



Water Act 1945

1945 CHAPTER 42

PART IV

POWERS AND DUTIES OF LOCAL AUTHORITIES AND WATER UNDERTAKERS.

Construction of works and acquisition of land and water rights.

26 Power of statutory water undertakers to acquire water rights.

- (1) Statutory water undertakers may acquire by agreement rights to take water from any stream or other source, but no such agreement shall have effect without the approval of the Minister.
- (2) The Minister may on the application of any local authority or statutory water undertakers, by order provide for the compulsory acquisition by them of such rights to take water from any stream or other source as may be specified in the order.
- (3) Where the acquisition of rights under this section will result in the impounding of any stream—
 - (a) the Minister shall not approve any agreement for the acquisition of such rights unless he is satisfied that the agreement requires the undertakers to provide an adequate quantity of compensation water, and incorporates the appropriate provisions of Part III of the first Schedule to this Act subject to such modifications and adaptations as the Minister may approve; or
 - (b) the Minister shall in any order for the compulsory acquisition of such rights prescribe the quantity of compensation water to be provided by the undertakers and shall incorporate in the order the appropriate provisions of the said Part III subject to such modifications and adaptations as he thinks fit.
- (4) Where the acquisition of rights under this section will in the opinion of the Minister substantially reduce the flow of any stream—
 - (a) the Minister shall not approve any agreement for the acquisition of such rights unless he is satisfied that the agreement contains adequate provisions for limiting the extent to which and the circumstances in which water may be

Status: This is the original version (as it was originally enacted).

taken from the stream and incorporates the appropriate provisions of Part III of the Third Schedule to this Act subject to such modifications and adaptations as the Minister may approve;

- (b) the Minister shall in any order for the compulsory acquisition of such rights prescribe the extent to which and the circumstances in which water may be taken and shall incorporate in the order the appropriate provisions of the said Part III subject to such modifications and adaptations as he thinks fit.
- (5) In assessing the quantity of compensation water to be provided under any such agreement or order or in determining the extent to which and the circumstances in which water may be taken under any such agreement or order, the Minister shall have regard to all the circumstances of the particular case, including—
- (a) the character and flow of the stream;
 - (b) the extent to which the stream is or may in the future be used for industrial purposes, fisheries, water supply by other undertakers, agriculture, transport or navigation;
 - (c) the effect on land drainage or on any canal or inland navigation of any alterations in the flow of the stream,
- and shall secure, as far as practicable, that the flow of the stream does not fall below the minimum quantity necessary to secure the interests of public health and the protection of the rights of riparian and other landowners.
- (6) The provisions of Part III of the First Schedule to this Act shall apply to the approval of agreements under this section and, if any catchment board for a catchment area or fishery board of a fishery district in which any source from which water is to be taken is situated, or any navigation authority for any river, canal or other inland navigation from which water is to be taken or which is fed by a stream from which water is to be taken to such extent as, in the opinion of the Minister, to affect the river, canal or other inland navigation duly object to the agreement in accordance with the provisions of the said Part III, and the objection is not withdrawn, the Minister shall give his approval by order and the order shall, in the circumstances specified in paragraph 23 of the said Schedule, be provisional only and not have effect until it is confirmed by Parliament.
- (7) The provisions of Part I of the First Schedule to this Act shall apply to the making of applications and orders under subsection (2) of this section, and any such order shall, in the circumstances specified in paragraph 8 of the said Schedule, be provisional only and not have effect until it is confirmed by Parliament.