



Department
for Environment
Food & Rural Affairs

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Consultation on a proposal to use a Legislative Reform Order to make changes to the Land Drainage Act 1991

Summary of responses

June 2013

Contents

1. Background.....	1
2. Objectives of the proposal	1
3. Analysis of the responses:	1
4. Brief summary of the views of respondents	2
5. Summary of questions	2
6. The way forward	5

1. Background

In January 2013 Defra consulted stakeholders, seeking their views on amendments to the Land Drainage Act 1991 that would streamline the Internal Drainage Board (IDB) structural reform process, and amend specific sections of the 1991 Act to make the advertisement of public notices by IDBs and the Environment Agency (EA) more flexible.

The outcome of the consultation assisted in formulating the final proposal that would be put before parliament. The consultation sought responses on:

- The policy proposals
- Whether a Legislative Reform Order (LRO) was the appropriate mechanism for making changes

2. Objectives of the proposal

The policy objectives for undertaking these changes are to:-

- reduce administrative burdens for IDBs and relevant external stakeholders affected by the changes by speeding up the structural reform process;
- reduce costs for IDBs and the EA;
- remove barriers to enable IDBs to make changes more quickly and benefit from efficiency savings and operational improvements;
- ensure transparency and inclusiveness so that the views of other affected parties are effectively taken into account;
- modernise and introduce flexibility into the way schemes/orders are advertised to improve dissemination of information.

3. Analysis of the responses:

9 responses were received in total:

- 1 came from RSPB
- 1 came from North Somerset Levels IDB
- 1 came from Water Management Alliance,
- 1 came from Association of Drainage Authorities
- 1 came from NFU

- 1 came from Anglian (Central) Regional Flood and Coastal Committee
- 1 came from North Level District IDB
- 1 came from River Stour (Kent) IDB
- 1 came from an individual as a member of the public

All of the replies received agreed on the need to introduce legislation to streamline the structural reform process and remove unnecessary burdens. Respondents agreed that there was no satisfactory non-legislative solution to this issue, and that using an LRO would be proportionate, fair, not constitutionally significant, and would not remove any rights or freedoms.

4. Brief summary of the views of respondents

- Unanimous support for reducing the number of advertising stages and thereby shortening the timescales for taking forward IDB structural changes.
- Very strong support for the proposed changes related to making advertisement of notices by IDBs and the Environment Agency more flexible.
- Very strong support for removing the requirement for IDBs to advertise in the London Gazette
- Unanimous support for the removal of the Special Parliamentary Procedure and the retention of the ability to lodge a challenge to the High Court.
- Strong agreement that the proposed changes would make the process more open and transparent and reduce burdens.

5. Summary of questions

Q1. Do you think our proposals to simplify the IDB structural reform process and make requirements for dissemination of information more flexible will remove or reduce burdens as explained in Chapter 3 above?

Respondents very strongly agreed that the proposed changes would remove unnecessary burdens. In particular, the streamlining of the IDB structural reform process should assist IDBs' business planning and, in turn, the business planning of the Environment Agency and local authorities. It would also allow IDBs to give greater clarity to ratepayers regarding the timing of the changes being made - issues have arisen in the past where delays have been perceived to be IDB driven but have, in fact, been outside of the control of the IDBs. It was suggested by one respondent that the two proposed one-month consultation periods for IDB structural changes should be linked.

Q2. Do you have views regarding the expected benefits of the proposals as identified in Chapter 3 of this consultation document and addressed in the Impact Assessment attached separately to this Consultation Document?

Most respondents considered that the proposals were likely to encourage IDBs to amalgamate and, hence, produce further efficiencies and benefits. They also considered that increased flexibility to target those who need to see notices could improve cost efficiency.

Q3. If there is any empirical evidence that you are aware of that supports the need for these reforms? Please provide details here.

One respondent commented that in the case of a recent amalgamation, the length of time taken to complete the process had resulted in the amalgamation being delayed beyond the Board's preferred date of financial year end. This had necessitated production of three sets of 'part year' accounts, which had been time-consuming and had significantly increased audit costs, both internal and external. Another Board underwent an amalgamation which took three full years from start to completion, thereby significantly increasing costs.

Q4. Do you support the removal of the 30 day objection period after the Order has been made, which would mean that the Order making would no longer be subject to the Special Parliamentary Procedure? (see Chapter 3, page 15) If not, please explain why.

Respondents unanimously agreed with the removal of the 30 day objection period and the Special Parliamentary Procedure.

Q5. Do you agree that the made Order should continue to be advertised by Defra allowing six weeks for challenge to the High Court? (see Chapter 3, page 15) If not, please explain why

Most respondents agreed with the proposal for continuing to advertise the made Order and retaining the ability to lodge a challenge with the High Court. It was suggested that Defra could use its own website to advertise the Order rather than using the London Gazette.

Q6. Do you agree that the requirements with regard to advertisement of notices of byelaws, drainage rate orders, schemes, etc should be made more flexible giving IDBs and the EA, more scope to choose how they reach their target audience? (see Chapter 3, page 17). If not, please explain why.

Majority of respondents agreed that the requirements with regard to the advertisement of notices should be made more flexible, allowing IDBs and the EA the scope to choose how they advertise. However, one respondent suggested that substantial changes to IDBs should be advertised in at least one local newspaper. It was also suggested having non-statutory guidance setting out how advertising requirements could be met.

Q7. Do you have any comments on the Impact Assessment? Please send us details of any costs, benefits or other issues that we may have overlooked. (see Chapter 3, page 17 and separate IA)

Most respondents did not make any comment on the Impact Assessment. One respondent said that the Impact Assessment should take into account the cost to people and organisations, since the failure to advertise IDB changes could lead to stakeholders getting late notice of the changes.

Q8. Are there any non-legislative means that would satisfactorily remedy the difficulty which the proposals intend to address?

All respondents agreed that there were no non-legislative means available.

Q9. Are the proposals put forward in this consultation document proportionate to the policy objective?

There was widespread agreement that the proposals are proportionate.

Q10. Do the proposals put forward in this consultation document taken as a whole strike a fair balance between the public interest and any person adversely affected by it?

All agreed that the proposals strike a fair balance.

Q11. Do the proposals put forward in this consultation document remove any necessary protection?

No respondent thought that the proposals would remove any necessary protection.

Q12. Do the proposals put forward in this consultation prevent any person from continuing to exercise any right or freedom which he might reasonably expect to continue to exercise? If so, please provide details.

No respondent thought that the changes would deny anyone such a right.

Q13. Do you consider the provisions of the proposal to be constitutionally significant?

All agreed that the provisions of the proposals were not constitutionally significant.

Q14. Do you agree that IDBs should be able to choose the most appropriate cost effective methods to advertise notices of registers and notices of elections?

All agreed that IDBs are best placed to choose the most effective way to advertise their notices of registers and elections. One respondent suggested introducing non-statutory guidance on advertising requirements.

6. The way forward

Given the general support for these proposals, and the lack of any objections, we now propose to proceed with introduction of the changes discussed in the consultation document.

Following the consultation, our intention is to introduce these changes to the Land Drainage Act 1991 through the Water Bill rather than in a separate Legislative Reform Order, as we concluded that it would be a better use of Parliamentary time to proceed in this way.

The Water Bill was announced in the Queen's Speech in May and will be introduced as soon as Parliamentary time allows.

If you have any queries about the Consultation please contact: Carol Tidmarsh on 0207 238 6332 or email: floodreports@defra.gsi.gov.uk

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<https://www.gov.uk/government/consultations/streamlining-procedures-in-the-land-drainage-act-1991>

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