



Isle of Man

Ellan Vannin

AT 4 of 1934

THE LAND DRAINAGE ACT 1934



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THE LAND DRAINAGE ACT 1934

<i>Received Royal Assent:</i>	29 June 1934
<i>Passed:</i>	6 July 1934
<i>Commenced:</i>	6 July 2012

AN ACT to consolidate and amend the law with regard to land drainage.

GENERAL NOTES

1. The maximum fines in this Act are as increased by the *Fines Act 1986* and by the *Criminal Justice (Penalties, Etc.) Act 1993* s 1.
2. References to the Registry Office for Deeds are to be construed in accordance with the *General Registry Act 1965*.

1 Short title

This Act may be cited as ‘The Land Drainage Act, 1934’.

2 [Repealed]¹

3 Interpretation

In this Act unless the context otherwise requires the following words and expressions shall have the meanings hereby assigned to them: —

“**The Board**” [Repealed]²

“**the Authority**” means the Isle of Man Water and Sewerage Authority.³

“**Local Authority**” means in the case of the Borough of Douglas the Mayor, Aldermen and Burgesses of such borough and in the case of the town, parish and village districts the commissioners of such town, parish or village district respectively.

“**Catchment Area**” means the area of land, drained or capable of being drained by or into a river, and shall include all land from which by natural fall water may run off into such river.

“**Drainage District**” means the area of land declared by the Authority under the provisions of this Act to be a drainage district, and shall comprise such

area as will derive benefit or avoid danger as a result of drainage operations.⁴

“**Upland Area**” means the area of land declared by the Authority under the provisions of this Act to be an upland area, and such area shall not be confined to land which will derive benefit or avoid danger as a result of drainage operations.⁵

“**Drainage**” includes defence against water irrigation warping and the supply of water including sea water.

“**Land**” includes water and any interest in land or water and any easement or right in to or over land or water.

“**Banks**” means banks, walls or embankments adjoining or confining or constructed for the purpose of or in connection with any channel or sea front, and includes all land between the bank and low water mark and includes banks at some distance from, but in connection with a river and sea defence works by which the main river outfall is protected and any other drainage works in connection with the main rivers.⁶

“**Main River**” includes any structure or appliances for controlling or regulating the flow of water in or out of the channel and situate therein or in any part of the banks thereof other than any such structure or appliance which is declared by the Authority to form part of the works of a drainage district, and shall include so much of the banks and adjoining land as the Authority may declare to form part of a main river for the purposes of this Act.⁷

“**Prescribed**” means prescribed by the Authority.⁸

“**Water course**” includes all rivers, streams, ditches, drains, cuts, culverts, dykes, sluices, sewers (other than sewers under the control of a local authority) and passages through which water flows.

4 **General functions of Authority**

Subject to the provisions of this Act the Authority shall exercise a general supervision of all matters relating to drainage within this Isle, and shall have such powers and perform such duties as are conferred or imposed on the Authority by this Act.⁹

5 **Authority may appoint drainage committee**

- (1) The Authority may delegate its powers and duties under this Act or any of them (other than the power of raising a rate or borrowing money) to a drainage committee with or without restrictions.¹⁰
- (2) A drainage committee established under this section may comprise persons other than members of the Authority provided that the number

of such persons shall be less than the members of the Authority on such Committee.¹¹

- (3) The accounts of any receipts or payments by or to a drainage committee under powers delegated under this section shall be accounts of the Authority and made up and audited accordingly.^{12 13}

6 Catchment areas

- (1) The areas specified in the second schedule to this Act shall be catchment areas for the purposes of this Act.
- (2) The Authority may at any time by Order under this Act direct that any area which is not for the time being included in the said second schedule shall be added to such schedule, or that any area for the time being included in such schedule shall be removed therefrom.

An Order under this sub-section shall be published in one or more newspapers printed and published in the Isle of Man and shall not take effect unless and until approved by resolution of Tynwald.¹⁴

7 Drainage districts

- (1) The Authority may by Order from time to time:
 - (a) declare any area of land to be a drainage district for the purposes of this Act;
 - (b) annul the formation of a drainage district under the Land Drainage Acts, 1875 to 1929, and create other drainage districts
 - (c) alter the boundaries of any drainage district constituted under the said Land Drainage Acts or this Act;
 - (d) amalgamate the whole or any part of a drainage district with any other drainage district:
 - (e) abolish or reconstitute a drainage district;
 - (f) do any matters supplemental to or consequential on the matters aforesaid for which it appears necessary or desirable to make provision, including the transfer of any property, rights, powers, duties, obligations and liabilities, of or in respect of a drainage district to any other drainage district.¹⁵
- (2) Any Order made by the Authority under this section shall be published in one or more newspapers printed and published in this Island, and such Order shall not take effect unless and until approved by resolution of Tynwald.¹⁶

8 Upland areas

- (1) The Authority may by Order declare any portion of the catchment area of a river to be an upland area, and may from time to time vary or annul any such Order or constitute a new upland area or upland areas.¹⁷
- (2) Any Order made by the Authority under this section shall be published in one or more newspapers printed and published in this Island, and such Order shall not take effect unless and until approved by resolution of Tynwald.¹⁸

9 Maps of catchment areas, drainage districts and upland areas

- (1) It shall be the duty of the Authority to cause to be prepared in relation to each catchment area, drainage district and upland area, a map determining for the purposes of this Act the extent of the area or district, and shewing in the case of a catchment area by some distinctive colour that part of the channel and banks of the river and watercourses which is to be treated as the main river for the purposes of this Act and the watercourses which are for those purposes to be deemed to be part of the main river.

