

# **White Fen District Drainage Commissioners BYELAWS**

The White Fen District Drainage Commissioners under and by virtue of the powers and authority vested in them by Section 34 of the Land Drainage Act, 1976, do hereby make the following Byelaws which are considered necessary for securing the efficient working of the drainage system in their District:-

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### **1. Citation and Commencement of Byelaws**

These Byelaws may be cited as the White Fen District Drainage Commissioners Byelaws 1987 and shall come into operation at the expiration of one month beginning with the day on which they are confirmed by the Minister.

### **2. Application of Byelaws:**

- (i) These Byelaws shall have effect within the District.
- (ii) The watercourses referred to in these Byelaws (other than Byelaws 3, 4 and 10) are watercourses which are for the time being vested in or under the control of the Board.

### **3. Control of Introduction of water and increase in flow or volume of water**

No person shall, without the previous consent of the Board, for any purpose, by means of any channel, siphon, pipeline or sluice or by any other means whatsoever, introduce any water into the District or, whether directly or indirectly increase the flow or volume of water in any watercourse in the District.

### **4. Control of sluices etc.**

Any person having control of any drain control work shall:-

- (i) Maintain such drain control work in a proper state of repair and efficiency to the reasonable satisfaction of the Board.
- (ii) Use such drain control work in accordance with such reasonable directions as may from time to time be given by the Board with a view to the prevention of flooding or any shortage in the flow or supply of water and to the efficient working of the drainage system in the District.

Provided that Byelaw 33(a) shall not apply to a direction of the Board under this Byelaw.

### **5. Drain Control Works - Discontinuance etc**

- (i) No person having control of a drain control work shall without the previous consent of the Board
  - (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 drain control work.

Provided that the foregoing shall not apply to any action taken in an emergency so long always as notice of such action is given to the Board as soon as is practicable.

- (ii) In any case where notice is given to the Board by virtue of the proviso to paragraph (i) above the Board may by notice direct the person having control of the drain control work to take such action with regard to the drain control work and within such reasonable time as is specified in the notice and the person having control of the drain control work shall thereafter comply with those directions.

## **6. Fishing nets and angling**

No person shall angle or set any nets or engines for the catching or keeping of fish in any watercourse in such a manner as to cause damage to or endanger the stability of the bank of the watercourse or to affect or impede the flow of water.

In this Byelaw "nets" includes:-

- (a) a stake net, bag net or keep net;
- (b) any net secured by anchors and any net or other implement for taking fish fixed to the soil or made stationary in any other way;
- (c) any net placed or suspended in any inland or tidal waters unattended by the owner or a person duly authorised by the owner to use it for fish, and any engine, device, machine or contrivance, whether floating or otherwise, for placing or suspending such a net or maintaining it in working order or making it stationary.

## **7. Diversion or stopping up of watercourses**

No person shall, without the previous consent of the Board, take any action, or knowingly permit or aid or abet any person to take any action to stop up any watercourse or divert or impede or alter the level of or direction of the flow of water in, into or out of any watercourse.

## **8. Detrimental substances not to be put into watercourses**

- (i) No person shall so as to directly or indirectly obstruct, impede or interfere with the flow of water in, into or out of any watercourse or so as to damage the bank:
  - (a) discharge or put or cause or permit to be discharged or put or negligently or wilfully cause or permit to fall into any watercourse any object or matter of any kind whatsoever whether solid or liquid;
  - (b) allow any such object or matter as is referred to in sub-paragraph (a) of this paragraph of this Byelaw to remain in proximity to any watercourse in such manner as to render the same liable to drift or fall or to be carried into any watercourse. Provided nothing in this Byelaw shall be deemed to render unlawful the growing or harvesting of crops in accordance with normal agricultural practice.
- (ii) Any person who contrary to the terms of this Byelaw discharges puts or causes or permits to be discharged or put or causes or permits to fall or to be carried into or in a watercourse any such object or matter as is referred to in sub-paragraph (a) of paragraph (i) of this Byelaw shall upon being required by the Board by notice so to do remove the same at his own expense within such reasonable time as may be specified in the notice.

