

**DRAINAGE (AMENDMENT)
(NORTHERN IRELAND) ORDER 2005**

S.I. 2005 1453

EXPLANATORY MEMORANDUM

DISSOLUTION OF DRAINAGE TRUSTS

5. In the early part of the 20th Century, many of the large estates in Ireland were broken up and sold to their tenants. On some of these estates there were watercourses/drains, which had been cleansed and maintained by estate owners. This work was considered onerous and when the terms of the Land Purchase were being settled, maintenance of these watercourses/drains was taken into account when fixing the sale price. A sum of money was set aside out of the purchase price to be expended on future maintenance of these watercourses/drains. This sum was intended to yield an income equivalent to the average annual expenditure of the landlord during the previous 10 years.
6. Most of the drainage trusts were set up under section 27 of the Northern Ireland Land Act 1925 with trustees nominated by the tenant farmers and as appointed by the appropriate Government Department of the time. The trustees were responsible for carrying out the provisions of the trusts.
7. The funds which were set aside were initially lodged with the Irish Land Commission, then later transferred to the Department of Finance under the Northern Ireland Land Purchase (Winding Up) Act 1935 and finally to the Department of Agriculture under the Transfer of Functions Order (NI) 1968.
8. Article 29 of the Drainage (NI) Order 1973 provides for the transfer of drainage trusts, funds, associated rights and liabilities to the Department, on agreed terms. Article 29(2) empowers the Department to apply the property transferred for drainage purposes on the land associated with the trust.
9. The Agency administers over 20 drainage trust funds. The funds held in each trust are relatively small in comparison with current drainage maintenance costs. In many cases income generated by the capital invested does not meet the likely demand for maintenance. Consequently they have become largely obsolete, and no longer serve the purpose for which they were established. It is no longer administratively efficient for the Department to continue to manage these largely moribund trusts. Also in some cases drains covered by the trusts have been designated by the Drainage Council for Northern Ireland and are now maintained by the Agency at public expense.
10. Specific power needs to be taken to enable trusts to be dissolved. The Order provides permissive powers to dissolve the drainage trusts.
11. It is intended that the individual trust funds will be dissolved as it is considered appropriate, by means of subordinate legislation following consultation, which will enable stakeholders to make representation about any detriment to their interests in the proposed dissolution. On dissolution funds will be dispersed to identified stakeholders making legitimate claims to those funds and, in the absence of identified stakeholders

*This Explanatory Memorandum refers to the Drainage
(Amendment) (Northern Ireland) Order 20051453*

or in the event of unclaimed funds after public advertisement, the remaining funds will revert to Government.

12. In view of the time needed to identify interested parties for each trust and consult with them on the proposals, it is envisaged that the dissolutions may be phased.