



Land Drainage' (Scotland) Act 1958

1958 CHAPTER 24

4 Repair of damage and compensation

- (1) The authorised persons under an improvement order shall, so far as is reasonably practicable.—
- (a) make good any damage suffered by any land in consequence of the discharge by those persons of any of their functions under such order, and
 - (b) replace any fences or other structures removed by them in the discharge of any of the said functions or erect adequate fences or structures in substitution therefor:

Provided that paragraph (b) of this subsection shall not apply in relation to fences or other structures removed by the authorised persons which have become unnecessary in consequence of the execution of any of the drainage or protective works specified in the order.

- (2) Compensation shall be payable by the authorised persons under an improvement order to the owner of any land, other than agricultural land situated in the improvement area, and to the occupier of any land, in respect of any damage suffered by such owner or occupier by reason of the discharge by the authorised persons of any of their functions under such order in relation to a matter as to which the owner or occupier has not himself been in default:

Provided that compensation shall not be payable under this subsection to the tenant of an agricultural holding in respect of any damage suffered by him, being damage due to factors which, on a requisition made under subsection (1) or (2) of section six of this Act, would fall to be taken into account in assessing any increase or diminution in the rental value of the holding.

- (3) A claim under this section for the making good of any damage to land, for the replacement of any fences or other structures, or for compensation, shall not be maintainable if it is made to the authorised persons after the expiry of two years from the date of the completion of the drainage and protective works specified in the improvement order in question or, where the claim arises out of a particular exercise by the said persons of their functions relating to the maintenance of such works, after the expiry of two years from the date of that particular exercise of those functions.

Status: This is the original version (as it was originally enacted).

- (4) Any question arising under this section between the authorised persons and the owner or occupier of any land shall be determined, if such land is agricultural land, by the Land Court, and in any other case by a single arbiter agreed upon by the parties or, in default of such agreement, appointed by the sheriff on the application of any of the parties.