## **9. Lighting of fires**

No person shall light or cause or permit to be lighted or commit any action liable to cause to be lighted any fire on any land adjoining the watercourse where such action is liable to set on fire:-

- 1) the peat land forming the banks of the watercourse or
- 2) any trees, willows, shrubs, weeds, grasses or any other vegetable growths growing on land forming the banks of the watercourse or
- 3) any sand, shingle, chalk, soil, slag, stones, pitching, revetment, concrete, gravel, earth, clay, timber, gabions, wattle, piles or any material whatsoever forming the banks of the watercourse or part thereof.

## **10. Notice to cut vegetable growths**

- (i) The occupier of any bank of a watercourse or any part thereof shall, upon

the receipt of a notice served on him by the Board requiring him so to do, cut down and keep cut down all trees, willows, shrubs, weeds, grasses, reeds, rushes or other vegetable growths growing in or on the bank of a watercourse, within such reasonable time as may be specified in the notice, and shall remove such trees, willows, shrubs, weeds, grasses, reeds, rushes or other vegetable growth from the watercourse immediately after the cutting thereof. Provided that, where a hedge is growing on the bank of a watercourse, nothing in this Byelaw shall extend to require more than the pruning of the hedge so as to prevent it from growing over or into the watercourse, and the removal of the resultant cuttings.

- (ii) The occupier of any bank of a watercourse or any part thereof shall upon being required to do so by the Board by notice within such reasonable time as may be specified remove any fallen trees or willows or any fallen limbs or branches thereof from the watercourse.

**11. Restriction on erections installations excavations and tree planting in across or within 9 (nine) metres of a watercourse**

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

- (i) erect or construct or cause or permit to be erected or constructed any building pylon post wall fence wharf jetty quay pier bridge loading stage landing stage piling groyne revetment steps staging gangway mooring or any other structure whatsoever whether temporary or permanent or place fix or install or cause or permit to be placed fixed or installed any machinery plant engine or mechanical device whatsoever or plant or cause or permit to be planted any tree shrub willow or other similar growth in under over or across any watercourse or drain control work or in on or over any bank of any watercourse or within 9 metres measured horizontally of the landward toe of the bank where there is an embankment or wall or within 9 metres measured horizontally of the top of the batter where there is no embankment or wall or where the watercourse is enclosed within 9 metres measured horizontally of the enclosing structure.
- (ii) place or affix or cause or permit to be placed or affixed any gas or water main or sewer or any pipe or appliance whatsoever or any electrical main wire or cable or any other cable or wire whatsoever in under through or over any watercourse or drain control work or in under over or through the bank of any watercourse or within 9 metres measured horizontally of the landward toe of the bank where there is an embankment or wall or within 9 metres measured horizontally of the top of the batter where there is no embankment or wall or where the watercourse is enclosed within 9 metres measured horizontally of the enclosing structure.
- (iii) make or cut or cause or permit to be made or cut any excavation or any tunnel drain culvert or any other passage for water or any liquid whatsoever in into under or out of any watercourse or in or through any bank of any watercourse or drain control work or within 9 metres of such watercourse or work.

Provided that:-

- (a) this Byelaw shall not apply to any temporary works executed in an emergency but a person executing any work so excepted shall as soon as practicable inform the Board in writing of the execution and of the circumstances in which it was executed and comply with any directions

the Board may give with regard thereto.

- (b) Byelaw 33(a) shall not apply to a direction of the Board under this Byelaw.

## **12. Repairs to Buildings**

- (i) The owner of any building or structure in under or over a watercourse or on the banks thereof shall, upon receipt of a notice from the Board that because of its state of disrepair:-

(a) the building or structure is causing or is in imminent danger of causing an obstruction to the flow of the watercourse, or

(b) the building or structure is causing or is in imminent danger of causing damage to the bank of the watercourse,

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.

- (ii) Provided that Byelaw 33(a) shall not apply to a notice to be given or served by the Board under this Byelaw.

## **13. Control of Vermin**

The occupier of any bank of a watercourse or any part thereof shall upon being required by the Board of notice, within such reasonable time as may therein be specified, take such steps as are specified in the notice, being such steps as the Board consider necessary and practicable for preventing the bank from becoming infested by rabbits, rats, coypu, foxes and moles or any other wild animal not being an animal listed in Schedule 5 or Schedule 6 to the Wildlife and Countryside Act 1981.

