



# Land Drainage Act 1991

## 1991 CHAPTER 59

### PART II

#### PROVISIONS FOR FACILITATING OR SECURING THE DRAINAGE OF LAND

##### *Control of flow of watercourses etc.*

#### **25 Powers to require works for maintaining flow of watercourse.**

(1) <sup>F1</sup>..., where any ordinary watercourse is in such a condition that the proper flow of water is impeded, then, unless the condition is attributable to subsidence due to mining operations (including brine pumping), the drainage board <sup>F2</sup>... concerned may, by notice served on a person falling within subsection (3) below, require that person to remedy that condition.

<sup>F3</sup>(2) .....

(3) Subject to subsection (4) below, a notice under this section in relation to a watercourse may be served on—

- (a) any person having control of the part of the watercourse where any impediment occurs; or
- (b) any person owning or occupying land adjoining that part; or
- (c) any person to whose act or default the condition of the watercourse mentioned in subsection (1) above is due.

(4) No notice under this section requiring any person to carry out any work on land not owned or occupied by him shall be served without the consent of the owner and the occupier of the land, except in a case where it is not practicable, after reasonable inquiry, to ascertain the name and address of the owner or occupier.

(5) A notice under this section shall indicate—

- (a) the nature of the works to be carried out and the period within which they are to be carried out; and

*Changes to legislation: Land Drainage Act 1991, Section 25 is up to date with all changes known to be in force on or before 30 May 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*

- (b) the right of appeal to a magistrates' court and the period within which such an appeal may be brought under section 27 below.
- (6) Subject to the right of appeal provided by section 27 below, if the person upon whom a notice is served under this section fails to carry out the works indicated by the notice within the period so indicated—
- (a) the drainage board<sup>F4</sup>... concerned may themselves carry out the works and recover from that person the expenses reasonably incurred by them in doing so; and
- (b) without prejudice to their right to exercise that power, that person shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 4 on the standard scale.
- (7) In proceedings by the drainage board<sup>F5</sup>... concerned for the recovery of any expenses under subsection (6) above it shall not be open to the defendant to raise any question which he could not have raised on an appeal under section 27 below.
- (8) Nothing in this section shall affect the right of an owner or occupier to recover from the other, under the terms of any lease or other contract, the amount of any expenses incurred by him under this section or recovered from him by the drainage board<sup>F6</sup>... concerned.

#### Textual Amendments

- F1** Words in s. 25(1) omitted (6.4.2012) by virtue of Flood and Water Management Act 2010 (c. 29), s. 49(3), **Sch. 2 para. 33(2)(a)** (with s. 49(1)(6)); S.I. 2012/879, art. 3(b) (with art. 4)
- F2** Words in s. 25(1) omitted (6.4.2012) by virtue of Flood and Water Management Act 2010 (c. 29), s. 49(3), **Sch. 2 para. 33(2)(b)** (with s. 49(1)(6)); S.I. 2012/879, art. 3(b) (with art. 4)
- F3** S. 25(2) omitted (6.4.2012) by virtue of Flood and Water Management Act 2010 (c. 29), s. 49(3), **Sch. 2 para. 33(3)** (with s. 49(1)(6)); S.I. 2012/879, art. 3(b) (with art. 4)
- F4** Words in s. 25(6)(a) omitted (6.4.2012) by virtue of Flood and Water Management Act 2010 (c. 29), s. 49(3), **Sch. 2 para. 33(4)** (with s. 49(1)(6)); S.I. 2012/879, art. 3(b) (with art. 4)
- F5** Words in s. 25(7) omitted (6.4.2012) by virtue of Flood and Water Management Act 2010 (c. 29), s. 49(3), **Sch. 2 para. 33(4)** (with s. 49(1)(6)); S.I. 2012/879, art. 3(b) (with art. 4)
- F6** Words in s. 25(8) omitted (6.4.2012) by virtue of Flood and Water Management Act 2010 (c. 29), s. 49(3), **Sch. 2 para. 33(4)** (with s. 49(1)(6)); S.I. 2012/879, art. 3(b) (with art. 4)

#### Modifications etc. (not altering text)

- C1** S. 25 applied(01.12.91)by Water Resources Act 1991 (c. 57, SIF 130), **ss. 107(3), 225(2)**.

**Changes to legislation:**

Land Drainage Act 1991, Section 25 is up to date with all changes known to be in force on or before 30 May 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.

[View outstanding changes](#)

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