



Water Resources Act 1991

1991 CHAPTER 57

PART VI

FINANCIAL PROVISIONS IN RELATION TO THE AUTHORITY

CHAPTER I

GENERAL FINANCIAL PROVISIONS

117 General financial duties

- (1) Subject to section 118 below, the Ministers may, after consultation with the Authority and with the Treasury's approval, determine the financial duties of the Authority, and different determinations may be made for different functions and activities of the Authority.
- (2) The Ministers shall give the Authority notice of every determination under this section, and such a determination may—
 - (a) relate to a period beginning before the date on which it is made;
 - (b) contain supplemental provisions; and
 - (c) be varied by a subsequent determination.
- (3) Subject to sections 118(1) and 119(2) below, where it appears to the Secretary of State that the Authority has a surplus, whether on capital or revenue account, the Secretary of State may, after consultation with the Treasury and the Authority, direct the Authority to pay to him such amount not exceeding the amount of that surplus as may be specified in the direction.
- (4) Any sum received by the Secretary of State under subsection (3) above shall be paid into the Consolidated Fund.

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118 Special duties with respect to flood defence revenue

- (1) Revenue raised by the Authority as mentioned in subsection (2) below—
 - (a) shall, except for any amount falling within subsection (3) below, be spent only in the carrying out of the Authority’s flood defence functions in or for the benefit of the local flood defence district in which it is raised; and
 - (b) shall be disregarded in determining the amount of any surplus for the purposes of section 117(3) above.
- (2) The revenue referred to in subsection (1) above is revenue raised by the Authority in a local flood defence district—
 - (a) by virtue of any regulations under section 74 of the Local Government Finance Act 1988 (power to issue levies);
 - (b) by general drainage charges under sections 134 to 136 below;
 - (c) by special drainage charges under sections 137 and 138 below; or
 - (d) by contributions required under section 139(1) below.
- (3) An amount falls within this subsection if it is an amount which the Authority considers it appropriate—
 - (a) to set aside towards research or related activities or towards meeting the Authority’s administrative expenses; or
 - (b) to be paid by way of contribution towards expenses incurred by the Authority or any regional flood defence committee under arrangements made for the purposes of section 106(1)(b) above.
- (4) Any amount specified in a resolution under section 58(1)(b) of the Land Drainage Act 1991 in relation to any local flood defence district (allocation of revenue in lieu of contributions) shall be treated for the purposes of this section as if it were revenue actually raised by contributions required under section 139(1) below.
- (5) For the purposes of this section, the following sums, that is to say—
 - (a) any sums held by the Authority by virtue of any transfer of property, rights or liabilities from a water authority in accordance with a scheme under Schedule 2 to the Water Act 1989, in so far as those sums represent amounts which the water authority was required by virtue of paragraph 31 of Schedule 3 to the Water Act 1973 to spend only in the discharge of their land drainage functions in or for the benefit of a particular local land drainage district; and
 - (b) any sums raised by the Authority in a flood defence district by virtue of a precept issued under section 46 of the Land Drainage Act 1976,
 shall be treated as revenue raised by the Authority as mentioned in subsection (2) above in the corresponding local flood defence district or, as the case may be, in that local flood defence district.
- (6) For the purposes of this section so much of the area of a regional flood defence committee as is an area in relation to which no local flood defence scheme is in force shall be treated as a single local flood defence district.

119 Duties with respect to certain funds raised under local enactments

- (1) The funds which the Authority is required at the coming into force of this section under subsection (1) of section 88 of the Water Resources Act 1963 (funds held for particular purposes under local statutory provisions) to use only for particular purposes and any

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interest in any such funds shall not be used except for the purposes for which they could be used by virtue of that subsection.

- (2) Any funds to which subsection (1) above applies shall be disregarded in determining the amount of any surplus under section 117(3) above.

120 Contributions between the Authority and certain other authorities

- (1) Where, on the application of a navigation authority, harbour authority or conservancy authority, it appears to the Authority that any works constructed or maintained by the applicants have made, or will make, a beneficial contribution towards the fulfilment of the purposes of the Authority's water resources functions, the Authority shall contribute towards the expenditure incurred or to be incurred by the applicants in constructing or maintaining those works.
- (2) Where, on the application of the Authority, it appears to a navigation authority, harbour authority or conservancy authority that any works constructed or maintained by the Authority in the carrying out of its water resources functions have made, or will make, a beneficial contribution towards the carrying out of the functions of the authority to whom the application is made, that authority shall contribute to the Authority towards the expenditure incurred or to be incurred by the Authority in constructing or maintaining those works.
- (3) Subject to the following provisions of this section, the sums to be paid by way of contribution and the terms and conditions on which they are to be paid shall be such as the Authority and the other authority concerned may agree to be appropriate.
- (4) If on any application under this section—
- (a) the Authority or, as the case may be, the other authority to whom the application is made refuses to make a contribution; or
 - (b) the Authority and the other authority concerned are unable to agree as to the sums to be contributed or the terms and conditions on which they are to be contributed,
- the Authority or the other authority concerned may refer the matter in dispute to the Secretary of State.
- (5) On a reference under subsection (4) above the Secretary of State may either—
- (a) determine that matter himself; or
 - (b) refer it for determination to an arbitrator appointed by him for the purpose;
- and where any decision has been made by the Secretary of State or an arbitrator under this subsection, the decision shall be final and a contribution shall be made in accordance with the decision as if the sums, terms or conditions determined under this subsection had been agreed to be appropriate as mentioned in subsection (3) above.
- (6) Any expenditure incurred by a navigation authority, harbour authority or conservancy authority in paying any contribution under this section shall be defrayed in the like manner as any corresponding expenditure of that authority; and that authority shall have the same powers for the purpose of raising money required for paying any such contribution as they would have for the purpose of raising money required for defraying any corresponding expenditure of that authority.
- (7) In subsection (6) above the references to corresponding expenditure of a navigation authority, harbour authority or conservancy authority, in relation to the payment of a contribution in respect of any works, are references to expenditure incurred by the

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authority in performing the functions in respect of which it is claimed by the Authority that the works have made, or will make, such a beneficial contribution as is mentioned in subsection (2) above.

- (8) References in this section to the water resources functions of the Authority are references to the functions of the Authority under Part II of this Act or under any provisions not contained in that Part which are related water resources provisions in relation to Chapter II of that Part.

