

LAND DRAINAGE AND SEA DEFENCE BYELAWS

The updated version of the
Byelaws is included in the
EA Publication
"Living on the Edge"



Durford Bridge, River Rother



NRA

National Rivers Authority

Southern Region

*Guardians of the
Water Environment*



NRA

Southern Region

The National Rivers Authority aims to provide effective defence for people and property against flooding from rivers and the sea.

In Southern Region the NRA maintains 281km of sea defences and 2,746km of main river, serving a population of 4.5 million.

LAND DRAINAGE AND SEA DEFENCE BYELAWS IN SOUTHERN REGION

The Southern Water Authority Land Drainage Byelaws 1981 are the Land Drainage Byelaws in force in the Southern Region of the National Rivers Authority (NRA). They were made by the Southern Water Authority under Section 34 of the Land Drainage Act 1976 as confirmed by the Minister of Agriculture, Fisheries and Food on 4 October 1982, and came into operation on 4 November 1982. On 1 September 1989 they were enforceable by the NRA by virtue of the provisions of the Water Act 1989 and since 1 December 1991 they have been enforceable by virtue of provisions of the Water Consolidation (Consequential Provisions) Act 1991 Schedule 2.

All references in these byelaws to 'the Authority' should now be construed as reference to the NRA and all references to the 'Land Drainage Act 1976' should now be construed as reference to the 'Water Resources Act 1991' or the 'Land Drainage Act 1991' as appropriate.

The NRA's principal Regional Office is at: Guildbourne House, Chatsworth Road, Worthing, West Sussex BN11 1LD.

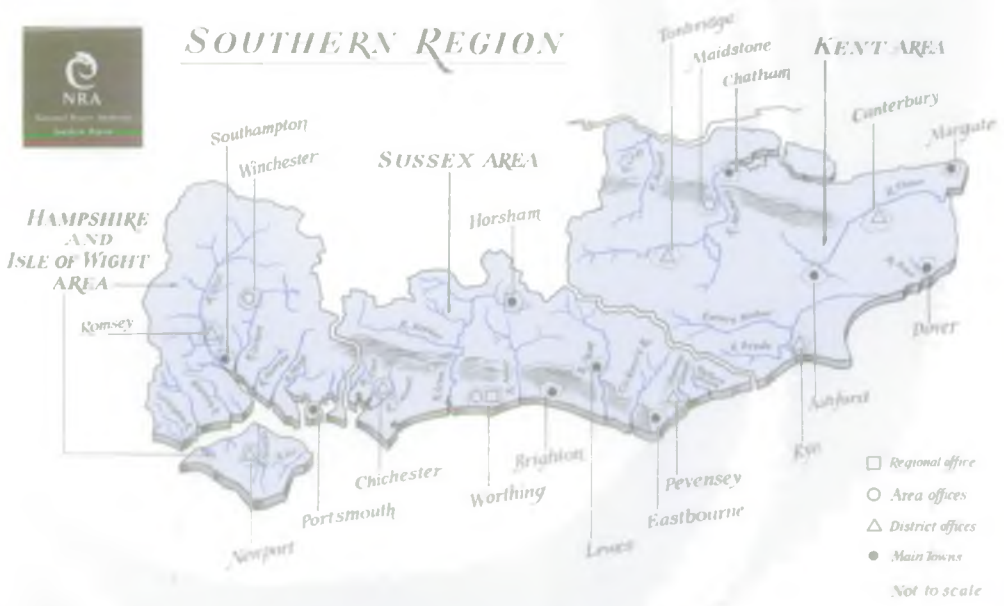


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SOUTHERN REGION



Land Drainage Act 1976

BYELAWS

The Southern Water Authority under and by virtue of the powers and authority vested in them by Section 34 of the Land Drainage Act 1976 and of every other power enabling them in that behalf hereby make the following Byelaws for securing the efficient working of the drainage system in their area:-

1. Application of Byelaws

These Byelaws shall have effect within the Southern Water Authority area for the purposes of their functions relating to land drainage, and except where otherwise stated shall apply only to the main rivers and the sea and tidal defences of the Authority's area.

