



# Land Drainage Act 1961

## 1961 CHAPTER 48

### PART II

#### MISCELLANEOUS PROVISIONS AS TO LAND DRAINAGE AND DRAINAGE BOARDS

##### *New provisions*

#### **34 Power of local authorities to undertake drainage works against flooding**

- (1) So far as may be necessary for the purpose of preventing flooding or remedying or mitigating any damage caused by flooding the council of a county borough or county district shall, subject to the provisions of this section, have all the powers conferred on drainage boards by sections thirty-four, thirty-eight, forty-three and forty-seven of the Act of 1930 ; and in connection with the exercise of those powers the council shall be subject to the same restrictions and liabilities as a drainage board, and section forty of this Act shall apply in relation to the council as it applies in relation to a drainage board.
- (2) The exercise of those powers shall be among the purposes for which the council of a borough or urban or rural district may be authorised by the Minister of Housing and Local Government to purchase land compulsorily; and the Acquisition of Land (Authorisation Procedure) Act, 1946, shall apply in relation to any authorisation under this subsection as it applies in relation to such an authorisation as is mentioned in section one thereof.
- (3) Where the powers conferred by this section on the council of a county district are not exercised by that council they may be exercised by the county council—
  - (a) at the request of the council of the county district; or
  - (b) after not less than six weeks' notice given in writing by the county council to the council of the county district;

but where the council of the county district, before the expiry of a notice given under paragraph (b) of this subsection, appeal against the notice to the Minister of Housing and Local Government and inform the county council of the appeal, the powers shall not be exercised by the county council in pursuance of the notice unless it is confirmed by that Minister.

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*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

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- (4) Any expenses incurred by a county council under subsection (3) of this section shall be expenses for special county purposes.
- (5) This section does not authorise the execution of any drainage works in connection with the main river.
- (6) A council shall not execute any drainage works authorised by this section in connection with any watercourse except with the consent of, and in accordance with any reasonable conditions imposed by, the river board or, if the place where the works are to be executed is not part of a river board area, the Minister.
- (7) Before giving any consent or imposing any condition under this section with respect to any drainage works in connection with a watercourse under the control of an internal drainage board the river board shall consult with the internal drainage board.
- (8) A consent required under subsection (6) of this section shall not be unreasonably withheld and shall, if neither given nor refused within two months after application therefor is made, be deemed to have been given.
- (9) Any question arising under this section whether the consent of a river board is unreasonably withheld or whether any condition imposed by a river board is reasonable shall be referred to and determined by the Minister and the Minister of Housing and Local Government acting jointly.
- (10) Subsection (6) of this section shall not apply to any work executed in an emergency, but a council executing any work excepted by this subsection shall as soon as practicable inform the river board or, as the case may be, the Minister, in writing of the execution and of the circumstances in which it was executed.