



Land Drainage Act 1991

1991 CHAPTER 59

PART I **E+W**

INTERNAL DRAINAGE BOARDS

Constitution etc. of boards

1 **Internal drainage districts and boards.** **E+W**

- (1) For the purposes of the drainage of land, there shall continue to be—
- districts, known as internal drainage districts, which shall be such areas within the areas of the regional flood defence committees as will derive benefit, or avoid danger, as a result of drainage operations; and
 - boards, known as internal drainage boards, each of which shall be the drainage board for an internal drainage district;
- and, subject to the following provisions of this Part, the internal drainage districts which were such districts immediately before the coming into force of this section, and the boards for those districts, shall continue as such districts and boards.
- (2) An internal drainage board shall—
- exercise a general supervision over all matters relating to the drainage of land within their district; and
 - have such other powers and perform such other duties as are conferred or imposed on internal drainage boards by this Act.
- (3) Subject to subsections (4) and (6) below, an internal drainage board shall be a body corporate and shall consist of—
- members who shall be elected and hold office in accordance with provisions made by or under Schedule 1 to this Act; and
 - members appointed in accordance with those provisions by charging authorities.

Status: Point in time view as at 01/12/1991.

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- (4) The first members of an internal drainage board shall be persons appointed by the relevant Minister, together with any persons appointed as mentioned in subsection (3) (b) above.
- (5) Subject to subsection (6) below, Schedule 2 to this Act shall have effect with respect to the proceedings of internal drainage boards.
- (6) The following provisions, that is to say, the provisions of Schedule 1 to this Act, except so far as it relates to the appointment of members by a charging authority, the provisions of Schedule 2 to this Act and the provisions of subsection (3) above, so far as it requires members of an internal drainage board to be elected, shall have effect in relation to an internal drainage board in existence on 1st August 1930 only to such an extent as—
 - (a) those provisions are applied to the board by a scheme made or having effect as if made under section 3 below; or
 - (b) immediately before the coming into force of this Act, corresponding provision otherwise applied in relation to that board by virtue of section 7(4) of the ^{M1}Land Drainage Act 1976.

Marginal Citations

M1 1976 c. 70.

2 Review of boundaries of internal drainage districts. E+W

- (1) Subject to subsection (7) below, where—
 - (a) a petition for the alteration of the boundaries of an internal drainage district is made to the NRA by a sufficient number of qualified persons or by a qualified authority; and
 - (b) the boundaries of that district have for a period exceeding ten years been neither reviewed on such a petition nor altered,
 the NRA shall review those boundaries.
- (2) Subject to subsection (7) below, where a petition under subsection (1) above is received by the NRA in the circumstances mentioned in subsection (1)(b) above, the NRA shall—
 - (a) inform the relevant Minister; and
 - (b) publish, in one or more newspapers circulating in the internal drainage district, a notice stating—
 - (i) that the petition has been received;
 - (ii) that a review of the boundaries is being undertaken; and
 - (iii) that representations may be made to the NRA within a period (which shall not be less than thirty days) stated in the notice.
- (3) In carrying out any review required by this section the NRA shall—
 - (a) consult the drainage board for the internal drainage district in question, unless it is itself the drainage board; and
 - (b) consider any representations duly made to it.
- (4) Within six months after a petition under this section is made or such longer period as the relevant Minister may allow, the NRA shall inform the relevant Minister—

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- (a) whether, as a result of the review, it proposes to submit to him a scheme under section 3 below; and
 - (b) if so, what provision it proposes to make by the scheme.
- (5) Subject to subsection (6) below, where—
- (a) the NRA does not propose, as a result of the review, to submit to the relevant Minister a scheme under section 3 below; but
 - (b) it appears to the NRA that an order under section 38 below, or an order varying or revoking such an order, should be made by the drainage board for the internal drainage district in question,
- the NRA may direct the drainage board to make such an order in such terms as may be specified in the direction.
- (6) If an internal drainage board to which a direction has been given under subsection (5) above object to the direction, the direction shall have no effect unless it is confirmed (with or without modifications) by the relevant Minister.
- (7) This section does not require the NRA to carry out a review or publish any notice on a petition which, in the opinion of the relevant Minister, is frivolous.

