



# Mallard Pass

Solar Farm

## Mallard Pass Solar Farm

### Summary of Applicant's Oral Submissions at ISH3 & Appendices

**Deadline 4 - July 2023**

EN010127  
EN010127/APP/9.32  
Revision 0

## Table of Contents

	<b>Pages</b>
<b>Summary of Applicant's Oral Submissions at ISH3</b>	<b>4</b>
<b>Appendices</b>	<b>27</b>
<b>Appendix A Anglian Water Authority Act 1977 (as enacted)</b>	<b>28</b>
<b>Appendix B Lincoln Waterworks Act 1846 (as enacted)</b>	<b>95</b>
<b>Appendix C Road from James Deeping Stone Bridge to Stamford and to Morcott Act 1829 (as enacted)</b>	<b>123</b>
<b>Appendix D Roads from James Deeping Stone Bridge through Stamford to Morcot Act 1806 (as enacted)</b>	<b>131</b>

# Summary of Applicant's Oral Submissions at ISH3

## 1.0 INTRODUCTION

- 1.1 This note summarises the oral submissions made by Mallard Pass Solar Farm Ltd (the “Applicant”) at Issue Specific Hearing 3 – Draft Development Consent Order (dDCO) (“ISH3”) held on 13 July 2023 in relation to the Applicant’s application for development consent for the Mallard Pass Solar Farm Project (the “Proposed Development”).
- 1.2 Where the Examining Authority (the “ExA”) requested further information from the Applicant on specified matters, or the Applicant undertook to provide further information during the course of ISH3, that further information is either set out in this document or provided as part of the Applicant’s Deadline 4 submissions.
- 1.3 This note does not purport to summarise the oral submissions of other parties, and summaries of submissions made by other parties are only included where necessary to give context to the Applicant’s submissions, or where the Applicant agreed with the submission(s) made and so made no further submissions (this is noted within the document where relevant).
- 1.4 The structure of this note follows the order of the items listed in the detailed agenda published by the ExA on 4 July 2023 (the “Agenda”). Numbered agenda items referred to are references to the numbered items in the Agenda. The Applicant’s substantive oral submissions commenced at Item 3 of the Agenda. Therefore, this note does not address Items 1 and 2 on the Agenda as these were procedural and administrative in nature.

## 2.0 WRITTEN SUMMARY OF THE APPLICANT'S ORAL SUBMISSIONS AT ISH3

Agenda Item	Applicant's Response
<b>3. Applicant's introduction to the dDCO</b>	
General overview of the dDCO	<p>Mr Matt Fox, on behalf of the Applicant, provided an overview of the draft Development Consent Order (dDCO), explaining that Revision 3.0 of the dDCO submitted by the Applicant at Deadline 3 is the version being referred to at ISH3 <b>[REP3-004 (tracked version) or REP3-005 (clean version)]</b>.</p> <p>Mr Fox directed Interested Parties to the Explanatory Memorandum <b>[APP-018]</b>, which while still reflecting Revision 0 of the dDCO, provides useful additional detail on the purpose and effect of each provision in the dDCO.</p> <p>The dDCO has been drafted having regard to PINS' guidance contained in Advice Notes Thirteen and Fifteen, practice and precedents established in other made DCOs, in particular solar DCOs and other energy DCOs. As explained in the Explanatory Memorandum, consideration has also been given to the Model Provisions contained in the Infrastructure Planning (Model Provisions) (England &amp; Wales) Order 2009, notwithstanding there is no requirement to do so.</p> <p>In the dDCO the Applicant is referred to as the "undertaker" and the Proposed Development is referred to as the "authorised development".</p> <p>The dDCO is proposed to be called the Mallard Pass Solar Farm Order, and would confer development consent for the construction, operation and maintenance, and decommissioning of the authorised development, which comprises the works described in Schedule 1 of the dDCO.</p> <p>The dDCO includes 45 articles, grouped into 6 Parts, and then 16 Schedules, which are given effect by, and tie into, the articles. The dDCO must be read alongside various submitted plans and documents that are secured through the dDCO and listed as certified in Schedule 13 of the dDCO.</p>
Summary of recent amendments made to the dDCO	<p>Mr Fox, on behalf of the Applicant, summarised the key recent amendments made and reflected in the dDCO. The key changes referred to were:</p> <ul style="list-style-type: none"> <li>• Amending Requirement 10(1) of Schedule 2 to require approval to be in consultation with Historic England.</li> <li>• Amending Requirement 18 of Schedule 2 (Decommissioning Environmental Management Plan) to add the Environment Agency as a specific consultee on the DEMP as requested by the Environment Agency.</li> <li>• Amending Schedule 15 (Protective Provisions) to reflect discussions with the relevant statutory undertakers.</li> </ul>

Agenda Item	Applicant's Response
	<ul style="list-style-type: none"> <li>• Deletion of what was previously Article 39 (Tree Preservation Orders) following confirmation from RCC and SKDC that there are no TPOs within or adjacent to the Order limits.</li> <li>• Amending Schedule 1 (Authorised Development) to more neatly categorise the list of further associated development items.</li> <li>• Amending Schedule 2 (Requirements) to provide greater clarity that measures are retained for the relevant stage of development to which they relate and to ensure that they are each internally consistent when referring to phases.</li> <li>• Amending Schedule 2 (Requirements) following the review of the ExA's FWQs (see REP2-043 for each amended requirement).</li> <li>• Amending Article 34 (benefit of the Order) to provide NGET with the power to undertake Work No. 3 (being the connection to their substation).</li> <li>• Amending Schedule 4 (streets subject to street works) to ensure it is fully consistent with the Access and Rights of Way Plans [APP-011].</li> <li>• Amending Schedule 16 (Procedure for discharge of requirements) to reflect ExA FWQ's and comments raised by Interested Parties, particularly increasing time periods for local authorities to discharge the requirements.</li> </ul> <p>Other minor amendments have been made for further clarity and to correct typographical errors.</p> <p>A summary of the changes made to the dDCO since submission of the DCO Application can be found in the Schedule of Changes DCO [PDA-013, REP2-043 and REP3-038]. The ExA requested that the next version of Schedule of Changes show the current and the history of changes made to the dDCO. Mr Fox, on behalf of the Applicant, agreed to update the Schedule of Changes accordingly at Deadline 4 and this is reflected in the version that has been submitted at this Deadline.</p> <p>The ExA also required that the document tracker is updated to be clearer on what the current versions of the documents are, to clarify the chronology of the documents and show the various changes that have been made. Mr Fox, on behalf of the Applicant, agreed to make this clearer in the Guide to the Application at Deadline 4 and this is reflected in the version that has been submitted at this Deadline.</p>
Summary of engagement on dDCO with relevant parties including Statements of Common Ground	The dDCO has been amended following engagement with Interested Parties. Mr Fox, on behalf of the Applicant, noted that the majority of the changes that the Applicant has been making relate to comments on the management plans, rather than the specific articles within the DCO. Mr Fox explained that the key changes made to the DCO based on engagement with relevant Interested Parties are detailed further in the Schedule of Changes [PDA-013, REP2-043 and REP3-038].

Agenda Item	Applicant's Response
	<p>Mr Fox stated that the Applicant will also be in touch with the relevant Internal Drainage Board to discuss the disapplication of section 23 of the Land Drainage Act 1991 further and to clarify whether it will consent on the Local Lead Flood Authority's (LLFA) behalf to LLFA responsible watercourses.</p> <p><b>Post Hearing Note:</b> <i>The Applicant is continuing discussions with the relevant IDBs on this matter. It is understood that there is no in principle objection to disapplication, but discussions will be on-going to ensure they are content with the protections that will be put in place in place of section 23 consent.</i></p> <p>The ExA requested the SoCGs include discussions on the dDCO, including whether there are agreements or disagreements on those matters. Mr Fox, on behalf of the Applicant, agreed to update the SoCGs accordingly.</p> <p><b>Post Hearing Note:</b> <i>This has been done specifically for the LPAs in the Deadline 4 SoCGs. Limited comments have been received to date from the LPAs on these issues but it is understood that they will make Deadline 4 submissions on the point that will allow these to be further updated for Deadline 5. It is understood that all other SoCG parties are content with DCO drafting, with only Protective Provisions for the Environment Agency awaiting final agreement.</i></p>
<b>4. Articles</b>	
<p>Article 2: Interpretation Including 'authorised development' and 'maintain'</p>	<p>The definition of "authorised development" in Article 2 means the authorised development and Associated Development described in Schedule 1 to the Order and includes development as defined in section 32 of the 2008 Act. The ExA queried why the wording "any other development under section 32" is required for the Proposed Development and what particular works required this. Mr Fox, on behalf of the Applicant, explained that this wording avoids any doubt that any aspects that involve development are included as well as those listed in Schedule 1, for example to include street works, removal of trees and protective works to buildings. The general power relates to the Order limits.</p> <p>The ExA queried why this wording being this broad is necessary, being "any other development". Mr Fox explained that this wording aligns with the wording at the end of Schedule 1, which states that it includes any other further associated development comprising such other works or operations as may be necessary or expedient for the purposes of the authorised development or in connection with the authorised development. This is limited to works within the Order limits and insofar as they are unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement. The ExA asked why this wording is different from the wording in Longfield Solar Farm Order 2023. Mr Fox confirmed that this will be considered by the Applicant by Deadline 4.</p>

Agenda Item	Applicant's Response
	<p><i>Post hearing note: The Applicant has reviewed the definition of authorised development and agrees that the definition can be restricted only to that development set out in Schedule 1. The Applicant will amend the definition to bring it in line with Longfield Solar Farm Order 2023 and the Little Crow Solar Park Order 2022.</i></p> <p><u>Maintain</u></p> <p>The ExA asked the Applicant to clarify the position regarding whether the replacement of solar panels is being proposed and what is meant by the replacement of the 'whole of the authorised development' in article 2.</p> <p>Mr Fox explained that the Applicant cannot replace the solar panels in their entirety all at once and that the Outline Operational Environmental Management Plan will be updated at Deadline 4 to provide that notification, not for approval, of planned maintenance activities must be given to the LPA each year, alongside confirmation that such activities would not lead to materially new or materially different effects to those assessed in the ES. This would give the LPA the ability to understand what maintenance activities are to be undertaken. Although this would not include unplanned maintenance activities, these works are envisaged to be minor.</p> <p>The Applicant has also updated the dDCO at Deadline 4 to refer to Work No. 1 instead of the 'authorised development' to provide clarity to the definition.</p> <p><b><i>Post hearing note:</i></b> <i>These changes are reflected in the updated oOEMP and dDCO submitted at Deadline 4.</i></p> <p>Mr Willis, on behalf of Lincolnshire County Council, requested the inclusion of wording in the definition of maintain to provide that maintenance will not cause any new or materially different effects than those assessed. Mr Fox, on behalf of the Applicant, explained that this is not necessary as this wording is included in Article 5(3) and the definition flows on from Article 5.</p> <p><b><i>Post hearing note:</i></b> <i>Further to the discussion at the Hearing, the Applicant feels it will be helpful to remind all parties of the approach that has been taken to the assessment of maintenance. The Applicant has set out in section 5.17 of Chapter 5 [REP2-011] the operational assumptions that have formed the basis of the assessment. It is anticipated that there would typically be up to four permanent staff onsite during the operational phase, with additional staff (up to 20 staff per day) attending when required for maintenance, replacement of solar equipment and cleaning. It is anticipated that there would be a need for HGV movements to facilitate the replacement of operational equipment, however this is anticipated to be on an ad-hoc, low frequency basis. As agreed in the Scoping Opinion [APP-050], the operational traffic movements are unlikely to</i></p>



Agenda Item	Applicant's Response
	<p><i>result in significant effects and therefore were scoped out of the EIA. Further to this the oOEMP [REP3-013] sets out the best practice and mitigation measures that have been identified to control the operational activities. Therefore, no substantially new or substantially different environmental effects than those assessed in the environmental statement are anticipated as a result of the replacement of the solar panels.</i></p>
<p>Article 5: Power to maintain authorised development</p>	<p>No further comments were made.</p>
<p>Article 6: Application and modification of statutory provisions</p>	<p>The ExA requested further detail on the disapplication of section 23 of the Land Drainage Act 1991. Mr Fox, on behalf of the Applicant, explained that the disapplications in Article 6 are sought on the basis that they address matters whose merits and acceptability can, and will, already have been sufficiently considered and resolved if the DCO is made. Mr Fox confirmed that this is a standard provision on the basis that the relevant bodies would be protected pursuant to the surface water drainage strategy and other aspects of the DCO. Such matters should therefore not be the subject of further regulatory consideration or control, which would cause unnecessary uncertainty and duplication, and may unjustifiably delay the implementation of the Proposed Development.</p> <p>Mr Fox explained that Section 150 of the Planning Act 2008 only allows requirements for prescribed consents to be disapplied, including the disapplication of section 23 of the Land Drainage Act 1991 and regulation 12 of the Environmental Permitting Regulations if the relevant body has consented to this. The Applicant is in the process of seeking these consents in parallel with the negotiation of appropriate DCO drafting, which will ensure that the disapplications will not prejudice the statutory objectives and responsibilities of the relevant regulators. Mr Fox confirmed that the Applicant will be in discussions with the IDBs and the EA and will keep the ExA updated accordingly.</p> <p>The ExA queried the articles that have been cross referenced in Article 6(g). Mr Fox confirmed that the reference to Articles 29 and 30 within Article 6(g) refer to the dDCO itself rather than the Neighbourhood Planning Act 2017.</p>
<p>Article 9: Power to alter layout, etc. of streets</p>	<p>The ExA queried what the Council's concerns are in relation to Article 9. Mr Fox explained that Article 8(2) and Article 9 combined mean that the Applicant has the ability to undertake specific works identified without the need for licenses under the New Roads and Street Works Act 1991 or equivalent. Mr Fox stated that should the Councils request further protections; the Applicant will consider them. Article 9 as currently drafted is preceded in multiple DCOs.</p>

Agenda Item	Applicant's Response
Article 11: Temporary stopping up of and permitting vehicular use on public rights of way	No comments were made.
Article 12: Claimed public right of way	<p>The ExA queried whether Article 12 is a novel article in DCOs. Mr Fox, on behalf of the Applicant, confirmed this is correct.</p> <p>Mr Willis queried whether creating and revoking rights of way is feasible under the DCO. Mr Fox explained that definitive maps are maintained by the local authority, under the Wildlife and Countryside Act 1981. The provisions of that Act, require the LPA to consider any claims for public rights of way which have been established and invite representations on them. If there are objections to the claimed right an inquiry may be held with an Inspector appointed to consider the matter and make a recommendation. Therefore, this power is included within the dDCO for the ExA and Secretary of State to consider it at this stage. This is included within the dDCO to allow for Interested Parties to make their views known to the ExA and Secretary of State for consideration.</p> <p>Mr Fox explained that this process is contained in Article 12 as a replacement of the ordinary process, with similar steps as would have gone through under the Wildlife and Countryside Act 1981. Mr Fox explained that the concern here is that a modification application to the definitive map has already been submitted by parties for a new right of way and therefore there are ambiguities in place as the rights of way do not currently exist, and through the Examination process and the drafting of the DCO that ambiguity can be resolved.</p> <p>Mr Fox confirmed that the Applicant was open to discussing the drafting of this provision further with the LPAs.</p> <p><i>Post hearing note: The Applicant has the power under section 120(5) of the Planning Act 2008 to apply, modify or exclude any statutory provisions in the dDCO and make any amendments or revocations of statutory provisions of local application as appear to be necessary or expedient. The process for extinguishing this claimed rights of way is undertaken through this Examination, where the Examination process provides affected parties the opportunity to provide representations on their views for the ExA to take in to account when reporting to the Secretary of state. The Applicant has undertaken both statutory and non-statutory consultation, as detailed in the Consultation Report [APP-025]. This Article also provides compensation to persons who suffer loss by the suspension of any private right of way under this article. The Applicant considers this process to be fair and appropriate, where it is common practice for DCOs to change public rights of way, and no further process is required under the Wildlife and Countryside Act 1981 or any further legislation.</i></p>

Agenda Item	Applicant's Response
	<p><i>In response to the ExA's Action Point, the Applicant notes (and remembering that the Applicant's proposals are not to stop up an existing rights of way or register a new right of way) that under the Wildlife and Countryside Act process the following steps are taken:</i></p> <ul style="list-style-type: none"> <li>• <i>an applicant to modify the definitive map submits an application and must serve notices on the owners and occupiers of the land affected by the modified/created right of way;</i></li> <li>• <i>the surveying authority accepts the applications and consults the affected local authority about it;</i></li> <li>• <i>surveying authority either doesn't make the Order which can be appealed to the Secretary of State, or makes the Order;</i></li> <li>• <i>if the Order is made, the surveying authority must then publicise this, giving 28 days for objections to be received, in the following ways:</i> <ul style="list-style-type: none"> <li>○ <i>one local newspaper;</i></li> <li>○ <i>every owner and occupier of the affected land;</i></li> <li>○ <i>every local authority whose area includes any of that land;</i></li> <li>○ <i>every person whom has identified to the authority that it wishes to be served notice; and</i></li> <li>○ <i>such other persons as may be prescribed in relation to the area in which that land is situated or as the authority may consider appropriate.</i></li> </ul> </li> <li>• <i>if objections are received, the Order is sent to the Secretary of State for confirmation, who then decides whether to undertake the written representations, hearing or Inquiry process.</i></li> </ul> <p><i>In the case of the Proposed Development, the claimed rights of way application was made some time ago, when the relevant landowners would have been informed. Since then, the Applicant has consulted extensively and the landowners would therefore have been aware of these two competing proposals, as would the parties who made the DMMO application and the relevant local authorities.</i></p> <p><i>Through that consultation and this Inquiry process, the Applicant considers that there is no prejudice by seeking to impart the mechanics of the 1981 process into the DCO. Indeed, it is no different to the vast majority of DCOs to date that have provided for the diversions and extinguishment of public rights of way without going through the separate TCPA or Highways Act processes- indeed this is one of the key benefits of the Planning Act 2008 regime.</i></p>
Article 13: Access to works	The ExA queried why there are extra provisions for accesses when the permanent accesses are known at this stage. Mr Fox, on behalf of the Applicant, explained that the Applicant has undertaken the work and access reviews at the application

Agenda Item	Applicant's Response
	<p>stage, however as the Applicant is not yet at detailed design stage, flexibility is required for the possibility of accesses changing, subject to LPA approval. Accesses may need to be moved based on obstructions that the Applicant is not aware of at this stage.</p> <p>The ExA queried if there is opportunity for the public to comment on changing accesses. Mr Gareth Phillips, on behalf of the Applicant, explained that this change is akin to a non-material application under planning permission, where the LPA has granted planning permission and there may be a small element of detail that needs to change, but the LPA does not deem it as necessary to consult on. The LPA has the discretion to approve these changes without consultation, particularly as the access could be moved marginally or no other party may be taking access. However, should the LPA consider consultation is required, they have the ability to do so. The LPA have the discretion to approve or reject the change as a non-material amendment. Mr Phillips also confirmed that the amendments through the DCO have to be consistent with the ES or not materially new or materially different. Mr Fox, on behalf of the Applicant, added that this is also preceded in other DCOs and in the model provisions.</p> <p>Mr Phillips, on behalf of the Applicant, reiterated that should the LPAs require anything further, the Applicant welcomes any comments by Deadline 4 and will consider these accordingly.</p>
Article 15: Traffic Regulation measures	No comments made as this was dealt with in previous submissions.
Article 17: Removal of human remains	<p>The ExA queried whether Article 17 is required or if the area where human remains are found would be ringfenced. The ExA noted that this Article was deleted in Longfield Solar Farm Order 2023 as the Secretary of State was satisfied there are no human remains within the Order land. Mr Fox confirmed that the Applicant will consider this further and that the purpose of this article is to ensure that no further consents outside of the DCO are required where human remains are found. Mr Fox added that this provides statutory authority for the process the Applicant must follow and only comes into question once the mitigation strategy has been carried out as agreed.</p> <p><i>Post hearing note: In this specific instance, there is a low likelihood of encountering human remains in the course of archaeological work or during construction. Furthermore, those areas, as identified during the assessment stages of the project as having a greater potential for including buried human remains, will be safeguarded from construction activities. In the unlikely event that human remains are encountered, the expert assessment of a qualified and competent archaeologist present on site will be called upon to confirm that they are over 100 years old (and of archaeological interest). This is further discussed in the Applicants answer to ExA Q5.0.14. All industry best practice will be adhered to should unexpected human remains be encountered; and the procedures will be set out within the Outline Written Scheme of Investigation. It is</i></p>

Agenda Item	Applicant's Response
	<p><i>considered that, although the chances may be unlikely, they cannot be ruled out and so it is appropriate to retain this power. It is important to note that this power does not circumvent proper processes – it simply imports standard processes into the DCO but avoids the need for a separate licence.</i></p>
<p>Article 18: Protective work to buildings</p>	<p>The ExA queried whether Article 18 is required given that the Applicant is aware where the buildings are, being various small farm structures. Mr Fox explained that whilst the Applicant does not consider the effects of vibration are likely to cause an impact, this article is helpful should a circumstance arise where there may be an impact. Given that the Applicant has made good progress on negotiations with the landowners, the Applicant wants to ensure that the Proposed Development does not impact their buildings.</p> <p>Mr Stainsby, on behalf of Essendine Parish Council, queried if Article 18 takes into consideration wider aspects in relation to flooding, including the church which already floods. The ExA stated that this is a wider point.</p> <p><i>Post hearing note: The purpose of Article 18 is to provide the Applicant with powers, at its own expense, to carry out protective works to any buildings lying within the Order land as considered by the Applicant as necessary or expedient. The protective works are limited to those works to prevent damage that may be caused to the building or works to remedy any damage caused to a building by the construction, maintenance, operation and decommissioning of the Proposed Development. The purpose of this article is not to provide general protective works to buildings that are damaged for reasons that are not occurring as a result of the Proposed Development. In addition, the Flood Risk Assessment [APP-086] concludes that the risk of the Proposed Development flooding from all sources is negligible and non-significant. Therefore, the Applicant does not envisage requiring protective works to buildings flooding as a result of the Proposed Development.</i></p>
<p>Article 19: Authority to survey and investigate land</p>	<p>The ExA queried if Article 19 could include land outside the Order land and why this is required. Mr Fox explained that should the Applicant carry out trial holes in order to undertake geotechnical investigations, in order to obtain the best characterisation of the land, the Applicant may need to go outside the Order limits to understand the profile underground. Similarly, in order for the Applicant to fully understand the soil profile, soil samples may be required in the surrounding areas that are outside the Order limits.</p> <p>The ExA queried whether the 14 day notice period is sufficient. Mr Fox, on behalf of the Applicant, explained that this period is standard practice and reflects the model provisions and multiple DCOs and is considered sufficient. Mrs Holloway, on behalf of Mallard Pass Action Group, noted that this is a concern for residential receptors should the Applicant have the ability to go on to their land for carrying out surveys.</p>

Agenda Item	Applicant's Response
	<p>Mr Fox explained that the CEMP commits to carrying out ecological surveys and that in order to build the Proposed Development, ecological surveys are required; archaeological investigations will be required pursuant to Requirement 10, investigations will be required pursuant to Requirement 15 and to inform detailed design. As such, this is a well needed and warranted power.</p> <p>Mr Fox explained that sub-paragraph (6) deals with any refusal of entry to survey the land and applies section 13 of the Compulsory Purchase Act 1965 to allow the Applicant to obtain a warrant from the court to ensure that the surveys the Applicant has committed to are undertaken to allow the Proposed Development to be built out.</p> <p>Mr Phillips, on behalf of the Applicant, added that these powers are available to the Applicant now with or without the DCO as an acquiring authority under the Electricity Act 1989. This power is inserted in to the dDCO for clarity and protection to ensure the Applicant has powers to check outside the Order limits where required. This is an opportunity for the Applicant to control the effects of development, rather than seeking additional powers. Mr Fox flagged that the Housing and Planning Act 2016 also provides a 14-day notice period and added that the works that the Applicant can undertake is clearly set out in Article 19(1).</p> <p>The Applicant confirmed that the typo in Article 19(1)(c) will be amended at Deadline 4.</p>
Article 44 (now 43): Procedure in relation to certain approvals etc.	The ExA queried if there is consistency between the changes in Schedule 16 and Article 43. Mr Fox, on behalf of the Applicant, confirmed that this will be amended at Deadline 4 to ensure consistency.
<b>5. Schedule 1 - Authorised Development</b>	
Applicant to clarify the changes made to Schedule 1 of dDCO at Deadline 2	Mr Fox, on behalf of the Applicant, explained that the catch-all list at the end of Schedule 1 refers to aspects of the Proposed Development that are not location specific. Mr Fox clarified that the further associated development works listed in Schedule 1 of the dDCO were amended at Deadline 2 following responses to the ExA's Q5.1.1 to provide further clarity and more neatly categorise the list of further associated development.
<b>6. Schedule 2 – Requirements</b>	
Update from the Applicant on progress being made on agreement of the draft Requirements with relevant Interested Parties	Mr Fox, on behalf of the Applicant, explained that the Applicant is in continuing discussions with the relevant Interested Parties on the requirements and has amended the dDCO at Deadline 2 and Deadline 3 to reflect comments received where appropriate. Mr Fox confirmed that all statutory environment bodies, including Natural England, Environment Agency and

Agenda Item	Applicant's Response
	<p>Historic England have no further comments. The LPAs also have limited comments on the requirements, mainly Requirement 7.</p> <p>Mr Fox noted that Requirement 10 (archaeology) will be updated once the WSI has been submitted, where the WSI will set out the mechanisms for consultation and the approval of the various aspects of mitigation measures brought forward. Mr Fox confirmed that should LCC look to be identified in other requirements, the Applicant will consider this, but that this should be focussed on where LCC has statutory duties.</p>
<p>The ExA will ask questions and seek any comments on the following proposed Requirements:</p>	
<p>R3: Phasing of the authorised development etc</p>	<p>Mr Fox, on behalf of the Applicant, explained that within the requirements there are references to the 'date of final commissioning'. This defines a start point to ensure that this does not cover commissioning and the testing phase of the solar farm. The definition of 'date of final commissioning' ensures consistency to allow for matters to be discharged in phases.</p> <p>The ExA queried if this would allow for the solar farm to be constructed in different phases. Mr Fox explained that the DCO doesn't prevent constructing in phases explicitly, but when the phasing plan is submitted, the construction must be not materially different or materially worse than what has been assessed. It was agreed that the date of final commissioning is correctly defined.</p> <p><i>Post hearing note: The Applicant reviewed the definition of the 'date of final commissioning' and has no further amendments to make. This reflects the commitment of a written scheme and timetable setting out the construction phase(s) to be approved by the relevant planning authorities and is similar to the phasing requirement in Longfield Solar Farm Order 2023 and Cleve Hill Solar Park Order 2020.</i></p> <p>Mr Fox confirmed that the Applicant will consider further if the relevant fields and timetable will be set out in the phasing strategy, but clarified that this is not currently defined to allow for flexibility. Mr Phillips, on behalf of the Applicant, confirmed that this will be developed closer to the time of construction, but that it would invite the LPAs to consider what was submitted in other solar DCOs by way of the phasing plan, such as a Gantt chart showing the phases and referencing them to a plan to make it clear what order they are being constructed in.</p> <p>Mr Fox confirmed that if the LPAs wished to make specific suggestions on this point, the Applicant would consider this.</p> <p><i>Post hearing note: As set out in the Environmental Statement [APP-035], the construction phase is likely to take 24 months, with the Applicant having provided indicative timescales for the construction of different elements of the Proposed</i></p>

Agenda Item	Applicant's Response
	<p><i>Development in the response to the ExA's First Written Questions 1.0.10 [REP2-037]. The Applicant has reviewed the submissions made in discharging the phasing requirement at Cleve Hill, which included a list of the phases for construction, a list of the key activities to be undertaken in the lead up to and during the construction phase and indicative time windows for each phase and work. The Applicant can confirm that similar information will be provided in discharging Requirement 3 of the Proposed Development.</i></p> <p><i>Further to discussions at ISH1 and CAH1 the outline CEMP has also been updated to set out more proposals about the sharing of information on the construction programme.</i></p>
<p>R4: Requirement for written approval</p>	<p>The ExA queried why Requirement 5 is required, other than giving flexibility for post-consent changes, and stated that it seems to be a wide power to enable the Applicant to amend any of the details of the Scheme. Mr Fox, on behalf of the Applicant, explained that this requirement has narrow parameters, with the Applicant not able to make major changes as Requirement 5(2) requires demonstration to the satisfaction of the LPA that the subject matter for the approval sought is unlikely to give rise to materially new or materially different environmental effects from those assessed in the environment statement. Where a major change is required, the Applicant would be required to go through the statutory process and obtain consent from the Secretary of State.</p> <p>Mr Phillips, on behalf of the Applicant, explained that this is similar to the non-material amendment process, where there isn't a defined period of time for the Secretary of State to agree pursuant to this process. This wording is reflected in newer DCOs because previous older DCOs are now being implemented and are facing practical scenarios that were not envisaged during the drafting of the DCO. This requirement empowers the LPA to make non-material amendments to documents approved within the DCO in the first instance. Where it is a larger change, this will go back to the Secretary of State for approval. Mr Fox, on behalf of the Applicant, added that this requirement does not refer to Schedule 1, which is what the Applicant is seeking consent for in physical terms, therefore there is no concern that a different scheme will be consented through the back door. Mr Fox also added that Requirement 5(2) provides that approval sought must be unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.</p> <p>Mr Fox provided an example, where if the proposed fencing was approved and the local residents raised that security needs to be tightened, the Applicant would be able to go to the LPA asking for amendments to the approved fencing. The LPA would then consider if this raises any materially new or materially different environmental effects than those assessed in the environmental statement. Should the amended fencing be deemed not to provide new or different environmental effects, the LPA would have the power to amend it accordingly.</p> <p>Mr Phillips requested the LPA send proposed amendments to the Applicant for consideration.</p>



Agenda Item	Applicant's Response
R6: Detailed design approval	<p>Mr Fox, on behalf of the Applicant, explained that at Deadline 2, Requirement 6(1)(f) was added in response to the ExA's First Written Questions and in Requirement 6(3) it was made clear that the Proposed Development must be maintained in accordance with the details approved.</p> <p>The ExA queried why the primary construction compound does not have to be approved. Mr Fox explained that this is because it is purely driven by construction needs, where the environmental measures are controlled through the Construction Environmental Management Plan.</p> <p>The ExA queried if there is a mechanism to ensure that permanent highway works are carried out prior to the construction of the development. Mr Fox explained that this is set out in the Outline Construction Traffic Management Plan. Mr Fox confirmed that the accesses will be checked and the CTMP will be updated at Deadline 4 to clarify that the works will take place prior to the commencement of the construction of the Proposed Development. In relation to permissive paths, Mr Fox confirmed this is included within Requirement 7(2).</p> <p><i>Post hearing note: The Outline CTMP at paragraph 3.2.11 explicitly provides that the detailed CTMP will explain when the access works will take place, which must be provided prior to the commencement of construction of the Proposed Development.</i></p>
R7: Landscape and ecology management plan	<p>Mr Fox, on behalf of the Applicant, confirmed, without prejudice to Issue Specific Hearing 1, that Requirement 7 will be amended at Deadline 4 to provide additional wording in (f) regarding biodiversity net gain and to add wording regarding the biodiversity metric.</p> <p><b>Post hearing note:</b> <i>The biodiversity net gain figures provided in Table 1 of the Ecology and Biodiversity – Biodiversity Net Gain Metric [APP-064] provides a 72% onsite net change for habitat units. Following detailed consideration, the Applicant has committed to the delivery of 90% of this biodiversity net gain figure, providing a commitment of a minimum of 65% biodiversity net gain to be achieved for the Proposed Development. Requirement 7 of the dDCO (Rev 4) has been updated accordingly. This allows for a 10% contingency for any changes that may occur at the detailed design stage. It is also noted that this commitment is over six times more than the legal requirement set out in the Environment Act 2021.</i></p> <p><i>Following the Hearing, the Applicant has fully considered the position in terms of whether a metric should be referred to on the face of Requirement 7, as is the case with Longfield. On reflection, the Applicant has determined that it is not appropriate to refer to a metric as:</i></p>

Agenda Item	Applicant's Response
	<ul style="list-style-type: none"> <li>• <i>the position on which metric will be in force at the time the detailed LEMPs will come to be approved is highly likely to have moved on from metric 4.0 (with Natural England indicating that it will change every 3-5 years);</i></li> <li>• <i>as has been seen in the development of the metric over recent years, the methodology for how gains are calculated may change in the intervening period, meaning that the % the Applicant has put into Requirement may not be achievable on the basis of the revised metric because, for example, it might treat grassland differently from how it is treated now;</i></li> <li>• <i>given that the Proposed Development will be required to be in compliance with the OLEMP, that may lead to a discrepancy where what would be needed to achieve 65% in the new metric may require planting proposals that will not be 'substantially in accordance with' what is currently proposed in the OLEMP, thus running the risk of a breach of the DCO; and</i></li> <li>• <i>furthermore, given that paragraph 2 of Schedule 16 requires plan discharge approvals to demonstrate that the detailed plans will not lead to materially new or materially different effects than assessed in the ES, the Applicant would wish to avoid any risk that new metric requirements may lead to that impact (e.g. requiring different types of hedging/woodland that does not perform as well in visual mitigation terms).</i></li> </ul> <p><i>As such, and in light of the fact that as discussed at the Hearing, the OLEMP and Requirement 7 ensures that BNG is secured, the Applicant considers that the imposition of such a Requirement would not meet the legal and policy tests for such drafting, being in particular imprecise, unenforceable, and given that it could achieve the opposite, certainly not necessary to make the development acceptable in planning terms.</i></p> <p><i>It therefore does not consider it appropriate to refer to any form of future metric within the Requirement.</i></p>
R8: Fencing and other enclosures	The ExA flagged that minor amendments made be required to Requirement 8 to provide further clarity. Mr Fox, on behalf of the Applicant, confirmed that Requirement 8 will be updated to provide further clarity at Deadline 4.
R9: Surface and foul water drainage	<p>Mr Fox, on behalf of the Applicant, confirmed that no comments have been received on Requirement 9 from the IDB or LLFA.</p> <p>Mr Johnson, on behalf of Rutland County Council, noted that the council is in the process of reviewing this and will make representations at Deadline 4.</p>

Agenda Item	Applicant's Response
R10: Archaeology	<p>Mr Fox, on behalf of the Applicant, explained that Requirement 10 will be updated once the Outline WSI has been submitted and that the Proposed Development must be carried out in accordance with the WSI.</p> <p>ExA queried if concrete footings and PV arrays would be incorporated in this requirement or elsewhere. Mr Fox noted that the concrete footings may not be used as discussed in the previous Issue Specific Hearings and noted that this requirement deals with any effects on archaeology. Where the external appearance of concrete footings has changed, this is covered by Requirement 6 and the effects are covered by this Requirement 10. Mr Fox also clarified that the Outline CEMP was amended at Deadline 2 to require details of concrete shoes to be set out in the detailed CEMP.</p> <p>Mr Willis, on behalf of Lincolnshire County Council, queried if this is a matter for approval by the district council rather than the county council and stated that in the absence of being an approving authority, if it could be a specified consultee. Mr Fox confirmed that where the LPA wants to be added to any requirements, the Applicant would welcome discussion on specific items – this may not necessarily involve amendments to the Requirement, but potentially instead to the relevant certified document.</p>
R16: Operational noise	<p>The ExA requested Requirement 16 sets out the rating levels on the face of the DCO or includes reference to it for this to be more easily identifiable. Mr Fox, on behalf of the Applicant, confirmed the DCO will be updated accordingly at Deadline 4.</p> <p><b>Post hearing note:</b> <i>This is incorporated in the draft DCO submitted at Deadline 4.</i></p>
R17: Skills, supply chain and employment	<p>Mr Fox, on behalf of the Applicant, stated that the Skills, Supply Chain and Employment Plan must be substantially in accordance with the Outline Skills, Supply Chain and Employment Plan (oSSCEP) and implemented as approved. The plan will be implemented as early as practicable prior to the commencement of construction with the activities set out in the plan commencing after the DCO has been granted. The timescales are detailed within section 3 of the oSSCEP [REP2-024].</p>
R18: Decommissioning and restoration	<p>The ExA queried if the intention is for decommissioning to take place in phases. Mr Fox, on behalf of the Applicant, confirmed that this could be the case, but is subject to the wording in Schedule 16.</p> <p>Mr Fox explained within 12 months of the date that the Applicant decides to decommission, the Applicant must submit the DEMP. Mr Fox noted that the dDCO will be updated to provide notification of intention to decommission, rather than providing the timeframe within which decommissioning must be completed. The Applicant will not include reference to decommissioning commencing on the stopping of production of electricity as there may be a number of reasons why</p>

