

*Status: Point in time view as at 01/10/2011.*

*Changes to legislation: There are currently no known outstanding effects for the Water Resources Act 1991, SCHEDULE 15. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 15

Sections 135 and 138.

#### SUPPLEMENTAL PROVISIONS WITH RESPECT TO DRAINAGE CHARGES

##### *Raising of drainage charge*

- 1 (1) A drainage charge—
  - (a) shall be raised by the [<sup>F1</sup>Agency] in writing under the common seal of the [<sup>F1</sup>Agency]; and
  - (b) shall be deemed to be raised on the date on which a resolution is passed by the [<sup>F1</sup>Agency] authorising their seal to be affixed to the charge.
- (2) Every drainage charge shall be raised for a year ending on 31st March and shall be raised before or during the year for which it is raised.
- (3) Without prejudice to their powers by virtue of section 112 of this Act, the Ministers shall each have power by regulations to prescribe the forms of drainage charges and of demands for drainage charges.

##### **Textual Amendments**

- F1** Words in Sch. 15 para. 1 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

##### *Publication of drainage charge*

- 2 (1) A drainage charge shall not be valid unless notice of the charge is given by the [<sup>F2</sup>Agency] in accordance with sub-paragraph (2) below within ten days of the date on which it is raised.
- (2) The notice must—
  - (a) state the amount of the charge and the date on which it was raised; and
  - (b) be published in one or more newspapers circulating in the area in respect of which the charge was raised.

##### **Textual Amendments**

- F2** Word in Sch. 15 para. 2 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

##### *Occupiers liable for drainage charge*

- 3 (1) Subject to paragraphs 4 and 5 below—

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- (a) drainage charges shall be levied on the occupiers of chargeable land in the local flood defence district or, as the case may be, the designated area; and
  - (b) sub-paragraphs (2) to (4) below shall have effect with respect to the assessment of persons to a drainage charge with respect to any land (“the relevant land”) and their liability in regard to the charge.
- (2) A drainage charge shall be assessed on the person who at the date of the raising of the charge is the occupier of the relevant land.
- (3) The full amount of a drainage charge may be recovered by the [F<sup>3</sup>Agency] from any person who is the occupier of the relevant land at any time during the period for which the charge is raised; but a person who is in occupation of the relevant land for part only of the period for which the charge is raised shall be liable, by virtue of sub-paragraph (4) below, to bear a proportionate part only of the charge.
- (4) If a person who is in occupation of the relevant land for part only of a period for which a drainage charge is raised is required under sub-paragraph (3) above to pay the full amount of the charge, he may (subject to any agreement to the contrary) recover, from any other person who has been in occupation of the land for part of that period, the amount which that other person is liable to bear.

#### Textual Amendments

- F3** Word in Sch. 15 para. 3 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

#### *Cases where identity of occupiers in doubt*

- 4 (1) The [F<sup>4</sup>Agency] may serve on the owner of any land a notice requiring him to state in writing the name and address of any person known to him as being an occupier of that land.
- (2) The owner of any land shall be guilty of an offence if—
- (a) he fails without reasonable excuse to comply with a notice under sub-paragraph (1) above;
  - (b) he makes any statement in respect of the information required by such a notice which he knows to be false in a material particular; or
  - (c) he recklessly makes any statement in respect of the information required by such a notice which is false in a material particular.
- (3) A person guilty of an offence under sub-paragraph (2) above shall be liable, on summary conviction, to a fine not exceeding level 4 on the standard scale; and a person convicted by virtue of paragraph (a) of that sub-paragraph shall be liable to a further conviction by virtue of that paragraph if, after conviction, he continues without reasonable excuse [F<sup>5</sup>to fail] to comply with the notice in question.
- (4) Where the name of any person liable to be assessed to any drainage charge is not known to the [F<sup>4</sup>Agency], it shall be sufficient to assess him to the charge by the description of the “occupier” of the premises (naming them) in respect of which the assessment is made, without further name or description.
- (5) For the purposes of this Schedule the owner of any land shall be deemed to be its occupier during any period during which it is unoccupied.

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- (6) Sub-paragraphs (1) to (3) above shall be without prejudice to the provisions of Part VIII of this Act.

#### Textual Amendments

- F4** Words in Sch. 15 para. 4 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F5** Words in Sch. 15 para. 4(3) inserted (21.9.1995) by 1995 c. 25, s. 120(1), **Sch. 22 para. 187(1)** (with ss. 7(6), 115, 117); S.I. 1995/1983, **art. 3**

