



# Land Drainage Act 1976

## 1976 CHAPTER 70

An Act to consolidate certain enactments relating to land drainage. [15th November 1976.]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### PART I

#### INTRODUCTORY

##### *Water authorities*

#### **1 General supervision, and discharge of functions by committees**

- (1) A water authority shall exercise a general supervision over all matters relating to land drainage in their area but shall arrange for the discharge by their regional land drainage committee (without prejudice to any scheme for the appointment of local land drainage committees) of all their land drainage functions except the raising of drainage charges, the levying of precepts, the borrowing of money and the making of an application for a water charges option order.
- (2) A water authority may give their regional land drainage committee directions as to the exercise of any land drainage function other than one of their internal drainage functions, so far as the exercise of that function appears to the authority likely to affect materially the authority's management of water for purposes other than land drainage.
- (3) In subsection (2) above " internal drainage functions" means the functions of a water authority under sections 10 to 16, 68(1) to (4) and (7) to (9), 69(2), (3) and (6), 84 and 86(1) below.

## **2 Regional land drainage committees**

- (1) The regional land drainage committee established by that name for every water authority shall continue in existence and shall continue to consist of—
  - (a) a chairman and a number of other members appointed by the Minister;
  - (b) 2 members appointed by the water authority ; and
  - (c) a number of members appointed by or on behalf of constituent councils.
- (2) The total number of members of a water authority's regional land drainage committee shall continue to be such as was determined, or last determined, by the water authority before the commencement of this Act; but, subject to subsections (3) to (5) below, a water authority may from time to time make a determination varying that number and any such determination shall be submitted to the Minister.
- (3) The total number of such members shall not be less than 11 and, except where an order under subsection (5) below otherwise provides, not more than 17.
- (4) Any determination that a regional land drainage committee shall consist of more than 17 members shall be provisional, and shall take effect only if the Minister makes an order under subsection (5) below.
- (5) If the water authority submit a provisional determination to the Minister, he may by order—
  - (a) confirm it; or
  - (b) substitute for the number of members determined by the water authority some other number not less than 17.
- (6) Subject to subsection (7) below, the council of any county or London borough any part of which is in the area of a water authority shall be a constituent council for the authority's regional land drainage committee, and references in this Act to constituent councils, in relation to a regional land drainage committee, shall be construed accordingly.
- (7) The constituent councils for the Thames Water Authority's regional land drainage committee shall consist of—
  - (a) the council of any county any part of which is in the Authority's area,
  - (b) the council of any London borough any part of which is in the Authority's area, and
  - (c) the Greater London Council;but no part of the London excluded area shall be treated as being in the Authority's area for the purposes of paragraph (b) above.

## **3 Members and proceedings of regional land drainage committees**

- (1) The chairman of a regional land drainage committee shall be one of the members of the water authority appointed to that authority by the Minister.
- (2) The remaining members appointed to a regional land drainage committee by the Minister under section 2(1)(a) above shall be appointed from among persons who in his opinion have had experience of, and have shown capacity in, or otherwise have special knowledge of, matters relating to land drainage or agriculture and, in particular, matters so relating which affect the area of the water authority or part of that area.

- (3) The number of members to be appointed to a regional land drainage committee by or on behalf of each of the constituent councils shall (subject to this subsection) continue to be such as was specified, or last specified, by the Minister by order before the commencement of this Act; but whenever the number of members of any such committee is varied by a determination under section 2(2) above the Minister shall by order specify, subject to subsections (4) to (7) below, the number of members to be appointed to the committee as aforesaid.
- (4) An order under subsection (3) above shall be so framed that the number of members appointed by or on behalf of constituent councils is one more than the total number of those appointed under section 2(1)(a) and (b) above.
- (5) In determining for the purposes of an order under subsection (3) above the number of persons to be appointed to a regional land drainage committee by or on behalf of each constituent council, the Minister shall have regard to the estimated penny rate product for each relevant area of that council for the relevant year; and where, having regard to the proportion which that product bears to the aggregate of the estimated penny rate products for the relevant areas of all the constituent councils for that year—
  - (a) he considers it to be inappropriate that that council should appoint a member of the committee, or
  - (b) he considers that one or more members should be appointed jointly by that council and one or more other constituent councils,he may by the order so provide.
- (6) Where, in accordance with subsection (5)(b) above, an order provides for the joint appointment of one or more members of a regional land drainage committee, and the councils by whom that appointment is to be made are unable to agree on an appointment, the member or members in question shall be appointed by the Minister on behalf of those councils.
- (7) The Greater London Council shall be entitled to appoint one member of the Thames Water Authority's regional land drainage committee.
- (8) In the appointment of members of a regional land drainage committee, that committee's constituent councils or the Minister (where he appoints on behalf of those councils) shall, so far as may be practicable, select persons appearing to them or him to have a practical knowledge of land drainage or agriculture.
- (9) The provisions of Schedule 1 to this Act shall have effect with respect to the members and proceedings of regional land drainage committees.
- (10) In this section—
  - " estimated penny rate product " for any area for any year has the same meaning as is provided by section 45(3) below; and
  - " relevant year ", in relation to any determination, means the latest financial year for which, at the time when that determination falls to be made, precepts have been issued under section 46 below.
- (11) References in this section to a relevant area of any constituent council, in relation to a water authority's regional land drainage committee, are references to a part of the council's area comprised in any local land drainage district; and for this purpose a water authority area in relation to which no local land drainage scheme is in force shall be treated as a single local land drainage district, and any parts of a water authority

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area in relation to which no such scheme is in force shall be treated as included in a single such district.

#### **4 Local land drainage schemes and local land drainage committees**

- (1) In this Act " a local land drainage scheme " means a scheme—
- (a) for the creation in a water authority area of one or more districts to be called "local land drainage districts "; and
  - (b) for the constitution, membership, functions and procedure of a committee for each such district, to be called the "local land drainage committee" for that district,
- and any such scheme in force immediately before the coming into operation of this Act shall, subject to subsection (2) below, continue in force.
- (2) A regional land drainage committee may at any time submit to the water authority for their area—
- (a) a local land drainage scheme for any part of that area for which there is then no such scheme in force; or
  - (b) a scheme varying a local land drainage scheme or revoking such a scheme and, if the committee think fit, replacing it with another such scheme ;
- and references in the following provisions of this section and in section 5 below to local land drainage schemes are references to schemes under either paragraph (a) or paragraph (b) of this subsection.
- (3) Before submitting a scheme to a water authority under subsection (2) above, a regional land drainage committee shall consult—
- (a) the councils of counties and districts any part of which will fall within the area to which the scheme is proposed to relate, and
  - (b) such organisations representative of persons interested in land drainage or agriculture as the regional land drainage committee consider to be appropriate.
- (4) It shall be the duty of a water authority to send any scheme submitted to them under subsection (2) above to the Minister.
- (5) A local land drainage scheme may define a local land drainage district—
- (a) by reference to areas established for the purposes of functions relating to land drainage under any enactment in force immediately before the passing of the Water Act 1973 ;
  - (b) by reference to the water authority area in which that district is situated;
  - (c) by reference to a map ;
- or partly by one of those means and partly by another or the others.
- (6) A local land drainage scheme may contain incidental, consequential and supplementary provisions.
- (7) The Minister may approve a local land drainage scheme with or without modifications, and any scheme so approved shall come into operation on a date fixed by him.

## **5 Members and proceedings of local land drainage committees**

- (1) Subject to subsections (2) and (3) below, a local land drainage scheme shall provide that any local land drainage committee to which it relates shall consist of not less than 11 and not more than 15 members,
- (2) A regional land drainage committee may include in a local land drainage scheme which they submit to the water authority a recommendation that a committee to which the scheme relates should consist of a number of members greater than 15; and a scheme so submitted shall be taken to provide for the number of members of a committee if it contains a recommendation under this subsection relating to that committee.
- (3) The power conferred on the Minister by section 4(7) above shall include power to direct that a committee to which a recommendation under subsection (2) above relates shall consist either of the recommended number of members or of some other number of members greater than 15.
- (4) A local land drainage committee shall consist of—
  - (a) a chairman appointed from among their own members by the regional land drainage committee;
  - (b) other members appointed by that committee ; and
  - (c) members appointed, in accordance with and subject to the terms of the local land drainage scheme, by or on behalf of constituent councils.
- (5) The number of members appointed to a local land drainage committee by or on behalf of constituent councils shall be one more than the total number of members appointed by the regional land drainage committee.
- (6) The members of a local land drainage committee appointed to that committee by the regional land drainage committee shall be appointed from among persons who in the opinion of the regional land drainage committee are qualified to be appointed to the local land drainage committee by their knowledge and experience of land drainage or agriculture.
- (7) The provisions of Schedule 1 to this Act shall have effect with respect to the members and proceedings of local land drainage committees.
- (8) The council of any county or London borough any part of which is in a local land drainage district shall be a constituent council for the local land drainage committee for that district, and if any part of any London borough is within the district the Greater London Council shall also be a constituent council for the committee; and references in this Act to constituent councils, in relation to a local land drainage committee, shall be construed accordingly.

### *Internal drainage boards*

## **6 Internal drainage districts and internal drainage boards**

- (1) For the purpose of the drainage of land there shall continue to be, within water authority areas, districts known as internal drainage districts and for each such district there shall be a board known as an internal drainage board, which shall be a body corporate.

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- (2) Internal drainage districts shall be such areas as will derive benefit or avoid danger as a result of drainage operations.
- (3) An internal drainage board shall exercise a general supervision over all matters relating to the drainage of land within their district and shall have such other powers and perform such other duties as are conferred or imposed on internal drainage boards by this Act.
- (4) Every drainage district constituted under the Land Drainage Act 1930, or deemed (under section 1(4) of that Act) to have been so constituted, which was in being as an internal drainage district immediately before the commencement of this Act, and the drainage board for every such district, shall continue in being as an internal drainage district or, as the case may be, an internal drainage board for the purposes of this Act.

## **7 Members and proceedings etc. of internal drainage boards**

- (1) An internal drainage board shall consist of elected members.
- (2) The provisions of Part I of Schedule 2 to this Act shall have effect with respect to the members and proceedings, officers and other employees, and reports and accounts of internal drainage boards.
- (3) The provisions of Part II of Schedule 2 to this Act shall have effect with respect to the persons to vote at the election of members of internal drainage boards, and any such election shall be conducted in accordance with rules made by the Minister containing provisions—
  - (a) for allowing any person or body of persons entitled to vote at an election to vote by a deputy ;
  - (b) for the preparation of registers of electors (including provisions with respect to the making of objections to entries in any such registers and the hearing and determination of such objections) and for securing that the registers are open to inspection; and
  - (c) with respect to the holding and conduct of elections, including provisions as to returning officers, nominations, polls and the counting of votes.
- (4) This section shall not apply to an internal drainage board existing at the commencement of the Land Drainage Act 1930 unless it is applied to them by a scheme under section 11 below or unless subsections (1) to (3) of section 33 of that Act (which, with Schedule 3 to that Act, are replaced by subsections (1) to (3) above and Schedule 2 to this Act) were applied to them by a scheme under Part II or an order under Part III of that Act.

### *Main rivers and their control*

## **8 Control of main rivers**

- (1) The powers conferred by this Act on drainage authorities shall, so far as concerns main rivers, their banks and drainage works in connection with main rivers, be exercisable solely by water authorities.
- (2) If any question arises under this section, or section 17, 21 or 23 below, whether any work is, or whether any proposed work will if constructed be, a drainage work in connection with a main river, the question shall be referred to the Minister for decision

or, if either of the parties so requires, to the arbitration of a single arbitrator to be appointed in default of agreement by the President of the Institution of Civil Engineers on the application of either party.

- (3) In this Act "main river " means a watercourse shown as such on a main river map and includes any structure or appliance for controlling or regulating the flow of water into, in or out of the channel, being a structure or appliance situated in the channel or in any part of the banks of the channel (other than a structure or appliance vested in or controlled by an internal drainage board).

## **9 Main river maps**

- (1) In this Act " main river map " means a map of a water authority area relating to the water authority's land drainage functions—
- (a) which shows by a distinctive colour the extent to which any watercourse in that area is to be treated as the main river, or part of the main river, for the purposes of this Act, and
  - (b) which indicates (by a distinctive colour or otherwise) which (if any) of those watercourses are watercourses designated in a scheme made under section 50 below.
- (2) The main river maps at the commencement of this Act shall consist of any maps sent to water authorities under paragraph 9 of Schedule 2 to the Water Act 1973 and, so far as not replaced by any such maps, the following maps, that is to say—
- (a) in the case of areas which immediately before 1st April 1974 consisted of the Thames Catchment Area and the Lee Catchment Area, maps prepared under section 5 of the Land Drainage Act 1930 and current immediately before that date,
  - (b) in the case of other areas, main river maps kept by river authorities immediately before that date under section 11 of the Water Resources Act 1963.
- (3) The Minister may at any time send a water authority one or more new maps to be substituted for the whole or part of the main river map of the authority's area, and containing a statement to that effect specifying the date on which the substitution is to take effect; and the substitution shall take effect in accordance with the statement.
- (4) Until a main river map of a water authority area has been prepared showing the boundaries of that area for the purposes of the water authority's land drainage functions, the boundaries of the water authority area as shown on the area map for the purposes of the authority's functions relating to water conservation shall be treated also as the boundaries of the water authority area for the purposes of their land drainage functions.
- (5) Where—
- (a) the area of a water authority is altered so as to affect any of the particulars shown on their main river map, or
  - (b) the Minister confirms a scheme under section 50 below, or
  - (c) a water authority apply to the Minister for the variation of their main river map, so far as it shows the extent to which any watercourse is to be treated as the main river or part of the main river,
- the Minister shall take such action as he considers appropriate either—

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- (i) by requiring the relevant water authority to send him any part of their main river map, altering it and sending it back to them, or
  - (ii) by preparing a new main river map and sending it to the water authority, or
  - (iii) by notifying the authority that he does not intend to vary their main river map.
- (6) Before altering a map or preparing a new map under subsection (5)(c) above the Minister shall give notice of his intention to do so in such manner as he thinks best adapted for informing persons affected, and shall consider any objections made to him within the time and in the manner specified in that notice, and may then alter or prepare the map, whether in accordance with the proposals contained in the notice or otherwise.
- (7) Every water authority shall, subject to subsection (5) above, keep their main river map at their principal office and provide reasonable facilities for inspecting that map and taking copies of and extracts from it.
- (8) Any local authority whose area is wholly or partly within a water authority area shall, on application to the water authority, be entitled to be furnished with a copy of the authority's main river map, on payment of such sum as the local authority and the water authority may agree.
- (9) A main river map shall (subject to subsection (4) above) be conclusive evidence for all purposes as to the boundaries of the water authority area in relation to their land drainage functions.
- (10) A main river map shall be conclusive evidence for all purposes as to what is the main river.
- (11) A main river map shall be taken to be a document within the meaning of the Documentary Evidence Act 1868, as that Act applies to the Minister; and that Act, as it so applies, shall have effect in relation to a main river map as if the map had been issued by the Minister.

*Transfers of functions and reorganisation of internal drainage districts*

**10 Schemes for transfer to water authority of functions in relation to main river**

- (1) A water authority may at any time, and if so directed by the Minister shall, prepare and submit to the Minister for confirmation a scheme making provision—
- (a) for the transfer to the water authority from any drainage body of all rights, powers, duties, obligations and liabilities (including liabilities incurred in connection with works) over or in connection with the main river, and of any property held by the drainage body for the purpose of, or in connection with, any functions so transferred; and
  - (b) for any matter supplemental to or consequential on the said transfer.
- (2) As soon as any scheme under this section has been submitted to the Minister, the water authority shall—
- (a) send copies of the scheme to every drainage authority, local authority, navigation authority, harbour authority and conservancy authority affected by it; and
  - (b) publish in one or more newspapers circulating in the area affected by the scheme a notice stating that the scheme has been submitted to the Minister



and that a copy of it is open to inspection at a specified place, and that representations with respect to the scheme may be made to the Minister at any time within one month after the publication of the notice.