3 Schemes for reorganisation of internal drainage districts etc. E+W

- (1) The NRA—
- (a) may at any time (in consequence of a review under section 2 above or otherwise) prepare and submit to the relevant Minister for confirmation a scheme making provision for any of the matters specified in subsection (2) below; and
 - (b) shall prepare and so submit such a scheme if it is directed to do so by the relevant Minister.
- (2) The matters mentioned in subsection (1) above are—
- (a) the alteration of the boundaries of any internal drainage district;
 - (b) the amalgamation of the whole or any part of any internal drainage district with any other such district;
 - (c) the abolition as from such date as may be specified in the scheme of Commissioners of Sewers exercising jurisdiction within the area for which the NRA carries out functions that are flood defence functions within the meaning of the ^{M2}Water Resources Act 1991;
 - (d) the abolition or reconstitution of any internal drainage district and of the drainage board for that district;
 - (e) the constitution of new internal drainage districts;
 - (f) the constitution of internal drainage boards for all or any of the separate internal drainage districts constituted by the scheme;
 - (g) where it appears desirable so to provide in the case of any internal drainage board, the amendment of the method of constituting that board so far as is necessary to secure that members of the board shall include persons elected as such in accordance with the provisions for that purpose contained in section 1 above and Schedule 1 to this Act;
 - (h) the making of alterations in, and the addition of supplemental provisions to, the provisions of any local Act or of any award made under any such Act, where such alterations or supplemental provisions are necessary or expedient

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- for enabling the area for the benefit of which drainage works are authorised by the local Act or award to be drained effectually;
- (i) any matters supplemental to or consequential on the matters mentioned in paragraphs (a) to (h) above for which it appears necessary or desirable to make provision, including the transfer to the NRA or an internal drainage board of any property, rights, powers, duties, obligations and liabilities vested in or to be discharged by the NRA or by the internal drainage board affected by the scheme.
- (3) A scheme under this section may provide for the revocation or amendment of, and for the retransfer of property, rights, powers, duties, obligations and liabilities transferred by, any previous scheme under this section.
- (4) As soon as any scheme under this section has been submitted to the relevant Minister, the NRA shall—
- (a) send copies of the scheme to every internal drainage board, local authority, navigation authority, harbour authority and conservancy authority affected by it; and
- (b) publish in one or more newspapers circulating in the area affected by the scheme a notice stating—
- (i) that the scheme has been submitted to that Minister; and
- (ii) that a copy of it is open to inspection at a specified place; and
- (iii) that representations with respect to the scheme may be made to that Minister at any time within one month after the publication of the notice.
- (5) The relevant Minister may by order made by statutory instrument confirm any scheme submitted to him under this section, either with or without modifications.
- (6) Schedule 3 to this Act shall apply with respect to an order confirming a scheme under this section.
- (7) An order confirming a scheme under this section may contain provisions with respect to the persons by whom all or any of the expenses incurred by the relevant Minister or other persons in connection with the making or confirmation of the order, or the making of the scheme, are to be borne.
- (8) Where the boundaries of an internal drainage district are altered under this section, all powers exercisable under any local Act by the drainage board for the district with respect to land included in it shall be exercisable with respect to land added to the district, except so far as provision is otherwise made by the scheme effecting the alteration or by the order confirming that scheme.

Marginal Citations

M2 1991 c. 57.

4 Powers to make the NRA a drainage board. E+W

- (1) The relevant Minister may, on a petition for the purpose presented to him by the NRA, by order made by statutory instrument transfer to the NRA the powers, duties, liabilities, obligations and property (including deeds, maps, books, papers and other documents) of the drainage board for any internal drainage district.

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- (2) On a transfer under this section, the NRA shall for the purposes of this Act become the drainage board for the district in question; and any expenses incurred by the NRA as the drainage board for that district shall be defrayed under and in accordance with the powers transferred by the order under this section and not in any other manner.
- (3) Without prejudice to the preceding provisions of this section, a scheme under section 3 above which makes provision for the constitution of a new internal drainage district may provide—
 - (a) for the NRA to be constituted the drainage board for that district; and
 - (b) for conferring on the NRA in relation to that district the powers and duties of an internal drainage board;and any expenses incurred by the NRA as the internal drainage board for such a district shall be defrayed under and in accordance with the powers so conferred and not in any other manner.
- (4) Schedule 3 to this Act shall apply with respect to an order under this section.
- (5) An order under this section may contain provisions with respect to the persons by whom all or any of the expenses incurred by the relevant Minister or other persons in connection with the making or confirmation of the order are to be borne.

