
STATUTORY INSTRUMENTS

1990 No. 72

The Internal Drainage Boards (Finance) Regulations 1990

PART I
INTRODUCTORY

Extent, title and commencement

1. These Regulations, which shall apply to England and Wales, may be cited as the Internal Drainage Boards (Finance) Regulations 1990, and shall come into force on 24th January 1990.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires—

“the 1988 Act” means the Local Government Finance Act 1988;

“agricultural buildings” has the meaning provided by paragraphs 2 to 8 of Schedule 5 to the 1988 Act⁽¹⁾;

“agricultural land” has the meaning provided by paragraphs 2 and 4 to 8 of Schedule 5 to the 1988 Act;

“annual value property” means a hereditament comprising agricultural land or agricultural buildings in respect of which drainage rates may be assessed under the principal Act or any local Act;

“board” means an internal drainage board the continued existence of which is confirmed by section 140 of the Water Act 1989⁽²⁾ or which is constituted or re-constituted pursuant to sections 11 to 13 of the principal Act;

“district” means an internal drainage district the continued existence of which is confirmed by section 140 of the Water Act 1989 or which is constituted or re-constituted pursuant to section 11 of the principal Act;

“land” has the meaning provided by section 116(1) of the principal Act;

“local charging authority” in relation to a board means a charging authority for any area wholly or partly included in their district;

“the National Rivers Authority” means the National Rivers Authority established by section 1 of the Water Act 1989;

“the principal Act” means the Land Drainage Act 1976⁽³⁾;

“register” in relation to a board means the register prepared by the board in accordance with the Registers of Drainage Boards Regulations 1968⁽⁴⁾;

(1) Paragraph 7 of Schedule 5 was amended by the Local Government and Housing Act 1989, Schedule 5, paragraph 37(2).

(2) 1989 c. 15.

(3) 1976 c. 70; Schedules 15 and 27 to the Water Act 1989 made minor amendments to and repealed certain provisions relevant to these Regulations.

(4) S.I. 1968/1672.

“valuation list” means a valuation list maintained under Part V of the General Rate 1967⁽⁵⁾.

(2) Any reference in these Regulations to a numbered regulation shall be construed as a reference to the regulation bearing that number in these Regulations.

Provision for the boards' expenses

3. The expenses of a board under the principal Act or any other Act (including any contribution made by the board towards expenses of the National Rivers Authority) shall, in so far as they are not met by contributions from that Authority, be raised by means of drainage rates and special levies in accordance with such Act read with these Regulations.

PART II

DRAINAGE RATES

Modification of the power to make rates

4. The power of a board to make and levy a drainage rate under and in accordance with Part IV of the principal Act or the provisions of any local Act as regards any time after 31st March 1990 shall be modified in accordance with the provisions of this Part and Parts IV and VI of these Regulations.

Rating of agricultural land and agricultural buildings

5. A board may make a drainage rate in respect only of agricultural land and agricultural buildings.

Abolition of owner's rate

6.—(1) The expenses of a board raised by means of drainage rates in respect of the financial year beginning in 1993 and subsequent financial years shall be defrayed out of such rates without regard to the purpose for which any such expenses were incurred, and, in relation to such rates—

- (a) the distinction made in section 63(2) of the principal Act, between an owner's drainage rate and an occupier's drainage rate, shall cease to have effect;
- (b) section 63(3) of the principal Act shall have effect as if the words “Every owner's drainage rate and” were omitted;
- (c) section 69(1), paragraph (d) of section 72(5) of, and paragraphs 1(3)(b) and 22(b) of Schedule 2 to, the principal Act shall cease to have effect.

(2) Sections 64(7), 67(2) (4) and (6), 68(7), 76(2), 77, 78(1) and (2), 79(3) and 116(2) of, and paragraph 1(1)(c) of Schedule 2 to, the principal Act⁽⁶⁾ shall have effect from 1st April 1993 as if the references therein to the owner or owners or the owning of hereditaments or land were omitted, but without prejudice to anything done by virtue of those sections before 1st April 1993.

(3) Paragraph 1(1)(a) and (d) and (3) of Schedule 2 to the principal Act shall have effect from 1st April 1993 as if the references therein to the owner of any land were references to the owner who is also the occupier of the land.

(5) 1967 c. 9.

(6) Sections 78 and 79 were amended by S.I. 1989/440.

