



Water Act 1945

1945 CHAPTER 42

PART III

CONSERVATION AND PROTECTION OF WATER RESOURCES.

14 Control of abstraction and prevention of waste in certain areas.

- (1) Where the Minister is satisfied that special measures for the conservation of water in any area are necessary in the public interest, whether for the protection of public water supplies or for the protection of water supplies used for industrial or other purposes, he may make an order defining the area in question, and thereupon the provisions of this section shall apply to that area.
- (2) The provisions of Part II of the First Schedule to this Act, except paragraphs 17 and 18, shall apply to orders made under this section, and such orders shall be provisional only and shall not have effect until they are confirmed by Parliament.
- (3) Subject to the following provisions of this section, no person shall, in any area to which this section applies, begin to—
 - (a) construct any well, borehole, or other work for the purpose of abstracting underground water ; or
 - (b) extend any existing well, borehole, or other work for the purpose of abstracting additional quantities of underground water;unless he has obtained, in accordance with regulations made under this section, a licence from the Minister.
- (4) The last foregoing subsection shall not apply to—
 - (a) the construction or extension of any well, borehole or other work by any individual for the purpose of abstracting underground water solely and to the extent necessary for a supply of water for the domestic purposes of his household;
 - (b) the construction or extension of any well, borehole or other work, if that construction or extension is expressly authorised by any enactment; or

Status: This is the original version (as it was originally enacted).

- (c) any experimental boring required in connection with any such construction or extension as is referred to in the foregoing paragraphs of this subsection.
- (5) No person shall in any area to which this section applies abstract underground water from—
- (a) any well, borehole or other work constructed or extended in contravention of subsection (3) of this section;
 - (b) any well, borehole or other work the construction or extension of which was made lawful by paragraph (a) or paragraph (c) of the last foregoing subsection, except for the purpose for which it was constructed or extended; or
 - (c) any boring or other work constructed or extended while the order is in force for any purpose other than the abstraction of underground water;

unless he has obtained, in accordance with regulations made under this section, a licence from the Minister.

- (6) The Minister may, on the application of any person, grant a licence for the purposes of subsection (3) or subsection (5) of this section, with or without conditions, or may refuse to grant such a licence, but before he refuses to grant such a licence or attaches any condition thereto, he shall, if requested to do so by the applicant, grant him an opportunity to appear before and be heard by a person appointed for the purpose by the Minister.
- (7) Before any person begins to construct in any area to which this section applies any new boring for the purpose of searching for or extracting minerals, he shall give notice of his intention in the prescribed form to the Minister, and shall take such measures as may be required by the Minister for conserving water, being measures which in the opinion of the Minister will not interfere with the winning of minerals:

Provided that, before imposing any requirement under this subsection, the Minister shall, if requested to do so by any person interested in the work, grant him an opportunity to appear before and be heard by a person appointed for the purpose by the Minister.

- (8) Any person who contravenes any of the foregoing provisions or this section or any requirement imposed thereunder or any condition attached to a licence granted for the purposes of subsection (3) or subsection (5) of this section shall be guilty of an offence against this Act.
- (9) No person shall in any area to which this section applies—
- (a) cause or allow any underground water to run to waste from any well, borehole or other work except for the purpose of testing the extent or quality of the supply or cleaning, sterilising, examining or repairing the well, borehole or other work; or
 - (b) abstract from any well, borehole, or other work water in excess of his reasonable requirements:

Provided that, where underground water interferes or threatens to interfere with the execution or operation of any underground works (whether waterworks or not), it shall not be an offence under this subsection to cause or allow the water to run to waste so far as may be necessary to enable the works to be executed or operated, if no other method of disposing of the water is reasonably practicable.

- (10) A person who contravenes any provision of the last foregoing subsection shall, in respect of each offence, be liable on summary conviction to a fine not exceeding ten

pounds and the court may, on the conviction of any person, order that the well, borehole or other work shall be effectively sealed or may make such other order as appears to the court to be necessary to prevent waste of water.

