Agriculture (Miscellaneous Provisions) Act 1968

1968 CHAPTER 34

PART IV

LAND DRAINAGE

Drainage charges

21 Raising and levying of drainage charges on an acreage basis.

(1) Drainage charges under Part I of the Land Drainage Act 1961 (hereafter in the charges provisions referred to as " the principal Act ") shall, instead of being raised at an amount per pound on the annual value of chargeable hereditaments in river authority areas and levied on the occupiers or owners of the hereditaments, be raised at an amount per acre of chargeable land in those areas and levied on the occupiers or owners of the land in accordance with the charges provisions and the provisions of the said Part I as modified by this Act.

(2) In sections 22 to 29 of this Act and this section " the charges provisions " means those sections and this section.

22 Amount of general drainage charge.

(1) The general drainage charge raised by a river authority for any year shall be at a uniform amount per acre ascertained in accordance with subsections (2) and (3) of this section.

(2) Subject to subsection (3) of this section, the said amount shall be ascertained by—

(a) dividing the aggregate amount demanded by the precepts issued by the river authority to the councils of counties, county boroughs and London boroughs under section 87(4) of the Water Resources Act 1963 in respect of the year for which the charge is raised by the aggregate amount of the appropriate penny

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rate products on the basis of which the amount so demanded was apportioned in pursuance of section 87(3) of that Act among those councils; and

(b) multiplying the quotient by one penny and by such number as the Minister may specify by order made for the purposes of this paragraph ;

and the number so specified shall (apart from any adjustment made to it to take account of rough grazing land) be such as the Minister considers will secure, so far as reasonably practicable, that the aggregate amount produced by any charge levied by reference to a quotient ascertained in pursuance of paragraph (a) of this subsection will be equal to the aggregate amount which, if the chargeable land in the river authority area were liable to be rated, would be produced by a rate levied on that land at an amount in the pound (of rateable value) equal to that quotient multiplied by one penny.

(3) Where an amount ascertained in pursuance of subsection (2) of this section includes a fraction of a penny, the fraction shall—

(a) if it is one farthing or less, be disregarded ;

(b) if it is greater than one farthing but less than three farthings, be treated as one half-penny ;

(c) if it is three farthings or more, be treated as one penny.

(4) An order under this section may be made so as to apply either to all general drainage charges which may be raised by river authorities or to the general drainage charges proposed to be raised by any one or more river authorities specified in the order, and any such order applying to the charges of more than one river authority may make different provision as respects the charges of the different authorities.

(5) In subsection (2) of this section " appropriate penny rate product " has the same meaning as that expression has for the purposes of the said section 87, and the reference in that subsection to subsection (4) of that section does not include a reference to it as applied by subsection (5) of that section.

23 Amount of special drainage charge.

(1) The special drainage charge raised by a river authority for any year shall be at a uniform amount per acre of the chargeable land included in the area designated for the purposes of the charge by the scheme authorising it, being an amount which exceeds neither—

(a) an amount to be specified in the scheme as the maximum amount of the charge or such greater amount as may be authorised for the purposes of the scheme by an order made by the Minister on the application of the river authority ; nor

(b) two shillings or such other amount as may be substituted for two shillings by an order made by the Minister and approved by a resolution of the Commons House of Parliament.

(2) An order under paragraph (b) of subsection (1) of this section may be made so as to apply either to all special drainage charges which may be raised by river authorities or to the special drainage charges proposed to be raised by one or more river authorities specified in the order or to the special drainage charges proposed to be raised in pursuance of one or more schemes made under section 3 of the principal Act and so specified; and any such order applying to the charges of more than one river authority or authorised by more than one such scheme may make different provision as respects the charges of the different authorities or the charges authorised by the different schemes, as the case may be.

24 Reduced liability for drainage charges in certain cases.

(1) Where the area of chargeable land in respect of which, apart from this section, a sum is payable by any person by way of a drainage charge consists of or includes a fraction of an acre, then for the purpose of calculating that sum the fraction shall be disregarded if it is less than one-half and treated as one acre in any other case.

