

ELIZABETH II



1967 CHAPTER iv

An Act to authorise the Tees Valley and Cleveland Water Board to construct works and to acquire lands; and for other purposes. [22nd March 1967]

WHEREAS—

(1) By the Tees Valley and Cleveland Water Acts and Orders 1907 to 1966 the Tees Valley and Cleveland Water Board (in this Act referred to as “the Board”) are the authorised undertakers for the supply of water within an extensive area in the counties of Durham and the North Riding of the County of York, including the boroughs of Redcar, Stockton-on-Tees and Thornaby-on-Tees, and in the county borough of Middlesbrough:

(2) In accordance with the provisions of the Tees Valley and Cleveland Water Act 1959 the existing impounding reservoirs 1959 c. xlii. of the Board in the catchment area of the river Tees are used, subject to a limited direct abstraction of water by means thereof, to regulate the flow of water in the river Tees for the purpose of abstraction by the Board at their existing pumping station at Broken Scar in the county borough of Darlington:

(3) The demand for water within the Board's limits of supply is increasing and is likely further to increase and it is necessary to augment the resources available to meet this demand:

(4) It is accordingly expedient to confer powers on the Board for the construction of a new impounding reservoir as a conservation work for river regulation in conjunction with the said existing reservoirs, in order to enable the Board, by licence from the Northumbrian River Authority, to abstract increased quantities of water from the river Tees at Broken Scar and at such other point downstream from Broken Scar as they may, in pursuance of applications made under the Water Resources Act 1963 and the Water Acts 1945 and 1948, be so authorised to abstract water from the river:

1963 c. 38.

(5) Consultation has taken place with the Water Resources Board, the Northumbrian River Authority and other persons and bodies before formulation of the scheme of works authorised by this Act to meet the immediate needs of the Board for additional water resources:

(6) The site of the new reservoir described in this Act includes lands subject to commonable rights and, by reason of the provisions of the Commons Acts 1876 and 1899 it is necessary for the Board to obtain the authority of Parliament for the acquisition of the lands required for the said reservoir:

(7) There are mineral workings and minerals remaining unworked in part of the site of the said reservoir, and in an extensive area of lands on and near Widdybank Fell adjoining the site which forms a natural embankment against water to be stored in the said reservoir, and it is expedient to confer on the Board powers to protect the reservoir against the exercise of mining or other rights in these lands:

(8) It is expedient that the other provisions contained in this Act be enacted:

(9) The purposes of this Act cannot be effected without the authority of Parliament:

(10) Estimates have been prepared for the purpose hereinafter mentioned and such estimates are as follows:—

The construction of the works authorised by	
this Act	£2,300,000

(11) The works included in such estimates are permanent works and it is expedient that the cost thereof should be spread over a number of years:

(12) Plans and sections showing the lines and levels of the works authorised by this Act and showing the lands required or which may be taken for the purposes or under the powers of this

Act, and also a book of reference containing the names of the owners and lessees, or reputed owners and lessees, and of the occupiers of those lands, were duly deposited in the office of the Clerk of the Parliaments and in the Private Bill Office of the House of Commons and with the respective clerks of the county councils of the administrative counties of Durham and Westmorland, which plans, sections and book of reference are in this Act referred to respectively as the deposited plans, sections and book of reference:

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:—

PART I

PRELIMINARY

1.—(1) This Act may be cited as the Tees Valley and Cleveland Water Act 1967.

Short and collective titles.

(2) The Tees Valley and Cleveland Water Acts and Orders 1907 to 1966 and this Act may be cited together as the Tees Valley and Cleveland Water Acts and Orders 1907 to 1967.

2. This Act is divided into Parts, as follows:—

Division of Act into Parts.

Part I.—Preliminary.

Part II.—Works.

Part III.—Lands.

Part IV.—Finance and miscellaneous.

3.—(1) In this Act, unless the context otherwise requires, expressions to which meanings are assigned by the enactments wholly or partly incorporated herewith have the same respective meanings; and—

Interpretation.

“ Board ” means the Tees Valley and Cleveland Water Board;

“ local planning authority ” means the Durham County Council in relation to works or operations to be carried out in the county of Durham, the Westmorland County Council in relation to works or operations to be carried out in the county of Westmorland and both such councils acting jointly in relation to works or operations to be carried out in both such counties;

“ Minister ” means the Minister of Housing and Local Government;

PART I
—cont.

“research council” means the Natural Environment Research Council;

“signed plan” means the plan signed in quadruplicate by Clifford Kenyon, the chairman of the Committee of the House of Commons to which the Bill for this Act was referred, of which copies have been deposited at the office of the Clerk of the Parliaments, in the Private Bill Office of the House of Commons and with the respective clerks of the county councils of the administrative counties of Durham and Westmorland;

1945 c. 42.

“Third Schedule” means the Third Schedule to the Water Act 1945;

“undertaking” means the undertaking of the Board as from time to time authorised.

(2) In this Act and in the provisions of the Third Schedule incorporated therewith “protected area map” means the map marked “Tees Valley and Cleveland Water Protected Area Map” included in the deposited plans.

(3) For the purposes of this Act the Cow Green Reservoir (Work No. 1) shall be deemed to be completed when the water level in the said reservoir has on first filling reached the level of 1,603 feet above ordnance datum (Liverpool).

(4) Any reference in this Act to a work identified by the number of such work shall be construed as a reference to the work of that number authorised by this Act.

(5) Unless the context otherwise requires, 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.

Application
of Part I
of Compulsory
Purchase
Act 1965.1965 c. 56.
1946 c. 49.

