

ELIZABETH II



1983 CHAPTER ii

An Act to confer further powers on the British Waterways Board; to make further provisions for the control and regulation of the Board's waterways; to make provisions in relation to certain statutory and other obligations of the Board; and for other purposes.

[8th February 1983]

WHEREAS—

(1) By the Transport Act 1962 the British Waterways Board (in 1962 c. 46. this Act referred to as "the Board") were established:

(2) It is the duty of the Board under the Transport Act 1962 and the Transport Act 1968 (*inter alia*) to provide to such extent 1968 c. 73. as they may think expedient services and facilities on the inland waterways owned or managed by them:

(3) It is expedient that further powers should be conferred on the Board and that further provisions should be made as in this Act provided for the control and regulation by the Board of the inland waterways owned or managed by them:

(4) 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:

(5) 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:—

PART I

PRELIMINARY

Short and
collective
titles.

1.—(1) This Act may be cited as the British Waterways Act 1983.

(2) The British Waterways Acts of 1963, 1965, 1966, 1971, 1974 and 1975 and this Act may be cited together as the British Waterways Acts 1963 to 1983.

Interpretation.

2. In this Act, unless the context otherwise requires, the following words and expressions have the meanings hereby assigned respectively to them:—

1968 c. 73.

“the Act of 1968” means the Transport Act 1968;

1971 c. xviii.

“the Act of 1971” means the British Waterways Act 1971;

1974 c. xxiii.

“the Act of 1974” means the British Waterways Act 1974;

“the Board” means the British Waterways Board;

“functions” includes powers and duties;

“inland waterway” means any canal or inland navigation belonging to or under the control of the Board and includes any works, lands or premises belonging to or under the control of the Board and held or used by them in connection with such canal or inland navigation;

“vessel” includes any ship, boat, barge, lighter or raft and any other description of craft, whether used in navigation or not.

PART II

REGULATION AND MANAGEMENT OF INLAND
WATERWAYS

3. In its application to the Board subsection (2) of section 16 Construction (Canal byelaws) of the British Transport Commission Act 1954 and equipment of vessels. shall have effect as if—

1954 c. lv.

(a) the following paragraphs were inserted after paragraph (a):—

“(aa) with a view to securing the safety of passengers in vessels on the canal and of other vessels or persons and the prevention of pollution, noise and interference with the operation of radio or television equipment, for prescribing standards for the construction of vessels to be used on the canal and standards for any appliances, fittings or equipment in such vessels and for making provision with regard to the use and operation of such appliances, fittings and equipment and, without prejudice to the generality of the foregoing—

(i) for making provision with regard to the construction, maintenance and operation of engines used for the propulsion of powered boats and to the storage and supply of fuel for such engines;

(ii) for requiring the provision of sufficient and effective fire extinguishers;

(iii) for regulating appliances for cooking, heating, lighting or refrigeration, and the storage and supply of fuel for such appliances;

(ab) for requiring the owner, master or any person in charge of any vessel to be used on the canal to obtain in respect of the vessel from the Board, or from some person approved by them for the purpose, a certificate of compliance with any standards in force by virtue of byelaws made under paragraph (aa) of this subsection;”;

(b) the following subsections were inserted at the end of subsection (2):—

“(2A) Before making byelaws prescribing standards under paragraph (aa) of subsection (2) of this section the Board shall—

(a) have regard to the requirements of the byelaws of any other inland navigation undertakers whose waterways are contiguous with those of

PART II
—cont.

the Board when those byelaws deal with the subject matter of the byelaws which the Board propose to make; and

- (b) consult the Inland Waterways Amenity Advisory Council and such organisations as appear to the Board to represent a substantial number of such builders, owners and operators of vessels as may be affected by the proposed byelaws.

(2B) Byelaws prescribing standards under paragraph (aa) of subsection (2) of this section shall not apply to a vessel used wholly or mainly for the purpose of the carriage of goods on a commercial waterway specified in Part I of Schedule 12 to the Act of 1968 while the vessel is on any commercial waterway.”.

Registration of
pleasure boats
and
houseboats.

4.—(1) Notwithstanding anything in the Act of 1971 or the Act of 1974 or in any other enactment relating to the Board or their inland waterways, the Board may register pleasure boats and houseboats under the Act of 1971 for such periods and on payment of such charges as they may from time to time determine:

Provided that the charge payable for the registration of a pleasure boat shall not at any time exceed 60 per centum of the amount which would be payable to the Board for the licensing of such vessel on any inland waterway other than a river waterway referred to in Schedule 1 to the Act of 1971 as that Schedule has effect in accordance with any order made by the Secretary of State under section 4 of that Act.

