



# Land Drainage Act 1961

## 1961 CHAPTER 48

### PART II

#### MISCELLANEOUS PROVISIONS AS TO LAND DRAINAGE AND DRAINAGE BOARDS

##### *New provisions*

#### **34 Power of local authorities to undertake drainage works against flooding**

- (1) So far as may be necessary for the purpose of preventing flooding or remedying or mitigating any damage caused by flooding the council of a county borough or county district shall, subject to the provisions of this section, have all the powers conferred on drainage boards by sections thirty-four, thirty-eight, forty-three and forty-seven of the Act of 1930 ; and in connection with the exercise of those powers the council shall be subject to the same restrictions and liabilities as a drainage board, and section forty of this Act shall apply in relation to the council as it applies in relation to a drainage board.
- (2) The exercise of those powers shall be among the purposes for which the council of a borough or urban or rural district may be authorised by the Minister of Housing and Local Government to purchase land compulsorily; and the Acquisition of Land (Authorisation Procedure) Act, 1946, shall apply in relation to any authorisation under this subsection as it applies in relation to such an authorisation as is mentioned in section one thereof.
- (3) Where the powers conferred by this section on the council of a county district are not exercised by that council they may be exercised by the county council—
  - (a) at the request of the council of the county district; or
  - (b) after not less than six weeks' notice given in writing by the county council to the council of the county district;

but where the council of the county district, before the expiry of a notice given under paragraph (b) of this subsection, appeal against the notice to the Minister of Housing and Local Government and inform the county council of the appeal, the powers shall not be exercised by the county council in pursuance of the notice unless it is confirmed by that Minister.

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- (4) Any expenses incurred by a county council under subsection (3) of this section shall be expenses for special county purposes.
- (5) This section does not authorise the execution of any drainage works in connection with the main river.
- (6) A council shall not execute any drainage works authorised by this section in connection with any watercourse except with the consent of, and in accordance with any reasonable conditions imposed by, the river board or, if the place where the works are to be executed is not part of a river board area, the Minister.
- (7) Before giving any consent or imposing any condition under this section with respect to any drainage works in connection with a watercourse under the control of an internal drainage board the river board shall consult with the internal drainage board.
- (8) A consent required under subsection (6) of this section shall not be unreasonably withheld and shall, if neither given nor refused within two months after application therefor is made, be deemed to have been given.
- (9) Any question arising under this section whether the consent of a river board is unreasonably withheld or whether any condition imposed by a river board is reasonable shall be referred to and determined by the Minister and the Minister of Housing and Local Government acting jointly.
- (10) Subsection (6) of this section shall not apply to any work executed in an emergency, but a council executing any work excepted by this subsection shall as soon as practicable inform the river board or, as the case may be, the Minister, in writing of the execution and of the circumstances in which it was executed.

### **35 Power of drainage board to carry out drainage works on behalf of other persons**

A drainage board may by agreement with any person execute at his expense, whether within or outside the board's district or area, any drainage works which that person is entitled to execute.

### **36 Review of boundaries of internal drainage district**

- (1) Where the boundaries of an internal drainage district in any river board area have for a period exceeding ten years been neither altered nor in pursuance of this section reviewed and a petition for their alteration is made to the river board by a sufficient number of qualified persons, or by a qualified authority, the river board shall, subject to subsection (5) of this section, review those boundaries.
- (2) Where, in the circumstances mentioned in subsection (1) of this section, any such petition is received by the river board, the river board shall inform the Minister and, subject to subsection (5) of this section, shall publish in one or more newspapers circulating in the internal drainage district a notice stating that the petition has been received, that a review of the boundaries is being undertaken, and that representations may be made to the river board within a time (which shall not be less than thirty days) stated in the notice.
- (3) In carrying out any review required by this section the river board shall consult the drainage board of the internal drainage district (except where the river board are that drainage board) and shall consider any representations duly made to them; and within

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six months after the petition was made or such longer time as the Minister may, allow the river board shall inform the Minister whether, as a result of the review, they propose to submit to him a scheme under section four of the Act of 1930, and, if so, what provision they propose to make by the scheme.

- (4) Where the river board do not propose, as a result of the review, to submit to the Minister a scheme under the said section four but it appears to them that an order under subsection (6) of section twenty-four of the Act of 1930 (which provides for differential rating), or an order varying or revoking such an order, should be made by the drainage board of the internal drainage district, they may direct the drainage board to make such an order in such terms as may be specified in the direction ; but if the drainage board object to the direction it shall have no effect unless it is confirmed (with or without modifications) by the Minister.
- (5) This section does not require a river board to carry out a review or publish any notice on a petition which in the opinion of the Minister is frivolous.

### **37 Drainage works on boundary of river board area**

- (1) Subject to subsection (2) of this section, drainage works in connection with the main river may be carried out by a river board on or near the boundary of the river board area notwithstanding that they are or include works in the area of another river board.
- (2) Where such works are works in connection with the main river of both river board areas the power to carry out the works shall be exercisable only by one of the river boards and the question by which of them it is to be exercisable shall be determined by agreement between them, or, in default of agreement, by the Minister.
- (3) The river board carrying out any works by virtue of the preceding provisions of this section shall be entitled to such contribution from the other river board towards the cost of those works as may be agreed between them or as may, in default of agreement, be determined by the Minister.

