



# Transport Act 1968

## 1968 CHAPTER 73

### PART VII

#### INLAND WATERWAYS

##### *Other inland waterway provisions*

#### **112 Power to extinguish statutory rights and obligations in respect of canals not comprised in undertaking of Board [<sup>F1</sup>or Canal & River Trust].**

- (1) In the case of any canal which is not comprised in the undertaking of the Waterways Board [<sup>F2</sup>or Canal & River Trust], the Minister [<sup>F3</sup>, or, in the case of a canal in Scotland, the Scottish Ministers,] may by order direct all or any of the following, that is to say—
  - (a) that any local enactment passed with respect to that canal shall cease to have effect so far as it confers any public or private right of navigation over that canal;
  - (b) that any such enactment shall cease to have effect so far as it imposes any duty to maintain that canal for the purpose of navigation (including any duty to supply, or maintain a supply of, water for the canal for that purpose);
  - (c) that section 17 of the <sup>M1</sup>Regulation of Railways Act 1873 if applicable to that canal, shall cease to apply to it.
- (2) An order under this section in respect of any canal may be made on the application of the person who owns or manages the canal, on the application of [<sup>F4</sup>[<sup>F5</sup>any local authority or [<sup>F6</sup>water][<sup>F4</sup>Scottish Water or any local] authority] in whose [<sup>F5</sup>the National Rivers Authority or any local authority in whose] area the canal is situated, or without any application being made.
- (3) An order under this section in respect of any canal—
  - (a) shall specify the person, whether the person who owns or manages the canal, a [<sup>F7</sup>local authority, [<sup>F8</sup>a [<sup>F6</sup>water authority]][<sup>F8</sup>Scottish Water] or the [<sup>F7</sup>local authority, the National Rivers Authority or ][<sup>F9</sup>the authority making the order], by whom any such compensation as is mentioned in subsection (4) of this section is to be paid;

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- (b) may confer on a person specified in the order power to authorise any use of the canal which would have been authorised by a statutory right of navigation which by virtue of the order ceases to be exercisable as respects the canal;
- (c) may make provision, in relation to the canal or any works connected therewith, for purposes corresponding to those of section 109 of this Act; and
- (d) may include such incidental or supplementary provisions as [<sup>F10</sup>the authority making the order] thinks fit, including provisions for applying section 259 of the <sup>M2</sup>Public Health Act 1936 and [<sup>F11</sup>section 215 of the Town and Country Planning Act 1990], or, as the case may be, <sup>F12</sup>... [<sup>F13</sup>section 179 of the Town and Country Planning (Scotland) Act 1997] to the canal.
- (4) Any person who suffers loss by reason of the extinguishment by virtue of an order under this section of any private right shall be entitled to be paid by the person specified in that behalf in the order compensation to be determined, in case of dispute, by the appropriate tribunal; and the tribunal shall, in determining the compensation, take into account any contractual right offered by the person who owns or manages the canal in substitution for the right which is extinguished.
- (5) Schedule 13 to this Act shall have effect in relation to the making of any order under this section, and any such order shall [<sup>F14</sup>, in the case of an order made by the Minister.] be subject to annulment in pursuance of a resolution of either House of Parliament [<sup>F15</sup>, and in the case of an order made by the Scottish Ministers, is subject to the negative procedure].
- (6) In this section “canal” includes any navigation which has been made under, or in respect of which tolls may be levied by virtue of, any enactment, and references to a canal include references to part of a canal.

<sup>F16</sup>(6A) . . . . .  
(7<sup>F17</sup>)

#### Textual Amendments

- F1** Words in s. 112 heading inserted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 2 para. 44(2)** (with arts. 4-6)
- F2** Words in s. 112(1) inserted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 2 para. 44(3)(a)** (with arts. 4-6)
- F3** Words in s. 112(1) inserted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 2 para. 44(3)(b)** (with arts. 4-6)
- F4** Words in s. 112(2) substituted (S.) (14.7.2004) by [The Water Industry \(Scotland\) Act 2002 \(Consequential Modifications\) Order 2004 \(S.I. 2004/1822\)](#), art. 1(1), **Sch. para. 7(3)(a)**
- F5** Words commencing “the National Rivers” substituted (E.W.) for words commencing “any local” by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 190(1), **Sch. 25 para. 38(2)(a)** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)
- F6** Words substituted by virtue of [Water Act 1973 \(c. 37\)](#), **s. 9(a)**
- F7** Words commencing “local authority, the National” substituted (E.W.) for words commencing “local authority, a water” by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 190(1), **Sch. 25 para. 38(2)(b)** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)
- F8** Words in s. 112(3)(a) substituted (S.) (14.7.2004) by [The Water Industry \(Scotland\) Act 2002 \(Consequential Modifications\) Order 2004 \(S.I. 2004/1822\)](#), art. 1(1), **Sch. para. 7(3)(b)**
- F9** Words in s. 112(3)(a) substituted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 2 para. 44(4)(a)** (with arts. 4-6)

