1) Subsection (1) of the last preceding section shall not apply to any discharge of an effluent or other matter which is made in the circumstances specified in the next following subsection.
- (2) The said circumstances are—
 - (a) that the person discharging the effluent or other matter has, on one occasion at least within the period of twelve months ending with the second appointed day, discharged matter of the same nature or composition into the same underground strata by the same means ;
 - (b) that he has, during the initial period, applied to the river authority for consent under the last preceding section to discharge matter of that nature or composition into those underground strata by those means, and that the discharge in question occurs on a day before the application has been disposed of; and
 - (c) that the aggregate volume of matter of the nature or composition in question which is discharged by that person into those underground strata during the whole of that day does not exceed the greatest volume of matter of that nature or composition which was discharged by him into those strata on any one day within the period referred to in paragraph (a) of this subsection.
- (3) Section 56 (7) of this Act shall apply for the purposes of this section as it applies for the purposes of that section, subject to the necessary modifications and, in particular, with the substitution, for the reference to section 40 of this Act, of a reference to subsection (4) of the last preceding section.

74 Revocation or variation of consent under s. 72

- (1) Where a river authority have granted consent under section 72 of this Act in respect of any discharge, they may at any time by notice in writing to the person to whom the consent was granted revoke or vary the consent, either on the application of that person or without any such application.
- (2) Any person aggrieved by the revocation or variation of a consent granted to him under that section, or, where he has applied to the river authority for the variation of any consent so granted, by the refusal of the authority to vary the consent in accordance with the terms of his application, may by notice under this subsection appeal to the Minister against the revocation, variation or refusal, as the case may be.
- (3) If, within the period of three months beginning with the date on which an application is made to a river authority for the variation of any such consent or within such extended period as may at any time be agreed upon in writing between the applicant and the river authority, the river authority do not give notice to the applicant of their decision on the application, the authority shall be treated for the purposes of this section as having refused to vary the consent in accordance with the terms of the application.
- (4) Any notice under subsection (2) of this section shall be served within such time and in such manner as may be prescribed by regulations under this Act:

Provided that the time so prescribed shall not be less than twenty-eight days from the date on which notice of the revocation, variation or refusal to which the first-mentioned notice relates is given by the river authority to the person to whom the consent in question was granted, or, in a case falling within the last preceding subsection, from the end of the period after which the river authority are to be treated as having refused to vary the consent in question in accordance with the terms of that person's application.

- (5) On any appeal to the Minister under this section the Minister may allow or dismiss the appeal or, in the case of an appeal against a variation, may, with the consent of the person to whom the consent was granted, determine that it shall be varied in a way different from that specified in the notice under subsection (1) of this section.
- (6) Subsections (5) and (6) of section 39, and section 54 (2), of this Act shall apply (with the necessary modifications) to appeals under this section as they apply to appeals under Part IV of this Act.

75 Register of consents under s. 72

- (1) Every river authority shall keep, in such manner as may be prescribed, a register containing such particulars as may be prescribed of consents granted by them under section 72 of this Act which are for the time being in force; and so much of the register as relates to any such consent shall, in favour of a person charged with an offence under that section, be conclusive as to the terms of the consent as it has effect for the time being, including the conditions subject to which it so has effect.
- (2) Every register kept under this section shall be available for inspection by the public at all reasonable hours.

76 Emergency measures in case of pollution of waters

- (1) Where it appears to a river authority that any poisonous, noxious or polluting matter is present in an inland water in the area of the river authority, and has entered that

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inland water in consequence of an accident or other unforeseen act or event, the river authority, subject to the following provisions of this section, may carry out such operations as the authority consider necessary or expedient for either or both of the following purposes, that is to say—

- (a) removing that matter from the inland water, and disposing of it in such manner as the authority consider appropriate, and
 - (b) remedying or mitigating any pollution caused by its presence in the inland water.
- (2) The power conferred by the preceding subsection does not include power to construct any works, other than works of a temporary character which are removed on or before the completion of the operations.
 - (3) Section 3(5) of this Act shall apply in relation to the powers conferred by this section as if they had been included among the functions of river boards transferred to river authorities by section 5 of this Act; and those powers shall be included among the transferred functions of river authorities accordingly.
 - (4) In section 135(2)(a) of this Act the reference to functions relating to river pollution includes the powers conferred by this section.
 - (5) Nothing in this section shall be construed as derogating from any duty of a river authority to enforce the provisions of the Rivers (Prevention of Pollution) Acts 1951 to 1961 in their area.

77 Special measures for securing proper use of water resources

- (1) Any reference in this Act to action for the purpose of securing the proper use of water resources shall (without prejudice to the generality thereof) be taken to include action of any description to which this section applies for the purpose of rendering the quality of the water contained in an inland water more suitable for a particular use for which the water is required.
- (2) This section applies to the making and (on the part of the river authority) the performance of an agreement between a river authority and a sewerage authority whereby, in consideration of payments to be made by the river authority, the sewerage authority will secure the removal to a different point, or other alteration, of an outlet from which sewage effluent (within the meaning of the Rivers (Prevention of Pollution) Act 1951) is discharged by the sewerage authority into an inland water in the area of the river authority.
- (3) This section also applies to the carrying out by a river authority of any operations, other than engineering or building operations which are excepted from this subsection by directions given by the Minister, either to river authorities generally or to a particular river authority.

78 Borings not requiring licences under Part IV

- (1) Where, at any time after the end of the initial period, a person proposes to construct in a river authority area a well, borehole or other work which is to be used solely for the purpose of abstracting, to the extent necessary to prevent interference with the execution or operation of any underground works, water contained in underground strata, or proposes to extend any such well, borehole or other work, he shall, before

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he begins to construct or extend the work, give to the river authority a notice of his intention in the prescribed form.

- (2) Where, after the end of the initial period, a person proposes to construct or extend a boring in a river authority area for the purpose of searching for or extracting minerals, he shall, before he begins to construct or extend the boring, give to the river authority a notice of his intention in the prescribed form.
- (3) A river authority, to whom a notice is given by any person in pursuance of either of the preceding subsections, may by notice in writing to that person (in this section referred to as a "conservation notice") require him, in connection with the construction, extension or use of the work to which the first-mentioned notice relates, to take such reasonable measures for conserving water as are specified in the conservation notice, being measures which, in the opinion of the river authority, will not interfere with the protection of the underground works in question or, as the case may be, with the winning of minerals.
- (4) The person on whom a conservation notice is served may, by notice in writing to the Minister, appeal to the Minister against the conservation notice on either or both of the following grounds, that is to say—
 - (a) that the measures required by the conservation notice are not reasonable, and
 - (b) that those measures would interfere with the protection of the underground works in question or with the winning of minerals, as the case may be ;and on any such appeal the Minister may confirm, quash or vary the conservation notice as the Minister may consider appropriate.
- (5) Any notice under the last preceding subsection shall be served within such time (not being less than twenty-eight days from the date of service of the conservation notice) and in such manner as may be prescribed by regulations under this Act.
- (6) The decision of the Minister on any appeal under this section shall be final; and section 39(5) of this Act (with the substitution, for references to the applicant, of references to the appellant) and section 54 (2) of this Act shall apply to appeals under this section as they apply to appeals under Part IV of this Act.
- (7) Any person who contravenes subsection (1) or subsection (2) of this section, or fails to comply with a conservation notice, shall be guilty of an offence and shall, on conviction on indictment or on summary conviction, be liable to a fine:

Provided that an offence under this section shall not be punishable on summary conviction by a fine exceeding one hundred pounds.

79 Byelaws for protection of water resources

- (1) Section 18 of the Water Act 1945 (which empowers statutory water undertakers to make byelaws for the purpose of protecting water against pollution) shall have effect for enabling byelaws to be made under that section by river authorities.
- (2) For the purposes of the application of that section by virtue of the preceding subsection—
 - (a) any reference to statutory water undertakers shall be construed as a reference to a river authority, and any reference to the undertakers shall be construed as a reference to the river authority by whom the byelaws are made;

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- (b) the reference in subsection (1) of that section to water which belongs to statutory water undertakers or which they are for the time being authorised to take shall be construed as a reference to any such water as is mentioned in section 68 (1) of this Act; and
 - (c) in subsection (5) the words " and subsection (2) of the next but one following section of this Act" shall be omitted.
- (3) Subject to the next following subsection, where it appears to a river authority to be necessary or expedient to do so for the purposes of their new functions or of their functions relating to land drainage or to fisheries, the river authority may make byelaws prohibiting such inland waters in their area as may be specified in the byelaws from being used for boating (whether with mechanically propelled boats or otherwise) swimming or other recreational purposes, or regulating the way in which any such inland waters so specified may be used for any of those purposes.
- (4) Byelaws made by a river authority under the last preceding subsection shall not apply to—
 - (a) any tidal waters ;
 - (b) any inland water in relation to which functions are exercisable by a navigation authority, harbour authority or conservancy authority other than the river authority;
 - (c) any inland water falling within section 2 (3) of this Act; or
 - (d) any reservoir belonging to, and operated by, statutory water undertakers and not falling within the said section 2 (3).
- (5) Subsection (3) of this section shall have effect without prejudice to the exercise of any power conferred on river authorities by virtue of subsection (1) of this section or by virtue of any enactment not contained in this Act.
- (6) Byelaws made in respect of any inland water by virtue of subsection (3) of this section may include provision prohibiting the use of the inland water by boats which are not for the time being registered with the river authority in such manner as the byelaws may provide ; and the byelaws may authorise the river authority to make reasonable charges in respect of the registration of boats in pursuance of the byelaws.
- (7) No byelaw made by virtue of section 18 of the Water Act 1945 as applied by subsection (1) of this section shall conflict or interfere with the operation of any byelaw made by a navigation authority, harbour authority or conservancy authority.
- (8) If any person contravenes, or fails to comply with, any byelaws made by virtue of this section (including any byelaws made by virtue of the said section 18 as applied by this section) he shall be guilty of an offence and liable on summary conviction to a fine not exceeding twenty pounds ; 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 five pounds for each day on which it is so continued.
- (9) Without prejudice to any proceedings under the last preceding subsection, a river authority may take such action as they consider necessary to remedy the effect of any contravention of, or failure to comply with, byelaws made by them as mentioned in that subsection, and may recover the expenses reasonably incurred by them in doing so from the person in default.

80 Provision of recreational facilities at reservoirs and other inland waters

- (1) Subject to subsection (5) of this section, a river authority may, if it appears to them reasonable to do so.—
 - (a) permit the use by members of the public, for the purposes of any form of recreation which the river authority consider appropriate, of any reservoir owned or managed by the river authority ;
 - (b) provide, or otherwise make available, facilities for use by persons resorting to any such reservoir for the purposes of any such form of recreation.
- (2) Subject to subsection (6) of this section, where the use for the purposes of any form of recreation of an inland water (not being a reservoir to which the preceding subsection applies) is for the time being regulated by byelaws made by a river authority by virtue of subsection (3) of the last preceding section, the river authority may provide, or otherwise make available, facilities for use by persons resorting to that inland water for the purposes of that form of recreation.
- (3) A river authority may, if they think fit, make such reasonable charges as they may determine in respect of the use of any reservoir for the purposes of recreation, and of any facilities made available by the authority under either of the preceding subsections.
- (4) A river authority may let to any person, for such consideration and on such terms and conditions as they think fit, any works constructed by them for the purpose of providing facilities under subsection (1) or subsection (2) of this section, and may authorise that person to make such reasonable charges as the authority may determine in respect of the use thereof as mentioned in that subsection.
- (5) The powers of a river authority under subsection (1) of this section shall, in the case of a reservoir which the authority manage but do not own, be exercisable only with the consent of the owners of the reservoir.
- (6) The expenditure incurred by a river authority in connection with the exercise of the powers conferred on them by subsection (2) of this section shall be limited so that, taking one year with another, it will not exceed the aggregate of—
 - (a) the amounts received by the authority in respect of the use of facilities made available under that subsection, or the letting of works constructed for the purpose of providing facilities under that subsection, and
 - (b) the amounts so received by way of charges required by any byelaw made by virtue of subsection (3) (as extended by subsection (6)) of the last preceding section to be paid for the registration of boats for use on an inland water to which subsection (2) of this section applies.

81 Agreements for facilitating performance of functions of river authorities

- (1) A river authority may, subject to the next following subsection, enter into an agreement with any statutory water undertakers, with any local authority, or with the owner or occupier of any land, with respect to any one or more of the following matters, that is to say—
 - (a) the execution by any party to the agreement of works within the river authority area which the river authority consider necessary or expedient in connection with the performance of their new functions;
 - (b) the maintenance by any party to the agreement of works executed in pursuance of the agreement;

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- (c) provision for the river authority to use, or have access to, any land within their area for any purpose connected with the performance of their new functions;
 - (d) the manner in which any reservoir in the river authority area is to be operated.
- (2) The Minister may, by a direction given either to a particular river authority or to river authorities generally, direct that, in such cases or classes of cases as are specified in the direction, the authority or authorities to whom the direction is given shall not enter into any agreement under this section except with the consent of the Minister and after prior consultation with the Water Resources Board.
- (3) An agreement under this section may contain such incidental and consequential provisions (including provisions of a financial character) as appear to the river authority necessary or expedient for the purposes of the agreement.
- (4) Where an agreement is made under this section with an owner of land, other than registered land, and the agreement provides that the provisions of this subsection shall have effect in relation thereto.—
- (a) the agreement may be registered as a land charge under section 10 of the Land Charges Act 1925, as if it were a charge affecting land falling within paragraph (iii) of Class D, and the provisions of section 13 of that Act (which relates to the effect of non-registration) shall apply as if it were such a land charge, and
 - (b) subject to the provisions of section 13 of that Act, the agreement shall be binding upon any person deriving title or otherwise claiming under that owner (otherwise than in right of an interest or charge to which the interest of the owner was subject immediately before the agreement was made) to the same extent as it is binding upon that owner, notwithstanding that it would not have been binding upon that person apart from the provisions of this paragraph.
- (5) Where an agreement under this section is made with an owner of land which is registered land, and the agreement provides that the provisions of this subsection shall have effect in relation thereto.—
- (a) notice of the agreement may be registered under section 59 (2) of the Land Registration Act 1925 as if it were a land charge (other than a local land charge) within the meaning of that Act, and the provisions of that Act shall apply accordingly as if it were such a land charge, and
 - (b) where notice of the agreement has been so registered, the agreement shall be binding upon any person deriving title or otherwise claiming under that owner (otherwise than in right of an interest or charge to which the interest of the owner was subject immediately before the notice was registered) to the same extent as it is binding upon that owner, notwithstanding that it would not have been binding upon that person apart from the provisions of this paragraph.
- (6) In this section " registered land " has the same meaning as in the Land Registration Act 1925.