5 Transfer of functions etc. back from the NRA. E+W

- (1) Where—
 - (a) the NRA is (whether by virtue of a scheme under section 3 above or an order under section 4 above) the drainage board for an internal drainage district; and
 - (b) a petition for constituting an internal drainage board for that district is made to the NRA by a sufficient number of qualified persons or by a qualified authority,the relevant Minister may by order made by statutory instrument constitute an internal drainage board for that district and transfer to it the property and liabilities of the NRA, so far as vested in or incurred by the NRA in its capacity as the drainage board for that district.
- (2) On receiving such a petition as is mentioned in subsection (1) above the NRA shall send a copy of it to the relevant Minister.
- (3) The NRA shall inform the relevant Minister, within six months of the date on which such a petition is received, whether in its opinion an order under subsection (1) above ought to be made.
- (4) Before making an order under subsection (1) above the relevant Minister shall consider the views expressed by the NRA in accordance with subsection (3) above.
- (5) Schedule 3 to this Act shall apply with respect to an order under this section.
- (6) An order under this section may contain provisions with respect to the persons by whom all or any of the expenses incurred by the relevant Minister or other persons in connection with the making or confirmation of the order are to be borne.

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6 **Schemes and orders under sections 3 to 5: compensation for loss of office.** E +W

- (1) The appropriate Minister shall by regulations provide for the payment, subject to such exceptions or conditions as may be specified in the regulations, of compensation—
 - (a) if it is specified for the purpose in the regulations, by the NRA; or
 - (b) by such internal drainage board or boards as may be so specified,
 to any officer or other employee of a drainage body who suffers loss of employment or loss or diminution of emoluments which is attributable to a scheme under section 3 above or anything done in pursuance of such a scheme.
- (2) The appropriate Minister shall by regulations provide for the payment, subject to such exceptions or conditions as may be specified in the regulations, of compensation by the NRA—
 - (a) to any officer or other employee of an internal drainage board who suffers loss of employment or loss or diminution of emoluments which is attributable to an order under section 4 above or anything done in pursuance of such an order;
 - (b) to any officer or other employee of the NRA who suffers loss of employment or loss or diminution of emoluments which is attributable to an order under section 5 above or anything done in pursuance of such an order.
- (3) Regulations under this section may include provision—
 - (a) as to the manner in which and the persons to whom any claim for compensation by virtue of the regulations is to be made; and
 - (b) for the determination of all questions arising under the regulations;
 and may make different provision for different classes of person.
- (4) In this section “the appropriate Minister”—
 - (a) in relation to employees of a drainage body wholly in Wales, means the Secretary of State;
 - (b) in relation to employees of a drainage body partly in Wales, means the Ministers; and
 - (c) in any other case, means the Minister;
 but in relation to employees of the NRA, the powers and duties conferred or imposed on the appropriate Minister by this section shall be exercisable or, as the case may be, shall fall to be performed by either of the Ministers.

General provision with respect to functions of drainage boards

7 **Supervision of drainage boards by the NRA.** E+W

- (1) The NRA may, for the purpose of securing—
 - (a) the efficient working and maintenance of existing drainage works; and
 - (b) the construction of such new drainage works as may be necessary,
 give such general or special directions as it considers reasonable for the guidance of the internal drainage boards with respect to the exercise and performance by those boards of their powers and duties as such.
- (2) Without prejudice to subsection (1) above, an internal drainage board shall not—
 - (a) except with the consent of the NRA, construct any drainage works or alter any existing drainage works, if the construction or alteration will in any way

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- affect the interests of, or the working of any drainage works belonging to, any other drainage board; or
- (b) otherwise than by way of maintaining an existing work, construct or alter any structure, appliance or channel for the discharge of water from their district into a main river except on such terms as may be agreed between the NRA and the internal drainage board or, in default of agreement, be determined by the relevant Minister.
- (3) The consent of the NRA for the purposes of subsection (2)(a) above shall not be unreasonably withheld and may be given subject to reasonable conditions.
- (4) If an internal drainage board acts in contravention of subsection (2) above, the NRA shall—
- (a) have power itself to carry out and maintain any works and do any things which are, in its opinion, necessary in order to prevent or remedy any damage which may result, or has resulted, from the action of the internal drainage board; and
- (b) be entitled to recover from that board the amount of any expenses reasonably incurred by the NRA in the exercise of that power.
- (5) If any question arises under this section—
- (a) whether the consent of the NRA is unreasonably withheld;
- (b) whether any condition subject to which any consent of the NRA is given is reasonable; or
- (c) whether any expenses have been reasonably incurred by the NRA in pursuance of this section;
- that question shall be referred to the relevant Minister for decision.
- (6) Where the relevant Minister gives any decision under this section, he shall make and cause to be laid before Parliament a report giving particulars of the question referred to him and of the reasons for his decision.

8 Concurrent powers of NRA. E+W

The powers of an internal drainage board in relation to their district under sections 21 and 23 below shall be exercisable concurrently with that board by the NRA and references in those sections and in section 24 below to the drainage board concerned shall be construed accordingly.

