



# Water Resources Act 1963

## 1963 CHAPTER 38

### PART VII

#### ADDITIONAL FUNCTIONS OF RIVER AUTHORITIES

#### **72 Control of discharges into underground strata**

- (1) Subject to the provisions of the next following section, it shall not be lawful after the end of the initial period, by means of any well, borehole or pipe, to discharge into any underground strata within a river authority area—
  - (a) any trade effluent or sewage effluent, or
  - (b) any poisonous, noxious or polluting matter not falling within the preceding paragraph,except with the consent of the river authority, which consent shall not be unreasonably withheld, and subject to any conditions imposed by the river authority in accordance with the next following subsection.
- (2) On an application for consent under this section the river authority, if they grant consent, may grant it either unconditionally or subject to such conditions as they may reasonably impose as to any one or more of the following matters, that is to say—
  - (a) the nature, composition and volume of the effluent or other matter to be discharged;
  - (b) the strata into which it may be discharged;
  - (c) measures to be taken for protecting water contained in other underground strata through which any well, borehole or pipe containing the effluent or other matter will pass;
  - (d) the provision of facilities for inspection, including the provision, maintenance and use of observation wells and boreholes.
- (3) Where an application is made to a river authority for consent under this section, and the authority either—
  - (a) refuse consent, or
  - (b) grant it subject to conditions,

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the applicant, if he is aggrieved by their decision, may, by notice in writing under this subsection, appeal against it to the Minister.

(4) If, within the period of three months beginning with the date on which an application is made to a river authority for consent under this section or within such extended period as may at any time be agreed upon in writing between the applicant and the river authority, the river authority do not give notice to the applicant of their decision on the application, the authority shall be treated for the purposes of this section as having refused consent.

(5) Any notice under subsection (3) of this section shall be served within such time and in such manner as may be prescribed by regulations under this Act:

Provided that the time so prescribed shall not be less than twenty-eight days from the date on which the applicant is notified by the river authority of the decision to which the notice relates, or, in a case falling within the last preceding subsection, from the end of the period after which the river authority are to be treated as having refused consent on his application.

(6) On any appeal to the Minister under this section, the Minister may allow or dismiss the appeal or may reverse or vary any part of the decision of the river authority, and may deal with the application as if it had been made to him in the first instance.

(7) Subsections (5) and (6) of section 39, and section 54 (2), of this Act shall apply (with the necessary modifications) to appeals under this section as they apply to appeals under Part IV of this Act.

(8) Any person who contravenes subsection (1) of this section, or (in circumstances not constituting such a contravention) does not comply with a condition subject to which a consent granted under this section for the time being has effect, shall be guilty of an offence and shall be liable, on conviction on indictment or on summary conviction, to a fine :

Provided that an offence under this section shall not be punishable on summary conviction by a fine exceeding one hundred pounds.

(9) In this section " trade effluent" and " sewage effluent " have the same meanings as in the Rivers (Prevention of Pollution) Act 1951.

### **73 Transitional exemption of discharges from control**

(1) Subsection (1) of the last preceding section shall not apply to any discharge of an effluent or other matter which is made in the circumstances specified in the next following subsection.

(2) The said circumstances are—

(a) that the person discharging the effluent or other matter has, on one occasion at least within the period of twelve months ending with the second appointed day, discharged matter of the same nature or composition into the same underground strata by the same means ;

(b) that he has, during the initial period, applied to the river authority for consent under the last preceding section to discharge matter of that nature or composition into those underground strata by those means, and that the discharge in question occurs on a day before the application has been disposed of; and

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- (c) that the aggregate volume of matter of the nature or composition in question which is discharged by that person into those underground strata during the whole of that day does not exceed the greatest volume of matter of that nature or composition which was discharged by him into those strata on any one day within the period referred to in paragraph (a) of this subsection.
- (3) Section 56 (7) of this Act shall apply for the purposes of this section as it applies for the purposes of that section, subject to the necessary modifications and, in particular, with the substitution, for the reference to section 40 of this Act, of a reference to subsection (4) of the last preceding section.