121 Accounts of the Authority

- (1) It shall be the duty of the Authority—
- (a) to keep proper accounts and proper records in relation to the accounts; and
 - (b) to prepare in respect of each accounting year a statement of accounts giving a true and fair view of the state of affairs and the income and expenditure of the Authority.
- (2) Every statement of accounts prepared by the Authority in accordance with this section shall comply with any requirement which the Ministers have, with the consent of the Treasury, notified in writing to the Authority and which relates to any of the following matters, namely—
- (a) the information to be contained in the statement;
 - (b) the manner in which that information is to be presented;
 - (c) the methods and principles according to which the statement is to be prepared.
- (3) Subject to subsection (4) below, in this section and section 122 below “accounting year”, in relation to the Authority, means a financial year.
- (4) If the Secretary of State so directs in relation to any accounting year of the Authority, that accounting year shall end with such date other than the next 31st March as may be specified in the direction; and, where the Secretary of State has given such a direction, the following accounting year shall begin with the day after the date so specified and, subject to any further direction under this subsection, shall end with the next 31st March.

122 Audit

- (1) The accounts of the Authority shall be audited by auditors appointed for each accounting year by the Secretary of State.
- (2) A person shall not be qualified for appointment for the purposes of subsection (1) above unless he is—
- (a) a member of a body of accountants established in the United Kingdom and recognised for the purposes of section 389(1)(a) of the Companies Act 1985; or
 - (b) a member of the Chartered Institute of Public Finance and Accountancy;
- but a firm may be so appointed if each of its members is qualified to be so appointed.
- (3) A copy of any accounts of the Authority which are audited under subsection (1) above and of the report made on those accounts by the auditors shall be sent to each of the Ministers as soon as reasonably practicable after the report is received by the Authority; and the Secretary of State shall lay a copy of any accounts or report sent to him under this subsection before Parliament.

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- (4) The Comptroller and Auditor General shall be entitled to inspect the contents of all books, papers and other records of the Authority relating to, or to matters dealt with in, the accounts required to be kept by virtue of section 121 above; and, accordingly, section 6 of the National Audit Act 1983 (examinations of economy, efficiency and effectiveness) shall apply to the Authority.
- (5) In this section “accounts”, in relation to the Authority, includes any statement under section 121 above.

CHAPTER II

REVENUE PROVISIONS

Water resources charges

123 Power to make scheme imposing water resources charges

- (1) Where—
 - (a) an application is made for any licence under Chapter II of Part II of this Act or for the variation of, or of the conditions of, any such licence;
 - (b) a licence under that Chapter to abstract water is granted to any person or there is a variation of any such licence or of the conditions of any such licence; or
 - (c) a licence under that Chapter to abstract water is for the time being in force, the Authority may require the payment to it of such charges as may be specified in or determined under a scheme made by it under this section.
- (2) The persons who shall be liable to pay charges which are required to be paid by virtue of a scheme under this section shall be—
 - (a) in the case of a charge by virtue of subsection (1)(a) above, the person who makes the application; and
 - (b) in the case of a charge by virtue of subsection (1)(b) or (c) above, the person to whom the licence is granted or, as the case may be, the person holding the licence which is varied or is in force.
- (3) Provision made by a scheme for the purposes of subsection (1)(c) above may impose a single charge in respect of the whole period for which a licence is in force or separate charges in respect of different parts of that period or both such a single charge and such separate charges.
- (4) The Authority shall not make a scheme under this section unless its provisions have been approved by the Secretary of State under section 124 below.
- (5) A scheme under this section may—
 - (a) make provision with respect to the times and methods of payment of the charges which are required to be paid by virtue of the scheme;
 - (b) make different provision for different cases, including different provision in relation to different circumstances or localities; and
 - (c) contain supplemental, consequential and transitional provision for the purposes of the scheme;and such a scheme may revoke or amend a previous scheme under this section.

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- (6) It shall be the duty of the Authority to take such steps as it considers appropriate for bringing the provisions of any scheme under this section which is for the time being in force to the attention of persons likely to be affected by them.
- (7) A scheme under this section shall have effect subject to any provision made by or under section 58 above or sections 125 to 130 below.

124 Approval of scheme under section 123

- (1) Before submitting a scheme under section 123 above to the Secretary of State for his approval the Authority shall, in such manner as it considers appropriate for bringing it to the attention of persons likely to be affected by the scheme, publish a notice—
 - (a) setting out its proposals; and
 - (b) specifying the period within which representations or objections with respect to the proposals may be made to the Secretary of State.
- (2) Where any proposed scheme under section 123 above has been submitted to the Secretary of State for his approval, it shall be the duty of the Secretary of State, in determining whether or not to approve the scheme or to approve it subject to modifications—
 - (a) to consider any representations or objections duly made to him and not withdrawn; and
 - (b) to have regard to the matters specified in subsection (3) below.
- (3) The matters mentioned in subsection (2) above are—
 - (a) the desirability of ensuring that the amounts recovered by the Authority by way of charges fixed by or under schemes under section 123 above are the amounts which, taking one year with another, are required by the Authority for recovering such amounts as the Secretary of State may consider it appropriate to attribute to the expenses incurred by the Authority in carrying out its functions under Part II of this Act; and
 - (b) the need to ensure that no undue preference is shown, and that there is no undue discrimination, in the fixing of charges by or under any scheme under that section.
- (4) For the purposes of subsection (3)(a) above—
 - (a) the Secretary of State shall take into account any determinations under section 117 above in determining the amounts which he considers it appropriate to attribute to the expenses incurred by the Authority in carrying out its functions under Part II of this Act; and
 - (b) those amounts may include amounts in respect of the depreciation of, and the provision of a return on, such of the Authority's assets as are held by it for purposes connected with the carrying out of those functions.
- (5) The consent of the Treasury shall be required for the giving of an approval to a scheme under section 123 above.

125 Specific exemptions from water resources charges

- (1) No charges, other than those for the purpose of recovering administrative expenses attributable to the exercise by the Authority of its functions in relation to the application for the licence, shall be levied in respect of water authorised by a licence

to be abstracted for use in the production of electricity or any other form of power by any generating station or apparatus of a capacity of not more than five megawatts.

