



Land Drainage Act 1991

1991 CHAPTER 59

PART IV

FINANCIAL PROVISIONS

CHAPTER I

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.

- (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}Agency]) shall, in so far as they are not met by contributions from the [^{F1}Agency], 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 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**

Marginal Citations

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

37 Apportionment of drainage expenses.

- (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 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;
- [^{F2}(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.]
- (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 S. 37(5)(d)(e) substituted (30.12.1992) for s. 37(5)(d) by S.I. 1992/3079, reg.3.

Marginal Citations

M3 S.I. 1968/1672.

M4 1967 c. 9.

Division of district for purposes of drainage rates and special levies

38 Orders sub-dividing a district for the purposes of raising expenses.

- (1) A drainage board for an internal drainage district, after consultation with the [^{F3}Agency], 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 under section 75 of the ^{M5}Local Government Finance Act 1988, to make and levy differential drainage rates or issue differential special levies.

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- (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 [^{F3}Agency] under section 139 of the ^{M6}Water Resources Act 1991 (contributions from internal drainage boards to [Agency]), 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, in one or more newspapers circulating in that district, 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.
- (7) Where an order is submitted to the relevant Minister under this section—
- (a) he shall forthwith take into consideration the order; and
 - (b) the order shall have no effect unless and until it is confirmed by him.

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Textual Amendments

- F3** Word in s. 38 substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22**, para. 191 (with ss. 7(6), 115, 117); S.I. 1996/183, **art. 3**

Marginal Citations

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

39 Petition for sub-division of internal drainage district.

- (1) Subject to subsection (6) below, where a petition for the making, variation or revocation of an order under section 38 above is made to the drainage board for an internal drainage district by a sufficient number of qualified persons or by a qualified authority, the board—
 - (a) shall consider the petition; and
 - (b) if so directed by a direction under subsection (2) below, shall make, vary or revoke the order, either in accordance with the petition or in accordance with the petition as modified by the direction.
- (2) A direction under this subsection is a direction given—
 - (a) if the [F⁴Agency] is the board, by either of the Ministers; and
 - (b) in any other case, by the [Agency].
- (3) Where an internal drainage board object to a direction under subsection (2) above given by the [F⁴Agency], the direction shall have no effect unless confirmed (with or without modifications) by the relevant Minister.
- (4) Subject to subsection (6) below, where a petition under this section is received by the drainage board for an internal drainage district, the board shall—
 - (a) inform the [F⁴Agency] or, if the [F⁴Agency] is the board, one of the Ministers; and
 - (b) publish a notice under subsection (5) below in one or more newspapers circulating in that district.
- (5) A notice under this subsection is a notice—
 - (a) that the petition has been received,
 - (b) that the making, variation or revocation of an order under section 38 above will be considered; and
 - (c) that representations may be made to the drainage board within a period (which shall not be less than thirty days) stated in the notice.
- (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—
 - (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 [F⁴Agency] or, if the [F⁴Agency] is the board, of either of the Ministers.

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- (7) After considering a petition under this section and not later than six months after it is received, a drainage board shall inform the [F4Agency] 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

- F4** Words in s. 39 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**

CHAPTER II

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.

- (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.
- (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.

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

- (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.
- (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
 - (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

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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.

Marginal Citations

M7 S.I. 1973/1473.

Determination and modification of annual value

42 Determination of annual value.

- (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, 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, the occupier of a

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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.

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

- (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—
 - (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.

- (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 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 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

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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,

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.

45 Appeals against determinations of annual value.

(1) Subject to the following provisions of this section, where 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—

- (a) the period of twenty-eight days beginning with the date of service on him of notice of the determination; or
- (b) 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—

- (a) cancel the determination; and
- (b) subject to subsection (4) below, make in its place a fresh determination under section 42 or, as the case may be, section 43 above;

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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—
- (a) may cancel the determination in accordance with subsection (3) above without making a fresh determination in its place; and
 - (b) where they do so, shall serve notice of cancellation on the person by whom the notice of objection was served on them.
- (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 [^{F5}valuation tribunal] constituted in accordance with section 46 below.
- (7) In subsection (5) above “the appropriate tribunal”, in relation to a determination under section 42 or 43 above, means-
- (a) the [^{F5}valuation tribunal] established, in accordance with regulations under Schedule 11 to the ^{M8}Local Government Finance Act 1988, 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 ^{M9}Drainage Rates (Appeals) Regulations 1970.

Textual Amendments

F5 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)).

Marginal Citations

M8 1988 c. 41.

M9 S.I. 1970/1152.

^{X1}46 Hearing and determination of appeals under section 45.

- (1) It shall be the duty of the president of the [^{F6}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 section 42 or 43 above; and

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- (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 [^{F6}valuation tribunal] against 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 [^{F6}valuation tribunal] against 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 ^{M10}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 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 [^{F7}valuation tribunals] to the Lands Tribunal) shall have effect in relation to a decision of a [^{F8}valuation tribunal] on an appeal against 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 section 42 or 43 above of the amount of the annual value of any 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 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.

Status: Point in time view as at 25/11/2005.

Changes to legislation: Land Drainage Act 1991, Part IV is up to date with all changes known to be in force on or before 09 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(9) In this section “the 1967 Act” means the ^{M11}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

- F6** 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))
- F7** 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))
- F8** 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))

Marginal Citations

- M10** [S.I. 1970/1152](#).
- M11** 1967 c. 9.