- (3) The Minister may by order confirm any scheme so submitted, either with or without modifications.
- (4) Where, under a scheme made by a water authority under this section, liabilities incurred in connection with drainage works are transferred to the water authority from a local authority, the water authority may require the local authority to make to them contributions towards the discharge of the liabilities; and if the amount of those contributions is not agreed between the water authority and the local authority it shall be determined by a single arbitrator agreed on by them or, in default of such agreement, appointed by the Minister and the Secretary of State acting jointly.

## **11 Schemes for reorganisation of internal drainage districts and for conferring functions on water authority**

- (1) A water authority may at any time, and if so directed by the Minister shall, prepare and submit to the Minister for confirmation a scheme making provision for any of the following matters, namely—
  - (a) the alteration of the boundaries of any internal drainage district;
  - (b) the amalgamation of the whole or any part of any internal drainage district with any other such district;
  - (c) the abolition as from such date as may be specified in the scheme of all Commissioners of Sewers exercising jurisdiction within the water authority area or, in the case of Commissioners of Sewers who exercise jurisdiction partly within and partly without that area, the abrogation of the powers of those Commissioners within that area;
  - (d) the abolition or reconstitution of any internal drainage district and of the drainage board thereof ;
  - (e) the constitution of new internal drainage districts within the water authority area;
  - (f) the constitution of internal drainage boards for all or any of the separate internal drainage districts constituted by the scheme ;
  - (g) where it appears desirable so to provide in the case of any internal drainage board, the amendment of the method of constituting that board so far as is necessary to secure that the members of the board shall be persons elected as such members in accordance with the provisions in that behalf contained in section 7 above and in Schedule 2 to this Act;
  - (h) the making of alterations in, and the addition of supplemental provisions to, the provisions of any local Act or of any award made under any such Act, where such alterations or supplemental provisions are necessary or expedient for enabling the area for the benefit of which drainage works are authorised by the local Act or award to be drained effectually;
  - (i) any matters supplemental to or consequential on the matters mentioned in paragraphs (a) to (h) above for which it appears necessary or desirable to make provision, including the transfer to a water authority or internal drainage board of any property, rights, powers, duties, obligations and liabilities vested in or to be discharged by the water authority or internal drainage board affected by the scheme.

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- (2) A scheme under this section which makes provision for the constitution of a new internal drainage district may provide for the water authority submitting the scheme to be constituted the drainage board of that district and for conferring on it in relation to that district the powers and duties of an internal drainage board; and any expenses incurred by the water authority as the drainage board of such a district shall be defrayed under and in accordance with the powers so conferred and not in any other manner.
- (3) As soon as any scheme under this section has been submitted to the Minister, the water authority shall—
  - (a) send copies of the scheme to every drainage authority, local authority, navigation authority, harbour authority and conservancy authority affected by it; and
  - (b) publish in one or more newspapers circulating in the area affected by the scheme a notice stating that the scheme has been submitted to the Minister and that a copy of it is open to inspection at a specified place, and that representations with respect to the scheme may be made to the Minister at any time within one month after the publication of the notice.
- (4) The Minister may by order confirm any scheme so submitted, either with or without modifications.
- (5) A scheme under this section may provide for the revocation or amendment of, and for the retransfer of property, rights, powers, duties, obligations and liabilities transferred by, any previous scheme under this section.

## **12 Orders for transfer of functions to water authority**

The Minister may, on a petition in that behalf presented to him by the water authority of any area, by order transfer to the water authority the powers, duties, liabilities, obligations and property (including deeds, maps, books, papers and other documents) of the drainage board of any internal drainage district, and thereupon the water authority shall become the drainage board of that district for the purposes of this Act, and any expenses incurred by the water authority as the drainage board of that district shall be defrayed under and in accordance with the powers so transferred and not in any other manner.

## **13 Orders for transfer to internal drainage board of functions conferred or transferred under section 11 or 12**

- (1) Where, whether by virtue of a scheme under section 11 above or an order under section 12 above, a water authority are the drainage board of an internal drainage district and a petition for constituting an internal drainage board for that district is made to the water authority by a sufficient number of qualified persons or by a qualified authority, the Minister may by order constitute an internal drainage board for that district and transfer to it the property and liabilities of the water authority so far as vested in or incurred by them in their capacity as the drainage board for that district.
- (2) On receiving such a petition as is mentioned in subsection (1) above the water authority shall send a copy of it to the Minister and they shall inform the Minister, within 6 months of the date on which the petition is received, whether in their opinion an order under that subsection ought to be made.

- (3) Before making an order under subsection (1) above the Minister shall consider the views expressed by the water authority in accordance with subsection (2) above.

*Review of boundaries, supervision and exercise of functions in default*

#### **14 Review of boundaries of internal drainage districts**

- (1) Where the boundaries of an internal drainage district have for a period exceeding 10 years been neither altered nor in pursuance of this section reviewed and a petition for their alteration is made to the water authority within whose area the district is situated by a sufficient number of qualified persons, or by a qualified authority, the water authority shall, subject to subsection (5) below, review those boundaries.
- (2) Where, in the circumstances mentioned in subsection (1) above, any such petition is received by a water authority, the water authority shall inform the Minister and, subject to subsection (5) below, shall publish in one or more newspapers circulating in the internal drainage district a notice stating that the petition has been received, that a review of the boundaries is being undertaken, and that representations may be made to the water authority within a time (which shall not be less than 30 days) stated in the notice.
- (3) In carrying out any review required by this section the water authority shall consult the drainage board of the internal drainage district (except where the water authority are that drainage board) and shall consider any representations duly made to them; and within 6 months after the petition was made or such longer time as the Minister may allow the water authority shall inform the Minister whether, as a result of the review, they propose to submit to him a scheme under section 11 above and, if so, what provision they propose to make by the scheme.
- (4) Where the water authority do not propose, as a result of the review, to submit to the Minister a scheme under section 11 above but it appears to them that an order under section 68(1) below, or an order varying or revoking such an order, should be made by the drainage board of the internal drainage district, they may direct the drainage board to make such an order in such terms as may be specified in the direction; but if the drainage board object to the direction it shall have no effect unless it is confirmed (with or without modifications) by the Minister.
- (5) This section does not require a water authority to carry out a review or publish any notice on a petition which in the opinion of the Minister is frivolous.

#### **15 Supervision of internal drainage boards and districts**

- (1) A water authority may for the purpose of securing the efficient working and maintenance of existing drainage works within the water authority area and the construction of such new drainage works as may be necessary, give such general or special directions as they consider reasonable for the guidance of the internal drainage boards with respect to the exercise and performance by those boards of their powers and duties as such.
- (2) Without prejudice to the provisions of subsection (1) above an internal drainage board shall not—
  - (a) except with the consent of the water authority (which shall not be unreasonably withheld and may be given subject to reasonable conditions),

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construct any drainage works within the water authority area or alter any existing drainage works within that area, if the construction or alteration will in any way affect the interests of, or the working of any drainage works belonging to, any other internal drainage board; or

- (b) otherwise than by way of maintaining an existing work, construct or alter any structure, appliance or channel for the discharge of water from their district into the main river except on such terms as may be agreed between the water authority and the internal drainage board or in default of agreement be determined by the Minister.

(3) If an internal drainage board acts in contravention of subsection (2) above, the water authority shall have power themselves to execute any works and do any things which are in their opinion necessary in order to prevent or remedy any damage which may result or has resulted from the action of the internal drainage board, and shall be entitled to recover from that board the amount of any expenses reasonably incurred by them in the exercise of that power.

(4) If any question arises under this section—

- (a) whether the consent of the water authority is unreasonably withheld; or
- (b) whether any condition subject to which any consent of the water authority was given was reasonable; or
- (c) whether any expenses have been reasonably incurred by the water authority in pursuance of this section;

that question shall be referred to the Minister for decision.

(5) Where the Minister gives any decision under this section, he shall make and cause to be laid before Parliament a report giving particulars of the question referred to him and of the reasons for his decision.

## **16 Exercise by water authority of functions in default**

(1) Where, in the opinion of a water authority, any land in the water authority area is injured or likely to be injured by flooding or inadequate drainage which might be remedied wholly or partially by the exercise of drainage powers which are vested in any internal drainage board and which either are not being exercised at all, or, in the opinion of the water authority, are not being exercised to the necessary extent, then, subject to subsection (2) below, the water authority may—

- (a) exercise all or any of those powers ; and
- (b) exercise any power vested in the said drainage board for the purpose of defraying expenses incurred in the exercise by that board of the said powers or for any purpose incidental to the exercise of any such powers.

(2) The water authority shall, before exercising any such powers, give to the internal drainage board in whose default they propose to exercise the powers not less than 30 days' notice in writing of their intention so to do and if, before the expiration of the period of notice, the board intimate in writing to the water authority their objection to the exercise by that authority of the powers, that authority shall not exercise the powers except with the consent of the Minister, who may, if he thinks fit, cause a public local inquiry to be held with respect to the objection.

(3) Where in pursuance of this section a water authority is exercising the powers of an internal drainage board, any person authorised in that behalf by the water authority may, so far as is reasonably necessary for the purpose of and in connection with the

exercise by the water authority of those powers, at all reasonable times inspect and take copies of any deeds, maps, books, papers or other documents which are in the possession of the board and relate to land drainage in the district of the board.

- (4) Any person who intentionally obstructs or impedes any person authorised as mentioned in subsection (3) above in the execution of his powers under this section shall be liable on summary conviction to a fine not exceeding £200.
- (5) A water authority may, on the application of the council of any county or London borough wholly or partly within the water authority area, direct that the power conferred by this section shall, as respects land in the area or that part of the area of the council, be exercisable by that council instead of by the water authority.
- (6) If a water authority refuses to comply with any such application, the council by which the application was made may appeal against the refusal to the Minister, and the Minister may, if he thinks fit, require the authority to comply with the application.
- (7) A water authority may, subject to the consent of the Minister, and on giving the council concerned not less than 6 months' notice of their intention so to do, revoke any direction given under subsection (5) above, without prejudice to the power of the authority to give a new direction.

## PART II

### POWERS OF DRAINAGE AUTHORITIES

#### *Carrying out drainage works, etc.*

#### **17 General drainage powers**

- (1) Every drainage authority acting within their area shall have power—
  - (a) to maintain existing works, that is to say, to cleanse, repair or otherwise maintain in a due state of efficiency any existing watercourse or drainage work;
  - (b) to improve any existing works, that is to say, to deepen, widen, straighten or otherwise improve any existing watercourse or remove or alter mill dams, weirs or other obstructions to watercourses, or raise, widen or otherwise improve any existing drainage work;
  - (c) to construct new works, that is to say, to make any new watercourse or drainage work or erect any machinery or do any other act (other than an act referred to in paragraph (a) or (b) above) required for the drainage of their area.
- (2) Subsection (1) above shall not be taken as authorising a water authority to do any work otherwise than in connection with, the main river, save that the power of a water authority to maintain, improve or construct drainage works for the purpose of defence against sea water or tidal water shall be exercisable anywhere in the water authority area, irrespective of whether they are works in connection with the main river; and for the purposes of this subsection the water authority area shall be deemed to extend beyond the low-water mark.
- (3) Where a water authority area abuts on the sea or on any estuary the water authority for that area may construct all such works and do all such things in the sea or in that estuary as may, in their opinion, be necessary to secure an adequate outfall for the main river.

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- (4) A drainage authority desiring to execute drainage works for the benefit of their area in lands outside that area shall have the same powers for that purpose as are conferred by this Act on persons interested in land which is capable of being drained or improved and desiring to execute drainage works for that purpose; and any expenses incurred by a drainage authority under this subsection shall be defrayed as if the expenses had been incurred in the area of the authority.
- (5) Where injury is sustained by any person by reason of the exercise by a drainage authority of any of their powers under this section, the authority shall be liable to make full compensation to the injured person; and in case of dispute the amount of the compensation shall be determined by the Lands Tribunal.
- (6) Nothing in this section authorises any person to enter on the land of any person except for the purpose of maintaining existing works.
- (7) In this Act " drainage authority " means a water authority or internal drainage board, and in relation to an internal drainage board any reference to the area of a drainage authority is a reference to the district of the board.

## **18 Maintenance of the flow of watercourses**

- (1) Where any watercourse is in such a condition that the proper flow of water is impeded, then, unless the condition is attributable to subsidence due to mining operations (including brine pumping), the drainage authority concerned may by notice require the person on whom the notice is served to remedy that condition.
- (2) For the purposes of subsection (1) above the drainage authority concerned shall be—
  - (a) in relation to a watercourse in an internal drainage district, other than a watercourse forming part of the main river, the internal drainage board;
  - (b) in relation to any other watercourse, the water authority for the area in which the watercourse is situated.
- (3) A notice under this section may be served on—
  - (a) any person having control of the part of the watercourse where any impediment occurs; or
  - (b) any person owning or occupying land adjoining that part; or
  - (c) any person to whose act or default the said condition is due;but no such notice requiring any person to carry out any work on land not owned or occupied by him shall be served without the consent of the owner and the occupier of the land, except in a case where it is not practicable, after reasonable inquiry, to ascertain the name and address of the owner or occupier.
- (4) A notice under this section shall indicate—
  - (a) the nature of the works to be executed and the time within which they are to be executed, and
  - (b) the right of appeal to a magistrates' court and the time within which such an appeal may be brought (for which provision is made in section 19 below).
- (5) Subject to the right of appeal provided by section 19 below, if the person upon whom a notice is served under this section fails to execute the works indicated by the notice within the time so indicated, the drainage authority may themselves execute the works and recover from that person the expenses reasonably incurred by them in so

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doing; and without prejudice to their right to exercise that power he shall be liable on summary conviction to a fine not exceeding £200.

- (6) In proceedings by a drainage authority for the recovery of any expenses under subsection (5) above it shall not be open to the defendant to raise any question which he could not have raised on an appeal under section 19 below.
- (7) Nothing in this section shall affect the right of an owner or occupier to recover from the other under the terms of any lease or other contract the amount of any expenses incurred by him under the foregoing provisions of this section or recovered from him by the drainage authority.
- (8) Where a local authority have powers for securing the appropriate flow of water in any watercourse under their jurisdiction, the drainage authority, except by agreement with the local authority, shall not exercise their powers under this section in relation to the watercourse unless, after reasonable notice from the drainage authority, the local authority fail to exercise their powers, or exercise them improperly.
- (9) Where any watercourse is under the jurisdiction of a board of conservators, conservancy authority, harbour authority or a navigation authority which is exercising their powers, this section shall not apply to the watercourse except with the consent of that board or authority.
- (10) Nothing in this Act relating to the commutation of obligations shall apply to the obligations imposed by this section.
- (11) In subsections (8) and (9) above " watercourse" does not include any watercourse forming part of a main river.

## **19 Appeals against notices under section 18**

- (1) A person served with a notice under section 18 above may, within 21 days from the date on which the notice is served on him, appeal to a magistrates' court on any of the following grounds:—
  - (a) that the notice or requirement is not justified by that section;
  - (b) that there has been some informality, defect or error in, or in connection with, the notice;
  - (c) that the board or authority have refused unreasonably to approve the execution of alternative works, or that the works required by the notice to be executed are otherwise unreasonable in character or extent, or are unnecessary;
  - (d) that the time within which the works are to be executed is not reasonably sufficient for the purpose ;
  - (e) that the notice might lawfully have been served on another person and that it would have been equitable for it to have been so served;
  - (f) that some other person ought to contribute towards the expenses of executing any works required by the notice.
- (2) The procedure on an appeal under this section shall be by way of complaint for an order, and the Magistrates' Courts Act 1952 shall apply to the proceedings.
- (3) For the purposes of the time limit for bringing an appeal under this section the making of the complaint shall be treated as the bringing of the appeal.

