



# Land Drainage Act 1961

## 1961 CHAPTER 48

### PART III

#### RESTORATION AND IMPROVEMENT OF DITCHES

#### **44**    **Introductory**

Sections fifty-seven and fifty-eight of the Act of 1930 (which enable persons interested in any land to require owners and occupiers of adjoining land to carry out or permit the carrying out of certain drainage works) shall cease to have effect and the following provisions of this Part of this Act shall have effect in lieu thereof.

#### **45**    **Power of Agricultural Land Tribunal to order cleansing of ditches, etc.**

- (1) Where a ditch is in such condition as to cause injury to any land or to prevent the improvement of the drainage of any land, the Agricultural Land Tribunal may, on the application of the owner or occupier of the land, make, if it thinks fit, an order requiring the person or persons named in the order to carry out such work for cleansing the ditch, removing from it any matter which impedes the flow of water, or otherwise putting it in proper order and for protecting it as may be specified in the order.
- (2) An order under this section may name any person who is an owner or occupier of land through which the ditch passes or which abuts on the ditch, and any person who, though not such an owner or occupier, has a right to carry out the work specified in the order or any part of it; and the order shall be sufficient authority for any person named therein to do the work specified therein in relation to him and, so far as may be necessary for that purpose, to enter any land so specified.
- (3) Where an order under this section names more than one person it may either require each of those persons to carry out a specified part of the work specified in the order or require all those persons jointly to carry out the whole of that work; and where the Tribunal make an order requiring persons jointly to carry out any work they may, if they think fit, specify in the order the proportions in which those persons are to contribute to the cost of doing so, without prejudice however to their joint liability.

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**46 Power of Agricultural Land Tribunal to authorise drainage work on adjoining land**

Where the drainage of any land requires the carrying out of any work in connection with a ditch passing through other land, or the replacement or construction of such a ditch, or the alteration or removal of any drainage -work in connection with such a ditch, the Agricultural Land Tribunal may on the application of the owner or occupier of the first-mentioned land make, if it thinks fit, an order authorising him to carry out for that purpose such work as may be specified in the order and, so far as may be necessary for that purpose, to enter any land so specified.

**47 Composition and powers of Agricultural Land Tribunal for hearing of application under Part III**

- (1) The Lord Chancellor shall draw up for each Agricultural Land Tribunal and from time to time revise a panel of persons appearing to him to be experienced in matters relating to land drainage; and for each hearing by an Agricultural Land Tribunal of an application under this Part of this Act one of the members of the Tribunal shall, instead of being a person nominated in accordance with paragraph (b) of sub-paragraph (1) of paragraph 16 of the Ninth Schedule to the Agriculture Act, 1947, be a person nominated by the chairman from the panel drawn up under this section.
- (2) Paragraph 16a of the said Ninth Schedule (which provides for the exercise of the power of making nominations if the chairman is prevented from doing so) shall apply to nominations under this section.
- (3) For the purpose of deciding any application under this Part of this Act the Agricultural Land Tribunal may authorise any of its members or any other person to enter and inspect any land.

**48 Power of Minister to carry out work authorised under Part III**

- (1) Where at the expiration of three months or such longer time as may be specified in an order under section forty-five of this Act any work specified in the order has not been carried out, the Minister or any drainage authority authorised by him either generally or in a particular case may carry out the work and enter any land which it is necessary to enter for that purpose.
- (2) The Minister or drainage authority may recover from any person named in the order the expenses reasonably incurred in doing under subsection (1) of this section any work which ought to have been done by that person, including any compensation payable in connection with that work under section forty-nine of this Act.
- (3) The services for which provision may be made by a scheme under section one hundred and three of the Agriculture Act, 1947, shall include such services to the owner or occupier of any land as may enable him to carry out any work which he is authorised to carry out by an order under this Part of this Act.

**49 Supplementary provisions as to powers of entry and compensation**

- (1) A person entitled under the provisions of this Part of this Act to enter any land may take with him such other persons and such equipment as may be necessary and, if the land is unoccupied, he shall, on leaving it, leave it as effectually secured against trespassers as he found it.

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- (2) Before entering any land under the powers conferred by this Part of this Act the person entering it shall give not less than seven days' notice in writing to the occupier of the land.
- (3) Where any person sustains any injury by reason of the exercise of any power conferred by this Part of this Act then, unless the power was exercised in or for the purpose of the execution of any work which he was required to do by an order under this Part of this Act, the person exercising the power shall be liable to make full compensation to him, and in the case of dispute the amount of the compensation shall be determined by the Lands Tribunal.