As soon as the map of the catchment area, drainage district or upland area has been prepared the Authority shall cause to be published in one or more newspapers printed and published in this Island a notice stating that the map has been prepared and specifying the place at which a copy of the map may be inspected and the time, not being less than one month, within which, and the manner in which, objections thereto may be made.¹⁹

- (2) If any objection is made to the Authority in writing within such time not being less than one month after such notice as the Authority may determine, the Authority shall hold or cause to be held an inquiry at which any person affected may attend and be heard.

Any map prepared by the Authority shall be laid before Tynwald for approval together with a report of any inquiry under this section.²⁰

- (3) The Authority may at any time vary the map of an upland area or district as to the boundaries thereof, and in the case of a catchment area so far as relates to the extent of the main river, and the provisions of this section with regard to the making of the map shall apply to the making of any variation of such map.²¹

10 Powers of Authority in relation to main river

On and after the approval of the map of a catchment area shewing the part of the channel and banks of the river, and the water courses which are to be deemed a main river, the main river and the banks thereof as shewn on such map shall be vested in the Authority for the purposes of this Act; but this

enactment shall not be deemed to vest in the Authority otherwise than for such purposes the soil of such rivers and banks except as is in this Act provided.²²

11 Remedies of Authority

The Authority for the prevention of encroachment and the prevention, abatement or removal of nuisances which may affect the main rivers, shall have the like remedies as the owner or occupier of the soil would have.²³

12 Abolition of private obligations for main rivers

On and after the approval of the map of any catchment area, all the obligations imposed on frontagers on the main river of such area by reason of custom or under any enactment (other than this Act), or otherwise to repair any walls, maintain the watercourse, or do any other work in connection with land drainage in respect of the main river, shall be abolished.

13 Works in main rivers

The Authority shall out of monies provided by Tynwald and in such manner as the Authority may determine, execute such works in and in relation to the main rivers of catchment areas as they may consider necessary or desirable for maintaining, repairing, and improving such main rivers (including, if the Authority consider it desirable so to do, making new cuts or diversion of the river and all works incidental thereto), and rendering the same adequate to carry the water from time to time flowing therein, and for preventing the overflow or discharge of water from the main rivers on to the adjoining property. The Authority shall not be liable or responsible in tort for anything done or omitted to be done by the Authority under this Act in or in connection with a main river.²⁴

14 Report and estimate of Authority

The Authority shall annually before the first day of March send to the Governor a report of the works on and in connection with the main rivers of the catchment area proposed to be carried out by the Authority during the next financial year, together with an estimate of the cost of such works, and the Authority shall carry out such works as Tynwald may approve to the extent of the money provided by Tynwald for such purpose.

In case of emergency the Authority may at any time submit to the Governor a report of works requiring immediate attention for submission to Tynwald and may carry out such works if approved by Tynwald to the extent of the money provided by Tynwald for such purpose.²⁵

15 Accounts of Authority

The Authority shall keep separate accounts of all receipts and expenditure under this Act and may apportion any items of expenditure between functions of the Authority under other enactments and its functions under this Act, any such apportionment to be subject to the approval of the Treasury.²⁶

16 Power of Authority to sell, buy, exchange, enter upon, etc, land

- (1) The Authority may with the approval of Tynwald acquire by agreement or compulsory purchase any land for any purpose connected with the drainage of land or any water mill, dam, weir, or other works, or any easement which interferes with the proper drainage of any catchment area, drainage district or upland area.²⁷
- (2) to (4) [Repealed]²⁸
- (5) The Authority may on giving reasonable notice to the owner or occupier enter upon any property for the purpose of carrying out the duties of the Authority under this Act, and may do such works thereon as the Authority may consider necessary, and any persons whose property may be injuriously affected by the entry of the Authority thereon and the construction of such works shall be entitled to such compensation as may be determined by agreement, or failing agreement, in accordance with Part III of the *Acquisition of Land Act 1984*.^{29 30}