82 Future transfers of functions or property of other authorities and undertakings

- (1) A river authority may at any time apply to the Ministers for an order under this section transferring to the river authority any one or more of the following, that is to say—
- (a) any functions of a navigation authority, conservancy authority or harbour authority, in so far as they are exercisable in relation to the area of the river authority ;

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- (b) any property of a navigation authority, conservancy authority or harbour authority which is situated in the area of the river authority ;
 - (c) any reservoir belonging to statutory water undertakers which is situated in the area of the river authority and is not a reservoir operated wholly or mainly for the supply of water to consumers ;
 - (d) any well, borehole or other work whereby water may be abstracted from underground strata, being a work which is situated in that area and belongs to statutory water undertakers and is not operated wholly or mainly for the supply of water to consumers ;
 - (e) the functions of managing and operating any such reservoir or work as is mentioned in paragraph (c) or paragraph (d) of this subsection, but without a transfer of the ownership of the reservoir or work.
- (2) Where in accordance with the preceding subsection a river authority may apply for an order transferring any functions or property of another body, that body may themselves apply for such an order.
- (3) The provisions of Schedule 10 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 Ministers consider necessary or expedient, including (but without prejudice to the generality of this subsection) such provisions as they consider necessary or expedient with respect to—
- (a) the transfer of assets and liabilities, the payment of compensation and other financial adjustments;
 - (b) the amendment, adaptation or repeal of local enactments ; and
 - (c) the application (subject to such exceptions, adaptations and modifications as may be specified in the order) of any of the provisions of Part IX of this Act or any regulations made thereunder.
- (5) Any transfer of functions or property which could be effected by an order under this section may, with the consent of the Ministers, be effected by agreement between the river authority and the other body concerned.
- (6) Property vested in a river authority by virtue of an order or agreement under this section shall not be treated as so vested by way of sale for the purpose of section 12 of the Finance Act 1895 (which provides for charging stamp duty in the case of certain statutory transfers by way of sale).
- (7) Where, by virtue of an order or agreement under this section, property is transferred to a river authority on the terms that—
- (a) the body from whom it is transferred shall continue liable for the repayment of, and payment of interest on, any sum borrowed in connection with the property, and
 - (b) the river authority shall make payments to that authority in respect of amounts paid by them by reason of their continuing so liable,
- any payment so made by the river authority shall be deemed to be a capital payment or an annual payment according as the amount in respect of which it is made was paid in or towards repayment of the loan or by way of interest thereon.
- (8) Where by an order or agreement made by virtue of this section any functions are transferred to a river authority as mentioned in subsection (1)(e) thereof, references

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in this Act to the new functions of the authority shall be construed as including, and references to their transferred functions as not including, a reference to those functions.

- (9) For the purposes of an application for, or the making of, an order transferring to a river authority any such functions or property as are mentioned in subsection (1)(a) and (b) of this section, and for the purposes of any agreement for the transfer of any such functions or property, "the Ministers " in this section means the Minister, the Minister of Agriculture, Fisheries and Food and the Minister of Transport acting jointly.

PART VIII

FINANCIAL PROVISIONS

83 Water resources accounts of river authorities

- (1) Each river authority shall keep a separate account to be called the "water resources account " of the authority.
- (2) There shall be carried to the credit of the water resources account of a river authority—
- (a) all amounts received by the authority in connection with their new functions, including such part (if any) of any amount paid to the authority under section 87 of 'this Act (whether in pursuance of a precept issued under that section or to make good a deficiency calculated under subsection (9) of that section in respect of such a precept) as is attributable to those functions;
 - (b) so much of any receipts of the authority in their capacity as a drainage authority or fisheries authority, or as successors to a navigation authority, harbour authority or conservancy authority, as may be determined by the river authority to represent the extent to which expenditure incurred by the authority in the performance of their new functions has contributed, or will contribute, towards the performance of their functions in that capacity.
- (3) There shall be debited to the water resources account of a river authority—
- (a) all expenses incurred and payments made by the authority in connection with their new functions, including so much of the necessary and proper establishment expenses of the authority as is attributable to those functions, but excluding any expenses which, in accordance with the following provisions of this Part of this Act, are defrayed out of any reserve fund or replacement fund maintained by them and any payments made out of any sinking fund so maintained;
 - (b) so much of any expenses incurred and payments made by the authority, in their capacity as a drainage authority or fisheries authority, or as successors to a navigation authority, harbour authority or conservancy authority, in respect of matters contributing towards the performance of their new functions (including any amounts paid into any sinking fund maintained by them, but excluding any payments made out of such a fund, as may be determined by the river authority to be expenses or payments which ought to be debited to that account;
 - (c) any amounts which, in accordance with the following provisions of this Part of this Act, are paid by the authority, out of receipts carried to the credit of that account, into any reserve fund or replacement fund maintained by them and any amounts paid by the authority out of such receipts into any sinking fund so maintained;

- (d) such part (if any) of any excess calculated under section 87(9) of this Act, and repaid by the authority in pursuance of that subsection, as has been carried to the credit of that account in accordance with paragraph (a) of the last preceding subsection.
- (4) References in this section to a river authority in their capacity as a fisheries authority are references to the river authority in their capacity as a body having functions relating to fisheries.

84 Reserve funds of river authorities

- (1) At any time on or after the date on which a charging scheme prepared by a river authority comes into operation, the river authority may establish and thereafter maintain a reserve fund.
- (2) Subject to the next following subsection, a river authority may pay into their reserve fund any receipts of the authority carried to the credit of their water resources account.
- (3) Except with the consent of the Minister, no sum shall be paid into the reserve fund of a river authority so as to make the amount at any time comprised in the fund exceed ten per cent. of the aggregate amount of capital expenditure incurred by the authority and their predecessors before that time; and the amount paid into the reserve fund of a river authority in any financial year shall not, except with the consent of the Minister, exceed one per cent. of the aggregate amount of capital expenditure incurred by the authority and their predecessors before the beginning of that year.
- (4) Any moneys for the time being comprised in the reserve fund of a river authority may be applied in or towards the payment of any expenses (whether properly chargeable to capital or to revenue account) which, apart from this section, would fall to be debited to their water resources account.
- (5) In this and the next following section "capital expenditure " means expenditure properly chargeable to capital account; and references in this and the next following section to capital expenditure incurred before any time by the predecessors of a river authority are references—
- (a) in the case of a river authority established by virtue of section 3 of this Act, to any capital expenditure incurred by the river board or boards for whose area or areas the river authority is so established, and
 - (b) in the case of a river authority established by an order under section 10 of this Act, to any capital expenditure incurred before that time by a river authority whose area is wholly included in the area of that river authority, and such proportion as the Minister may determine of any capital expenditure so incurred by a river authority whose area is partly so included.

85 Replacement funds of river authorities

- (1) A river authority may at any time establish and thereafter maintain a replacement fund, and, subject to the following provisions of this section, may pay into that fund any receipts of the authority.
- (2) Any moneys for the time being comprised in the replacement fund of a river authority may be applied in or towards defraying the cost of replacing or repairing any plant, machinery, vehicle or article belonging to the authority or any part of any such plant, machinery, vehicle or article.

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- (3) Except with the consent of the Minister, no sum shall be paid into the replacement fund of a river authority so as to make the amount at any time comprised in the fund exceed five per cent. of the aggregate amount of capital expenditure incurred by the authority and their predecessors before that time; and the amount paid into the replacement fund of a river authority in any financial year shall not, except with the consent of the Minister, exceed one half of one per cent. of the aggregate amount of capital expenditure incurred by the authority and their predecessors before the beginning of that year.

86 Investment of moneys in reserve and replacement funds

- (1) Where a river authority maintain a reserve fund, any moneys for the time being comprised in that fund shall, pending the application thereof in accordance with section 84 (4) of this Act, be invested in accordance with the following provisions of this section.
- (2) Sections 1, 2, 5, 6, 12 and 13 of the Trustee Investments Act 1961 (which relate to the investment powers of trustees) shall have effect in relation to any such moneys, and in relation to any investments or other property for the time being representing any such moneys, as if they constituted a trust fund and the river authority were the trustees of that trust fund; and section 7 (2) of that Act (which relates to certain local and other authorities) shall have effect in relation to sections 1, 2, 5 and 6 of that Act as applied by this subsection as it has effect in relation to those sections as applied by section 7 (1) of that Act.
- (3) River authorities shall be included among the authorities to which section 11 of that Act applies (which relates to the operation of collective investment schemes).
- (4) Any income arising from, any such moneys, investments or property as are mentioned in subsection (2) of this section shall be treated as revenue available generally for defraying any expenses of the river authority which do not fall to be debited to their water resources account or paid out of the reserve fund or any replacement fund maintained by them.
- (5) Where any income is treated as mentioned in the last preceding subsection, there shall be paid into the reserve fund, from revenue available as mentioned in that subsection, a sum equal to the amount of that income:
- Provided that if the payment of a sum under this subsection would contravene any restriction imposed by section 84 (3) of this Act, then, so far as may be necessary for avoiding any such contravention, the sum so payable shall be reduced, or, as the case may require, shall not be paid.
- (6) The provisions of this section shall have effect in relation to a replacement fund maintained by a river authority as they have effect in relation to a reserve fund so maintained, with the substitution, for the reference to section 84 (4), of a reference to section 85 (2), and for the reference to section 84 (3), of a reference to section 85 (3) of this Act.

87 Precepts by river authorities

- (1) For the purposes of this section the aggregate amount required to be raised by precept by a river authority for any financial year shall be ascertained as follows, that is to say—

- (a) subject to the following paragraphs, that aggregate amount shall be an amount equal to so much of the expenditure of the river authority for that financial year as is not debited to the water resources account of the authority and is neither defrayed out of any reserve fund, replacement fund or sinking fund maintained by the authority nor defrayed out of sums received by the authority in respect of that year otherwise than by virtue of this section, together with so much of the total amount (if any) paid by the authority in that financial year into any such replacement fund or sinking fund as is not debited to the water resources account of the authority;
 - (b) in the case of any financial year for which the relevant water resources expenditure of the river authority exceeds the relevant water resources receipts of the authority, the amount of the excess shall be added to the amount specified in the preceding paragraph;
 - (c) there shall also be added to the amount specified in paragraph (a) of this subsection any amount required to be provided in that financial year by way of new working capital, and there shall be added to, or (as the case may be) deducted from, the amount so specified any amount required to be brought forward from a previous financial year, and to be so added or deducted, in accordance with the following provisions of this section.
- (2) In paragraph (b) of the preceding subsection "relevant water resources expenditure ", in relation to any financial year, means any expenditure of the river authority, and any amount paid by the authority into a replacement fund or sinking fund maintained by them, which—
- (a) is incurred or paid before the coming into operation of a charging scheme prepared by the river authority, and
 - (b) is debited in respect of that year to the water resources account of the authority by virtue of any of paragraphs (a) to (c) of section 83 (3) of this Act,
- and " relevant water resources receipts ", in relation to a financial year, means any receipts of a river authority which, not being sums received by virtue of this section, are carried to the credit of the water resources account of the authority for that year:
- Provided that the Minister may in any particular case direct that, in relation to any financial year of a river authority specified in the direction, paragraph (a) of this subsection shall be disregarded, either wholly or in respect of any such expenditure or amount as may be so specified.
- (3) Not later than the end of the month of February immediately preceding each financial year, each river authority shall estimate the aggregate amount required to be raised by precept by the river authority for that year; and that amount shall be apportioned by the river authority among the councils of counties and county boroughs any part of which is comprised in the river authority area, on the basis of the appropriate penny rate product for the relevant area of each such council for the relevant year (calculated in accordance with section 121 of this Act).
 - (4) A river authority may issue precepts to the councils of counties and county boroughs requiring payment of amounts apportioned to those councils under the last preceding subsection ; and, subject to the following provisions of this section, each such council shall pay, in accordance with any precept issued to the council, the amount thereby demanded.
 - (5) If at any time during a financial year it appears to a river authority that the aggregate amount for which they have issued precepts for that year will fall short of the aggregate

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amount required to be raised by precept by the authority for that year, the authority shall estimate the amount of the deficiency; and the provisions of subsections (3) and (4) of this section shall have effect in relation to an amount estimated under this subsection as they have effect in relation to an amount estimated under subsection (3) of this section.

- (6) Subject to the next following subsection, the aggregate amount for which precepts may be issued under this section for any one financial year to the council of a county or county borough shall not, except with the consent of a majority of the whole number of the local authority members of the river authority, exceed four times the appropriate penny rate product for the relevant area of the council for the relevant year.
- (7) Where a river authority have borrowed or propose to borrow any money under this Act, and a majority of the whole number of the local authority members of the river authority so resolve, the last preceding subsection shall have effect, during the currency of the loan, as if for the reference to four times the appropriate penny rate product for the relevant area of the council there were substituted a reference to such greater amount as may be specified in the resolution.
- (8) It shall be the duty of a river authority to prepare, in such form as the Ministers may direct, a statement of the purposes to which the amount demanded by any precept issued by the authority under this section is intended to be applied, and of the basis on which it is calculated; and the council of a county or county borough shall not be liable to pay the amount demanded by any such precept until they have received such a statement.
- (9) It shall also be the duty of a river authority, as soon as practicable after the end of each financial year, to calculate the amount by which the amount demanded by any precept for that year issued under this section to the council of a county or county borough exceeds, or falls short of, the amount which would have fallen to be so demanded from that council if the apportionment under subsection (3) of this section had been made, in relation to each of the councils referred to in that subsection, on the basis of whichever is the greater of the following amounts, that is to say—
 - (a) the amount of the actual product of a rate of one penny in the pound for the relevant area of the council for that year, and
 - (b) the final standard penny rate product for that area for that year;and if in any case the calculation under this subsection shows an excess, the amount of the excess shall be recoverable by the council from the river authority, or, if it shows a deficiency, the amount of the deficiency shall be recoverable by the river authority from the council.
- (10) For the purposes of the last preceding subsection the final standard penny rate product for the relevant area of a county or county borough council for any year shall be ascertained as follows, that is to say—
 - (a) where the relevant area of the council is the whole of its area, the amount of that product shall be taken to be the amount of the standard penny rate product for that area for that year as ascertained for the purposes of section 5 of the Local Government Act 1958 (which relates to Rate-deficiency Grants), and
 - (b) in any other case, the amount of that product shall be taken to be the amount which bears to the standard penny rate product (as so ascertained) for the whole of the area of the council for that year the same proportion as the actual product of a rate of one penny in the pound for the relevant area of the council for (that year bears to the actual product of such a rate for the whole of the area of the council for that year.

