



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—
- (a) 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
 - (b) 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—
- shall consider the petition; and
 - 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—
- if the ^{F12}[appropriate supervisory body] is the board, by either of the Ministers; and
 - 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—
- inform the ^{F12}[appropriate supervisory body] or, if the ^{F12}[appropriate supervisory body] is the board, one of the Ministers; and
 - publish a notice under subsection (5) below ^{F13}....
- (5) A notice under this subsection is a notice—
- that the petition has been received,
 - that the making, variation or revocation of an order under section 38 above will be considered; and
 - 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\(2\) \(d\)](#)

CHAPTER II E+W

DRAINAGE RATES

Modifications etc. (not altering text)

- C2** 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\(2\)](#)

Levying of drainage rates

40 **Levying of drainage rates.** E+W

- (1) In respect of financial years beginning in or after 1993, the drainage board for an internal drainage district may make a drainage rate in respect of agricultural land and buildings.
- (2) Every drainage rate made under this Chapter by the drainage board for an internal drainage district shall be assessed and levied, subject to and in accordance with this Chapter and any order under section 38 above, on the occupiers of hereditaments in the district; but for the purposes of this subsection and the following provisions of this Chapter the owner of a hereditament shall be deemed to be its occupier during any period during which it is unoccupied.

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- (3) Every drainage rate shall be made in respect of a financial year and, without prejudice to section 50 below or any corresponding provision of any local Act, the drainage board for an internal drainage district shall not make more than one rate in respect of the same financial year.
- (4) Every drainage rate shall be made before 15th February in the financial year preceding that in respect of which it is made, but is not invalid merely because it is made on or after that date.

41 Rates charged by reference to annual value of agricultural land and buildings. E+W

- (1) Subject to section 38 above and section 47 below, a rate made by the drainage board for an internal drainage district shall be assessed at a uniform amount per pound throughout the district on the annual value of the agricultural land or agricultural buildings in respect of which it is made.
- (2) For the purposes of this Chapter the annual value of any chargeable property shall (subject to sections 43 and 44 below) be the amount, determined in accordance with section 42 below, which is equal to the yearly rent, in respect of a holding comprising the chargeable property, at which the holding might reasonably be expected to have been let, by a prudent and willing landlord to a prudent and willing tenant, on a tenancy from year to year commencing on 1st April 1988 and on the relevant terms. [^{F15}This is subject to section 41A below.]
- (3) For the purposes of subsection (2) above chargeable property is let on the relevant terms if—
 - (a) the tenancy incorporates the terms set out in subsection (4) below; and
 - (b) the property is let on the terms relating to maintenance, repair and insurance of fixed equipment which are set out in the Schedule to the ^{M7}Agriculture (Maintenance, Repair and Insurance of Fixed Equipment) Regulations 1973.
- (4) The terms mentioned in subsection (3)(a) above are—
 - (a) a covenant by the tenant, in the event of the destruction by fire of harvested crops grown on the holding for consumption on it, to return to the holding the full equivalent manorial value of the crops destroyed, in so far as the return of that value is required for the fulfilment of his responsibilities to farm in accordance with the rules of good husbandry;
 - (b) a covenant by the tenant to insure against damage by fire all dead stock on the holding and all harvested crops grown on the holding for consumption on it;
 - (c) a power for the landlord to re-enter on the holding in the event of the tenant not performing his obligations under the tenancy agreement;
 - (d) a covenant by the tenant not to assign sub-let or part with possession of the holding or any part of it without the landlord's consent in writing.
- (5) In determining for the purposes of subsection (2) above the yearly rents at which a property might reasonably be expected to have been let, any liability for the payment of drainage rates shall be disregarded, but account shall be taken of all other relevant factors, including, in every case—
 - (a) the character and situation of the holding (including the locality in which it is situated);
 - (b) the productive capacity of the holding and its related earning capacity; and

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- (c) the level of rents for comparable lettings current on 1st April 1988.
- (6) In determining for the purposes of subsection (5) above the level of rents current on 1st April 1988 for comparable lettings—
- (a) account may be taken of any available evidence with respect to the rents which are or were payable in respect of tenancies of comparable agricultural holdings on terms (other than terms fixing the rent payable) similar to those assumed for the holding in question; but
- (b) the following shall be disregarded—
- (i) any element of the rents in question which is due to appreciable scarcity of comparable holdings available for letting on such terms compared with the number of persons seeking to become tenants of such holdings on such terms;
- (ii) any element of those rents which is due to the fact that the tenant of, or a person tendering for, a comparable holding is in occupation of other land in the vicinity of that holding that may conveniently be occupied with that holding; and
- (iii) any effect on those rents which is due to any allowances or reductions made in consideration of the charging of premiums.

(7) In this section—

“productive capacity”, in relation to a holding, means the productive capacity of the holding determined (taking into account fixed equipment and any other available facilities on the holding) on the assumption that the holding is in the occupation of a competent tenant practising a system of farming suitable to the holding; and

“related earning capacity”, in relation to the productive capacity of a holding, means the extent to which, in the light of that productive capacity, a competent tenant practising such a system of farming could reasonably be expected to profit from farming that holding.