17 Drainage district

- (1) The Authority shall have and may exercise the following powers within or in relation to any drainage district formed under the provisions of this Act, or any Act repealed by this Act: —
 - (a) to maintain existing works, that is to say, to cleanse, repair, or otherwise maintain in due state of efficiency any existing watercourse or drainage work;
 - (b) to improve any existing works, that is to say, to deepen, widen, straighten or otherwise improve any existing watercourse, or remove mill dams, weirs, or other obstructions to watercourses, or raise, widen or otherwise improve any existing drainage work;
 - (c) to construct new works, that is to say, to make any new watercourse or drainage works, or erect any machinery or do any other act not hereinbefore referred to, required for the drainage of the area comprised in the drainage district.³¹
- (2) The Authority may execute drainage works for the benefit of a drainage district outside that district, and any expense incurred by the Authority under this subsection shall be defrayed as if the expense had been incurred in the drainage district.³²

- (3) Where injury is sustained by any person by reason of the exercise of any of their powers under this section, the Authority shall make compensation to the injured persons, and in case of dispute the amount of the compensation shall be determined by arbitration in accordance with Part III of the *Acquisition of Land Act 1984*.³³

18 Borrowing for works in drainage district

- (1) The Authority may for the purpose of defraying any costs, charges or expenses incurred by them in execution of this Act, in or for the benefit of any drainage district, or for the purpose of discharging any loan contracted by them under this Act, or any enactment repealed by this Act, borrow or reborrow on the security of the drainage district rate to be levied by and contributions to be paid to the Authority under this Act.³⁴
- (2) Money borrowed by the Authority for the purposes of a drainage district may be borrowed for such time not exceeding fifty years as the Authority with the sanction of the Governor and the approval of Tynwald may in each case determine.³⁵
- (3) Sections 356 to 362 inclusive and sections 365 to 367 inclusive of the *Local Government Consolidation Act, 1916*, are incorporated in this Act with respect to borrowing under this Act with the substitution of the words 'the Authority' for the words 'the Commissioners' wherever the same shall appear.³⁶

19 Drainage rate

- (1) The expenses of the Authority under this Act in or in connection with a drainage district shall (so far as they are not met by contributions from persons and authorities other than the owners of land within the drainage district) be raised by means of a drainage rate made under and in accordance with this Act by the Authority.

Such expenses shall include the interest and sinking fund in respect of any monies borrowed for the purposes of works in or in connection with a drainage district; the expenses of the Authority in maintaining and improving the drainage of a drainage district (other than expenses for which money has been borrowed); any expenses incurred by the Authority in connection with the inspection, supervision, oversight or execution of any works in the drainage district; and any other expenses incurred in connection with such drainage district.³⁷

- (2) The drainage rate shall be levied on all land within the drainage district.

20 Treasury to determine valuation according to benefit

The Treasury shall by Order determine the proportions (hereinafter called 'the valuation') in which the proprietors of land within a drainage district are to

contribute to the drainage rate from time to time levied within the district, regard being had to the extent of benefit which the lands of each proprietor will derive from the drainage works of the Authority in or in connection with such district, or any danger or expense he may avoid by reason of such works, and the Treasury may from time to time amend or alter the valuation, and the valuation so amended shall take effect as and from the commencement of the rating year next following such amendment. Any valuation made under the Land Drainage Acts 1875 to 1929 and in operation at the commencement of this Act shall have effect as if made under this Act.³⁸

21 Rate levied on valuation

The drainage rate in any drainage district shall be levied upon the proprietors of lands within the district according to the valuation for the time being in force for the purposes of this Act. The drainage rate shall in the first instance be payable by the occupier of the land who may deduct the same from the rent or other money payable by the occupier to the owner.

22 Valuation of land adjoining main river

In making a valuation under this Act the Treasury shall have regard to the advantage derived by the owner of any land adjoining a main river of being relieved from his liability in respect of the main river under this Act, and the land so relieved shall be valued in the valuation at the highest rate of benefit of any area of land in such district. The Treasury shall determine the extent of land to which the provisions of this section shall apply.³⁹

23 Collection of drainage rate

The mode of procedure provided by the Valuation Acts with respect to a Valuation List shall be followed with respect to every valuation made by the Treasury under the provisions of this Act; and all the provisions of the Valuation Acts with respect to notices, objections and appeals shall apply, so far as the same are applicable, to every such valuation, except wherein such provisions are inconsistent with the provisions of this Act, and except as to matters hereby otherwise provided for.⁴⁰

24 Liability for drainage rate

The Treasury shall forward to the Authority a list of the persons and properties rated in respect of each year to a district drainage rate specifying the amount payable by each person, and such drainage rate shall be collected by the Treasury along with other rates collected by the Treasury.⁴¹

25 Rate in preference

A district drainage rate levied under the provisions of this Act shall be a debt of a preference character and may be recovered against the property of the person liable to pay the same in preference to rent and all his other debts and obligations except such debts (other than for rent), as now by law are payable in preference.