9 Default powers of the NRA. E+W

- (1) Subject to subsections (2) and (3) below but without prejudice to section 8 above, where in the opinion of the NRA any land is injured or likely to be injured by flooding or inadequate drainage that might be remedied wholly or partially by the exercise of drainage powers vested in any internal drainage board which either—
- (a) are not being exercised at all; or
- (b) in the opinion of the NRA, are not being exercised to the necessary extent,
- the NRA may exercise all or any of those powers and also any power vested in that board for the purpose of defraying expenses incurred in the exercise by that board of those powers or for any purposes incidental to the exercise of those powers.

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- (2) Before exercising any powers under subsection (1) above the NRA shall give to the internal drainage board in whose default it proposes to exercise the powers not less than thirty days' notice of its intention to do so.
- (3) If, before the end of the period of notice specified under subsection (2) above, the internal drainage board in question intimate in writing to the NRA their objection to the exercise by the NRA of the powers, the NRA shall not exercise the powers except with the consent of the relevant Minister.
- (4) The relevant Minister may, if he thinks fit, cause a public local inquiry to be held with respect to an objection for the purposes of subsection (3) above.
- (5) Where in pursuance of this section the NRA is exercising the powers of the drainage board for an internal drainage district, any person authorised in that behalf by the NRA may, so far as is reasonably necessary for the purpose of, and in connection with, the exercise by the NRA of those powers, at all reasonable times inspect and take copies of any deeds, maps, books, papers or other documents which—
 - (a) are in the possession of the board; and
 - (b) relate to land drainage or the provision of flood warning systems in that district.
- (6) Any person who intentionally obstructs or impedes any person authorised as mentioned in subsection (5) above in the exercise of his powers under this section shall be liable, on summary conviction, to a fine not exceeding level 4 on the standard scale.

10 Exercise of default powers by local authorities. E+W

- (1) The NRA may, on the application of the council of any county, metropolitan district or London borough, direct that the powers conferred by section 9 above on the NRA shall, as respects land in the area of the council, be exercisable by that council instead of by the NRA.
- (2) If the NRA refuses to comply with any application under subsection (1) above, the council by which the application was made may appeal against the refusal to the relevant Minister and he may, if he thinks fit, require the NRA to comply with the application.
- (3) Without prejudice to the power of the NRA to give a new direction, the NRA may—
 - (a) subject to the consent of the relevant Minister; and
 - (b) on giving the council concerned not less than six months' notice of its intention to do so,
 revoke any direction given under subsection (1) above.

11 Arrangements between drainage authorities. E+W

- (1) The NRA may enter into an agreement with any internal drainage board for the carrying out by the board, 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 NRA is authorised to carry out.
- (2) Notwithstanding any restriction by reference to a main river of the powers conferred on the NRA by section 165 of the ^{M3}Water Resources Act 1991, the NRA may—

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- (a) with the consent of an internal drainage board, carry out and maintain in that board's district any works which the board might carry out or maintain, on such terms as to payment or otherwise as may be agreed between the board and the NRA; or
 - (b) agree to contribute to the expense of the carrying out or maintenance of any works by any internal drainage board.
- (3) An internal drainage board may—
- (a) with the consent of an internal drainage board for any other district, carry out and maintain in that other district any works which the first-mentioned board might carry out or maintain within their own district, on such terms as to payment or otherwise as may be agreed between the boards; or
 - (b) agree to contribute to the expense of the carrying out or maintenance of any works by the internal drainage board for any other district.
- (4) Any expense incurred by an internal drainage board under subsection (3) above shall be defrayed as if the expense had been incurred in their own district.

Marginal Citations

M3 1991 c. 57.

Duties with respect to the environment and recreation

12 General environmental and recreational duties. **E+W**

- (1) It shall be the duty of each of the Ministers, of the NRA and of every internal drainage board, in formulating or considering any proposals relating to any functions of such a board (including, in the case of such a board, their own functions)—
- (a) so far as may be consistent—
 - (i) with the purposes of any enactment relating to the functions of such a board; and
 - (ii) in the case of the Secretary of State, with his duties under section 2 of the ^{M4}Water Industry Act 1991, so to exercise any power conferred with respect to the proposals on that Minister, the NRA or, as the case may be, the board as to further the conservation and enhancement of natural beauty and the conservation of flora, fauna and geological or physiographical features of special interest;
 - (b) to have regard to the desirability of protecting and conserving buildings, sites and objects of archaeological, architectural or historic interest; and
 - (c) to take into account any effect which the proposals would have on the beauty or amenity of any rural or urban area or on any such flora, fauna, features, buildings, sites or objects.
- (2) Subject to subsection (1) above, it shall be the duty of each of the Ministers, of the NRA and of every internal drainage board, in formulating or considering any proposals relating to any functions of such a board (including, in the case of such a board, their own functions)—