#### **74 Revocation or variation of consent under s. 72**

- (1) Where a river authority have granted consent under section 72 of this Act in respect of any discharge, they may at any time by notice in writing to the person to whom the consent was granted revoke or vary the consent, either on the application of that person or without any such application.
- (2) Any person aggrieved by the revocation or variation of a consent granted to him under that section, or, where he has applied to the river authority for the variation of any consent so granted, by the refusal of the authority to vary the consent in accordance with the terms of his application, may by notice under this subsection appeal to the Minister against the revocation, variation or refusal, as the case may be.
- (3) If, within the period of three months beginning with the date on which an application is made to a river authority for the variation of any such consent or within such extended period as may at any time be agreed upon in writing between the applicant and the river authority, the river authority do not give notice to the applicant of their decision on the application, the authority shall be treated for the purposes of this section as having refused to vary the consent in accordance with the terms of the application.
- (4) Any notice under subsection (2) of this section shall be served within such time and in such manner as may be prescribed by regulations under this Act:

Provided that the time so prescribed shall not be less than twenty-eight days from the date on which notice of the revocation, variation or refusal to which the first-mentioned notice relates is given by the river authority to the person to whom the consent in question was granted, or, in a case falling within the last preceding subsection, from the end of the period after which the river authority are to be treated as having refused to vary the consent in question in accordance with the terms of that person's application.

- (5) On any appeal to the Minister under this section the Minister may allow or dismiss the appeal or, in the case of an appeal against a variation, may, with the consent of the person to whom the consent was granted, determine that it shall be varied in a way different from that specified in the notice under subsection (1) of this section.
- (6) Subsections (5) and (6) of section 39, and section 54 (2), of this Act shall apply (with the necessary modifications) to appeals under this section as they apply to appeals under Part IV of this Act.

#### **75 Register of consents under s. 72**

- (1) Every river authority shall keep, in such manner as may be prescribed, a register containing such particulars as may be prescribed of consents granted by them under section 72 of this Act which are for the time being in force; and so much of the register

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as relates to any such consent shall, in favour of a person charged with an offence under that section, be conclusive as to the terms of the consent as it has effect for the time being, including the conditions subject to which it so has effect.

- (2) Every register kept under this section shall be available for inspection by the public at all reasonable hours.

## **76 Emergency measures in case of pollution of waters**

- (1) Where it appears to a river authority that any poisonous, noxious or polluting matter is present in an inland water in the area of the river authority, and has entered that inland water in consequence of an accident or other unforeseen act or event, the river authority, subject to the following provisions of this section, may carry out such operations as the authority consider necessary or expedient for either or both of the following purposes, that is to say—
- (a) removing that matter from the inland water, and disposing of it in such manner as the authority consider appropriate, and
  - (b) remedying or mitigating any pollution caused by its presence in the inland water.
- (2) The power conferred by the preceding subsection does not include power to construct any works, other than works of a temporary character which are removed on or before the completion of the operations.
- (3) Section 3(5) of this Act shall apply in relation to the powers conferred by this section as if they had been included among the functions of river boards transferred to river authorities by section 5 of this Act; and those powers shall be included among the transferred functions of river authorities accordingly.
- (4) In section 135(2)(a) of this Act the reference to functions relating to river pollution includes the powers conferred by this section.
- (5) Nothing in this section shall be construed as derogating from any duty of a river authority to enforce the provisions of the Rivers (Prevention of Pollution) Acts 1951 to 1961 in their area.

## **77 Special measures for securing proper use of water resources**

- (1) Any reference in this Act to action for the purpose of securing the proper use of water resources shall (without prejudice to the generality thereof) be taken to include action of any description to which this section applies for the purpose of rendering the quality of the water contained in an inland water more suitable for a particular use for which the water is required.
- (2) This section applies to the making and (on the part of the river authority) the performance of an agreement between a river authority and a sewerage authority whereby, in consideration of payments to be made by the river authority, the sewerage authority will secure the removal to a different point, or other alteration, of an outlet from which sewage effluent (within the meaning of the Rivers (Prevention of Pollution) Act 1951) is discharged by the sewerage authority into an inland water in the area of the river authority.
- (3) This section also applies to the carrying out by a river authority of any operations, other than engineering or building operations which are excepted from this subsection

by directions given by the Minister, either to river authorities generally or to a particular river authority.

