

## **23 Prohibition on obstructions etc. in watercourses**

- (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.