#### *Arrangements for owner of land to pay drainage charge*

- 5 (1) Subject to paragraph 6 below, the [<sup>F6</sup>Agency] may make arrangements with the owner of any chargeable land for any drainage charges which may be raised by the [<sup>F6</sup>Agency] for any period in respect of the land to be levied on the owner, instead of on the occupier of the land.
- (2) Where arrangements under this paragraph are made—
- the charges in question shall be levied on the owner, instead of on the occupier; and
  - any reference to an occupier in the provisions of this Schedule (except in this paragraph and paragraph 6 below) shall be construed accordingly.
- (3) Subject to sub-paragraph (4) below, where in pursuance of any arrangements under this paragraph the owner of any land pays drainage charges in respect of the land to the [<sup>F6</sup>Agency] either—
- before the end of the period of two months beginning with the date of the service on him of the demand for the charges; or
  - before the end of one-half of the period for which the charges are raised, the [<sup>F6</sup>Agency] shall make to him an allowance equal to ten per cent. of the full amount of the charges.
- (4) No allowance shall be made under sub-paragraph (3) above in respect of charges which, apart from this paragraph, are payable for any period by the owner in pursuance of paragraph 4(5) above.
- (5) Where arrangements are made under this paragraph, it shall be the duty of the [<sup>F6</sup>Agency] to give notice of the arrangements, forthwith after they are made, to the occupier of the land affected by them.
- (6) The owner of any land who is a party to any arrangements under this paragraph in respect of the land may recover from the occupier of the land a sum equal to the amount of any drainage charges in respect of the land which, apart from the arrangements, would be payable by the occupier.

#### Textual Amendments

- F6** Words in Sch. 15 para. 5 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

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*Power of occupier to prevent arrangements under paragraph 5*

- 6 (1) The occupier of any chargeable land may, by notice given to the [F7Agency], determine—
- (a) that no arrangements under paragraph 5 above shall be made in respect of the land; and
  - (b) that any such arrangements previously made shall cease to have effect so far as they relate to the land and any drainage charge to be raised for a period beginning after the date on which the notice takes effect;
- and may, by a notice so given, revoke any determination under this sub-paragraph so far as it prohibits the making of any such arrangements in respect of the land.
- (2) A notice under sub-paragraph (1) above shall take effect on the day following that on which it is given to the [F7Agency].
- (3) Where notice is given to the [F7Agency] under sub-paragraph (1) above, it shall be the duty of the [F7Agency] to send a copy of the notice to the owner of the land to which it relates.

**Textual Amendments**

- F7** Words in Sch. 15 para. 6 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

*Assessment of chargeable land to drainage charge*

- 7 (1) Where land is chargeable land during part only of the year for which a drainage charge is raised, a proportionate part only of the charge shall be payable in respect of that land; and any amount overpaid shall be repaid.
- (2) Where the area of chargeable land in respect of which, apart from this sub-paragraph, a sum is payable by any person by way of a drainage charge consists of or includes a fraction of a hectare, then for the purpose of calculating that sum the fraction shall be disregarded if it is less than one-half and treated as one hectare in any other case.

*Partial exemption of commercial woodlands*

- 8 (1) The sum payable by way of a drainage charge in respect of chargeable land consisting of commercial woodlands shall be calculated as if the area of the land were one-fifth of its actual area.
- (2) In the application of paragraph 7(2) above to chargeable land to which sub-paragraph (1) above applies the area ascertained in pursuance of sub-paragraph (1) above (and not the area of which it is one-fifth) shall be treated as the area in relation to which paragraph 7(2) above has effect.

*Returns with respect to land*

- 9 (1) The [F8Agency] may serve on any person appearing to it to be the occupier of any land a notice requiring him to furnish a return under sub-paragraph (2) below to the [F8Agency] within twenty-eight days beginning with the date of service of the notice on him.

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- (2) The return required of a person by a notice under sub-paragraph (1) above is a return, in writing and in such form as may be specified in the notice, containing such particulars as may reasonably be required for the purpose of enabling the [F8 Agency] to determine—
- (a) how much (if any) of the land occupied by that person is chargeable land; and
  - (b) how much (if any) consists of commercial woodlands.
- (3) If any person on whom notice has been served under sub-paragraph (1) above—
- (a) fails without reasonable excuse to comply with the notice;
  - (b) in a return made in pursuance of such a notice, makes any statement which he knows to be false in a material particular; or
  - (c) in any such return recklessly makes any statement which is false in a material particular,
- he shall be guilty of an offence
- (4) A person guilty of an offence under sub-paragraph (3) above shall be liable, on summary conviction, to a fine not exceeding level 4 on the standard scale; and a person convicted by virtue of paragraph (a) of that sub-paragraph shall be liable to a further conviction by virtue of that paragraph if, after conviction, he continues without reasonable excuse [F9 to fail] to comply with the notice in question.
- (5) This paragraph shall be without prejudice to the provisions of Part VIII of this Act.

