



Land Drainage Act 1991

1991 CHAPTER 59

PART V

MISCELLANEOUS AND SUPPLEMENTAL

Construction of Act

72 Interpretation.

(1) In this Act, unless the context otherwise requires—

[^{F1}“the Agency” means the Environment Agency;]

“agricultural buildings” has the meaning provided by paragraphs 2 to 8 of Schedule 5 to the ^{M1}Local Government Finance Act 1988;

“agricultural land” has the meaning provided by paragraphs 2 and 4 to 8 of that Schedule;

“banks” means banks, walls or embankments adjoining or confining, or constructed for the purposes of or in connection with, any channel or sea front, and includes all land between the bank and low-watermark;

“chargeable property” means a hereditament comprising agricultural land or agricultural buildings in respect of which drainage rates may be assessed under Chapter II of Part IV of this Act;

“charging authority” has the same meaning as in the Local Government Finance Act 1988;

“conservancy authority” means any person who has a duty or power under any enactment to conserve, maintain or improve the navigation of a tidal water and is not a navigation authority or a harbour authority within the meaning of [^{F2}Chapter II of Part VI of the Merchant Shipping Act 1995];

[^{F3}“drainage” includes—

- (a) defence against water (including sea water);
- (b) irrigation, other than spray irrigation;
- (c) warping; and

Status: Point in time view as at 01/04/1996. This version of this provision has been superseded.

Changes to legislation: Land Drainage Act 1991, Section 72 is up to date with all changes known to be in force on or before 14 June 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)

(d) the carrying on, for any purpose, of any other practice which involves management of the level of water in a watercourse;]

“drainage body” means the [^{F4}Agency], an internal drainage board or any other body having power to make or maintain works for the drainage of land;

“financial year” means the twelve months ending with 31st March;

“harbour” and “harbour authority” have the same meanings as in the [^{F2}Merchant Shipping Act 1995];

“land” includes water and any interests in land or water and any easement or right in, to or over land or water;

“local authority” means the council of a county, [^{F5}county borough,] district or London borough or the Common Council of the City of London;

“main river” has the same meaning as in the ^{M2}Water Resources Act 1991;

“the Minister” means the Minister of Agriculture, Fisheries and Food;

“the Ministers” means the Minister and the Secretary of State, and in relation to anything which falls to be done by the Ministers, means those Ministers acting jointly;

^{F6} . . .

“navigation authority” means any person who has a duty or power under any enactment to work, maintain, conserve, improve or control any canal or other inland navigation, navigable river, estuary, harbour or dock;

“ordinary watercourse” means a watercourse that does not form part of a main river;

“prescribed” means prescribed by regulations under section 65 above;

“qualified authority”, in relation to an internal drainage district, means a charging authority for an area wholly or partly included in that district;

“qualified persons” shall be construed in accordance with subsection (2) below;

“the relevant Minister”—

- (a) in relation to internal drainage districts which are neither wholly nor partly in Wales or to the boards for such districts, means the Minister;
- (b) in relation to internal drainage districts which are partly in Wales or to the boards for such districts, means the Ministers; and
- (c) in relation to internal drainage districts which are wholly in Wales or to the boards for such districts, means the Secretary of State;

“watercourse” includes all rivers and streams and all ditches, drains, cuts, culverts, dikes, sluices, sewers (other than public sewers within the meaning of the ^{M3}Water Industry Act 1991) and passages, through which water flows.

