



Aire and Calder Navigation Act 1992

1992 CHAPTER iv

PART V

MISCELLANEOUS AND GENERAL

39 As to navigation enactments

- (1) Nothing in any local enactment relating to the navigation and in force at the passing of this Act shall prejudice or otherwise affect the exercise of the powers of this Act and, except as may otherwise be agreed between the Board and the Corporation, no part of the new navigation or any of the works authorised by this Act shall be subject to any right or obligation contained in any such enactment.
- (2) Without prejudice to the generality of subsection (1) above, section 117 (Bridge to be built across River Aire) of the Act passed in the year 1828 and entitled “An Act to enable the Undertakers of the Navigation of the Rivers Aire and Calder, in the West Riding of the County of York, to make certain Cuts and Canals, and to improve the said Navigation” is hereby repealed.

40 Provisions as to part of navigation rendered unnecessary

Upon the opening to traffic of the new navigation—

- (a) all obligations of the Board to maintain the superseded length and any other obligations of the Board and any right of navigation or other right or permission which may exist in relation to or in connection with the superseded length or any other waterway within the limits of deviation shall be extinguished; and
- (b) the Corporation may, after consultation with the Board, fill in with spoil and other materials the site of the superseded length and adjoining lands in so far as the same are situate within the limits of deviation or within the lines marked on the deposited plans “Limit of land to be acquired”.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

41 New navigation to be commercial waterway, etc

- (1) Subject to section 39 (As to navigation enactments) of this Act, as from a date to be agreed between the Corporation and the Board (or, failing agreement, to be determined by the Secretary of State on the application of either party, after notice in writing to the other) the new navigation shall be deemed to be part of so much of the navigation as is specified as a commercial waterway in Part I of Schedule 12 to the Transport Act 1968 and the channel for which the new navigation is substituted shall for all purposes cease to form part of the navigation and part of a commercial waterway.
- (2) The Board shall not be required to enter into any agreement for the purposes of subsection (1) above, and the Secretary of State shall not give a determination for the purposes of that subsection, until the new navigation has been completed in accordance with plans approved or deemed to have been approved by the engineer under paragraphs (4) and (5) of section 32 (For protection of British Waterways Board) of this Act.
- (3) Without prejudice to the generality of subsection (2) above, it shall be the duty of the Corporation to construct the new navigation to such a standard as will enable the Board to comply with the duties which will apply to them in relation to the navigation as from the transfer date under section 105 of the Transport Act 1968 and the Board may refuse to enter into an agreement for the purposes of subsection (1) above, and the Secretary of State shall not give a determination for the purposes of that subsection, if it appears that the condition of the new navigation is not such as to enable the Board to comply with those duties.
- (4) As soon as practicable after the date agreed or determined under subsection (1) above the Corporation shall cause notice of that date to be published in the London Gazette and in one or more newspapers circulating in the area in which the said work is situated.
- (5) Nothing contained in or done under this section shall have the effect of—
 - (a) vesting any works or lands in the Board; or
 - (b) imposing on the Board any duty to maintain any works, lands or property, other than the duties applicable to the Board as from the transfer date in relation to the new navigation and arising under section 105 of the Transport Act 1968.

42 Management and transfer arrangements

- (1) Subject to section 41 (New navigation to be commercial waterway, etc.) of this Act, the Corporation may enter into and carry into effect agreements with other persons, on such terms and conditions as the Corporation think fit, with respect to—
 - (a) the construction, maintenance, use and operation of any of the works by any other person;
 - (b) the doing of anything which may be rendered necessary or convenient by reason or in consequence of the exercise of the powers of this Act; or
 - (c) the transfer or disposal to any other person of any of the works and any land held or used for or in connection therewith.
- (2) Any agreement under subsection (1) above may provide for the exercise of the powers of the Corporation in respect of the works or any part thereof and for any incidental, subsidiary and consequential matters including the defraying of, or the making of contributions towards, the cost of the matters aforesaid by the Corporation or any other person.

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- (3) The exercise of the powers of any enactment by any person in pursuance of any agreement under subsection (1) above shall be subject to the same restrictions, liabilities and obligations as would apply under this Act or under any agreement or undertaking concerning the exercise of the powers of this Act if those powers were exercised by the Corporation.
- (4) Any land transferred to a statutory undertaker pursuant to this section shall be deemed to be operational land of that undertaker for the purposes of the Town and Country Planning Act 1990.

43 Arbitration

Where under any provision of this Act any difference (other than a difference as to the meaning or construction of any such provision) is to be determined by arbitration, then 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.

44 Planning permission

- (1) In this section “Part 11 development” means development authorised by article 3 of, and Class A in Part 11 of Schedule 2 to, the Town and Country Planning General Development Order 1988 (which permit development authorised by private Act designating specifically both the nature of the development thereby authorised and the land on which it may be carried out).
- (2) Subject to subsection (3) below, in its application to development authorised by this Act the planning permission, granted for Part 11 development shall have effect as if the authority to develop given by this Act were limited to development begun within 10 years after the passing of this Act.
- (3) Subsection (2) above shall not apply to the carrying out of any development consisting of the alteration, maintenance or repair of works or the substitution of new works therefor.

45 Costs of Act

All costs, charges and expenses of and incidental to the preparing for, obtaining and passing of this Act, or otherwise in relation thereto, incurred by the Corporation may, in whole or in part, be defrayed out of revenue.