



Land Drainage Act 1991

1991 CHAPTER 59

PART II

PROVISIONS FOR FACILITATING OR SECURING THE DRAINAGE OF LAND

General powers

14 General drainage powers of boards and local authorities.

- (1) Subject to section 11 above and subsection (4) and section 17 below—
- (a) every drainage board acting within the internal drainage district for which they are the drainage board; and
 - (b) every local authority acting either—
 - (i) for the purpose of carrying out works in pursuance of a scheme under section 18 below; or
 - (ii) so far as may be necessary for the purpose of preventing flooding or mitigating any damage caused by flooding in their area,
- shall have the powers specified in subsection (2) below.
- (2) The powers mentioned in subsection (1) above are the powers, otherwise than in connection with a main river or the banks of such a 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 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.

Status: Point in time view as at 01/12/1991.

Changes to legislation: Land Drainage Act 1991, Cross Heading: General powers is up to date with all changes known to be in force on or before 26 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (3) Subject to section 11 above and subsection (4) and section 17 below, an internal drainage board or local authority that desire, otherwise than in connection with a main river or the banks of such a river, to carry out any drainage works for the benefit of their district or area in lands outside that district or area shall have the same powers for that purpose as are conferred by this Act on persons interested in land which is capable of being drained or improved and desiring to carry out drainage works for that purpose.
- (4) Nothing in this section—
 - (a) authorises any person to enter on the land of any person except for the purpose of maintaining existing works; or
 - (b) authorises a county council to exercise any power except in accordance with section 16 below.
- (5) Where injury is sustained by any person by reason of the exercise by a drainage board or local authority of any of their powers under this section, the board or authority shall be liable to make full compensation to the injured person.
- (6) In case of dispute, the amount of the compensation payable under subsection (5) above shall be determined by the Lands Tribunal.
- (7) Any expenses incurred by an internal drainage board under subsection (3) above shall be defrayed as if the expenses had been incurred in their district.

Modifications etc. (not altering text)

C1 S. 14 amended (5.11.1993) by 1993 c. 42, s.22.

15 Disposal of spoil by boards and local authorities.

- (1) Subject to subsections (2) and (3) and sections 16 and 17 below, an internal drainage board or local authority may—
 - (a) 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 ordinary watercourse; and
 - (b) deposit any matter so removed on the banks of such a watercourse, or on such width of land adjoining such a watercourse as is sufficient to enable the matter to be removed and deposited by mechanical means in one operation.
- (2) The powers conferred on a local authority by this section shall not be exercisable except—
 - (a) for the purpose of carrying out works in pursuance of a scheme under section 18 below; or
 - (b) so far as may be necessary for the purpose of preventing flooding or mitigating any damage caused by flooding in their area.
- (3) 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 ^{MI}Environmental Protection Act 1990.
- (4) Where injury is sustained by any person by reason of the exercise by an internal drainage board or local authority of their powers under subsection (1)(b) above—

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

Changes to legislation: Land Drainage Act 1991, Cross Heading: General powers is up to date with all changes known to be in force on or before 26 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) the board or authority may, if they think fit, pay to him such compensation as they may determine; and
 - (b) where the injury could have been avoided if those powers had been exercised with reasonable care, subsections (5) and (6) of section 14 above shall apply as if the injury had been sustained by reason of the exercise by the board or authority of their powers under that section.
- (5) An internal drainage board or local authority, on the one hand, and the council of any district or London borough, on the other, may enter into an agreement providing—
- (a) for the disposal by the council of any matter removed as mentioned in subsection (1) above; and
 - (b) for the payment by the board or authority to the council, in respect of the disposal of the matter by the council, of such sum as may be provided by the agreement.

Modifications etc. (not altering text)

C2 S. 15 amended (5.11.1993) by 1993 c. 42, s.22.

Marginal Citations

M1 1990 c. 43.

16 Exercise of local authority powers under sections 14 and 15.

- (1) Subject to subsection (3) below, where the powers conferred by section 14 or 15 above on a non-metropolitan district council are not exercised by that council, they may be exercised by the county council—
- (a) at the request of the council of the district; or
 - (b) after not less than six weeks' notice given in writing by the county council to the district council.
- (2) Subject to subsection (3) below, where the powers conferred by section 14(1) above on a metropolitan district council or London borough council or the Common Council of the City of London are not exercised by that council, they may be exercised by the NRA—
- (a) at the request of the council; or
 - (b) after not less than six weeks' notice given in writing by the NRA to the council;
- and any expenses incurred by the NRA under subsection (3) above shall be recoverable from the council concerned by the NRA summarily as a civil debt.
- (3) Where the council to whom a notice has been given for the purposes of subsection (1) (b) or (2)(b) above—
- (a) appeal against the notice to the Secretary of State before it expires; and
 - (b) inform the county council or, as the case may be, the NRA of the appeal,
- the powers to which the notice relates shall not be exercised in pursuance of the notice by the county council or, as the case may be, the NRA unless it is confirmed by the Secretary of State.