Annual value of agricultural land and agricultural buildings

7.—(1) For the purposes of sections 64(1) and 67 of the principal Act, the annual value of an annual value property in relation to any drainage rate made in respect of the financial year beginning in 1993 and subsequent financial years shall be its annual value determined in accordance with the Schedule to these Regulations.

(2) Without prejudice to section 67 of the principal Act, every board shall, not later than 31st December 1992, determine the annual value in accordance with the said Schedule of each annual value property in their district on that date.

(3) Where any agricultural land or agricultural buildings becomes an annual value property after 31st December 1992 in a district, the board of that district shall determine its annual value in accordance with the said Schedule as soon as practicable after the date on which it becomes such a property and that annual value shall have effect from that latter date.

(4) A determination made by a board under paragraphs (2) or (3) of this regulation may be the subject of an appeal in accordance with the provisions of section 78 of the principal Act in the same manner as if it were a determination under section 67(2) of that Act.

(5) For the purpose of enabling a board to fulfil the requirements of paragraphs (2) and (3) of this regulation, the occupier of an annual value property shall afford to the board in whose district the property lies, its officers and agents, reasonable facilities to inspect the property.

Supplementary provisions as to rates

8.—(1) Every drainage rate shall be made in respect of a financial year.

(2) 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.

(3) Without prejudice to the provisions of section 76 of the principal Act and any corresponding provision of a local Act in respect of a board, a board may not make more than one rate in respect of a financial year.

(4) Notice of a drainage rate given by a board pursuant to section 74 of the principal Act shall state the amounts of the board's expenses to be raised by means of drainage rates and special levies, respectively.

(5) For the purposes of sections 63 to 83 of the principal Act, the expressions

“agricultural buildings” and “agricultural land” shall have the meanings provided by regulation 2(1).

(6) In section 67(6) of the principal Act, the reference to the “financial year” shall be taken to refer to the financial year as defined in section 145(3) of the 1988 Act (a period of 12 months beginning with 1st April).

(7) Arrears of any drainage rates made in respect of a chargeable financial year may be recovered by a board in the same manner in which arrears of a non-domestic rate may, under the 1988 Act, be recovered by a charging authority.

(8) The power conferred by paragraph (7) of this regulation is in addition to, and not in substitution for, the powers conferred by any provisions of any local Act on any board in relation to arrears of drainage rates.

PART III

SPECIAL LEVIES

Power to issue special levies

9.—(1) In order to meet its expenses, a board may, in accordance with the following provisions of these Regulations, issue a special levy to a local charging authority in respect of any chargeable financial year.

(2) Any agreement made by a board and a rating authority pursuant to section 81 of the principal Act shall cease to have effect as regards any time after 31st March 1990.

(3) References in the principal Act to a “qualified authority” shall be taken to refer to a local charging authority.

Issue of special levies

10.—(1) A special levy must be issued before 15th February in the financial year preceding that in respect of which it is issued, but is not invalid merely because it is issued on or after that date.

(2) A board shall secure that such of its expenses as are to be met by special levies are borne by the local charging authorities (if more than one) in proportion.

(3) Proportions under paragraph (2) of this regulation shall be determined—

- (a) in respect of the financial years beginning in 1990, 1991 and 1992, in accordance with regulation 22;
- (b) in respect of the financial year beginning in 1993 and each subsequent financial year, by reference to the aggregate annual value of the land, other than agricultural land, within each charging authority’s area or (as the case may be) the part of such land that lies within the board’s district, such value to be determined by the board in accordance with the provisions of regulation 18.

Substituted special levies

11.—(1) A board which has issued a special levy in respect of a financial year (originally or by way of substitute) may issue a special levy in substitution if the special levy for which it is substituted is quashed because of a failure to fulfil the requirement of regulation 10(2), or if it appears necessary to them in order to make the special levy conform with these Regulations, 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 necessary to the board by reason of any change in the boundaries of their district or of a local charging authority.

(2) A special levy issued in substitution shall be issued in accordance with regulation 10(2) and (3) and regulation 12(1) and (2).

(3) Where a board issues a special levy in substitution (in this regulation called “a new levy”), anything paid to it by reference to the special levy for which it is substituted (in this regulation called “the old levy”) shall be treated as paid by reference to the new levy.

