

ELIZABETH II



1963 CHAPTER xii

An Act to authorise the closing to navigation of portions of certain waterways; and for other purposes.

[10th July 1963]

WHEREAS by the Transport Act, 1962, the British Waterways Board (in this Act referred to as "the Board") were established:

And whereas it is the duty of the Board under the Transport Act, 1962 (*inter alia*), to provide to such extent as they may think expedient services and facilities on the inland waterways owned or managed by them:

And whereas it is also the duty of the Board to review the manner in which such inland waterways, so far as not required for the discharge of their duty aforesaid, may be put to the best use, to formulate proposals with the object of putting them to the best use and to take all steps open to them to achieve that object:

And whereas the Board are the owners of the Birmingham Canal, the Saint Helens Canal, and the Macclesfield Canal:

And whereas the portions of the said canals in this Act referred to are not needed for navigation and it is expedient that the Board should be relieved of their obligations to maintain the same for navigation and that the other provisions in this Act contained relating thereto should be enacted:

And whereas the purposes of this Act cannot be effected without the authority of Parliament:

May it therefore please Your Majesty that it may be enacted, and be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as the British Waterways Act 1963.

Interpretation.

2.—(1) In this Act, unless the subject or context otherwise requires, the following expressions have the meanings hereby respectively assigned to them:—

“ the Board ” means the British Waterways Board;

“ enactment ” means any enactment, whether public general or local, and includes any order, byelaw, rule, regulation, scheme or other instrument having effect by virtue of an enactment;

“ the waterways ” means those portions of the several waterways named in the first column of the schedule to this Act which are described in the second column of the said schedule, which waterways were authorised by the enactments specified in the third column of the said schedule.

(2) Any reference in this Act to any enactment shall be construed as a reference to that enactment as applied, extended, amended or varied by, or by virtue of, any subsequent enactment, including this Act.

(3) All distances and lengths stated in any description of the waterways shall be construed as if the words “ or thereabouts ” were inserted after each such distance and length and distances between points on a waterway shall be taken to be measured along the waterway.

Closing to
navigation of
certain
waterways.

3.—(1) As from the passing of this Act—

(a) all rights of navigation along, on, or over, the waterways and all rights of user by barges or other boats of the waterways shall cease and be extinguished; and

(b) the Board shall cease to be under any obligation (whether statutory or otherwise) to keep the waterways open for navigation, or to maintain the same in a navigable condition, or to preserve the supplies of water thereto for the purposes of navigation, or to supply the waterways with water for those purposes;

but save as aforesaid nothing in this Act shall be deemed to prejudice or affect any existing rights, powers or obligations in respect of the waterways.

(2) Any person who suffers loss by the extinguishment of any private right under this section shall be entitled to be paid by the Board compensation to be determined, in case of dispute, by the Lands Tribunal.

(3) (a) The Board on the one hand and any local authority, statutory water undertaker or river board on the other hand may enter into and carry into effect agreements with respect to the maintenance of the waterways, or any part thereof, or any works connected therewith and belonging to or maintainable by the Board, or for the transfer to and vesting in any such contracting party of any of the waterways, or any part thereof, or of any such works as aforesaid, and any such agreement may provide for the transfer to any such contracting party of all or any of the powers and obligations of the Board in respect of the waterways or works transferred and vested as aforesaid.

(b) The Board may enter into and carry into effect agreements with a highway authority with respect to the maintenance of the waterways or any part thereof, or any works connected therewith and belonging to or maintainable by the Board or for the transfer to and vesting in such authority of any of the waterways, or any part thereof, or of any such works as aforesaid and any such agreement may provide for the transfer to such authority of all or any of the powers and obligations of the Board in respect of the waterways or works transferred and vested as aforesaid.

(c) A statutory water undertaker shall not exercise any of the powers of this subsection for the purposes of its water undertaking except with the consent of the Minister of Housing and Local Government.

(d) A transfer to or vesting in a river board in pursuance of an agreement made under this section of any part of any of the waterways, or of any of the powers and obligations of the Board in respect thereof, shall not take effect until the Minister of Agriculture, Fisheries and Food has, in accordance with the provisions of section 6 of the River Boards Act, 1948, varied the map as approved by him under that section so as to constitute such part of the waterways a part of the main river referred to in that section.

(e) In this subsection—

“statutory water undertaker” means any company, local authority, board, committee or other persons supplying water under an enactment;

“local authority” means the council of the county, county borough or county district, in which any part of the waterways is situate.

Prevention of nuisance.

4. The waterways shall be deemed to be a watercourse for the purposes of section 259 of the Public Health Act, 1936, and the county council of the administrative county within which any part of the waterways is situate may, in addition to a local authority as defined in section 1 of the Public Health Act, 1936, enforce the provisions of Part III of that Act where they apply by virtue of this section.