## **78 Borings not requiring licences under Part IV**

- (1) Where, at any time after the end of the initial period, a person proposes to construct in a river authority area a well, borehole or other work which is to be used solely for the purpose of abstracting, to the extent necessary to prevent interference with the execution or operation of any underground works, water contained in underground strata, or proposes to extend any such well, borehole or other work, he shall, before he begins to construct or extend the work, give to the river authority a notice of his intention in the prescribed form.
- (2) Where, after the end of the initial period, a person proposes to construct or extend a boring in a river authority area for the purpose of searching for or extracting minerals, he shall, before he begins to construct or extend the boring, give to the river authority a notice of his intention in the prescribed form.
- (3) A river authority, to whom a notice is given by any person in pursuance of either of the preceding subsections, may by notice in writing to that person (in this section referred to as a "conservation notice") require him, in connection with the construction, extension or use of the work to which the first-mentioned notice relates, to take such reasonable measures for conserving water as are specified in the conservation notice, being measures which, in the opinion of the river authority, will not interfere with the protection of the underground works in question or, as the case may be, with the winning of minerals.
- (4) The person on whom a conservation notice is served may, by notice in writing to the Minister, appeal to the Minister against the conservation notice on either or both of the following grounds, that is to say—
  - (a) that the measures required by the conservation notice are not reasonable, and
  - (b) that those measures would interfere with the protection of the underground works in question or with the winning of minerals, as the case may be ;and on any such appeal the Minister may confirm, quash or vary the conservation notice as the Minister may consider appropriate.
- (5) Any notice under the last preceding subsection shall be served within such time (not being less than twenty-eight days from the date of service of the conservation notice) and in such manner as may be prescribed by regulations under this Act.
- (6) The decision of the Minister on any appeal under this section shall be final; and section 39(5) of this Act (with the substitution, for references to the applicant, of references to the appellant) and section 54 (2) of this Act shall apply to appeals under this section as they apply to appeals under Part IV of this Act.
- (7) Any person who contravenes subsection (1) or subsection (2) of this section, or fails to comply with a conservation notice, shall be guilty of an offence and shall, on conviction on indictment or on summary conviction, be liable to a fine:

Provided that an offence under this section shall not be punishable on summary conviction by a fine exceeding one hundred pounds.

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## **79 Byelaws for protection of water resources**

- (1) Section 18 of the Water Act 1945 (which empowers statutory water undertakers to make byelaws for the purpose of protecting water against pollution) shall have effect for enabling byelaws to be made under that section by river authorities.
- (2) For the purposes of the application of that section by virtue of the preceding subsection—
  - (a) any reference to statutory water undertakers shall be construed as a reference to a river authority, and any reference to the undertakers shall be construed as a reference to the river authority by whom the byelaws are made;
  - (b) the reference in subsection (1) of that section to water which belongs to statutory water undertakers or which they are for the time being authorised to take shall be construed as a reference to any such water as is mentioned in section 68 (1) of this Act; and
  - (c) in subsection (5) the words " and subsection (2) of the next but one following section of this Act" shall be omitted.
- (3) Subject to the next following subsection, where it appears to a river authority to be necessary or expedient to do so for the purposes of their new functions or of their functions relating to land drainage or to fisheries, the river authority may make byelaws prohibiting such inland waters in their area as may be specified in the byelaws from being used for boating (whether with mechanically propelled boats or otherwise) swimming or other recreational purposes, or regulating the way in which any such inland waters so specified may be used for any of those purposes.
- (4) Byelaws made by a river authority under the last preceding subsection shall not apply to—
  - (a) any tidal waters ;
  - (b) any inland water in relation to which functions are exercisable by a navigation authority, harbour authority or conservancy authority other than the river authority;
  - (c) any inland water falling within section 2 (3) of this Act; or
  - (d) any reservoir belonging to, and operated by, statutory water undertakers and not falling within the said section 2 (3).
- (5) Subsection (3) of this section shall have effect without prejudice to the exercise of any power conferred on river authorities by virtue of subsection (1) of this section or by virtue of any enactment not contained in this Act.
- (6) Byelaws made in respect of any inland water by virtue of subsection (3) of this section may include provision prohibiting the use of the inland water by boats which are not for the time being registered with the river authority in such manner as the byelaws may provide ; and the byelaws may authorise the river authority to make reasonable charges in respect of the registration of boats in pursuance of the byelaws.
- (7) No byelaw made by virtue of section 18 of the Water Act 1945 as applied by subsection (1) of this section shall conflict or interfere with the operation of any byelaw made by a navigation authority, harbour authority or conservancy authority.
- (8) If any person contravenes, or fails to comply with, any byelaws made by virtue of this section (including any byelaws made by virtue of the said section 18 as applied by this section) he shall be guilty of an offence and liable on summary conviction to a fine not exceeding twenty pounds ; 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 five pounds for each day on which it is so continued.

