



Land Drainage Act 1991

1991 CHAPTER 59

PART V

MISCELLANEOUS AND SUPPLEMENTAL

Other supplemental provisions

74 Application to Crown.

- (1) Subject as otherwise expressly provided in this Act, this Act shall apply to land belonging to Her Majesty in right of the Crown or the Duchy of Lancaster, to land belonging to the Duchy of Cornwall and to land belonging to a government department.
- (2) For the purposes of this Act the following shall be deemed to be the owner of land to which this section applies by virtue of this section, that is to say—
 - (a) in the case of land belonging to Her Majesty in right of the Crown, the Crown Estate Commissioners or the Secretary of State, according as the land is under the management of those Commissioners or the Secretary of State;
 - (b) in the case of land belonging to Her Majesty in right of the Duchy of Lancaster, the Chancellor of the Duchy; and
 - (c) in the case of land belonging to the Duchy of Cornwall, such person as the Duke of Cornwall or the possessor for the time being of the Duchy of Cornwall appoints.
- (3) Notwithstanding subsection (1) above but subject to subsection (4) below, nothing in this Act shall—
 - (a) authorise the compulsory acquisition of any land belonging to Her Majesty in right of the Crown or the Duchy of Lancaster, or of any land belonging to the Duchy of Cornwall or a government department;
 - (b) operate as a grant—
 - (i) by or on behalf of Her Majesty as owner (whether in right of the Crown or of the Duchy of Lancaster) of any tidal lands; or

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- (ii) by or on behalf of the Duchy of Cornwall as owner of any such lands, of any estate or interest in or right over any of those lands or any part of them; or
 - (c) authorise any person to do any work on, over or under, or to use for any purpose, any tidal lands or any lands belonging to Her Majesty in right of the Crown or of the Duchy of Lancaster, to the Duchy of Cornwall, or to any government department, except—
 - (i) with the consent of the owner of the land or, in the case of tidal lands, of the owner of the land and of the Secretary of State; and
 - (ii) in accordance with the approved plans and sections and subject to the prescribed restrictions and conditions;
 - or
 - (d) confer any power of levying drainage rates in respect of tidal lands.
- (4) Nothing in subsection (3)(c) above shall apply to work done in maintaining existing works on tidal lands, or on land not in occupation of Her Majesty, the Duke of Cornwall or a government department.
- (5) Section 222 of the ^{M1}Water Resources Act 1991 (Crown application) shall have effect in relation to the provisions of this Act so far as they confer powers on the [F1Agency][F2or the Natural Resources Body for Wales] as it applies in relation to the provisions of that Act.
- (6) In this section—
- “tidal lands” means lands below the high-water mark of ordinary spring tides but, for the purposes of subsection (3)(c) above, does not include any lands which are protected, by means of walls, embankments or otherwise, from the incursion of the tides; and
 - “approved” and “prescribed” mean, respectively, approved and prescribed by the Secretary of State or, as the case may be, the owner of the lands, before the commencement of the work in question.

Textual Amendments

- F1** Words in s. 74 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**
- F2** Words in s. 74(5) inserted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), **art. 1(2)**, **Sch. 2 para. 336** (with Sch. 7)

Modifications etc. (not altering text)

- C1** S. 74 applied(01.12.91)by Water Resources Act 1991 (c. 57, SIF 130), **ss. 181(4)**, 225(2).
- C2** S. 74 applied(01.12.91)by Water Resources Act 1991 (c. 57, SIF 130), **ss. 222(6)(9)**, 225(2).
- C3** S. 74 applied (1.7.1997) by 1995 c. 25, s. 116, **Sch. 21**, Pt. I, para. 2(4), (substituting 1991 c. 57, **s. 222**)(with ss. 7(6), 115, 117); S. I. 1997/1626, **art. 2**

Marginal Citations

- M1** 1991 c. 57.

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[^{F3}**75** **Application to the Isles of Scilly.**

- (1) Subject to the provisions of any order under this section, this Act shall not apply in relation to the Isles of Scilly.
- (2) The Secretary of State may, after consultation with the Council of the Isles of Scilly, by order provide for the application of any provisions of this Act to the Isles of Scilly; and any such order may provide for the application of those provisions to those Isles with such modifications as may be specified in the order.
- (3) An order under this section may—
 - (a) make different provision for different cases, including different provision in relation to different persons, circumstances or localities; and
 - (b) contain such supplemental, consequential and transitional provision as the Secretary of State considers appropriate, including provision saving provision repealed by or under any enactment.
- (4) The power of the Secretary of State to make an order under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.]

Textual Amendments

F3 **S. 75** substituted (1.2.1996) by **1995 c. 25, s. 118(6)**(with ss. 7(6), 115, 117); **S.I. 1996/186, art. 2**

76 **Short title, commencement and extent.**

- (1) This Act may be cited as the Land Drainage Act 1991.
- (2) This Act shall come into force on 1st December 1991.
- (3) This Act extends to England and Wales only.

Changes to legislation:

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