



Water Resources Act 1991

1991 CHAPTER 57

PART VII

LAND AND WORKS POWERS

CHAPTER III

PROVISIONS SUPPLEMENTAL TO LAND AND WORKS POWERS

Protective provisions

178 Protection for particular undertakings

Schedule 22 to this Act shall have effect for the protection of particular undertakings in connection with the carrying out of works and other activities by the Authority.

179 Protective provisions in respect of flood defence works and watercourses etc

- (1) 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.
- (2) Where the Authority proposes, otherwise than in exercise of any compulsory powers—
 - (a) to construct or alter any such inland waters in any internal drainage district as do not form part of a main river; or
 - (b) to construct or alter any works on or in any such inland waters,the Authority shall consult the internal drainage board for that district before doing so.

Status: This is the original version (as it was originally enacted).

- (3) A consent for the purposes of subsection (1) above may be given subject to reasonable conditions but shall not be unreasonably withheld.
- (4) Any dispute—
 - (a) as to whether anything done or proposed to be done interferes or will interfere as mentioned in subsection (1) 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.
- (5) The provisions of this section shall be without prejudice to the provisions of Schedule 22 to this Act.

180 Power of navigation authorities etc to divert the Authority's watercourses

- (1) Where any watercourses under the control of the Authority pass under or interfere with, or with the improvement or alteration of, any river, canal, dock, harbour, basin or other work (including any towing-path adjacent thereto) which belongs to or is under the jurisdiction of any relevant authority, the relevant authority may, at their own expense and on substituting for those watercourses other equally effective watercourses—
 - (a) take up, divert or alter the level of those watercourses; and
 - (b) do all such matters and things as may be necessary in connection with the works authorised to be done by them under this section.
- (2) If any question arises under this section between the Authority and any relevant authority as to whether any watercourses substituted or proposed to be substituted by the relevant authority for any existing watercourses are as effective as the existing watercourses, that question shall be referred to the arbitration of a single arbitrator appointed by agreement between the parties or, in default of agreement, by the President of the Institution of Civil Engineers on the application of either party.
- (3) In this section—
 - “relevant authority” means any navigation authority, harbour authority or conservancy authority; and
 - “watercourse” has the same meaning as in Part IV of this Act.

181 Works in tidal lands etc

- (1) Nothing in any of the provisions of this Part relating to any relevant works power shall authorise the Authority to carry out any works at any place below the place to which the tide flows at mean high water springs, except in accordance with such plans and sections, and subject to such restrictions, as may, before the works are commenced, have been approved by the Secretary of State.
- (2) An approval for the purposes of subsection (1) above shall be given to the Authority by the service on the Authority of a notice containing the approval.

- (3) Section 38 of the Salmon and Freshwater Fisheries Act 1975 (tidal lands etc.) shall apply to any proposed construction, alteration or extension under section 156 above as it applies to any proposed construction, alteration or extension under that Act.
- (4) Section 74 of the Land Drainage Act 1991 (application to Crown and tidal lands), so far as it relates to lands below the high-water mark of ordinary spring tides shall apply, as it applies in relation to that Act, to the flood defence provisions of this Act.
- (5) In subsection (1) above the reference to a relevant works power is a reference to a power conferred by any of sections 159, 160, 162(2) and (3) and 163 above.

182 Mineral rights

Schedule 23 to this Act (which makes provision with respect to the acquisition of mineral rights by the Authority and with respect to the working of mines and minerals where pipes, sewers or other related works are affected) shall have effect and, in the case of the compulsory acquisition of land by virtue of this Act, shall have effect instead of Schedule 2 to the Acquisition of Land Act 1981 (mineral rights etc. in relation to compulsory purchase orders).

183 Saving for planning controls etc

- (1) Without prejudice to the operation of section 90 of the Town and Country Planning Act 1990 (planning permission deemed to be granted in certain cases) in relation to any provision made by or under this Act or any other enactment which by virtue of this Act or the Water Act 1989 relates to the functions of the Authority, nothing in this Act or in any such enactment shall be construed as authorising the carrying out of any development (within the meaning of that Act of 1990) without the grant of such planning permission as may be required by that Act of 1990.
- (2) Nothing in the flood defence provisions of this Act shall authorise any person to carry out any works or do anything in contravention of any of the provisions of the Ancient Monuments and Archaeological Areas Act 1979.

184 Duties to make recreational facilities available when building reservoirs in Wales

- (1) Where the Authority carries out any works for or in connection with the construction or operation of a reservoir in Wales which—
 - (a) permanently affect one or more communities; and
 - (b) are not primarily intended by the Authority to benefit the inhabitants of that or those communities,it shall be the duty of the Authority to make available facilities for recreation or other leisure-time occupation for the benefit of those inhabitants or to assist others to make such facilities available.
- (2) It shall be the duty of the Authority, in performing its duty under subsection (1) above, to consult—
 - (a) the community councils of the communities affected, in the case of communities having such councils; and
 - (b) in any case, the council of any district in which any community affected is situated.