Lough Neagh and Lower Bann Drainage and Navigation Act (Northern Ireland) 1955 [F1]

[F2]1955 CHAPTER 15

N.I.

An Act to make provision for lowering the levels of Lough Neagh and with respect to drainage and navigation matters arising in connection therewith and with the Lower Bann, and for purposes connected with the matters aforesaid. [11th July 1955]

WHEREAS the consent of the Minister of Transport and Civil Aviation to this Act has been obtained so far as the same is required by the provisions of sub-section (1) of section nine of the Northern Ireland (Miscellaneous Provisions) Act, 1932:

AND WHEREAS the Clerk of the Parliaments has certified accordingly pursuant to the Legislative Procedure Act (Northern Ireland), 1933 :

F1 Functions of M/Fin. transf. to D/Agric. (exc. under s. 16(1), SRO (NI) 1964/205
F2 certain functions transf. by SR 1999/481

Modifications etc. (not altering text)
C1 Act: transfer of functions (8.5.2016) by The Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016/76), art. 1(2), **Sch. 2** (with art. 9(2))

1 [F3] Scheme for controlling Lough Neagh at lower levels. N.I.

(1) For the purposes of—

(a) lowering the waters of Lough Neagh (in this Act referred to as "the Lough") from the levels at which they have been hitherto generally maintained to such other level or levels as will—

(i) reduce flooding caused by the waters of the Lough or by any waters discharging into the Lough; and

(ii) facilitate the execution under the provisions of the Drainage Act (Northern Ireland), 1947 [F4], of effective drainage schemes on watercourses discharging into the Lough and on tributaries of such watercourses;

(b) maintaining the waters of the Lough at such lower level or levels;

the Ministry of Finance (in this Act referred to as "the Ministry") [F5]... may, notwithstanding anything to the contrary contained in any transferred provision in force at the commencement of this Act with respect to the Lough, prepare and operate, in accordance with and subject to the provisions of this Act, a scheme for the regulation and control, so far as conditions of rainfall, wind and other natural causes appear to the Ministry from time to time to permit, of the waters of the Lough within such levels as may be specified in the scheme.

(2) The Ministry may also prepare and operate, in accordance with and subject to the provisions of this Act relating to schemes, any further scheme or schemes supplementing or modifying any scheme made by virtue of the powers conferred by this Act.

(3) A scheme may contain such particulars and be in such form as the Ministry thinks fit, and, in particular, may contain such provisions as the Ministry considers necessary for the protection of rights or interests affected by the scheme.

(4) Every mention or reference contained in this Act of or to a scheme shall be construed as including every map, drawing, plan, section, schedule and other document annexed to such scheme.

F3 1970 c. 7 (NI)
F4 1973 NI 1
F5 Words in s. 1(1) omitted (8.5.2016) by virtue of The Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016/76), art. 1(2), **Sch. 6 para. 16** (with art. 9(2))

2 Notification of scheme, etc. N.I.

(1) When the Ministry has prepared a scheme it shall—

[F6](a) send a copy to the Ministry of Commerce, the Ministry of Development[F7], the Department of Trade and Industry[F8], the Drainage Council for Northern Ireland and to every district council **[**[F9]and every water undertaker**]**;]

(b) …

(c) publish in the Belfast Gazette and such one or more newspapers as it shall consider appropriate a notice stating that the scheme has been prepared and also stating the place or places at which and the period, not being less than one month, during which a copy of the scheme will be available for inspection. Every notice so published shall contain a statement that any person who considers that his interests will be prejudicially affected by the scheme may at any time within the said period send to the Ministry all such, if any, observations in regard to the scheme as he shall think proper.

(2) Every [[F10] district council] to which a copy of a scheme is sent by the Ministry in pursuance of this section—

(a) shall cause that copy to be exhibited in their principal offices or other convenient place during the period specified in that behalf in the notice relating to such scheme published in pursuance of sub-section (1) and shall permit such copy to be inspected during office hours by any person claiming to be interested therein; and

(b) shall examine and consider the scheme of which the copy is a copy; and

(c) may, at any time within the period specified in paragraph (*c*) of sub-section (1), send to the Ministry such observations in regard to the scheme as the [[F10] district council] shall think proper.