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

Changes to legislation: Land Drainage Act 1991, Cross Heading: General powers is up to date with all changes known to be in force on or before 26 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

17 Supervision of local authority powers under sections 14 to 16.

- (1) A local authority shall not carry out or maintain any drainage works authorised by sections 14 to 16 above in connection with any watercourse except with the consent of, and in accordance with any reasonable conditions imposed by, the NRA.
- (2) Before giving any consent or imposing any condition under subsection (1) above with respect to any drainage works in connection with a watercourse under the control of an internal drainage board the NRA shall consult with the internal drainage board.
- (3) A consent required under subsection (1) above—
 - (a) shall not be unreasonably withheld; and
 - (b) shall be deemed to have been given if it is neither given nor refused within two months after application for it is made.
- (4) Any question arising under this section whether the consent of the NRA is unreasonably withheld, or whether any condition imposed by the NRA is reasonable, shall be referred to and determined by the Ministers.
- (5) Subsection (1) above shall not apply to any work carried out in an emergency, but a local authority carrying out any work excepted by this subsection shall, as soon as practicable, inform the NRA in writing of the carrying out of the work and of the circumstances in which it was carried out.

18 Drainage of small areas.

- (1) Where—
 - (a) the NRA is of the opinion that any land is capable of improvement by drainage works but that the constitution for that purpose of an internal drainage district would not be practicable; or
 - (b) a local authority other than a district council is of that opinion in relation to any land in their area,

the NRA or, as the case may be, that local authority may, in accordance with the provisions of a scheme made by it or them under this section, enter on the land and carry out such drainage works as appear to it or them desirable.
- (2) Schedule 4 to this Act shall have effect with respect to the making of a scheme under this section.
- (3) A scheme under this section must state—
 - (a) the works proposed to be carried out;
 - (b) the area to be improved by the works;
 - (c) the estimated expenses (including administrative expenses) of the carrying out of the works;
 - (d) the maximum amount to be recoverable by the NRA or local authority in respect of those expenses; and
 - (e) the manner in which the expenses of carrying out and maintaining the works are to be apportioned amongst the lands comprised in the area to be improved.
- (4) Subject to subsection (6) and (7) below, the amount stated in a scheme in pursuance of subsection (3)(c) above shall not exceed an amount equal to £50 for each hectare in the area to be improved.
- (5) The following expenses, that is to say-

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

Changes to legislation: Land Drainage Act 1991, Cross Heading: General powers is up to date with all changes known to be in force on or before 26 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) those incurred by the NRA or a local authority under this section in the carrying out of drainage works, to an amount not exceeding the amount stated in the scheme in pursuance of subsection (3)(d) above; and
 - (b) those incurred by the NRA or a local authority in maintaining works carried out by the NRA or, as the case may be, that authority under this section, shall, according to the apportionment provided for by the scheme, be recoverable by the NRA or that authority from the several owners of the lands to which the scheme relates.
- (6) Each of the Ministers shall have power to exempt a scheme from the limit imposed by subsection (4) above if it appears to him that the works proposed to be carried out are urgently required in the public interest.
- (7) Each of the Ministers shall have power by order made by statutory instrument from time to time to vary the limit imposed by subsection (4) above; but no such order shall have effect unless it is approved by a resolution of each House of Parliament.
- (8) A scheme made under this section shall be a local land charge.

19 Arrangements as to works etc. with navigation and conservancy authorities.

- (1) Subject to subsections (2) and (3) below, an internal drainage board, with a view to improving the drainage of any land situated in their district, may enter into an arrangement with a navigation authority or conservancy authority for any of the following purposes, that is to say—
- (a) the transfer to the board of—
 - (i) the whole or any part of the undertaking of the navigation authority or conservancy authority or of any of the rights, powers, duties, liabilities and obligations of that authority; or
 - (ii) any property vested in that authority as such;
 - (b) the alteration or improvement by the board of any of the works of the navigation authority or conservancy authority;
 - (c) the making of payments by the board to the navigation authority or conservancy authority or by that authority to the board in respect of any matter for which provision is made by the arrangement.
- (2) An internal drainage board shall not enter into any arrangement under this section in relation to a main river or the banks of a main river or in relation to any drainage works in connection with a main river.
- (3) The exercise by an internal drainage board of their power to enter into an arrangement under this section shall require the approval of the relevant Minister and the Secretary of State.
- (4) Where an internal drainage board are intending to enter into an arrangement under this section, they shall publish a notice of their intention in such manner as may be directed by the relevant Minister.
- (5) Where an arrangement has been made under this section, an internal drainage board shall cause a notice under subsection (6) below to be published in the London Gazette in such form as may be prescribed by regulations made by the relevant Minister.
- (6) A notice under this subsection is a notice—
- (a) stating that the arrangement has been made; and

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

Changes to legislation: Land Drainage Act 1991, Cross Heading: General powers is up to date with all changes known to be in force on or before 26 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (b) specifying the place at which a copy of the arrangement may be inspected by persons interested.