If any person fails to comply with any such order of the court, the court may (without prejudice to the imposition of any penalty for contempt of court), on the application of any local authority within whose county or district the well, borehole or other work is situated, or of any statutory water undertakers affected or likely to be affected by the waste, authorise the authority or undertakers to take such steps as may be necessary to Execute the order, and any expenses incurred in taking any such steps shall be recoverable as a civil debt from the person convicted.

- (11) The Minister may make regulations with respect to the procedure for making applications to him for the grant of a licence under this section, and in particular with respect to the giving of notices of any such application and the making of objections thereto.
- (12) Any officer of a local authority whose county or district is comprised wholly or partly in an area to which this section applies, and any officer of any statutory water undertakers likely to be affected by any failure to enforce the provisions of this section in any such area, being an officer authorised for the purpose by the local authority or undertakers concerned, shall, on producing, if so required, some duly authenticated document showing his authority, have a right at all reasonable hours—
- (a) to enter any premises in the area for the purpose of ascertaining whether there is, or has been, on or in connection with the premises any contravention of the provisions of this section; or
 - (b) to enter any premises in which the authority or undertakers have been authorised to execute an order of the court made under subsection (10) of this section, for the purpose of executing that order;

and the section of this Act relating to entry of premises shall apply to any such right of entry.

15 Agreements as to drainage, etc., of land.

- (1) Statutory water undertakers may enter into agreements with the owners and occupiers of any land, or with a local authority, with respect to the execution and maintenance by any party to the agreement of such works as the undertakers consider necessary for the purpose of draining that land, or for more effectually collecting, conveying, or preserving the purity of, water which the undertakers are for the time being authorised to take:

Provided that, where the execution of any such works would result in the discharge of water, otherwise than through public sewers, into any watercourse which is within a catchment area or fishery district or is subject to the jurisdiction of a navigation authority or rivers board, the undertakers shall before entering into the agreement consult with the catchment board, fishery board, navigation authority or rivers board concerned.

- (2) An agreement under this section with an owner of land may be registered under section ten of the Land Charges Act, 1925, as an obligation affecting land falling within Class D, and shall, unless it is void by reason of a failure so to register it, be binding upon and enforceable against his successors in title to that land:

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

Provided that this subsection shall only apply to such an agreement if it is expressed to be binding and enforceable as aforesaid.

- (3) An agreement under this section with a local authority may extend to the execution and maintenance by that authority of works of sewerage and sewage disposal.

16 Power to prohibit or restrict temporarily use of hosepipes.

- (1) If any statutory water undertakers are of opinion that a serious deficiency of water available for distribution by them exists, or is threatened, they may, for such period as they think necessary, prohibit or restrict as respects the whole or any part of their limits of supply the use, for the purpose of watering private gardens or washing private motor cars, of any water supplied by them and drawn through a hosepipe or similar apparatus.

In this subsection the expression " private motor car " means a mechanically propelled vehicle intended or adapted for use on roads, other than a public service vehicle within the meaning of Part IV of the Road Traffic Act, 1930, or a goods vehicle within the meaning of Part I of the Road and Rail Traffic Act, 1933, and includes any vehicle drawn by a private motor car.

- (2) The undertakers shall, before the prohibition or restriction comes into force, give public notice in two or more newspapers circulating within the area affected of the prohibition or restriction and of the date when it will come into force.
- (3) Any person who, while the prohibition or restriction is in force, contravenes its provisions shall, in respect of each offence, be liable on summary conviction to a fine not exceeding five pounds.
- (4) Where a prohibition or restriction is imposed under this section, charges made by the undertakers for the use of a hosepipe or similar apparatus shall be subject to a reasonable reduction to be settled in case of dispute by a court of summary jurisdiction and in the case of a charge paid in advance any necessary repayment or adjustment shall be made by the undertakers.

