



# Lough Neagh and Lower Bann Drainage and Navigation Act (Northern Ireland) 1955 <sup>F1</sup>

## <sup>F2</sup>1955 CHAPTER 15

An Act to make provision for lowering the levels of Lough Neagh and with respect to drainage and navigation matters arising in connection therewith and with the Lower Bann, and for purposes connected with the matters aforesaid. [11th July 1955]

WHEREAS the consent of the Minister of Transport and Civil Aviation to this Act has been obtained so far as the same is required by the provisions of sub-section (1) of section nine of the Northern Ireland (Miscellaneous Provisions) Act, 1932:

AND WHEREAS the Clerk of the Parliaments has certified accordingly pursuant to the Legislative Procedure Act (Northern Ireland), 1933 :

**F1** Functions of M/Fin. transf. to D/Agric. (exc. under s. 16(1), SRO (NI) 1964/205

**F2** certain functions transf. by SR 1999/481

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

**C1** [Act](#): transfer of functions (8.5.2016) by [The Departments \(Transfer of Functions\) Order \(Northern Ireland\) 2016 \(S.R. 2016/76\)](#), art. 1(2), [Sch. 2](#) (with art. 9(2))

## **1 <sup>F3</sup> Scheme for controlling Lough Neagh at lower levels.**

(1) For the purposes of—

- (a) lowering the waters of Lough Neagh (in this Act referred to as “the Lough”) from the levels at which they have been hitherto generally maintained to such other level or levels as will—

- (i) reduce flooding caused by the waters of the Lough or by any waters discharging into the Lough; and

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**Changes to legislation:** There are currently no known outstanding effects for the Lough Neagh and Lower Bann Drainage and Navigation Act (Northern Ireland) 1955. (See end of Document for details)

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- (ii) facilitate the execution under the provisions of the Drainage Act (Northern Ireland), 1947 <sup>F4</sup>, of effective drainage schemes on watercourses discharging into the Lough and on tributaries of such watercourses;
  - (b) maintaining the waters of the Lough at such lower level or levels;
- the Ministry of Finance (in this Act referred to as “the Ministry”) <sup>F5</sup>... may, notwithstanding anything to the contrary contained in any transferred provision in force at the commencement of this Act with respect to the Lough, prepare and operate, in accordance with and subject to the provisions of this Act, a scheme for the regulation and control, so far as conditions of rainfall, wind and other natural causes appear to the Ministry from time to time to permit, of the waters of the Lough within such levels as may be specified in the scheme.
- (2) The Ministry may also prepare and operate, in accordance with and subject to the provisions of this Act relating to schemes, any further scheme or schemes supplementing or modifying any scheme made by virtue of the powers conferred by this Act.
- (3) A scheme may contain such particulars and be in such form as the Ministry thinks fit, and, in particular, may contain such provisions as the Ministry considers necessary for the protection of rights or interests affected by the scheme.
- (4) Every mention or reference contained in this Act of or to a scheme shall be construed as including every map, drawing, plan, section, schedule and other document annexed to such scheme.

**F3** 1970 c. 7 (NI)

**F4** 1973 NI 1

**F5** Words in s. 1(1) omitted (8.5.2016) by virtue of [The Departments \(Transfer of Functions\) Order \(Northern Ireland\) 2016 \(S.R. 2016/76\)](#), art. 1(2), [Sch. 6 para. 16](#) (with art. 9(2))

## 2 Notification of scheme, etc.

- (1) When the Ministry has prepared a scheme it shall—
  - <sup>F6</sup>(a) send a copy to the Ministry of Commerce, the Ministry of Development<sup>F7</sup>, the Department of Trade and Industry<sup>F8</sup>, the Drainage Council for Northern Ireland and to every district council [<sup>F9</sup>and every water undertaker];]
  - (b) ...
  - (c) publish in the Belfast Gazette and such one or more newspapers as it shall consider appropriate a notice stating that the scheme has been prepared and also stating the place or places at which and the period, not being less than one month, during which a copy of the scheme will be available for inspection. Every notice so published shall contain a statement that any person who considers that his interests will be prejudicially affected by the scheme may at any time within the said period send to the Ministry all such, if any, observations in regard to the scheme as he shall think proper.
- (2) Every [<sup>F10</sup> district council] to which a copy of a scheme is sent by the Ministry in pursuance of this section—
  - (a) shall cause that copy to be exhibited in their principal offices or other convenient place during the period specified in that behalf in the notice relating to such scheme published in pursuance of sub-section (1) and shall

