



Transport Act 1962

1962 CHAPTER 46

PART IV

MISCELLANEOUS AND GENERAL

Provisions relating to the Boards

64 Temporary suspension of liability to maintain inland waterways

- (1) In this section " the interim period " means the period beginning with the passing of this Act and expiring at the end of the year nineteen hundred and sixty-seven.
- (2) During the interim period no action or other proceeding shall be instituted or continued for the purpose of enforcing any obligation of the Commission or the British Waterways Board (whether statutory or otherwise) to maintain any inland waterway or part of an inland waterway which was not in a navigable condition at any time in the period of six months ending on the second day of November, nineteen hundred and sixty-one; and, in any proceedings against the Commission or the British Waterways Board which are brought for that purpose before the end of the year nineteen hundred and sixty-seven as respects an inland waterway or part of an inland waterway which was to any degree navigable in the said period of six months, the defendants shall not be required to secure its maintenance in a condition which is, in matters affecting navigation, better than it was in at any time in that period, but if there has been any deterioration since the end of that period the court may, if satisfied that it is in the interests of navigation, require the defendants to secure its maintenance in the condition in which it was at any time in the said period.
- (3) No person shall be entitled to recover from the Commission or from the British Waterways Board any damages or other sum or compensation in respect of any inability to navigate any inland waterway during the interim period in consequence of it not being in a navigable condition unless the right in respect of which he would be so entitled is a right—
 - (a) which he has exercised or sought to exercise at some time in the period of six years ending with the relevant date, or

Status: This is the original version (as it was originally enacted).

- (b) which his predecessor in title has exercised or sought to exercise at some time in the period of six years ending with the relevant date,

and unless he commences proceedings in respect thereof not later than twelve months after the end of the interim period:

Provided that this subsection shall not prevent the court from awarding any sum in respect of defects in the inland waterway if it is shown that it was without any of those defects at some time in the period of six months ending on the second day of November, nineteen hundred and sixty-one.

For the purposes of this subsection—

- (i) the expression " the relevant date " means in relation to the Kennet waterways the twenty-sixth day of November, nineteen hundred and fifty-five, and in relation to any other inland waterway the second day of November, nineteen hundred and sixty-one ;
 - (ii) the expression " the Kennet waterways " has the meaning assigned to it by section fifteen of the British Transport Commission Act, 1956 ;
 - (iii) the expression " predecessor in title " includes a person whose business or part of whose business (being a business or part of a business in connection with which that person has exercised or sought to exercise the right of navigation in question) has been acquired by the successor whether by succession, purchase, amalgamation, reconstruction or otherwise ; and
 - (iv) the amount of any damage suffered by a person shall be deemed to have accrued from day to day.
- (4) During the interim period any inland waterway comprised in the undertaking of the Commission or the British Waterways Board which has not been closed to navigation by or under any statutory provision shall be deemed to be a watercourse for the purposes of section two hundred and fifty-nine of the Public Health Act, 1936, and paragraph (b) of subsection (1) of section eighty-two of the Public Health (London) Act, 1936 ; and the provisions of Part III of the Public Health Act, 1936, as they apply by virtue of this subsection may be enforced by a county council as well as by a local authority as defined in that Act.
- (5) For the purposes of section thirty-three of the Town and Country Planning Act, 1947 (which relates to the proper maintenance of gardens, vacant sites and other open land), any inland waterway comprised in the undertaking of the Commission or the British Waterways Board which has not been closed to navigation by or under any statutory provision shall during the interim period be deemed to be a vacant site, and any local authority within the meaning of that Act (and not only the local planning authority) shall be entitled to enforce the provisions of that section as it applies by virtue of this subsection.
- (6) This section shall not affect section eighteen of the British Transport Commission Act, 1956 (which imposes certain liabilities as respects the Kennet waterways), but sections sixteen and seventeen of that Act, and so much of sections twenty and twenty-one of that Act as relates to the Kennet waterways shall cease to have effect.
- (7) Nothing in this section shall be taken as preventing proceedings being taken to enforce a right other than a right of navigation.
- (8) This section shall have effect as from the passing of this Act.