

**ELIZABETH II**



**1965 CHAPTER xxiii**

An Act to empower the British Waterways Board to construct works and to acquire lands; to relieve the Board from their obligation to maintain certain waterways for navigation and to extinguish rights of navigation thereon; to confer further powers on the Board; and for other purposes. [5th August 1965]

**W**HEREAS by the Transport Act, 1962, the British c. 46.  
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 tidal lock connecting the Limehouse Cut with the river Thames is in need of reconstruction which can be carried out only at great expense and with interruption of traffic using the same and it is expedient to avoid such expense and interruption by the diversion of such traffic through the Regent's Canal Dock and the closure of the said lock and so much of the Limehouse Cut as will thereby be rendered unnecessary:

And whereas it is expedient for that purpose that the Board should be empowered to construct the works authorised by this Act and to acquire the lands referred to in this Act:

And whereas the Board are the owners of the Birmingham Canal and the Lancaster Canal:

And whereas the portions of the said canals in this Act referred to are not needed for commercial 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 it is expedient that the other powers in this Act contained should be conferred upon the Board and that the other provisions in this Act contained should be enacted:

And whereas a plan and section showing the line or situation and level of the work to be constructed under the powers of this Act, such plan showing also the lands authorised to be acquired or used by this Act, and a book of reference to such plan containing the names of the owners and lessees, or reputed owners and lessees, and of the occupiers of the said lands, and describing the same, have been deposited in the office of the Clerk of the Parliaments and in the Private Bill Office of the House of Commons and with the clerk of the Greater London Council, which plan, section and book of reference are respectively referred to in this Act as the deposited plan, the deposited section and the deposited book of reference:

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 1965.

Interpretation.    2.—(1) In this Act, unless there be something in the subject or context repugnant to such construction, the several words and



expressions to which meanings are assigned by the Acts wholly or partly incorporated herewith have in relation to the relative subject-matter the same respective meanings, and—

“ 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 Limehouse Cut ” means the last of the cuts or canals authorised by section 3 (Cuts to be made) of the Act 7 Geo. 3 c. li;

“ the limits of deviation ” means the limits of deviation shown on the deposited plan;

“ the Minister ” means the Minister of Transport;

“ the tribunal ” means the Lands Tribunal;

“ the waterways ” means those portions of the several waterways named in column (1) of the schedule to this Act which are described in column (2) of the said schedule, which waterways were authorised by the enactments specified in column (3) of the said schedule;

“ the works ” means the works authorised by section 4 (New cut into Regent’s Canal Dock) of this Act.

(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 works, powers or lands 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.

3. The following Acts and parts of Acts, so far as the same are applicable for the purposes and are not inconsistent with or varied by the provisions of this Act, are incorporated with and form part of this Act and this Act shall be deemed to be the special Act for the purposes of the said incorporated enactments:—

(a) the Lands Clauses Acts, except sections 127 to 133 of the Lands Clauses Consolidation Act, 1845: c. 18.

Provided that the bond required by section 85 of the Lands Clauses Consolidation Act, 1845, shall be sufficient without the addition of the sureties mentioned in that section;

c. 20.

(b) the provisions of the Railways Clauses Consolidation Act, 1845, with respect to the temporary occupation of lands near the railway during the construction thereof and with respect to works for the accommodation of lands adjoining the railway:

Provided that for the purposes of the said incorporated provisions of the Railways Clauses Consolidation Act, 1845, the expression "the railway" shall be construed to mean the works, the expression "the centre of the railway" shall be construed to mean the centre line of the works and the expression "the company" shall be construed to mean the Board.

New cut into  
Regent's  
Canal Dock.

4.—(1) Subject to the provisions of this Act, the Board may, in the line or situation shown on the deposited plan and according to the level shown on the deposited section, make and maintain the work hereinafter described with all necessary works and conveniences connected therewith—

In Greater London—

A navigable channel (60 yards in length) wholly in the London borough of Tower Hamlets commencing by a junction with the Limehouse Cut at a point 157 yards east-north-east of the bridge carrying Northey Street over the Limehouse Cut and terminating in the Regent's Canal Dock at a point 15 yards south-west of the easternmost corner of the said dock.

(2) Upon the completion and opening to traffic of a navigable channel from the Limehouse Cut into the Regent's Canal Dock this Act shall have effect as if so much of the Limehouse Cut as lies between the commencement of such navigable channel and the river Thames were a portion of waterway included in the definition of "the waterways" in section 2 (Interpretation) of this Act.

Power to  
deviate.

5. In the execution of the works the Board may deviate laterally from the line or situation thereof shown on the deposited plan to the extent of the limits of deviation and may deviate vertically from the level shown on the deposited section to any extent not exceeding 10 feet upwards and 10 feet downwards or to such further extent as may be found necessary or convenient and as may be sanctioned by the Minister.

Power to  
make trial  
borings.

