



# Land Drainage Act 1991

## 1991 CHAPTER 59

### PART IV

#### FINANCIAL PROVISIONS

#### CHAPTER III

##### FURTHER FINANCIAL PROVISIONS

#### **55 Powers of internal drainage boards and local authorities to borrow etc.**

- (1) Subject to the following provisions of this section, an internal drainage board may borrow, on the security of their property or income—
  - (a) for the purpose of defraying any costs, charges or expenses incurred by them <sup>[F1]</sup>in the exercise or performance of any power or duty under this Act or the Water Resources Act 1991]; or
  - (b) for the purpose of discharging any loan contracted by them under this Act or any provision re-enacted, whether directly or indirectly, by this Act.
- (2) The council of a county <sup>[F2]</sup>, county borough] or London borough and the Common Council of the City of London may borrow for the purposes of this Act.
- (3) The consent of the relevant Minister shall be required for any borrowing by an internal drainage board under this section other than a borrowing for the purpose of discharging any loan previously contracted.
- (4) Money borrowed by an internal drainage board under this section may be borrowed for such period not exceeding fifty years as the board, with the consent of the relevant Minister, may in each case determine.
- (5) Where the drainage board for an internal drainage district borrow any sums in respect of which they have determined that some part only of that district shall be liable, the money borrowed shall be repayable only out of rates levied on, or special levies issued or contributions received in respect of, that part of the drainage district.

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- (6) The provisions of the <sup>M1</sup>Commissioners Clauses Act 1847 as to mortgages shall be incorporated with the provisions of this section so far as it relates to borrowing by an internal drainage board.
- (7) Where the owner of any land comprised within any internal drainage district is authorised to invest money on real security, he shall, unless the instrument authorising the investment provides to the contrary, have power to invest money on a first mortgage of the drainage rates leviable by the drainage board for that district.
- (8) The reference in subsection (1) above to an internal drainage board borrowing on the security of their property or income is a reference to their borrowing on the security of any property vested in the board or on the security of—
- (a) any rates to be levied by the board under this Act;
  - (b) any special levies to be issued by the board in accordance with regulations under section 75 of the <sup>M2</sup>Local Government Finance Act 1988; or
  - (c) any contributions to be paid to the board under this Act.

#### Textual Amendments

- F1** Words in s. 55(1)(a) substituted (1.4.2004) by [Water Act 2003 \(c. 37\), s. 105\(3\), Sch. 7 para. 40\(3\)](#); S.I. 2004/641, art. 3(y), Sch. 2 (with Sch. 3 para. 7)
- F2** Words inserted in s. 55(2) (1.4.1996) by [1994 c. 19, s. 22\(5\), Sch. 11, Pt. II, para. 4\(7\)](#) (with ss. 54(5) (7), 55(5)); S.I. 1996/396, [art.3](#)

#### Marginal Citations

- M1** 1847 c. 16.  
**M2** 1988 c. 41.

## 56 Concurrent power of boards to impose navigation tolls.

- (1) The power of the [<sup>F3</sup>appropriate agency] under section 143 of the <sup>M3</sup>Water Resources Act 1991 to make an application for the imposition of tolls in respect of navigation shall, in the case of waters within an internal drainage district which do not form part of a main river, be exercisable by the drainage board for that district, concurrently with the [<sup>F3</sup>appropriate agency].
- (2) Subsection (4) of section 143 of the Water Resources Act 1991 shall have effect in relation to tolls imposed, by virtue of this section, on the application of an internal drainage board as if the reference in that subsection to the [<sup>F3</sup>appropriate agency] were a reference to that board.

#### Textual Amendments

- F3** Words in s. 56 substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\), art. 1\(2\), Sch. 2 para. 326](#) (with Sch. 7)

#### Marginal Citations

- M3** 1991 c. 57.

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**57 Contributions by the [F<sup>4</sup>appropriate agency] to expenses of internal drainage boards.**