- (11) As soon as practicable after the end of each financial year, each river authority shall also ascertain the actual amount which was the aggregate amount required to be raised by precept by the authority for that year, and shall determine whether, and (if so) how far, the aggregate amount for which precepts have been issued by the river authority for that year exceeds or falls short of the amount ascertained under this subsection; and if the comparison under this subsection shows an excess or a deficiency, the amount of the excess or deficiency shall be brought forward to the next financial year and (if an excess) shall be deducted, or (if a deficiency) shall be added, in ascertaining the aggregate amount required to be raised by precept by the river authority for that next financial year.
- (12) The preceding provisions of this section shall have effect subject to the provisions of Part I of Schedule 11 to this Act in the circumstances specified in that Part of that Schedule.

88 General provisions as to finances of river authorities

- (1) Where a river authority holds any funds, or any interest in any funds, created under any local Act for fishery purposes, those funds or that interest shall only be used for the purposes for which the funds or interest could have been used if this Act had not been passed.
- (2) Subject to the preceding subsection, all revenues of a river authority, other than revenues falling to be carried to the credit of their water resources account, shall be available generally for defraying any expenses of the river authority which do not fall to be debited to that account:

Provided that this subsection shall not apply to any receipts of the river authority which are paid into a replacement fund maintained by them under section 85 of this Act, to any special drainage charges levied by the authority under section 3 of the Land Drainage Act 1961, or to any receipts of the authority in their capacity as the drainage board of an internal drainage district.

89 Grants by Minister for works under hydrometric schemes

- (1) Subject to the provisions of this section, the Minister may make grants to any river authority, of such amounts as the Treasury may sanction, towards expenditure incurred by the authority in the construction or alteration of works in accordance with a hydrometric scheme.
- (2) No grant shall be made under this section in respect of any works unless the plans and sections for the construction or alteration have been approved by the Water Resources Board, and the Board report to the Minister that they are satisfied that the construction or alteration is being properly carried out.

90 Contributions by Water Resources Board to river authorities

The Water Resources Board shall have power to contribute to any river authority such sums as the Board may with the approval of the Minister determine in respect of—

- (a) any expenses incurred by the river authority in obtaining and recording measurements of rainfall, evaporation, the flow, level or volume of inland waters, and other related matters, in so far as they are measurements which are

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not required to be obtained and recorded under a hydrometric scheme prepared by the river authority;

- (b) any work of an experimental nature carried out by the river authority in pursuance of any direction given or request made by the Board.

91 Contributions between river authorities and certain other authorities

- (1) Where, on the application of a navigation authority, harbour authority or conservancy authority, it appears to a river authority that any works constructed or maintained by the applicants (whether before or after the passing of this Act) have made, or will make, a beneficial contribution towards the fulfilment of the purposes of the river authority's new functions, the river authority shall contribute to the applicants such sums, on such terms and conditions, as they and the applicants may agree to be appropriate towards the expenditure incurred or to be incurred by the applicants in constructing or maintaining those works.
- (2) Where, on the application of a river authority, it appears to a navigation authority, harbour authority or conservancy authority that any works constructed or maintained by a river authority in the performance of their new functions have made, or will make, a beneficial contribution towards the performance of the functions of the authority to whom the application is made, that authority shall contribute to the river authority such sums, on such terms and conditions, as they and the river authority may agree to be appropriate towards the expenditure incurred or to be incurred by the river authority in constructing or maintaining those works.
- (3) If, on any application under this section, the authority to whom the application is made (in this subsection referred to as "the other authority concerned") refuse to make a contribution, or the applicants and the other authority concerned are unable to agree as to the sums to be contributed or the terms and conditions on which they are to be contributed.—
 - (a) the applicants or the other authority concerned may refer the matter in dispute to the Minister and the Minister of Transport, and
 - (b) those Ministers may either determine that matter themselves or may refer it for determination to an arbitrator appointed by them for the purpose ;

and any decision of those Ministers or of an arbitrator under paragraph (b) of this subsection shall be final, and the other authority concerned shall contribute in accordance with the decision as if the sums, or the terms and conditions, determined under that paragraph had been agreed to be appropriate as mentioned in subsection (1) or subsection (2) of this section, as the case may be.
- (4) Any expenditure incurred by a navigation authority, harbour authority or conservancy authority in paying any contribution under this section shall be defrayed in the like manner as any corresponding expenditure of that authority; and the authority shall have the like powers for the purpose of raising money required for paying any such contribution as they would have for the purpose of raising money required for defraying any such corresponding expenditure.
- (5) In the last preceding subsection any reference to corresponding expenditure of a navigation authority, harbour authority or conservancy authority is a reference to expenditure incurred by the authority in performing the functions in respect of which it is claimed by the applicants that the works in question have made, or will make, a beneficial contribution as mentioned in subsection (2) of this section.

92 Borrowing powers

- (1) A river authority may borrow temporarily, by way of overdraft or otherwise, such sums as they may require—
 - (a) for the purpose of defraying expenses pending the receipt of revenues receivable by them in respect of the period of account to which those expenses are chargeable and taken into account in the estimates made by them for that period;
 - (b) for the purpose of defraying, pending the raising of money by a mortgage under the following provisions of this section, expenses intended to be defrayed by means of that money.
- (2) Subject to the next following subsection, a river authority may borrow money by mortgage for all or any of the following purposes, that is to say—
 - (a) the acquisition of land or of any interest in or right over land;
 - (b) the construction of any buildings or other permanent works;
 - (c) the doing of any other thing the cost of which, in the opinion of the appropriate Minister or Ministers, ought to be spread over a term of years ;
 - (d) the repayment of any money previously borrowed by them or borrowed by a river board or other body for the purposes of functions which, by or under this Act, are transferred (whether from that body or another body) to the river authority.
- (3) No money shall be borrowed under the last preceding subsection for any such purpose as is mentioned in paragraphs (a) to (c) of that subsection except with the consent of the appropriate Minister or Ministers; and a river authority shall not by virtue of paragraph (d) of that subsection have power to borrow for the purpose of making any payment to a sinking fund or of paying any instalment, or making any annual payment, which has or may become due in respect of borrowed money.
- (4) Moneys borrowed by a river authority under subsection (2) of this section shall be charged indifferently on all the revenues of the authority except any such funds as are referred to in section 88 (1) of this Act.
- (5) Subject to the next following subsection, sections 198 to 200, sections 202, 203, 205 and 206, section 207 (except subsection (5)) and sections 208 to 214 of the Local Government Act 1933, so far as they are applicable to the borrowing of money under subsection (2) of this section, shall apply to any borrowing thereunder subject to the following modifications:—
 - (a) for references to a local authority there shall be substituted references to a river authority ;
 - (b) for references to the Minister there shall be substituted references to the appropriate Minister or Ministers;
 - (c) " prescribed ", except in section 205 of that Act, shall mean prescribed by regulations made by the Ministers ;
 - (d) for references to the county fund or the general rate fund there shall be substituted references to the general revenues of the river authority.
- (6) Where under subsection (2) of this section any money is borrowed by a river authority for a purpose falling within their new functions and the purpose consists of or includes the construction of buildings or other permanent works.—

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- (a) the river authority may, if they think fit, postpone the repayment (by sinking fund or otherwise) of the principal sum borrowed until the end of the preliminary period;
- (b) whether repayment is so postponed or not, the purposes for which the river authority are authorised to borrow money under subsection (2)(b) of this section shall include the borrowing of money to pay interest on the principal sum borrowed during the preliminary period.

In this subsection "the preliminary period" means the period beginning with the date of the borrowing first mentioned in this subsection and ending with whichever of the following dates first occurs, that is to say—

- (i) the date of the fifth anniversary of the date of that borrowing, and
 - (ii) the date on which the buildings or works in question are first brought into use.
- (7) Where money is borrowed in pursuance of paragraph (b) of subsection (1) of this section and subsequently money is raised by a mortgage as mentioned in that paragraph, then, for the purposes of the provisions of the Local Government Act 1933 applied by subsection (5) of this section, in so far as they regulate the repayment of the money raised by that mortgage, the money shall, to the extent of the sum borrowed in pursuance of subsection (1)(b) of this section, be deemed to have been raised at the time when that borrowing took place.
- (8) Nothing in this section shall be construed as authorising a river authority to borrow any money in contravention of any order made under section 1 of the Borrowing (Control and Guarantees) Act 1946 which is for the time being in force.
- (9) The provisions of Part II of Schedule 11 to this Act shall have effect with respect to borrowing before the second appointed day.

93 Expenses of Water Resources Board and expenses and receipts of Ministers

- (1) The expenses of the Water Resources Board under this Act shall be defrayed by the Minister.
- (2) Any expenses incurred by the Minister, the Minister of Agriculture, Fisheries and Food or the Minister of Transport in consequence of the provisions of this Act shall be defrayed out of moneys provided by Parliament.
- (3) There shall be defrayed out of moneys provided by Parliament any increase attributable to this Act in the sums payable out of moneys so provided by way of Rate-deficiency Grant or Exchequer Equalisation Grant under the enactments relating to local government in England and Wales or in Scotland.
- (4) Any receipts of any of the said Ministers under this Act shall be paid into the Exchequer.

PART IX

TRANSFER OF UNDERTAKINGS OF RIVER BOARDS

94 General provisions for transfer of assets and liabilities

- (1) The provisions of this section, and of sections 95 to 97 of this Act, shall have effect in the case of any river board (in those provisions referred to as " the board ") whose functions are transferred by virtue of section 5 of this Act to a river authority (in those provisions referred to as " the authority ") to whom none of the functions of any other river board are so transferred.
- (2) All property, rights, liabilities and obligations which, immediately before the second appointed day, were property, rights, liabilities and obligations of the board shall on that day by virtue of this Act and without further assurance, be transferred to the authority.
- (3) Subject to the following provisions of this section, every agreement to which the board was a party immediately before the second appointed day, whether in writing or not and whether or not of such a nature that rights, liabilities and obligations thereunder could be assigned by the board, shall, unless its terms or subject-matter make it impossible that it should have effect as modified in the manner provided by this subsection, have effect as from the second appointed day as if—
 - (a) the authority had been a party to the agreement;
 - (b) for any reference (however worded and whether express or implied) to the board there were substituted, in relation to anything falling to be done on or after the second appointed day, a reference to the authority ;
 - (c) for any reference (however worded and whether express or implied) to any member or officer of the board there were substituted, in relation to anything falling to be done on or after the second appointed day, a reference to such person as the authority may appoint, or, in default of appointment, to the member or officer of the authority who corresponds as nearly as may be to the member or officer of the board in question ; and
 - (d) in the case of an agreement for the rendering of personal services to the board, the services to which the agreement relates were, on and after the second appointed day, any services under the authority, to be selected by the authority, which are reasonably equivalent services.
- (4) Other documents which refer, whether specifically or generally, to the board shall be construed in accordance with the provisions of the last preceding subsection, so far as applicable.
- (5) The last preceding subsection does not apply to enactments contained in any Act, or to orders, schemes, regulations, awards or byelaws in relation to which the provisions of Schedule 3 to this Act have effect.
- (6) Without prejudice to the generality of the preceding provisions of this section, where, by the operation of any of those provisions any right, liability or obligation vests in the authority, the authority and all other persons shall, as from the second appointed day, have the same rights, powers and remedies (and, in particular, the same rights as to the taking or resisting of legal proceedings or the making or resisting of applications to any other authority) for ascertaining, perfecting or enforcing that right, liability or obligation as they would have had if it had at all times been a right, liability or obligation of the authority.

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- (7) Any legal proceedings or applications to any other authority to which the board is a party and which are pending on the second appointed day may be continued on and after that day as if the authority instead of the board had been a party thereto.
- (8) For the purposes of this section any agreement or other document in relation to which the provisions of subsection (2) or subsection (3) of section 25 of the River Boards Act 1948 had effect (which subsections contained provisions corresponding to subsections (3) to (5) of this section) shall be treated as having been amended by that section so as to have effect in accordance with those provisions.

95 Supplementary provisions as to transfer of assets and liabilities

- (1) The Ministers may make regulations providing for the registration of the title of the authority to assets vesting in them by virtue of the last preceding section, being assets of a kind subject to provisions for the registration of title thereto, and for any other matters for which provision appears to the Ministers to be necessary or expedient for the purpose of securing the effective transfer of any assets vesting in the authority by virtue of that section.
- (2) Property vested in the authority by virtue of the last preceding section shall not be treated as so vested by way of sale for the purpose of section 12 of the Finance Act 1895.

96 Pension rights

- (1) As from the first appointed day—
 - (a) the authority shall be included among the local authorities specified in Part I of Schedule 1 to the Local Government Superannuation Act 1937 (which enumerates local authorities whose whole-time officers are compulsorily superannuable), and
 - (b) for the purposes of that Act (hereafter in this Part of this Act referred to as "the Act of 1937") the superannuation fund which immediately before the first appointed day was the appropriate superannuation fund in relation to the board and to officers and servants of the board shall, subject to the next following subsection, be the appropriate superannuation fund in relation to the authority and to officers and servants of the authority,and, subject to the provisions of this and the next following section, the provisions of the Act of 1937 shall apply accordingly.
- (2) If immediately before the first appointed day the board was a constituent authority in relation to a combination scheme in force under section 2 of the Act of 1937—
 - (a) the scheme shall be modified by agreement between the authority and the joint committee established under the scheme, or, in default of such agreement, by the Minister, so far as appears to the authority and the joint committee, or (as the case may be) to the Minister, to be necessary for making the authority a constituent authority and for applying the scheme to officers and servants of the authority, and the scheme shall have effect as so modified, and
 - (b) paragraph (b) of the preceding subsection shall have effect in relation to the joint superannuation fund maintained under the scheme as so modified, but only so long as the scheme remains in force and the authority is a constituent authority in relation to the scheme.

- (3) Subject to the preceding provisions of this section, and to the next following section.—
- (a) any statutory provision contained in or made or issued under the Local Government Superannuation Acts 1937 to 1953, the Superannuation (Miscellaneous Provisions Act 1948 or the National Insurance Act 1959, which is in force at the passing of this Act, and
 - (b) except as may be otherwise expressly provided therein, any enactment passed after the passing of this Act whereby any of those Acts is amended, extended or superseded, and any statutory provision which after the passing of this Act is made or issued under any of those Acts or such an enactment,
- shall have effect in relation to officers or servants of the board who on the second appointed day become officers or servants of the authority, as if their employment by the board and their employment by the authority were one continuous employment.

