



Land Drainage Act 1976

1976 CHAPTER 70

PART II

POWERS OF DRAINAGE AUTHORITIES

Carrying out drainage works, etc.

17 General drainage powers

- (1) Every drainage authority acting within their area shall have power—
 - (a) to maintain existing works, that is to say, to cleanse, repair or otherwise maintain in a due state of efficiency any existing watercourse or drainage work;
 - (b) to improve any existing works, that is to say, to deepen, widen, straighten or otherwise improve any existing watercourse or remove or alter mill dams, weirs or other obstructions to watercourses, or raise, widen or otherwise improve any existing drainage work;
 - (c) to construct new works, that is to say, to make any new watercourse or drainage work or erect any machinery or do any other act (other than an act referred to in paragraph (a) or (b) above) required for the drainage of their area.
- (2) Subsection (1) above shall not be taken as authorising a water authority to do any work otherwise than in connection with, the main river, save that the power of a water authority to maintain, improve or construct drainage works for the purpose of defence against sea water or tidal water shall be exercisable anywhere in the water authority area, irrespective of whether they are works in connection with the main river; and for the purposes of this subsection the water authority area shall be deemed to extend beyond the low-water mark.
- (3) Where a water authority area abuts on the sea or on any estuary the water authority for that area may construct all such works and do all such things in the sea or in that estuary as may, in their opinion, be necessary to secure an adequate outfall for the main river.

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- (4) A drainage authority desiring to execute drainage works for the benefit of their area in lands outside that area shall have the same powers for that purpose as are conferred by this Act on persons interested in land which is capable of being drained or improved and desiring to execute drainage works for that purpose; and any expenses incurred by a drainage authority under this subsection shall be defrayed as if the expenses had been incurred in the area of the authority.
- (5) Where injury is sustained by any person by reason of the exercise by a drainage authority of any of their powers under this section, the authority shall be liable to make full compensation to the injured person; and in case of dispute the amount of the compensation shall be determined by the Lands Tribunal.
- (6) Nothing in this section authorises any person to enter on the land of any person except for the purpose of maintaining existing works.
- (7) In this Act " drainage authority " means a water authority or internal drainage board, and in relation to an internal drainage board any reference to the area of a drainage authority is a reference to the district of the board.

18 Maintenance of the flow of watercourses

- (1) Where any watercourse is in such a condition that the proper flow of water is impeded, then, unless the condition is attributable to subsidence due to mining operations (including brine pumping), the drainage authority concerned may by notice require the person on whom the notice is served to remedy that condition.
- (2) For the purposes of subsection (1) above the drainage authority concerned shall be—
 - (a) in relation to a watercourse in an internal drainage district, other than a watercourse forming part of the main river, the internal drainage board;
 - (b) in relation to any other watercourse, the water authority for the area in which the watercourse is situated.
- (3) A notice under this section may be served on—
 - (a) any person having control of the part of the watercourse where any impediment occurs; or
 - (b) any person owning or occupying land adjoining that part; or
 - (c) any person to whose act or default the said condition is due;but no such notice requiring any person to carry out any work on land not owned or occupied by him shall be served without the consent of the owner and the occupier of the land, except in a case where it is not practicable, after reasonable inquiry, to ascertain the name and address of the owner or occupier.
- (4) A notice under this section shall indicate—
 - (a) the nature of the works to be executed and the time within which they are to be executed, and
 - (b) the right of appeal to a magistrates' court and the time within which such an appeal may be brought (for which provision is made in section 19 below).
- (5) Subject to the right of appeal provided by section 19 below, if the person upon whom a notice is served under this section fails to execute the works indicated by the notice within the time so indicated, the drainage authority may themselves execute the works and recover from that person the expenses reasonably incurred by them in so

doing; and without prejudice to their right to exercise that power he shall be liable on summary conviction to a fine not exceeding £200.

- (6) In proceedings by a drainage authority for the recovery of any expenses under subsection (5) above it shall not be open to the defendant to raise any question which he could not have raised on an appeal under section 19 below.
- (7) 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 the amount of any expenses incurred by him under the foregoing provisions of this section or recovered from him by the drainage authority.
- (8) Where a local authority have powers for securing the appropriate flow of water in any watercourse under their jurisdiction, the drainage authority, except by agreement with the local authority, shall not exercise their powers under this section in relation to the watercourse unless, after reasonable notice from the drainage authority, the local authority fail to exercise their powers, or exercise them improperly.
- (9) Where any watercourse is under the jurisdiction of a board of conservators, conservancy authority, harbour authority or a navigation authority which is exercising their powers, this section shall not apply to the watercourse except with the consent of that board or authority.
- (10) Nothing in this Act relating to the commutation of obligations shall apply to the obligations imposed by this section.
- (11) In subsections (8) and (9) above " watercourse" does not include any watercourse forming part of a main river.