F6 1973 NI 1
F7 Now D/Env., SRO (NI) 1973/504
F8 Now Dept. of Trade, SI 1974/692
F9 Words in s. 2(1)(a) added (1.4.2007) by the Water and Sewerage Services (Northern Ireland) Order 2006 (S.I. 2006/3336 (N.I. 21)), arts. 1(2), 308(1), **Sch. 12 para. 5** (with arts. 8(8), 121(3), 307); S.R. 2007/194, **art. 2(2)**, Sch. 1 Pt. II (with art. 3, Sch. 2)
F10 SRO (NI) 1973/343

3 Confirmation and commencement of scheme. N.I.

(1) After the expiration of the period mentioned in paragraph (*c*) of sub-section (1) of section two the Ministry may, after considering such observations sent to it as aforesaid and after holding such inquiry, if any, as the Ministry thinks proper, by order confirm the scheme in whole or in part and either without modifications or with such modifications (which may include additions, omissions and variations) as the Ministry thinks proper or may, without prejudice to the making of a new scheme, decline to confirm the scheme.

(2) The Ministry may by order prescribe the date on and from which a scheme made under this Act shall be put into operation.

(3) Notice of the making of an order under this section shall be published in the Belfast Gazette and any such one or more newspapers as the Ministry may consider appropriate.

(4) An order under this section shall be subject to negative resolution.

4 Carrying out of scheme. N.I.

When the Ministry has made an order confirming a scheme, the Ministry may proceed to execute the scheme, and, without prejudice to any other provision of this Act, for that purpose the order shall confer on the Ministry power—

(a) to construct, execute, and complete such works, if any, as may be specified in the scheme and any compensatory works arising out of the scheme with such additions, omissions and variations as may be found expedient in the course of any such works;

(b) to construct, execute and complete such remedial or other works as the Ministry may consider necessary in order to secure the due execution and operation of the scheme or of any compensatory works;

(c) for the purpose of the due execution and operation of the scheme to do all or any of the following things, that is to say:—

(i) take from any land any earth, sods or other material required for the said purpose;

(ii) deposit on any land all spoil or other material obtained in the course of such works; and

(iii) utilise or dispose of any earth, sods, gravel, stone, rock or other material removed in the course of such works.

5 Further powers of the Ministry. N.I.

(1) For the purpose of carrying this Act into effect or for the purposes of carrying out any of its statutory functions in relation to the Lough or to the Lower Bann or to the drainage or navigation thereof (including the settlement of claims for compensation and the carrying out of compensatory works) the Ministry may subject to the provisions of this Act—

(a) acquire either by agreement or compulsorily in accordance with the provisions of this Act or take on lease any land;

(b) dispose of any land for the time being vested in it;

(c) acquire either by agreement or compulsorily in accordance with the provisions of this Act any fisheries, water rights, navigation or other rights;

(d) enter and carry out works on any land;

(e) restrict, terminate, or otherwise interfere with easements, fisheries, water rights, navigation or other rights; or

(f) maintain any works constructed or used for the purposes of this Act.

(2) The Ministry, where it desires to acquire otherwise than by agreement any land or any such right or interest as is referred to in paragraph (*c*) of sub-section (1) shall have power to make an order (in this Act referred to as a "vesting order") vesting such land, right or interest in the Ministry.

[F11](3) For the purposes of this section, paragraphs (3) and (4) of Article 10 of, and Schedule 3 to, the Drainage (Northern Ireland) Order 1973 shall have effect as if enacted in this Act.]

F11 1973 NI 1

Modifications etc. (not altering text)

C2 S. 5: transfer of functions (8.5.2016 for specified purposes) by The Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016/76), art. 1(2), **Sch. 3 Pt. 2** (with art. 9(2))

6 Future liabilities for Lough Neagh Drainage and Navigation. N.I.

Subs. (1)(2) rep. by 1973 NI 1

(3) As from such date as the Ministry may by order prescribe for the purposes of this sub-section, all liabilities, if any, of the Ministry as successor …[F12], to the Lower Bann Navigation Trustees for any dredging or navigation work shall cease, except and in so far only as the Ministry is liable, as successor to the Lower Bann Navigation Trustees, for—

(i) the dredging of the channels and the maintenance of navigation posts or marks at the entrance to the Lower Bann River from the Lough;

(ii) the dredging of the channels and the maintenance of navigation posts or marks at the entrance to the Sixmilewater River from the Lough and extending up the Sixmilewater River to the boundary between the townlands of Half Umry and Town Parks in the Baronies of Toome Upper and Antrim Upper and County of Antrim; and

(iii) the maintenance, subject to and in accordance with the provisions of this Act, of inland navigation in the Lower Bann.

