



Water Act 1989

1989 CHAPTER 15

PART IV

POWERS IN RELATION TO LAND AND WORKS POWERS ETC.

Provisions supplemental to powers of acquisition and works powers

160 Protection of certain undertakings

- (1) Nothing in this Act conferring power on the Authority, on a water undertaker or on a sewerage undertaker to carry out any works shall confer power to do anything, except with the consent of the persons carrying on an undertaking falling within subsection (3) below, which, whether directly or indirectly, so interferes or will so interfere—
 - (a) with works or property vested in or under the control of the persons carrying on that undertaking, in their capacity as such; or
 - (b) with the use of any such works or property,as to affect injuriously those works or that property or the carrying on of the undertaking.
- (2) Nothing in any provision of this Act conferring power on the Authority, on a water undertaker or on a sewerage undertaker to carry out any works shall confer power to do anything which prejudices the exercise of any statutory power, authority or jurisdiction from time to time vested in or exercisable by any persons carrying on an undertaking falling within subsection (3) below.
- (3) The following are the undertakings which fall within this subsection, that is to say—
 - (a) the undertakings of the Authority, the Civil Aviation Authority, the British Coal Corporation and the Post Office;
 - (b) the undertaking of any water undertaker or sewerage undertaker;
 - (c) any undertaking consisting in the running of a telecommunications code system, within the meaning of Schedule 4 to the Telecommunications Act 1984;
 - (d) any airport to which Part V of the Airports Act 1986 applies;

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- (e) the undertaking of any public gas supplier within the meaning of Part I of the Gas Act 1986;
- (f) the undertaking of the Central Electricity Generating Board or of any Area Board, within the meaning of the Electricity Act 1947;
- (g) the undertaking of any navigation, harbour or conservancy authority or of any internal drainage board;
- (h) the undertaking of the British Railways Board, London Regional Transport or any other person authorised by any enactment to construct, work or carry on a railway;
- (i) any public utility undertaking carried on by a local authority under any Act or under any order having the force of an Act;

and, in relation to any such airport as is mentioned in paragraph (d) above, any reference in subsection (1) or (2) above to the persons carrying on the undertaking is a reference to the airport operator.

- (4) Without prejudice to subsections (1) and (2) above, nothing in this Act shall confer power on any person to do anything, except with the consent of the person who so uses them, which interferes—
 - (a) with any sluices, floodgates, groynes, sea defences or other works used by any person for draining, preserving or improving any land under any local statutory provision; or
 - (b) with any such works used by any person for irrigating any land.
- (5) Where the Authority or any water undertaker or sewerage undertaker proposes, otherwise than in exercise of any compulsory powers, to construct or alter any relevant inland water in any internal drainage district or to construct or alter any works on or in any such inland water, the Authority or undertaker shall consult the internal drainage board for that district before doing so.
- (6) A consent for the purposes of subsection (1) or (4) above may be given subject to reasonable conditions but shall not be unreasonably withheld.
- (7) Subject to subsection (8) below, any dispute—
 - (a) as to whether anything done or proposed to be done interferes or will interfere as mentioned in subsection (1) or (4) above;
 - (b) as to whether any consent for the purposes of this section is being unreasonably withheld; or
 - (c) as to whether any condition subject to which any such consent has been given was reasonable,
 shall be referred to the arbitration of a single arbitrator to be appointed by agreement between the parties or, in default of agreement, by the President of the Institution of Civil Engineers.
- (8) Paragraph 23 of Schedule 2 to the Telecommunications Act 1984 (which provides a procedure for certain cases where works involve the alteration of telecommunication apparatus) shall apply to the Authority, to every water undertaker and to every sewerage undertaker for the purposes of any works carried out by that Authority or undertaker in exercise of any of the powers conferred by this Act (including the powers conferred by sections 97 and 145 above).
- (9) In this section “relevant inland water” means any inland water other than one that forms part of a main river for the purposes of the Land Drainage Act 1976.