- (2) No charges shall be levied in respect of water authorised by a licence to be abstracted from underground strata, in so far as—
- (a) the water is authorised to be abstracted for use for agricultural purposes other than spray irrigation; and
 - (b) the quantity of water authorised to be abstracted from the strata in any period of twenty-four hours does not exceed twenty cubic metres in aggregate.

126 Agreements containing exemptions from charges

- (1) The Authority may, on the application of any person who is liable to pay charges to the Authority for the abstraction of water under a licence under Chapter II of Part II of this Act, make an agreement with him either exempting him from the payment of charges or providing for charges to be levied on him at reduced rates specified in the agreement.
- (2) In the exercise of its powers under subsection (1) above in relation to any person, the Authority shall have regard to—
- (a) the extent to which any works constructed at any time by that person or any works to be constructed by him have made, or will make, a beneficial contribution towards the fulfilment of the purposes of the functions of the Authority under any enactment;
 - (b) any financial assistance which that person has rendered, or has agreed to render, towards the carrying out of works by the Authority in the performance of those functions; and
 - (c) any other material considerations.
- (3) The Secretary of State may give directions as to the exercise by the Authority of its powers under subsection (1) above.
- (4) Without prejudice to the exercise of the power conferred by subsection (3) above, if on any application under this section—
- (a) the Authority refuses to make an agreement with the applicant as mentioned in subsection (1) above; or
 - (b) the applicant objects to the terms of such an agreement as proposed by the Authority and that objection is not withdrawn,
- the applicant or the Authority may refer the question in dispute to the Secretary of State.
- (5) On a reference under subsection (4) above—
- (a) the Secretary of State shall determine the question in dispute, having regard to the matters to which, in accordance with subsection (2) above, the Authority was required to have regard in relation to the applicant; and
 - (b) may give directions to the Authority requiring it to make an agreement with the applicant in accordance with his decision.
- (6) Section 68 above shall have effect for the purposes of so much of this section as relates to a reference to the Secretary of State as if references in that section to Chapter II of Part II of this Act included references to this section.

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- (7) Any decision of the Secretary of State on a reference under subsection (4) above shall be final; and section 69 above shall apply in relation to the decision on a reference under this section as it applies in relation to a decision on a reference such as is mentioned in subsection (1)(b) of that section, but as if references to the other party were references to the applicant.

127 Special charges in respect of spray irrigation

- (1) Where a person (“the applicant”) is for the time being the holder of a licence under Chapter II of Part II of this Act to abstract water (“the applicant’s licence”), and in accordance with the provisions of that licence—

- (a) the water is to be used on land of which the applicant is the occupier; and
- (b) the purposes for which water abstracted in pursuance of the licence is to be used consist of or include spray irrigation,

the applicant may apply to the Authority to make an agreement with him under this section and, subject to the following provisions of this section and sections 128 and 129 below, the Authority may make such an agreement accordingly.

- (2) During any period for which an agreement under this section is in force, the following charges shall be payable by the applicant to the Authority in respect of the applicant’s licence, in so far as it relates to water authorised to be abstracted and used on the relevant land, that is to say—

- (a) basic charges calculated, in accordance with the agreement, by reference to the quantity of water authorised to be so abstracted and used from time to time in pursuance of the licence; and
- (b) supplementary charges calculated, in accordance with the agreement, by reference to the quantity of water which is measured or assessed as being abstracted from time to time by or on behalf of the applicant from the source of supply to which the applicant’s licence relates for use on the relevant land.

- (3) In determining—

- (a) whether to make an agreement with the applicant under this section; and
- (b) the charges to be leviable under such an agreement,

the Authority shall have regard to the extent to which, in any year within the period proposed to be specified in the agreement as the period for which it is made, the quantity of water referred to in paragraph (a) of subsection (2) above is likely to exceed the quantity referred to in paragraph (b) of that subsection.

- (4) Where the applicant’s licence authorises water abstracted in pursuance of the licence to be used on the relevant land for purposes which include spray irrigation and other purposes—

- (a) any agreement made under this section shall provide for apportioning, as between those purposes respectively, the quantity referred to in paragraph (a) of subsection (2) above and the quantity referred to in paragraph (b) of that subsection;
- (b) subsection (2) above shall have effect as if in each of those paragraphs the reference to the quantity of water mentioned in that paragraph were a reference to so much of that quantity as in accordance with the agreement is apportioned to the purpose of spray irrigation; and

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- (c) in subsection (3) above any reference to either of those paragraphs shall be construed as a reference to that paragraph as modified by paragraph (b) of this subsection.
- (5) An application under subsection (1) above may be made by a person who has applied for, but is not yet the holder of, a licence under Chapter II of Part II of this Act to abstract water; and, in relation to an application so made or to an agreement made on such an application—
 - (a) the reference in that subsection to the provisions of the applicant’s licence shall be construed as a reference to the proposals contained in the application for a licence; and
 - (b) any other reference in this section or in section 128 or 129 below to the applicant’s licence shall be construed as a reference to any licence granted to the applicant in pursuance of the application mentioned in paragraph (a) above or in pursuance of an appeal consequential upon the application so mentioned.
- (6) In this section and sections 128 and 129 below—
 - “the applicant” and “the applicant’s licence” shall be construed, subject to subsection (5) above, in accordance with subsection (1) above;
 - “the relevant land” means the land on which the applicant’s licence, as for the time being in force, authorises water abstracted in pursuance of the licence to be used for purposes which consist of or include spray irrigation; and
 - “year” means a period of twelve months beginning—
 - (a) with the date on which an agreement under this section comes into force or is proposed to come into force; or
 - (b) with an anniversary of that date.

128 Duration of agreement under section 127

- (1) The period specified in an agreement under section 127 above as the period for which it is made shall not be less than five years.
- (2) An agreement under section 127 above shall remain in force until the occurrence of whichever of the following events first occurs, that is to say—
 - (a) the period specified in the agreement, as mentioned in subsection (1) above, comes to an end;
 - (b) the applicant’s licence expires or is revoked;
 - (c) the applicant ceases to be the occupier of the relevant land or, if he has previously ceased to be the occupier of a part or parts of that land, ceases to be the occupier of the remainder of it;
 - (d) the agreement is terminated under subsection (4) below.
- (3) At any time while an agreement under section 127 above is in force, the applicant may apply to the Authority to terminate the agreement.
- (4) If, on an application for the termination of an agreement under section 127 above, the Authority is satisfied that, by reason of any change of circumstances since the agreement was made, it ought to be terminated, it may terminate the agreement, either unconditionally or subject to such conditions (whether as to any payment to be made by the applicant or otherwise) as the Authority and the applicant may agree.