- (9) Without prejudice to any proceedings under the last preceding subsection, a river authority may take such action as they consider necessary to remedy the effect of any contravention of, or failure to comply with, byelaws made by them as mentioned in that subsection, and may recover the expenses reasonably incurred by them in doing so from the person in default.

## **80 Provision of recreational facilities at reservoirs and other inland waters**

- (1) Subject to subsection (5) of this section, a river authority may, if it appears to them reasonable to do so.—
- (a) permit the use by members of the public, for the purposes of any form of recreation which the river authority consider appropriate, of any reservoir owned or managed by the river authority ;
  - (b) provide, or otherwise make available, facilities for use by persons resorting to any such reservoir for the purposes of any such form of recreation.
- (2) Subject to subsection (6) of this section, where the use for the purposes of any form of recreation of an inland water (not being a reservoir to which the preceding subsection applies) is for the time being regulated by byelaws made by a river authority by virtue of subsection (3) of the last preceding section, the river authority may provide, or otherwise make available, facilities for use by persons resorting to that inland water for the purposes of that form of recreation.
- (3) A river authority may, if they think fit, make such reasonable charges as they may determine in respect of the use of any reservoir for the purposes of recreation, and of any facilities made available by the authority under either of the preceding subsections.
- (4) A river authority may let to any person, for such consideration and on such terms and conditions as they think fit, any works constructed by them for the purpose of providing facilities under subsection (1) or subsection (2) of this section, and may authorise that person to make such reasonable charges as the authority may determine in respect of the use thereof as mentioned in that subsection.
- (5) The powers of a river authority under subsection (1) of this section shall, in the case of a reservoir which the authority manage but do not own, be exercisable only with the consent of the owners of the reservoir.
- (6) The expenditure incurred by a river authority in connection with the exercise of the powers conferred on them by subsection (2) of this section shall be limited so that, taking one year with another, it will not exceed the aggregate of—
- (a) the amounts received by the authority in respect of the use of facilities made available under that subsection, or the letting of works constructed for the purpose of providing facilities under that subsection, and
  - (b) the amounts so received by way of charges required by any byelaw made by virtue of subsection (3) (as extended by subsection (6)) of the last preceding section to be paid for the registration of boats for use on an inland water to which subsection (2) of this section applies.

## **81 Agreements for facilitating performance of functions of river authorities**

- (1) A river authority may, subject to the next following subsection, enter into an agreement with any statutory water undertakers, with any local authority, or with the owner or occupier of any land, with respect to any one or more of the following matters, that is to say—
  - (a) the execution by any party to the agreement of works within the river authority area which the river authority consider necessary or expedient in connection with the performance of their new functions;
  - (b) the maintenance by any party to the agreement of works executed in pursuance of the agreement;
  - (c) provision for the river authority to use, or have access to, any land within their area for any purpose connected with the performance of their new functions;
  - (d) the manner in which any reservoir in the river authority area is to be operated.
- (2) The Minister may, by a direction given either to a particular river authority or to river authorities generally, direct that, in such cases or classes of cases as are specified in the direction, the authority or authorities to whom the direction is given shall not enter into any agreement under this section except with the consent of the Minister and after prior consultation with the Water Resources Board.
- (3) An agreement under this section may contain such incidental and consequential provisions (including provisions of a financial character) as appear to the river authority necessary or expedient for the purposes of the agreement.
- (4) Where an agreement is made under this section with an owner of land, other than registered land, and the agreement provides that the provisions of this subsection shall have effect in relation thereto.—
  - (a) the agreement may be registered as a land charge under section 10 of the Land Charges Act 1925, as if it were a charge affecting land falling within paragraph (iii) of Class D, and the provisions of section 13 of that Act (which relates to the effect of non-registration) shall apply as if it were such a land charge, and
  - (b) subject to the provisions of section 13 of that Act, the agreement shall be binding upon any person deriving title or otherwise claiming under that owner (otherwise than in right of an interest or charge to which the interest of the owner was subject immediately before the agreement was made) to the same extent as it is binding upon that owner, notwithstanding that it would not have been binding upon that person apart from the provisions of this paragraph.
- (5) Where an agreement under this section is made with an owner of land which is registered land, and the agreement provides that the provisions of this subsection shall have effect in relation thereto.—
  - (a) notice of the agreement may be registered under section 59 (2) of the Land Registration Act 1925 as if it were a land charge (other than a local land charge) within the meaning of that Act, and the provisions of that Act shall apply accordingly as if it were such a land charge, and
  - (b) where notice of the agreement has been so registered, the agreement shall be binding upon any person deriving title or otherwise claiming under that owner (otherwise than in right of an interest or charge to which the interest of the owner was subject immediately before the notice was registered) to the same extent as it is binding upon that owner, notwithstanding that it would not have been binding upon that person apart from the provisions of this paragraph.



