



Land Drainage Act 1991

1991 CHAPTER 59

PART IV **E+W**

FINANCIAL PROVISIONS

CHAPTER I **E+W**

PROVISION FOR THE EXPENSES OF INTERNAL DRAINAGE BOARDS

Modifications etc. (not altering text)

- C1** Pt. IV Chs. I, II (ss. 36-54) restricted (1.12.1991) by [Water Consolidation \(consequential Provisions\) Act 1991 \(c. 60, SIF 130\)](#), ss. 2(2), 4(2), [Sch. 2 Pt. I para. 2\(2\)](#)

Raising and apportionment of expenses

36 Raising of the expenses of internal drainage boards. **E+W**

- (1) The expenses under this or any other Act of the drainage board for an internal drainage district (including any contribution made by the board towards expenses of the [^{F1}appropriate supervisory body]) shall, in so far as they are not met by contributions from the [^{F1}appropriate supervisory body], be raised by means of—
- drainage rates made by the board under and in accordance with Chapter II of this Part or, in relation to any time before 1st April 1993, the provisions saved by virtue of paragraph 15 of Schedule 2 to the ^{M1}Water Consolidation (Consequential Provisions) Act 1991; and
 - special levies issued by the board under and in accordance with regulations made under section 75 of the ^{M2}Local Government Finance Act 1988.
- (2) The expenses of a drainage board which are raised by means of drainage rates in respect of the financial year beginning in 1993 and subsequent financial years shall be

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defrayed out of such rates without regard to the purpose for which any such expenses were incurred.

Textual Amendments

F1 Words in s. 36(1) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\)](#), art. 1(2), **Sch. 2 para. 325** (with Sch. 7)

Marginal Citations

M1 1991 c. 60.
M2 1988 c. 41.

37 Apportionment of drainage expenses. **E+W**

- (1) Subject to any provision made by or under section 38 below, the following provision shall have effect with respect to the raising by a drainage board for any internal drainage district of their expenses for the financial year beginning in 1993 and each subsequent financial year, that is to say—
- (a) the proportion of the expenses of the board which shall be raised from the proceeds of drainage rates shall be equal to the agricultural proportion, determined for that year in accordance with the following provisions of this section, of land values in that district; and
 - (b) the proportion of the expenses of the board which shall be raised from the proceeds of special levies shall be such as to raise the balance of the expenses of the board remaining after deduction of the amount to be raised for that year from the proceeds of drainage rates.
- (2) The drainage board for every internal drainage district, before 15th February 1993 and before 15th February in every subsequent year, shall determine for the financial year beginning on the following 1st April—
- (a) the aggregate annual value of the chargeable properties in that district; and
 - (b) the aggregate value of all other land in that district;
- and the agricultural proportion for any financial year of land values in that district shall be the amount determined for that year under paragraph (a) above divided by the sum of that amount and the amount determined for that year under paragraph (b) above.
- (3) A determination made under subsection (2) above for any financial year shall be made as at the 31st December preceding that financial year.
- (4) For the purposes of this section the annual value of a chargeable property shall be its annual value for the purposes of Chapter II of this Part.
- (5) For the purposes of this section the value of other land in an internal drainage district shall [^{F2}, subject to subsection (5ZA)] be taken to be—
- (a) in the case of a hereditament shown in the local non-domestic rating list of a charging authority on 1st April 1990, one third of the relevant proportion of the rateable value shown for that hereditament in respect of that date in that list on 31st December 1992;
 - (b) in the case of domestic property shown in a valuation list on 31st March 1990, one third of the relevant proportion of the rateable value shown for it in the list on that date multiplied by a factor of 6.73;
 - (c) in the case of a hereditament which—