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129 Directions and appeals with respect to exercise of powers under sections 127 and 128

- (1) The Secretary of State may give directions as to the exercise by the Authority of its powers under sections 127 and 128 above.
- (2) Without prejudice to the exercise of the power conferred by subsection (1) above, if on any application under section 127 or 128 above—
 - (a) the Authority refuses to make or terminate an agreement under section 127 above; or
 - (b) the applicant objects to the proposals of the Authority—
 - (i) as to the terms of such an agreement; or
 - (ii) as to the conditions subject to which such an agreement is to be terminated,
 and that objection is not withdrawn,

the applicant or the Authority may refer the question in dispute to the Secretary of State.
- (3) On a reference under subsection (2) above—
 - (a) the Secretary of State shall determine the question in dispute, having regard to the matters to which, in accordance with subsection (3) of section 127 above, the Authority would be required to have regard in relation to the applicant on an application under that section; and
 - (b) may give directions to the Authority requiring it to make an agreement with the applicant in accordance with his decision.
- (4) Section 68 above shall have effect for the purposes of so much of this section as relates to a reference to the Secretary of State as if references in that section to Chapter II of Part II of this Act included references to this section.
- (5) Any decision of the Secretary of State on a reference under subsection (2) above shall be final; and section 69 above shall apply in relation to the decision on a reference under this section as it applies in relation to a decision on a reference such as is mentioned in subsection (1)(b) of that section, but as if references to the other party were references to the applicant.

130 Charges in respect of abstraction from waters of British Waterways Board

- (1) Where the British Waterways Board are the holders of a licence under Chapter II of Part II of this Act authorising abstraction from any inland waters to which section 66 above applies, then, the charges which, apart from this subsection, would be payable in respect of that licence either—
 - (a) shall be reduced to such extent, and as so reduced shall be payable subject to such conditions; or
 - (b) shall not be payable,

as the Board and the Authority may agree or, in default of such agreement, the Secretary of State may determine.
- (2) Where—
 - (a) a person other than the British Waterways Board is the holder of a licence under Chapter II of Part II of this Act authorising abstraction from any inland waters to which section 66 above applies; and

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(b) any charges in respect of that licence are payable, the Authority shall pay to the Board such proportion of those charges, subject to such conditions, as the Board and the Authority may agree, or, in default of such agreement, the Secretary of State may determine.

Charges in connection with control of pollution

131 Power to make scheme of charges

- (1) Where—
- (a) an application is made to the Authority for a Part III consent;
 - (b) the Authority gives a Part III consent otherwise than in a case where an application for a consent was made under paragraph 1 of Schedule 10 to this Act; or
 - (c) a Part III consent is for the time being in force,
- the Authority may require the payment to it of such charges as may be specified in or determined under a scheme made by it under this section.
- (2) The persons who shall be liable to pay charges which are required to be paid by virtue of a scheme under this section shall be—
- (a) in the case of a charge by virtue of subsection (1)(a) above, the person who makes the application;
 - (b) in the case of a charge by virtue of subsection (1)(b) above, any person who is authorised to do anything by virtue of the consent and on whom the instrument giving the consent is served; and
 - (c) in the case of a charge by virtue of subsection (1)(c) above, any person who makes a discharge in pursuance of the consent at any time during the period to which, in accordance with the scheme, the charge relates.
- (3) Provision made by a scheme for the purposes of subsection (2)(c) above may impose a single charge in respect of the whole period for which the consent is in force or separate charges in respect of different parts of that period or both such a single charge and such separate charges.
- (4) The Authority shall not make a scheme under this section unless its provisions have been approved by the Secretary of State under section 132 below.
- (5) A scheme under this section may—
- (a) make provision with respect to the times and methods of payment of the charges which are required to be paid by virtue of the scheme;
 - (b) make different provision for different cases, including different provision in relation to different persons, circumstances or localities; and
 - (c) contain supplemental, consequential and transitional provision for the purposes of the scheme;
- and such a scheme may revoke or amend a previous scheme under this section.
- (6) It shall be the duty of the Authority to take such steps as it considers appropriate for bringing the provisions of any scheme under this section which is for the time being in force to the attention of persons likely to be affected by them.
- (7) In this section “a Part III consent” means a consent for the purposes of section 88(1)(a), 89(4)(a) or 90 above.

Status: This is the original version (as it was originally enacted).

132 Approval of scheme under section 131

- (1) Before submitting a scheme under section 131 above to the Secretary of State for his approval the Authority shall, in such manner as it considers appropriate for bringing it to the attention of persons likely to be affected by it, publish a notice—
 - (a) setting out its proposals; and
 - (b) specifying the period within which representations or objections with respect to the proposals may be made to the Secretary of State.
- (2) Where any proposed scheme under section 131 above has been submitted to the Secretary of State for his approval, it shall be the duty of the Secretary of State, in determining whether or not to approve the scheme or to approve it subject to modifications—
 - (a) to consider any representations or objections duly made to him and not withdrawn; and
 - (b) to have regard to the matters specified in subsection (3) below.
- (3) The matters mentioned in subsection (2) above are—
 - (a) the desirability of ensuring that the amount recovered by the Authority by way of charges fixed by or under schemes under section 131 above does not exceed, taking one year with another, such amount as appears to the Secretary of State to be reasonably attributable to the expenses incurred by the Authority in carrying out its functions under the consent provisions and otherwise in relation to discharges into controlled waters; and
 - (b) the need to ensure that no undue preference is shown, and that there is no undue discrimination, in the fixing of charges by or under the scheme.
- (4) The consent of the Treasury shall be required for the giving of the Secretary of State's approval to a scheme under section 131 above.
- (5) In this section—

“the consent provisions” means the provisions of Schedule 10 to this Act, together with the provisions of section 91 above and of this section and section 131 above;

“controlled waters” has the same meaning as in Part III of this Act.

Levies by the Authority on local authorities

133 Power to authorise the Authority to issue levies

For the purposes of its flood defence functions the Authority shall be a levying body within the meaning of section 74 of the Local Government Finance Act 1988 (power to make regulations authorising a levying body to issue a levy); and that section shall have effect accordingly.