97 Supplementary provisions as to pension rights

- (1) Any such statutory resolution as is mentioned in section 3(2)(b) of the Act of 1937 (which relates to servants and part-time officers of local authorities) which either—
- (a) was passed by the board, or by virtue of section 29 (2) of the River Boards Act 1948 has effect as if passed by the board, and
 - (b) is in force immediately before the second appointed day,
- in so far as immediately before that day it applies to any person who on that day becomes a servant or part-time officer of the authority, shall continue in force and have effect as if it had been passed by the authority.
- (2) Any reference in this Part of this Act to obligations of the board shall be construed as including a reference to any customary obligations of the board in respect of pensions (including any customary obligations to which the board became subject by virtue of section 29 (6) of the River Boards Act 1948) notwithstanding that the board was under no legal obligation in respect of those pensions; and section 35 of the Act of 1937 (which provides for the reference of questions to the Minister for determination by him) shall apply to any question as to the existence or extent of any such customary obligations.
- (3) Without prejudice to the generality of the last preceding subsection, where immediately before the second appointed day it was the prevailing practice of the board to exercise beneficially (that is to say, so as to secure the payment of pensions or of increased pensions) any discretionary power exercisable by them by virtue of any such statutory provision as is mentioned in subsection (3) of the last preceding section, it shall, in relation to officers or servants to whom the said subsection (3) applies, be the duty of the authority to exercise that power (or any corresponding power under the statutory provisions relating to pensions for the time being in force) in a way which is not less beneficial than that practice; and section 35 of the Act of 1937 shall apply to any question arising under this subsection.
- (4) The provisions of the last preceding section shall not have effect in relation to any person who gave notice to the board under section 29(4) of the River Boards Act 1948 (which relates to officers and servants of river boards electing to retain their previous pension rights); and if such a fund as is mentioned in the said section 29(4) was maintained by the board, and by virtue of this Part of this Act is transferred to the authority, the authority shall apply the fund, in accordance with and to the extent specified in the scheme relating thereto, in supplementing the pensions payable by

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virtue of any such statutory provision as is mentioned in subsection (3) of the last preceding section to or in respect of the persons to whom the scheme applies.

- (5) Subsection (3) of the last preceding section shall not be construed as exempting the authority from any duty under any such statutory provision as is mentioned in that subsection to ascertain, record or notify the status of officers and servants of the authority, being a duty to which the authority would be subject if employment by the board and employment by the authority were not treated as one continuous employment.
- (6) Where at any time before the second appointed day a gratuity, by way of periodical payments or an annuity.—
- (a) was granted to any person by the board on his ceasing to be employed by the board, or
 - (b) was granted to the widow or any other dependant of a person who died while in the employment of the board, or who died during the currency of such a gratuity granted to him as mentioned in the preceding paragraph,

and, if payment in respect of the gratuity had continued in accordance with the terms of the grant, one or more payments in respect of that gratuity would have been made by the board on or after the second appointed day, whether the board would have been obliged to make those payments or not, those payments shall be made by the authority.

- (7) Without prejudice to the last preceding subsection, where for the purposes of any such statutory provision as is mentioned in subsection (3) of the last preceding section the board (if this Act had not been passed) would at any time on or after the second appointed day have been the employing authority in relation to—
- (a) a person who before that day died while in the employment of the board, or otherwise ceased to be employed by the board, or
 - (b) the widow or any other dependant of such a person,

the authority shall be treated as being at that time the employing authority for those purposes in relation to that person, or to that person's widow or other dependant, as the case may be.

- (8) In so far as express provision is made by the last preceding section, or by subsections (1) to (7) of this section, in relation to any matter, sections 5 and 94 of, and Schedule 3 to, this Act shall have effect subject to that express provision; but in all other respects the last preceding section, and subsections (1) to (7) of this section, shall not be construed as affecting the generality of sections 5 and 94 of, and Schedule 3 to, this Act.

98 Provisions where river authority area comprises two river board areas

- (1) Subject to the following provisions of this section, the provisions of sections 94 to 97 of this Act shall have effect in the case of a river board whose functions are transferred by virtue of section 5 of this Act to a river authority to whom the functions of another river board are also so transferred, as those provisions have effect in relation to such a river board as is mentioned in section 94 (1) of this Act.

In the following provisions of this section " the boards " means the two river boards whose functions are transferred to the same river authority as mentioned in this subsection, and " the authority " means the river authority to whom the functions of those boards are transferred.

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- (2) Section 94 of this Act, as applied by the preceding subsection, shall not affect the construction of any reference in an agreement or other document to the area of either of the boards.
- (3) If immediately before the first appointed day the superannuation fund which for the purposes of the Act of 1937 was the appropriate superannuation fund in relation to one of the boards was not the same as the fund which was for those purposes the superannuation fund in relation to the other of the boards, the appropriate superannuation fund in relation to the authority and to officers and servants of the authority (in this subsection referred to as "the appropriate fund") shall be determined as follows, that is to say—
- (a) if neither of the funds in question was a joint superannuation fund maintained under a scheme in force under section 2 of the Act of 1937, the appropriate fund shall be such one of those funds as the two administering authorities and the authority may agree, or, in default of such agreement, the Minister may determine;
 - (b) if one (but not both) of those funds was such a joint superannuation fund, the appropriate fund shall be either that joint superannuation fund or the other of the two funds as the joint committee administering the joint fund and the administering authority maintaining the other fund and the authority may agree, or, in default of such agreement, the Minister may determine;
 - (c) if both of those funds were such joint superannuation funds, the appropriate fund shall be such one of those joint funds as the two joint committees administering them and the authority may agree or, in default of such agreement, the Minister may determine.
- (4) Where the last preceding subsection applies, section 96(3) of this Act shall not have effect for the purposes of section 29 of the Act of 1937 (which provides for the payment of transfer values on a change from one superannuation fund to another); but, with respect to any transfer values which, apart from any direction under this subsection, would, in a case falling within the last preceding subsection, be payable under the said section 29 by the administering authority or joint committee maintaining one superannuation fund (in this subsection referred to as the "transferor fund") to the administering authority or joint committee maintaining another superannuation fund, the Minister, if in the circumstances he considers it equitable to do so, may give directions for securing that—
- (a) no such transfer values will be payable in consequence of the last preceding subsection ;
 - (b) the assets comprised in the transferor fund will be apportioned in such manner as the administering authorities or joint committees concerned may agree or, in default of such agreement, the Minister may determine; and
 - (c) in respect of such part of those assets as may be so agreed or determined, such financial adjustments (whether by way of the transfer of assets or the making of a payment or both) as may be so agreed or determined shall be made;
- and any directions given under this subsection may include such incidental, supplementary and consequential provisions as the Minister considers appropriate.
- (5) In this section " administering authority ", in relation to a superannuation fund, has the same meaning as in the Act of 1937.

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99 Provision for winding up and dissolution of river boards

- (1) The Ministers may by order make provision for dissolving river boards; and any order under this section—
 - (a) may contain provision for winding up the affairs of any river board to which the order relates, and
 - (b) may include any provisions as to matters preparatory or incidental to, or consequential upon, the dissolution of any river board which the Ministers may consider necessary or expedient and is not inconsistent with any provision relating thereto contained in this Act.
- (2) Where an order appointing the second appointed day has been made under section 3 (4) of this Act, the Ministers may if they think fit provide by an order under this section for extending until the second appointed day the terms of office of the members of any river board whose members would, apart from any such provision, cease to hold office during the period of twelve months ending with that day:

Provided that nothing in any such order shall affect the operation of any enactment contained in the River Boards Act 1948 or the Land Drainage Act 1961 under which a particular member of a river board may cease to hold office earlier than the other members of the board.
- (3) The last preceding subsection shall not be construed as prejudicing the generality of the powers conferred by subsection (1) of this section.

100 Saving for acts of river boards

- (1) Nether the transfer of functions of a river board nor the dissolution of a river board by or under this Act shall invalidate any order, regulation, byelaw, scheme, rule, appointment, direction, instruction, licence, approval, consent, resolution, rate, precept, charge, requirement or authorisation made, given, passed, issued or raised or other thing done in the performance of the functions of the river board before the second appointed day, or which by virtue of section 31 of the River Boards Act 1948 has effect immediately before that day as if it had been so made, given, passed, issued, raised or done.
- (2) Subject and without prejudice to the preceding provisions of this Part of this Act, and to the provisions (where applicable) of Schedule 3 to this Act, every such matter as is mentioned in the preceding subsection, in so far as it could have been effected by the river authority to whom the functions of the river board are transferred by section 5 of this Act, shall have effect, as from the second appointed day, as if it had been effected by that river authority.

PART X

MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS

101 Preservation of amenity and public rights of access

- (1) In formulating or considering any proposals relating to the performance of any of their functions under this Act, river authorities and the Water Resources Board and any Minister having functions under this Act, having regard to the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical

features of special interest, and of protecting buildings and other objects of architectural or historic interest, shall each take into account any effect which the proposals would have on the natural beauty of the countryside or on any such flora, fauna, features, buildings or objects.

- (2) In formulating or considering any such proposals, river authorities and the Water Resources Board and any Minister having functions under this Act, having regard to the desirability of preserving public rights of access to areas of mountain, moor, heath, down, cliff or foreshore and other places of natural beauty, shall each take into account any effect which the proposals would have on the preservation of any such rights of access.

102 Land of special natural interest

Where the Nature Conservancy are of opinion¹ that any area of land, not being land for the time being managed as a nature reserve, is of special interest by reason of its flora, fauna or geological or physiographical features and may at any time be affected by schemes, operations or activities of a river authority, it shall be the duty of the Conservancy to notify that fact to the river authority in whose area the land is situated.

103 Protection of duty of statutory water undertakers to supply water for domestic and public purposes

- (1) In the performance of their functions under subsections (1) and (2) of section 14 of this Act, a river authority shall have particular regard to the duty of any relevant statutory water undertakers to provide supplies of water to which this section applies.
- (2) This section applies to the following supplies of water, that is to say—
 - (a) a supply of water for domestic purposes, and
 - (b) a supply of water for any such purpose as is mentioned in section 32 or section 37 of Schedule 3 to the Water Act 1945 (which relate respectively to supplies for extinguishing fires and to supplies for cleansing sewers, drains and highways and for similar purposes).
- (3) In subsection (1) of this section " relevant statutory water undertakers " means any statutory water undertakers who fulfil any one or more of the following conditions, that is to say—
 - (a) that any part of the area of the river authority falls within their limits of supply;
 - (b) that they are the holders of a licence under this Act to abstract water from a source of supply in that area;
 - (c) that they have made an application to the river authority for such a licence or have given notice to the river authority of their intention to make such an application;
 - (d) that they receive a supply of water in bulk from any statutory water undertakers who fulfil the condition specified in paragraph (b) or paragraph (c) of this subsection.
- (4) In dealing with any application or appeal by statutory water undertakers under Part IV of this Act, and in formulating, proceeding with or considering any proposals for the variation or revocation of a licence under this Act of which statutory water undertakers are the holders, a river authority or the Minister, as the case may be, shall have particular regard to the duty of those undertakers, and of any statutory water

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undertakers who receive a supply of water in bulk from those undertakers, to provide supplies of water to which this section applies.

- (5) In this section "duty " means a duty imposed by or under an enactment, and " a supply of water for domestic purposes ", " supply of water in bulk " and " limits of supply " have the same meanings as in Schedule 3 to the Water Act 1945.

104 Technical assistance by Water Resources Board to river authorities

Where it appears to the Water Resources Board, on the application of a river authority, that the effective execution, in relation to the area of that authority, of the Minister's national policy relating to water (in so far as it relates to matters falling within the functions of that authority) presents special problems or requires special professional or technical skill, the Board may place the services of any of their officers at the disposal of the river authority for such period as may be agreed between the Board and the authority and on such terms, as to payment or otherwise, as may be so agreed with the approval of the Minister.

105 Power to restrict or extend spray irrigation provisions

- (1) The Ministers may by order direct that references in this Act to spray irrigation, or such of those references as may be specified in the order, shall be construed as not mending spray irrigation if carried out by such methods or in such circumstances or for such purposes as may be specified in the order.
- (2) Without prejudice to the exercise of the power conferred by the preceding subsection, the Ministers may by order direct that references in this Act to spray irrigation, or such of those references as may be specified in the order, shall be construed as including references to the carrying out, by such methods or in such circumstances or for such purposes as may be specified in the order, of irrigation of any such description, other than spray irrigation, as may be so specified.

106 Compensation of officers and servants

- (1) The Ministers shall by regulations make provision requiring the payment by such river authority as may be prescribed by or determined under the regulations, subject to such exceptions or conditions as may be so prescribed, of compensation to or in respect of persons who are, or but for any national service of theirs would be, the holders of any such situation, place or employment as may be so prescribed who suffer loss of employment, or loss or diminution of emoluments, in consequence of—
- (a) any of the provisions of section 5 or Part IX of this Act, or
 - (b) any order under section 10 of this Act, or
 - (c) any order or agreement under section 82 of this Act.
- (2) Different regulations may be made under this section in relation to different classes of persons, and any such regulations may be so framed as to have effect as from a date earlier than that on which they are made, so however that so much of any regulations as provides that any provision thereof is to have effect as from a date earlier than that on which they are made shall not place any person (other than a river authority) in a worse position than he would have been in if the regulations had been so framed as to have effect only as from the date on which they are made.

- (3) Regulations made under this section may include provision as to the manner in which, and the person to whom, any claim for compensation under this section is to be made, and for the determination of all questions arising under the regulations.
- (4) In this section " national service " means any such service in any of Her Majesty's forces or other employment (whether or not in the service of Her Majesty) as may be prescribed by regulations under this section; and for the purposes of the making of any regulations which would apply to loss of employment, or loss or diminution of emoluments, in consequence of any such order or agreement as is mentioned in section 82(9) of this Act, " the Ministers " in this section means the Minister, the Minister of Agriculture, Fisheries and Food and the Minister of Transport acting jointly.

107 Powers to give directions

- (1) The Minister may give to river authorities such directions as he considers expedient in relation to their new functions; and the appropriate Minister or Ministers may give to river authorities such directions in relation to any of their transferred functions as he or they consider expedient for the purpose of securing the effective performance of any of their new functions.
- (2) Any directions under the preceding subsection may be given either to a particular river authority or to river authorities generally.
- (3) The Minister may give to the Water Resources Board such directions as he considers expedient in relation to the performance of their functions.
- (4) The preceding provisions of this section shall have effect without prejudice to any other provision of this Act authorising directions to be given for any purpose mentioned in that provision.
- (5) Any provision of this Act conferring a power to give directions shall be construed as conferring a power to give either general or special directions; and every provision of this Act conferring a power to give directions shall be construed as imposing, on any person to whom directions are given thereunder, a duty to comply with those directions.
- (6) For the purposes of subsection (1) of this section any question as to the Minister or Ministers who is or are the appropriate Minister or Ministers in relation to any transferred functions of river authorities shall be determined as if in that subsection the words from " for the purpose of securing " onwards were omitted.