19 Appeals against notices under section 18

- (1) A person served with a notice under section 18 above may, within 21 days from the date on which the notice is served on him, appeal to a magistrates' court on any of the following grounds:—
 - (a) that the notice or requirement is not justified by that section;
 - (b) that there has been some informality, defect or error in, or in connection with, the notice;
 - (c) that the board or authority have refused unreasonably to approve the execution of alternative works, or that the works required by the notice to be executed are otherwise unreasonable in character or extent, or are unnecessary;
 - (d) that the time within which the works are to be executed is not reasonably sufficient for the purpose ;
 - (e) that the notice might lawfully have been served on another person and that it would have been equitable for it to have been so served;
 - (f) that some other person ought to contribute towards the expenses of executing any works required by the notice.
- (2) The procedure on an appeal under this section shall be by way of complaint for an order, and the Magistrates' Courts Act 1952 shall apply to the proceedings.
- (3) For the purposes of the time limit for bringing an appeal under this section the making of the complaint shall be treated as the bringing of the appeal.

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- (4) In so far as an appeal under this section is based on the ground of some informality, defect or error in or in connection with the notice the court shall dismiss the appeal if it is satisfied that the informality, defect or error was not a material one.
- (5) Where the grounds upon which an appeal under this section is brought include a ground specified in subsection (1)(e) or (f) above, the appellant shall serve a copy of his notice of appeal on each other person referred to, and in the case of any appeal under this section may serve a copy of his notice of appeal on any other person having an estate or interest in the part of the watercourse where the impediment occurs or land adjoining that part.
- (6) On the hearing of the appeal the court may make such order as it thinks fit with respect to the person by whom any work is to be executed and the contribution to be made by any other person towards the cost of the work, or as to the proportions in which any expenses which may become recoverable by the drainage authority are to be borne by the appellant and such other person.
- (7) In exercising its powers under subsection (6) above the court shall have regard—
 - (a) as between an owner and an occupier, to the terms and conditions, whether contractual or statutory, of the tenancy and to the nature of the works required; and
 - (b) in any case, to the degree of benefit to be derived by the different persons concerned.
- (8) A person aggrieved by an order, determination or other decision of a magistrates' court under this section may appeal to the Crown Court.
- (9) Where upon an appeal under this section a court varies or reverses any decision of the drainage authority it shall be the duty of the authority to give effect to the order of the court.

Drainage works concerning more than one drainage authority

20 Drainage works on boundary of water authority area

- (1) Subject to subsection (2) below, drainage works in connection with the main river may be carried out by a water authority on or near the boundary of the water authority area notwithstanding that they are or include works in the area of another water authority.
- (2) Where such works are in connection with the main river of both water authority areas the power to carry out the works shall be exercisable only by one of the water authorities and the question by which of them it is to be exercisable shall be determined by agreement between them or, in default of agreement, by the Minister.
- (3) The water authority carrying out any works by virtue of the preceding provisions of this section shall be entitled to such contributions from the other water authority towards the cost of those works as may be agreed between them or as may, in default of agreement, be determined by the Minister.

21 Arrangements between drainage authorities

- (1) A water authority may enter into an agreement with any internal drainage board for the carrying out by the board, on such terms as to payment or otherwise as may be

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specified in the agreement, of any work in connection with the main river which the water authority are authorised to carry out and which, if outside the district of the board, is not in any other internal drainage district.

- (2) A drainage authority for any area may, with the consent of the drainage authority for any adjoining area, execute and maintain in that adjoining area any works which the first-mentioned authority might execute or maintain within their own area, on such terms as to payment or otherwise as may be agreed between the authorities, or may agree to contribute to the expense of the execution or maintenance of any works by the drainage authority of any adjoining area.
- (3) Any expense incurred by a drainage authority under subsection (2) above shall be defrayed as if the expense had been incurred in their own area.

Arrangements with other persons and powers as respects the obligations and rights of other persons

22 Arrangements with other persons generally

A drainage authority may by agreement with any person execute at his expense, whether within or outside their area, any drainage works which that person is entitled to execute.