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- (4) In so far as an appeal under this section is based on the ground of some informality, defect or error in or in connection with the notice the court shall dismiss the appeal if it is satisfied that the informality, defect or error was not a material one.
- (5) Where the grounds upon which an appeal under this section is brought include a ground specified in subsection (1)(e) or (f) above, the appellant shall serve a copy of his notice of appeal on each other person referred to, and in the case of any appeal under this section may serve a copy of his notice of appeal on any other person having an estate or interest in the part of the watercourse where the impediment occurs or land adjoining that part.
- (6) On the hearing of the appeal the court may make such order as it thinks fit with respect to the person by whom any work is to be executed and the contribution to be made by any other person towards the cost of the work, or as to the proportions in which any expenses which may become recoverable by the drainage authority are to be borne by the appellant and such other person.
- (7) In exercising its powers under subsection (6) above the court shall have regard—
  - (a) as between an owner and an occupier, to the terms and conditions, whether contractual or statutory, of the tenancy and to the nature of the works required; and
  - (b) in any case, to the degree of benefit to be derived by the different persons concerned.
- (8) A person aggrieved by an order, determination or other decision of a magistrates' court under this section may appeal to the Crown Court.
- (9) Where upon an appeal under this section a court varies or reverses any decision of the drainage authority it shall be the duty of the authority to give effect to the order of the court.

*Drainage works concerning more than one drainage authority*

**20 Drainage works on boundary of water authority area**

- (1) Subject to subsection (2) below, drainage works in connection with the main river may be carried out by a water authority on or near the boundary of the water authority area notwithstanding that they are or include works in the area of another water authority.
- (2) Where such works are in connection with the main river of both water authority areas the power to carry out the works shall be exercisable only by one of the water authorities and the question by which of them it is to be exercisable shall be determined by agreement between them or, in default of agreement, by the Minister.
- (3) The water authority carrying out any works by virtue of the preceding provisions of this section shall be entitled to such contributions from the other water authority towards the cost of those works as may be agreed between them or as may, in default of agreement, be determined by the Minister.

**21 Arrangements between drainage authorities**

- (1) A water authority may enter into an agreement with any internal drainage board for the carrying out by the board, on such terms as to payment or otherwise as may be



specified in the agreement, of any work in connection with the main river which the water authority are authorised to carry out and which, if outside the district of the board, is not in any other internal drainage district.

- (2) A drainage authority for any area may, with the consent of the drainage authority for any adjoining area, execute and maintain in that adjoining area any works which the first-mentioned authority might execute or maintain within their own area, on such terms as to payment or otherwise as may be agreed between the authorities, or may agree to contribute to the expense of the execution or maintenance of any works by the drainage authority of any adjoining area.
- (3) Any expense incurred by a drainage authority under subsection (2) above shall be defrayed as if the expense had been incurred in their own area.

*Arrangements with other persons and powers as respects the obligations and rights of other persons*

## **22 Arrangements with other persons generally**

A drainage authority may by agreement with any person execute at his expense, whether within or outside their area, any drainage works which that person is entitled to execute.

## **23 Arrangements with certain authorities**

- (1) A water authority may enter into an agreement with any local authority or navigation authority for the carrying out by that authority, on such terms as to payment or otherwise as may be specified in the agreement, of any work in connection with the main river which the water authority are authorised to carry out.
- (2) With the approval of the Minister and the Secretary of State, a drainage authority may, with a view to improving the drainage of their area, enter into an arrangement with a navigation or conservancy authority for any of the following purposes namely—
  - (a) the transfer to the drainage authority of the whole or any part of the undertaking of, or of any of the rights, powers, duties, liabilities and obligations of, or any property vested in, the navigation or conservancy authority as such;
  - (b) the alteration or improvement by the drainage authority of any of the works of the navigation or conservancy authority;
  - (c) the making of payments by the drainage authority to the navigation or conservancy authority, or to the drainage authority by the navigation or conservancy authority, in respect of any matter for which provision is made by the arrangement.
- (3) Any arrangement made under subsection (2) above shall while in force have effect for all purposes as if enacted in this Act, but without prejudice to the power to provide by any subsequent arrangement so made for the variation or revocation thereof.
- (4) A drainage authority intending to enter into an arrangement under subsection (2) above shall give notice of their intention to the Post Office, and shall publish a like notice in such manner as the Minister may direct in their area.

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- (5) Where an arrangement has been made under subsection (2) above, the drainage authority shall cause a notice in such form as the Minister may prescribe to be published in the London Gazette stating that the arrangement has been made, and specifying the place at which a copy of the arrangement may be inspected by persons interested.

## **24 Enforcement of obligations to repair watercourses, bridges, etc.**

- (1) Nothing in this Act shall operate to release any person from any obligations to which he was before the commencement of this Act subject by reason of tenure, custom, prescription or otherwise.
- (2) If any person who, by reason of any such obligation as aforesaid, is liable to do any work in relation to any watercourse, bridge or drainage work (whether by way of repair, maintenance or otherwise), fails to do the work, the drainage authority in whose area the watercourse, bridge or drainage work is situated may serve a notice on that person requiring him to do the necessary work with all reasonable and proper despatch; and if he fails within 7 days to comply with the notice the authority may do all such things as are necessary for that purpose.
- (3) Any expenses reasonably incurred by a drainage authority in the exercise of their powers under this section may be recovered from the person liable to repair.
- (4) The reference in subsection (2) above to the drainage authority in whose area a watercourse, bridge or drainage work is situated shall be construed—
- (a) in relation to the main metropolitan watercourses, as a reference to the Greater London Council;
  - (b) in relation to the metropolitan watercourses, as a reference to that council and the council of the London borough in which the watercourse is situated (or, if it is situated in the City, or in the Inner Temple or the Middle Temple, the Common Council);

and the reference to a drainage authority in subsection (3) above shall be construed accordingly.

## **25 Variation of awards**

- (1) Where any award made under any public or local Act contains any provision which in any manner affects or relates to the drainage of land in a water authority area (including any provision affecting the powers or duties of any drainage body or other person with respect to the drainage of land in the water authority area) then the water authority may, and if so directed by the Minister on an application under subsection (3) below shall, submit to the Minister for confirmation a scheme for revoking, varying or amending that provision.
- (2) A scheme under this section with respect to any award may—
- (a) provide for commuting, on the basis on which the obligations to which section 26 below relates are to be commuted, the obligation of any person under the award to repair or maintain any drainage works ;
  - (b) contain such incidental, consequential or supplemental provisions as are necessary or proper for the purpose of the scheme;
  - (c) be revoked or varied by a subsequent scheme under this section.

- (3) An application may be made to the Minister for such a direction as is mentioned in subsection (1) above by any person who is under any obligation imposed by the award or by any drainage authority ; but no such application shall be entertained unless—
  - (a) the applicant has requested the water authority to submit a scheme under this section ; and
  - (b) the water authority have either refused to do so or failed to do so within 6 months or have submitted a scheme different from that so requested.
- (4) The Minister may by order confirm any scheme submitted to him under this section, either with or without modifications.

## **26 Commutation of obligations**

- (1) Where any person is under an obligation imposed on him by reason of tenure, custom, prescription or otherwise to do any work in connection with the drainage of land (whether by way of repairing banks or walls, maintaining watercourses or otherwise), then—
  - (a) if the work is in connection with the main river, the water authority for the area concerned shall take steps to commute the obligation; and
  - (b) in any other case, the water authority for the area concerned, or the internal drainage board for the internal drainage district concerned, may commute the obligation with the consent of the Minister;and for these purposes " the area concerned " means the water authority area where the work falls to be done and " the internal drainage district concerned " means (where the work falls to be done in an internal drainage district) the internal drainage district where the work falls to be done.
- (2) Where a water authority or internal drainage board propose to commute any obligation to which this section applies, the authority or board shall give, in such manner as the Minister may direct, notice of the proposal, of the terms on which it is to be commuted and of the time within which objection to the proposal may be made.
- (3) If within one month of any such notice being given the person on whom the obligation is imposed gives notice to the water authority or internal drainage board of his objection to the proposal, the question whether the authority or board shall proceed to commute the obligation shall be referred to the Minister, whose decision thereon shall be final.
- (4) Any capital sum or terminable annuity fixed under this section shall, notwithstanding any agreement to the contrary between the owner and any lessee of the land, be payable by the owner.
- (5) Where any obligation is commuted under this section, any person who would, but for the commutation, be entitled to any exemption in respect of drainage rates, either absolutely as being the person subject to the obligation or conditionally on performance of the obligation, shall be entitled absolutely to a like exemption.
- (6) The sum to be paid in respect of the commutation of any such obligation shall be such sum as the water authority or internal drainage board may in accordance with the provisions of subsection (7) below by order determine, and the sum so determined shall—
  - (a) be payable by way either of a capital sum or of a terminable annuity for a period not exceeding 30 years, at the option of the owner,

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- (b) be charged on the land in respect of which the obligation existed, and
  - (c) have priority over any other incumbrances (whenever created) charged on that land by the owner thereof, other than charges (whenever created) under the Improvement of Land Act 1864.
- (7) For the purpose of determining the sum to be paid in respect of the commutation of any obligation, the water authority or internal drainage board shall ascertain the amount which, in their opinion, fairly represents the probable average annual cost, taking one year with another, of executing and maintaining in a due state of efficiency the works which are required to be executed and maintained by virtue of the obligation to be commuted, and the authority or board shall fix the capital sum or terminable annuity to be paid in respect of the commutation accordingly.
- (8) In fixing any such capital sum or terminable annuity no account shall be taken of so much of the probable annual average cost as is in the opinion of the water authority or internal drainage board attributable to the fact that, by reason of improvements effected since 1st January 1900 in the drainage of the land drained by the main river, or alterations effected since that date in the method of cultivation thereof, the volume of water which is discharged into the main river at any time is greater than that which would have been so discharged if the said improvements or alterations had not been effected.
- (9) If any person is aggrieved by any determination of a water authority or internal drainage board under this section as regards the sum to be paid in respect of the commutation of any obligation, he may, at any time within 3 months after the date on which the authority or board notify him of their determination, require the matter to be referred to the arbitration of a single arbitrator to be appointed in default of agreement by the President of the Institution of Civil Engineers.
- (10) On any such reference the arbitrator may either confirm, vary or set aside the determination of the authority or board as he thinks proper.
- (11) A record of any such charge as is mentioned in subsection (6) above shall be entered in a register to be kept for the purpose by the clerk of the water authority or internal drainage board, and a copy of any such record purporting to be certified by the said clerk as a true copy shall be receivable in evidence in all legal proceedings
- (12) The functions of a drainage authority as respects the doing of any work under this Act are not to be treated as in any way limited by the fact that some other person is under an obligation, by reason of tenure, custom, prescription or otherwise, to do that work.

## **27 Power to vary navigation rights**

- (1) If it appears to the Minister that a navigation authority is not exercising at all, or is not exercising to the necessary extent, the powers vested in it, and it appears to the Minister desirable so to do with a view to securing the better drainage of any land, he may by order revoke, vary or amend the provisions of any local Act relating to navigation rights over, or to the powers and duties of the navigation authority with respect to, any waters within any water authority area or internal drainage district, and in particular, but without prejudice to the generality of the foregoing power, may extinguish, vary or suspend, during such period as he may think proper, any such rights, powers or duties.
- (2) The Minister may make an order under this section only where an application is made to him for that purpose by the drainage authorities within whose areas the waters to

which the application relates are contained, and after he has consulted the Secretary of State for the Environment.

- (3) An order made under this section may contain such incidental, consequential or supplemental provisions as appear to the Minister to be necessary or proper for the purposes of the order.
- (4) In this section "waters" means any canal, river or navigable waters, and "tidal waters" means any waters within the ebb and flow of the tide at ordinary spring tides.
- (5) An order shall not be made under this section so as to affect any tidal waters except with the consent of the Secretary of State for Trade.

*Control of obstructions in and structures in, over or under watercourses*

**28 Obstructions in watercourses**

- (1) No person shall in any drainage authority area—
  - (a) erect any mill dam, weir or other like obstruction to the flow of any watercourse or raise or otherwise alter any such obstruction,
  - (b) erect any culvert that would be likely to affect the flow of any watercourse or alter any culvert in a manner that would be likely to affect any such flow,without the consent in writing (not to be unreasonably withheld) of the drainage authority.
- (2) If, where an application is made to a drainage authority for their consent under this section, the authority fail within 2 months after the receipt of the application to notify in writing to the applicant their determination with respect to the application, the authority shall be deemed to have consented thereto.
- (3) If any question arises under this section whether the consent of a drainage authority is unreasonably withheld, that question shall be referred to a single arbitrator to be agreed between the parties or, failing such agreement, to be appointed by the President of the Institution of Civil Engineers on the application of either party.
- (4) If any obstruction is erected or raised or otherwise altered, or any culvert is erected or altered, in contravention of this section, it shall be deemed to be a nuisance liable to be dealt with summarily in manner provided by this section, and the drainage authority may serve upon such person as is specified in subsection (9) below a notice requiring him to abate the nuisance within a time to be specified in the notice.
- (5) If that person makes default in complying with the notice, the authority shall cause a complaint relating to the nuisance to be made before a justice, and the justice shall thereupon issue a summons requiring that person to appear before a magistrates' court.
- (6) If the court is satisfied that the alleged nuisance exists, the court shall make an order requiring that person to abate the nuisance within a time specified in the order, and may by their order impose a fine not exceeding £400, and shall also give directions as to the payment of all costs incurred up to the time of making the order.
- (7) Any person not obeying an order under this section to abate a nuisance shall, if he fails to satisfy the court that he has used all due diligence to carry out such order, be liable to a fine not exceeding £40 for every day during which his default continues, and the authority by whom the complaint was made may abate the nuisance and recover from the person in default the expenses of so doing.

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- (8) If either party to the proceedings is aggrieved by the decision of a magistrates' court on a complaint under this section, he may appeal to the Crown Court, and on any such appeal the Crown Court shall have power to make any order which the magistrates' court might have made.
- (9) The person upon whom a notice may be served under subsection (4) above is—
  - (a) in a case where the person by whom the obstruction has been erected or raised or otherwise altered has, at the time when the notice is served, power to remove the obstruction, that person ;
  - (b) in any other case, any person having power to remove the obstruction.
- (10) Nothing in this section shall apply to any works under the control of a navigation authority, harbour authority or conservancy authority, or to any works executed under or in pursuance of any Act or any order having the force of an Act.
- (11) Nothing in this section shall apply in relation to any watercourse which is part of a main river.
- (12) Any reference to a drainage authority in this section shall be construed—
  - (a) in relation to the main metropolitan watercourses, as a reference to the Greater London Council;
  - (b) in relation to the metropolitan watercourses, as a reference to that council and the council of the London borough in which the watercourse is situated (or, if it is situated in the City, or in the Inner Temple or the Middle Temple, the Common Council).

## **29 Structures in, over or under watercourses**

- (1) No person shall erect any structure in, over or under a watercourse which is part of the main river except with the consent of and in accordance with plans and sections approved by the water authority ; and no person shall, without the consent of the water authority, carry out any work of alteration or repair on any structure in, over or under such a watercourse if the work is likely to affect the flow of water in the watercourse or to impede any drainage work.
- (2) No person shall erect or alter any structure designed to contain or divert the floodwaters of any part of the main river except with the consent of and in accordance with plans and sections approved by the water authority.
- (3) A consent or approval required under this section shall not be unreasonably withheld ; and—
  - (a) any such consent may be given subject to any reasonable condition as to the time at which and the manner in which any work is to be carried out; and
  - (b) any such consent or approval shall, if neither given nor refused within 2 months after application therefor is made, be deemed to have been given.
- (4) If any person executes any work in contravention of this section the water authority may remove, alter, or pull down the work and recover from that person the expenses incurred in doing so.
- (5) If any question arises under this section whether any consent or approval is unreasonably withheld or whether any condition imposed is reasonable the question shall—

- (a) if the parties agree to arbitration, be referred to a single arbitrator agreed between the parties or, in default of agreement, appointed by the President of the Institution of Civil Engineers;
  - (b) if the parties do not agree to arbitration, be referred to and determined by the Ministers.
- (6) Subsection (1) above shall not apply—
- (a) to any work executed under section 15 of the Public Health Act 1936 or section 19 or 20 of Schedule 3 to the Water Act 1945 (which relate to the provision of sewers and water mains); or
  - (b) to any work executed in an emergency ;
- but a person executing any work excepted by paragraph (b) above shall as soon as practicable inform the water authority in writing of the execution and of the circumstances in which it was executed.
- (7) Nothing in this section shall be taken to affect any enactment requiring the consent of any government department for the erection of a bridge or any powers exercisable by any government department in relation to a bridge.
- (8) Nothing in subsection (5) of section 112 below shall be taken to exclude the application of this section to any work executed by persons carrying on an undertaking to which that section applies.