## **14. Damage by animals to banks**

All persons using or causing or permitting to be used any bank of any watercourse for the purpose of grazing or keeping any animal thereon shall take such steps including fencing as are necessary and reasonably practicable and shall comply with such reasonable directions as may from time to time be given by the Board to prevent the bank or the channel of the watercourse from being damaged by such use;

Provided that nothing in this Byelaw shall be deemed to affect or prevent the use of, for the purpose of enabling animals to drink at it, any place made or to be made or constructed as approved by the Board.

## **15. Vehicles not to be driven on banks**

No person shall ride use or drive or permit or cause to be ridden used or driven any animal, cart, vehicle or implement of any kind whatsoever on, over or along any bank of a watercourse in such manner as to cause damage to such bank.

## **16. Banks not to be used for storage**

No person shall use or cause or permit to be used any bank of any watercourse or any drain control work for the purpose of depositing or stacking or storing or keeping any rubbish or goods or any material or things thereon in such a manner as by reason of the weight, volume or nature of such rubbish, goods, material or things to cause or be likely to cause damage to or endanger the stability of the bank or channel of the watercourse or the drain control work or interfere with the operations or access of the Board or the right of the Board to deposit spoil on the bank of the watercourse.

### **17. Not to dredge or raise gravel, sand etc**

No person shall without the previous consent of the Board dredge or raise or take or cause or permit to be dredged or raised or taken any gravel, sand, ballast, clay or other material from the bed or bank of any watercourse.

### **18. Stability of Banks**

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

- (i) cut pare damage or remove or cause or permit to be cut pared damaged or removed any turf forming part of any bank of any watercourse or dig for disturb or remove or cause or permit to be dug for disturbed or removed any stone gravel clay earth piles revetment timber or other material whatsoever forming part of any bank of any watercourse or drain control work.
- (ii) dig for or remove or cause or permit to be dug for or removed any fishing bait on or in any bank of any watercourse.
- (iii) do or cause or permit to be done anything in to or upon any bank of any watercourse or any drain control work or any land adjoining such bank or drain control work of such a nature as to cause damage to or endanger the stability of the bank or drain control work.

### **19. Tidal Outfalls**

No person shall place or cause to be placed or abandon or cause to be abandoned upon the foreshore any trees, roots of trees, branches, timber, tins, bottles, boxes, tyres, bricks, stones, soil, wire, rubbish or other object or matter whatsoever which (whether immediately or as a result of subsequent tidal action) may impede or be likely to impede the flow of water through the sluices or outfall pipes through the tidal banks or through the watercourses on such foreshore or impede or be likely to impede the operation of such sluices or outfall pipes or may cause or be likely to cause damage thereto.

### **20. Mooring of Vessels**

No person shall moor or place any vessel in any watercourse or to or upon the bank of any watercourse in such manner or by such method as to cause or be likely to cause injury to such bank or in such manner as materially to obstruct or impede the free flow of water in, into or out of any watercourse.

### **21. Unattended Vessels**

No person shall leave any vessel unattended without taking due care to prevent such vessel from materially obstructing or impeding the free flow of water in, into or out of any watercourse or any sluice in any bank or from materially impairing the efficiency of any drain control work vested in or under the control of the Board.

### **22. Removal of Sunken Vessels**

No person who is the owner of a vessel sunk stranded damaged or adrift in a watercourse or in the case of a vessel which is abandoned who was the owner immediately before the abandonment shall after ten days from the day on which the Board serves on him notice that the vessel is causing an obstruction permit the vessel to remain in the watercourse in such a manner as to impede or harmfully divert the flow of water in into or out of the watercourse or to endanger the stability of any drain control work. Provided that Byelaw 33(a) shall not apply to a notice given or served by the Board under this Byelaw.

### **23. 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 Board the owner or person having charge of such vessel shall within seven days after receipt of notice to that effect from the Board remove the vessel for such length of time as the Board may reasonably require for the completion of such operations. In the event of emergency the Board may remove any such vessel without prior notice provided that the Board shall make such efforts as are practicable to inform the owner or person having charge of the vessel before the said removal, and shall, in any case inform the owner or person having charge of the vessel as soon as practicable thereafter.

