



Land Drainage Act 1991

1991 CHAPTER 59

PART V

MISCELLANEOUS AND SUPPLEMENTAL

Subordinate legislation

65 Land drainage regulations.

- (1) Each of the Ministers shall have power to make regulations—
- for the purpose of prescribing anything which may be prescribed under this Act (other than under section 74 below); and
 - generally for the purpose of carrying this Act into effect.
- (2) [^{F1}Subject to [^{F2}section 37(5ZH)], [^{F3}section 37A(6) and (7)], [^{F4}section 41A(13) and (14) and] section 66A(4),] the power to make regulations under this section or any other provision of this Act shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

Textual Amendments

- F1** Words in s. 65(2) inserted (14.7.2014) by [Water Act 2014 \(c. 21\)](#), **ss. 86(2), 94(2)(p)**
- F2** Words in s. 65(2) inserted (29.9.2022) by [Environment Act 2021 \(c. 30\)](#), **ss. 94(4), 147(3)** (with s. 144); [S.I. 2022/988](#), reg. 2(a)
- F3** Words in s. 65(2) inserted (9.1.2022) by [Environment Act 2021 \(c. 30\)](#), **ss. 97(3), 147(2)(n)** (with s. 144)
- F4** Words in s. 65(2) inserted (29.9.2022 for specified purposes) by [Environment Act 2021 \(c. 30\)](#), **ss. 96(8), 147(3)(4)** (with s. 144); [S.I. 2022/988](#), reg. 2(b)

66 Powers to make byelaws.

- [^{F5}(1) An internal drainage board may make byelaws for Purpose 1, 2 or 3.

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- (1A) A local authority, except an English county council, may make byelaws for Purpose 1, 2, 3 or 4.
- (1B) An English county council which is a lead local flood authority may make byelaws for Purpose 3 or 4.
- (1C) Purpose 1 is to secure the efficient working of a drainage system in the authority's district or area.
- (1D) Purpose 2 is to regulate the effects on the environment in the authority's district or area of a drainage system.
- (1E) Purpose 3 is to secure the effectiveness of flood risk management work within the meaning of section 14A.
- (1F) Purpose 4 is to secure the effectiveness of works done in reliance on section 38 or 39 of the Flood and Water Management Act 2010 (incidental flooding or coastal erosion).]
- (2) [^{F6} Byelaws may, in particular, have the purpose of]—
- (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 board or local 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.
- [^{F7}(3) An internal drainage board may not rely on this section to do anything in connection with a main river, the banks of a main river or any drainage works in connection with a main river.]
- (4) No byelaw for any purpose specified in subsection (2)(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.
- (5) Byelaws made under this section shall not be valid until they are confirmed—
- (a) in the case of byelaws made by an internal drainage board, by the relevant Minister;
 - (b) in the case of byelaws made by a local authority, in relation to any area of England, by the Minister; and
 - (c) [^{F8} in the case of byelaws made by a local authority in relation to any area of Wales, by the Secretary of State.]
- and Schedule 5 to this Act and section 236 of the ^{M1}Local Government Act 1972 (procedure for byelaws) shall have effect, respectively, in relation to byelaws made under this section by an internal drainage board and in relation to byelaws made under this section by a local authority.

[^{F9}(5A) Subsection (5) is subject to section 66A(1).]

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[^{F10}(5A) In the case of byelaws made by a local authority in relation to any area of Wales, byelaws under this section shall not be valid until they are confirmed by the Welsh Ministers.

(5B) Sections 7 and 8 of the Local Government Byelaws (Wales) Act 2012 shall have effect in relation to byelaws under this section made by a local authority in Wales.]

(6) If any person acts in contravention of, or fails to comply with, any byelaw made under this section he shall be guilty of an offence and liable, on summary conviction—

- (a) to a fine not exceeding level 5 on the standard scale; and
- (b) 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.

(7) If any person acts in contravention of, or fails to comply with, any byelaw made under this section by an internal drainage board or local authority, the board or authority may, without prejudice to any proceedings under subsection (6) above—

- (a) take such action as may be necessary to remedy the effect of the contravention or failure; and
- (b) recover the expenses reasonably incurred by them in doing so from the person in default.