Agenda Item	Applicant's Response
	<p>production of electricity may be paused for a short amount of time (e.g., including where National Grid requires this). Mr Fox confirmed that the Applicant will update the oDEMP at Deadline 4 to include that the detailed DEMP(s) will set out the decommissioning programme.</p> <p><b>Post hearing note:</b> <i>This has been incorporated into the documents submitted at Deadline 4.</i></p> <p>Mrs Holloway, on behalf of Mallard Pass Action Group, queried how long decommissioning would take. Mr Phillips, on behalf of the Applicant, explained that this depends on best practice for decommissioning at the time. Therefore, the Applicant does not have timeframes for decommissioning at this stage and the detailed DEMP will govern the timescales for decommissioning – as a Requirement, the Applicant must abide by it.</p>
<p><b>7. Schedule 3 - Legislation to be Disapplied</b></p>	
<p>To include Applicant's further explanation for disapplication of listed legislation</p>	<p>The ExA queried the link between Article 6 and Schedule 3. Mr Fox, on behalf of the Applicant, explained that Article 6 points to Schedule 3, where Article 6 is more specific and Schedule 3 provides a list of the local legislation. The ExA requested further detail on the local legislation listed in Schedule 3, other than those relating to railways as Network Rail have agreed to those. Mr Fox noted that the Applicant will try to locate copies of the local legislation.</p> <p>Mr Fox explained that the process undertaken to identify the local legislation that might conflict with the Order is:</p> <ul style="list-style-type: none"> <li>• For legislation from 1797 to 1995, identifying a list of keywords and areas that relate to the Proposed Development and searching these key terms on Devine Index to find the relevant legislation that may apply</li> <li>• Checking the list of local legislation on LexJustis to confirm the list of legislation identified</li> <li>• For private bills after 1995, using the Chronological Table of Local Acts to identify the relevant acts.</li> </ul> <p>This list has been prepared taking a precautionary approach, because in some cases it was difficult to conclusively determine whether or not the provisions of the legislation were relevant to the Order, given that plans were not available in respect of the majority of the Acts considered to make clear their precise geographic scope.</p> <p><i>Post hearing note: Section 120(5)(a) of the Planning Act 2008 provides for DCOs to apply, modify or exclude statutory provisions that relate to any matter for which provision may be made in the Order. Section 120(5)(b) provides that a DCO may amend, repeal or revoke the statutory provisions of local application as appear to the Secretary of State to be 'necessary or expedient' in consequence of a provision of or in connection with the DCO, or (s120(5)(c)) in order to give full effect to any other provision of the DCO.</i></p>

Agenda Item	Applicant's Response
	<p><i>The Applicant seeks to disapply each enactment under s120(5)(a), on the basis that a clear alternative regime has been provided within the dDCO, and the DCO is intended to provide a single unified consent for the Proposed Development. The Applicant considers that, due to the importance of Nationally Significant Infrastructure Projects, it is expedient to disapply these provisions in order to ensure that the Proposed Development can be implemented as intended in the DCO.</i></p> <p><i>The reason for the disapplication of each enactment listed in Schedule 3 is set out below. A copy of the enactments being disappplied is provided in the appendices; however, the Applicant has not provided copies of the railways enactments on the basis that Network Rail has agreed to their disapplication and negotiations are ongoing in respect of the Protective Provisions that form a key part of the alternative regime.</i></p> <ul style="list-style-type: none"> <li><i>• Anglian Water Authority Act 1977: this Act establishes Anglian Water as the navigation authority for the control of rivers and waterways, including responsibility for water conservation, supply of water, land drainage and sewage disposal, within Cambridgeshire, Lincolnshire, Norfolk and Suffolk. The Applicant is seeking to disapply this legislation under s120(5)(a) as the Order includes an alternative regime insofar as the Proposed Development interacts with rivers and waterways within the responsibility of Anglian Water, and in respect of the water requirements of the Proposed Development. This is set out in the Protective Provisions for the Protection of Anglian Water Services Limited (Part 6 of Schedule 15). Were the Order to not disapply this Act, there could be uncertainty as to the legislative regime applicable to the undertaker in the carrying out of the Order. A copy of this has been provided at <b>Appendix A</b> of this Summary.</i></li> <li><i>• The Lincoln Waters Act 1846: This Act establishes the company responsible for making reservoirs, aqueducts and conduits and supplying water within the city of Lincoln and several parishes in Kesteven and the County of Lincoln and parts of Lindsey. The sections of this Act authorising works remain in force, however there is uncertainty as to the extent of the in-force powers authorised by this Act as the Applicant was unable to obtain a copy of a statutory instrument that repealed in part unknown provisions of this Act. The Applicant is seeking its disapplication of this Act under s120(5)(b) on the grounds that it is expedient, and potentially necessary, to do so as it is not conclusively determined whether the provisions of this legislation are relevant to the Order limits and, accordingly, the ability of the undertaker to carry out the Proposed Development. The Applicant further notes that the Protective Provisions for Anglian Water will apply to assets supplying potable water, and any works that may potentially affect reservoirs (though this is not anticipated as part of the Authorised Works) would be subject to the Protective Provisions for the Protection of the Environment Agency (Part 5 of Schedule 15). The Applicant therefore submits that a</i></li> </ul>

Agenda Item	Applicant's Response
	<p><i>comprehensive alternative regime is included within the dDCO, and that were the DCO not to disapply this Act, there could be uncertainty as to the legislative regime applicable to the undertaker in the carrying out of the DCO. A copy of this has been provided at <b>Appendix B</b> of this Summary.</i></p> <ul style="list-style-type: none"> <li> <p><i>Road from James Deeping Stone Bridge through Stamford to Morcott Act 1806: this Act provides the power to repair and widen roads from James Deeping Stoning Bridge to Peter's Gate in Stamford and to the South End town of Morcott in the County of Rutland. The Act likely authorises a historical Turnpike Trust, being the body authorised to collect tolls on main roads, before local governments were given responsibility for the maintenance of the main road network under reforms in 1888. The Applicant has been unable to find any information to confirm that this Act has been repealed, and therefore seeks its disapplication under s120(5)(a) of the Planning Act 2008. The Applicant submits that this legislation should be disapplied as it has not been able to conclusively determine whether the provisions of this legislation are relevant to the Order limits, and because a complete regime of highway and streets powers is provided within the draft Order in articles 8 to 15 (inclusive). This Act is disapplied in order to avoid any potential uncertainty as to the legislative regime applicable to the undertaker in the carrying out of the Order. A copy of this has been provided at <b>Appendix D</b> of this Summary.</i></p> </li> <li> <p><i>Road from James Deeping Stone Bridge to Stamford and to Morcott Act 1829: this Act provides the power to repair and widen roads from James Deeping Stoning Bridge to Peter's Gate in Stamford and to the South End town of Morcott in the County of Rutland. The Act likely authorises a historical Turnpike Trust, being the body authorised to collect tolls on main roads, before local governments were given responsibility for the maintenance of the main road network under reforms in 1888. The Applicant has been unable to find any information to confirm that this Act has been repealed, and therefore seeks its disapplication under s120(5)(a) of the Planning Act 2008. The Applicant submits that this legislation should be disapplied as it has not been able to conclusively determine whether the provisions of this legislation are relevant to the Order limits, and because a complete regime of highway and streets powers is provided within the draft Order in articles 8 to 15 (inclusive). This Act is disapplied in order to avoid any potential uncertainty as to the legislative regime applicable to the undertaker in the carrying out of the Order. A copy of this has been provided at <b>Appendix C</b> of this Summary.</i></p> </li> </ul>
<b>8. Schedule 4 – Streets Subject to Street Works</b>	
To Include updates made at Deadline 3	No comments were made as the ExA noted that the minor updates made by the Applicant have been clearly explained in writing.
<b>9. Schedule 14 - Arbitration Rules</b>	

Agenda Item	Applicant's Response														
Any comments sought from Interested Parties	<p>The ExA noted for the Applicant to ensure that Schedule 13 is updated to refer to the latest versions as required throughout the Examination. Mr Fox, on behalf of the Applicant, confirmed this would be updated accordingly.</p> <p>Mr Fox, on behalf of the Applicant, explained that Schedule 14 is inserted particularly in relation to the protective provisions, as the process for most dispute resolution with statutory undertakers is arbitration, therefore this schedule provides certainty on the process rather than agreeing separately what the best practice is.</p>														
<b>10. Schedule 15 – Protective Provisions</b>															
Applicant to provide update on negotiation of Protective Provisions	<p>Mr Fox explained that the Applicant has actively progressed negotiations with the relevant statutory undertakers, reaching an agreed position on the protective provisions with a number of statutory undertakers. This is further detailed in the Statutory Undertakers Schedule [REP2-036].</p> <table border="1" data-bbox="618 655 2074 1307"> <thead> <tr> <th data-bbox="618 655 1128 687">Statutory Undertaker</th> <th data-bbox="1135 655 2074 687">Status of Protective Provisions</th> </tr> </thead> <tbody> <tr> <td data-bbox="618 692 1128 724">Anglian Water</td> <td data-bbox="1135 692 2074 724">PPs have been agreed on 12 June 2023 (as reflected in the dDCO)</td> </tr> <tr> <td data-bbox="618 729 1128 820">Cadent Gas</td> <td data-bbox="1135 729 2074 820">PPs and Side Agreement have been agreed on 6 June 2023 (as reflected in the dDCO). The Side Agreement was signed and completed on 10 July 2023.</td> </tr> <tr> <td data-bbox="618 825 1128 857">National Grid Electricity Transmission</td> <td data-bbox="1135 825 2074 857">PPs have been agreed on 7 June 2023 (as reflected in the dDCO)</td> </tr> <tr> <td data-bbox="618 861 1128 893">National Gas Transmission</td> <td data-bbox="1135 861 2074 893">PPs have been agreed on 7 June 2023 (as reflected in the dDCO)</td> </tr> <tr> <td data-bbox="618 898 1128 1018">National Grid Electricity Distribution</td> <td data-bbox="1135 898 2074 1018">PPs have been agreed on 14 April 2023 (as reflected in the dDCO). The Side Agreement has been agreed on 25 June 2023 and has been signed by the Applicant and is in the process of being signed by NGED</td> </tr> <tr> <td data-bbox="618 1023 1128 1307">Environment Agency</td> <td data-bbox="1135 1023 2074 1307"> <p>The Applicant is in active discussions with the Environment Agency and anticipates the Protective Provisions will be agreed before the end of the Examination.</p> <p>The Applicant is awaiting comments from the Environment Agency and anticipates the PPs to be agreed by Deadline 5. However, Mr Fox noted that this has not been agreed by the Environment Agency and therefore cannot be committed to.</p> </td> </tr> </tbody> </table>	Statutory Undertaker	Status of Protective Provisions	Anglian Water	PPs have been agreed on 12 June 2023 (as reflected in the dDCO)	Cadent Gas	PPs and Side Agreement have been agreed on 6 June 2023 (as reflected in the dDCO). The Side Agreement was signed and completed on 10 July 2023.	National Grid Electricity Transmission	PPs have been agreed on 7 June 2023 (as reflected in the dDCO)	National Gas Transmission	PPs have been agreed on 7 June 2023 (as reflected in the dDCO)	National Grid Electricity Distribution	PPs have been agreed on 14 April 2023 (as reflected in the dDCO). The Side Agreement has been agreed on 25 June 2023 and has been signed by the Applicant and is in the process of being signed by NGED	Environment Agency	<p>The Applicant is in active discussions with the Environment Agency and anticipates the Protective Provisions will be agreed before the end of the Examination.</p> <p>The Applicant is awaiting comments from the Environment Agency and anticipates the PPs to be agreed by Deadline 5. However, Mr Fox noted that this has not been agreed by the Environment Agency and therefore cannot be committed to.</p>
Statutory Undertaker	Status of Protective Provisions														
Anglian Water	PPs have been agreed on 12 June 2023 (as reflected in the dDCO)														
Cadent Gas	PPs and Side Agreement have been agreed on 6 June 2023 (as reflected in the dDCO). The Side Agreement was signed and completed on 10 July 2023.														
National Grid Electricity Transmission	PPs have been agreed on 7 June 2023 (as reflected in the dDCO)														
National Gas Transmission	PPs have been agreed on 7 June 2023 (as reflected in the dDCO)														
National Grid Electricity Distribution	PPs have been agreed on 14 April 2023 (as reflected in the dDCO). The Side Agreement has been agreed on 25 June 2023 and has been signed by the Applicant and is in the process of being signed by NGED														
Environment Agency	<p>The Applicant is in active discussions with the Environment Agency and anticipates the Protective Provisions will be agreed before the end of the Examination.</p> <p>The Applicant is awaiting comments from the Environment Agency and anticipates the PPs to be agreed by Deadline 5. However, Mr Fox noted that this has not been agreed by the Environment Agency and therefore cannot be committed to.</p>														

Agenda Item	Applicant's Response	
		<b>Post hearing note:</b> <i>The Protective Provisions are agreed save for in relation to the Gwash Glen pipeline for which the Applicant is awaiting drafting from the EA to consider.</i>
	Network Rail	The Applicant is in active discussions with Network Rail and anticipates the Protective Provisions will be agreed before the end of the Examination.  <b>Post hearing note:</b> <i>the Protective Provisions were agreed with Network Rail on 20 July 2023.</i>
<b>11. Schedule 16 – Procedure for Discharge of Requirements</b>		
Updates to Schedule 16 made at Deadline 3	Schedule 16 Part 3 has been amended to reflect longer periods of time within which further information can be requested and consultation be undertaken. These changes include changing the period within which the LPA is to consider the discharge request from 10 working days to 20 working days and changing the period similarly for considering if further information is necessary. In addition, the period was extended from 5 working days to 10 working days for materials to be issued to consultee bodies and a similar period for notifying where further information is required and in any event within 20 days rather than 15 days from receipt of the application. This has been amended in accordance with comments received by Interested Parties at Deadline 2, as detailed in the Applicant's Responses to Interested Parties' D2 Submissions [REP3-028].	
Comments on procedure set out in Schedule 16 from Interested Parties	<p>Mr Johnson, on behalf of South Kesteven District Council, noted that a period of 10 weeks rather than 8 weeks was requested for discharging the requirements as provided in Longfield Solar Farm Order 2023. Mr Fox, on behalf of the Applicant, explained that the Applicant does not agree with amending the period to 10 weeks as this is a nationally significant infrastructure project and the Applicant requires the requirements to be discharged within 8 weeks to ensure that there is no unacceptable delay to the implementation of the Proposed Development.</p> <p>Mr Jordan, on behalf of Rutland County Council, noted that having different timeframes should be considered as there are certain matters which are excluded from deemed approval, such as drainage and archaeology.</p> <p>Mr Fox, on behalf of the Applicant, confirmed that the Applicant will review the requirements and consider which requirements could provide a 10 week period at Deadline 4.</p> <p><b>Post hearing note:</b> <i>The Applicant has made proposals in this regard in the draft DCO submitted at Deadline 4.</i></p>	



Agenda Item	Applicant's Response
	<p>Mr Fox explained that the Applicant acknowledges the Council's comments in relation to the fees payable for discharging the DCO requirements. The Applicant will consider and discuss the appropriate fees and the mechanisms for payment with the local authorities outside of the Order. Mr Phillips explained that this will take the form of a contract with the LPAs to deal with how to establish resources, the price of resources between now and the DCO being granted, inflation and costs etc. To avoid having to amend the DCO, this is best dealt with in a contract. This approach has worked well in other DCOs, such as Cleve Hill Solar Park.</p> <p>Mr Fox confirmed that the Applicant will provide the local authorities with a proposed fee structure by Deadline 4 for comments and discussion. <i>Post Hearing note: This has been done shortly before Deadline 4.</i></p>
<b>12. Action points arising</b>	
	See the Applicant's Cover Letter for Deadline 4.
<b>13. Closing</b>	

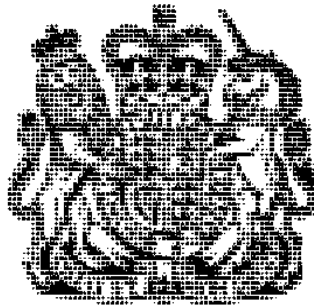
# Appendices

## Mallard Pass Solar Farm

9.32 Summary of Applicant's Oral Submissions at ISH3 with appendices – Appendices A - D

### **Appendix A Anglian Water Authority Act 1977 (as enacted)**

**ELIZABETH II**



**1977 CHAPTER i**

**An Act to provide for the development of certain rivers and waterways for recreational purposes; to constitute the Anglian Water Authority as the navigation authority for such rivers and waterways and to provide for the control of such rivers and waterways by the Authority; to provide for the transfer to the Authority of the undertaking of a navigation authority for the river Stour; to empower the Authority to make further discharges of water from the works constructed under the Ely Ouse-Essex Water Act 1968 and for that purpose to carry out works; to confer further powers on the Authority in relation to the performance of their functions; to extend to the area of the Authority certain enactments in force in parts of that area; and for other purposes.** [17th March 1977]

**WHEREAS** the Anglian Water Authority (hereinafter in this Act referred to as "the Authority") were constituted in pursuance of the Water Act 1973 (hereinafter in this Act referred to as "the Act of 1973") as the authority responsible for water conservation, the supply of water, land drainage, prevention of pollution, the provision of public sewerage and sewage disposal, water recreation and the management and improvement of salmon, trout and freshwater fisheries within an area which includes the counties of Cambridgeshire, Lincolnshire, Norfolk and Suffolk, and parts of the counties of <sup>1973 c. 37.</sup>

Bedfordshire, Buckinghamshire, Essex, Hertfordshire, Humberside, Leicestershire, Northamptonshire, Nottinghamshire and Oxfordshire and part of the London Borough of Havering:

And whereas there are within the area of the Authority a number of navigable rivers and other waterways in respect of which there are public rights of navigation:

And whereas for many years commercial navigation of these rivers and waterways has been diminishing but the use thereof for boating, angling and other forms of recreation has increased and will continue to increase:

And whereas it would be of public and local advantage to foster, improve and extend the use of these rivers and waterways for recreational purposes:

And whereas the Authority are the navigation authority in respect of some of the said rivers and waterways but there are no authorities exercising effective control over the remainder of such rivers and waterways:

And whereas it would be expedient for the Authority to have improved powers of management and control in respect of those rivers and waterways in respect of which they are the navigation authority:

And whereas it would also be expedient for the Authority to undertake responsibility for the management and control of certain rivers and waterways in respect of which they are not at present the navigation authority, and for provision to be made to enable them to undertake such responsibility in respect of other rivers and waterways suitable for use as recreational waterways, and for those purposes to confer upon them additional powers as in this Act provided:

1968 c. xxvi. And whereas it is expedient to empower the Authority to make discharges of water from the works constructed under the powers of the Ely Ouse-Essex Water Act 1968 into a tributary of the river Colne in the county of Essex to augment the yield of the Ardleigh reservoir and to meet increasing demands for a supply of water from consumers within the catchment area of the said river, and for that purpose to carry out certain works:

And whereas to enable the Authority to discharge their statutory functions with greater efficiency it is expedient that they should be granted the other additional powers conferred upon them by this Act and that certain statutory provisions in force in parts of the area of the Authority should be extended so as to apply to the whole of that area:

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

And whereas 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:—

PART I

PRELIMINARY

1. This Act may be cited as the Anglian Water Authority Act Short title. 1977.

2.—(1) In this Act, unless the subject or context otherwise Interpretation. requires, the following expressions shall have the meanings hereby assigned to them:—

“ the Act of 1945 ” means the Water Act 1945; 1945 c. 42.

“ the Act of 1963 ” means the Water Resources Act 1963; 1963 c. 38.

“ the Act of 1972 ” means the Local Government Act 1972; 1972 c. 70.

“ the Act of 1973 ” means the Water Act 1973; 1973 c. 37.

“ the Act of 1976 ” means the Land Drainage Act 1976; 1976 c. 70.

“ the area of the Authority ” means in relation to any function of the Authority the area which is for the time being the area of the Authority for the purposes of that function;

“ the Authority ” means the Anglian Water Authority;

“ the chief executive ” means the chief executive of the Authority and includes any person authorised to exercise his functions;

“ district ” has the same meaning as in the Act of 1972;

“ enactment ” includes an enactment in this Act or in any general or local Act and any order, byelaw or regulation for the time being in force within the area of the Authority;

“ land ” includes land covered with water and any interest in or right over land;

“ the Minister ” means the Minister of Agriculture, Fisheries and Food;

“ the Ministers ” means the Secretary of State and the Minister;

“ Toppesfield Brook ” means the ditch which is a tributary of the river Colne and is known as Toppesfield Brook in the parishes of Steeple Bumpstead, Finchingfield, Stambourne and Toppesfield in the district of Braintree in the county of Essex.

(2) In this Act, unless the subject or context otherwise requires, “ navigation authority ”, “ harbour authority ” and “ conservancy authority ” have the same respective meanings as in the Act of 1963.

PART I  
—cont.

(3) Unless the subject or context otherwise requires, references in this Act to any enactment shall be construed as references to that enactment as amended or replaced by any subsequent enactment, including this Act.

## PART II

## RECREATIONAL WATERWAYS

Interpretation  
for purposes  
of Part II of  
Act.

3. In this Part of this Act unless the subject or context otherwise requires—

“pleasure boat” means any vessel (including an amphibious craft) other than a seaplane or a vessel being used solely as a tug or for the carriage of goods;

“recreational waterways” means the waterways in respect of which the Authority are for the time being the navigation authority whether by virtue of this Act or some other enactment;

“the statutory navigations” means the navigations specified in Parts I and II of Schedule 1 to this Act;

“transferred undertaking” in relation to the statutory navigation specified in Part II of Schedule 1 to this Act means—

(a) all the property of the undertakers (both real and personal) which immediately before the passing of this Act was held or used solely for the purposes of the navigation;

(b) all powers, rights, functions, obligations and liabilities of the undertakers subsisting immediately before the passing of this Act solely for those purposes other than rights and duties for the rendering of personal service;

“the tribunal” means the Lands Tribunal;

“the undertakers” means in relation to the transferred undertaking the navigation authority for the waterway to which the undertaking relates;

“vessel” includes any ship, lighter, keel, barge, boat, raft, pontoon, tug, hovercraft, hydrofoil and craft of any kind howsoever navigated, propelled or moved and any seaplane on the surface of the water;

“waterway” means so much of any river, stream or other watercourse, whether natural or artificial and whether tidal or not, as is within the area of the Authority and includes part of a waterway and any cut, inlet, creek, lock, weir and barrier to the passage of vessels in a waterway.

4.—(1) On the passing of this Act the transferred undertaking shall by virtue of this Act be transferred to and vest in the Authority without payment.

PART II  
—cont.

Transfer to  
Authority of  
Stour  
navigation.

(2) (a) The production of a copy of this Act together with a statutory declaration by the chief executive shall be sufficient authority to the Chief Land Registrar of Her Majesty's Land Registry to enter the name of the Authority as proprietor of any registered land forming part of the transferred undertaking or to any company in whose books any stock forming part of the transferred undertaking is standing to transfer the stock into the name of the Authority and to pay any dividend, interest or bonuses thereon to the Authority.

(b) A statutory declaration made under the last foregoing paragraph shall describe for the purpose of identification the land or stock to which it relates.

(c) In respect of unregistered land a statutory declaration by the chief executive containing the particulars required by the last foregoing paragraph shall be conclusive proof in favour of a successor in title to the Authority that the land to which it relates formed part of the transferred undertaking.

(d) In this subsection—

“ company ” includes the Bank of England and any corporation or person keeping books in which any stock is registered or inscribed; and

“ stock ” includes any share, bond, fund, annuity or other security.

5.—(1) Notwithstanding the transfer to the Authority of the transferred undertaking and the repeal of the enactments relating to that undertaking mentioned in Part II of Schedule 1 to this Act—

Continuation  
of proceedings,  
etc.

(a) any action, arbitration or proceeding or any cause of action, arbitration or proceeding pending or existing at the passing of this Act by or against or in favour of the undertakers shall not abate or be discontinued or be in any wise prejudicially affected by reason of the transfer to the Authority of the transferred undertaking or of anything in the last preceding section of this Act, but may be continued, prosecuted and enforced by, or against or in favour of, the Authority as and when it might have been continued, prosecuted or enforced by or against or in favour of the undertakers if the said section had not been enacted, but not further or otherwise;



**PART II**  
—cont.

- (b) all agreements, conveyances, contracts, deeds and other instruments entered into or made with or by the undertakers and in force on the passing of this Act shall, as from that date, be as binding and of as full force and effect in every respect against or in favour of the Authority and may be enforced as fully and effectually as if the Authority had been a party thereto or bound thereby or entitled to the benefit thereof, but nothing in the said section or done thereunder shall prejudice or affect the right of the Authority to terminate any such agreement, conveyance or contract at such time and in such manner as it might have been terminated if the said section had not been enacted;
- (c) all rents, rates and charges and other sums and debts on the passing of this Act due and payable or accruing due and payable to the undertakers shall be payable to and may be collected, recovered and enforced by the Authority in the same manner and with and by the same benefits and processes as those with and by which the undertakers might have collected, recovered and enforced them and shall be applied by the Authority for the purposes of their functions under this Part of this Act.

(2) References in this section to the undertakers shall include references to a body which was formerly such undertakers but has ceased to exist and to a body which no longer has any members but, if it had members, would be such undertakers.

Repeal of enactments relating to statutory navigations.

6. So much of the enactments mentioned in Schedule 2 to this Act as relates to navigation is hereby repealed.

Authority to be navigation authority for certain recreational waterways.

7. Notwithstanding the repeal by section 6 (Repeal of enactments relating to statutory navigations) of this Act of the enactments mentioned in that section the Authority—

- (a) shall continue to be the navigation authority for the waterways specified in Part I of Schedule 1 to this Act; and
- (b) shall be the navigation authority for the waterways specified in Parts II and III of the said Schedule.

Maintenance of navigations.

8. The Authority shall take such steps as are reasonably practicable to maintain the main navigation channels and navigation works of the waterways specified in Schedule 1 to this Act to at least as good a standard for the purpose of navigation by pleasure boats as that to which they were maintained in the period of nine months immediately preceding 8th December, 1975.

9. Notwithstanding in the case of the statutory navigations the repeal by this Act of the enactments mentioned in Schedule 2 to this Act, members of the public shall have the like rights to navigate the waterways specified in Schedule 1 to this Act and to pass through and use any locks or other works constructed to facilitate navigation as they had before the passing of this Act but the exercise of such rights shall be subject to the following conditions and restrictions:—

PART II  
—cont.

Rights of navigation over certain recreational waterways.

- (a) payment of any charges, tolls or dues lawfully demanded by the Authority under any enactment; and
- (b) observance of any rules, regulations or byelaws relating to the recreational waterway and for the time being in force.

10.—(1) The Secretary of State may, on the application of the Authority and on being satisfied that it is in the best interests of recreation and the occupation of leisure, make an order providing for—

Power to make orders with regard to recreational waterways.

- (a) the creation of public rights of navigation in respect of any waterway in the area of the Authority which is not under the jurisdiction of or does not form part of the undertaking of a navigation authority, harbour authority or conservancy authority; or
- (b) constituting the Authority as the navigation authority in respect of any waterway in the area of the Authority, not being a waterway which is—
  - (i) under the jurisdiction of or part of the undertaking of a navigation authority, harbour authority or conservancy authority; or
  - (ii) in any part seaward of the limits specified in Schedule 3 to this Act, for the waterways respectively also there specified.

(2) An order made under paragraph (a) of the last foregoing subsection creating public rights of navigation may create either all such rights or only such rights in respect of vessels of particular classes or descriptions as may be specified in the order.

(3) The provisions of Schedule 4 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 Secretary of State considers necessary or expedient, including (but without prejudice to the generality of this subsection) such provisions as he considers necessary or expedient with respect to the amendment, adaptation or repeal of enactments (including local enactments).

**PART II**  
—*cont.*

(5) If it is shown that the value of an interest of a person in land is depreciated or that a person has suffered damage by being disturbed in his enjoyment of land, in consequence of the creation of public rights of navigation by an order under paragraph (a) of subsection (1) of this section, that person shall be entitled to be paid by the Authority compensation equal to the amount of the depreciation or damage to be determined, in default of agreement, by the tribunal.

In this subsection “interest”, in relation to land, includes any estate in land and any right over land, whether the right is exercisable by virtue of the ownership of an interest in land or by virtue of a licence or agreement, and in particular includes sporting rights.

General duty  
of the  
Authority in  
relation to  
recreational  
waterways.

11.—(1) The Authority shall take such steps as are reasonably practicable to ensure that a recreational waterway is put to the best use for the purposes of recreation and the occupation of leisure having regard to its other lawful uses.

(2) The Secretary of State may give the Authority such general or special directions as he considers appropriate in relation to their functions under this Part of this Act, and it shall be the duty of the Authority to comply with those directions.

General  
powers of  
Authority in  
relation to  
recreational  
waterways.

12.—(1) In the performance of their functions under section 20 of the Act of 1973 and under this Part of this Act the Authority may develop, improve, preserve and manage the recreational waterways as places for recreation and the occupation of leisure.

(2) In the exercise of their powers under subsection (1) of this section the Authority may maintain and improve existing works, buildings and other facilities and construct, lay out, equip and maintain all such further works, buildings and facilities, provide all such facilities, equipment and services and provide or do all such other acts or things as they may think necessary or expedient for that purpose.

(3) Without prejudice to the generality of the foregoing provisions of this section the Authority may—

- (a) place, lay down, maintain and use moorings in the recreational waterways or on the banks thereof on land owned by or leased to the Authority or in which they have a sufficient interest and on any other land with the consent of the owner or lessee of such land;
- (b) from time to time deepen, dredge, scour and improve and remove obstructions from the bed and banks of a recreational waterway.

(4) The Authority shall pay compensation to all persons for any damage sustained by them by reason of the exercise by the Authority of the powers of paragraph (b) of subsection (3) of this section. Any question as to the amount of the compensation to be so paid shall be determined by the tribunal.

(5) The powers conferred upon the Authority by this section may be exercised notwithstanding interference with public rights of navigation.

(6) As early as possible, and except in case of emergency not less than twenty-eight days, before any exercise of their powers under paragraph (b) of subsection (3) of this section within a distance of 50 metres of any subaqueous cable or telegraphic line belonging to or used by the Post Office the Authority shall give notice in writing to the Post Office of such intended exercise:

Provided that this subsection shall not apply in relation to any such subaqueous cable or telegraphic line unless the Post Office has supplied the Authority with a plan showing the position in which the subaqueous cable or telegraphic line is laid in or under a recreational waterway.

(7) In this section the expression “ telegraphic line ” has the same meaning as in the Telegraph Act 1878.

1878 c. 76.

13. In their application to the Authority for the purposes of this Part of this Act the powers of section 65 of the Act of 1963 for the acquisition of land compulsorily shall extend to enable the Authority to acquire such land only as they may require for placing and laying down moorings on any bank of a recreational waterway or in the bed of a recreational waterway adjacent to such a bank, being in either case land to which users of the moorings have a subsisting right of access.

Acquisition  
of land for  
water  
recreation\*

14.—(1) The Authority may exercise the powers of section 65 of the Act of 1963 (as applied by the last preceding section of this Act) so as to purchase, by means of a compulsory purchase order, such new rights over land as are specified in the order; and in this section “ new rights ” means rights purchased in pursuance of the foregoing provisions of this subsection and which are not in existence when the order specifying them is made.

Acquisition  
of new rights  
over land.

(2) (a) If the value of any interest in land to which this subsection applies is depreciated by the compulsory purchase of new rights, the person entitled to that interest shall be entitled to compensation from the Authority of an amount equal to the amount of the depreciation.

(b) This subsection applies to any interest in any land over which new rights are purchased, and to any interest in any land which, on the appropriate date, is held with that land.

PART II  
—cont.

(3) (a) Where the person entitled to an interest in land to which the last preceding subsection applies sustains loss or damage which—

- (i) is attributable to the purchase of new rights; and
- (ii) does not consist of depreciation of the value of that interest; and
- (iii) is loss or damage for which, if his interest in the land over which the new rights are acquired had been compulsorily acquired under subsection (2) of section 65 of the Act of 1963 (as applied by the last preceding section of this Act) and in pursuance of a notice to treat served on the appropriate date, he would have been entitled to compensation by way of compensation for disturbance or injurious affection;

he shall be entitled to compensation from the Authority in respect of that loss or damage, in addition to compensation under the last preceding subsection.

1973 c. 26. (b) The modifications subject to which subsection (1) of section 44 of the Land Compensation Act 1973 is to have effect, as applied by subsection (2) of that section to compensation for injurious affection under this section, are that for the words “~~land is acquired or taken~~” there shall be substituted the words “a right over land is purchased” and for the words “acquired or taken from him” there shall be substituted the words “over which the right is exercisable”.

1965 c. 56. (4) Subsections (2) and (3) of this section shall have effect without prejudice to any right to compensation under section 10 of the Compulsory Purchase Act 1965 but, subject to the provisions of this section, no person shall be entitled to compensation, in respect of the compulsory acquisition of new rights, otherwise than in accordance with subsections (2) and (3) of this section.

1946 c. 49. (5) The Acquisition of Land (Authorisation Procedure) Act 1946 and the Compulsory Purchase Act 1965 shall have effect with the modifications necessary to make them apply to the compulsory purchase of rights as they apply to the compulsory purchase of land so that, in appropriate contexts, references in those Acts to land are read as referring, or as including references, to the rights or to land over which the rights are or are to be exercisable, according to the requirements of the particular context.

(6) Without prejudice to the generality of the preceding subsection, in relation to the purchase of new rights—

- (a) Part III of Schedule 1 to the said Act of 1946 (which provides for special parliamentary procedure in the case of the purchase of land of certain descriptions) shall have effect with the adaptations specified in Part I of Schedule 5 to this Act;

- (b) Part I of the said Act of 1965 (which relates to compulsory purchases under the said Act of 1946) shall have effect with the modifications specified in Part II of Schedule 5 to this Act; and
- (c) the enactments relating to compensation for the compulsory purchase of land shall apply with the necessary modifications as they apply to such compensation.

PART II  
—cont.

(7) In this section “ compulsory purchase order ” has the same meaning as in the said Act of 1946, and “ the appropriate date ” means the date of service of the notice to treat in pursuance of which the new right is acquired.

15.—(1) The Authority may temporarily prohibit, restrict or regulate the use or navigation of a recreational waterway for any <sup>Temporary</sup> ~~closure of~~ <sup>closure of</sup> ~~recreational~~ <sup>recreational</sup> ~~waterways.~~ <sup>waterways.</sup> of the following purposes:—

- (a) the construction, maintenance or alteration of any lock or other work in or adjoining the waterway; or
- (b) to facilitate the holding of functions in connection with the use of the waterway as a place of recreation and the occupation of leisure:

Provided that the Authority shall not prohibit, restrict or regulate the use or navigation of a recreational waterway for a purpose specified in paragraph (b) of this subsection for more than one half-hour in any period of one hour or for more than eight periods each of one half-hour in any period of twenty-four hours.

(2) (a) Before exercising their powers under subsection (1) of this section the Authority shall, except in an emergency, publish a notice in one or more local newspapers circulating in the district in which the recreational waterway is situated.

(b) The notice shall be published not less than one month before the powers are to be exercised and shall state the extent to which, the period during and the purpose for which the use or navigation of the recreational waterway is to be prohibited, restricted or regulated.

(3) A copy of the notice published under subsection (2) of this section shall be conspicuously displayed in such one or more places on or adjacent to the recreational waterway to which it relates as the Authority consider appropriate for bringing its contents to the notice of persons using or navigating the waterway.

16.—(1) The Authority may in the performance of their <sup>Appointment</sup> ~~functions~~ <sup>of wardens or</sup> ~~under section 20 of the Act of 1973 and this Part of this~~ <sup>bailiffs.</sup> Act appoint officers of the Authority to act as wardens or bailiffs for the purpose of enforcing or securing compliance with the

**PART II**  
**—cont.**

provisions of this Part of this Act and of any byelaws relating to the recreational waterways and made under section 79 of the Act of 1963 or under section 18 (Byelaws) of this Act.

(2) Without prejudice to the provisions of any other enactment any person who intentionally obstructs an officer of the Authority appointed under subsection (1) of this section duly acting for the purposes stated therein shall be liable on summary conviction for each offence to a fine not exceeding £20.

**Charges.**

17.—(1) In its application to charges in respect of the use by vessels of recreational waterways section 30 of the Act of 1973 shall have effect as if the exercise of the functions of the Authority in relation to the use of those waterways for navigation under this Part of this Act were services performed or facilities provided by the Authority for or in respect of all users of those waterways:

Provided that no charge shall be payable in respect of the use or navigation of a recreational waterway by a vessel belonging to or employed in the service of any highway authority, police authority or fire authority for the purpose of the exercise of their functions.

(2) A list showing the charges for the use by vessels of any recreational waterway which are for the time being in force shall be displayed at one or more convenient places on or adjacent to the waterway and copies of the list shall on request be supplied by the Authority free of charge.