108 Default powers

- (1) If, either in consequence of a representation made to the Ministers by the Water Resources Board or otherwise, it appears to the Ministers that an inquiry should be held as to whether a river authority have failed to perform any of their functions in a case where they ought to have performed them, the Ministers may cause a local inquiry to be held.
- (2) If, after such an inquiry has been held, the Ministers are satisfied that the river authority have failed as mentioned in the preceding subsection, the Ministers may make an order declaring the river authority to be in default,

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- (3) An order under the last preceding subsection declaring a river authority (in this section referred to as " the defaulting authority ") to be in default may, for the purpose of remedying the default, direct the defaulting authority to perform such of their functions as may be specified in the order and may specify the manner in which, and the time or times within which, those functions are to be performed.
- (4) If the defaulting authority fail to comply with any direction contained in an order by virtue of the preceding provisions of this section, the Ministers, instead of enforcing the order by mandamus or otherwise, may make an order either—
 - (a) transferring to the appropriate Minister or Ministers such of the functions of the defaulting authority as they think fit, or
 - (b) in the case of any of the new functions of the defaulting authority, transferring any such functions to the Water Resources Board or to any other river authority whose area adjoins that of the defaulting authority or who appear to the Minister to have an interest in the performance of the functions in question in the area of the defaulting authority.
- (5) Where any functions of the defaulting authority are transferred under the last preceding subsection, any expenses incurred by the transferees in performing those functions shall be paid in the first instance by the transferees; but the amount of those expenses, as certified by the appropriate Minister or Ministers, shall on demand be paid by the defaulting authority to the transferees.
- (6) Any expenses which in pursuance of the last preceding subsection are required to be paid by the defaulting authority in respect of any functions transferred under this section shall be defrayed by the defaulting authority in the like manner, and shall be debited to the like account, as if the functions in question had not been transferred and the expenses had been incurred by the defaulting authority in performing them; and the defaulting authority shall have the like powers for the purpose of raising any money required in pursuance of this subsection as they would have for the purpose of raising money required for defraying expenses incurred for the purposes of the functions in question.
- (7) An order under subsection (4) of this section transferring any functions of the defaulting authority may also provide for the transfer to the same transferees of such of the property, rights, liabilities and obligations of the defaulting authority as, in the opinion of the Ministers, may be necessary or expedient; and where any such order is revoked, the Ministers may, either by the revoking order or by a subsequent order, make such provision as in their opinion is necessary or expedient with respect to any property, rights, liabilities and obligations held by the transferees for the purposes of the functions transferred.
- (8) In the application of this section to any functions of a river authority which, immediately before they were transferred to any catchment board, river board or river authority by virtue of the Land Drainage Act 1930, the River Boards Act 1948 or this Act, were functions exercisable by a navigation authority, conservancy authority or harbour authority, " the Ministers" means the Minister, the Minister of Agriculture, Fisheries and Food and the Minister of Transport acting jointly.

109 Inquiries and hearings

- (1) Without prejudice to any other provision of this Act whereby a local inquiry is authorised or required to be held, the Minister, the Minister of Agriculture, Fisheries

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and Food and the Minister of Transport, or any one or more of them, may cause a local inquiry to be held in any case where it appears to the Minister or Ministers in question to be expedient to do so in connection with any matter arising under this Act or otherwise in connection with any of the functions of river authorities.

- (2) The provisions of subsections (2) to (5) of section 290 of the Local Government Act 1933 (which relate to the giving of evidence at, and defraying the cost of, local inquiries) shall have effect with respect to any inquiry held by virtue of this Act, as if the expression " department" in that section included the Minister of Agriculture, Fisheries and Food.
- (3) Subsections (4) and (5) of the said section 290 shall apply to any hearing (other than a local inquiry) before a person appointed by a Minister or Ministers in pursuance of any provision of this Act, as if that hearing were a local inquiry held by that Minister or those Ministers by virtue of that section, and as if the expression " department" in that section included the Minister of Agriculture, Fisheries and Food.

110 Reports and accounts

- (1) Every river authority shall, before such date in every year as the Ministers may fix, send to the Minister and the Minister of Agriculture, Fisheries and Food a report in respect of the preceding year, and shall at the same time send a copy of the report to the council of every county or county borough any part of which is comprised in the river authority area.
- (2) Every report under the preceding subsection shall be in such form and contain particulars with respect to such matters as the Ministers may direct.
- (3) The Water Resources Board shall, as soon as practicable after September 30th in each year, make to the Minister a report on the performance by them of their functions during the period of twelve months ending with that date.
- (4) The report of the Board for any period under the last preceding subsection—
 - (a) shall set out any direction given to the Board by the Minister under this Act during that period, except any direction in respect of which the Minister has notified to the Board his opinion that it should be omitted in the interests of national security, and
 - (b) shall include a record of all questions with which the Board have been concerned during that period and which appear to the Board to be of general interest, except any question in connection with which the Minister has given a direction and has notified to the Board his opinion that the direction should be omitted from the report.
- (5) The Minister shall lay before each House of Parliament a copy of every report (whether of a river authority or of the Water Resources Board) sent to him under this section.
- (6) The accounts of the receipts and expenditure of river authorities and of the officers of river authorities shall be subject to audit by a district auditor.
- (7) As soon as the accounts of a river authority have been audited, the authority shall send a copy of the accounts to the Minister and the Minister of Agriculture, Fisheries and Food and to the council of every county or county borough any part of which is comprised in the river authority area; and a copy of the accounts shall be kept at the office of the river authority, and any person interested shall be entitled, free of charge, to inspect and to take copies of, or extracts from, the copy of the accounts.

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- (8) Any person, on application to a river authority, shall be entitled to be furnished with copies of reports of a river authority under this section and of statements summarising the accounts of a river authority, on payment of such reasonable sum as the river authority may determine.

111 Rights of entry and inspection

- (1) Any person duly authorised in writing by a river authority may at any reasonable time—
- (a) enter upon any land for the purpose of performing any functions of the authority, whether in relation to that land or not;
 - (b) for the purpose of determining whether, and if so in what manner, any functions of the authority are to be performed in relation to any land, or whether any statutory provision (whether contained in or made or issued under this Act or otherwise) relating to any such functions is being or has been complied with, enter upon any land and inspect or survey the land and inspect any articles thereon.
- (2) Any person duly authorised in writing by the Minister, the Minister of Agriculture, Fisheries and Food or the Minister of Transport may at any reasonable time—
- (a) enter upon any land for the purpose of performing, whether in relation to that land or not, any functions conferred on any of those Ministers (whether alone or jointly with any other Minister) by any statutory provision contained in or made or issued under this Act, or any other enactment relating to land drainage, fisheries or river pollution, or any enactment relating to navigation contained in the Land Drainage Act 1930;
 - (b) for the purpose of determining whether, and if so in what manner, any such functions are to be performed in relation to any land, or whether any functions of a river authority ought to be performed, or are being or have been properly performed, enter upon any land and inspect or survey the land and inspect any article thereon.
- (3) If it is shown to the satisfaction of a justice of the peace on sworn information in writing—
- (a) that admission to any land which any person is entitled to enter under this section has been refused to that person, or that refusal is apprehended, or that the land is unoccupied or that the occupier is temporarily absent, or that the case is one of urgency, or that an application for admission would defeat the object of the entry, and
 - (b) that there is reasonable ground for entry upon the land for the purpose for which entry is required,

the justice may by warrant under his hand authorise that person to enter the land, if need be by force:

Provided that such a warrant shall not be issued unless the justice is satisfied either that notice of the intention to apply for a warrant has been given to the occupier, or that the land is unoccupied, or that the occupier is temporarily absent, or that the case is one of urgency, or that the giving of such a notice would defeat the object of the entry.

- (4) Any warrant granted under the last preceding subsection shall continue in force until the purpose for which entry is required has been satisfied.

- (5) For the purposes of the functions of a river authority relating to river pollution, the preceding provisions of this section shall apply in relation to vessels as they apply in relation to land.
- (6) The power conferred by subsection (1)(b) of this section shall, without prejudice to the generality of that paragraph, be exercisable in any river authority area for the purpose of inspecting any local Acts, statutory orders, awards or other documents in the possession of any body relating to functions of that body which are or have been exercisable in that area, and the person carrying out any such inspection may take copies of, or extracts from, any such documents.

112 Supplementary provisions as to rights of entry and inspection

- (1) A person authorised under the last preceding section to enter upon any land or vessel shall, if so required, produce evidence of his authority before so entering.
- (2) A person so authorised may take with him on to the land or vessel in question such other persons, and such equipment, as may be necessary.
- (3) Admission to any land used for residential purposes, and admission with heavy equipment to any other land, shall not except in an emergency be demanded as of right under subsection (1) or subsection (2) of the last preceding section unless seven days' notice in writing of the intended entry has been given to the occupier.
- (4) A person shall not by virtue of the last preceding section be entitled to enter or remain on land occupied by statutory water undertakers unless he complies with any reasonable requirements imposed by the undertakers for the purpose of protecting water against pollution; and any question arising under this subsection as to what requirements are reasonable shall, in case of dispute, be determined by the Minister, whose decision shall be final.
- (5) Any person who, in the exercise of his powers under the last preceding section, enters any premises which are unoccupied, or premises of which the occupier is temporarily absent, shall leave the premises as effectually secured against trespassers as he found them.
- (6) Any person who wilfully obstructs a person acting in the exercise of his powers under the last preceding section shall be guilty of an offence and liable on summary conviction to a fine not exceeding twenty pounds.
- (7) If—
 - (a) any person who, in pursuance of the provisions of the last preceding section or of a warrant issued thereunder, is admitted into a factory, workshop or workplace discloses to any person any information obtained by him therein with regard to any manufacturing process or trade secret, or
 - (b) any member or officer of a river authority, to whom any information so obtained is disclosed by reason of his official position, discloses that information to any other person,he shall, unless the disclosure is made in the performance of his duty, be liable on summary conviction to a fine not exceeding one hundred pounds, or to imprisonment for a term not exceeding three months, or both.
- (8) Where in the exercise of any power conferred by the last preceding section any damage is caused to land or to chattels, any person interested in the land or chattels shall be

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entitled to compensation in respect of that damage from the Minister or river authority on whose behalf the power was exercised; and where in consequence of the exercise of any such power any person is disturbed in his enjoyment of any land or chattels, he shall be entitled to compensation from the Minister or river authority in question in respect of the disturbance.

- (9) Any dispute as to a right to compensation from a Minister or river authority under the last preceding subsection, or as to the amount of any such compensation, shall be determined by the Lands Tribunal; and in relation to the determination of any such dispute the provisions of sections 2 and 4 of the Land Compensation Act 1961 shall apply, subject to any necessary modifications.

113 Power to take samples of effluents

- (1) A river authority shall have the right to obtain and take away samples of any effluent which is passing from any land or vessel into—
- (a) any inland water in the river authority area, or
 - (b) any tidal water or part of the sea not comprised in the river authority area but adjoining the coast of that area, or
 - (c) any controlled waters (within the meaning of the Clean Rivers (Estuaries and Tidal Waters) Act 1960) adjoining that area, or
 - (d) any underground strata in that area.
- (2) Subject to the next following subsection, the result of any analysis of a sample taken under this section shall not be admissible as evidence in any legal proceedings in respect of any effluent passing from any land or vessel unless the following requirements are complied with, that is to say, the person taking the sample—
- (a) forthwith notifies to the occupier of the land or the owner or master of the vessel his intention to have it analysed, and
 - (b) there and then divides the sample into three parts and causes each part to be placed in a container which is sealed and marked, and
 - (c) delivers one part to the occupier of the land or the owner or master of the vessel, retains one part for future comparison, and, if he thinks fit to have an analysis made, submits one part to the analyst.
- (3) If it is not reasonably practicable for the person taking the sample forthwith to notify to the occupier of the land or the owner or master of the vessel his intention to have it analysed, the last preceding subsection shall be construed as requiring the matters specified in paragraphs (a) to (c) thereof to be done as soon as is reasonably practicable.
- (4) In relation to any legal proceedings in respect of any effluent passing from a local authority sewer into any water, subsection (2) of this section shall have effect as if the reference to the occupier of the land were a reference to the sewerage authority by whom the sewer is maintained.
- (5) Any person who wilfully obstructs a person exercising a right of the river authority to obtain and take away samples by virtue of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding twenty pounds.
- (6) In this section any reference to an analysis shall be construed as including a reference to any test of whatever kind, and "analysed " and " analyst " shall be construed accordingly.

114 Power to require information

- (1) A river authority may give directions requiring any person who—
 - (a) is abstracting water from a source of supply in their area, or
 - (b) is discharging effluents into any such source of supply, or into any waters falling within paragraph (b) or paragraph (c) of subsection (1) of the last preceding section,to give such information to the river authority as to the abstraction or discharge, at such times and in such form, as may be specified in the directions.
- (2) In the case of a person who has applied to a river authority for any consent required by the Rivers (Prevention of Pollution) Act 1961, the information required by directions under the preceding subsection may include any particulars prescribed by regulations under section 3 (1) of that Act.
- (3) Subject to the next following subsection, any person to whom any directions are given under this section and who considers that they are unreasonable or unduly onerous may make representations to the Minister with respect to them; and the Minister, if he thinks fit, may direct the river authority to revoke or modify them.
- (4) The last preceding subsection shall not apply to any directions in so far as—
 - (a) they require the giving of any such particulars as are mentioned in subsection (2) of this section, or
 - (b) they require the occupier of any land to give any prescribed particulars as to the quantity or quality of water abstracted by him or on his behalf from any source of supply in the river authority area.
- (5) Any person who fails to comply with any directions given by a river authority under this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding twenty pounds.

115 Penalties for false information and falsification of meters

- (1) Any person who—
 - (a) in giving any information which he is required to give under this Act, knowingly or recklessly makes a statement which is false in a material particular, or
 - (b) for the purpose of obtaining a licence under this Act or the consent of a river authority under section 72 thereof, knowingly makes a statement which is false in a material particular,shall be guilty of an offence under this section.
- (2) Where the provisions contained in a licence under this Act in pursuance of paragraph (b) of subsection (1) of section 30 of this Act, or in pursuance of that paragraph as modified by subsection (6) of that section, require the use of a meter, gauge or other device, and such a device is used for 'the purposes of those provisions, any person who wilfully alters or interferes with that device so as to prevent it from measuring correctly shall be guilty of an offence under this section.
- (3) Any person guilty of an offence under this section shall be liable—
 - (a) on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine, or to both;

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- (b) on summary conviction, to imprisonment for a term not exceeding three months, or to a fine not exceeding one hundred pounds, or to both.