4.—(1) Subject to the provisions of this Act, Part I of the Compulsory Purchase Act 1965 (except sections 4, 21 (2) (b), 24 (5) and 27 and paragraph 3 (3) of Schedule 3 thereof) shall apply for the purposes of the acquisition of land under this Act as it applies in relation to a compulsory purchase order under the Acquisition of Land (Authorisation Procedure) Act 1946 and as if this Act was such an order.

(2) In section 11 (1) of the Compulsory Purchase Act 1965 as so applied, for the words “fourteen days” there shall be substituted the words “three months”.

1845 c. 20.

(3) (a) Section 16 of the Railways Clauses Consolidation Act 1845 and the provisions of that Act with respect to the temporary occupation of lands near the railway during the construction thereof are hereby incorporated with this Act subject to the

provisions of paragraph (b) of this subsection and to the modification that for the words "the period by the special Act limited for the completion of the railway" there shall be substituted the words "the period of four years from the commencement of the construction of any of the works authorised by the special Act".

PART I
—cont.

(b) In the construction of the provisions of the Railways Clauses Consolidation Act 1845 incorporated with this Act 1845 c. 20. "the company" shall mean the Board, "the railway" shall mean the works authorised by this Act, and "the centre of the railway" shall mean the centre of any such works respectively or, in the case of the reservoir so authorised, the top water level of that reservoir.

(4) For the purposes of this Act, the provisions of the Third Schedule specified in column (1) of the Schedule to this Act shall, subject to the modifications specified in column (2) thereof, apply to the undertaking and, subject as aforesaid, are hereby incorporated with this Act.

PART II WORKS

5.—(1) Subject to the provisions of this Act, the Board may construct in the lines or situations and within the limits of deviation shown on the deposited plans, and according to the levels shown on the deposited sections, and upon the lands delineated on those plans, the following works:—

In the counties of Durham and Westmorland—

Work No. 1 An impounding reservoir (to be called "the Cow Green Reservoir") in the parish of Forest and Frith in the rural district of Barnard Castle in the county of Durham and in the parish of Dufton in the rural district of North Westmorland in the county of Westmorland to be formed by means of a dam across the river Tees at a point 680 yards or thereabouts upstream from the confluence of the Maize Beck with the river Tees commencing in the said parish of Dufton at a point 220 yards or thereabouts from the right bank of the said river and terminating at a point 380 yards or thereabouts from the left bank of the said river;

Work No. 2 A diversion of the road or track (including a bridge over the river Tees with a good and sufficient fence on each side of the said bridge) in the said parishes of Forest and Frith and Dufton leading from Langdon Beck to Birkdale Farm commencing at a point 130 yards or thereabouts northwards from the crossing of the stream known as Red Sike and

PART II
—cont.

terminating at a point 400 yards or thereabouts southwards from the existing bridge over the river Tees.

In the county of Durham—

Work No. 3 An access road in the said parish of Forest and Frith commencing by a junction with the existing highway leading from Langdon Beck to Peghorn Lodge and terminating at a point 800 yards or thereabouts north-eastwards from the existing building of the former Cow Green Mine;

Work No. 4 An access road in the said parish of Forest and Frith commencing by a junction with the access road (Work No. 3) at the point of termination thereof and terminating at a point 430 yards or thereabouts northwards from the said existing building of the former Cow Green Mine;

Work No. 5 An access road in the said parish of Forest and Frith commencing by a junction with the access road (Work No. 4) at the point of termination thereof and terminating at the site of the dam of the Cow Green Reservoir (Work No. 1).

(2) Notwithstanding anything in subsection (1) of this section or shown on the deposited plans, the Board shall not construct Works Nos. 1, 2 and 5, or any part of those works, in the area shown coloured pink on the signed plan and accordingly—

- (a) the limits of deviation for the said works Nos. 1, 2 and 5 shall be taken to exclude the said area; and
- (b) the limits of deviation for the access road (Work No. 4) within the said area shall be the limits of deviation for that work shown coloured red on the said plan in substitution for the limits of deviation for that work shown on the deposited plans.

(3) The Board may maintain such of the works so authorised as, in accordance with the provisions of section 6 (Works to form part of undertaking) of this Act, form part of the undertaking.

Works to form part of undertaking.

6. The works authorised by this Act (other than the road diversion (Work No. 2) and, as from the date of the completion of the Cow Green Reservoir (Work No. 1), other than so much of the access road (Work No. 5) as is below the top water level of the reservoir) shall for all purposes form part of and be comprised in the undertaking.

Grouting.

7.—(1) Notwithstanding anything in this Act the Board shall not, for the purpose of, or in connection with, the works authorised by this Act, carry out grouting operations in any area south of a

line drawn straight from the confluence of the stream known as the Sandsike and the Harwood Beck and the point of commencement of the access road (Work No. 3) thence along the northern limit of deviation for that work to the point of termination of that work and thence drawn straight to the existing confluence of the stream known as Weelhead Sike and the river Tees except in the area comprising the site of the dam (part of Work No. 1) and within 250 yards measured in a horizontal direction from any part of the centre line of the dam so far as that last-mentioned area is within the limits of deviation for Work No. 1.

PART II
—cont.

(2) In this section “grouting operations” means operations for injecting under pressure liquid cement or other matter into the ground for the purpose of preventing or impeding the percolation of water in underground strata.

8.—(1) The Board may divert—

Diversion of
road and
footpath.

(a) the portion of the road or track leading from Langdon Beck to Birkdale Farm in the parish of Forest and Frith in the rural district of Barnard Castle in the county of Durham and in the parish of Dufton in the rural district of North Westmorland in the county of Westmorland shown on the deposited plans and thereon denoted by the letters a to b; and

(b) the portion of the footpath known as the Pennine Way in the said parishes so shown and denoted by the letters c to b;

and, subject to the provisions of this section, may stop up and cause to be discontinued so much of the said road or track and so much of the said footpath as will be rendered unnecessary by the diversion thereof under the powers of this Act.