The procedure for obtaining the settlement of a dispute under this subsection by a court of summary jurisdiction shall be by way of complaint for an order, and the Summary Jurisdiction Acts shall apply to the proceedings.

17 Byelaws for preventing waste, misuse or contamination of water.

- (1) Statutory water undertakers may make byelaws for preventing waste, undue consumption, misuse, or contamination of water supplied by them.
- (2) Byelaws under this section may include provisions—
 - (a) prescribing the size, nature, materials, strength and workmanship, and the mode of arrangement, connection, disconnection, alteration and repair, of the water fittings to be used; and
 - (b) forbidding the use of any water fittings which are of such a nature or are so arranged or connected as to cause or permit, or be likely to cause or permit, waste, undue consumption, misuse, erroneous measurement or contamination of water, or reverberation in pipes.

- (3) If a person contravenes the provisions of any byelaw made under this section, the undertakers may, without prejudice to their right to take proceedings for a fine in respect of such contravention, cause any water fittings belonging to or used by that person which are not in accordance with the requirements of the byelaws to be altered, repaired or replaced, and may recover the expenses reasonably incurred by them in so doing from the person in default summarily as a civil debt.
- (4) Nothing in this section, or in any byelaw made thereunder, shall apply to any fittings used on premises which belong to a railway company and are held or used by them for the purposes of their railway, so long as those fittings are not of such a nature or so arranged or connected as to cause or permit or be likely to cause or permit waste, undue consumption, misuse, erroneous measurement or contamination of water supplied by the undertakers, or reverberation in pipes:

Provided that the exemption conferred by this subsection shall not extend to fittings used in hotels or dwelling houses or in offices not forming part of a railway station.

18 Byelaws for preventing pollution of water of undertakers.

- (1) If it appears to statutory water undertakers to be necessary for the purpose of protecting against pollution any water, whether on the surface or underground, which belongs to them or which they are for the time being authorised to take, they may by byelaws—
 - (a) define the area within which they deem it necessary to exercise control; and
 - (b) prohibit or regulate the doing within that area of any act specified in the byelaws.

Byelaws made under this section may contain different provisions for different parts of the area defined by the byelaws.

- (2) Where an area has been defined by byelaws under this section, the undertakers may by notice require either the owner or the occupier of any premises within that area to execute and keep in good repair such works as they consider necessary for preventing pollution of their water and, if he fails to comply with any such requirement, he shall be liable on summary conviction to the same penalties as if he had committed an act prohibited by the byelaws:

Provided that an owner or occupier who considers that a requirement made on him under this subsection is unreasonable may, within twenty-eight days after service on him of the requirement, appeal to the Minister and the Minister may determine the appeal himself or, if he thinks fit, may refer it for determination by an arbitrator to be appointed, in default of agreement, by the President of the Institution of Civil Engineers, and the Minister or arbitrator may, if he decides that the requirement is unreasonable, modify or disallow the requirement.

- (3) The undertakers shall pay compensation to the owners and occupiers of, and other persons interested in, any premises within the area defined by byelaws made under this section in respect of—
 - (a) any curtailment or injurious affection of their legal rights by restrictions imposed by the byelaws; and
 - (b) any expenses incurred by them in complying with a requirement to construct and maintain any works the construction of which could not, apart from this section, lawfully have been required, otherwise than upon payment of compensation, by the local authority of the district or county;

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

and any question as to the amount of compensation to be paid shall be referred to an arbitrator to be appointed, in default of agreement, by the

In this subsection the expression " legal rights " includes a user of land in respect of which the local authority might have taken proceedings under the Acts relating to public health or under their byelaws, but have refrained from doing so, either by reason of the character or situation of the land or for some other reason.