General drainage charges

134 Raising of general drainage charges

- (1) Subject to subsection (2) below, the Authority may raise at an amount per hectare of chargeable land in a local flood defence district a charge to be known as a general drainage charge and to be levied in accordance with sections 135 and 136 below.

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- (2) The Authority shall not levy a general drainage charge in respect of any local flood defence district unless the regional flood defence committee for the area in which that district is situated have recommended that such a charge should be raised.
- (3) For the purposes of this section and sections 135 and 136 below the area of a regional flood defence committee in relation to which no local flood defence scheme is in force shall be treated as a single local flood defence district; and any parts of such an area in relation to which no such scheme is in force shall be treated as included in a single such district.

135 Amount, assessment etc. of general drainage charge

- (1) A general drainage charge raised by the Authority for a local flood defence district for any year shall be at a uniform amount per hectare of chargeable land in that district.
- (2) The uniform amount referred to in subsection (1) above shall be ascertained, subject to subsection (3) below, by multiplying the relevant quotient determined in accordance with section 136 below by one penny and by such number as may be specified by either of the Ministers by order made for the purposes of this subsection.
- (3) The number specified in an order under this section for the purposes of subsection (2) above shall (apart from any adjustment made to it to take account of rough grazing land) be such as the Minister making the order considers will secure, so far as reasonably practicable, that the amount specified in paragraph (a) below will be equal to the amount specified in paragraph (b) below, that is to say—
 - (a) the aggregate amount produced by any charge levied by reference to a relevant quotient determined under section 136 below; and
 - (b) the aggregate amount which, if the chargeable land in the local flood defence district had been liable to be rated for the financial year beginning in 1989, would have been produced by a rate levied on the land at an amount in the pound (of rateable value) equal to that quotient multiplied by one penny.
- (4) An order under this section may be made so as to apply either—
 - (a) to all general drainage charges; or
 - (b) to the general drainage charges proposed to be raised in any one or more local flood defence districts specified in the order;and any such order applying to more than one local flood defence district may make different provision as respects the different districts to which it applies.
- (5) Schedule 15 to this Act shall have effect with respect to the assessment, incidence, payment and enforcement of general drainage charges.
- (6) The power of each of the Ministers to make an order under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

136 Determination of the relevant quotient

- (1) The relevant quotient for the purposes of section 135(2) above shall, in relation to any local flood defence district, be determined by the application of the following formula—

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$$\left(\frac{A}{B} \times \frac{D}{E} \right) \div C = \text{relevant quotient}$$

where—

“A” means the aggregate amount demanded by the precepts issued in respect of that district under subsection (3) of section 46 of the Land Drainage Act 1976 in respect of the financial year beginning in 1989;

“B” means the aggregate amount of the estimated penny rate products on the basis of which the aggregate amount so demanded was apportioned in pursuance of subsection (1) of that section in respect of that financial year;

“C” means the amount ascertained by dividing the aggregate amount so demanded by the number of the relevant population of that district for the financial year beginning in 1990;

“D” means the aggregate amount of the levies issued by the Authority in respect of that district under the National Rivers Authority (Levies) Regulations 1990 for the financial year in respect of which the drainage charge in question is raised; and

“E” means the relevant population of that district for the financial year in respect of which that charge is raised.

(2) For the purposes of this section the relevant population of a local flood defence district for any financial year is the aggregate of—

- (a) the relevant population for that year of the area of each charging authority the whole of whose area falls within that district; and
- (b) the relevant population of such parts of the areas of any other charging authorities as fall within that district.

(3) For the purposes of subsection (2) above—

- (a) the relevant population for any financial year of the area of an English charging authority shall be taken to be the relevant population of that area for that year as calculated under paragraph 4 of Schedule 12A to the Local Government Finance Act 1988;
- (b) the relevant population for any financial year of the area of a Welsh charging authority shall be taken to be the relevant population of that area for that year as calculated in accordance with rules for the time being effective (as regards that year) under regulations made under paragraph 5(1) of that Schedule;
- (c) the relevant population for any financial year of any part of the area of a charging authority shall be taken to be the relevant population of that part of that area for that year as calculated in accordance with rules for the time being effective (as regards that year) under regulations made under paragraph 6(2) of that Schedule;

and, accordingly, any such regulations as are mentioned in paragraph (b) or (c) above shall have effect for the purposes of this section as they have effect for the purposes of section 69 of that Act.

(4) In this section “charging authority” has the same meaning as in the Local Government Finance Act 1988.

Special drainage charges

137 Special drainage charges in interests of agriculture

- (1) Where it appears to the Authority that the interests of agriculture require the carrying out, improvement or maintenance of drainage works in connection with any watercourses in the area of any regional flood defence committee, the Authority may submit to either of the Ministers for confirmation a scheme under this section with respect to those watercourses.
- (2) A scheme under this section with respect to any watercourses is a scheme—
 - (a) designating those watercourses, and any watercourses connected with them, for the purposes of this section; and
 - (b) making provision for the raising, in accordance with section 138 below, of a charge (known as a “special drainage charge”) for the purpose of meeting the expenses of drainage works in connection with the designated watercourses and any expenses arising from such works.
- (3) A scheme under this section shall designate for the purposes of the special drainage charge so much of the area of the regional flood defence committee as consists of land which, in the opinion of the Authority, is agricultural land that would benefit from drainage works in connection with the designated watercourses.
- (4) The watercourses designated in any scheme under this section shall, if the scheme is confirmed, be treated for the purposes of this Act and the Land Drainage Act 1991 as part of a main river.
- (5) A scheme under this section—
 - (a) may make provision for any of the matters referred to in subsections (1) and (2) of section 108 above; and
 - (b) may provide for the revocation or amendment of, and for the retransfer of property, rights, powers, duties, obligations and liabilities transferred by, any previous scheme under this section.
- (6) Schedule 16 to this Act shall have effect with respect to the making and confirmation of schemes under this section.
- (7) For the purposes of this section—
 - (a) the reference to expenses of drainage works is a reference to expenses incurred in the construction, improvement or maintenance of drainage works;
 - (b) the expenses of any drainage works which may be necessary in consequence of other drainage works, and so much of any contribution made under section 57 of the Land Drainage Act 1991 as is fairly attributable to such expenses, shall be deemed to be expenses arising from those other drainage works; and
 - (c) the expenses of any drainage works shall be taken (without prejudice to section 221(5) below) to include a proper proportion of the cost of the officers and buildings and establishment of the authority carrying them out.
- (8) In this section and Schedule 16 to this Act “watercourse” has the same meaning as in Part IV of this Act.