(2) The following provisions shall cease to have effect:—

- (a) section 17 (Duration of boat certificates) of the Act of 1971;
- (b) the paragraph of subsection (2) of section 36 (Repeals and amendments of provisions of Act of 1971) of the Act of 1974 which amends the said section 17;
- (c) paragraph (a) of subsection (3) of the said section 36.

Recovery of
charges.

5.—(1) In this section—

- (a) “charge” means any sum due to the Board under any of the specified enactments or payable to them on compliance with any of the requirements of the specified enactment;

(b) "the specified enactments" means—

(i) section 43 of the Transport Act 1962 to the extent that it authorises the Board to demand, take and recover or waive charges for the use of any inland waterway owned or managed by them by any ship or boat; and

(ii) the following sections of the Act of 1971:—

section 5 (Restriction on pleasure boats);

section 7 (Charges for registration of pleasure boats);

section 13 (Restriction on houseboats); and

section 15 (Charges for registration of houseboats).

(2) If any person from whom any charge is due or by whom any charge is payable fails without reasonable excuse to pay the same, or to comply with any requirement of the specified enactments upon compliance with which a charge is payable, the Board may (without prejudice to any criminal proceedings to which that person may be liable) recover from him a sum equal to—

(a) the amount of the charge which is due or payable; or

(b) where charges may be paid for periods of less than one year and the Board have not accepted part payment of the charge, a sum equal to the amount of the charge which is due or payable for one year;

in the manner in which the charge would be recoverable apart from this section.

(3) A court before which a person is convicted of an offence under any of the specified enactments arising from or involving any failure to pay a charge may, in addition to dealing with him in any other way, order him to pay to the Board any sum which the Board are empowered to recover under this section.

6.—(1) In this section—

"master" means any person for the time being having or taking the command, charge, possession or management of a vessel whether lawfully or wrongfully;

"owner" means the owner of a vessel and any person having any interest in a vessel (whether as joint owner, lessee, mortgagee or otherwise) and includes a person letting a vessel for hire whether or not that person owns the vessel;

"vessel" means any vessel named or identified in a notice under this section.

PART II
—cont.
1962 c. 46.

Power to
obtain
information
as to vessels.

PART II
—cont.

(2) Where, with a view to performing a function conferred on them by or under any enactment, the Board consider that they ought to have information as to the master or the owner, as the case may be, of any vessel which is or has been on an inland waterway or on a reservoir owned or managed by the Board, they may serve a notice on any person reasonably believed by them to be the master or owner, or to have been the master or owner at any date specified in the notice, requiring the recipient to furnish to the Board within a period specified in the notice (which shall not be less than 14 days beginning with the day on which the notice is served) the following information:—

- (a) the name and address of any person whom the recipient of the notice believes to be the master or owner of the vessel, or to have been such master or owner at any date specified in the notice; or
- (b) the capacity in which any such master has or takes command, charge, possession or management of the vessel, or had or took such command, charge, possession or management at any date specified in the notice; or
- (c) the nature of the interest in or control over the vessel of any such owner at any date specified in the notice.

(3) A notice under this section shall—

- (a) name or otherwise identify the vessel in respect of which it is served;
- (b) specify the function for the purpose of the performance of which the notice is served; and
- (c) specify the enactment by or under which that function is to be performed.

(4) A notice shall not be served under this section on any person who, at the date of service, is no longer the master or owner of the vessel named or identified in the notice if more than six months have elapsed since the recipient ceased to be such owner or master.

(5) A person who—

- (a) fails, without reasonable excuse, to comply with the requirements of a notice served on him under subsection (2) of this section; or
- (b) in furnishing any information in compliance with such a notice makes a statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular;

shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200.

7.—(1) (a) For the purposes of this section—

PART II
—cont.

Control of
unsafe vessels.

(i) a vessel is unsafe if its condition is such as to constitute a danger to persons on board the vessel, to other persons, or to any property;

(ii) references to the condition of a vessel include references to the condition of the engines, appliances, fittings and equipment thereof;

(iii) “defect” means any defect by reason of which a vessel is unsafe; and

(iv) “officer” means a duly authorised officer of the Board.

(b) An officer acting in exercise of the powers of this section shall produce written evidence of his authority if required to do so.

(2) (a) An officer may at any reasonable time enter upon any vessel on any inland waterway or on any reservoir owned or managed by the Board for the purpose of inspecting the condition of the vessel so as to ascertain whether the vessel is unsafe.

(b) An officer shall not enter upon any vessel in accordance with this subsection unless—

(i) not less than 24 hours’ notice of such entry has been given to the master of the vessel; or

(ii) the officer has reason to believe that the vessel may be unsafe and that an immediate inspection is required.

