



# Land Drainage Act 1991

## 1991 CHAPTER 59

### PART IV **E+W**

#### FINANCIAL PROVISIONS

### CHAPTER II **E+W**

#### DRAINAGE RATES

##### **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\(2\)](#)

##### *Levying of drainage rates*

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

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

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board for an internal drainage district shall not make more than one rate in respect of the same financial year.

- (4) Every drainage rate shall be made before 15th February in the financial year preceding that in respect of which it is made, but is not invalid merely because it is made on or after that date.

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

- (1) Subject to section 38 above and section 47 below, a rate made by the drainage board for an internal drainage district shall be assessed at a uniform amount per pound throughout the district on the annual value of the agricultural land or agricultural buildings in respect of which it is made.
- (2) For the purposes of this Chapter the annual value of any chargeable property shall (subject to sections 43 and 44 below) be the amount, determined in accordance with section 42 below, which is equal to the yearly rent, in respect of a holding comprising the chargeable property, at which the holding might reasonably be expected to have been let, by a prudent and willing landlord to a prudent and willing tenant, on a tenancy from year to year commencing on 1st April 1988 and on the relevant terms. <sup>F1</sup>This is subject to section 41A below.]
- (3) For the purposes of subsection (2) above chargeable property is let on the relevant terms if—
- (a) the tenancy incorporates the terms set out in subsection (4) below; and
  - (b) the property is let on the terms relating to maintenance, repair and insurance of fixed equipment which are set out in the Schedule to the <sup>M1</sup>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.

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

- (7) In this section—

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

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

#### Textual Amendments

**F1** Words in s. 41(2) inserted (29.9.2022 for specified purposes) by [Environment Act 2021 \(c. 30\)](#), ss. [96\(2\)](#), [147\(3\)\(4\)](#) (with s. 144); [S.I. 2022/988](#), reg. 2(b)

#### Marginal Citations

**M1** [S.I. 1973/1473](#).

### [<sup>F2</sup>41A **Alternative method of calculating annual value of agricultural land and buildings** **E+W**

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

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

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

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

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

#### Textual Amendments

- F2** S. 41A inserted (29.9.2022 for specified purposes) by [Environment Act 2021 \(c. 30\)](#), [ss. 96\(3\), 147\(3\)\(4\)](#) (with [s. 144](#)); [S.I. 2022/988](#), [reg. 2\(b\)](#)

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### *Determination and modification of annual value*

#### **42 Determination of annual value. E+W**

- (1) Without prejudice to sections 43 and 44 below, the drainage board for every internal drainage district shall, not later than 31st December 1992, determine the annual value for the purposes of section 41 above of each chargeable property in their district on that date.
- (2) Where after 31st December 1992—
  - (a) any property in an internal drainage district becomes chargeable property;
  - (b) any property consisting of agricultural land or buildings becomes part of an internal drainage district,
 then, as soon as practicable after the date (“the valuation date”) on which the property has become chargeable property or, as the case may be, part of that district, the drainage board for that district shall determine the annual value for the purposes of section 41 above of that property.
- (3) A determination made under subsection (2) above shall have effect from the valuation date.
- (4) Where any drainage board make a determination under this section [<sup>F3</sup>or under regulations under section 41A(1) above], they shall serve notice of the determination, together with a statement in writing of the right of appeal under section 45 below, on the occupier of the property to which the determination relates.
- (5) For the purpose of enabling the drainage board for an internal drainage district to comply with their obligations under subsections (1) and (2) above [<sup>F4</sup>or under regulations under section 41A above], the occupier of a chargeable property shall afford reasonable facilities for inspecting the property to the drainage board for the internal drainage district in which the property lies and to the officers and agents of that board.

#### **Textual Amendments**

- F3** Words in s. 42(4) inserted (29.9.2022 for specified purposes) by [Environment Act 2021 \(c. 30\)](#), **ss. 96(4)(a)**, 147(3)(4) (with s. 144); S.I. 2022/988, reg. 2(b)
- F4** Words in s. 42(5) inserted (29.9.2022 for specified purposes) by [Environment Act 2021 \(c. 30\)](#), **ss. 96(4)(b)**, 147(3)(4) (with s. 144); S.I. 2022/988, reg. 2(b)

