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## SCHEDULES

### SCHEDULE 1

Section 1.

#### MEMBERS OF INTERNAL DRAINAGE BOARDS

##### PART I

##### ELECTION OF MEMBERS

###### *Election rules*

- 1 (1) An election of members of an internal drainage board shall be conducted in accordance with rules contained in regulations made by the relevant Minister—
  - (a) for the preparation of registers of electors and for securing that the registers are open to inspection;
  - (b) with respect to the holding and conduct of elections, including provisions as to returning officers, nominations, polls and the counting of votes; and
  - (c) for allowing any person or body of persons entitled to vote at an election to vote by a deputy.
- (2) Provision made by virtue of sub-paragraph (1)(a) above may include provision with respect to the making of objections to entries in registers and with respect to the hearing and determination of such objections.

###### *Eligibility of electors*

- 2 (1) Subject to sub-paragraphs (2) and (3) below, the electors for members of an internal drainage board shall be the persons who at the date of the election occupy land in the board's district on which a drainage rate has been levied in the year immediately preceding.
- (2) A person shall not be entitled to be an elector by reason of his occupation of land if at the date of the election any amount demanded in respect of any drainage rate levied on that land has remained unpaid for more than a month.
- (3) For the purposes of this paragraph the owner of any hereditament shall be deemed to be its occupier during any period during which it is unoccupied.
- (4) The preceding provisions of this paragraph and paragraph 3 below shall have effect subject to the provisions of paragraph 17 of Schedule 2 to the <sup>M1</sup>Water Consolidation (Consequential Provisions) Act 1991 (which makes provision with respect to electors who qualify by reference to drainage rates made in respect of years beginning before 1993).

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**Modifications etc. (not altering text)**

**C1** Sch. 1 para. 2(1) amended (*temp.*) (1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991 \(c. 60, SIF 130\)](#), ss. 2(2), 4(2), Sch. 2 Pt. II paras. 15(3), **17(1)**

**Marginal Citations**

**M1** 1991 c. 60.

*Number of votes for each elector*

- 3 (1) Each elector at an election of members of an internal drainage board shall be entitled, in accordance with the following table, to one or more votes, according to the assessable value of the property in respect of which the elector is entitled to vote—

TABLE

<i>Assessable value</i>	<i>Number of votes</i>
Less than £50	1 vote
Not less than £50 but less than £100	2 votes
Not less than £100 but less than £150	3 votes
Not less than £150 but less than £200	4 votes
Not less than £200 but less than £250	5 votes
Not less than £250 but less than £500	6 votes
Not less than £500 but less than £1,000	8 votes
£1,000 or more	10 votes

- (2) In sub-paragraph (1) above, the reference to the assessable value of any land is a reference to the amount which for the purposes of any drainage rate levied at the relevant date would be the annual value of the land.
- (3) In this paragraph “the relevant date” means the date as at which the qualifications of electors is determined for the purposes of the election in accordance with rules made under paragraph 1 above.

**Modifications etc. (not altering text)**

**C2** Sch. 1 para. 3: definition applied (*temp.*) (1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991 \(c. 60, SIF 130\)](#), ss. 2(2), 4(2), Sch. 2 Pt. II paras. 15(3), **17(3)**

**C3** Sch. 1 para. 3(1) amended (date before 1.4.1993) (*temp.*) (1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991 \(c. 60, SIF 130\)](#), ss. 2(2), 4(2), Sch. 2 Pt. II paras. 15(3), **17(2)**

*Qualification for election*

- 4 (1) A person shall not be qualified for election as a member of an internal drainage board unless he is—

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- (a) both the owner and the occupier of not less than four hectares of land in respect of which a drainage rate may be levied by the board and which is situated in the electoral district for which he is a candidate for election; or
  - (b) the occupier, whether under tenancies of year to year or otherwise, of not less than eight hectares of such land as aforesaid; or
  - (c) the occupier of land which is of an assessable value of £30 or upwards and is situated in the electoral district for which he is a candidate for election; or
  - (d) a person nominated as a candidate for election by the person (whether an individual or a body of persons) who is both the owner and the occupier of land which—
    - (i) is situated in the electoral district in question; and
    - (ii) is either of not less than four hectares in extent or of an assessable value of £30 or upwards.
- (2) A person shall not be qualified for the purposes of sub-paragraph (1) above as being an occupier of any land or, as being the owner and occupier of any land or a person nominated by the owner and occupier of any land, if at the date of the election any amount demanded in respect of any drainage rate levied on that land has remained unpaid for more than one month.
- (3) In sub-paragraph (1) above, the reference to the assessable value of any land is a reference to the amount which for the purposes of any drainage rate levied at the relevant date would be the annual value of the land.
- (4) The preceding provisions of this paragraph shall have effect subject to the provisions of paragraph 18 of Schedule 2 to the <sup>M2</sup>Water Consolidation (Consequential Provisions) Act 1991 (which makes provision with respect to relevant dates falling before 1st April 1993).
- (5) In this paragraph “the relevant date” means the date as at which the qualifications of candidates for the election in question are determined in accordance with rules made under paragraph 1 above.

**Modifications etc. (not altering text)**

- C4** Sch. 1 para. 4: definition applied (1.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60, SIF 130), ss. 2(2), 4(2), Sch. Pt. II paras. 15(3), **18(5)**
- C5** Sch. 1 para. 4 modified (until 1993) (*temp.*) (1.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60, SIF 130), ss. 2(2), 4(2), Sch. 2 Pt. II paras. 15(3), **18(1)**
- C6** Sch. 1 para. 4(1) modified (1.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60, SIF 130), ss. 2(2), 4(2), Sch. 2 Pt. II paras. 15(3), **18(4)**
- C7** Sch. 1 para. 4(1)(a)(c)(d) restricted (1.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60, SIF 130), ss. 2(2), 4(2), Sch. 2 Pt. II paras. 15(3), **18(2)(3)**

**Marginal Citations**

- M2** 1991 c. 60.