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- permit such copy to be inspected during office hours by any person claiming to be interested therein; and
- (b) shall examine and consider the scheme of which the copy is a copy; and
  - (c) may, at any time within the period specified in paragraph (c) of sub-section (1), send to the Ministry such observations in regard to the scheme as the [<sup>F10</sup> district council] shall think proper.

**F6** 1973 NI 1

**F7** Now D/Env., SRO (NI) 1973/504

**F8** Now Dept. of Trade, SI 1974/692

**F9** Words in s. 2(1)(a) added (1.4.2007) by the [Water and Sewerage Services \(Northern Ireland\) Order 2006](#) (S.I. 2006/3336 (N.I. 21)), arts. 1(2), 308(1), [Sch. 12 para. 5](#) (with arts. 8(8), 121(3), 307); S.R. 2007/194, [art. 2\(2\)](#), [Sch. 1 Pt. II](#) (with [art. 3](#), [Sch. 2](#))

**F10** SRO (NI) 1973/343

### 3 Confirmation and commencement of scheme.

- (1) After the expiration of the period mentioned in paragraph (c) of sub-section (1) of section two the Ministry may, after considering such observations sent to it as aforesaid and after holding such inquiry, if any, as the Ministry thinks proper, by order confirm the scheme in whole or in part and either without modifications or with such modifications (which may include additions, omissions and variations) as the Ministry thinks proper or may, without prejudice to the making of a new scheme, decline to confirm the scheme.
- (2) The Ministry may by order prescribe the date on and from which a scheme made under this Act shall be put into operation.
- (3) Notice of the making of an order under this section shall be published in the Belfast Gazette and any such one or more newspapers as the Ministry may consider appropriate.
- (4) An order under this section shall be subject to negative resolution.

### 4 Carrying out of scheme.

When the Ministry has made an order confirming a scheme, the Ministry may proceed to execute the scheme, and, without prejudice to any other provision of this Act, for that purpose the order shall confer on the Ministry power—

- (a) to construct, execute, and complete such works, if any, as may be specified in the scheme and any compensatory works arising out of the scheme with such additions, omissions and variations as may be found expedient in the course of any such works;
- (b) to construct, execute and complete such remedial or other works as the Ministry may consider necessary in order to secure the due execution and operation of the scheme or of any compensatory works;
- (c) for the purpose of the due execution and operation of the scheme to do all or any of the following things, that is to say:—
  - (i) take from any land any earth, sods or other material required for the said purpose;
  - (ii) deposit on any land all spoil or other material obtained in the course of such works; and

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- (iii) utilise or dispose of any earth, sods, gravel, stone, rock or other material removed in the course of such works.

## 5 Further powers of the Ministry.

- (1) For the purpose of carrying this Act into effect or for the purposes of carrying out any of its statutory functions in relation to the Lough or to the Lower Bann or to the drainage or navigation thereof (including the settlement of claims for compensation and the carrying out of compensatory works) the Ministry may subject to the provisions of this Act—
- (a) acquire either by agreement or compulsorily in accordance with the provisions of this Act or take on lease any land;
  - (b) dispose of any land for the time being vested in it;
  - (c) acquire either by agreement or compulsorily in accordance with the provisions of this Act any fisheries, water rights, navigation or other rights;
  - (d) enter and carry out works on any land;
  - (e) restrict, terminate, or otherwise interfere with easements, fisheries, water rights, navigation or other rights; or
  - (f) maintain any works constructed or used for the purposes of this Act.
- (2) The Ministry, where it desires to acquire otherwise than by agreement any land or any such right or interest as is referred to in paragraph (c) of sub-section (1) shall have power to make an order (in this Act referred to as a “vesting order”) vesting such land, right or interest in the Ministry.
- <sup>F11</sup>(3) For the purposes of this section, paragraphs (3) and (4) of Article 10 of, and Schedule 3 to, the Drainage (Northern Ireland) Order 1973 shall have effect as if enacted in this Act.]

