



# Water Resources Act 1963

## 1963 CHAPTER 38

### 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 opinion<sup>1</sup> 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.

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### **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 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.

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- (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,
- (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,

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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 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

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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.
- (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

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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 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—

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- (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;
  - (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 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.

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## **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.
- (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—
- (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

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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 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;

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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.
- (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, ether 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:

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.

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- (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.
- (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;
  - (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

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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—

- (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 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

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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 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.
- (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.

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*Status: This is the original version (as it was originally enacted).*

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## 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;

" 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 ;



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*Status: This is the original version (as it was originally enacted).*

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- (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 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 ;

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*Status: This is the original version (as it was originally enacted).*

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" 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.

(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 ether 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.

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*Status: This is the original version (as it was originally enacted).*

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- (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 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.

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*Status: This is the original version (as it was originally enacted).*

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- (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, 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.