- (6) In this section " registered land " has the same meaning as in the Land Registration Act 1925.

## **82 Future transfers of functions or property of other authorities and undertakings**

- (1) A river authority may at any time apply to the Ministers for an order under this section transferring to the river authority any one or more of the following, that is to say—
- (a) any functions of a navigation authority, conservancy authority or harbour authority, in so far as they are exercisable in relation to the area of the river authority ;
  - (b) any property of a navigation authority, conservancy authority or harbour authority which is situated in the area of the river authority ;
  - (c) any reservoir belonging to statutory water undertakers which is situated in the area of the river authority and is not a reservoir operated wholly or mainly for the supply of water to consumers ;
  - (d) any well, borehole or other work whereby water may be abstracted from underground strata, being a work which is situated in that area and belongs to statutory water undertakers and is not operated wholly or mainly for the supply of water to consumers ;
  - (e) the functions of managing and operating any such reservoir or work as is mentioned in paragraph (c) or paragraph (d) of this subsection, but without a transfer of the ownership of the reservoir or work.
- (2) Where in accordance with the preceding subsection a river authority may apply for an order transferring any functions or property of another body, that body may themselves apply for such an order.
- (3) The provisions of Schedule 10 to this Act shall have effect with respect to applications and orders under this section.
- (4) An order under this section may contain such transitional, incidental, supplementary and consequential provisions as the Ministers consider necessary or expedient, including (but without prejudice to the generality of this subsection) such provisions as they consider necessary or expedient with respect to—
- (a) the transfer of assets and liabilities, the payment of compensation and other financial adjustments;
  - (b) the amendment, adaptation or repeal of local enactments ; and
  - (c) the application (subject to such exceptions, adaptations and modifications as may be specified in the order) of any of the provisions of Part IX of this Act or any regulations made thereunder.
- (5) Any transfer of functions or property which could be effected by an order under this section may, with the consent of the Ministers, be effected by agreement between the river authority and the other body concerned.
- (6) Property vested in a river authority by virtue of an order or agreement under this section shall not be treated as so vested by way of sale for the purpose of section 12 of the Finance Act 1895 (which provides for charging stamp duty in the case of certain statutory transfers by way of sale).
- (7) Where, by virtue of an order or agreement under this section, property is transferred to a river authority on the terms that—

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- (a) the body from whom it is transferred shall continue liable for the repayment of, and payment of interest on, any sum borrowed in connection with the property, and
  - (b) the river authority shall make payments to that authority in respect of amounts paid by them by reason of their continuing so liable,
- any payment so made by the river authority shall be deemed to be a capital payment or an annual payment according as the amount in respect of which it is made was paid in or towards repayment of the loan or by way of interest thereon.
- (8) Where by an order or agreement made by virtue of this section any functions are transferred to a river authority as mentioned in subsection (1)(e) thereof, references in this Act to the new functions of the authority shall be construed as including, and references to their transferred functions as not including, a reference to those functions.
- (9) For the purposes of an application for, or the making of, an order transferring to a river authority any such functions or property as are mentioned in subsection (1)(a) and (b) of this section, and for the purposes of any agreement for the transfer of any such functions or property, "the Ministers " in this section means the Minister, the Minister of Agriculture, Fisheries and Food and the Minister of Transport acting jointly.