- (4) Where any person has failed to comply with a requirement made on him under subsection (2) of this section and either—
- (a) he has not appealed to the Minister against that requirement and the time for appealing has expired; or
 - (b) his appeal has been dismissed or the requirement has been modified on his appeal and he has failed to comply with the requirement as so modified:

the undertakers may, without prejudice to their right to take proceedings for a fine in respect of such failure, execute and keep in good repair the works specified in the requirement as originally made or, as the case may be, as modified on appeal, and may recover the expenses reasonably incurred by them in so doing from the person in default summarily as a civil debt, except expenses incurred in respect of works the construction of which could not, apart from this section, lawfully have been required, otherwise than upon payment of compensation, by the local authority of the district or county.

- (5) Two or more statutory water undertakers may combine for the purpose of making and enforcing byelaws under this section, and this section and subsection (2) of the next but one following section of this Act shall in any such case have effect as if the references to statutory water undertakers were construed as references to those two or more statutory water undertakers acting jointly.
- (6) Nothing in this section shall be construed as empowering the undertakers to make any byelaw restricting the rights of a navigation authority under any enactment.

19 General provisions as to byelaws.

- (1) The Minister shall be the confirming authority as respects byelaws made under either of the last two foregoing sections, and the provisions of Part IV of the First Schedule to this Act shall apply to the making and confirming of such byelaws.
- (2) It shall be the duty of any undertakers by whom any such byelaws are made to enforce those byelaws.
- (3) Any such byelaws may contain provisions for imposing on any person contravening the byelaws a fine, recoverable on summary conviction, not exceeding the sum of twenty pounds in respect of each offence and, in the case of a continuing offence, a further fine not exceeding five pounds for each day during which the offence continues after conviction therefor.
- (4) Where any statutory water undertakers consider that the operation of any such byelaw made by them would be unreasonable in relation to any particular case, they may with the consent of the Minister relax the requirements of the byelaw or dispense with compliance therewith:

Provided that the undertakers shall give notice of any such proposed relaxation or dispensation in such manner and to such person, if any, as the Minister may direct,

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

and the Minister shall not give his consent before the expiration of one month from the giving of the notice and, before giving his consent, shall take into consideration any objection which may have been received by him.

- (5) Where any such byelaws are made by statutory water undertakers, any officer of the undertakers authorised by them for the purpose, shall, on producing if so required, some duly authenticated document showing his authority, have a right at all reasonable hours to enter any premises in the area to which the byelaws apply, for the purpose of—
- (a) ascertaining whether there is or has been any contravention of the byelaws;
 - (b) in the case of byelaws made under section seventeen of this Act, exercising any right conferred on the undertakers by subsection (3) of that section; or
 - (c) in the case of byelaws made under the last foregoing section—
 - (i) ascertaining whether or not circumstances exist which would justify the undertakers making a requirement under subsection (2) of that section; and
 - (ii) exercising any right conferred on the undertakers by subsection (4) of that section to execute and maintain works;

and the section of this Act relating to entry of premises shall apply to any such right of entry.

- (6) Subject as hereinafter provided—
- (a) any byelaw made under either of the last two foregoing sections shall cease to have effect on the expiration of the period of ten years beginning with the date on which it was made; and
 - (b) any byelaw or regulation made by statutory water undertakers under any other enactment which confers power to make byelaws or regulations for purposes similar to the purposes for which byelaws may be made under either of the last two foregoing sections shall cease to have effect on the expiration of the period of five years beginning with the commencement of this Act:

Provided that the Minister may by order extend the period during which any byelaw or regulation to which this subsection applies is to remain in force.

- (7) Sections two hundred and fifty to two hundred and fifty-two of the Local Government Act, 1933 (which relate to the procedure for making byelaws and the penalties to be imposed thereunder) shall not apply to byelaws made under either of the last two foregoing sections.