Power to grant exemptions from rating

47 Power to grant exemptions from rating.

- (1) The drainage board for an internal drainage district, after consultation with the [^{F9}Agency], 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 [^{F9}Agency]; or
 - (b) if the board is the [^{F9}Agency], to the relevant Minister;and the [^{F9}Agency] 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.

Status: Point in time view as at 25/11/2005.

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Textual Amendments

- F9** Words in s. 47 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**

Making and assessment of rates

48 Procedure for making of rate.

- (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,
 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 in one or more newspapers circulating in that district.
- (4) Every drainage rate shall be in the prescribed form.

49 Assessment for rating.

- (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.

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- (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.

50 Amendments as respects drainage rates.

- (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.

- (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.

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- (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.

Supplemental and enforcement provisions

52 Registers of drainage hereditaments.

- (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.

- (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.

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- (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.

54 Powers for enforcing payment.

- (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 ^{M12}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 warrant of distress 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.

Marginal Citations

M12 1988 c. 41.

Status: Point in time view as at 25/11/2005.

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CHAPTER III

FURTHER FINANCIAL PROVISIONS

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

- (1) Subject to the following provisions of this section, an internal drainage board may borrow, on the security of their property or income—
 - (a) for the purpose of defraying any costs, charges or expenses incurred by them [^{F10}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 [^{F11}, 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 ^{M13}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 ^{M14}Local Government Finance Act 1988; or
 - (c) any contributions to be paid to the board under this Act.

Textual Amendments

- F10** 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 \(with Sch. 3 para. 7\)](#)
- F11** 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

M13 1847 c. 16.

M14 1988 c. 41.

56 Concurrent power of boards to impose navigation tolls.

- (1) The power of the [^{F12}Agency] under section 143 of the ^{M15}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 [^{F12}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 [^{F12}Agency] were a reference to that board.

Textual Amendments

F12 Words in s. 56 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

Marginal Citations

M15 1991 c. 57.

57 Contributions by the [^{F13}Agency] to expenses of internal drainage boards.

- (1) Where it appears to the drainage board for any internal drainage district that, by reason—
 - (a) of the quantity of water which that district receives from lands at a higher level; or
 - (b) of the period that will elapse before that district obtains any relief from operations of the [^{F13}Agency] on a main river,it is fair that a contribution towards their expenses should be made by the [^{F13}Agency], they may make an application to the [^{F13}Agency] for a contribution.
- (2) On an application under subsection (1) above the [^{F13}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 [^{F13}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 [^{F13}Agency] under this section determining the amount of any contribution or refusing to make a contribution; or
 - (b) the council of any county [^{F14}, county borough] or London borough is aggrieved by any such resolution on the ground that the contribution to be made by the [^{F13}Agency] is excessive,

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the board or council may, within six weeks after the date on which notice of the resolution is given by the [F13Agency] 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 [F13Agency] 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

- F13** Words in s. 57 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**
- F14** 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 [F15Agency] revenue for its functions as an internal drainage board

- (1) Where the [F15Agency] 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 ^{M16}Water Resources Act 1991 (contributions from internal drainage boards to [F15Agency] 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 [F15Agency] 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 [F15Agency] as such shall be defrayed out of sums received by it as that board.
- (3) The [F15Agency] shall publish any resolution under this section in one or more newspapers circulating in the internal drainage district in question.
- (4) Where a sufficient number of qualified persons or the council of any county [F16, county borough]or London borough are aggrieved—

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- (a) by a resolution of the [F15 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 [F15 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 [F15 Agency] has failed to pass a resolution under this section, must be made within six weeks after the date on which the [F15 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 M17 Water Resources Act 1991 (appeals with respect to resolutions requiring contributions from internal drainage boards).

Textual Amendments

- F15** Words in s. 58 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**
- F16** 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

- M16** 1991 c. 57.
M17 1991 c. 57.

59 Grants to drainage bodies.

- (1) The appropriate Minister may make grants towards expenditure incurred by internal drainage boards or by other drainage bodies (except the [F17 Agency]) in the exercise of their functions in carrying out drainage schemes.
- (2) Grants under subsection (1) above shall be of such amounts and subject to such conditions as may be approved by the Treasury.
- (3) Where a drainage body are about to incur in respect of any work expenditure which, if the work is properly carried out, a grant will be payable under subsection (1) above, the appropriate Minister may, with the approval of the Treasury, make advances to that body on account of the expenditure.
- (4) The appropriate Minister may, with the approval of the Treasury, make grants to drainage bodies in respect of expenditure properly incurred by them with a view to
 - [F18(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.
 - [F19(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;

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- (c) obtaining or organising information, including information about natural processes affecting the coastline, to enable them to formulate or develop their plans with respect to the defence against sea water of any part of the coastline; or
 - (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

- F17** 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**
- F18** 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**
- F19** 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**

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

- (1) A local authority may contribute, or undertake to contribute, to the expenses of the carrying out or maintenance of any drainage works by a drainage body such an amount as, having regard to the public benefit to be derived therefrom, appears to the local authority to be proper.

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- (2) Without prejudice to section 55(2) above, the making of contributions under this section shall be a purpose for which a local authority may borrow.
- (2) References in this section to a local authority include references to the Sub-Treasurer of the Inner Temple and to the Under Treasurer of the Middle Temple.

61 Land drainage expenses of local authorities.

- (1) Subject to any express provision to the contrary contained in this Act or in Chapter II of Part VI of the ^{M18}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

M18 1991 c. 57.

Status:

Point in time view as at 25/11/2005.

Changes to legislation:

Land Drainage Act 1991, Part IV is up to date with all changes known to be in force on or before 09 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.