(2) Subject to the provisions of paragraph 19 of Schedule 2 to the ^{M4}Water Consolidation (Consequential Provisions) Act 1991 (which makes provision with respect to qualification under this subsection by reference to drainage rates levied on land in respect of years beginning before 1993), where any provision of this Act refers, in relation to an internal drainage district, to the making of any appeal or petition by a sufficient number of qualified persons—

- (a) the persons who are qualified are the occupiers of any land in the district in respect of which a drainage rate is levied; and
- (b) subject to subsection (3) below, their number shall be sufficient if (but only if)—

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- (i) they are not less than forty; or
 - (ii) they are not less than one-fifth of the number of persons who are qualified to make the petition or appeal; or
 - (iii) the assessable value for the purposes of the last drainage rate levied in the district of all the land in respect of which they are qualified persons is not less than one-fifth of the assessable value of all the land in respect of which that rate was levied.
- (3) In relation to a district divided into sub-districts the persons qualified to make a petition under section 39 above as being the occupiers of land in one of the sub-districts shall also be sufficient in any case where the condition in subsection (2)(b)(ii) or (iii) above would be satisfied if the sub-district were an internal drainage district.
- (4) The references to the assessable value of any land in paragraph (b) of subsection (2) above are references to the amount which for the purposes of the drainage rate mentioned in that paragraph would be the annual value of the land.
- (5) References in this Act to the carrying out of drainage works include references to the improvement of drainage works.
- (6) Nothing in this Act shall operate to release any person from an obligation to which section 21 above applies; and the functions of the [^{F4}Agency] or any internal drainage board as respects the doing of any work under this Act are not to be treated as in any way limited by the fact that some other person is under an obligation, by reason of tenure, custom, prescription or otherwise, to do that work.
- (7) Where by virtue of any provision of this Act any function of a Minister of the Crown is exercisable concurrently by different Ministers, that function shall also be exercisable jointly by any two or more of those Ministers.
- (8) This Act so far as it confers any powers on the [^{F4}Agency] shall have effect subject to the provisions of the ^{M5}Water Resources Act 1991.
- (9) The powers conferred by this Act on the Common Council of the City of London shall be exercisable as respects that City.
- (10) Sub-paragraph (1) of paragraph 1 of Schedule 2 to the ^{M6}Water Consolidation (Consequential Provisions) Act 1991 has effect (by virtue of sub-paragraph (2)(b) of that paragraph) so that references in this Act to things done under or for the purposes of provisions of this Act or the Water Resources Act 1991 include references to things done, or treated as done, under or for the purposes of the corresponding provisions of the law in force before the commencement of this Act.

Textual Amendments

- F1** Definition inserted in s. 72(1) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22**, para. 194(1), (with ss. 7(6), 115, 117); **S.I. 1996/186**, **art. 3**
- F2** Words in s. 72(1) substituted (1.1.1996) by 1995 c. 21, ss. 314(2), 316(2), **Sch. 13**, para. 9(b) (with s. 312(1))
- F3** Definition in s. 72(1) substituted (21.9.1995) by 1995 c. 25, s. 100(2) (with ss. 7(6), 115, 117); **S.I. 1995/1983**, **art. 3**
- F4** Words in s. 72 substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22**, para. 191 (with ss. 7(6), 115, 117); **S.I. 1996/186**, **art. 3**
- F5** Words inserted in s. 72(1) (1.4.1996) by 1994 c. 19, s. 22(5), **Sch. 11**, Pt. II, para. 4(12) (with ss. 54(5) (7), 55(5)); **S.I. 1996/396**, **art. 3**

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- F6** Definition repealed in s. 72(1) (1.4.1996) by 1995 c. 25, s. 120(1)(3), **Sch. 22**, para. 194(2) (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Modifications etc. (not altering text)

- C1** S. 72(2)(3) modified (temp.) (1.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60, SIF 130), ss. 2(2), 4(2), Sch. 2 paras. 15(3), **19(1)**.
- C2** S. 72(2)(b)(iii) amended (1.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60, SIF 130), ss. 2(2), 4(2), Sch. 2 paras. 15(3), **19(2)**

Marginal Citations

- M1** 1988 c. 41.
M2 1991 c. 57.
M3 1991 c. 56.
M4 1991 c. 60.
M5 1991 c. 57.
M6 1991 c. 60.

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