(2) Notwithstanding anything in subsection (1) of this section, no part of the portions of the said road or track and of the said footpath therein referred to shall be stopped up under the powers of this section until, in the case of the said road or track, the road diversion (Work No. 2) and, in the case of the said footpath, so much of the road diversion (Work No. 2) as is to be substituted for the said portion of footpath, is completed to the satisfaction of the Durham County Council and the Westmorland County Council, and is open for use or, in the case of difference between the Board and the said county councils, or either of them, until the Minister of Transport shall have certified that the said road diversion, or part thereof (as the case may be), has been completed to his satisfaction and is open for use:

Provided that the Board shall not be required under this section to construct or complete the said road diversion, or any part

PART II
—cont.

thereof, to a greater width or better standard than the portion of road or track and footpath for which it, or such part thereof (as the case may be), is substituted.

(3) As from the stopping up under the powers of this section of any part of the said road or track or of the said footpath, all rights of way over or along the part thereof so stopped up shall be extinguished and the Board may appropriate and use for the purposes of the undertaking the site and soil thereof so far as they are owners in possession of the land on both sides thereof.

(4) So much of the road diversion (Work No. 2) as is to be substituted for the portion of the said footpath shall, to the extent to which it is so required for that purpose, be repairable by the authority or person by whom the portion of footpath so stopped up was repairable before its diversion and shall be subject to the same public rights of way as were exercisable over the said footpath before its diversion.

(5) Subject to the provisions of subsection (4) of this section, the road diversion (Work No. 2) shall be repairable by the authority or person by whom the portion of road or track so stopped up was repairable before its diversion and shall be subject to the same public rights of way (if any) as were exercisable over the said road or track before its diversion.

Temporary
stoppage of
highways, etc.

9.—(1) The Board during, and for the purposes of, the execution of any of the works authorised by this Act, may temporarily stop up, alter, divert or otherwise interfere with any highway or drain or any private right of way, and, in the case of any highway or right of way, may for any reasonable time divert the traffic therefrom and prevent all persons other than those bona fide going to or from any land, house or building abutting on the highway or right of way from passing along and using the same.

(2) The Board shall provide reasonable access for foot passengers bona fide going to or from any such land, house or building.

(3) (a) The powers of subsection (1) of this section shall not be exercised by the Board in relation to a highway without the consent of the highway authority, which consent shall not be unreasonably withheld, but may be given subject to such reasonable conditions (other than a monetary payment) as the highway authority may require, and any question whether such consent is unreasonably withheld, or any conditions so imposed are unreasonable, shall be determined by the Minister of Transport.

(b) The powers of subsection (1) of this section shall not be exercised by the Board in relation to any drain without providing a proper substitute before interrupting the passage of water in or through such drain, and the Board shall make compensation

for any damage caused to any person by the exercise of such powers in relation to any drain, the amount of such compensation being, in case of dispute, determined by arbitration.

PART II
—cont.

10.—(1) Subject to the provisions of this Act, the Board may for the purposes of the undertaking divert or impound and use in accordance with the provisions of this Act the waters of the river Tees and all such other streams, springs, tributaries and feeders flowing into the said river, and all such other waters, rivers, streams, springs, tributaries and feeders as may be intercepted by means of the Cow Green Reservoir (Work No. 1). Power to impound and use waters.

(2) During the construction of the Cow Green Reservoir (Work No. 1), the Board may take from the river Tees, or any such streams, springs, tributaries and feeders, within the limits of deviation for the said reservoir, such water as they may require for the construction of the works authorised by this Act.

(3) Subject to the provisions of this Act, the Board may raise or lower or regulate the water, or the level or the flow of water, in the river Tees and all such streams, tributaries and feeders as may be intercepted by means of the Cow Green Reservoir (Work No. 1), or any of them, to such extent as may be necessary for the purpose of the construction or operation of the works authorised by this Act, or other the purposes of the undertaking.

11.—(1) On and from the date of the completion of the Cow Green Reservoir (Work No. 1) the Board shall discharge from the reservoir— Discharge of water.

(a) such quantities of water, not exceeding 400,000,000 gallons in any year, at such rate, not exceeding 10,000,000 gallons per day, as may from time to time be required for compliance with any instructions given to the Board by the Northumbrian River Authority in accordance with any condition from time to time in force relating to the provision of freshets; and

(b) such quantities of water as may from time to time be necessary for the purpose of ensuring, as nearly as may be, that the rate of flow in the river Tees at any point at which they may be authorised to abstract water is such as may be required under any provisions or conditions from time to time in force relating to the abstraction of water at that point, having regard to the quantity so abstracted at that point:

Provided that, of any quantity of water required to be discharged at any time for such purposes from the Lune and Balder works under section 13 (Discharge of water after completion of Balderhead Reservoir) of the Tees Valley and Cleveland Water Act 1959 1959 c. xlii. and from the Cow Green Reservoir (Work No. 1), not less than one-third shall be discharged from the Cow Green Reservoir.

PART II
—cont.

(2) Notwithstanding anything in subsection (1) of this section, during the first filling and on and from the date of the completion of the Cow Green Reservoir (Work No. 1), the Board shall at all times discharge water in a uniform and continuous flow into the river Tees, as compensation for the waters of that river impounded by means of the said reservoir, at a rate of not less than 8,500,000 gallons per day:

Provided that, if at any time until on first filling the water level in the said reservoir has reached the level of 1,555 feet above ordnance datum (Liverpool) the rate of flow of water into the reservoir does not exceed 8,500,000 gallons per day, the Board shall only be required so to discharge water into the river Tees as compensation water at the rate at which water so flows into the reservoir.