### **38 Grants in respect of proposed drainage works**

- (1) Where a drainage authority are about to incur in respect of any work expenditure towards which, if the work is properly carried out, a grant will be payable under section fifty-five of the Act of 1930 or under section fifteen of the Agriculture Act, 1937, the Minister may, with the approval of the Treasury, make out of moneys provided by Parliament advances to the authority on account of the expenditure.
- (2) The Minister may, with the approval of the Treasury, make out of moneys provided by Parliament grants to drainage authorities in respect of expenditure properly incurred by them with a view to the carrying out of drainage works, being expenditure towards which, if the works had been properly carried out, a grant would have been payable under the said section fifty-five or the said section fifteen.
- (3) For the purposes of the said section fifteen, any drainage scheme carried out by the council of a county or county borough at the request of the owners or occupiers of any lands shall be deemed to be carried out by the council in the exercise of their functions.
- (4) In section fifteen of the Agriculture (Miscellaneous War Provisions) Act, 1940 (which authorises the Minister to make grants towards expenditure incurred in carrying out certain approved schemes submitted by the owner or occupier of agricultural land) the words " by the owner or occupier of the land " shall be omitted.

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### **39 Collection of drainage rates by owners**

- (1) An internal drainage board may by resolution determine that in the case of—
  - (a) all hereditaments which are dwelling-houses of a class defined in the resolution, or
  - (b) all such hereditaments within a part of the internal drainage district defined in the resolution, any drainage rate made by the board for a period during which the resolution is in force shall be assessed and levied on the owners instead of on the occupiers; and any such rate shall be assessed and levied accordingly.
- (2) Where, by virtue of subsection (1) of this section, an occupier's drainage rate is assessed on the owner, and he pays the amount due before the expiration of one-half of the period for which the rate is made or such later date as may be specified in the resolution, the internal drainage board shall make to him an allowance equal to ten per cent. of the full amount of the rate.
- (3) The owner may recover from the occupier any amount paid by or allowed to him under this section which, as between the owner and the occupier, the occupier is liable to pay.

### **40 Powers of entry**

- (1) Without prejudice to any other enactment conferring powers of entry, a person authorised by a drainage board may, after producing, if so required, some duly authenticated document showing his authority, enter any land at all reasonable times for the purpose of exercising any function of the board under the Act of 1930.
- (2) A person entitled under this section to enter 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.
- (3) Except in an emergency, admission to any land shall not be demanded as of right under this section, unless notice in writing of the intended entry has been given to the occupier, and, if the land is used for residential purposes or the demand is for admission with heavy equipment, has been given not less than seven days before the demand is made.
- (4) Subsection (3) of section thirty-four of the Act of 1930 (which provides for compensation in the case of injury) shall extend to any injury sustained by any person by reason of the exercise of the power of entry conferred by this section.
- (5) If any person obstructs or impedes any person exercising a right conferred by this section he shall be liable on summary conviction to a fine not exceeding twenty pounds.

### **41 Insurance by drainage boards against accidents to members**

- (1) A drainage board may enter into a contract with any person whereby, in consideration of payments by the board by way of premium or otherwise, that person undertakes to pay to the board such sums as may be provided in the contract in the event of any member of the board or of any committee thereof meeting with a personal accident, whether fatal or not, while he is engaged on the business of the board.
- (2) Any sum received by the board under any such contract shall, after deduction of any expenses incurred in the recovery thereof, be paid by them to, or to the personal representatives of, the person in respect of whose accident the sum is received.

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(3) The provisions of the Life Assurance Act, 1774, shall not apply to any such contract.

**42 Payment by river board of expenses of official visits, etc.**

(1) A river board may defray any travelling or other expenses properly incurred by or on behalf of any members or officers of the board in making official or courtesy visits whether inside or outside the United Kingdom on behalf of the board:

Provided that, in the case of a visit within the United Kingdom, the amount defrayed under this section by a river board in respect of the expenses of any member of the board shall not exceed the payments which he would have been entitled to receive by way of travelling allowance or subsistence allowance under section one hundred and thirteen of the Local Government Act, 1948, if the making of the visit had been an approved duty of that person within the meaning of that section.

(2) A river board may defray any expenses incurred in the reception and entertainment by way of official courtesy of persons representative of or connected with other river boards or similar services whether inside or outside the United Kingdom, and in the supply of information to such persons.

**43 Provision by drainage board of housing accommodation for employees**

A drainage board may provide housing accommodation for persons employed by them; and the provision of such accommodation shall accordingly be included among the purposes for which such a board may acquire land by agreement or may be authorised to purchase land compulsorily under section forty-five of the Act of 1930 or section thirteen of the River Boards Act, 1948.