### **24. Navigation of Vessels**

No person shall navigate any vessel in such a manner or at such a speed as to injure the bank of any watercourse or any drain control work and where the Board have by notice erected at any place limited the speed of vessels navigating along any length of watercourse no person shall navigate a vessel along such a length of watercourse or any part thereof at a speed greater than that so limited.

Provided that the Board shall not exercise their powers under this Byelaw so as to limit the speed of -

- (a) Vessels in any tidal waters except after consultation with the Department of Transport or
- (b) vessels navigating waterways of the British Waterways Board for which speed limits are prescribed by the Byelaws of such Board.

### **25. Damage to and Interference with Property**

No person shall without lawful authority interfere with remove or damage any drain control work or interfere with remove or damage any bank, bridge, building, structure, appliance or other property of or under the control of the Board.

### **26. Defacement of Notice Boards**

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

### **27. Obstruction of the Board and Officers**

No person shall obstruct or interfere with any member, officer, agent or servant of the Board exercising any of his functions under the Act or these Byelaws.

### **28. Entry onto the Board's Land**

No person shall without lawful authority enter upon any land belonging to, or in the occupation of the Board, 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.

### **29. Application for Consent**

Any application made under these Byelaws for the consent of the Board for the doing of any act or for the approval of the Board to any act, 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 Board may reasonably require.

### **30. Breach of Conditions of Consent**

Where the Board 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.

### **31. Savings for other Bodies**

Nothing in these Byelaws shall:-

- (a) conflict with or interfere with the operation of any Byelaw made by the Anglian Water Authority or by the Middle Level Commissioners or any navigation, harbour or conservancy authority 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 exercise of any statutory rights or powers which are now or hereafter may be vested in or exercised by:-
  - (i) any public utility undertaking carried on by a local authority under any Act or under any Order having the force of an Act;
  - (ii) any undertakers for the supply of water to any place;
  - (iii) British Gas plc;
  - (iv) the Central Electricity Generating Board or any Area Board established under the Electricity Act 1947;
  - (v) any navigation, harbour or conservancy authority;
  - (vi) the British Railways Board with respect to the construction, use or maintenance and repair of any railway property or so as to interfere with the free uninterrupted and safe use of any railway of the British Railways Board and the traffic thereon and the use by passengers of railway property;
  - (vii) any local authority;
  - (viii) any highway authority for the purposes of the Highways Act 1980 (as amended by any subsequent enactment) in relation to any highway whether or not maintainable at public expense;
  - (ix) the Anglian Water Authority;
  - (x) the Post Office;
  - (xi) any undertaking engaged in the operation of a telecommunications system;
  - (xii) the British Airports Authority;
  - (xiii) the Civil Aviation Authority;
  - (xiv) the British Waterways Board;
  - (xv) the Middle Level Commissioners;
  - (xvi) the British Coal Corporation;
- (c) restrict, prevent, interfere with or prejudice any right of a highway authority to introduce into any watercourse surface water from a highway, for which it is the highway authority.
- (d) affect any liability arising otherwise than under or by reason of these Byelaws.

### **32. Saving for Crown Lands**

Nothing in these Byelaws shall operate to prevent the removal of any substance 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 the right of the Crown by any person thereunto authorised by the Crown Estate Commissioners.

### **33. Arbitration**

- (a) Where by or under these Byelaws (except Byelaws 4, 11, 12 and 22) any person is required by a notice given by the Board to do any work to the satisfaction of the Board or to comply with any directions of the Board, he may within 21 days after the service of such notice on him give to the Board 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 Board the dispute shall, when the person upon whom such notice was served is a drainage or local authority be referred to the Minister whose decision shall be final, and in any case 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. Where such a counter-notice has been given to the Board 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.
- (b) Where by or under these Byelaws any person is required by a notice given by the Board to do any work to the satisfaction of the Board or to comply with any directions of the Board and any dispute subsequently arises as to whether such work has been executed or such directions have been complied with, such dispute if it arises between a drainage authority or local authority and the Board shall be referred to the Minister whose decision shall be final, and in any other case 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.
- (c) Where by or under these Byelaws any person is required to refrain from doing any act without the consent of the Board such consent shall not be unreasonably withheld and may be either unconditional or subject to such reasonable conditions as the Board may consider appropriate and where any dispute arises as to whether in such a case the consent of the Board is being unreasonably withheld, or as to whether any conditions subject to which consent is granted are unreasonable, such dispute shall if it arises between a drainage authority or local authority and the Board be referred to the Minister whose decision shall be final, and 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.