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- (i) is neither one to which paragraph (a) above applies nor domestic property to which paragraph (b) above applies; but
- (ii) was shown on the 31st March 1990 in the register maintained for the drainage board for that district in accordance with the ^{M3}Registers of Drainage Boards Regulations 1968,
 - one third of the annual value shown for that hereditament in that register on that date multiplied by a factor of 8.02;
- [^{F3}(d) in the case of any land which, as at 31st March 1990 was in the district but to which none of paragraphs (a) to (c) applies, and which did not then comprise agricultural land or agricultural buildings, a nil value;
- (e) in the case of any land to which none of paragraphs (a) to (d) applies, the amount calculated by multiplying—
 - (i) the area of the land, expressed in hectares and parts of a hectare; by
 - (ii) such a unit value per hectare as represents the average value per hectare of all land to which those paragraphs do apply if the average is calculated by reference to the values determined in accordance with those paragraphs.]
- [^{F4}(5ZA) The Secretary of State may by regulations make provision for the value of other land in an English internal drainage district to be determined in accordance with the regulations.
- (5ZB) The provision that may be made under subsection (5ZA) includes, in particular, provision—
 - (a) about methods to be applied, or factors to be taken into account, in determining the value of land;
 - (b) for the value of land to be determined on the basis of estimates, assumptions or averages;
 - (c) for the value of land to be determined by reference to such time or times as may be specified in the regulations;
 - (d) for the value of land to be determined by reference to the value shown for the time being in a list or register prepared for the purposes of another enactment;
 - (e) for determining the value of land which is only partly within the internal drainage district in question;
 - (f) for the making of adjustments to what would otherwise be determined to be the value of land;
 - (g) for land to be taken to have a nil value.
- (5ZC) Regulations under subsection (5ZA) may apply in relation to—
 - (a) English drainage boards specified in the regulations;
 - (b) English drainage boards of a description specified in the regulations;
 - (c) all English drainage boards.
- (5ZD) Provision made by virtue of subsection (5ZC) may, in particular, include provision for an English drainage board—
 - (a) to elect that the regulations are to apply to them, and
 - (b) to make such an election in accordance with the procedure specified in the regulations.
- (5ZE) Regulations under subsection (5ZA) may—

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- (a) make different provision for different cases, including different provision in relation to different circumstances or different descriptions of English drainage board or of land;
- (b) make such incidental, supplementary, consequential, transitional, transitory or saving provision as the Secretary of State considers appropriate.

(5ZF) Provision made by virtue of subsection (5ZE)(b) may include provision which amends or repeals any provision of this Act.

(5ZG) Before making regulations under subsection (5ZA) the Secretary of State must consult such persons (if any) as the Secretary of State considers appropriate having regard to the extent to which the regulations are, in the view of the Secretary of State, likely to affect the valuation of any land.

(5ZH) Regulations may not be made under subsection (5ZA) unless a draft of the instrument containing the regulations has been laid before, and approved by a resolution of, each House of Parliament.]

(6) In paragraphs (a) and (b) of subsection (5) above—

“relevant proportion”, in relation to the rateable value of any hereditament, means the proportion of that value which the area of the part of the hereditament lying within the internal drainage district in question bears to the total area of that hereditament; and

“valuation list” means a valuation list maintained under Part V of the ^{M4}General Rate Act 1967.

Textual Amendments

- F2** Words in s. 37(5) inserted (29.9.2022) by [Environment Act 2021 \(c. 30\)](#), **ss. 94(2)**, 147(3) (with s. 144); S.I. 2022/988, reg. 2(a)
- F3** S. 37(5)(d)(e) substituted (30.12.1992) for s. 37(5)(d) by S.I. 1992/3079, **reg.3**.
- F4** S. 37(5ZA)-(5ZH) inserted (29.9.2022) by [Environment Act 2021 \(c. 30\)](#), **ss. 94(3)**, 147(3) (with s. 144); S.I. 2022/988, reg. 2(a)

Marginal Citations

- M3** S.I. 1968/1672.
- M4** 1967 c. 9.

^{F5}Disclosure of Revenue and Customs information

Textual Amendments

- F5** Ss. 37A-37C and cross-heading inserted (9.1.2022) by [Environment Act 2021 \(c. 30\)](#), **ss. 97(2)**, 147(2) (n) (with s. 144)

37A Disclosure of Revenue and Customs information E+W

- (1) An officer of the Valuation Office of Her Majesty’s Revenue and Customs may disclose Revenue and Customs information to a qualifying person for a qualifying purpose.