Status: This is the original version (as it was originally enacted).

138 Levy and amount of special drainage charge

- (1) A special drainage charge shall be levied by the Authority in respect of chargeable land included in the area designated for the purposes of the charge by the scheme authorising it (“the relevant chargeable land”).
- (2) The special drainage charge raised for any year shall be at a uniform amount per hectare of the relevant chargeable land.
- (3) The uniform amount referred to in subsection (2) above shall be determined by the regional flood defence committee for the area which includes the relevant chargeable land but shall exceed neither—
 - (a) an amount to be specified in the scheme as the maximum amount of the charge or such greater amount as may be authorised for the purposes of the scheme by an order made by one of the Ministers on the application of the Authority; nor
 - (b) twenty-five pence or such other amount as may be substituted for twenty-five pence by an order made by one of the Ministers and approved by a resolution of the House of Commons.
- (4) Before either of the Ministers makes an order under subsection (3)(a) above he shall—
 - (a) consult with such of the associations and persons concerned as he considers appropriate;
 - (b) cause a notice of his intention to make the order, and of the time (which shall not be less than thirty days) within which objections to the proposed order may be made to him, to be published in such manner as he thinks best adapted for informing persons affected;
 - (c) if he considers it necessary, afford such persons an opportunity of appearing before and being heard by a person appointed by him for the purpose; and
 - (d) consider the report of the person so appointed and any objections duly made.
- (5) An order under subsection (3)(b) above may be made so as to apply—
 - (a) to special drainage charges in general; or
 - (b) to the special drainage charges proposed to be raised in respect of such areas of regional flood defence committees as may be specified in the order; or
 - (c) to special drainage charges proposed to be raised in pursuance of one or more schemes made under section 137 above and so specified;

and any such order applying to the charges proposed to be raised in respect of more than one area of a regional flood defence committee, or authorised by more than one such scheme, may make different provision for the charges in respect of different areas or, as the case may be, the charges authorised by the different schemes.
- (6) The power of each of the Ministers to make an order under subsection (3)(b) above shall be exercisable by statutory instrument; and section 14 of the Interpretation Act 1978 (power to revoke or amend orders made by statutory instrument) shall apply to the power to make orders under subsection (3)(a) above as it applies, by virtue of this subsection, to the power to make orders under subsection (3)(b) above.
- (7) Schedule 15 to this Act shall have effect with respect to the assessment, incidence, payment and enforcement of special drainage charges.

Revenue from internal drainage boards

139 Contributions from internal drainage boards

- (1) Subject to subsections (2) and (3) below, the Authority shall by resolution require every internal drainage board to make towards the expenses of the Authority such contribution as the Authority may consider to be fair.
- (2) Subject to subsection (3) below, where an internal drainage district (“the main internal drainage district”) comprises two or more other internal districts (“minor internal drainage districts”), the Authority shall not require the drainage board for that district to make any contribution towards the expenses of the Authority except in respect of such part, if any, of that district as is not situated within any minor internal drainage district.
- (3) Notwithstanding subsection (2) above, the Authority, after determining what contribution should be made by the drainage board for each of the minor internal drainage districts, may, if it thinks fit, require the drainage board for the main internal drainage district to pay direct to the Authority an amount equal to the aggregate of those contributions.
- (4) If the Authority make a requisition under subsection (3) above, the drainage board of the main internal drainage district shall raise the amount paid by them under that subsection to the Authority by means of drainage rates levied by them within, or special levies issued in respect of, the main internal drainage district or, as the case may be, such part of that district as is situated within a minor internal drainage district.
- (5) Without prejudice to subsection (3) of section 140 below, a resolution under this section may be acted upon by the Authority forthwith, notwithstanding that the time for bringing an appeal under that section has not expired or that an appeal so brought is pending.

140 Appeals in respect of resolutions under section 139

- (1) If—
 - (a) an internal drainage board is aggrieved by a resolution of the Authority under section 139 above determining the amount of any contribution; or
 - (b) the council of any county or London borough is aggrieved by any such resolution on the ground that the amount of the contribution required to be made by an internal drainage board is inadequate,the board or council may, within six weeks after the date on which notice of the resolution is given by the Authority to the internal drainage board in question, appeal to the relevant Minister against the resolution.
- (2) On an appeal under this section the relevant Minister may, after—
 - (a) considering any objections made to him; and
 - (b) if he thinks fit, holding a local public inquiry,make such an order in the matter as he thinks just.
- (3) Where the Authority has acted on a resolution by virtue of section 139(5) above and 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 recovered or paid in pursuance of the resolution as may be necessary for giving effect to his decision.

Status: This is the original version (as it was originally enacted).

- (4) 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.
- (5) Compliance with any order made by the relevant Minister under this section may be enforced by mandamus.
- (6) In this section “the relevant Minister”—
 - (a) in relation to an internal drainage district wholly in Wales or the drainage board for such a district, means the Secretary of State;
 - (b) in relation to an internal drainage district partly in Wales or the drainage board for such a district, means the Ministers; and
 - (c) in any other case, means the Minister.

141 Precepts for recovery of contributions from internal drainage boards

- (1) The Authority may issue precepts to internal drainage boards requiring payment of any amount required to be contributed by those boards under section 139 above.
- (2) An internal drainage board shall pay, in accordance with any precept issued to them under this section, the amount thereby demanded.
- (3) It shall be the duty of the Authority to prepare, in such form as the relevant Minister may direct, a statement of—
 - (a) the purposes to which the amount demanded by any precept issued by the Authority under this section is intended to be applied; and
 - (b) the basis on which it is calculated;
 and an internal drainage board shall not be liable to pay the amount demanded by any such precept until they have received such a statement.
- (4) Compliance with any precept issued by the Authority in accordance with this section may be enforced by mandamus.
- (5) In this section “the relevant Minister” has the same meaning as in section 140 above.