23 Arrangements with certain authorities

- (1) A water authority may enter into an agreement with any local authority or navigation authority for the carrying out by that authority, on such terms as to payment or otherwise as may be specified in the agreement, of any work in connection with the main river which the water authority are authorised to carry out.
- (2) With the approval of the Minister and the Secretary of State, a drainage authority may, with a view to improving the drainage of their area, enter into an arrangement with a navigation or conservancy authority for any of the following purposes namely—
 - (a) the transfer to the drainage authority of the whole or any part of the undertaking of, or of any of the rights, powers, duties, liabilities and obligations of, or any property vested in, the navigation or conservancy authority as such;
 - (b) the alteration or improvement by the drainage authority of any of the works of the navigation or conservancy authority;
 - (c) the making of payments by the drainage authority to the navigation or conservancy authority, or to the drainage authority by the navigation or conservancy authority, in respect of any matter for which provision is made by the arrangement.
- (3) Any arrangement made under subsection (2) above shall while in force have effect for all purposes as if enacted in this Act, but without prejudice to the power to provide by any subsequent arrangement so made for the variation or revocation thereof.
- (4) A drainage authority intending to enter into an arrangement under subsection (2) above shall give notice of their intention to the Post Office, and shall publish a like notice in such manner as the Minister may direct in their area.

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- (5) Where an arrangement has been made under subsection (2) above, the drainage authority shall cause a notice in such form as the Minister may prescribe to be published in the London Gazette stating that the arrangement has been made, and specifying the place at which a copy of the arrangement may be inspected by persons interested.

24 Enforcement of obligations to repair watercourses, bridges, etc.

- (1) Nothing in this Act shall operate to release any person from any obligations to which he was before the commencement of this Act subject by reason of tenure, custom, prescription or otherwise.
- (2) If any person who, by reason of any such obligation as aforesaid, is liable to do any work in relation to any watercourse, bridge or drainage work (whether by way of repair, maintenance or otherwise), fails to do the work, the drainage authority in whose area the watercourse, bridge or drainage work is situated may serve a notice on that person requiring him to do the necessary work with all reasonable and proper despatch; and if he fails within 7 days to comply with the notice the authority may do all such things as are necessary for that purpose.
- (3) Any expenses reasonably incurred by a drainage authority in the exercise of their powers under this section may be recovered from the person liable to repair.
- (4) The reference in subsection (2) above to the drainage authority in whose area a watercourse, bridge or drainage work is situated shall be construed—
- (a) in relation to the main metropolitan watercourses, as a reference to the Greater London Council;
 - (b) in relation to the metropolitan watercourses, as a reference to that council and the council of the London borough in which the watercourse is situated (or, if it is situated in the City, or in the Inner Temple or the Middle Temple, the Common Council);

and the reference to a drainage authority in subsection (3) above shall be construed accordingly.

25 Variation of awards

- (1) Where any award made under any public or local Act contains any provision which in any manner affects or relates to the drainage of land in a water authority area (including any provision affecting the powers or duties of any drainage body or other person with respect to the drainage of land in the water authority area) then the water authority may, and if so directed by the Minister on an application under subsection (3) below shall, submit to the Minister for confirmation a scheme for revoking, varying or amending that provision.
- (2) A scheme under this section with respect to any award may—
- (a) provide for commuting, on the basis on which the obligations to which section 26 below relates are to be commuted, the obligation of any person under the award to repair or maintain any drainage works ;
 - (b) contain such incidental, consequential or supplemental provisions as are necessary or proper for the purpose of the scheme;
 - (c) be revoked or varied by a subsequent scheme under this section.

- (3) An application may be made to the Minister for such a direction as is mentioned in subsection (1) above by any person who is under any obligation imposed by the award or by any drainage authority ; but no such application shall be entertained unless—
 - (a) the applicant has requested the water authority to submit a scheme under this section ; and
 - (b) the water authority have either refused to do so or failed to do so within 6 months or have submitted a scheme different from that so requested.
- (4) The Minister may by order confirm any scheme submitted to him under this section, either with or without modifications.

26 Commutation of obligations

- (1) Where any person is under an obligation imposed on him by reason of tenure, custom, prescription or otherwise to do any work in connection with the drainage of land (whether by way of repairing banks or walls, maintaining watercourses or otherwise), then—
 - (a) if the work is in connection with the main river, the water authority for the area concerned shall take steps to commute the obligation; and
 - (b) in any other case, the water authority for the area concerned, or the internal drainage board for the internal drainage district concerned, may commute the obligation with the consent of the Minister;and for these purposes " the area concerned " means the water authority area where the work falls to be done and " the internal drainage district concerned " means (where the work falls to be done in an internal drainage district) the internal drainage district where the work falls to be done.
- (2) Where a water authority or internal drainage board propose to commute any obligation to which this section applies, the authority or board shall give, in such manner as the Minister may direct, notice of the proposal, of the terms on which it is to be commuted and of the time within which objection to the proposal may be made.
- (3) If within one month of any such notice being given the person on whom the obligation is imposed gives notice to the water authority or internal drainage board of his objection to the proposal, the question whether the authority or board shall proceed to commute the obligation shall be referred to the Minister, whose decision thereon shall be final.
- (4) Any capital sum or terminable annuity fixed under this section shall, notwithstanding any agreement to the contrary between the owner and any lessee of the land, be payable by the owner.
- (5) Where any obligation is commuted under this section, any person who would, but for the commutation, be entitled to any exemption in respect of drainage rates, either absolutely as being the person subject to the obligation or conditionally on performance of the obligation, shall be entitled absolutely to a like exemption.
- (6) The sum to be paid in respect of the commutation of any such obligation shall be such sum as the water authority or internal drainage board may in accordance with the provisions of subsection (7) below by order determine, and the sum so determined shall—
 - (a) be payable by way either of a capital sum or of a terminable annuity for a period not exceeding 30 years, at the option of the owner,