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## PART II

### MEMBERS APPOINTED BY CHARGING AUTHORITIES

#### Modifications etc. (not altering text)

- C8** Sch. 1 Pt. II 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)**

#### *Appointment of members by charging authorities*

- 5 (1) The charging authority for any area wholly or partly included in an internal drainage district may appoint a member or members of the internal drainage board having power, by virtue of regulations under the <sup>M3</sup>Local Government Finance Act 1988, to issue special levies to that authority.
- (2) In appointing a person to be a member of an internal drainage board a charging authority shall have regard to the desirability of appointing a person who—
- (a) has knowledge or experience (including knowledge of the internal drainage district in question or commercial experience) of some matter relevant to the functions of the board; and
  - (b) has shown capacity in such a matter.
- (3) This paragraph has effect subject to the restrictions on appointments which are imposed by paragraph 6 below or, as the case may require, paragraph 16 of Schedule 2 to the <sup>M4</sup>Water Consolidation (Consequential Provisions) Act 1991 (number of appointed members of internal drainage board allowed in period ending with 31st March 1993).

#### Marginal Citations

- M3** 1988 c. 41.  
**M4** 1991 c. 60.

#### *Numbers of members appointed by charging authorities*

- 6 (1) The number of appointed members of an internal drainage board—
- (a) shall be determined, in accordance with the following provisions of this paragraph, for the period 1st April 1993 to 31st March 1996 and each succeeding three-year period beginning with 1st April; and
  - (b) shall be so determined in relation to each drainage board by reference to <sup>F1</sup>the proportion of the expenses of the drainage board to be raised from the proceeds of special levies in the first financial year in that period, determined in accordance with section 37 of this Act.]
- (2) The number of appointed members of an internal drainage board—
- (a) shall not exceed by more than one the number of other members of the board; and
  - (b) subject to paragraph (a) above, shall be such that the number of appointed members bears, as nearly as possible, the same proportion to the maximum

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number of all the members of the board as [<sup>F2</sup>the proportion of the expenses of the board that is to be raised from the proceeds of special levies.]

- (3) If more than one charging authority is entitled to appoint members of an internal drainage board under paragraph 5 above—
- (a) each such authority may appoint the number of members of the board calculated by multiplying the maximum number of appointed members by the relevant fraction for that authority and disregarding any fraction in the resulting product; and
- (b) where in respect of the board—
- (i) any such authority has appointed a member; or
- (ii) the calculation referred in paragraph (a) above results in respect of each such authority in a product of less than one,
- the charging authorities shall, unless they otherwise agree, jointly appoint the number of members of the board representing the difference between the maximum number of appointed members and the aggregate number of members that may be appointed by individual charging authorities or, as the case may be, constituting the maximum number of appointed members.
- (4) For the purposes of sub-paragraph (3) above the relevant fraction, in relation to a charging authority, is the fraction [<sup>F3</sup>the fraction of the expenses of the internal drainage board that is to be raised from the proceeds of special levies in the first financial year of the relevant period referred to in sub-paragraph (1)(a) above, which is to be raised by a special levy issued to that authority.]
- (5) In this paragraph “appointed members”, in relation to an internal drainage board, means members of the board appointed by one or more charging authorities under this Part of this Schedule or, at a time before the commencement of this Act, under the corresponding provisions of the <sup>M5</sup>Internal Drainage Boards (Finance) Regulations 1990.

#### Textual Amendments

- F1** Words in Sch. 1 para. 6(1)(b) substituted (30.12.1992) by S.I. 1992/3079, reg. 4(a)  
**F2** Words in Sch. 1 para. 6(2)(b) substituted (30.12.1992) by S.I. 1992/3079, reg. 4(b)  
**F3** Words in Sch. 1 para. 6(4) substituted (30.12.1992) by S.I. 1992/3079, reg. 4(c)

#### Marginal Citations

- M5** S.I. 1990/72.

### PART III

#### SUPPLEMENTAL PROVISIONS WITH RESPECT TO MEMBERS

##### *Terms of office etc. of members*

- 7 (1) Subject to the following provisions of this Part of this Schedule, elected members of an internal drainage board shall come into office on 1st November next after the day on which they are elected and shall hold office for a term of three years.

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- (2) Subject as aforesaid, the terms of appointment of a member of an internal drainage board who is appointed by one or more charging authorities shall be determined by the authority or authorities by which he is appointed.
- (3) Subject as aforesaid, the members of an internal drainage board who are appointed by the relevant Minister as first members of that board shall hold office until the end of one year from the 1st November next following the day on which they are appointed.

*Resignation etc. of elected members*

- 8 (1) An elected member of an internal drainage board may resign his office by notice given to the chairman of the board.
- (2) If an elected member of an internal drainage board is absent from meetings of the board for more than six months consecutively, he shall, unless his absence is due to illness or some other reason approved by the board, vacate his office at the end of that six months.

*Insolvency of members or candidates*

F49 . . . . .

**Textual Amendments**

**F4** Sch. 1 para. 9 omitted (29.6.2006) by virtue of Enterprise Act 2002 (Disqualification from Office: General) Order 2006 (S.I. 2006/1722), art. 1(1), Sch. 1 para. 2

*Filling casual vacancies*

- 10 (1) Subject to sub-paragraph (2) below, if for any reason whatsoever the place of an elected member of an internal drainage board becomes vacant before the end of his term of office, the vacancy shall be filled by the election by the board of a new member.
- (2) Where the unexpired portion of the term of office of the vacating member is less than six months, the vacancy need not be filled.
- (3) A person elected to fill a casual vacancy shall hold office so long as the vacating member would have held office.

*Eligibility of vacating member of board*

11 Subject to the preceding provisions of this Schedule, a vacating member of an internal drainage board shall be eligible for re-election or re-appointment.

*Meaning of “elected member”*

12 References in this Part of this Schedule to an elected member, in relation to an internal drainage board, are references to any member of that board other than a member appointed by one or more charging authorities.