6.—(1) The Board may make trial borings, at such places within the lands which may be acquired compulsorily under this Act as they may think fit, for the purpose of ascertaining the nature of the soil:



Provided that no land shall be entered for the purpose of making trial borings under this section unless the Board, not less than seven days before the first entry and not less than twenty-four hours before any subsequent entry, have given notice in writing to the owner and occupier of the land in manner provided by section 285 of the Public Health Act, 1936. c. 49.

(2) Where land is damaged in the exercise of the powers conferred by subsection (1) of this section, any person interested in the land may recover from the Board compensation for the damage to be determined in case of dispute by the tribunal, and, so far as compensation is properly to be calculated by reference to the depreciation of the value of his interest in the land, rules 2 to 4 of the rules set out in section 5 of the Land Compensation Act, 1961, shall apply. c. 33.

7.—(1) Subject to the provisions of this Act, the Board may enter upon, take and use such of the lands delineated on the deposited plan and described in the deposited book of reference as they may require for the purposes of the works or for any purpose connected with or ancillary to their undertaking. Power to acquire lands.

(2) The powers of the Board for the compulsory acquisition of land under this section shall cease on the 31st December 1968.

8.—(1) If the deposited plan or the deposited book of reference are inaccurate in their description of any land, or in their statement or description of the ownership or occupation of any land, the Board, after giving not less than ten days' notice to the owner, lessee and occupier of the land in question may apply to a metropolitan stipendiary magistrate for the correction thereof. Correction of errors in deposited plan and book of reference.

(2) If on any such application it appears to the magistrate that the misstatement or wrong description arose from mistake, he shall certify the fact accordingly and shall in his certificate state in what respect any matter is misstated or wrongly described.

(3) The certificate shall be deposited in the office of the Clerk of the Parliaments, and a copy thereof in the Private Bill Office, House of Commons, and with the clerk of the Greater London Council, and with the town clerk of the London borough of Tower Hamlets; and thereupon the deposited plan and the deposited book of reference shall be deemed to be corrected according to the certificate, and it shall be lawful for the Board to take the land and execute the works in accordance with the certificate.

(4) A person with whom a copy of a certificate is deposited under this section shall keep it with the other documents to which it relates.

Power to expedite entry.

c. 18.

**9.**—(1) At any time after serving a notice to treat in respect of any land that may be acquired compulsorily under this Act, but not less than three months after giving the owner and occupier of the land notice in writing of their intention to exercise the powers of this section, the Board may, without previous consent and without compliance with sections 84 to 90 of the Lands Clauses Consolidation Act, 1845, enter on the land or on such part of it as may be specified in the last-mentioned notice and take possession of the land or part:

Provided that the Board shall pay the like compensation for land entered under this section and the like interest on the compensation awarded, as would have been payable if the provisions of those sections had been complied with.

(2) Any land of which possession is taken by the Board under the powers of this section shall be deemed, for the purposes of section 12 (Extinction of private rights of way) of this Act, to have been acquired by the Board.

Power to enter for survey or valuation.

**10.** Any person acting on behalf of the Board and duly authorised in that behalf may, on producing if so required some duly authenticated document showing his authority, at all reasonable times enter on any land that the Board are authorised by this Act to acquire compulsorily, or that may be affected by the construction of the works, for the purpose of surveying or valuing the land:

Provided that no land shall be entered under this section unless the Board, not less than seven days before the date of the first entry and not less than twenty-four hours before any subsequent entry, have given notice in writing to the owner and occupier of the land in manner provided by section 285 of the Public Health Act, 1936.

c. 49.

Disregard of recent improvements and interests.

**11.** In determining any question of disputed compensation or purchase money in respect of land acquired under this Act the tribunal shall not take into account—

(a) any improvements or alteration made, building erected or work done after the 5th December, 1964; or

(b) any interest in the land created after the said date;

which in the opinion of the tribunal was not reasonably necessary and was made, erected, done or created with a view to obtaining or increasing the compensation or purchase money.

Extinction of private rights of way.

**12.**—(1) All private rights of way over any land that may be acquired compulsorily under this Act shall, as from the acquisition of the land, whether compulsorily or by agreement, be extinguished.



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

13.—(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;

Relief from obligation to maintain certain waterways for navigation and extinguishment of navigation rights.

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 tribunal.

(3) (a) The Board on the one hand and any local authority, river authority, statutory water undertaker, gas board or electricity 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 river authority shall not exercise any of the powers of this subsection except with the consent of the Minister, the Minister of Housing and Local Government and the Minister of Agriculture, Fisheries and Food acting jointly.

(e) In this subsection—

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

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

Prevention of  
nuisance.  
c. 49.

14. 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.  
c. 38.

15.—(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.

As to bridge  
and ferry at  
Mexborough.