PART 1

Main River

2. River Control Works – Use and Maintenance

Any person having charge of any river control work shall –

- (a) maintain such river control work in a proper state of repair and efficiency to the reasonable satisfaction of the Authority;
- (b) use such river control work in such manner as not to affect the efficient working of the drainage system of the area; and
- (c) comply with such reasonable directions as may from time to time be given by the Authority with a view to the prevention of flooding or any shortage in the flow or supply of water or otherwise to the efficient working of the drainage system of the area

PROVIDED THAT

- (1) this Byelaw shall apply also to river control works which regulate the flows of water from any watercourse into the main river or from the main river into any watercourse.
- (2) Byelaw 41(1) shall not apply to a direction of the Authority under this Byelaw.



3. River Control Works – Discontinuance – Removal – Alteration – Repair

(1) No person having charge of a river control work shall, without the previous consent of the Authority –

- (a) discontinue the use thereof, or remove the same, or
- (b) carry out any alteration or reconstruction of, or addition, reduction, or repair to the river control work;

PROVIDED THAT the foregoing shall not apply to any action taken in an emergency so long always as notice in writing of such action is given to the Authority as soon as practicable.

(2) In any case where notice is given to the Authority by virtue of the proviso to paragraph (1) above the Authority may, by notice in writing, direct the person having charge of the river control work to take such action with regard to the river control work and within such reasonable period as is specified in the notice and the person having charge of the river control work shall thereafter comply with those directions.

(3) In any case where the consent of the Authority under paragraph (1) above is refused the Authority may, by resolution (due notice whereof shall be given to the person having charge of the river control works) assume responsibility for the maintenance and use of the river control work.

4. Prevention of Interference with River Control Works

No person shall without lawful authority or excuse interfere with or remove or in any way damage any river control work, drainage work, bridge, building, access road, or any structure, appliance or property whatsoever vested in or under the control of the Authority for the purpose of or in connection with their functions relating to land drainage.

5. Alteration or Diversion of Flow

No person shall without the previous consent of the Authority divert or permit to be diverted the direction of the flow of water into, in or out of the main river or alter or permit to be altered the level of water in the main river.

6. Obstruction to Flow

No person shall so as to directly or indirectly obstruct, impede or interfere with the flow of water in, into or out of the main river or so as to damage the banks thereof –

- (a) discharge or put or cause or permit to be discharged or put or negligently or wilfully cause or permit to fall into and remain in the main river any object or matter of any kind whatsoever whether solid or liquid.
- (b) allow any such object or matter as is referred to in paragraph (a) of this byelaw to remain in proximity to the main river in such manner as to render the same liable to drift or be carried into the main river in time of flood.

PROVIDED THAT nothing in this Byelaw shall be deemed to render unlawful the growing or harvesting of crops on any land adjoining the bank of the main river.

7. Control of Vermin in Banks

The occupier of any bank of the main river or any part thereof shall upon being required by the Authority by notice in writing within such reasonable time as may therein be specified take such steps as may from time to time be necessary and reasonably practicable for preventing the bank becoming infested by rabbits, rats, musk rats, mink, moles and other vermin PROVIDED THAT in taking such steps as aforesaid he shall not do or cause or permit to be done anything of such a nature as to cause damage to or endanger the stability of the bank.

8. Notice to remove Growth in or on Banks and River Control Works

- (1) This Byelaw shall apply to the main river or any watercourse flowing directly thereinto and shall have effect for the purpose of preventing any obstruction or impediment to or interference with the flow of water into, in or out of the main river or the watercourse as the case may be and for the purpose of preserving the main river or the watercourse or the banks thereof as the case may be from damage or destruction.
- (2) The occupier of any bank of the main river or any watercourse flowing into the main river or any part thereof or any river control works shall upon being required by the Authority by notice in writing within such reasonable time as may therein be specified cut down such trees, willows, shrubs, grasses, reeds, rushes or weeds in or on the bank of the river or watercourse or river control works as may be specified by such notice and shall remove the same from the river or watercourse as the case may be as soon as reasonably practicable after the cutting thereof PROVIDED THAT in giving any notice under this Byelaw the Authority shall, so far as is reasonably practicable, have regard to any established system of weedcutting operations upon any such watercourse.



9. Repairs to Buildings

The owner of any building or structure in or over the main river or on the banks thereof shall, upon receipt of a notice from the Authority that because of its state of disrepair:-

- (i) the building or structure is or is in imminent danger of causing an obstruction to the flow of the main river, or
- (ii) the building or structure is causing or is in imminent danger of causing damage to the bank of the main river

carry out such reasonable and practicable works as are specified in the notice for the purpose of remedying or preventing the obstruction or damage as the case may be within such reasonable time as is specified in the notice.