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## SCHEDULE 2

Section 1.

## EXPENSES AND PROCEEDINGS ETC. OF INTERNAL DRAINAGE BOARDS

*Payment of expenses etc. of members and officers*

- 1 (1) The relevant Minister may, if he thinks fit, by order authorise an internal drainage board to pay to the chairman of the board, for the purpose of enabling him to meet the expenses of his office, such allowance as may be specified in the order.
- (2) An internal drainage board may pay any reasonable expenses incurred by their members and officers in—
- (a) attending meetings of the board or a committee or sub-committee thereof;
  - (b) carrying out inspections necessary for the discharge of the functions of the board; or
  - (c) attending conferences or meetings convened by one or more internal drainage boards, or by any association of internal drainage boards, for the purpose of discussing matters connected with the discharge of the functions of internal drainage boards;
- and may pay any reasonable expenses incurred by their members or officers in purchasing reports of the proceedings of any such conference or meeting.
- (3) Without prejudice to the other provisions of this Schedule—
- (a) an internal drainage board may enter into a contract with any person under which, in consideration of payments made by the board by way of premium or otherwise, that person undertakes to pay to the board such sums as may be provided in the contract in the event of any member of the board or of any of its committees meeting with a personal accident, whether fatal or not, while he is engaged on the business of the board;
  - (b) any sum received by an internal drainage board under any such contract shall, after deduction of any expenses incurred in the recovery of that sum, be paid by the board to, or to the personal representatives of, the person in respect of whose accident the sum is received;
- and the provisions of the <sup>M6</sup>Life Assurance Act 1774 shall not apply to any such contract.

**Marginal Citations**

**M6** 1774 c. 48.

*Payments etc. to staff*

- 2 (1) An internal drainage board may pay to persons employed by them such reasonable remuneration as they think fit.
- (2) An internal drainage board may provide housing accommodation for persons employed by them (and may, accordingly, acquire land for that purpose under section 62 of this Act).

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### *Proceedings of internal drainage board*

- 3 (1) An internal drainage board may, with the approval of the relevant Minister, make rules—
- (a) for regulating the proceedings of the board, including quorum, place of meetings and notices to be given of meetings;
  - (b) with respect to the appointment of a chairman and a vice-chairman;
  - (c) for enabling the board to constitute committees; and
  - (d) for authorising the delegation to committees of any of the powers of the board and for regulating the proceedings of committees, including quorum, place of meetings and notices to be given of meetings.
- (2) The first meeting of an internal drainage board shall be held on such day and at such time and place as may be fixed by the relevant Minister; and the relevant Minister shall cause notice of the meeting to be sent by post to each member of the board not less than fourteen days before the appointed day.
- (3) Any member of an internal drainage board who is interested in any company with which the board has, or proposes to make, any contract shall—
- (a) disclose to the board the fact and nature of his interest; and
  - (b) take no part in any deliberation or decision of the board relating to such contract;
- and such disclosure shall be forthwith recorded in the minutes of the board.
- (4) A minute of the proceedings of a meeting of an internal drainage board, or of a committee of such a board, purporting to be signed at that or the next ensuing meeting by a person describing himself as, or appearing to be, the chairman of the meeting to the proceedings of which the minute relates—
- (a) shall be evidence of the proceedings; and
  - (b) shall be received in evidence without further proof.
- (5) Until the contrary is proved—
- (a) every meeting in respect of the proceedings of which a minute has been so signed shall be deemed to have been duly convened and held;
  - (b) all the proceedings had at any such meeting shall be deemed to have been duly had; and
  - (c) where the proceedings at any such meeting are the proceedings of a committee, the committee shall be deemed to have been duly constituted and to have had power to deal with the matters referred to in the minute.
- (6) The proceedings of an internal drainage board shall not be invalidated by any vacancy in the membership of the board or by any defect in the appointment or qualification of any member of the board.

### *Annual report*

- 4 (1) An internal drainage board shall—
- (a) before such date in every year as the relevant Minister may fix, send to that Minister a report of their proceedings during the preceding year; and
  - (b) at the same time send a copy of the report to the [F<sup>5</sup>Agency] and to the council of every county [F<sup>6</sup>, county borough] and London borough in which any part of the board's district is situated.



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- (2) Every such report shall be in such form and shall contain particulars with respect to such matters as the relevant Minister may direct.

#### Textual Amendments

- F5** Words in Sch. 2, para. 4 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
- F6** Words inserted in Sch. 2, para. 4(1)(b) (1.4.1996) by 1994 c. 19, s. 22(5), Sch. 11, Pt. II, para. 4(13) (with ss. 54(5)(7), 55(5)); S.I. 1996/396, art.3

#### Accounts

- 5 (1) An internal drainage board shall—
- as soon as the accounts of the board have been audited, send a copy of them to the relevant Minister; and
  - at the same time, send a copy of the accounts to the [<sup>F7</sup>Agency] and to the council of every county [<sup>F8</sup>, county borough] or London borough in which any part of the board's district is situated.
- (2) A copy of the audited accounts of an internal drainage board shall be kept at the office of the board and any person who is liable to pay drainage rates in the board's district shall be entitled, without payment, to inspect and take copies of, or extracts from, that copy.

#### Textual Amendments

- F7** Words in Sch. 2, para. 5 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
- F8** Words in Sch. 2, para. 4(5)(1)(b) (1.4.1996) by 1994 c. 19, s. 22(5), Sch. 11, Pt. II, para. 4(13) (with ss. 54(5)(7), 55(5)); S.I. 1996/396, art.3

## SCHEDULE 3

Sections 3 to 5, 32 & 35.