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- (2) Information disclosed to a qualifying person under this section may be retained and used for any qualifying purpose.
- (3) Each of the following is a “qualifying person”—
- (a) an internal drainage board;
 - (b) the Agency;
 - (c) the Natural Resources Body for Wales;
 - (d) a person authorised to exercise any function of a body within paragraph (a), (b) or (c) relating to drainage rates or special levies;
 - (e) a person providing services to a body within paragraph (a), (b) or (c) relating to drainage rates or special levies;
 - (f) the Secretary of State;
 - (g) the Welsh Ministers;
 - (h) any other person specified in regulations made by the appropriate national authority.
- (4) Each of the following is a “qualifying purpose”—
- (a) enabling the qualifying person to whom the disclosure is made, or any other qualifying person, to carry out any functions conferred by or under Chapter 1 or 2 of this Part or section 75 of the Local Government Finance Act 1988;
 - (b) enabling the qualifying person to whom the disclosure is made, or any other qualifying person, to determine for the purposes of Part 1 how functions mentioned in paragraph (a) might be exercised by—
 - (i) an internal drainage board which is proposed to be constituted under that Part, or
 - (ii) the drainage board for an internal drainage district which is proposed to be constituted under that Part.
- (5) Regulations under subsection (3)(h) may only be made with the consent of the Commissioners for Her Majesty’s Revenue and Customs.
- (6) Regulations may not be made under subsection (3)(h) by the Secretary of State unless a draft of the instrument containing the regulations has been laid before, and approved by a resolution of, each House of Parliament.
- (7) Regulations may not be made under subsection (3)(h) by the Welsh Ministers unless a draft of the instrument containing the regulations has been laid before, and approved by a resolution of, Senedd Cymru.
- (8) In this section—
- “the appropriate national authority” means—
 - (a) the Secretary of State in relation to English internal drainage districts, and
 - (b) the Welsh Ministers in relation to Welsh internal drainage districts;
 - “drainage rates” means drainage rates made by an internal drainage board under Chapter 2 of this Part;
 - “Revenue and Customs information” means information held as mentioned in section 18(1) of the Commissioners for Revenue and Customs Act 2005;
 - “special levy” means a special levy issued by an internal drainage board under regulations under section 75 of the Local Government Finance Act 1988.

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37B Restrictions on onward disclosure of Revenue and Customs information E+W

- (1) Information disclosed under section 37A or this section may not be further disclosed unless that further disclosure is—
 - (a) to a qualifying person for a qualifying purpose,
 - (b) in pursuance of a court order,
 - (c) with the consent of each person to whom the information relates,
 - (d) required under any other enactment, or
 - (e) permitted under any other enactment.
- (2) Information may not be disclosed—
 - (a) under subsection (1)(a) to a qualifying person within section 37A(3)(d), (e), (f) or (g),
 - (b) under subsection (1)(a) to a person who is a qualifying person by virtue of regulations under section 37A(3)(h), where those regulations specify that this subsection is to apply in relation to the person, or
 - (c) under subsection (1)(e),
 except with the consent of the Commissioners for Her Majesty’s Revenue and Customs (which may be general or specific).
- (3) Information disclosed to a qualifying person under this section may be retained and used for any qualifying purpose.
- (4) A person commits an offence if the person contravenes subsection (1) or (2) by disclosing information relating to a person whose identity—
 - (a) is specified in the disclosure, or
 - (b) can be deduced from it.
- (5) It is a defence for a person charged with an offence under this section to prove that the person reasonably believed—
 - (a) that the disclosure was lawful, or
 - (b) that the information had already lawfully been made available to the public.
- (6) A person guilty of an offence under this section is liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding [^{F6}the general limit in a magistrates’ court], to a fine or to both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine or to both.
- (7) A prosecution under this section may be instituted only by, or with the consent of, the Director of Public Prosecutions.
- (8) In relation to an offence under this section committed before [^{F7}2 May 2022] the reference in subsection (6)(a) to [^{F8}the general limit in a magistrates’ court] is to be read as a reference to 6 months.
- (9) This section is without prejudice to the pursuit of any remedy or the taking of any action in relation to a contravention of subsection (1) or (2) (whether or not subsection (4) applies to the contravention).
- (10) In this section—

“qualifying person” has the same meaning as in section 37A;

“qualifying purpose” has the same meaning as in that section.

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Textual Amendments

- F6** Words in s. 37B(6)(a) substituted (7.2.2023 at 12.00 p.m.) by [The Judicial Review and Courts Act 2022 \(Magistrates' Court Sentencing Powers\) Regulations 2023 \(S.I. 2023/149\)](#), regs. 1(2), 2(1), **Sch. Pt. 1**
- F7** Words in s. 37B(8) substituted (28.4.2022) by [The Criminal Justice Act 2003 \(Commencement No. 33\) and Sentencing Act 2020 \(Commencement No. 2\) Regulations 2022 \(S.I. 2022/500\)](#), regs. 1(2), 5(1), **Sch. Pt. 1**
- F8** Words in s. 37B(8) substituted (7.2.2023 at 12.00 p.m.) by [The Judicial Review and Courts Act 2022 \(Magistrates' Court Sentencing Powers\) Regulations 2023 \(S.I. 2023/149\)](#), regs. 1(2), 2(1), **Sch. Pt. 1**