#### Textual Amendments

- F8** Words in Sch. 15 para. 9 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F9** Words in Sch. 15 para. 9(4) inserted (21.9.1995) by 1995 c. 25, s. 120(1), **Sch. 22 para. 187(1)** (with ss. 7(6), 115, 117); S.I. 1995/1983, **art. 3**

#### *Power to correct erroneous assessments etc.*

- 10 (1) The [F10 Agency] may, as respects any drainage charge raised by it for the current or the preceding year, make such amendments in any demands or other documents relating to the charge as appear to the [F10 Agency] necessary in order to make the raising, levying and collection of the charge conform with this Act.
- (2) In particular, the [F10 Agency] 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 [F10 Agency] to be necessary by reason of any change in the occupation of any chargeable land or any property ceasing to be chargeable land.
- (3) The [F10 Agency] shall serve a notice of any amendment made by the [F10 Agency] in pursuance of this paragraph on the occupier of all land affected thereby.
- (4) Where an amendment is made in pursuance of this paragraph—
- (a) any amount overpaid shall be repaid or allowed; and
  - (b) any amount underpaid may be recovered as if it were arrears of the charge.

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#### Textual Amendments

**F10** Words in Sch. 15 para. 10 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

#### *Appeals against demands for drainage charges*

- 11 (1) If any person is aggrieved by—
- (a) a demand for a drainage charge made on him as the occupier of chargeable land; or
  - (b) an amendment of such a demand,
- he may appeal to the county court for the area in which the land or any part of it is situated.
- (2) Notice of appeal under this paragraph, specifying the grounds of appeal, must be given within the required period—
- (a) to the court to which the appeal is made;
  - (b) to the [<sup>F11</sup>Agency]; and
  - (c) if the appeal relates to land not in the occupation of the appellant, to the occupier of the land.
- (3) For the purposes of sub-paragraph (2) above the required period is twenty-eight days after the date on which the demand is made or, as the case may be, notice of the amendment is served on the appellant.
- (4) On an appeal under this paragraph the court shall, as it thinks just, either confirm the demand or annul or modify it.

#### Textual Amendments

**F11** Words in Sch. 15 para. 11 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

#### *Recovery of drainage charges*

- 12 (1) Arrears of any drainage charge may be recovered by the [<sup>F12</sup>Agency] in the same manner in which arrears of a non-domestic rate may be recovered under the <sup>M1</sup>Local Government Finance Act 1988 by a [<sup>F13</sup>billing authority] within the meaning of that Act.
- (2) Without prejudice to its powers by virtue of [<sup>F14</sup>section 37 of, and paragraph 6 of Schedule 1 to, the 1995 Act], the [<sup>F12</sup>Agency] may by resolution authorise any member or officer of the [<sup>F12</sup>Agency], either generally or in respect of particular proceedings—
- (a) to institute or defend on its behalf any proceedings in relation to a drainage charge; or
  - (b) notwithstanding that he is not qualified to act as a solicitor, to appear on the [<sup>F12</sup>Agency's] behalf in any proceedings before a magistrates' court for the issue of a warrant of distress for failure to pay a drainage charge.

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- (3) In proceedings for the recovery of arrears of a drainage charge the defendant shall not be entitled to raise by way of defence any matter which might have been raised on an appeal under paragraph 11 above.
- (4) The [F12Agency] shall not be required to demand or enforce payment of a drainage charge in any case where the amount of the charge is insufficient to justify the expense of collection.

#### Textual Amendments

- F12** Words in Sch. 15 para. 12 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F13** Words in Sch. 15 para. 12(1) substituted (1.8.1992 subject to savings in S.I. 1992/1755, **art. 2(2)**) by Local Government Finance Act 1992 (c. 14), s. 117(1), **Sch. 13 para. 98** (with s. 118(1)(2)(4); S.I. 1992/1755, **art. 2(1)**)
- F14** Words in Sch. 15 para. 12(2) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 187(2)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

#### Marginal Citations

- M1** 1988 c. 41.

#### *Use of certain authorities as agents for assessment, collection etc. of drainage charges*

- 13 (1) The [F15Agency] and any relevant authority may enter into agreements for—
- the doing by the relevant authority, as agents of the [F15Agency], of anything required for the purpose of the assessment to and recovery of a drainage charge in respect of any relevant land; and
  - the making by the [F15Agency] to the relevant authority of payments in respect of anything so done.
- (2) The [F15Agency] may make arrangements with either of the Ministers for the exercise by him on behalf of the [F15Agency], in such cases as may be determined in pursuance of the arrangements, of the powers conferred on the [F15Agency] by paragraph 9 above.
- (3) Any arrangements under sub-paragraph (2) above shall contain provision for the reimbursement by the [F15Agency] of any expenses incurred by the Minister in question in pursuance of the arrangements.
- (4) In this paragraph—
- “relevant authority” means the council of any district or London borough [F16or Welsh county or county borough]or any internal drainage board; and
- “relevant land”, in relation to an agreement with any relevant authority, means—
- where the relevant authority is a district or London borough [F16or Welsh county or county borough]council, the chargeable land within the council’s area; and
  - where the relevant authority is an internal drainage board, such land as may be specified in the agreement.

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**Textual Amendments**

- F15** Words in Sch. 15 para. 13 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F16** Words in Sch. 15 para. 13(4) inserted (1.4.1996) by 1994 c. 19, s. 22(5), **Sch. 11 Pt. I para. 3(9)** (with ss. 54(4)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**



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