- (1) Where it appears to the drainage board for any internal drainage district that, by reason—
  - (a) of the quantity of water which that district receives from lands at a higher level; or
  - (b) of the period that will elapse before that district obtains any relief from operations of the [F<sup>4</sup>appropriate agency] on a main river,it is fair that a contribution towards their expenses should be made by the [F<sup>4</sup>appropriate agency], they may make an application to the [F<sup>4</sup>appropriate agency] for a contribution.
- (2) On an application under subsection (1) above the [F<sup>4</sup>appropriate agency] may resolve to make to the internal drainage board such contribution, if any, as may be specified in the resolution.
- (3) A resolution under this section may be acted upon by the [F<sup>4</sup>appropriate agency] forthwith, notwithstanding that the period for bringing an appeal under subsection (4) below has not expired or that an appeal so brought is pending.
- (4) If—
  - (a) an internal drainage board is aggrieved by a resolution of the [F<sup>4</sup>appropriate agency] under this section determining the amount of any contribution or refusing to make a contribution; or
  - (b) the council of any county [F<sup>5</sup>, county borough] or London borough is aggrieved by any such resolution on the ground that the contribution to be made by the [F<sup>4</sup>appropriate agency] is excessive,the board or council may, within six weeks after the date on which notice of the resolution is given by the [F<sup>4</sup>appropriate agency] to the internal drainage board in question, appeal to the relevant Minister against the resolution.
- (5) On an appeal under this section the relevant Minister may, after considering any objections made to him and, if he thinks fit, holding a public local inquiry, make such an order in the matter as he thinks just.
- (6) Where—
  - (a) the [F<sup>4</sup>appropriate agency] has acted on a resolution by virtue of subsection (3) above; and
  - (b) an appeal is brought in respect of the resolution,the relevant Minister shall by his order direct such adjustment to be made in respect of any sums paid in pursuance of the resolution as may be necessary for giving effect to his decision.
- (7) Where the relevant Minister makes an order under this section, he shall lay before Parliament particulars of the matter in respect of which the appeal was made and of the reasons for his order.
- (8) Compliance with any order made by the relevant Minister under this section may be enforced by mandamus.

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#### Textual Amendments

- F4** Words in s. 57 substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\), art. 1\(2\), Sch. 2 para. 326](#) (with Sch. 7)
- F5** Words inserted in s. 57(4)(b) (1.4.1996) by [1994 c. 19, s. 22\(5\), Sch. 11, Pt. II, para. 4\(8\); S.I. 1996/396, art.3](#)

### 58 Allocation of [<sup>F6</sup>appropriate agency] revenue for its functions as an internal drainage board

- (1) Where the [<sup>F6</sup>appropriate agency] is the drainage board for an internal drainage district (whether by virtue of section 3 or 4 above), it may by resolution specify an amount as corresponding to the amount of any contribution which, if it were not the drainage board for that district, it would—
- (a) make to that drainage board under section 57 above; or
  - (b) require from that board under section 139 of the <sup>M4</sup>Water Resources Act 1991 (contributions from internal drainage boards to [<sup>F6</sup>appropriate agency] expenses).
- (2) Where any amount is specified under subsection (1) above, then, according as that amount is specified by virtue of paragraph (a) or (b) of that subsection—
- (a) expenses incurred by the [<sup>F6</sup>appropriate agency] as the drainage board for the internal drainage district in question shall, to the extent of that amount, be defrayed out of revenue received by it otherwise than as that board; or
  - (b) expenses incurred by the [<sup>F6</sup>appropriate agency] as such shall be defrayed out of sums received by it as that board.
- (3) The [<sup>F6</sup>appropriate agency] shall publish any resolution under this section <sup>F7</sup>....
- <sup>F8</sup>( 3A ) . . . . .
- (4) Where a sufficient number of qualified persons or the council of any county [<sup>F9</sup>, county borough] or London borough are aggrieved—
- (a) by a resolution of the [<sup>F6</sup>appropriate agency] under this section;
  - (b) whether on the ground that it is too small or on the ground that it is too large, by the amount specified in such a resolution; or
  - (c) by the failure of the [<sup>F6</sup>appropriate agency] to pass such a resolution, they may appeal to the relevant Minister.
- (5) An appeal under subsection (4) above, other than an appeal on the ground that the [<sup>F6</sup>appropriate agency] has failed to pass a resolution under this section, must be made within six weeks after the date on which the [<sup>F6</sup>appropriate agency] published the resolution in respect of which it is made.
- (6) On an appeal under subsection (4) above the relevant Minister may, after considering any objections made to him, make such an order in the matter as he thinks just.
- (7) An order under subsection (6) above shall be treated as an order on an appeal under section 57(5) above or, as the case may require, under section 140 of the <sup>M5</sup>Water Resources Act 1991 (appeals with respect to resolutions requiring contributions from internal drainage boards).

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#### Textual Amendments

- F6** Words in s. 58 substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\), art. 1\(2\), Sch. 2 para. 326](#) (with Sch. 7)
- F7** Words in s. 58(3) repealed (14.7.2014) by [Water Act 2014 \(c. 21\), s. 94\(3\), Sch. 9 para. 7\(2\)](#); S.I. 2014/1823, art. 2(b)
- F8** S. 58(3A) omitted (21.5.2016) by virtue of [Environment \(Wales\) Act 2016 \(anaw 3\), ss. 82\(1\), 88\(2\)](#) (d)
- F9** Words inserted in s. 58(4) (1.4.1996) by [1994 c. 19, s. 22\(5\), Sch. 11, Pt. II, para. 4\(9\)](#) (with ss. 54(5) (7), 55(5)); S.I. 1996/396, art.3

#### Marginal Citations

- M4** 1991 c. 57.
- M5** 1991 c. 57.