Textual Amendments

F15 Words in s. 41(2) inserted (29.9.2022 for specified purposes) by [Environment Act 2021 \(c. 30\)](#), ss. **96(2)**, 147(3)(4) (with s. 144); S.I. 2022/988, reg. 2(b)

Marginal Citations

M7 [S.I. 1973/1473](#).

[^{F16}41A **Alternative method of calculating annual value of agricultural land and buildings** **E+W**]

- (1) The appropriate national authority may by regulations make provision for the annual value of each chargeable property in an internal drainage district to be determined for the purposes of this Chapter by the drainage board for that district in accordance with the regulations.

Any determination made under the regulations is subject to sections 43 and 44 below.

- (2) In this section “the appropriate national authority” means—
- (a) in the case of any English internal drainage district, the Secretary of State;

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- (b) in the case of any Welsh internal drainage district, the Welsh Ministers.
- (3) Regulations under subsection (1) may, in particular, make provision—
- (a) about the date by which a drainage board are to determine the annual value of each chargeable property in their internal drainage district;
 - (b) about methods to be applied, or factors to be taken into account, in determining the annual value of a chargeable property;
 - (c) for the annual value of a chargeable property to be determined on the basis of estimates, assumptions or averages;
 - (d) for the annual value of a chargeable property to be determined by reference to such time or times as may be specified in the regulations;
 - (e) for the annual value of a chargeable property 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;
 - (f) for the annual value of a chargeable property to be determined by reference to the amount payable under a hypothetical transaction involving the property;
 - (g) for determining the annual value of a chargeable property which is only partly within the internal drainage district in question;
 - (h) for the making of adjustments to what would otherwise be determined to be the annual value of a chargeable property;
 - (i) for the determination of the annual value of a chargeable property to be made on behalf of a drainage board by a person, or a person of a description, specified in the regulations;
 - (j) about the appointment by the drainage board of such a person.
- (4) Provision made by virtue of subsection (3)(f) may, in particular, include provision as to—
- (a) the assumptions to be made about—
 - (i) the date of the transaction;
 - (ii) the nature of the transaction;
 - (iii) the characteristics of the parties to the transaction;
 - (iv) the characteristics of the property;
 - (v) the terms of the transaction;
 - (b) any matters relating to the chargeable property which are to be taken into account or disregarded;
 - (c) any matters relating to comparable transactions which are to be taken into account or disregarded.
- (5) Regulations under subsection (1) may make provision which—
- (a) applies to a drainage board which have determined the annual values of the chargeable properties in their internal drainage district for the purposes of this Chapter under the regulations (regardless of whether any of those determinations has been replaced under section 43 below or altered on appeal under section 46 below), and
 - (b) requires the drainage board to make further determinations of those values for those purposes in accordance with the regulations at such times or at the end of such periods as may be specified in the regulations.
- (6) Provision made by virtue of subsection (5) may, in particular—

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- (a) make provision in relation to such a further determination which is the same as or similar to that made in relation to an initial determination, or
 - (b) apply provision in the regulations relating to an initial determination to a further determination, with or without modifications.
- (7) Regulations made by the Secretary of State under subsection (1) 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.
- (8) Regulations made by the Welsh Ministers under subsection (1) may apply in relation to—
- (a) Welsh drainage boards specified in the regulations;
 - (b) Welsh drainage boards of a description specified in the regulations;
 - (c) all Welsh drainage boards.
- (9) Provision made by virtue of subsection (7) or (8) may, in particular, include provision for an internal 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.
- (10) Regulations under subsection (1) may—
- (a) make different provision for different cases, including different provision in relation to different circumstances or different descriptions of drainage board or of land;
 - (b) make such incidental, supplementary, consequential, transitional, transitory or saving provision as the appropriate national authority considers appropriate.
- (11) Provision made by virtue of subsection (10)(b) may include provision which amends or repeals any provision of this Act.
- (12) Before making regulations under subsection (1) the appropriate national authority must consult such persons (if any) as the authority considers appropriate having regard to the extent to which the regulations are, in the view of the authority, likely to affect the valuation of any chargeable properties.
- (13) Regulations may not be made under subsection (1) 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.
- (14) Regulations may not be made under subsection (1) 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.]