(4) But if the amount of the old levy exceeds that of the new levy—

- (a) the amount in excess shall be repaid if the local charging authority by whom it was paid so requires;

- (b) in any other case, the amount in excess shall (as the board determines) either be repaid or be credited against any subsequent liability of the local charging authority in respect of any special levy of the board.

Supplementary provisions as to special levies

12.—(1) A special levy shall be made by a board in writing under the common seal of the board.

(2) A special levy shall be issued by a board within 10 days of the making thereof, stating the amount of the special levy, the charging authority to which it is issued and the date of issue, to every charging authority for any area wholly or partly included in the district of the board.

(3) Every board shall before 1st April 1990 compile, and subsequently maintain, a record of—

- (a) any special levy (including any special levy in substitution) issued by them under these Regulations, showing in respect of each special levy the amount thereof, the dates on which it was made and issued, and the charging authority to which it was issued; and
- (b) the proportion of their expenses raised, in respect of each chargeable financial year, from the proceeds of drainage rates and special levies, respectively,

and keep the said record open to inspection by members of the public at all reasonable times at the principal office of the board.

Payment of special levies

13. A local charging authority, to which a board issues a special levy under these Regulations in respect of a financial year, shall pay the amount of the special levy in that financial year—

- (a) at such time and in such instalments (if any) as may be agreed between the board and the local charging authority; or
- (b) in default of such agreement, by two equal instalments due on 1st May and 1st November in the financial year, or when the special levy is issued after 30th April in the financial year, due 30 days after the date of issue of the special levy and on 1st November or 60 days after the said date of issue (whichever is later).

Anticipation of special levies

14.—(1) This regulation applies where, at a time when a charging authority makes a calculation under section 95 of the 1988 Act(7) for a financial year, a board having power to issue to it a special levy under these Regulations has not issued a levy to it in respect of that year.

(2) In estimating its expenditure under section 95(2) of the 1988 Act, a charging authority may take into account its estimate of the amount of the special levy that it expects will be issued to it by the board.

(3) Where before 15th February in any financial year a board issues to a charging authority a special levy in respect of the following financial year, the amount taken into account under section 95(2) of the 1988 Act in respect of that following financial year shall be the amount of the special levy.

(4) The amount estimated under paragraph (2) of this regulation in relation to the financial year beginning in 1990 shall be not less than the aggregate amount of the board's expenses for which, in the financial year beginning in 1989, the board made a drainage rate assessed on the land, other than agricultural land and agricultural buildings, in the area of the charging authority including, where an agreement between the board and the charging authority under section 81 of the principal Act is in force, the amount payable under that agreement.

(7) Section 95 was amended by the Local Government and Housing Act 1989, Schedule 5, paragraph 63.

(5) The amount estimated under paragraph (2) of this regulation in relation to the financial year beginning in 1991 and each subsequent financial year shall be not less than the amount of the special levy issued by the board to the charging authority in respect of the preceding financial year.

(6) If the charging authority makes calculations for the year in substitution under section 96 of the 1988 Act at a time when a special levy in respect of that year has not been issued to it by the board, and an amount was taken into account under paragraph (2) of this regulation, the charging authority shall, in estimating its expenditure under section 95(2)(a) of that Act, take into account an amount equal to that taken into account under paragraph (2).

(7) If the board issues no levy to the charging authority in respect of a year, the fact that an amount has been taken into account under paragraph (2) of this regulation does not make the charging authority liable to pay anything to the board.

(8) Every board shall, if so requested, inform each local charging authority before 15th February 1990 of the aggregate amount relating to it referred to in paragraph (4) of this regulation.

(9) Section 33(4)(a) of the 1988 Act⁽⁸⁾ shall apply in respect of a special levy anticipated under this regulation as it applies to a special levy issued to it.

PART IV

APPORTIONMENT OF EXPENSES

Expenses raised by drainage rates

15.—(1) Subject to regulation 17(4), the proportion of the expenses of a board which shall be raised from the proceeds of drainage rates shall be determined in accordance with the provisions of this regulation.

(2) In respect of the financial years beginning in 1990, 1991 and 1992, the proportion shall be determined in accordance with regulation 22.

(3) In respect of the financial year beginning in 1993 and each subsequent financial year, the proportion shall be determined by dividing the aggregate of the annual values of the annual value properties in the board's district by the aggregate of the annual values of all the land and buildings in that district, such values to be determined in accordance with regulation 18.