### PROCEDURE WITH RESPECT TO CERTAIN ORDERS

#### *Application and interpretation of Schedule*

- 1 (1) This Schedule applies to the following orders under this Act, that is to say—
- any order confirming a scheme under section 3 or 32 of this Act; and
  - any order under section 4, 5 or 35 of this Act.
- (2) References in this Schedule to an unconfirmed order are references to any order to which this Schedule applies other than one confirmed under section 6 of the <sup>M7</sup>Statutory Orders (Special Procedure) Act 1945.
- (3) In this Schedule “the appropriate Minister”, in relation to any order or proposed order, means the Minister or Ministers by whom the order is being or has been made or, as the case may be, by whom the proposal to make the order has been made.

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### Marginal Citations

**M7** 1945 c. 18 (9 & 10 Geo 6).

### *Notice of proposed order*

- 2 (1) Before making an order to which this Schedule applies the appropriate Minister shall cause notice of—
- (a) his intention to make it;
  - (b) the place where copies of the draft order may be inspected and obtained; and
  - (c) the period within which, and the manner in which, objections to the draft order may be made,
- to be published in the London Gazette and in such other manner as he thinks best adapted for informing persons affected and to be sent to the persons specified in sub-paragraph (2) below.
- (2) The persons referred to in sub-paragraph (1) above are—
- (a) every county council [<sup>F9</sup>, county borough council] or London borough council in whose area any part of the area proposed to be affected by the order is situated and, if any part of that area is situated in the City of London, the Common Council of the City of London;
  - (b) every drainage body, navigation authority, harbour authority or conservancy authority that is known to the appropriate Minister to be exercising jurisdiction within the area proposed to be affected by the order.

### Textual Amendments

**F9** Words inserted in Sch. 3, para. 2(2)(a) (1.4.1996) by 1994 c. 19, s. 22(5), **Sch. 11, Pt. II, para. 4(14)** (with ss. 54(5)(7), 55(5)); S.I. 1996/396, **art.3**

### *Determination of whether to make order*

- 3 (1) Before making an order to which this Schedule applies the appropriate Minister—
- (a) shall consider any objections duly made to the draft order; and
  - (b) may, in any case, cause a public local inquiry to be held with respect to any objections to the draft order.
- (2) The appropriate Minister, in making an order to which this Schedule applies, may make such modifications in the terms of the draft as appear to him to be desirable.

### *Procedure and other matters after the making of an order.*

- 4 (1) After the appropriate Minister has made an order to which this Schedule applies, the order, together with a notice under sub-paragraph (2) below, shall be published in such manner as he thinks best adapted for informing the persons affected.
- (2) A notice under this sub-paragraph is a notice—
- (a) that the appropriate Minister has made the order; and
  - (b) that the order will become final and have effect unless, within such period of not less than thirty days as may be specified in the notice, a memorial

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praying that the order shall be subject to special parliamentary procedure is presented to that Minister by a person who—

- (i) is affected by the order; and
- (ii) has such interest as may be prescribed as being sufficient for the purpose.

*Orders subject to special parliamentary procedure*

- 5 (1) If, in the case of any order to which this Schedule applies, either—
- (a) no such memorial as is mentioned in paragraph 4(2) above has been presented within the period so mentioned; or
  - (b) every memorial so presented has been withdrawn,
- the appropriate Minister shall confirm the order and it shall thereupon have effect.
- (2) If such a memorial has been presented in respect of such an order and has not been withdrawn, the order shall be subject to special parliamentary procedure.
- (3) An order to which this Schedule applies shall, in any event, be subject to special parliamentary procedure if the appropriate Minister so directs.
- (4) The appropriate Minister may, at any time before it has been laid before Parliament, revoke, either wholly or partially, any order to which this Schedule applies which is subject to special parliamentary procedure.

*Notice of unconfirmed orders*

- 6 As soon as may be after an unconfirmed order has effect, the appropriate Minister shall publish in the London Gazette, and in such other manner as he thinks best adapted for informing persons affected, a notice—
- (a) stating that the order has come into force; and
  - (b) naming a place where a copy of it may be seen at all reasonable hours.

*Challenge to unconfirmed orders*

- 7 (1) If any person aggrieved by an unconfirmed order desires to question its validity on the ground—
- (a) that it is not within the powers of this Act; or
  - (b) that any requirement of this Act has not been complied with,
- he may, within six weeks of the relevant date, make an application for the purpose to the High Court.
- (2) Where an application is duly made to the High Court under this paragraph, the High Court, if satisfied—
- (a) that the order is not within the powers of this Act; or
  - (b) that the interests of the applicant have been substantially prejudiced by any requirements of this Act not having been complied with,
- may quash the order either generally or in so far as it affects the applicant.
- (3) Except by leave of the Court of Appeal, no appeal shall lie to the [F10Supreme Court] from a decision of the Court of Appeal in proceedings under this paragraph.

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- (4) Subject to the preceding provisions of this paragraph, an unconfirmed order shall not at any time be questioned in any legal proceedings whatsoever.
- (5) In this paragraph “the relevant date”, in relation to any order to which this Schedule applies, means—
- (a) where the order is subject to special parliamentary procedure, the date on which the order becomes operative under the <sup>M8</sup>Statutory Orders (Special Procedure) Act 1945;
  - (b) where the order is not subject to special parliamentary procedure, the date of the publication of the notice mentioned in paragraph 6 above.

**Textual Amendments**

**F10** Words in Sch. 3 para. 7(3) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), s. 148(1), Sch. 9 para. 56; S.I. 2009/1604, art. 2(d)

**Marginal Citations**

**M8** 1945 c. 18 (9 & 10 Geo 6).

*Power to make regulations for purposes of Schedule etc.*

- 8 The Ministers may make regulations in relation to—
- (a) the publication of notices under this Schedule;
  - (b) the holding of public local inquiries under this Schedule and procedure at those inquiries; and
  - (c) any other matters of procedure respecting the making of orders to which this Schedule applies.

SCHEDULE 4

Section 18.