PROVIDED THAT Byelaw 41(1) shall not apply to a notice to be given or served by the Authority under this Byelaw.

10. Control of Animals

The occupier of any land through which the main river flows or which abuts on the main river shall, if reasonably required to do so by an officer of the Authority ensure that during the progress of any work carried out by the Authority its servants or agents or during any inspection by the Authority its servants or agents on such land or on so much of the main river as is co-extensive therewith, cattle, dogs, horses or dangerous animals are not kept on that land or, if kept thereon are kept under proper control and supervision.

11. Driving of Animals and Vehicles on Banks etc.

No person shall use or drive or permit or cause to be used or driven any vehicle of any kind whatsoever whether mechanically propelled or not or ride any animal over or along the bank of the main river, drainage work, river control work, bridge or culvert vested in or under the control of the Authority in such a manner as to cause or be likely to cause damage to or a danger to the stability of such bank, drainage work, river control work, bridge or culvert PROVIDED THAT this Byelaw shall not apply to a bridge or culvert carrying a highway maintainable at the public expense.

12. Damage to Banks by grazing of Animals

Any person using or causing or permitting to be used any bank of the main river for the purpose of grazing or keeping any animal thereon shall take such steps as are necessary and reasonably practicable to prevent the banks or the channel of the main river from being damaged by such use PROVIDED THAT nothing in this Byelaw shall be deemed to affect or prevent the use of any bank for the purpose of enabling stock to drink at any place to be made or constructed for that purpose as may be approved by the Authority.



13. Acts endangering the Stability of or causing damage to Banks or Drainage Works

- (1) This Byelaw shall apply to the main river and to any drainage works constructed thereon or therein
- (2) No person shall without the previous consent of the Authority –
 - (a) cut or pare or remove or cause or permit to be cut or pared or removed any turf from a part of the bank of the main river or any drainage work;
 - (b) dig for or remove or cause or permit to be dug for or removed any fishing bait on, in or within 3 metres of the foot of the bank of the main river, or of any drainage work;
 - (c) dig or remove, excavate, disturb, disperse or cause or permit to be dug or removed, excavated, disturbed or dispersed any sand, shingle, chalk, soil, slag, stones, pitching, revetment, concrete, gravel, small coal, clay, earth, timber, gabions, wattle, piles or any material whatsoever forming part of the bank of the main river, drainage work or river control work;
 - (d) remove, disturb, displace, set alight, or injure any groynes, breakwaters, piles, planks, mattresses, scaffolding, fences, steps, gates, windbreaks, wattles, netting, faggots, thorns, stakes, bags, sacks or other works or materials belonging to or set up, collected, stored, arranged or maintained by the Authority for the purpose of protecting, maintaining and improving the bank of the main river, drainage work or river control work;
 - (e) make or cause or permit to be made any excavation or do or cause or permit to be done anything in or upon the land adjoining the bank of the main river, drainage work or river control work of such a nature as to cause damage to or to endanger the stability of the bank, drainage work or river control work.

14. Erections, Excavations etc. affecting Bed or Banks of River

No person shall without the previous consent of the Authority –

- (a) erect or construct or cause or permit to be erected or constructed any building, pylon, wall, fence, wharf, jetty, quay, pier, loading stage, landing place, piling, groyne, revetment, steps, staging gangway, mooring or any other building or structure whatsoever or place or install or cause to be placed or installed any crane, elevator or other machinery or plant whatsoever in the main river or in, on or over any bank of the main river, drainage work or river control work or within 8 metres measured horizontally from the foot of any bank on the landward side or where there is no bank within 8 metres measured horizontally from the top edge of the batter enclosing the river;



- (b) make or cut or cause or permit to be made or cut any excavation or tunnel or any drain, culvert or other passage for water into, in out of or under the main river or through any bank of the river or drainage work or river control work;
- (c) place or affix or cause or permit to be placed or affixed any gas or water main or any sewer or other pipe whatsoever or any supports in respect thereof or any wire, barbed wire, fencing or barrier or any electric main or cable or any private telephone wire or cable or any radio rediffusion cable or wireless aerial in, over or under the main river or in, over, under or through any bank, drainage work or river control work or within 8 metres measured horizontally from the foot of any bank on the landward side or where there is no bank within 8 metres measured horizontally from the top edge of the batter enclosing the river;

PROVIDED THAT

- (1) any person may execute any temporary works as aforesaid in case of emergency but shall forthwith inform the Authority thereof and comply with any directions which the Authority may give with regard thereto.
- (2) Byelaw 41(1) shall not apply to a direction of the Authority under this Byelaw.
- (3) nothing in this Byelaw shall render it necessary for the consent of the Authority to be obtained to the erection elsewhere than in or over the main river of a fence consisting of timber posts and rails or timber posts and wire and erected for agricultural purposes.

