STATUTORY INSTRUMENTS

1961 No. 1755

AGRICULTURE

The Agricultural Land Tribunals (Amendment) Order, 1961

Made - - - -	13*th September*, 1961
Laid before Parliament	21*st September*, 1961
Coming into Operation	2*nd October*, 1961

I, David Viscount Kilmuir, Lord High Chancellor of Great Britain, in exercise of the powers conferred on me by section 73 of the Agriculture Act, 1947(a), as amended by sections 5 and 8 of, and the First Schedule to, the Agriculture Act, 1958(b), and after consulting the Council on Tribunals, do hereby make the following Order:—

1.—(1) This Order may be cited as the Agricultural Land Tribunals (Amendment) Order, 1961, and shall come into operation on the second day of October, 1961.

(2) In this Order a Rule referred to by number means a Rule so numbered in the Agricultural Land Tribunals Rules, 1959, (which are set out in the Schedule to the Agricultural Land Tribunals and Notices to Quit Order, 1959(c)).

(3) The Interpretation Act, 1889(d), shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

2. The following Rule shall be inserted after Rule 11 :—

" *Applications under Land Drainage Act*, 1961

11A.—(1) An application to the tribunal under section 45 or 46 of the Land Drainage Act, 1961(e), for an order requiring a person to carry out work for putting a ditch in proper order or authorising the applicant to carry out drainage work on any land shall be substantially in accordance with Form 12, and shall state the name of any person whose interests the applicant has reason to believe would be affected by the order.

(2) For the purpose of the foregoing paragraph the interests of the following persons shall be deemed to be affected by the order, that is to say—

(i) the occupier of any land which may be entered in pursuance of the order, and

(ii) in the case of an application under section 46, the owner of any land on which it is proposed that any work should be carried out.

(3) Rule 32 shall not apply to an application under this Rule, but any person mentioned in the last foregoing paragraph shall be deemed to be a party to the application and shall be entitled to be heard by the tribunal at any formal hearing.

(4) Where, on the hearing of an application under section 45, the applicant states that he desires also to apply under section 46 for an order authorising him to carry out the same or substantially the same work as that referred to in his application under section 45, the tribunal

(a) 10 & 11 Geo. 6. c. 48. (b) 6 & 7 Eliz. 2. c. 71. (c) S.I. 1959/81 (1959 I, p. 91).
(d) 52 & 53 Vict. c. 63. (e) 9 & 10 Eliz. 2. c. 48.

may, if they think fit, deal with the application as if it had been made under section 46 as well as under section 45."

3. In Rule 12 there shall be inserted after the words "under Rule 14" the words "or within such other period as may be provided by these Rules".

4. At the end of paragraph (1) of Rule 15 there shall be added the words "or by recorded delivery".

5. The following Rules shall be inserted after Rule 18 :—

"SPECIAL PROVISIONS AS TO APPLICATIONS UNDER LAND DRAINAGE ACT, 1961

Report from Minister

18A.—(1) On receiving an application under Rule 11A the tribunal shall call on the Minister to provide a report on the matters to which the application relates, and the tribunal may for the purpose of enabling such a report to be made authorise any officer of the Minister to enter and inspect any land specified by the tribunal.

(2) A report made pursuant to the foregoing paragraph may contain a recommendation by the maker of the report on the desirability of an order being made by the tribunal, including the terms of any order which may be recommended.

(3) On receiving the report the secretary shall serve a copy thereof on each of the parties to the application.

(4) Within one month of a copy of the report being served on him the applicant shall serve a notice on the tribunal substantially in accordance with Form 13 stating whether or not he agrees with the facts stated and the recommendations made in the report; and the provisions of these Rules shall apply to the notice as if it were an application, so however that the notice need not be accompanied by copies of any map or other document which accompanied the application.

(5) The time within which a party is required by Rule 12 to reply to the application shall, in a case to which this Rule applies, run from the date of the service on him of the notice mentioned in the last foregoing paragraph.