Expenses raised by special levies

16. Subject to regulation 17(4), the proportion of the expenses of a board which shall be raised from the proceeds of special levies in any financial year shall be such as to raise the balance of those expenses remaining after deduction of the amount to be raised from the proceeds of drainage rates.

Expenses raised in sub-districts

17.—(1) Section 68(1) of the principal Act shall be taken to include a power for a board to issue differential special levies in accordance with this regulation.

(2) An order made by a board under the said section 68(1) may determine the proportions of the expenses of the board to be raised in the respective sub-districts within their district.

(3) Where an order made by a board under the said section 68(1) is in force and the order does not determine the proportions of the expenses to be raised in the respective sub-districts in accordance with paragraph (2) of this regulation, the amounts to be raised in each sub-district shall be determined as follows:—

(8) Section 33(4)(a) was amended by the Local Government and Housing Act 1989, Schedule 5, paragraph 15(2).

- (a) expenses incurred in connection with new works or the maintenance or improvement of existing works in each sub-district shall be raised in that sub-district;
 - (b) there shall be raised in each sub-district a proportionate part of the charges incurred by the board in respect of contributions under section 84 of the principal Act, or amounts specified under section 86 of that Act as corresponding to such contributions, and of other expenses and charges not directly attributable to the maintenance of particular works.
- (4) Where an order made by the board under section 68(1) of the principal Act is in force, the proportions of the expenses of the board to be raised in a sub-district which shall be raised by means of drainage rates and special levies respectively—
- (a) shall be determined, in respect of the financial years beginning in 1990, 1991 and 1992, in accordance with regulation 22;
 - (b) in respect of the financial year beginning in 1993 and each subsequent financial year, shall be the proportion $P : Q$, where—
 - (i) P is the aggregate of the annual values of the annual value properties in the sub-district, and
 - (ii) Q is the aggregate of the values of the land, other than agricultural land, within the sub-district,such values to be determined by the board, and to have effect, in respect of each sub-district in the same manner as the values of such land are determined and have effect in respect of a district under regulation 18.

Determination of values for apportionment

18.—(1) Every board shall, before 15th February 1993 and in every subsequent year before 15th February, determine—

- (a) the aggregate annual value of the annual value properties in their district, and
- (b) the aggregate value of all other land in their district.

(2) A determination under paragraph (1) shall be made in respect of the annual value properties or (as the case may be) the other land in the district of the board on the 31st December preceding the date on which the determination is to be made, and shall have effect for the purposes of any apportionment required to be made under regulation 10(3) or 15(3) in respect of the financial year following that in which the determination is to be made.

(3) The value of land in a district other than agricultural land and agricultural buildings shall be taken to be—

- (a) in the case of a hereditament shown in the local non-domestic rating list of a charging authority on 1st April 1990, one-third of the relevant proportion of the rateable value shown for it in respect of that date in that list on 31st December 1992;
- (b) in the case of domestic property shown in a valuation list on 31st March 1990, one-third of the relevant proportion of the rateable value shown for it in the list on that date, multiplied by a factor of 6.73;
- (c) in the case of a hereditament, not being one to which sub-paragraph (a) above applies nor domestic property to which sub-paragraph (b) above applies, shown in the register of a board on 31st March 1990, one-third of the annual value shown for it in that register on that date multiplied by a factor of 8.02;
- (d) in the case of any land to which sub-paragraphs (a) to (c) above do not apply, the product of multiplying the area of the land (expressed in hectares and parts of a hectare) by a unit value per hectare representing the average value per hectare of all the land within

the district to which sub-paragraphs (a) to (c) above apply, calculated by reference to the values determined in accordance with those sub-paragraphs.

(4) In paragraph (3)(a) and (b) of this regulation, “relevant proportion” in relation to a rateable value means the proportion which the area of any part of the hereditament lying within a district bears to the total area of the hereditament.

PART V

MEMBERSHIP OF THE BOARDS

Appointed members

19.—(1) From 1st April 1990, a local charging authority may, in accordance with the provisions of this regulation and regulation 20, appoint a member or members of the board having power to issue special levies to it, and any member so appointed (in these Regulations referred to as an “appointed member”) shall be a member of the board in addition to elected members (if any) and members otherwise qualified as such (if any).

(2) References in paragraphs 2 to 5 of Schedule 2 to the principal Act to members of a board shall be taken not to refer to appointed members.

