



British Waterways Act 1995

1995 CHAPTER i

PART IV

MISCELLANEOUS AND GENERAL

22 General environmental and recreational duties

- (1) It shall be the duty of the Board, in formulating or considering any proposals relating to their functions—
 - (a) so far as may be consistent with the purposes of any enactment relating to those functions, so to exercise any power conferred on them with respect to the proposals as to further the conservation and enhancement of natural beauty and the conservation of flora, fauna and geological or physiographical features of special interest;
 - (b) to have regard to the desirability of protecting and conserving buildings, sites and objects of archaeological, architectural, engineering or historic interest; and
 - (c) to take into account any effect which the proposals would have on the beauty or amenity of any rural or urban area or on any such flora, fauna, features, buildings, sites or objects.
- (2) Subject to subsection (1) above, it shall be the duty of the Board, in formulating or considering any proposals relating to their functions—
 - (a) to have regard to the desirability of preserving for the public any freedom of access to towing paths and open land and especially to places of natural beauty;
 - (b) to have regard to the desirability of maintaining the availability to the public of any facility for visiting or inspecting any building, site or object of archaeological, architectural, engineering or historic interest;
 - (c) to take into account any effect which the proposals would have on any such freedom of access or on the availability of any such facility;

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- (d) to take into account the desirability of protecting for future use as cruising waterways, or as areas appropriate for other public recreational use, remainder waterways with potential for such use.
- (3) It shall be the duty of the Board in determining what steps to take in performance of any duty imposed by virtue of subsection (1) or (2) above to take into account the needs of persons who are chronically sick or disabled.
- (4) Nothing in this section shall require recreational facilities made available by the Board to be made available free of charge.
- (5) In this section—
 - “building” includes a structure; and
 - “functions” includes powers and duties.

23 Amendment of section 49 of Transport Act 1968.

Subsection (4) of section 49 of the Act of 1968 (powers with respect to land) shall be amended as follows:—

- (a) in place of paragraph (b) there shall be substituted the following:—
 - “(b) in the case of the Waterways Board adjoins or is situated in the vicinity of any inland waterway comprised in the undertaking of that Board,”;
- (b) in place of “that commercial or cruising waterway” there shall be substituted “that waterway”;
- (c) the words “or as the case may be, the waterway services of the Waterways Board” shall be omitted; and
- (d) after “can be directly used” there shall be inserted “or, as the case may be, the waterway can be conveniently used”.

24 As to power to establish undertakings on request

The power of the Board under section 50 (7) of the Act of 1968 to provide for any person technical advice and assistance, including research, shall include power, exercisable on the request of any such person, to establish for that person an undertaking carrying on any business in which the Board have skill or experience and, until such person is ready to manage such undertaking himself, to manage it on his behalf.

25 Power to appropriate parts of docks

- (1) In this section, “the docks” means the Ardrishaig Dock, Gloucester Docks and Sharpness Docks of the Board, or any of them.
- (2) Notwithstanding anything in any statutory provision of local application, the Board may from time to time set apart and appropriate any lands, works, buildings, machinery, equipment, facilities or any other property forming part of the docks for the exclusive, partial or preferential use and accommodation of any particular trade, activity, person, vessel or class of vessels, or goods, subject to the payment of such charges and subject to such terms, conditions and regulations as the Board think fit.
- (3) Where any part of the docks is set apart and appropriated under this section no person or vessel shall make use of that part (except so far as may be authorised by the terms of

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the setting apart or appropriation) without the consent of a duly authorised officer of the Board and such officer may order any person or vessel making use thereof without such consent to leave or be removed and the provisions of section 58 of the Harbours, Docks and Piers Clauses Act 1847 (powers of harbour master to move vessels in harbour) shall apply with the necessary modifications to and in relation to any such vessels.

26 Weston Point Docks

As from the passing of this Act the provisions of section 33 of the Harbours, Docks and Piers Clauses Act 1847 shall cease to apply to the Board in relation to their Weston Point Docks at Runcorn in the county of Cheshire.

27 Provisions as to sections 25 and 26

Nothing in section 25 (Power to appropriate parts of docks) or section 26 (Weston Point Docks) of this Act shall authorise the Board to prevent or restrict the use by vessels of the docks (as defined in the said section 25) or the Weston Point Docks as a means of access between any two or more areas of water adjoining or in the vicinity of the docks or the Weston Point Docks, as the case may be.

28 Limehouse Basin

(1) In this section—

“the basin” means the Limehouse Basin of the Board in the London Borough of Tower Hamlets (formerly known as Regents Canal Dock); and
“the lock” means the lock between the basin and the river Thames.

(2) For the avoidance of doubt it is hereby declared that for the purposes of any enactment the limits of jurisdiction of the Board over the basin extend to the lower gates of the lock and thence over all waters to the south of, and lying within 74 metres of an imaginary line drawn between the pivots of, the said gates.

