



British Waterways Act 1995

1995 CHAPTER i

An Act to confer powers on the British Waterways Board to enter land and repair or maintain, or carry out other operations with respect to, the waterways owned or managed by them and other works; to confer further powers on the Board for the regulation and management of their waterways and in relation to their undertaking; to amend or repeal statutory provisions relating to the Board or their undertaking; and for other purposes. [16th January 1995]

WHEREAS—

- (1) By the Transport Act 1962 the British Waterways Board (in this Act referred to as “the Board”) were established:
- (2) It is expedient that powers should be conferred on the Board to enter land and repair or maintain, or carry out other operations with respect to, the inland waterways owned or managed by them and other works in circumstances where it would not be reasonably practicable for such repairs, maintenance or operations to be carried out without such entry:
- (3) It is expedient that further provisions should be made for the regulation and management by the Board of the inland waterways owned or managed by them and that certain statutory provisions relating to the Board or their undertaking should be amended or repealed:
- (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:—

Status: This is the original version (as it was originally enacted).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

PART I

PRELIMINARY

1 Short and collective titles

- (1) This Act may be cited as the British Waterways Act 1995.
- (2) The British Waterways Acts 1963 to 1988 and this Act may be cited together as the British Waterways Acts 1963 to 1995.

2 Interpretation

- (1) In this Act, unless the context otherwise requires—
 - “the Act of 1968” means the Transport Act 1968;
 - “the Act of 1971” means the British Waterways Act 1971;
 - “the Act of 1983” means the British Waterways Act 1983;
 - “authorised officer” means any person duly authorised in writing by or on behalf of the Board;
 - “the Board” means the British Waterways Board;
 - “commercial waterway” and “cruising waterway” have the meanings given by section 104 of the Act of 1968;
 - “daily fine” means a fine for each day or part of a day on which an offence is continued after conviction thereof;
 - “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;
 - “remainder waterway” means an inland waterway of the Board which is not for the time being a commercial waterway or a cruising waterway;
 - “river purification authority”, in relation to Scotland, means a river purification board established under section 135 of the Local Government (Scotland) Act 1973 or an islands council;
 - “the specified provisions” means sections 2 (2) to (5) and 4 of the Land Compensation Act 1961 or, in relation to Scotland, sections 9 (2) to (5) and 11 of the Land Compensation (Scotland) Act 1963;
 - “the tribunal” means the Lands Tribunal or, in Scotland, the Lands Tribunal for Scotland; and
 - “vessel” includes any ship, boat, barge, lighter or raft and any other description of craft, whether used in navigation or not.
- (2) Any reference in this Act to a Part not otherwise identified is a reference to that Part of this Act.

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

PART II

ENTRY ON LAND

3 Interpretation of Part II

(1) In this Part—

“emergency operations” means relevant operations carried out pursuant to section 4 (Entry on to land in cases of emergency) of this Act;

“land”, in relation to Scotland, includes an interest in land and references to entry on to land shall be construed accordingly; and any reference to land shall include a reference to salmon fishings;

“on”, in relation to the carrying out of relevant operations on land, includes in, under or over;

“owner” means—

(a) in relation to any land in England or Wales, a person (other than a mortgagee not in possession) who, whether in his own right or as trustee for any other person, is entitled to receive the rack-rent of the land or, where the land is not let at a rack-rent, would be entitled if it were so let; and

(b) in relation to any land in Scotland, the person (other than a heritable creditor not in possession) for the time being entitled to receive, or who would, if the same were let, be entitled to receive, the rents of the land, and includes a trustee, factor, tutor or curator;

“relevant operations” means—

(a) the repair, maintenance, alteration, renewal, protection or demolition of any inland waterway;

(b) the repair, maintenance, alteration, renewal or protection of any works (not forming part of any inland waterway) for the drainage of, or supply of water to, any inland waterway;

(c) any inspection, survey or investigation of any inland waterway or adjoining land, or any works such as are referred to in paragraph (b) above, for the purpose of ascertaining whether any such repair, maintenance, alteration, renewal, protection or demolition is required;

“relevant undertaker” means any of the following—

(a) the National Rivers Authority or, in Scotland, the river purification authority in whose area the land on which relevant operations are carried out or proposed to be carried out is situated;

(b) the British Coal Corporation;

(c) any of the following undertakers, that is, any—

(i) water undertaker or water authority within the meaning of the Water (Scotland) Act 1980;

(ii) sewerage undertaker or local authority within the meaning of the Sewerage (Scotland) Act 1968;

