ELIZABETH II



1988 CHAPTER xxv

An Act to authorise the British Waterways Board to permit the use for navigation of certain canals which have been closed to navigation by the London Midland and Scottish Railway (Canals) Act 1944; and for connected purposes. [29th July 1988]

WHEREAS—

(1) By the Transport Act 1962 the British Waterways Board (in this Act referred to as "the Board") were established: 1962 c. 46.

(2) By the London Midland and Scottish Railway (Canals) Act 1944 provision was made for the closure for navigation of certain canals (in this Act referred to as "the closed canals") formerly vested in the London Midland and Scottish Railway Company: 1944 c. ii (8 & 9 Geo. 6).

(3) Section 3 (1) (*a*) of the said Act provides that the closed canals shall not be used for navigation except as therein provided:

(4) It is expedient to enable the Board to permit the use for navigation of such parts of the closed canals as belong to the Board (including such parts as are leased to any other person) or are under their control and are now navigable, or may in future be restored to navigation:

(5) It is further expedient that the other provisions in this Act contained should be enacted:

(6) 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:—

Short and collective titles.

1.—(1) This Act may be cited as the British Waterways Act 1988.

(2) The British Waterways Acts 1963 to 1987 and this Act may be cited together as the British Waterways Acts 1963 to 1988.

Interpretation.

2. In this Act—

"the Act of 1944" means the London Midland and Scottish Railway (Canals) Act 1944; 1944 c. ii (8 & 9 Geo. 6).

"the Board" means the British Waterways Board; and

"relevant canals" means such portions of the canals and parts of canals described in subsection (7) of section 3 (Closing of canals) of the Act of 1944, other than—

(i) any part of any canal on which the Board are authorised by section 9 (Pleasure boats) of the Act of 1944 to permit the use of pleasure boats; and

(ii) the canal now known by virtue of section 48 (Name of canal) of the British Waterways Act 1987 as the Montgomery Canal; 1987 c. xxviii.

as belong to the Board (whether or not the same are leased to any other person) or are under their control and—

(*a*) are navigable at the date of the passing of this Act; or

(*b*) are made navigable at any time after the said passing.

Certain canals may be used for navigation, etc.

3.—(1) Notwithstanding subsection (1) (*a*) of section 3 (Closing of canals) of the Act of 1944 (which extinguishes all rights of navigation over the canals described as aforesaid and prohibits their use for navigation), but subject to the rights of any lessee of any of the relevant canals, the Board may permit the use of the relevant canals for navigation.

(2) Nothing in subsection (1) above affects any other provision of the Act of 1944, and in particular nothing in it confers any public or private right of navigation over the relevant canals or imposes any duty on the Board to maintain them for the purpose of navigation or to supply, or to maintain a supply of, water for the relevant canals for that purpose.

(3) Nothing in this Act shall have effect to require the Board to expend any part of any grant provided under subsection (2) of section 43 of the Transport Act 1968 for the purposes of restoring or maintaining any relevant canal to a standard higher than that which would have been appropriate to the canal but for the passing of this Act and the Secretary of State shall not approve the payment of any such grant for either of those purposes. 1968 c. 73.

Costs of Act.

4. All costs, charges and expenses of and incidental to the preparing for, obtaining and passing of this Act, or otherwise in relation thereto, shall be paid by the Board and may in whole or in part be defrayed out of revenue.

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