16. The Board may abandon and discontinue the swing bridge over the Sheffield and South Yorkshire Navigation at Ferry Boat Lane in the urban district of Mexborough in the West Riding of the county of York and may abandon and discontinue the ferry crossing the river Don between a point in the said district 78 yards south-east of the said swing bridge and a point in the parish of Denaby in the rural district of Doncaster in the said county and all rights in or relating to the said ferry shall be extinguished and the Board shall by virtue of this Act be relieved from all or any obligations (statutory or otherwise) to maintain, work or use the said ferry.



17. For the protection of the gas board the following provisions shall, unless otherwise agreed in writing between the Board and the gas board, apply and have effect:—

For protection of North Thames Gas Board.

(1) In this section, unless the subject or context otherwise requires—

“ apparatus ” means mains, pipes, valves, siphons, stopcocks, pillars or other apparatus belonging to or maintained by the gas board and includes any works constructed for the lodging therein of apparatus;

“ the gas board ” means the North Thames Gas Board:

(2) Notwithstanding anything in this Act or shown on the deposited plan or the deposited section or contained in the deposited book of reference the Board shall not—

(a) acquire under the powers of this Act any apparatus;

(b) construct any part of the works or make any trial borings over, under or within a distance of 10 feet from any part of any apparatus:

(3) If the Board in the exercise of the powers of this Act acquire any interest in the land numbered 7 on the deposited plan or any part of that land the gas board shall continue to have the same powers and rights in respect of any apparatus situated therein.

18. For the protection of the river authority of any river authority area in which any part of the waterways is situate (in this section referred to as “ the authority ”) the following provisions shall, unless otherwise agreed in writing between the Board and the authority, apply and have effect:—

For protection of river authorities.

(1) In this section—

“ the canal ” means any part of the waterways which is situate within the area of the authority;

“ the adjacent watercourses ” means the watercourses constructed by the Board or their predecessors adjacent to the canal and maintainable by the Board, including all existing culverts or pipes so constructed and maintainable under the canal or through the embankment of the 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 authority so maintain the canal and the adjacent water-courses that the use thereof as an efficient part of the land drainage system of the area of the authority as for the time being constituted to the extent to which the 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 authority, which consent shall not be unreasonably withheld, substitute for the canal or the adjacent watercourses or any part thereof reasonably suitable alternative provision for the purposes of land drainage:
- (3) Before draining or de-watering any part of the canal the Board shall provide a reasonable opportunity for the authority to take any fish in that part:
- (4) In the event of the 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 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 authority 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 arbitration.

Saving for town and country planning.  
c. 38.

**19.** The provisions of the Town and Country Planning Act, 1962, and any restrictions or powers thereby imposed or conferred in relation to land shall apply and may be exercised in relation to any land notwithstanding that the development thereof is, or may be, authorised or regulated by or under this Act.

Arbitration.

**20.** Where under this Act any difference (other than a difference to which the provisions of the Lands Clauses Acts apply) is to be referred to or settled by arbitration, then, unless otherwise provided, such difference 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.

Costs of Act.

**21.** 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.



## SCHEDULE

THE WATERWAYS REFERRED TO IN SECTION 13 (RELIEF FROM OBLIGATION Section 13  
TO MAINTAIN CERTAIN WATERWAYS FOR NAVIGATION AND EXTINGUISHMENT  
OF NAVIGATION RIGHTS) OF THIS ACT

Name of waterway (1)	Portion comprised in definition of "the waterways" for purposes of this Act (2)	Authorising Act (3)
Birmingham Canal	The remainder of Dixon's Branch (1,016 yards in length) from its commencement by a junction with the main canal 90 yards north-west of Park Lane Bridge to its present termination 240 yards north-east of Horseley Road Bridge, all in the borough of Tipton in the county of Stafford	34 Geo. 3 c. lxxxvii.
Birmingham Canal	The remainder of the Union Branch from its junction with the main canal 200 yards north-west of the bridge carrying Oldbury Road over the main canal to its termination 83 yards south of that junction, all in the county borough of West Bromwich	34 Geo. 3 c. lxxxvii.
Lancaster Canal (North End)	From its present northern termination 340 yards east of Stainton Crossing Bridge in the parish of Stainton in the rural district of South Westmorland in the county of Westmorland, passing through the said rural district and the rural districts of Lancaster and Lunesdale in the county of Lancaster to a point on the boundary of the last-named district 1,260 yards south-west of Kellet Lane Bridge in that district (being a distance of 11 miles 1,327 yards)	32 Geo. 3 c. ci.
Lancaster Canal (South End)	From its commencement at Walton Summit in the urban district of Walton-le-Dale to the point of commencement in the parish of Whittle-woods in the rural district of Chorley of the Johnson's Hill Branch, 406 yards south of Johnson's Hillock Bridge, all in the county of Lancaster (being a distance of 3 miles 205 yards).	32 Geo. 3 c. ci.



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# British Waterways Act 1965

## CHAPTER xxiii

### ARRANGEMENT OF SECTIONS

#### Section

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SCHEDULE—The waterways referred to in section 13 (Relief from obligation to maintain certain waterways for navigation and extinguishment of navigation rights) of this Act.