
STATUTORY INSTRUMENTS

1973 No. 69

Drainage (Northern Ireland) Order 1973

PART IV

MAINTENANCE OF WATERCOURSES AND SEA DEFENCES

Powers of maintenance in relation to designated watercourses and sea defences

21.—(1) Subject to paragraph (2), the Ministry may, in relation to any designated watercourse or to any designated sea defences, carry out such works of repair and maintenance as the Ministry may consider fit, and, for that purpose, the Ministry may exercise any of the powers mentioned in paragraph (3) and any other powers which may be reasonably necessary for, or incidental to, the carrying out of such works.

(2) Where any injury is caused to the property of any person by reason of the carrying out by the Ministry of any such works of repair or maintenance, he shall, subject to the provisions of this Order, be entitled to receive from the Ministry the like compensation in respect of such injury as would be payable under this Order if such injury had been caused in the carrying out by the Ministry of a drainage scheme under Part III.

(3) For the purposes of repairing or maintaining any designated watercourse or any designated sea defences, the Ministry may—

- (a) maintain existing works, that is to say, cleanse, repair or otherwise maintain in a due state of efficiency any existing watercourse or drainage work, or sea defence works;
- (b) improve any existing works, that is to say, deepen, widen, straighten or otherwise improve any existing watercourse, or remove or alter dams, weirs or other obstructions to watercourses, or raise, widen or otherwise improve any drainage work or sea defence works;
- (c) construct new works which may be required for the purpose of repairing or improving the watercourse or sea defences;
- (d) repair, strengthen, alter, replace or renew any existing embankment and, for that purpose, use any shingle, sand, clay, gravel, stone, rock or other material removed in the carrying out of any drainage work or sea defence works, and deposit any material so removed on any adjacent land.

Bye-laws

22.—(1) The Ministry may, after consultation with the Drainage Council, make bye-laws for ensuring the efficient drainage of land and, in particular and without prejudice to the generality of the foregoing provisions, may make bye-laws for any of the following purposes—

- (a) regulating the use and preventing the improper use of any watercourse, banks or works constructed or maintainable by the Ministry, or for preserving any such watercourse, banks or works from damage or destruction;

- (b) regulating the opening of locks, sluices and floodgates in connection with any of those works;
- (c) compelling the occupier of any land on or through which any watercourse to which this Article applies runs, or of which such watercourse forms a boundary, to cut vegetable growth in or on the banks of the watercourse and, when cut, to remove the same therefrom;
- (d) providing that, on the default or failure of any person to fulfil any obligation imposed on him under bye-laws made by the Ministry under this Article, the Ministry may enter on any land and do any act or thing necessary to fulfil that obligation, and that the amount of any expenses thereby incurred by the Ministry shall be paid to it by such person and may, without prejudice to any other remedy, be recoverable summarily from him as a debt to the Ministry.

(2) Schedule 4 shall have effect with respect to the making of bye-laws under this Article.

(3) Bye-laws made by the Ministry under this Article may provide for offences against them to be punishable on summary conviction by a fine not exceeding^[F1 level 3 on the standard scale] and in the case of a continuing offence, an additional fine not exceeding £5 for each day during which the offence continues after written notice of the offence has been given.

(4) The prosecution or conviction of any person for an offence against any bye-law under this Article shall not prejudice or affect any civil or other liability of that person which may arise by reason of any act or omission constituting that offence, and shall not prejudice or affect any liability of that person arising under any other statutory provision by reason of such act or omission.

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Liability of occupiers of land protected by sea defences

23.—(1) This Article shall have effect in relation to land (in this Article referred to as “protected land”) protected by designated sea defences, but without prejudice to the provisions of Schedule 5.

(2) The Ministry may formulate a scheme providing for the carrying out on any protected land of such ancillary works, including the installation, operation and maintenance of such pumps or other plant as appear to the Ministry to be necessary to secure the efficient drainage of that land.

(3) The Ministry may serve on any occupier of any protected land a notice in writing requiring him, within such period as may be specified in the notice, to comply with the scheme or so much thereof as may be so specified.

(4) The provisions of paragraphs 6 to 8 of Schedule 5 shall have effect for the purposes of this Article as if in terms made applicable thereto.

(5) Nothing in this Article shall render an occupier of protected land liable for the reconstruction, repair or maintenance of any embankment forming part of sea defence works, nor of valves or other works forming part of such works.

(6) Articles 11 to 14 shall not have effect in relation to a scheme formulated under this Article.

Duty of occupiers with respect to undesignated watercourses

24. The provisions of Schedule 5 shall have effect in relation to the duties of occupiers of land with respect to undesignated watercourses, and to the other matters specified in that Schedule.

Changes to legislation:

There are currently no known outstanding effects for the Drainage (Northern Ireland) Order 1973, PART IV.