26 Liability of owner for drainage rate

Where owing to the operations of the Authority or the action of nature, or otherwise, any public footpath or right of way adjoining or near to a river is injured, removed or otherwise affected, the Authority may enter upon and use the adjoining land for the purpose of repairing such footpath or forming a footpath in lieu of the footpath so affected and may do such work as in its opinion is necessary for placing such footpath in a suitable condition for use by the public.⁴²

27 Contributions from public authorities and upland area

- (1) [Repealed]⁴³
- (2) The Governor may at any time cause an inquiry to be made for the purpose of ascertaining if any roads, bridges, or other property vested in the Authority derive any benefit or avoid any danger by reason of drainage works carried out under the provisions of this Act, and may call upon the Authority to contribute such sum or annual sum out of the funds of such Authority as the Governor may consider reasonable towards the cost of such works. If the Authority objects to the decision of the Governor under this subsection, it may apply to the Summary Jurisdiction of the Civil Division of the High Court for the determination of the question.⁴⁴
- (3) The Authority shall determine how much of any contribution received by them under subsection (2) of this section should be fairly allocated to the drainage works of the Authority in a drainage district, and the amount so allocated shall be applied in payment of the cost and expenses of the Authority in such drainage district in such manner as the Authority may determine. The balance of such contributions shall be applied by the Authority towards the cost of the works of the Authority in and in connection with the main river.⁴⁵
- (4) Where it appears to the Authority that the burden on any catchment area, or drainage district, or the drainage works of any such area or district, has been increased by reason of any drainage or other works in any upland area, whether executed before or after the commencement of this Act, or that by reason of the quantity of water such catchment area or drainage district receives from lands at a higher level, it is fair that a contribution towards their expenses should be made by the proprietors

of land in an upland area, the Authority may direct that such contribution shall be made out of the proceeds of the upland area rate.

An upland area committee or any owner of land forming part of an upland area may appeal from the decision of the Authority by petition to the Civil Division of the High Court exercising Summary Jurisdiction, and the Court may annul, confirm or vary the decision of the Authority.⁴⁶

28 Upland area committee

- (1) On the formation of an upland area there shall be constituted an upland area committee comprising the Chairman for the time being of the Authority (who shall be ex-officio chairman of the upland area committee), and five persons of whom two shall be nominated by the Governor, two by the Department of Environment, Food and Agriculture, and one by the Authority. The Chief Secretary shall take such steps as are necessary to secure the appointment of the members of the upland area committee.⁴⁷
- (2) A member of the upland area committee shall hold office until he shall resign or be removed by the authority by which he was appointed, and on a vacancy arising a new member shall be appointed by the same authority as appointed the member whose membership has been terminated.
- (3) The upland area committee shall meet for the transaction of businesses as often as may be required, not being less than once in every quarter, and the Authority shall supply the upland area committee with the use of office accommodation and such technical and clerical staff as they may require.⁴⁸
- (4) The administrative expenses of an upland area committee shall be met by the Authority out of the monies placed at the disposal of the Authority by Tynwald for the purposes of this Act.⁴⁹
- (5) It shall be the duty of the upland area committee to exercise general supervision of all matters relating to the drainage of land within the upland area and to consider and report to the Authority what steps should be taken to regulate or control the drainage of water from the upland area into the river in order that the burden on the river may be reduced or the time of discharge extended and floodage of the catchment area or drainage district or any part thereof averted.⁵⁰
- (6) It shall be lawful for the upland area committee, with the approval of the Authority, to take such steps and execute such works in the upland area as they may consider advisable for the purposes hereinbefore in this section specified and may, with the like approval, by order prohibit or regulate the burning or destruction of vegetation or trees in any portions of the upland area. The upland area committee may, with the like approval, purchase or take on lease any portion of the upland area and

enter into such arrangements with the Department of Environment, Food and Agriculture as they may consider advisable for the planting of such areas for the purpose of regulating or controlling the flow of water from the upland area into the river.⁵¹

- (7) Any person who shall suffer any loss or damage by reason of any Order of an upland area committee this Act or of any works carried out by an upland area committee other than in respect of land within the district shall receive compensation therefor, and in case of failure to agree such compensation shall be ascertained in accordance with Part III of the *Acquisition of Land Act 1984*.⁵²
- (8) An upland area committee may raise by loan upon the security of the upland area rate such sum as may be approved by the Authority in respect of the cost of any matters or works of such committee on such terms and repayable within such period as the Authority may determine.⁵³
- (9) An upland area committee may levy an upland area rate on all lands forming the upland area according to the rateable value of such lands for the time being for the purpose of discharging the interest and sinking fund of any monies so borrowed and any expenses incurred by the upland area committee in respect of such district. The upland area rate shall be payable by the owner, and shall be a preference charge in like manner as the district drainage rate under this Act.
- (10) It shall be lawful for the upland area committee by resolution to declare that by reason of the measures taken on any land forming part of the district to regulate or control the flow of water off such land, such land shall not be liable to the upland area rate, and such rate shall thereupon be levied only upon the remainder of the upland area.
- (11) If the Authority is of opinion that any upland area committee has failed to discharge its duties under this Act, the Authority may by Order declare that the powers and duties of the upland area committee so in default shall be transferred to and vested in the Authority or in such other body or persons as the Authority may determine.⁵⁴

