

SOUTH HOLLAND INTERNAL DRAINAGE BOARD

DEVELOPMENT CONTROL

BYELAWS

WATER MANAGEMENT ALLIANCE

Effective from 1 March 2013

South Holland Internal Drainage Board, under and by virtue of the powers and authority vested in them by section 66 of the Land Drainage Act 1991, do hereby make the following Byelaws, which are considered necessary for securing the efficient working of the drainage system in their District, regulating the effects on the environment in the Board's District of a drainage system, or securing the effectiveness of flood risk management work within the meaning of section 14A of the Act.



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PREAMBLE

The South Holland Internal Drainage Board, under and by virtue of the powers and authority vested in them by section 66 of the Land Drainage Act 1991, do hereby make the following Byelaws, which are considered necessary for one or more of the following purposes:-

- a) securing the efficient working of the drainage system in their District,
- b) regulating the effects on the environment in the Board's District of a drainage system, or
- c) securing the effectiveness of flood risk management work within the meaning of section 14A of the Act,

together, "the Purposes":-

1. Commencement of Byelaws

These Byelaws shall come into operation at the expiration of one month beginning with the day on which they are confirmed by the Secretary of State.

2. Application of Byelaws

- (a) These Byelaws shall have effect within the District;
- (b) (i) Byelaws 5, 8, 10-15 and 17-20 apply in relation to any drainage/flood risk management infrastructure which is for the time being vested in or under the control of the Board.
- (ii) Byelaws 3-4, 6-7, 9 and 16 apply in relation to any drainage/flood risk management infrastructure.

3. Control of Introduction of Water and Increase in Flow or Volume of Water

No person shall as a result of development (within the meaning of section 55 of the Town and Country Planning Act 1990 as amended ("the Act")) (whether or not such development is authorised by the Act or any regulation or order whatsoever or none of them) for any purpose by means of any channel, siphon, pipeline or sluice or by any other means whatsoever introduce any water into any drainage/flood risk management infrastructure so as to directly or indirectly increase

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the flow or volume of water in any drainage/flood risk management infrastructure in the District (without the previous consent of the Board).

4. Operation of Water Control Structures and Alteration, Improvement or Removal of Structures

- (a) Any person having control of any water control structure shall use and maintain that water control structure in accordance with such directions as may from time to time be given by the Board with a view to any of the following: (i) the prevention of flooding or any shortage in the flow or supply of water, (ii) the efficient working of any drainage system in the District, (iii) regulating the effects on the environment of any drainage system, or (iv) securing the effectiveness of flood risk management work within the meaning of section 14A of the Act.
- (b) No person shall (without lawful authority) interfere with, or alter the operation of, any water control structure.
- (c) The owner of, or any person having control of, any building, culvert, bridge, headwall, water control structure or other structure in, over or under any drainage/flood risk management infrastructure or in or on the banks thereof shall, upon receipt of a notice from the Board stating that –
 - (i) the building, culvert, bridge, headwall, water control structure or other structure is causing, or is in danger of causing, damage to, or an obstruction to the optimal flow or operation of, the drainage/flood risk management infrastructure, or
 - (ii) alterations or improvements to the building, culvert, bridge, headwall, water control structure or other structure would reduce the risk of flooding to any land or property,carry out such works as are specified in the notice for the purpose of remedying or preventing the damage or obstruction or reducing flood risk, as the case may be, within such time as is specified in the notice, whether such works are for the alteration, improvement, removal or otherwise of the building, culvert, bridge, headwall, water control structure or other structure.
- (d) No person having control of any culvert, bridge, headwall, water control structure or other structure shall, without the previous written consent of the Board, carry out any alteration, reconstruction, addition, reduction or repair to the same or remove or discontinue the use thereof unless such works are being undertaken as a result of a notice issued under subsection (c) above, provided that the foregoing shall not apply to any action taken in an



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emergency, but a person taking such emergency action shall, as soon as practicable, and in any case no later than seven days after such action is taken, inform the Board in writing of the action and of the circumstances in which it was taken and comply with any directions the Board may give with regard thereto.

5. Fishing Nets and Angling

No person shall angle or set any nets or engines for the catching or keeping of fish in any drainage/flood risk management infrastructure in such a manner as to cause damage to or endanger the stability of the bank of the drainage/flood risk management infrastructure 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 or eels, 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 or eels, 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.

6. Diversion or stopping up of Drainage/Flood Risk Management Infrastructure

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

7. Detrimental Substances not to be put into Drainage/Flood Risk Management Infrastructure

No person shall, so as directly or indirectly to obstruct, impede or interfere with the flow or potential flow of water in, into or out of any drainage/flood risk management infrastructure or so

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as to damage the bank of or so as to have an effect on any habitat or species in any drainage/flood risk management infrastructure –

- (a) discharge or put or cause or permit to be discharged or put or negligently or willfully cause or permit to fall into or enter any drainage/flood risk management infrastructure 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 Byelaw to remain in proximity to any drainage/flood risk management infrastructure in such manner as to render the same liable to drift or fall or enter or be carried into the drainage/flood risk management infrastructure.