SCHEMES FOR SMALL DRAINAGE WORKS

*Consultation and notice with respect to proposed scheme*

- 1 (1) Before making a scheme under section 18 of this Act, a local authority shall consult the [<sup>F11</sup>Agency].
- (2) Before making a scheme under section 18 of this Act, the [<sup>F11</sup>Agency] or a local authority shall give a notice under this paragraph—
- (a) to the owners and occupiers of land within the area to which the scheme relates; and
  - (b) to any other persons appearing to the [<sup>F11</sup>Agency] or, as the case may be, that local authority to be affected by the scheme.
- (3) A notice under this paragraph is a notice in the prescribed manner of—
- (a) the intention of making the scheme;
  - (b) the place where a draft of it can be inspected; and

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- (c) the period (which shall not be less than thirty days) within which objections to it may be made to the [<sup>F11</sup>Agency] or local authority.

#### Textual Amendments

**F11** Words in Sch. 4, para. 1 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

#### *Objections to scheme*

- 2 (1) Where any objections to a scheme are duly made and are not withdrawn—
- (a) the [<sup>F12</sup>Agency] or local authority shall send a copy of the draft scheme, together with copies of the objections, to one of the Ministers; and
  - (b) the scheme shall not be made unless the draft is confirmed, with or without modifications, by one of the Ministers.
- (2) Before either of the Ministers confirms a scheme under this paragraph, he shall either—
- (a) cause a public local inquiry to be held; or
  - (b) give to—
    - (i) the [<sup>F12</sup>Agency] or, as the case may be, the local authority; and
    - (ii) the persons by whom the objections are made,an opportunity of appearing before and being heard by a person appointed by him for the purpose.

#### Textual Amendments

**F12** Words in Sch. 4, para. 2 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

#### *Notice of scheme after it is made*

- 3 (1) Where a scheme is made by the <sup>F13</sup> or a local authority under section 18 of this Act, the [<sup>F13</sup>Agency] or, as the case may be, that authority shall send copies of the scheme to the owners and occupiers of land in the area to which it relates.
- (2) Where the [<sup>F13</sup>Agency] makes such a scheme it shall also notify the council of any county, [<sup>F14</sup>county borough,] district or London borough in which any of that land is situated.

#### Textual Amendments

**F13** Words in Sch. 4, para. 3 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 in Sch. 4, para. 3(2) inserted (1.4.1996) by 1994 c. 19, s. 22(5), Sch. 11, Pt. II, para. 4(15) (with ss. 54(5)(7), 55(5)); S.I. 1996/396, art. 3

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## SCHEDULE 5

Section 66.

### BYELAWS

#### *Publicity for application for confirmation*

- 1 (1) An internal drainage board shall, at least one month before they apply for the confirmation of any byelaw—
- (a) cause a notice of their intention to make the application to be published in the London Gazette and in such other manner as they think best adapted for informing persons affected; and
  - (b) cause copies of the notice to be served on any public authorities who appear to them to be concerned.
- (2) For at least one month before an application is made for the confirmation of any byelaw, a copy of it shall be deposited at the offices of the relevant drainage board.
- (3) The relevant drainage board shall provide reasonable facilities for the inspection, without charge, of a byelaw deposited under sub-paragraph (2) above.
- (4) Any person on application to the relevant drainage board shall be entitled to be furnished free of charge with a printed copy of such a byelaw.

#### *Confirmation*

- 2 (1) The relevant Minister, with or without a local inquiry, may—
- (a) refuse to confirm any byelaw submitted for confirmation under this Schedule; or
  - (b) confirm any such byelaw either without or, if the relevant drainage board consent, with modifications.
- (2) The relevant drainage board shall, if so directed by the relevant Minister, cause notice of any proposed modifications to be given in accordance with his directions.

#### *Commencement of byelaw*

- 3 (1) The relevant Minister may fix the date on which any confirmed byelaw is to come into force.
- (2) If no date is fixed in relation to a byelaw under sub-paragraph (1) above, the byelaw shall come into force at the end of the period of one month beginning with the date of confirmation.

#### *Publicity for confirmed byelaw*

- 4 (1) Any byelaw confirmed under this Schedule shall be printed and deposited at the office of the relevant drainage board and copies of it shall, at all reasonable hours, be open to public inspection without charge.
- (2) Any person, on application to the relevant drainage board, shall be entitled to be furnished with a copy of any confirmed byelaw, on payment of such reasonable sum as the relevant drainage board may determine.

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### *Revocation of byelaw*

- 5 If it appears to the relevant Minister that the revocation of a byelaw is necessary or expedient, he may, after—
- (a) giving notice to the relevant drainage board and considering any objections raised by them; and
  - (b) if required by them, holding a local inquiry,
- revoke that byelaw.

### *Proof of byelaws*

- 6 The production of a printed copy of a byelaw purporting to be made by an internal drainage board upon which is indorsed a certificate, purporting to be signed on their behalf, stating—
- (a) that the byelaw was made by that board;
  - (b) that the copy is a true copy of the byelaw;
  - (c) that on a specified date the byelaw was confirmed; and
  - (d) the date (if any) fixed under any enactment for the coming into force of the byelaw,
- shall be prima facie evidence of the facts stated in the certificate and without proof of the handwriting or official position of any person purporting to sign the certificate.

### *Interpretation*

- 7 In this Schedule “the relevant drainage board”, in relation to a byelaw, means the internal drainage board which made the byelaw.

## SCHEDULE 6

Section 67.