Application of section 36 of Town and Country Planning Act, 1962.

5.—(1) For the purposes of section 36 of the Town and Country Planning Act, 1962, each of the waterways shall be deemed to be a vacant site, provided that this section shall cease to apply to any part of the waterways the use of which is changed after the passing of this Act pursuant to planning permission in that behalf granted under Part III of the said Act.

(2) For the purposes of the said section 36, as extended to the waterways by this section, the council of a county district in whose district any part of the waterways is situate shall, in addition to the local planning authority, be entitled to enforce the provisions of the said section 36 as so extended.

For protection of Trent River Board.

6. For the protection of the Trent River Board (in this section referred to as "the river board") the following provisions shall, unless otherwise agreed in writing between the Board and the river board, apply and have effect:—

(1) In this section—

"the closed canal" means the portion of the Birmingham Canal described in the second column of the schedule to this Act;

"the adjacent watercourses" means the watercourses constructed by the Board or their predecessors adjacent to the closed canal and maintainable by the Board, including all existing culverts or pipes so constructed and maintainable under the closed canal or through the embankment of the closed canal for the purpose of carrying water from one side of the canal to the other and now used for that purpose:

(2) (a) The Board shall to the reasonable satisfaction of the river board so maintain the closed canal and the adjacent watercourses that the use thereof as an efficient part of the land drainage system of the Trent River Board area as for the time being constituted to the extent to which the closed canal and the adjacent watercourses were immediately before the passing of this Act so used shall not be impaired;

- (b) The Board may, with the consent of the river board, which consent shall not be unreasonably withheld, substitute for the closed canal or the adjacent water-courses or any part thereof reasonably suitable alternative provision for the purposes of land drainage:
- (3) Before draining or de-watering any part of the closed canal the Board shall provide a reasonable opportunity for the river board to take any fish in that part:
- (4) In the event of the closed canal or any part thereof being transferred to any other authority, body or person the provisions of this section shall extend and apply to the closed canal or the part thereof so transferred as if such authority, body or person were referred to therein in lieu of the Board:
- (5) Any difference arising between the Board and the river board under this section (other than a difference as to the meaning thereof which does not arise in the course of the arbitration) shall be referred to and settled by a single arbitrator 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.

7. All costs, charges and expenses of and incident to the preparing for, obtaining and passing of this Act, or otherwise in relation thereto, shall be paid by the Board and may in whole or in part be defrayed out of revenue. Costs of Act.

SCHEDULE

THE WATERWAYS REFERRED TO IN SECTION 3 (CLOSING TO NAVIGATION OF CERTAIN WATERWAYS) OF THIS ACT

Name of waterway (1)	Portion to be closed to navigation (2)	Authorising Act (3)
Birmingham Canal	Part of the Cannock Extension Canal (4 miles 293 yards in length) from a point 10 yards south of the bridge carrying Watling Street over the canal in the urban district of Brownhills to the termination of the canal at Hednesford Basin in the urban district of Cannock, all in the county of Stafford	17 & 18 Vict. c. cxii.
St. Helens Canal	The remainder of the canal (10 miles 1,540 yards in length) commencing at a point near Newton Common Lock 483 yards west of the viaduct carrying the railway from Collins Green to Earlestown Junction in the urban district of Newton-le-Willows in the county of Lancaster and passing through the rural district of Warrington in the said county and the county borough of Warrington to the termination of the canal at its junction with the river Mersey in the borough of Widnes in the county of Lancaster	28 Geo. 2 c. viii. 2 Geo. 3 c. lvi. 11 Geo. 4 c. 1.
Macclesfield Canal	Brook Street Wharf Basin (53 yards in length with a width of 5 yards) situated on the west side of the Macclesfield Canal 223 yards south of Buxton Road Bridge, all in the borough of Macclesfield in the county of Chester	7 Geo. 4 c. xxx.

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Table of Statutes referred to in this Act other than those referred to in the third column of the schedule

Short title	Session and chapter
Public Health Act, 1936	26 Geo. 5 & 1 Edw. 8 c. 49.
River Boards Act, 1948	12 & 13 Geo. 6 c. 32.
Town and Country Planning Act, 1962	10 & 11 Eliz. 2 c. 38.
Transport Act, 1962	10 & 11 Eliz. 2 c. 46.

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British Waterways Act 1963

CHAPTER xii

ARRANGEMENT OF SECTIONS

Section

1. Short title.
2. Interpretation.
3. Closing to navigation of certain waterways.
4. Prevention of nuisance.
5. Application of section 36 of Town and Country Planning Act, 1962.
6. For protection of Trent River Board.
7. Costs of Act.

SCHEDULE—The waterways referred to in section 3 (Closing to navigation of certain waterways) of this Act.