116 Provision for appeals and references to tribunal

- (1) The Minister may by order make provision for securing that, in such cases or classes of cases as may be specified in or determined under the order, appeals and references which in accordance with the provisions of this Act (apart from the order) would be appeals or references to the Minister shall lie to a tribunal established in accordance with the provisions of the order, instead of being appeals or references to the Minister.
- (2) An order under this section shall not apply to references under section 38 or section 97(2) of this Act.
- (3) The provisions of this Act relating to appeals or references to which an order under this section applies shall have effect, subject to such exceptions, adaptations and modifications as may be specified in the order, as they would have effect in relation to the like appeals or references if made to the Minister.
- (4) Provision may be made by an order under this section for appeals or references to the tribunal to be heard and determined by one or more members of the tribunal.
- (5) If a tribunal is established in accordance with this section, the Minister may pay to the members of the tribunal such remuneration, whether by way of salaries or by way of fees, and such reasonable allowances in respect of expenses properly incurred in the performance of their duties, as the Treasury may determine.

117 Validity of decisions of Minister and proceedings relating thereto

- (1) Except as provided by the following provisions of this section, the validity of a decision of the Minister on—
 - (a) any appeal to the Minister under this Act, or
 - (b) any reference to the Minister under section 38, section 43(6) or section 60(4) of this Act,
 shall not be questioned in any legal proceedings whatsoever.
- (2) If, in the case of any such appeal or reference, the river authority or the other party thereto (that is to say, in the case of an appeal the appellant, in the case of a reference under section 38 or section 60 (4) the applicant, and in the case of a reference under section 43 (6) the holder of the licence) desires to question the validity of the decision of the Minister on the grounds—
 - (a) that the decision is not within the powers of this Act, or
 - (b) that any of the requirements of this Act or of any regulations made thereunder which are applicable to the appeal or reference have not been complied with,
 the river authority or the other party, as the case may be, may, at any time within the period of six weeks beginning with the date on which the decision is made, make an application to the High Court under this section.
- (3) On any application under this section, the High Court—
 - (a) may by interim order suspend the operation of the decision to which the application relates until the final determination of the proceedings ;
 - (b) if satisfied that the decision is not within the powers of this Act, or that the interests of the person making the application under this section have been

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substantially prejudiced by a failure to comply with any of the requirements mentioned in paragraph (b) of the last preceding subsection, may quash the decision.

- (4) In subsection (1)(b) of this section the reference to section 43(6) of this Act shall be construed as including a reference to the said section 43(6) as applied by section 48 of this Act; and in relation to the said section 43(6) as so applied, the reference in subsection (2) of this section to the holder of the licence shall be construed as a reference to the undertakers or other persons referred to in section 48 of this Act.
- (5) Any reference in this section to section 38 or section 60(4) of this Act shall be construed as including a reference to the said section 38 or the said section 60(4), as the case may be, as applied by any other provision of this Act.
- (6) If an order is made establishing a tribunal under the last preceding section, the preceding provisions of this section shall have effect in relation to any appeal or reference to that tribunal as they have effect, in relation to an appeal or reference to the Minister.
- (7) In this section " decision " includes a direction.

118 Offences

- (1) It shall be the duty of a river authority to enforce the provisions of this Act in relation to the area of the authority.
- (2) No proceedings for any offence under this Act shall be instituted except—
 - (a) by a river authority, or
 - (b) by, or with the consent of, the Director of Public Prosecutions.
- (3) Where a body corporate is guilty of an offence under 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.
- (4) In this section " director ", in relation to a body corporate established by or under any enactment for the purpose of carrying on under national ownership any industry or part of an industry or undertaking, being a body corporate whose affairs are managed by its members, means a member of that body corporate.

119 Procedure relating to byelaws

The provisions of Schedule 12 to this Act shall have effect with respect to byelaws made by a river authority in the exercise of powers conferred on them by any enactment, including any enactment contained in this Act.

120 Service of documents

- (1) Any document required or authorised by this Act to be given to or served on any person may be given or served either (by delivering it to that person, or by leaving it at his proper address, or by the recorded delivery service.

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- (2) Any such document required or authorised to be given to or served on a body corporate shall be duly given or served if it is given to or served on the secretary or clerk of that body.
- (3) For the purposes of this section, and of section 26 of the Interpretation Act 1889 in its application to this section, the proper address of any person to or on whom any such document is to be given or served shall, in the case of the secretary or clerk of a body corporate, be that of the registered or principal office of that body, and in any other case shall be the last-known address of the person to be served:

Provided that, if the person to or on whom the document to be given or served has, in accordance with arrangements agreed, given an address in the United Kingdom for the giving or service of the document, his proper address for those purposes shall be that address.

- (4) If the name or the address of any owner, lessee or occupier of land to or on whom any such document is to be given or served cannot after reasonable inquiry be ascertained by the authority, body or person seeking to give or serve the document, the document may be given or served by addressing it to the person to or on whom it is to be given or served by the description of "owner", "lessee" or "occupier" of the land (describing it) and delivering it to some responsible person resident or appearing to be resident on the land, or, if there is no such person to whom it can be delivered, affixing it, or a copy of it, to some conspicuous part of the land.
- (5) Any notice which is required or authorised by or under this Act or any other enactment to be given, served or issued by or to a river authority shall be in writing.

121 Calculation of appropriate penny rate product

- (1) For the purposes of this section, and of sections 7 and 87 of this Act, "the relevant area" of the council of a county or county borough means so much of the county or county borough as is (or, in relation to an order establishing, or varying the area of, a river authority, is to be) comprised in the area of the river authority; and the appropriate penny rate product for the relevant area of any such council for the relevant year shall, for the purposes of those sections, be calculated in accordance with this section.
- (2) There shall be estimated, in such manner as the Ministers may direct, the amount of the product of a rate of one penny in the pound for the relevant area of the council for the relevant year.
- (3) The following amount shall be ascertained, that is to say—
 - (a) where the relevant area of the council is the whole of its area, the amount of the standard penny rate product for that area for the relevant year, as last notified ;
 - (b) in any other case, the amount which bears to the standard penny rate product for the whole of the area of the council for the relevant year (as last notified) the same proportion as the product of a rate of one penny in the pound for the relevant area of the council for the relevant year (as estimated under the last preceding subsection) bears to the product (estimated in such manner as the Ministers may direct) of a rate of one penny in the pound for the whole of the area of the council for that year.
- (4) The appropriate penny rate product for the relevant area of the council for the relevant year shall then be taken to be whichever is the greater of the following amounts, that is to say—

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- (a) the amount estimated in accordance with subsection (2) of this section, and
 - (b) the amount ascertained in accordance with paragraph (a) or paragraph (b) of the last preceding subsection, as the case may be.
- (5) For the purposes of section 7(5) or 7(6) of this Act, in so far as it refers to the appropriate penny rate product for the relevant area of a county district council for the relevant year, the preceding provisions of this section shall apply as if references to the council of a county were references to the council of a county district.
- (6) The Ministers may direct any river authority or any local authority to make such estimates and furnish the Ministers with such information as the Ministers require for the purposes of this section.
- (7) In this section any reference to the standard penny rate product as last notified is a reference to that product as, for the purposes of section 5 of the Local Government Act 1958, it was most recently estimated and notified by the Minister to the council before the time when the calculation in accordance with this section falls to be made ; and " the relevant year "—
- (a) in section 7 of this Act, and in this section as it applies for the purposes of that section, means the latest financial year for which, at the time when the calculation falls to be made, precepts have been issued by the river board or river boards whose area or areas is or are comprised in the river authority area, or, in the case of an order varying the constitution of a river authority under section 3 or of an order under section 10 of this Act, have been issued by the river authority or river authorities to whom the order relates (excluding, in the case of an order under section 10 establishing a new river authority, that new authority);
 - (b) in section 87 of this Act, and in this section as it applies for the purposes of that section, means the financial year for which the precepts in question are to be issued.

122 Rating of statutory water undertakers

For the purposes of the Rating and Valuation Act 1961 water shall not be treated as supplied to statutory water undertakers by a river authority by reason only that the undertakers abstract, or are authorised to abstract, water in pursuance of a licence under this Act granted by the river authority; and references in that Act to the supply of water in bulk shall be construed accordingly.

123 Application of Act to Crown

- (1) The provisions of this Act shall not apply—
- (a) to anything done by or on behalf of the Crown, other than anything done by or on behalf of the Water Resources Board, or to anything done by a member of a visiting force in his capacity as a member of that force;
 - (b) to any land which is in the occupation of a government department or any other land in which there is a Crown or Duchy interest and which is occupied in right of that interest, or to any land occupied by or for the purposes of a visiting force.
- (2) Without prejudice to the preceding subsection, no power of compulsory acquisition conferred on a river authority by or under Part VI of this Act, no other compulsory power so conferred (including any power conferred on river authorities by virtue of

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section 69(3) of this Act) and no power of entry or inspection conferred by or under this Part of this Act shall, except with the consent of the appropriate authority, be exercisable in relation to any land in which there is a Crown or Duchy interest.

- (3) Subject to the preceding subsections, the provisions of this Act shall have effect in relation to land in which there is a Crown or Duchy interest as they have effect in relation to land in which there is no such interest.
- (4) Nothing in this section shall affect the operation of section 5 of, or Schedule 3 to, this Act or of any statutory provision as adapted by that Schedule.
- (5) In this section " Crown or Duchy interest" means an interest belonging to Her Majesty in right of the Crown or of the Duchy of Lancaster, or to the Duchy of Cornwall, or belonging to a government department, or held in trust for Her Majesty for the purposes of a government department, " visiting force " means any such body, contingent or detachment of the forces of any country as is a visiting force for the purposes of any of the provisions of the Visiting Forces Act 1952, and " the appropriate authority " has the same meaning as in section 199 of the Town and Country Planning Act 1962; and the provisions of subsection (6) of that section as to the determination of questions shall apply for the purposes of this section.

124 Status of Water Resources Board and of river authorities

- (1) The functions of the Water Resources Board, and of their officers and servants, shall be performed on behalf of the Crown.
- (2) The river authorities established under this Act are not to be regarded as servants or agents of the Crown, nor as enjoying any status, immunity or privilege of the Crown, and no property of any of those river authorities is to be regarded as property of, or held on behalf of, the Crown.

125 Provisions as to Thames, Lee and London areas

- (1) The Ministers shall have power by order to make provision for conferring—
 - (a) on the Conservators, in relation to the Thames catchment area;
 - (b) on the Catchment Board, in relation to the Lee catchment area;
 - (c) on the Conservators or the Catchment Board or on both of them jointly, in relation to the London excluded area, or on the Conservators in relation to part of that area and on the Catchment Board in relation to the remainder thereof,
 such functions corresponding to all or any of the new functions of river authorities as the Ministers may consider appropriate in the case of any of those areas.
- (2) Any order under this section may include provision—
 - (a) for applying, subject to such exceptions, adaptations and modifications as may be specified in the order, any of the provisions of this Act, other than this section, and
 - (b) for altering the constitutions of the Conservators and the Catchment Board, or either of them, in such manner as the Ministers may consider necessary or expedient,

and may contain such other (transitional, incidental, supplementary and consequential provisions as the Ministers consider necessary or expedient.

- (3) The preceding provisions of this section shall have effect without prejudice to the exercise of any power under section 10 of this Act—
- (a) to alter the area of any river authority so as to include the whole or any part of the Thames catchment area, the Lee catchment area or the London excluded area, or
 - (b) to designate a new area, consisting of or including the whole or any part of any of those areas, and establish a new river authority for the area so designated.
- (4) If an order under section 10 of this Act is made as mentioned in paragraph (a) or paragraph (b) of the last preceding subsection, then, in relation to any river authority whose area, by virtue of the order, will consist of or include the whole or any part of the Thames catchment area, the Lee catchment area or the London excluded area—
- (a) sections 6 to 8 (except subsection (6) of section 6) of this Act shall not apply, but the order shall make such provision as to the constitution of that river authority as appears to the Ministers to correspond as nearly as may be to the provisions of those sections, and
 - (b) the order may provide that section 87 and (so far as applicable for the purposes of that section) section 121 of this Act, and Schedule 4 to this Act, and any other provision of this Act which refers to local authorities or any class of local authorities, shall apply subject to such exceptions, adaptations and modifications as may be specified in the order;
- and if the order is made after the making of an order under this section, the matters referred to in subsection (3) of section 10 shall (without prejudice to the generality of that subsection) be taken to include the variation of the order made under this section in consequence of the order under that section.
- (5) In this section " the Ministers " means the Minister, the Minister of Agriculture, Fisheries and Food and the Minister of Transport acting jointly, " the Conservators " means the Conservators of the River Thames, "the Catchment Board" means the Lee Conservancy Catchment Board, and " the London excluded area " means so much of the administrative county of London, and of any area adjoining that county, as at the passing of this Act is not comprised in the Thames catchment area or the Lee catchment area or in any river board area.

126 Provisions as to border rivers

- (1) The functions under the Salmon and Freshwater Fisheries Acts 1923 to 1935, and the Diseases of Fish Act 1937, exercisable by the river authority whose area includes so much of the River Esk as is situated in England shall be exercisable with respect to the whole of that river, together with its banks and tributary streams up to their source, as if they were part of the area of that river authority :
- Provided that—
- (a) offences against those Acts committed within Scottish jurisdiction shall be prosecuted and fines recovered in manner directed by the Salmon Fisheries (Scotland) Act 1868 ;
 - (b) nothing in this subsection shall authorise the river authority to acquire compulsorily under this Act any land in Scotland.
- (2) Nothing in this Act shall be construed as authorising any river authority to exercise functions under the Acts mentioned in the preceding subsection with respect to the River Tweed.

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- (3) Without prejudice to the last preceding subsection, the provisions of this Act relating to the new functions of river authorities shall not apply to so much of any inland water as—
- (a) is part of the River Tweed, or
 - (b) is part of the River Esk or of the River Sark or of any tributary stream of the River Esk or the River Sark at a point where either of the banks of either of those rivers or of any such (tributary stream) is in Scotland.
- (4) In this section "the River Tweed" means the "the river" as defined by the Tweed Fisheries Amendment Act 1859 and any byelaw amending that definition.