Provided that nothing in this Byelaw shall be deemed to render unlawful the growing or harvesting of crops in accordance with normal agricultural practice.

8. 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 in, or on any land adjoining, any drainage/flood risk management infrastructure where such action is liable to set on fire the peat land forming the banks of the drainage/flood risk management infrastructure or any vegetation growing on land forming the banks of the drainage/flood risk management infrastructure.

9. Notice to cut Vegetation

- (a) Any person having control of any drainage/flood risk management infrastructure shall, upon receipt of a notice served on him by the Board requiring him so to do, cut down and keep cut down all vegetation growing in or on the bank of the drainage/flood risk management infrastructure, within such time as may be specified in the notice, and shall remove such vegetation from the drainage/flood risk management infrastructure immediately after the cutting thereof.
- (b) Any person having control of land adjacent or close to any drainage/flood risk management infrastructure shall, upon receipt of a notice served on him by the Board requiring him so to do, cut down, prune, lop or otherwise trim back, and thereafter keep cut down, pruned, lopped or otherwise trimmed back, all vegetation that may be growing in such a way as to prohibit or impede machine access to the drainage/flood risk management infrastructure, within such time as may be specified in the notice, and shall remove such vegetation from the drainage/flood risk



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management infrastructure and the adjacent land immediately after the cutting, pruning, lopping or trimming thereof so as to allow machine access to the drainage/flood risk management infrastructure.

10. No Works within 9 metres of the Edge of Drainage/Flood Risk Management Infrastructure

No person shall, without previous written consent from the Board, in, under, over or across any drainage/flood risk management infrastructure or in, under, over or on any bank of any drainage/flood risk management infrastructure or within nine metres (measured horizontally) of the landward toe of the bank where there is an embankment or wall or within nine metres (measured horizontally) of the top of the batter where there is no embankment or wall, or within nine metres (measured horizontally) of the closest point of the culvert, bridge or other structure where the drainage/flood risk management infrastructure is culverted, bridged, enclosed or is a structure, carry out any works, including, but not limited to –

- (a) erecting or constructing or permitting to be erected or constructed any building, road, driveway, wall, fence, post, sign, advertisement, pylon, wharf, jetty, pier, quay, bridge, loading stage, piling, groyne, revetment or any other structure whatsoever, whether temporary or permanent;
- (b) planting or causing or permitting to be planted any tree, shrub, bush, willow or other similar growth;
- (c) raising or otherwise altering the ground level, whether temporarily or permanently;
- (d) placing or affixing or causing or permitting to be placed or affixed any gas or water main or any pipe or appliance whatsoever or any electrical main or cable or wire or any fibre optic or other data or telecommunications cable or wire, whether above or below ground;
- (e) cutting, paring, damaging or removing or causing or permitting to be cut, pared, damaged or removed any turf forming part of any bank of any drainage/flood risk management infrastructure, or digging for or removing or causing or permitting to be dug for or removed any stone, gravel, clay, earth, piles, revetment, timber or other material whatsoever forming part of the bed or bank of any drainage/flood risk management infrastructure or doing or causing or permitting to be done anything in, to or upon such bank or any land adjoining such bank of such a nature as to cause damage to or endanger the stability of the bank;



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- (f) making or cutting or causing or permitting to be made or cut any excavation or any tunnel or any drain, culvert or other passage for water in, into or out of any drainage/flood risk management infrastructure or in or through any bank of any drainage/flood risk management infrastructure;
- (g) placing or fixing or causing or permitting to be placed or fixed any engine or mechanical contrivance whatsoever in such a manner or for such length of time as to cause damage to the drainage/flood risk management infrastructure or banks thereof or obstruct the flow of water in, into or out of such drainage/flood risk management infrastructure.

Provided that subsections d, e, f and g of this Byelaw shall not apply to any temporary work executed in an emergency but a person executing any work so excepted shall, as soon as practicable, and in any case no later than seven days after such work is carried out, 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.

11. Control of Vermin

The occupier of any bank of any drainage/flood risk management infrastructure or any part thereof shall, upon being required by the Board by notice, within such 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, moles or any other wild mammal not being an animal listed in Schedule 5 or Schedule 6 to the Wildlife and Countryside Act 1981 (as amended), but excluding the water vole from such control.

12. Damage by Animals to Banks

All persons using or causing or permitting to be used any bank of any drainage/flood risk management infrastructure for the purpose of grazing or keeping any animal thereon shall take such steps (including fencing) as are necessary and practicable and shall comply with such directions as may from time to time be given by the Board to prevent the drainage/flood risk management infrastructure 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.