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- (b) be charged on the land in respect of which the obligation existed, and
 - (c) have priority over any other incumbrances (whenever created) charged on that land by the owner thereof, other than charges (whenever created) under the Improvement of Land Act 1864.
- (7) For the purpose of determining the sum to be paid in respect of the commutation of any obligation, the water authority or internal drainage board shall ascertain the amount which, in their opinion, fairly represents the probable average annual cost, taking one year with another, of executing and maintaining in a due state of efficiency the works which are required to be executed and maintained by virtue of the obligation to be commuted, and the authority or board shall fix the capital sum or terminable annuity to be paid in respect of the commutation accordingly.
- (8) In fixing any such capital sum or terminable annuity no account shall be taken of so much of the probable annual average cost as is in the opinion of the water authority or internal drainage board attributable to the fact that, by reason of improvements effected since 1st January 1900 in the drainage of the land drained by the main river, or alterations effected since that date in the method of cultivation thereof, the volume of water which is discharged into the main river at any time is greater than that which would have been so discharged if the said improvements or alterations had not been effected.
- (9) If any person is aggrieved by any determination of a water authority or internal drainage board under this section as regards the sum to be paid in respect of the commutation of any obligation, he may, at any time within 3 months after the date on which the authority or board notify him of their determination, require the matter to be referred to the arbitration of a single arbitrator to be appointed in default of agreement by the President of the Institution of Civil Engineers.
- (10) On any such reference the arbitrator may either confirm, vary or set aside the determination of the authority or board as he thinks proper.
- (11) A record of any such charge as is mentioned in subsection (6) above shall be entered in a register to be kept for the purpose by the clerk of the water authority or internal drainage board, and a copy of any such record purporting to be certified by the said clerk as a true copy shall be receivable in evidence in all legal proceedings
- (12) The functions of a drainage authority as respects the doing of any work under this Act are not to be treated as in any way limited by the fact that some other person is under an obligation, by reason of tenure, custom, prescription or otherwise, to do that work.

27 Power to vary navigation rights

- (1) If it appears to the Minister that a navigation authority is not exercising at all, or is not exercising to the necessary extent, the powers vested in it, and it appears to the Minister desirable so to do with a view to securing the better drainage of any land, he may by order revoke, vary or amend the provisions of any local Act relating to navigation rights over, or to the powers and duties of the navigation authority with respect to, any waters within any water authority area or internal drainage district, and in particular, but without prejudice to the generality of the foregoing power, may extinguish, vary or suspend, during such period as he may think proper, any such rights, powers or duties.
- (2) The Minister may make an order under this section only where an application is made to him for that purpose by the drainage authorities within whose areas the waters to

which the application relates are contained, and after he has consulted the Secretary of State for the Environment.

- (3) An order made under this section may contain such incidental, consequential or supplemental provisions as appear to the Minister to be necessary or proper for the purposes of the order.
- (4) In this section "waters" means any canal, river or navigable waters, and "tidal waters" means any waters within the ebb and flow of the tide at ordinary spring tides.
- (5) An order shall not be made under this section so as to affect any tidal waters except with the consent of the Secretary of State for Trade.

Control of obstructions in and structures in, over or under watercourses

28 Obstructions in watercourses

- (1) No person shall in any drainage authority area—
 - (a) erect any mill dam, weir or other like obstruction to the flow of any watercourse or raise or otherwise alter any such obstruction,
 - (b) erect any culvert that would be likely to affect the flow of any watercourse or alter any culvert in a manner that would be likely to affect any such flow,without the consent in writing (not to be unreasonably withheld) of the drainage authority.
- (2) If, where an application is made to a drainage authority for their consent under this section, the authority fail within 2 months after the receipt of the application to notify in writing to the applicant their determination with respect to the application, the authority shall be deemed to have consented thereto.
- (3) If any question arises under this section whether the consent of a drainage authority is unreasonably withheld, that question shall be referred to a single arbitrator to be agreed between the parties or, failing such agreement, to be appointed by the President of the Institution of Civil Engineers on the application of either party.
- (4) If any obstruction is erected or raised or otherwise altered, or any culvert is erected or altered, in contravention of this section, it shall be deemed to be a nuisance liable to be dealt with summarily in manner provided by this section, and the drainage authority may serve upon such person as is specified in subsection (9) below a notice requiring him to abate the nuisance within a time to be specified in the notice.
- (5) If that person makes default in complying with the notice, the authority shall cause a complaint relating to the nuisance to be made before a justice, and the justice shall thereupon issue a summons requiring that person to appear before a magistrates' court.
- (6) If the court is satisfied that the alleged nuisance exists, the court shall make an order requiring that person to abate the nuisance within a time specified in the order, and may by their order impose a fine not exceeding £400, and shall also give directions as to the payment of all costs incurred up to the time of making the order.
- (7) Any person not obeying an order under this section to abate a nuisance shall, if he fails to satisfy the court that he has used all due diligence to carry out such order, be liable to a fine not exceeding £40 for every day during which his default continues, and the authority by whom the complaint was made may abate the nuisance and recover from the person in default the expenses of so doing.