**Byelaws.**

18.—(1) The Authority may make byelaws in relation to the recreational waterways for any matter falling within their functions as the authority responsible for maintaining and improving those waterways for the purposes of recreation and the occupation of leisure and for controlling the navigation of those waterways, and in particular, but without prejudice to the generality of those powers, for all or any of the following purposes:—

- (a) to secure the conservation and improvement of a recreational waterway and its amenities for the purposes of recreation and the occupation of leisure and to promote the ease, convenience or safety of navigation;
- (b) to regulate vessels in a recreational waterway and their launching on or entry into, departure from and movement in the waterway, and, without prejudice to the generality of the foregoing, to prescribe the speed of vessels and rules for navigation;
- (c) to prescribe recreational waterways—
  - (i) where vessels or a specified class of vessels may not moor, anchor or be otherwise secured;
  - (ii) which vessels of a specified class may not enter;

- (iii) where activities of a specified type may not be carried on, or may only be carried on in accordance with specified conditions;
- (d) to prescribe periods (including days and parts of a day) when vessels of a specified class or description may not navigate the whole or part of a recreational waterway;
- (e) to provide for the registration of pleasure boats using or navigating a recreational waterway and prohibiting the use or navigation of a recreational waterway by pleasure boats which are not for the time being registered by the Authority;
- (f) with a view to ensuring the safety of passengers in vessels in a recreational waterway and of other vessels or persons using such a waterway, to prescribe standards for any engines, appliances, fittings or equipment in such vessels, and to make provision with regard to the use and operation of such vessels, engines, appliances, fittings and equipment and, without prejudice to the generality of the foregoing—
  - (i) to make provision with regard to the construction, maintenance and use of engines used for the propulsion of powered boats and with regard to the storage and supply of fuel for such engines;
  - (ii) to require the provision of effective fire extinguishers;
  - (iii) to regulate appliances for cooking, heating, lighting or refrigeration, and the storage and supply of fuel for such appliances;
- (g) to regulate the placing, maintenance and use of moorings in a recreational waterway;
- (h) to regulate the use and to prevent the misuse of and damage to the bed and banks of a recreational waterway and to services, locks, landing places and other facilities (including moorings) provided by the Authority in or adjoining a recreational waterway;
- (i) to promote the safety of persons and vessels in a recreational waterway including the provision of life-saving equipment;
- (j) to prescribe a minimum age for persons in control of or navigating a powered boat or any class or description of powered boats;
- (k) to regulate the conduct of persons using a recreational waterway or its banks whether for business, recreation, training or any other purposes;
- (l) for the preservation of flora and fauna in, or on the banks of, a recreational waterway.



**PART II**  
—*cont.*

(2) Different byelaws may be made under this section in relation to different recreational waterways and to different classes of vessels navigating or using any such waterway.

(3) Byelaws made under paragraph (e) of subsection (1) of this section may authorise the Authority—

- (a) to make reasonable charges in respect of the registration of pleasure boats under those byelaws;
- (b) to attach conditions to and provide for the revocation of the registration of such boats;
- (c) to grant exemptions from the requirements of such byelaws as to registration.

(4) No byelaw made under this section shall render unlawful the doing on private land outside a recreational waterway of any act by, or with the lawful authority of, the owner or occupier which does not injure or endanger any person lawfully using a recreational waterway or enjoying the amenities thereof.

In this subsection “private land” means any land other than land to which the public has access (whether as of right or by express or implied permission).

(5) If any person contravenes, or fails to comply with, any byelaws made by virtue of this section he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50; 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 £10 for each day on which it is so continued.

(6) The power to make byelaws conferred by this section shall be in addition to and not in derogation of the power to make byelaws conferred by section 79 of the Act of 1963 (as extended by section 15 (Extension of section 79 of Act of 1963) of the Essex River Authority Act 1972 set out in Part III of Schedule 8 to this Act).

(7) Nothing in any byelaw made under this section shall prejudice or affect the operation of the relevant statutory provisions as defined in section 53 of the Health and Safety at Work ~~etc.~~ Act 1974.

(8) In this section “powered boat” means a vessel which is mechanically propelled.

Continuance  
of existing  
byelaws,  
regulations  
and charges.

**19.—(1)** Notwithstanding the repeal of the enactments mentioned in Schedule 2 to this Act—

- (a) any byelaws or regulations made by the appropriate authority regulating or controlling any of the waterways specified in Schedule 1 to this Act; and

- (b) any tolls, rates and charges payable in respect of the use or navigation of any such waterway;

PART II  
—cont.

in force immediately before the passing of this Act shall continue to apply thereto until, in the case of the byelaws and regulations, they are varied or revoked by byelaws made under section 18 (Byelaws) of this Act, or under section 79 of the Act of 1963 (as extended and applied to the Authority), and, in the case of the tolls, rates and charges, the Authority otherwise determine, as if, in the case of the byelaws and regulations, they had been made under the said section 18 and, in the case of the tolls, rates and charges, they had been fixed under section 30 of the Act of 1973 as applied by section 17 (Charges) of this Act.

(2) In this section “the appropriate authority” means, in relation to any of the waterways specified in Schedule 1 to this Act, the authority who immediately before the passing of this Act were the navigation authority in respect of that waterway.

20.—(1) The Authority may enter into agreements with any other authority which is authorised to require registration of vessels navigating any waterway under the jurisdiction of that authority for the purpose of integrating the administration of provisions of any byelaws made under paragraph (e) of subsection (1) of section 18 (Byelaws) of this Act regarding the registration of pleasure boats with the administration by that authority of their provisions regarding the registration of vessels of the same class or description, and without prejudice to the generality of the foregoing any such agreement may provide—

- (a) for treating registration certificates issued by one of the parties to the agreement as registration certificates issued by the other;
- (b) for treating distinguishing marks or numbers assigned to vessels registered by one party to the agreement as having been assigned to that vessel by the other; and
- (c) for apportioning any registration fees or other charges between the parties to the agreement.

(2) Any registration certificate issued by an authority who are a party to an agreement made under subsection (1) of this section shall for the purposes of the byelaws referred to in the said subsection be deemed to have been issued by the Authority under the said byelaws, and any mark, number or other distinguishing sign displayed on a vessel in accordance with the requirements of an authority who are a party to such an agreement shall be treated as complying with the requirements of the said byelaws.

21.—(1) Whenever any vessel is sunk, stranded or abandoned in any recreational waterway, or without lawful authority left or moored therein, the Authority may after giving (except in an

Removal of  
vessels.

**PART II**  
*—cont.*

emergency) not less than three months' notice to the owner of the vessel, unless it is not practicable after reasonable inquiry to ascertain the name and address of the owner, raise and remove the vessel.

(2) The Authority may recover from the owner of any such vessel all expenses reasonably incurred by the Authority in respect of the raising, removal and storage thereof or in raising, removing or storing any furniture, tackle and apparel thereof or any goods, chattels and effects raised or removed therefrom.

(3) If any vessel to which subsection (1) of this section applies be not within six weeks of its removal by the Authority proved to the satisfaction of the Authority to belong to any claimant it shall together with any such furniture, tackle and apparel vest in the Authority:

Provided that if within six months of its removal a claim is made to the vessel by a person who subsequently proves to the satisfaction of the Authority that he is the owner thereof then the Authority shall, if the vessel is unsold, permit the owner to retake it with any furniture, tackle, apparel, goods, chattels and effects thereupon upon payment of the expenses referred to in subsection (2) of this section or, if the vessel and the furniture, tackle and apparel thereupon have been sold, the Authority shall pay to such owner the amount of the proceeds of such sale after deducting the said expenses, and in case such proceeds shall be insufficient to reimburse the Authority such expenses the deficiency may be recovered by the Authority as a simple contract debt in any court of competent jurisdiction.

(4) In this section—

“owner” in relation to any vessel sunk, stranded, abandoned, left or moored as aforesaid means the owner of the vessel at the time of the sinking, stranding, abandonment, leaving or mooring thereof; and

“vessel” includes any part of a vessel.

Powers of entry.

**22.** Sections 111 and 112 of the Act of 1963 shall apply to the performance by the Authority of their functions under this Part of this Act.

**PART III****ADDITIONAL AND EXTENDED POWERS**

Discharge of water.  
1968 c. xxvi.

**23.** The Authority may by means of Work No. 17 authorised by section 7 (Power to Essex Authority to construct works) of the Ely Ouse-Essex Water Act 1968 discharge water into Toppesfield Brook.

24.—(1) The Authority for the purposes of improving or regulating the flow in the section of Toppesfield Brook to which this section applies may by agreement with the owner and occupier of the land—

PART III  
—cont.  
Power to improve and regulate flow of Toppesfield Brook.

- (a) dredge, cleanse and scour the said section;
- (b) reduce or remove any shoals, shelves, banks or other accumulations therein;
- (c) alter or remove or cause to be altered or removed any weirs, sluices, culverts, fords or other impediments or obstructions whatsoever therein or on the banks thereof;
- (d) construct any new bridges, culverts, fords or other works therein or on the banks thereof which may be required to accommodate the owner or occupier of the land.

(2) An agreement entered into under subsection (1) of this section may provide for the execution by the Authority of works in, on, under or over that land for or in connection with or ancillary to the purposes mentioned in the said subsection, or any of them, including the widening, deepening, culverting, straightening, diverting, altering the course of, fencing, or otherwise improving or maintaining the section of the Toppesfield Brook to which this section applies and the filling, wholly or partially, thereof.

(3) Paragraph 7 of Schedule 8 to the Act of 1963 shall apply to the exercise of the powers of this section as it applies to the exercise of compulsory powers and shall have effect as if—

- (a) for references therein to the order there were substituted references to this Act; and
- (b) for references to the coming into operation of the order there were substituted references to the passing of this Act.

(4) This section applies to the section of Toppesfield Brook between National Grid map reference points TL 67398 37860 and TL 74610 36110.

25.—(1) The Authority may by agreement with the highway authority, alter, reconstruct or replace—

Power to alter a bridge and a public footpath over Toppesfield Brook.

- (a) the bridge or culvert and the approaches thereto which carries the road (classified road No. B1057) over Toppesfield Brook at National Grid map reference TL 68460 36880 either on the same site or on a new site within two hundred yards of the first-mentioned site; and
- (b) the culvert carrying a public footpath over the brook at National Grid map reference TL 70140 36319.

**PART III**  
—*cont.*

(2) The Authority may by agreement with the owner and occupier of the land carry out any works in, on, under or over Toppesfield Brook and the approaches thereto made necessary by the exercise of the power conferred by subsection (1) of this section, and subsections (2) and (3) of the last preceding section shall apply to any agreement entered into under this subsection.

**Power to  
construct  
tunnels.**

**26.—**(1) The power to lay pipes conferred on the Authority or on a statutory water company to which this section applies by the provisions of the Third Schedule to the Act of 1945, as incorporated in any enactment relating to the supply of water by the Authority or such a company or, in the case of the Authority, as applied by any enactment relating to the conservation of water, shall be deemed to include a power to construct tunnels; and the expression “main”, as defined in section 1 of that schedule, shall be construed accordingly.

(2) This section applies to a statutory water company (as defined in the Act of 1973) whose limits of supply are within the water supply area of the Authority.

(3) Notwithstanding anything in, or omitted from, any enactment by which the provisions referred to in subsection (1) of this section are incorporated or applied as there mentioned, section 93 of the said Third Schedule shall have effect in relation to the exercise of powers to construct tunnels by virtue of the foregoing provisions of this section as if that section were incorporated without modification in each such enactment.

**Flood  
prevention.**

**27.—**(1) If the Authority determine that any building, wharf or other structure forms part of or makes a contribution to the efficiency of the defences of any part of their area against flooding by the sea or other tidal waters, they may serve a notice (hereinafter in this section referred to as “a flood prevention notice”) upon the occupier of such building, wharf or other structure designating such building, wharf or other structure as a structure to which this section applies (hereinafter in this section referred to as a “designated structure”) and such notice shall be in the form set out in Schedule 6 to this Act or in a form to the like effect.

(2) (a) Any person on whom a flood prevention notice has been served may, within twenty-eight days after the receipt of the notice, object to the notice on the grounds that the designated structure in respect of which the notice was served does not form a part of or (as the case may be) does not make a contribution to the efficiency of the defences of any part of the area of the Authority against flooding by the sea or other tidal waters and, unless the notice is withdrawn, the objection shall be referred to and determined by arbitration.

(b) The arbitrator may confirm, vary or rescind the notice and if he varies the notice, the notice, as so varied, shall be deemed to be the notice served on the occupier under subsection (1) of this section.

PART III  
—cont.

(3) (a) An occupier of a designated structure shall not begin to alter, demolish or otherwise interfere with the structure in such a manner as would or might impair the effectiveness of that structure as a structure forming part of or making a contribution to the efficiency of the defences of the area against flooding by the sea or other tidal waters unless, not less than twenty-eight days before doing so, he serves on the Authority a notice (in this section referred to as a "works notice") describing the operations he is proposing to carry out in relation to the designated structure and giving particulars (including, where necessary, a plan and section) of any works proposed to be carried out.

(b) The Authority may serve a counter-notice prohibiting the carrying out of all or some of the operations described in the works notice for such period not exceeding three months as may be specified in the counter-notice.

(c) A counter-notice shall be served within twenty-eight days from the date of service on the Authority of a works notice and, if no counter-notice is served within that period or if the counter-notice is subsequently withdrawn, the occupier of the designated structure in respect of which the works notice has been served may carry out the operations described in the works notice or, as the case may be, those to which the counter-notice relates.

(4) (a) The Authority may on any land on which a designated structure is situated erect and thereafter maintain, repair or replace one or more notices of such size or type and in such position or positions and giving such information as in the opinion of the Authority will draw to the notice of persons concerned with the designated structure the fact that a flood prevention notice is in force in respect of that structure.

(b) Subsection (1) of section 111 of the Act of 1963 in its application to the Authority shall have effect as if the power thereby conferred to enter upon and survey land included a power to exercise the powers conferred by paragraph (a) of this subsection, but the Authority shall not enter upon such land for the purpose of erecting a notice until the flood prevention notice has come into effect and unless not less than three days' notice has been given to the occupier of the designated structure.

(c) Section 112 of the Act of 1963 in its application to the Authority shall have effect as if reference therein to section 111 of that Act were references to that section as extended by paragraph (b) of this subsection.

**PART III**  
—*cont.*

(5) Not less than twenty-eight days before in any case, in respect of any structure to which this subsection applies, serving a flood prevention notice pursuant to subsection (1) of this section, the Authority shall consult the navigation authority, harbour authority or conservancy authority concerned; and if (on so consulting prior to serving a flood prevention notice) the Authority are so required by such navigation authority, harbour authority or conservancy authority, the Authority shall also consult that authority before thereafter in respect of that structure—

(a) serving any counter-notice pursuant to subsection (3) (b) thereof; or

(b) erecting any notice pursuant to subsection (4) (a) thereof.

This subsection applies to any building, wharf or other structure occupied by, or lying wholly or partly within the jurisdiction of, a navigation authority, harbour authority or conservancy authority.

1925 c. 22.  
1972 c. 61.

(6) (a) The contents of a flood prevention notice given or deemed to have been given under this section shall be registrable as a local land charge as if they were such prohibitions or restrictions as are registrable in pursuance of the provisions of paragraph (b) of subsection (7) of section 15 of the Land Charges Act 1925 (which, as amended, is set out in Schedule 4 to the Land Charges Act 1972), and subject to the provisions of that section shall be binding upon the occupier for the time being of the land upon which the designated structure stands is situated.

(b) The Authority shall send a copy of any such contents to the proper officer of the council of each district or London borough in which the designated structure to which the flood prevention notice relates is situated, and the proper officer shall cause it to be registered in the register of local land charges in such manner as may be prescribed by rules made in reference to local land charges under subsection (6) of section 15 of the said Act of 1925; and the power conferred by the said subsection (6) to make rules for giving effect to the provisions of the said section 15 shall be exercisable for giving effect to the provisions of this paragraph.

(c) Where a flood prevention notice has been varied or rescinded by an arbitrator under paragraph (b) of subsection (2) of this section, the Authority shall within seven days of the receipt of the arbitrator's award send a copy of the award to the proper officer of the district or London borough in which the designated structure to which the notice relates is situate and he shall make an appropriate alteration in the register of local land charges.

(7) Any person who—

(a) carries out, or causes or permits to be carried out, operations in relation to a designated structure in respect of which a works notice is required by paragraph (a) of

subsection (3) of this section without serving such a notice on the Authority, or before the expiration of twenty-eight days from the service of a works notice, or during the time when a counter-notice is in force, shall be guilty of an offence and liable on summary conviction to a fine not exceeding £400, or on conviction on indictment to a fine; and if the offence is continued after conviction he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding £50 for each day on which the offence is without reasonable excuse continued, or on conviction on indictment to a fine;

PART III  
—cont.

(b) intentionally obstructs members or officers of the Authority in the exercise of any of the powers of the Authority under subsection (4) of this section, or without reasonable excuse removes or obstructs such a notice as is referred to in that subsection, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £100.

(8) Where a building, wharf or other structure is unoccupied, the owner thereof shall be deemed, for the purposes of this section, to be the occupier.

28.—(1) (a) Subsection (2) of section 78 of the Act of 1963 in its application to the area of the Authority shall include proposals to excavate minerals, and accordingly (but without prejudice to the provisions of subsection (3) of this section) any person intending to excavate minerals in the area of the Authority shall give notice to the Authority of his intention (in this section referred to as “ an excavation notice ”).

Extension of section 78 of Act of 1963 to excavation of minerals.

(b) An excavation notice shall be in the form specified in Schedule 7 to this Act or in a form to the like effect.

(2) Subsections (3) to (7) of the said section 78 shall apply to a conservation notice given in respect of an excavation notice as they apply to a conservation notice given under the said subsection (3).

(3) This section shall not apply to a proposal to excavate minerals in respect of which planning permission was granted before 31st December, 1976, or to a proposal to excavate minerals in a mine (as defined for the purposes of the Mines and Quarries Act 1954).

1954 c. 70.

(4) In this section “ excavate minerals ” means—

(a) the carrying out of any works or operations connected with the excavation; and



**PART III**  
—*cont.*

- (b) where minerals are being excavated at the date when a conservation notice is given, and the excavation is being carried out according to a scheme whereby the whole of the land comprised in a planning permission is to be worked in stages, an extension of the excavation from the land comprised in one such stage to land comprised in another and “excavation” shall be construed accordingly;

but does not include dredging or any similar work or operation carried out in tidal waters—

- (i) by a harbour authority; or
- (ii) in pursuance of a licence granted for the purpose by a harbour authority.

**Power to  
Authority to  
carry out trial  
borings, etc.**

**29.—(1) (a)** The Secretary of State may on the application of the Authority authorise them—

- (i) to place and leave on or in any land any apparatus for use in connection with any survey of that or any other land (whether from the air or on the ground) and to remove such apparatus; and
- (ii) to search and bore on or in any land for the purpose of ascertaining the nature of the subsoil or the presence of water therein or the quantity or quality of such water:

Provided that notice of any such application shall be given by the Authority to the owner and occupier of the land and that notice of any application under sub-paragraph (ii) of this paragraph shall be given by the Authority to the British Gas Corporation specifying the situation of the land.

(b) For the purposes of this subsection where the surface of any land (whether it is above or below the surface of any adjoining land) has been raised by the deposit thereon of refuse or waste or other materials, any material lying below the surface as so raised shall be deemed to be part of the subsoil of that land.

(2) Before giving his authority the Secretary of State shall consider any representations made to him by the owner or occupier of the land within fourteen days after the receipt of the notice given to him under the proviso to paragraph (a) of the foregoing subsection and, unless the representations are disposed of by agreement between the Authority and the owner or occupier, shall either—

- (a) cause a local inquiry to be held; or
- (b) afford to the owner or occupier and to the Authority an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

(3) The British Gas Corporation may object to the carrying out of boring on the ground that it would be seriously detrimental to the carrying on of their undertaking and in that event the boring shall not be carried out except with the authority of the Secretary of State for Energy.

PART III  
—cont.

(4) (a) Paragraph (b) of subsection (1) of section 111 of the Act of 1963 in its application to the Authority shall have effect as if the power thereby conferred to enter upon and survey land included a power to exercise the powers conferred by subsection (1) of this section.

(b) Section 112 of the Act of 1963 in its application to the Authority shall have effect as if references therein to section 111 of that Act were references to that section as extended by paragraph (a) of this subsection.

(5) Section 112 of the Act of 1976 shall have effect in relation to the exercise by the Authority of the powers of this section as it has effect in relation to the exercise of the powers conferred by any enactment contained in that Act.

30.—(1) (a) Every undertaking given to the Authority by the owner of a legal estate in land (hereinafter referred to in this section as “the owner”) and every agreement made between the Authority and the owner, being an undertaking or agreement—

Undertakings and agreements binding successive owners.

- (i) given or made in connection with the land; and
- (ii) expressed to be given or made in pursuance of this section; and
- (iii) which defines that land as land the legal estate in which at the date of execution is vested in the owner;

shall be binding (without any limit of time) upon the owner and all persons deriving title by, through or under him.

(b) The proper officer of the council of each district or London borough in which the land to which any such undertaking or agreement relates is situate shall on receipt of a copy thereof cause it to be registered in the register of local land charges in such manner as is prescribed by the rules made in reference to local land charges under subsection (6) of section 15 of the Land Charges Act 1925 (which, as amended, is set out in Schedule 4 to the Land Charges Act 1972).

1925 c. 22.  
1972 c. 61.

(c) For the purpose of effecting the registration of an undertaking or agreement under paragraph (b) of this subsection (but for no other purpose) any such undertaking or agreement as is referred to therein shall be deemed to relate to a restriction on the user or mode of user of land or buildings enforceable by a local authority under a covenant or agreement made with them.

PART III  
—cont.

(2) Without prejudice to the generality of subsection (1) of this section it is hereby declared that an undertaking or agreement made binding thereby may consist of or include provision—

- (a) for covenants by the owner to carry out any works or do any thing on or in relation to the land in question (including the making of any payment of a sum or sums of money);
- (b) whereby the owner for valuable consideration agrees not to exercise a right conferred by any enactment.

(3) Any person against whom such an undertaking or agreement is enforceable shall be entitled to require from the Authority a copy thereof.

Application and modification of section 19 of Third Schedule to Act of 1945.  
1936 c. 49.

31.—(1) Where in any area forming part of the water supply area of the Authority within which immediately before 1st April, 1974, a supply of water was furnished by former statutory water undertakers under powers conferred by local enactments not incorporating or applying provisions authorising the laying and maintenance of water mains by reference to the powers to lay and maintain sewers conferred by Part II of the Public Health Act 1936—

- (a) section 19 of the Third Schedule to the Act of 1945 was incorporated with the local enactments under which the supply of water was furnished, paragraph (b) of subsection (1) of that section as set out in paragraph (6) of Article 9 of the Water Authorities, etc. (Miscellaneous Provisions) Order 1974 shall be substituted for paragraph (b) of subsection (1) of that section as so incorporated;
- (b) the said section 19 was not so incorporated, the section as modified by the said paragraph (6) shall be deemed to be so incorporated.

(2) The powers of this section shall cease to have effect upon the revocation or repeal of the Water Authorities, etc. (Miscellaneous Provisions) Order 1974.

Amendment of section 25 of Bath Side Bay Development Act 1972.  
1972 c. xxxvi.  
1976 c. 70.

32. Section 25 (For protection of Essex County Council) of the Bath Side Bay Development Act 1972 is hereby amended by the addition at the end of paragraph (2) of the following words:—

“ Nothing in this paragraph shall prejudice or affect the operation of section 29 of the Land Drainage Act 1976.”

## PART IV

## MISCELLANEOUS AND GENERAL

Application of section 229 of Act of 1972 to Authority.

33. Section 229 of the Act of 1972 shall apply to the Authority as if they were a local authority.

34. In its application to the Authority section 120 of the Act of 1963 shall have effect as if the reference in subsection (1) of that section to that Act included references to the Act of 1976, the Rivers (Prevention of Pollution) Acts 1951 to 1961 and any local enactment (including this Act and any local enactment applied to the Authority by this Act) relating to any of the functions of the Authority.

PART IV  
—cont.

Service of  
documents.

35.—(1) Any Minister of the Crown may cause such local inquiries to be held as he may consider necessary for the purpose of any of his functions under any local enactment relating to the Authority and for the time being in force within the area of the Authority.

Local  
inquiries.

(2) Subsections (2) to (5) of section 250 of the Act of 1972 shall apply in relation to any such inquiry but with the omission of the word “local” from subsection (4).

(3) In this section “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975.

1975 c. 26.

36. In arbitrations under a provision of this Act mentioned in the first column of the following table the reference shall be to a single arbitrator to be appointed by agreement between the parties, or, in default of agreement, to be appointed by the person mentioned in the second column of that table on the application of any party after giving notice in writing to the other party or parties:—

Arbitration.

Provision of Act	Person appointing arbitrator
Section 5 (Continuation of proceedings, etc.)	President of the Chartered Institute of Public Finance and Accountancy.
Section 27 (Flood prevention)	President of the Institution of Civil Engineers.
Section 28 (Extension of section 78 of Act of 1963 to excavation of minerals)	President of the Royal Institution of Chartered Surveyors.
Section 39 (For protection of electricity undertakers)	President of the Institution of Civil Engineers.

37. Upon the coming into force of the Local Land Charges Act 1975 the following amendments to this Act shall have effect:—

Local land  
charges.  
1975 c. 76.

(1) For subsection (6) of section 27 (Flood prevention) there shall be substituted the following:—

“(6) A flood prevention notice shall be a local land charge.”

**PART IV**  
—cont.

- (2) For paragraphs (b) and (c) of subsection (1) of section 30 (Undertakings and agreements binding successive owners) there shall be substituted the following:  
“(b) An undertaking or agreement given or made in pursuance of this section shall be a local land charge.”;
- 1970 c. vii. (3) For paragraph (a) of the proviso to subsection (2) of section 64 (Guarantees in respect of water supplies for new buildings) of the Welland and Nene (Empingham Reservoir) and Mid-Northamptonshire Water Act 1970, as set out in Part III of Schedule 8 to this Act there shall be substituted the following:—  
“(a) any such agreement shall be a local land charge; and”
- 1972 c. xiv. (4) For subsection (6) of section 68 (Closing of flood dams) of the Thames Barrier and Flood Prevention Act 1972 as set out in Part III of the said Schedule 8 there shall be substituted the following:—  
“(6) A notice given under this section shall be a local land charge.”.

For protection  
of nature  
conservation.

38.—(1) In the performance of its functions under this Act, the Authority shall consult the Nature Conservancy Council before undertaking, or giving permission to others to undertake, any operations which might be detrimental to the flora, fauna or geological or physiographical features of any land to which this section applies.

(2) This section applies to—

- 1949 c. 97. (a) land forming part of a nature reserve (within the meaning of section 15 of the National Parks and Access to the Countryside Act 1949) maintained or managed by the Nature Conservancy Council under section 1 of the Nature Conservancy Council Act 1973; or
- 1973 c. 54. (b) land notified to the Authority as a site of special scientific interest under section 22 (3) of the Act of 1973.

For protection  
of electricity  
undertakers.

39.—(1) In this section—

“electricity work” means any electric line, apparatus, building, structure or other work of any nature belonging to or maintained by the electricity undertakers;

“electricity undertakers” means the Central Electricity Generating Board, the Eastern Electricity Board, the East Midlands Electricity Board and the Yorkshire Electricity Board, or any of them, as the case may be.

(2) In the exercise of the powers of section 12 (General powers of Authority in relation to recreational waterways), section 21 (Removal of vessels) and section 24 (Power to improve and

regulate flow of Toppesfield Brook) of this Act the Authority shall not damage or injuriously affect any electricity work or, without the consent of the electricity undertakers, interfere with or remove any such work and the powers of the said sections shall be so exercised as not to render unreasonably inconvenient the access to any electricity work or operational land (as defined in section 222 of the Town and Country Planning Act 1971) of 1971 c. 78. the electricity undertakers.

PART IV  
—cont.

(3) Nothing in this section shall impose on the Authority any duty or any liability with respect to damage to any electricity work unless it be shown that the Authority knew or ought reasonably to have known of the presence and positioning of that work.

(4) Any difference which may arise between the Authority and the electricity undertakers under this section shall be determined by arbitration.

40. Nothing in this Act affects prejudicially any estate, right, power, privilege or exemption of the Crown and, in particular and without prejudice to the generality of the foregoing, nothing herein contained authorises the Authority to take, use or in any manner interfere with any land or hereditaments or any rights of whatsoever description—

- (a) belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners, without the consent in writing of those commissioners on behalf of Her Majesty first had and obtained for that purpose; or
- (b) belonging to a government department or held in trust for Her Majesty for the purposes of a government department, without the consent in writing of that government department:

Provided that nothing in this section shall affect the application of section 27 (Flood prevention) of this Act to any such land to the extent of any interest therein for the time being held otherwise than by or on behalf of the Crown.

41. Nothing in this Act shall affect the application to any operation of sections 34 to 36 of the Coast Protection Act 1949 (which require the consent of the Board of Trade or the Secretary of State to certain operations and contain other provisions for the safety of navigation). Saving for Coast Protection Act 1949. 1949 c. 74.

PART IV  
—cont.  
Repeals and  
re-enactment  
of certain  
enactments.

42.—(1) Subject to the provisions of subsection (2) of this section—

- (a) the enactments specified in column (1) of Part I of Schedule 8 to this Act (being enactments which are rendered unnecessary by subsection (2) of this section or by other provisions of this Act or the Act of 1963) are hereby repealed to the extent specified in column (2) of that Part;
- (b) the enactments specified in Part II of the said Schedule (being other enactments which are rendered unnecessary to the Authority by the said subsection (2) or by provisions of the Act of 1976) shall cease to have effect in relation to the Authority.

(2) (a) Notwithstanding the provisions of subsection (1) of this section, the provisions set out in Part III of Schedule 8 to this Act (being provisions replacing with modifications certain of the enactments specified in Part I or Part II of the said Schedule 8, and under which functions are exercisable by the Authority as respects parts only of their area) shall—

- (i) so far as they relate to the Authority alone, have effect as amended and set out in that Part;
- (ii) so far as they relate to the Authority as one among other authorities, have effect, in their application to the Authority, as set out in that Part;

and shall, except where a contrary intention is expressed, be construed in all respects as conferring functions exercisable by the Authority throughout the area of the Authority.

(b) In the said Part III, unless the subject or context otherwise requires—

- (i) expressions to which meanings are assigned by subsections (1) and (2) of section 2 (Interpretation) of this Act, or by the Act of 1963, shall have the same respective meanings;
- (ii) subsection (3) of the said section 2 shall have effect as respects any reference in the said Part to any enactment, as that subsection has effect in relation to the other provisions of this Act; and
- (iii) “the Act of 1974” shall mean the Control of Pollution Act 1974;

1974 c. 40.

and expressions to which meanings are assigned by any Act any provisions of which are replaced by provisions of the said Part III shall have those respective meanings:

Provided that if any difference arises between the meaning assigned to any expression (except the expression “the Authority”) by or by virtue of sub-paragraph (i) of this paragraph and any meaning assigned to any such expression by any such Act, the latter meaning shall prevail.

## SCHEDULES

### SCHEDULE I

Sections 3, 5, 7,  
8, 9 & 19.

#### PART I

#### STATUTORY NAVIGATIONS IN RESPECT OF WHICH THE AUTHORITY ARE THE NAVIGATION AUTHORITY

1. The New River Ancholme from Ferriby Sluice in the Parish of South Ferriby in the District of Glanford and the County of Humberside to Bishops Bridge formerly known as Bishops Briggs in the Parish of Glentham in the District of West Lindsey in the County of Lincolnshire.
2. The River Nene Navigation from the outfall of the Northampton Arm of the Grand Union Canal at Cotton End in the Parish, District and County of Northampton to Bevis Hall in the Parish of Wisbech St. Mary in the District of Fenland in the County of Cambridgeshire.
3. The River Welland from Fosdyke Bridge in the Parish of Fosdyke in the District of Boston in the County of Lincolnshire to National Grid reference point TF 350345.

#### PART II

#### STATUTORY NAVIGATION TO BE TRANSFERRED TO THE AUTHORITY

4. The River Stour from Brundon Mill in the Parish of Sudbury in the District of Babergh in the County of Suffolk to the Cattawade Barrage partly in the Parish of Brantham in the same District and partly in the Parish of Lawford in the District of Tendring in the County of Essex.

#### PART III

#### OTHER WATERWAYS IN RESPECT OF WHICH THE AUTHORITY ARE TO BE THE NAVIGATION AUTHORITY AND WHICH ARE TO BECOME RECREATIONAL WATERWAYS

5. The River Great Ouse system comprising—
  - (a) The River Great Ouse from National Grid reference point TF 6028 0712 to Denver Sluice in the Parish of Denver in the District of West Norfolk in the County of Norfolk:
  - (b) The Old Bedford River from the Old Bedford Sluice in the said Parish of Denver to Welches Dam Lock in the Parish of Manea in the said District of Fenland:
  - (c) The Hundred Foot River, otherwise known as the New Bedford River, from Denver Sluice aforesaid to its confluence with the River Great Ouse in the Parish of Earith in the District of Huntingdon in the County of Cambridgeshire:



SCH. 1  
—cont.

- (d) The River Great Ouse, also known as the Ten Mile River and the Ely Ouse River, from Denver Sluice aforesaid to Popes Corner in the Parish of Thetford in the District of East Cambridgeshire in the County of Cambridgeshire:
- (e) The Old West River from Popes Corner aforesaid to its confluence with the Hundred Foot River in the said Parish of Earith:
- (f) The River Great Ouse, also known as the Bedford Ouse, from the Hundred Foot River in the said Parish of Earith to Kempston Mill in the Parish of Kempston Urban in the District of Bedford in the County of Bedfordshire:
- (g) The River Little Ouse from Brandon Stauch in the Parish of Weeting-with-Broomhill in the District of Breckland in the County of Norfolk to its confluence with the River Great Ouse, when it is also known as the Ten Mile River and the Ely Ouse River, at Brandon Creek in the Parish of Southery in the said District of West Norfolk:
- (h) The River Lark from Judes Ferry in the Parish of Mildenhall in the District of Forest Heath in the County of Suffolk to its confluence with the River Great Ouse, when it is also known as the Ten Mile River and the Ely Ouse River, at Pypers Hill in the Parish of Littleport in the said District of East Cambridgeshire:
- (i) The River Cam from Bottisham Lock in the Parish of Horningsea in the District of South Cambridgeshire in the County of Cambridgeshire to its confluence with the River Great Ouse, when it is also known as the Ten Mile River and the Ely Ouse River, at Popes Corner aforesaid:
- (j) Reach Lode from Reach in the Parish of Reach in the said District of East Cambridgeshire to its confluence with the River Cam in the Parish of Wicken in the same district:
- (k) Burwell Lode from Burwell in the Parish of Burwell in the said District of East Cambridgeshire to its confluence with Reach Lode in the same parish:
- (l) Wicken Lode from Wicken Fen in the said Parish of Wicken to its confluence with Reach Lode in the Parish of Swaffham Prior in the said District of East Cambridgeshire:
- (m) The River Wissey from one mile upstream of Stoke Ferry Bridge in the Parish of Stoke Ferry in the said District of West Norfolk to its confluence with the River Great Ouse, when it is also known as the Ten Mile River and the Ely Ouse River, in the Parish of Fordham in the same district.
6. The River Welland from Hudd's Mill in the Parish of Stamford in the District of South Kesteven in the County of Lincolnshire to Fosdyke Bridge in the said Parish of Fosdyke.

SCH. 1  
—cont.

- (d) The River Great Ouse, also known as the Ten Mile River and the Ely Ouse River, from Denver Sluice aforesaid to Popes Corner in the Parish of Thetford in the District of East Cambridgeshire in the County of Cambridgeshire:
- (e) The Old West River from Popes Corner aforesaid to its confluence with the Hundred Foot River in the said Parish of Earith:
- (f) The River Great Ouse, also known as the Bedford Ouse, from the Hundred Foot River in the said Parish of Earith to Kempston Mill in the Parish of Kempston Urban in the District of Bedford in the County of Bedfordshire:
- (g) The River Little Ouse from Brandon Stauch in the Parish of Weeting-with-Broomhill in the District of Breckland in the County of Norfolk to its confluence with the River Great Ouse, when it is also known as the Ten Mile River and the Ely Ouse River, at Brandon Creek in the Parish of Southery in the said District of West Norfolk:
- (h) The River Lark from Judes Ferry in the Parish of Mildenhall in the District of Forest Heath in the County of Suffolk to its confluence with the River Great Ouse, when it is also known as the Ten Mile River and the Ely Ouse River, at Pypers Hill in the Parish of Littleport in the said District of East Cambridgeshire:
- (i) The River Cam from Bottisham Lock in the Parish of Horningsea in the District of South Cambridgeshire in the County of Cambridgeshire to its confluence with the River Great Ouse, when it is also known as the Ten Mile River and the Ely Ouse River, at Popes Corner aforesaid:
- (j) Reach Lode from Reach in the Parish of Reach in the said District of East Cambridgeshire to its confluence with the River Cam in the Parish of Wicken in the same district:
- (k) Burwell Lode from Burwell in the Parish of Burwell in the said District of East Cambridgeshire to its confluence with Reach Lode in the same parish:
- (l) Wicken Lode from Wicken Fen in the said Parish of Wicken to its confluence with Reach Lode in the Parish of Swaffham Prior in the said District of East Cambridgeshire:
- (m) The River Wissey from one mile upstream of Stoke Ferry Bridge in the Parish of Stoke Ferry in the said District of West Norfolk to its confluence with the River Great Ouse, when it is also known as the Ten Mile River and the Ely Ouse River, in the Parish of Fordham in the same district.
6. The River Welland from Hudd's Mill in the Parish of Stamford in the District of South Kesteven in the County of Lincolnshire to Fosdyke Bridge in the said Parish of Fosdyke.

SCH. 1  
—cont.