Provisions
applicable to
foregoing
section.

12.—(1) If the Board fail to comply with the requirements of subsection (2) of section 11 (Discharge of water) of this Act with respect to the discharge of compensation water they shall, without prejudice to their civil liability (if any) to a person aggrieved, be liable, in the case of any such offence—

- (i) on summary conviction to a fine not exceeding fifty pounds in respect of each day on which the offence has been committed or has continued; and
- (ii) on conviction on indictment, to a fine not exceeding five hundred pounds in respect of each such day:

Provided that the Board shall not be under any liability under the foregoing provisions of this section in respect of any such failure as is therein referred to, if such failure is due to unavoidable accident or other unavoidable cause.

(2) The provisions of subsection (2) of the said section 11 and the foregoing provisions of this section shall be accepted and taken by all persons interested as full compensation for all waters which the Board may impound by means of the Cow Green Reservoir (Work No. 1).

Gauging of
upland
reservoirs of
Board.

13.—(1) Not later than the commencement of the first filling of the Cow Green Reservoir (Work No. 1) the Board shall provide and thereafter maintain, to the reasonable satisfaction of the Northumbrian River Authority, apparatus—

- (a) for the measurement and recording of—
 - (i) the depth of water from time to time in the said reservoir; and
 - (ii) the rate of flow of any water from time to time discharged from, or overflowing the dam of, the said reservoir;

(b) for the automatic transmission to the Broken Scar pumping station of the Board of information from time to time recorded by the apparatus referred to in paragraph (a) of this subsection and of information from time to time recorded by apparatus provided by the Board at their Balderhead, Blackton, Grassholm, Hury and Selsset reservoirs for the measurement and recording of—

(i) the depth of water from time to time in each of the said reservoirs; and

(ii) the quantity of water from time to time discharged by the Board from the Grassholm Reservoir into the river Lune or from the Hury Reservoir into the river Balder not being water overflowing from the said reservoirs.

(2) In the event of the Board and the Northumbrian River Authority failing to agree with respect to any apparatus to be provided or anything to be done under subsection (1) of this section the matter in dispute shall be determined by the Water Resources Board.

(3) The provisions of subsections (2) to (7) of section 49 (As to recording water taken and depths of reservoirs) of the Tees Valley Water Act 1953 shall, subject to any necessary modifications, and except in so far as other provision is made in this section, apply in relation to Cow Green Reservoir (Work No. 1) and to the apparatus provided in accordance with paragraph (a) of subsection (1) of this section as they apply in relation to the reservoirs, gauges, recorders and recording instruments specified in the said section 49 and in subsection (1) of section 17 (As to gauges, etc.) of the Tees Valley and Cleveland Water Act 1959. 1953 c. xxxiv. 1959 c. xlii.

(4) On and from the date of the completion of the Cow Green Reservoir (Work No. 1) section 50 (Record of quantities of water taken by Board) of the Tees Valley Water Act 1953, as amended by subsection (2) (b) of section 17 (As to gauges, etc.) of the Tees Valley and Cleveland Water Act 1959, shall have effect as if after the words “Lune and Balder” there were inserted the words “and of water in pursuance of section 11 (Discharge of water) of the Tees Valley and Cleveland Water Act 1967 discharged daily by the Board into the river Tees”.

14.—(1) It shall be lawful for the Board to divert and alter the course of any river, stream, watercourse or ditch over any lands acquired by them for the purposes of the works authorised by this Act and the existing bed, banks and channel of the diverted portion of any such river, stream, watercourse and Power to divert rivers, streams, etc.

PART II
—cont.

ditch, together with all riparian rights, shall, by virtue of this Act, vest in the Board and may be appropriated and used by the Board for the purposes of, or in connection with, those works.

(2) In the exercise of the powers conferred by this section the Board shall do as little damage as may be, and shall pay compensation to all persons for damage sustained by them, or any liability to which they may become subject, by reason of the exercise of those powers, and any difference as to the amount of the compensation to be paid shall be determined by arbitration.

(3) The provisions of this section shall be in addition to, and not in substitution for, or in derogation of, any other provision of this Act relating to the diversion of rivers, streams, watercourses or ditches or the acquisition of lands.

Application
of section 145
of Local
Government
Act 1933.
1933 c. 51.
1930 c. 44.

15. The provisions of section 145 of the Local Government Act 1933 shall apply with respect to the alteration of any watercourse under the powers of section 14 (Power to divert rivers, streams, etc.) of this Act as if the alteration were done in the exercise of powers conferred by the Land Drainage Act 1930.

Accommoda-
tion for
workmen
employed on
construction
of works.

16. The Board shall provide and maintain, or cause to be provided and maintained, for the workmen employed in and about the construction of the works authorised by this Act such accommodation and such arrangements for meals as shall be reasonably necessary having regard to the accommodation available in the neighbourhood of, or conveniently accessible from, the said works, and shall provide and maintain proper and sufficient sanitary accommodation for such workmen.

Preservation
of amenities.

1949 c. 97.

17.—(1) In the construction and maintenance of the works authorised by this Act, and in the exercise of any other powers conferred on the Board by this Part of this Act (other than sections 10 to 13) in any land managed as a nature reserve by the research council or any area of land notified under section 23 of the National Parks and Access to the Countryside Act 1949 as an area of special scientific interest, the Board shall have regard—

- (a) to the preservation for the public of the natural beauty of the area in which those works are situate and the enjoyment of the area by the public; and
- (b) to the conservation of flora and fauna and geological or physiographical features of special scientific interest in the area.