### 59 Grants to drainage bodies.

- (1) The appropriate Minister may make grants towards expenditure incurred by internal drainage boards or by other drainage bodies (except the [<sup>F10</sup>Agency][<sup>F11</sup>or the Natural Resources Body for Wales]) in the exercise of their functions in carrying out drainage schemes.
- (2) Grants under subsection (1) above shall be of such amounts and subject to such conditions as may be approved by the Treasury.
- (3) Where a drainage body are about to incur in respect of any work expenditure which, if the work is properly carried out, a grant will be payable under subsection (1) above, the appropriate Minister may, with the approval of the Treasury, make advances to that body on account of the expenditure.
- (4) The appropriate Minister may, with the approval of the Treasury, make grants to drainage bodies in respect of expenditure properly incurred by them with a view to
- [<sup>F12</sup>(a)] carrying out drainage works, being expenditure towards which, if the works had been properly carried out, a grant would have been payable under subsection (1) above.
- [<sup>F13</sup>(b)] enabling them to determine in any particular case whether drainage works, or drainage works of any particular description, should or should not be carried out;
- <sup>F14</sup>(c) . . . . .
- (d) obtaining, at any time after the carrying out of drainage works, information with respect to—
- (i) the quality or effectiveness, or the effect on the environment, of those works; or
- (ii) any matter of a financial nature relating to those works.
- (4A) Paragraphs (b) to (d) of subsection (4) above are without prejudice to any power—
- (a) to make any grant under subsection (1) or (4)(a) above, or
- (b) to impose any condition under subsection (2) above,
- which could be made or imposed apart from those paragraphs.]

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- (5) Where a drainage body are about to incur expenditure in respect of which it appears to the appropriate Minister that a grant will be payable under subsection (4) above, he may, with the approval of the Treasury, make advances to the body on account of the expenditure.
- (6) The appropriate Minister may, with the approval of the Treasury, make grants to an internal drainage board or a local authority in respect of the cost of any works carried out by the board or authority in pursuance of section 20 above; and the reference to expense in that section shall be construed as excluding the amount of any grant paid under this subsection in respect of the works in question.
- (7) The appropriate Minister may, with the approval of the Treasury, make to an internal drainage board grants in respect of expenditure incurred by the board, and advances on account of expenditure to be incurred by the board, in carrying out works for the rebuilding or repair of any bridge maintained by the board, other than works appearing to the appropriate Minister to be maintenance works of a routine kind.
- (8) In this section “the appropriate Minister”—
- (a) in relation to England, means the Minister; and
  - (b) in relation to Wales, means the Secretary of State.

#### **Textual Amendments**

- F10** Words in s. 59 substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22, para. 191** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F11** Words in s. 59 inserted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), **art. 1(2)**, **Sch. 2 para. 327** (with Sch. 7)
- F12** Word inserted in s. 59(4) (21.09.1995) by 1995 c. 25, **s. 101(2)**(with ss. 7(6), 115, 117); S.I. 1995/1983, **art. 3**
- F13** S. 59(4)(b)-(d)(4A) added (21.09.1995) by 1995 c. 25, **s. 101(2)**(with ss. 7(6), 115, 117); S.I. 1995/1983, **art. 3**
- F14** S. 59(4)(c) omitted (6.4.2011) by virtue of Flood and Water Management Act 2010 (c. 29), s. 49(3), **Sch. 2 para. 37** (with s. 49(1)(6)); S.I. 2011/694, **art. 4(1)(i)**

#### **60 Power of local authority to contribute to expenses of drainage works.**

- (1) A local authority may contribute, or undertake to contribute, to the expenses of the carrying out or maintenance of any drainage works by a drainage body such an amount as, having regard to the public benefit to be derived therefrom, appears to the local authority to be proper.
- (2) Without prejudice to section 55(2) above, the making of contributions under this section shall be a purpose for which a local authority may borrow.
- (2) References in this section to a local authority include references to the Sub-Treasurer of the Inner Temple and to the Under Treasurer of the Middle Temple.

#### **61 Land drainage expenses of local authorities.**

- (1) Subject to any express provision to the contrary contained in this Act or in Chapter II of Part VI of the <sup>M6</sup>Water Resources Act 1991, the expenses of the council of a metropolitan district or London borough under this Act or the flood defence provisions

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of that Act shall be defrayed as general expenses or, if and so far as the council think fit, as special expenses charged on such parts of the metropolitan district or, as the case may be, borough as the council think fit.

- (2) The reference in subsection (1) above to the flood defence provisions of the Water Resources Act 1991 shall have the same meaning as is given, by virtue of section 221(1) of that Act, to any such reference in that Act.

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**Marginal Citations**

**M6** 1991 c. 57.

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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\(2\)\(b\)\(ii\)](#)