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- (8) If either party to the proceedings is aggrieved by the decision of a magistrates' court on a complaint under this section, he may appeal to the Crown Court, and on any such appeal the Crown Court shall have power to make any order which the magistrates' court might have made.
- (9) The person upon whom a notice may be served under subsection (4) above is—
- (a) in a case where the person by whom the obstruction has been erected or raised or otherwise altered has, at the time when the notice is served, power to remove the obstruction, that person ;
 - (b) in any other case, any person having power to remove the obstruction.
- (10) Nothing in this section shall apply to any works under the control of a navigation authority, harbour authority or conservancy authority, or to any works executed under or in pursuance of any Act or any order having the force of an Act.
- (11) Nothing in this section shall apply in relation to any watercourse which is part of a main river.
- (12) Any reference to a drainage authority in this section shall be construed—
- (a) in relation to the main metropolitan watercourses, as a reference to the Greater London Council;
 - (b) in relation to the metropolitan watercourses, as a reference to that council and the council of the London borough in which the watercourse is situated (or, if it is situated in the City, or in the Inner Temple or the Middle Temple, the Common Council).

29 Structures in, over or under watercourses

- (1) No person shall erect any structure in, over or under a watercourse which is part of the main river except with the consent of and in accordance with plans and sections approved by the water authority ; and no person shall, without the consent of the water authority, carry out any work of alteration or repair on any structure in, over or under such a watercourse if the work is likely to affect the flow of water in the watercourse or to impede any drainage work.
- (2) No person shall erect or alter any structure designed to contain or divert the floodwaters of any part of the main river except with the consent of and in accordance with plans and sections approved by the water authority.
- (3) A consent or approval required under this section shall not be unreasonably withheld ; and—
- (a) any such consent may be given subject to any reasonable condition as to the time at which and the manner in which any work is to be carried out; and
 - (b) any such consent or approval shall, if neither given nor refused within 2 months after application therefor is made, be deemed to have been given.
- (4) If any person executes any work in contravention of this section the water authority may remove, alter, or pull down the work and recover from that person the expenses incurred in doing so.
- (5) If any question arises under this section whether any consent or approval is unreasonably withheld or whether any condition imposed is reasonable the question shall—

- (a) if the parties agree to arbitration, be referred to a single arbitrator agreed between the parties or, in default of agreement, appointed by the President of the Institution of Civil Engineers;
 - (b) if the parties do not agree to arbitration, be referred to and determined by the Ministers.
- (6) Subsection (1) above shall not apply—
- (a) to any work executed under section 15 of the Public Health Act 1936 or section 19 or 20 of Schedule 3 to the Water Act 1945 (which relate to the provision of sewers and water mains); or
 - (b) to any work executed in an emergency ;
- but a person executing any work excepted by paragraph (b) above shall as soon as practicable inform the water authority in writing of the execution and of the circumstances in which it was executed.
- (7) Nothing in this section shall be taken to affect any enactment requiring the consent of any government department for the erection of a bridge or any powers exercisable by any government department in relation to a bridge.
- (8) Nothing in subsection (5) of section 112 below shall be taken to exclude the application of this section to any work executed by persons carrying on an undertaking to which that section applies.

Schemes for drainage of small areas

30 Power of water authorities to make schemes for drainage of small areas

- (1) Where a water authority are of opinion that any land in their area is capable of improvement by drainage works, but that the constitution for that purpose of an internal drainage district would not be practicable, they may, in accordance with the provisions of a scheme made under this section, enter on the land and execute such drainage works as appear to them desirable.
- (2) A scheme under this section must state—
- (a) the works proposed to be executed ;
 - (b) the area to be improved by the works ;
 - (c) the estimated expenses (including administrative expenses) of the execution of the works, which shall not, subject to section 31(6) below, exceed an amount equal to £20 for each acre in the area to be improved ;
 - (d) the maximum amount to be recoverable by the authority in respect of those expenses ; and
 - (e) the manner in which the expenses of executing and maintaining the works are to be apportioned amongst the lands comprised in the area.