Textual Amendments

F16 S. 41A inserted (29.9.2022 for specified purposes) by [Environment Act 2021 \(c. 30\)](#), ss. 96(3), 147(3)(4) (with s. 144); S.I. 2022/988, reg. 2(b)

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Determination and modification of annual value

42 Determination of annual value. E+W

- (1) Without prejudice to sections 43 and 44 below, the drainage board for every internal drainage district shall, not later than 31st December 1992, determine the annual value for the purposes of section 41 above of each chargeable property in their district on that date.
- (2) Where after 31st December 1992—
 - (a) any property in an internal drainage district becomes chargeable property;
 - (b) any property consisting of agricultural land or buildings becomes part of an internal drainage district,then, as soon as practicable after the date (“the valuation date”) on which the property has become chargeable property or, as the case may be, part of that district, the drainage board for that district shall determine the annual value for the purposes of section 41 above of that property.
- (3) A determination made under subsection (2) above shall have effect from the valuation date.
- (4) Where any drainage board make a determination under this section [^{F17}or under regulations under section 41A(1) above], they shall serve notice of the determination, together with a statement in writing of the right of appeal under section 45 below, on the occupier of the property to which the determination relates.
- (5) For the purpose of enabling the drainage board for an internal drainage district to comply with their obligations under subsections (1) and (2) above [^{F18}or under regulations under section 41A above], the occupier of a chargeable property shall afford reasonable facilities for inspecting the property to the drainage board for the internal drainage district in which the property lies and to the officers and agents of that board.

Textual Amendments

- F17** Words in s. 42(4) inserted (29.9.2022 for specified purposes) by [Environment Act 2021 \(c. 30\)](#), ss. [96\(4\)\(a\)](#), [147\(3\)\(4\)](#) (with s. 144); S.I. 2022/988, reg. 2(b)
- F18** Words in s. 42(5) inserted (29.9.2022 for specified purposes) by [Environment Act 2021 \(c. 30\)](#), ss. [96\(4\)\(b\)](#), [147\(3\)\(4\)](#) (with s. 144); S.I. 2022/988, reg. 2(b)

43 Adjustment of annual values to secure fair distribution of rating burden. E+W

- (1) If the drainage board for any internal drainage district are of the opinion that the amount of the annual value of any chargeable property in that district should be increased or reduced, having regard to changes in the relevant circumstances, for the purpose of securing that the burden of the drainage rates payable in respect of all chargeable properties in the district is fairly distributed so far as reasonably practicable among the persons liable to pay those rates, the board may make a determination of annual value under this section.
- (2) If the occupier of any chargeable property in a drainage district is of the opinion that, having regard to changes in the relevant circumstances, the amount of the annual value of the property should be altered for the purpose mentioned in subsection (1) above—

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- (a) he may request the drainage board in writing to make a determination under this section in respect of the property; and
 - (b) the board shall either comply with the request or, if they consider that no alteration of the value is required for that purpose, determine that the request be refused.
- (3) A determination of annual value under this section shall be a determination in accordance with section 44 below specifying as the annual value of the chargeable property in question such greater or smaller amount than the amount of the annual value as the board, having regard—
- (a) to the changes in the relevant circumstances; and
 - (b) to any other alterations of annual values under this section made or proposed by the board,
- consider just for the purpose mentioned in subsection (1) above.
- (4) For the purposes of this section a change in the relevant circumstances, in relation to any chargeable property, is a change in the circumstances by reference to which the annual value of the property in question, or of any other chargeable property in the district in question, was fixed.

44 **Effect of determinations under section 43.** E+W

- (1) Where a drainage board make a determination under section 43 above, they shall serve notice of the determination, together with a statement in writing of the rights of appeal conferred by section 45 below, on the occupier of the chargeable property to which the determination relates.
- (2) Subject to [^{F19}regulations under section 41A above and to] section 46 below (and notwithstanding anything in section 41 above), where a determination of annual value under section 43 above is made in pursuance of section 43(1) above, the annual value of the property in question shall, for the purposes of any drainage rate made after the effective date, be that specified in the determination.
- (3) Subject to [^{F20}regulations under section 41A above and to] section 46 below (and notwithstanding anything in section 41 above), where a determination of annual value under section 43 above is made in pursuance of section 43(2) above, the annual value of the property in question shall for the purposes of—
 - (a) any drainage rate made in respect of any period included in the financial year in which the request for the determination was made; and
 - (b) any drainage rate made in respect of any subsequent period,
 be that specified in the determination.
- (4) Where—
 - (a) the annual value of any chargeable property is altered by a determination under section 43 above which is made in pursuance of subsection (2) of that section;
 - (b) drainage rates for any period in respect of the chargeable property have been or are subsequently paid by reference to its annual value before the alteration; and
 - (c) the period is one for which, in accordance with subsection (3) above, the amount of those rates falls to be assessed on the value specified in the determination,

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that amount shall be recalculated accordingly and any sum overpaid shall be repaid or allowed, and any sum underpaid may be recovered as if it were arrears of drainage rates.

- (5) In this section “the effective date”, in relation to a determination under section 43 above, means the date on which notice of the determination is served in pursuance of subsection (1) above on the occupier of the chargeable property to which the determination relates.