#### *Schemes for drainage of small areas*

### **30 Power of water authorities to make schemes for drainage of small areas**

- (1) Where a water authority are of opinion that any land in their area is capable of improvement by drainage works, but that the constitution for that purpose of an internal drainage district would not be practicable, they may, in accordance with the provisions of a scheme made under this section, enter on the land and execute such drainage works as appear to them desirable.
- (2) A scheme under this section must state—
- (a) the works proposed to be executed ;
  - (b) the area to be improved by the works ;
  - (c) the estimated expenses (including administrative expenses) of the execution of the works, which shall not, subject to section 31(6) below, exceed an amount equal to £20 for each acre in the area to be improved ;
  - (d) the maximum amount to be recoverable by the authority in respect of those expenses ; and
  - (e) the manner in which the expenses of executing and maintaining the works are to be apportioned amongst the lands comprised in the area.

### **31 Supplementary provisions as to schemes under section 30**

- (1) Before making a scheme under section 30 above the authority shall give to the owners and occupiers of land within the area to which the scheme relates, and to any other persons appearing to them to be affected by the scheme, notice in the prescribed manner of their intention of making the scheme and of the place where a draft of it can be inspected and of the time (which shall not be less than 30 days) within which objections to it may be made to the authority.

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- (2) Where any objections to a scheme are duly made and are not withdrawn the authority shall send a copy of the draft scheme, together with copies of the objections, to the Minister, and the scheme shall not be made unless the draft is confirmed by the Minister, with or without modifications ; and before confirming the draft, the Minister shall either cause a public inquiry to be held or give the authority and the persons by whom the objections are made an opportunity of appearing before and being heard by a person appointed by the Minister for the purpose.
- (3) The authority shall send copies of the scheme to the owners and occupiers of land in the area to which it relates and shall also notify the council of any county, district or London borough in which any of that land is situated.
- (4) A scheme made under this section shall be a local land charge.
- (5) Any expenses incurred by an authority under this section in the execution of drainage works, to an amount not exceeding the amount stated in the scheme in pursuance of section 30(2)(d) above, and any expenses incurred by an authority in maintaining works executed under this section, shall be recoverable by the authority from the several owners of the lands to which the scheme relates according to the apportionment provided for by the scheme.
- (6) The Minister may exempt a scheme from the limit imposed by section 30(2)(c) above if it appears to him that the works proposed to be executed are urgently required in the public interest, and he may by order from time to time vary that limit, but no such order shall have effect unless it is approved by a resolution of each House of Parliament.

### *Flood warning systems*

## **32 Power of water authorities to provide flood warning systems**

- (1) A water authority shall have power—
  - (a) to provide and operate a flood warning system for their area;
  - (b) both within and outside their area, to provide, install and maintain apparatus required for the purposes of such a system;
  - (c) to carry out within their area any other engineering or building operations so required; and
  - (d) to adapt for the purposes of such a system any apparatus or works to which a hydrometric scheme made for any part of their area under section 15 of the Water Resources Act 1963 relates ;

and references in the Water Resources Act 1963 to the transferred functions of water authorities shall be construed as including references to the foregoing powers.
- (2) Subsection (1) above shall not be construed as authorising, on the part of a water authority, any act or omission which, apart from that subsection, would be actionable at the suit of any person on any grounds other than a limitation imposed by law on the capacity of the authority by virtue of its constitution ; and nothing in that subsection shall authorise any infringement of the exclusive privilege conferred on the Post Office by section 24(1) of the Post Office Act 1969 (telecommunication systems).
- (3) Before a water authority exercise within the area of another water authority or the London excluded area any power conferred by subsection (1)(b) above, other than the power to maintain apparatus, they shall consult with that other authority or (in the case of the London excluded area) the Greater London Council.



(4) Any water authority whose area adjoins Scotland may exercise the powers conferred by subsection (1)(b) or (c) above in an area in Scotland as if that area in Scotland formed part of the authority's area subject (except in the case of a power to maintain apparatus) to prior consultation with the local authority for that area in Scotland within the meaning of section 1 of the Flood Prevention (Scotland) Act 1961.

(5) In this section—

" engineering or building operations " (without prejudice to the generality of that expression) includes the construction, alteration, improvement, maintenance or demolition of any building or structure, and the installation, modification or removal of any machinery or apparatus;

" flood warning system " means any system whereby, for the purpose of providing warning of any danger of flooding, information with respect to—

- (a) rainfall, as measured at a particular place within a particular period, or
- (b) the level or flow of any inland water, or part of an inland water, at a particular time, or
- (c) other matters appearing to the authority providing the system to be relevant for that purpose,

is obtained and transmitted, whether automatically or otherwise, with or without provision for carrying out calculations based on such information and for transmitting the results of those calculations;

" inland water " means any of the following:—

- (a) so much of any river, stream or other watercourse, whether natural or artificial and whether tidal or not, as is within Great Britain;
- (b) any lake or pond, whether natural or artificial, and any reservoir or dock, in so far as any such lake, pond, reservoir or dock does not fall within paragraph (a) above and is within Great Britain; and
- (c) so much of any channel, creek, bay, estuary or arm of the sea as does not fall within paragraph (a) or (b) above and is within Great Britain ;

" rainfall " includes any fall of snow, hail or sleet.

### *Incidental powers*

## **33 Disposal of spoil**

- (1) A drainage authority may, without making payment for it, appropriate and dispose of any matter removed in the course of the execution of any work for widening, deepening or dredging any watercourse.
- (2) A drainage authority may deposit any matter so removed on the banks of the watercourse, or on such width of land adjoining the watercourse as is specified in subsection (3) below, unless the matter so deposited would constitute a statutory nuisance within the meaning of Part III of the Public Health Act 1936.
- (3) The said width is such as is sufficient to enable the said matter to be removed and deposited by mechanical means in one operation.
- (4) Where injury is sustained by any person by reason of the exercise by a drainage authority of their powers under subsection (2) above, the authority may, if they think fit, pay to him such compensation as they may determine; and if the injury could have been avoided if those powers had been exercised with reasonable care, subsection (5)

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of section 17 above shall apply as if the injury had been sustained by reason of the exercise by the authority of their powers under that section.

- (5) A drainage authority and the council of any district or London borough may enter into an agreement providing for the disposal by the council of any matter removed as aforesaid and for the payment by the authority to the council in respect of the disposal of the matter by the council of such sum as may be provided by the agreement.

### **34 Byelaws**

- (1) A drainage authority may, subject to the provisions of this Act, make such byelaws as they consider necessary for securing the efficient working of the drainage system in their area; and in the case of a water authority this shall include power to make such byelaws as the authority consider necessary for securing the proper defence against sea or tidal water of any part of their area.
- (2) Without prejudice to the generality of subsection (1) above, a drainage authority may in particular make byelaws for any of the following purposes:—
- (a) regulating the use and preventing the improper use of any watercourses, banks or works vested in them or under their control or for preserving any such watercourses, banks or works from damage or destruction;
  - (b) regulating the opening of sluices and flood gates in connection with any such works as are mentioned in paragraph (a) above;
  - (c) preventing the obstruction of any watercourse vested in them or under their control by the discharge into it of any liquid or solid matter or by reason of any such matter being allowed to flow or fall into it;
  - (d) compelling the persons having control of any watercourse vested in the authority or under their control, or of any watercourse flowing into any such watercourse, to cut the vegetable growths in or on the bank of the watercourse and, when cut, to remove them;

but no byelaw for any purpose specified in paragraph (a) above shall be valid if it would prevent reasonable facilities being afforded for enabling a watercourse to be used by stock for drinking purposes.

- (3) Schedule 4 to this Act shall have effect with respect to the making of byelaws under this section,
- (4) If any person acts in contravention of, or fails to comply with, any byelaw made under this section he shall be liable on summary conviction to a fine not exceeding £400 and, if the contravention or failure is continued after conviction, to a further fine not exceeding £40 for every day on which the contravention or failure is so continued.
- (5) If any person acts in contravention of, or fails to comply with, any byelaw made under this section the drainage authority may, without prejudice to any proceedings under subsection (4) above, take such action as may be necessary to remedy the effect of the contravention or failure, and may recover the expenses reasonably incurred by them in doing so from the person in default.
- (6) Notwithstanding anything in this Act, no byelaw made by a drainage authority under this Act shall conflict with or interfere with the operation of any byelaw made by a navigation authority, harbour authority or conservancy authority.

### **35 Insurance against accidents to members**

- (1) A drainage authority may enter into a contract with any person whereby, in consideration of payments made by the authority by way of premium or otherwise, that person undertakes to pay to the authority such sums as may be provided in the contract in the event of any member of the authority or of any committee thereof meeting with a personal accident, whether fatal or not, while he is engaged on the business of the authority.
- (2) Any sum received by the authority or board under any such contract shall, after deduction of any expenses incurred in the recovery thereof, be paid by them to, or to the personal representatives of, the person in respect of whose accident the sum is received.
- (3) The provisions of the Life Assurance Act 1774 shall not apply to any such contract.

### **36 Power of water authorities to acquire accretions of land resulting from drainage works**

- (1) If the Minister certifies that, as the result of any drainage works executed or proposed to be executed by a water authority in connection with the tidal waters of the main river or any drainage works transferred from a drainage body to a water authority in pursuance of this Act, there has been or is likely to be any accretion of land, the water authority may acquire either by agreement or compulsorily—
  - (a) the accretion of land or the land to which the accretion will, if it takes place, be added, together with any right to reclaim or embank the accretion; and
  - (b) such other land as is reasonably required for the purpose of reclamation of the accretion or for the enjoyment of it when reclaimed.
- (2) The provisions of the Water Resources Act 1963 with respect to the power of water authorities to acquire land shall apply with respect to the acquisition of land or rights under this section and the expression " land " in those provisions as applied by this subsection shall be deemed to include all rights which may be acquired under this section.
- (3) An agreement or order with respect to the acquisition of any land or rights under this section may provide for the transfer to the water authority of any liability for the upkeep, maintenance and repair of any bank or drainage work or of any other like liability.
- (4) Where the value of any land or right is increased by the execution or proposed execution of drainage works by a water authority, the amount of the increase shall not be taken into account in assessing the compensation in respect of the compulsory acquisition of it.
- (5) Where, by reason of a certificate having been given by the Minister under this section in relation to any drainage works, a water authority have acquired any land or right and a grant has been made out of public moneys for defraying the cost or part of the cost of the execution of the works, the water authority shall—
  - (a) on being so required by the Crown Estate Commissioners, and
  - (b) on payment by the Commissioners to the authority of the sum paid by the authority in respect of the acquisition of the land or right, together with the amount of any costs incurred by the authority in connection with the acquisition,

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transfer the land or right to the Commissioners or to any person nominated by them.

- (6) If a water authority, on being so required by the Crown Estate Commissioners in pursuance of subsection (5) above, fail to transfer to the Commissioners any land or right, the Minister may by a vesting order transfer the land or right to the Commissioners or to a person nominated by them, and for the purposes of this subsection the Minister shall be deemed to be a competent authority within the meaning of section 9 of the Law of Property Act 1925.

### **37 Power of internal drainage boards to acquire land**

- (1) An internal drainage board may, for any purpose in connection with the performance of any of their functions, acquire by agreement or, if authorised by the Minister, compulsorily, any land, whether inside or outside their area.
- (2) The Acquisition of Land (Authorisation Procedure) Act 1946 shall apply in relation to the compulsory acquisition of land in pursuance of subsection (1) above as if that subsection were contained in an Act in force immediately before the commencement of that Act.
- (3) An internal drainage board may exercise the powers conferred by subsection (1) above so as to acquire interests in or rights over land by way of securing the creation of new interests or rights in their favour (as well as by acquiring interests or rights already in existence).
- (4) Where an internal drainage board exercise their powers under this section so as to acquire compulsorily an interest in or right over land by way of securing compulsorily the creation in their favour of a new interest or right, the enactments relating to compensation for the compulsory purchase of land shall, in their application to such acquisition, have effect with the necessary modifications and the Acquisition of Land (Authorisation Procedure) Act 1946 and the Compulsory Purchase Act 1965 shall, in their application to such compulsory acquisition, have effect with such modifications as may be prescribed.
- (5) Where an internal drainage board propose to acquire by agreement any land belonging to Her Majesty in right of the Duchy of Lancaster, the Chancellor and Council of that Duchy may sell the land to the board, and the land may be granted to them and the proceeds of sale shall be paid and dealt with as if the land had been sold under the authority of the Duchy of Lancaster Lands Act 1855.

### **38 Power of internal drainage boards to dispose of land**

- (1) Subject to the following provisions of this section, an internal drainage board may dispose of land held by them in any manner they wish.
- (2) Except with the consent of the Minister, an internal drainage board shall not dispose of land under this section, otherwise than by way of a short tenancy, for a consideration less than the best that can reasonably be obtained.
- (3) Except with the consent of the Minister, an internal drainage board shall not dispose under this section, otherwise than by way of a short tenancy, of land which (whether before or after the commencement of this Act) has been acquired by the board compulsorily, or acquired by them by agreement at a time when they were authorised to acquire it compulsorily.

- (4) For the purposes of this section a disposal of land is a disposal by way of a short tenancy if it consists of the grant of a term not exceeding 7 years, or of the assignment of a term which at the date of the assignment has not more than 7 years to run.

### **39 Powers of entry of internal drainage boards**

- (1) Without prejudice to any other enactment conferring powers of entry, a person authorised by an internal drainage board may, after producing, if so required, a duly authenticated document showing his authority, at all reasonable times—
- (a) enter any land for the purpose of exercising any functions of the board;
  - (b) without prejudice to paragraph (a) above, enter and survey any land (including the interior of any mill through which water passes or in connection with which water is impounded) and take levels of the land and inspect the condition of any drainage work on it; and
  - (c) inspect and take copies of any Acts of Parliament, awards or other documents in the possession of any internal drainage board or navigation authority which relate to the drainage of land and confer any powers or impose any duties on that board or authority.
- (2) A person entitled under this section to enter any land may take with him such other persons and such equipment as may be necessary and if the land is unoccupied he shall, on leaving it, leave it as effectually secured against trespassers as he found it.
- (3) Except in an emergency, admission to any land shall not be demanded as of right under this section, unless notice in writing of the intended entry has been given to the occupier and, if the land is used for residential purposes or the demand is for admission with heavy equipment, has been given not less than 7 days before the demand is made.
- (4) Section 17(5) above shall extend to any injury sustained by any person by reason of the exercise of a power conferred by this section.
- (5) If any person intentionally obstructs or impedes any person exercising a power conferred by this section he shall be liable on summary conviction to a fine not exceeding £200.
- (6) This section shall not apply in relation to land belonging to Her Majesty in right of the Crown or the Duchy of Lancaster, in relation to land belonging to the Duchy of Cornwall or in relation to land belonging to a government department.