29 Preservation of water courses from threatened impediments

- (1) Where any watercourse is, or the banks thereof are, in such a condition that the proper flow of water is impeded or threatened to be impeded, it shall be the duty of the person having control of the watercourse, or of the banks thereof, or of any part thereof, where such impediment occurs or is threatened, to put the watercourse, or that part of the watercourse, or the banks thereof, in proper order if by reason of such impediment, or threatened impediment, land, or any highway, is injured by water, or is in danger of being so injured.⁵⁵

- (2) Where the Authority, or any inspector of the Authority, is of opinion that by reason of the act or default of any person any such watercourse is, or the banks thereof are, in such a condition that the proper flow of water is impeded, or threatened to be impeded, the Authority or inspector may serve on the person by whose act or default the flow of water is impeded, or threatened to be impeded, a notice requiring him to put the watercourse, or any part thereof, or the banks thereof, in proper order, and it shall be the duty of that person within such time as the Authority or inspector may specify in such notice, or if no such time is specified within two months after the date on which the notice was served on him, to comply with the requirements of the notice. Such notice may specify the works which in the opinion of the Authority or the inspector are necessary for the purpose of putting the watercourse, or any part thereof, or the banks thereof, in proper order.⁵⁶
- (3) Any person on whom any such notice is served under this section may within twenty-one days from the date of service thereof apply to the Governor to refer the matter in question in such notice to a Deemster sitting with an Engineer to be appointed by the President for the time being of the Institute of Civil Engineers at the request of the Governor, and the Deemster with the advice and assistance of such engineer may investigate the grounds on which such notice is given, and may confirm, annul or vary the same.

Any person applying to the Governor under this sub-section shall not be entitled to complain to a Court of Summary Jurisdiction under section 30 of the *Land Drainage Act, 1934*, in respect of the matters comprised in such notice.⁵⁷

30 Power of Court of Summary Jurisdiction

Any person on whom any such notice is served may within fourteen days from the date of service thereof complain to a Court of Summary Jurisdiction on any of the following grounds namely: —

- (a) that the control of the watercourse, or the part of the watercourse in question, is vested in some other person, or that the service on him of the notice is otherwise not authorised by this Act; or
- (b) that the condition of the watercourse is not due to any act or default on his part; or
- (c) that the notice cannot reasonably be enforced against him; or
- (d) that the work specified in the notice is unnecessary or excessive having regard to what is reasonably required to put the watercourse in proper order.

On the hearing of the complaint of which notice shall be given to the Authority the Court may either confirm or annul the notice or vary any requirement thereof.

If within the time specified in a notice, or if no time is specified within two months after the notice, or in case of a complaint within two months after the Order of the Court, the requirements contained in the notice, or in the notice as varied, are not complied with, the Authority may if they think fit execute the necessary works and recover the expenses thereof summarily as a civil debt from the person in default.

In this and the preceding section the expression 'watercourse' shall not in the case of a catchment area include the main river.⁵⁸

31 Customary obligations remain

Except as provided in section 12 of this Act nothing in this Act shall operate to release any person from any obligation to which he was before the passing of this Act subject by reason of tenure, custom, prescription or otherwise.

32 Disposal of soil

The Authority without making payment therefor or giving compensation in respect thereof or obtaining any licence therefor or paying any royalty may appropriate and dispose of any shingle, sand, clay, gravel, stone, rock, or other matter removed in the course of any work of the Authority, and may deposit the same on the banks of a watercourse or use it in any other manner for the purpose of the execution of the powers of the Authority under this Act.

Provided always that the Authority shall not make sale of such material without the approval of the Department of Economic Development.

Provided also that this section shall not relieve the Authority from liability under this Act for injury done to any property.⁵⁹

33 Power of Authority to enter lands

- (1) Any person authorised in that behalf by the Authority or by an upland area committee may for the purposes of this Act at all reasonable times enter and survey any lands or buildings and take levels thereof and inspect and examine into the condition of any drainage works.⁶⁰
- (2) If any person obstructs or impedes any person so authorised in the execution of his duties he shall be liable on summary conviction at the suit of the Authority in respect of each offence to a fine not exceeding £500.⁶¹
- (3) [Repealed]^{62 63}

34 Obstruction in watercourse

It shall not be lawful for any person to erect any mill, dam, weir, or other like obstruction to the flow of any watercourse or place any pipes in or across any watercourse or to raise or otherwise alter any such obstruction, whether erected

before or after the commencement of this Act without the consent in writing of the Authority. If such consent is refused or conditions are attached thereto which the applicant thinks unreasonable he may apply by petition in the Summary Jurisdiction of the Civil Division of the High Court, and the Court may confirm the decision of the Authority or grant such consent or vary the terms of such consent.⁶⁴