31 Supplementary provisions as to schemes under section 30

- (1) Before making a scheme under section 30 above the authority shall give to the owners and occupiers of land within the area to which the scheme relates, and to any other persons appearing to them to be affected by the scheme, notice in the prescribed manner of their intention of making the scheme and of the place where a draft of it can be inspected and of the time (which shall not be less than 30 days) within which objections to it may be made to the authority.

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- (2) Where any objections to a scheme are duly made and are not withdrawn the authority shall send a copy of the draft scheme, together with copies of the objections, to the Minister, and the scheme shall not be made unless the draft is confirmed by the Minister, with or without modifications ; and before confirming the draft, the Minister shall either cause a public inquiry to be held or give the authority and the persons by whom the objections are made an opportunity of appearing before and being heard by a person appointed by the Minister for the purpose.
- (3) The authority shall send copies of the scheme to the owners and occupiers of land in the area to which it relates and shall also notify the council of any county, district or London borough in which any of that land is situated.
- (4) A scheme made under this section shall be a local land charge.
- (5) Any expenses incurred by an authority under this section in the execution of drainage works, to an amount not exceeding the amount stated in the scheme in pursuance of section 30(2)(d) above, and any expenses incurred by an authority in maintaining works executed under this section, shall be recoverable by the authority from the several owners of the lands to which the scheme relates according to the apportionment provided for by the scheme.
- (6) The Minister may exempt a scheme from the limit imposed by section 30(2)(c) above if it appears to him that the works proposed to be executed are urgently required in the public interest, and he may by order from time to time vary that limit, but no such order shall have effect unless it is approved by a resolution of each House of Parliament.

Flood warning systems

32 Power of water authorities to provide flood warning systems

- (1) A water authority shall have power—
 - (a) to provide and operate a flood warning system for their area;
 - (b) both within and outside their area, to provide, install and maintain apparatus required for the purposes of such a system;
 - (c) to carry out within their area any other engineering or building operations so required; and
 - (d) to adapt for the purposes of such a system any apparatus or works to which a hydrometric scheme made for any part of their area under section 15 of the Water Resources Act 1963 relates ;

and references in the Water Resources Act 1963 to the transferred functions of water authorities shall be construed as including references to the foregoing powers.
- (2) Subsection (1) above shall not be construed as authorising, on the part of a water authority, any act or omission which, apart from that subsection, would be actionable at the suit of any person on any grounds other than a limitation imposed by law on the capacity of the authority by virtue of its constitution ; and nothing in that subsection shall authorise any infringement of the exclusive privilege conferred on the Post Office by section 24(1) of the Post Office Act 1969 (telecommunication systems).
- (3) Before a water authority exercise within the area of another water authority or the London excluded area any power conferred by subsection (1)(b) above, other than the power to maintain apparatus, they shall consult with that other authority or (in the case of the London excluded area) the Greater London Council.

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- (4) Any water authority whose area adjoins Scotland may exercise the powers conferred by subsection (1)(b) or (c) above in an area in Scotland as if that area in Scotland formed part of the authority's area subject (except in the case of a power to maintain apparatus) to prior consultation with the local authority for that area in Scotland within the meaning of section 1 of the Flood Prevention (Scotland) Act 1961.
- (5) In this section—
- " engineering or building operations " (without prejudice to the generality of that expression) includes the construction, alteration, improvement, maintenance or demolition of any building or structure, and the installation, modification or removal of any machinery or apparatus;
- " flood warning system " means any system whereby, for the purpose of providing warning of any danger of flooding, information with respect to—
- (a) rainfall, as measured at a particular place within a particular period, or
- (b) the level or flow of any inland water, or part of an inland water, at a particular time, or
- (c) other matters appearing to the authority providing the system to be relevant for that purpose,
- is obtained and transmitted, whether automatically or otherwise, with or without provision for carrying out calculations based on such information and for transmitting the results of those calculations;
- " inland water " means any of the following:—
- (a) so much of any river, stream or other watercourse, whether natural or artificial and whether tidal or not, as is within Great Britain;
- (b) any lake or pond, whether natural or artificial, and any reservoir or dock, in so far as any such lake, pond, reservoir or dock does not fall within paragraph (a) above and is within Great Britain; and
- (c) so much of any channel, creek, bay, estuary or arm of the sea as does not fall within paragraph (a) or (b) above and is within Great Britain ;
- " rainfall " includes any fall of snow, hail or sleet.