(2) For the purposes of the foregoing provisions of this section, the Board shall appoint a landscape consultant to advise in connection with the duties of the Board under subsection (1) (a) of this section.

(3) For the purpose of the objects referred to in paragraphs (a) and (b) of subsection (1) of this section the Board shall—

PART II
—cont.

(a) without prejudice to anything in the Town and Country Planning Act 1962 or any order made thereunder— 1962 c. 38.

(i) consult with the local planning authority as to the design and external appearance of any dam, building, bridge, measuring gauge, weir, wall, embankment, road or other means of access, pier or fence to be constructed for the purposes of, or in connection with, the works authorised by this Act; and

(ii) consult with the local planning authority and the research council as to—

(A) the situation of any building (including all temporary buildings and structures to be erected for the accommodation of workmen or otherwise), bridge, measuring gauge, weir, wall, embankment (other than any embankment to be constructed as part of, or in connection with, any dam), road or other means of access, pier or fence to be constructed for the purposes of, or in connection with, the works authorised by this Act; and

(B) the manner, method and place of carrying out quarrying operations in any area other than the area of the reservoir below top water level shown on the deposited plans or the manner, method and place of disposing in any such area first before mentioned of any spoil or waste material resulting from the carrying out of any operation in connection with such works under this Act, the reinstatement or restoration of land, the planting or felling of trees or the planting of bushes or other plants;

(b) send to the local planning authority copies of any recommendations made by the landscape consultant appointed in pursuance of subsection (2) of this section with regard to any of the matters referred to in paragraph (a) of this subsection and comply with such reasonable requirements as the local planning authority shall make—

(i) for the purpose of rendering any such dam, building, bridge, measuring gauge, weir, wall, embankment, road, fence, spoil or waste material as inconspicuous as possible, including any such requirements as shall be so made for such purpose as to the removal thereof, the laying of turf, the sowing of grass seed or the planting of trees, bushes or plants; or

PART II
—cont.

(ii) with regard to the carrying out of quarrying operations or the disposal as aforesaid of any such spoil or waste material.

(4) Before making any requirement with regard to the disposal of spoil or waste material the local planning authority shall consult with the Minister of Agriculture, Fisheries and Food and the research council and shall not under this section consent to or require the deposit of any spoil or waste material along or within 100 feet of the bank of any watercourse without first consulting with the river authority in whose area such watercourse is situated.

(5) Within six months after the completion of any of the works authorised by this Act, or such longer period as the local planning authority may agree, the Board shall remove, or, to the reasonable satisfaction of the local planning authority demolish or otherwise dispose of, all temporary buildings and structures erected for the purposes of, or in connection with, the construction of those works which are not required for the purposes of, or in connection with, the construction of other such works, and shall remove all surplus materials, plant, machinery and appliances provided or erected in connection therewith which are not so required, and shall, so far as is reasonably practicable, to the like satisfaction, restore and make good the surface of the ground on which any such temporary buildings and structures or any such surplus materials, plant, machinery and appliances as aforesaid have been placed.

(6) If any question shall arise as to the reasonableness of any requirements which the local planning authority may make under subsections (3) to (5) of this section the question shall be referred to and determined by the Minister, whose decision shall be final, and if any such question relates to the deposit of spoil or waste material along or within 100 feet from the bank of any watercourse, the river authority in whose area such watercourse is situate may make representations to the Minister with regard to such deposit and shall be entitled to be heard by the Minister at any inquiry with reference thereto.

(7) Before making a determination under this section the Minister may cause such inquiries to be held as he may consider necessary and the provisions of section 290 of the Local Government Act 1933 shall apply to any such inquiry held by him.

1933 c. 51.

(8) In this section—

“spoil and waste material” means any rock, sand, mud or other materials removed by the Board under the powers of this Act and not required for the purpose of the construction of the works authorised by this Act.

Application
of Water
Resources
Act 1963.
1963 c. 38.

18.—(1) For the purposes of section 36 of the Water Resources Act 1963 (which restricts the construction of impounding works

without a licence unless the construction or alteration is authorised by an alternative statutory provision for the time being in force), and section 48 of that Act (which provides for the revocation or variation of authorisation to impound under an alternative statutory provision), this Act shall be deemed to be an alternative statutory provision within the meaning of subsection (3) of the said section 36.

PART II
—cont.

(2) For the purpose of section 56 of the said Act (which contains transitional provisions for the purposes of Part IV of that Act), this Act shall be deemed to be a statutory provision coming into operation in pursuance of an application made before the end of the initial period.

19.—(1) Except as expressly provided in this Act nothing in this Act shall prejudice, lessen or affect any rights, power or jurisdiction of the Northumbrian River Authority under the Land Drainage Act 1930 and the Land Drainage Act 1961.

For protection
of Northum-
brian River
Authority.
1930 c. 44.

(2) Nothing in this Act shall relieve the Board or any other person from the obligation to obtain the consent of the Northumbrian River Authority under section 7 of the Rivers (Prevention of Pollution) Act 1951 to the bringing into use of any new or altered outlet for the discharge of trade or sewage effluent to a stream or to the making of any new discharge of trade or sewage effluent to a stream.

1961 c. 48.
1951 c. 64.

20. The following provisions for the protection of the Durham County Council and the Westmorland County Council (in this section referred to as “the county councils”) shall, except as otherwise agreed in writing between the Board and the county councils, have effect:—

For protection
of Durham
and West-
morland
county
councils.