(3) Where in the opinion of an officer who inspects a vessel under the powers of this section the vessel is unsafe, he shall give to the master of the vessel and to the owner (if different) a notice—

(a) containing details of the defects and of the measures required to remedy them;

(b) stating that, except in any case where the defects are, immediately following the inspection, remedied to the reasonable satisfaction of the officer who has inspected the vessel, the further movement or use of the vessel otherwise than in accordance with any requirement of the notice or with the consent, or under the direction, of an officer shall be prohibited until a certificate has been issued by the Board stating that the vessel is no longer unsafe;

(c) requiring the owner of the vessel to remedy the defects by a date (which shall be not less than three months from the date of the notice) and to notify the Board in writing within that period of the steps taken to remedy the defects;

PART II
—cont.

- (d) in any case where it appears appropriate to the Board, requiring the recipient of the notice (or, if more than one, any one of them) to move the vessel within a stated period (being not less than 7 days) to the place and in the manner specified in the notice; and
- (e) stating the effects of subsections (4) to (8) of this section.
- (4) (a) Any person who without reasonable excuse—
- (i) moves or uses a vessel in respect of which a notice has been given under subsection (3) of this section while the notice is in force otherwise than in accordance with any requirement of the notice or with the consent, or under the direction, of an officer; or
- (ii) fails to move the vessel if so required by the notice; shall be guilty of an offence and liable on summary conviction to a fine not exceeding £1,000.
- (b) Consent shall not be unreasonably withheld under this subsection to the movement or use of a vessel for the purpose of taking it to a place where the defects specified in the notice may conveniently be remedied or for the purpose of taking the vessel to be destroyed.
- (c) Consent under this section to the movement or use of a vessel may be given subject to such reasonable conditions as may be necessary for the prevention of danger to those on board the vessel, to other persons or to any property.
- (5) Where a notice given under subsection (3) of this section is in force, the Board may at any time move the vessel or take such other steps as may be necessary to remove or abate any source of danger on board or arising from the vessel.
- (6) (a) If on the expiry of the period specified under paragraph (c) of subsection (3) of this section the vessel is still on any inland waterway or on any reservoir owned or managed by the Board and it appears to the Board that the defects specified in the notice, or any of them, have not been remedied, or that adequate arrangements for their being remedied have not been made and are unlikely to be made within a reasonable time, the Board may give to the owner 21 days' notice that, on the expiry of the notice, they propose to deal with the vessel as a craft which is left on an inland waterway without lawful authority under section 8 (Removal of vessels) of this Act.
- (b) A copy of every notice given under paragraph (a) of this subsection shall be given to the master of the vessel for the time being, if different from the owner.
- (c) If at the expiry of the period of 21 days referred to in paragraph (a) of this subsection it appears to the Board that the defects specified in the notice, or any of them, have not been

remedied, or that adequate arrangements for their being remedied have not been made and are unlikely to be made within a reasonable time, the said section 8 shall apply as if the vessel were a craft which is left on an inland waterway without lawful authority and the Board may deal with the vessel accordingly:

PART II
—cont.

Provided that the Board shall not be required to give the notice referred to in subsection (2) of the said section 8.

(7) Any person aggrieved by a notice under subsection (3) of this section, or by the refusal of the Board to issue a certificate under that subsection stating that the vessel is no longer unsafe, may appeal to a magistrates' court; and on any such appeal the court may confirm, vary or set aside the notice and may order the Board to issue a certificate under the said subsection (3) stating that the vessel is no longer unsafe.

(8) (a) An appeal under subsection (7) of this section may be brought at any time until the expiry of the period specified under paragraph (c) of subsection (3) of this section and at any time thereafter if—

- (i) a certificate has not been issued under the said subsection (3) stating that the vessel is no longer unsafe; and
- (ii) the Board have not dealt with the vessel under section 8 (Removal of vessels) of this Act, as applied by subsection (6) of this section.

(b) Until the time for appealing has expired or, if an appeal is lodged, until the proceedings have been concluded by the disposal or withdrawal of the appeal or its failure for want of prosecution, the notice shall continue in force but the Board shall not deal with the vessel under section 8 of this Act, as applied by subsection (6) of this section, after the lodging of an appeal until the proceedings have been concluded.

8.—(1) In this section—

Removal of
vessels.

“owner” in relation to any relevant craft means the owner of the relevant craft at the time of sinking, stranding or abandonment and includes a person letting a vessel for hire, whether or not that person owns the vessel;

“relevant craft” means any vessel which is sunk, stranded or abandoned in any inland waterway or in any reservoir owned or managed by the Board or which is left or moored therein without lawful authority and includes any part of such vessel.

(2) The Board may remove any relevant craft after giving not less than 28 days' notice to the owner of the relevant craft, stating the effect of this section.