## **PART III**

### **RESTORATION AND IMPROVEMENT OF DITCHES**

### **40 Power of Agricultural Land Tribunal to order cleansing of ditches etc.**

- (1) Where a ditch is in such condition as to cause injury to any land or to prevent the improvement of the drainage of any land, the Agricultural Land Tribunal may, on the application of the owner or occupier of the land, make, if it thinks fit, an order requiring the person or persons named in the order to carry out such work for cleansing the ditch, removing from it any matter which impedes the flow of water, or otherwise putting it in proper order and for protecting it as may be specified in the order.

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- (2) An order under this section may name any person who is an owner or occupier of land through which the ditch passes or which abuts on the ditch, and any person who, though not such an owner or occupier, has a right to carry out the work specified in the order or any part of it; and the order shall be sufficient authority for any person named therein to do the work specified therein in relation to him and, so far as may be necessary for that purpose, to enter any land so specified.
- (3) Where an order under this section names more than one person it may either require each of those persons to carry out a specified part of the works specified in the order or require all those persons jointly to carry out the whole of that work; and where the Tribunal make an order requiring persons jointly to carry out any work they may, if they think fit, specify in the order the proportions in which those persons are to contribute to the cost of doing so, without prejudice however to their joint liability.
- (4) In this section and section 41 below " ditch " includes a culverted and a piped ditch but does not include a watercourse vested in or under the control of a drainage body.

**41 Power of Agricultural Land Tribunal to authorise drainage works on adjoining land**

Where the drainage of any land requires the carrying out of any work in connection with a ditch passing through other land, or the replacement or construction of such a ditch, or the alteration or removal of any drainage work in connection with such a ditch, the Agricultural Land Tribunal may on the application of the owner or occupier of the first-mentioned land make, if it thinks fit, an order authorising him to carry out for that purpose such work as may be specified in the order and, so far as may be necessary for that purpose, to enter any land so specified.

**42 Composition and powers of Agricultural Land Tribunal for hearing of application under Part III**

- (1) The Lord Chancellor shall draw up for each Agricultural Land Tribunal and from time to time revise a panel of persons appearing to him to be experienced in matters relating to the drainage of land; and for each hearing by an Agricultural Land Tribunal of an application under this Part of this Act one of the members of the Tribunal shall, instead of being a person nominated in accordance with paragraph 16(1)(b) of Schedule 9 to the Agriculture Act 1947, be a person nominated by the chairman from the panel drawn up under this section.
- (2) Paragraph 16A of the said Schedule 9 (which provides for the exercise of the power of making nominations if the chairman is prevented from doing so) shall apply to nominations under this section.
- (3) For the purpose of deciding any application under this Part of this Act the Agricultural Land Tribunal may authorise any of its members or any other person to enter and inspect any land.

**43 Power of Minister to carry out work authorised under section 40**

- (1) Where at the expiration of 3 months or such longer time as may be specified in an order under section 40 above any work specified in the order has not been carried out, the Minister or any drainage body authorised by him either generally or in a particular

case may carry out the work and enter any land which it is necessary to enter for that purpose.

- (2) The Minister or drainage body may recover from any person named in the order the expenses reasonably incurred in doing under subsection (1) above any work which ought to have been done by that person, including any compensation payable in connection with that work under section 44 below.
- (3) The services for which provision may be made by a scheme under section 103 of the Agriculture Act 1947 shall include such services to the owner or occupier of any land as may enable him to carry out any work which he is authorised to carry out by an order under this Part of this Act.

#### **44 Supplementary provisions as to powers of entry and compensation**

- (1) A person entitled under this Part of this Act to enter any land may take with him such other persons and such equipment as may be necessary and, if the land is unoccupied, he shall, on leaving it, leave it as effectually secured against trespassers as he found it.
- (2) Before entering any land under the powers conferred by this Part of this Act the person entering it shall give not less than 7 days' notice in writing to the occupier of the land.
- (3) Where any person sustains any injury by reason of the exercise of any power conferred by this Part of this Act then, unless the power was exercised in or for the purpose of the execution of any work which he was required to do by an order under this Part of this Act, the person exercising the power shall be liable to make full compensation to him, and in the case of dispute the amount of the compensation shall be determined by the Lands Tribunal.

### **PART IV**

#### **RAISING OF REVENUE BY DRAINAGE AUTHORITIES**

##### *Power of water authorities to require payment of their land drainage expenses by local authorities*

#### **45 General provision for apportionment of qualifying expenses**

- (1) The qualifying expenses of a water authority in respect of a local land drainage district shall, in accordance with sections 46 and 47 below, be apportioned by the water authority among the relevant local authorities.
- (2) The qualifying expenses of a water authority in respect of a local land drainage district for any financial year shall be ascertained by—
  - (a) taking—
    - (i) so much of the relevant expenditure of the water authority for that financial year as is neither defrayed out of any reserve fund, replacement fund or sinking fund maintained by the authority nor defrayed out of sums received by the authority in respect of that year and that district otherwise than by virtue of section 46 below, and
    - (ii) any amount required to be provided in that financial year by way of new working capital; and

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- (b) adding to or, as the case may be, deducting from the aggregate amount under paragraph (a) above any amount required to be brought forward from a previous financial year and to be added or deducted in accordance with section 47 below.

- (3) In this section and sections 46 and 47 below—

" actual penny rate product ", for any area for any year, means the product of a rate of one penny in the pound for that area for that year as determined for the purposes of section 46(9) below in accordance with rules made under section 113(1)(c) of the General Rate Act 1967;

" local authority members ", in relation to a committee, means the members of that committee appointed by or on behalf of constituent councils ;

" estimated penny rate product ", for any area for any year, means the product of a rate of one penny in the pound for that area for that year as determined for the purpose of section 46(1) below in accordance with rules made under section 113(1)(c) of the General Rate Act 1967;

" relevant expenditure ", in relation to a local land drainage district, means expenditure by the water authority in the performance of land drainage functions in or for the benefit of that district, and this shall be taken to include an appropriate proportion of the administrative expenses of the authority, of the expenses of their research and related activities, of any amount allocated by them to reserve pursuant to paragraph 31(1) of Schedule 3 to the Water Act 1973, and of any payment to the National Water Council pursuant to paragraph 33 of that Schedule ;

" relevant local authorities ", in relation to a local land drainage district, means the councils of any county or London borough any part of whose area is comprised in that district, and references to the relevant area of any such authority, in relation to a local land drainage district, are references to the part of their area so comprised.

#### **46 Apportionment of expenses and issuing of" precepts in respect of apportioned expenses**

- (1) Not later than the month of February immediately preceding each financial year, each water authority shall estimate the amount of the qualifying expenses for that year in respect of each local land drainage district in their area and apportion the estimated amount among the relevant local authorities on the basis of the estimated penny rate product for that year for their respective relevant areas.
- (2) The estimated penny rate product, as determined for the purposes of subsection (1) above for any area for any year, and any information relevant to that determination which may be specified in the rules in accordance with which the determination is made, shall be notified to the water authority at such time and in such manner as may be so specified.
- (3) A water authority may issue precepts to local authorities requiring payment of the amounts apportioned to those authorities under subsection (1) above and each such authority shall pay, in accordance with any precept issued to them, the amount demanded by that precept.
- (4) If at any time during a financial year it appears to a water authority that the aggregate amount for which they have issued precepts for that year in respect of any local land drainage district will fall short of the amount of the qualifying expenses in respect of



that district for that year, they shall estimate the amount of the deficiency and apportion the estimated amount in the same way as the amount estimated under subsection (1) above is to be apportioned ; and subsection (3) above shall have effect in relation to an amount apportioned under this subsection as it has effect in relation to an amount apportioned under subsection (1) above.

- (5) Subject to subsection (6) below, the aggregate amount for which precepts in respect of a local land drainage district may be issued under this section for any one financial year to a local authority shall not, unless special consent has been obtained, exceed 1.7 times the estimated penny rate product for the relevant area of the authority for that year.
- (6) Where a water authority have borrowed or propose to borrow any money under the Water Act 1973, if a special resolution is passed subsection (5) above shall have effect, during the currency of the loan, as if for the reference to 1.7 times the estimated penny rate product for any relevant area there were substituted a reference to such greater amount as may be specified in the resolution.
- (7) In subsections (5) and (6) above " special consent " and " special resolution " mean respectively a consent given and a resolution passed—
  - (a) in the case of a local land drainage district with a local land drainage committee, by a majority of the whole number of the local authority members of that committee ; and
  - (b) in the case of any other local land drainage district, by a majority of the whole number of those of the local authority members of the regional land drainage committee who were appointed to that committee by or on behalf of constituent councils any part of whose area is in the district.
- (8) It shall be the duty of a water authority to prepare, in such form as the Minister may direct, a statement of the purposes to which the amount demanded by any precept issued by the authority under this section is intended to be applied, and of the basis on which it is calculated ; and a local authority shall not be liable to pay the amount demanded by any such precept until they have received such a statement.
- (9) It shall also be the duty of a water authority, as soon as practicable after the end of each financial year, to calculate the amount by which the amount demanded by any precept for that year issued under this section to a local authority in respect of any relevant area exceeds, or falls short of, the amount which would have fallen to be so demanded from that authority if the apportionment made under subsection (1) above had been made, in relation to each of the local authorities referred to in that subsection, on the basis of the actual penny rate product for that year for the relevant area; and—
  - (a) if in any case the calculation under this subsection shows an excess, the amount of the excess shall be recoverable by the local authority from the water authority, and
  - (b) if in any case it shows a deficiency, the amount of the deficiency shall be recoverable by the water authority from the local authority.

#### **47 Carrying forward of excesses or deficiencies**

- (1) As soon as practicable after the end of each financial year each water authority shall ascertain the actual amount of their qualifying expenses for that year in respect of each local land drainage district in their area and shall determine whether and (if so) how far the aggregate amount for which precepts have been issued by them for that

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year to the relevant local authorities exceeds or falls short of the actual amount of the qualifying expenses.

- (2) If it is determined under subsection (1) above, in respect of any local land drainage district, that there is an excess or a deficiency in respect of any local land drainage district the amount thereof shall be brought forward to the financial year following that in which the determination is made or (at the option of the water authority) the next financial year after that following financial year and shall be deducted (if an excess) or added (if a deficiency) in ascertaining the qualifying expenses in respect of that district for the financial year to which it is brought forward.

*Power of water authorities to raise drainage charges*

**48 Raising of general drainage charges**

- (1) Subject to subsection (2) below, a water authority may raise at an amount per acre of chargeable land in a local land drainage district in their area a charge to be known as a general drainage charge and to be levied on the occupiers of the land in accordance with section 49 and sections 52 to 61 below.
- (2) A water authority shall not levy a general drainage charge in respect of any local land drainage district unless the regional land drainage committee for the authority's area have recommended that such a charge should be raised.

**49 Amount of general drainage charge**

- (1) A general drainage charge raised by a water authority for a local land drainage district for any year shall be at a uniform amount per acre of chargeable land in that district, and that amount shall be ascertained, subject to subsection (2) below, by—
  - (a) dividing the aggregate amount demanded by the precepts issued by the water authority under section 46(3) above in respect of the year for which the charge is raised by the aggregate amount of the estimated penny rate products on the basis of which the amount so demanded was apportioned in pursuance of section 46(1) above; and
  - (b) multiplying the quotient by 1p and by such number as the Minister may specify by order made for the purposes of this paragraph.
- (2) The number specified in an order made under subsection (1) above 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 subsection (1)(a) above will be equal to the aggregate amount which, if the chargeable land in the local land drainage district 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 1p.
- (3) An order under this section may be made so as to apply either to all general drainage charges or to the general drainage charges proposed to be raised in any one or more water authority areas specified in the order or in any one or more local land drainage districts situated in one or more water authority areas and there specified, and any such order applying to more than one local land drainage district may make different provision as respects the different districts to which it applies.

- (4) The reference to precepts in paragraph (a) of subsection (1) above does not include precepts issued by virtue of the application of section 46(3) above to amounts estimated under section 46(4) above.

## **50 Special drainage charges in interests of agriculture**

- (1) Where it appears to a water authority that the interests of agriculture in the water authority's area or any part of it require the carrying out of drainage works in connection with any watercourses in that area, they may submit to the Minister for confirmation a scheme—
- (a) designating those watercourses, and any watercourses connected with them, for the purposes of this section, and
  - (b) making provision for the raising, in accordance with sections 51 to 61 below, of a charge, to be known as a special drainage charge, for the purpose of meeting the expenses of drainage works in connection with the designated watercourses and any expenses arising from such works.
- (2) Any such scheme shall designate either the whole or any part of the water authority area for the purposes of the special drainage charge, according as the carrying out of drainage works in connection with the designated watercourses would, in the opinion of the water authority, be in the interests of agriculture in the whole of the water authority area or only in the designated part.
- (3) The watercourses designated in any such scheme shall, if the scheme is confirmed, be treated for the purposes of this Act as part of the main river.
- (4) A scheme under this section may make provision for any of the matters referred to in paragraphs (a) and (b) of section 10(1) above and, subject to subsections (5) to (8) below, the provisions of this Act which apply to a scheme under section 11 above shall also apply to a scheme under this section, except so far as section 11 enables the Minister to direct a water authority to submit a scheme.
- (5) Before submitting a scheme under this section a water authority shall consult organisations appearing to them to represent the interests of persons engaged in agriculture in the water authority area or, as the case may be, the part of that area designated in the scheme.
- (6) Where a water authority submit a scheme under this section which designates any watercourse wholly or partly within an internal drainage district, then, unless the authority are the drainage board for that district, the scheme must be accompanied either by a statement of the drainage board for that district that they have consented to the designation or by a statement that they have not consented thereto and a further statement setting out the reasons why the watercourse should nevertheless be designated for the purposes of this section.
- (7) The persons to whom copies of any scheme submitted under this section are to be sent as required by section 11(3) above shall be—
- (a) the council of any county, district or London borough wholly or partly within the relevant area,
  - (b) the drainage board for any internal drainage district within the relevant area, and
  - (c) organisations appearing to the water authority to represent the interests of persons engaged in agriculture in the relevant area,

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and for this purpose " the relevant area " is the area of the water authority concerned or, as the case may be, any part of it designated in the scheme.

- (8) The Minister shall not confirm a scheme under this section unless he is satisfied that, having regard to all the circumstances, and in particular to any contributions from local authorities and internal drainage boards which, if the scheme is confirmed, are likely to be available to the water authority in addition to the special drainage charge authorised by the scheme, the scheme is reasonable and financially sound.
- (9) For the purposes of this section—
- (a) the reference to expenses of drainage works is a reference to expenses incurred in the construction, improvement or maintenance of drainage works ;
  - (b) the expenses of any drainage works which may be necessary in consequence of other drainage works, and so much of any contribution made under section 84(4) below as is fairly attributable to such expenses, shall be deemed to be expenses arising from those other drainage works ; and
  - (c) the expenses of any drainage works shall be taken to include a proper proportion of the cost of the officers and buildings and establishment of the authority carrying them out.

## **51 Levying and amount of special drainage charge**

- (1) A special drainage charge shall be levied by a water authority on the occupiers of chargeable land included in the area designated for the purposes of the charge by the scheme authorising it (referred to in subsection (2) below as " the relevant chargeable land ").
- (2) The special drainage charge raised for any year shall be at a uniform amount per acre of the relevant chargeable land, and such amount shall be determined by the authority's regional land drainage committee but shall exceed 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 water authority ; nor
  - (b) 10p or such other amount as may be substituted for 10p by an order made by the Minister and approved by a resolution of the Commons House of Parliament.
- (3) Before making an order under subsection (2)(a) above the Minister shall—
- (a) consult with such of the associations and persons concerned as he considers appropriate ;
  - (b) cause a notice of his intention to make the order, and of the time (which shall not be less than 30 days) within which objections to the proposed order may be made to him, to be published in such manner as he thinks best adapted for informing persons affected;
  - (c) if he considers it necessary, afford such persons an opportunity of appearing before and being heard by a person appointed by him for the purpose ; and
  - (d) consider the report of the person so appointed and any objections duly made.
- (4) An order under subsection (2)(b) above may be made so as to apply—
- (a) to all special drainage charges which may be raised by water authorities, or
  - (b) to the special drainage charges proposed to be raised by one or more water authorities specified in the order, or

- (c) to special drainage charges proposed to be raised in pursuance of one or more schemes made under section 50 above and so specified;
- and any such order applying to the charges of more than one water 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.

