
STATUTORY INSTRUMENTS

1992 No. 3079

LOCAL GOVERNMENT, ENGLAND AND WALES
RATING AND VALUATION

The Internal Drainage Boards (Finance) Regulations 1992

Made - - - - *7th December 1992*
Laid before Parliament *9th December 1992*
Coming into force - - *30th December 1992*

The Minister of Agriculture, Fisheries and Food as respects internal drainage boards whose districts are wholly within England, the Secretary of State as respects such boards whose districts are wholly in Wales, and the said Minister and the Secretary of State, acting jointly, as respects such boards whose districts are each partly in England and partly in Wales, in exercise of the powers conferred on them by sections 75(1)(b), (2), (3), (4), (6) and (7), 118, 143(1) and (2), and 146(6) of the Local Government Finance Act 1988(1), (such boards being bodies to which section 118 of that Act applies), and of all other powers enabling them in that behalf, hereby make the following Regulations:—

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 1992 and shall come into force on 30th December 1992.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires—
“the 1988 Act” means the Local Government Finance Act 1988;

(1) 1988 c. 41; sections 75, 118 and 143 were amended by paragraphs 55, 67 and 72, respectively, of Schedule 5 to the Local Government and Housing Act 1989 (c. 42); sections 75 and 118 were further amended by the Local Government Finance Act 1992 (c. 14), Schedule 13, paragraphs 73 and 74. For the definition of “the appropriate Minister”, see section 118(5). The powers to make subordinate legislation under the recited provisions is preserved, in relation to the Land Drainage Act 1991, by the Water Consolidation (Consequential Provisions) Act 1991 (c. 60), Schedule 2, paragraph 2(1).

“the 1992 Act” means the Local Government Finance Act 1992(2);

“the 1990 Regulations” means the Internal Drainage Boards (Finance) Regulations 1990(3);

“agricultural buildings” has the meaning provided by paragraphs 2 to 8 of Schedule 5 to the 1988 Act(4);

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

“board” means an internal drainage board the continued existence of which is confirmed by section 1 of the principal Act or which is constituted or reconstituted pursuant to sections 3 to 5 of the principal Act;

“district” means an internal drainage district continued in being by virtue of section 1 of the principal Act or which is constituted or reconstituted by section 3 of that Act;

“land” has the meaning provided by section 72(1) of the principal Act;

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

“the principal Act” means the Land Drainage Act 1991(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.

PART II

MODIFICATION OF THE PRINCIPAL ACT

Apportionment of drainage expenses

3. In section 37(5) of the principal Act, for paragraph (d) there shall be substituted the following sub-paragraphs—

“(d) in the case of any land which, as at 31st March 1990 was in the district but to which none of paragraphs (a) to (c) applies, and which did not then comprise agricultural land or agricultural buildings, a nil value;

(e) in the case of any land to which none of paragraphs (a) to (d) applies, the amount calculated by multiplying—

(i) the area of the land, expressed in hectares and parts of a hectare; by

(ii) such a unit value per hectare as represents the average value per hectare of all land to which those paragraphs do apply if the average is calculated by reference to the values determined in accordance with those paragraphs.”.

Membership of Boards

4. In paragraph 6 of Schedule 1 to the principal Act—

(a) in sub-paragraph (1)(b), for the words from “the amounts ascertained” to the end of that sub-paragraph, there shall be substituted the words “the proportion of the expenses of the

(2) 1992 c. 14.

(3) S.I.1990/72, amended by S.I. 1991/523. Certain provisions of both instruments were revoked by the Water Consolidation (Consequential Provisions) Act 1991 (c. 60), Schedule 3, Part II.

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

(5) 1991 c. 59.

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.”;

- (b) in sub-paragraph (2)(b), for the words from “the aggregate amount” to the end of that sub-paragraph, there shall be substituted the words “the proportion of the expenses of the board that is to be raised from the proceeds of special levies.”;
- (c) in sub-paragraph (4), for the words from “which identifies” to the end of that sub-paragraph, there shall be substituted the words “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.”.

PART III

SPECIAL LEVIES

Scope of Part III

5. This Part of these Regulations applies in relation to any expenses or special levies in respect of any financial year beginning on or after 1st April 1993.

Power to issue special levies

6. 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 billing authority in respect of any financial year.

Issue of special levies

7.—(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 billing authorities (if more than one) in proportion.

(3) Proportions under paragraph (2) above shall be determined by reference to the aggregate annual value of the land, other than agricultural land or agricultural buildings, within each billing 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 section 37 of the principal Act.

Substituted special levies

8.—(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 7(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 billing authority.

(2) A special levy issued in substitution shall be issued in accordance with regulation 7(2) and (3) and regulation 9(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 billing 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 billing authority in respect of any special levy of the board.

Supplementary provisions as to special levies

9.—(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 billing authority to which it is issued and the date of issue, to every billing authority for any area wholly or partly included in the district of the board.

(3) Every board shall maintain a record of—

- (a) any special levy (including any special levy in substitution) issued by them under these Regulations or the 1990 Regulations, showing in respect of each special levy the amount thereof, the dates on which it was made and issued, and the billing authority or local charging authority to which it was issued; and
- (b) the proportion of their expenses raised, in respect of each 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

10. A local billing 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 billing 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

11.—(1) This regulation applies where, at a time when a billing authority makes a calculation under section 32 of the 1992 Act 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 32(2) and (6) of the 1992 Act, a billing 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 billing authority a special levy in respect of the following financial year, the amount taken into account under section 32(2) and (6) of the 1992 Act in respect of that following financial year shall be the amount of the special levy.

(4) The amount estimated under paragraph (2) above shall be not less than the amount of any special levy issued by the board under these Regulations or the 1990 Regulations to the billing authority in respect of the preceding financial year.

(5) If the billing authority makes calculations for the year in substitution under section 37 of the 1992 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) above, the billing authority shall, in estimating its expenditure under section 32(2) and (6) of that Act, take into account an amount equal to that taken into account under paragraph (2) above.

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

(7) Section 35(2)(a) of the 1992 Act shall apply in respect of a special levy anticipated under this regulation as it applies to a special levy issued to it.

PART IV MISCELLANEOUS

Revocation and saving

12.—(1) Subject to paragraph (2) below, the 1990 Regulations are hereby revoked.

(2) Paragraph (1) above shall not affect the operation of the 1990 Regulations in relation to any financial year beginning before 1st April 1993.

In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on

L.S.

7th December 1992.

John Selwyn Gummer
Minister of Agriculture, Fisheries and Food

7th December 1992

David Hunt
Secretary of State for Wales

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations consolidate with amendments the Internal Drainage Boards (Finance) Regulations 1990.

The principal changes are:—

- (i) a modification to section 37(5) of the Land Drainage Act 1991 in relation to the valuation of land for the purposes of apportionment of drainage expenses (regulation 3);
- (ii) a modification of Schedule 1 to the Land Drainage Act 1991 about appointed members of an internal drainage board (regulation 4);
- (iii) modifications to the provisions relating to special levies to take account of the system of local government finance introduced by the Local Government Finance Act 1992 for the financial years 1993/94 onwards (regulation 5 to 11).