(3) The terms of appointment of an appointed member may be determined by the charging authority that appoints him or (as the case may be) the charging authorities that appoint him.

(4) In appointing a person to be a member of a board, a charging authority shall have regard to the desirability of appointing a person who has knowledge or experience (including knowledge of the district of the board or commercial experience) of some matter relevant to the functions of the board and has shown capacity in such a matter.

Numbers of appointed members

20.—(1) In the period 1st April 1990 to 31st March 1993, the number of appointed members of a board—

- (a) may not exceed two-fifths of the number of all the members of the board; and
- (b) subject to sub-paragraph (a) of this paragraph, shall be such that the number bears to the maximum number of all the members of the board as nearly as possible the proportion which the aggregate amount raised by the board by means of drainage rates assessed on land, other than agricultural land and agricultural buildings, in respect of the financial year beginning in 1989 (including any amount payable to the board under an agreement made under section 81 of the principal Act) bears to the total amount raised by means of drainage rates in respect of that financial year.

(2) From 1st April 1993 the number of appointed members of a board—

- (a) may not exceed by more than one the number of the other members of the board; and
- (b) subject to sub-paragraph (a) of this paragraph, shall be such that the number bears to the maximum number of all the members of the board as nearly as possible the proportion $A : B$, where A means the aggregate amount of special levies issued by the board, and B means the amount of the expenses of the board in respect of which drainage rates have been made and special levies have been issued.

(3) Where more than one charging authority is entitled to appoint members of a board—

- (a) each such authority may appoint the number of members of the board calculated by multiplying the maximum number of appointed members by the fraction X/Y , where X and

Y have the meanings assigned to them by paragraph (4) below, disregarding any fraction in the resulting product; and

- (b) where any such authority has appointed a member, 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.
- (4) In paragraph (3)(a) above—
- (a) in respect of the period 1st April 1990 to 31st March 1993, X means the aggregate for the charging authority of the values referred to in regulation 22(a), and Y means the sum of such aggregate values of the local charging authorities whose areas lie within the board's district;
 - (b) in respect of any period after 31st March 1993, X means the amount of the special levy issued to the charging authority, and Y means the aggregate amount of the special levies issued by the board.

(5) The number of members that may be appointed in accordance with the foregoing paragraphs of this regulation shall be determined for the period 1st April 1993 to 31st March 1996 and for each succeeding three-year period beginning on 1st April, by reference to the amounts in respect of which a board makes drainage rates and issues special levies in the financial year immediately preceding the relevant period, ascertained on 31st December in that year.

PART VI

TRANSITIONAL ARRANGEMENTS

Rating

21. In respect of the financial years beginning in 1990, 1991 and 1992, section 69(1) of the principal Act shall have effect as if the reference to the relative amount of rates in the respective sub-districts were a reference to the amounts of a board's expenses to be raised by means of drainage rates in those sub-districts.

Apportionment of expenses

- 22.** In respect of the financial years beginning in 1990, 1991 and 1992—
- (a) proportions under regulation 10(3) (apportionment among local charging authorities) shall be determined by reference to the aggregate, for each charging authority's area or (as the case may be) the part of that area which lies within the board's district, of—
 - (i) the rateable values shown on 1st January 1990 for hereditaments in the valuation lists, and
 - (ii) the annual values of hereditaments other than agricultural land and agricultural buildings shown on 1st January 1990 in the register of the board;
 - (b) the proportion under regulation 15(2) (proportion of the expenses of a board to be raised by means of drainage rates) shall be that which the aggregate amount raised by the board by means of drainage rates on agricultural land and agricultural buildings in respect of the financial year beginning in 1989 bears to the total amount raised by means of drainage rates (including any amount payable to the board under an agreement under section 81 of the principal Act) in respect of that financial year;
 - (c) the proportion under regulation 17(4) (proportion of the expenses in a sub-district to be raised by means of drainage rates and special levies, respectively) shall be that which the

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aggregate amount raised by the board by means of drainage rates assessed on agricultural land and agricultural buildings in the sub-district in respect of the financial year beginning in 1989 bears to the aggregate amount raised by means of drainage rates on land other than agricultural land and agricultural buildings (including any amount payable to the board under an agreement under section 81 of the principal Act) in respect of that financial year.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 22nd January 1990.

L.S.

John Selwyn Gummer
Minister of Agriculture, Fisheries and Food

22nd January 1990

Peter Walker
Secretary of State for Wales