- (d) The River Great Ouse, also known as the Ten Mile River and the Ely Ouse River, from Denver Sluice aforesaid to Popes Corner in the Parish of Thetford in the District of East Cambridgeshire in the County of Cambridgeshire:
- (e) The Old West River from Popes Corner aforesaid to its confluence with the Hundred Foot River in the said Parish of Earith:
- (f) The River Great Ouse, also known as the Bedford Ouse, from the Hundred Foot River in the said Parish of Earith to Kempston Mill in the Parish of Kempston Urban in the District of Bedford in the County of Bedfordshire:
- (g) The River Little Ouse from Brandon Stauch in the Parish of Weeting-with-Broomhill in the District of Breckland in the County of Norfolk to its confluence with the River Great Ouse, when it is also known as the Ten Mile River and the Ely Ouse River, at Brandon Creek in the Parish of Southery in the said District of West Norfolk:
- (h) The River Lark from Judes Ferry in the Parish of Mildenhall in the District of Forest Heath in the County of Suffolk to its confluence with the River Great Ouse, when it is also known as the Ten Mile River and the Ely Ouse River, at Pypers Hill in the Parish of Littleport in the said District of East Cambridgeshire:
- (i) The River Cam from Bottisham Lock in the Parish of Horningsea in the District of South Cambridgeshire in the County of Cambridgeshire to its confluence with the River Great Ouse, when it is also known as the Ten Mile River and the Ely Ouse River, at Popes Corner aforesaid:
- (j) Reach Lode from Reach in the Parish of Reach in the said District of East Cambridgeshire to its confluence with the River Cam in the Parish of Wicken in the same district:
- (k) Burwell Lode from Burwell in the Parish of Burwell in the said District of East Cambridgeshire to its confluence with Reach Lode in the same parish:
- (l) Wicken Lode from Wicken Fen in the said Parish of Wicken to its confluence with Reach Lode in the Parish of Swaffham Prior in the said District of East Cambridgeshire:
- (m) The River Wissey from one mile upstream of Stoke Ferry Bridge in the Parish of Stoke Ferry in the said District of West Norfolk to its confluence with the River Great Ouse, when it is also known as the Ten Mile River and the Ely Ouse River, in the Parish of Fordham in the same district.
6. The River Welland from Hudd's Mill in the Parish of Stamford in the District of South Kesteven in the County of Lincolnshire to Fosdyke Bridge in the said Parish of Fosdyke.

7. The River Glen from Tongue End in the Parish of Bourne in the District of South Holland in the County of Lincolnshire to its confluence with the River Welland in the Parish of Surfleet in the same district.

SCH. 1  
—cont.

## SCHEDULE 2

Sections 6, 9 &  
19.

### REPEAL OF ENACTMENTS RELATING TO STATUTORY NAVIGATIONS

An Act passed in the seventh year of the Reign of His Majesty King George the Third, Chapter 98, Intituled "An Act for the more effectual Draining the Lands lying in the Level of Ancholme, in the County of Lincoln, and making the River Ancholme navigable from the River Humber, at or near a Place called Ferraby Sluice, in the County of Lincoln, to the Town of Glamford Briggs, and for continuing the said Navigation up or near to the said River, from thence to Bishop Briggs in the said County of Lincoln."

An Act passed in the thirty-fourth year of the Reign of His Majesty King George the Third, Chapter 102, Intituled "An Act for improving the Outfall of the River Welland, in the County of Lincoln, and for the better Drainage of the Fen Lands, Low Lands and Marshes discharging their waters through the same into the Sea; and for altering and improving the Navigation of the said River Welland by means of a New Cut, to commence below a certain place called the Reservoir, and to be carried from thence through the inclosed Marshes and open Salt Marshes into Wyberton Roads, between the Port of Boston and a place called The Scalp and for disposing of the bare or white Sands adjoining the said River, and for building a Bridge over the said Cut."

An Act passed in the forty-second year of the Reign of His Majesty King George the Third, Chapter cxvi, Intituled "An Act for Altering and enlarging the Powers of an Act, passed in the Seventh year of the Reign of His present Majesty, intituled, 'An Act for the more effectual draining the Lands lying in the Level of Ancholme, in the County of Lincoln, and making the River Ancholme navigable from the River Humber, at or near a Place called Ferraby Sluice, in the County of Lincoln, to the Town of Glamford Briggs, and for continuing the said Navigation, up or near to the said River, from thence to Bishop Briggs, in the said County of Lincoln'."

An Act passed in the forty-seventh year of the Reign of His Majesty King George the Third, Intituled "An Act to Amend and render more effectual an Act passed in the Thirty fourth year of His Majesty for improving the Outfall of the River Welland, in the County of Lincoln."

An Act passed in the fifth year of the Reign of His Majesty King George the Fourth, Chapter xcvi, Intituled "An Act for explaining, amending and rendering more effectual an Act of his late Majesty for improving the Outfall of the River Welland in the County of Lincoln."

SCH. 2  
—cont.  
An Act passed in the sixth year of the Reign of His Majesty King George the Fourth, Chapter clxy, Intituled “An Act for altering and enlarging the Powers of Two Acts of his late Majesty King George the Third, for draining Lands within the Level of Ancholme, in the County of Lincoln, and making certain parts of the River Ancholme Navigable.”

An Act passed in the third and fourth years of the Reign of His Majesty King William the Fourth, Chapter cxi, Intituled “An Act to alter and amend three several Acts made in the seventh and forty-second years of the Reign of King George the Third, and the sixth year of the Reign of his late Majesty King George the Fourth, for draining Lands within the Level of Ancholme, in the County of Lincoln, and making certain parts of the River Ancholme navigable.”

1852 c. cxxviii. The Nene Valley Drainage and Navigation Improvement Act 1852 other than section 36.

1854 c. lxxxii. The Nene Valley Drainage and Navigation Improvement (Amendment) Act 1854.

1862 c. clxiv. The Nene Valley Act 1862.

An Act passed in the fourth and fifth years of the Reign of Her Majesty Queen Anne, Chapter 2, Intituled “An Act for making the River Stower Navigable, from the Town of Manningtree in the County of Essex to the Town of Sudbury in the County of Suffolk.”

An Act passed in the twenty-first year of the Reign of His Majesty King George the Third, Chapter 75, Intituled “An Act for appointing new Commissioners for continuing to carry into Execution the Trusts and Powers of an Act passed in the Fourth and Fifth years of the Reign of her late Majesty Queen Anne, intituled an Act for making the River Stower Navigable from the Town of Manningtree in the County of Essex to the Town of Sudbury in the County of Suffolk, in the Room and Place of those named in the said Act who are since dead; and for explaining and amending the said Act; and for other purposes therein mentioned.”

## Section 10.

## SCHEDULE 3

### PARTS OF WATERWAYS EXCLUDED FROM CERTAIN ORDERS UNDER SECTION 10 (POWER TO MAKE ORDERS WITH REGARD TO RECREATIONAL WATERWAYS) OF THIS ACT

References in this Schedule to Grid References shall be construed as references to National Grid reference points.

1. The river Blackwater to a straight line projected from the centre line of Heybridge Basin lock (Grid Ref.: TL 87220684) to Northey Island seawall at Grid Ref.: TL 87880694.

2. Flag Creek to a point at Grid Ref.: TM 09941780.

3. Thorrington Creek to the sluice at the head thereof at Great-marsh. Grid Ref.: TM 10931838. SCH. 3  
—cont.
4. Walton Channel to the sluice at the head thereof at Walton-on-the-Naze. Grid Ref.: TM 25312214.
5. Kirby Creek to the footbridge at Kirby Quay, Kirby-le-Soken. Grid Ref.: TM 22742250.
6. Beaumont Cut to the sluice at the head thereof at Beaumont Quay. Grid Ref.: TM 18902394.
7. Martlesham Creek to the sluice at the head thereof at Grid Ref.: TM 25894720.
8. The river Deben to Wilford Bridge, Melton. Grid Ref.: TM 29115014.
9. Butley River to the floodgate at Butley Mills. Grid Ref.: TM 38585171.
10. The river Alde to the sluice west of Snape Bridge, Snape. Grid Ref.: TM 39095763.
11. The river Blyth to Ford Bridge, Blythburgh. Grid Ref.: TM 43487612.
12. Cley Channel to the sluice at the head thereof on the A149 road. Grid Ref.: TG 04354378.
13. Blakeney Channel and Agar Creek (including Morston Creek) to the Quay, Blakeney. Grid Ref.: TG 02634403.
14. The river Stiffkey to Stiffkey Sluices. Grid Ref.: TF 98984407.
15. Wells Creek and Stonemeal Creek at Wells-next-the-Sea.
16. Overy Creek to Norton Sluice, Burnham Norton. Grid Ref.: TF 83474391.
17. Brancaster and Mow Creeks to the sea bank at Saltingsgarth, Brancaster. Grid Ref.: TF 77304433.
18. Thornham Creek to a point at Grid Ref.: TF 73124384.
19. Wainfleet Haven to the sluice at Clough Bridge. Grid Ref.: TF 54295961.
20. Saltfleet Haven to Black Gowt Bridge, Saltfleet. Grid Ref.: TF 45609346.
21. Tetney Haven to the bridge over Tetney locks. Grid Ref.: TA 34200213.
22. East Halton Skitter to the sluice at the head thereof. Grid Ref.: TA 14462289.

SCH. 3  
—cont. 23. Barrow Haven to the sluice at the head thereof. Grid Ref.: TA 06432255.

24. Wintringham Haven to the sluice at the head thereof. Grid Ref.: SE 93452279.

## Section 10.

## SCHEDULE 4

## ORDERS UNDER SECTION 10 (POWER TO MAKE ORDERS WITH REGARD TO RECREATIONAL WATERWAYS) OF THIS ACT

1. Where the Authority apply to the Secretary of State for an order under subsection (1) of section 10 (Power to make orders with regard to recreational waterways) of this Act, the Authority shall submit to the Secretary of State a draft of the order, and shall publish at least once in each of two successive weeks, in one or more local newspapers circulating in the district where the waterway to which the order relates is situated, a notice—

- (a) stating the general effect of the order as prepared in draft;
- (b) specifying a place in each district to which the order relates where a copy of the draft order and of any relevant map or plan may be inspected by any person free of charge at all reasonable times during the period of twenty-eight days beginning with the date of the first publication of the notice; and
- (c) stating that any person may, within that period, by notice in writing to the Secretary of State object to the making of the order.

2. Not later than the date on which the notice is first published in pursuance of the preceding paragraph, the Authority shall serve a copy of the notice together with a copy of the draft order—

- (a) on every local authority (as defined in the Act of 1972) within whose area any waterway to which the order relates is situated;
- (b) on any internal drainage board having jurisdiction over any waterway to which the order relates;
- (c) on the Charity Commissioners for England and Wales.

3. The Authority shall also publish a notice in the London Gazette stating that the draft order has been submitted to the Secretary of State, naming every local authority on whom a notice is required to be served under the last preceding paragraph, specifying a place where a copy of the draft order and of any relevant map or plan may be inspected, and giving the name of the newspaper or newspapers in which the notice under paragraph 1 of this Schedule was published and the date of an issue containing the notice.

4. The Authority shall, at the request of any person, furnish him with a copy of the draft order on payment of such charge as the Authority think reasonable. SCH. 4  
—cont.

5. The Secretary of State may make the order either in the terms of the draft order or in those terms as altered in such manner as he thinks fit; but where he proposes to make any alteration, and considers that any persons are likely to be adversely affected by it, the Authority shall give and publish such additional notices, and in such manner, as the Secretary of State may require.

6. If before the end of the period of twenty-eight days referred to in paragraph 1 of this Schedule, or of twenty-five days from the publication in the London Gazette of the notice under paragraph 3 of this Schedule, or of any period specified in notices under the last preceding paragraph, notice in writing of an objection is received by the Secretary of State from any person on whom a notice is required to be served under this Schedule, or from any other person appearing to the Secretary of State to be affected by the order as prepared in draft or as proposed to be altered, and the objection is not withdrawn, the Secretary of State, before making the order, shall either—

- (a) cause a local inquiry to be held; or
- (b) afford to the objector and to the Authority an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

7.—(1) After making the order, the Secretary of State shall, if an objection has been duly made by any body on whom notice is required to be served under paragraph 2 of this Schedule and has not been withdrawn, serve notice of the making of the order and the effect thereof on every such body who has duly made objection which has not been withdrawn.

(2) Where a notice is required to be served under the preceding sub-paragraph, the order shall not have effect before the expiry of a period of twenty-eight days from the date of service of that notice; and if within that period any such body gives notice to the Secretary of State objecting to the order, and the objection is not withdrawn, the order shall be subject to special parliamentary procedure.

8. After making the order, the Secretary of State shall publish in the London Gazette, and in such other manner as he thinks best adapted for informing persons affected, a notice stating that the order has been made, and naming a place where a copy thereof may be seen at all reasonable hours:

Provided that, in the case of an order to which sub-paragraph (1) of the last preceding paragraph applies, the notice shall not be published until the expiry of the period of twenty-eight days referred to in sub-paragraph (2) of that paragraph, and shall state whether or not the order is to be subject to special parliamentary procedure.

9.—(1) If any person aggrieved by an order under section 10 (Power to make orders with regard to recreational waterways) of this Act desires to question its validity on the grounds that it is not within the



SCH. 4  
—cont.

powers of the said section, or that any requirement of this Schedule has not been complied with in relation to the order, he may, within six weeks after the first publication of the notice required by the last preceding paragraph, make an application for the purpose to the High Court; and if any such application is duly made, the court, if satisfied that the order is not within the powers of the said section or that the interests of the applicant have been substantially prejudiced by any requirements of this Schedule not having been complied with, may quash the order either generally or in so far as it affects the applicant.

1945 c. 18  
(9 & 10 Geo. 6).

(2) The preceding sub-paragraph shall not apply to any order which is confirmed by Act of Parliament under section 6 of the Statutory Orders (Special Procedure) Act 1945, and shall have effect in relation to any other order which is subject to special parliamentary procedure by virtue of the provisions of this Schedule as if, for the reference to the first publication of the notice required by the last preceding paragraph, there were substituted a reference to the date on which the order becomes operative under the said Act of 1945.

(3) Except as provided by sub-paragraph (1) of this paragraph, the validity of an order under the said section 10 shall not, either before or after the order has been made, be questioned in any legal proceedings whatsoever.

Section 14.

## SCHEDULE 5

### ADAPTATION OF ENACTMENTS IN CONNECTION WITH COMPULSORY PURCHASE OF RIGHTS

#### PART I

#### ADAPTATION OF PART III OF SCHEDULE 1 TO THE ACT OF 1946

1946 c. 49.

1. In paragraph 9 of Schedule 1 to the Acquisition of Land (Authorisation Procedure) Act 1946 (which relates to land belonging to local authorities, statutory undertakers or the National Trust) for references to the purchase of land there shall be substituted references to the purchase of rights over land.

2. In paragraph 10 of that Schedule (which relates to land belonging to statutory undertakers)—

- (a) for the words “comprised in” there shall be substituted the words “over which a right is to be acquired by virtue of”;
- (b) after the words “purchase of” there shall be inserted the words “a right over”;
- (c) for the words “it can be purchased and not replaced” there shall be substituted the words “the right can be purchased”;
- and
- (d) for sub-paragraph (ii) there shall be substituted the following:—

“(ii) that any detriment to the carrying on of the undertaking, in consequence of the acquisition of the right, can be made good by the undertakers by the use of other land belonging to or available for acquisition by them”.

3. In paragraph 11 of that Schedule (which relates to land forming part of a common, open space or allotment) for sub-paragraph (1) there shall be substituted the following:—

SCH. 5  
—cont.

“(1) In so far as a compulsory purchase order authorises the purchase of a right over land forming part of a common, open space or fuel or field garden allotment, it shall be subject to special parliamentary procedure unless the Secretary of State is satisfied—

- (a) that the land, when burdened with that right, will be no less advantageous to those persons in whom it is vested and to the persons, if any, entitled to rights of common or other rights, and to the public, than it was before; or
- (b) that there has been or will be given in exchange for the right additional land which will, as respects the persons in whom there is vested the land over which the right is to be purchased, the persons, if any, entitled to rights of common or other rights over that land and the public, be adequate to compensate them for the disadvantages which result from the purchase of the right, and that the additional land has been or will be vested in the persons in whom there is vested the land over which the right is to be purchased and subject to the like rights, trusts and incidents as attach to that land apart from the compulsory purchase order; or
- (c) that the land affected by the right to be purchased does not exceed 250 square yards in extent and that the giving of other land in exchange for the right is unnecessary, whether in the interests of the persons, if any, entitled to rights of common or other rights or in the interests of the public;

and certifies accordingly”.

4. In sub-paragraph (3) of the said paragraph 11, after the words “the land” there shall be inserted the words “over which any right is to be” and at the end of the sub-paragraph there shall be inserted the words “so far as their continuance would be inconsistent with the exercise of that right”.

5. In paragraph 12 of that Schedule (which among other things relates to ancient monuments), after the words “purchase of” there shall be inserted the words “rights over”.

## PART II

### ADAPTATION OF PART I OF THE ACT OF 1965

6. In the Compulsory Purchase Act 1965 (hereafter in this Schedule referred to as “the Act”) section 7 (which relates to compensation) shall be omitted.

SCH. 5  
—cont.

7. For section 8 of the Act (which relates to cases in which a vendor cannot be required to sell part only of a building or garden) there shall be substituted the following:—

“ 8.—(1) Where in consequence of the service on a person in pursuance of section 5 of this Act of a notice to treat in respect of a right over land consisting of a house, building or manufactory or of a park or garden belonging to a house (hereafter in this subsection referred to as ‘ the relevant land ’)—

(a) a question of disputed compensation in respect of the purchase of the right would apart from this section fall to be determined by the Lands Tribunal (hereafter in this section referred to as ‘ the Tribunal ’); and

(b) before the Tribunal has determined that question the person satisfies the Tribunal that he has an interest which he is able and willing to sell in the whole of the relevant land and—

(i) where that land consists of a house, building or manufactory, that the right cannot be purchased without material detriment to that land; or

(ii) where that land consists of such a park or garden, that the right cannot be purchased without seriously affecting the amenity or convenience of the house to which that land belongs;

the compulsory purchase order to which the notice to treat relates shall, in relation to that person, cease to authorise the purchase of the right and be deemed to authorise the purchase of that person’s interest in the whole of the relevant land including, where the land consists of such a park or garden, the house to which it belongs, and the notice shall be deemed to have been served in respect of that interest on such date as the Tribunal directs.

(2) Any question as to the extent of the land in which a compulsory purchase order is deemed to authorise the purchase of an interest by virtue of the preceding subsection shall be determined by the Tribunal.

(3) Where in consequence of a determination of the Tribunal that it is satisfied as mentioned in subsection (1) of this section a compulsory purchase order is deemed by virtue of that subsection to authorise the purchase of an interest in land, the acquiring authority may, at any time within the period of six weeks beginning with the date of the determination, withdraw the notice to treat in consequence of which the determination was made; but nothing in this subsection prejudices any other power of the authority to withdraw the notice.

(4) The modifications subject to which subsection (1) of section 58 of the Land Compensation Act 1973 is to have effect, as applied by subsection (2) of that section to the duty of the Tribunal in determining whether it is satisfied as mentioned in

subsection (1) of this section, are that at the beginning of paragraphs (a) and (b) there shall be inserted the words 'a right over', for the word 'severance' there shall be substituted the words 'right on the whole of the house, building or manufactory or of the house and the park or garden' and for the words 'part proposed' and 'part is' there shall be substituted respectively the words 'right proposed' and 'right is'."

SCH. 5  
—cont.

8. The following provisions of the Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), namely:—

- section 9 (4) (Failure of owners to convey);
- paragraph 10 (3) of Schedule 1 (Owners under incapacity);
- paragraph 2 (3) of Schedule 2 (Absent and untraced owners);  
and
- paragraphs 2 (3) and 7 (2) of Schedule 4 (Common land);

shall be so modified as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be purchased compulsorily is vested absolutely in the acquiring authority.

9. Section 11 of the Act (Powers of entry) shall be so modified as to secure that, as from the date on which the acquiring authority has served notice to treat in respect of any right, it has power, exercisable in the like circumstances and subject to the like conditions, to enter for the purpose of exercising that right (which shall be deemed for this purpose to have been created on the date of service of the notice); and sections 12 (Penalty for unauthorised entry) and 13 (Entry on sheriff's warrant in the event of obstruction) of the Act shall be modified correspondingly.

10. Section 20 of the Act (Compensation for short term tenants) shall apply with the modifications necessary to secure that persons with such interests as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition of the interests but taking into account only the extent (if any) of such interference with such interests as is actually caused, or likely to be caused, by the exercise of the right in question.

11. Section 22 of the Act (Protection of acquiring authority's possession of land where by inadvertence an interest in the land has not been purchased) shall be so modified as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right in question, subject to compliance with that section as respects compensation.

Section 27.

SCHEDULE 6

FORM OF FLOOD PREVENTION NOTICE  
ANGLIAN WATER AUTHORITY ACT 1977  
FLOOD PREVENTION NOTICE

To the occupier  
of the premises known as.....(a)

1. You are hereby informed that the Anglian Water Authority have determined that .....(b) being part of the above-mentioned premises, forms part of, or contributes to the efficiency of, the tidal defences of some part of the Anglian Water Authority's area against flooding by sea water or tidal water.

2. By virtue of section 27 (Flood prevention) of the Anglian Water Authority Act 1977 the service of this notice causes the said .....(c) to become a designated structure for the purposes of the said section.

3. A copy of the said section is enclosed with this notice.

Date.....

.....  
(Signature of officer authorised to serve this notice).

---

(a) Sufficient description of premises of which the designated structure is part which may refer to a plan.

(b) Description of the wall, building, etc., forming the designated structure, which may refer to a plan.

(c) Brief, but sufficient, description of designated structure, e.g., "wall", "wharf", etc.

SCHEDULE 7

Section 28.

NOTICE OF INTENTION TO EXCAVATE MINERALS

Notice is hereby given that (a).....

.....  
intends on or after (b).....  
to begin to excavate minerals [at the place[s] marked] [in the area shown] on the accompanying map.

Details of \*[the] [each] proposed extraction are as follows:—

(c) .....

\*[It is proposed to dispose of any water entering [the] [a] workings during or after the excavation of the minerals in the following manner:—

(d) .....

.....].

I declare that to the best of my knowledge the statements made above are true.

Communications about this notice should be addressed to

\*[(a) .....] [(e) .....]

at (f).....

Signed.....

\*[On behalf of.....]

Date.....

\* Delete where inappropriate.

† Enclose an Ordnance Survey map on which the (or each) place in question is marked or, as the case may be, the area in question is delineated or coloured. Unless otherwise agreed with the water authority, the map scale should be not less than six inches to one mile.

- (a) Insert name of person who intends to excavate the minerals.
- (b) The date inserted should be such as to allow the water authority a reasonable period to consider the matter, say, not less than one month. Compliance with the requirements of any conservation notice which the water authority may decide to serve under section 78 (3) of the Water Resources Act 1963 (as 1963 c. 38. extended by section 28 of the Anglian Water Authority Act 1977) may entail additional expense if the work is begun before such notice can be served.
- (c) Give relevant details, e.g. (depth and geological strata) of the (or each) proposed excavation, describe briefly the way in which the (or each) proposed excavation will be carried out and in which the minerals will be removed.
- (d) Give details of the proposals, if any, e.g., the extent to which the water will be caused or allowed to run off the site, the extent to which it will be abstracted for use for any purpose and the proportion which will be discharged after use and where it will be discharged.
- (e) Insert name of professional adviser or agent.

Sections 18, 37

## SCHEDULE 8

## PART I

## ENACTMENTS REPEALED

	Act (1)	Extent of repeal (2)
1968 c. xxvi.	Ely Ouse-Essex Water Act 1968	Section 32 (Provision of substituted sites). Section 34 (Power to reinstate owners or occupiers of property).
1970 c. vii.	Welland and Nene (Empingham Reservoir) and Mid-Northamptonshire Water Act 1970	Subsection (4) of section 44 (Application and extension of Act of 1963). Section 45 (Discharge of water into streams). Section 46 (Power to River Authority to carry out trial borings). Section 47 (Power to require information as to ownership of land). Section 56 (Insurance fund). Section 64 (Guarantees in respect of supplies for new buildings). Section 65 (Supplies to premises in area of development).
1972 c. xxxix.	Essex River Authority Act 1972	Section 8 (River Stour). Section 16 (Extended powers with regard to water recreation).

## PART II

## ENACTMENTS CEASING TO HAVE EFFECT IN RELATION TO THE AUTHORITY

	Act (1)	Provision ceasing to have effect (2)
	Ely Ouse-Essex Water Act 1968	Subsection (4) of section 41 (Application and extension of Act of 1963). Section 42 (Discharge of water into streams).
1969 c. xlix.	Essex River and South Essex Water Act 1969	Section 26 (Provision of substituted sites). Section 28 (Power to reinstate owners or occupiers of property). Section 41 (Compulsory powers to discharge into sources of supply). Section 42 (Power to River Authority to take action in case of pollution of underground water). Section 43 (Power to require information as to ownership of land).
1971 c. xiii.	Trent and Lincolnshire Water Act 1971	Section 53 (Discharge of water into streams). Section 54 (Power to Trent and Lincolnshire Authorities to carry out trial borings). Section 55 (Power to Trent and Lincolnshire Authorities to require information as to ownership of land).

SCH. 8  
—cont.

Act (1)	Provision ceasing to have effect (2)
Essex River Authority Act 1972	Section 4 (Provision of substituted sites). Section 5 (Power to reinstate owners or 1972 c. xxxix. occupiers of property). Section 7 (Suspension of restrictive covenants, etc.). Section 12 (Pollution of underground water). Section 13 (Reduced fishing licence duties for multiple licences). Section 15 (Extension of section 79 of the Act of 1963). Section 17 (Power to carry out trial borings, etc.). Section 18 (Temporary stopping up of water-courses, highways, etc.). Section 19 (Power to sell houses to employees). Section 20 (Housing advances to employees). Section 21 (Power to allow former employees to continue in occupation of houses provided by the Authority). Section 22 (Recreational, etc., facilities for employees). Section 24 (Insurance fund). Section 27 (Photographic copies of documents). Section 28 (Offences in respect of apparatus). Section 29 (Evidence of proceedings, appointments, etc.). Section 30 (Extension of section 120 of Act of 1963 to enactments relating to land drainage and pollution). Section 31 (Protection of members and officers from personal liability). Schedule 2 (Orders providing that section 79(4)(a) or (b) shall not apply to specified tidal waters or inland waters).
Thames Barrier and Flood Prevention Act 1972	Section 60 (Temporary stopping up of watercourses, etc.). 1972 c. xlv. Section 61 (Extension of section 111 of Act of 1963). Section 63 (Fines for contravention of sea defence byelaws). Section 64 (Agreements for carrying out sea defence works). Section 68 (Closing of flood dams). Section 70 (Penalty for obstructing execution of Act). Section 71 (Offences by corporations).



SCH. 8  
—cont.

## PART III

## ENACTMENTS APPLIED THROUGHOUT THE AREA OF THE AUTHORITY

1968 c. xxvi.

*Ely Ouse-Essex Water Act 1968*

Application  
and extension  
of Act of  
1963.

41.—

\* \* \* \* \*

(4) Sections 19, 20 and 22 of the Third Schedule to the Act of 1945 as applied generally to the Authority by subsection (3) of section 69 of the Act of 1963 and section 9 of the Act of 1973 shall have effect as if the expression “main” included—

- (a) any pipe used by the Authority in the performance of any of their new functions as defined in section 3 of the Act of 1963; and
- (b) discharge pipes or drains.

Discharge of  
water into  
streams.

42.—(1) For the purpose of constructing, altering, enlarging, repairing, cleaning, examining or operating any works carried out in the performance of any of their functions, except that of supplying water, the Authority may cause the water in any such work to be discharged into any available watercourse and for that purpose may lay and maintain all necessary discharge pipes and apparatus.

(2) In the exercise of the powers conferred by this section the Authority shall do as little damage as may be and shall pay compensation to all persons for any damage sustained by them or liability to which they may become subject by reason of the exercise of those powers and, for the purposes of this subsection, any extra expenditure which it becomes reasonably necessary for any public authority (including a statutory undertaker) to incur for the purpose of properly discharging their statutory functions shall be deemed to be damage sustained by them. Any question as to the amount of the compensation to be so paid shall be determined by arbitration.

(3) (a) The Authority shall take all necessary steps to secure that any water discharged by them under this section shall be as free as may be reasonably practicable from mud and silt, from solid, polluting, offensive or injurious matters and from any matter prejudicial to fish or spawn, or to spawning beds or food of fish, and, if they fail to do so, shall be guilty of an offence.

(b) Sections 46 and 47 of the Act of 1945, shall apply to any such offence as if it were an offence against that Act.

(4) Except in a case of emergency, and except in so far as may be otherwise agreed in writing between the Authority and the other water authority, the following provisions shall have effect:—

- (a) not less than seven days before commencing to discharge any water into a watercourse within the area of some other water authority through a pipe exceeding nine inches in diameter the Authority shall give notice of their intentions to the other authority;

- (b) the Authority shall have due regard to any representations which may be made to them by the other water authority as to the time, mode and rate of discharge with a view to avoiding or minimising injury or inconvenience therefrom:

SCH. 8  
-cont.

Provided that whenever the Authority propose to discharge water on a number of occasions during a period, the giving by them of a general notice to that effect, accompanied by such particulars as it is reasonably practicable for them to give, shall constitute sufficient compliance by them with the provisions of paragraph (a) of this subsection.

Essex River and South Essex Water Act 1969

1969 c. xlix.

41.—(1) An order under section 67 of the Act of 1963 conferring on the Authority compulsory powers for the purpose of carrying out engineering or building operations may, in any case where such operations consist of or include the construction of works for making any discharge into any source of supply for the purpose of augmenting the water resources therein, authorise the Authority to make such discharge.

Compulsory powers to discharge into sources of supply.

(2) In its application to a draft order submitted to the Secretary of State which proposes to authorise the Authority to exercise such a power as is referred to in the foregoing subsection, sub-paragraph (b) of paragraph 2 of Schedule 8 to the Act of 1963 shall have effect as if the only land in relation to which compulsory powers for that purpose are being sought were the land on or from which the discharge is to be made.

42.—(1) Where it appears to the Authority that water in any underground strata in their area has been or is likely to be polluted they may carry out such operations as they consider necessary or expedient—

Power to Authority to take action in case of pollution of underground water.

- (a) for removing the matter causing or likely to cause the pollution and for disposing of it in such manner as the Authority consider appropriate; and
- (b) for preventing, remedying or mitigating the pollution of such water:

Provided that nothing in this section shall authorise the carrying out of any operations in or at any mine (as defined for the purposes of the Mines and Quarries Act 1954) vested in the National Coal Board or at any premises on which there is situated a tip of that Board that is, or is deemed to be, a closed tip as defined for the purposes of the Mines and Quarries (Tips) Act 1969 without the prior consent of the Board, which shall not be unreasonably withheld and which may be given subject to such reasonable conditions as the Board may think fit.

1954 c. 70.  
1969 c. 10.

(2) Subsection (5) of section 3 of the Act of 1963 shall apply in relation to the powers conferred by this section as if they had been included among the functions transferred to the Essex River Authority by section 5 of that Act; and those powers shall be included among the transferred functions of the Authority accordingly.

SCH. 8  
—cont.

(3) In paragraph (a) of subsection (2) of section 135 of the Act of 1963 the reference to functions relating to river pollution includes in relation to the Authority the powers conferred on them by this section.

(4) Nothing in this section shall be construed as derogating from any duty of the Authority to enforce the provisions of the Rivers (Prevention of Pollution) Acts, 1951 to 1961 or, to the extent to which they are for the time being in force, of the Act of 1974 in their area.

Power to  
require  
information  
as to  
ownership of  
land.

43.—(1) The Authority may for the purpose of enabling them to perform any of their functions, except those conferred upon them by the Act of 1974 (section 93 whereof contains provisions corresponding to those in this section), require—

- (a) the occupier, and any person having an interest in any land within or without their area, and any person who, either directly or indirectly, receives rent in respect of such land, to state in writing the nature of his own interest therein and the name and address of any other person known to him as having an interest in that land, whether as freeholder, mortgagee, lessee or otherwise, or the name and address of any person known to him to receive either directly or indirectly the rent in respect of that land; and
- (b) any person who has sold or otherwise disposed of, leased or let any land within or without their area to state in writing the name and address of the person to whom he has sold or otherwise disposed of, leased or let that land.

(2) Any person who without reasonable excuse, having been required by the Authority in pursuance of this section to give to them any information, fails to give that information or knowingly makes any misstatement in respect thereof shall be liable to a fine not exceeding ten pounds.

(3) For the purposes of this section—

“land” means any corporeal hereditament, including a building, and includes any interest in or right over land;

“interest” includes any legal estate or interest in land or in any rentcharge issuing out of land.

1970 c. vii.

*Welland and Nene (Empingham Reservoir) and  
Mid-Northamptonshire Water Act 1970*

Guarantees in  
respect of  
water supplies  
for new  
buildings.

64.—(1) Where in pursuance of section 37 of the Act of 1945 the owner of any land (in this section including any interest in or right over land) requires the Authority to construct any works for the purpose of affording a supply of water to any new buildings which he proposes to erect, the Authority instead of requiring the owner to give an undertaking to pay in respect of each year such sum as is provided in paragraph (a) of the proviso to subsection (1) of the said section 37, may agree with him for the payment by him to the Authority of a sum in composition of any liability to make annual payments which he would incur if such an undertaking were given.

(2) If the Authority and the owner of any land have entered into an agreement in pursuance of section 37 of the Act of 1945, then such agreement shall be binding not only upon the Authority and the owner joining in the agreement but also upon the successors in title of any owner so joining and upon any person claiming through, or under, them:

SCH. 8  
—cont.

Provided that—

- (a) any such agreement shall be treated as a local land charge for the purposes of the Land Charges Act, 1925; and 1925 c. 22.
- (b) any person upon whom such agreement is binding shall be entitled to require from the Authority a copy thereof.

65. Where the Authority are required to lay mains or to construct any other works to bring water to any area for the purpose of affording a supply to any premises and the Authority (in anticipation of further development in the area in which such supply is required) provide and lay mains or construct other works of greater capacity than may be necessary to bring to the area the quantity of water to be supplied to such premises, and within the period of twelve years from the completion thereof a requisition is made for a supply to any other premises, and it appears to the Authority to be desirable to use the mains or works aforesaid, or any part thereof, for the purpose of affording such last-mentioned supply, the Authority may, before complying with such requisition—

Water supplies  
to premises in  
area of  
development.

- (a) in the case of a requisition made under section 29 of the Third Schedule to the Act of 1945 in its application to the Authority, require that for the purpose of determining the validity of the requisition there shall be brought into account the portion of the expense incurred by them in providing and laying the mains aforesaid, or the part thereof (as the case may be) which would be used by the Authority to afford the supply to which the requisition relates, as if that portion of such expense would be incurred by the Authority in providing and laying mains necessary for compliance with the requisition; and
- (b) in the case of a requisition made under section 37 of the Act of 1945, require the person making the requisition to undertake to pay in respect of each year a sum calculated in accordance with the proviso to subsection (1) of the said section 37 in respect of the portion of the expense incurred by them in constructing the works aforesaid comprising service reservoirs or mains, or the part thereof (as the case may be), which would be used by the Authority to afford the supply to which the requisition relates, as if that portion of such expense would be incurred by the Authority in constructing the service reservoirs and providing and laying mains necessary for compliance with the requisition:

Provided that, if the person making the requisition so desires, the Authority may, instead of requiring the payment of an annual sum as aforesaid, agree with him for the payment by him to the Authority of such capital contribution as they may determine towards the cost

SCH. 8  
—cont.

so incurred by the Authority in constructing such works aforesaid comprising service reservoirs or mains, or the part thereof, which would be used by the Authority to afford the supply to which the requisition relates.

1972 c. xxxix.

*Essex River Authority Act 1972*

Provision of substituted sites.

4. The power of the Authority to purchase land by agreement shall include power to purchase land by agreement for the purpose of providing substituted sites or facilities for the owners, lessees and occupiers of land that may be acquired by the Authority under any enactment.

Power to reinstate owners or occupiers of property.

5.—(1) The Authority may enter into and carry into effect an agreement or arrangement with the owner or occupier of any land acquired or to be acquired by the Authority under any enactment with respect to his reinstatement.

(2) Any such agreement or arrangement may provide for the exchange of land; and for that purpose the Authority may pay or receive money for equality of exchange.

Suspension of restrictive covenants, etc.

7.—(1) If the Authority—

(a) acquire land by agreement; or

(b) enter into an agreement to acquire land; or

(c) have acquired land by agreement before the passing of this Act;

for a purpose for which they are for the time being or could under any enactment for the time being in force be authorised to acquire the land compulsorily and the land is affected by any restriction arising under covenant or otherwise (other than a restriction imposed by or under any enactment) as to the user thereof or the building thereon the Authority may, subject to the provisions of this section, by resolution suspend the operation of such restriction during the period in which they are the owners of the land.

(2) The resolution shall describe by reference to a map the land to which it applies.

(3) The Authority shall—

(a) in three successive weeks publish in one or more local newspapers circulating in the locality in which the land referred to in the resolution is situated a notice stating that the resolution has been passed, describing the land and naming a place within the locality where a copy of the resolution and map may be inspected and specifying the time, not being less than three months from the date of the first publication of the notice, within which and the manner in which objections to the suspension of the restriction can be made;

(b) on or before the date of the first publication of the said notice—

SCH. 8  
—cont.

(i) serve a copy of that notice by registered post or the recorded delivery service on every person who appears to them, after diligent inquiry, to be entitled to the benefit of the restriction to which the resolution relates; and

(ii) affix a copy or copies of that notice to some conspicuous object or objects on the land.