- (1) (a) Before beginning to construct the bridge over the river Tees (part of Work No. 2) the Board shall submit to each of the county councils for their reasonable approval such plans, sections and particulars (including details of construction) of the bridge as they may reasonably require;
- (b) If either of the county councils do not within forty-two days after the receipt of such plans, sections and particulars give notice in writing to the Board signifying their disapproval thereof they shall be deemed to have approved them;
- (c) The said bridge shall be constructed in accordance with such plans, sections and particulars as may be approved, or are deemed to be approved, by both the county councils, or, if either of the county councils shall have signified their disapproval, as may be settled by arbitration;

PART II
—cont.

- (d) The Board shall give reasonable notice to each of the county councils of the time at which the construction of the bridge is intended to begin and such work, when begun, shall be carried out with all reasonable dispatch and to the reasonable satisfaction of the surveyors to each of the county councils;
- (e) The Board shall at all reasonable times afford to the said surveyors access to the bridge works for the purpose of inspecting the same:
- (2) The Board shall, during such period as the Cow Green Reservoir (Work No. 1) is in process of construction, pay to the Durham County Police Authority and to the police authority for the county of Westmorland the cost of maintaining such an additional number of police as may be reasonably necessary for the due preservation of order in the area of each such authority respectively in which the said reservoir is situate in consequence of the construction of the said reservoir:
- (3) The Board shall, during the said period, pay to the Durham County Council and to the Westmorland County Council all expenses reasonably incurred by each of them respectively as local education authority—
- (a) in providing and maintaining any additional accommodation of a temporary character which may be necessary for the education of the children or dependants of employees of the Board, their contractors or agents, employed in, or in connection with, the construction of the said reservoir; and
- (b) in providing means of transport for such children or dependants to and from the nearest school from and to their places of abode:
- (4) In calculating any payment to be made under paragraph (3) of this section regard shall be had to any sums receivable by each such authority by way of any grant applicable in respect of such cost or expenses as are referred to in that paragraph but so that no additional cost shall be imposed upon any such authority:
- (5) Any difference which may arise between the Board and either of the county councils or police authorities under this section shall be determined by arbitration.

PART III

LANDS

Power to acquire lands. 21.—(1) Subject to the provisions of this Act, the Board may enter upon, take and use such of the lands delineated on the

deposited plans and described in the deposited book of reference as may be required for the purpose of the works authorised by this Act, or for the purposes of obtaining access thereto, obtaining materials for the construction thereof, or otherwise for the purposes of this Act:

PART III
—cont.

Provided that, except as may be otherwise agreed with the owners and occupiers thereof, the Board shall not under the powers of this section acquire compulsorily any lands outside the limits of deviation for Works Nos. 1, 2 and 5 shown on the deposited plans, as having effect in accordance with the provisions of subsection (2) of section 5 (Power to construct works) of this Act, but may, in accordance with the provisions of section 25 (Power to acquire easements only) of this Act, acquire compulsorily such easements and rights as they require in the lands shown—

- (a) on the deposited plans within the limits of deviation for the access road (Work No. 3) and within the limits of land which may be acquired for access; and
- (b) on the signed plan within the limits of deviation for the access road (Work No. 4).

(2) The powers of the Board for the compulsory acquisition of lands under this section shall cease after the expiration of the period of three years from 31st December, 1966.

22.—(1) If the deposited plans 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 two justices having jurisdiction in the place where the land is situated for the correction thereof.

Correction of errors in deposited plans and book of reference.

(2) If, on any such application, it appears to the justices that the misstatement or wrong description arose from mistake, the justices shall certify the fact accordingly and shall in their 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 copies thereof shall be deposited in the Private Bill Office, House of Commons, and with each clerk of a county council and with every clerk of a local authority (within the meaning of that expression in the Local Government Act 1933), and with each chairman of a parish council or parish meeting, with whom a copy of the deposited plans (or of so much thereof as includes the land to which the certificate relates) has been deposited in accordance with the standing orders of the Houses of Parliament, or who has the custody of any such copy so deposited, and thereupon the deposited plans and the deposited

1933 c. 51.

PART III
—cont.

book of reference shall be deemed to be corrected according to the certificate, and it shall be lawful for the Board to take or use or purchase the land 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.

Disregard of recent improvements and interests.

23. In determining any question of disputed compensation or purchase money in respect of land or easements or rights over or in land acquired under this Act, the tribunal by whom compensation is to be assessed shall not take into account—

(a) any improvement or alteration made, or building erected, after 4th December, 1965; 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 or created with a view to obtaining, or increasing, the compensation or purchase money.

Extinction of private rights of way.

24.—(1) All private rights of way over any land which 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, under, and in accordance with, the Land Compensation Act 1961.

1961 c. 33.

Power to acquire easements only.

25.—(1) The Board may, instead of acquiring any land which they are authorised to acquire compulsorily under this Act, acquire compulsorily such easements and rights over or in the land as they may require for the purpose of doing anything in connection with the works authorised by this Act.

1965 c. 56.

(2) Accordingly the Board may give notice to treat in respect of any such easements or rights describing the nature thereof, and the provisions of Part I of the Compulsory Purchase Act 1965 as applied by this Act shall have effect in relation to the acquisition of such easements and rights as if they were lands within the meaning of those provisions.

(3) Where the Board have acquired an easement or right only over or in any land under this section—

(a) they shall not be required, or (except by agreement or during the execution of the works authorised by this Act), entitled, to fence off or sever that land from the adjoining land;

(b) the owner or occupier of the land for the time being shall, subject to the easement or right, have the same right to use the land as if this section had not been enacted.

PART III
—cont.

