



Land Drainage Act 1991

1991 CHAPTER 59

PART V

MISCELLANEOUS AND SUPPLEMENTAL

Construction of Act

71 Service of documents.

- (1) A notice required or authorised to be served under or by virtue of this Act by any person shall be in writing.
- (2) Any document required or authorised by virtue of this Act to be served on any person may be served—
 - (a) by delivering it to him or by leaving it at his proper address or by sending it by post to him at that address; or
 - (b) if the person is a body corporate, by serving it in accordance with paragraph (a) above on the secretary or clerk of that body; or
 - (c) if the person is a partnership, by serving it in accordance with paragraph (a) above on a partner or a person having the control of management of the partnership business.
- (3) For the purposes of this section and section 7 of the ^{M1}Interpretation Act 1978 (which relates to the service of documents by post) in its application to this section, the proper address of any person on whom a document is to be served shall be his last known address, except that—
 - (a) in the case of service on a body corporate or its secretary or clerk, it shall be the address of the registered or principal office of the body;
 - (b) in the case of service on a partnership or a partner or a person having the control or management of a partnership business, it shall be the principal office of the partnership;

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and for the purposes of this subsection the principal office of a company registered outside the United Kingdom or of a partnership carrying on business outside the United Kingdom is its principal office within the United Kingdom.

- (4) If a person to be served by virtue of this Act with any document by another has specified to that other an address within the United Kingdom other than his proper address (as determined in pursuance of subsection (3) above) as the one at which he or someone on his behalf will accept documents of the same description as that document, that address shall also be treated as his proper address for the purposes of this section and for the purposes of the said section 7 in its application to this section.
- (5) Where under any provision of this Act any document is required to be served on the owner, on a lessee or on the occupier of any premises then—
- (a) if the name or address of the owner, of the lessee or, as the case may be, of the occupier of the premises cannot after reasonable inquiry be ascertained; or
 - (b) in the case of service on the occupier, if the premises appear to be or are unoccupied,

that document may be served either by leaving it in the hands of a person who is or appears to be resident or employed on the land or by leaving it conspicuously affixed to some building or object on the land.

- (6) This section shall not apply to any document in relation to the service of which provision is made by rules of court.

Marginal Citations

M1 1978 c. 30.

72 Interpretation.

- (1) In this Act, unless the context otherwise requires—
- [^{F1}“the Agency” means the Environment Agency;]
 “agricultural buildings” has the meaning provided by paragraphs 2 to 8 of Schedule 5 to the ^{M2}Local Government Finance Act 1988;
 “agricultural land” has the meaning provided by paragraphs 2 and 4 to 8 of that Schedule;
 [^{F2}“the appropriate agency” means—
- (a) in relation to England, the Agency;
 - (b) in relation to Wales, the Natural Resources Body for Wales;]
- [^{F2}“the appropriate supervisory body” means—
- (a) in relation to internal drainage districts which are wholly or mainly in England, the Agency;
 - (b) in relation to internal drainage districts which are wholly or mainly in Wales, the Natural Resources Body for Wales.]
- “banks” means banks, walls or embankments adjoining or confining, or constructed for the purposes of or in connection with, any channel or sea front, and includes all land between the bank and low-watermark;
 “chargeable property” means a hereditament comprising agricultural land or agricultural buildings in respect of which drainage rates may be assessed under Chapter II of Part IV of this Act;

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“charging authority” has the same meaning as in the Local Government Finance Act 1988;

“conservancy authority” means any person who has a duty or power under any enactment to conserve, maintain or improve the navigation of a tidal water and is not a navigation authority or a harbour authority within the meaning of [F3Chapter II of Part VI of the Merchant Shipping Act 1995];

[F4“culvert” means a covered channel or pipe which prevents the obstruction of a watercourse or drainage path by an artificial construction.]