(2) The sum payable by way of a drainage charge in respect of chargeable land consisting of commercial woodlands shall be calculated as if the area of the land were one-fifth of its actual area; and in the application of subsection (1) of this section to such chargeable land the area ascertained in pursuance of this subsection (and not the area of which it is one-fifth) shall be treated as the area mentioned in that subsection.

25 Arrangements for payment of drainage charges by owners of land.

(1) A river authority may make arrangements with the owner of any chargeable land for any drainage charges which may be raised by the authority for any period in respect of the land to be levied on the owner instead of on the occupier of the land; and where such arrangements are made the charges in question shall be levied on the owner instead of on the occupier of the land and any reference to an occupier in the charges provisions (except this section) and in Part I of the principal Act shall be construed accordingly.

(2) Where in pursuance of any such arrangements the owner of any land pays drainage charges in respect of the land to a river authority before the expiration of the period of two months beginning with the date of the service on him of the demand for the charges or before the expiration of one half of the period for which the charges are raised, the authority shall make to him an allowance equal to ten per cent. of the full amount of the charges; but no such allowance shall be made in respect of charges which, apart from this section, are payable for any period by the owner in pursuance of section 13 of the principal Act.

(3) It shall be the duty of a river authority by whom arrangements are made under this section to give notice of the arrangements forthwith after they are made to the occupier of the land affected by them.

(4) The owner of any land who is a party to any arrangements under this section in respect of the land may recover from the occupier of the land a sum equal to the amount of any drainage charges in respect of the land which, apart from the arrangements, would be payable by the occupier.

(5) The occupier of any chargeable land may, by notice given to the river authority in whose area the land is situated,—

(a) determine that no arrangements under the foregoing provisions of this section shall be made in respect of the land and that any such arrangements previously made shall cease to have effect so far as they relate to the land and any drainage charge to be raised for a period beginning after the date on which the notice takes effect;

(b) revoke any determination under paragraph (a) above so far as it prohibits the making of such arrangements in respect of the land ;

and a notice under this subsection shall take effect on the day following that on which it is given to the river authority.

(6) It shall be the duty of a river authority to whom notice is given under subsection (5) of this section to send a copy of the notice to the owner of the land to which it relates.

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26 Power to require information.

(1) A river authority may serve on any person appearing to them to be the occupier of any land in their area a notice requiring him to furnish to the authority, within twenty-eight days beginning with the date of service of the notice on him, a return in writing, in such form as may be specified in the notice, containing such particulars as may reasonably be required for the purpose of enabling the authority to determine how much, if any, of the land occupied by him in their area is chargeable land and how much, if any, of it consists of commercial woodlands.

(2) A river authority may make arrangements with the Minister for the exercise by him on behalf of the authority,

in such cases as may be determined in pursuance of the arrangements, of the powers conferred on the authority by subsection (1) of this section; and any such arrangements shall contain provision for the reimbursement by the authority of any expenses incurred by the Minister in pursuance of the arrangements.

(3) Subsections (4) and (5) of section 58 of the Local Government Act 1948 and so much of subsection (6) of that section as does not relate to imprisonment (which provide for a fine of twenty pounds for failure or continued failure to comply with a notice under that section requiring information and a fine of one hundred pounds for making false statements in a return to such a notice) shall apply for the purposes of this section as they apply for the purposes of that section.

27 Minor and consequential modifications of enactments.

(1) Part I of the principal Act shall have effect subject to the modifications set out in Schedule 6 to this Act, being modifications consequential upon the charges provisions.

(2) In section 5(2) of the principal Act (which requires any drainage charge to be raised in the year preceding that for which it is raised), for the words " in the year preceding that " there shall be substituted the words " before or during the year ".

(3) In section 6(2) of the principal Act (which requires notice of the raising of a drainage charge to be affixed in a public or conspicuous place and published in a newspaper), the words from " affixed " to " and " shall be omitted.