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

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

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

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

- (1) Where a drainage board make a determination under section 43 above, they shall serve notice of the determination, together with a statement in writing of the rights of appeal conferred by section 45 below, on the occupier of the chargeable property to which the determination relates.
- (2) Subject to [<sup>F5</sup>regulations under section 41A above and to] section 46 below (and notwithstanding anything in section 41 above), where a determination of annual value under section 43 above is made in pursuance of section 43(1) above, the annual value of the property in question shall, for the purposes of any drainage rate made after the effective date, be that specified in the determination.
- (3) Subject to [<sup>F6</sup>regulations under section 41A above and to] section 46 below (and notwithstanding anything in section 41 above), where a determination of annual value under section 43 above is made in pursuance of section 43(2) above, the annual value of the property in question shall for the purposes of—
  - (a) any drainage rate made in respect of any period included in the financial year in which the request for the determination was made; and
  - (b) any drainage rate made in respect of any subsequent period,be that specified in the determination.
- (4) Where—
  - (a) the annual value of any chargeable property is altered by a determination under section 43 above which is made in pursuance of subsection (2) of that section;
  - (b) drainage rates for any period in respect of the chargeable property have been or are subsequently paid by reference to its annual value before the alteration; and
  - (c) the period is one for which, in accordance with subsection (3) above, the amount of those rates falls to be assessed on the value specified in the determination,

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

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

#### Textual Amendments

- F5** Words in s. 44(2) inserted (29.9.2022 for specified purposes) by [Environment Act 2021 \(c. 30\)](#), ss. [96\(5\)](#), [147\(3\)\(4\)](#) (with s. 144); S.I. 2022/988, reg. 2(b)
- F6** Words in s. 44(3) inserted (29.9.2022 for specified purposes) by [Environment Act 2021 \(c. 30\)](#), ss. [96\(5\)](#), [147\(3\)\(4\)](#) (with s. 144); S.I. 2022/988, reg. 2(b)

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

- (1) Subject to the following provisions of this section, where a determination under [<sup>F7</sup>regulations under section 41A above or a determination under] section 42 or 43 above is made by the drainage board for an internal drainage district, the occupier of the land in respect of which the determination is made may appeal, in accordance with this section, against the determination.
- (2) An occupier who wishes to appeal under this section against any determination must, before the end of—
- (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 [<sup>F8</sup>regulations under section 41A above or a fresh determination under] section 42 or, as the case may be, section 43 above;
- and section 46(7) below shall have effect in relation to the cancellation and the other provisions of this Chapter shall have effect in relation to the fresh determination accordingly.
- (4) Where notice of objection is served in pursuance of subsection (2) above in respect of a determination made by a drainage board under section 43 above, the board—
- (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.



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- (5) Where—
- (a) notice of objection to a determination is served in pursuance of subsection (2) above and is not withdrawn before the end of the period mentioned in subsection (3) above; and
  - (b) the drainage board which made the determination do not cancel it in accordance with subsection (3) above,
- that board shall, forthwith after the end of that period, transmit the notice and a note of the determination to the clerk of the appropriate tribunal.
- (6) The transmission in pursuance of subsection (5) above of the notice of objection to a determination by a drainage board shall constitute the lodging of an appeal against the determination, by the person who served the notice on the board, to a [<sup>F9</sup>valuation tribunal] constituted in accordance with section 46 below.
- (7) In subsection (5) above “the appropriate tribunal”, in relation to a determination under [<sup>F10</sup>regulations under section 41A above or a determination under] section 42 or 43 above, means—
- (a) the [<sup>F9</sup>valuation tribunal] established, <sup>F11</sup>..., 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 <sup>M2</sup>Drainage Rates (Appeals) Regulations 1970.
- [<sup>F12</sup>(8) For the purposes of subsection (7)—
- (a) “valuation tribunal” means—
    - (i) the Valuation Tribunal for England, or
    - (ii) a valuation tribunal established under paragraph 1 of Schedule 11 to the Local Government Finance Act 1988;
  - (b) England is to be treated as the area for which the Valuation Tribunal for England is established.]

#### Textual Amendments

- F7** Words in s. 45(1) inserted (29.9.2022 for specified purposes) by [Environment Act 2021 \(c. 30\)](#), **ss. 96(6)(a)**, 147(3)(4) (with s. 144); S.I. 2022/988, reg. 2(b)
- F8** Words in s. 45(3)(b) inserted (29.9.2022 for specified purposes) by [Environment Act 2021 \(c. 30\)](#), **ss. 96(6)(b)**, 147(3)(4) (with s. 144); S.I. 2022/988, reg. 2(b)
- F9** 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)).
- F10** Words in s. 45(7) inserted (29.9.2022 for specified purposes) by [Environment Act 2021 \(c. 30\)](#), **ss. 96(6)(c)**, 147(3)(4) (with s. 144); S.I. 2022/988, reg. 2(b)
- F11** Words in s. 45(7)(a) repealed (1.10.2009) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(5), **Sch. 16 para. 6(2)**, **Sch. 18 Pt. 17**; S.I. 2008/3110, art. 6(d)(i)
- F12** S. 45(8) inserted (1.10.2009) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(5), **Sch. 16 para. 6(3)**; S.I. 2008/3110, art. 6(d)(i)

#### Marginal Citations

- M2** S.I. 1970/1152.