(4) If in his particulars of claim the owner of any land in respect of which notice to treat for an easement or right is given under this section requires the Board to acquire the land, the Board shall not be entitled under this section to acquire the easement or right unless the Lands Tribunal determines that the easement or right can be granted without material detriment to the land and, if the tribunal does not so determine, the Board may acquire the land compulsorily notwithstanding that the period mentioned in subsection (2) of section 21 (Power to acquire lands) of this Act has expired, but not later than one year after the determination of the tribunal.

(5) A notice to treat given under this section shall be endorsed with notice of the effect of subsection (4) of this section.

26. The power of the Board of purchasing land by agreement shall include power to purchase land by agreement for the purpose of providing substituted sites or facilities for the owners and occupiers of land which may be acquired under this Act. Provision of substituted sites.

27.—(1) The Board may enter into, and carry into effect, agreements with any person, being the owner of, or interested in, any land abutting on any portion of the lands which may be acquired under this Act, with respect to the sale by the Board to him of any land. Agreements with adjoining owners.

(2) The Board may accept, as satisfaction for the whole or any part of the consideration for any such sale, the grant by the purchaser of any land required by the Board for the purposes of this Act, or any easement or right so required.

28.—(1) The Board may enter into, and carry into effect, an agreement or arrangement with the owner or occupier of any land acquired under this Act with respect to his reinstatement. Power to reinstate owners or occupiers of property.

(2) Any such agreement may provide for the exchange of land and, for that purpose, the Board may pay or receive money for equality of exchange.

PART IV

FINANCE AND MISCELLANEOUS

29.—(1) In addition and without prejudice to their powers of borrowing under the Local Government Act 1933 (as applied by section 42 (Borrowing powers) of the Tees Valley and Cleveland Water Order 1958), or any other enactment, the Board may borrow— Power to borrow. 1933 c. 51.

(a) such sums as may be necessary for any of the purposes of this Act;

PART IV
—cont.

(b) without the consent of any sanctioning authority, for any of the purposes specified in column (1) of the following table, the sum specified in relation thereto in column (2) of that table.

(2) Every sum borrowed under paragraph (a) of the foregoing subsection shall be repaid within such period from the date of borrowing as the Board, with the consent of the sanctioning authority, may determine, not exceeding sixty years.

(3) Every sum borrowed under subsection (1) (b) of this section shall be repaid within such period from the date of borrowing as the Board, without the consent of any sanctioning authority, may determine, not exceeding the period specified in relation thereto in column (3) of the following table.

1933 c. 51. (4) Subject to the provisions of this section, Part IX of the Local Government Act 1933 shall have effect as if money borrowed under this section were borrowed under that Part.

1946 c. 58. (5) It shall not be lawful to exercise the powers of borrowing conferred by this section, other than the power of borrowing to pay the costs, charges and expenses of this Act, except in compliance with any order for the time being in force under section 1 of the Borrowing (Control and Guarantees) Act 1946.

Purpose for which money may be borrowed	Amount	Maximum period for repayment of loan
(1)	(2)	(3)
(a) The purchase of lands and easements and the payment of compensation for rights	The sum required	Sixty years.
(b) The construction of Works Nos. 1 to 5	£2,300,000	Sixty years.
(c) The payment of the costs, charges and expenses of this Act	The sum required	Five years.

Application of provisions of Local Government (Financial Provisions) Act 1963.
1963 c. 46.

30.—(1) The Board shall have the powers and be subject to the restrictions and duties conferred or imposed on local authorities by the provisions of the Local Government (Financial Provisions) Act 1963 mentioned in subsection (2) of this section and, subject to the provisions of the Tees Valley and Cleveland Water Acts and Orders 1907 to 1967 those provisions shall apply to the Board with any necessary modifications as if the Board were a local authority other than a parish council.

(2) The provisions of the Local Government (Financial Provisions) Act 1963 referred to in subsection (1) of this section are the following:—

PART IV
—cont.

1963 c. 46.

Section 7 (1) and (2), section 8 (1), (3) and (4), section 10 (1) to (4) and Schedule 1 (which enactments contain general provisions as to borrowing).

31. Whereas—

Vesting of
common
lands at
Balderhead.
1959 c. xlii.

(1) by the Tees Valley and Cleveland Water Act 1959 the Board were authorised to construct their Balderhead Reservoir and other works and for this purpose to acquire lands, including lands forming part of Cotherstone Moor in the parish of Cotherstone in the rural district of Startforth in the North Riding of the County of York shown on the plans deposited in connection with the Bill for that Act and thereon numbered 1, 10 and 31 (hereinafter called “ the Balderhead lands ”);

(2) Cotherstone Moor is a regulated pasture and, by virtue of paragraph 2 of Part V of Schedule 1 to the Law of Property Act 1925, it became vested in the Public Trustee on the statutory trusts specified in that paragraph;

1925 c. 20.

(3) notice to treat for the sale of the Balderhead lands and notice of entry thereon was duly served by the Board on the Secretary of the Field Reeves for Cotherstone Moor on 15th November, 1960, and notice to treat was served on the Public Trustee on 4th September, 1962, in accordance with the provisions of the said Act of 1959 and the Lands Clauses Acts incorporated therewith:

Now it is hereby declared that the Board may proceed with the acquisition of the Balderhead lands in accordance with the provisions of Part I of the Compulsory Purchase Act 1965 as incorporated in this Act, and if accordingly a meeting of the persons entitled to commonable or other rights over or in the Balderhead lands is convened by the Board by the publication of notice in accordance with paragraph 4 of Schedule 4 to the said Act of 1965, the first such publication being within six months from the passing of this Act, the compensation payable for the Balderhead lands shall be settled in accordance with the provisions of that Act, and on payment or tender of such compensation (with interest thereon at the rate prescribed under section 32 of the Land Compensation Act 1961 from the date of entry by the Board on the Balderhead lands or any part thereof) being made in accordance with the provisions of the said Act of 1965 the fee simple estate in the Balderhead lands shall, notwithstanding

1965 c. 56.