(4) An order under this section shall be subject to negative resolution and may contain such provision with respect to the future ownership of bridges, culverts, weirs, sluices and other works heretofore vested in the Ministry and such transitional and other provisions as appear to the Ministry to be necessary.

F12 1973 NI 1

Modifications etc. (not altering text)

C3 S. 6(3): transfer of functions (8.5.2016) by The Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016/76), art. 1(2), **Sch. 3 Pt. 2** (with art. 9(2))

7 Compensation. N.I.

(1) Where any person suffers any loss or damage by reason of—

(a) the preparation or carrying into effect of a scheme under this Act; or

(b) the exercise of any power exercisable under paragraph (*d*) or (*e*) of sub-section (1) of section five; or

(c) the cessation by virtue of sub-section (3) of section six of any liability of the Ministry, as sucessor to the Lower Bann Navigation Trustees, to carry out certain functions with respect to navigation; or

(d) the exercise by the Ministry or by any person authorised by it of any power exercisable under section twelve;

the Ministry shall, subject to the provisions of this Act, pay to him reasonable compensation in respect of such loss or damage.

(2) In lieu of paying compensation the Ministry may by agreement construct or repair works or provide facilities to prevent or make good any loss or damage to which the provisions of sub-section (1) apply or would otherwise apply; so, however, that in the event of such construction, repair or provision affording or appearing likely to afford any additional or improved advantages, facilities or rights the Ministry may enter into agreement with any person whereby a fair proportion of the cost incurred by the Ministry in connection with such construction, repair or provision shall be borne by that person.

(3) Every claim for compensation under this Act—

(a) shall be made in writing to the Ministry not later than—

(i) where the claim is in respect of loss of or damage to a fishery or fishing right, ten years from the relevant date; and

(ii) in any other case, three years from the relevant date;

and such details of the claim as the Ministry may require shall be furnished in writing to the Ministry within such further period as the Ministry may reasonably determine as being necessary for the expeditious disposal of claims; and

(b) shall, in default of agreement, be [[F13] referred to and determined by the Lands Tribunal].

(4) In computing the amount of reasonable compensation under this Act the Ministry may allow a sum in respect of the cost of the employment of any solicitor and may allow a sum in respect of the cost of the employment of any engineer, surveyor, accountant or valuer where the Ministry is satisfied that such employment has been necessarily and properly incurred in connection with the preparation of a claim for compensation but save as aforesaid costs shall not be payable by the Ministry in respect of claims for compensation.

(5) In this section and in section nine "relevant date" means, in relation to any claim for compensation—

(a) where the claim arises in consequence of an order made under sub-section (3) of section six, the date of that order; and

(b) where the claim arises out of a scheme, the date prescribed under section three as the date on which the scheme shall be put into operation; and

(c) where the claim arises under any of the other provisions of this Act, the date on which the loss or damage occurred.

F13 1964 c. 29 (NI)

Modifications etc. (not altering text)

C4 S. 7: transfer of functions (8.5.2016 for specified purposes) by The Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016/76), art. 1(2), **Sch. 3 Pt. 2** (with art. 9(2))

S. 8 rep. by 1964 c. 29 (NI)

9 Matters to be regarded in assessing compensation. N.I.

When assessing compensation, [[F14] the Lands Tribunal] shall in every case have regard to any benefit to any property (whether such property is or is not the property in respect of which such compensation is claimed) of the person claiming such compensation which is occasioned by or may reasonably be expected to arise from the carrying into effect or operation of a scheme and, in particular, [[F14] the Lands Tribunal]—

(a) shall, in the case of a claim in respect of the navigation of any waterway, have regard to the extent to which that waterway was used by the person claiming for purposes of navigation during the ten years immediately preceding the relevant date, or during such longer period as the Ministry may in any case agree; and

(b) shall, in the case of a claim in respect of water rights, have regard to any alternative water supply provided by the Ministry; and

(c) shall, in the case of a claim in respect of water or a watercourse providing power for a mill or other industrial concern or for domestic purposes have regard to the extent to which the power so provided was used during the ten years immediately preceding the relevant date, and shall also have regard to any alternative source of power provided by the Ministry or otherwise available to the claimant.