15. Planting of Trees on or adjoining Banks

No person shall without the previous consent in writing of the Authority plant any tree, shrub, willow or other similar growth within 8 metres measured horizontally from the foot of any bank of the main river on the landward side or where there is no bank within 8 metres measured horizontally from the top edge of the batter enclosing the main river or in relation to any part of the main river that is contained in a culvert, over the culvert or within 8 metres of either side of it.



16. Dredging Operations

No person shall dredge or raise or take or cause or permit to be dredged or raised or taken any sand, ballast, clay or other materials from the bed or bank of the main river so as to cause damage to or endanger the stability of such bank or any drainage works thereon or therein except with the previous consent of the Authority.

17. Deposit on Banks etc.

No person shall use or cause or permit to be used any bank of the main river or drainage work or river control work for the purpose of depositing, stacking, storing or keeping any rubbish or goods or any material or things thereon in such manner as by reason of the weight, volume or nature of such rubbish, goods, material or things to cause damage to or endanger the stability of the bank or drainage work or river control work or interfere with the right of the Authority to deposit spoil on the banks or otherwise prevent the carrying out of land drainage works.

18. Prohibition of Heaps on Flood Plain

No person shall without the previous consent of the Authority construct, erect, form or cause or permit to be constructed, erected or formed on land adjacent to the normal channel of the main river and over which flood waters may flow any heap of material which is of such size or character or is placed in such a position as to be likely to divert or obstruct the flow of flood water and to affect adversely the efficient working of the drainage system of the Authority area.

PROVIDED THAT

- (1) this Byelaw shall not apply to temporary works constructed or carried out in an emergency provided that notice thereof shall forthwith be given in writing to the Authority and that such works shall be removed if so requested by and in accordance with the directions of the Authority;
- (2) such consent shall not be required in relation to any construction, erection or formation as aforesaid in respect of which planning permission has been granted by a local planning authority or by the Secretary of State on an application in that behalf made to a local planning authority;
- (3) such consent shall not be required in relation to the making of hay and straw stacks, sugar beet, potato and other clamps and manure heaps and the like in the ordinary course of accepted agricultural practice;
- (4) Byelaw 41(1) shall not apply to a direction of the Authority under this Byelaw.

19. Mooring of Vessels

No person shall moor or place any vessel in such manner as to obstruct or impede the free flow of water into, in or out of the main river or cause damage to the banks of the main river.



20. Unattended Vessels

No person shall allow any unattended vessel to obstruct or impede the free flow of water into, in or out of the main river so as to impair the efficiency of any drainage work or river control work.

21. Notice to Remove Vessel obstructing the River

Where any vessel is moored or lying in such a position as is likely to interfere with any lawful operation of the Authority the owner of such vessel shall within seven days after receipt of notice to that effect from the Authority remove the vessel for such length of time as the Authority may reasonably require for the completion of such operations.

22. Sunken, stranded or abandoned Vessels

No person who is the owner of a vessel sunk, stranded, damaged or adrift in the main river or in the case of a vessel which is abandoned who was the owner immediately before the abandonment shall after receipt of notice from the Authority that the vessel is causing an obstruction permit the vessel to remain in the river in such manner as to impede or harmfully direct the flow of water into, in or out of the main river or to endanger the stability of any drainage work.

PROVIDED THAT Byelaw 41(1) shall not apply to a notice given or served by the Authority under this Byelaw.

23. Navigation/Speed Limits

No person shall in the main river navigate any mechanically powered vessel in such manner or at such speed so as to injure any bank, drainage work or river control work and where the Authority has by notice limited the speed of such vessels navigating along any length of the river no person shall navigate such a vessel over the bed of the river at a speed greater than the speed so limited.

PROVIDED THAT the Authority shall not exercise its powers under this Byelaw to limit the speed of such vessels in any tidal waters except after consultation with the Secretary of State for Trade.

