



# Land Drainage Act 1976

## 1976 CHAPTER 70

### PART V

#### POWERS OF THE MINISTER AND LOCAL AUTHORITIES

##### *Powers of local authorities*

#### **97 General drainage powers**

- (1) Subject to subsection (2) below the council of a county, district or London borough and the Common Council shall, as respects any land which is within their area, have all the powers conferred on internal drainage boards by section 18 above.
- (2) The powers exercisable under subsection (1) above by a London borough shall also be exercisable as respects the metropolitan watercourses by the Greater London Council, and as respects the main metropolitan watercourses, including the banks thereof, and drainage works in connection therewith shall be exercisable solely by that Council.
- (3) Before exercising in relation to any watercourse or part of a watercourse in a water authority area any power conferred on them by this section, a council shall notify—
  - (a) if the watercourse or part is in an internal drainage district, the internal drainage board of that district;
  - (b) in any other case, the water authority.

#### **98 Powers 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 district or London borough or the Common Council shall, subject to the provisions of this section, have all the powers conferred on drainage authorities by sections 17(1) and (4), 33, and 34 above; and in connection with the exercise of those powers—
  - (a) a council shall, except as provided by subsection (3) below, be subject to the same restrictions and liabilities as a drainage authority ;

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- (b) section 34(4) and (5) above shall apply in relation to byelaws made by a council as they apply in relation to byelaws made by a drainage authority and as if, in the case of section 34(5), a reference to the council were substituted for the reference to the drainage authority.
- (2) Byelaws made in pursuance of this section shall not be valid until they have been confirmed by the Minister and, notwithstanding subsection (1) above, section 236 of the Local Government Act 1972 (and not Schedule 4 to this Act) shall have effect in relation to them.
- (3) The exercise of the powers conferred by this section shall, be among the purposes for which the council of a district or London borough or the Common Council may be authorised by the Secretary of State 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 1 of that Act.
- (4) The functions exercisable under subsections (1) and (3) above by a London borough council shall also be exercisable as respects the metropolitan watercourses by the Greater London Council and as respects the main metropolitan watercourses, including the banks thereof, and drainage works in connection therewith shall be exercisable solely by that Council.
- (5) Where the powers conferred by this section on a district council are not exercised by that council they may be exercised by the county council—
- (a) at the request of the council of the district; or
  - (b) after not less than 6 weeks' notice given in writing by the county council to the district council;
- but where the council of the district, before the expiry of a notice given under paragraph (b) of this subsection, appeal against the notice to the Secretary of State 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 the Secretary of State.
- (6) Any expenses incurred by a county council under subsection (5) above shall be special expenses chargeable on the district in respect of which they were incurred.
- (7) This section does not authorise the execution of any drainage works in connection with the main river.
- (8) 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 water authority or, if the place where the works are to be executed is in the London excluded area, the Minister.
- (9) The consent of the Minister under subsection (8) above shall not be required in respect of works executed by the Greater London Council, but it shall be the duty of any other council to send to the Greater London Council a copy of any application to the Minister under that subsection.
- (10) Before giving any consent or imposing any condition under subsection (8) above with respect to any drainage works in connection with a watercourse under the control of an internal drainage board a water authority shall consult with the internal drainage board.

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- (11) A consent (whether of a water authority or the Minister) required under subsection (8) above shall not be unreasonably withheld and shall, if neither given nor refused within 2 months after application for it is made, be deemed to have been given.
- (12) Any question arising under this section whether the consent of a water authority is unreasonably withheld or whether any condition imposed by a water authority is reasonable shall be referred to and determined by the Ministers.
- (13) Subsection (8) above 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 water authority or, as the case may be, the Minister, in writing of the execution and of the circumstances in which it was executed.

#### **99 Power to execute drainage works by agreement with other persons**

The council of a county or London borough, the Common Council and, as regards the main metropolitan watercourses, the Greater London Council, may by agreement with any person execute at his expense, within the council's area, any drainage works which that person is entitled to execute.

#### **100 Schemes for drainage of small areas**

- (1) Section 30 above shall apply to the council of a county or London borough and the Common Council as it applies to a water authority, and section 31 above shall apply accordingly but with the omission of the words from " and shall" onwards in section 31(3).
- (2) Before making a scheme by virtue of this section, a council shall consult the water authority for the area concerned.
- (3) A council shall, in relation to any works executed in pursuance of a scheme made by virtue of this section, have all the powers of an internal drainage board under sections 17 and 33 above, exercisable subject to the same restrictions and liabilities as are imposed by those sections on the exercise of those powers by such boards.

#### **101 Power of Greater London Council to provide flood warning system**

- (1) The Greater London Council shall have power—
  - (a) to provide and operate a flood warning system for the London excluded area;
  - (b) both within and outside that area, to provide, install and maintain apparatus required for the purposes of such a system; and
  - (c) to carry out within that area any other engineering or building operations so required.
- (2) Before the Greater London Council exercise within the area of any water authority any power conferred on them by subsection (1)(b) above, other than the power to maintain apparatus, they shall consult with that water authority.
- (3) Expressions used in this section have the same meaning as in section 32 above, and section 32(2) shall apply in relation to the Greater London Council as it applies in relation to a water authority, and as though the references in it to section 32(1) were references to subsection (1) of this section.

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## **102 Power to contribute to expenses of drainage works**

- (1) A local authority may contribute, or undertake to contribute, to the expenses of the execution or maintenance of any drainage works by a drainage body such an amount as, having regard to the public benefit to be derived therefrom, appears to the local authority to be proper.
- (2) References in this section to a local authority include references to the Sub-Treasurer of the Inner Temple and to the Under Treasurer of the Middle Temple, and the making of contributions under this section shall (without prejudice to section 104 below) be a purpose for which a local authority may borrow.

## **103 Powers of entry**

Section 39 above shall apply in relation to local authorities, and in relation to their functions under this Act, as it applies in relation to, and to the functions of, internal drainage boards.

## **104 Power to borrow**

The council of a county or London borough and the Common Council may borrow for the purposes of this Act.