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**<sup>x1</sup>46 Hearing and determination of appeals under section 45. E+W**

- (1) It shall be the duty of the president of the [<sup>F13</sup>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 [<sup>F14</sup>regulations under section 41A above or a determination under] section 42 or 43 above; and
  - (b) to the rehearing of such an appeal in case of such a failure to agree as is mentioned in subsection (6) of section 88 of that Act.
- (3) On the hearing of an appeal to a [<sup>F13</sup>valuation tribunal] against a determination under [<sup>F15</sup>regulations under section 41A above or a determination under] section 42 or 43 above the following persons, that is to say—
  - (a) the person whose notice of objection to the determination in question has resulted in the hearing;
  - (b) any other person who is the occupier of any land to which the determination relates; and
  - (c) the drainage board by which the determination was made,
 shall be entitled to appear and be heard as parties to the appeal and to call witnesses and to examine any witness before the tribunal.
- (4) On an appeal to a [<sup>F13</sup>valuation tribunal] against a determination under [<sup>F16</sup>regulations under section 41A above or a determination under] section 42 or 43 above, the tribunal—
  - (a) shall sit in public, unless the tribunal otherwise orders, on being satisfied, on the application of a party to the appeal, that the interests of that party would be prejudicially affected; and
  - (b) shall have power to administer oaths and to take evidence on oath;
 but, subject to that and to the <sup>M3</sup>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 [<sup>F17</sup>regulations under section 41A above or a determination under] section 42 or 43 above shall, after hearing the persons mentioned in subsection (3) above or such of them as desire to be heard, do one of the following—
  - (a) quash the determination to which the appeal relates; or
  - (b) alter the determination in such manner as the tribunal thinks just; or
  - (c) dismiss the appeal.
- (6) Section 77 of the 1967 Act (which provides for appeals from [<sup>F18</sup>valuation tribunals] to the [<sup>F19</sup>Upper Tribunal]) shall have effect in relation to a decision of a [<sup>F20</sup>valuation tribunal] on an appeal against a determination under [<sup>F21</sup>regulations under section 41A above or a determination under] section 42 or 43 above as if—
  - (a) for the reference to section 76 of that Act there were substituted a reference to the preceding provisions of this section; and
  - (b) the words from “and the valuation officer” onwards were omitted.
- (7) Where a determination under [<sup>F22</sup>regulations under section 41A above or a determination under] section 42 or 43 above of the amount of the annual value of any

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

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

(8) Where a determination under [F<sup>23</sup>regulations under section 41A above or a determination under] section 42 or 43 above which has been quashed is subsequently restored on appeal—

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

(9) In this section “the 1967 Act” means the M<sup>4</sup>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

- F13 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))
- F14 Words in s. 46(2)(a) inserted (29.9.2022 for specified purposes) by [Environment Act 2021 \(c. 30\)](#), ss. [96\(7\)](#), 147(3)(4) (with s. 144); S.I. 2022/988, reg. 2(b)
- F15 Words in s. 46(3) inserted (29.9.2022 for specified purposes) by [Environment Act 2021 \(c. 30\)](#), ss. [96\(7\)](#), 147(3)(4) (with s. 144); S.I. 2022/988, reg. 2(b)
- F16 Words in s. 46(4) inserted (29.9.2022 for specified purposes) by [Environment Act 2021 \(c. 30\)](#), ss. [96\(7\)](#), 147(3)(4) (with s. 144); S.I. 2022/988, reg. 2(b)
- F17 Words in s. 46(5) inserted (29.9.2022 for specified purposes) by [Environment Act 2021 \(c. 30\)](#), ss. [96\(7\)](#), 147(3)(4) (with s. 144); S.I. 2022/988, reg. 2(b)
- F18 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))
- F19 Words in s. 46(6) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, [Sch. 1 para. 241](#) (with Sch. 5)
- F20 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))
- F21 Words in s. 46(6) inserted (29.9.2022 for specified purposes) by [Environment Act 2021 \(c. 30\)](#), ss. [96\(7\)](#), 147(3)(4) (with s. 144); S.I. 2022/988, reg. 2(b)
- F22 Words in s. 46(7) inserted (29.9.2022 for specified purposes) by [Environment Act 2021 \(c. 30\)](#), ss. [96\(7\)](#), 147(3)(4) (with s. 144); S.I. 2022/988, reg. 2(b)
- F23 Words in s. 46(8) inserted (29.9.2022 for specified purposes) by [Environment Act 2021 \(c. 30\)](#), ss. [96\(7\)](#), 147(3)(4) (with s. 144); S.I. 2022/988, reg. 2(b)

#### Marginal Citations

- M3 S.I. 1970/1152.  
M4 1967 c. 9.