35 Restriction on construction of bridges over rivers or works near rivers

- (1) It shall not be lawful for any local authority, or any other body or person to construct a bridge over any river without the consent of the Authority, such consent not to be unreasonably withheld, or to do any other works adjoining or near to any river which might affect such river, or the flow of water therein.⁶⁵
- (2) If any person or body is aggrieved by any withholding of consent under this section, such person or body may appeal to the Council of Ministers whose decision shall be final.⁶⁶
- (3) If any person or body acts in contravention of this section the Authority may remove, alter or pull down any work executed in contravention of this section, and may recover the expenses so incurred from that body or person summarily as a civil debt.⁶⁷

36 [Repealed]⁶⁸

37 Application of adjoining owner for leave to make drains

- (1) If any person interested in any land desires to drain it and for that purpose considers it necessary that new drains should be opened through lands belonging to another person, or that existing drains in lands belonging to another person should be cleansed, widened, straightened, or otherwise improved, the person so desiring may apply in the prescribed manner to that other person (in this section referred to as 'the adjoining owner') for leave to make such drains or improvements in drains through or on his lands.
- (2) Any such application shall contain such particulars as may be prescribed with respect to the nature of the proposals, and the compensation, if any, which the applicant is willing to pay to the adjoining owner.
- (3) The provisions of the third schedule to this Act shall have effect with respect to the proceedings consequent on an application under this section, and in the said schedule the expression 'applicant' means an applicant under this section, and the expression 'adjoining owner' has the same meaning as in this section.

38 Byelaws

- (1) The Authority may, subject to the provisions of this Act, make such byelaws as the Authority consider necessary for securing the efficient working of any drainage system.⁶⁹
- (2) A byelaw made in pursuance of this section shall not be valid until it has been confirmed by resolution of Tynwald, and shall not be confirmed until the expiration of at least fourteen days after public notice of intention to apply for the confirmation has been given by the Authority by advertisement in two newspapers printed and circulating in the Isle of Man.
- (3) During the fourteen days next preceding the application for confirmation of a byelaw the Authority shall cause a printed copy of the byelaw to be kept at their office in such manner as to be open during office hours to inspection free of charge by the owners or occupiers of any hereditament, or by any other person appearing to the Authority to be interested, and shall also on demand supply printed copies thereof free of charge to any such owners, occupiers or other persons.⁷⁰
- (4) Subject to the provisions of this section Tynwald may disallow the byelaw, or approve the byelaw either without modification or with such modification as Tynwald may think fit, and the Authority shall cause public notice of any such modification to be given.⁷¹
- (5) Tynwald may by resolution revoke any byelaw made under this section.
- (6) If any person acts in contravention of, or fails to comply with, any byelaw made under this section he shall be liable on summary conviction at the suit of the Authority or any officer of police in respect of each offence to a fine not exceeding £200 and a further fine not exceeding five pounds for every day on which the offence is committed or continued.⁷²
- (7) [Repealed]⁷³

39 [Repealed]⁷⁴

40 Savings

- (1) Nothing in this Act shall —
 - (a) and (b) [Repealed]⁷⁵
 - (c) affect or in any way restrict the rights of the Department of Economic Development in relation to the minerals or the winning or working of such minerals or hinder or prevent the Department of Economic Development from doing, or authorising to be done, such works in or in connection with any watercourse or the water therein as may be necessary or desirable in relation to such minerals or mineral rights.⁷⁶

(2) [Repealed]⁷⁷

41 Commencement of Act

This Act shall come into operation when the Royal Assent hereto has been by the Governor announced to Tynwald and a certificate thereof has been signed by the Governor and the Speaker of the House of Keys.

FIRST SCHEDULE⁷⁸**SECOND SCHEDULE***Drainage Rivers*

Section 6

Areas the drainage of which is directed to the following rivers: —

Sulby (including Auldryn and tributaries).

Laxey.

Neb.

Dhoo and Glass.

THIRD SCHEDULE**PROVISIONS WITH RESPECT TO PROCEDURE IN CASE OF
APPLICATIONS FOR LEAVE TO MAKE DRAINS THROUGH
LANDS OF ADJOINING OWNER**

Section 37(3)

1. The adjoining owner may by deed under his hand assent to an application upon such terms and on payment of such compensation as he may require, and any assent so given shall be binding on all parties having any estate or interest in the land provided that: —

- (a) where the adjoining owner is not the absolute owner of the land the Authority may appoint a person to represent the interests in the land other than those of the adjoining owner, and the assent of the persons so appointed shall be required in addition to the assent of the adjoining owner.⁷⁹
- (b) Any compensation to be paid by the applicant (other than an annual rental) shall be applied in manner in which compensation coming to persons having limited interest is applicable under the Lands Clauses Acts.
- (c) Any occupier or persons other than the owner interested in the lands shall be entitled to compensation for any injury he may sustain by the making of the proposed drains or the improvements in drains, the amount of such, compensation to be determined in case of dispute by a person appointed for such purpose by the Authority.⁸⁰

2. A deed embodying the assent to the making or improving of a drain shall be recorded in the Registry Office for Deeds in the books of the parish in which the land is situate.