Fisheries contributions

142 Fisheries contributions

- (1) Each of the Ministers shall have power, on an application made to him by the Authority, by order made by statutory instrument to make provision in relation to an area defined by the order—
 - (a) for the imposition on the owners and occupiers of fisheries in that area of requirements to pay contributions to the Authority, of such amounts as may be determined under the order, in respect of the expenses of the carrying out in relation to that area of the Authority’s functions with respect to fisheries;
 - (b) for such contributions to be paid or recovered in such manner, and to be refundable, in such circumstances as may be specified in or determined under the order.

Status: This is the original version (as it was originally enacted).

- (2) Subsections (2) to (9) of section 115 above shall have effect in relation to the power conferred by subsection (1) above as they have effect in relation to the power conferred by subsection (1) of that section.
- (3) The reference in this section to the owners and occupiers of fisheries shall have the same meaning as any such reference in the Salmon and Freshwater Fisheries Act 1975.

Navigation tolls

143 Power of Authority to levy navigation tolls

- (1) Where any navigable waters—
 - (a) in England and Wales; or
 - (b) in so much of the territorial sea adjacent to England and Wales as is included in the area of a regional flood defence committee,are not subject to the control of any navigation authority, harbour authority or conservancy authority, the Authority may apply to the Secretary of State for an order imposing tolls in respect of the navigation of vessels in those waters.
- (2) An order under this section shall not be made unless the Secretary of State is satisfied that the cost of the maintenance or works in connection with the waters to which the order relates has been or will be increased as a result of the use of those waters for purposes of navigation.
- (3) Schedule 17 to this Act shall have effect with respect to the making of orders under this section.
- (4) Any tolls payable under this section in respect of the navigation of a vessel in any water referred to in subsection (1) above—
 - (a) may be demanded from the person in charge of the vessel by any person authorised for that purpose by the Authority; and
 - (b) if not paid on demand, may be recovered from either the person in charge of the vessel or the owner of the vessel.

Incidental power of the Authority to impose charges

144 Incidental power of the Authority to impose charges

Without prejudice to the generality of its powers by virtue of section 4(1)(a) above and subject to any such express provision with respect to charging by the Authority as is contained in the preceding provisions of this Chapter or any other enactment, the Authority shall have power to fix and recover charges for services and facilities provided in the course of carrying out its functions.

Interpretation of Chapter II

145 Interpretation of Chapter II

In this Chapter—

Status: This is the original version (as it was originally enacted).

“agricultural buildings” has the meaning provided by section 26(4) of the General Rate Act 1967 as amended by the Rating Act 1971;

“agricultural land” means—

- (a) land used as arable, meadow or pasture ground only;
- (b) land used for a plantation or a wood or for the growth of saleable underwood; and
- (c) land exceeding one tenth of a hectare used for the purpose of poultry farming, market gardens, nursery grounds, orchards or allotments, including allotment gardens within the meaning of the Allotments Act 1922,

but does not include land occupied together with a house as a park, gardens (other than as aforesaid) or pleasure grounds, land kept or preserved mainly or exclusively for purposes of sport or recreation or land used as a racecourse;

“chargeable land” means the agricultural land and agricultural buildings in so much of the area of a regional flood defence committee as does not fall within an internal drainage district, excluding rough grazing land and woodlands other than commercial woodlands;

“commercial woodlands” means woodlands managed on a commercial basis with a view to the realisation of profits;

“drainage” has the same meaning as in Part IV above;

“drainage charge” means general drainage charge or special drainage charge;

“rough grazing land” means land of either of the following descriptions, that is to say—

- (a) land used as pasture ground on which the vegetation consists solely or mainly of one or more of the following, that is to say, bracken, gorse, heather, rushes and sedge; and
 - (b) land so used which is unsuitable for mowing by machine and on which the vegetation consists solely or mainly of grass of poor feeding value; and
- “spray irrigation” has the same meaning as in Chapter II of Part II of this Act.

CHAPTER III

GRANTS AND LOANS

Grants to the Authority

146 Revenue grants

- (1) The Secretary of State may, with the approval of the Treasury, make grants to the Authority of such amounts as he thinks fit.
- (2) The payment by the Secretary of State of a grant under this section shall be on such terms as he may, with the approval of the Treasury, provide.
- (3) The Secretary of State shall—
 - (a) prepare in respect of each financial year an account of the sums paid by him to the Authority under this section; and
 - (b) before the end of September in the following financial year send that account to the Comptroller and Auditor General;

and the form of the account and the manner of preparing it shall be such as the Treasury may direct.

- (4) The Comptroller and Auditor General shall examine, certify and report on each account sent to him under this section and shall lay copies of it and of his report before each House of Parliament.

147 Grants for drainage works

- (1) Subject to subsection (2) below, the relevant Minister may make grants towards expenditure incurred by the Authority in—
- (a) the improvement of existing drainage works; or
 - (b) the construction of new drainage works.
- (2) Grants under subsection (1) above shall be—
- (a) of such amounts as the Treasury may from time to time sanction; and
 - (b) subject to such conditions as may, with the approval of the Treasury, be prescribed by regulations made by the relevant Minister.
- (3) No grant shall be made under subsection (1) above towards expenditure incurred in connection with any improvement or construction unless—
- (a) the plans and sections for it have been approved by the relevant Minister; and
 - (b) the relevant Minister is satisfied that the work is being or has been properly carried out.
- (4) The relevant Minister may, with the approval of the Treasury, make grants to the Authority in respect of expenditure properly incurred by it with a view to 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.
- (5) Where the Authority is about to incur—
- (a) such expenditure in respect of any work as is expenditure towards which, if the work is properly carried out, a grant will be payable under subsection (1) above; or
 - (b) expenditure in respect of which it appears to the relevant Minister that a grant will be payable under subsection (4) above,
- the relevant Minister may, with the approval of the Treasury, make advances to the Authority on account of the expenditure.
- (6) In this section “the relevant Minister”—
- (a) in relation to Wales, means the Secretary of State; and
 - (b) in relation to England, means the Minister.