PART 2

Sea and Tidal Defences

24. Repairs to Buildings on Sea Defences

Any person who is responsible for the maintenance in proper repair of any building, structure or erection in, on, over or under any sea defences shall, on receipt of a Notice from the Authority, that the building, structure or erection is causing or is likely to cause by reason of its disrepair, damage to the sea defences, carry out to the satisfaction of the Authority such reasonable and practicable repairs or other works as may be specified in the Notice and necessary for the purpose of preventing such damage to the sea defences.



25. Control of Animals

The occupier of any land upon which sea defences are situated or which abuts on sea defences shall, if reasonably required to do so by an officer of the Authority, secure that, during the progress of any work carried out by the Authority its servants or agents or during any inspections by the Authority its servants or agents on such sea defences, cattle, dogs, horses or dangerous animals are not kept on that land or, if kept thereon, are kept under proper control and supervision.

26. Acts endangering Stability of or causing Damage to Sea Defences

No person shall without the previous consent of the Authority:-

- (a) disturb or remove or cause to be disturbed or removed any material whatsoever lying on the bed of the sea in the neighbourhood of any groyne or other works in the sea (other than groynes or works of a Navigation, Harbour, Pilotage or Conservancy Authority) which was set up for the purpose of securing the proper defence against sea or tidal water of any part of the Authority Area;
- (b) disturb or remove or cause to be disturbed or removed any material whatsoever from:

- (i) any part of the Authority Area below high water mark of medium tides or from any deposits or accretions resulting from any works carried out by the Authority or its predecessors;
- (ii) any part of the area lying between high water mark of medium tides and the foot of the landward side of any sea defences;
- (iii) any part of the area lying between the foot of the landward side of any sea defences and a line measured on the landward side of any such sea defences at a distance of 200 metres from and parallel to the foot of the landward side thereof

PROVIDED THAT

- (1) nothing in this paragraph of this Byelaw shall restrict, prevent or interfere with the normal cultivation of any land;
 - (2) where the sea defence comprises a beach or other natural bank with no identifiable landward side the distance for the purposes of this Byelaw shall be the distance of 250 metres from the high water mark of medium tides
- (c) make or cause or permit to be made any excavation or do or cause or permit to be done anything in or upon any land or cliff adjoining the sea defences of such a nature as to cause damage to or endanger the stability of the sea defences;
 - (d) cut down, trample down, dig up, kill, injure, destroy, carry away or interfere with any herbage, marram grass, shrubs, trees or other vegetation growing upon the sea defences;
 - (e) remove, disturb, displace, set alight, injure or destroy any groynes, breakwaters, piles, planks, mattresses, scaffolding, gabions, fences, steps, gates, windbreaks, wattles, netting, faggots, thorns, stakes, bags, sacks or other works or materials belonging to, set up, collected, stored, arranged or maintained by the Authority for the purpose of protecting, maintaining or improving the sea defences or the beach and foreshore fronting the same.

27. Erections, Excavations etc., affecting Sea Defences

No person shall without the previous consent of the Authority:-

- (a) erect, set up, place, deposit or maintain or cause, authorise or permit to be erected, set up, placed, deposited or maintained in, on, over or under the sea defences or any part thereof or any part of the area lying between the foot of the landward side of any sea defences and a line drawn on the landward side of any such sea defences at a distance of 15 metres from and parallel to the foot



of the landward side thereof or any part of the area lying between low water mark of medium tides and the seaward side of any sea defences, any structure, building or erection or any tent, caravan or vehicle or any fence, gate or steps or any material or thing.

PROVIDED THAT nothing in this paragraph of this Byelaw shall apply to land on the landward side of a highway maintainable at the public expense (or any bridge over which such highway passes) not being a public bridle-path or public footpath;

- (b) make or cut or cause or permit to be made or cut any excavation or any tunnel or any drain, culvert or other passage for water or other liquid of any kind whatsoever in, under, or through any sea defences;
- (c) place or affix or cause or permit to be placed or affixed any gas or water main or any pipe or cable or wire in, under, over or through any sea defences.

PROVIDED THAT nothing in this Byelaw shall render it necessary for the consent of the Authority to be obtained to the erection elsewhere than on the sea defences of a fence consisting of timber posts and rails or timber posts and wire and erected for agricultural purposes.

28. Driving of Animals and Vehicles on Sea Defences

No person shall without the previous consent of the Authority take or drive or permit or cause to be taken or driven any animal or vehicle of any kind whatsoever whether mechanically propelled or not on, over or along the sea defences except for the purpose of crossing the sea defences at or by any existing public or private pull-over or cart gap or at or by any other place for the time being authorised by the Authority.