(8) For the purposes of this section—

- (a) subsections (1) and (3) of section 16 above shall apply in relation to the powers conferred by this section as they apply in relation to the powers conferred by section 14 above; and
- (b) section 17 above shall apply in relation to the carrying out by a local authority of any drainage works authorised by subsection (7) above as it applies in relation to the carrying out of any drainage works authorised by section 14(1) above;

but nothing in this section shall authorise the carrying out of any works in connection with a main river.

(9) Notwithstanding anything in this Act, no byelaw made by an internal drainage board or local authority under this section shall conflict with or interfere with the operation of any byelaw made by a navigation authority, harbour authority or conservancy authority.

Textual Amendments

- F5** S. 66(1)-(1F) substituted for s. 66(1) (19.7.2011 for E., 1.10.2011 for W.) by [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), [Sch. 2 para. 38\(2\)](#) (with s. 49(1)(6)); S.I. 2011/1770, art. 3(e); S.I. 2011/2204, art. 3(2)(c)
- F6** Words in s. 66(2) substituted (19.7.2011 for E., 1.10.2011 for W.) by [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), [Sch. 2 para. 38\(3\)](#) (with s. 49(1)(6)); S.I. 2011/1770, art. 3(e); S.I. 2011/2204, art. 3(2)(c)
- F7** S. 66(3) substituted (19.7.2011 for E., 1.10.2011 for W.) by [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), [Sch. 2 para. 38\(4\)](#) (with s. 49(1)(6)); S.I. 2011/1770, art. 3(e); S.I. 2011/2204, art. 3(2)(c)
- F8** S. 66(5)(c) omitted (31.3.2015) by virtue of [Local Government Byelaws \(Wales\) Act 2012 \(anaw 2\)](#), s. 22(2), [Sch. 2 para. 14\(2\)](#); S.I. 2015/1025, art. 2(r) (with art. 3)
- F9** S. 66(5A) inserted (14.7.2014) by [Water Act 2014 \(c. 21\)](#), [ss. 86\(3\)](#), 94(2)(p)

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F10 S. 66(5A)(5B) inserted (31.3.2015) by [Local Government Byelaws \(Wales\) Act 2012 \(anaw 2\)](#), s. 22(2), [Sch. 2 para. 14\(3\)](#); S.I. 2015/1025, art. 2(r) (with art. 3)

Modifications etc. (not altering text)

C1 S. 66 amended (5.11.1993) by [1993 c. 42, s. 22](#).

C2 S. 66 excluded (11.1.2023) by [The Network Rail \(Cambridge South Infrastructure Enhancements\) Order 2022 \(S.I. 2022/1406\)](#), arts. 1, [5](#) (with art. 34(2), [Sch. 12 paras. 5, 47, 79](#))

Marginal Citations

M1 [1972 c. 70](#).

[^{F11}66A Alternative procedure for byelaws made by internal drainage boards

- (1) The Secretary of State may by regulations —
 - (a) provide that section 66(5) and Schedule 5 do not apply to byelaws made under section 66 by internal drainage boards for internal drainage districts which are neither wholly nor partly in Wales, and
 - (b) make provision about the procedure for the making and coming into force of such byelaws.
- (2) The regulations may, in particular, include provision about—
 - (a) consultation to be undertaken before a byelaw is made;
 - (b) publicising a byelaw after it is made.
- (3) The regulations may make such incidental, consequential, transitional or supplemental provision (including provision amending or repealing any provision of this Act) as the Secretary of State considers appropriate.
- (4) Regulations may not be made under subsection (1) unless a draft of the instrument containing the regulations has been laid before, and approved by a resolution of, each House of Parliament.]

Textual Amendments

F11 S. 66A inserted (14.7.2014) by [Water Act 2014 \(c. 21\)](#), [ss. 86\(4\), 94\(2\)\(p\)](#)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 37(5A)-(5D) inserted by [2016 anaw 3 s. 83\(2\)\(b\)](#)
- s. 37(5A) substituted in earlier affecting provision [2016 anaw 3, s. 83\(2\)\(b\)](#) by [2021 c. 30 s. 95\(2\)\(b\)\(i\)](#)
- s. 37(5B)(5C) words substituted in earlier affecting provision [2016 anaw 3, s. 83\(2\)\(b\)](#) by [2021 c. 30 s. 95\(2\)\(b\)\(ii\)](#)
- s. 37(5D)(5E) substituted in earlier affecting provision [2016 anaw 3, s. 83\(2\)\(b\)](#) by [2021 c. 30 s. 95\(2\)\(b\)\(ii\)](#)