Incidental powers

33 Disposal of spoil

- (1) A drainage authority may, without making payment for it, appropriate and dispose of any matter removed in the course of the execution of any work for widening, deepening or dredging any watercourse.
- (2) A drainage authority may deposit any matter so removed on the banks of the watercourse, or on such width of land adjoining the watercourse as is specified in subsection (3) below, unless the matter so deposited would constitute a statutory nuisance within the meaning of Part III of the Public Health Act 1936.
- (3) The said width is such as is sufficient to enable the said matter to be removed and deposited by mechanical means in one operation.
- (4) Where injury is sustained by any person by reason of the exercise by a drainage authority of their powers under subsection (2) above, the authority may, if they think fit, pay to him such compensation as they may determine; and if the injury could have been avoided if those powers had been exercised with reasonable care, subsection (5)

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of section 17 above shall apply as if the injury had been sustained by reason of the exercise by the authority of their powers under that section.

- (5) A drainage authority and the council of any district or London borough may enter into an agreement providing for the disposal by the council of any matter removed as aforesaid and for the payment by the authority to the council in respect of the disposal of the matter by the council of such sum as may be provided by the agreement.

34 Byelaws

- (1) A drainage authority may, subject to the provisions of this Act, make such byelaws as they consider necessary for securing the efficient working of the drainage system in their area; and in the case of a water authority this shall include power to make such byelaws as the authority consider necessary for securing the proper defence against sea or tidal water of any part of their area.
- (2) Without prejudice to the generality of subsection (1) above, a drainage authority may in particular make byelaws for any of the following purposes:—
- (a) regulating the use and preventing the improper use of any watercourses, banks or works vested in them or under their control or for preserving any such watercourses, banks or works from damage or destruction;
 - (b) regulating the opening of sluices and flood gates in connection with any such works as are mentioned in paragraph (a) above;
 - (c) preventing the obstruction of any watercourse vested in them or under their control by the discharge into it of any liquid or solid matter or by reason of any such matter being allowed to flow or fall into it;
 - (d) compelling the persons having control of any watercourse vested in the authority or under their control, or of any watercourse flowing into any such watercourse, to cut the vegetable growths in or on the bank of the watercourse and, when cut, to remove them;

but no byelaw for any purpose specified in paragraph (a) above shall be valid if it would prevent reasonable facilities being afforded for enabling a watercourse to be used by stock for drinking purposes.

- (3) Schedule 4 to this Act shall have effect with respect to the making of byelaws under this section,
- (4) If any person acts in contravention of, or fails to comply with, any byelaw made under this section he shall be liable on summary conviction to a fine not exceeding £400 and, if the contravention or failure is continued after conviction, to a further fine not exceeding £40 for every day on which the contravention or failure is so continued.
- (5) If any person acts in contravention of, or fails to comply with, any byelaw made under this section the drainage authority may, without prejudice to any proceedings under subsection (4) above, take such action as may be necessary to remedy the effect of the contravention or failure, and may recover the expenses reasonably incurred by them in doing so from the person in default.
- (6) Notwithstanding anything in this Act, no byelaw made by a drainage authority under this Act shall conflict with or interfere with the operation of any byelaw made by a navigation authority, harbour authority or conservancy authority.

35 Insurance against accidents to members

- (1) A drainage authority may enter into a contract with any person whereby, in consideration of payments made by the authority by way of premium or otherwise, that person undertakes to pay to the authority such sums as may be provided in the contract in the event of any member of the authority or of any committee thereof meeting with a personal accident, whether fatal or not, while he is engaged on the business of the authority.
- (2) Any sum received by the authority or board under any such contract shall, after deduction of any expenses incurred in the recovery thereof, be paid by them to, or to the personal representatives of, the person in respect of whose accident the sum is received.
- (3) The provisions of the Life Assurance Act 1774 shall not apply to any such contract.

36 Power of water authorities to acquire accretions of land resulting from drainage works

- (1) If the Minister certifies that, as the result of any drainage works executed or proposed to be executed by a water authority in connection with the tidal waters of the main river or any drainage works transferred from a drainage body to a water authority in pursuance of this Act, there has been or is likely to be any accretion of land, the water authority may acquire either by agreement or compulsorily—
 - (a) the accretion of land or the land to which the accretion will, if it takes place, be added, together with any right to reclaim or embank the accretion; and
 - (b) such other land as is reasonably required for the purpose of reclamation of the accretion or for the enjoyment of it when reclaimed.
- (2) The provisions of the Water Resources Act 1963 with respect to the power of water authorities to acquire land shall apply with respect to the acquisition of land or rights under this section and the expression " land " in those provisions as applied by this subsection shall be deemed to include all rights which may be acquired under this section.
- (3) An agreement or order with respect to the acquisition of any land or rights under this section may provide for the transfer to the water authority of any liability for the upkeep, maintenance and repair of any bank or drainage work or of any other like liability.
- (4) Where the value of any land or right is increased by the execution or proposed execution of drainage works by a water authority, the amount of the increase shall not be taken into account in assessing the compensation in respect of the compulsory acquisition of it.
- (5) Where, by reason of a certificate having been given by the Minister under this section in relation to any drainage works, a water authority have acquired any land or right and a grant has been made out of public moneys for defraying the cost or part of the cost of the execution of the works, the water authority shall—
 - (a) on being so required by the Crown Estate Commissioners, and
 - (b) on payment by the Commissioners to the authority of the sum paid by the authority in respect of the acquisition of the land or right, together with the amount of any costs incurred by the authority in connection with the acquisition,

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transfer the land or right to the Commissioners or to any person nominated by them.

