



# Land Drainage' (Scotland) Act 1958

## 1958 CHAPTER 24

### 2 Contents of improvement order

- (1) An improvement order shall—
- (a) describe the improvement area by reference to a map and specify the extent of that area ;
  - (b) describe particularly and by reference to a map, and specify the extent of, each portion of the agricultural land situated in the improvement area which is in separate ownership or, where the whole of such land is in the ownership of one person, that land, and specify the name and address of the owner of each of such portions or of such land ;
  - (c) contain provisions empowering the authorised persons to execute, in accordance with the order, such drainage works as may be specified therein, being works, whether on land situated in the improvement area or on other land, which in the opinion of the Secretary of State will improve the drainage of that area or will prevent or mitigate flooding or erosion to which the area is subject, and refer to such plans and specifications as may be necessary for the purpose of specifying the said works adequately;
  - (d) specify such other works (hereafter in this Act referred to as " protective works"), whether on land situated in the improvement area or on other land, as in the opinion of the Secretary of State will be necessary for the protection of land (hereafter in this Act referred to as " endangered land") specified in the order as being likely to suffer injury in consequence of the execution of the said drainage works, refer to such plans and specifications as may be necessary for the purpose of specifying such protective works adequately, and provide that the authorised persons shall, on executing any of the drainage works specified in the order, execute also such of the protective works specified therein as have become necessary, in consequence of the execution of those drainage works, for the protection of any endangered land ;
  - (e) provide that where a grant has been made under section nine of this Act in respect of the cost of improvement under the order, the authorised persons shall be obliged to maintain in a good and effective condition any drainage works executed in pursuance of the order, and provide also that the authorised persons shall in any case maintain in a good and effective condition any

protective works executed in pursuance of the order so far as such works continue to be necessary for the protection of any endangered land ;

- (f) specify the estimated cost of improvement;
  - (g) provide that the cost of improvement and the cost of maintaining any drainage or protective works executed in pursuance of the order shall be borne by the authorised persons and, unless there is only one authorised person, specify the proportions in which, subject to any apportionment made under subsection (3) of section five of this Act, the said persons are to bear such costs;
  - (h) if the Secretary of State thinks it necessary, prescribe the procedure to be followed by the authorised persons in taking any decision relating to the discharge of their functions under the order ; and
  - (i) incorporate, subject to such modifications as may be specified in the order, such of the provisions of the Second Schedule to this Act as the Secretary of State may consider appropriate.
- (2) In this Act references to the authorised persons shall, in relation to an improvement order, be construed as references to the owners for the time being of each portion of the agricultural land situated in the improvement area which is in separate ownership or, so long as such land is in the ownership of one person, as references to the owner for the time being of such land.
- (3) In this Act " cost of improvement" means, in relation to an improvement order, any cost incurred by the authorised persons for the purpose of, or in the course of, the discharge by the said persons of their functions under such order or this Act, but does not include any cost incurred by those persons for the purpose of, or in the course of, maintaining any drainage or protective works executed in pursuance of the order.
- (4) Before fixing, for the purposes of an improvement order, the proportions in which the authorised persons are to bear the cost of improvement and the cost of maintaining any drainage or protective works executed in pursuance of the order, the Secretary of State shall consult each of the said persons, and in fixing the proportion of such costs to be borne by any one of those persons he shall have regard—
- (a) to the extent of the agricultural land owned by that person which is situated in the improvement area, being land the productivity of which is likely to be improved in consequence of the execution of the drainage works specified in the order, and
  - (b) to the improvement in productivity which is likely to result to the said land from the execution of the drainage works specified in the order, and
  - (c) to any damage which that person is likely to suffer as owner of the said land by reason of the discharge by the authorised persons of any of their functions under the order in relation to a matter as to which such person has not himself been in default.
- (5) A provision in an improvement order specifying the proportions in which the authorised persons are to bear the cost of improvement and the cost of maintaining any drainage or protective works executed in pursuance of the order shall, subject to the provisions of this Act, have effect for the purpose of regulating the liability of the said persons to bear such costs only in a question arising between those persons or any of them.