### PROTECTION FOR PARTICULAR UNDERTAKINGS

#### *Undertakings protected by Schedule*

- 1 (1) The following are the undertakings protected by this Schedule, that is to say—
- (a) the undertakings of the <sup>F15</sup>Agency], the Civil Aviation Authority, <sup>F16</sup>the Coal Authority] and <sup>F17</sup>a universal service provider (so far as it is his undertaking in relation to the provision of a universal postal service)];
  - (b) the undertaking of any water undertaker or sewerage undertaker;
  - <sup>F18</sup>(c) any undertaking consisting in the provision of an electronic communications code network;]
  - (d) any airport to which Part V of the <sup>M9</sup>Airports Act 1986 applies;
  - (e) the undertaking of any public gas supplier within the meaning of Part I of the <sup>M10</sup>Gas Act 1986;
  - (f) the undertaking of any person authorised by a licence under Part I of the <sup>M11</sup>Electricity Act 1989 to generate, <sup>F19</sup>supply or participate in the transmission of] electricity;

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- (g) the undertaking of any navigation authority, harbour authority or conservancy authority;
  - (h) any public utility undertaking carried on by a local authority under any Act or under any order having the force of an Act.
  - [<sup>F20</sup>(j) the undertaking of any licensed operator, within the meaning of the Coal Industry Act 1994.]
  - [<sup>F21</sup>(k) the undertaking of a person who holds a licence under Chapter I of Part I of the Transport Act 2000 (air traffic services) to the extent that it is the person's undertaking as licence holder.]
- [<sup>F22</sup>(1A) In sub-paragraph (1)(a) above “universal service provider” has the same meaning as in the Postal Services Act 2000; and the reference to the provision of a universal postal service shall be construed in accordance with that Act.]
- (2) For the purposes of this Schedule any reference in this Schedule, in relation to any such airport as is mentioned in sub-paragraph (1)(d) above, to the persons carrying on the undertaking is a reference to the airport operator.

#### **Textual Amendments**

- F15** Words in Sch. 6 para. 1 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 in Sch. 6 para. 1(1)(a), substituted (31.10.1994) by 1994 c. 21, s. 67, **Sch. 9 para. 44(a)**; S.I. 1994/2552, **art. 2, Sch. 1**
- F17** Words in Sch. 6 para. 1(1)(a) substituted (26.3.2001) by S.I. 2001/1149, **art. 3(1), Sch. 1 para. 90(2)** (subject to **art. 1(3)**)
- F18** Sch. 6 para. 1(1)(c) substituted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by **Communications Act 2003 (c. 21), s. 411(2), Sch. 17 para. 116** (with Sch. 18); S.I. 2003/1900, **arts. 1(2), 2(1), Schs. 1** (with **art. 3**) (as amended by S.I. 2003/3142, **art. 1(3)**); S.I. 2003/3142, **art. 3(2)** (with **art. 11**)
- F19** Words in Sch. 6 para. 1(1)(f) substituted (1.9.2004) by **Energy Act 2004 (c. 20), s. 198(2), Sch. 19 para. 19**; S.I. 2004/2184, **art. 2(2), Sch. 2**
- F20** Sch. 6 para. 1(1)(j) inserted (31.10.1994) by 1994 c. 21, s. 67, **Sch. 9, para. 44(b)**; S.I. 1994/2552, **art. 2, Sch. 1**
- F21** Sch. 6 para. 1(1)(k) inserted (1.4.2001) by 2000 c. 38, s. 37, **Sch. 5 para. 16** (with s. 106); S.I. 2001/869, **art. 2**
- F22** Sch. 6 para. 1(1A) inserted (26.3.2001) by S.I. 2001/1149, **art. 3(1), Sch. 1 para. 90(3)** (subject to **art. 1(3)**)

#### **Modifications etc. (not altering text)**

- C9** Sch. 6 para. 1(1)(e) amended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4, para. 2(2)(o)**; S.I. 1996/218, **art. 2**

#### **Marginal Citations**

- M9** 1986 c. 31.
- M10** 1986 c. 44.
- M11** 1989 c. 29.

#### *Protection for statutory powers and jurisdiction*

- 2 Without prejudice to any power under this Act to transfer the functions of any authority or to vary navigation rights, nothing in this Act shall confer power to do anything which prejudices the exercise of any statutory power, authority or



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jurisdiction from time to time vested in or exercisable by any persons carrying on an undertaking protected by this Schedule.

*General provisions protecting undertakings*

- 3 Nothing in this Act or in any order under this Act shall authorise any person, except with the consent of the persons carrying on an undertaking protected by this Schedule, to do any work which, whether directly or indirectly, interferes or will interfere—
- (a) with the works or any property which is vested in, or under the control of, the persons carrying on that undertaking, in their capacity as such; or
  - (b) with the use of any such works or property,
- in such a manner as to affect injuriously those works or that property or the carrying on of that undertaking.

*Special protection for railways etc.*

- 4 Without prejudice to the preceding provisions of this Schedule, nothing in the provisions of this Act shall authorise any person, except with the consent of the British Railways Board, [<sup>F23</sup>Transport for London or any subsidiary (within the meaning of the Greater London Authority Act 1999) of Transport for London,] or, as the case may be, the railway company in question, to interfere with—
- (a) any railway bridge or any other work connected with a railway; or
  - (b) the structure, use or maintenance of a railway or the traffic on it.

**Textual Amendments**

- F23** Words in Sch. 6 para. 4 substituted (15.7.2003) by [The Transport for London \(Consequential Provisions\) Order 2003 \(S.I. 2003/1615\)](#), art. 1(1), [Sch. 1 para. 17](#)

*Conditions of consent and grounds for refusal*

- 5 A consent for the purposes of paragraph 3 or 4 above may be given subject to reasonable conditions but shall not be unreasonably withheld.

*Determination of disputes*

- 6 If any question arises under this Schedule—
- (a) as to whether anything done or proposed to be done interferes or will interfere as mentioned in paragraph 3 or 4 above;
  - (b) as to whether any consent for the purposes of this Schedule is being unreasonably withheld; or
  - (c) as to whether any condition subject to which any such consent has been given was reasonable,

that question shall be referred to a single arbitrator to be agreed between the parties or, failing such an agreement, to be appointed by the President of the Institution of Civil Engineers.