(4) Any person claiming to be entitled to the benefit of the restriction may object to the suspension of the restriction by sending notice of his objection and of the grounds thereof to the appropriate Minister and a copy thereof to the Authority within the period specified in the notice.

(5) If any objection is duly made as aforesaid and is not withdrawn, the resolution shall be of no effect unless and until it is confirmed by the appropriate Minister and, before confirming the resolution, the appropriate Minister shall cause a public local inquiry to be held into the proposed suspension of the restriction and, after considering the report of the person who held the inquiry, may confirm the resolution.

(6) (a) If no objection is duly made under subsection (4) of this section or if all objections so made are withdrawn, the restriction shall be suspended on and after the date of the expiration of the period specified in the notice or the date of the withdrawal of the objection or, if more than one, the last objection or the date on which the Authority acquire the land, whichever is the latest.

(b) If objection is duly made as aforesaid and the appropriate Minister confirms the resolution the restriction shall be suspended on and after such date as the appropriate Minister shall determine not being earlier than the date on which the Authority acquire the land.

(7) If in the opinion of the Authority there is doubt whether any such land as is mentioned in subsection (1) of this section is affected by any restriction to which that subsection relates or whether any such restriction is enforceable, the Authority may—

(a) in three successive weeks publish in one or more local newspapers circulating in the locality in which the land is situated a notice describing the land and stating generally the effect of this subsection and of subsections (8) and (9) of this section and specifying the time, not being less than three months from the date of the first publication of the notice, within which and the manner in which any person claiming to be entitled to enforce a restriction against the use of the land may intimate such claim to the Authority and shall produce to them his documents of title in support of his claim;

(b) on or before the date of the first publication of the notice referred to in paragraph (a) of this subsection—

(i) serve a copy of that notice by registered post or the recorded delivery service on every person who they consider after reasonable inquiry may reasonably be expected

Sch. 8  
—cont.

to claim to be entitled to the benefit of a restriction against the land; and

(ii) affix a copy or copies of that notice to some conspicuous object or objects on the land.

(8) If any person is entitled to the benefit of a restriction against the land but fails to comply with the requirements of such notice, the restriction shall, so far as concerns such person and his successors in title, be deemed to have been suspended under the foregoing provisions of this section, but without prejudice to any claim for compensation under subsection (9) of this section.

1965 c. 56. (9) The Authority shall pay compensation in accordance with the provisions of section 10 of the ~~Compulsory Purchase Act 1965~~, in respect of any entitlement to the benefit of a restriction suspended under the powers of this section and loss suffered in consequence thereof and the amount of such compensation shall be determined in case of dispute in accordance with the Land Compensation Act 1961.

1961 c. 33.

(10) If the Authority dispose of any land affected by a restriction suspended under the powers of this section they shall in two successive weeks publish notice thereof in one or more local newspapers circulating in the locality in which the land is situated.

(11) Nothing in this section shall apply to—

(a) any restriction arising under a covenant granted to the National Trust for Places of Historic Interest or Natural Beauty restricting the development or use of land;

(b) any restriction for—

(i) the protection of or for preventing interference with the use of or for securing access to operational land or apparatus of any statutory undertakers;

(ii) the prevention of pollution of water which any statutory water undertakers are for the time being authorised to take;

(iii) the protection or benefit of the British Airports Authority in relation to their undertaking as represented by the aerodromes which they for the time being own or manage;

contained in any deed, wayleave, agreement or other instrument.

1969 c. 48. In this paragraph “operational land” in the case of the Post Office has the same meaning as in paragraph 93 (4) of Schedule 4 to the Post Office Act 1969, and, in the case of any other statutory undertakers, has the same meaning as in section 222 of the Town and Country Planning Act 1971.

1971 c. 78.

(12) In this section “the appropriate Minister” means the Minister of the Crown having power to authorise the compulsory purchase of the land for the purpose for which the Authority have acquired or agreed to acquire that land.

12.—(1) If any person is guilty of any act or neglect whereby water in any underground strata in the area of the Authority is contaminated or likely to be contaminated by any poisonous, noxious or polluting matter (whether liquid or solid) he shall be guilty of an offence:

SCH. 8  
—cont.  
Pollution of  
underground  
water.

Provided that nothing in this subsection shall be construed as penalising—

- (i) any act which is in accordance with good agricultural practice;
- (ii) the reasonable use of oil or tar on any highway, so long as the person responsible for the construction or maintenance (as the case may be) of the highway takes all reasonable steps for preventing the oil or tar, or any liquid or matter resulting from the use thereof, from polluting any such water;
- (iii) the deposit or disposal of house, trade, industrial or other similar refuse (whether liquid or solid) on land which was lawfully being used for that purpose at the passing of this Act if the character of the refuse deposited or disposed of after the passing of this Act is not materially different from that which was being deposited or disposed of before that date;
- (iv) the interment of human remains in a burial ground (as defined in subsection (8) of section 128 of the Town and Country Planning Act 1971);
- (v) any act done or neglect arising outside the former area of the Essex River Authority before the passing of the Anglian Water Authority Act 1977, or any act or neglect within that former area before the passing of this Act;
- (vi) the discharge of effluent or other matter in respect of which the consent of the Authority is required by section 72 of the Act of 1963 (or, after it has come into force, section 32 of the Act of 1974) if that consent has been duly given or, if the consent has been refused, it has been allowed on appeal to the Secretary of State under subsection (6) of the said section 72 (or under section 39 of the Act of 1974, as the case may be) and in either case if the discharge complies with such conditions (if any) as may have been imposed by the Authority or the Secretary of State (as the case may be);
- (vii) the disposal of any matter (whether liquid or solid) to which the said section 72 (or the said section 32, as the case may be) does not apply if it has been approved under subsection (2) of this section, or the disposal of any matter under and in accordance with the conditions of a disposal licence issued in pursuance of section 5 of the Act of 1974 or the conditions of a resolution in force under section 11 of that Act; or
- (viii) any act committed in the course of the carrying on without negligence by the National Coal Board of colliery production activities or colliery activities (as respectively defined in the Coal Industry Nationalisation Act 1946) or the filling in of any mine of coal (as defined in the said Act of 1946) or any part thereof in the interests of public safety.

1971 c. 78.

1946 c. 59.



SCR. 8  
—cont.

(2) (a) Subject to paragraph (d) of this subsection, if any person (in this subsection referred to as “the applicant”) who proposes to dispose of any matter (whether liquid or solid) within the area of the Authority applies to the Authority for approval of the disposal thereof and supplies to the Authority such particulars as the Authority may reasonably require as to—

- (i) the site on which the matter is to be disposed of;
- (ii) the method of disposal;
- (iii) the nature and the quantity of the matter to be disposed of; and
- (iv) any other relevant information;

the Authority may either approve the proposals subject to such stipulations (if any) as they may reasonably consider necessary to prevent an offence being committed under subsection (1) of this section or refuse their approval:

Provided that if within three months of receiving such an application the Authority have neither approved the proposals with or without stipulations nor refused their approval, they shall be deemed to have approved the proposals in the terms of the application.

(b) If the applicant is dissatisfied by the refusal of the Authority to approve his proposals or by any stipulations which they make in their approval, he may within twenty-eight days of receiving notification of the decision of the Authority refer the matter to the Secretary of State.

(c) On any such reference the Secretary of State may deal with the application as if it had been made to him in the first place, and accordingly may make such decision in the matter as he considers appropriate.

(d) Subsections (5) and (6) of section 39 and subsection (2) of section 54 of the Act of 1963 shall apply (with the necessary modifications) to references under this section as they apply to appeals under Part IV of that Act.

(e) This subsection shall not apply to the disposal of controlled waste (within the meaning of that expression for the purposes of section 3 of the Act of 1974) except as respects activities to which, by virtue of subsection (1) of section 4 of that Act, section 3 of that Act does not apply.

(3) (a) Any person who contravenes this section, or (in circumstances not constituting such a contravention) does not comply with a stipulation subject to which proposals made under this section have been approved, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £100, or on conviction on indictment to a fine.

(b) Proceedings in respect of an offence against this section shall not be instituted except with the consent of the Attorney-General or by the Authority.

(4) (a) In any proceedings for an offence under this section it shall be a defence for the person charged to prove—

Sch. 8  
—cont.

- (i) that the commission of the offence was due to an accident or to some other cause beyond his control; and
- (ii) that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence by himself or by any person under his control; or
- (iii) that, in so far as the prosecution is based on an allegation that the contravention was due to neglect, it was impracticable to avoid or prevent the contravention.

(b) Proceedings under this section shall not be instituted against a local authority in respect of the disposal outside the former area of the Essex River Authority within twelve months after the passing of the Anglian Water Authority Act 1977 of domestic refuse, trade refuse or the contents of cesspools even if either the disposal is on other land than was in use for that purpose before the date of the passing of that Act, or, if the disposal is on land so used, the matter disposed of is materially different in character from the refuse disposed of before that date; but this paragraph shall cease to have effect as from the date on which the Authority notify the local authority that the deposit of such material must be discontinued.

In this paragraph “local authority” means the Greater London Council or the council of a London borough or a district.

(5) (a) An approval granted by the Authority under this section shall for the purposes of subsection (7) of section 1 of the Deposit of Poisonous Waste Act 1972 have effect only so as to prevent a person, 1972 c. 21. who has deposited waste or caused or permitted waste to be deposited in such a manner or in such quantity as to threaten the pollution or contamination of any water supply contained in any underground strata, being treated as having contravened subsection (1) of the said section 1.

(b) Where proceedings are being or have been instituted against a person under the said Act of 1972, no proceedings shall be instituted under this section against him in respect of the same offence.

(6) The functions of the Authority under this section shall be deemed to be part of their transferred functions, as defined in section 3 of the Act of 1963.

(7) For the purposes of subsection (3) of section 108 of the Act of 1974 (which provides for consequential amendments and repeals of enactments) this section shall be deemed to be a provision of a local Act passed before the Act of 1974.

13. Schedule 2 of the Salmon and Freshwater Fisheries Act 1975 Reduced in its application to the Authority shall have effect as if after fishing licence paragraph 2 thereof there were added the following new paragraph:— duties for multiple licences.

“2A. Where more than one licence is granted by a water authority to one person the Authority may charge for any licence 1975 c. 51. after the first such amount less than the amount which would otherwise be payable as they think fit”

SCH. 8  
—cont.

Extension of  
section 79  
of Act of  
1963.

15.—(1) Section 79 of the Act of 1963 shall in its application to the Authority and their area have effect as if—

- (a) the purposes for which the Authority may make byelaws under subsection (3) included the improvement of the amenities of such of the inland waters in the area of the Authority as may be specified in the byelaws and the good rule of, and the regulation of the conduct of, those resorting to such inland waters so specified and the adjoining land;
- (b) in subsection (4) paragraph (c) and the words “and not falling within the said section 2 (3)” in paragraph (d) were omitted.

(2) (a) The Secretary of State may on the application of the Authority by order provide that—

- (i) paragraph (a) of subsection (4) of the said section 79 shall not apply to such tidal waters in the area of the Authority;
- (ii) paragraph (b) of the said subsection (4) shall not apply to such inland waters in the area of the Authority;

as may be specified in the order; but no such order shall be made in respect of any of the waterways specified in Schedule 3 to the Anglian Water Authority Act 1977, or in respect of any inland water in relation to which functions are exercisable by a navigation authority, harbour authority or conservancy authority except with the consent of that authority.

(b) Before the Authority apply for an order under this subsection they shall consult every local authority within whose area any tidal waters or inland waters to which the order relates are situated and every navigation authority, harbour authority and conservancy authority having waters under their jurisdiction which adjoin such tidal waters or inland waters.

(c) An order made under this subsection may contain such incidental and supplementary provisions, including provisions for amending, adapting or repealing local enactments, as the Secretary of State considers necessary or expedient.

(d) The provisions of Schedule 2 to this Act shall have effect with respect to applications and orders made under this section.

(3) Byelaws made under subsection (3) of the said section 79 which apply to tidal waters in the area of the Authority by virtue of an order made under paragraph (a) (i) of subsection (2) of this section shall not prohibit such tidal waters from being used for boating but may, for the purpose of protecting persons lawfully and peaceably using such tidal waters for boating, swimming or other recreational purposes, provide for the exclusion from such stretches of the tidal waters as may be specified in the byelaws of boats of such types or sizes as may also be so specified.

(4) Before making any byelaws under subsection (3) of the said section 79 applying to any tidal waters in the area of the Authority to which an order made under paragraph (a) (i) of subsection (2) of this section relates the Authority shall consult with the authorities on whom notice of the application for the order was served under paragraph 2 (b) of Schedule 2 to this Act.

(5) Subsection (5) of section 111 of the Act of 1963 shall in its application to the Authority have effect as if after the word "pollution" there were inserted the words "and of any byelaws made under section 79 (3) of this Act".

SCH. 8  
—cont.

(6) Any person duly authorised by the Authority may require any person whom he has reasonable grounds for believing to have committed an offence against any byelaws made under subsection (3) of section 79 of the Act of 1963 to furnish his name and address and if any person, on being required to furnish his name and address, fails to state his name and address correctly, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding twenty pounds.

18.—(1) Subject to the provisions of this section, the Authority during and for the purposes of executing any work carried out in the performance of any of their functions may temporarily stop up, alter, divert or otherwise interfere with any watercourse or highway or any private right of way, and, in the case of any highway or right of way, may for any reasonable time divert the traffic therefrom and prevent all persons other than those bona fide going to or from any land, house or building abutting on the highway or right of way from passing along and using the same. Temporary stopping up of water-courses, highways, etc.

(2) The Authority shall provide reasonable access for foot-passengers, with or without animals, bona fide going to or from any such land, house or building.

(3) (a) The powers of subsection (1) of this section shall not be exercised in relation to—

- (i) any highway outside the area of the former Essex River Authority;
- (ii) a trunk road except with the consent of the Secretary of State but such consent shall not be unreasonably withheld; and
- (iii) any other highway without the consent of the highway authority, and, in the case of a road which is vested in any person other than the highway authority, that person, but such consent shall not be unreasonably withheld and may be given subject to such reasonable conditions (other than a condition requiring a monetary payment) as the highway authority or other person may require, and any difference arising between the Authority and the highway authority or other person under this sub-paragraph may be referred to and determined by an arbitrator to be appointed on the application of either party (after notice in writing to the other of them) by the President of the Institution of Civil Engineers.

(b) The powers of subsection (1) of this section shall not be exercised in relation to any watercourse without providing a proper substitute before interrupting the passage of water in or through such watercourse, and the Authority shall make compensation for any damage caused to any person by the exercise of such powers in relation to any watercourse, the amount of such compensation being, in case of dispute, determined by the Lands Tribunal.

SCH. 8  
—cont.

(c) The powers of subsection (1) of this section shall not be exercised so as unreasonably to obstruct or interfere with access to any station or depot of passenger road transport operators.

(d) The temporary stopping up or diversion of any highway or right of way under the powers of this section shall not prejudice or affect any right of statutory undertakers—

(A) to place, maintain, inspect, repair, renew or remove any apparatus in the highway or right of way; or

(B) for the purpose of such placing, maintenance, inspection, repair, renewal or removal to enter upon or break open that highway or right of way.

(4) Except in the case of emergency the Authority shall, not less than seven days before stopping up any highway under the powers of this section, cause notice to be published in one or more newspapers circulating in the district in which the highway is situate of their intention so to do and such notice shall contain a description of the alternative route or routes available for traffic.

(5) So long as any highway remains stopped up a notice describing the alternative route or routes available for traffic shall be kept posted in a conspicuous manner at each end of the highway and at the points at which it will be necessary for vehicles to diverge from the highway.

Power to  
sell houses to  
employees.

19. The Authority may subject to subsections (2), (3) and (4) of section 70 of the Act of 1963 sell to any person in their employment any house provided by them for such persons subject to such covenants and conditions as they think fit to impose in regard to the maintenance or use of the house and upon any such sale they may, if they think fit, agree to the price being paid by instalments or to the price or part thereof being secured by a mortgage of the premises.

Housing  
advances to  
employees.

20. The Authority shall have power to make advances to, and to guarantee the repayment of advances made to, persons who are in their employment or who propose to enter their employment for the provision of housing accommodation for such persons, and for this purpose the provisions of sections 43 and 45 of the Housing (Financial Provisions) Act 1958, and Part II of the Housing Subsidies Act 1967, shall, subject to any necessary modifications, apply to the Authority as if they were a county council.

1958 c. 42,  
1967 c. 29.

Power to  
allow former  
employees to  
continue in  
occupation  
of houses  
provided by  
the Authority.

21. Where a person employed by the Authority occupying any housing accommodation provided by the Authority ceases to be employed by them or dies, the Authority may permit him or any of his dependants to remain in occupation of the premises until other accommodation has been found, and where the Authority do so they may take from such person or his dependant such compensation for the retention of the premises as may be agreed without thereby creating a tenancy:

Provided that if the Authority permit any such person or his dependant to remain in occupation of the premises for twelve months

or longer they shall before the expiration of the period of twelve months grant him a tenancy of the premises on such terms and conditions as they consider to be appropriate in the circumstances of the case.

SCH. 8  
—cont.

22.—(1) The Authority may within or outside the area of the Authority provide and maintain recreational, social and welfare facilities for their employees. Recreational, etc., facilities for employees.

(2) For the purposes aforesaid the Authority may—

- (a) erect or maintain buildings;
- (b) make such charges as they think fit for the use of facilities provided under this section;
- (c) make regulations for the management of such premises.

(3) No power conferred upon the Authority by this section shall be exercised in such a manner—

- (a) as to be at variance with any trust subject to which any land or building is held, managed or controlled by the Authority without an order of the High Court or of the Charity Commissioners, or of the Secretary of State for Education and Science or (where the trust instrument reserves to the donor or any other person the power to vary the trust) without the consent of the donor or that other person; or
- (b) as to contravene any covenant or condition (other than a covenant or condition which was subsisting immediately before the date of the gift or lease to the Authority) subject to which a gift or lease of any land or building has been accepted by or granted to the Authority without the consent of the donor, grantor, lessor or other person entitled in law to the benefit of the covenant or condition.

(4) The Authority may contribute towards expenses incurred by any other person in providing and maintaining within or outside the area of the Authority any of the facilities for their employees mentioned in subsection (1) of this section and any such contribution may be by means of a loan on such terms and conditions as the Authority think fit.

24.—(1) The Authority may establish a fund to be called “the insurance fund” with a view to providing a sum of money which shall be available for making good such losses, damages, costs and expenses as may from time to time arise in respect of such risks as may be specified in a resolution of the Authority (in this section referred to as “the specified risks”). Insurance fund.

(2) The establishment of an insurance fund under this section shall not prevent the Authority from insuring in one or more insurance offices against the whole or any part of all or any of the specified risks.

(3) When the insurance fund shall amount to the prescribed amount the Authority shall discontinue the appropriations to the fund under subsection (4) of this section but, if the fund is at any time reduced below the prescribed amount, the Authority shall recommence and continue such appropriations until the fund be restored to the prescribed amount

SCH. 8  
—cont.

and, if at any time the Authority reduce the prescribed amount so that there are more moneys in the insurance fund than the sum so prescribed, such moneys as are in excess of the prescribed amount shall be transferred to the revenue account and any moneys so transferred shall be apportioned between the several divisions of that account in such proportions as the Authority consider equitable.

(4) The Authority may from time to time appropriate to the insurance fund such sums as they think fit from the revenue account and shall show the same in their accounts under the separate heading or division in respect of the particular service of the Authority which if the specified risks were insured against in an insurance office would be properly chargeable with the payment of the premium of such insurance.

(5) Except so far as the insurance fund and the proceeds of sale of securities in which that fund is invested may be necessary to meet losses, damages, costs and expenses in respect of the specified risks, or any of them, all moneys for the time being standing to the credit of the insurance fund shall, unless applied in any other manner authorised by any enactment, be invested, and the interest and other annual proceeds received by the Authority in respect of such investments shall be carried to and form part of the insurance fund.

(6) The insurance fund shall be applied to meet any losses, damages, costs or expenses sustained by the Authority in respect of the specified risks which are payable out of the insurance fund in the order of the dates on which such losses, damages, costs or expenses become ascertained, and if at any time and from time to time the insurance fund shall be insufficient to make good any such losses, damages, costs or expenses the amount of such deficiency shall be paid out of the revenue account and charged under the separate headings or divisions in respect of such services of the Authority and in such proportions as the Authority may determine having regard to the risks through which such deficiency arises.

(7) Any covenant or obligation binding on the Authority to insure against any risk shall (except in so far as the terms of such covenant or obligation otherwise specifically provide) be deemed to be satisfied by a resolution of the Authority under subsection (1) of this section and that risk shall be one of the specified risks.

(8) In this section—

“ insurance office ” means—

(i) an insurance company; or

(ii) an underwriter being a member of an association of underwriters; and

“ the prescribed amount ” means such sum as may from time to time be prescribed by the Authority.

Offences in  
respect of  
apparatus.

28.—(1) If any person, without lawful authority or excuse, wilfully and without the consent of the Authority alters or interferes with any apparatus, appliance, instrument or equipment belonging to the Authority and installed for the purposes of or in connection with the exercise by the Authority of any of their functions or any structure containing

or any fence, wall or other erection surrounding such apparatus, appliance, instrument or equipment he shall be liable on summary conviction to a fine not exceeding fifty pounds and the Authority may recover from him summarily as a civil debt the expense of making good or replacing the apparatus, appliance, instrument or equipment, structure, fence, wall or other surrounding erection.

SCH. 8  
—cont.

(2) No proceedings shall be taken under this section for an offence in respect of which proceedings could be taken under any of the following enactments—

- Paragraphs (a) and (c) of subsection (1) of section 12 of the Salmon and Freshwater Fisheries Act 1975; 1975 c. 51.
- Byelaws made under section 34 of the Act of 1976;
- Sections 67 and 68 of the Third Schedule to the Act of 1945 (as applied to the Authority by subsection (3) of section 69 of the Act of 1963 and section 9 of the Act of 1973).

29.—(1) In proceedings under any enactment, a document purporting to be certified by the chief executive as a copy of a resolution passed, order made, or report received, by the Authority or a committee thereof on a specified date shall be evidence that that resolution, order or report was duly passed, made or received by the Authority or committee on that date.

Evidence of proceedings, appointments, etc.

(2) In proceedings under any enactment, a document purporting to be certified as aforesaid as a copy of the appointment of, or of an authority given to, an officer of the Authority or a committee thereof on a specified date shall be evidence that that appointment was duly made, or that that authority was duly given, by the Authority or committee on that date.

(3) In this section “ officer ” includes a servant and an agent.

31. Section 265 of the Public Health Act 1875 shall apply to the Authority as if—

Protection of members and officers of Authority from personal liability.

- (a) references in that section to a local authority were references to the Authority or to a committee of the Authority;
- (b) references in that section to a member of a local authority were references to a member of the Authority and included references to a member of a committee of the Authority;
- (c) for the words “ for the purpose of executing this Act ” there were substituted the words “ for the purpose of carrying out any of the functions of the Authority except functions under the Act of 1974 (section 86 whereof contains provisions corresponding to those in this section) ”;
- (d) for the words “ out of the fund or rate applicable by such authority to the general purposes of the Act ” there were substituted the words “ by the Authority ”; and
- (e) at the end of that section as amended by subsection (2) of section 27 of the Local Government (Miscellaneous Provisions) Act 1976 there were added the words “ as applied to the accounts of water authorities by paragraph 39 of Schedule 3 to the Water Act 1973 ”.

1875 c. 55.

1976 c. 57.

1973 c. 37.



SCH. 8  
—cont.

SCHEDULE 2

ORDERS PROVIDING THAT SECTION 79 (4) (a) OR (b) OF THE ACT OF 1963 SHALL NOT APPLY TO SPECIFIED TIDAL WATERS OR INLAND WATERS

1. Where the Authority apply to the Secretary of State for an order under subsection (2) of section 15 (Extension of section 79 of Act of 1963) of this Act, the Authority shall submit to the Secretary of State a draft of the order, and shall publish at least once in each of two successive weeks, in one or more newspapers circulating in the locality where the tidal waters specified in the order are situated, a notice—

- (a) stating the general effect of the order as prepared in draft;
- (b) specifying a place in the area of the Authority where a copy of the draft order and of any relevant map or plan may be inspected by any person free of charge at all reasonable times during the period of twenty-eight days beginning with the date of the first publication of the notice; and
- (c) stating that any person may, within that period, by notice in writing to the Secretary of State object to the making of the order.

2. Not later than the date on which the notice is first published in pursuance of the preceding paragraph, the Authority shall serve a copy of the notice—

- (a) on every local authority within whose area any tidal waters or inland waters to which the order relates are situated; and
- (b) on any navigation authority, harbour authority or conservancy authority exercising functions in relation to the tidal waters or inland waters to which the order relates.

3. The Authority shall also publish a notice in the London Gazette stating that the draft order has been submitted to the Secretary of State, naming every local authority on whom a notice is required to be served under the last preceding paragraph, specifying a place where a copy of the draft order and of any relevant map or plan may be inspected, and giving the name of the newspaper in which the notice under paragraph 1 of this schedule was published and the date of an issue containing the notice.

4. The Authority shall, at the request of any person, furnish him with a copy of the draft order on payment of such charge, as the Authority think reasonable.

5. The Secretary of State may make the order either in the terms of the draft order or in those terms as altered in such manner as he thinks fit; but where he proposes to make any alteration, and considers that any persons are likely to be adversely affected by it, the Authority shall give and publish such additional notices, and in such manner, as the Secretary of State may require.

6. If before the end of the period of twenty-eight days referred to in paragraph 1 of this schedule, or of twenty-five days from the publication in the London Gazette of the notice under paragraph 3 of this schedule, or of any period specified in notices under the last preceding paragraph, notice in writing of an objection is received by the Secretary of State from any person on whom a notice is required to be served under this schedule, or from any other person appearing to the Secretary of State to be affected by the order as prepared in draft or as proposed to be altered, and the objection is not withdrawn, the Secretary of State, before making the order, shall either—

SCH. 8  
—cont.

- (a) cause a local inquiry to be held; or
- (b) afford to the objector and to the Authority an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

*Thames Barrier and Flood Prevention Act 1972*

1972 c. xlv.

64. The power of the Authority under section 23 of the Act of 1976 to enter into an agreement with any local authority or navigation authority for the carrying out by that authority, on such terms as to payment and otherwise as may be specified in the agreement, of any work for the purpose of defence against the sea or other tidal water which the Authority are authorised to carry out, shall be exercisable anywhere in the area of the Authority, irrespective of whether it is a work in connection with the main river.

Agreements  
for carrying  
out sea  
defence  
works.

68.—(1) This section applies to any opening which is situated in the area of the Authority and which consists of—

Closing of  
flood dams.

- (a) an opening from the river, or from the sea or other tidal water, to any dock, lock, canal or watercourse;
- (b) any other opening provided for access to any land; or
- (c) an opening used or intended to be used for or in connection with any abstraction from, or discharge to, the river, the sea or other tidal water;

being an opening which is furnished with one or more caissons, lock gates, gates, doors, dams, dam boards, sluice gates, sluices, valves or any other similar structures, appliances or apparatus (hereafter in this section referred to as “flood dams”) which in the opinion of the Authority form, when in a closed position, an effectual and necessary part of the defences of their area against floods or inundations from the overflow of the river or from the sea or other tidal water.

(2) Whether or not the Authority in the exercise of their functions under the Act of 1976 have provided or contributed to, or maintain, the flood dams of an opening to which this section applies, they may, after consultation (if reasonably practicable) with the occupier of the land on which such opening is situated, by notice given to him in writing require him to comply with such arrangements and conditions as the Authority consider necessary, and as may be specified in the notice, for securing that the flood dams are closed at such times, and are kept closed throughout such periods, as may be so specified, and

SCR. 8  
—cont.

generally requiring him to keep the flood dams closed whenever necessary for preventing floods or inundations from the overflow of the river or from the sea or other tidal water through the opening:

Provided that in giving any notice under this section to—

- (a) the Central Electricity Generating Board in respect of any such opening as is referred to in paragraph (c) of subsection (1) of this section and is maintained by that board for the purposes of the cooling water system of an electricity generating station, the Authority shall have proper regard to the need for securing that compliance with the requirements of the notice will cause no unnecessary interference with the generation of electricity at such generating station;
- (b) any navigation authority, harbour authority or conservancy authority the Authority shall have proper regard to the need for securing that compliance with the requirements of the notice will cause no unnecessary interference with navigation or with the carrying on of the undertaking, or the exercise of the functions, of that authority.

(3) (a) If any flood dams of an opening to which this section applies have not been closed, or have not been kept closed, at any time in compliance with the requirements of a notice given under this section and for the time being in force, then—

- (i) without prejudice to any right of entry conferred under any other enactment, any person duly authorised by the Authority may enter on the land on which the opening is situated and close the flood dams or cause them to be closed;
- (ii) the occupier of the said land shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding four hundred pounds or on conviction on indictment to a fine or imprisonment for a term not exceeding two years or both:

Provided that where the commission by any person of an offence under this subsection is due to the act or default of some other person that other person shall be guilty of the offence, and a person may be charged and convicted of the offence by virtue of this proviso whether or not proceedings are taken against the first-mentioned person.

(b) Where a person who is charged with an offence under this subsection proves to the satisfaction of the court—

- (i) that he exercised all due diligence to secure that the provisions of this subsection would not be contravened; and
  - (ii) that the offence was due to the act or default of another person;
- the first-mentioned person shall, subject to the next following paragraph, be acquitted of the offence.

(c) A person shall not, without the leave of the court, be entitled to rely on the defence provided by the last foregoing paragraph unless, not later than seven clear days before the date of the hearing, he has

SCH. 8  
—cont.

served on the prosecutor a notice in writing giving such information identifying, or assisting in the identification of, the other person in question as was then in his possession.

(4) The Authority may from time to time, by notice in writing given to the occupier of the land after consultation (if reasonably practicable) with him, alter or revoke any notice previously given under this section.

(5) The occupier of any land in respect of which a notice has been given under this section and is for the time being in force shall keep a copy of the notice displayed in a prominent position on that land.

(6) (a) The requirements of a notice given under this section shall be registrable as a local land charge as if they were such prohibitions or restrictions as are registrable in pursuance of the provisions of paragraph (b) of subsection (7) of section 15 of the Land Charges Act, 1925, and subject to the provisions of that section shall be binding upon the occupier for the time being of the land. 1925 c. 22.

(b) The Authority shall send a copy of any such requirements to the proper officer of the council of each London borough or district in which the land to which the requirements relate is situated and the proper officer shall cause it to be registered in the register of local land charges in such manner as may be prescribed by rules made in reference to local land charges under subsection (6) of section 15 of the said Act of 1925; and the power conferred by the said subsection (6) to make rules for giving effect to the provisions of the said section 15 shall be exercisable for giving effect to the provisions of this paragraph.

(7) Any person aggrieved by a notice given to him under this section may within fourteen days of the receipt of such notice appeal to the Minister on the ground that the notice is unreasonable in character or extent, and on any such appeal the Minister may confirm, vary or rescind the notice.

(8) A person entitled under this section to enter on any land may take with him such other persons and such equipment as may be necessary and, if the land is unoccupied, he shall, on leaving it, leave it as effectually secured against trespassers as he found it.

• • • • •

(11) (a) Any reference in this section to flood dams being in a closed position shall include a reference to flood dams being secured in such a manner and in such a position as, in the opinion of the Authority, will most effectively seal the opening in respect of which they are furnished against floods or inundations from the overflow of the river, or from the sea or other tidal water, through that opening, and the word "closed" shall be construed accordingly.

(b) Where any land on which there is an opening to which this section applies is unoccupied, the owner thereof shall be deemed for the purposes of this section to be the occupier.

SCH. 8  
—*cont.*

(12) In this section, “ opening ”, without prejudice to the generality of that word, includes an opening from or into any pipe, tunnel or culvert.

Penalty for  
obstructing  
execution of  
Act.

70. A person who wilfully obstructs or impedes any person acting—  
(a) in the execution of this Act or of any order or byelaw made thereunder; or  
(b) in compliance with any notice or direction given under this Act;

shall be guilty of an offence and, if no other penalty for such offence is provided by or under this Act, shall be liable on summary conviction to a fine not exceeding one hundred pounds.

Offences by  
corporations.

71.—(1) Where a body corporate is guilty of an offence under this Act, or under any byelaws made under or in pursuance of this Act, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, the foregoing subsection shall apply to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

PRINTED IN ENGLAND BY OYEZ PRESS LIMITED  
FOR BERNARD M. THIMONT

Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament

## Mallard Pass Solar Farm

9.32 Summary of Applicant's Oral Submissions at ISH3 with appendices – Appendices A - D

### **Appendix B Lincoln Waterworks Act 1846 (as enacted)**



Recited Acts extended to this Act. 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, That the said recited Acts shall be incorporated with and form Part of this Act, and shall be applicable to the Undertaking hereby authorized.

Short Title. II. And be it enacted, That in citing this Act in other Acts of Parliament and in legal Instruments, it shall be sufficient to use the Expression "The *Lincoln* Waterworks Act, 1846."

Incorporation of Company. III. And be it enacted, That *Thomas Michael Keyworth, Richard Sutton Harvey, William Henry Brook, George Calder, Humphrey Waldo Sibthorp, Frederick Straw, James Hitchins, Richard Carlisle, Thomas Williamson, William Harrison, Henry Williams, Edward Fowler, Lydia Bedford, James Heseltine, Henry Goddard, James Snow, Benjamin Snow, John Richard Battle, William Cook Norton, George Glasier, Robert Dawber, Charles Ward, John Middleton, John Wold Drury, Charles Pratt, Alexander Leslie Melville, Mary Elizabeth Tallant, William Adams Nicholson, Susannah Patrick, William Henry Johnson, Richard Whitton, John Stevenson, William Andrew, Frederick John Longstaff, William Gresham, Richard Hunt, John Stephenson, William Skepper, Thomas Wetherell, James Sandby Padley, William Rudgard, Robert Swan, John Hartley, Edward William Rudgard Rudgard, George Boole, Charles Nairne, George Thomas Pretymann, Frederick Winn, Edward Scrivener, Charles Allison, Benjamin Carrington, Thomas Skepper, Thomas Winn, Samuel Blow, Henry Kirton, Joseph Collingham, Charles Doughty, William Fish, Robert Bunyan, George Steel, Frederick Alban Sayles, William Norton, William Tomlinson Page, Charles Marshall, Henry William Ward, Jeremiah Beard, William Foster, Thomas Newton, Richard Ellison, Thomas Cooper, Charles De Laet Waldo Sibthorp, and William Rickford Collett, and all other Persons and Corporations who have already subscribed or shall hereafter subscribe to the Undertaking by this Act authorized, and their Executors, Administrators, Successors, and Assigns respectively, shall be united into a Company for the Purposes herein-after mentioned, and for such Purposes shall be incorporated by the Name of "The *Lincoln* Waterworks Company," and by that Name shall be a Body Corporate, with perpetual Succession, and shall have Power to purchase and hold Lands for the Purposes of the Undertaking, within the Restrictions herein and in the said recited Acts contained.*

Purposes of the Company. IV. And be it enacted, That the Company shall be established for the Purpose of making Reservoirs, Aqueducts, and Conduits, and for laying down Pipes, and executing all other necessary and convenient Works for supplying the Inhabitants of the City and Neighbourhood of *Lincoln* aforesaid with Water; and the Limits of this Act, with regard to the Powers of affording such Supply, shall be held to be co-extensive with the Limits of the City of *Lincoln*, and the several Parishes and Places of *Skellingthorpe, Boultham, Bracebridge* in the Parts of *Kesteven* in the County of *Lincoln*, the Castle of *Lincoln*, the *Castle Dykeings*, the Bail of *Lincoln*, and the Close of *Lincoln* in the Parts of *Lindsey* in the said County of *Lincoln*.

V. And



V. And be it enacted, That Eighteen thousand Pounds shall be the Capital of the Company. Capital.

VI. And be it enacted, That the Number of Shares into which the said Capital shall be divided shall be Seven hundred and twenty, and the Amount of each Share shall be Twenty-five Pounds. Shares.

VII. And be it enacted, That no Person shall at any Time hereafter hold more than Forty Shares in the said Undertaking, otherwise than by Bequest, Marriage, or by virtue of the Statute of Distribution of Intestates Effects, or by original Allotment and Subscription : Provided always, that it shall not be lawful for any Person who may, by Bequest, Marriage, or by virtue of the Statute of Distribution of Intestates Effects, acquire or become possessed of a greater Number of Shares than Forty, to continue to hold such greater Number of Shares for a Period exceeding Seven Years from the Date of the Registration of such Shares in the Name of such Person ; and if any Person shall continue to hold such greater Number of Shares beyond Seven Years, the Company may, if they think fit, sell such greater Number held by such Person by public Auction, and shall pay the Proceeds, deducting the Expence of such Sale, to such Person whose Shares shall be so sold, upon demand. Limiting Number of Shares to be held.

VIII. And be it enacted, That Five Pounds *per* Share shall be the greatest Amount of any One Call which the Company may make on the Shareholders, and Two Months at least shall intervene between the making of any Two successive Calls. Calls.

IX. And be it enacted, That the Number of Directors for the Company shall be Nine, and the Qualification of a Director shall be the Possession by him in his own Right of Eight Shares at the least in the said Undertaking. Qualification of Directors.