1961 c. 33.

PART IV
—cont.

anything in the said Act of 1925 or any other enactment and without the leave of the court being obtained, vest in the Board freed from such commonable or other rights.

Amendment
of section 10
of Tees
Valley and
Cleveland
Water Act
1958.

1958 c. xlv.

32. Section 10 (Supplies to premises in area of development) of the Tees Valley and Cleveland Water Act 1958 shall have effect as if for the words " five years " there were substituted the words " twelve years ".

Saving for
town and
country
planning.
1962 c. 38.

33. The provisions of the Town and Country Planning Act 1962, and any restriction or power 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.

Costs of
Act.

34. The costs, charges and expenses preliminary to, and of and incidental to, the preparing, applying for, obtaining and passing of this Act as taxed and ascertained by the taxing officer of the House of Lords or of the House of Commons shall be paid by the Board out of their common fund or out of moneys to be borrowed under this Act.

SCHEDULE

Section 4.

PROVISIONS OF THIRD SCHEDULE TO WATER ACT 1945 APPLIED 1945 c. 42.

(1) Provisions applied	(2) Modifications
Part II (Works and Lands) (except sections 7 and 9)	<p>In section 2 for the words "plans submitted to the Minister" there shall be substituted the words "deposited plans" and for the words "said plans" wherever they occur there shall be substituted the words "deposited sections".</p> <p>In section 4 for the words "any land for the time being held by them in connection with their water undertaking" there shall be substituted the words "the lands delineated on the deposited plans within the limits of land which may be acquired for the authorised works or for access"; and after the word "buildings" there shall be inserted the words "roads, means of access, electrical communication, embankments, fences, piers, bridges".</p>
Part IV (Minerals Underlying Waterworks) (except section 15)	<p>In section 11 the words from "but save as aforesaid" where they first occur to the end of the section shall be omitted.</p> <p>In section 12 for the words "after this section is incorporated with their enactments" there shall be substituted the words "under the special Act"; for the words "all existing pipes or other conduits for the collection, passage, or distribution of water and underground works belonging to them" there shall be substituted the words "all such pipes or other conduits or underground works"; and the words "for the time being belonging to them" shall be omitted.</p> <p>In section 13 for the words from "the prescribed distance" to the words "yards therefrom" there shall be substituted the words "the area shown on the protected area map within the limits of land which may be acquired for the protected area".</p>

SCH.
—cont.

(1) Provisions applied	(2) Modifications
Part IV (Minerals Underlying Waterworks) (except section 15) —cont.	<p>In section 14 after the word “damage” there shall be inserted the words “, or to give rise to the possibility of causing water to leak from,” and the words “shown on the said map” shall be omitted.</p> <p>In section 16 after the words “of the undertakers” there shall be inserted the words “or the area shown on the protected area map within the limits of land which may be acquired for the protected area” and after the words “reservoir or other works” there shall be inserted the words “or the said area”.</p> <p>In section 17 after the word “damage” there shall be inserted the words “or to give rise to the possibility of causing water to leak from”.</p>
Part XVI (General and Miscellaneous) (except sections 79, 80, 81 and 84)	<p>In section 93 (1) after the words “under any enactment” there shall be inserted the words “(other than their new functions under the Water Resources Act 1963)”.</p>

1963 c. 38.

PRINTED BY THE SOLICITORS' LAW STATIONERY SOCIETY, LTD., FOR
 SIR PERCY FAULKNER, K.B.E., C.B.
 Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament
 LONDON: PUBLISHED BY HER MAJESTY'S STATIONERY OFFICE

Price 2s. 3d. net

PRINTED IN ENGLAND



Tees Valley and Cleveland Water Act 1967

CHAPTER iv

ARRANGEMENT OF SECTIONS

PART I

Section

PRELIMINARY

1. Short and collective titles.
2. Division of Act into Parts.
3. Interpretation.
4. Application of Part I of Compulsory Purchase Act 1965.

PART II

WORKS

5. Power to construct works.
6. Works to form part of undertaking.
7. Grouting.
8. Diversion of road and footpath.
9. Temporary stoppage of highways, etc.
10. Power to impound and use waters.
11. Discharge of water.
12. Provisions applicable to foregoing section.
13. Gauging of upland reservoirs of Board.

Section

14. Power to divert rivers, streams, etc.
15. Application of section 145 of Local Government Act 1933.
16. Accommodation for workmen employed on construction of works.
17. Preservation of amenities.
18. Application of Water Resources Act 1963.
19. For protection of Northumbrian River Authority.
20. For protection of Durham and Westmorland county councils.

PART III

LANDS

21. Power to acquire lands.
22. Correction of errors in deposited plans and book of reference.
23. Disregard of recent improvements and interests.
24. Extinction of private rights of way.
25. Power to acquire easements only.
26. Provision of substituted sites.
27. Agreements with adjoining owners.
28. Power to reinstate owners or occupiers of property.

PART IV

FINANCE AND MISCELLANEOUS

29. Power to borrow.
30. Application of provisions of Local Government (Financial Provisions) Act 1963.
31. Vesting of common lands at Balderhead.
32. Amendment of section 10 of Tees Valley and Cleveland Water Act 1958.
33. Saving for town and country planning.
34. Costs of Act.

SCHEDULE—Provisions of Third Schedule to Water Act 1945 applied.