(4) In section 8(3) of the principal Act (which provides for notice of amendments of drainage charges to be served on each owner and occupier concerned) the words " owner and " shall be omitted.

(5) In section 9(1) of the principal Act (which provides for appeals to quarter sessions in connection with demands for drainage charges) for the words from " on any ground " onwards there shall be substituted the words " he may appeal to the county court for the area in which the land or any part of it is situated ".

(6) The references to chargeable hereditaments in section 8(4) of the Water Resources Act 1963, article 10(1) of the Thames Conservancy (New Functions of River Authorities in Thames Catchment Area) Order 1964 and article 5(1) of the Lee Conservancy Catchment Board (New Functions of River Authorities) Order 1965 shall continue to have the meaning assigned to them by the principal Act as originally enacted but shall be construed as including references to chargeable land.

28 Transitional provisions for general drainage charges.

(1) Nothing in the charges provisions shall affect any general drainage charge raised before the date of the passing of this Act, and accordingly the principal Act shall continue to have effect in relation to any such charge as if this Act had not been passed.

(2) Any river authority who have raised a general drainage charge before the date aforesaid may, if they think fit, determine that this subsection shall apply to the authority for any of the years ending with 31st March 1969, 31st March 1970 or 31st March 1971 in respect of which the authority have not already made a determination under this subsection ; and where an authority have made a determination under this subsection with respect to any year they may raise a general drainage charge for that year as if section 52 of this Act and the charges provisions, except sections 21(2), 27(2) and (3) and 29 and this section, had not been passed.

(3) A river authority who have made a determination under subsection (2) of this section may, if they think fit, also determine that this subsection shall apply to the authority for the year or years to which the determination under that subsection relates; and where an authority have made a determination under this subsection—

(a) the principal Act and any regulations under section 2 of that Act shall have effect, in relation to any general drainage charge to be raised by the authority in accordance with the said subsection (2) for the year or, as the case may be, each of the years aforesaid as if—

(i) section 2(3) of that Act (which defines precept rates) and any corresponding provision of the regulations were omitted; and

(ii) for any reference to the precept rate for any year in section 2(2) of that Act and those regulations there were substituted a reference to the amount produced by multiplying one penny by the quotient ascertained, for the purposes of the charge for the year in question, in pursuance of section 22(2) (a) of this Act; and

(b) the excepted provisions mentioned in subsection (2) of this section shall be treated as including section 22 of this Act so far as that section is required for the purposes of sub-paragraph (ii) above.

(4) A river authority who have made a determination under subsection (2) of this section, or determinations under subsections (2) and (3) of this section, with respect to any year shall not be entitled to raise a general drainage charge for that year otherwise than in accordance with the provisions of the said subsection (2) or, as the case may be, of the said subsections (2) and (3); but subject to that, nothing in those subsections shall prevent a river authority from raising a general drainage charge in accordance with the charges provisions other than those subsections.

29 Interpretation etc.—drainage charges.

(1) In the charges provisions—

" chargeable land " means, in relation to a river authority area, the agricultural land and agricultural buildings in so much of the area as does not fall within an internal drainage district, excluding rough grazing land and woodlands other than commercial woodlands ;

" commercial woodlands " means woodlands managed on a commercial basis with a view to the realisation of profits;

" the principal Act " means the Land Drainage Act 1961; and

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" rough grazing land " means land used as pasture ground on which the vegetation consists solely or mainly of one or more of the following, that is to say, bracken, gorse, heather, rushes and sedge, and land so used which is unsuitable for mowing by machine and on which the vegetation consists solely or mainly of grasses of poor feeding value.

(2) The charges provisions shall be construed as one with the principal Act.

(3) Without prejudice to subsection (2) of this section, references to the principal Act and Part I of that Act in section 51 of that Act (application to the Crown) and in section 52(4) of that Act (interpretation) shall be construed as including references to the charges provisions.