



Transport Act 1962

1962 CHAPTER 46

PART IV

MISCELLANEOUS AND GENERAL

Provisions relating to the Boards

63 Abstraction of water by British Waterways Board

- (1) Subject to this section the British Waterways Board shall not without the consent of the Minister sell water from an inland waterway—
 - (a) unless the water is abstracted at a point at which water was being abstracted before the passing of this Act, and
 - (b) unless the quantity of water sold in the period of twelve months beginning with the vesting date, and in each subsequent period of twelve months, does not exceed the quantity abstracted at that point in the period of twelve months ending with the passing of this Act, and
 - (c) unless the land or premises on which the water is used is the same as that on which the water was used before the passing of this Act.
- (2) If on the vesting date the British Waterways Board become subject to an obligation to sell water such that the quantity they are obliged to sell is limited, whether by reference to the average rate of abstraction, or the quantity abstracted in any period, or otherwise, then, so long as the terms of the obligation are not varied, subsection (1) of this section shall not apply to the sale of water in discharge of the obligation.
- (3) Subsection (1) of this section shall not apply to the sale of water under section thirty-five of the River Lee Water Act, 1855 (under which a limited quantity of water may be sold for industrial purposes), or under section thirty-five of the Lee Conservancy Act, 1900 (under which the abstraction of water may be regulated by byelaw).
- (4) The British Waterways Board shall serve on the persons specified in this section notice of any application made by them for the consent of the Minister, giving sufficient particulars of their proposals and of the terms of the consent applied for, and stating

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that the person on whom the notice is served should submit any objections to the Minister within twenty-eight days of service of the notice and should within that time send a copy of any such objection to the Board.

- (5) The British Waterways Board shall publish in one or more newspapers circulating in the area in which the point of abstraction is situated a notice of any application made by them for the consent of the Minister, giving sufficient particulars of their proposals and of the terms of consent applied for.
- (6) Except in Scotland, the persons on whom the notice is to be served shall be—
 - (a) the council of the borough or urban or rural district in which the point of abstraction is situated,
 - (b) the River Board in whose area the point of abstraction is situated, and
 - (c) the statutory water undertakers within whose limits of supply the point of abstraction is situated, and any other statutory water undertakers on whom the Minister, after consultation with the Minister of Housing and Local Government, directs the notice to be served.
- (7) In Scotland the persons on whom the notice is to be served shall be—
 - (a) the council of the county or burgh in which the point of abstraction is situated,
 - (b) the river purification authority in whose area the point of abstraction is situated and any other river purification authority on whom the Minister after consultation with the Secretary of State directs the notice to be served,
 - (c) any salmon fishery district board on whom the Minister after consultation with the Secretary of State directs the notice to be served, and
 - (d) the local water authority within whose limits of supply the point of abstraction is situated and any other local water authority on whom the Minister after consultation with the Secretary of State directs the notice to be served.
- (8) The British Waterways Board shall give the Minister such information as he may require to determine whether any directions should be given under the two last foregoing subsections.
- (9) The Minister shall not entertain the application unless he is satisfied that all the required notices have been duly given; and the Minister shall take into consideration any objections duly made by the persons on whom they have been served.
- (10) The Minister in considering the application and the terms in which any consent ought to be given shall have regard—
 - (a) to the importance of the uses to which the abstracted water will be put and to the present and future needs of statutory water undertakers, industry and agriculture, and
 - (b) to the effect which the proposals may have on fisheries, land drainage or public health, or on the inland waterway directly affected or any other inland waterway or stream, and
 - (c) to the extent to which the abstracted water will be returned,and shall, before giving his consent as respects any inland waterway in Scotland, consult the Secretary of State.
- (11) The Minister may give his consent either in the terms requested in the application, or in any other terms, but shall not afford terms more favourable than those requested unless he is satisfied that all the authorities concerned have had an opportunity of considering those terms and making objections.

- (12) The terms of any consent given by the Minister shall be transmitted by the British Waterways Board to each of the persons on whom they are required in pursuance of this section to serve notice of their application for consent.
- (13) The Commission shall before the vesting date compile for the use of the British Waterways Board a record of all cases in which, in the period of twelve months ending with the passing of this Act, they were abstracting water from inland waterways for use on any land or premises, and shall include in the record particulars of the land or premises on which the water was used, of the points of abstraction, of the total quantities abstracted in the said period, and of any contract under which they were obliged to sell the water.

The British Waterways Board shall give reasonable facilities for the inspection of the record by representatives of the authorities described in subsections (6) and (7) of this section, and shall, at the request of any such authority, give them any information as to the contents of the record.

- (14) In this section—
- " local water authority " has the meaning given by section five of the Water (Scotland) Act, 1946 ;
 - " river purification authority " has the same meaning as in Part III of the Rivers (Prevention of Pollution) (Scotland) Act, 1951;
 - " salmon fishery district board " means the district board for a fishery district for the purposes of the Salmon Fisheries (Scotland) Act, 1862, and the Commissioners appointed under the Tweed Fisheries Act. 1857 ;
 - " statutory water undertakers " has the meaning given by subsection (1) of section fifty-nine of the Water Act, 1945;
 - " stream " includes any river or watercourse whether natural or artificial.
- (15) This section shall apply to the Conservators of the River Thames and the Lee Conservancy Catchment Board as if they were River Boards and their areas were the Thames catchment area and the Lee catchment area respectively.
- (16) References in this section to the sale by the British Waterways Board of water from an inland waterway include references to any arrangements whereby the Board for valuable consideration abstract, or authorise the abstraction of, the water of an inland waterway for use by some other person, whether or not the water is returned after use.
- (17) The granting of consent under this section shall not be taken as authorising the British Waterways Board to do anything which they would not have power to do apart from the provisions of this section.