(6) A report made under this Rule shall be *prima facie* evidence of the facts set out therein, but the maker of the report shall, unless the tribunal otherwise direct, attend any formal hearing of the application for the purpose of being examined and cross-examined on the contents of the report.

Joinder of parties

18B. If it appears to the chairman or to the tribunal, whether on the application of a party or otherwise, that it is desirable to join any person as a party to the proceedings, the chairman or the tribunal, as the case may be, may order such person to be joined and may give such consequential directions as may be just, including directions as to the service of documents on any person so joined and as to the time within which he may reply to the application.

Power to make order without formal hearing

18C. Paragraph (2) of Rule 17 and paragraph (6) of Rule 19 shall not apply to an application under Rule 11A, but if on any such application—

(*a*) the report obtained under Rule 18A recommends the making of an order and, in the case of an application under section 45, names the person whom it recommends should be required to carry out any work and that person is a party to the application; and

(*b*) the applicant has notified the tribunal of his acceptance of the recommendation, and

(*c*) every other party has either—

(i) notified the tribunal of his acceptance of the recommendation, or

(ii) failed to reply to the application within the time allowed by these Rules, or

(iii) withdrawn his reply,

the tribunal may make an order on the application substantially in the terms of the recommendation without a formal hearing, so however that the provisions of Rule 29 shall apply to such an order as they apply to any other decision of the tribunal.

Variation of order

18D. Where, on making an order on an application under Rule 11A, the tribunal have given any party liberty to apply to extend the time within which any work is to be carried out or otherwise to vary the order, any application to vary the order shall be substantially in accordance with Form 14 and the chairman shall give all such consequential directions thereon as may be just."

6. In paragraph (1) of Rule 19 there shall be inserted after the words " paragraph (6) of this Rule " the words " or by Rule 18C ".

7. The Forms contained in the Schedule to this Order shall be added after Form 11R in the Appendix to the Agricultural Land Tribunals Rules, 1959.

Dated this thirteenth day of September, 1961.

Kilmuir, C.

SCHEDULE

Form 12

Ref. No.

To be inserted by the secretary.

AGRICULTURAL LAND TRIBUNAL

Application under Land Drainage Act, 1961

To the Secretary of the Agricultural Land Tribunal

for the ..... Area.

To be used for application under s. 45.

1. I, ...[*block capitals*]
of .....[*address*]
hereby apply to the Tribunal for an order under section 45 of the Land Drainage Act, 1961, requiring .....
.....[*state name(s) of person(s) against whom order is sought*](1)
to carry out the work mentioned in paragraph 6 on the ground that [the land mentioned in paragraph 3, of which I am the *owner/occupier, is being injured] [*or* the improvement of the drainage of the land mentioned in paragraph 3, of which I am the *owner/occupier, is being prevented] by the condition of the ditch mentioned in paragraph 4.

* Strike out whichever is inapplicable.

†[In the event of the tribunal deciding not to make such an order I hereby apply in the alternative under section 46 of the said Act for an order authorising me to carry out the said work.]

† Strike out if inapplicable.

OR

[1. I, ... [*block capitals*]

To be used for application under s. 46.

of ..... [*address*]
hereby apply to the Tribunal under section 46 of the Land Drainage Act, 1961, for an order authorising me to carry out the work mentioned in paragraph 6 on the ground that the drainage of the land mentioned in paragraph 3, of which I am the *owner/occupier, requires the carrying out of such work.]

* Strike out whichever is inapplicable.

[2. I ask that the said order should authorise me [*or* the person required to carry out the said work] to enter on the land mentioned in paragraph 4 [and paragraph 7] so far as may be necessary for the carrying out of the said work.]

To be used for application under s. 45 or s. 46: Strike out if no such authority is asked for.

3. I am the *owner/occupier of [*describe land affected by application and give Ordnance Survey Field Numbers*].

4. Injury to my said land is being caused [and/or the improvement of the drainage of my said land is being prevented] by the condition of the under-mentioned ditch [*specify ditch, stating land through which it passes and if possible the Ordnance Survey Field Numbers of that land*].

