



# Land Drainage Act 1976

## 1976 CHAPTER 70

### PART V

#### POWERS OF THE MINISTER AND LOCAL AUTHORITIES

##### *Powers of the Minister*

#### **90 Grants to water authorities**

- (1) Subject to subsection (2) below, the Minister may make towards expenditure incurred by water authorities in the improvement of existing drainage works or the construction of new drainage works grants of such amounts as the Treasury may from time to time sanction and subject to such conditions as may, with the approval of the Treasury, be prescribed.
- (2) No grant shall be made under subsection (1) above towards expenditure incurred in connection with any improvement or construction unless the plans and sections for it have been approved by the Minister, and the Minister is satisfied that the work is being or has been properly carried out.
- (3) Where a water authority are about to incur in respect of any work expenditure towards which, if the work is properly carried out, a grant will be payable under subsection (1) above, the Minister may, with the approval of the Treasury, make advances to the authority on account of the expenditure.
- (4) The Minister may, with the approval of the Treasury, make grants to water authorities in respect of expenditure properly incurred by them with a view to carrying out drainage works, being expenditure towards which, if the works had been properly carried out, a grant would have been payable under subsection (1) above.
- (5) Where a water authority are about to incur expenditure in respect of which it appears to the Minister that a grant will be payable under subsection (4) above, the Minister may, with the approval of the Treasury, make advances to the authority on account of the expenditure.

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- (6) The Minister may, with the approval of the Treasury, make to a water authority grants in respect of expenditure incurred by the authority, and advances on account of expenditure to be incurred by the authority, in connection with the authority's functions under section 17(1)(b) or (c) above—
- (a) in making payments arising from the exercise of any power conferred on the authority by sections 65 and 66 of the Water Resources Act 1963 (which among other things provide for the acquisition of land and rights over land);
  - (b) in providing housing accommodation for persons employed or to be employed by the authority in controlling works of such a kind or so located that those persons are or will be required to reside in the vicinity of the works;
  - (c) for making payments in pursuance of section 17(5) above;
  - (d) in paying compensation in pursuance of section 33(4) above in respect of injury which the Minister considers was or will be unavoidable,
- and grants in respect of or advances on account of expenditure incurred or to be incurred in carrying out works for the rebuilding or repair of any bridge maintained by the authority, other than works appearing to the Minister to be maintenance works of a routine kind.
- (7) The Minister may, with the approval of the Treasury, make to a water authority grants in respect of the cost of any works executed by the authority in pursuance of section 22 above; and the reference to expense in that section shall be construed as excluding the amount of any grant paid under this subsection in respect of the works in question.

## **91 Grants to other drainage bodies**

- (1) The Minister may make towards expenditure incurred by drainage bodies to which this subsection applies in the exercise of their functions in carrying out drainage schemes grants of such amounts and subject to such conditions as may be approved by the Treasury.
- (2) Subsection (1) above applies to internal drainage boards and to all other drainage bodies except water authorities.
- (3) Where a drainage body are about to incur in respect of any work expenditure which, if the work is properly carried out, a grant will be payable under subsection (1) above, the Minister may, with the approval of the Treasury, make advances to them on account of the expenditure.
- (4) The Minister may, With the approval of the Treasury, make grants to drainage bodies in respect of expenditure properly incurred by them with a view to carrying out drainage works, being expenditure towards which, if the works had been properly carried out, a grant would have been payable under subsection (1) above.
- (5) Where a drainage body are about to incur expenditure in respect of which it appears to the Minister that a grant will be payable under subsection (4) above, the Minister may, with the approval of the Treasury, make advances to the body on account of the expenditure.
- (6) The Minister may, with the approval of the Treasury, make grants to an internal drainage board or a local authority in respect of the cost of any works executed by the board or authority in pursuance of section 22 above or section 99 below ; and the reference to expense in those sections shall be construed as excluding the amount of any grant paid under this subsection in respect of the works in question.

- (7) The Minister may, with the approval of the Treasury, make to an internal drainage board grants in respect of expenditure incurred by the board, and advances on account of expenditure to be incurred by the board, in carrying out works for the rebuilding or repair of any bridge maintained by the board, other than works appearing to the Minister to be maintenance works of a routine kind.

## **92 Grants towards cost of flood warning systems**

- (1) The Minister may make grants, of such amounts as the Treasury may from time to time sanction, towards expenditure incurred by a water authority or the Greater London Council in—
- (a) providing or installing apparatus, or carrying out other engineering or building operations, for the purposes of a flood warning system, or
  - (b) adapting for those purposes any apparatus or works to which a hydrometric scheme relates, being a scheme made for any part of the area of the authority or the Council, as the case may be, under section 15 of the Water Resources Act 1963.
- (2) No grant shall be payable under this section towards expenditure incurred in connection with any work unless the work has been approved by the Minister and the Minister is satisfied that the work is being or has been properly carried out; and grants under this section shall be made subject to such conditions as may be imposed by the Minister with the approval of the Treasury.
- (3) Where any such expenditure as is mentioned in subsection (1) above is about to be incurred by a water authority or the Greater London Council the Minister may, with the approval of the Treasury, make advances to the authority or, as the case may be, the Council on account of the expenditure.
- (4) Expressions used in this section have the same meaning as in section 32 above.