Textual Amendments

- F19** Words in s. 44(2) inserted (29.9.2022 for specified purposes) by [Environment Act 2021 \(c. 30\)](#), ss. [96\(5\)](#), [147\(3\)\(4\)](#) (with s. 144); S.I. 2022/988, reg. 2(b)
- F20** Words in s. 44(3) inserted (29.9.2022 for specified purposes) by [Environment Act 2021 \(c. 30\)](#), ss. [96\(5\)](#), [147\(3\)\(4\)](#) (with s. 144); S.I. 2022/988, reg. 2(b)

45 Appeals against determinations of annual value. **E+W**

- (1) Subject to the following provisions of this section, where a determination under [^{F21}regulations under section 41A above or a determination under] section 42 or 43 above is made by the drainage board for an internal drainage district, the occupier of the land in respect of which the determination is made may appeal, in accordance with this section, against the determination.
- (2) An occupier who wishes to appeal under this section against any determination must, before the end of—
- the period of twenty-eight days beginning with the date of service on him of notice of the determination; or
 - such longer period as the drainage board which made the determination may allow, either generally or in any particular case,
- serve on the board a notice objecting to the determination and stating the grounds of the objection.
- (3) Where notice of objection to a determination is served in pursuance of subsection (2) above, the drainage board which made the determination, if they think fit, may, before the end of the period of twenty-eight days beginning with the date of service of the notice on them—
- cancel the determination; and
 - subject to subsection (4) below, make in its place a fresh determination under [^{F22}regulations under section 41A above or a fresh determination under] section 42 or, as the case may be, section 43 above;
- and section 46(7) below shall have effect in relation to the cancellation and the other provisions of this Chapter shall have effect in relation to the fresh determination accordingly.
- (4) Where notice of objection is served in pursuance of subsection (2) above in respect of a determination made by a drainage board under section 43 above, the board—
- may cancel the determination in accordance with subsection (3) above without making a fresh determination in its place; and
 - where they do so, shall serve notice of cancellation on the person by whom the notice of objection was served on them.

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- (5) Where—
- (a) notice of objection to a determination is served in pursuance of subsection (2) above and is not withdrawn before the end of the period mentioned in subsection (3) above; and
 - (b) the drainage board which made the determination do not cancel it in accordance with subsection (3) above,
- that board shall, forthwith after the end of that period, transmit the notice and a note of the determination to the clerk of the appropriate tribunal.
- (6) The transmission in pursuance of subsection (5) above of the notice of objection to a determination by a drainage board shall constitute the lodging of an appeal against the determination, by the person who served the notice on the board, to a [^{F23}valuation tribunal] constituted in accordance with section 46 below.
- (7) In subsection (5) above “the appropriate tribunal”, in relation to a determination under [^{F24}regulations under section 41A above or a determination under] section 42 or 43 above, means—
- (a) the [^{F23}valuation tribunal] established, ^{F25}..., for the area in which the land to which the determination relates is situated; or
 - (b) where different parts of that land are situated in different areas for which such tribunals are established, such one of those tribunals as may be determined by or under the ^{M8}Drainage Rates (Appeals) Regulations 1970.
- [^{F26}(8) For the purposes of subsection (7)—
- (a) “valuation tribunal” means—
 - (i) the Valuation Tribunal for England, or
 - (ii) a valuation tribunal established under paragraph 1 of Schedule 11 to the Local Government Finance Act 1988;
 - (b) England is to be treated as the area for which the Valuation Tribunal for England is established.]

Textual Amendments

- F21** Words in s. 45(1) inserted (29.9.2022 for specified purposes) by [Environment Act 2021 \(c. 30\)](#), **ss. 96(6)(a)**, 147(3)(4) (with s. 144); S.I. 2022/988, reg. 2(b)
- F22** Words in s. 45(3)(b) inserted (29.9.2022 for specified purposes) by [Environment Act 2021 \(c. 30\)](#), **ss. 96(6)(b)**, 147(3)(4) (with s. 144); S.I. 2022/988, reg. 2(b)
- F23** Words in s. 45(6)(7)(a) substituted (6.3.1992) by [Local Government Finance Act 1992 \(c. 14\)](#), s. 117(1), **Sch. 13 para.99** (with s. 118(1)(2)(4)).
- F24** Words in s. 45(7) inserted (29.9.2022 for specified purposes) by [Environment Act 2021 \(c. 30\)](#), **ss. 96(6)(c)**, 147(3)(4) (with s. 144); S.I. 2022/988, reg. 2(b)
- F25** Words in s. 45(7)(a) repealed (1.10.2009) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(5), **Sch. 16 para. 6(2)**, **Sch. 18 Pt. 17**; S.I. 2008/3110, art. 6(d)(i)
- F26** S. 45(8) inserted (1.10.2009) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(5), **Sch. 16 para. 6(3)**; S.I. 2008/3110, art. 6(d)(i)

Marginal Citations

- M8** S.I. 1970/1152 .