127 Consultation with authorities in Scotland

- (1) Where a river authority area adjoins any part of Scotland, and it appears to the river authority that there may be water in watercourses or underground strata in that part of Scotland, or in the river authority area, which could be transferred from that part of Scotland to the river authority area, or from the river authority area to that part of Scotland, as the case may be, the river authority shall, in so far as they consider it appropriate to do so, consult with local water authorities, river purification authorities and other authorities in that part of Scotland with a view to securing the best use of that water in the public interest.
- (2) In this section "local water authority" and "river purification authority" have the meanings assigned to them respectively by section 5(4) of the Water (Scotland) Act 1946 and section 17(1) of the Rivers (Prevention of Pollution) (Scotland) Act 1951.

128 Saving for orders under Water Act 1958

- (1) Notwithstanding anything in section 23 or section 36 of this Act, the restrictions imposed by those sections shall not apply to the doing of anything authorised by an order under the Water Act 1958, whether made before or after the passing of this Act.
- (2) For the purposes of Part V of this Act, any water authorised by such an order to be abstracted from a source of supply in a river authority area shall be treated as if it had been authorised to be so abstracted by a licence granted under this Act, whether the statutory water undertakers to whom the order relates are the holders of such a licence or not:

Provided that this subsection shall not impose any liability to pay fees under section 57 of this Act where no licence under this Act is for the time being in force.

- (3) For the purposes of the Water Act 1958, any water which, in accordance with the provisions of a licence under this Act, is required to be discharged by the undertakers in question into a source of supply in a river authority area shall be deemed to be compensation water within the meaning of that Act.

129 Temporary provision for restricting abstraction of water for spray irrigation

- (1) If at any time after the passing of this Act it appears to the Ministers, either on the application of a river board or river authority or without any such application, that by reason of exceptional shortage of rain it is necessary to restrict the abstraction of water for the purpose of spray irrigation, the Ministers, subject to the following provisions of this section, may make an order under this section accordingly:

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Provided that no order (other than an order which only revokes a previous order) shall be made under this section after the end of the period of six months beginning with the second appointed day.

- (2) Any order under this section may be made so as to apply to—
 - (a) one or more inland waters specified in the order, not being inland waters falling within section 2(3) of this Act, or
 - (b) all inland waters (other than those falling within section 2(3) of this Act) in an area specified in the order or in a part so specified of such an area,and shall specify a period (not exceeding three months) for which any prohibition imposed by the order is to have effect.
- (3) Subject to the last preceding subsection, an order under this section may provide that, during the period specified in the order in accordance with that subsection, the abstraction of water for the purpose of spray irrigation from any inland water to which the order applies—
 - (a) shall be wholly prohibited, or
 - (b) shall be prohibited subject to such exceptions as may be specified in the order in accordance with the next following subsection,and different provision (including provision specifying different exceptions) may be made in the order in relation to different inland waters.
- (4) Any exception specified in an order as mentioned in paragraph (b) of the last preceding subsection shall be formulated by reference to either or both of the following matters, that is to say—
 - (a) the abstraction of water on particular days specified in the order, and
 - (b) the abstraction of water for the purpose of spray irrigation of particular crops specified in the order, or of land which is for the time being used for particular agricultural purposes so specified, whether by reference to the growing of particular crops or otherwise.
- (5) Where a river board or river authority apply to the Ministers for an order under this section, or the Ministers propose without any such application to make such an order, the river board or river authority or the Ministers, as the case may be, shall publish a notice—
 - (a) stating the general effect of the application or proposal, and
 - (b) stating that any person may, by notice in writing given to either of the Ministers within the period of seven days beginning with the date of first publication of the notice, object to the application or proposal;and, if before the end of that period an objection is received by either of the Ministers from a person appearing to him to be affected by the application or proposal, and the objection is not withdrawn, the Ministers, before making an order, shall either cause a local inquiry to be held or shall afford to the objector, and, in the case of an application by a river board or river authority, to that board or authority, an opportunity of appearing before, and being heard by, a person appointed by the Ministers for the purpose.
- (6) Where the Ministers make an order under this section, they shall take such steps (whether by the publication of notices or otherwise) as they may consider most suitable for informing all persons concerned of the effect of the order.

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- (7) Any person who contravenes a prohibition imposed by an order under this section shall be guilty of an offence and shall, on conviction on indictment or on summary conviction, be liable to a fine :

Provided that an offence under this section shall not be punishable on summary conviction by a fine exceeding one hundred pounds.

- (8) Section 118(2)(a) of this Act shall have effect in relation to any offence under this section as if, after the word " by ", there were inserted the words " the Minister, the Minister of Agriculture, Fisheries and Food, a river board or ".
- (9) The power to vary orders under this section shall not be exercisable so as to extend the period for which a prohibition imposed by such an order has effect beyond the end of the period of six months beginning with the date on which that prohibition came into operation.
- (10) In this section any reference to the abstraction of water for the purpose of spray irrigation is a reference to the abstraction thereof either for that purpose or for purposes which include that purpose, and " area " means any river board area or river authority area.

130 Provisions as to telegraphic lines

- (1) Where for the purpose of carrying out any engineering or building operations a river authority require an alteration to be made in any telegraphic line of the Postmaster General, the provisions of paragraphs (1) to (8) of section 7 of the Telegraph Act 1878 (which provides for the alteration of such telegraphic lines in the case of work proposed to be done in the execution of an undertaking authorised by an Act of Parliament) shall apply with respect to that alteration as being an alteration involved by work proposed to be done by undertakers (within the meaning of that Act) in the execution of an undertaking authorised by an Act of Parliament, if apart from this section those provisions would not so apply.
- (2) The preceding subsection shall have effect whether the operations in question are to be carried out in the exercise of compulsory powers or not, and, if in the exercise of compulsory powers, whether or not the alteration of the telegraphic line is expressly referred to in any statutory provision conferring those powers.
- (3) In this section " telegraphic line " and " alteration " have the same meanings as in the Telegraph Act 1878.

131 Inland waters owned or managed by British Waterways Board

- (1) This section applies to all inland waters owned or managed by the British Waterways Board (in this section referred to as " the Board "), except any such inland waters to which the Minister and the Minister of Transport may by order jointly direct that this section shall not apply.
- (2) In respect of abstraction from an inland water to which this section applies—
- (a) no person other than the Board shall be entitled to apply for a licence under this Act, other than a licence of right;
 - (b) in relation to any application by the Board for a licence under this Act, other than a licence of right, section 27 of this Act shall not apply, and section 28(1) of this Act shall apply as if paragraph (b) of that subsection were omitted;

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- (c) no person other than the Board shall be entitled to apply for a licence of right, as being entitled to it by virtue of paragraph (b) of section 33(1) of this Act, if the water abstracted as mentioned in that paragraph was abstracted in pursuance of a contract of sale;
 - (d) on any application by the Board for a licence of right, any water abstracted during the relevant period (as defined by section 34(1)(b) of this Act) shall be disregarded if it was abstracted in pursuance of a contract of sale which has ceased to be in force before the second appointed day.
- (3) Where on the second appointed day the Board are under a contract to sell water from an inland water to which this section applies (whether the contract was made by the Board or is a contract made before the vesting date by which the Board became bound on that date), then for the purposes of sections 33 to 35 of this Act—
 - (a) no person other than the Board shall be taken to be entitled to abstract from that inland water any water to which that contract relates ;
 - (b) any water abstracted from it in pursuance of that contract before the second appointed day shall be treated as having been abstracted by the Board and not by any other person, and
 - (c) in relation to any licence authorising the abstraction from that inland water of water required for fulfilling that contract, any reference in section 34 of this Act (except in subsection (1) (a) thereof) to the relevant statutory provision shall be construed as a reference to that contract.
- (4) Where on or after the second appointed day the Board enter into a contract to sell water from an inland water to which this section applies, and either—
 - (a) the contract is made before the end of the initial period, or
 - (b) the Minister of Transport gives his consent under section 63 of the Transport Act 1962 to the sale of the water in pursuance of that contract, and that consent is given in pursuance of an application made (whether before or after the passing of this Act) before the end of the initial period,section 56(2) of this Act shall not apply, but the river authority, on the application of the Board, shall grant to the Board a licence under this Act to abstract water, containing such provisions as appear to the river authority to correspond as nearly as may be to the terms of that contract:

Provided that, if the terms of the contract provide for a person other than the Board to abstract the water, then for the purposes of this subsection the contract shall be construed as if those terms had provided for the water to be abstracted by the Board for the purpose of selling it to that other person.
- (5) Sections 27 to 29, section 41 and section 54(3) of this Act shall not have effect with respect to any application made to a river authority under the last preceding subsection, and—
 - (a) section 50 (2) of this Act shall not apply to any direction given in consequence of an appeal against the decision on such an application, and
 - (b) section 47 of this Act shall not apply to any licence granted in pursuance of such an application.
- (6) Where the Board are the holders of a licence under this Act authorising abstraction from an inland water to which this section applies, then, notwithstanding anything in section 58 of this Act, the charges which, apart from this subsection, would be payable in respect of that licence under any charging scheme either—

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(a) shall be reduced to such extent, and as so reduced shall be payable subject to such conditions, or

(b) shall not be payable,

as the Board and the river authority may agree, or, in default of such agreement, the Minister and the Minister of Transport may jointly determine.

(7) Where a person other than the Board is the holder of a licence under this Act authorising abstraction from an inland water to which this section applies, and any charges in respect of that licence are payable under a charging scheme, the river authority shall pay to the Board such proportion of those charges, subject to such conditions, as the Board and the river authority may agree, or, in default of such agreement, the Minister and the Minister of Transport may jointly determine.

(8) Before making an order under subsection (1) of this section, the Minister and the Minister of Transport shall consult the Board and such one or more river authorities as appear to them to be affected by the order:

Provided that, if the order is made before the second appointed day, any consultation which in accordance with this subsection would have been had with a river authority shall be had instead with the river board (or, if more than one, each river board) whose area by virtue of section 3 of this Act is or will be identical with, or part of, the area of that river authority.

(9) In this section references to the sale by the Board of water from an inland water include references to any arrangements whereby the Board for valuable consideration abstract, or authorise the abstraction of, water from that inland water for use by some other person, whether or not the water is returned after use, and " the vesting date " has the same meaning as in the Transport Act 1962.

132 Ecclesiastical property

(1) The provisions of this subsection shall have effect with respect to licences under this Act and with respect to applications for such licences, that is to say—

(a) an application for such a licence, where the relevant land is land belonging to a benefice which is for the time being vacant, may be made by the Church Commissioners;

(b) where the relevant land belongs to a benefice, any such licence shall provide that (notwithstanding anything in section 31(4) or section 37(1) of this Act) whoever is for the time being the incumbent of the benefice shall be the holder of the licence, and, where the licence so provides, section 30(4) of this Act shall not apply;

(c) where the last preceding paragraph, applies, any reference in Part IV of this Act to the applicant for a licence shall, in relation to any time when the benefice in question is vacant, be construed as a reference to the Church Commissioners, and, in relation to any time when there is an incumbent of the benefice, shall be construed as a reference to that incumbent;

(d) where a licence includes such a provision as is mentioned in paragraph (b) of this subsection, any reference in this Act, or in any charging scheme or agreement made thereunder, to the holder of the licence shall, in relation to any time when the benefice in question is vacant, be construed as a reference to the Church Commissioners;

(e) for the purposes of sections 33 and 35 of this Act, water abstracted by a former incumbent of a benefice shall be treated as having been abstracted by the

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person who is for the time being the incumbent thereof, or, if the benefice is vacant, by the Church Commissioners.

- (2) Where the fee simple in any ecclesiastical property is in abeyance, it shall, for the purposes of (the exercise of any powers of compulsory acquisition conferred by or under this Act, be treated as being vested in the Church Commissioners, and any notice to treat shall be served accordingly.
- (3) Any sums agreed upon or awarded for the acquisition, in the exercise of any such powers, of the fee simple in land which is ecclesiastical property, or to be paid by way of compensation for damage sustained by reason of severance or injury affecting such land (being severance or injury arising from an acquisition in the exercise of any such powers), shall, instead of being paid as provided by the Lands Clauses Acts, be paid to the Church Commissioners.
- (4) Any compensation falling to be paid under this Act in respect of damage to land which is ecclesiastical property shall, to the extent to which it is payable to the owner of the fee simple in the land, be paid (where the fee simple is vested in any person other than the Church Commissioners) to them, instead of to that person; and any compensation failing to be paid under this Act in respect of depreciation of the value of the fee simple in land which is ecclesiastical property shall (where the fee simple is vested in a person other than the Church Commissioners) be paid to them instead of to the person in whom the fee simple is vested.
- (5) Any sums paid under subsection (3) or subsection (4) of this section to the Church Commissioners with reference to any land shall, if the land is not consecrated, be applied by them for the purposes for which the proceeds of a sale by agreement of the fee simple in the land would be applicable under any enactment or Measure authorising such a sale or (disposing of the proceeds of such a sale, and, if the land is consecrated, be applied by them in such manner as they may determine.
- (6) Where in pursuance of the provisions of Part V of this Act as modified by subsection (1)(d) of this section, or in pursuance of a charging scheme or agreement as so modified, the Church Commissioners are required to pay any fee or other charge in respect of a licence, then if any moneys then are or subsequently become payable by the Commissioners to the incumbent of the benefice in question, the Commissioners shall be entitled to retain out of those moneys an amount not exceeding the amount of that charge.
- (7) Where under any provision of this Act a document is required to be served on an owner of land, and the land is ecclesiastical property, a copy of the document shall be served on the Church Commissioners:

Provided that (without prejudice to subsection (2) of this section) this subsection shall not apply where the requirement is imposed by the Acquisition of Land (Authorisation Procedure) Act 1946 as applied by any provision of this Act.

- (8) In this section " benefice " means an ecclesiastical benefice of the Church of England, " ecclesiastical property " means land belonging to a benefice, or being or forming part of a church subject to the jurisdiction of the bishop of any diocese of the Church of England or the site of a church so subject, or being or forming part of a burial ground so subject, and " the relevant land ", in relation to a licence under this Act or an application for such a licence, means the land on which water abstracted in pursuance of the licence is to be, or is proposed to be, used, or, in the case of a licence under section 36 of this Act or an application for such a licence, the land on which any part

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of the impounding works is to be, or is proposed to be, constructed or (in relation to an alteration of impounding works) the land on which any part of those works is situated or is to be, or is proposed to be, situated.