X. And be it enacted, That the said *Thomas Michael Keyworth, Richard Sutton Harvey, William Henry Brook, George Calder, Humphrey Waldo Sibthorp, Frederick Straw, Richard Whitton, William Henry Johnson, and John Middleton*, shall be the first Directors of the Company. First Directors.

XI. And be it enacted, That the Directors shall go out of Office in the following Rotation ; (that is to say,) Rotation of Directors.

At the End of the First Year, One Third of those first appointed :

At the End of the Second Year, One Half of the Remainder of those first appointed :

At the End of the Third Year, the Remainder of those first appointed :

And at the End of every subsequent Year, One Third of the Directors shall go out of Office :

But any Director so going out of Office shall be eligible to be re-elected.

XII. And be it enacted, That a Quorum of a Meeting of Directors shall be Three. Quorum of Directors

XIII. And be it enacted, That the Number of Directors of which the Committee appointed by the Directors shall consist shall not be less Committee of Directors.

less than Two nor more than Seven, and the Quorum of such Committee shall be Two.

First and other Meetings.

XIV. And be it enacted, That the first Ordinary Meeting of the Company shall be held within Two Months next after the passing of this Act, and the subsequent Ordinary Meetings of the Company shall be held yearly in the Month of *June*, and all Meetings, whether ordinary or extraordinary, shall be held in the City of *Lincoln*.

Quorum of Meetings.

XV. And be it enacted, That the Quorum for every Meeting of the Company shall be Four Shareholders holding in the aggregate not less than One thousand Pounds in the Capital of the Company.

Shareholders may convene Extraordinary Meetings.

XVI. And be it enacted, That the Number of Shareholders on whose Requisition an Extraordinary Meeting may be required shall be Six, and such Shareholders shall hold in the aggregate not less than One thousand Pounds in the Capital of the Company.

Scale of voting.

XVII. And be it enacted, That the Scale according to which the Shareholders may vote in respect of their Shares shall be as follows :

For One Share and not exceeding Four Shares, One Vote :

For more than Four and not exceeding Ten Shares, Two Votes :

For more than Ten and not exceeding Twenty Shares, Three Votes :

For Twenty Shares and upwards, Four Votes.

Interest to be paid on Calls until Works completed.

XVIII. And be it enacted, That it shall be lawful for the Directors of the said Company, when and so soon as the Sum of Five Pounds shall have been paid up in respect of any of the Shares of the said Undertaking, and from thenceforth until the Works hereby authorized shall be completed, to pay Interest, at any Rate not exceeding Four Pounds *per Centum per Annum*, in respect of the Deposits and Calls paid on every Share, from the Day on which such Deposits and Calls shall have been so paid, such Interest to accrue and be paid at such Times and Places as the Directors for the Time being shall appoint for that Purpose: Provided always, that no Interest shall accrue to the Proprietor of any Share upon which any Calls shall be in arrear in respect of such Share, or of any other Share held by the same Proprietor, during the Period while such Call shall remain unpaid.

Power to borrow Money.

XIX. And be it enacted, That after the whole of the Capital of Eighteen thousand Pounds shall have been subscribed for, and One Half shall have been paid up, it shall be lawful for the Company to borrow on Mortgage or Bond such Sums of Money as shall from Time to Time be authorized to be borrowed by an Order of a General Meeting of the Company, not exceeding in the whole the Sum of Six thousand Pounds, and for securing the Repayment of the Money so borrowed, with Interest, to mortgage the Undertaking and the future Calls on the Shareholders of the Company, or to give Bonds in manner prescribed by the said Companies Clauses Consolidation Act, 1845.

Mortgages and Trans-

XX. And be it enacted, That every Mortgage, Bond, or other Security for Money, and every Transfer of any Share, Stock, Mortgage,

gage, Bond, or other Security for Money, to be granted or made by virtue of the said Acts or this Act, shall be by Deed duly stamped, wherein the Consideration for the same shall be truly stated, any thing herein or in the said Acts contained to the contrary notwithstanding.

XXI. And be it enacted, That the Profits of the Undertaking to be divided amongst the Proprietors of the Company shall not exceed Ten Pounds *per Centum per Annum* on the Amount paid in respect of each Share in the said Undertaking, unless a larger Dividend shall at any Time be necessary, to make up the Deficiency of any previous Dividend, when such previous Dividends shall have fallen short of Ten Pounds *per Centum per Annum*; and if the clear Profits of the said Undertaking shall amount to a larger Sum than shall be sufficient to make the Dividends of Ten Pounds *per Centum per Annum* as aforesaid, the Excess shall from Time to Time be invested in Government or other Securities, and the Dividends and Interest arising from such Securities shall also be invested in the same or like Securities, in order that the same may accumulate at Compound Interest until the Fund so formed shall amount to the Sum of One thousand eight hundred Pounds, which Sum shall form a contingent or reserved Fund to answer any Deficiency which may at any Time happen in the Amount of divisible Profits of the said Company, or to meet any extraordinary Claim or Demand which may at any Time arise against the said Company; and if such Fund shall at any Time be reduced it may be again thereafter restored to the Sum of One thousand eight hundred Pounds, and so from Time to Time as often as such Reduction shall happen.

fers, &c. to be stamped.

Profits of the Company limited to Ten per Cent.

If Profits more than Ten per Cent., Excess to be invested, and to form a contingent Fund.

XXII. And be it enacted, That when such Fund shall by Accumulation or otherwise amount to the Sum of One thousand eight hundred Pounds, the Interest and Dividends thereon shall no longer be invested, but shall be applied to any of the general Purposes of the said Undertaking to which the Profits of the said Company are applicable; and an Abstract of the Accounts of the Company, together with an Account of the said contingent Fund, shall be annually laid before the Justices assembled at the Quarter Sessions of the Peace for the Parts of *Kesteven* or Parts of *Lindsey* in the County of *Lincoln*, or City of *Lincoln*, after the Time of making up such Accounts, and be filed with the Clerk for the said City or Parts; and the said Company shall also, if required by the Justices, or by the Accountant or other Person to be appointed as herein-after mentioned, produce their Books of Account, and other Books, Bills, Receipts, Vouchers, and Papers relating to the said Undertaking.

When Fund amounts to 1,800£, Interest to be applied to general Purposes.

Abstract of Accounts to be laid before Justices, and verified, if required.

XXIII. And be it enacted, That such Justices shall, on the Petition of any Inhabitants of the City of *Lincoln*, nominate and appoint some Accountant or other competent Person, not being a Proprietor in any Water Company, at the Expence of the said Company, such Expence not to exceed the Sum of Two Pounds Two Shillings *per Day* for such Accountant, nor the Sum of Four Pounds Four Shillings in the whole, to examine and ascertain the actual State and Condition of the Concerns of the said Company, and to make Report thereof to the said Justices, and the said Justices may examine any Witnesses upon Oath touching the Truth of the said Accounts and Matters therein referred

If Profits more than Ten per Cent. a rateable Reduction to be made.

[*Local.*]

22 U

to ;

to; and if it shall thereupon appear to such Justices that the Profits of the said Company shall have exceeded Ten Pounds *per Centum per Annum* on the Amount paid in respect of every Share in the said Undertaking, the said Company shall, in case the whole of the reserved Fund of One thousand eight hundred Pounds shall have been invested as aforesaid, make such a rateable Reduction in the Rents and Prices of Water to be furnished by them for the then current Year as in the Judgment of the said Justices shall be proper, but so as such Rents or Prices when reduced shall insure to the said Company a Profit as near as may be to the Amount of Ten Pounds *per Centum per Annum* upon the Amount paid in respect of each Share for the then current Year; and when by the Expenditure and Payments of the Company the contingent Fund shall be reduced below the said Sum of One thousand eight hundred Pounds, the Price of Water may, if necessary, be again raised, and so from Time to Time as such Event shall happen.

Penalty on omitting to supply Abstract of Accounts.

XXIV. And be it enacted, That if the Company shall refuse or wilfully neglect to lay before the said Justices the said Abstract of Account, or to produce to the said Justices, or to the said Accountant or other Person as aforesaid, the Books of Account, and other Books, Bills, Receipts, Vouchers, and Papers herein-before mentioned, for the Space of Seven Days after being required in Writing so to do by the said Justices, or by such Accountant or other Person as aforesaid, the said Company shall forfeit and pay the Sum of Twenty Pounds for every such Refusal or wilful Neglect, and the further Sum of Two Pounds for every Day such Refusal or wilful Neglect shall continue after the Expiration of the said Seven Days, such respective Penalties to be recovered by any Person who may sue for the same, with full Costs of Suit, by Action of Debt or on the Case in any of Her Majesty's Superior Courts; and it shall be lawful for any Consumer of Water supplied by the said Company to inspect and peruse the Accounts so filed, on Payment to the Clerk of the Peace of the Sum of One Shilling for every such Inspection, and to take and make Copies thereof, paying for every such Copy the Sum of Sixpence for every One hundred Words.

Company may resort to contingent Fund in case divisible Profits are less than Ten per Cent.

XXV. And be it enacted, That if in any Year after the Formation of the said contingent Fund shall have been commenced the Profits of the said Undertaking divisible amongst the Proprietors thereof shall not amount to the Sum of Ten Pounds *per Centum per Annum* on the Amount paid in respect of every Share, then such a Sum may be taken from the contingent Fund as with the actual divisible Profits of such Year will enable the Company to make a Dividend of Ten Pounds *per Centum per Annum* on the Amount paid in respect of every such Share, and so from Time to Time as often as the divisible Profits of the said Company shall fall short of Ten Pounds *per Centum per Annum* on the Amount paid in respect of every Share.

Power to enter on Lands mentioned in Plan, &c.,

XXVI. And be it enacted, That it shall be lawful for the Company to enter into or upon any Lands, Waters, and other Places mentioned in the Plan and Book of Reference describing the said intended Works, and deposited with the Clerk of the Peace of the said City of  
*Lincoln,*

*Lincoln*, and with the Clerk of the Peace of the said County of *Lincoln*, and to take Levels of the same, and to set out such Parts thereof as they shall think necessary for the Works hereby authorized to be made, and to dig and break up the Soil of such Lands, Waters, and Places, and to trench and sough the same, and to remove or use all Soil, Stone, Mines, Minerals, Trees, or other Things dug or gotten out of the same, they the said Company doing as little Damage as may be in the Execution of the Powers hereby granted, and making Satisfaction in manner herein mentioned to all Persons interested in any Lands or Water used for the Purposes of this Act, or which may be injured by the Execution of the Powers hereby granted: Provided always, that it shall not be lawful for the Company to enter into or use any Land or Water for the Purposes of this Act without having paid or tendered Payment for the same in manner herein mentioned, except for the Purpose of setting out the Works by this Act authorized to be made, or setting out and taking Levels of such Parts of the said Land or Water as the said Company shall intend to take or use for the Purposes of this Act; provided also, that the Company shall and they are hereby required, in forming the several Reservoirs and Works hereby authorized to be made, and the several Conduits, Drifts, Sewers, and Watercourses connected therewith or leading thereto, at their own Expence, and to the Satisfaction of the Owner or Owners of the adjoining Lands, or of his or their Agents or Agent, or in case of Difference as shall be settled by Arbitration in manner provided by the said Lands Clauses Consolidation Act, to make and provide a sufficient Number of convenient Roads, Ways, Watering Places, Wells, Watercourses, Drains, and Channels, for the Use of Cattle, and for domestic Purposes, and for Irrigation, for the Use and Occupation of the adjoining Lands, and for irrigating the same in those Parts where the present or any new or other Roads, Ways, Watering Places, Wells, Watercourses, Drains, and Channels shall be taken away, or interrupted, injured, or rendered inconvenient or useless, by reason of the making of the said Reservoirs and other Works.

XXVII. And be it enacted, That, subject to the Provisions of this Act and of the said recited Acts, it shall be lawful for the Company to purchase so much of the Lands mentioned and described on the said Plans, and in the Books of Reference herein-before referred to, and all such Estates, Rights, Titles, and Interests therein as may be necessary for the Purposes of this Act, or to agree for a Lease of such Lands and Premises, or any of them, and from Time to Time to take such Water as they may require from, upon, or beneath the Lands to become vested in the Company hereby incorporated.

XXVIII. And be it enacted, That the several Persons empowered by the said "Lands Clauses Consolidation Act, 1845," to convey Lands, shall respectively have full Power to grant any Lease or Leases thereof, or of any Liberty, Licence, Power, or Authority in, upon, through, or over the same, for the Purposes of this Act or any of them.

XXIX. And be it enacted, That, subject to the Restrictions and Provisions in this Act and the said recited Acts contained, it shall be lawful for the Company from Time to Time to divert or alter the Course

and construct Works.

Power to purchase or lease Lands, and take Water.

Proprietors enabled to grant Leases.

Company empowered to take Springs.

Course of a certain Brook or Stream of Water called the *Prial Drain*, and to appropriate the same for the Purposes of the said Undertaking, and also to divert and take all Water from all Springs and Streams, and Land or Surface Drainage, which will flow into or be intercepted by means of certain Pipes intended to be laid by the said Company, and is to commence at an intended Reservoir situate in the Parish of *Skellingthorpe* in the County of *Lincoln*, and is to flow into or communicate with another intended Reservoir situate in the Parish of *Saint Paul* in the City of *Lincoln*, as the same are respectively shown and described on the said Plans, and also from Time to Time to take all such Water as they the said Company may require from the several Sources flowing over or situate upon or beneath the Lands to become vested in the Company hereby incorporated.

Penalty for unlawfully diverting Water.

XXX. And be it enacted, That after the Brook, Stream, Springs, and Supplies of Water hereby authorized to be purchased or otherwise taken or appropriated by the said Company shall have been so purchased or appropriated, it shall not be lawful for any Person, other than the said Company, to divert, alter, or appropriate, in any other Manner than by Law they may be legally entitled to do, any of the Waters now supplying or flowing from the same, or to sink any Well or Pit, or do any Act, Matter, or Thing whereby the said Waters may be drawn off or diminished in Quantity; and if any Person shall illegally divert, alter, or appropriate the said Waters or any Part thereof, or sink any such Well or Pit, or shall do any such Act, Matter, or Thing whereby the said Waters may be drawn off or diminished in Quantity, and shall not immediately on being required so to do by the said Company repair the Injury done by him, so as to restore the said Waters to the State in which they were before such illegal Act as aforesaid, they shall forfeit to the said Company any Sum not exceeding Five Pounds for every Day during which the said Supply of Water shall be diverted or diminished by reason of any Work done or Act performed by or by the Authority of such Person, in addition to the Damage which the Company may sustain by reason of their Supply of Water being diminished.

Company not to deviate beyond the Limits of Deviation marked on Plan.

XXXI. And be it enacted, That the Company, in making the said Channels, Cuts, Tunnels, Aqueducts, Reservoirs, and Works, shall not deviate to any greater Distance than the Limits of Deviation marked on the said Plan, nor into the Lands of any Person not mentioned in the said Book of Reference, without his previous Consent in Writing, unless the Name of such Person shall have been omitted by Mistake, and the Fact that such Omission proceeded by Mistake shall have been certified in manner provided by the said recited Lands Clauses Consolidation Act, 1845.

Company empowered to construct Water-works, &c.

XXXII. And be it enacted, That it shall be lawful for the Company, subject to the Restrictions herein contained, from Time to Time to make, construct, lay down, maintain, alter, or discontinue such Water-works, Reservoirs, Cisterns, Tanks, Aqueducts, Catchwater Drains, Cuts, Conduits, Engines, Wastegates, Stopgates, Stopcocks, Sluices, Banks, Roads, Bridges, Pipes, Culverts, Tunnels, Machinery, and other Works, and also such Houses and Buildings, upon the Lands, Brooks,

Brooks, Springs, and Streams hereby authorized to be taken by the Company, as they shall think proper, for supplying the Inhabitants within the Limits of this Act with Water; and every Engine to be erected for the Purposes aforesaid shall be so constructed as to consume the Smoke of such Engine as much as practicable, if the Owner or Owners of the Lands adjoining such Engine shall so desire the same.

XXXIII. And be it enacted, That the Reservoirs, Aqueducts, and Main Works authorized to be made shall be completed within Five Years from the passing of this Act; and on the Expiration of such Period the Powers of this Act granted to the Company for executing such Works, or otherwise in relation thereto, shall cease to be exercised, except as to so much of the said Waterworks as shall then be completed, and such Works as shall be necessary to extend the Supply of Water.

Period within which Works are to be completed.

XXXIV. And whereas Plans and Sections, describing the Line and Levels of the intended Channels, Cuts, and Aqueducts, and the Lands through which the same are intended to be carried, and the Situation of the intended Reservoirs and Works, and Books of Reference, containing a List of the Owners, Lessees, and Occupiers of such Lands, have been deposited at the Offices of the respective Clerks of the Peace for the said City of *Lincoln* and County of *Lincoln*; be it enacted, That such Plans and Sections shall be kept by the Clerks of the Peace for the said City and County; and such Clerks of the Peace respectively shall permit all Persons to inspect the same at seasonable Times, and shall make out Copies and Extracts therefrom for all Persons requiring the same, on being paid the Sum of One Shilling for every such Inspection, and at the Rate of Sixpence for every One hundred Words copied.

Plans and Books of Reference to be kept by the Clerks of the Peace, and be open to Inspection.

XXXV. And be it enacted, That if any Omission, Mis-statement, or erroneous Description shall have been made of any Lands, or of the Owners, Lessees, or Occupiers of any Lands, described on the said Plans or Books of Reference, it shall be lawful for the Company, having given Seven Days previous Notice to the Party whose Lands will be affected by such Omission, Mis-statement, or erroneous Description, to apply to Two Justices for the Correction thereof; and if it shall appear to such Justices that such Omission, Mis-statement, or erroneous Description arose from Mistake, they shall certify the same accordingly, and they shall in such Certificate state the Particulars of any such Omission, and in what respect any such Matter shall have been mis-stated or erroneously described; and such Certificate shall be deposited with the Clerks of the Peace of the said City and County in which the Lands affected thereby shall be situate, and shall also be deposited with the Parish Clerk of the Parish in which the Lands affected thereby shall be situate; and such Certificate shall be kept by such Clerks of the Peace and Parish Clerks respectively along with the other Documents to which they relate; and thereupon such Plan or Book of Reference shall be deemed to be corrected according to such Certificate, and it shall be lawful for the Company to make the Works in accordance with such Certificate.

Errors and Omissions may be corrected by Justices, who shall certify the same.

Certificate to be deposited.

Compensation to be made for temporary Damage done to Lands, &c.

XXXVI. And be it enacted, That it shall be lawful for the Company, subject to the Restrictions in this Act contained, to enter upon the Lands of any Corporation or Person adjoining to or being within the Distance of Ten Yards of the Works by this Act authorized, or any Part thereof, and not being a Garden, Orchard, Plantation, or Ground planted and set apart as a Nursery for Trees, for the Purpose of depositing upon such Lands or upon any Part thereof any Soil, Gravel, Clay, Sand, Lime, Stone, Bricks, or other Materials, or for other Purposes connected with the Formation of the said Works, without making any previous Payment, Tender, or Deposit, they the said Company doing as little Damage as may be in the Exercise of the several Powers hereby granted to them, and making Compensation for such temporary Occupation or temporary Damage of the said Lands to the Owners and Occupiers thereof, from Time to Time and as often as any such temporary Occupation shall be taken, or any such temporary Damage shall be done by the Company, and making Compensation to the Owners also for the permanent Injury to such Lands; and every such Compensation, in case the Parties differ about the same, to be settled and recovered in manner by this Act provided in Cases of other Disputes as to the Compensation for any Damage sustained by reason of the Execution of any of the Works by this Act authorized.

Company before entering upon such Lands to agree with Owner, &c. for the Payment of a Rent for the same.

XXXVII. Provided always, and be it enacted, That the Company shall, before entering upon such adjoining Lands for the Purposes aforesaid, if required by the Owner or Occupier of such Lands, agree with such Owner or Occupier for the Payment of a certain and fixed annual Rent in respect thereof during the Continuance of such temporary Occupation, such Rent, in case the Parties differ in Opinion thereon, to be fixed by Arbitration in manner provided by the said Lands Clauses Consolidation Act, and also within Twelve Calendar Months next after the permanent Damage or Injury (if any) which may have been done to the said Lands by the Exercise of any of the Powers and Authorities aforesaid, make Compensation and Satisfaction, to be ascertained and settled in the same Manner as in this Act is directed in other Cases of permanent Damage or Loss occasioned by the said Company.

Company to give Notice previous to such temporary Possession.

XXXVIII. Provided also, and be it enacted, That before it shall be lawful for the Company to make such temporary Use as aforesaid of the Lands adjoining or lying near the said Works, the Company shall and they are hereby required to give Fourteen Days Notice of such their Intention to the Owners or Occupiers of such Lands, and to separate and set apart by sufficient Fences so much of the Lands as shall be required to be used as aforesaid from the other Lands adjoining thereto.

Penalty for obstructing Construction of Works.

XXXIX. And for preventing any Obstruction to the Construction of the Works hereby authorized, be it enacted, That if any Person wilfully obstruct any Person acting under the Authority of the Company in setting out the Line of the Works, or pull up or remove any Poles or Stakes driven into the Ground for the Purpose of setting out the Line of such Works, or deface or destroy any Works made for the



the same Purpose, he shall forfeit any Sum not exceeding Five Pounds for every such Offence.

XI. And be it enacted, That for the Purpose of supplying Water to the Inhabitants within the Limits of this Act it shall be lawful for the said Company and they are hereby empowered to open and break up the Soil, Pavement, and Surface in and of the several Highways, Footways, Turnpike Roads, and Streets within the said Limits, and also any Sewers or Drains therein, and to lay and place within such Limits Pipes, Conduits, Service Pipes, and other Apparatus and Conveniences, and to do all other Acts which the said Company shall from Time to Time deem necessary for supplying Water to the Inhabitants of the said Limits, according to the true Intent and Meaning of this Act, and also from Time to Time to open and break up such Soil, Pavement, Surface, Sewers, and Drains, for the Purpose of repairing, altering, or removing any such Pipes, Conduits, Apparatus, or Conveniences, they the said Company doing as little Damage as may be in the Execution of the Powers hereby granted, and making Compensation for any wilful Damage which may be done in the Exercise of such Powers.

Power to break up Streets, &c., and open Drains, for the Purposes of this Act.

XLI. And be it enacted, That before any Highway, Street, Sewer, or Drain shall be opened or broken up by the Company, they shall give to the Persons under whose Control or Management such Highway, Street, Sewer, or Drain may be Notice in Writing of their Intention to open or break up the same, Twenty-four Hours before the Commencement of such Operation.

Notice to be served before breaking up Streets, &c.

XLII. And be it enacted, That every such Highway, Street, Sewer, or Drain shall be opened or broken up under the Superintendence of the Persons having the Control or Management of the same, or their Officer, and according to such Plan as shall be agreed upon between such Persons or their Officer and the Company, or in case of any Difference respecting such Plan, then according to such Plan as shall be determined by a Justice; and such Justice is hereby required, on the Application of the Company, to determine the Plan according to which such Highway, Street, Sewer, or Drain shall be opened or broken up; provided that One Day's Notice of the Time and Place at which such Determination is to be made shall be proved to have been served on the Person having the Control or Management of the Highway, Street, Sewer, or Drain proposed to be broken up: Provided always, that if the Person having such Control or Management as aforesaid shall neglect or refuse to superintend the opening of any such Highway, Street, Sewer, or Drain, after having had Notice of the Company's Intention as aforesaid, or shall not propose any Plan for breaking up or opening the same, the Company may perform the Work specified in such Notice without the Superintendence of such Person.

Streets, &c. to be broken up under Superintendence of Persons having the Control, &c.

If Persons having the Control, &c. neglect to superintend, Company may do the Work without.

XLIII. And be it enacted, That when the Pavement or Soil of any Highway or Street, or any Sewer or Drain, shall be opened or broken up by the Company, they shall with all convenient Speed complete the Work on account of which the same shall be broken up, and fill in the Ground, and make good the Pavement or Soil, or the Sewer or Drain,

Streets, &c. broken up to be reinstated without Delay.

Drain, so opened or broken up, and forthwith carry away the Rubbish occasioned thereby, and shall in the meantime cause the Place where such Pavement or Soil shall be so opened or broken up to be fenced and guarded, and set up and maintain upon or against the Part of the said Pavement or Soil so broken up or opened a sufficient Light every Night during which such Pavement or Soil shall be continued open or broken up.

Penalty for Delay in re-instating Streets, &c.

XLIV. And be it enacted, That if the Company shall open or break up any Highway or Street, or any Sewer or Drain, without giving such Notice as aforesaid, or shall break up any Highway or Street, or any Sewer or Drain, in any other Manner than such as shall be agreed on or determined as aforesaid, except in the Cases in which the Company are hereby authorized to perform such Works without any Superintendence or Notice, or if the Company shall make any Delay in completing any such Work, or in filling in the Ground, or making good the Pavement or Surface, or the Sewer or Drain, so opened or broken up, or in carrying away the Rubbish so occasioned as aforesaid, or in causing to be fenced, guarded, or lighted the Place where such Pavement or Surface shall have been broken up, they shall forfeit a Sum not exceeding Five Pounds for every such Offence, and they shall forfeit an additional Sum of Forty Shillings for each Day any such Delay as aforesaid shall continue after the Expiration of Twenty-four Hours from the Time such Delay shall have commenced.

In case of Delay, other Parties may reinstate, and recover the Expences.

XLV. And be it enacted, That if any such Delay as aforesaid shall take place, or if the said Company shall neglect to maintain in repair the Pavement or Soil as aforesaid, it shall be lawful for the Persons having the Control or Management of the Highway, Street, Sewer, or Drain in respect of which such Delay or Neglect shall take place, to cause the Matter or Thing so delayed or neglected to be done; and the Expence of doing the same, together with the Costs of recovering such Expences, shall be recovered from the Company in the same Manner as any Damages for the Recovery of which no special Provision is made by this Act are hereby directed to be recovered; and the Money so recovered shall be applied by the Persons having the Control or Management of the Highway, Street, Sewer, or Drain, for the Purposes of the same.

Power to Inhabitants to lay Service Pipes, upon giving Notice.

XLVI. And be it enacted, That it shall be lawful for such of the Inhabitants within the Limits of this Act as shall be desirous of having Water from the Waterworks of the Company conveyed into their Premises, to open, with the Consent of the Owners and Occupiers thereof, the Ground between the Service and Branch Pipes of the Company, and their respective Houses, Buildings, and Premises, and to lay any Pipes, of a Strength and Material to be approved of by the Company, for such Premises, to communicate with the Service or Branch Pipes of the Company: Provided always, that every such Inhabitant, before he shall commence laying any Pipe to communicate with the Service or Branch Pipes of the Company, shall give to the Company Fourteen Days Notice of his Intention to do so.

XLVII. And

XLVII. And be it enacted, That before any Pipe is made to communicate with the Pipes of the Company the Inhabitant intending to lay such Pipe shall give Six Days Notice to the Company of the particular Day and Hour when such Pipe is intended to be made to communicate with the Pipes of the Company; and every such Pipe shall be so made to communicate under the Superintendence and according to the Directions of the Surveyor or other Officer appointed for that Purpose by the Company, unless such Surveyor or Officer shall not attend at the Time mentioned in the said Notice.

Communications to be made under Superintendence of Company's Surveyor.

XLVIII. And be it enacted, That the Bore of every such Pipe as aforesaid shall not exceed Half an Inch, except with the Consent of the Company.

Bore of Service Pipes.

XLIX. And be it enacted, That no Owner or Occupier of any Dwelling House or Part of a Dwelling House shall make any Pipe for such Dwelling House or Part of a Dwelling House to communicate with the Pipes of the Company, except he shall have paid the Portion of the yearly Rent payable in respect of such Dwelling House, hereby directed to be paid in advance.

Occupiers not to communicate Pipes until Water Rate paid.

L. And be it enacted, That no Inhabitant within the Limits of this Act, except the Owner or Occupier of a Dwelling House or Part of a Dwelling House, laying any Pipe for the Supply of Water to the same, shall make any Pipe to communicate with the Pipes of the Company, except he shall have agreed with the Company for a Supply of Water to his Buildings and Premises.

Inhabitants, &c. not to make Communication before agreeing with Company.

LI. And for the Purpose of enabling the Inhabitants within the Limits of this Act to lay down Communication Pipes in any Streets and Highways within the same, and to repair, renew, and remove the same, be it enacted, That it shall be lawful for any such Inhabitant to open and break up the Pavement and Soil of any such Street or Highway as shall be between any Service or Branch Pipe of the Company and his House, Building, or Premises, or any Sewer or Drain there, for any such Purpose as aforesaid, doing as little Damage as may be, and making Compensation for any Damage done in the Execution of any such Work: Provided always, that every such Inhabitant desiring to break up the Pavement or Soil of any Street or Highway, or any Sewer or Drain therein, shall be subject to the same Necessity of giving previous Notice, and be subject to the same Control, Restriction, and Provisions, in and during the Time of breaking up the same, and for reinstating the same, and to the same Penalties for any Delay in regard thereto, as the Company are subject to by virtue of this Act.

Power to Inhabitants to break up Pavements, giving Notice of the same.

LII. And be it enacted, That it shall be lawful for any Person who shall have become entitled to any Pipe, and the Cocks and other Apparatus belonging thereto, to remove the same, after having first given Fourteen Days Notice in Writing to the Company of his Intention so to do, and of the Time of such proposed Removal.

Removal of Service Pipes.

[*Local.*]

22 Y

LIII. And

Rates at which the Company are to supply Water.

LIII. And be it enacted, That the Company shall, at the Request of the Owner or Occupier, furnish to every Occupier of a private Dwelling House or Part of a Dwelling House near to which any Main or other Water Pipe of the Company, a sufficient Supply of Water for the domestic Use of every such Occupier, at the Rate of Six Pounds Ten Shillings *per Centum per Annum* on the annual Rack Rent or Value of the Premises so supplied with Water: Provided also, that a Supply of Water for domestic Purposes shall not include a Supply of Water for Baths, Water-closets, Horses or Cattle, or for washing Carriages, or for any Trade or Business whatsoever, or for watering Gardens, Fountains, or other ornamental Purposes; and that the Company shall not charge more in any Year than the several Rates herein-after specified in respect of Water-closets in or belonging to any private Dwelling House; that is to say,

When the annual Rack Rent does not exceed Ten Pounds, for each Water-closet Eight Shillings:

When the annual Rack Rent exceeds Ten Pounds and does not exceed Twenty-five Pounds, for each Water-closet Ten Shillings:

When the annual Rack Rent exceeds Twenty-five Pounds and does not exceed Fifty Pounds, for each Water-closet Twelve Shillings:

When the annual Rack-rent exceeds Fifty Pounds and does not exceed One hundred Pounds, for each Water-closet Fifteen Shillings:

When the annual Rack Rent exceeds One hundred Pounds, for each Water-closet One Pound:

Provided always, that the Company shall not be compelled to supply any Water-closet, or the Apparatus or Pipes connected therewith, which shall not be constructed in manner approved of by the Company.

Penalty for refusing a Supply of Water.

LIV. And be it enacted, That if the Company shall neglect or refuse to furnish a sufficient Supply of Water for domestic Purposes, at the Rate aforesaid, to any Owner or Occupier of any Dwelling House in any Street or Place where the Service Pipes of the Company shall be laid, or within One hundred Yards of any such Pipe, for Seven Days after Demand in Writing made to the Clerk or Surveyor of the Company, and Tender made to such Clerk or Surveyor of the Amount of the Portion of the Rate payable in advance, the Company shall forfeit to the Owner or Occupier making such Demand Treble the Amount of the Rate so tendered, and also the further Sum of Twenty Shillings for every Day during which they shall refuse or neglect to furnish such Supply: Provided always, that the Company shall not be obliged to supply any Water to any such Owner or Occupier, or be liable to any Penalty for not supplying the same, if such Supply cannot be made by the Company without lessening the Quantity of Water required by other Owners or Occupiers of Houses supplied with Water by the Company previously to the Demand made by such Occupier, or from the Occurrence of Frost, Repairs, unavoidable Accident or Necessity, or Failure of Supply.

Rates to be paid according to the

LV. And be it enacted, That such Water Rates shall be paid by the Owner or Occupier requesting the Supply of Water, and shall be payable

payable according to the annual Value at which the Premises shall be assessed to the Rate, if the same shall be so assessed, according to an Act passed in the Ninth Year of the Reign of King *George* the Fourth, intituled *An Act for paving, lighting, watching, and improving the City of Lincoln and the Bail and Close of Lincoln in the County of Lincoln, and for regulating the Police therein*, or, if not, according to the net annual Value of the Premises.

Assessment of the Lighting and Paving Rate.  
9 G. 4. c. 27.

LVI. And be it enacted, That the Owners of all Dwelling Houses or Parts of Dwelling Houses occupied as separate Tenements, and receiving from the Company a Supply of Water, the annual Rack Rent or Value of which Houses or Tenements shall not exceed the Sum of Ten Pounds, shall be liable and subject to the Payment of all Rates, Rents, Remunerations, and other Charges made by the Company; and the Powers and Provisions herein contained for the Recovery of Rates, Rents, Remunerations, and other Charges from Occupiers shall be construed to extend and apply to the Owners of such Houses and Tenements.

Owners of Houses not exceeding 10l. Rent to be liable to Water Rates.

LVII. And in order to prevent any Dispute touching the Meaning of the Word "Owner," as regards the Recovery of Rates, Rents, Remunerations, and other Charges under the Authority of this Act, be it enacted, That the Person receiving the Rents of any House or Tenement as aforesaid for the Occupation thereof, on his own Account, or as Agent or Receiver for any Person interested therein, shall be deemed the Owner of such House or Tenement: Provided always, that the Meaning of the Word "Owner" shall not be construed to extend to the Lessor of any such House or Tenement during the Continuance of the Lease granted by him.

Defining the Term "Owner."

LVIII. And be it enacted, That when several Houses or Parts of Houses in the Occupation of several Persons shall be supplied by One common Pipe, the several Owners or Occupiers of such Houses or Parts of Houses shall be liable to the Payment of the same Rates for the Supply of Water as they would have been liable to if each of such several Houses or Parts of Houses had been separately supplied with Water from the Works of the Company by a distinct Pipe.

Where several Houses supplied by One Pipe, each to pay.

LIX. And be it enacted, That the Rates payable to the Company for the Supply of Water to any Dwelling House or Part of a Dwelling House shall be paid in advance by equal quarterly Payments at the Four usual Feasts in the Year; *viz.*, at *Christmas Day, Lady Day, Midsummer Day, and Michaelmas Day*; and the first Payment shall be made at the Time at which the Service Pipe from such Dwelling House or Part of a Dwelling House shall be made to communicate with the Main or Branch Pipes of the Company, or at the Time when any Owner or Occupier of a Dwelling House or Part of a Dwelling House shall contract to take Water from the Company; and the Amount of such first Payment shall be such Proportion of a quarterly Payment as the Length of Time that shall intervene between such Day of Payment and the next quarterly Feast shall bear to a Quarter of a Year.

Rates to be paid quarterly.

LX. And

Parties removing to pay to the next Quarter Day.

LX. And be it enacted, That the Owner or Occupier of any Dwelling House or Part of a Dwelling House liable to the Payment of any Rate for Water supplied under the Provisions herein-before contained, who shall give Notice of his Intention to discontinue the Use of the Water supplied by the Company, or the Occupier of which Dwelling House or Part of a Dwelling House shall remove therefrom between any Two Feasts, shall pay the Water Rate in respect of such Dwelling House or Part of a Dwelling House becoming due on the Feast next following his quitting the same, or giving such Notice.

Water for other than domestic Purposes to be supplied by Agreement.

LXI. And be it enacted, That it shall be lawful for the Company to supply any Person with Water, for other than domestic Purposes and Water-closets, at such Rent and upon such Terms and Conditions as shall be agreed upon between the Company and the Person desirous of having such Supply of Water.

As to the Recovery of Rates.

LXII. And be it enacted, That if any Person supplied with Water by the Company, or any Person liable as herein provided to pay the Water Rate or Rent, Remuneration, or other Charge to the Company, shall neglect to pay any Water Rate or Rent, Remuneration, or other Charge due to them, at any of the said Times of Payment thereof, it shall be lawful for the Company or their Lessee to stop the Water from flowing into the Premises of such Person, by cutting off the Service Pipe to such Premises, or by such Means as the Company or their Lessee shall think fit, and to recover the Rate or Rent due from such Person, if less than Twenty Pounds, together with the Expences of cutting off the Water, and Costs of recovering the same, by the same Means as any Damages for the Recovery of which no special Provision is contained in this Act are hereby, or by the Companies Clauses Consolidation Act, 1845, directed to be recovered; or if the Rate or Rent, Remuneration, or other Charge so due shall amount to Twenty Pounds or upwards, it shall be lawful for the Company to recover the same, together with the Expences of cutting off the Water, in any of the Superior Courts, by Action of Debt or on the Case.

Power to lease the Water Rates.

LXIII. And be it enacted, That it shall be lawful for the Company to lease the whole or any of the Water Rates or Rents payable to the Company by virtue of this Act, or otherwise, for any Term not exceeding Three Years, and upon such Rents, Covenants, and Conditions as the Company shall think fit.

Company required to affix Fire-plugs into the Mains.

LXIV. And be it enacted, That the Company, at the Request of the Commissioners for paving the City of *Lincoln*, shall and they are hereby required to fix proper Fire-plugs into the Main and other Pipes belonging to the Company, at such convenient Distances from each other, and at such Places as may be considered most proper and necessary, for the Supply of Water in extinguishing Fire; and in case any Difference of Opinion shall arise as to the proper Position or Number of such Fire-plugs, such Dispute shall be settled in the Manner herein-after provided for determining Disputes in regard to the Supply of Water for public Purposes.