20 Arrangements with other persons for carrying out drainage works.

- (1) Subject to subsection (3) below, an internal drainage board may, by agreement with any person and at that person's expense, carry out and maintain, whether within or outside their district, any drainage works which that person is entitled to carry out and maintain.
- (2) Any local authority other than the council of a non metropolitan district may, by agreement with any person and at that person's expense, carry out within the local authority's area any drainage works which that person is entitled to carry out.
- (3) The powers conferred on an internal drainage board by subsection (1) above shall not be exercisable in connection with a main river, the banks of such a river or any drainage works in connection with a main river.
- (4) The obligation of any person under this section to meet the expenses of any works shall be subject to section 59(6) below.

21 Enforcement of obligations to repair watercourses, bridges, etc.

- (1) This section applies to any obligation to which any person was subject, before the commencement of this Act, by reason of tenure, custom, prescription or otherwise, except an obligation under an enactment re-enacted in this Act or the ^{M2}Water Resources Act 1991.
- (2) If any person—
 - (a) is liable, by reason of any obligation to which this section applies, to do any work in relation to any watercourse, bridge or drainage work (whether by way of repair, maintenance or otherwise); and
 - (b) fails to do the work,
 the drainage board concerned may serve a notice on that person requiring him to do the necessary work with all reasonable and proper despatch.
- (3) Subject to section 107(2) of the Water Resources Act 1991, the powers conferred by this section shall not be exercisable in connection with a main river, the banks of such a river or any drainage works in connection with such a river.
- (4) If any person fails, within seven days, to comply with a notice served on him under subsection (2) above by the drainage board concerned, the board may do all such things as are necessary for that purpose.
- (5) Any expenses reasonably incurred, in the exercise of their powers under this section, by the drainage board concerned may be recovered from the person liable to repair.
- (6) Subject to section 8 above, references in this section to the drainage board concerned—
 - (a) in relation to any watercourse, bridge or drainage works in an internal drainage district, are references to the drainage board for that district; and
 - (b) in relation to any other watercourse, bridge or drainage works, are references to the NRA.

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

Changes to legislation: Land Drainage Act 1991, Cross Heading: General powers is up to date with all changes known to be in force on or before 26 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Modifications etc. (not altering text)

C3 S. 21(3) excluded (1.12.1991) by [Water Resources Act 1991 \(c. 57, SIF 130\)](#), ss. 107(2), 225(2)

Marginal Citations

M2 1991 c. 57.

22 Powers of Ministers to authorise landowners to carry out drainage works.

(1) Where—

- (a) any persons interested in any land are of the opinion that it is capable of improvement by drainage works; but
- (b) the works cannot be carried out by reason of the objection or disability of any person whose land would be entered upon, cut through or interfered with by or for the purposes of the works,

those persons may present an application to the appropriate Minister for an order under this section authorising them to carry out such drainage works as are expedient with a view to the improvement of the land.

(2) An application for an order under this section—

- (a) shall be in the prescribed form; and
- (b) shall contain particulars of the proposed works and the persons by whom they are to be carried out and such further particulars as the appropriate Minister may prescribe or require;

and the applicants shall give such security for expenses as may be required by the appropriate Minister.

(3) Notice of any application for an order under this section, of the place where it can be inspected and of the period within which objections to the proposed works may be made to the appropriate Minister shall be given in the prescribed manner—

- (a) to all persons not parties to the application whose lands are proposed to be entered upon, cut through or interfered with;
- (b) to the NRA; and
- (c) to any internal drainage board for any district within which all or any of the proposed works are to be carried out.

(4) If, where an application for an order under this section has been made—

- (a) an objection to the proposed works has been made to the appropriate Minister, within the prescribed period, by any person interested or in any way affected by the proposed works; and
- (b) that objection is not withdrawn,

the appropriate Minister shall forthwith cause a public inquiry to be held in the locality in which the proposed works are to be carried out.

(5) On an application for an order under this section, the appropriate Minister—

- (a) where either no objection has been made as mentioned in subsection (4) above or every such objection has been withdrawn; or
- (b) in any other case, after receiving the report of the inquiry under subsection (4) above,

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

Changes to legislation: Land Drainage Act 1991, Cross Heading: General powers is up to date with all changes known to be in force on or before 26 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- shall, in his discretion, either refuse to authorise the carrying out of the proposed works or by order authorise the carrying out of the works with or without alteration.
- (6) Subject to subsection (7) below, the persons authorised by an order under this section to carry out works shall have full power to carry out the works and to maintain them for ever thereafter.
- (7) Where an order under this section is made, every person interested in the land affected by the order (other than any person who is one of those authorised to carry out the works) shall be entitled to compensation for any injury suffered by him in respect of that interest by reason of the works; and, in case of a dispute as to the amount of the compensation payable, the amount shall be determined by the Lands Tribunal.
- (8) No order of the appropriate Minister under this section shall authorise any work whereby the streams, reservoirs or feeders supplying any ornamental waters will be cut through, diverted or interfered with otherwise than by agreement and with the consent of the persons to whom such ornamental waters belong.
- (9) In this section “the appropriate Minister”—
- (a) in relation to England, means the Minister; and
 - (b) in relation to Wales, means the Secretary of State.

Status:

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

Changes to legislation:

Land Drainage Act 1991, Cross Heading: General powers is up to date with all changes known to be in force on or before 26 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.