37C Further provisions about disclosure under section 37A or 37B **E+W**

- (1) A disclosure of information under section 37A or 37B does not breach—
 - (a) any obligation of confidence owed by the person making the disclosure, or
 - (b) any other restriction on the disclosure of information (however imposed).
- (2) But nothing in section 37A or 37B authorises the making of a disclosure—
 - (a) if the disclosure would contravene the data protection legislation (but in determining whether a disclosure would do so, take the powers conferred by those sections into account), or
 - (b) which is prohibited by any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016.
- (3) Until the repeal of Part 1 of the Regulation of Investigatory Powers Act 2000 by paragraphs 45 and 54 of Schedule 10 to the Investigatory Powers Act 2016 is fully in force, subsection (2)(b) has effect as if it included a reference to that Part.
- (4) Revenue and customs information relating to a person which has been disclosed under section 37A or 37B is exempt information by virtue of section 44(1)(a) of the Freedom of Information Act 2000 (prohibition on disclosure) if its further disclosure—
 - (a) would specify the identity of the person to whom the information relates, or
 - (b) would enable the identity of such a person to be deduced.
- (5) In subsection (4) “revenue and customs information relating to a person” has the same meaning as in section 19(2) of the Commissioners for Revenue and Customs Act 2005.
- (6) In this section “data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3(9) of that Act).]

Division of district for purposes of drainage rates and special levies

38 Orders sub-dividing a district for the purposes of raising expenses. **E+W**

- (1) A drainage board for an internal drainage district, after consultation with the [^{F9}appropriate supervisory body], may—
 - (a) for the purpose of levying differential drainage rates or issuing differential special levies, from time to time by order divide that district into sub-districts; and
 - (b) if, having regard to all the circumstances, they think that it is just to do so, exercise their powers, under Chapter II of this Part or any regulations made

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under section 75 of the ^{M5}Local Government Finance Act 1988, to make and levy differential drainage rates or issue differential special levies.

- (2) Any order made under this section in respect of an internal drainage district may determine the proportions of the expenses of the drainage board for that district which are to be raised in the respective sub-districts within that district.
- (3) Where an order made under this section is in force in respect of an internal drainage district and the order does not determine the proportions of the expenses of the drainage board for that district which are to be raised in the respective sub-districts, the amount to be raised in the respective sub-districts shall be determined as follows, that is to say—
 - (a) expenses incurred in connection with new works or the maintenance or improvement of existing works in each sub-district shall be raised in that sub-district; and
 - (b) there shall be raised in each sub-district a proportionate part—
 - (i) of the charges incurred by the board in respect of contributions to the [^{F9}appropriate supervisory body] under section 139 of the ^{M6}Water Resources Act 1991 (contributions from internal drainage boards to [^{F9}appropriate supervisory body]), or amounts specified under section 58 below as corresponding to such contributions; and
 - (ii) of other expenses and charges not directly attributable to the maintenance of particular works.
- (4) Where an order under this section is in force in respect of an internal drainage district, the proportions of the expenses of the drainage board for that district raised in a sub-district which shall be raised by means of drainage rates and special levies respectively shall, in respect of the financial year beginning in 1993 and each subsequent financial year, bear the same proportion to each other as are borne to each other by the following amounts, that is to say—
 - (a) the aggregate of the annual values of the chargeable properties in that sub-district; and
 - (b) the aggregate of the values of other land in that sub-district;
 and subsections (2) to (6) of section 37 above shall have effect in respect of each sub-district for the purpose of determining those aggregate amounts as they have effect in respect of an internal drainage district for the purpose of determining the amounts specified in subsection (2)(a) and (b) of that section.
- (5) When an order is made under this section by the drainage board for an internal drainage district, the board shall—
 - (a) submit the order to the relevant Minister; and
 - (b) forthwith thereafter publish^{F10} ... a notice under subsection (6) below.
- (6) A notice under this subsection is a notice stating—
 - (a) that the order has been submitted to the relevant Minister;
 - (b) that a copy of the order is open to inspection at a specified place; and
 - (c) that representations with respect to the order may be made to the relevant Minister within one month after the publication of the notice.