LXV. And

LXV. And be it enacted, That the Company shall from Time to Time repair, renew, and keep in proper Order every such Fire-plug; and as soon as any such Fire-plug shall have been completed the said Company shall deposit a Key thereof at each Place within the Limits of this Act where any public Fire Engine shall be kept for extinguishing Fire, and in any other Places directed by the said Commissioners, and affix a public Notification in some conspicuous Place by the Side of each Street, Highway, or Place in which such Pipe shall be situate, to denote the Situation and Distance of such Fire-plug, and which Notification the Company are hereby authorized to put up on any House or Building, or the Side of such Street, Highway, or Place.

Keys of the Fire-plugs to be deposited at Engine Houses.

LXVI. And be it enacted, That the Expence of preparing, fixing, and placing every such Fire-plug, and of providing such Keys as aforesaid, shall be defrayed by the said Commissioners, but that the Expence of repairing, renewing, and keeping the same in proper Order shall be borne by the Company.

Expence of Fire-plugs how to be borne.

LXVII. And be it enacted, That any Person supplied with Water under the Provisions of this Act shall, if required by the Company, provide a proper Cistern to receive and retain the Water with which he shall be so supplied, with a Ball or Stop Cock affixed to the Pipe conducting the Water from the Works of the Company to such Cistern, and shall keep such Cistern, Ball and Stop Cock, in good Repair, so as effectually to prevent the Water from running to Waste; and in case any such Person shall neglect to provide, when required by the Company, such Cistern, Ball and Stop Cock, or to keep the same in good Repair, it shall be lawful for the Company, or for any Person acting under their Authority, to cut off the Pipe or turn off the Water from the Premises of such Person, until such Cistern, Ball and Stopcock, shall be provided or repaired, as the Case may require.

Persons using the Water to provide Cisterns and Cocks.

Penalty on Neglect.

LXVIII. And be it enacted, That if any Person supplied with Water by the Company shall suffer any Cistern, Place for Water, Pipe, Cock, or Apparatus on the Premises belonging to or occupied by him to be out of repair, so that the Water supplied to him by the Company shall be wasted, he shall forfeit for every such Offence a Sum not exceeding Five Pounds, together with the Amount of the Loss sustained by the Company.

Penalty for suffering Cisterns to be out of repair.

LXIX. And be it enacted, That it shall be lawful for the Company to repair any such Cistern, Place for Water, Pipe, or Cock; and the Expences of such Repairs shall be payable by the Person so allowing the same to be out of repair, and be recovered in manner herein provided for Recovery of the Water Rate or Rent.

Company may repair, and recover the Expences.

LXX. And be it enacted, That the Company shall provide and keep constantly laid on a Supply of pure and wholesome Water, sufficient for the domestic Use of all the Inhabitants within the Limits of this Act who may be entitled to demand a Supply as herein provided, and who shall or may be willing to contract for the Purchase thereof upon the Terms herein mentioned; and the Company shall

Company to provide a constant Supply of Water.

[*Local.*]

22 Z

cause

cause Pipes to be laid down and Water to be conducted to every Part of the District comprised within the Limits of this Act in which a sufficient Number of the Owners of the Houses therein agree to take such a Supply of Water for Five Years at least as that the annual Payment for the same at the Rates herein specified shall be equal to One Tenth Part of the Expence of providing and laying down such Pipes: Provided always, that a Supply for a limited Period may be given to all Houses the Level of which shall be above the Bottom of the Company's higher Reservoir.

Penalty for Refusal to lay down Pipes.

LXXI. And be it enacted, That if for Twenty-eight Days after Demand in Writing made to the Clerk or Surveyor of the Company, and Tender made to such Clerk or Surveyor of the Amount of the Sum payable in advance for such Supply, the Company shall neglect or refuse to lay down Pipes in manner herein-before directed, and to provide and keep constantly laid on such Supply of Water, the Company shall forfeit to the Owner making such Demand Treble the Amount of the Rate so tendered, and shall also forfeit the further Sum of Twenty Shillings for every Day during which they shall neglect or refuse to lay down such Pipes or to furnish such Supply of Water; but no Penalty shall be payable by the Company if the Want of such Supply shall arise from Frost or dry Weather, Repairs, or other unavoidable Cause or Accident.

Supply of Water for cleansing Sewers and Drains.

LXXII. And be it enacted, That the Company shall provide and keep constantly laid on in the Main Pipes to which any Fire-plug shall be fixed as aforesaid a Supply of Water sufficient for cleansing the Sewers and Drains, and for cleansing and watering the Streets, at such Rates, in such Quantities, and upon such Terms and Conditions as may be agreed upon by the said Commissioners and the said Company, or in case of their Disagreement as shall be determined in manner following; (that is to say,) until such Inspector or public Officer shall be appointed as herein-after is mentioned, in the same Manner as Disputes as to Compensation for Land under the Amount of Fifty Pounds may be settled by the Provisions contained in the Lands Clauses Consolidation Act herewith incorporated, and after the Appointment of such Inspector or public Officer as aforesaid then by such Inspector or public Officer so appointed.

Penalty for Refusal or occasional Failure of Supply.

LXXIII. And be it enacted, That if the Company shall neglect or refuse to furnish to the said Commissioners, or to any Owner or Occupier entitled to receive a Supply, a sufficient Supply of Water during any Portion of the Period for which the Rates for such Supply shall have been paid, they shall forfeit to the Persons having paid the Rate the Sum of Twenty Shillings for every Day during which such Refusal or Neglect shall continue after Notice in Writing shall have been given to the Company of the Want of Supply; but no Penalty shall be payable by the Company if the Want of such Supply shall arise from Frost or other unavoidable Cause or Accident.

Company to lay down Service Pipes, on

LXXIV. And whereas the Houses of the Poor are in many Cases not supplied with Water, on account of the Inability of the Owners or Occupiers to lay down the Service Pipes and other Apparatus; be it enacted,



enacted, That it shall be lawful for the Company and they are hereby required, upon the Request of the Owner or Occupier of any House, Building, or Premises in any Street or Place where Main Pipes shall have been laid down by the Company, with the Consent in Writing of the Owner or reputed Owner thereof, or his Agent or Receiver, and upon Payment or Tender of the Proportion of Water Rate in respect thereof hereby made payable in advance, to lay down Service Pipes and other proper or necessary Apparatus for the Supply of such House, Building, or Premises with Water for domestic or other Purposes, and to keep the same in repair, and to charge for the same such reasonable annual Rent or Remuneration in Money as shall be agreed upon, or in case of Dispute as shall be settled by any Inspector or other public Officer that may be appointed as herein-after is mentioned; and such Rent or Remuneration shall be recoverable from the Occupier, or in his Default from the Owner, or his Agent or Receiver, of such House, Building, or Premises, at the same Times and in the same Manner as Rents due to the Company in respect of such Supply of Water; and such Pipes or other Apparatus shall not be subject to Distress for Rent, nor to be taken in Execution on any Judgment of a Court of Law, or under any Fiat in Bankruptcy, against such Occupier or Owner, any Law or Practice to the contrary notwithstanding: Provided always, that the Company shall not be liable to make good any Loss or Damage which may arise by Leakage of Water or otherwise from any Pipe or Apparatus so laid down by them.

Request of  
Occupier

LXXV. And be it enacted, That if the Company shall neglect or refuse to lay down such Service Pipes or other Apparatus upon such Request and Consent, and upon Tender or Payment of Rates as aforesaid, the said Company shall be liable to forfeit and pay to the Person so making such Request the Sum of Forty Shillings.

Penalty on  
Company for  
Neglect.

LXXVI. And be it enacted, That in case the Occupier of the Premises in which such Water Pipes or other Apparatus shall have been affixed by the Company shall refuse to receive and pay for such Supply of Water, or in the Case of the Non-occupation of such Premises, the Company may demand and enforce Payment from the Person liable to pay the Rent or Remuneration of the Amount of the Principal Money invested by them in supplying and affixing such Pipes and other Apparatus, and may, if such Person shall, after Ten Days Notice given to him by the Company, neglect or refuse to pay such Principal Money, enter into and remove such Pipes and other Apparatus, and deduct the Value thereof, from such Principal Money; and such Principal Money, or any Part thereof, remaining due, together with all Arrear of Rent for such Pipes and Apparatus, shall, in default of Payment, be recovered, together with the Costs incurred, in the same Manner as Rents for Water are directed by this Act to be recovered.

In case Parties refuse to pay, Company to be at liberty to remove the Pipes, and recover Expences.

LXXVII. Provided always, and be it enacted, That it shall be lawful for such Owner or reputed Owner of any Houses, Buildings, or Premises where any such Service Pipes or other Apparatus shall have been laid down by the Company, at any Time to pay off the Amount which shall be then due to the Company in respect of the Costs of such Service Pipes and other Apparatus, and thereupon such Pipes and

Owner to be at liberty to purchase the Pipes.

and Apparatus shall become the Property of such Owner, and all further Rent in respect thereof shall cease to accrue to the Company.

Certain Provisions not to come into operation until a public Officer is appointed.

LXXVIII. Provided always, and be it enacted, That the Enactments herein-before contained, requiring the Company to lay down Service Pipes and other necessary Apparatus for the Supply of Water to Occupiers of Houses or Parts of Houses, shall not take effect, except with the Consent of the Company, until some general Act shall have been passed in this or some future Session of Parliament, providing for the Appointment of an Inspector or other public Officer to determine the Matters herein-before required to be determined by such an Officer.

Proprietors of Manufactory may require the Company to place Fire-plugs adjacent thereto.

LXXIX. And be it enacted, That it shall at any Time be competent to any Persons, being Owners or Occupiers of any public Work or Manufactory situated near to any Main or other Pipe of the Company, to require the Company to place Fire-plugs, and from Time to Time renew the same, at the Expence of the Party requiring the same, opposite or near to such public Work or Manufactory, and outside of the same, in the Streets or other Places of the City and Neighbourhood of *Lincoln* within the Limits of this Act, and to attach the same to the Pipes most suitable for that Purpose, to be used for extinguishing Fires only; and that, exclusively of and in addition to the Fire-plugs to be provided by the Company, the Company shall, when so required, be obliged to place and attach such Fire-plugs, at the Expence of the Party requiring the same.

Water may be taken to extinguish Fires.

LXXX. And be it enacted, That it shall be lawful for all Persons at all Times to take and use the Water of the Company in extinguishing any Fire which may happen within the Limits of this Act, without making Compensation for such Water.

Power to Company's Surveyor to enter Houses, to inspect.

LXXXI. And be it enacted, That it shall be lawful for the Surveyor, or any other Person acting under the Authority of the Company, between the Hours of Ten of the Clock in the Forenoon and Four of the Clock in the Afternoon, to enter into any House, Building, or Premises supplied with Water by virtue of this Act, in order to inspect and examine if there be any Waste or improper Use of such Water; and if such Surveyor or other Person acting by the Authority of the Company shall at any such Time be refused Admittance into such Dwelling House, Building, or Premises, for the Purpose aforesaid, or shall be prevented from making such Inspection and Examination as aforesaid, it shall be lawful for the Company to turn off the Water supplied by the Company from such House, Building, or other Premises.

Penalty for allowing Persons to use the Company's Water.

LXXXII. And be it enacted, That every Person supplied with Water under the Provisions of this Act who shall supply to any other Person or wilfully permit any other Person to take any Water supplied by the Company, from any Cistern, Pipe, or Place for Water belonging to him, or who shall use the Water for other Purposes than those contracted for, shall forfeit for every such Offence a Sum not exceeding Five Pounds nor less than Forty Shillings: Provided always, that the Supply

Supply of Water for the Purpose of extinguishing any Fire, or in any sudden Emergency, or to any Person supplied with Water by the Company during any Time that the Pipes or Cock belonging to such Person may be out of repair, if such Pipe or Cock shall not have been out of repair during a longer Time than was necessary for the Repair thereof, shall not be deemed an Offence within the Meaning of this Act.

LXXXIII. And be it enacted, That if any Person, not having agreed to be supplied with Water by the Company, shall take any Water from any Reservoir, Watercourse, Aqueduct, or Conduit belonging to the Company, or any Pipe or Tap affixed or leading to any such Reservoir, Watercourse, Aqueduct, or Conduit, or from any Cistern or other like Place containing Water belonging to the Company, he shall forfeit for every such Offence a Sum not exceeding Ten Pounds nor less than Forty Shillings, and shall also pay and make Recompence to the Company for the Water so taken.

Penalty for taking the Company's Water without Agreement.

LXXXIV. And be it enacted, That every Person who shall wilfully or carelessly break, injure, or open any Lock, Cock, Gate, Paddle, Valve, Pipe, or Clough belonging to or shall flush or draw off the Water of the Company, or shall do any other wilful Act whereby such Water shall be wasted, shall forfeit for every such Offence a Sum not exceeding Five Pounds nor less than Forty Shillings, together with the Amount of Damage sustained by the Company.

Penalty for destroying Valves, &c.

LXXXV. And be it enacted, That every Person who shall commit any of the following Offences shall for every Offence forfeit a Sum not exceeding Five Pounds; (that is to say,)

Penalty of 5*l.* for committing the Offences herein named.

First—Every Person who shall throw any Gravel, Stone, Rubbish, Dirt, Filth, or other noisome or offensive Thing into, or wash or cleanse any Cloth, Wool, Leather, or Skin of any Animal, or any Wearing Apparel or other Thing, in any such Reservoir, Aqueduct, or other Waterworks as aforesaid:

Second—Every Person who shall cause or permit the Water of any Sink, Sewer, or Drain, or other filthy Water belonging to him or under his Control, to run or be conveyed into any of the Waterworks belonging to the Company, or into any Spring, Drain, or Watercourse communicating therewith, or shall commit or cause any Act whereby the Water of the Company shall be fouled or corrupted:

Third—Every Person who shall cause or permit any Dog or other Animal to go into a Reservoir or Water belonging to the Company, or shall bathe or wash any such Dog or Animal therein.

LXXXVI. And be it enacted, That if in the working of any Mines any Water from such Mines shall be discharged or flow into any of the Streams, Brooks, or Feeders supplying any of the Reservoirs, Watercourses, or Aqueducts intended to be made by the said Company for supplying with Water the Inhabitants within the Limits of this Act, the Company may and they are hereby empowered, at their own Expence, to construct or cause to be constructed, upon the Lands

Company's Water not to be fouled by mineral or other injurious Matters.

[*Local.*]

23 A

mentioned

mentioned in the Plan and Books of Reference deposited as hereinbefore mentioned, all such Drains, Sewers, and Watercourses as may be requisite and necessary for carrying off or conveying past their Works any foul or offensive Water which may drain or run from any such Mines, or from any of the Lands near or adjoining to the Reservoirs and Watercourses intended to be made, or any of the Brooks or Streams supplying the same with Water, for the Conduct, Storage, or Service of the Water to be supplied by the said Company, and which but for the Existence of such Reservoirs and Watercourses would have drained and run as heretofore into any of the Streams or Watercourses intended to be taken for the Supply of the said Waterworks; and in case the said Company shall not provide such Drains, Sewers, and Watercourses for the Purposes aforesaid, the Parties or Persons allowing such foul or offensive Water to run into any of the said Reservoirs, Brooks, Streams, or Watercourses shall be deemed and taken to be exempt from all such Penalties as are last hereinbefore imposed on Parties offending in this Matter, any thing hereinbefore contained to the contrary thereof in anywise notwithstanding: Provided always, that nothing herein contained shall prevent or hinder any of the Owners, Tenants, or Occupiers of the Lands through, under, or upon which any of the said Tunnels, Aqueducts, Watercourses, Reservoirs, or other Works shall be constructed or made, from draining, cultivating, and manuring the said Lands as they may think proper, and as if this Act had not been passed, doing no wilful Injury to the Property or Works of the said Company.

Penalty for permitting Substances produced in making Gas to flow into the Company's Works.

LXXXVII. And be it enacted, That if any Person making or supplying any Gas within the Limits of this Act shall at any Time cause or suffer to be conveyed or to flow into any Stream, Reservoir, Aqueduct, Pond, or Place for Water within the Limits of this Act, or belonging to the Company, or into any Drain, Sewer, or Ditch communicating therewith, any Washing, Substance, or Thing which shall be produced in making or supplying Gas, or shall do any Act to the Water contained in any such Stream, Reservoir, Aqueduct, Pond, or Place for Water, whereby the Water therein shall be fouled or corrupted, then such Person shall forfeit for every such Offence the Sum of Two hundred Pounds.

Penalty to be sued for in Superior Courts within Twelve Months.

LXXXVIII. And be it enacted, That the said Penalty of Two hundred Pounds shall be recovered, with full Costs of Suit, in any of the Superior Courts, by Action of Debt or on the Case, by the Person in whose Water such Washing, Substance, or Thing shall be conveyed or shall flow, or whose Water shall be fouled or corrupted: Provided always, that the said Penalty shall not be recoverable unless the same be sued for within Twelve Months after the Offence in respect of which such Penalty shall have been incurred shall have ceased.

Daily Penalty during the Continuance of the Offence.

LXXXIX. And be it enacted, That, in addition to the said Penalty of Two hundred Pounds, and whether such Penalty shall have been recovered or not, the Person making or supplying Gas as aforesaid shall forfeit the Sum of Twenty Pounds, to be recovered in like Manner, for each Day such Washing, Substance, or Thing shall be conveyed or shall flow as aforesaid, or the Act by which such Water

as

as aforesaid shall be fouled or corrupted shall continue after the Expiration of Twenty-four Hours from the Time at which Notice of the Offence shall have been served on such Person by the Person into whose Water such Washing, Substance, or Thing shall be conveyed or shall flow, or whose Water shall be fouled or corrupted thereby; and such Penalty shall be paid to such last-mentioned Person.

XC. And be it enacted, That whenever any Gas shall escape from any Pipe which shall be laid down or set up by any Person making or supplying any Gas within the Limits of this Act, such Person shall, immediately after receiving Notice in Writing of any such Escape of Gas, prevent such Gas from escaping; and in case such Person shall not within Twenty-four Hours next after Service of such Notice effectually prevent the Gas from escaping, and wholly remove the Cause of Complaint, then he shall for every such Offence forfeit the Sum of Five Pounds for each Day after the Expiration of Twenty-four Hours from the Service of such Notice during which the Gas shall be suffered to escape.

Daily Penalty during Escape of Gas after Notice.

XCI. And be it enacted, That whenever the Water supplied by the Company, or any other Water within the Limits of this Act, shall be contaminated by the Gas of any Person making or supplying Gas within the Limits of this Act, such Person shall forfeit for every such Offence a Sum not exceeding Twenty Pounds to the Person whose Water shall be so contaminated or affected.

Penalty on Gas Makers if Water contaminated.

XCII. And be it enacted, That if the Person so making or supplying Gas shall not, within Twenty-four Hours next after Notice in Writing of any Water being contaminated or affected served on him by the Person whose Water shall be so contaminated or affected, prevent the Gas from contaminating or affecting, such Person shall, over and above the before-mentioned Penalty of Twenty Pounds, forfeit for every such Offence, to the Person whose Water shall be contaminated or affected, a Sum not exceeding Ten Pounds for each Day during which the said Water shall remain contaminated or affected after the Expiration of Twenty-four Hours from the Service of such Notice.

Daily Penalty during the Continuance of the Contamination after Notice.

XCIII. And whereas it may become a Question, upon any such Complaint as aforesaid, whether the said Water be contaminated or affected by the Gas of any Person making or supplying Gas within the Limits of this Act; be it therefore enacted, That it shall be lawful for the Person to whom the Water supposed to be contaminated or affected by Gas may belong to dig and examine the Pipes, Conduits, and Apparatus of the Person making or supplying Gas, for the Purpose of ascertaining whether the said Water has been contaminated or affected by the Gas of such Person: Provided always, that before proceeding so to dig and examine Twenty-four Hours Notice in Writing shall be given to the Person making or supplying such Gas of the Time at which such Digging and Examination are intended to take place.

Power to examine Gas Pipes, to ascertain certain Cause of Contamination.

XCIV. And

The Expences to abide the Result of the Examination.

XCIV. And be it enacted, That if upon such Examination it shall appear that such Water has been contaminated or affected by any Gas belonging to such Person, the Expences of the Digging, Examination, and Repair of the Street or Place which shall be disturbed in any such Examination shall be paid by the Person making or supplying Gas; but if upon such Examination it shall appear that the Water has not been contaminated or affected by the Gas of such Person, then the Person causing such Examination to be made shall pay all the Expences of Examination and Repair, and also make good to the said Person any Injury which may be occasioned to the Works of the said Person by such Examination.

The Amount of the Expences to be ascertained and recovered as other Damages.

XCV. And be it enacted, That the Amount of the Expences of every such Examination and Repair, and of any Injury done to the Person making or supplying Gas, shall, in case of any Dispute about the same, together with the Costs of ascertaining and recovering the same, be ascertained and recovered in the same Manner as any Damages for the ascertaining and Recovery of which no special Provision is made by this Act are hereby directed to be ascertained and recovered.

Liability of Persons supplying Gas to be indicted for a Nuisance.

XCVI. Provided always, and be it enacted, That nothing in this Act contained shall exempt any Person making or supplying Gas within the Limits of this Act from an Indictment for Nuisance or from any other legal Proceedings to which he may be liable in consequence of the making or supplying such Gas.

For Protection of the Lincoln Gas Light Company.

XCVII. And be it enacted, That if in carrying into execution any of the Powers by this Act granted any Injury or Damage shall be done or committed to any of the Pipes, Branches, Apparatus, Materials, or Things already or hereafter to be laid down by the *Lincoln Gas Light Company*, for the Purpose of supplying with Gas the said City of *Lincoln* and the Neighbourhood thereof, or any Part thereof, either by removing or disturbing the Ground in, upon, or near to which the same is or are placed, or by the Compression or subsequent settling or lowering of the same at any Time afterwards, or otherwise, the said Water Company shall, at their own Expence, Costs, and Charges, within Twenty-four Hours next after Notice in Writing given to them by the said Gas Light Company or their Clerk, cause such Pipes, Branches, Apparatus, Materials, and Things to be well and effectually repaired and amended, and also pay to the said Gas Light Company the Amount of all Damage or Loss which may accrue from the Escape of Gas by reason of any such Injury or Damage; and in default or neglect thereof it shall be lawful for the said Gas Light Company and they are hereby authorized and empowered to cause such Pipes, Branches, Apparatus, Materials, and Things so injured or damaged as aforesaid to be effectually repaired, amended, and made good; and the reasonable Costs and Charges attending the same, together with the Amount of all Damage or Loss which may accrue to the said Gas Light Company from such Escape of Gas as aforesaid, shall be defrayed and paid by the said Waterworks Company or their Treasurer to the said Gas Light Company, the same

same having been ascertained and settled, in case of Dispute concerning the same, by some Justice, not being a Proprietor of any Share in either of the said Companies, which Determination shall be final and conclusive; and the Amount of such Expences, Damages, and Loss, together with such Costs and Charges as shall be by such Justice allowed, shall be levied and recovered by Warrant of Distress under his Hand and Seal.

XCVIII. And be it enacted, That the said Waterworks Company shall and they are hereby required to give to the said Gas Light Company or their Clerk at least Twenty-four Hours Notice in Writing before the said Waterworks Company shall dig or sink any Trench or open any Street or Ground for laying down any Main Pipes, under the Powers of this Act, near to such Pipes, Branches, Apparatus, Materials, or Things of the said Gas Light Company, which Notice shall state the Time and Place at which the said Waterworks Company intend to commence Operations, the Direction in which they intend to proceed, and that the said Waterworks Company intend to cross or approach the Pipes, Branches, Apparatus, Materials, and Things of the said Gas Light Company, or some Part thereof; and in default of such Notice being given the said Waterworks Company shall forfeit for such Offence the Sum of Twenty Pounds.

Notice to Gas Com-pany before opening Trenches, &c.

XCIX. Provided always, and be it enacted, That nothing in this Act contained shall extend or be construed or deemed to extend to extinguish, abridge, interrupt, prejudice, or affect any of the Rights, Powers, Privileges, or Authorities of the *Lincoln Gas Light Company*, under or by virtue of an Act of Parliament passed in the Ninth Year of the Reign of His Majesty King *George the Fourth*, intituled *An Act for lighting with Gas the City of Lincoln, and the Bail and Close of Lincoln, in the County of Lincoln*, or to repeal or annul any of the Provisions thereof.

Saving the Rights of the Lincoln Gas Light Com-pany, under 9 G. 4. c. 24.

C. Provided always, and be it enacted, That nothing in this Act contained shall extend or be construed or deemed to extend to extinguish, abridge, interrupt, prejudice, or affect any of the Rights, Powers, Privileges, or Authorities of the Commissioners appointed under or by virtue of an Act of Parliament passed in the Ninth Year of the Reign of His Majesty King *George the Fourth*, intituled *An Act for paving, lighting, watching, and improving the City of Lincoln, and the Bail and Close of Lincoln, in the County of Lincoln, and for regulating the Police therein*, or to repeal or annul any of the Provisions thereof.

Saving the Rights of the Lincoln Paving, &c. Commission-ers, under 9 G. 4. c. 27.

CI. Provided always, and be it enacted, That nothing herein contained shall be construed to give Authority to the Company acting under this Act to hinder or obstruct the Drainage of certain Fen Lands and Low Grounds by the River *Witham* now under the Jurisdiction and Control of the General Commissioners for such Drainage acting under or by virtue of an Act of Parliament passed in the Second Year of the Reign of His Majesty King *George the Third*, intituled *An Act for draining and preserving certain Low Lands called the Fens, lying on both Sides of the River Witham in the County of*  
[Local.] 23 B Lincoln,

Saving the Rights of the Witham Drainage Commission-ers, under 2 G. 3. c. 32. and 52 G. 3. c. 108.

Lincoln, and for restoring and maintaining the Navigation of the said River, from the High Bridge in the City of Lincoln, through the Borough of Boston, to the Sea, and under and by virtue of a certain Act of Parliament made and passed in the Fifty-second Year of the Reign of His said Majesty King George the Third, intituled *An Act for rendering more effectual an Act of His present Majesty, for draining Lands lying on both Sides of the River Witham in the County of Lincoln, and for restoring the Navigation of the said River, and for repealing another Act of His present Majesty in relation to the said Drainage and Navigation*; nor in any Manner to supersede, lessen, or interfere with any of the Rights, Interests, Powers, Privileges, and Authorities vested in such General Commissioners by virtue of the said above-mentioned Acts, or any other Act now in force; but that the same shall be and continue in force to all Intents and Purposes as if this Act had not passed, any thing herein contained to the contrary thereof in anywise notwithstanding.

Provision for Damages not otherwise provided for.

CII. And be it enacted, That in all Cases where any Damages or Charges are by this Act directed or authorized to be paid, and the Method of ascertaining the Amount thereof is not provided for, such Amount, in case of Nonpayment thereof, or of any Dispute respecting the same, shall be ascertained and determined by Two or more Justices; and when by this Act any Damages or Charges are directed to be paid in addition to the Penalty for any Offence, the Amount of such Damages and Charges, in case of Nonpayment thereof, or of any Dispute concerning the same, shall be determined by the Justices by whom the Offender shall be convicted of such Offence; and on Nonpayment of the Damages or Charges, in any of the Cases aforesaid, on demand, the same shall be levied by Distress, and such Justices shall issue their Warrant accordingly.

Justices to examine Parties and Witnesses.

CIII. And be it enacted, That where in this Act any Question of Compensation or Damages is referred to the Determination of any Two Justices it shall be lawful for such Justices to examine the Parties to such Question and their Witnesses on Oath, and to administer the Oaths necessary for that Purpose; and the Costs of every such Inquiry shall be in the Discretion of such Justices; and if either Party to any such Question fail to appear at the Time and Place appointed by the Justices for going into any such Question, without reasonable Excuse, to the Satisfaction of such Justices, due Notice of such Appointment having been given to such defaulting Party, it shall be lawful for such Justices to proceed *ex parte*.

Nothing to exempt the Company from the Provisions of any future general Act.

CIV. Provided always, and be it enacted, That nothing herein contained shall be deemed to exempt the said Company from the Provisions, Regulations, and Conditions which may be contained in any general Act for improving the sanatory Condition of Towns and populous Districts which may be passed in this or any future Session of Parliament.

Interpretation of Act.

CV. And be it enacted, That in this Act the following Words and Expressions shall have the several Meanings hereby assigned to them,



unless there be something in the Subject or Context repugnant to such Construction; (that is to say,)

The Word "Person" shall extend to Corporation, whether aggregate or sole :

The Word "Street" shall include any Square, Street, Court, or Alley, Highway, Lane, Road, Thoroughfare, Footway, or public Passage or Place within the Limits of this Act :

The Expression "the Company" shall mean the Company incorporated by this Act: And

The Expressions "the Directors" and "the Clerk" shall mean the Directors and Clerk respectively of such Company.

CVI. And be it enacted, That, notwithstanding any thing contained in the Companies Clauses Consolidation Act, 1845, to the contrary, the Justices by whom any Penalty or Forfeiture shall be imposed may, where the Application thereof is not otherwise provided for by this Act, award not more than One Half thereof to the Informer, and shall award the Remainder to the Overseers of the Poor of the Parish in which the Offence shall have been committed, to be applied in aid of the Poor Rates of such Parish; or if the Place wherein the Offence shall have been committed shall be extra-parochial, then such Justices shall direct such Remainder to be applied in aid of the Poor's Rate of such extra-parochial Place, or, if there shall not be any Poor's Rate therein, in aid of the Poor's Rate of any adjoining Parish or District. Application  
of Penalties

CVII. And be it enacted, That this Act shall be a Public Act, and shall be judicially taken notice of as such. Public Act

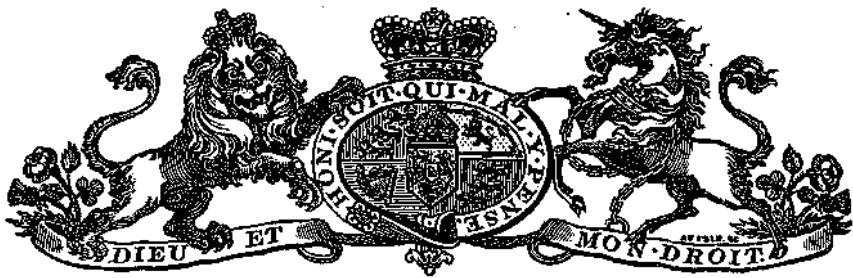
---

LONDON: Printed by GEORGE E. EYRE and WILLIAM SPOTTISWOODE,  
Printers to the Queen's most Excellent Majesty. 1846.

## Mallard Pass Solar Farm

9.32 Summary of Applicant's Oral Submissions at ISH3 with appendices – Appendices A - D

### **Appendix C Road from James Deeping Stone Bridge to Stamford and to Morcott Act 1829 (as enacted)**



ANNO DECIMO

# GEORGII IV. REGIS.

\*\*\*\*\*

## *Cap. lxxviii.*

An Act for more effectually repairing the Road from *James Deeping Stone Bridge* to *Peter's Gate* in *Stamford* in the County of *Lincoln*, and from thence to the South End of the Town of *Morcott* in the County of *Rutland*. [22d *May* 1829.]

W
HEREAS an Act was passed in the Second Year of the Reign of His late Majesty King George the Third, intituled *An Act for repairing and widening the Roads from a certain Bridge called James Deeping Stone Bridge to Peter's Gate in Stamford in the County of Lincoln, and from thence to the South End of the Town of Morcott in the County of Rutland*: And whereas another Act was passed in the Twenty-sixth Year of the Reign of His said late Majesty, intituled *An Act for reviving, continuing, and enlarging the Term and Powers of an Act passed in the Second Year of the Reign of His present Majesty, for repairing and widening the Roads from a certain Bridge called James Deeping Stone Bridge to Peter's Gate in Stamford in the County of Lincoln, and from thence to the South End of the Town of Morcott in the County of Rutland*: And whereas another Act was passed in the Forty-sixth Year of the Reign of His said late Majesty, intituled *An Act for continuing the Term and altering and enlarging the Powers of Two Acts passed in the Second and Twenty-sixth Years of His present Majesty, for repairing the Roads from a certain Bridge called James Deeping Stone Bridge to Peter's Gate in Stamford in the County of Lincoln, and from thence*
2 G. 3. c. 73.  
26 G. 3. c. 159.  
46 G. 3. c. 99.

[Local.]
22 M
to

Recited Acts repealed, and this Act to take Effect.

to the South End of the Town of *Morcott* in the County of *Rutland* : And whereas the Trustees acting under and by virtue of the said recited Acts have proceeded in the Execution thereof, and several considerable Sums of Money have been borrowed on the Credit of the Tolls thereby authorized to be taken, which Money still remains due and owing, and cannot be paid off, nor can the Roads comprised in the said Acts be effectually amended, widened, and kept in repair, unless further Provisions are made for those Purposes : And whereas it would facilitate the Execution of the Purposes aforesaid if the said recited Acts were repealed, and other Tolls, Powers, and Provisions were granted and made instead thereof : May it therefore please Your Majesty that it may be enacted ; and be it enacted by the King'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, That upon the Third *Thursday* next after the passing of this Act the said recited Acts passed in the Second, Twenty-sixth, and Forty-sixth Years of the Reign of His late Majesty King *George* the Third shall be and the same are hereby respectively declared to be repealed ; and instead thereof this Act shall be put in execution, for and during the Term herein-after mentioned, for the Purpose of more effectually repairing, amending, widening, improving, and keeping in repair the Roads herein-after mentioned ; (that is to say,) the present Turnpike Road leading from *James Deeping Stone Bridge* to *Peter's Gate* in *Stamford* in the County of *Lincoln*, and from thence to the South End of the Town of *Morcott* in the County of *Rutland*.

Former Debts, &c. vested in new Trustees.

II. And be it further enacted, That all Arrears of Tolls or Rents, or other Monies due to, and Property Real or Personal, and all Choses in and Rights of Action, either at Law or in Equity, vested in the said Trustees under the said recited Acts hereby repealed, or any of them, shall immediately on the Commencement of this Act be vested in the Trustees for executing this Act, who shall be and they are hereby empowered to sue for and recover the same ; and for that Purpose to cause to be commenced and prosecuted all Actions and Suits at Law or in Equity, and to act in respect thereof as effectually as if the same had become due to or had been vested in them under or by virtue of this Act.

Trustees.

III. And be it further enacted, That all His Majesty's Justices of the Peace acting for the Parts of *Kesteven* in the County of *Lincoln* and for the County of *Rutland* respectively, together with the Reverend *Richard Atlay*, *Thomas Graham Arnold* M.D., the Reverend *Henry Atlay*, the Reverend *Charles Arnold*, the Reverend *Martin Amphlett*, the Reverend *Charles Atlay*, *Myhill Addy*, *Myhill Addy* the younger, *William Addy*, *William Ades*, *William Broughton*, *Edward Brown*, *Edward Butt*, the Reverend *William Belgrave*, the Honourable *Montague Bertie*, the Reverend *John Butt*, *Samuel Barker*, the Reverend *Thomas Kaye Bonney*, the Reverend *Robert Boon*, the Reverend *Charles Bush*, the Reverend *Gregory Bateman*, the Reverend *Edward Brown*, *Samuel Coddington*, the Reverend *John Cheales*, the Reverend *Christopher Cookson*, *Benjamin Cooper*, *John Chapman*, the Reverend *Richard Carey*, the Honourable *Thomas Cecil* commonly

commonly called: *Lord Thomas Cecil, Edward Galey, George Richards Denshire, George Denshire, John Dixon, Thomas Dove, the Reverend John Robert Deverill, John Davis, the Reverend J G Dymoke, the Reverend Robert Decker, John Eagleton, Stephen Eaton, Sir Samuel Fludyer Baronet, George Fludyer, Samuel Richard Fydel, Joseph Fairchild, the Reverend William Forster, William Goodall, William Goodall the younger, Jonathan Gibbons, Charles Grantham, Horatio Thomas Gilchrist, Robert Hunt, the Reverend William Hildyard, Thomas Hotchkin, Cheselden Henson, James Hurst, William Hopkinson, William Landen Hopkinson M. D., Everson Harrison, the Reverend William Hardyman, the Reverend John Hopkinson, William Hunt, Sir Gilbert Heathcote Baronet, Gilbert John Heathcote M.P., the Reverend Thomas Toller Hurst, Robert Heathcote, the Reverend Samuel Edmund Hopkinson, William Holland, Hugh Jackson, the Reverend Robert Henry Johnson, William Augustus Johnson, Thomas Hippesley Jackson, Charles Lowe, William Laxton, the Reverend Brownlow Villiers Layard, the Reverend Richard Lucas, Joseph Mawby, John Molescey, John Mills, the Reverend Thomas Mills, John Kitchen Miller, Thomas Mills, the Reverend Hugh Monckden, James Mann, Joseph Beecroft Mawby, Sir Gerard Noel Noel Baronet, Richard Newcombe the younger, the Reverend Henry Nevill, Charles Noel, Edward Orme, Stafford O'Brien, Michael Pierrepont, Jonathan Pilkington, Charles Pierrepont, John Pawlett, the Reverend Peter William Pugus, William Pilkinton, the Reverend George Pochin, John Pawlett the younger, the Reverend Thomas Roberts, Thomas Birch Reynardson, Charles Reynardson, Matthew Rose, William Stevenson, the Reverend Charles Swan, John Shearer, Samuel Sharpe, Seth Smith, Nicholson Clarke Stevenson, Thomas Smith, Thomas Sharpe, Francis Simpson, the Reverend John Jackson, Sir Serrocote, the Reverend Henry Shield, John Crutchfield Sharpe, Leonard Stevenson, James Torkington, Charles Trollope, Thomas Tryon, John Twigge, Cotton Thompson, John Thorpe the younger, Sir John Trollope Baronet, William Thompson, the Reverend Richard Twopenny, James Torkington the younger, Thomas Torkington, John Thorpe, William Thorpe, John Ullette, John Ullette the younger, John Wingfield, Thomas Woodroffe, the Reverend William Wing, Bentley Warren, John Willis M.D., Francis Willis M.D., John Muxloe Wingfield, Thomas Whichcote, and the Reverend Thomas Wingfield, and their Successors, being duly qualified, shall be and they are hereby appointed Trustees for putting this Act into execution.*

IV. And be it further enacted, That it shall and may be lawful for the said Trustees, and they are hereby authorized and empowered, to elect and appoint any Number of fit and proper Persons (not exceeding Five in the whole), in addition to the Trustees herein named and appointed, to be Trustees for the Purposes of this Act; and such Persons so elected and appointed, and being duly qualified, shall be Trustees for the Purposes of this Act, and are hereby invested with the same Powers and Authorities for executing this Act as if they had been herein named.