3. Where the adjoining owner dissents from the application made to him, or fails to give his assent within one month after such application, the applicant may apply to the Authority, and the Authority shall refer the matter to some person to determine the following questions: —

- (a) Whether the proposed drains or improvements in drains will cause any injury to the adjoining owner or to the occupier or other person interested in the lands;
- (b) Whether any injury that may be caused is or is not of a nature to admit of being fully compensated for by money;
- (c) If such injury is capable of being fully compensated for by money the proper amount of the compensation that should be payable.

And on considering the report of the person so appointed the Authority may on behalf of the adjoining owner and all other persons interested in the land assent to the application on such terms as the Authority may determine.⁸¹

4. If the Authority decide that no injury will be caused to the adjoining owner, occupier, or other party interested in the land, the applicant may forthwith proceed to make the proposed drains or improvements in drains.⁸²

5. If the Authority assents to the making of the drains or improvements in drains on the payment of compensation, the applicant may proceed to make the drains or improvements in drains on payment of the amount of compensation.⁸³

6. The assent of the Authority shall be embodied in a deed duly executed by the Authority with a map attached thereto shewing the position of the works assented to and the applicant shall record such deed in the Registry Office for Deeds in the books of the parish where such land is situate.⁸⁴

7. After drains have been opened or improvements in drains made in pursuance of this schedule it shall be lawful for the persons for the time being interested in the land so drained from time to time as it becomes necessary to enter upon the lands through which the said drains have been opened or improvements made for the purpose of clearing out, scouring or otherwise maintaining them in a due state of efficiency, and if the said drains or improvements in drains are not kept so cleared out, scoured and maintained in a due state of efficiency the owner or occupier for the time being of the lands through or on which the said drains or improvements in drains are made may clear out, scour or otherwise maintain the same in a due state of efficiency and recover the expenses incurred as a debt from any of the persons interested as aforesaid.

8. The owner for the time being of the land through or in which any drain has been opened or improvements in drains made under this schedule may fill up, divert or otherwise deal with the said drains on condition of first making and laying down in

lieu thereof drains equally efficient and any dispute as to the efficiency of drains so laid down shall be determined by the Authority.⁸⁵

9. Any person who wilfully obstructs any person making any drain or improvements in drains in pursuance of this schedule, and any person who wilfully dams up obstructs or in any way injures any such drains shall for each offence incur a penalty not exceeding £200 on summary conviction at the suit of the Authority or any inspector of the Authority.⁸⁶

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement

Table of Renumbered Provisions

Original	Current

Table of Endnote References

¹ S 2 repealed by Statute Law Revision Act 1983 Sch 2.

² Definition of 'The Board' repealed by GC190/86.

³ Definition of 'the Authority' previously 'the Department' inserted by GC190/86 and substituted by SD155/10 Sch 9.

⁴ Definition of 'Drainage District' amended by SD155/10 Sch 9.

⁵ Definition of 'Upland Area' amended by SD155/10 Sch 9.

⁶ Definition of 'Banks' amended by GC190/86.

⁷ Definition of 'Main River' amended by SD155/10 Sch 9.

⁸ Definition of 'Prescribed' amended by SD155/10 Sch 9.

⁹ S 4 amended by SD155/10 Sch 9.

¹⁰ Subs (1) amended by SD155/10 Sch 9.

¹¹ Subs (2) amended by SD155/10 Sch 9.

¹² Subs (3) amended by SD155/10 Sch 9.

¹³ S 5 amended by SD155/10 Sch 9.

¹⁴ Subs (2) amended by SD155/10 Sch 9.

¹⁵ Subs (1) amended by SD155/10 Sch 9.

¹⁶ Subs (2) amended by SD155/10 Sch 9.

¹⁷ Subs (1) amended by SD155/10 Sch 9.

¹⁸ Subs (2) amended by SD155/10 Sch 9.

¹⁹ Subs (1) amended by SD155/10 Sch 9.

²⁰ Subs (2) amended by SD155/10 Sch 9.

²¹ Subs (3) amended by SD155/10 Sch 9.

²² S 10 amended by SD155/10 Sch 9.