[F5“drainage” includes—

- (a) defence against water (including sea water);
- (b) irrigation, other than spray irrigation;
- (c) warping; and
- (d) the carrying on, for any purpose, of any other practice which involves management of the level of water in a watercourse;]

“drainage body” means the [F6Agency][F7the Natural Resources Body for Wales], an internal drainage board or any other body having power to make or maintain works for the drainage of land;

[F8“enactment” includes an enactment comprised in subordinate legislation within the meaning of the Interpretation Act 1978;]

[F8“English drainage board” means a drainage board for an English internal drainage district;]

[F8“English internal drainage district” means an internal drainage district which is wholly or mainly in England;]

“financial year” means the twelve months ending with 31st March;

“harbour” and “harbour authority” have the same meanings as in the [F3Merchant Shipping Act 1995];

“land” includes water and any interests in land or water and any easement or right in, to or over land or water;

“local authority” means the council of a county, [F9county borough,] district or London borough or the Common Council of the City of London;

“main river” has the same meaning as in the M3Water Resources Act 1991;

“the Minister” means the Minister of Agriculture, Fisheries and Food;

“the Ministers” means the Minister and the Secretary of State, and in relation to anything which falls to be done by the Ministers, means those Ministers acting jointly;

F10 . . .

“navigation authority” means any person who has a duty or power under any enactment to work, maintain, conserve, improve or control any canal or other inland navigation, navigable river, estuary, harbour or dock;

“ordinary watercourse” means a watercourse that does not form part of a main river;

“prescribed” means prescribed by regulations under section 65 above;

“qualified authority”, in relation to an internal drainage district, means a charging authority for an area wholly or partly included in that district;

“qualified persons” shall be construed in accordance with subsection (2) below;

“the relevant Minister”—

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- (a) in relation to internal drainage districts which are neither wholly nor partly in Wales or to the boards for such districts, means the Minister;
 - (b) in relation to internal drainage districts which are partly in Wales or to the boards for such districts, means the Ministers; and
 - (c) in relation to internal drainage districts which are wholly in Wales or to the boards for such districts, means the Secretary of State;
- “watercourse” includes all rivers and streams and all ditches, drains, cuts, culverts, dikes, sluices, sewers (other than public sewers within the meaning of the ^{M4}Water Industry Act 1991) and passages, through which water flows.
- [^{F8}“Welsh drainage board” means a drainage board for a Welsh internal drainage district;]
- [^{F8}“Welsh internal drainage district” means an internal drainage district which is wholly or mainly in Wales.]
- (2) Subject to the provisions of paragraph 19 of Schedule 2 to the ^{M5}Water Consolidation (Consequential Provisions) Act 1991 (which makes provision with respect to qualification under this subsection by reference to drainage rates levied on land in respect of years beginning before 1993), where any provision of this Act refers, in relation to an internal drainage district, to the making of any appeal or petition by a sufficient number of qualified persons—
- (a) the persons who are qualified are the occupiers of any land in the district in respect of which a drainage rate is levied; and
 - (b) subject to subsection (3) below, their number shall be sufficient if (but only if)—
 - (i) they are not less than forty; or
 - (ii) they are not less than one-fifth of the number of persons who are qualified to make the petition or appeal; or
 - (iii) the assessable value for the purposes of the last drainage rate levied in the district of all the land in respect of which they are qualified persons is not less than one-fifth of the assessable value of all the land in respect of which that rate was levied.
- (3) In relation to a district divided into sub-districts the persons qualified to make a petition under section 39 above as being the occupiers of land in one of the sub-districts shall also be sufficient in any case where the condition in subsection (2)(b)(ii) or (iii) above would be satisfied if the sub-district were an internal drainage district.
- (4) The references to the assessable value of any land in paragraph (b) of subsection (2) above are references to the amount which for the purposes of the drainage rate mentioned in that paragraph would be the annual value of the land.
- (5) References in this Act to the carrying out of drainage works include references to the improvement of drainage works.
- (6) Nothing in this Act shall operate to release any person from an obligation to which section 21 above applies; and the functions of the [^{F6}Agency][^{F11}, the Natural Resources Body for Wales] or any internal drainage board 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.

