



Land Drainage (Scotland) Act 1930

1930 CHAPTER 20 20 and 21 Geo 5

An Act to make further provision for the drainage of agricultural land in Scotland. [15th April 1930]

Modifications etc. (not altering text)

C1 The text of this Act stands unchanged between 1.2.1991 and 1.12.1991

Commencement Information

II Act wholly in force at Royal Assent

1 Maintenance of banks and cleansing of channels of water-courses.

- (1) Where the owner or occupier of any agricultural land is of opinion that such land is being injured or is in danger of being injured by reason of the failure of the owner or occupier of any other land to maintain or to join in maintaining the banks or to cleanse or scour or to join in cleansing or scouring the channel of any watercourse in or partly in or adjoining such last-mentioned land, it shall be lawful for the owner or occupier of such first-mentioned land to serve a notice on the owner of the land last-mentioned requiring him to maintain or to join in maintaining the banks or to cleanse or scour or to join in cleansing or scouring the channel of any such watercourse as the case may be.
- (2) Where a notice has been served in pursuance of the foregoing subsection and the requirements thereof have not been complied with within two months after the date of such service, it shall be lawful for the person serving the notice to apply to the sheriff for a warrant authorising him to cause the operations required in the notice to be carried out or to join with any other person in so doing.
- (3) On any such application the sheriff, if he thinks fit, may summon a person of skill and experience in matters relating to drainage to sit with him and act as assessor, or may remit to any such person to examine and report on any matter involved in such application or on any disputed question of fact arising therein.
- (4) If the sheriff is satisfied—

Changes to legislation: There are currently no known outstanding effects for the Land Drainage (Scotland) Act 1930. (See end of Document for details)

- (a) that the land owned or occupied by the applicant is being or is in danger of being injured by such failure as aforesaid;
- (b) that the person on whom the notice has been served is unreasonably refusing or delaying to take such steps as may be necessary to remedy or prevent such injury; and
- (c) that the cost of carrying out any operations necessary to remedy or prevent such injury is such that it may reasonably be borne by the parties,

he may ordain the person upon whom the notice has been served to carry out such operations as the sheriff shall think necessary and that within such time as may be specified, and upon failure to implement such order the sheriff may grant a warrant authorising the carrying out of such operations, and the person authorised by such warrant shall have power to enter on the land where the operations are to be carried out, and to carry out the same. The sheriff, if he thinks fit, may, and on the application of any party, shall direct that any operations to be carried out under such an order or warrant as aforesaid shall be carried out under the supervision of a person of skill and experience in matters of drainage.

^{F1}(5)

- (6) On any such application the sheriff shall have power to direct that the costs of carrying out any operations in pursuance of an order or warrant granted under this section (including the remuneration of any person under whose supervision the operations are directed to be carried out) shall be borne by the parties in such proportions as he may think fit.
- (7) The Court of Session may by Act of Sederunt make rules with regard to the remuneration of persons acting as assessors or as reporters or supervising the carrying out of operations under an order or warrant in pursuance of the provisions of this Act, and the remuneration of any person acting as assessor or as reporter shall be treated as expenses in the application unless the sheriff otherwise directs.
- (8) Nothing in this section shall affect the right of an owner or occupier to recover from the other under the terms of any lease or other contract for the time being in force the amount of any expenses incurred by him or recovered from him under the foregoing provisions of this section.

Textual Amendments
F1 S.1(5) repealed (1.4.1999) by 1997 c.36, s.8, Sch.; S.I.1997/1322, art.2(3)

2 Making of underground main drains.

- (1) Where the owner or occupier of any agricultural land is of opinion that such land is being injured or is in danger of being injured through the refusal of the owner of any land to allow underground main drains to be formed through his land, it shall be lawful for the owner or occupier of such agricultural land to apply to the sheriff for a warrant authorising him to make such underground main drains through the land of such owner.
- (2) If the sheriff is satisfied that the land owned or occupied by the applicant is being or is in danger of being injured by such refusal as aforesaid, and that permission to make such underground main drains is being unreasonably withheld, he may after such inquiry by remit or report, or otherwise, as he may think necessary, grant a warrant

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authorising the making of such underground main drains, and the person so authorised shall have power to enter on the land where the operations are to be carried out, and to carry out the same. The sheriff, if he thinks fit, may, and on the application of the person through whose land such underground main drains are proposed to be made, shall direct that any operations to be carried out under such warrant shall be carried out under the supervision of a person of skill and experience in matters of drainage.