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- (a) to have regard to the desirability of preserving for the public any freedom of access to areas of woodland, mountains, moor, heath, down, cliff or foreshore and other places of natural beauty;
 - (b) to have regard to the desirability of maintaining the availability to the public of any facility for visiting or inspecting any building, site or object of archaeological, architectural or historic interest; and
 - (c) to take into account any effect which the proposals would have on any such freedom of access or on the availability of any such facility.
- (3) Subsections (1) and (2) above shall apply so as to impose duties on an internal drainage board in relation to—
- (a) any proposals relating to the functions of the NRA or of a water undertaker or sewerage undertaker;
 - (b) any proposals relating to the management, by the company holding an appointment as such an undertaker, of any land for the time being held by that company for any purpose whatever (whether or not connected with the carrying out of the functions of a water undertaker or sewerage undertaker); and
 - (c) any proposal which by virtue of section 156(7) of the ^{M5}Water Industry Act 1991 (disposals of protected land) falls to be treated for the purposes of section 3 of that Act as a proposal relating to the functions of a water undertaker or sewerage undertaker,
- as they apply in relation to proposals relating to the functions of an internal drainage board but as if, for that purpose, the reference in subsection (1)(a) above to enactments relating to the functions of such a board were a reference to enactments relating to that to which the proposal relates.
- (4) Subject to obtaining the consent of any navigation authority, harbour authority or conservancy authority before doing anything which causes navigation which is subject to the control of that authority to be obstructed or otherwise interfered with, it shall be the duty of every internal drainage board to take such steps as are—
- (a) reasonably practicable; and
 - (b) consistent with the purposes of the enactments relating to the functions of that board,
- for securing, so long as that board have rights to the use of water or land associated with water, that those rights are exercised so as to ensure that the water or land is made available for recreational purposes and is so made available in the best manner.
- (5) It shall be the duty of every internal drainage board, in determining what steps to take in performance of any duty imposed by virtue of subsection (4) above, to take into account the needs of persons who are chronically sick or disabled.
- (6) Nothing in this section or the following provisions of this Act shall require recreational facilities made available by an internal drainage board to be made available free of charge.
- (7) In this section—
- “building” includes structure; and
 - “harbour authority” means a harbour authority within the meaning of the ^{M6}Prevention of Oil Pollution Act 1971.

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Marginal Citations

M4 1991 c. 56.

M5 1991 c. 56.

M6 1971 c. 60.

13 Environmental duties with respect to sites of special interest. **E+W**

(1) Where the Nature Conservancy Council for England or the Countryside Council for Wales are of the opinion that any area of land in England or, as the case may be, in Wales—

- (a) is of special interest by reason of its flora, fauna or geological or physiographical features; and
- (b) may at any time be affected by schemes, works, operations or activities of an internal drainage board,

that Council shall notify the fact that the land is of special interest for that reason to every internal drainage board whose works, operations or activities may affect the land.

(2) Where a National Park authority or the Broads Authority is of the opinion that any area of land in a National Park or in the Broads—

- (a) is land in relation to which the matters for the purposes of which section 12 above has effect are of particular importance; and
- (b) may at any time be affected by schemes, works, operations or activities of an internal drainage board,

the National Park authority or Broads Authority shall notify the fact that the land is such land, and the reasons why those matters are of particular importance in relation to the land, to every internal drainage board whose works, operations or activities may affect the land.

(3) Where an internal drainage board have received a notification under subsection (1) or (2) above with respect to any land, the board shall consult the notifying body before carrying out any works, operations or activities which appear to the board to be likely—

- (a) to destroy or damage any of the flora, fauna, or geological or physiographical features by reason of which the land is of special interest; or
- (b) significantly to prejudice anything the importance of which is one of the reasons why the matters mentioned in subsection (2) above are of particular importance in relation to that land.

(4) Subsection (3) above shall not apply in relation to anything done in an emergency where particulars of what is done and of the emergency are notified to the Nature Conservancy Council for England, the Countryside Council for Wales, the National Park authority in question or, as the case may be, the Broads Authority as soon as practicable after that thing is done.

(5) In this section—

“the Broads” has the same meaning as in the ^{M7}Norfolk and Suffolk Broads Act 1988; and

“National Park authority” means a National Park Committee or a joint or special planning board for a National Park.

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Marginal Citations

M7 1988 c. 4.

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