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13. Vehicles not to be driven on Banks

No person shall use or drive or permit or cause to be used or driven any cart, vehicle or implement of any kind whatsoever on, over or along any bank of any drainage/flood risk management infrastructure in such manner as to cause damage to such bank.

14. Banks not to be used for Storage

No person shall use or cause or permit to be used any bank of any drainage/flood risk management infrastructure or any land within nine metres (measured horizontally) of the landward toe of the bank where there is an embankment or wall or within nine metres (measured horizontally) of the top of the batter where there is no embankment or wall, or within nine metres (measured horizontally) of the closest point of the culvert, bridge or other structure where the drainage/flood risk management infrastructure is culverted, bridged, enclosed or is a structure for the purpose of depositing or stacking or storing or keeping, whether temporarily or permanently, any rubbish or goods or any material or things thereon in such a manner which by reason of the location, weight, volume or nature of such rubbish, goods, material or things causes or could cause damage to or endanger the stability of the drainage/flood risk management infrastructure or interfere with the operations or access of the Board or the deposition of spoil on the bank of, or on land adjacent to, the drainage/flood risk management infrastructure.

15. Not to Dredge or Raise Gravel, Sand etc.

No person shall, without the previous written 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 drainage/flood risk management infrastructure.

16. 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

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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.

17. Mooring of Vessels & Unattended Vessels

- (a) No person shall moor or place any vessel or leave any vessel unattended in any drainage/flood risk management infrastructure or moor any vessel to or upon the bank of any drainage/flood risk management infrastructure 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 drainage/flood risk management infrastructure, or where the vessel is in such a position as is likely to interfere with any lawful operation of the Board.
- (b) Where any vessel is 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 from the Board to that effect remove the vessel for such length of time as the Board may require for the completion of such operation.

18. Removal of Sunken Vessels

No person who is the owner of a vessel sunk, stranded, damaged, or adrift in any drainage/flood risk management infrastructure, or, in the case of a sunken vessel which is abandoned, who was the owner immediately before the abandonment, shall, after seven days from the day on which the Board serves on him notice in writing that the vessel is causing obstruction, permit the vessel to remain in the drainage/flood risk management infrastructure in such a manner as to impede or harmfully divert the flow of water in, into or out of the drainage/flood risk management infrastructure.

19. 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 drainage/flood risk management infrastructure and where the Board have by notice erected at any place limited the speed of vessels passing such place no person shall navigate a vessel at a speed over the bed of the drainage/flood risk management infrastructure greater than the speed so limited.

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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 for Transport, or
- (b) vessels navigating waterways of the Canal and River Trust for which speed limits are prescribed by the Byelaws of such Trust.

20. Damage to Property of the Board

No person shall interfere with, remove or damage any bank, bridge, building, culvert, pumping station, structure, water control structure, appliance or other property of or under the control of the Board.

21. Defacement of Notice Boards

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

22. 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.

23. Entry onto the Board's land

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

24. Applications for Consent

Any application made under these Byelaws for the consent of the Board for the doing of any act or the approval of the Board to any act, matter or thing shall be made in writing and the

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applicant shall provide all such plans, drawings and other information relating to such application as the Board may require.

25. Breach of Conditions of Consent

Where the Board gives their consent under these Byelaws for the doing of any act subject to any conditions, a breach of any imposed condition shall be deemed (as regards liability to fines and other consequences) equivalent to the doing of that act without the required consent.

26. Savings for other Bodies

Nothing in these Byelaws shall -

- (a) conflict with or interfere with the operation of any Byelaw made by the Environment Agency or of 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) the undertakings of the Environment Agency and of any water undertaker or sewerage undertaker;
 - (iii) any public gas transporter within the meaning of Part I of the Gas Act 1986;
 - (iv) any navigation, harbour or conservancy authority;
 - (v) any person who acts as the operator of a relevant railway asset with respect to the construction, use or maintenance and repair of any such asset or the free, uninterrupted and safe use of any such asset and the traffic (including passengers) thereof;
 - (vi) any local authority;



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- (vii) 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;
 - (viii) any undertaking engaged in the operation of a telecommunications system;
 - (ix) a relevant airport operator within the meaning of Part V of the Airports Act 1986;
 - (x) the Civil Aviation Authority and any subsidiary thereof;
 - (xi) the Canal and River Trust;
 - (xii) the Coal Authority
- (c) restrict, prevent, interfere with or prejudice any right of a licence holder within the meaning of Part I of the Electricity Act 1989 to do anything authorised by that licence or anything reasonably necessary for that purpose;
- (d) affect any liability arising otherwise than under or by reason of these Byelaws.