PART II
—cont.

(3) All expenses incurred by the Board in—

- (a) the removal, storage or destruction of the relevant craft;
- (b) the removal or storage of any furniture, tackle and apparel of the relevant craft, or any cargo, goods, chattels and effects on board the relevant craft; or
- (c) marking, watching, buoying or otherwise controlling the relevant craft;

may be recovered by the Board from the owner of the relevant craft.

(4) If within six weeks of its removal by the Board any relevant craft cannot be proved to the reasonable satisfaction of the Board to belong to any claimant, it shall, together with any furniture, tackle and apparel and any cargo, goods, chattels and effects on board, vest in the Board:

Provided that, if within twelve months of its removal a claim to the relevant craft is made by a person who subsequently proves that he is the owner thereof, the Board shall, if the relevant craft is unsold, permit the owner to retake it with any furniture, tackle, apparel, cargo, goods, chattels and effects on board upon payment of the expenses referred to in subsection (3) of this section or, if the relevant craft and the furniture, tackle and apparel and any cargo, goods, chattels and effects on board have been sold, the Board shall pay to such owner the amount of the proceeds of such sale after deducting the said expenses, and in case such proceeds shall be insufficient to reimburse the Board such expenses the deficiency may be recovered by the Board.

(5) Notwithstanding the provisions of this section the Board may at any time move without notice a relevant craft if it be an obstruction or a source of danger.

**Removal of
objects.**

9.—(1) The Board may remove from any inland waterway or from any reservoir owned or managed by the Board anything (other than a vessel) which is—

- (a) causing, or likely to become, an obstruction to, or likely to cause interference with, navigation; or
- (b) causing or likely to cause interference with the operation of any works of the Board, or damage to any such works or to any property; or
- (c) in the waterway or reservoir without lawful authority;

and may take such other steps as appear to them to be appropriate to prevent or minimise such obstruction, interference or damage as aforesaid.

(2) If anything which is removed by the Board under subsection (1) of this section is so marked as to be readily identifiable as the property of any person, the Board shall, within 28 days of its

coming into their custody, give written notice to that person stating that, upon proof of ownership, possession may be retaken at a place named in the notice within the period specified in the notice (being not less than 14 days after the notice is served) and, if possession of the thing removed is not so retaken, it shall at the end of that period vest in the Board.

PART II
—cont.

(3) (a) Notwithstanding the provisions of subsection (2) of this section, the Board may, at such time and in such manner as they think fit, dispose of anything removed under subsection (1) of this section which is not so marked as to be readily identifiable as the property of any person or which is of a perishable nature or the custody of which involves unreasonable expense or inconvenience.

(b) If anything disposed of by the Board under this subsection is sold, the Board may retain out of the proceeds of sale any expenses incurred by them under this section, and any surplus—

- (i) shall be paid to any person who within three months from the time when the thing came into the custody of the Board proves to the reasonable satisfaction of the Board that he was the owner thereof at that time; or
- (ii) if within the said period no person proves his ownership at the said time, shall vest in the Board.

(4) If the proceeds of sale of anything removed under this section are insufficient to reimburse the Board for the said expenses, or there is no sale, the Board may recover the deficiency, or, where there is no sale, the whole of the expenses, from the person who was the owner when the thing removed came into the custody of the Board or who was the owner at the time of its abandonment or loss.

(5) (a) The Board shall not under the powers of this section remove or interfere with anything maintained in any inland waterway or reservoir—

- (i) in accordance with a consent or licence given or issued by the Board or their predecessors and for the time being in force; or
- (ii) by any statutory undertakers in the exercise of their functions under any enactment.

(b) In this subsection “statutory undertakers” has the same meaning as in section 329 of the Highways Act 1980 and, in addition, shall include—

- (i) a water authority in their capacity as the authority having the duties, within their area, imposed by sections 10 and 14 of the Water Act 1973 and by the Land Drainage Act 1976; and
- (ii) British Telecommunications.

1973 c. 37.
1976 c. 70.

PART III

MISCELLANEOUS

Transfer of
undertakings
to Board.

10.—(1) (a) In this section—

“inland navigation” means a canal or any inland navigation other than a canal, whether natural or artificial and whether tidal or not;

“local enactment” means a local or private Act, a public general Act relating to London, an order or scheme made under an Act or confirmed by Parliament or brought into operation in accordance with special parliamentary procedure, or an enactment in a public general Act amending a local or private Act or any such order or scheme;

“navigation authority” means a person or body of persons (whether corporate or unincorporate) having a duty or power imposed or conferred by or under an enactment to manage or maintain an inland navigation;

“repeal”, in relation to a local enactment not contained in an Act, means revoke.