Power to appoint additional Trustees.

V. And

Meetings of Trustees.

V. And be it further enacted, That the said Trustees shall meet on the Third *Thursday* next after the passing of this Act, or as soon after as conveniently may be, between the Hours of Ten of the Clock in the Forenoon and Two of the Clock in the Afternoon, at the *George and Angel Inn* in *Stamford*, or at some other convenient Place in the Town of *Stamford* aforesaid, and shall then and there proceed to carry this Act into execution; and shall and may then and from Time to Time afterwards adjourn to and meet at such Times, and at such Place or Places on or near to the said Roads, as the said Trustees or the major Part of them at any such Meetings shall think proper and appoint.

Power to take Tolls.

VI. And be it further enacted, That it shall and may be lawful for the said Trustees, and their Lessees, Collectors, and other Persons duly authorized, to demaund and take at each and every of the Turnpikes, Toll Gates, Bars, or Chains, which by virtue of this Act shall be continued or erected in, upon, across, or on the Side or Sides of the said Roads or any Part thereof, and on every Day, such Day to be computed from Twelve of the Clock at Night to Twelve of the Clock on the next succeeding Night, the several Tolls following; (that is to say,)

Tolls.

For every Horse, Mule, or other Beast drawing any Coach, Stage Coach, Diligence, Van, Caravan, Sociable, Landau, Berlin, Chariot, Cartee, Vis-a-Vis, Barouche, Phaeton, Chaise Marine, Calash, Curricule, Chair, Gig, Tax Cart, Whiskey, Hearse, Litter, Break, Chaise, or other such like Carriage, the Sum of Sixpence :

For every Horse or other Beast of Draught drawing any Waggon, Wain, Cart, or other Carriage of the like kind, having the Wheels of the Breadth of Six or more Inches, the Sum of Three-pence :

For every Horse or other Beast of Draught drawing any Waggon, Wain, Cart, or other Carriage of the like kind, having the Wheels thereof of a less Breadth than Six Inches, the Sum of Four-pence Halfpenny :

For every Four-wheeled Carriage in any Manner fixed to any Waggon, Wain, Cart, or other Carriage, if empty, Sixpence; but if in any Manner laden, or having any Person therein, One Shilling :

For every Two-wheeled Carriage having any Person therein, or being laden in any Manner, fixed to any Waggon, Wain, Cart, or other Carriage, the Sum of Sixpence; and unladen or empty, the Sum of Three-pence .

For every Pair of Millstones, or Block or Blocks of Timber, drawn by Five or more Horses or other Beasts of Draught, the Sum of Two Shillings and Sixpence :

For every Horse, Mule, or Ass, laden or unladen, and not drawing, the Sum of Three Halfpence :

For every Drove of Oxen or Neat Cattle the Sum of Ten-pence *per* Score, and so in proportion for any greater or less Number :

For every Drove of Calves, Swine, Sheep, or Lambs, the Sum of Five-pence *per* Score, and so in proportion for any greater or less Number :

Which

Which said respective Tolls or Sums of Money shall be demanded and taken as aforesaid before any Horse, Mule, Ass, or other Beast, or Cattle or Carriage, upon which any Toll is by this Act imposed, shall be permitted to pass through any such Turnpike, Toll Gate, Bar, or Chain; and such respective Tolls or Sums of Money shall be and they are hereby vested in the said Trustees, and shall be applied in manner herein-after directed.

VII. And be it further enacted, That if the Toll hereby authorized to be taken shall have been paid for the passing of any Horse, Cattle, Beast, or Carriage through any one of the Toll Gates to be continued or erected by virtue of this Act, such Horse, Cattle, Beast, or Carriage shall, upon a Ticket being produced denoting the Payment of such Toll for that Day, (which Ticket the Collector or Collectors of such Tolls is and are hereby required to deliver *gratis* to the Person paying the same, and whereon shall be named and specified the Gate at which the same shall have been paid, and also the Gate or Gates, if any, freed by the Payment of such Toll,) be permitted to pass Toll-free through the same Toll Gate, and also through such other Gate or Gates as the Ticket for such Payment shall free, at any Time or Times during the same Day, to be computed as aforesaid, except as herein-after provided.

Tolls to be paid but Once a Day at same Gate.

VIII. And be it further enacted, That the said Trustees, at any Meeting to be holden for that Purpose, (whereof at least Twenty-one Days Notice shall be given in Writing, to be affixed on all the Toll Gates erected and to be erected upon and across the said Roads, and inserted in some one Newspaper published or circulated in the Counties of *Lincoln* and *Rutland*;) may and they are hereby authorized and empowered from Time to Time, in case it shall appear requisite or expedient so to do, to lessen and reduce and again to raise and advance the Tolls hereby authorized to be taken, or any of them, so that the respective Tolls so raised and advanced never exceed the Tolls by this Act authorized to be taken.

Power to vary the Tolls.

IX. Provided always, and be it further enacted, That no more than One full Toll shall be demanded or taken on the same Day, for or in respect of the same Horse or Horses or other Beast or Cattle, or Carriage or Carriages, for passing and repassing through all the Toll Gates, Bars, or Chains to be continued or erected upon that Part of the said Road which leads from *James Deeping Stone Bridge* to *Peter's Gate* in *Stamford* aforesaid; and no more than One full Toll shall be demanded or taken on the same Day, for or in respect of the same Horse or Horses or other Beasts or Cattle, or Carriage or Carriages, for passing and repassing through all or any of the Toll Gates, Bars, or Chains to be continued or erected upon that Part of the said Road which leads from *Peter's Gate* in *Stamford* to the South End of the Town of *Morcott* aforesaid, except as next herein-after provided.

Limiting the Number of Tolls.

X. Provided also, and be it further enacted, That the Tolls hereby made payable shall be paid for and in respect of all Horses or other Beasts drawing any Stage Coach, Van, Caravan, or Stage Waggon,

Payment of Tolls by Stage Coaches and Post Chaises.

[*Local.*]

22 N

or other Stage Carriage conveying Passengers or Goods for Pay or Reward, for every Time of passing or repassing along the said Roads; and also for and in respect of all Horses or other Beasts drawing any Post Chaise or other Carriage travelling for Hire, every Time of passing or repassing along the said Roads, whenever a new Hiring thereof shall have taken place.

Application  
of the Tolls.

XI. And be it further enacted, That all Monies now in the Hands of the said Trustees, or which shall or may be collected or received under the Powers or Authority of this Act, shall be applied, in the first place, in defraying the Costs, Charges, and Expences attending the applying for and obtaining and passing of this Act; in the next place, in paying off and discharging all Arrears of Interest in respect of the Money now due and owing on the Credit of the Tolls granted and made payable by the said recited Acts hereby repealed; in the next place, in paying off and discharging the Interest on any Sums of Money which shall hereafter be borrowed or taken up at Interest on Security of the Tolls hereby granted; and in the next place, in defraying the Expence of continuing, providing, erecting, and keeping in repair the Turnpikes, Toll Houses, and other Buildings, and in amending, widening, improving, and keeping in repair the said Roads; and the Residue of the Monies so to be collected and received shall be applied in paying all Principal Monies due and owing on the Credit of the said recited Acts and this Act, and in defraying all other necessary Costs, Charges, and Expences attending the same, in such Manner as the said Trustees shall from Time to Time appoint.

No Money to  
be expended  
in repairing  
Streets.

XII. And be it further enacted, That it shall not be lawful for the said Trustees to apply, expend, or appropriate any of the Tolls hereby granted, or any of the Monies raised by virtue of the said recited Acts or any of them, or to be raised by virtue of this Act, in or towards the repairing, lighting, or improving any of the Streets, Highways, or Places within the said Town of *Stamford*, or any other Town through or into which the said Road passes.

Penalty for  
hanging  
out Clothes,  
&c. by the  
Sides of the  
Roads.

XIII. And be it further enacted, That if any Person or Persons shall hang or put or place out any Linen or other Clothes on any Line, Bank, Rail, or Fence adjoining the said Road, or shall hang or put or place any Hook or Hooks or other Thing or Things to, from, or in any House, Shop, or Place adjoining or being near to the said Road, so as to project into the said Road, or be an Annoyance to any Persons or Cattle passing thereon, or prevent the free and safe Use of the whole Breadth of the said Road, every Person offending in any of the Cases aforesaid shall pay a Sum not exceeding Forty Shillings for every Offence; and such Penalty shall be levied and recovered, (together with the necessary Costs and Charges of levying the same,) by the same Ways and Means as any Penalty or Forfeiture for any Nuisance committed in or upon any Turnpike Road may by Law be levied or recovered; and one Moiety of such Penalty shall be paid to the Informer, and the other Moiety thereof shall be paid to the Treasurer to the said Trustees, and be applied and disposed of for the Purposes of this Act.



XIV. And be it further enacted, That this Act shall be deemed and taken to be a Public Act, and shall be judicially taken notice of as such by all Judges, Justices, and others, without being specially pleaded. Public Act.

XV. And be it further enacted, That this Act shall commence on the Third *Thursday* next after the passing thereof, and shall continue and be in force for the Term of Thirty-one Years, and from thence to the End of the then next Session of Parliament. Commence-  
ment and  
Continuation  
of this Act.

---

LONDON: Printed by GEORGE EYRE and ANDREW STRAHAN,  
Printers to the King's most Excellent Majesty. 1829.

**Mallard Pass Solar Farm**

9.32 Summary of Applicant's Oral Submissions at ISH3 with appendices – Appendices A - D

**Appendix D Roads from James Deeping Stone Bridge  
through Stamford to Morcot Act 1806 (as enacted)**



ANNO QUADRAGESIMO SEXTO

# GEORGH III. REGIS.

\*\*\*\*\*

## Cap. 99.

An Act for continuing the Term, and altering and enlarging the Powers of Two Acts, passed in the Second and Twenty-sixth Years of His present Majesty, for repairing the Roads from a certain Bridge called *James Deeping Stone Bridge*, to *Peter's Gate*, in *Stamford* in the County of *Lincoln*, and from thence to the South End of the Town of *Morcot* in the County of *Rutland*.

[3d July 1806.]

**W**HEREAS an Act was passed in the Second Year of the Reign 2 G. 3. c. 71. of His present Majesty, for repairing and widening the Roads from a certain Bridge called *James Deeping Stone Bridge*, to *Peter's Gate* in *Stamford* in the County of *Lincoln*, and from thence to the South End of the Town of *Morcot* in the County of *Rutland*: And whereas 26 G. 3. c. 159. an Act was passed in the Twenty-sixth Year of His said Majesty's Reign, for reviving, continuing, and enlarging the Term and Powers of the said Act: And whereas the Trustees appointed in or by virtue of the said Acts have proceeded to put the same in Execution, for which Purpose they have borrowed several considerable Sums of Money on the Credit of the Tolls granted and continued by the said Acts, which still remain due and owing, and cannot be paid off, nor can the Roads comprized in the said Acts be properly amended, widened, improved, and kept in Repair, unless

[*Loc. & Per.*] 22 8 unless

The said Acts  
further con-  
tinued.

unless the Term granted and continued by the said Acts is further continued, and some of the Powers and Provisions thereof altered, amended, and enlarged; and it is enacted, That the Tolls granted by the said first recited Act should be increased: ~~And it is hereby enacted~~ please Your Majesty that it may be enacted, and be it enacted by the King'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, That the said Act, passed in the Second and Twenty-sixth Years of the Reign of His said present Majesty, and all and every the Clauses, Powers, Authorities, Provisions, Regulations, Penalties, Forfeitures, Matters, and Things therein respectively contained, (except such as relate to Exemptions from Stamp Duties, and also except so much and such Part or Parts thereof as are by this Act repealed,) shall be and continue in full Force and Effect, and shall be executed for and during the Term herein-after mentioned, as fully and effectually, to all Intents and Purposes, as if the same were repeated and re-enacted in the Body of this Act: but subject nevertheless to the Amendments, Variations, Alterations, and Additions herein contained, and which (except the Tolls herein-after granted) shall commence and take Effect from the passing of this Act; and this Act, and the additional Term and Tolls hereby granted, shall be subject and liable as well to the Payment of all Money now due and ~~owing on the Credit of the said Acts, or on the Credit of the Tolls thereby~~ granted and continued, and now payable at the several Gates or Turnpikes now erected or hereafter to be erected on the said Roads, as also to the Payment of all Sums of Money which shall hereafter be borrowed for the Purposes of this Act, and of the Interest due and to grow due for the same respectively.

For repeal-  
ing former  
Tolls and  
granting new  
Tolls.

And whereas the Tolls granted and continued by the said Acts have been found insufficient, be it therefore enacted, That, from and after the Twenty-ninth Day of September next after the passing this Act, the said Tolls shall be and the same are hereby repealed; and that instead thereof there shall be demanded and taken, before any Horse, Beast, or other Cattle, Coach, Waggon, or other Carriage, shall be permitted to pass through any Gate or Turnpike now erected or hereafter to be erected on the said Roads, or on any Part thereof, such Tolls as the said Trustees, or any Seven or more of them, shall from Time to Time appoint, not exceeding the several and respective Sums herein-after mentioned; (that is to say)

Tolls.

For every Coach, Chariot, Calash, Chaise, or other such Carriage, drawn by Six Horses, or other Beasts of Draught, the Sum of Two Shillings;

For every Coach, Chariot, Calash, Chaise, Chair, or other such Carriage, drawn by Four Horses, the Sum of One Shilling and Three-pence;

For every Four-wheeled Coach, Chariot, Calash, Chaise, Chair, or other such Carriage, drawn by Three Horses, the Sum of One Shilling; and by Two Horses the Sum of Nine-pence;

For every Two-wheeled Chaise, Chair, or other such Carriage, drawn by Two Horses, the Sum of Nine-pence;

For every Two-wheeled Chaise, Chair, or other such Carriage, drawn by One Horse, the Sum of Six-pence:

For every Horse, Mare, Mule, or Ass, laden or unladen, and not drawing, the Sum of One Penny and One Half-penny:

For every Waggon, or other such Four-wheeled Carriage, having the Wheels of the Breadth of Six Inches or more, the Sum of Three-pence for each Horse, or other Beast of Draught drawing the same:

For every Waggon, or other such Four-wheeled Carriage, the Wheels of which shall be less than Six Inches in Breadth, the Sum of One Shilling and Sixpence:

For every Cart, or other such Two-wheeled Carriage, drawn by Two Horses, or other Beasts of Draught, the Sum of Nine-pence; and drawn by One Horse, or other Beast of Draught, the Sum of Sixpence:

For every Drove of Oxen, Cows, or Neat Cattle, the Sum of Ten-pence *per* Score: and so in Proportion for any greater or less Number: And,

For every Drove of Calves, Hogs, Sheep, or Lambs, the Sum of Five-pence *per* Score; and so in Proportion for any greater or less Number.

Which said several and respective Tolls hereby granted shall be and the same are hereby vested in the Trustees for executing the said Acts and this Act; and the same and every Part thereof shall be collected, recovered, levied, paid, applied, assigned, and disposed of, in such and the same Manner, and by such and the same Ways and Means, and with such Powers, Provisions, Remedies, and Restrictions, as are contained in the said recited Acts, or either of them, respecting the Tolls thereby authorized to be taken.

III. And be it further enacted, That the said Trustees, or any Seven or more of them, at any General annual Meeting, may and they are hereby authorized and empowered to lessen or reduce all or any of the Tolls hereby granted, and to order such Tolls so lessened or reduced to be collected and received in such Manner, Parts, and Proportions, as they shall think fit, so that such Reduction be no Prejudice to and be with the Consent of Five Sixth Parts in Value of the several Persons who shall have advanced any Money on the Credit of the said Tolls at the Time of making such Reduction; and the said Trustees, or any Seven or more of them, may and they are hereby authorized and empowered to raise the said Tolls again, or any Part thereof, so that the same do not exceed the respective Tolls herein-before granted, and such Tolls so reduced and raised again respectively shall be collected, recovered, and applied in such and the same Manner as the Tolls by this Act granted are directed to be collected, recovered, and applied.

Power to reduce the Tolls and raise them again if necessary.

IV. And be it further enacted, That, from and after the passing of this Act, all the Exemptions granted and continued by the said recited Acts shall cease and determine, and that no Toll shall be demanded or taken for any Waggon, Wain, Cart, Carriage, or Horse employed in carrying or conveying, or going to carry or convey, or returning from carrying or conveying, having been employed only in carrying or conveying on the same Day any Stones, Bricks, Gravel, or other Materials for repairing of the said Roads, or any of the Roads in the Townships or Parishes in which any Part of such Roads doth lie; or Hay, Straw, or Corn in the Straw only, not sold or disposed of, but passing to be laid up or placed in the Outhouses, or on the Lands of the Owners thereof; or for any Waggon,

General Exemptions.

gons, Wains, Carts, Carriages, or Horses employed in carrying or conveying, or going empty to carry or convey, or returning from carrying or conveying, having been employed only in carrying or conveying any Ploughs, Harrows, or Implements of Husbandry, or any Mould, Dung, Compost, or Manure employed in Husbandry for manuring or improving Lands, or for any other Thing employed in the Management of any Farm or Lands, or for any Horses or Cattle going to, or returning from Pasture or Watering Places, or going to be or returning from being shod, or farried; or from any Person going to or returning from his proper Parochial Church, Chapel, or other Place of religious Worship tolerated by Law, on a Sunday, or on any other Day on which Divine Service is ordered by Authority to be celebrated, or attending the Funeral of any Person that shall die and be buried in any of the Parishes in which the said Roads lie; or from any Clergyman going to or returning from visiting any sick Person, or upon other his Parochial or Ministerial Duty on a Sunday, or on any other Day on which Divine Service is ordered by Authority to be celebrated; or for any Horses, Cattle, or Carriages of whatsoever Description, employed or to be employed in conveying the Mails of Letters and Expresses under the Authority of His Majesty's Postmaster General, either when employed in conveying, fetching, or guarding such Mails or Expresses, or in returning back from conveying the same; or for any Horses, Carts, or Waggons attending any Soldiers upon their March or on Duty, or drawing any Carriage attending them with their Arms or Baggage; or for any Horse, Mare, or Gelding furnished by or for any Persons belonging to any Corps of Yeomanry or Volunteer Cavalry, and rode by them, in going to or returning from the Place of Exercise, provided such Persons are in the Uniform of their respective Corps, and have their Arms, Furniture, and Accoutrements according to the Regulations provided for such Corps respectively at the Time of claiming such Exemption as aforesaid; or for any Horses, Carts, or Waggons employed in the Conveyance of Vagrants sent by legal Passes; or for any Horse, Cattle, or Beast, drawing any Coach, Landau, Berlin, Chariot, Calash, Chair, or Passenger on Horseback, going to or returning from any Election of a Knight or Knights of the Shire to serve in Parliament for the said County of Lincoln or Rutland, on the Day or Days of such Election, or on the Day before or Day after such Election shall begin or be concluded; and if any Person or Persons shall in any fraudulent or collusive Manner whatsoever claim and take the Benefit of any of the Exemptions aforesaid, not being entitled to the same, every such Person shall forfeit and pay for every such Offence any Sum not exceeding Forty Shillings, One Moiety whereof shall go to the Informer, and the other Moiety shall be applied to the Purposes of the said Acts and this Act.

Uffington  
Road may be  
varied.

V. And whereas Part of the said Roads in the Parish of Uffington divides or intersects certain ancient Inclosures belonging to the most Noble Browlow Duke of Newcastle and Kesteven, called the Pump Close, the Farm Yard, and the Hackney Close, from the Mansion House and Premises of the said Duke, and if so much of the said Road as so intersects the said Premises was stopped up, and the Road carried in the Direction herein-after mentioned, it would be of great Advantage to the said Duke, and no Detriment or Inconvenience to the Inhabitants of the said Parish of Uffington in particular, or to the Publick; be it therefore enacted, That it shall and may be lawful to and for the said Duke of Newcastle and Kesteven,

*Kesteven*, his Heirs or Assigns, or the Person or Persons who for the Time being shall be entitled to and in Possession of the Manor, Mansion House, and Estates at *Uffington* aforesaid, now belonging to the said Duke, at any Time or Times after the passing of this Act, at his and their own Costs and Charges, to alter, vary, and divert the Turnpike Road now leading through the Town of *Uffington* aforesaid towards *Deeping*, by continuing the same at the North-West Corner of the said Pump Close from a House in the Tenure of *Robert Hunt*, in a strait or nearly strait Line along the publick Street of *Uffington* aforesaid, to a Cottage and Premises in the Tenure of *Charles Hubbard*, and from thence in a South-eastwardly Direction over and across the East End of the said Close called *Hackney Close*, and Lands of the said Duke in the Tenure of the said *Charles Hubbard*, till it joins the present Turnpike Road at the East End of the Avenue in *Uffington* aforesaid, and that the said Road when so varied and turned, and made fit for the Use of the Publick, shall be deemed and taken to be a publick Highway to all Intents and Purposes whatsoever, and shall after the first forming and making thereof be repaired and kept in Repair in the same Manner, and the same Tolls shall be taken for passing along the same, as is and are directed to be done and authorized to be taken in and by the said recited Acts and this Act, as to the said Road now leading through the Town of *Uffington* aforesaid; and that when the said Road shall be so varied and turned, and made fit for the Use of the Publick as aforesaid to the Satisfaction of the said Trustees, or any Five or more of them, to be signified by Writing under their Hands, at any Meeting held in pursuance of the herein-before recited Acts or this Act, the said Road now leading through the Town of *Uffington* aforesaid, from the North-West Corner of the said Close called *Pump Close*, to the End of the Avenue adjoining the said new-intended Road, shall cease to be a publick Highway, and shall become the Property of the said Duke, his Heirs or Assigns, or the Person or Persons entitled to the said Manor and Estates in *Uffington* aforesaid; but that in the mean Time, and until such Road shall be varied, turned, and made fit for the Use of the Publick, to the Satisfaction of the said Trustees as aforesaid, the present Road leading through the Town of *Uffington* aforesaid shall continue to be a publick Highway, and shall be used and kept in Repair in the same Manner as heretofore, and shall be subject to all the Provisoes and Clauses contained in the said recited Acts where the same are not hereby altered or repealed, and to the Provisoes and Clauses in this present Act.

VI. And be it further enacted, That all Persons who by Law are or shall be liable to do Statute Work, or are or shall be chargeable towards repairing and amending the Roads comprized in the said Acts, or any Part thereof, shall still remain liable thereto in like Manner as heretofore; and it shall be lawful for any Two or more Justices of the Peace for the County in which the said Roads lie, and they are hereby required and empowered, upon Application made to them by the said Trustees, or any Five or more of them, or by their Treasurer, Clerk, Surveyor, or by their Order yearly, to adjudge and determine what Part or Proportion of the Statute Work shall every Year be done upon the said Roads by the Inhabitants of the respective Parishes or Places in which the said Roads lie; and also what Proportion of the Money received by the Surveyor or Surveyors of the Highways of every such Parish or Place, in lieu of, or as a Composition for such Statute Work as aforesaid, shall be by him, her, or them paid to the said Trustees,  
 [Loc. & Per.] 22 T or

Statute  
Labour.

or to their Treasurer or Treasurers; and in order thereunto, it shall be lawful for such Justices from Time to Time to summon the Surveyor or Surveyors of the Highways of every such Parish or Place to bring in Lists before such Justices, at some Place to be expressed in such Summons, (within Ten Days after the serving of such Summons,) of the Names of the several Persons who within such Parish or Place are by Law subject and liable to do Statute Work for that Year, or to the Payment of any Money in lieu of or as a Composition for such Statute Work, distinguishing the Nature of the Work to be done, whether with Teams or Draughts, or otherwise, and also the Amount of the respective Sums to be paid, which Lists of Names shall be made in such Manner and under such Regulations and Restrictions as are or may be directed by any Law or Statute in Force and Effect for the Repairs of the publick Highways; and out of such Lists the said Justices shall and may allot, appoint, and order, such and so many of the Persons who shall appear subject and liable to Statute Work as aforesaid, to do such Number of Days Statute Work in every Year upon the said Roads as the said Justices shall think reasonable, and the same shall be done at such Days and at such Times (not being Hay-time or Harvest), and in such Parts of the said Roads, as the said Trustees or their Surveyor or Surveyors shall from Time to Time order, direct, and appoint; and the said Justices shall and may also order and direct the Persons who by such Lists shall appear to be subject and liable to the Payment of any Money in lieu of or as a Composition for Statute Work, as aforesaid, to pay such Proportion thereof as the said Justices shall think proper to the said Trustees or their Treasurers, at such Time or Times as the said Justices shall direct; and in Default of Payment thereof the same shall and may be recovered by Distress and Sale of the Goods and Chattels of the respective Persons liable to the Payment thereof, in like Manner as any Penalty is by the said Acts authorized or directed to be recovered; and each and every Person who shall neglect or refuse to do such Statute Work as aforesaid, after Notice in Writing given to or left for him, her, or them, at his, her, or their usual Place or Places of Abode for that Purpose, by any Surveyor to the said Trustees, shall for every Day of his, her, or their Default, or the Default of any Labourer or Labourers, Team or Teams, Draught or Draughts, Horse or Horses, Beast or Beasts, to be provided by him, her, or them, be subject and liable to such Pains, Penalties, and Forfeitures as such Person or Persons may be subject or liable to by any Law or Statute in force or effect for the Repair of the publick Highways; and if any Person who shall come to work as a Labourer, or shall be sent with any Team or Draught to work on the said Roads, shall be found idle or negligent by any Surveyor to the said Trustees, such Surveyor is hereby empowered to remove and dismiss the Person who shall be found idle or negligent as aforesaid; and in that Case every such Person shall be subject and liable to the respective Forfeitures and Payments as aforesaid, as if he had neglected or refused to come, or such Team or Draught had not been sent to work on any Part of the said Roads, all which Forfeitures shall be paid to the Treasurer to the said Trustees, and applied towards amending the said Roads; and in case the said Surveyor or Surveyors of the Highways for any of the said Parishes or Places shall refuse or wilfully neglect to give in such Lists as aforesaid, or shall knowingly and wilfully give in false and imperfect Lists; every such Surveyor so offending shall for every such Offence forfeit and pay any Sum not exceeding Forty Shillings.



VII. And be it further enacted, That if any Money shall be paid, or agreed or awarded to be paid for the Purchase of any Lands, Tenements, or Hereditaments purchased, taken, or used by virtue of the Powers of the said Acts and this Act, for the Purposes thereof, which shall belong to any Body Politick, Corporate, or Collegiate, or to any Feoffee in Trust, Executor, Administrator, Husband, Guardian, Committee, or other Trustee, for or on Behalf of any Infant, Lunatick, Idiot, Feme Covert, or other Cestuique Trust, or to any Person whose Lands, Tenements, or Hereditaments are limited in strict or other Settlement, or to any Person under any other Disability or Incapacity whatsoever, such Money shall, in case the same shall amount to the Sum of Two hundred Pounds, with all convenient Speed be paid into the Bank of *England*, in the Name and with the Privity of the Accountant General of the High Court of Chancery, to be placed to his Account there *ex parte* the Trustees for executing the said Acts and this Act, to the Intent that such Money shall be applied under the Direction and with the Approbation of the said Court, to be signified by an Order, made upon a Petition to be preferred in a summary Way by the Person or Persons who would have been entitled to the Rents and Profits of the said Lands, Tenements, and Hereditaments, in the Purchase or Redemption of the Land Tax, or Discharge of any Debt or Debts, or such other Incumbrances or Part thereof, as the said Court shall authorize to be paid, affecting the same Lands, Tenements, or Hereditaments, or affecting other Lands, Tenements, or Hereditaments standing settled therewith, to the same or the like Uses, Intents, or Purposes; or where such Money shall not be so applied, then the same shall be laid out and invested under the like Direction and Approbation of the said Court, in the Purchase of other Lands, Tenements, or Hereditaments which shall be conveyed and settled to, for, and upon such and the like Uses, Trusts, Intents, and Purposes, and in the same Manner as the Lands, Tenements, or Hereditaments which shall be so purchased, taken, or used as aforesaid, stood settled or limited, or such of them as at the Time of making such Conveyance and Settlement shall be existing undetermined and capable of taking Effect; and in the mean Time and until such Purchase shall be made, the said Money shall, by Order of the said Court, upon Application thereto, be invested by the said Accountant General, in his Name, in the Purchase of Three Pounds *per Centum* Consolidated or Three Pounds *per Centum* Reduced Bank Annuities; and in the mean Time and until the said Bank Annuities shall be ordered by the said Court to be sold for the Purposes aforesaid, the Dividends and annual Produce of the said Consolidated or Reduced Bank Annuities shall from Time to Time be paid, by Order of the said Court, to the Person or Persons who would for the Time being have been entitled to the Rents and Profits of the said Lands, Tenements, and Hereditaments to be purchased by virtue of the said recited Acts and this Act, in case such Purchase or Settlement were made.

Application of Compensation if amounting to 200l.

VIII. Provided always, and be it further enacted, That if any Money so agreed or awarded to be paid for any Lands, Tenements, or Hereditaments purchased, taken, or used for the Purposes aforesaid, and belonging to any Corporation, or to any Person or Persons under any Disability or Incapacity as aforesaid, shall be less than the Sum of Two hundred Pounds, and shall exceed or be equal to the Sum of Twenty Pounds, then and in all such Cases the same shall, at the Option of the Person or Persons for the Time being entitled to the Rents and Profits of the Lands, Tenements,

Application of Compensation if less than 200l. and exceeding 20l.

or

or Hereditaments so purchased, taken, or used, or of his, her, or their Guardian or Guardians, Committee or Committees, in case of Infancy, Idiocy, or Lunacy, to be signified in Writing under their respective Hands, be paid into the Bank of *England*, in the Name and with the Privity of the said Accountant General of the High Court of Chancery, and be placed to his Account as aforesaid, in order to be applied in Manner herein-before directed, or otherwise the same shall be paid, at the like Option, to Two Trustees, to be nominated by the Person or Persons making such Option, and approved of by Five of the Trustees for executing the said recited Acts and this Act, (such Nomination and Approbation to be signified in Writing under the Hands of the nominating and approving Parties,) in order that such Principal Money, and the Dividends arising thereon, may be applied in Manner herein-before directed, so far as the Case be applicable, without obtaining or being required to obtain the Direction and Approbation of the Court of Chancery.

Application  
of Compens-  
ation if less  
than 20 l,

IX. Provided also, and be it enacted, That where such Money so agreed or awarded to be paid as next before mentioned shall be less than Twenty Pounds, then and in all such Cases the same shall be applied to the Use of the Person or Persons who would for the Time being have been entitled to the Rents and Profits of the Lands, Tenements, or Hereditaments so purchased, taken, or used for the Purposes of the said recited Acts and this Act, in such Manner as the said Trustees shall think fit; or in case of Infancy, Idiocy, or Lunacy, then such Money shall be paid to his, her, or their Guardian or Guardians, Committee or Committees, to and for the Use and Benefit of such Person or Persons so entitled respectively.

In case of not  
making out  
Titles

X. And be it further enacted, That in case the Person or Persons to whom any Sum or Sums of Money shall be awarded for the Purchase of any Lands, Tenements, or Hereditaments to be purchased by virtue of the said recited Acts and this Act, shall refuse to accept the same, or shall not be able to make a good Title to the Premises to the Satisfaction of the said Trustees, or any Five or more of them; or in case such Person or Persons to whom such Sum or Sums of Money shall be so awarded as aforesaid cannot be found, or if the Person or Persons entitled to such Lands, Tenements, or Hereditaments be not known or discovered, then and in every such Case it shall and may be lawful to and for the said Trustees, or any Five or more of them, to order the said Sum or Sums of Money so awarded as aforesaid to be paid into the Bank of *England*, in the Name and with the Privity of the Accountant General of the Court of Chancery, to be placed to his Account to the Credit of the Parties interested in the said Lands, Tenements, or Hereditaments [*describing them*], subject to the Order, Controul, and Disposition of the said Court of Chancery; which said Court of Chancery, on the Application of any Person or Persons making Claim to such Sum or Sums of Money, or any Part thereof, by Motion or Petition, shall be and is hereby empowered, in a summary Way of Proceeding or otherwise, as to the same Court shall seem meet, to order the same to be laid out and invested in the Publick Funds, and to order Distribution thereof, or Payment of the Dividends thereof, according to the respective Estate or Estates, Title or Interest of the Person or Persons making Claim thereunto, and to make such other Order in the Premises as to the said Court shall seem just and reasonable; and the Cashier or Cashiers of the Bank of *England*, who shall receive such Sum or Sums

Sums of Money, is and are hereby required to give a Receipt or Receipts for such Sum or Sums of Money, mentioning and specifying for what and for whose Use the same is or are received, to such Person or Persons as shall pay any such Sum or Sums of Money into the Bank as aforesaid.

XI. Provided always, and be it further enacted, That where any Question shall arise touching the Title of any Person to any Money to be paid into the Bank of *England*, in the Name and with the Privity of the Accountant General of the Court of Chancery, in pursuance of this Act, for the Purchase of any Lands, Tenements, or Hereditaments, or of any Estate, Right, or Interest in any Lands, Tenements, or Hereditaments to be purchased in pursuance of the said recited Acts and this Act, or to any Bank Annuities to be purchased with any such Money, or the Dividends or Interest of any such Bank Annuities, the Person or Persons who shall have been in Possession of such Lands, Tenements, or Hereditaments at the Time of such Purchase, and all Persons claiming under such Person or Persons, or under the Possession of such Person or Persons, shall be deemed and taken to have been lawfully entitled to such Lands, Tenements, or Hereditaments, according to such Possession, until the contrary shall be shewn to the Satisfaction of the said Court of Chancery; and the Dividends or Interest of the Bank Annuities to be purchased with such Money, and also the Capital of such Bank Annuities, shall be paid, applied, and disposed of accordingly, unless it shall be made appear to the said Court that such Possession was a wrongful Possession, and that some other Person or Persons was or were lawfully entitled to such Lands, Tenements, or Hereditaments, or to some Estate or Interest therein.

Where any Question shall arise touching the Title to the Money to be paid, the Persons who shall be in Possession of the Land at the Time of such Purchase shall be deemed entitled thereunto according to such Possession, unless, &c.

XII. Provided always, and be it further enacted, That where by reason of any Disability or Incapacity of the Person or Persons or Corporation entitled to any Lands, Tenements, or Hereditaments to be purchased under the Authority of the said recited Acts and this Act, the Purchase Money for the same shall be required to be paid into the Court of Chancery, and to be applied in the Purchase of other Lands, Tenements, or Hereditaments to be settled to the like Uses in pursuance of the said recited Acts and this Act, it shall and may be lawful to and for the said Court of Chancery to order the Expences of all Purchases from Time to Time to be made in pursuance of the said Acts and this Act, or so much of such Expences as the said Court shall deem reasonable, to be paid by the said Trustees out of the Monies to be received by virtue of the said Acts and this Act, who shall from Time to Time pay such Sums of Money for such Purposes as the said Court shall direct.

The Court of Chancery may order reasonable Expences of Purchases to be paid by the Trustees,

XIII. And be it further enacted, That all the Charges and Expences incident to and attending the obtaining and passing of this Act shall be defrayed out of the Monies already received, or the first Monies which shall arise or be received by virtue of the said Acts or of this Act, in preference to all other Payments whatsoever.

For paying the Expences of this Act.

XIV. And be it further enacted, That this Act shall be deemed and taken to be a Publick Act, and shall be judicially taken Notice of as such by all Judges, Justices, and others, without being specially pleaded.

Publick Act.

[*Loc. & Per.*]

22 U

XV. And

2010

46° GEORGI II. *Cap.* 99.

Commence-  
ment and  
Duration of  
this Act.

XV. And be it further enacted, That this Act shall commence upon the passing thereof, and shall continue and be in force, and be executed for and during the Residue now to come and unexpired of the Term granted and continued by the said Acts, and from the Expiration thereof for and during the further Term of Twenty-one Years, and from thence to the End of the then next Session of Parliament.

---

LONDON: Printed by GEORGE EYRE and ANDREW STRAHAN,  
Printers to the King's most Excellent Majesty. 1806.