To be used for application under s. 45.

OR

[4. The drainage of my said land requires:—

To be used for application under s. 46.

* (*a*) the carrying out of work in connection with the under-mentioned ditch:

* (*b*) and/or the replacement or construction of the under-mentioned ditch:

* (*c*) and/or the alteration or removal of drainage work in connection with the under-mentioned ditch:

* Strike out whichever is inapplicable.

[*specify ditch, stating land through which it passes and if possible the Ordnance Survey Field Numbers of that land*],]

5. The condition of the said ditch and its effect on my land is as follows [and/or the construction of the said ditch is required for the following reason]:

6. The work which is required to be carried out is as follows:—

† [7. For the purpose of carrying out the said work it will be necessary to enter the under-mentioned land in addition to that mentioned in paragraph 4 [*describe land, stating Ordnance Survey Field Numbers if possible*].]

† Strike out if inapplicable.

8. This application affects the interests of the following persons:(2)

(*a*) ..... [*block capitals*]

of ..... [*address*]
who is the *owner/occupier of [the following part of] the land mentioned in paragraph 4 [*or* 7] of this application [*or as the case may be*](3)

* Strike out whichever is inapplicable.

(*b*) ..... [*block capitals*]
of ..... [*address*]
who is the *owner/occupier of [the following part of] the land mentioned in paragraph 4 [*or* 7] of this application [*or as the case may be*](3)

† Strike out if inapplicable.

†[9. To the best of my information and belief the following persons in addition to those named in paragraph 8 have rights in or over the said ditch and the land through which it passes:

(*a*) ..... [*block capitals*]
of ..... [*address*]
who is .....
(*b*) ..... [*block capitals*]
of ..... [*address*]
who is .....]

10. I attach the following documents which I intend to produce in support of my case:—

(*a*) two(4) copies of a 6"(5) to one mile map of the land described in paragraphs 3 and 4 [and 7] above;

(*b*) two(4) copies of(6):—

Date ..... Signed(7) .....

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(1) Section 45 enables an order to be made against the owner or occupier of land through which the ditch passes or which abuts on the ditch or against any person who, although not such an owner or occupier, has a right to carry out the work specified in the order.

(2) State the names of all persons who are to be parties to the proceedings. These must include any person against whom an order is applied for under section 45 as well as the name of the occupier of any land on which entry may be necessary for carrying out work under section 45 or 46 and, in the case of an application under section 46, the name of the owner of any land on which it is proposed that any work should be carried out. If more than two persons are named, continue on separate sheet.

(3) State whether owner or occupier of the land or person having a right to carry out the proposed work on the ditch mentioned in paragraph 4.

(4) Two copies of the application and of any map and document must be sent to the Secretary and if there are more than two parties, an additional copy of the application, etc., must be supplied for each additional party.

(5) A larger scale map may be used if preferred. Ordnance Survey Field Numbers must be marked on the map where required.

(6) Mention any other document which is attached to this application.

(7) If signed by any person other than the applicant himself, he should state in what capacity or by what authority he signs.

Form 12R

To be inserted by the secretary. Ref. No.

AGRICULTURAL LAND TRIBUNAL

Reply to Application under Land Drainage Act, 1961

To the Secretary of the Agricultural Land Tribunal

for the ..... Area.

I ..... [*block capitals*]

of ..... [*address*]

having received a copy of the application (bearing the above reference number) and of the report provided by the Minister of Agriculture, Fisheries and Food for the purpose thereof and of the applicant's notice in Form 13 reply as follows:—

1. The facts stated in the said application and in the said report are correct except that:—

2. *(*a*) I agree to an order being made

*(i) in the terms of the recommendation in the report; or

*(ii) in the terms asked for in the application [*if different from those recommended in the report*]; or

*(iii) in the terms stated in the applicant's notice.

*(*b*) I resist the application

* Strike out whichever is inapplicable.

†3. My main reasons for resisting the application are:—

† Strike out if inapplicable.