(iii) internal drainage board; or

(iv) supplier of electricity within the meaning of Part I of the Electricity Act 1989;

which has apparatus in the area where the land upon which relevant operations are carried out or proposed to be carried out is situated;

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

- (d) any of the following undertakers, that is, any—
 - (i) public gas supplier within the meaning of Part I of the Gas Act 1986; or
 - (ii) generator or transmitter of electricity within the meaning of Part I of the Electricity Act 1989;

which has apparatus on, under or over land upon or immediately adjacent to which relevant operations are carried out or proposed to be carried out;

- (e) any undertakers authorised by any enactment to carry on any water transport, canal, inland navigation, dock, harbour or pier undertaking if in any case the land on which relevant operations are carried out or proposed to be carried out is in the ownership or occupation of any such undertakers, or is immediately adjacent to any land in the ownership or occupation of any such undertakers;
- (f) any telecommunications operator within the meaning of the Telecommunications Act 1984 having any telecommunication apparatus (as defined in that Act) in the area where relevant operations are carried out or proposed to be carried out; and

“road”, in relation to Scotland, means any public or private road within the meaning of the Roads (Scotland) Act 1984.

- (2) For the purposes of subsection (1) above, “maintenance” includes the removal, felling, cutting back or treating of any tree or other vegetation.

4 Entry on to land in cases of emergency

- (1) Where the Board have reasonable cause to believe that—
 - (a) the carrying out of relevant operations is necessary; and
 - (b) the relevant operations are required to be carried out without delay—
 - (i) in the case of any relevant operations consisting of any inspection, survey or investigation, for the purpose of confirming that there exists an immediate danger to persons or property and, if so, establishing the nature of the repair, maintenance, alteration, protection or demolition required to remove the danger;
 - (ii) in the case of any other relevant operations, for the purpose of removing or facilitating the removal of any immediate danger to persons or property; and
 - (c) it would not be reasonably practicable for the operations to be carried out without entry on to land (other than a highway or, in Scotland, a road) adjoining or in the vicinity of an inland waterway;

any person authorised in writing in that behalf by the Board may enter the land and carry out the operations on that land or on any adjoining land of the Board.

- (2) The Board shall inform the owner and occupier of the land as soon as possible of the carrying out of emergency operations and, not more than 7 days after the entry on that land, they shall serve on such owner and occupier a notice—
 - (a) specifying the land upon which entry has been made and the nature of the emergency operations; and
 - (b) containing details of the right of the occupier to claim payment for such entry and the right of the owner and occupier to claim compensation under this Part.

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

5 Notice of entry, etc

- (1) Where the Board have reasonable cause to believe that—
- (a) the carrying out of relevant operations other than emergency operations is necessary; and
 - (b) it would not be reasonably practicable for the operations to be carried out without entry on to land (other than a highway or, in Scotland, a road) adjoining or in the vicinity of an inland waterway;

the Board may serve a notice (in this Part called “a notice of entry”) in the terms prescribed in subsection (4) below.

- (2) A notice of entry shall be served—
- (a) on the owner of the land;
 - (b) on the occupier of the land, if not the owner; and
 - (c) on every relevant undertaker.
- (3) A copy of every notice of entry shall be posted in some conspicuous place on or near the land specified in the notice not less than 28 days before entry is proposed to be made.

- (4) A notice of entry—
- (a) shall specify—
 - (i) the land on which entry is proposed to be made;
 - (ii) the nature of the relevant operations, the manner in which it is proposed they should be carried out and the nature of any apparatus to be placed and left on the land in connection with the relevant operations;
 - (iii) the date upon which it is intended that the relevant operations will commence (which shall not be earlier than the day after the last date upon which a counter-notice under subsection (5) below may be served in respect of the notice of entry) and their maximum duration; and
 - (iv) the hours during which the relevant operations are to be carried out;
 - (b) shall contain details of the rights to object to the notice (including a form of counter-notice for use by the recipient pursuant to the following provisions of this section) and to claim payment for such entry together with compensation under this Part; and
 - (c) shall state that it would not be reasonably practicable for the operations to be carried out without entry on the land specified in the notice.

(5) (a)

A person served with a notice of entry may, within 28 days from the date on which the notice is served on him, serve on the Board a counter-notice (in this Part called “a counter-notice”) stating that—

- (i) he consents unconditionally to the entry by the Board on the land described in the notice and to the carrying out of the relevant operations specified in the notice, in the manner so specified (“the proposals of the notice of entry”); or
- (ii) he objects to the proposals of the notice of entry on any one or more of the grounds mentioned in subsection (6) below, which shall be specified in the counter-notice.