STATUTORY INSTRUMENTS

1979 No. 1196

WATER, ENGLAND AND WALES

Southern Water Authority (Transfer of Lower Medway Navigation Functions) Order 1979

Made - - - - 25th September 1979

Coming into Operation 1st October 1979

The Secretary of State for the Environment, the Minister of Agriculture, Fisheries and Food and the Minister of Transport, in exercise of the powers conferred by section 82 of the Water Resources Act 1963(a) and now vested in them(b) and of all other powers enabling them in that behalf and on the application of the Southern Water Authority, hereby order as follows:—

Citation and commencement.

1. This order may be cited as the Southern Water Authority (Transfer of Lower Medway Navigation Functions) Order 1979 and shall come into operation on 1st October 1979.

Interpretation.

2. In this order, unless the context otherwise requires, the following expressions have the respective meanings hereby assigned to them:—

"the Act of 1802" means the Medway Lower Navigation Act 1802(c);

"the Act of 1824" means the Medway Lower Navigation Act 1824(d);

"the Act of 1907" means the Medway Lower Navigation Act 1907(e);

"the Act of 1935" means the Medway Lower Navigation Act 1935(f);

"the Act of 1968" means the Medway Water (Bewl Bridge Reservoir) Act 1968(g);

"the Act of 1973" means the Medway Ports Authority Act 1973(h);

"the arrangement" means the arrangement made the 9th November 1935, between the former River Medway Catchment Board and the former Medway Lower Navigation Company under section 40 of the Land Drainage Act 1930(i);

"the day of transfer" means 1st October 1979;

"the lock" means the lock in the district of Maidstone known as Allington Lock;

(a) 1963 c. 38. (b) S.I. 1970/1681 and 1979/571. (c) 1802 c. xciv.
(d) 1824 c. cxlviii. (e) 1907 c. iv. (f) 1935 c. xxiii.
(g) 1968 c. xxxiii. (h) 1973 c. xxi. (i) 1930 c. 44.

"navigation functions" means the navigation and other functions (including the levying and collecting of charges, rates, tolls and dues) of the Ports Authority insofar as such functions relate to the river;

"the port" has the same meaning as in the Act of 1973;

"the Ports Authority" means the Medway Ports Authority;

"the river" means the lock, the sluices and so much of the river Medway as is within the port and is upstream of the sluices.

"the sluices" means the sluices in the district of Maidstone maintained by the Water Authority and the Ports Authority under the arrangement and known as Allington Sluices;

"the Water Authority" means the Southern Water Authority.

Transfer of functions etc.

3.—(1) On the day of transfer, there shall be transferred to the Water Authority—

(*a*) all the powers, duties and obligations of the Ports Authority insofar as they relate to navigation functions;

(*b*) all the property of the Ports Authority held by them for the purposes of or in connection with navigation functions;

(*c*) all the assets and liabilities of the Ports Authority so far as the same relate to navigation functions.

(2) On the day of transfer the river shall cease to form part of the port.

Payments by Ports Authority.

4. On or before the day of transfer, and on or before the anniversary of that day in each of the eight calendar years next following, the Ports Authority shall pay to the Water Authority the sum of twenty thousand pounds as compensation for the transfer of the functions, property, assets and liabilities mentioned in article 3 of this order.

Transfer of staff.

5. As from the day of transfer the Water Authority shall take over and employ any servant who immediately before the day of transfer is employed on a full-time basis by the Ports Authority wholly or mainly in connection with navigation functions (and who shall be willing to enter into the service of the Water Authority) on terms and conditions not less favourable than those on which he is employed by the Ports Authority immediately before the day of transfer.

Byelaws.

6. As from the day of transfer—

(*a*) the provisions of section 78 (General byelaws) (except paragraphs (*j*), (*l*), (*m*) and (*o*) to (*q*) thereof) and section 79 (Byelaws as to lights and signals, etc) of the Act of 1973 shall extend to empower the Water Authority to make byelaws with respect to the river as if references to the Ports Authority were references to the Water Authority and as if references to the port or to the limits of the port were references to the river;

(*b*) subsection (2) of section 81 (Confirmation of byelaws and fines thereunder) of the Act of 1973 shall apply to byelaws made by the Water Authority under the said section 78 or the said section 79 as if the reference to the Ports Authority were a reference to the Water Authority;

(*c*) notwithstanding anything in article 3 of this order, any byelaws made by the Ports Authority under the said section 78 or the said section 79 and in force immediately before the day of transfer shall, until amended or revoked, continue to have effect in relation to the river as if they had been made by the Water Authority and had been confirmed as provided in Part II of Schedule 7 to the Water Act 1973;

(*d*) the power of the Water Authority to make byelaws under the said section 78 and the said section 79 shall include a power to amend or revoke any byelaw made, or having effect as if made, under either of those sections.

Application, amendments, repeal and revocation of enactments.