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^{x1}46 Hearing and determination of appeals under section 45. E+W

- (1) It shall be the duty of the president of the [^{F27}valuation tribunal] to whose clerk a notice of objection is transmitted in pursuance of section 45 above to arrange for the appeal to which the notice relates to be heard and determined.
- (2) Subsections (5) and (6) of section 88 of the 1967 Act shall apply—
 - (a) to the constitution of the tribunal to hear and determine an appeal against a determination under [^{F28}regulations under section 41A above or a determination under] section 42 or 43 above; and
 - (b) to the rehearing of such an appeal in case of such a failure to agree as is mentioned in subsection (6) of section 88 of that Act.
- (3) On the hearing of an appeal to a [^{F27}valuation tribunal] against a determination under [^{F29}regulations under section 41A above or a determination under] section 42 or 43 above the following persons, that is to say—
 - (a) the person whose notice of objection to the determination in question has resulted in the hearing;
 - (b) any other person who is the occupier of any land to which the determination relates; and
 - (c) the drainage board by which the determination was made,shall be entitled to appear and be heard as parties to the appeal and to call witnesses and to examine any witness before the tribunal.
- (4) On an appeal to a [^{F27}valuation tribunal] against a determination under [^{F30}regulations under section 41A above or a determination under] section 42 or 43 above, the tribunal—
 - (a) shall sit in public, unless the tribunal otherwise orders, on being satisfied, on the application of a party to the appeal, that the interests of that party would be prejudicially affected; and
 - (b) shall have power to administer oaths and to take evidence on oath;but, subject to that and to the ^{M9}Drainage Rates (Appeals) Regulations 1970, the procedure of such a tribunal in relation to such an appeal shall be such as the tribunal may determine.
- (5) The tribunal which is convened under this section to determine an appeal against a determination under [^{F31}regulations under section 41A above or a determination under] section 42 or 43 above shall, after hearing the persons mentioned in subsection (3) above or such of them as desire to be heard, do one of the following—
 - (a) quash the determination to which the appeal relates; or
 - (b) alter the determination in such manner as the tribunal thinks just; or
 - (c) dismiss the appeal.
- (6) Section 77 of the 1967 Act (which provides for appeals from [^{F32}valuation tribunals] to the [^{F33}Upper Tribunal]) shall have effect in relation to a decision of a [^{F34}valuation tribunal] on an appeal against a determination under [^{F35}regulations under section 41A above or a determination under] section 42 or 43 above as if—
 - (a) for the reference to section 76 of that Act there were substituted a reference to the preceding provisions of this section; and
 - (b) the words from “and the valuation officer” onwards were omitted.
- (7) Where a determination under [^{F36}regulations under section 41A above or a determination under] section 42 or 43 above of the amount of the annual value of any

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property is quashed or altered on appeal or is cancelled in accordance with section 45 above, then (except in so far as the parties agree otherwise)—

- (a) that amount of the annual value shall be recalculated accordingly; and
- (b) any sum overpaid shall be repaid or allowed and any sum underpaid may be recovered as if it were arrears of drainage rates.

(8) Where a determination under [F37 regulations under section 41A above or a determination under] section 42 or 43 above which has been quashed is subsequently restored on appeal—

- (a) the amount of any drainage rate falling to be recalculated in consequence of the appeal shall (except in so far as the parties agree otherwise) be recalculated accordingly; and
- (b) any sum overpaid shall be repaid or allowed and any sum underpaid may be recovered as if it were arrears of drainage rates.

(9) In this section “the 1967 Act” means the ^{M10}General Rate Act 1967.

Editorial Information

- X1** 1967 c. 9 which is referred to in s. 46(2)(6) was repealed with savings by [Local Government Finance Act 1988 \(c. 41\)](#), ss. 117(1)(8), 149, [Sch. 13](#), Pt. I. and is not available on the SLDB.

Textual Amendments

- F27** Words in s. 46(1)(3)(4) substituted (6.3.1992) by [Local Government Finance Act 1992 \(c. 14\)](#), s. 117(1), [Sch. 13 para. 100\(1\)](#) (with s. 118(1)(2)(4))
- F28** Words in s. 46(2)(a) inserted (29.9.2022 for specified purposes) by [Environment Act 2021 \(c. 30\)](#), ss. [96\(7\)](#), 147(3)(4) (with s. 144); S.I. 2022/988, reg. 2(b)
- F29** Words in s. 46(3) inserted (29.9.2022 for specified purposes) by [Environment Act 2021 \(c. 30\)](#), ss. [96\(7\)](#), 147(3)(4) (with s. 144); S.I. 2022/988, reg. 2(b)
- F30** Words in s. 46(4) inserted (29.9.2022 for specified purposes) by [Environment Act 2021 \(c. 30\)](#), ss. [96\(7\)](#), 147(3)(4) (with s. 144); S.I. 2022/988, reg. 2(b)
- F31** Words in s. 46(5) inserted (29.9.2022 for specified purposes) by [Environment Act 2021 \(c. 30\)](#), ss. [96\(7\)](#), 147(3)(4) (with s. 144); S.I. 2022/988, reg. 2(b)
- F32** Words in s. 46(6) substituted (6.3.1992) by [Local Government Finance Act 1992 \(c. 14\)](#), s. 117(1), [Sch. 13 para. 100\(2\)\(a\)](#) (with s. 118(1)(2)(4))
- F33** Words in s. 46(6) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, [Sch. 1 para. 241](#) (with Sch. 5)
- F34** Words in s. 46(6) substituted (6.3.1992) by [Local Government Finance Act 1992 \(c. 14\)](#), s. 117(1), [Sch. 13 para. 100\(2\)\(b\)](#) (with s. 118(1)(2)(4))
- F35** Words in s. 46(6) inserted (29.9.2022 for specified purposes) by [Environment Act 2021 \(c. 30\)](#), ss. [96\(7\)](#), 147(3)(4) (with s. 144); S.I. 2022/988, reg. 2(b)
- F36** Words in s. 46(7) inserted (29.9.2022 for specified purposes) by [Environment Act 2021 \(c. 30\)](#), ss. [96\(7\)](#), 147(3)(4) (with s. 144); S.I. 2022/988, reg. 2(b)
- F37** Words in s. 46(8) inserted (29.9.2022 for specified purposes) by [Environment Act 2021 \(c. 30\)](#), ss. [96\(7\)](#), 147(3)(4) (with s. 144); S.I. 2022/988, reg. 2(b)

