



# Water Resources Act 1991

## 1991 CHAPTER 57

### PART VII

#### LAND AND WORKS POWERS

#### CHAPTER I

#### POWERS OF THE [F<sup>1</sup>AGENCY]

##### *Flood defence and drainage works*

#### **165 General powers to carry out flood defence and drainage works.**

- (1) The [F<sup>1</sup>Agency] shall have power, in connection with a main river—
  - (a) to maintain existing works, that is to say, to cleanse, repair or otherwise maintain in a due state of efficiency any existing watercourse or any drainage work;
  - (b) to improve any existing works, that is to say, to deepen, widen, straighten or otherwise improve any existing watercourse or remove or alter mill dams, weirs or other obstructions to watercourses, or raise, widen or otherwise improve any existing drainage work;
  - (c) to construct new works, that is to say, to make any new watercourse or drainage work or erect any machinery or do any other act (other than an act referred to in paragraph (a) or (b) above) required for the drainage of any land.
- (2) The [F<sup>1</sup>Agency] shall also have power, irrespective of whether the works are in connection with a main river, to maintain, improve or construct drainage works for the purpose of defence against sea water or tidal water; and that power shall be exercisable both above and below the low-water mark.
- (3) The [F<sup>1</sup>Agency] may construct all such works and do all such things in the sea or in any estuary as may, in its opinion, be necessary to secure an adequate outfall for a main river.

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- (4) The [<sup>F1</sup>Agency] may by agreement with any person carry out, improve or maintain, at that person's expense, any drainage works which that person is entitled to carry out, improve or maintain; but for the purposes of this subsection the expense to be borne by that person shall not include the amount of any grant paid under section 149(3) above in respect of the works in question.
- (5) The [<sup>F1</sup>Agency] may enter into an agreement with any local authority or with any navigation authority for the carrying out by that authority, on such terms as to payment or otherwise as may be specified in the agreement, of any work in connection with a main river which the [<sup>F1</sup>Agency] is authorised to carry out.
- (6) Nothing in subsections (1) to (3) above authorises any person to enter on the land of any person except for the purpose of maintaining existing works.
- (7) In this section “watercourse” has the same meaning as in Part IV of this Act; and subsections (2) and (3) of section 113 above shall apply for the purposes of determining any question arising under this section as to—
  - (a) whether any work is a drainage work in connection with a main river; or
  - (b) whether any proposed work will, if constructed, be such a drainage work, as they apply for the purposes of that Part.

#### Textual Amendments

**F1** Words in s. 165 substituted (subject to the other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

#### Modifications etc. (not altering text)

**C1** S. 165 excluded (01.12.1991) by *Land Drainage Act 1991* (c. 59, SIF 73:1), **ss. 11(2)**, 76(2).

**C2** S. 165(1)(a)(b) explained (16.3.1992) by *Avon Weir Act 1992* (c. v), **s. 7(4)** (with s. 61)

## 166 Power to carry out works for purpose of providing flood warning system.

- (1) Without prejudice to its other powers by virtue of [<sup>F2</sup>section 37 of the 1995 Act (incidental general powers of the Agency)], Part IV of this Act and this Part, the [<sup>F3</sup>Agency] shall have power—
  - (a) to provide and operate flood warning systems;
  - (b) to provide, install and maintain apparatus required for the purposes of such systems;
  - (c) to carry out any other engineering or building operations so required.
- (2) Subsection (1) above shall not be construed as authorising, on the part of the [<sup>F3</sup>Agency], any act or omission which, apart from that subsection, would be actionable at the suit of any person on any grounds other than a limitation imposed by law on the capacity of the [<sup>F3</sup>Agency] by virtue of its constitution.
- (3) The [<sup>F3</sup>Agency] may exercise the powers conferred by subsection (1)(b) or (c) above in an area in Scotland as if—
  - (a) its functions in relation to the areas of the regional flood defence committees whose areas are adjacent to Scotland were functions in relation to that area in Scotland; and
  - (b) that area in Scotland were included in the areas of each of those committees;

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but the powers conferred by this subsection are subject (except in the case of a power to maintain apparatus) to prior consultation with the local authority (within the meaning of section 1 of the <sup>M1</sup>Flood Prevention (Scotland) Act 1961) for the area in Scotland in question.

(4) In this section “flood warning system” has the same meaning as in section 148 above.

#### Textual Amendments

- F2** Words in s. 166(1) substituted (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 164** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F3** Words in s. 166 substituted (subject to the other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

#### Marginal Citations

- M1** 1961 c. 41.

### 167 Power to dispose of spoil in connection with flood defence works.

- (1) Subject to subsection (2) below, the [<sup>F4</sup>Agency] may—
- without making payment for it, appropriate and dispose of any matter removed in the course of the carrying out of any work for widening, deepening or dredging any watercourse; and
  - deposit any matter so removed on the banks of the watercourse, or on such width of land adjoining the watercourse as is sufficient to enable the matter in question to be removed and deposited by mechanical means in one operation.
- (2) Subsection (1) above shall not authorise the deposit of any matter if the matter deposited would constitute a statutory nuisance within the meaning of Part III of the <sup>M2</sup>Environmental Protection Act 1990.
- (3) The [<sup>F4</sup>Agency] and the council of any district or London borough [<sup>F5</sup> or Welsh county or county borough] may enter into an agreement providing—
- for the disposal by the council of any matter removed as mentioned in subsection (1) above; and
  - for the payment by the [<sup>F4</sup>Agency] to the council, in respect of the disposal of the matter by the council, of such sum as may be provided by the agreement.
- (4) In this section “banks” and “watercourse” have the same meanings as in Part IV of this Act.

#### Textual Amendments

- F4** Words in s.167 substituted (subject to the other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F5** Words in s. 167(3) inserted (1.4.1996) by 1994 c. 19, s. 22(5), **Sch. 11 para. 3(4)** (with ss. 54(4)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**

#### Marginal Citations

- M2** 1990 c. 43.

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