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- (7) Where by virtue of any provision of this Act any function of a Minister of the Crown is exercisable concurrently by different Ministers, that function shall also be exercisable jointly by any two or more of those Ministers.
- (8) This Act so far as it confers any powers on the [^{F6}Agency][^{F12}or the Natural Resources Body for Wales] shall have effect subject to the provisions of the ^{M6}Water Resources Act 1991.
- (9) The powers conferred by this Act on the Common Council of the City of London shall be exercisable as respects that City.
- (10) Sub-paragraph (1) of paragraph 1 of Schedule 2 to the ^{M7}Water Consolidation (Consequential Provisions) Act 1991 has effect (by virtue of sub-paragraph (2)(b) of that paragraph) so that references in this Act to things done under or for the purposes of provisions of this Act or the Water Resources Act 1991 include references to things done, or treated as done, under or for the purposes of the corresponding provisions of the law in force before the commencement of this Act.

Textual Amendments

- F1** Definition inserted in s. 72(1) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22**, para. 194(1), (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F2** Words in s. 72(1) inserted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 335(2)(a)** (with Sch. 7)
- F3** Words in s. 72(1) substituted (1.1.1996) by 1995 c. 21, ss. 314(2), 316(2), **Sch. 13**, para. 9(b) (with s. 312(1))
- F4** Words in s. 72(1) inserted (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. 39** (with s. 49(1)(6)); S.I. 2011/1770, art. 3(e); S.I. 2011/2204, art. 3(2)(c)
- F5** Definition in s. 72(1) substituted (21.9.1995) by 1995 c. 25, s. 100(2)(with ss. 7(6), 115, 117); S.I. 1995/1983, **art. 3**
- F6** Words in s. 72 substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22**, para. 191 (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F7** Words in s. 72(1) inserted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 335(2)(b)** (with Sch. 7)
- F8** Words in s. 72(1) inserted (9.1.2022) by Environment Act 2021 (c. 30), **ss. 97(5)**, 147(2)(n) (with s. 144)
- F9** Words inserted in s. 72(1) (1.4.1996) by 1994 c. 19, s. 22(5), **Sch. 11**, Pt. II, para. 4(12) (with ss. 54(5) (7), 55(5)); S.I. 1996/396, **art. 3**
- F10** Definition repealed in s. 72(1) (1.4.1996) by 1995 c. 25, s. 120(1)(3), **Sch. 22**, para. 194(2) (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F11** Words in s. 72(6) inserted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 335(3)** (with Sch. 7)
- F12** Words in s. 72(8) inserted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 335(4)** (with Sch. 7)

Modifications etc. (not altering text)

- C1** S. 72(2)(3) modified (temp.) (1.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60, SIF 130), ss. 2(2), 4(2), Sch. 2 paras. 15(3), **19(1)**.
- C2** S. 72(2)(b)(iii) amended (1.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60, SIF 130), ss. 2(2), 4(2), Sch. 2 paras. 15(3), **19(2)**

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Marginal Citations

- M2** 1988 c. 41.
- M3** 1991 c. 57.
- M4** 1991 c. 56.
- M5** 1991 c. 60.
- M6** 1991 c. 57.
- M7** 1991 c. 60.

73 Disputes as to whether works connected with main river.

- (1) If any question arises under this Act—
 - (a) whether any work is a drainage work in connection with a main river; or
 - (b) whether any proposed work will, if constructed, be such a drainage work,the question shall be referred to one of the Ministers for decision or, if either of the parties so requires, to arbitration.
- (2) Where any question is required under subsection (1) above to be referred to arbitration it shall be referred to the arbitration of a single arbitrator appointed—
 - (a) by agreement between the parties; or
 - (b) in default of agreement, by the President of the Institution of Civil Engineers on the application of either party.

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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\(2\)\(b\)\(ii\)](#)