*Supplementary provisions as to drainage charges*

**52 Drainage charges: fractions of an acre and reduction for commercial woodlands**

- (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) above 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.

**53 Operation and incidence of drainage charges**

- (1) A drainage charge shall be raised by a water authority in writing under the common seal of the authority and shall be deemed to be raised on the date on which a resolution is passed by the authority authorising their seal to be affixed to the charge.
- (2) Every drainage charge shall be raised for a year ending on 31st March and shall be raised before or during the year for which it is raised.
- (3) The forms of drainage charges and of demands for drainage charges shall be such as may be prescribed.
- (4) Subject to section 54 below, the following provisions shall have effect with respect to the assessing of persons to a drainage charge with respect to any land, and their liability in regard to the charge:—
- (a) the charge shall be assessed on the person who at the date of the raising of the charge is the occupier of the land;
  - (b) the full amount of the charge may be recovered by the water authority from any person who is the occupier of the land at any time during the period for which the charge is raised ; but
  - (c) a person who is in occupation of the land for part only of the period for which the charge is raised shall be liable to bear a proportionate part only of the charge and, if he is required under paragraph (b) above to pay the full amount of the charge, he may (subject to any agreement to the contrary) recover from any person who has been in occupation of the land for part of that period the amount which that other person is liable to bear.
- (5) Where land is chargeable land during part only of the year for which a drainage charge is raised, a proportionate part only of the charge shall be payable in respect of that land; and any amount over-paid shall be repaid.

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- (6) Where the name of any person liable to be assessed to any drainage charge is not known to the water authority, it shall be sufficient to assess him to the charge by the description of the " occupier " of the premises (naming them) in respect of which the assessment is made, without further name or description.
- (7) A water authority shall not be required to demand or enforce payment of a drainage charge in any case where the amount thereof is insufficient to justify the expense of collection.

#### **54 Arrangements for payment of drainage charges by owners**

- (1) A water 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 and any reference to an occupier in the provisions of this Part of this Act relating to drainage charges (except this section) 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 water authority before the expiration of the period of 2 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 10 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 61 below.
- (3) It shall be the duty of a water 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 water 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 any 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 water authority.
- (6) It shall be the duty of a water authority to whom notice is given under subsection (5) above to send a copy of the notice to the owner of the land to which it relates.

## **55 Publication of drainage charges**

- (1) A drainage charge shall not be valid unless notice thereof is given by the water authority in accordance with subsection (2) below within 10 days of the date on which it is raised.
- (2) The notice must state the amount of the charge and the date on which it was raised and must be published in one or more newspapers circulating in the area in respect of which the charge was raised.

## **56 Amendments as respects drainage charges**

- (1) A water authority may, as respects any drainage charge raised by them for the current or the preceding year, make such amendments in any demands or other documents relating to the charge as appear to them necessary in order to make the raising, levying and collection of the charge conform with this Part of this Act, and in particular may—
  - (a) correct any clerical or arithmetical error;
  - (b) correct any erroneous insertions or omissions or any misdescriptions;
  - (c) make such additions or corrections as appear to the authority to be necessary by reason of any change in the occupation of any chargeable land or any property ceasing to be chargeable land.
- (2) A water authority shall serve a notice of any amendment made by them in pursuance of this section on the occupier of all land affected thereby.
- (3) Where an amendment is made in pursuance of this section any amount overpaid shall be repaid or allowed and any amount underpaid may be recovered as if it were arrears of the charge.

## **57 Appeals against demands for drainage charges**

- (1) If any person is aggrieved by a demand for a drainage charge made on him as the occupier of chargeable land, or an amendment of such a demand, he may appeal to the county court for the area in which the land or any part of it is situated.
- (2) Notice of appeal under this section, specifying the grounds of appeal, must be given within 28 days after the date on which the demand is made or notice of the amendment is served on the appellant, as the case may be, to the court to which the appeal is made and to the water authority and also, if the appeal relates to land not in the occupation of the appellant, to the occupier of the land.
- (3) On an appeal under this section the court shall, as it thinks just, either confirm the demand or annul or modify it.

## **58 Recovery of drainage charges**

- (1) Arrears of any drainage charge may be recovered by a water authority in the same manner in which arrears of a general rate may, under the General Rate Act 1967, be recovered by a rating authority.
- (2) A water authority may by resolution authorise any member or officer of the authority, either generally or in respect of particular proceedings, to institute or defend on their behalf proceedings in relation to a drainage charge or to appear on their behalf, notwithstanding that he is not qualified to act as a solicitor, in any proceedings before

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a magistrates' court for the issue of a warrant of distress for failure to pay a drainage charge.

- (3) In proceedings for the recovery of arrears of a drainage charge the defendant shall not be entitled to raise by way of defence any matter which might have been raised on an appeal under section 57 above.

## **59 Agreements for assessment to and recovery of drainage charges**

- (1) A water authority and any specified authority (as set out in subsection (2) below) may enter into agreements for the doing by the specified authority, as agents of the water authority, of anything required for the purpose of the assessment to and recovery of a drainage charge in respect of the chargeable land mentioned in that subsection, and for the making by the water authority to the specified authority of payments in respect of anything so done.
- (2) The specified authorities are the council of any district or London borough wholly or partly included in the water authority area, the drainage board of any internal drainage district included in that area and any water authority; and the said chargeable land is, in relation to any such council, the chargeable land within the area of the council, in relation to any drainage board, such as may be specified in the agreement and, in relation to any water authority, any chargeable land.

## **60 Power to require information**

- (1) A water authority may serve on the owner of any land in their area a notice requiring him to state in writing the name and address of any person known to him as being an occupier of that land ; and if the owner fails without reasonable excuse to comply with the notice, or makes any statement in respect of the information required which he knows to be false in a material particular, or recklessly makes any statement in respect of the information required which is false in a material particular, he shall be liable on summary conviction to a fine not exceeding £200.
- (2) A water 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 28 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, consists of commercial woodlands.
- (3) If any person on whom notice has been served under subsection (2) above fails without reasonable excuse to comply with the notice or, in a return made pursuant to such a notice, makes any statement which he knows to be false in a material particular or recklessly makes any statement which is false in a material particular he shall be liable on summary conviction to a fine not exceeding £200.
- (4) Where a person is convicted under subsection (1) or (3) above in respect of a failure to comply with a notice and the failure continues after the conviction, then, unless he has a reasonable excuse for the continuance of the failure, he shall be guilty of a further offence under the subsection in question and may, on summary conviction, be punished accordingly.



- (5) A water 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 (2) above; 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.

## **61 Unoccupied land**

For the purposes of the provisions of this Part of this Act with respect to drainage charges the owner of any land shall be deemed to be its occupier during any period during which it is unoccupied.

*Alternative basis for financing drainage expenses of water authorities*

## **62 Power to make water charges option orders**

- (1) Subject to subsection (4) below, if at any time after 31st March 1978 a water authority make an application in that behalf to the Minister, the Ministers may make an order (referred to in this section as a water charges option order) that sections 45 to 49 above shall cease to have effect in relation to the authority's area and shall thereupon be treated for the purposes of section 38(2) of the Interpretation Act 1889 (effect of repeals) as if they had been repealed in relation to that area by another Act.
- (2) When a water charges option order comes into force for a water authority area, sections 29 to 32 of the Water Act 1973 (which contain general financial provisions with respect to water authorities and include power to raise water charges) shall apply to the water authority for that area in relation to their land drainage functions, but with the substitution of references to the Ministers for references to the Secretary of State in relation to any direction—
- (a) which is proposed to be given to the authority after the date when the order comes into force; and
  - (b) which relates to the authority's land drainage functions.
- (3) Nothing in sections 29 to 32 of the Water Act 1973 shall apply in relation to a water authority's land drainage functions unless and until a water charge option order comes into force for the area of that authority.
- (4) The Ministers shall not make a water charges option order in relation to a water authority area unless they are satisfied that the water authority's regional land drainage committee recommended the authority to make the application for the order and that the making of the order would be in the public interest.
- (5) A water charges option order may make such incidental, consequential, transitional or supplementary provision as the Ministers consider necessary or expedient.

*Power of internal drainage boards to raise drainage rates*

## **63 General provision for drainage rates**

- (1) The expenses of an internal drainage board under this or any other Act (including any contribution made by the board towards expenses of the water authority for their area) shall, in so far as they are not met by contributions from the water authority, be raised

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by means of drainage rates made by the drainage board under and in accordance with this Part of this Act.

- (2) A rate made by an internal drainage board may be either—
  - (a) an owner's drainage rate, that is to say, a rate raised for the purpose of defraying expenses incurred in connection with new works or the improvement of existing works and charges in respect of contributions to be made by the board to a water authority ; or
  - (b) an occupier's drainage rate, that is to say, a rate raised for the purpose of defraying any other expenses or charges.
- (3) Every owner's drainage rate and every occupier's drainage rate shall be assessed and levied by the board on the occupiers of hereditaments in the drainage district subject to and in accordance with this Part of this Act.

#### **64 Assessment of drainage rates on the basis of annual value**

- (1) A rate made by an internal drainage board shall, unless assessable by reference to rateable value under section 65 below, be assessed, subject to section 68 below, at a uniform amount per pound throughout the area—
  - (a) in the case of agricultural land or agricultural buildings, on the annual value of the land or buildings; and
  - (b) in the case of any other land, on one-third of the annual value thereof.
- (2) The annual value for drainage rates purposes in the case of any land in respect of which an assessment to income tax was made under Schedule A for the year of assessment 1962-63 shall be its annual value for the purposes of Schedule A as shown in the assessment for that year signed and allowed under section 35 of the Income Tax Act 1952 or, in any case where an appeal was made against the assessment, its annual value for those purposes as finally determined in the proceedings on or in consequence of the appeal.
- (3) Notwithstanding subsection (2) above, where any such land as is there mentioned is or forms part of any hereditament the annual value whereof for the purposes of any drainage rate made for a period ending on 31st March 1959 was a value determined under section 8 of the Agriculture (Miscellaneous Provisions) Act 1943 (which provided for the determination of an increased value of land improved as a result of drainage operations) its annual value for drainage rates purposes shall (notwithstanding the repeal of that Act) be the value so determined, apportioned, where the land forms part only of the hereditament, under subsection (6) below.
- (4) The annual value for drainage rates purposes in the case of any land in respect of which no assessment to income tax was made under Schedule A for the year of assessment 1962-63 shall be such value as may be determined by the internal drainage board having regard to the annual values, for the purposes of income tax under Schedule A for that year of assessment, of comparable land in their district, other than those which were ascertained by reference to rents fixed by agreements commencing after the end of March 1946.
- (5) For the purposes of this section, land which is used as a railway constructed for public conveyance under the powers of any Act of Parliament shall be deemed to be of the same character and annual value as the land immediately adjoining and, if the land adjoining on the one side and the land adjoining on the other side differ in character or annual value, the land used as a railway shall be treated as if it were divided into two

parts by a line drawn along the centre thereof, each part having the same character and annual value as the land adjoining that part; but the annual value of the adjoining land shall for this purpose be deemed to be reduced by such proportion thereof, if any, as is in the opinion of the internal drainage board ascribable to buildings.

- (6) Any apportionment which may be necessary for the purpose of determining the annual value of any land for drainage rates purposes shall be made by the internal drainage board (and references to a determination in subsection (7) below and sections 78 and 79 below include references to the making of any such apportionment).
- (7) Where an internal drainage board make any determination under subsection (4) or (6) above they shall serve notice of their determination, together with a statement in writing of the rights of appeal conferred by section 78 below, on both the owner and the occupier of the hereditament to which the determination relates.
- (8) An internal drainage board may require the inspector of taxes for their district to furnish them, on payment at such rate as the Treasury may determine, a copy of the annual values, within the meaning of subsection (2) above, for all or any of the properties in that district.

## **65 Assessment of drainage rates by reference to rateable value**

- (1) Where the property which constitutes a hereditament for the purposes of drainage rates consists of land for which a rateable value is shown in the valuation list for the time being in force, it shall be assessable for the purposes of any drainage rate by reference to the rateable value there shown, in accordance with the following provisions of this section.
- (2) In any case where the internal drainage board making the rate resolve that the relative fraction for the purposes of this section shall be applied on a values basis, then, for the purposes of any drainage rate made by the board for a period beginning while the resolution is in force—
  - (a) the value on which the rate is assessed shall be the value arrived at by taking one-third of the rateable value shown in the valuation list and applying thereto the relative fraction for the purposes of this section; and
  - (b) the amount per pound at which the rate is assessed shall be the same as the amount per pound (of annual value) at which the rate is assessed under section 64(1) above.
- (3) In any case not falling within subsection (2) above—
  - (a) the value on which the rate is assessed shall be one-third of the rateable value shown in the valuation list; and
  - (b) the amount per pound at which the rate is assessed shall be an amount determined, as nearly as may be, by applying the relative fraction for the purposes of this section to the amount per pound (of annual value) at which the drainage rate is assessed under section 64(1) above.
- (4) Where, after an assessment to a drainage rate has been made in respect of any land in accordance with the foregoing provisions of this section the rateable value shown in the valuation list for that land is altered and the alteration has effect for the whole of the period for which the rate is made, the rate shall be amended accordingly, and the amendment shall have effect from the beginning of that period and shall be treated as an amendment made in pursuance of section 76 below.

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- (5) Where the property which constitutes a hereditament for the purposes of drainage rates consists of or includes a part only of land for which a rateable value is shown in the current valuation list, the drainage board for the drainage district in which the hereditament is situated may if they think fit, and shall if the owner or occupier of the part in question requests them in writing to do so, determine that that list and each other valuation list from time to time in force in which a rateable value is shown for that land shall have effect—
- (a) for the purposes of the foregoing provisions of this section; and
  - (b) for the purpose of arriving at the relative fraction in pursuance of section 66 below in a case where any other part of that land is situated outside the drainage district aforesaid,
- as if such proportion of the rateable value so shown as is specified in the determination were shown in the list in question as the rateable value of that part.
- (6) Where a drainage board make a determination under subsection (5) above, they shall serve notice of the determination, together with a statement in writing of the rights of appeal conferred by section 78 below, on both the owner and the occupier of the part of the land to which the determination relates.
- (7) A determination made by a drainage board under subsection (5) above shall, subject to section 79 below, have effect for the purposes of any drainage rate made by the board on or after the effective date but shall not affect any rate so made before that date; and in this subsection " the effective date " means the date on which notices of the determination are served in pursuance of subsection (6) above on the owner and occupier there mentioned or, where the notices are served on different dates, the later of those dates.
- (8) References in this section to the rateable value of any land shall be construed, where that value differs from the net annual value, as referring to the net annual value.

## **66 Determination of relative fraction**

- (1) The relative fraction for the purposes of section 65 above shall be the fraction arrived at by dividing—
- (a) the aggregate of the annual values of the relevant hereditaments in the internal drainage district; by
  - (b) the aggregate of the rateable values of those hereditaments.
- (2) For the purposes of this section—
- (a) the rateable value of any hereditament shall be taken to be the value which, at the date on which the drainage rate is made, is shown as its rateable value in the valuation list in force for the period for which the drainage rate is made ;
  - (b) the annual value of any hereditament shall be taken to be its annual value for the purposes of section 64(2) above (apportioned where the hereditament forms part only of any land in respect of which an assessment to income tax was made under Schedule A for the year of assessment 1962-63).
- (3) In this section " relevant hereditament", in relation to any drainage rate, means land for which a rateable value is shown in the valuation list in force for the period for which the rate is made and which is or forms part of land assessed to income tax under Schedule A for the year of assessment 1962-63 ; and references in this section to the

rateable value of any hereditament shall be construed, where that value differs from the net annual value, as referring to the net annual value.

