

LINDSEY MARSH DRAINAGE BOARD

LAND DRAINAGE ACT 1991, SECTIONS 23 AND 24.

23. (1) No person shall
- (a) erect any mill dam, weir or other like obstruction to the flow of any ordinary watercourse or raise or otherwise alter any such obstruction; or
 - (b) erect any culvert that would be likely to affect the flow of any ordinary watercourse or alter any culvert in a manner that would be likely to affect any such flow,

without the consent in writing of the drainage board concerned.

(2) The drainage board concerned may require the payment of an application fee by a person who applies to them for their consent under this section; and the amount of that fee shall be £50 or such other sum as may be specified by order made by the Ministers.

(3) Where an application is made to the drainage board concerned for their consent under this section

- (a) the consent is not to be unreasonably withheld; and
- (b) if the board fail within two months after the relevant day to notify the applicant in writing of their determination with respect to the application, they shall be deemed to have consented.

(4) In subsection (3) above "the relevant day", in relation to an application for a consent under this section, means whichever is the later of

- (a) the day on which the application is made; and
- (b) if at the time when the application is made an application fee is required to be paid, the day on which the liability to pay that fee is discharged.

(5) If any question arises under this section whether the consent of the drainage board concerned is unreasonably withheld, that question shall be referred to a single arbitrator to be agreed between the parties or, failing such agreement, to be appointed by the President of the Institution of Civil Engineers on the application of either party.

(6) Nothing in this section shall apply

- (a) to any works under the control of a navigation authority, harbour authority or conservancy authority; or
- (b) to any works carried out or maintained under or in pursuance of any Act or any order having the force of an Act.

(7) The power of the Ministers to make an order under subsection (2) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

(8) Subject to section 8 above, references in this section and section 24 below to the drainage board concerned

- (a) in relation to a watercourse in an internal drainage district, are references to the drainage board for that district; and
- (b) in relation to any other watercourse, are references to the NRA.

24. (1) If any obstruction is erected or raised or otherwise altered, or any culvert is erected or altered, in contravention of section 23 above, it shall constitute a nuisance in respect of which the drainage board concerned may serve upon such person as is specified in subsection (2) below a notice requiring him to abate the nuisance within a period to be specified in the notice.

(2) The person upon whom a notice may be served under subsection (1) above is

- (a) in a case where the person by whom the obstruction has been erected or raised or otherwise altered has, at the time when the notice is served, power to remove the obstruction, that person; and
- (b) in any other case, any person having power to remove the obstruction.

(3) If any person acts in contravention of, or fails to comply with, any notice served under subsection (1) above he shall be guilty of an offence and liable, on summary conviction

- (a) to a fine not exceeding level 5 on the standard scale; and
- (b) if the contravention or failure is continued after conviction, to a further fine not exceeding £40 for every day on which the contravention or failure is so continued.

(4) If any person acts in contravention of, or fails to comply with, any notice served under subsection (1) above, the drainage board concerned may, without prejudice to any proceedings under subsection (3) above

- (a) take such action as may be necessary to remedy the effect of the contravention or failure; and
- (b) recover the expenses reasonably incurred by them in doing so from the person in default.