F14 1964 c. 29 (NI)

Modifications etc. (not altering text)

C5 S. 9: transfer of functions (8.5.2016 for specified purposes) by The Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016/76), art. 1(2), **Sch. 3 Pt. 2** (with art. 9(2))

10 Noxious weeds. N.I.

Notwithstanding any enactment or rule of law to the contrary the deposit by the Ministry on any land not the property of the Ministry of spoil or other material excavated in the course of the carrying out of works or the uncovering of any lands formerly covered by the Lough shall not render the Ministry subject to any civil or criminal liability in respect of any noxious weeds which may grow on such deposit or on any such land uncovered.

11 Offences. N.I.

(1) Every person who—

(a) dredges sand, gravel, soil or any other substance within one hundred yards of any work**[**[F15] vested in**]** or maintained by the Ministry …[F16] under this Act,[F15]. . . ; or

(b) moors any vessel to or at any such work otherwise than to a post or ring specially provided by the Ministry for the mooring of vessels; or

(c) wilfully obstructs any officer or servant of the Ministry in the exercise of any powers or the performance of any duties of the Ministry under this Act, or any person engaged in the construction of any works in pursuance thereof; or

[[F15](d) removes any works (whether constructed or in course of construction) which are vested in or maintained by the Department for the purposes of this Act; or**]**

(e) removes,[F15]. . . any pegs, poles or marks placed or made by any authorised person for the purpose of, or in connection with, the construction of any works as aforesaid; or

(f) places any solid matter in, or causes or permits any solid matter to fall or pass into, any watercourse in respect of which any works are about to be or are in course of being constructed**[**[F15] by the Department**]**; or

(g) obstructs the flow of water to, through or from, any works**[**[F15] vested in or maintained by the Department for the purposes of this Act**]** in such manner as to prevent or hinder the efficient operation thereof, or to cause flooding of such works or any lands drained thereby;

shall, without prejudice to the provisions of any byelaw in force under section fifteen, be guilty of an offence under this section.

(2) Any person guilty of an offence under this section shall be liable on summary conviction thereof to a fine not exceeding**[**[F17] level 3 on the standard scale**]**, or at the discretion of the court to imprisonment for any term not exceeding six months or to both such fine and imprisonment, and shall also, in the case of a continuing offence, be liable to a fine (in addition to any such fine as aforesaid) not exceeding five pounds for every day during which the offence continues.

F15 1984 NI 2
F16 1973 NI 1
F17 1984 NI 3

12 Entry on land. N.I.

For the purposes of enabling the Ministry to exercise any power or perform any duty conferred or imposed on it by this Act or otherwise for the purpose of carrying the provisions of this Act into effect, any person authorised in that behalf by the Ministry may, on production (if so required) of his authority, enter on and inspect any land and there carry out such works and do such other things as appear to be reasonably necessary or expedient for any of the purposes aforesaid.

Modifications etc. (not altering text)

C6 S. 12: transfer of functions (8.5.2016 for specified purposes) by The Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016/76), art. 1(2), **Sch. 3 Pt. 2** (with art. 9(2))

13 Protection of fisheries. N.I.

The Ministry in carrying the provisions of this Act into effect shall, after consultation with the Ministry of Commerce[F18], take such precautions and make such provisions as the Ministry may consider adequate for the protection of and avoidance of injury to fisheries and fish life, so, however, that the Ministry shall not be required to take such precautions or make such provisions as the Ministry considers would prevent or unduly hinder the carrying into effect of the provisions of this Act.

F18 Now D/Agric., SRO (NI) 1963/29

Modifications etc. (not altering text)

C7 S. 13: transfer of functions (8.5.2016 for specified purposes) by The Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016/76), art. 1(2), **Sch. 3 Pt. 2** (with art. 9(2))

14 Provision as to bridges and roads. N.I.

Subs. (1)(2) rep. by 1973 NI 1; SLR 1976

(3) The appropriate transferees may replace any swing or swivel bridge in respect of which liabilities are transferred to them under this section by a fixed bridge having such minimum height, span and other dimensions and number of arches as the Ministry of Commerce[F19F20]... may approve and where such fixed bridge is so provided the Ministry shall pay compensation to any person who suffers any loss or damage by reason of such replacement operating to restrict any right of navigation theretofore exercised by him.

(4) Every claim for compensation under sub-section (3) shall be made in writing to the Ministry not later than three years from the date certified by the appropriate transferees as the date of the completion of such replacement and such details of the claim as the Ministry may require shall be furnished in writing to the Ministry within such further period as the Ministry may reasonably determine as being necessary for the expeditious disposal of claims.

(5) Any dispute arising with respect to any property, rights or liabilities transferred, restricted or extinguished, or obligations imposed, or compensation or expenses payable, under this section shall be [[F21] referred to and determined by the Lands Tribunal].

