

ELIZABETH II



1966 CHAPTER xiii

An Act to relieve the British Waterways Board from their obligation to maintain certain waterways for navigation and to extinguish rights of navigation thereon; and for other purposes. [3rd August 1966]

WHEREAS by the Transport Act, 1962, the British 1962 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 Board are the owners of the Ashby Canal, the Birmingham Canal, the Grand Union Canal and the Oxford 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 it is expedient that the other provisions in this Act contained 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 1966.

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 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.

(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.

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

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, 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 of Transport, 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 or county district, in which any part of the waterways is situate.

Prevention of nuisance.

1936 c. 49.

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.

1962 c. 38.

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 river authorities.

6. 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 :—

(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 watercourses 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 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.—(1) In this section “the reservoir” means the reservoir in the county borough of Dudley now vested in the mayor, aldermen and burgesses of the said county borough and known as the Lodge Farm Reservoir. As to reservoir at Dudley.

(2) For the purposes of the Reservoirs (Safety Provisions) Act, 1930 c. 51, the reservoir shall not by reason only of any right for the time being reserved to the Board to discharge water into the reservoir or to take water therefrom or of the exercise or intended exercise by the Board of any such right be deemed to be comprised or intended to be comprised in any undertaking carried on by the Board or to be used or intended to be used for the purpose of any such undertaking.

8. 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

Section 3.

THE WATERWAYS REFERRED TO IN SECTION 3 (RELIEF FROM OBLIGATION 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)
Ashby Canal	From its present northern termination 608 yards east of Measham Lodge Bridge to a point 2,300 yards south-east of the said bridge (being a distance of 1,692 yards), all in the rural district of Ashby de la Zouch in the county of Leicester	34 Geo. 3 c. xciii.
Birmingham Canal	Part of the Ridgacre Branch from a point 122 yards east of its commencement by a junction with the Wednesbury Old Canal to its termination 720 yards east of Black Lake Bridge carrying the road A.41 over it (being a distance of 1,293 yards), all in the county borough of West Bromwich	34 Geo. 3 c. lxxxvii.
Birmingham Canal	The Halford Branch (771 yards in length) from its commencement by a junction with the portion of canal last described 600 yards east of the said Black Lake Bridge to its termination near Hall End, all in the county borough of West Bromwich	34 Geo. 3 c. lxxxvii.
Birmingham Canal	The portion known as Toll End Locks (1 mile 685 yards in length) which connects the Birmingham Canal (Birmingham Level) with the Birmingham Canal (Walsall Level), all in the county borough of West Bromwich	23 Geo. 3 c. xcii.
Grand Union Canal	Part of the Saltisford Arm (340 yards in length) from a point 28 yards north-west of the bridge carrying the railway from Warwick to Hatton over the said Arm to its termination at Saltisford basins, all in the borough of Warwick in the county of Warwick	33 Geo. 3 c. xxxviii.

Name of waterway (1)	Portion comprised in definition of "the waterways" for purposes of this Act (2)	Authorising Act (3)
Oxford Canal	The Wyken Loop (1,333 yards in length) from its commencement by a junction with the main canal at Wyken Double Bridge to its termination by another such junction at Stonebridge, all in the city and county borough of Coventry	9 Geo. 3 c. lxx.

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—cont.

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British Waterways Act 1966

CHAPTER xiii

ARRANGEMENT OF SECTIONS

Section

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SCHEDULE—The waterways referred to in section 3 (Relief from obligation to maintain certain waterways for navigation and extinguishment of navigation rights) of this Act.