- (4) The notice of the rate given under section 74 below and stating, in accordance with that section, the relative fraction applicable in respect thereof pursuant to section 65 above, shall be conclusive evidence that the fraction stated in it has been calculated in accordance with this section.

## **67 Adjustment of annual values to secure fair distribution of burden of drainage rates**

- (1) If a drainage board are of the opinion that the amount of the annual value of any relevant land in their district should, for the purpose of securing that the burden of the drainage rates payable in respect of all land in their district is fairly distributed so far as reasonably practicable among the persons liable to pay those rates, be increased or reduced having regard to changes in the circumstances by reference to which the annual value of the land in question or of any other relevant land in the district was fixed, the board may make a determination of annual value under this section.
- (2) If the owner or occupier of any relevant land in a drainage district is of the opinion that, having regard to such changes as are mentioned in subsection (1) above, the amount of the annual value of the land should be altered for the purpose there mentioned, he may request the drainage board in writing to make a determination under this section in respect of the land; and where such a request is made the board shall either comply with it, or if they consider that no alteration of the value is required for the purpose aforesaid, determine that the request be refused.
- (3) A determination of annual value under this section shall be a determination specifying as the annual value of the land in question such greater or smaller amount than the amount of the annual value as the board consider just for the purpose mentioned in subsection (1) above, having regard to the changes there referred to and to any other alterations of annual values under this section made or proposed by the board.
- (4) Where a drainage board make a determination under this section, they shall serve notice of the determination, together with a statement in writing of the rights of appeal conferred by section 78 below, on both the owner and the occupier of the land to which the determination relates.
- (5) Subject to section 79 below (and notwithstanding anything in section 64 above)—
  - (a) where a determination of annual value under this section is made pursuant to subsection (1) above, the annual value of the land shall, for the purposes of any drainage rate made after the effective date, be that specified in the determination; and
  - (b) where a determination of annual value under this section is made pursuant to subsection (2) above, the annual value of the land shall, for the purposes of any drainage rate made in respect of any period included in the financial year in which the request for the determination was made and any drainage rate made in respect of any subsequent period, be that specified in the determination.
- (6) For the purposes of subsection (5) above—

" the effective date " means the date on which notices of the determination in question are served in pursuance of subsection (4) above on the owner and the occupier of the land to which the determination relates or, where the notices are served on different dates, the later of those dates; and

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" financial year ", in relation to any drainage board, means the year fixed with respect to the board as mentioned in section 72(2) below.

- (7) Where the annual value of any land is altered by a determination under this section pursuant to subsection (2) above and drainage rates for any period in respect of the land have been or are subsequently paid by reference to its annual value before the alteration, then if the period is one for which, in accordance with subsection (5) above, the amount of those rates falls to be assessed on the value specified in the determination, that amount shall be recalculated accordingly and any sum overpaid shall be repaid or allowed and any sum underpaid may be recovered as if it were arrears of drainage rates.
- (8) In this section " relevant land " means land in respect of which drainage rates fall to be assessed on, or on one-third of, the annual value of the land.

## **68 Differential drainage rates and exemptions: power to make orders**

- (1) An internal drainage board, after consultation with the water authority for their district, may, if having regard to all the circumstances they think that it is just so to do, make and levy differential rates and may for that purpose from time to time by order divide the district into sub-districts.
- (2) Any order made under subsection (1) above may determine the proportion which the amount per pound of value for drainage rate purposes to be assessed upon the occupiers of hereditaments in any sub-district shall bear to the amount to be assessed on the occupiers of hereditaments in any other sub-district within the drainage district.
- (3) In subsection (2) above the reference to value for drainage rate purposes is a reference to any of the values on the basis of which drainage rates are to be assessed in accordance with section 64 or 65 above, and any order made under that subsection determining the relative amount per pound of one or some only of those values shall have effect as if it made also corresponding provision with respect to the other or others.
- (4) An internal drainage board, after consultation with the water authority for their district, may by order determine that no rates shall be levied by them on the occupiers of hereditaments in any portion of the district which, in their opinion, either by reason of its height above sea level or for any other reason, ought to be exempted wholly from rating.
- (5) When an order is made by an internal drainage board under this section the board shall submit the order to the Minister and shall forthwith thereafter publish in one or more newspapers circulating in their area a notice stating that the order has been submitted to the Minister, and that a copy thereof is open to inspection at a specified place, and that representations with respect thereto may be made to the Minister within one month after the publication of the notice.
- (6) The Minister shall forthwith take into consideration any order submitted to him under this section and no such order shall have any effect unless and until it is confirmed by the Minister.
- (7) Where the owner or occupier of any hereditament in an internal drainage district requests the internal drainage board of the district to make or amend an order under subsection (4) above so as to exempt from drainage rates the portion of the district

in which the hereditament is situated the board shall consider the request and, if so directed under this section, shall comply with it.

- (8) Where such a request is refused by the board the person making it may appeal to the water authority or (if the board is a water authority) to the Minister and the water authority or, as the case may be, the Minister may direct the board to make or amend the order as requested.
- (9) Where such a request is neither refused nor complied with within 3 months after it is made, it shall be treated as having been refused.

**69 Differential drainage rates where order under section 68 does not determine relative amounts of rates**

- (1) Where an order made by an internal drainage board under section 68(1) above is in force and the order does not determine the relative amounts of rates in the respective sub-districts, section 63(2) above shall have effect, in relation to a drainage rate made by the board for any of the sub-districts, as if it defined—
  - (a) an owner's drainage rate as a rate raised for the purpose of defraying expenses incurred in connection with new works in the sub-district or the improvement of existing works in the sub-district and a proportionate part of the charges in respect of contributions by the board under section 84 below or, as the case may be, of amounts specified under section 86 below as corresponding to such contributions ; and
  - (b) an occupier's drainage rate as a rate raised for the purpose of defraying the expenses of maintaining any works in the sub-district and a proportionate part of any expenses or charges incurred by the board which are not directly attributable to the maintenance of particular works and are not such expenses or charges as are mentioned in paragraph (a) above.
- (2) Where a petition for the making, variation or revocation of an order under section 68(1) above is made to an internal drainage board by a sufficient number of qualified persons or by a qualified authority, the board shall, subject to subsection (5) below, consider the petition and, if so directed under subsection (3) below, shall make, vary or revoke the order either in accordance with the petition or in accordance with the petition as modified by the direction.
- (3) A direction under this section may be given by the Minister, if the board is a water authority and, in any other case, by the water authority in whose area the drainage district is comprised; but where a board object to a direction given by the water authority the direction shall have no effect unless confirmed (with or without modifications) by the Minister.
- (4) Subject to subsection (5) below, where such a petition as is mentioned in subsection (2) above is received by an internal drainage board the board shall inform the water authority or (if the board is a water authority) the Minister and shall publish in one or more newspapers circulating in the internal drainage district a notice that the petition has been received, that the making, variation or revocation of an order under section 68(1) above will be considered, and that representations may be made to the board within a time (which shall not be less than 30 days) stated in the notice.
- (5) This section does not require an internal drainage board to consider any petition or publish any notice of a petition—

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- (a) if it has received a petition under this section within the period of 10 years immediately preceding the making of the first-mentioned petition; or
  - (b) if it has, within that period, by an order made under the said section 68, divided its district into sub-districts or varied or abolished any sub-district; or
  - (c) if the petition is frivolous in the opinion of the water authority or (where the board is the water authority) in the opinion of the Minister.
- (6) After considering such a petition as is mentioned in subsection (2) above, and not later than 6 months after it is received, the board shall inform the water authority or, as the case may be, the Minister whether they propose to make, vary or revoke such an order as aforesaid and, if they propose to make or vary such an order, of the terms of the order or variation they propose to make.

## **70 Treatment of caravan sites for drainage rating purposes**

- (1) Where at the date on which a drainage rate is made for any internal drainage district or sub-district land situated wholly or partly within the district or sub-district is included in the valuation list as a single hereditament by virtue of section 1(1) of the Rating (Caravan Sites) Act 1976 (treatment of caravan sites as single hereditaments for general rating purposes), that land or the part so situated may be treated as a single hereditament for the purposes of the drainage rate.
- (2) As regards any period for which an area of a caravan site is rated as a single hereditament by virtue of subsection (1) above, the site operator for the time being shall be deemed to be the occupier of that area for the purposes of the provisions of this Part of this Act relating to drainage rates and for the purposes of section 116(2) below and Schedule 2 to this Act.
- (3) For the purposes of this section " caravan site " means any land in respect of which a site licence is required under Part I of the Caravan Sites and Control of Development Act 1960, or would be so required if paragraph 4 and paragraph 11 of Schedule 1 to that Act (exemption of certain land occupied and supervised by organisations concerned with recreational activities and of land occupied by local authorities) were omitted; and " site operator " means the person who is for the purposes of Part I of that Act the occupier of the caravan site.

### *Supplementary provisions as to drainage rates*

## **71 Drainage rates: fractions of a pound**

Where the value on which a drainage rate is assessed would, apart from this section, include a fraction of a pound, the fraction shall, if greater than 50p, be treated as one pound and shall in any other case be disregarded.

## **72 Operation and incidence of drainage rates**

- (1) A drainage rate shall be made by an internal drainage board in writing under the common seal of the board and shall be treated as being made on the date on which a resolution is passed by the board authorising their seal to be affixed to the rate.
- (2) Subject as hereinafter provided, every drainage rate shall be made in respect of a period of either 12 months or 6 months, as the board may determine, and in the case of the last rate made in respect of any financial year, as fixed for the purpose of making up



the accounts of the board, the last day of the period shall be the last day of the financial year.

- (3) Notwithstanding anything in subsection (2) above—
- (a) a board may at any time make a supplementary rate in respect of any period within a financial year, if they think it necessary to do so having regard to the requirements of their district; and
  - (b) the first rate made by a board may be made in respect of such period as may be necessary to enable the board to comply with the provisions of subsection (2) above in the case of subsequent rates.
- (4) Every drainage rate and every demand for a drainage rate shall be in the prescribed form.
- (5) Subject to section 73 below, the following provisions shall have effect with respect to the assessing of persons to a drainage rate in respect of any hereditament, and their liability in regard to the rate:—
- (a) every rate shall be assessed on the person who at the date of the making of the rate is the occupier of the hereditament;
  - (b) the full amount of the rate may be recovered by the drainage board from any person who is the occupier of the hereditament at any time during the period in respect of which the rate is made ; but
  - (c) a person who is in occupation of any hereditament for part only of the period in respect of which an occupier's drainage rate is made shall be liable to bear a proportionate part only of the rate and, if he is required under paragraph (b) above to pay the full amount of the rate, he may (subject to any agreement to the contrary) recover from any person who has been in occupation of the hereditament for part of that period the amount which that other person is liable to bear; and
  - (d) the occupier of any hereditament may (subject to any agreement to the contrary) recover from the owner thereof any amount paid by him on account of an owner's drainage rate and may deduct that amount from any rent payable by him to the owner.
- (6) Where the name of any person liable to be assessed to any drainage rate is not known to the board, it shall be sufficient to assess him by the description of " the occupier" of the premises (naming them) in respect of which the assessment is made, without further name or description.
- (7) A board shall not be required to enforce payment of any drainage rate in any case where the amount payable is in their opinion insufficient to justify the expense of collection.

### **73 Assessment of drainage rates on owners in case of dwelling-houses**

- (1) An internal drainage board may by resolution determine that in the case of—
- (a) all hereditaments which are dwelling-houses of a class defined in the resolution, or
  - (b) all such hereditaments within a part of the internal drainage district defined in the resolution,
- any drainage rate made by the board for a period during which the resolution is imposed shall be assessed and levied on the owners instead of on the occupiers; and any such rate shall be assessed and levied accordingly.

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- (2) Where, by virtue of subsection (1) above, an occupier's drainage rate is assessed on the owner, and he pays the amount due before the expiration of one-half of the period for which the rate is made or such later date as may be specified in the resolution, the internal drainage board shall make to him an allowance equal to ten per cent. of the full amount of the rate.
- (3) The owner may recover from the occupier any amount paid by or allowed to him under this section which, as between the owner and the occupier, the occupier is liable to pay.

#### **74 Publication of drainage rates**

- (1) A drainage rate shall not be valid unless notice thereof is given by the internal drainage board in accordance with; subsection (2) below within 10 days of the making thereof.
- (2) The notice must state the amount of the rate, the relative fraction applicable in respect thereof pursuant to section 65 above and the date on which the rate was made and may, as the drainage board think fit, either be affixed in one or more public or conspicuous places in the drainage district or be published in one or more newspapers circulating in that district.

#### **75 Registers of drainage hereditaments**

It shall be the duty of each drainage board—

- (a) to prepare in the prescribed form and within the prescribed period, or such longer period as the Minister may allow in any particular case, a register containing the prescribed information in respect of the drainage hereditaments in their district and a map showing the prescribed particulars of such of those hereditaments as are of the prescribed description;
- (b) to maintain the register and map prepared by them in pursuance of paragraph (a) above and to alter the register or map in such circumstances and in such manner and within such periods as may be prescribed ; and
- (c) to keep the register and map maintained by them in pursuance of this subsection open to inspection at prescribed places by members of the public at all reasonable times.

#### **76 Amendments as respects drainage rates**

- (1) An internal drainage board may at any time make such amendments in the current or last preceding drainage rate as appear to them necessary in order to make the rate conform with this Part of this Act, and in particular may—
  - (a) correct any clerical or arithmetical error;
  - (b) correct any erroneous insertions or omissions or any misdescriptions;
  - (c) make such additions or corrections as appear to the board to be necessary by reason of any change in the occupation of any hereditament or of any property previously rated as a single hereditament becoming liable to be rated in parts.
- (2) An internal drainage board shall serve notice of any amendment made by them in pursuance of this section on the owner and the occupier of every hereditament affected by it.

- (3) Where an amendment is made in pursuance of this section, any amount overpaid shall be repaid or allowed and any amount underpaid may be recovered as if it were arrears of the rate.

## **77 Appeals against drainage rates**

- (1) If any person, as owner or occupier of any hereditament in a drainage district, is aggrieved by a drainage rate, or an amendment of a drainage rate, upon any ground other than a ground upon which he might have appealed in pursuance of section 78 below, he may, subject to the provisions of this section, appeal against the rate, or the rate as amended, to the Crown Court.
- (2) Notice of appeal under this section, specifying the grounds of the appeal, must be given within 28 days after the date on which the rate is made or notice of the amendment is served on the appellant, as the case may be, to the Court and to the internal drainage board and also, if the appeal relates to a hereditament not in the occupation or ownership of the appellant, to the owner and the occupier of that hereditament.
- (3) On an appeal under this section the Court shall, as it thinks just, either confirm the rate, or annul or modify it.
- (4) The appellant and the respondent to the appeal may agree in writing to refer the matter in dispute to the arbitration of such person as may be agreed between them or, in default of agreement, appointed by the Minister and, in the event of such a reference, the costs of and incidental to the hearing before the arbitrator and his award shall be in the discretion of the arbitrator and, if not agreed by the parties, shall be taxed as part of the costs of the appeal to the Crown Court.