- (6) If a water authority, on being so required by the Crown Estate Commissioners in pursuance of subsection (5) above, fail to transfer to the Commissioners any land or right, the Minister may by a vesting order transfer the land or right to the Commissioners or to a person nominated by them, and for the purposes of this subsection the Minister shall be deemed to be a competent authority within the meaning of section 9 of the Law of Property Act 1925.

37 Power of internal drainage boards to acquire land

- (1) An internal drainage board may, for any purpose in connection with the performance of any of their functions, acquire by agreement or, if authorised by the Minister, compulsorily, any land, whether inside or outside their area.
- (2) The Acquisition of Land (Authorisation Procedure) Act 1946 shall apply in relation to the compulsory acquisition of land in pursuance of subsection (1) above as if that subsection were contained in an Act in force immediately before the commencement of that Act.
- (3) An internal drainage board may exercise the powers conferred by subsection (1) above so as to acquire interests in or rights over land by way of securing the creation of new interests or rights in their favour (as well as by acquiring interests or rights already in existence).
- (4) Where an internal drainage board exercise their powers under this section so as to acquire compulsorily an interest in or right over land by way of securing compulsorily the creation in their favour of a new interest or right, the enactments relating to compensation for the compulsory purchase of land shall, in their application to such acquisition, have effect with the necessary modifications and the Acquisition of Land (Authorisation Procedure) Act 1946 and the Compulsory Purchase Act 1965 shall, in their application to such compulsory acquisition, have effect with such modifications as may be prescribed.
- (5) Where an internal drainage board propose to acquire by agreement any land belonging to Her Majesty in right of the Duchy of Lancaster, the Chancellor and Council of that Duchy may sell the land to the board, and the land may be granted to them and the proceeds of sale shall be paid and dealt with as if the land had been sold under the authority of the Duchy of Lancaster Lands Act 1855.

38 Power of internal drainage boards to dispose of land

- (1) Subject to the following provisions of this section, an internal drainage board may dispose of land held by them in any manner they wish.
- (2) Except with the consent of the Minister, an internal drainage board shall not dispose of land under this section, otherwise than by way of a short tenancy, for a consideration less than the best that can reasonably be obtained.
- (3) Except with the consent of the Minister, an internal drainage board shall not dispose under this section, otherwise than by way of a short tenancy, of land which (whether before or after the commencement of this Act) has been acquired by the board compulsorily, or acquired by them by agreement at a time when they were authorised to acquire it compulsorily.

- (4) For the purposes of this section a disposal of land is a disposal by way of a short tenancy if it consists of the grant of a term not exceeding 7 years, or of the assignment of a term which at the date of the assignment has not more than 7 years to run.

39 Powers of entry of internal drainage boards

- (1) Without prejudice to any other enactment conferring powers of entry, a person authorised by an internal drainage board may, after producing, if so required, a duly authenticated document showing his authority, at all reasonable times—
- (a) enter any land for the purpose of exercising any functions of the board;
 - (b) without prejudice to paragraph (a) above, enter and survey any land (including the interior of any mill through which water passes or in connection with which water is impounded) and take levels of the land and inspect the condition of any drainage work on it; and
 - (c) inspect and take copies of any Acts of Parliament, awards or other documents in the possession of any internal drainage board or navigation authority which relate to the drainage of land and confer any powers or impose any duties on that board or authority.
- (2) A person entitled under this section 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.
- (3) Except in an emergency, admission to any land shall not be demanded as of right under this section, unless notice in writing of the intended entry has been given to the occupier and, if the land is used for residential purposes or the demand is for admission with heavy equipment, has been given not less than 7 days before the demand is made.
- (4) Section 17(5) above shall extend to any injury sustained by any person by reason of the exercise of a power conferred by this section.
- (5) If any person intentionally obstructs or impedes any person exercising a power conferred by this section he shall be liable on summary conviction to a fine not exceeding £200.
- (6) This section shall not apply in relation to land belonging to Her Majesty in right of the Crown or the Duchy of Lancaster, in relation to land belonging to the Duchy of Cornwall or in relation to land belonging to a government department.