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## TABLE OF DERIVATIONS

### Notes:

- 1 The following abbreviations are used in this Table:—
- |                           |   |
|---------------------------|---|
| 1976                      | = The Land Drainage Act 1976 (c. 70)  |
| 1980(MCA)                 | = The Magistrates' Courts Act 1980 (c. 43)  |
| 1982(CJA)                 | = The Criminal Justice Act 1982 (c. 48)   |
| 1984                      | = The Telecommunications Act 1984 (c. 12)   |
| 1985(LG)                  | = The Local Government Act 1985 (c. 51)   |
| 1989                      | = The Water Act 1989 (c. 15)  |
| 1989(EA)                  | = The Electricity Act 1989 (c. 29)  |
| 1990                      | = The Environmental Protection Act 1990 (c. 43)   |
| R: (followed by a number) | = The recommendation so numbered as set out in the Appendix to the Report of the Law Commission (Cm. 1483). |
- 2 Transfer of functions orders (“TFOs”), where applicable in relation to a provision re-enacted in the consolidation Bills, are specified at the appropriate place in column 2 of the Table.
- 3 General provisions contained in section 32 of the Magistrates’ Courts Act 1980 (c. 43) and section 46 of the Criminal Justice Act 1982 (c. 48) provide, respectively, for the maximum fine on summary conviction of an either way offence to be the statutory maximum and for a reference to the amount of the maximum fine to which a person is liable in respect of a summary offence to become a reference to a level on the standard scale. Where the effect of one of these enactments is consolidated it is not referred to separately in column 2 of this Table.

Provision of Act	Derivation
1	1976 ss. 6 & 7 & Sch 2 para 2; 1989 s. 140; SI 1990/72 reg 19(1) & (2); TFO: SI b1978/272 Sch 3 para 7(4) & (13).
2	1976 s. 14; 1989 Sch 15 para 1; TFO: SI 1978/272 Sch 3 para 7(4).
3	1976 ss. 11(1) & (3)–(5), 109(1),(5) & (6) & 114(3); 1989 Sch 15 para 1; SI 1991/983; TFO: SI 1978/272 Sch 3 para 7(4).

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4	1976 ss. 11(2) & 12 & 109(1) & (6); 1989 Sch 15 para 1; SI 1991/983; TFO: SI 1978/272 Sch 3 para 7(4).
5	1976 ss. 13 & 109(1) & (6); 1989 Sch 15 para 1; SI 1991/983; TFO: SI 1978/272 Sch 3 para 7(4).
6	1976 s. 94; 1989 Sch 15 paras 1 & 33; TFO: SI 1978/272 Sch 3 para 7(8).
7	1976 ss. 15 & 116(4); 1989 Sch 15 para 1; TFO: SI 1978/272 Sch 3 para 7(4).
8	1976 ss. 24(2) & 28(1); 1989 Sch 15 paras 9(1) & 12(1).
9	1976 ss. 16(1)–(4) & 116(1); 1982(CJA) s. 38; 1989 Sch 15 para 1; TFO: SI 1978/272 Sch 3 para 7(4).
10	1976 s. 16(5)–(7); 1985(LG) Sch 7 para 2; 1989 Sch 15 para 1; TFO: SI 1978/272 Sch 3 para 7(4).
11	1976 s. 21; 1989 Sch 15 paras 1 & 6.
12	1989 ss. 8(1)–(3), (5)–(7) & 152(8).
13	1989 s. 9; 1990 Sch 9 para 17(2).
14	1976 ss. 17, 98(1) & (7) & 100(3); 1989 Sch 15 paras 1 & 5.
15	1976 ss. 8(1), 33, 98(1) & (7) & 100(3); 1989 Sch 15 para 1; 1990 Sch 15 para 18.
16	1976 s. 98(5), (5A) & (6); 1985(LG) Sch 7 para 6; 1989 Sch 15 para 1.
17	1976 ss. 98(8)–(13) & 116(4); 1989 Sch 15 para 1.
18	1976 ss. 30, 31(4)–(6), 100(1) & 109(1); 1989 Sch 15 paras 1 & 34; SI 1978/319 Sch para 1; TFO: SI 1978/272 Sch 3 para 7(5).
19	1976 ss. 8(1) & 23(2)–(5); 1984 Sch 4 para 66(1); 1989 Sch 15 paras 1 & 8; TFOs SI 1978/272 Sch 3 para 7(4) & (6); R: 16.
20	1976 ss. 8(1), 22, 99 & 116(4); 1985(LG) Sch 7 para 7; 1989 Sch 15 para 7.
21	1976 ss. 8(1); 24(2) & (3); 1989 Sch 15 paras 1 & 9(1).

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22	1976 s. 93; 1989 Sch 15 para 32; TFO: SI 1978/272 Sch 3 para 7(3).
23	1976 ss. 28(1)–(3) & (10)–(11A), 109(1) & (2) & 116(4); 1989 Sch 15 paras 1, 12 & 35.
24	1976 s. 28(4)–(9); 1989 Sch 15 para 1; R: 9.
25	1976 ss. 8(1), 18 (1)–(7) & 97(1); 1982(CJA) s. 38; 1989 Sch 15 para 1.
26	1976 ss 18(8)–(11) & 97(3); 1989 Sch 15 para 1.
27	1976 s. 19; 1980(MCA) Sch 7 para 147; 1989 Sch 15 para 1.
28	1976 s. 40.
29	1976 ss. 40(2), 43 & 44; 1986 (c. 49) Sch 3 para 3; TFO SI 1978/272 Sch 3 para 7(3).
30	1976 ss. 40(4), 41, 43(3) & 44.
31	1976 ss. 42 & 44.
32	1976 ss. 25 & 109(1), (5) & (6); 1989 Sch 15 para 1; SI 1991/983; TFO: SI 1978/272 Sch 3 para 7(3).
33	1976 ss. 18(10) & 26(1)–(3); 1989 Sch 15 para 1; TFO: SI 1978/272 Sch 3 para 7(4) & (5).
34	1976 ss. 26(4)–(11) & 109 (6); 1989 Sch 15 para 1 & 10; SI 1991/983; TFO: SI 1978/272 Sch 3 para 7(4) & (5).
35	1976 ss. 8(1), 27 & 109 (1) & (5); 1989 Sch 15 paras 1 & 11; TFOs: SI 1978/272 Sch 3 para 7(4) & (5); SI 1983/1127 art 1(2)(a).
36	SI 1990/72 regs 3 & 6(1).
37	SI 1990/72 regs 15, 16 & 18.
38	1976 ss. 68(1), (5) & (6); 1989 Sch 15 paras 1 & 28; SI 1990/72 reg 17; TFO: SI 1978/272 Sch 3 para 7(4).
39	1976 s. 69(2)–(6); 1989 Sch 15 para 1; TFO: SI 1978/272 Sch 3 para 7(4) & (5).
40	1976 ss. 63(3) & 83; 1989 Sch 15 para 1; SI 1990/72 regs 5, 6(1) & 8(1)–(3).