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- F10** Words in s. 112(3)(d) substituted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 2 para. 44(4)(b)** (with arts. 4-6)
- F11** Words substituted by virtue of [Planning \(Consequential Provisions\) Act 1990 \(c.11, SIF 123:1, 2\)](#), s. 4, **Sch. 2 para. 22(3)**
- F12** Words in s. 112(3)(d) repealed (S.) (1.10.2009) by [Public Health etc. \(Scotland\) Act 2008 \(asp 5\)](#), s. 128(2), **sch. 3 Pt. 1** (with s. 127); [S.S.I. 2009/319](#), art. 2(a), sch. 1
- F13** Words in s. 112(3)(d) substituted (27.5.1997) by [1997 c. 11, ss. 4, 6\(2\)](#), **Sch. 2 para. 17(2)**
- F14** Words in s. 112(5) inserted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 2 para. 44(5)(a)** (with arts. 4-6)
- F15** Words in s. 112(5) inserted (2.7.2012) by [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 2 para. 44(5)(b)** (with arts. 4-6)
- F16** S. 112(6A) omitted (2.7.2012) by virtue of [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 2 para. 44(6)** (with arts. 4-6)
- F17** Ss. 107(4), 112(7) repealed by [Statute Law \(Repeals\) Act 1974 \(c. 22\)](#), **Sch. Pt. VI**

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#### Marginal Citations

- M1** 1873 c. 48.  
**M2** 1936 c. 49.

### 113 Byelaws in respect of waterways owned or managed by certain bodies.

- (1) The Minister may, on the application of any qualified body which owns or manages an inland waterway and after consultation with the relevant authority, by order confer on that body power to make byelaws in relation to that waterway for such purposes as may be specified in the order.
- (2) Byelaws made by virtue of an order under this section shall not have effect until confirmed by the Minister, and before applying to the Minister for the confirmation of any byelaws the body concerned shall take such steps as may be specified in the order for securing that persons affected by the byelaws have an opportunity of making representations thereon to the Minister.
- (3) If any person contravenes, or fails to comply with, any byelaws made by virtue of an order under this section he shall be guilty of an offence and liable on summary conviction to a fine not exceeding [<sup>F18</sup>level 1 on the standard scale], and if the contravention or failure to comply is continued after the conviction, he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding £5 for each day on which it is so continued.
- (4) An order under this section may contain such supplementary provisions as the Minister thinks necessary or expedient.
- (5) In this section—

“qualified body” means any navigation authority as defined in section 135(1) of the <sup>M3</sup>Water Resources Act 1963, a body mentioned in any of the paragraphs of section 109(2) of this Act <sup>F19</sup>... and any other body having public or charitable objects;

“relevant authority”, in relation to any order, [<sup>F20</sup>means [<sup>F21</sup>any local authority or [<sup>F22</sup>water authority] (except any such authority which is itself the applicant for the order)]] [<sup>F21</sup>, except where applying for the order, Scottish Water or any local authority]] [<sup>F20</sup>means, except in a case where it is itself the applicant for the order, the National Rivers Authority or any local authority] in whose area the waterway in question is wholly or partly situated.

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- (6) Section 40 of the <sup>M4</sup>Railway and Canal Traffic Act 1888 (which makes provision as to the byelaws of canal companies) shall not apply to byelaws made by virtue of an order under this section.

#### Textual Amendments

- F18** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **ss. 38, 46** and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **ss. 289F, 289G** (as inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **s. 54**)
- F19** Words in s. 113(5) omitted (2.7.2012) by virtue of [The British Waterways Board \(Transfer of Functions\) Order 2012 \(S.I. 2012/1659\)](#), art. 1(2), **Sch. 2 para. 45** (with arts. 4-6)
- F20** Words commencing “means, except” substituted (E.W.) for words commencing “means any local” by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 190(1), **Sch. 25 para. 38(3)** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)
- F21** Words in s. 113(5) substituted (S.) (14.7.2004) by [The Water Industry \(Scotland\) Act 2002 \(Consequential Modifications\) Order 2004 \(S.I. 2004/1822\)](#), art. 1(1), **Sch. para. 7(4)**
- F22** Words substituted by virtue of [Water Act 1973 \(c. 37\)](#), **s. 9(a)**

#### Marginal Citations

- M3** 1963 c. 38.  
**M4** 1888 c. 25.

### 114 Power of local authorities to assist in maintaining waterways for amenity purposes.

Without prejudice to section 109 of this Act, a local authority may assist any other person (whether financially, by the provision of services or facilities, or otherwise) in maintaining or improving for amenity or recreational purposes, including fishing—

- (a) any inland waterway situated wholly or partly in the area of the authority; and
- (b) any other inland waterway which is so situated that it can conveniently be used for those purposes by persons residing in the area of the authority.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 9(1)(b)(ib) omitted by [S.I. 2024/402 Sch. 2 para. 1\(b\)](#)
- s. 9(1)(b)(ia) words omitted by [S.I. 2024/402 Sch. 2 para. 1\(a\)](#)
- s. 9(1)(c)(ie) substituted by [S.I. 2024/402 Sch. 2 para. 1\(c\)](#)
- s. 97(1)(a)(i) words inserted by [S.I. 2019/453 reg. 35\(2\)\(a\)](#) (This amendment not applied to legislation.gov.uk. Reg. 35(2) substituted (24.10.2019) by S.I. 2019/1379, regs. 1, 8(a))
- s. 97(1)(a)(ii) words substituted by [S.I. 2019/453 reg. 35\(2\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Reg. 35(2) substituted (24.10.2019) by S.I. 2019/1379, regs. 1, 8(a))