Marginal Citations

- M9** S.I. 1970/1152.
M10 1967 c. 9.

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Power to grant exemptions from rating

47 Power to grant exemptions from rating. E+W

- (1) The drainage board for an internal drainage district, after consultation with the [^{F38}appropriate supervisory body], may by order determine that no rates shall be levied by them on the occupiers of hereditaments in any portion of the district which, in their opinion, ought (either by reason of its height above sea level or for any other reason) to be exempted wholly from rating.
- (2) Subsections (5) to (7) of section 38 above shall apply in relation to orders made under this section as they apply in relation to orders made under that section.
- (3) Where the occupier of any hereditament in an internal drainage district requests the drainage board for the district to make or amend an order under this section so as to exempt from drainage rates the portion of the district in which the hereditament is situated, the board—
 - (a) shall consider the request; and
 - (b) if so directed under this section, shall comply with it.
- (4) Where a request under subsection (3) above is refused by the drainage board for an internal drainage district, the person making it may appeal—
 - (a) to the [^{F38}appropriate supervisory body]; or
 - (b) if the board is the [^{F38}appropriate supervisory body], to the relevant Minister; and the [^{F38}appropriate supervisory body] or, as the case may be, the relevant Minister may direct the board to make or amend the order as requested.
- (5) Where a request under subsection (3) above is neither refused nor complied with within three months after it is made, it shall be treated for the purposes of subsection (4) above as having been refused.

Textual Amendments

F38 Words in s. 47 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)

Making and assessment of rates

48 Procedure for making of rate. E+W

- (1) A drainage rate shall—
 - (a) be made by the drainage board for an internal drainage district in writing under the common seal of the board; and
 - (b) be treated as made on the date on which a resolution is passed by the board authorising their seal to be affixed to the rate.
- (2) A drainage rate made by a drainage board shall not be valid unless notice of it stating—
 - (a) the amount of the rate;
 - (b) the amounts of the board's expenses to be raised by means of drainage rates and special levies, respectively; and
 - (c) the date on which the rate was made,

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is given by the board in accordance with subsection (3) below within ten days of its being made.

- (3) A notice under subsection (2) above of a rate made by the drainage board for any internal drainage district may, as the board think fit, either—
- (a) be affixed in one or more public or conspicuous places in that district; or
 - (b) be published [^{F39} in some other way].

^{F40}(3A)

- (4) Every drainage rate shall be in the prescribed form.

Textual Amendments

F39 Words in s. 48(3)(b) substituted (14.7.2014) by [Water Act 2014 \(c. 21\)](#), s. 94(3), [Sch. 9 para. 6\(2\)](#); [S.I. 2014/1823](#), art. 2(b)

F40 S. 48(3A) omitted (21.5.2016) by virtue of [Environment \(Wales\) Act 2016 \(anaw 3\)](#), [ss. 82\(1\)](#), 88(2) (d)

49 Assessment for rating. **E+W**

- (1) This section shall have effect with respect to the assessment of persons to a drainage rate in respect of any hereditament (“the relevant hereditament”) and the liability of the occupier of that hereditament in respect of the rate.
- (2) Every rate shall be assessed on the person who at the date of the making of the rate is the occupier of the relevant hereditament.
- (3) The full amount of a drainage rate may be recovered by the drainage board in question from any person who is the occupier of the relevant hereditament at any time during the period in respect of which the rate is made; but a person who is in occupation of any hereditament for part only of the period in respect of which a drainage rate is made shall be liable, by virtue of subsection (4) below, to bear a proportionate part only of the rate.
- (4) If a person who is in occupation of the relevant hereditament for part only of a period for which a drainage rate is raised is required under subsection (3) above to pay the full amount of the rate, he may (subject to any agreement to the contrary) recover, from any other person who has been in occupation of the relevant hereditament for part of that period, the amount which that other person is liable to bear.
- (5) Where the name of any person liable to be assessed to any drainage rate is not known to the board, it shall be sufficient to assess him by the description of “the occupier” of the premises (naming them) in respect of which the assessment is made, without further name or description.
- (6) Every demand for a drainage rate shall be in the prescribed form.
- (7) Where the value on which a drainage rate is assessed would, apart from this subsection, include a fraction of a pound, the fraction shall—
 - (a) if greater than fifty pence, be treated as one pound; and
 - (b) in any other case, be disregarded.