148 Grants towards cost of flood warning systems

- (1) The relevant Minister may make grants, of such amounts as the Treasury may from time to time sanction, towards expenditure incurred by the Authority in providing or installing apparatus, or carrying out other engineering or building operations, for the purposes of a flood warning system.
- (2) No grant shall be payable under this section towards expenditure incurred in connection with any work unless—

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- (a) the work has been approved by the relevant Minister; and
 - (b) the relevant Minister is satisfied that the work is being or has been properly carried out.
- (3) Grants under this section shall be made subject to such conditions as may be imposed by the relevant Minister with the approval of the Treasury.
- (4) Where any such expenditure as is mentioned in subsection (1) above is about to be incurred by the Authority, the relevant Minister may, with the approval of the Treasury, make advances to the Authority on account of the expenditure.
- (5) In this section—
- “flood warning system” means any system whereby, for the purpose of providing warning of any danger of flooding, information with respect to—
 - (a) rainfall, as measured at a particular place within a particular period; or
 - (b) the level or flow of any inland water, or part of an inland water, at a particular time; or
 - (c) other matters appearing to the Authority to be relevant for that purpose, is obtained and transmitted, whether automatically or otherwise, with or without provision for carrying out calculations based on such information and for transmitting the results of those calculations;
 - “inland water” means any of the following in any part of Great Britain, that is to say—
 - (a) any river, stream or other watercourse, whether natural or artificial and whether tidal or not;
 - (b) any lake or pond, whether natural or artificial, and any reservoir or dock; and
 - (c) any channel, creek, bay, estuary or arm of the sea;
 - “rainfall” includes any fall of snow, hail or sleet; and
 - “the relevant Minister” has the same meaning as in section 147 above.

149 Other grants in respect of exercise of powers under Part VII for drainage purposes

- (1) The relevant Minister may, with the approval of the Treasury, make to the Authority grants in respect of expenditure incurred by the Authority, and advances on account of expenditure to be incurred by the Authority, in connection with the Authority’s functions by virtue of section 165(1)(b) or (c) below—
- (a) in making payments arising from the exercise of any power of the Authority by virtue of this Act to acquire land by agreement or compulsorily;
 - (b) in providing housing accommodation for persons employed or to be employed by the Authority in controlling works of such a kind or so located that those persons are or will be required to reside in the vicinity of the works;
 - (c) for making payments by virtue of any provision having effect under section 177 below in respect of injury sustained by any person by reason of the exercise by the Authority of any powers under section 165 below;
 - (d) in paying compensation by virtue of any provision having effect under section 177 below in respect of injury sustained by reason of the exercise by the Authority of its powers under section 167 below.

- (2) The relevant Minister may, with the approval of the Treasury, make to the Authority grants in respect of, or advances on account of, expenditure incurred or to be incurred in carrying out works for the rebuilding or repair of any bridge maintained by the Authority, other than works appearing to the relevant Minister to be maintenance works of a routine kind.
- (3) The relevant Minister may, with the approval of the Treasury, make to the Authority grants in respect of the cost of any works executed by the Authority in pursuance of section 165(4) below.
- (4) In this section “the relevant Minister” has the same meaning as in section 147 above.

150 Grants for national security purposes

- (1) The Secretary of State may make grants to the Authority for the purpose of defraying or contributing towards any losses it may sustain by reason of compliance with directions given under section 207 below in the interests of national security.
- (2) The approval of the Treasury shall be required for the making of grants under this section.

Borrowing by the Authority

151 Borrowing powers of the Authority

- (1) The Authority shall be entitled to borrow in accordance with the following provisions of this section, but not otherwise.
- (2) Subject to subsection (4) below, the Authority may, with the consent of either of the Ministers and with the approval of the Treasury, borrow temporarily in sterling, by way of overdraft or otherwise, from persons other than the Ministers, such sums as it may require for meeting its obligations and carrying out its functions.
- (3) Subject to subsection (4) below, the Authority may borrow, otherwise than by way of temporary loan, such sums in sterling from either of the Ministers as it may require for capital purposes in connection with the carrying out of its flood defence functions.
- (4) The aggregate amount outstanding in respect of the principal of sums borrowed under this section by the Authority shall not at any time exceed £100 million or such greater sum, not exceeding £160 million, as the Ministers may specify by order made by statutory instrument.
- (5) No order shall be made under subsection (4) above unless a draft of the order has been laid before the House of Commons and has been approved by a resolution of that House.

152 Loans to the Authority

- (1) Each of the Ministers shall have power, with the approval of the Treasury, to lend any sums to the Authority which the Authority has power to borrow under section 151(3) above.
- (2) Any loan made by one of the Ministers under this section shall be repaid to him at such times and by such methods, and interest on the loan shall be paid to him at such

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rates and at such times, as that Minister may with the approval of the Treasury from time to time determine.

- (3) Any sums required by either of the Ministers for making a loan under this section shall be paid out of money provided by Parliament; and any sums received by either of them in pursuance of subsection (2) above shall be paid into the Consolidated Fund.
- (4) Each of the Ministers shall-
 - (a) prepare in respect of each financial year an account of the sums lent by him to the Authority under this section; and
 - (b) before the end of September in the following financial year send that account to the Comptroller and Auditor General;and the form of the account and the manner of preparing it shall be such as the Treasury may direct.
- (5) The Comptroller and Auditor General shall examine, certify and report on each account sent to him under this section and shall lay copies of it and of his report before each House of Parliament.

153 Treasury guarantees of the Authority's borrowing

- (1) Each of the Ministers shall have power, with the consent of the Treasury, to guarantee, in such manner and on such conditions as he may think fit, the repayment of the principal of, the payment of interest on and the discharge of any other financial obligation in connection with any sum which the Authority borrows from any person.
- (2) Immediately after a guarantee is given under this section the Minister who gave it shall lay a statement of the guarantee before each House of Parliament.
- (3) Where any sum is paid out for fulfilling a guarantee under this section the Minister who gave the guarantee shall, as soon as possible after the end of each financial year (beginning with that in which the sum is paid out and ending with that in which all liability in respect of the principal of the sum and in respect of the interest thereon is finally discharged), lay before each House of Parliament a statement relating to that sum.
- (4) Any sums required by either of the Ministers for fulfilling a guarantee under this section shall be paid out of money provided by Parliament.
- (5) If any sums are paid out in fulfilment of a guarantee under this section, the Authority shall make to the Minister who gave the guarantee, at such times and in such manner as that Minister may from time to time direct—
 - (a) payments of such amounts as that Minister may so direct in or towards repayment of the sums so paid out; and
 - (b) payments of interest, at such rate as that Minister may so direct, on what is outstanding for the time being in respect of sums so paid out;and the consent of the Treasury shall be required for the giving of a direction under this subsection.
- (6) Any sums received by either of the Ministers under subsection (5) above shall be paid into the Consolidated Fund.