20 Power of Minister to require the making of byelaws, to make byelaws in case of default and to revoke byelaws.

- (1) The Minister may by notice require any statutory water undertakers to make byelaws under section seventeen or section eighteen of this Act in relation to such matters as he may specify and, in the case of byelaws made under section eighteen, he shall specify the area for which the byelaws are to be made, and if the undertakers do not within three months after such requirement make in relation to the matters specified byelaws satisfactory to him, the Minister may himself make byelaws with respect to those matters.
- (2) If the Minister considers that any byelaws made by statutory water undertakers under the said section seventeen or the said section eighteen or any byelaws or regulations made by statutory water undertakers under any other enactment which confers powers to make byelaws or regulations for purposes similar to the purposes for which byelaws

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

may be made under either of the said sections are unsatisfactory, he may by notice require the undertakers to revoke those byelaws or regulations and to make such new byelaws under the said section seventeen or the said section eighteen as he considers necessary, and, if the undertakers do not within three months after such requirement comply therewith, the Minister may himself revoke the byelaws or regulations, and make such new byelaws under the said section seventeen or the said section eighteen as he considers necessary.

- (3) Any byelaws made by the Minister under this section shall have effect as if they had been made by the undertakers concerned and confirmed by the Minister.

21 Penalty for polluting water used for human consumption.

- (1) If any person is guilty of any act or neglect whereby any spring, well or adit, the water from which is used or likely to be used for human consumption or domestic purposes, or for manufacturing food or drink for human consumption, is polluted or likely to be polluted, he shall be guilty of an offence against this Act:

Provided that nothing in this section shall be construed as prohibiting or restricting—

- (a) any method of cultivation of land which is in accordance with the principles of good husbandry; or
 - (b) the reasonable use of oil or tar on any highway maintainable at the public expense, so long as the highway authority take all reasonable steps for preventing the oil or tar, or any liquid or matter resulting from the use thereof, from polluting any such spring, well or adit.
- (2) Any officer of a local authority or statutory water undertakers within whose district or limits of supply, as the case may be, any such spring, well or adit is situated authorised by the authority or undertakers for the purpose, shall, on producing if so required some duly authenticated document showing his authority, have a right at all reasonable hours to enter any premises for the purpose of ascertaining whether there is or has been any contravention of this section in relation to that spring, well or adit, and the section of this Act relating to entry of premises shall apply to any such right of entry.

22 Acquisition of land and execution of works for protection of water.

- (1) For the purpose of any provision of this Act conferring power on statutory water undertakers to acquire land for the purposes of their undertaking, there shall be deemed to be included among those purposes the purpose of protecting against pollution any water, whether on the surface or underground, which belongs to the undertakers or which they are for the time being authorised to take.
- (2) Statutory water undertakers may on any land belonging to them, or over or in which they have acquired the necessary easements or rights, construct and maintain drains, sewers, watercourses, catchpits and other works for intercepting, treating or disposing of any foul water arising or flowing upon that land, or for otherwise preventing water which belongs to the undertakers or which they are for the time being authorised to take from being polluted:

Provided that—

- (a) before constructing any such works, the undertakers shall, if the proposed works will affect any watercourse in a catchment area or fishery district or which is subject to the jurisdiction of a navigation authority or rivers board,

consult with the catchment board, fishery board, navigation authority or rivers board concerned;

- (b) nothing in this subsection shall authorise the undertakers to intercept or take any water which a navigation authority are authorised to take or use for the purposes of their undertaking, without the consent of that navigation authority.
- (3) Any statutory water undertakers proposing to construct any drain, sewer or watercourse for the purposes mentioned in the last foregoing subsection may, with the consent of the highway authority concerned, which may be given subject to such conditions as the authority think fit, carry the drain, sewer or watercourse under, across or along any street, whether within or outside their limits of supply, and such statutory provisions with respect to the breaking open of streets as are applicable to the undertakers shall, with any necessary modifications and adaptations, apply accordingly.
- (4) A consent required for the purposes of either of the two last foregoing subsections shall not be unreasonably withheld nor shall any unreasonable condition be attached to such a consent, and any question whether or not such a consent is unreasonably withheld or whether any condition which an authority seek to impose is unreasonable, shall be referred to an arbitrator to be appointed, in default of agreement, by the Minister.