4. I attach copies of the following relevant documents(1):—

Date ..... Signed(2) .....

(1) (*a*) Two copies of the reply and of any document which you wish to submit to the Tribunal must be sent to the Secretary and, if there are more than two parties, an additional copy of each must be supplied for each additional party.

(*b*) If you disagree with any map or plan attached to the application or if, in your reply, you mention any land not shown thereon, your reply should be accompanied by two copies of a 6" to one mile (or larger) map showing what you consider to be the true position or showing the other land mentioned in your reply, as the case may be, and marking the Ordnance Survey Field Numbers.

(2) If signed by any person other than the party himself, he should state in what capacity or by what authority he signs.

Form 13

Ref. No. To be inserted by the secretary.

AGRICULTURAL LAND TRIBUNAL

Land Drainage Act, 1961

Notice by Applicant under Rule 18A (4) of the Agricultural Land Tribunals Rules, 1959

To the Secretary of the Agricultural Land Tribunal

for the ..... Area.

I, ... [*block capitals*]

of ..... [*address*]

having applied to the Tribunal on the day of 19 (under reference number .....) for an order under section 45 [and/or section 46]* of the Land Drainage Act, 1961, and having received a copy of the report provided by the Minister of Agriculture, Fisheries and Food for the purpose of my application, state as follows:

* Strike out whichever is inapplicable.

1. I accept the facts stated in the report with the exception of:

2. *(*a*) I accept the recommendation made in the report and hereby request the Tribunal to make an order on my application in the terms of the recommendation.

*(*b*) I do not accept the recommendation made in the report and I request the Tribunal to make an order on my application in the terms asked for therein [*or* in the following modified terms].

* Strike out whichever is inapplicable.

3. I attach the following documents which I intend to produce in support of my case:—(1)

Date..... Signed(2) .....

(1) Two copies of this notice must be sent to the Secretary together with two copies of any map or document which you wish to submit to the Tribunal and which has not already been submitted with the application. If there are more than two parties, an additional copy of the notice, etc., must be supplied for each additional party.

(2) If signed by any person other than the applicant himself, he should state in what capacity or by what authority he signs.

Form 14

To be inserted by the secretary. Ref. No.

AGRICULTURAL LAND TRIBUNAL

Application for Variation of Order made under Land Drainage Act, 1961

To the Secretary of the Agricultural Land Tribunal

for the ..... Area.

1. I, ... [*block capitals*]

of ..... [*address*]

hereby apply to the Tribunal to vary its order dated the day of 19 which gave me liberty to apply for this purpose.

* Strike out whichever is inapplicable.

2. The order was made on*[my application] [the application of .....

..... [*block capitals*]

of ..... [*address*]]

bearing the reference number .....

3. The variation for which I apply is:—

4. My main reasons for making this application are:—

5. I attach copies of the following documents which I intend to produce in support of my case(1):—

Date ..... Signed(2) .....

(1) Two copies of this application and of any document which you wish to submit to the Tribunal must be sent to the Secretary and, if there are more than two parties, an additional copy of each must be supplied for each additional party.

(2) If signed by any person other than the applicant himself, he should state in what capacity or by what authority he signs.

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

This Order prescribes the procedure on applications to Agricultural Land Tribunals under sections 45 and 46 of the Land Drainage Act, 1961 (which enable orders to be made for the cleansing of ditches and the carrying out of drainage work in connection with ditches). Under Rule 18A the tribunal is required to obtain a report from the Minister of Agriculture, Fisheries and Food on the matters to which the application relates and may for this purpose authorise an officer of the Minister to enter and inspect any land for the purpose of making his report, on which the officer is liable to cross-examination at the hearing of the application. Rule 18C enables a formal hearing to be dispensed with if all the parties (except anyone who has failed to reply or who has withdrawn his reply) agree to an order being made in the terms of the recommendations contained in the report.

Rule 4 enables recorded delivery post to be used in all proceedings before Agricultural Land Tribunals.