29. Deposit on Sea Defences

No person shall without the previous consent of the Authority deposit, stack, store or keep or permit to be deposited, stacked, stored or kept any rubbish or goods or any material or things in, on, over or under the sea defences or any part thereof or any part of the area lying between the foot of the landward side of any sea defences and a line drawn on the landward side of any such sea defences at a distance of 15 metres from and parallel to the foot of the landward side thereof so as to cause damage to or endanger the stability of the sea defences or interfere with the right of the Authority to access to and along them and to deposit spoil thereon or to carry out works on or along the sea defences.

30. Prevention of Interference with Sea Defences

No person shall without lawful authority or excuse interfere with or remove any sea defences, building, access road, or any structure, appliance or property whatsoever vested in or under the control of the Authority for the purpose of or in connection with their functions relating to defence against sea or tidal water.

31. Maintenance and Alterations of Floodgates etc.

Any person having charge of any floodgate, lock, sluice or other structure or appliance provided or constructed for the purposes of defence against sea or tidal waters shall maintain such floodgate, lock, sluice or other structure or appliance in a proper state of repair and efficiency to the reasonable satisfaction of the Authority and shall not discontinue the use thereof or remove the same or carry out any alteration, reconstruction, addition or reduction to the same without the previous consent of the Authority.



32. Control of Vessels

No person shall allow any vessel to cause injury to or obstruct the sea defences or any groyne or other works in the sea.

33. Control of Vermin on Sea Defences

The occupier of any land upon which any sea defences are situated or any part thereof shall upon being required by the Authority by notice in writing within such reasonable time as may therein be specified take such steps as may from time to time be necessary and reasonably practicable for preventing the sea defences from becoming infested by rabbits, rats, musk rats, mink, moles and other vermin PROVIDED THAT in taking such steps as aforesaid he shall not do or cause or permit to be done anything of such a nature as to cause damage to or endanger the stability of the sea defences.

34. Damage to Sea Defences by grazing of Animals

Any person using or causing or permitting to be used any sea defences for the purpose of grazing or keeping any animal thereon shall take all such steps as are necessary and reasonably practicable to prevent the sea defences from being damaged by such use.

PART 3

Supplementary Provisions

35. Interference with Notices

No person shall deface or remove any notice board, notice or placard put up by the Authority.

36. Obstruction of the Authority's Officers

No person shall obstruct, interfere with or resist any officer or agent or servant of the Authority properly exercising any of their powers or duties under these Byelaws.



37. Entry onto the Authority's Land

No person shall without lawful authority enter upon any land belonging to, in the occupation of the Authority, where there is prominently displayed upon or near the land a notice prohibiting entry and such entry is likely to endanger any person or property.

38. Notices

Any consent notice or other document required or authorised to be given or served under these Byelaws shall be sufficiently given or served if given in writing under the hand of a duly authorised officer of the Authority and served in the manner provided in Section 108 of the Land Drainage Act 1976. For the purposes of these Byelaws the word "premises" referred to in Section 108 of the Act shall include a vessel.

39. Application for Consent

Any application made under these Byelaws for the consent of the Authority for the doing of any act or for the Approval of the Authority to any act, the matter or thing shall be made in writing and the applicant shall furnish therewith all such plans, drawings and other relevant information in relation to such application as the Authority may reasonably require.

40. Power to impose Terms and Conditions to Consent

Where by these Byelaws any person is required to refrain from doing any act without the consent of the Authority any such consent may be given subject to such reasonable terms and conditions as in the opinion of the Authority are necessary to secure the efficient working of the drainage system of the Authority's area.

41. Determination of Disputes

- (1) Where by or under these Byelaws (except Byelaws 2(c), 9, 14(1), 18(1) and 22) any person is required by a notice in writing given by the Authority to do any work to the satisfaction of the Authority or to comply with any directions of the Authority, he may within 21 days after the service of such notice on him give to the Authority a counter-notice in writing objecting to either the reasonableness of or the necessity for such requirement or directions, and in default of agreement between such person and the Authority the dispute shall be determined as hereinafter provided. Where such a counter-notice has been given to the Authority the operation of the notice shall be suspended until either agreement has been reached or the dispute has been determined by arbitration in accordance with the provisions of this Byelaw.
- (2) Any dispute as to whether the consent of the Authority under these byelaws to the doing of any act has been unreasonably withheld, or as to whether any conditions subject to which such consent is granted are unreasonable, or as to the satisfactory execution of any work which is required by a notice given by the Authority under these byelaws to be done, or as to compliance with any directions which the Authority is empowered by these byelaws to give, shall be determined as hereinafter provided.
- (3) Such a dispute shall if it arises between a drainage authority or a local authority and the Authority be referred to the Minister whose decision shall be final. In any other case such dispute shall be referred to the arbitration of a single arbitrator to be appointed in default of agreement by the President of the Institution of Civil Engineers on the application of either party.