## **93 Power to authorise landowners to execute drainage works**

- (1) Where any persons interested in any land are of opinion that it is capable of improvement by drainage works but the works cannot be executed by reason of the objection or disability of any person whose land would be entered upon, cut through or interfered with by or for the purpose of the works, they may present an application to the Minister for an order under this section authorising them to execute such drainage works as are expedient with a view to the improvement of the land.
- (2) The application shall be in the prescribed form and shall contain particulars of the proposed works and the persons by whom they are to be executed and such further particulars as the Minister may prescribe or require.
- (3) Notice of the application and of the place where it can be inspected and of the time within which objections to the proposed works may be made to the Minister shall be given in the prescribed manner and to all persons, not parties to the application, whose lands are proposed to be entered upon, cut through or interfered with, and to any drainage authority having jurisdiction in any district or area within which all or any of the proposed works are to be executed.
- (4) The applicants shall give such security for expenses as may be required by the Minister.

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- (5) If within the prescribed time no objection to the proposed works has been made to the Minister by any person interested or in any way affected by the proposed works or if every such objection has been withdrawn, the Minister shall in his discretion either refuse to authorise or by order authorise with or without alteration the execution of the proposed works.
- (6) If such an objection has been made and has not been withdrawn, the Minister shall forthwith cause a public inquiry to be held in the locality in which the proposed works are to be executed and after receiving the report of such inquiry he shall proceed as provided by subsection (5) above.
- (7) The persons authorised by an order made under this section to execute works shall have full power to execute the works and to maintain them for ever thereafter; but every person interested in the land (other than any person who is one of those authorised to execute the works) shall be entitled to compensation for any injury suffered by him in respect of that interest by reason of the works.
- (8) In case of dispute as to the amount of any compensation payable under subsection (7) above, the amount shall be determined by the Lands Tribunal.
- (9) No order of the Minister under this section shall authorise any work whereby the streams, reservoirs or feeders supplying any ornamental waters will be cut through, diverted or interfered with otherwise than by agreement and with the consent of the persons to whom such ornamental waters belong.

#### **94 Compensation for loss of office etc.**

- (1) The Minister shall by regulations provide for the payment, subject to such exceptions or conditions as may be specified in the regulations, of compensation to any officer or other employee of a relevant authority who suffers loss of employment or loss or diminution of emoluments which is attributable to—
  - (a) a scheme under section 10 or 11 above, or anything done in pursuance of such a scheme ;
  - (b) an order under section 12 above, or anything done in pursuance of such an order ;
  - (c) an order under section 13 above or anything done in pursuance of such an order ;
  - (d) an agreement under section 81 above, or anything done in pursuance of such an agreement.
- (2) For the purposes of subsection (1) above the relevant authorities are—
  - (a) in cases falling within paragraph (a) of that subsection, drainage bodies within the meaning of this Act;
  - (b) in cases falling within paragraph (b) or (d) of that subsection, internal drainage boards ; and
  - (c) in cases falling within paragraph (c) of that subsection, water authorities.
- (3) Any compensation payable by virtue of this section shall be paid—
  - (a) in the case of compensation for loss attributable to a scheme under section 10 above or an order under section 12 above, by the water authority to whom the transfer effected by the scheme or order is made ;

- (b) in the case of compensation for loss attributable to an order under section 13 above, by the water authority from whom the transfer effected by the order is made ;
  - (c) in the case of compensation for loss attributable to an agreement under section 81 above, by the internal drainage board with whom the agreement is made ; and
  - (d) in the case of compensation for loss attributable to a scheme under section 11 above, by such water authority as may be specified for this purpose in the scheme or such internal drainage board or boards as may be so specified.
- (4) Regulations under this section—
- (a) may make different provision in relation to different classes of persons;
  - (b) may include provision as to the manner in which and the persons to whom any claim for compensation by virtue of this section is to be made, and for the determination of all questions arising under the regulations.

## **95 Power to make regulations**

The Minister may make regulations for the purpose of prescribing anything which may be prescribed under this Act (other than under section 115) and generally for the purpose of carrying this Act into effect.

## **96 Power to hold enquiries**

- (1) The Minister may cause to be held such inquiries as he considers necessary or desirable for the purposes of this Act.
- (2) Subject to subsection (3) below, for the purposes of any inquiry held under this Act (whether under subsection (1) above or under any other provision of this Act) the person appointed to hold the inquiry may by summons require any person to attend, at a time and place stated in the summons, to give evidence or to produce any documents in his custody or under his control which relate to any matter in question at the inquiry, and may take evidence on oath, and for that purpose administer oaths, or may, instead of administering an oath, require the person examined to make a solemn affirmation.
- (3) No person shall be required, in obedience to a summons under this section, to attend to give evidence or to produce any documents, unless the necessary expenses of his attendance are paid or tendered to him; and nothing in this section shall empower the person holding the inquiry to require the production of the title, or of any instrument relating to the title, of any land not being the property of a local authority.
- (4) Any person who refuses or deliberately fails to attend in obedience to a summons under this section, or to give evidence, or who deliberately alters, suppresses, conceals, destroys, or refuses to produce any book or other document which he is required or is liable to be required to produce for the purposes of this section, shall be liable on summary conviction to a fine not exceeding £100 or to imprisonment for a term not exceeding 6 months, or to both.
- (5) Where the Minister causes an inquiry to be held under this Act, the costs incurred by him in relation to the inquiry (including such reasonable sum not exceeding £30 a day as he may determine for the services of any officer engaged in the inquiry) shall be paid by such authority or party to the inquiry as he may direct, and the Minister may cause the amount of the costs so incurred to be certified, and any amount so certified and

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directed to be paid by any authority or person shall be recoverable from that authority or person by the Minister summarily as a civil debt.

- (6) Where the Minister causes an inquiry to be held under this section he may make orders as to the costs of the parties at the inquiry and as to the parties by whom the costs are to be paid, and every such order may be made a rule of the High Court on the application of any party named in the order.

### *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 ;
  - (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.
- (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

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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.

#### **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.