(b) In this section, references to the undertaking of a navigation authority and to an inland navigation include an inland navigation which at the time of the making of an order under this section may no longer be navigable and references to a navigation authority shall include references to a body which no longer has any members but which, if it had members, would be such an authority.

(2) (a) The Secretary of State may on application to him by the Board make an order transferring to the Board all or part of the undertaking of any navigation authority and any functions or property of such authority.

(b) The provisions of Schedule 1 to this Act shall have effect with respect to the making of orders under this section.

(c) No order shall be made under this section if the navigation authority whose undertaking, functions or property are the subject of the order object to the making of the order.

(d) No order shall be made under this section for the transfer to the Board of—

(i) any property forming part of the permanent endowment of a charity; or

(ii) any land which is held by or in trust for a charity and is or has at any time been occupied for the purposes of the charity;

unless such an order as is mentioned in section 29 of the Charities Act 1960 authorising the transfer has first been made.

1960 c. 58.

(3) An order under this section may contain such transitional, incidental, supplementary and consequential provisions as the

Secretary of State considers necessary or expedient including (but without prejudice to the generality of this subsection) such provisions as he considers necessary or expedient with respect to—

PART III
—cont.

- (a) the transfer of assets and liabilities, the payment of compensation and other financial adjustments;
- (b) the amendment, adaptation or repeal of local enactments;
- (c) the classification of any inland navigation to which the order applies as a commercial or cruising waterway within the meaning of paragraphs (a) or (b) of subsection (1) of section 104 of the Act of 1968 or for the navigation to be dealt with as an inland waterway forming part of the remainder of the Board's undertaking for the purposes of paragraph (c) of the said subsection (1);
- (d) the imposition on the Board of the responsibility for maintenance of the inland navigation appropriate to its classification under paragraph (c) of this subsection;
- (e) the inclusion of any such inland navigation in Schedule 1 to the Act of 1971:

Provided that an order under this section shall not include any provision inconsistent with any order mentioned in section 29 of the Charities Act 1960.

1960 c. 58.

(4) Nothing contained in this section nor in any order made hereunder shall extend to prejudice or derogate from the jurisdiction or authority or any of the rights or privileges of the Corporation of Trinity House of Deptford Strond without their consent.

11.—(1) In this section “the scheduled waterways” means such lengths of the waterways named in column (1) of Schedule 2 to this Act as are specified in column (2) of that Schedule.

Classification
of certain
waterways.

(2) As from the passing of this Act the main navigable channel of the scheduled waterways shall be deemed to be included in Part II of Schedule 12 to the Act of 1968.

(3) Any agreement entered into by the Board under section 64 of the National Parks and Access to the Countryside Act 1949, section 109 (1) (a) of the Act of 1968 or otherwise relating to the scheduled waterways shall continue to have effect as if this section had not been enacted.

1949 c. 97.

12.—(1) Where, for the purpose of performing any of their statutory duties, the Board consider that they require information connected with any land, the Board may serve on one or more of the following persons, namely:—

Power to
obtain
particulars
of persons
interested
in land.

- (a) the occupier of the land;

PART III
—cont.

- (b) any person who has an interest in the land either as freeholder, mortgagee or lessee or who directly or indirectly receives rent for the land; and
- (c) any person who, in pursuance of an agreement between himself and a person interested in the land, is authorised to manage the land or to arrange for the letting of it;

a notice specifying the land and the duty and the enactment by or under which the duty is conferred and requiring the recipient of the notice to furnish to the Board, within a period specified in the notice (which shall not be less than 14 days beginning with the day on which the notice is served), the nature of his interest in the land and the name and address of each person whom the recipient of the notice believes is the occupier of the land and of each person whom he believes is, as respects the land, such a person as is mentioned in paragraphs (b) and (c) of this subsection.

(2) A person who—

- (a) fails, without reasonable excuse, to comply with the requirements of a notice served on him under subsection (1) of this section; or
- (b) in furnishing any information in compliance with such a notice makes a statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular;

shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200.

Rocksavage
Bridge.
1807 c. lxxxii.
(Sess.2).

13. Section 37 (Trustees to erect turnbridges in Clifton and Sutton) of the Weaver Navigation Act 1807, in so far only as it required the provision and maintenance of a bridge at Rocksavage, shall cease to have effect and all obligations to those entitled to use the bridge shall henceforth cease.

Stoke
Bardolph
Ferry.
1887 c. 1

14. Section 47 (Company to construct ferry in place of ford at Stoke Bardolph) and section 48 (Company to construct ferries in place of ford) of the Trent (Burton-upon-Trent and Humber) Navigation Act 1887 shall cease to have effect.

Compensation
for loss of
private rights.