42. Breach of Conditions of Consent

Where the Authority give their consent under these Byelaws for the doing of any act subject to any conditions they are authorised to impose a breach of the conditions shall be deemed as regards liability to a fine and other consequences equivalent to the doing of the act without the required consent.

43. Application to Crown

Nothing in these Byelaws shall operate to prevent the removal of any substances on, in or under or the erection of any structure, building or machinery or any cable, wire or pipe on, over or under lands belonging to Her Majesty in right of the Crown by any person thereunto authorised by the Crown Estate Commissioners.

44. Savings for Local Authorities, Statutory Undertakers etc.

Nothing in these Byelaws shall –

(a) interfere with the operation of any Byelaw made by a Navigation, Harbour, Pilotage or Conservancy Authority or any of their Regulations or Directions made pursuant to statute but no person shall be liable to more than one penalty or in the case of a continuing offence more than one daily penalty in respect of the same offence.



(b) restrict, prevent, interfere with or prejudice the due and proper exercise of any statutory rights or powers which are now or hereafter may be vested in or exercised by:-

- (i) an Internal Drainage Board or other drainage authority;
- (ii) any statutory water undertakers as defined in Section 11(6) of the Water Act 1973;
- (iii) the British Gas Corporation under the provisions of the Gas Act 1972;
- (iv) the Central Electricity Generating Board or any Area Board established under the Electricity Acts 1947 and 1957;
- (v) any Navigation, Harbour, Pilotage or Conservancy Authority;
- (vi) the British Railways Board or any Regional Railways Board established under the Transport Act 1962 with respect to the construction use or maintenance of any railway bridge or any other work connected with their railways or so as to interfere with the traffic thereon;
- (vii) any local authority;
- (viii) any highway authority for the purposes of the Highways Act 1980 in relation to a highway whether or not maintainable at public expense;
- (ix) the Post Office;
- (x) British Telecom;
- (xi) the British Airports Authority;
- (xii) the Civil Aviation Authority;

(c) restrict, prevent, interfere with or prejudice either the erection by such local or highway authority of fencing for the protection of the public or any right of such authority to introduce into any watercourse surface water from any road or highway;

(d) affect any liability arising otherwise than under and by reason thereof.

45. Definition and Interpretation

In these Byelaws unless the context otherwise requires the following words and expressions shall have the meanings hereby respectively assigned to them. that is to say:-

- “Act”** means the Land Drainage Act 1976;
- “Animal”** includes any horse, ass, mule, cattle, sheep, goat, swine, goose or poultry;
- “Authority”** means the Southern Water Authority;
- “Authority Area”** means the area of the Authority for the purpose of their functions relating to land drainage;
- “Bank”** means any bank, piling, wall, berm or embankment adjoining or confining or constructed for the purpose of or in connection with any watercourse (including any berm or counterwall connected to a bank) and in the case of watercourses within which tidal waters flow includes all land between the bank and low water mark or in the case of other watercourses includes all land between the bank and the level of the water therein from time to time;
- “Consent of the Authority”** means the consent of the Authority in writing signed by any person authorised on their behalf by the Authority;
- “Drainage Authority”** in Byelaws means an internal drainage board;
- “Drainage Works”** includes works for defence against water (including sea water) irrigation, other than spray irrigation and warping;
- “Land”** includes water, land covered by water and any interests in land or water and any easement or right in, to or over land or water;
- “Local authority”** means the council of any county or district;
- “Main river”** has the meaning assigned to it by Section 8(3) of the Land Drainage Act 1976;
- “Minister”** means the Minister of Agriculture, Fisheries and Food;
- “Occupier”** means in the case of land not occupied by any tenant or other person the person entitled to occupation thereof;