^{F11}(6A)

- (7) Where an order is submitted to the relevant Minister under this section—
 - (a) he shall forthwith take into consideration the order; and

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- (b) the order shall have no effect unless and until it is confirmed by him.

Textual Amendments

- F9** Words in s. 38 substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\), art. 1\(2\), Sch. 2 para. 325](#) (with Sch. 7)
- F10** Words in s. 38(5)(b) repealed (14.7.2014) by [Water Act 2014 \(c. 21\), s. 94\(3\), Sch. 9 para. 4\(2\)](#); S.I. 2014/1823, art. 2(b)
- F11** S. 38(6A) omitted (21.5.2016) by virtue of [Environment \(Wales\) Act 2016 \(anaw 3\), ss. 82\(1\), 88\(2\)](#) (d)

Marginal Citations

- M5** 1988 c. 41.
- M6** 1991 c. 57.

39 Petition for sub-division of internal drainage district. E+W

- (1) Subject to subsection (6) below, where a petition for the making, variation or revocation of an order under section 38 above is made to the drainage board for an internal drainage district by a sufficient number of qualified persons or by a qualified authority, the board—
 - (a) shall consider the petition; and
 - (b) if so directed by a direction under subsection (2) below, shall make, vary or revoke the order, either in accordance with the petition or in accordance with the petition as modified by the direction.
- (2) A direction under this subsection is a direction given—
 - (a) if the ^{F12}[appropriate supervisory body] is the board, by either of the Ministers; and
 - (b) in any other case, by the ^{F12}[appropriate supervisory body].
- (3) Where an internal drainage board object to a direction under subsection (2) above given by the ^{F12}[appropriate supervisory body], the direction shall have no effect unless confirmed (with or without modifications) by the relevant Minister.
- (4) Subject to subsection (6) below, where a petition under this section is received by the drainage board for an internal drainage district, the board shall—
 - (a) inform the ^{F12}[appropriate supervisory body] or, if the ^{F12}[appropriate supervisory body] is the board, one of the Ministers; and
 - (b) publish a notice under subsection (5) below ^{F13}....
- (5) A notice under this subsection is a notice—
 - (a) that the petition has been received,
 - (b) that the making, variation or revocation of an order under section 38 above will be considered; and
 - (c) that representations may be made to the drainage board within a period (which shall not be less than thirty days) stated in the notice.

^{F14}(5A)

- (6) This section does not require the drainage board for an internal drainage district to consider any petition or publish any notice of a petition if—

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- (a) they have received a petition under this section within the period of ten years immediately preceding the making of the first-mentioned petition;
 - (b) they have, within that period, by an order made in exercise of the powers conferred by section 38 above, divided their district into sub-districts or varied or abolished any sub-district; or
 - (c) the petition is frivolous in the opinion of the [^{F12}appropriate supervisory body] or, if the [^{F12}appropriate supervisory body] is the board, of either of the Ministers.
- (7) After considering a petition under this section and not later than six months after it is received, a drainage board shall inform the [^{F12}appropriate supervisory body] or, as the case may be, one of the Ministers—
- (a) whether they propose to make, vary or revoke any order under section 38 above; and
 - (b) if they propose to make or vary such an order, of the terms of the order or variation they propose to make.

Textual Amendments

- F12** Words in s. 39 substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\), art. 1\(2\), Sch. 2 para. 325](#) (with Sch. 7)
- F13** Words in s. 39(4)(b) repealed (14.7.2014) by [Water Act 2014 \(c. 21\), s. 94\(3\), Sch. 9 para. 5\(2\); S.I. 2014/1823, art. 2\(b\)](#)
- F14** S. 39(5A) omitted (21.5.2016) by virtue of [Environment \(Wales\) Act 2016 \(anaw 3\), ss. 82\(1\), 88\(2\)](#) (d)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 37(5A)-(5D) inserted by [2016 anaw 3 s. 83\(2\)\(b\)](#)
- s. 37(5A) substituted in earlier affecting provision 2016 anaw 3, s. 83(2)(b) by [2021 c. 30 s. 95\(2\)\(b\)\(i\)](#)
- s. 37(5B)(5C) words substituted in earlier affecting provision 2016 anaw 3, s. 83(2)(b) by [2021 c. 30 s. 95\(2\)\(b\)\(ii\)](#)
- s. 37(5D)(5E) substituted in earlier affecting provision 2016 anaw 3, s. 83(2)(b) by [2021 c. 30 s. 95\(2\)\(b\)\(ii\)](#)