133 Repeal, amendment and adaptation of local enactments

- (1) If it appears to the Minister that any local enactment passed or made before the second appointed day is inconsistent with any of the provisions of this Act, or with anything done in the performance of any functions under this Act, or requires to be amended or adapted, having regard to any of the provisions of this Act or to anything done in the performance of any of those functions, he may by order repeal, amend or adapt that enactment to such extent, or in such manner, as he considers appropriate.
- (2) If it appears to the Minister or Ministers by whom an order is made under any provision of this Act, other than this section, that any local enactment passed or made before the second appointed day is inconsistent with any of the provisions of that order, or requires to be amended or adapted, having regard to any of the provisions of that order, that Minister or those Ministers acting jointly, as the case may be, may by order repeal, amend or adapt that enactment to such extent, or in such manner, as the Minister or Ministers concerned may consider appropriate.
- (3) Any order under this section may include such transitional, incidental, supplementary and consequential provisions as the Minister or Ministers making the order may consider necessary or expedient.
- (4) The provisions of this section shall have effect without prejudice to the exercise of any other power to repeal, amend or adapt local enactments which is conferred by any other enactment, including any enactment contained in this Act.

134 Regulations and orders

- (1) The Minister may make regulations under this Act for any purpose for which regulations are authorised or required to be made under this Act, not being a purpose for which regulations are authorised or required to be made by two or more Ministers jointly.
- (2) Any power to make regulations under this Act shall be exercisable by statutory instrument: and any instrument containing any such regulations shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Any power conferred by this Act to make an order shall include power to vary or revoke the order by a subsequent order.
- (4) Any power to make orders under this Act shall be exercisable by statutory instrument:
Provided that this subsection does not apply to—
 - (a) any power exercisable by virtue of section 65 of this Act;
 - (b) any power exercisable by virtue of section 108 of this Act.
- (5) The following orders under this Act shall be of no effect unless approved by a resolution of each House of Parliament, that is to say—
 - (a) any order under section 125 of this Act;
 - (b) any order under subsection (2) of the last preceding section, if the order first-mentioned in that subsection is an order under section 125 of this Act.

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- (6) Any statutory instrument containing—
- (a) an order under section 3 of this Act by virtue of which the number of members (excluding additional members) of a river authority will exceed thirty-one, or
 - (b) an order under section 10 of this Act which varies a previous order under that section in such a way that the number of members (excluding additional members) of a river authority will exceed thirty-one, but does not alter any river authority area or designate any new area, or
 - (c) an order under section 57, under section 105 or under section 116 of this Act, or
 - (d) an order under the last preceding section,

shall be subject to annulment in pursuance of a resolution of either House of Parliament:

Provided that this subsection shall not apply to any order which, by virtue of paragraph (b) of the last preceding subsection, is required to be approved by a resolution of each House of Parliament.

135 Interpretation

- (1) In this Act, except in so far as the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say:—

" abstraction ", in relation to water contained in any source of supply in a river authority area, means the doing of anything whereby any of that water is removed from that source of supply and either—

- (a) ceases (either permanently or temporarily) to be comprised in the water resources of that area, or
- (b) is transferred to another source of supply in that area, and " abstract " shall be construed accordingly ;

" additional members ", in relation to a river authority, has the meaning assigned to it by section 8 of this Act;

" agriculture " includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and " agricultural " shall be construed accordingly ;

" charging scheme " has the meaning assigned to it by section 58 of this Act;

" conservancy authority " means a person or body of persons (whether corporate or unincorporate) having a duty or power imposed or conferred by or under an enactment to conserve, maintain or improve the navigation of a tidal water, and not being a navigation authority or a harbour authority;

" constituent council " has the meaning assigned to it by section 6(7) of this Act;

" engineering or building operations " (without prejudice to the generality of that expression) includes the construction, alteration, improvement or maintenance of any reservoir, watercourse, dam, weir, well, borehole or other works, the closure or removal of any reservoir, watercourse, dam, weir, well, borehole or other works, the construction, alteration, improvement, maintenance or demolition of any building or structure, and the installation, modification or removal of any machinery or apparatus;

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" financial year " means a period of twelve months ending with the 31st March;

" first appointed day " has the meaning assigned to it by section 3 (4) of this Act;

" functions " includes powers and duties ;

" harbour authority " means a person or body of persons (whether corporate or unincorporate) who, not being a navigation authority, is or are a harbour authority as defined by section 3 (5) of the Oil in Navigable Waters Act 1955 ;

" hydrometric scheme " has the meaning assigned to it by section 15 of this Act;

" initial period " has the meaning assigned to it by section 23 (1) of this Act;

" inland water " means any of the following, that is to say—

- (a) so much of any river, stream or other watercourse, whether natural or artificial and whether tidal or not, as is within any of the river authority areas ;
- (b) any lake or pond, whether natural or artificial, and any reservoir or dock, in so far as any such lake, pond, reservoir or dock does not fall within the preceding paragraph and is within any of the river authority areas ; and
- (c) so much of any channel, creek, bay, estuary or arm of the sea as does not fall within the preceding paragraphs and is within any of the river authority areas,

and any reference in this Act to an inland water includes a reference to part of an inland water;

" joint planning board " has the same meaning as in the Town and Country Planning Act 1962 ;

" land " includes land covered by water ;

" land drainage " includes the protection of land against erosion or encroachment by water, whether from inland waters or from the sea, and also includes warping and irrigation other than spray irrigation;

" licence of right " has the meaning assigned to it by section 33(7) of this Act;

" local authority " means the council of a county, county borough or county district or a joint planning board ;

" local authority members ", in relation to a river authority, has the meaning assigned to it by section 7 of this Act;

" local enactment " means a local or private Act, a public general Act relating to London, an order or scheme made under an Act or confirmed by Parliament or brought into operation in accordance with special parliamentary procedure, or an enactment in a public general Act amending a local or private Act or any such order or scheme ;

" the Minister " means the Minister of Housing and Local Government;

" the Ministers " shall be construed in accordance with section 1 (2) of this Act;

" mortgage " includes any charge or lien on any property for securing money or money's worth, and " mortgagee " shall be construed accordingly ;

" navigation authority " means a person or body of persons (whether corporate or unincorporate) having a duty or power imposed or conferred by or under an enactment to manage or maintain a canal, whether navigable or

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not, or to manage or maintain an inland navigation other than a canal, whether natural or artificial and whether tidal or not;

" new functions " has the meaning assigned to it by section 3 (5) of this Act;

" owner " in relation to land, means a person, other than a mortgagee not in possession, who, whether in his own right or as trustee or agent for any other person, is entitled to receive the rack rent of the land, or, where the land is not let at a rack rent, would be so entitled if it were so let;

" pension ", in relation to any person, means a pension, whether contributory or not, of any kind whatsoever payable to or in respect of him, and includes a gratuity so payable and a return of contributions, with or without interest thereon or any other addition thereto ;

" performance ", in relation to functions, includes the exercise of powers as well as the performance of duties, and " perform " shall be construed accordingly ;

" prescribed " (except where it is otherwise expressly provided) means prescribed by regulations made under this Act by the Minister ;

" rainfall " includes any fall of snow, hail or sleet;

" re-distribution ", in relation to water resources in an area, means the transfer of any such resources from a source of supply in that area to another source of supply within that area, and " re-distribute " shall be construed accordingly;

" repeal ", in relation to a local enactment not contained in an Act, means revoke ;

" second appointed day " has the meaning assigned to it by section 3(4) of this Act;

" source of supply " has the meaning assigned to it by section 2(1) of this Act;

" spray irrigation " means the irrigation of land or plants (including seeds) by means of water or other liquid emerging (in whatever form) from apparatus designed or adapted to eject liquid into the air in the form of jets or spray;

" statutory provision " means a provision, whether of a general or a special nature, contained in, or in any document made or issued under, any Act, whether of a general or a special nature ;

" statutory water undertakers " has the same meaning as in the provisions of the Water Act 1945, other than Part II of that Act;

" transferred functions " has the meaning assigned to it by section 3 (5) of this Act;

" underground strata " means strata subjacent to the surface of any land, and (subject and without prejudice to section 2(2) of this Act) any reference to water contained in any underground strata is a reference to water so contained otherwise than in a sewer, pipe, reservoir, tank or other underground works constructed in any such strata;

" water resources " has the meaning assigned to it by section 2 of this Act;

" watercourse " includes all rivers, streams, ditches, drains, cuts, culverts, dykes, sluices, sewers and passages through which water flows, except—

(a) mains and water fittings within the meaning of Schedule 3 to the Water Act 1945 ;

(b) local authority sewers ; and

(c) any such adit or passage as is mentioned in section 2(2)(a) of this Act.

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- (2) In this Act " the appropriate Minister or Ministers ", in relation to anything required or authorised to be done by or for the purposes of any provision of this Act, means such one or more of the three Ministers mentioned in section 1 (2) of this Act as is or are concerned with the functions in relation to which, or for the purposes of which, that thing is required or authorised to be done, and, where it means either two or all three of those Ministers, means the Ministers in question acting jointly ; and for the purposes of this subsection—
- (a) the Minister shall be taken to be concerned with the new functions of river authorities and with functions relating to river pollution;
 - (b) the Minister of Agriculture, Fisheries and Food shall be taken to be concerned with functions relating to land drainage and functions relating to fisheries ; and
 - (c) the Minister of Transport shall be taken to be concerned with functions relating to navigation or functions of navigation authorities, harbour authorities or conservancy authorities.
- (3) In this Act " local authority sewer " means any sewer, or part of a sewer, vested in a sewerage authority, and " sewerage authority " means any of the following, that is to say:—
- (a) a local authority (as defined by subsection (1) of this section);
 - (b) a joint sewerage board (as defined by section 90(1) of the Public Health Act 1936);
 - (c) a harbour board (within the meaning of the Railway and Canal Traffic Act 1888);
 - (d) a development corporation (within the meaning of the New Towns Act 1946); or
 - (e) the Commission for the New Towns.
- (4) Any reference in this Act to action for the purpose of augmenting water resources in an area shall (without prejudice to the generality thereof) be construed as including action for the purpose of treating salt water (whether taken from the sea or elsewhere) by any process for removing salt or other impurities before discharging it into a source of supply in that area.
- (5) For the purposes of any provision of this Act relating to existing lawful uses of an inland water, or of water from underground strata, a river authority shall be entitled (but shall not be bound) to treat as lawful any existing use thereof unless, by a decision given in any legal proceedings, it has been held to be unlawful, and that decision has not been quashed or reversed.
- (6) Any reference in this Act to the doing of anything in pursuance of a licence under this Act is a reference to its being done—
- (a) by the holder of such a licence, or
 - (b) by a person acting as a servant or agent of, or otherwise under the authority of, the holder of such a licence,
- at a time when that licence is in force and in circumstances such that, if no such licence were in force, the doing of that thing would contravene a restriction imposed by section 23 or section 36 of this Act.
- (7) For the purposes of this Act land shall be taken to be contiguous to an inland water notwithstanding that the land is separated from it by a towpath or by any other land used, or acquired for use, in connection with the navigation of the inland water, if that

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other land does not comprise any building or works other than a lock, pier, wharf, landing-stage or similar works.

- (8) Except in so far as this Act otherwise expressly provides, and subject to the provisions of section 33 of the Interpretation Act 1889 (which relates to offences under two or more laws) the restrictions imposed by sections 23, 36, 72 and 78 of this Act, or by byelaws made by virtue of section 79 of this Act, shall not be construed as—
- (a) conferring a right of action in any civil proceedings (other than proceedings for the recovery of a fine) in respect of any contravention of those restrictions, or
 - (b) affecting any restriction imposed by or under any other enactment, whether contained in a public general Act or in a local or private Act, or
 - (c) derogating from any right of action or other remedy (whether civil or criminal) in proceedings instituted otherwise than under this Act.
- (9) Except in so far as the context otherwise requires, any reference in this Act to an enactment shall be construed as a reference to that enactment as amended or extended by or under any other enactment, including this Act.

136 Amendments and repeals

- (1) The enactments specified in Parts I to III of Schedule 13 to this Act shall have effect subject to the amendments specified in those Parts of that Schedule, being minor amendments or amendments consequential on the preceding provisions of this Act:

Provided that this subsection shall have effect subject to the provisions of Part IV of that Schedule, and to the following provisions of this section.

- (2) Subject to the following provisions of this section, the enactments specified in Schedule 14 to this Act are hereby repealed to the extent specified in relation thereto in the third column of that Schedule :

Provided that—

- (a) the repeal of the enactments specified in Part I of that Schedule shall not have effect until the second appointed day;
 - (b) the repeal of the enactments specified in Part II of that Schedule shall not have effect until the end of the initial period.
- (3) The repeal by virtue of this section of section 5 of the River Boards Act 1948 shall not affect any determination under subsection (2) of that section made by the Minister of Agriculture, Fisheries and Food before the second appointed day; and any such determination in force immediately before that day with respect to the area of a river board shall, until superseded by any subsequent determination under section 9 (2) of this Act, have effect as from that day as a determination by that Minister under the said section 9 (2) with respect to the area of the river authority to whom, by virtue of section 5 of this Act, the functions of that river board relating to fisheries are transferred.
- (4) The repeal of the enactments specified in Part II of Schedule 14 to this Act—
- (a) shall not affect the operation of any statutory provision made or issued by virtue of any of those enactments before the end of the initial period, whether before or after the passing of this Act, and
 - (b) shall not prevent the making or issuing of any such statutory provision in pursuance of an application made to a Minister before the end of that period,

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whether before or after the passing of this Act, or otherwise affect any proceedings in consequence of such an application.

(5) Section 100 of this Act shall have effect in relation to any amendment or repeal effected by this section as it has effect in relation to the transfer of functions mentioned in that section.

(6) The amendment or repeal of any enactment by virtue of this section shall not affect the operation of that enactment in relation to the Thames catchment area, the Lee catchment area or the London excluded area (as defined by section 125 (5) of this Act) :

Provided that—

- (a) this subsection shall have effect without prejudice to the exercise, in relation to any such amendment or repeal, of the power conferred by section 125 (2) of this Act;
- (b) if an order under section 10 of this Act is made as mentioned in paragraph (a) or paragraph (b) of section 125. (3) of this Act, any such amendment or repeal shall be included among the provisions which may be applied by the order as mentioned in section 125(4)(b) of this Act.

137 Short title and extent

(1) This Act may be cited as the Water Resources Act 1963.

(2) This Act, except—

- (a) sections 93 (3) and 126 thereof and paragraph 4 of Schedule 6 thereto, and
- (b) any provision of this Act in so far as it affects the operation of the enactments mentioned in section 126(1) of this Act in accordance with that subsection or in so far as it affects the operation of the Border Rivers (Prevention of Pollution) Act 1951,

shall not extend to Scotland.

(3) This Act (except paragraph 4 of Schedule 6) shall not extend to Northern Ireland.