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50 Amendments as respects drainage rates. E+W

- (1) The drainage board for an internal drainage district may at any time make such amendments in the current or last preceding drainage rate as appear to them necessary in order to make the rate conform with this Part and, in particular, may—
 - (a) correct any clerical or arithmetical error;
 - (b) correct any erroneous insertions or omissions or any misdescriptions;
 - (c) make such additions or corrections as appear to the board to be necessary by reason of—
 - (i) any change in the occupation of any hereditament; or
 - (ii) any property previously rated as a single hereditament becoming liable to be rated in parts.
- (2) The drainage board for an internal drainage district shall serve notice of any amendment made by them in pursuance of this section on the occupier of every hereditament affected by it.
- (3) Where an amendment is made in pursuance of this section—
 - (a) any amount overpaid shall be repaid or allowed; and
 - (b) any amount underpaid may be recovered as if it were arrears of the rate.

51 Other appeals against drainage rates. E+W

- (1) Subject to the following provisions of this section, if any person, as occupier of any hereditament in a drainage district, is aggrieved, upon any ground other than a ground upon which he might have appealed in pursuance of section 45 above—
 - (a) by a drainage rate; or
 - (b) by an amendment of a drainage rate,he may appeal against the rate, or the rate as amended, to the Crown Court.
- (2) Notice of appeal under this section, specifying the grounds of the appeal, must be given within twenty-eight days after, as the case may be—
 - (a) the date on which the rate is made; or
 - (b) the date on which notice of the amendment is served on the appellant,to the Crown Court, to the internal drainage board in question and also, if the appeal relates to a hereditament not in the occupation of the appellant, to the occupier of that hereditament.
- (3) On an appeal under this section, the Crown Court shall, as it thinks just, either confirm the rate or annul or modify it.
- (4) The appellant and the respondent to an appeal under this section may agree in writing to refer the matter in dispute to the arbitration of such person as may be agreed between them or, in default of agreement, as may be appointed by the relevant Minister.
- (5) In the event of a reference under subsection (4) above, the costs of and incidental to the hearing before the arbitrator and his award shall be in the discretion of the arbitrator and, if not agreed by the parties, shall be taxed as part of the costs of the appeal to the Crown Court.

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Supplemental and enforcement provisions

52 Registers of drainage hereditaments. E+W

- (1) It shall be the duty of the drainage board for each internal drainage district to prepare in the prescribed form and within the prescribed period, or such longer period as the relevant Minister may allow in any particular case—
 - (a) a register containing the prescribed information in respect of the drainage hereditaments in that district; and
 - (b) a map showing the prescribed particulars of such of those hereditaments as are of the prescribed description.
- (2) It shall be the duty of the drainage board for each internal drainage district—
 - (a) to maintain the register and map prepared by them in pursuance of subsection (1) above; and
 - (b) to alter the register or map in such circumstances and in such manner, and within such periods, as may be prescribed.
- (3) It shall be the duty of the drainage board for each internal drainage district to keep the register and map maintained by them in pursuance of subsection (2) above open to inspection at prescribed places by members of the public at all reasonable times.

53 Power to require information. E+W

- (1) The drainage board for an internal drainage district may serve on the owner of any hereditament in the district in respect of which a drainage rate is levied a notice requiring him to state in writing the name and address of any person known to him as being an occupier of that hereditament.
- (2) A person shall be guilty of an offence under this section if, where a notice is served on him under subsection (1) above, he—
 - (a) fails without reasonable excuse to comply with the notice; or
 - (b) in pursuance of the notice—
 - (i) makes any statement in respect of the information required which he knows to be false in a material particular; or
 - (ii) recklessly makes any statement in respect of that information which is false in a material particular.
- (3) A person guilty of an offence under this section shall be liable, on summary conviction, to a fine not exceeding level 4 on the standard scale.
- (4) Where—
 - (a) a person is convicted of an offence under this section in respect of a failure to comply with a notice; and
 - (b) the failure continues after conviction,
 then, unless he has a reasonable excuse for the continuance of the failure, he shall be guilty of a further offence under this section and shall be liable, on summary conviction, to be punished accordingly.

