
STATUTORY INSTRUMENTS

1973 No. 69

Drainage (Northern Ireland) Order 1973

PART II

FUNCTIONS OF DRAINAGE COUNCIL AND MINISTRY

Functions of Drainage Council

3.—(1) The Council known as the Drainage Council for Northern Ireland (in this Order referred to as “the Drainage Council”) shall, subject to paragraph (2), continue in being as such, and the provisions of Schedule 1 shall have effect with respect to the constitution and proceedings of the Drainage Council.

Paras.(2)(3) rep. by SLR 1980

(4) The Drainage Council shall—

- (a) after considering such particulars of any watercourses in Northern Ireland as may be submitted to it by the Ministry or by any other person, determine which of such watercourses, or portions thereof, are to be treated or, as the case may be, are not to continue to be treated as designated watercourses for the purposes of this Order;
- (b) after considering such particulars of any sea defences in Northern Ireland as may be submitted to it by the Ministry determine which of such sea defences, or portions thereof, are to be or, as the case may be, are not to continue to be treated as designated sea defences for the purposes of this Order;
- (c) consider the proposals of the Ministry in respect of drainage schemes, and substantial variations suggested by the Ministry in relation to drainage schemes;
- (d) consider all bye-laws proposed to be made by the Ministry under Article 22 in respect of the maintenance and efficient operation of drainage works;
- (e) consider drainage proposals affecting roads, bridges, culverts and embankments;
- (f) consider such matters affecting or affected by drainage questions as may be referred to it by the Ministry or, after consultation with the Ministry, by any other government department.

(5) The Drainage Council, in determining matters coming before it in pursuance of this Article, shall have regard to the uniform treatment of drainage throughout Northern Ireland, and shall consider all such matters and schemes in their relation to any interest which may appear to the Drainage Council to be affected.

(6) The Ministry shall consult the Drainage Council with regard to the general drainage programmes from time to time proposed by the Ministry, shall cause an annual summary of the work of the Ministry in relation to drainage to be made available to the Council and shall, if requested, supply the Council with full information as to the progress of any drainage works being undertaken by or on behalf of the Ministry.

(7) The expenses of the Drainage Council, to such amount as may be approved by the Ministry of Finance, shall be paid by the Ministry.

Submission of particulars with respect to designated watercourses

4. The Ministry or any other person may at any time submit to the Drainage Council such particulars as the Council may consider necessary to enable it to determine with respect to any watercourse whether that watercourse is to be treated or is not to continue to be treated as a designated watercourse for the purposes of this Order.

Right to apply for review of determination of Drainage Council

5.—(1) Any person aggrieved by a determination made by the Drainage Council under Article 3(4)(a) or 8(3) in relation to any watercourse or part of a watercourse affecting land owned or occupied by him may, within twenty-eight days from the date on which he is notified by the Council of such determination and on giving notice to the Council and to the Ministry referring to the determination and specifying the land, apply to the Lands Tribunal for a review of that determination.

(2) On an application under paragraph (1) the Lands Tribunal may review the determination to which the application relates, and any decision of the Lands Tribunal on such review shall have effect as if it were a decision of the Drainage Council.

(3) On a review under this Article, the person applying for the review and the Ministry shall be entitled to appear, be heard and adduce evidence before the Lands Tribunal, and for that purpose may appear by counsel or solicitor.

Ministry to be drainage authority

6. Save as otherwise provided by this Order, the Ministry shall be the authority for the exercise of all functions conferred on or transferred to it under this Order or under any other statutory provision (whether passed before or after the commencement of this Order) in relation to the drainage of land, and for that purpose the Ministry may, subject to the provisions of this Order, exercise all such functions as are conferred on or transferred to it under this Order.

General powers of the Ministry

7. Without prejudice to the generality of the provisions of Article 6, the Ministry may—
- (a) undertake, construct and maintain all such drainage works and do all such things as are mentioned in Schedule 2;
 - (b) cause such surveys, reports and plans to be made as may be necessary for the purposes of this Order;
 - (c) reconstruct any works interfered with under the powers of a drainage scheme, or construct new works in lieu thereof either in the same or a different place or position; and
 - (d) execute such works and do all such other things as may be necessary for the purpose of the Ministry's functions under this Order.

