



Aire and Calder Navigation Act 1992

1992 CHAPTER iv

An Act to provide for restoration and diversion of a section of the river Aire and of the Aire and Calder Navigation within the St. Aidan's Remainder Opencast Site of the British Coal Corporation; to authorise the Corporation to construct works and to acquire lands; to confer further powers on the Corporation; and for other purposes.
[16th March 1992]

Whereas the British Coal Corporation (hereinafter called "the Corporation") were established with the then title of the National Coal Board by sections 1 and 2 of the Coal Industry Nationalisation Act 1946, with the duties of working and getting coal in Great Britain, securing the efficient development of the coal-mining industry and making supplies of coal available as best to further the public interest:

And whereas in pursuance of the St. Aidan's Extension Authorisation 1980 granted under section 1 of the Opencast Coal Act 1958 and in pursuance of planning permission deemed to be granted by virtue of a direction of the Secretary of State under section 2 of that Act, the Corporation from 1981 worked the St. Aidan's Extension Site (hereinafter called "the opencast site"):

And whereas the opencast site lies near to the river Aire and to the Aire and Calder Navigation of the British Waterways Board, which is one of the commercial waterways of the Board within the meaning of Part VII of the Transport Act 1968:

And whereas in March 1988 the river Aire adjacent to Lemonroyd Lock and the opencast site burst its banks and filled the opencast site with some four billion gallons of water to a depth of some 70 metres, so that working of the site was suspended:

And whereas it is expedient to remedy the situation and to provide for the future use of the lands affected by reconstructing the course of the river Aire and the Aire and Calder Navigation, pumping out the void on the opencast site, completion of opencast operations at the site and its landscaping reinstatement:

And whereas for those purposes it is expedient that the Corporation should be empowered to construct the diversion of the navigation and other works, which they are by this Act authorised to construct and to acquire lands and easements for such works and otherwise:

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And whereas it is expedient that the other provisions in this Act should be enacted:

And whereas the objects of this Act cannot be effected without the authority of Parliament:

And whereas plans and sections showing the lines, situations and levels of the works authorised by this Act, and a book of reference to such plans containing the names of the owners and lessees, or reputed owners and lessees, and of the occupiers, of the lands which may be acquired or used compulsorily under the powers of this Act, have been deposited in the office of the Clerk of the Parliaments and in the Private Bill Office, House of Commons, and with the proper officer of the Leeds City Council and such plans, sections and book of reference are in this Act respectively referred to as the deposited plans, the deposited sections and the deposited book of reference:

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:—

PART I

PRELIMINARY

1 Citation

This Act may be cited as the Aire and Calder Navigation Act 1992.

2 Interpretation

(1) In this Act, unless the context otherwise requires—

“the Act of 1961” means the Land Compensation Act 1961;

“the Act of 1965” means the Compulsory Purchase Act 1965;

“the Act of 1991” means the Water Resources Act 1991;

“the Board” means the British Waterways Board;

“the Corporation” means the British Coal Corporation;

“the definitive map” means the definitive map for the area forming part of the definitive map and statement as defined by section 53 of the Wildlife and Countryside Act 1981;

“enactment” includes any order, byelaw, rule, regulation, scheme or other instrument having effect by virtue of an enactment;

“the limits of deviation” means the limits of deviation shown on the deposited plans;

“the new navigation” means Work No. 2, Work No. 12, Work No. 12A and so much of Work No. 1 as is downstream of its junction with Work No. 2 together with all works and conveniences connected therewith;

“the navigation” means the Aire and Calder Navigation of the Board;

“the railways board” means the British Railways Board;

“the river” means the river Aire;

“the Rivers Authority” means the National Rivers Authority;

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“the superseded length” means so much of the navigation and its facilities as is not required in consequence of the construction of the new navigation;
“the transfer date” means the date agreed or determined under section 41 (New navigation to be commercial waterway, etc.) of this Act;
“the tribunal” means the Lands Tribunal;
“the works” means the works authorised by this Act and includes those works as altered, replaced or re-laid under subsection (3) of section 5 (Power to make works) of this Act.

- (2) References in this Act to reference points shall be construed as references to Ordnance Survey National Grid reference points.
- (3) All areas, points, directions, distances and lengths stated in any description of works, powers or lands shall be construed as if the words “or thereabouts” were inserted after each such area, point, direction, distance and length and distances between points on a waterway shall be taken to be measured along the centre line of the channel of the waterway.
- (4) Unless the context otherwise requires, any reference in this Act to a work identified by the number of such work shall be construed as a reference to the work of that number authorised by this Act.
- (5) References in this Act to points identified by letters shall be construed as references to the points so lettered on the deposited plans.

3 Incorporation of Railways Clauses Consolidation Act 1845

- (1) The provisions of the Railways Clauses Consolidation Act 1845 with respect to the temporary occupation of lands near the railway during the construction thereof are, so far as the same are applicable for the purposes and are not inconsistent with or varied by the provisions of this Act, incorporated with and form part of this Act.
- (2) For the purposes of the said provisions as so incorporated, “the special Act” means this Act, “the railway” means the works, “the centre of the railway” means the centre lines of the works and “the company” means the Corporation.
- (3) Wherever the said provisions as originally enacted confer powers exercisable within the period by the special Act limited for the completion of the railway, those provisions as incorporated with this Act shall be construed as though their powers were expressed to be exercisable within a period of five years from the commencement of the construction of the work or part of a work in relation to which the powers are required to be exercised.