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54 Powers for enforcing payment. **E+W**

- (1) Arrears of any drainage rates made under this Chapter may be recovered by the drainage board for an internal drainage district in the same manner in which arrears of a non-domestic rate may be recovered under the ^{M11}Local Government Finance Act 1988 by a charging authority.
- (2) The drainage board for an internal drainage district may by resolution authorise any member or officer of the board, either generally or in respect of particular proceedings—
 - (a) to institute or defend on their behalf proceedings in relation to a drainage rate; or
 - (b) notwithstanding that he is not qualified to act as a solicitor, to appear on their behalf in any proceedings before a magistrates' court for the issue of a [^{F41}warrant of control] for failure to pay a drainage rate.
- (3) In proceedings for the recovery of arrears of a drainage rate the defendant shall not be entitled to raise by way of defence any matter which might have been raised on an appeal under section 45 or 51 above.
- (4) The powers conferred by this section are in addition to, and not in substitution for, the powers conferred by any provision of any local Act on any drainage board in relation to arrears of drainage rates; and for the purposes of any such provisions a rate made under this Chapter shall be treated, subject to subsection (5) below, as a rate to which those provisions apply.
- (5) Notwithstanding anything in any local Act—
 - (a) no distress for arrears of any rate made under this Chapter shall be levied on the goods or chattels of any person other than a person from whom the arrears may be recovered by virtue of subsection (1) above; and
 - (b) no proceedings shall be taken, whether by action or otherwise, for the enforcement of any charge on land created by a local Act for securing payment of arrears of any rate made under this Chapter.
- (6) The drainage board for an internal drainage district shall not be required to enforce payment of any drainage rate in any case where the amount payable is, in their opinion, insufficient to justify the expense of collection.

Textual Amendments

F41 Words in s. 54(2)(b) substituted (6.4.2014) by Tribunals, Courts and Enforcement Act 2007 (c. 15), s. 148, Sch. 13 para. 100 (with s. 89); S.I. 2014/768, art. 2(1)(b)

Marginal Citations

M11 1988 c. 41.

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CHAPTER III E+W

FURTHER FINANCIAL PROVISIONS

55 Powers of internal drainage boards and local authorities to borrow etc. E+W

- (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 [^{F42}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 [^{F43}, 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.
- (6) The provisions of the ^{M12}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 ^{M13}Local Government Finance Act 1988; or
 - (c) any contributions to be paid to the board under this Act.

Textual Amendments

- F42** 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 \(with Sch. 3 para. 7\)](#)
- F43** 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](#)

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Marginal Citations

M12 1847 c. 16.

M13 1988 c. 41.

56 Concurrent power of boards to impose navigation tolls. **E+W**

- (1) The power of the [F44 appropriate agency] under section 143 of the M14 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 [F44 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 [F44 appropriate agency] were a reference to that board.

Textual Amendments

F44 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

M14 1991 c. 57.

57 Contributions by the [F45 appropriate agency] to expenses of internal drainage boards. **E+W**

- (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 [F45 appropriate agency] on a main river,it is fair that a contribution towards their expenses should be made by the [F45 appropriate agency], they may make an application to the [F45 appropriate agency] for a contribution.
- (2) On an application under subsection (1) above the [F45 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 [F45 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 [F45 appropriate agency] under this section determining the amount of any contribution or refusing to make a contribution; or

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- (b) the council of any county [^{F46}, county borough] or London borough is aggrieved by any such resolution on the ground that the contribution to be made by the [^{F45}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 [^{F45}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 [^{F45}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.

Textual Amendments

- F45** 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)
- F46** 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 [^{F47}appropriate agency] revenue for its functions as an internal drainage board **E+W**

- (1) Where the [^{F47}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 ^{M15}Water Resources Act 1991 (contributions from internal drainage boards to [^{F47}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 [^{F47}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 [^{F47}appropriate agency] as such shall be defrayed out of sums received by it as that board.

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- (3) The [^{F47}appropriate agency] shall publish any resolution under this section ^{F48}....
- ^{F49}(3A)
- (4) Where a sufficient number of qualified persons or the council of any county [^{F50}, county borough] or London borough are aggrieved—
- (a) by a resolution of the [^{F47}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 [^{F47}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 [^{F47}appropriate agency] has failed to pass a resolution under this section, must be made within six weeks after the date on which the [^{F47}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 ^{M16}Water Resources Act 1991 (appeals with respect to resolutions requiring contributions from internal drainage boards).

Textual Amendments

- F47** 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)
- F48** 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)
- F49** S. 58(3A) omitted (21.5.2016) by virtue of [Environment \(Wales\) Act 2016 \(anaw 3\), ss. 82\(1\), 88\(2\)](#) (d)
- F50** 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

- M15** 1991 c. 57.
M16 1991 c. 57.

59 Grants to drainage bodies. **E+W**

- (1) The appropriate Minister may make grants towards expenditure incurred by internal drainage boards or by other drainage bodies (except the [^{F51}Agency][^{F52}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,

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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
- [^{F53}(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.
 - [^{F54}(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;
 - ^{F55}(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.]
- (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

- F51** 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**
- F52** 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)
- F53** 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**

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- F54** 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
- F55** 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. E+W

- (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. E+W

- (1) Subject to any express provision to the contrary contained in this Act or in Chapter II of Part VI of the ^{M17}Water Resources Act 1991, the expenses of the council of a metropolitan district or London borough under this Act or the flood defence provisions 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.

Marginal Citations

M17 1991 c. 57.

Changes to legislation:

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