15. Any person who suffers loss by the extinguishment of any private right under section 13 (Rocksavage Bridge) or section 14 (Stoke Bardolph Ferry) of this Act shall be entitled to be paid by the Board compensation to be determined in case of dispute by the Lands Tribunal.

16.—(1) In this section—

“the fund” means the Grand Union Canal Company Superannuation Fund established by the scheme;

“pensioner” means any member of the fund and any other person in receipt of a pension from the fund; and

“the scheme” means the scheme confirmed by section 23 (Establishment of Superannuation Fund by Regents Company) of the Regents Canal and Dock Company (Grand Junction Canal Purchase) Act 1928, the text of which is set out in the Fourth Schedule to that Act.

PART III
—cont.
Grand Union
Canal
Company
Superannu-
ation Fund.

(2) The Board may by deed from time to time—

(a) cancel or modify any provisions of the said Act of 1928 or of the scheme in so far as they relate to the fund; and

(b) transfer to such other pension scheme of the Board as they may determine all the rights, liabilities and functions of the fund.

(3) On the transfer of the rights and liabilities of the fund in accordance with paragraph (b) of subsection (2) of this section, any property (including every legal estate and equitable interest) in any asset which immediately before the transfer was held by the Board subject to the trusts of the fund shall be deemed to be held by them subject to the trusts of the pension scheme to which the said rights and liabilities are transferred.

(4) No cancellation or modification or transfer under subsection (2) of this section shall reduce without his consent the benefit enjoyed by any pensioner under the scheme.

(5) If the fund has not previously been dealt with in accordance with paragraph (b) of subsection (2) and with subsection (3) of this section and after the death, or other cessation of entitlement to benefit, of the last pensioner, and after provision has been made for the payment of all costs, charges and expenses of winding up the scheme there remains any surplus property subject to the trusts of the scheme, the same shall be transferred and added to the funds of such one or more of the other pension schemes of the Board (and if more than one, in such proportions) as the Board may determine.

PART IV
GENERAL

17.—(1) All notices authorised or required to be served on any person by or under this Act shall be in writing.

Notices.

PART IV
—cont.

(2) Any notice such as is referred to in subsection (1) of this section may be served—

- (a) by delivering it to the person upon whom it is to be served or by leaving it at his proper address or by sending it by post to him at that address; or
- (b) if the person is a body corporate, by serving it in accordance with paragraph (a) of this subsection on the secretary or clerk of that body; or
- (c) if the person is a partnership, by serving it in accordance with paragraph (a) of this subsection on a partner or a person having the control or management of the partnership business; or
- (d) if in the case of a notice relating to a vessel the name and address of the person upon whom the notice is to be served cannot after reasonable inquiry be ascertained, by exhibiting it in a conspicuous position on or near the vessel; or
- (e) if in the case of a notice under section 12 (Power to obtain particulars of persons interested in land) of this Act the name and address of any owner or occupier of land upon whom the notice is to be served cannot after reasonable inquiry be ascertained, either by leaving it in the hands of a person who is or who appears to be resident or employed on the land or by leaving it conspicuously affixed to some building or object on the land.

(3) For the purposes of this section and section 7 of the Interpretation Act 1978 in its application to this section, the proper address of any person on whom notice is to be served by the Board shall be his last known address, except that—

- (a) in the case of service on a body corporate or its secretary or clerk it shall be the address of the registered or principal office of the body;
- (b) in the case of service on a partnership or a partner or a person having the control or management of the partnership business it shall be the principal office of the partnership;

and for the purposes of this subsection the principal office of a company registered outside the United Kingdom or of a partnership carrying on business outside the United Kingdom is its principal office within the United Kingdom.

(4) If a person to be served by virtue of this Act with any notice by the Board has specified an address within the United Kingdom other than his proper address (as determined in pursuance of the preceding subsection) as the one at which he or someone on his

behalf will accept documents of the same kind as that document, that address shall also be treated as his proper address for the purposes of this section and the said section 7 in its application to this section.

PART IV
—cont.

18.—(1) Nothing in this Act affects prejudicially any estate, Crown rights, right, power, privilege, authority or exemption of the Crown and, in particular and without prejudice to the generality of the foregoing, nothing in this Act authorises the Board to take, use, enter upon or in any manner interfere with, any land or hereditaments or any rights of whatsoever description (including any portion of the shore or bed of the sea or of any river, channel, creek, bay or estuary)—

- (a) belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners, without the consent in writing of those commissioners; or
- (b) belonging to a government department, or held in trust for Her Majesty for the purposes of a government department, without the consent in writing of that government department.

(2) A consent under subsection (1) of this section may be given unconditionally or subject to such conditions and upon such terms as shall be considered necessary or appropriate.