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- ²³ S 11 amended by SD155/10 Sch 9.
- ²⁴ S 13 amended by SD155/10 Sch 9.
- ²⁵ S 14 amended by SD155/10 Sch 9.
- ²⁶ S 15 substituted by SD155/10 Schs 9 and 11.
- ²⁷ Subs (1) amended by SD155/10 Sch 9.
- ²⁸ Subss (2) to (4) repealed by Acquisition of Land Act 1984 Sch 5.
- ²⁹ Subs (5) amended by Acquisition of Land Act 1984 Sch 4 and by SD155/10 Sch 9.
- ³⁰ S 16 amended by SD155/10 Sch 9.
- ³¹ Subs (1) amended by Land Drainage Amendment Act 1939 s 2 and by SD155/10 Sch 9.
- ³² Subs (2) amended by SD155/10 Sch 9.
- ³³ Subs (3) amended by Acquisition of Land Act 1984 Sch 4 and by SD155/10 Sch 9.
- ³⁴ Subs (1) amended by SD155/10 Sch 9.
- ³⁵ Subs (2) amended by SD155/10 Sch 9.
- ³⁶ Subs (3) amended by SD155/10 Sch 9.
- ³⁷ Subs (1) amended by SD155/10 Sch 9.
- ³⁸ S 20 amended by GC69/86 and by SD155/10 Sch 9.
- ³⁹ S 22 amended by GC69/86.
- ⁴⁰ S 23 amended by GC69/86.
- ⁴¹ S 24 amended by Rates Act 1948 s 15, by Treasury Act 1985 s 6, by GC69/86 and by SD155/10 Sch 9.
- ⁴² S 26 amended by SD155/10 Sch 9.
- ⁴³ Subs (1) repealed by GC190/86.
- ⁴⁴ Subs (2) amended by GC190/86, by SD352/09 and by SD155/10 Sch 9.
- ⁴⁵ Subs (3) amended by SD155/10 Sch 9.
- ⁴⁶ Subs (4) amended by GC190/86, by SD352/09 and by SD155/10 Sch 9.
- ⁴⁷ Subs (1) substituted by Land Drainage Act 1954 s 3 and amended by GC121/86, by GC190/86, by Civil Service Act 1990 s 7 and by SD155/10 Schs 3 and 9.
- ⁴⁸ Subs (3) amended by SD155/10 Sch 9.
- ⁴⁹ Subs (4) amended by SD155/10 Sch 9.
- ⁵⁰ Subs (5) amended by SD155/10 Sch 9.
- ⁵¹ Subs (6) substituted by Land and Drainage Act 1954 s 3 and amended by GC121/86 and by SD155/10 Schs 3 and 9.
- ⁵² Subs (7) amended by Acquisition of Land Act 1984 Sch 4.
- ⁵³ Subs (8) amended by SD155/10 Sch 9.
- ⁵⁴ Subs (11) amended by SD155/10 Sch 9.
- ⁵⁵ Subs (1) amended by Statute Law Revision Act 1986 Sch 2.
- ⁵⁶ Subs (2) amended by SD155/10 Sch 9.
- ⁵⁷ S 29 substituted by Land Drainage Act 1941 s 2.
- ⁵⁸ S 30 amended by Agriculture (Miscellaneous War Provisions) Act 1941 s 8 and by SD155/10 Sch 9.
- ⁵⁹ S 32 amended by Land Drainage Act 1954 s 3 and by SD155/10 Schs 2 and 9.

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- ⁶⁰ Subs (1) amended by SD155/10 Sch 9.
- ⁶¹ Subs (2) amended by SD155/10 Sch 9.
- ⁶² Subs (3) repealed by Land Drainage Act 1954 s 5.
- ⁶³ S 33 amended by SD155/10 Sch 9.
- ⁶⁴ S 34 amended by GC190/86, by SD352/09 and by SD155/10 Sch 9.
- ⁶⁵ Subs (1) amended by SD155/10 Sch 9.
- ⁶⁶ Subs (2) amended by GC155/91.
- ⁶⁷ Subs (3) amended by SD155/10 Sch 9.
- ⁶⁸ S 36 repealed by GC190/86.
- ⁶⁹ Subs (1) amended by SD155/10 Sch 9.
- ⁷⁰ Subs (3) amended by SD155/10 Sch 9.
- ⁷¹ Subs (4) amended by SD155/10 Sch 9.
- ⁷² Subs (6) amended by SD155/10 Sch 9.
- ⁷³ Subs (7) repealed by Land Drainage Act 1954 s 5.
- ⁷⁴ S 39 repealed by GC190/86.
- ⁷⁵ Paras (a) and (b) repealed by GC190/86.
- ⁷⁶ Para (c) amended by SD155/10 Sch 2.
- ⁷⁷ S 40 substituted by Land Drainage Act 1954 s 6. Subs (2) repealed by GC190/86.
- ⁷⁸ Sch 1 repealed by Statute Law Revision Act 1983 Sch 2.
- ⁷⁹ Subpara (a) amended by SD155/10 Sch 9.
- ⁸⁰ Subpara (c) amended by SD155/10 Sch 9.
- ⁸¹ Para 3 amended by SD155/10 Sch 9.
- ⁸² Para 4 amended by SD155/10 Sch 9.
- ⁸³ Para 5 amended by SD155/10 Sch 9.
- ⁸⁴ Para 6 amended by SD155/10 Sch 9.
- ⁸⁵ Para 8 amended by SD155/10 Sch 9.
- ⁸⁶ Para 9 amended by SD155/10 Sch 9.