

ELIZABETH II



1965 CHAPTER xiv

An Act to confirm a Provisional Order under the Private
Legislation Procedure (Scotland) Act 1936, relating to
British Waterways. [5th August 1965]

WHEREAS the Provisional Order set forth in the schedule
hereunto annexed has been made by the Secretary of
State under the provisions of the Private Legislation
Procedure (Scotland) Act 1936, and it is requisite that the said 1936 c. 52
Order should be confirmed by Parliament:

Be it therefore 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:—

1. The Provisional Order contained in the schedule hereunto annexed is hereby confirmed. Confirmation
of Order in
schedule.
2. This Act may be cited as the British Waterways Order Confirmation Act 1965. Short title.

SCHEDULE

BRITISH WATERWAYS

Provisional Order to extinguish rights of navigation on the Union Canal and the obligations upon the British Waterways Board to keep that canal open and to maintain it for purposes of navigation; and for other purposes.

Whereas the waterway now known as the Union Canal was constructed in pursuance of the Act chapter lvi of the fifty-seventh year of the reign of His late Majesty King George the Third as amended by subsequent Acts and has been kept open and maintained for the purpose of navigation in accordance with the provisions of those Acts and of the Edinburgh and Glasgow Railway and Edinburgh and Glasgow Union Canal Amalgamation Act, 1849, and the Regulation of Railways Act, 1873:

c. xxxix
c. 48

And whereas the British Waterways Board (in this Order referred to as "the Board") were established by the Transport Act, 1962, and are, by virtue of that Act, the owners of the Union Canal as now existing from its commencement in the city of Edinburgh to its termination in the burgh of Falkirk (in this Order referred to as "the canal"):

c. 46

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 freight traffic has ceased to pass along the canal, which is now used mainly for the supply of water and partly for pleasure boating:

And whereas, owing to the increase in the volume and weight of road traffic across the canal, new bridges are needed and existing bridges require to be strengthened or replaced:

And whereas the cost of providing, maintaining and replacing bridges with navigable headroom over the canal greatly exceeds the like costs for bridges of low level and for causeways piped for the passage of water, and the provision of bridges of low level and causeways would be consistent with the maintenance of the canal for purposes other than navigation:

And whereas it is expedient that the highway authorities responsible for the bridges should be relieved for the future of the excess cost as aforesaid:

And whereas it is expedient therefore that rights of navigation of the canal should be extinguished and the Board relieved of their obligations to maintain it for navigation:

And whereas the purposes aforesaid cannot be effected without an Order confirmed by Parliament under the provisions of the Private Legislation Procedure (Scotland) Act, 1936:

Now therefore in pursuance of the powers contained in the last-mentioned Act the Secretary of State orders as follows:—

1. This Order may be cited as the British Waterways Order, 1965. Short title.

2.—(1) There shall be extinguished in relation to the canal—

(a) any right of navigation thereon; and

(b) any obligation upon the Board (whether statutory or otherwise) to keep it open and to maintain it for purposes of navigation, or to do anything for the furtherance of those purposes.

Extinguishment
of rights and
duties relating
to navigation on
the Union Canal.

(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, in accordance with the provisions of the Land Compensation (Scotland) Act, 1963.

c. 51

3.—(1) The Board on the one hand and any local authority or local water authority on the other hand may enter into and carry into effect agreements with respect to the maintenance of any part of the canal, 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 part of the canal 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 canal or works transferred and vested as aforesaid.

Power to make
agreements for
maintenance of
canal, etc.

(2) Nothing in the foregoing subsection shall extend the powers of a local water authority under the Water (Scotland) Acts, 1946 and 1949.

(3) The Board may enter into and carry into effect agreements with a highway authority with respect to the maintenance of any part of the canal, 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 part of the canal 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 canal or works transferred and vested as aforesaid.

(4) In this section—

“highway authority” means, in relation to a road other than a trunk road, a county council or the town council of a burgh

*British Waterways
Order Confirmation Act 1965*

charged with the maintenance and management of any of the highways therein, and, in relation to a trunk road, the Secretary of State;

“local authority” means the council of a county, burgh or district in which any part of the canal is situated;

“local water authority” has the meaning assigned to it by section 5 of the Water (Scotland) Act, 1946.

c. 42

Costs of
Order.

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

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British Waterways Order Confirmation Act 1965

CHAPTER xiv

ARRANGEMENT OF SECTIONS

Section

1. Confirmation of Order in schedule.
2. Short title.

SCHEDULE

BRITISH WATERWAYS

1. Short title.
2. Extinguishment of rights and duties relating to navigation on the Union Canal.
3. Power to make agreements for maintenance of canal, etc.
4. Costs of Order.