Emergency works: watercourses

8.—(1) Where the Ministry is satisfied that any works are required, as a matter of urgency, to be exercised in relation to any watercourse, or the banks thereof, then, notwithstanding anything contained in this Order, the Ministry may,^{F1} . . . forthwith exercise, in relation to that watercourse, or those banks, all or any of the powers conferred on the Ministry by Article 14 as if a scheme, in respect of that watercourse or those banks, had been confirmed under Article 13.

[^{F1}(1A) The Department shall not incur expenditure exceeding £25,000 in relation to any watercourse or the banks thereof under paragraph (1) without the approval of the Department of Finance and Personnel.]

(2) Where the Ministry proposes to exercise its powers under paragraph (1), it shall as soon as may be furnish to the Drainage Council full particulars of the circumstances requiring the exercise of those powers and of the works which have been executed or which are required to be executed.

(3) If the watercourse in relation to which, or the banks of which, the particulars are furnished is an undesignated watercourse, the Drainage Council shall, on receipt of the particulars, determine whether or not the watercourse is to be treated as a designated watercourse.

(4) Where the Drainage Council determines, in pursuance of paragraph (3), that the watercourse is not to be treated as a designated watercourse, the Ministry may recover from any occupier of land who is, by virtue of Schedule 5, under a liability in respect of any portion of the watercourse the whole, or such proportion (if any) as the Ministry considers equitable, of the cost of the works executed under paragraph (1) in relation to that portion.

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Emergency works: sea defences

9.—(1) Where at any time prior to—

- (a) the submission to the Drainage Council of particulars of any sea defences under Article 3(4)(b); or
- (b) a determination by the Drainage Council on any such submission;

the Ministry is satisfied that those sea defences are in imminent danger of being breached by the sea or otherwise rendered ineffective, the Ministry may forthwith exercise in relation to those sea defences all or any of the powers conferred on it by Article 14 as if a scheme in respect of those sea defences had been confirmed under Article 13.

(2) Where the Ministry proposes to exercise any power by virtue of paragraph (1), it shall as soon as may be furnish to the Drainage Council full particulars of the danger apprehended and of the works necessary to avert it.

Powers of Ministry in relation to land

10.—(1) For the purpose of carrying this Order into effect (including the settlement of claims for compensation arising under this Order), the Ministry may, with the approval of the Ministry of Finance and subject to the provisions of this Order—

- (a) acquire (either by agreement or compulsorily in accordance with the following provisions of this Article), or take on lease, any land;
- (b) dispose of any land for the time being vested in it;
- (c) carry out works on any land;
- (d) restrict, terminate or otherwise interfere with easements, fisheries, water rights, inland navigation rights and other rights.

(2) Where the Ministry desires to acquire otherwise than by agreement any land which it considers necessary for the purpose aforesaid, it may make an order (in this Order referred to as a “vesting order”) vesting such land in the Ministry.

(3)^{F2} Schedule 6 to the Local Government Act (Northern Ireland) 1972 shall, subject to the modifications thereof specified in Schedule 3 to this Order, apply for the purposes of the acquisition of land by means of a vesting order under this Article in the same manner as it applies to the acquisition of land by means of a vesting order under that Act.

(4)^{F2} The power to make a vesting order in respect of land—

- (a) which is the property of any public body which has power under any transferred provision to acquire land compulsorily; or
- (b) which is declared by or under any transferred provision to be inalienable;

shall not, where representations objecting to the proposal for making the order have been duly made by the owner of the land and have not been withdrawn, be exercised in relation to that land unless the proposal to make the vesting order has been approved by a resolution of each House of Parliament.

F2 1948 c.25 (NI); 1950 c.11 (NI); 1954 c.1 (NI); 1955 c.15 (NI); 1965 c.9 (NI)

Changes to legislation:

There are currently no known outstanding effects for the Drainage (Northern Ireland) Order 1973, PART II.