27. Saving for Crown Lands

- (a) 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.
- (b) Nothing contained in any of the foregoing Byelaws should be deemed to be or shall operate as a grant by or on behalf of the Crown as owner of the foreshore below high water mark of any estate or interest in or right over such foreshore, or any part thereof, nor shall anything contained in or done under any of the provisions of the foregoing Byelaws in any respect prejudice or injuriously affect the rights and interests of the Crown in such foreshore, or prevent the exercise thereon of any public rights or prejudice or injuriously affect any right, power or privilege legally exercisable by any person in over and in respect of the seashore.



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28. Arbitration

- (a) Where by or under any of these Byelaws any person is required by a notice in writing 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 twenty-one 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 Secretary of State 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. 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 in writing 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 Secretary of State 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 any of these Byelaws any person is required to refrain from doing any act without the consent of the Board, any consent granted may be either unconditional or subject to such 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 Secretary of State 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.

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29. Notices

Notices and any other documents required or authorised to be served or given under or by virtue of these Byelaws shall be served or given in the manner prescribed by section 71 of the Act. For the purposes of these Byelaws, the word “premises” in the said section 71 shall include a vessel.

30. Limitation

- (a) 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 or furthering one or more of the Purposes or to refrain from doing any act, the doing of which does not affect the environment or adversely affect either the efficient working of the drainage system in the District or the effectiveness of flood risk management within the District.
- (b) If any conflict arises between these Byelaws and
 - i) sections 61A to E of the Act (which relates to the Board's duties with respect to the environment), or
 - ii) the Conservation of Habitats and Species Regulations 2010¹the said Act and the said Regulations shall prevail.

31. Revocation

The Byelaws made by the Board on the 12th day of January 1989 are hereby revoked.

32. Interpretation

In these Byelaws, except where the context otherwise requires, words denoting the singular include the plural and vice-versa; words denoting any one gender include all genders; words denoting persons include firms and corporations and vice-versa; and the following expressions shall have the meaning hereby respectively assigned to them, that is to say -

¹ SI 2010/490

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"the Act" means the Land Drainage Act 1991 (as amended);

"animal" includes any horse, cattle, sheep, deer, 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 drainage/flood risk management infrastructure and includes all land between the bank and the low water mark or level of the water in the drainage/flood risk management infrastructure 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 drainage/flood risk management infrastructure;

"the Board" means the South Holland Internal Drainage Board;

"consent of the Board" means the consent of the Board in writing signed by the Chief Executive Officer for the time being or other duly authorised officer of the Board;

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

"drainage/flood risk management infrastructure" means any watercourse, culvert, pumping station, water control structure, sustainable drainage system, attenuation pond, flood storage area or any other structure or feature which relates to, provides for or is associated with any of the Purposes (as defined);

"occupier" means in the case of land not occupied by any tenant or other person the person entitled to the occupation thereof;

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

"relevant railway asset" means

- (a) a network, operated by an "approved operator" within the meaning of section 25 of the Planning Act 2008,
- (b) a station which is operated in connection with the provision of railway services on such a network,

or

- (c) a light maintenance depot



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Expressions used in this definition and in the Railways Act 1993 have the same meaning in this definition as they have in that Act, (“railway” not having its wider meaning) and a network such as is described in (a) above shall not cease to be such a network where it is modified by virtue of having any network added to it or removed from it.

“the Secretary of State” means the Secretary of State for Environment, Food and Rural Affairs;

“vegetation” means trees, willows, shrubs, bushes, weeds, grasses, reeds, rushes or other vegetable growths;

"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;

“water control structure” means a structure or appliance for introducing water into any drainage/flood risk management infrastructure and/or for controlling or regulating or affecting flow in, into or out of any drainage/flood risk management infrastructure, and includes (but is not limited to) any sluice, slacker, floodgate, lock, weir, pump or pumping machinery;

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

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THE COMMON SEAL of the SOUTH HOLLAND INTERNAL DRAINAGE BOARD was hereunto affixed on the sixth day of November 2012 in the presence of:-



D R WORTH, Chairman



P J CAMAMILE, Chief Executive Officer

PENALTY NOTE

By section 66(6) of the Land Drainage Act 1991 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 and a further fine not exceeding Forty pounds for every day on which the contravention or failure is continued after conviction. By section 66(7) 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 66(6) 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.

**SOUTH HOLLAND INTERNAL DRAINAGE BOARD
LAND DRAINAGE BYELAWS**

The Secretary of State for Environment, Food and Rural Affairs, in pursuance of the powers conferred by section 66 of, and paragraph 2 of Schedule 5 to, the Land Drainage Act 1991, HEREBY CONFIRMS these Byelaws.

I hereby certify this to
be a true copy

C A Tidmarsh

C A Tidmarsh
for and on behalf of
the Secretary of State

Dated: *29 January 2013*

Department for Environment, Food and Rural Affairs