(6) An arrangement under this section shall have effect notwithstanding anything to the contrary contained in any existing transferred provision with respect to inland navigation.

F19 Now D/Env., SRO (NI) 1963/29; 1964/205; 1973/504
F20 Words in s. 14(3) omitted (8.5.2016) by virtue of The Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016/76), art. 1(2), **Sch. 6 para. 71** (with art. 9(2))
F21 1964 c. 29 (NI)

Modifications etc. (not altering text)
C8 S. 14: transfer of functions (8.5.2016 for specified purposes) by The Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016/76), art. 1(2), **Sch. 3 Pt. 2** (with art. 9(2))
C9 S. 14(3): transfer of functions (8.5.2016) by The Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016/76), art. 1(2), **Sch. 5 Pt. 2** (with art. 9(2))

S. 15 rep. by 1999 NI 6

16 Financial provisions. N.I.

(1 [F22] All expenditure which the Ministry, after consultation with the Ministry of Agriculture, may certify as having been incurred by the Ministry in or in connection with the preparation or carrying into effect of a scheme (in this section called "scheme expenditure") shall, in the first instance and subject to the provisions of sub-section (3), be defrayed out of moneys provided by Parliament, or, if the Ministry thinks fit, out of the Consolidated Fund, so, however, that the amount to be defrayed out of the Consolidated Fund shall not exceed one hundred and fifty thousand pounds.

(2) Expenditure incurred by the Ministry under this Act other than scheme expenditure shall be defrayed out of moneys provided by Parliament.

(3) All scheme expenditure shall be recouped to the Ministry by the Ministry of Agriculture at such times and in such manner as the Ministry may direct as if it had been expenditure incurred by the Ministry as the agent of and on behalf of the Ministry of Agriculture in carrying the provisions of [[F23] the Drainage (Northern Ireland) Order 1973], into effect and scheme expenditure so recouped by the Ministry of Agriculture shall be deemed to be expenditure incurred by that Ministry in carrying the provisions of that Act into effect and, as such, to be expenditure towards which contributions shall be paid by the council of each county or county borough under section twenty-three of that Act; and the said section twenty-three shall have effect accordingly.

(4 [F22] The Ministry may borrow money for the purposes of providing issues out of the Consolidated Fund under sub-section (1) and moneys so borrowed shall be repaid within any period or periods not exceeding twenty-five years from the date of borrowing and provision for such repayment may be made out of moneys provided by Parliament.

F22 See reference 1 above
F23 1973 NI 1

17 Saving for powers of Minister of Transport and Civil Aviation, etc. N.I.

(1) None of the administrative powers conferred by this Act on the Ministry shall be taken to authorise any matter or thing to be done without the consent of the Minister of Transport and Civil Aviation[F24] in any case where that consent is required to be obtained by virtue of sub-section (2) of section nine of the Northern Ireland (Miscellaneous Provisions) Act, 1932.

[[F25](2) Paragraph 23 of**[**[F26] the electronic communications code**]** (which provides a procedure for certain cases where works involve the alteration of**[**[F26] electronic communications apparatus**]**) shall apply to the Department for the purposes of any works authorised by a scheme under this Act.**]**

F24 Now Bd. of Trade or S of S, SI 1959/1768; 1965/145; 1970/1537
F25 1984 c. 12
F26 2003 c.21

18 Interpretation. N.I.

In this Act—

[[F27] "Lands Tribunal" means the Lands Tribunal for Northern Ireland;]

"Lough Neagh" includes the waters thereof;

"Lough Neagh drainage district" means the district of Lough Neagh as defined in the drainage award made by the Commissioners of Public Works in Ireland dated the fourth day of April, eighteen hundred and fifty-nine …[F28];

"prescribed" means prescribed by the Ministry;

"transferred provision" has the same meaning as in paragraph (*g*) of section one of the Interpretation Act (Northern Ireland), 1954 ; and

"works" include compensatory or remedial works.

F27 1964 c. 29 (NI)
F28 1973 NI 1

S. 19 rep. by 1973 NI 1

20 Short title. N.I.

This Act may be cited as the Lough Neagh and Lower Bann Drainage and Navigation Act (Northern Ireland), 1955.

N.I.

Schedule rep. by 1973 NI 1

Changes to legislation:
There are currently no known outstanding effects for the Lough Neagh and Lower Bann Drainage and Navigation Act (Northern Ireland) 1955.