29 Repeal of section 147 of Severn Navigation Act 1842

Section 147 (Locks to be open Night and Day) of the Act 5 & 6 Vict. (1842) intituled “An Act for improving the Navigation of the Severn from the Entrance Lock of the Gloucester and Berkeley Canal, and from the Entrance Lock of the Herefordshire and Gloucestershire Canal, in the County of Gloucester, to Gladder or Whitehouse Brook in the County of Worcester” shall cease to have effect.

30 River Weaver to be river waterway

Section 4 (Extent of Part II) of the Act of 1971 shall have effect as if there were included in Schedule 1 to that Act the following additional paragraph:—

“The river Weaver from Winsford Bridge to Shrew Bridge in the County of Cheshire.”

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31 Notices

- (1) Subject to subsection (5) of section 19 (Removal of vessels to permit works, etc.) of this Act, section 17 (Notices) of the Act of 1983 shall apply to all notices authorised or required to be served on any person by or under this Act.
- (2) Subsection (2) (e) of the said section 17 shall apply to notices under subsection (2) of section 4 (Entry on to land in cases of emergency) of this Act, to notices of entry under section 5 (Notice of entry, etc.) of this Act and to notices under subsection (12) of section 21 (Control of moorings, etc.) of this Act as it applies to notices under section 12 (Power to obtain particulars of persons interested in land) of the Act of 1983, as though the said section 12 applied to Scotland as well as to England and Wales.

32 Arbitration

Where under any provision of this Act any difference (other than a difference as to the meaning or construction of that provision) is to be determined by arbitration, then such difference shall be referred to and settled by a single arbitrator or, in Scotland, by a single arbiter to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after notice in writing to the other), by the President of the Institution of Civil Engineers.

33 As to certain legal proceedings

Notwithstanding anything in any other enactment or rule of law, where but for this section any proceedings in respect of any provision of this Act could be instituted in the High Court, those proceedings may be instituted in the County Court.

34 Crown rights

- (1) Nothing in this Act affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown including (without prejudice to the general law concerning the applicability of statutes to the Duchy of Cornwall) the Duchy of Cornwall and, in particular and without prejudice to the generality of the foregoing, nothing in this Act authorises the Board to take, use, enter upon or in any manner interfere with, any land or hereditaments or any rights of whatsoever description (including any portion of the shore or bed of the sea or of any river, channel, creek, bay or estuary)—
 - (a) belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners, without the consent in writing of those commissioners; or
 - (b) belonging to the Duchy of Cornwall or enjoyed by the possessor for the time being of the Duchy of Cornwall without the consent in writing of the Duke of Cornwall testified in writing under the seal of the said Duchy or, as the case may be, the consent in writing of two or more of such of the regular officers of the said Duchy or of such other persons as may be duly authorised under section 39 of the Duchy of Cornwall Management Act 1863; or
 - (c) belonging to a government department, or held in trust for Her Majesty for the purposes of a government department, without the consent in writing of that government department.
- (2) A consent under subsection (1) above may be given unconditionally or subject to such conditions and upon such terms as shall be considered necessary or appropriate.

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35 Saving for Trinity House

Nothing in this Act shall prejudice or derogate from the jurisdiction or authority or any of the rights or privileges of the Corporation of Trinity House of Deptford Strond.

36 Repeals

The enactments specified in columns (1) and (2) of Schedule 3 to this Act are hereby repealed to the extent mentioned in column (3) thereof.

37 Application to Scotland

- (1) Subject to subsection (2) below, this Act extends to Scotland.
- (2) Nothing in this Act shall apply to Loch Lochy, Loch Oich, Loch Ness or Loch Dochfour, the boundaries of which are shown edged in red on the plan marked “The Scottish Lochs”, of which five copies have been signed on behalf of the Board by Richard Jeremy Duffy, the Solicitor and Secretary to the Board, and on behalf of the Highland Regional Council by Ronald Harley Stevenson, the Chief Executive of the said Council, and deposited respectively in—
 - (a) the office of the Clerk of the Parliaments, House of Lords;
 - (b) the Private Bill Office of the House of Commons;
 - (c) the Department of the Environment;
 - (d) the principal office of the Board; and
 - (e) the office of the Chief Executive of the Highland Regional Council.
- (3) Nothing in this Act shall prejudice the power of a river purification authority to make byelaws under section 33 of the Control of Pollution Act 1974 (control of sanitary appliances on vessels) or under section 48 of that Act (power of river purification authorities to exclude unregistered vessels from rivers, etc.).
- (4) It shall be the duty of the Board, when exercising functions in relation to Scotland under any enactment, to avoid, so far as possible, causing injury to fisheries or to the stock of fish in any waters.