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*Power to grant exemptions from rating*

**47 Power to grant exemptions from rating. E+W**

- (1) The drainage board for an internal drainage district, after consultation with the [F24appropriate supervisory body], may by order determine that no rates shall be levied by them on the occupiers of hereditaments in any portion of the district which, in their opinion, ought (either by reason of its height above sea level or for any other reason) to be exempted wholly from rating.
- (2) Subsections (5) to (7) of section 38 above shall apply in relation to orders made under this section as they apply in relation to orders made under that section.
- (3) Where the occupier of any hereditament in an internal drainage district requests the drainage board for the district to make or amend an order under this section so as to exempt from drainage rates the portion of the district in which the hereditament is situated, the board—
  - (a) shall consider the request; and
  - (b) if so directed under this section, shall comply with it.
- (4) Where a request under subsection (3) above is refused by the drainage board for an internal drainage district, the person making it may appeal—
  - (a) to the [F24appropriate supervisory body]; or
  - (b) if the board is the [F24appropriate supervisory body], to the relevant Minister; and the [F24appropriate supervisory body] or, as the case may be, the relevant Minister may direct the board to make or amend the order as requested.
- (5) Where a request under subsection (3) above is neither refused nor complied with within three months after it is made, it shall be treated for the purposes of subsection (4) above as having been refused.

**Textual Amendments**

**F24** Words in s. 47 substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\)](#), art. 1(2), [Sch. 2 para. 325](#) (with Sch. 7)

*Making and assessment of rates*

**48 Procedure for making of rate. E+W**

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

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

- (3) A notice under subsection (2) above of a rate made by the drainage board for any internal drainage district may, as the board think fit, either—
- (a) be affixed in one or more public or conspicuous places in that district; or
  - (b) be published [<sup>F25</sup> in some other way ].

<sup>F26</sup>( 3A ) . . . . .

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

**Textual Amendments**

**F25** Words in s. 48(3)(b) substituted (14.7.2014) by [Water Act 2014 \(c. 21\)](#), s. 94(3), [Sch. 9 para. 6\(2\)](#); S.I. 2014/1823, art. 2(b)

**F26** S. 48(3A) omitted (21.5.2016) by virtue of [Environment \(Wales\) Act 2016 \(anaw 3\)](#), [ss. 82\(1\)](#), 88(2) (d)

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

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

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## 50 Amendments as respects drainage rates. **E+W**

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

## 51 Other appeals against drainage rates. **E+W**

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

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### *Supplemental and enforcement provisions*

#### **52 Registers of drainage hereditaments. E+W**

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

#### **53 Power to require information. E+W**

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

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

- (1) Arrears of any drainage rates made under this Chapter may be recovered by the drainage board for an internal drainage district in the same manner in which arrears of a non-domestic rate may be recovered under the <sup>M5</sup>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 [<sup>F27</sup> warrant of control ] for failure to pay a drainage rate.
- (3) In proceedings for the recovery of arrears of a drainage rate the defendant shall not be entitled to raise by way of defence any matter which might have been raised on an appeal under section 45 or 51 above.
- (4) The powers conferred by this section are in addition to, and not in substitution for, the powers conferred by any provision of any local Act on any drainage board in relation to arrears of drainage rates; and for the purposes of any such provisions a rate made under this Chapter shall be treated, subject to subsection (5) below, as a rate to which those provisions apply.
- (5) Notwithstanding anything in any local Act—
  - (a) no distress for arrears of any rate made under this Chapter shall be levied on the goods or chattels of any person other than a person from whom the arrears may be recovered by virtue of subsection (1) above; and
  - (b) no proceedings shall be taken, whether by action or otherwise, for the enforcement of any charge on land created by a local Act for securing payment of arrears of any rate made under this Chapter.
- (6) The drainage board for an internal drainage district shall not be required to enforce payment of any drainage rate in any case where the amount payable is, in their opinion, insufficient to justify the expense of collection.

### Textual Amendments

**F27** Words in s. 54(2)(b) substituted (6.4.2014) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 148, [Sch. 13 para. 100](#) (with s. 89); S.I. 2014/768, art. 2(1)(b)

### Marginal Citations

**M5** 1988 c. 41.



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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 37(5A)-(5D) inserted by [2016 anaw 3 s. 83\(2\)\(b\)](#)
- s. 37(5A) substituted in earlier affecting provision [2016 anaw 3, s. 83\(2\)\(b\)](#) by [2021 c. 30 s. 95\(2\)\(b\)\(i\)](#)
- s. 37(5B)(5C) words substituted in earlier affecting provision [2016 anaw 3, s. 83\(2\)\(b\)](#) by [2021 c. 30 s. 95\(2\)\(b\)\(ii\)](#)
- s. 37(5D)(5E) substituted in earlier affecting provision [2016 anaw 3, s. 83\(2\)\(b\)](#) by [2021 c. 30 s. 95\(2\)\(b\)\(ii\)](#)