4 Application of Part I of Compulsory Purchase Act 1965

- (1) Part I of the Act of 1965 (except section 4 thereof and paragraph 3 (3) of Schedule 3 thereto), in so far as it is applicable for the purposes of this Act and is not inconsistent with the provisions thereof, shall apply to the compulsory acquisition of land under this Act as it applies to a compulsory purchase to which Part II of the Acquisition of Land Act 1981 applies and as if this Act were a compulsory purchase order under the said Act of 1981.
- (2) In section 11 (1) of the Act of 1965 (which empowers the acquiring authority to enter on and take possession of land the subject of a notice to treat after giving not less than

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14 days' notice) as so applied, for the words “fourteen days” there shall be substituted the words “three months”.

- (3) The Lands Clauses Consolidation Act 1845 shall not apply to the acquisition of land under this Act.

PART II

WORKS

5 Power to make works

- (1) Subject to the provisions of this Act, the Corporation may, in the lines or situations shown on the deposited plans and within the limits of deviation and according to the levels shown on the deposited sections, make and maintain the works specified in Part I of Schedule 1 to this Act with all necessary works and conveniences connected therewith.
- (2) Notwithstanding anything to the contrary in this Act or shown on the deposited plans or the deposited sections, but without prejudice to the provisions of section 9 (Power to deviate) of this Act the Corporation may, subject to the approval of the Secretary of State, construct the whole or any part of the works within the limits of deviation in accordance with dimensions and a description other than the dimensions and descriptions shown on the deposited plans and the deposited sections or specified in Schedule 1 to this Act.
- (3) Subject to the provisions of this Act, the Corporation may within the limits of deviation from time to time alter, replace or re-lay temporarily or permanently the works.

6 Further works and powers

- (1) Subject to the provisions of this Act (and, in so far as the same are shown on the deposited plans and sections, in the lines or situations and according to the levels as shown) the Corporation may make and maintain the further works and facilities described in Part II of Schedule 1 to this Act with all necessary works and conveniences connected therewith.
- (2) With the consent in writing of the highway authority the route of any new highway to be provided in pursuance of this Act may, on the application of the Corporation, be varied to a line appearing to the highway authority to be no less commodious and convenient to persons appearing to the highway authority to be likely to use the highway.

7 Subsidiary powers

- (1) Without prejudice to the generality of the foregoing provisions of this Part of this Act, the Corporation may within the limits of deviation and within the lines marked on the deposited plans “Limit of land to be acquired”, in connection with the works and for the purposes thereof—
- (a) make junctions and communications between any of the works and any waterways, rivers, streams and watercourses and any existing streets, roads, bridleways, ways, bridges, towing paths and footpaths;

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- (b) stop up, remove, alter or otherwise interfere with means of access between any premises and any highway which is diverted or stopped up or altered under this Act;
 - (c) make, provide, alter and maintain all necessary and convenient walls, banks, embankments, locks, piling, cofferdams, borrow pits, settling ponds, fences, facilities for watering cattle and other animals, culverts, drains, conduits, dykes, intakes, outfalls, spillways, syphons, watercourses, cuttings, aqueducts, tunnels, fish passes, weirs, sluices, valves, wharves, moorings and mooring areas, linings, mattresses, pitching, roads, bridges, towpaths, bridleways and footpaths and all such mains, pipes, cables, wires, pumps, machinery and works and appliances as may be required;
 - (d) raise, widen, lengthen, alter, reconstruct, replace or remove the bridges over the navigation or any watercourse and the approaches to such bridges and strengthen, underpin, widen and deepen the piers, arches and other supports, and the foundations of such bridges without acquiring the said bridges or any interest therein;
 - (e) carry out works to any towpath forming part of the navigation;
 - (f) stop up and discontinue so much of the watercourses shown on the deposited plans as will be rendered unnecessary by reason of the execution of the works and remove or infill any locks or other structures associated therewith;
 - (g) execute any works or abstract water for the protection of any adjoining lands, buildings or structures;
 - (h) temporarily or permanently use, strengthen, widen, improve, remove, alter, divert, stop up or otherwise interfere with any drain, sewer, outfall, intake, watercourse or other channel, providing where possible a proper substitute before interrupting the flow of sewage in any drain or sewer or water in any watercourse or other channel;
 - (i) temporarily or permanently use, strengthen, remove, alter, divert, stop up or otherwise interfere with telegraphic, telephonic, water, gas, petroleum and other pipes, lines, wires, works and apparatus;
 - (j) fell, lop or cut and remove any fence or hedge and any tree, bush, shrub or other vegetation;
 - (k) raise, lower or otherwise alter the level of any land and remove anything therefrom; and
 - (l) dispose of spoil or other material excavated in the execution of the works.
- (2) In the exercise of the powers conferred by this section the Corporation shall cause as little detriment and inconvenience to any person as the circumstances permit and shall pay compensation for any damage done in the exercise of such powers.
- (3) Any question of disputed compensation payable under the provisions of this section shall be determined by the tribunal.

8 Power to improve and regulate flow of watercourses

(1) (a)

Without prejudice to the powers contained in section 7 (Subsidiary powers) of this Act but subject to the other provisions of this Act, the Corporation for the purposes of improving or regulating the flow of any of the watercourses which may require improvement or regulation consequent upon the operation or maintenance of any of the works may—