19.—(1) In the Health and Safety at Work etc. Act 1974, subsection (1) of section 80 (repeal or modification of certain provisions by regulations) shall apply to section 3 (Construction and equipment of vessels) of this Act and to any byelaw made under it as that subsection applies to any provision mentioned in subsection (2) of the said section.80. Saving for Health and Safety at Work etc. Act 1974 1974 c. 37.

(2) Nothing in section 3 (Construction and equipment of vessels) or section 7 (Control of unsafe vessels) of this Act shall prejudice or affect the operation of any of the relevant statutory provisions as defined in Part I of the said Act of 1974.

20. The enactments specified in columns (1) and (2) of Schedule Repeals. 3 to this Act are hereby repealed to the extent mentioned in column (3) thereof.

21. This Act shall not extend to Scotland.

Extent of Act.

22. All costs, charges and expenses of and incidental 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.

SCHEDULES

Section 10.

SCHEDULE 1

ORDERS TRANSFERRING UNDERTAKINGS, FUNCTIONS OR PROPERTY OF NAVIGATION AUTHORITIES

1. Before determining whether to make an order on an application under section 10 (Transfer of undertakings to Board) of this Act, the Secretary of State shall consult—

- (a) the navigation authority from whom any functions or property are proposed in the application to be transferred to the Board (except where the authority is a body which no longer has any members);
- (b) in the case of an order adding to the waterways in Part I of Schedule 12 to the Act of 1968, any organisation appearing to him to represent persons operating, or desiring to operate, commercial freight-carrying vessels on the inland navigation; and
- (c) the Inland Waterways Amenity Advisory Council.

2. If the Secretary of State proposes to make an order on the application, he shall prepare a draft order, and shall cause notice of his intention to make an order, and of the place where copies of the draft order, and of any map to which it refers, may be inspected and obtained, and of the time (not being less than twenty-eight days) within which, and the manner in which, objections to the draft order may be made—

- (a) to be published in the London Gazette, and in such other manner as he thinks best adapted for informing persons affected; and
- (b) to be served on the navigation authority from whom any functions or property are proposed to be transferred, (and on any other body, being a navigation authority, conservancy authority, harbour authority, a general lighthouse authority within the meaning of section 634 of the Merchant Shipping Act 1894, a water authority or other statutory water undertaker, appearing to the Secretary of State to be affected by the proposals).

1894 c. 60.

3. Before making any order on the application, the Secretary of State shall consider any objections which may be made to the draft order, and may if he thinks fit cause a local inquiry to be held with respect to any such objections; and in making the order the Secretary of State may make such modifications in the terms of the draft as appears to him desirable.

4.—(1) After making such an order, the Secretary of State shall, if an objection has been made by any body on whom notice is required to be served under paragraph 2 of this Schedule and has not been withdrawn, serve notice of the making of the order and the effect thereof on every such body who has made objection which has not been withdrawn.

(2) Where a notice is required to be served under the preceding subparagraph the order shall not have effect before the expiry of a period of

twenty-eight days from the date of service of that notice; and if within that period any such body gives notice to the Secretary of State objecting to the order, and the objection is not withdrawn, the order shall be subject to special parliamentary procedure.

SCH. 1
—cont.

5. After making the order, the Secretary of State shall publish in the London Gazette, and in such other manner as he thinks best adapted for informing persons affected, a notice stating that the order has been made, and naming a place where a copy thereof may be seen at all reasonable hours:

Provided that, in the case of an order to which sub-paragraph (1) of the last preceding paragraph applies the notice shall not be published until the expiry of the period of twenty-eight days referred to in sub-paragraph (2) of that paragraph, and shall state whether or not the order is to be subject to special parliamentary procedure.

6.—(1) Subject to the next following sub-paragraph, if any person aggrieved by an order under this Act desires to question its validity on the ground that it is not within the powers of this Act, or that any requirement of this Act has not been complied with in relation to the order, he may, within six weeks after the first publication of the notice required by the last preceding paragraph make an application for the purpose to the High Court; and if any such application is made, the court, if satisfied that the order is not within the powers of this Act or that the interests of the applicant have been substantially prejudiced by any requirements of this Act not having been complied with, may quash the order either generally or in so far as it affects the applicant.

(2) The preceding sub-paragraph shall not apply to any order which is confirmed by Act of Parliament under section 6 of the Statutory Orders (Special Procedure) Act 1945, and shall have effect in relation to any other order which is subject to special parliamentary procedure by virtue of the provisions of this Schedule as if, for the reference to the first publication of the notice required by the last preceding paragraph, there was substituted a reference to the date on which the order becomes operative under the said Act of 1945. 1945 c. 18 (9 & 10 Geo. 6).