### **34. Notices**

Notices and any other documents required or authorised to be served or given under or by virtue of these Byelaws shall be in writing and if served or given by the Board shall be under the hand of the Clerk for the time being of the Board or other duly authorised Officer and shall be sufficiently served or given in the manner prescribed by section 108 of the Act. For the purposes of these Byelaws the word "premises" in the said section 108 shall include a vessel.

### **35. Limitation**

(1) Nothing in these Byelaws shall authorise the Board 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 District or to refrain from doing any act, the doing of which does not adversely affect the efficient working of the drainage system of the District.

(2) If any conflict arises between these byelaws and section 22 of the Water Act 1973 as amended by section 48 of the Wildlife and Countryside Act 1981 (which relates to the Board's duties with regard to the protection of the environment, nature conservation and amenity) the said Act shall prevail.

### **36. Interpretation**

In these Byelaws, unless the context otherwise requires, the following expressions shall have the meaning hereby respectively assigned to them, that is to say:-

"the Act" means the Land Drainage Act 1976;

"Animal" includes any horse, cattle, sheep, goat, swine, goose or poultry;

"Bank" includes any bank, cross bank, wall or embankment adjoining or confining or constructed for the purpose of or in connection with any watercourse and includes all land between the bank and the low water mark or level of the water in the watercourse as the case may be and where there is no such bank, cross bank, wall or embankment includes the top edge of the batter enclosing the watercourse;

"Board" means the White Fen District Drainage Commissioners;

"Consent of the Board" means the consent of the Board in writing signed by the Clerk for the time being of the Board or other duly authorised officer;

"District" means the area under the jurisdiction of the Board;

"Drain control work" means any sluice, slacker, floodgate, lock, weir, dam, pump, pumping machinery, pipe, culvert or other structure or appliance for introducing water into any watercourse in the District or for controlling or regulating or affecting the level of the water or the flow of water in into or out of any watercourse;

"The 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 intitled to the occupation thereof;

"Owner" includes the person defined as such in the Public Health Act 1936;

"Person" includes a Body Corporate;

"Railway Property" means any railway of the British Railways Board and any bridges and works connected therewith or forming part thereof for the maintenance or operation of which the said British Railways Board are responsible and includes any land held or used by the British Railways Board for the purposes of such railway bridges or works;

"Vessel" includes any ship, hovercraft (as defined by the Hovercraft Act 1968), lighter, keel, barge, tug, launch, houseboat, pleasure or other boat, aircraft, randan, wherry, skiff, dinghy, shallop, punt, yacht, canoe, raft, float of timber or any other craft whatsoever, and howsoever worked, navigated or propelled;

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

THE COMMON SEAL of the  
WHITE FEN DISTRICT DRAINAGE COMMISSIONERS was hereunto  
affixed on the Seventh day of April, 1987 in the presence of:

W. E. D. BURTON

Chairman

I. A. D. SMITH

Clerk

L.S.

The Minister of Agriculture, Fisheries and Food, in pursuance of the powers conferred upon him under section 34 of, and paragraph 6 of 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 18th December 1987.

R. C. McKinley

Authorised by the Minister.

L.S.

(These Byelaws contain the modifications agreed between the Ministry and the Board).

## **PENALTY NOTE**

By Section 34(4) of the Act every person who acts in contravention of or fails to comply with any of the foregoing Byelaws is liable on summary conviction in respect of each offence to a fine not exceeding the amount prescribed from time to time for level 5 on the standard scale referred to in section 37 of the Criminal Justice Act 1982 (Two thousand pounds) and a further fine not exceeding Forty pounds for every day on which the contravention or failure is continued after conviction. By Section 34(5) of the Act if any person acts in contravention of or fails to comply with any of these Byelaws the Board may without prejudice to any proceedings under Section 34(4) of the Act take such action as may be necessary to remedy the effect of the contravention or failure and may recover the expenses reasonably incurred by it in doing so from the person in default.