7. As from the day of transfer—

(*a*) the enactments mentioned in Part I of Schedule 1 to this order, so far as they relate to the river, shall apply to the Water Authority, and shall cease to apply to the Ports Authority;

(*b*) the enactments mentioned in Part II of the said Schedule 1 shall apply to the Water Authority and shall cease to apply to the Ports Authority;

(*c*) the enactments mentioned in Parts I and II of the said Schedule 1 shall have effect in their application to the Water Authority as if for references to the Company there were substituted references to the Water Authority;

(*d*) section 44 (For protection of river authority and Medway Lower Navigation Company) of the Act of 1968 shall be repealed;

(*e*) section 53 (As to Allington Lock and Allington Sluices) of the Act of 1968 shall have effect with the amendments mentioned in Schedule 2 to this order;

(*f*) subsection (1) of section 105 (Saving for certain enactments) of the Act of 1973 shall have effect as if the references to section 70 of the Act of 1802, to section 63 of the Act of 1824 and to the Act of 1907 were omitted therefrom; and

(*g*) the arrangement shall be revoked.

SCHEDULE 1

Application of Enactments

Part I

The Act of 1802—

Section 3 (New Company empowered to improve and maintain the Navigation and Towing Paths);

Section 66 (For fencing Towing Paths, and making Bridges, &c.);

Section 72 (Penalty on persons overloading and obstructing the Passage of the Canal or overthrowing Ballast, &c., therein);

The Act of 1824—

Section 1 (Power to make navigable Cuts, and remove Shoals);

Section 3 (Owners of Land may construct Wharfs, and use Land adjoining the River, &c., notwithstanding the Towing Paths);

Section 8 (Width and Depth of Cuts);

Section 9 (For fencing Towing Paths, and making Bridges, &c.);
Section 43 (Regulating Ascent to the Bridge);
Section 61 (Reserving rights of the City of Rochester);
Section 62 (Saving Rights for the Mayor and Citizens of Rochester);

The Act of 1935—
Subsections (1), (2) and (3) of section 1 (Short and collective titles);
Section 4 (Interpretation);
Section 40 (Traffic of certain Drainage Boards exempted from tolls, &c.);
Section 41 (Exemption of boats &c. in His Majesty's service from tolls &c.);
Section 52 (For protection of River Medway Catchment Board);
Subsection (1) of section 54 (Saving rights &c. of the Admiralty);
Schedule 1.

PART II

The Act of 1802—
Section 70 (Regulations for Boats passing the Locks);

The Act of 1824—
Section 63 (Reserving Rights to the Town of Maidstone);

The Act of 1907—
The whole Act, except subsection (2) of section 1 and section 7.

SCHEDULE 2

AMENDMENTS TO SECTION 53 OF ACT OF 1968

1. In subsection (1)—
(*a*) the definitions of "the arrangement", "the navigation" and "the navigation company" shall be omitted;
(*b*) for the definition of "the corporation" there shall be substituted the following definition:—
" 'the council' means the Maidstone District Council;";
(*c*) in the definition of "the lock", for the word "borough" there shall be substituted the word "district" and the words "forming part of the navigation and" shall be omitted;
(*d*) in the definition of "the pen", for the word "borough" there shall be substituted the word "district" and the words "partly" and "and partly in the parishes of Barming and East Farleigh in the rural district of Maidstone and" shall be omitted;
(*e*) in the definition of "the sluices", for the word "borough" there shall be substituted the word "district" and the words "partly" and "and partly in the parish of Boxley in the rural district of Hollingbourn maintained by the river authority and the navigation company under the arrangement and" shall be omitted;
(*f*) at the end there shall be inserted the following definition:—
" 'the water authority' means the Southern Water Authority".

2. In subsection (2) for the words "navigation company" and "river authority" there shall be substituted the words "water authority" and for the word "corporation" there shall be substituted the word "council".

3. In subsection (3)—

(*a*) for the words "navigation company or the river authority" there shall be substituted the words "water authority";

(*b*) for the words "and the navigation company shall not operate" there shall be substituted the word "or";

(*c*) the words "in either case" shall be omitted;

(*d*) paragraph (*a*) shall be omitted;

(*e*) in paragraph (*b*)—

(i) the words "the river authority" and "or the navigation company (as the case may be)" shall be omitted;

(ii) for the word "corporation" there shall be substituted the word "council";

(iii) for the words "navigation company" where they secondly occur there shall be substituted the words "water authority";

(*f*) the proviso shall be omitted.

4. In subsection (4)—

(*a*) for the words "navigation company and the river authority" there shall be substituted the words "water authority";

(*b*) the words "the navigation company, in operating" and "so long as reasonable notice has been given to the Board of the intended admission of water into the pen from the said part of the river Medway" shall be omitted.

5. Subsections (5) to (10) shall be omitted.

6. In subsection (11)—

(*a*) for the word "Board" there shall be substituted the words "water authority".

(*b*) the words "the river authority" and "or the navigation company or any of them" shall be omitted;

(*c*) for the word "corporation" there shall be substituted the word "council".

Michael R. D. Heseltine,
Secretary of State for the Environment.

14th September 1979.

Kenneth Clarke,
Parliamentary Secretary,
Department of Transport.

13th September 1979.

In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 25th September 1979.

(L.S.)

Peter Walker,
Minister of Agriculture, Fisheries and Food.

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