(3) Except as provided by sub-paragraph (1) of this paragraph, the validity of an order under this Act shall not, either before or after the order has been made, be questioned in any legal proceedings whatsoever.

7. The costs incurred by the Secretary of State in connection with the making and notification of an order under this Act, including any costs incurred in relation to any such order under the Statutory Orders (Special Procedure) Act 1945, shall be paid by the Board.

8. In this Schedule “inland navigation” means any inland navigation as defined in section 10 (1) (a) and (b) of this Act in respect of which application is made for an order under this Act and “statutory water undertakers” has the meaning assigned to it by section 11 (6) of the Water Act 1973. 1973 c. 37.

Section 11.

SCHEDULE 2

WATERWAYS CLASSIFIED AS CRUISING WATERWAYS

Name of waterway (1)	Length (2)
Ashton Canal	From its junction with the Rochdale Canal at Ducie Street in the city of Manchester to its junction with the lower Peak Forest Canal at Dukinfield in the metropolitan borough of Tameside
Caldon branch of the Trent and Mersey Canal (otherwise known as Caldon Canal)	From its junction with the main line of the Trent and Mersey Canal at Etruria in the city of Stoke on Trent to its termination at Froghall Wharf in the district of Staffordshire Moorlands
Leek branch of the Trent and Mersey Canal (otherwise known as Caldon Canal (Leek branch))	From Hazelhurst Denford to Wall Grange in the district of Staffordshire Moorlands
Erewash Canal	From Langley Mill in the district of Amber Valley to Tamworth Road Bridge, Long Eaton, in the district of Erewash
Grand Union Canal (Slough Arm)	From its junction with the Grand Union Canal main line at Cowley Peachey in the London borough of Hillingdon to its termination at Slough Basin in the borough of Slough
Lower Peak Forest Canal	From its junction with the Ashton Canal at Dukinfield in the metropolitan borough of Tameside to the top of Number 1 Lock at Marple in the metropolitan borough of Stockport
Monmouthshire and Brecon Canal	From the bridge known as Jockey Bridge, Llanfihangel Pontymoile, Pontypool in the district of Torfaen to a point four hundred and fifty yards or thereabouts west of the bridge known as Gas Works Bridge, Brecon, in the district of Brecknock

SCHEDULE 3
REPEALS

Section 20.

Chapter (1)	Short title (2)	Extent of repeal (3)
47 Geo.3. Sess.2. c.lxxxii. (1807).	An Act to authorise the Trustees of the River Weaver Navigation to open a more convenient Communication between the said River near Frodsham Bridge and the River Mersey, near Weston Point, or the Township of Weston, in the county of Chester, and to amend two Acts relative to the said River.	In section xxxvii (Trustees to erect turnbridges in Clifton and Sutton: Trustees to erect turnbridges before the canal is cut across any public highway) the words "the said township of Clifton otherwise Rock Savage and".
50 & 51 Vict. c.cxv.	Trent (Burton-upon-Trent and Humber) Navigation Act 1887.	Section 47 (Company to construct ferry in place of ford at Stoke Bardolph).
6 & 7 Eliz. 2 c.xliv.	British Transport Commission Act 1958.	Section 19, to the extent that it applies to the Board.
1971 c.xviii.	British Waterways Act 1971.	Section 17 (Duration of boat certificates).
1974 c.xxiii.	British Waterways Act 1974.	In subsection (2) of section 36 (Repeals and amendments of provisions of Act of 1974), the words "subsection (1) of section 17 (Duration of boat certificates) shall have effect as if in place of the words 'on 31st December' there were substituted the words 'not later than 31st December'". Paragraph (a) of subsection (3) of section 36.

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CHAPTER ii

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short and collective titles.
2. Interpretation.

PART II

REGULATION AND MANAGEMENT OF INLAND WATERWAYS

3. Construction and equipment of vessels.
4. Registration of pleasure boats and houseboats.
5. Recovery of charges.
6. Power to obtain information as to vessels.
7. Control of unsafe vessels.
8. Removal of vessels.
9. Removal of objects.

PART III**MISCELLANEOUS****Section**

10. Transfer of undertakings to Board.
11. Classification of certain waterways.
12. Power to obtain particulars of persons interested in land.
13. Rocksavage Bridge.
14. Stoke Bardolph Ferry.
15. Compensation for loss of private rights.
16. Grand Union Canal Company Superannuation Fund.

PART IV**GENERAL**

17. Notices.
18. Crown rights.
19. Saving for Health and Safety at Work etc. Act 1974.
20. Repeals.
21. Extent of Act.
22. Costs of Act.

SCHEDULES:

Schedule 1—Orders transferring undertakings, functions or property of navigation authorities.

Schedule 2—Waterways classified as cruising waterways.

Schedule 3—Repeals.