<i>"Owner"</i>	includes the persons defined as such in the Public Health Act 1936;
<i>"Person"</i>	includes a body corporate;
<i>"Railway"</i>	means a railway constructed under the powers of any Act of Parliament and intended for the conveyance of passengers or goods;
<i>"River Control Work"</i>	means any valve, sluice, hatch, floodgate, staunch gate, paddle, penstock, lock, weir, dam, pumping machinery, pump, pipe, culvert or any other structure or appliance for controlling, measuring or regulating the level of the water or the flow of water into, in or out of the main river or for drawing water from or delivering water into the main river;
<i>"Sea Defences"</i>	includes any wall, bank, embankment, (including any berm, counterwall or cross wall connected thereto) barrier, tidal sluice or other defences whether natural or artificial against sea water or tidal water; provided that this definition shall not include any sea defence works which are maintained by a Coast Protection Authority under the provisions of the Coast Protection Act 1949 or by any Local Authority or by any Navigation, Harbour or Conservancy Authority;
<i>"Vessel"</i>	includes any ship, lighter, keel, barge, tug, launch, pleasure boat, houseboat, aircraft, hovercraft, randan, wherry, skiff, dinghy, shallop, punt, pontoon, floating stage, canoe, yacht, raft, float of timber, or any other craft whatsoever whether worked, navigated or propelled by steam, petrol, oil, electricity or other mechanical means, or otherwise;
<i>"Watercourse"</i>	includes all rivers, streams, ditches, drains, culverts, cuts, dykes, sluices, sewers (other than public sewers within the meaning of the Public Health Act 1936) and passages through which water flows and any reference to a watercourse includes a reference to the channel or bed of a watercourse which is for the time being dry but excludes any canal or connecting feeding channel vested in or controlled by the British Waterways Board;

And other words and expressions shall have the same respective meanings as in the Act.

46. Revocation

All Land Drainage Byelaws made by the former Hampshire River Board, the Hampshire River Authority, the Isle of Wight Rivers Catchment Board, the Kent Rivers Catchment Board, the Romney and Denge Marsh Main Drains Catchment Board, the Rother and Jury's Gut Catchment Board, the East Sussex River Board, the West Sussex River Board and the Sussex River Authority, other than Byelaws made by the East Sussex River Board and the West Sussex River Board acting as Internal Drainage Boards, are hereby revoked.

47. Limitation

Nothing in these Byelaws shall –

- (i) authorise the Authority to require any person to do any act the doing of which is not necessary for securing the efficient working of the drainage system of the Authority area or to refrain from doing any act the doing of which does not adversely affect the efficient working of the drainage system of the Authority area;
- (ii) require any person to do any act or thing or to refrain from doing any such act or thing which would contravene the provisions of any Statutory Orders Regulations or Notices made pursuant to the provisions of any Act of Parliament.

48. Citation and Commencement

These Byelaws may be cited as the Southern Water Authority Land Drainage and Sea Defence Byelaws 1981 and shall come into operation at the expiration of one month beginning with the day on which they are confirmed by the Minister.



IN WITNESS WHEREOF the Common Seal of the SOUTHERN WATER AUTHORITY was hereunto affixed this nineteenth day of October 1981

G.D. NICHOLSON
Director of Administration



The Minister of Agriculture, Fisheries and Food, in pursuance of the powers conferred upon him under Section 34 of, and paragraph 6 of the Schedule 4 to, the Land Drainage Act 1976 HEREBY CONFIRMS these Byelaws IN WITNESS whereof the Official Seal of the Minister of Agriculture, Fisheries and Food, is hereunto affixed on the 4th October 1982.

A.F. LONGWORTH
Assistant Secretary



(NOTE: These Byelaws incorporate modifications made by the Minister with the consent of the Water Authority).

Notes

Penalties and Recovery of Expenses

1. By Section 211(4) of the Water Resources Act 1991 any person who acts in contravention of, or fails to comply with, any of the foregoing Byelaws shall be liable on summary conviction to a fine not exceeding LEVEL 5 OF THE STANDARD SCALE and, if the contravention or failure is continued after conviction, to a further fine not exceeding FORTY POUNDS for every day on which the contravention or failure is so continued.
2. By Section 211(5) of the Water Resources Act 1991 if any person acts in contravention of, or fails to comply with, any of these Byelaws the Authority may, without prejudice to any proceedings under sub-section (5) of the Section, take such action as may be necessary to remedy the effect of the contravention or failure, and may recover the expenses reasonably incurred by them in doing so from the person in default.





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March 1994

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