**F11** 1973 NI 1

### Modifications etc. (not altering text)

- C2** [S. 5](#): transfer of functions (8.5.2016 for specified purposes) by [The Departments \(Transfer of Functions\) Order \(Northern Ireland\) 2016](#) (S.R. 2016/76), [art. 1\(2\)](#), [Sch. 3 Pt. 2](#) (with [art. 9\(2\)](#))

## 6 Future liabilities for Lough Neagh Drainage and Navigation.

*Subs. (1)(2) rep. by 1973 NI 1*

- (3) As from such date as the Ministry may by order prescribe for the purposes of this sub-section, all liabilities, if any, of the Ministry as successor ...<sup>F12</sup>, to the Lower Bann Navigation Trustees for any dredging or navigation work shall cease, except and in so far only as the Ministry is liable, as successor to the Lower Bann Navigation Trustees, for—
- (i) the dredging of the channels and the maintenance of navigation posts or marks at the entrance to the Lower Bann River from the Lough;
  - (ii) the dredging of the channels and the maintenance of navigation posts or marks at the entrance to the Sixmilewater River from the Lough and extending up the Sixmilewater River to the boundary between the townlands of Half Umry and Town Parks in the Baronies of Toome Upper and Antrim Upper and County of Antrim; and

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- (iii) the maintenance, subject to and in accordance with the provisions of this Act, of inland navigation in the Lower Bann.
- (4) An order under this section shall be subject to negative resolution and may contain such provision with respect to the future ownership of bridges, culverts, weirs, sluices and other works heretofore vested in the Ministry and such transitional and other provisions as appear to the Ministry to be necessary.

**F12** 1973 NI 1

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

- C3** S. 6(3): transfer of functions (8.5.2016) by [The Departments \(Transfer of Functions\) Order \(Northern Ireland\) 2016 \(S.R. 2016/76\)](#), art. 1(2), **Sch. 3 Pt. 2** (with art. 9(2))

**7 Compensation.**

- (1) Where any person suffers any loss or damage by reason of—
  - (a) the preparation or carrying into effect of a scheme under this Act; or
  - (b) the exercise of any power exercisable under paragraph ( d ) or ( e ) of sub-section (1) of section five; or
  - (c) the cessation by virtue of sub-section (3) of section six of any liability of the Ministry, as successor to the Lower Bann Navigation Trustees, to carry out certain functions with respect to navigation; or
  - (d) the exercise by the Ministry or by any person authorised by it of any power exercisable under section twelve;the Ministry shall, subject to the provisions of this Act, pay to him reasonable compensation in respect of such loss or damage.
- (2) In lieu of paying compensation the Ministry may by agreement construct or repair works or provide facilities to prevent or make good any loss or damage to which the provisions of sub-section (1) apply or would otherwise apply; so, however, that in the event of such construction, repair or provision affording or appearing likely to afford any additional or improved advantages, facilities or rights the Ministry may enter into agreement with any person whereby a fair proportion of the cost incurred by the Ministry in connection with such construction, repair or provision shall be borne by that person.
- (3) Every claim for compensation under this Act—
  - (a) shall be made in writing to the Ministry not later than—
    - (i) where the claim is in respect of loss of or damage to a fishery or fishing right, ten years from the relevant date; and
    - (ii) in any other case, three years from the relevant date;and such details of the claim as the Ministry may require shall be furnished in writing to the Ministry within such further period as the Ministry may reasonably determine as being necessary for the expeditious disposal of claims; and
  - (b) shall, in default of agreement, be [<sup>F13</sup> referred to and determined by the Lands Tribunal].
- (4) In computing the amount of reasonable compensation under this Act the Ministry may allow a sum in respect of the cost of the employment of any solicitor and may allow