- (3) Such warrant shall provide (i) for the payment by the person so authorised of compensation for any loss or damage caused to any other person by reason of the making of the underground main drains authorised by such warrant, the amount of such compensation, failing agreement, to be determined by the sheriff after such inquiry as aforesaid; and (ii) for the proper maintenance or renewal of the said drains in the future at the expense of the owner for the time being of the said agricultural land.
- (4) In any application to the sheriff under this or the immediately preceding section he shall have power to award expenses to or against any party to the application.

3 F2

Textual Amendments

F2 Ss. 3, 10 repealed by [Statute Law Revision Act 1950 \(c. 6\)](#)

F3 4 F3

Textual Amendments

F3 S.4 repealed (1.4.1999) by [1997 c.36, s.8, Sch.](#); [S.I.1997/1322 art.2\(3\)](#)

F4 5 F4

Textual Amendments

F4 S.5 repealed (1.4.1999) by [1997 c.36, s.8, Sch.](#); [S.I.1997/1322, art.2\(3\)](#)

6 Service of notices, &c.

Any notice or other document required or authorised by this Act to be served on any person may be served by delivery to that person or by post, and service on the known agent of any person shall be deemed to be service on that person.

7 Crown rights.

Nothing in this Act shall affect prejudicially any estate, right, power, privilege, or exemption of the Crown, or authorise the apportionment of any part of the cost of carrying out a scheme to, or the recovery of any part of the cost of maintaining drainage works in respect of any land (including tidal lands below high-water mark of ordinary

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spring tides) belonging to His Majesty in right of his Crown or to any Government Department, and nothing in this Act shall authorise the use of or interference with any land (including as aforesaid) belonging to His Majesty in right of His Crown, or to any Government Department, without the consent of His Majesty or the Government Department as the case may be.

8 Works below high-water mark.

Nothing in this Act shall authorise the execution of any works on, over or under tidal lands below high-water mark of ordinary spring tides, or the using thereof for any purposes (including the deposit thereon of shingle, sand, clay or other matter), except in accordance with such plans and sections, and subject to such restrictions and regulations as, previous to such works being commenced, have been approved by the Board of Trade in writing.

Modifications etc. (not altering text)
C2 Functions of Board of Trade now exercisable concurrently by Secretary of State: [S.I. 1970/1537](#) art. 2(1)

9 Interpretation.

In this Act unless the context otherwise requires:—

The expression “agricultural land” shall include any land used for agricultural or pastoral purposes or for the purpose of poultry farming or as a market garden, orchard, allotment, or allotment garden, and any woodlands or land used for the purpose of afforestation:

The expression “drainage works” shall include the cleansing, scouring, deepening, widening, straightening, or diverting of any watercourse or outfall for water, the removal of any obstruction, natural or artificial, in any watercourse, and the construction of any new watercourse or outfall for water; the construction, repair, raising, lowering, widening, strengthening, or altering, of any embankment, dam, sluice, weir, wall, groyne, or of any structure or erection for the purpose of defence against water; and any works for the prevention or abatement of injury or damage which might be caused by the carrying out of any of the aforesaid operations:

The expression “watercourse” shall include any river, stream, ditch, drain (whether open or closed), cut, culvert, dyke, or sluice:

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Textual Amendments
F5 Definitions in s. 9 repealed (5.11.1993) by [1993 c. 50, s. 1\(1\)](#), [Sch. 1 Pt. XIII](#)

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Textual Amendments

F6 Ss. 3, 10 repealed by Statute Law Revision Act 1950 (c. 6)

11 Extent, short title and duration.

(1) This Act shall extend to Scotland only and may be cited as the Land Drainage (Scotland) Act 1930.

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Textual Amendments

F7 S.11(2) repealed (1.4.1999) by 1997 c.36, ss.6(2), 8, 9(3)Sch.; S.I.1997/1322 art.2(3)

Changes to legislation:

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