



Land Drainage Act 1991

1991 CHAPTER 59

PART II

PROVISIONS FOR FACILITATING OR SECURING THE DRAINAGE OF LAND

Restoration and improvement of ditches

28 Orders requiring the cleansing of ditches etc.

- (1) Where a ditch is in such a condition as—
 - (a) to cause injury to any land; or
 - (b) to prevent the improvement of the drainage of any land,the [^{F1}appropriate tribunal], on the application of the owner or occupier of the land, may if they think fit make an order requiring the person or persons named in the order to carry out such remedial work as may be specified in the order.
- (2) An order under this section with respect to a ditch may name—
 - (a) any person who is an owner or occupier of land through which the ditch passes or which abuts on the ditch; and
 - (b) any person who, though not such an owner or occupier, has a right to carry out the work specified in the order or any part of it.
- (3) Where an order under this section names more than one person it may either—
 - (a) require each of those persons to carry out a specified part of the work specified in the order; or
 - (b) subject to subsection (4) below, require all those persons jointly to carry out the whole of that work.
- (4) Where the [^{F2}appropriate tribunal] make an order requiring persons jointly to carry out any work, the Tribunal, without prejudice to those persons' joint liability, may, if they think fit, specify in the order the proportions in which those persons are to contribute to the cost of doing so.
- (5) In this section—

Changes to legislation: *Land Drainage Act 1991, Section 28 is up to date with all changes known to be in force on or before 19 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

“ditch” includes a culverted and a piped ditch but does not include a watercourse vested in, or under the control of, a drainage body; and

“remedial work”, in relation to a ditch, means work—

- (a) for cleansing the ditch, removing from it any matter which impedes the flow of water or otherwise putting it in proper order; and
- (b) for protecting it.

[^{F3}(6) For the purposes of this section, “appropriate tribunal” means—

- (a) where either the land or the ditch is in England, the First-tier Tribunal; and
- (b) where either the land or the ditch is in Wales, the Agricultural Land Tribunal.]

Textual Amendments

- F1** Words in s. 28(1) substituted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, **Sch. 1 para. 213(a)** (with Sch. 3)
- F2** Words in s. 28(4) substituted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, **Sch. 1 para. 213(a)** (with Sch. 3)
- F3** S. 28(6) inserted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, **Sch. 1 para. 213(b)** (with Sch. 3)

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