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41	1976 s. 64(1); 1989 Sch 15 para 27; SI 1990/72 regs 2 & 7(1) & Sch.
42	SI 1990/72 reg 7(2), (3) & (5); SI 1991/523 reg 5.
43	1976 s. 67(1)–(3) & (8); SI 1990/72 reg 6(2).
44	1976 s. 67(4)–(7); SI 1990/72 regs 6(2) & 8(6).
45	1976 s. 78; SI 1989/440 Sch 2 para 4; SI 1990/72 regs 3, 5, 6(2) & 7(4); TFO: SI 1978/272 Sch 3 para 7(3).
46	1976 s. 79; SI 1989/440 Sch 2 para 4; SI 1990/72 reg 6(2).
47	1976 s. 68(4)–(9); 1989 Sch 15 paras 1 & 28; SI 1990/72 reg 6(2); TFO: SI 1978/272 Sch 3 para 7(4).
48	1976 ss 72(1) & (4) & 74; SI 1990/72 reg 8(4).
49	1976 ss. 71 & 72(4)–(6); SI 1990/72 reg 6(2(c)).
50	1976 s. 76; SI 1990/72 reg 6(2).
51	1976 s. 77; SI 1990/72 reg 6(2); TFO: SI 1978/272 Sch 3 para 7(4).
52	1976 s. 75; TFO: SI 1978/272 Sch 3 para 7(4).
53	1976 s. 82; 1982(CJA) s. 38.
54	1976 ss. 72(7) & 80; SI 1990/72 reg 8(7) & (8).
55	1976 ss. 87, 104 & 107.
56	1976 ss. 8(1) & 88; 1989 Sch 15 paras 1 & 29.
57	1976 s. 84(4)–(8); 1989 Sch 15 para 1; TFO: SI 1978/272 Sch 3 para 7(4).
58	1976 s. 86; 1989 Sch 15 para 1; TFO: SI 1978/272 Sch 3 para 7(4).
59	1976 s. 91; 1989 Sch 15 para 1; TFO: SI 1978/272 Sch 3 para 7(3).
60	1976 s. 102.
61	1976 s. 110(3); 1985(LG) Sch 7 para 8.
62	1976 ss. 37 & 98(3), (5) & (6); IA s. 17; 1981 (c. 67) Sch 4 para 1; 1989 Sch 15

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	para 17; TFO: SI 1978/272 sch 3 para 7(4).
63	1976 s. 38; TFO: SI 1978/272 sch 3 para 7(4).
64	1976 ss. 39 & 103; 1982(CJA) s. 38.
65	1976 ss. 95 & 109(1) & (2); TFO: SI 1978/272 Sch 3 para 7(9).
66	1976 ss. 8(1), 34 & 98 & Sch 4 para 1; 1982(CJA) s. 38; 1989 Sch 15 para 15; TFO: SI 1978/272 Sch 3 para 7(3).
67	1976 ss. 111, 113 & 114; 1979 (c. 46) Sch 4 para 16; 1989 s. 160.
68	1976 s. 106.
69	1976 s. 96; 1982(CJA) s. 38; 1986 (c. 63) s. 42; TFO: SI 1978/272 Sch para 7(9).
70	1989 s. 174; R: 11.
71	1976 s. 108; 1989 s. 187; R: 14.
72	1976 ss. 24(1), 26(12) 104A & 116; 1985 Sch 7 para 9; SI 1986/208 Sch 1 Pt II para 4; SI 1990/72 regs 2, 6(2), 7(6), 8(5) & 9(3); SI 1991/523 reg 5(c); R: 16.
73	1976 s. 8(2); TFO: SI 1978/272 Sch 3 para 7(5); R: 8.
74	1976 s. 115; 1989 s. 192.
75	1989 s. 193.
Sch 1	1976 ss. 7(3) & 83 & Sch 2 paras 1–6 & Pt II; SI 1978/319 Sch para 7(4); 1989 Sch 15 para 40; SI 1990/72 regs 6, 7(6), 19 & 20; SI 1991/523 reg 5(c) & 7; TFO: SI 1978/272 Sch 3 para 7(4); R: 7.
Sch 2	1976 s. 35 & Sch 2 paras 8 to 21; 1989 Sch 15 para 1; TFO: SI 1978/272 Sch 3 para 7(4); R: 10.
Sch 3	1976 109(4) & Sch 3; TFO: SI 1978/272 Sch 3 para 7(4), (5) & (12).
Sch 4	1976 ss. 31(1)–(3) & 100(1) & (2); 1989 Sch 15 para 1; TFO SI 1978/272 sch 3 para 7(5).
Sch 5	1976 Sch 4 paras 2–11; 1989 Sch 15 para 41; TFO: SI 1978/272 Sch 3 para 7(4).

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1976 s. 112; 1984 (c. 12) Sch 4 para 66(1); 1984 (c. 32) Sch 6 para 12; 1986 (c. 31) Sch 2 para 5; 1986 (c. 44) Sch 7 para 25; 1987 (c. 3) Sch 1 para 32; 1989 Sch 15 para 37; 1989(EA) Sch 16 para 21.

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