## **78 Appeals against determinations under section 64, 65, or 67**

- (1) Where a determination in respect of any land is made by a drainage board under section 64(4) or (6), 65(5) or 67 above, the owner and the occupier of the land, or either of them, may, subject to the following provisions of this section, appeal against the determination in accordance with those provisions.
- (2) An owner or occupier who wishes to appeal against such a determination must, before the expiration of the period of 28 days beginning with the date of service of notice of the determination on him in pursuance of section 64(4) or (6), 65(5) or 67 above, as the case may be, or of such longer period as the drainage board may allow either generally or in any particular case, serve on the board a notice objecting to the determination and stating the grounds of the objection.
- (3) Where notice of objection to a determination is served in pursuance of subsection (2) above, the drainage board may if they think fit, before the expiration of the period of 28 days beginning with the date of service of the notice on them, cancel the determination and, subject to subsection (4) below, make in its place a fresh determination under the provisions of section 64(4) or (6), 65(5) or 67 under which the cancelled determination was made; and this section and the other provisions of those sections shall apply to the fresh determination accordingly.
- (4) Where notice of objection is served in pursuance of subsection (2) above in respect of a determination made by a drainage board under section 67(1) above, the board may cancel the determination in accordance with subsection (3) above without making a

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fresh determination in its place; and in such a case the board shall serve notice of cancellation on the person by whom the notice of objection was served on them.

- (5) Where notice of objection to a determination is served in pursuance of subsection (2) above and is not withdrawn before the expiration of the period mentioned in subsection (3) above and the drainage board do not cancel the determination in accordance with the said subsection (3), they shall, forthwith after the expiration of that period, transmit the notice and a note of the determination to—
  - (a) the clerk to the local valuation panel for the time being constituted in pursuance of the General Rate Act 1967 for the area in which the land to which the determination relates is situated, or
  - (b) where different parts of that land are situated in different areas for which local valuation panels are so constituted, the clerk to such one of those panels as may be determined by or under regulations made by the Minister.
- (6) The transmission in pursuance of subsection (5) above of the notice of objection to a determination of a drainage board shall constitute the lodging of an appeal against the determination, by the person who served the notice on the board, to a local valuation court constituted in accordance with section 79 below.
- (7) The references in subsection (1) above to land in respect of which a determination is made under section 65(5) above are references to the part of the land for which a value falls to be ascertained by reference to the determination.

## **79 Hearing and determination of appeals**

- (1) It shall be the duty of the chairman or a deputy chairman of the local valuation panel to whose clerk a notice of objection is transmitted in pursuance of section 78 above to arrange for the convening of a local valuation court to hear and determine the appeal to which the notice relates; and subsections (5) and (6) of section 88 of the General Rate Act 1967 shall apply to the constitution of the court and to the rehearing of the appeal in case of such a failure to agree as is mentioned in the said subsection (6).
- (2) Subsection (2) of section 76 of the said Act of 1967 (which regulates the procedure of local valuation courts) shall apply to a court convened in pursuance of subsection (1) above as if for the reference to the Secretary of State there were substituted a reference to the Minister and as if the reference to subsection (3) of that section were omitted.
- (3) On the hearing of an appeal to a local valuation court in pursuance of this section, the following persons, that is to say—
  - (a) the person whose notice of objection to the determination in question has resulted in the hearing;
  - (b) any other person who is the owner or occupier of any land to which the the determination relates; and
  - (c) the drainage board by whom the determination was made,
 shall be entitled to appear and be heard as parties to the appeal and to call witnesses and to examine any witness before the court.
- (4) The court to which an appeal is brought in pursuance of the foregoing provisions of this section shall, after hearing the persons mentioned in subsection (3) above or such of them as desire to be heard, either quash the determination to which the appeal relates or alter the determination in such manner as the court thinks just or dismiss the appeal.

- (5) Section 77 of the said Act of 1967 (which provides for appeals from local valuation courts to the Lands Tribunal) shall have effect in relation to a decision of a local valuation court under this section as if for the reference to section 76 of that Act there were substituted a reference to the foregoing provisions of this section and as if the words from " and the valuation officer " onwards were omitted.
- (6) Where the amount of any drainage rate has been calculated by reference to an annual value specified in a determination under section 64(4) or (6) or 67 above or a rateable value attributable to a determination under section 65(5) above and the determination is quashed or altered on appeal or cancelled in accordance with section 78 above, then (except in so far as the parties agree otherwise) that amount shall be recalculated accordingly and any sum overpaid shall be repaid or allowed and any sum underpaid may be recovered as if it were arrears of drainage rates.
- (7) Where such a determination which has been quashed is subsequently restored on appeal, the amount of any drainage rate falling to be recalculated in consequence of the appeal shall (except in so far as the parties agree otherwise) be recalculated accordingly and any sum overpaid shall be repaid or allowed and any sum underpaid may be recovered as aforesaid.
- (8) In section 92(1) of the said Act of 1967 (which among other things relates to the appointment of persons to assist local valuation panels in the performance of their functions under Part V of that Act) the reference to Part V of that Act shall include a reference to this section.

## **80 Recovery of drainage rates**

- (1) Arrears of any drainage rates made under this Act may be recovered by an internal drainage board in the same manner in which arrears of a general rate may, under the General Rate Act 1967, be recovered by a rating authority.
- (2) An internal drainage board may by resolution authorise any member or officer of the board, either generally or in respect of particular proceedings, to institute or defend on their behalf proceedings in relation to a drainage rate or to appear on their behalf, notwithstanding that he is not qualified to act as a solicitor, in any proceedings before a magistrates' court for the issue of a warrant of distress for failure to pay a drainage rate.
- (3) In proceedings for the recovery of arrears of a drainage rate the defendant shall not be entitled to raise by way of defence any matter which might have been raised on an appeal under section 77 above or an appeal under section 78 above.
- (4) The powers conferred by this section are in addition to, and not in substitution for, the powers conferred by any provisions of any local Act on any internal drainage board in relation to arrears of drainage rates, and for the purposes of any such provisions a rate made under this Act shall be treated as a rate to which those provisions apply; but notwithstanding anything in any local Act, no distress for arrears of any rate made under this Act shall be levied on the goods or chattels of any person other than a person from whom the arrears may be recovered by virtue of subsection (1) above, and no proceedings shall be taken, whether by action or otherwise, for the enforcement of any charge on land created by a local Act for securing payment of arrears of any such rate.

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## **81 Payments by rating authorities in lieu of drainage rates**

- (1) The rating authority for any area wholly or partly included in an internal drainage district and the internal drainage board of that district may agree that, so long as the agreement is in force—
  - (a) no drainage rate made by the board shall be levied on occupiers or owners of rateable hereditaments within the area of the rating authority ; but
  - (b) the rating authority shall pay to the board, in respect of every drainage rate which by virtue of the agreement cannot be levied on those owners or occupiers, a sum equal to the estimated aggregate of the amounts which, but for the agreement, could be so levied, less such amount, if any, as may be specified in the agreement.
- (2) Where part only of the area of the rating authority is included in the internal drainage district the authority may, if they think fit, treat the amount of any payment made by them under the agreement as chargeable separately on that part and levy that amount as an additional item of the general rate accordingly; and in any case where part but not the whole of a parish is so included, the whole of the parish may for the purposes of this subsection be treated either as so included or as not so included.
- (3) Any agreement under this section may, unless the internal drainage board is a water authority, provide for amending the constitution of the board (notwithstanding anything in any scheme or order) so as to enable the rating authority to appoint members of the board in addition to the elected members; but
  - (a) any member appointed by virtue of the agreement shall cease to be a member when the agreement ceases to be in force ; and
  - (b) the number of members appointed by virtue of such agreements shall not exceed two-fifths of the number of all the members of the board.
- (4) The internal drainage board and the rating authority making an agreement under this section shall, within one month of making it, publish in one or more newspapers circulating in the area affected a notice stating its effect and shall make copies of the agreement available for inspection at their offices; and the board shall send a copy of the agreement to the Minister.
- (5) In this section " rateable hereditament " means a hereditament included in the valuation list for the time being in force.

## **82 Power to require information**

- (1) An internal drainage board may serve on the owner of any hereditament in the district in respect of which a drainage rate is levied a notice requiring him to state in writing the name and address of any person known to him as being an occupier of that hereditament.
- (2) If the owner fails without reasonable excuse to comply with a notice under subsection (1) above, or if, pursuant to such a notice, he makes any statement in respect of the information required which he knows to be false in a material particular, or recklessly makes any statement in respect of that information which is false in a material particular, he shall be liable on summary conviction to a fine not exceeding £200.
- (3) Where a person is convicted of an offence under subsection (2) above in respect of a failure to comply with a notice and the failure continues after conviction, then, unless

he has a reasonable excuse for the continuance of the failure, he shall be guilty of a further offence under subsection (2) and may, on summary conviction, be punished accordingly.

### **83 Unoccupied land**

For the purposes of the provisions of this Part of this Act with respect to drainage rates and for the purposes of Part II of Schedule 2 to this Act the owner of any hereditament shall be deemed to be its occupier during any period during which it is unoccupied.

#### *Miscellaneous revenue-raising powers*

### **84 Contributions by internal drainage boards to water authorities and vice versa**

- (1) Subject to the provisions of subsections (2) and (3) below, a water authority shall by resolution require every internal drainage board whose district is within the authority's area to make towards the expenses of the authority such contribution as the authority may consider to be fair.
- (2) Where an internal drainage district (in this section called a "main internal drainage district") comprises two or more other internal drainage districts (in this section called "minor internal drainage districts"), the water authority shall not, subject to subsection (3) below, require the drainage board of that district to make any contribution towards the expenses of the authority except in respect of such part, if any, of that district as is not situate within any minor internal drainage district.
- (3) Notwithstanding subsection (2) above, the water authority, after determining what contribution should be made by the drainage board of each of the minor internal drainage districts, may, if they think fit, require the drainage board of the main internal drainage district to pay direct to the authority an amount equal to the aggregate of those contributions, and if the authority make such a requisition, the drainage board of the main internal drainage district shall raise the amount so paid by them to the authority by means of drainage rates levied by them within the main internal drainage district or, as the case may be, such part thereof as is situate within a minor internal drainage district.
- (4) Where it appears to an internal drainage board that, by reason of the quantity of water which their district receives from lands at a higher level or by reason of the time that will elapse before their district obtains any relief from the operations of the water authority on the main river, it is fair that a contribution towards their expenses should be made by the authority, they may make an application to the authority, and the authority may resolve to make to the internal drainage board such contribution, if any, as may be specified in the resolution.
- (5) A resolution under this section may be acted upon by the water authority forthwith, notwithstanding that the time for bringing an appeal under subsection (6) below has not expired or that an appeal so brought is pending, and in the event of an appeal being so brought the Minister shall by his order direct such adjustment to be made in respect of any sums recovered or paid in pursuance of the resolution as may be necessary for giving effect to his decision.
- (6) If—

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- (a) an internal drainage board is aggrieved by a resolution of a water authority under this section, either determining the amount of any contribution or refusing to make a contribution; or
- (b) the council of any county or London borough wholly or partly within the water authority area, is aggrieved by any such resolution on the ground either that the amount of the contribution required to be made by an internal drainage board is inadequate or that the contribution to be made by the water authority is excessive;

the internal drainage board or the council, as the case may be, may, within 6 weeks after the date on which notice of the resolution is given by the water authority to the internal drainage board, appeal to the Minister against the resolution and the Minister may, after considering any objections made to him and, if he thinks fit, holding a local public inquiry, make such an order in the matter as he thinks just.

- (7) Where the Minister makes an order under this section, he shall lay before Parliament particulars of the matter in respect of which the appeal was made and of the reasons for his order.
- (8) Compliance with any order made by the Minister under this section may be enforced by mandamus.

#### **85 Issue of precepts by water authorities to internal drainage boards**

- (1) A water authority may issue precepts to internal drainage boards requiring payment of any amount required to be contributed by them under section 84 above, and an internal drainage board shall pay, in accordance with any precept so issued to it, the amount thereby demanded.
- (2) It shall be the duty of a water authority to prepare, in such form as the Minister may direct, a statement of the purposes to which the amount demanded by any precept issued by the authority under this section is intended to be applied and of the basis on which it is calculated; and an internal drainage board shall not be liable to pay the amount demanded by any such precept until they have received such a statement.
- (3) Compliance with any precept issued by a water authority in accordance with this section may be enforced by mandamus.

#### **86 Allocation of revenue of water authorities in lieu of contributions under section 84**

- (1) Where (whether by virtue of section 11 or section 12 above) a water authority are the internal drainage board of an internal drainage district, they may by resolution specify an amount as corresponding to the amount of any contribution which, if the authority were not the drainage board of that district, the authority would require from or make to that drainage board under subsection (1) or subsection (4) of section 84 above; and to the extent of any amount so specified—
  - (a) the expenses incurred by the authority as such shall be defrayed out of sums received by it as the drainage board of that district; or
  - (b) the expenses incurred by the authority as the drainage board of that district shall be defrayed out of their other revenue;

according as the amount is specified in the resolution as corresponding to a contribution under the said subsection (1) or as corresponding to a contribution under the said subsection (4).



- (2) A water authority shall publish any resolution under this section in one or more newspapers circulating in the internal drainage district.
- (3) Where—
  - (a) a sufficient number of qualified persons; or
  - (b) the council of any county or London borough wholly or partly within the water authority area;are aggrieved by a resolution of a water authority under this section or the amount specified in such a resolution (whether on the ground that it is too small or too large), or the failure of a water authority to pass such a resolution, they may appeal to the Minister and the Minister may, after considering any objections made to him, make such an order in the matter as he thinks just, and any such order shall be treated as an order under section 84 above.
- (4) An appeal under this section (other than an appeal on the ground that the water authority have failed to pass a resolution under this section) must be made within 6 weeks after the date on which the water authority publish the resolution in respect of which it is made.

## **87 Power of internal drainage boards to borrow**

- (1) Subject to the provisions of this section, an internal drainage board may for the purpose of defraying any costs, charges or expenses incurred by them in the execution of this Act, or for the purpose of discharging any loan contracted by them under this Act or under any enactment repealed by this Act (or repealed by an enactment repealed by this Act), borrow on the security of any property vested in the board or any rates to be levied by or contributions to be paid to the board under this Act.
- (2) The consent of the Minister shall be required for any borrowing under this section other than a borrowing for the purpose of discharging any loan previously contracted.
- (3) Money borrowed by an internal drainage board under this section may be borrowed for such period not exceeding 50 years as the board, with the consent of the Minister, may in each case determine.
- (4) Where an internal drainage board borrow any sums in respect of which they have determined that some part only of the drainage district shall be liable the money borrowed shall be repayable only out of rates levied on or contributions received in respect of that part of the drainage district.
- (5) The provisions of the Commissioners Clauses Act 1847 as to mortgages shall be incorporated with this section.

## **88 Power of drainage authorities to levy navigation tolls**

- (1) Where any navigable waters within a drainage authority area are not subject to the control of any navigation authority, harbour authority or conservancy authority the drainage authority for the area may apply to the Secretary of State for an order imposing tolls in respect of the navigation of vessels in those waters.
- (2) An order under subsection (1) above shall not be made unless the Secretary of State is satisfied that the cost of the maintenance or works in connection with the waters to which the order relates has been or will be increased as a result of the use of those waters for purposes of navigation.

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- (3) The Secretary of State may hold inquiries for the purposes of this section as if those purposes were purposes of the Ministry of Transport Act 1919, and section 20 of that Act shall have effect accordingly.
- (4) The Secretary of State may make such order as to the payment of costs incurred by him in connection with any such inquiry as he may think just.
- (5) Any tolls payable under this section in respect of the navigation of a vessel in any water referred to in subsection (1) above may be demanded from the person in charge of the vessel by any person authorised for that purpose by the drainage authority and, if not paid on demand, may be recovered from either the person in charge of the vessel or the owner of the vessel.

#### *Interpretation of Part IV*

### **89 Interpretation of Part IV**

- (1) In this Part of this Act—
  - " agricultural buildings " has the meaning provided by section 26(4) of the General Rate Act 1967 as amended by the Rating Act 1971 ;
  - " chargeable land ", in relation to a water authority area, means 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;
  - " drainage charge " means general drainage charge or special drainage charge; and
  - " 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 grass of poor feeding value.
- (2) For the purposes of sections 45 to 49 above, a water authority area in relation to which no local land drainage scheme is in force shall be treated as a single local land drainage district, and any parts of such an area in relation to which no such scheme is in force shall be treated as included in a single such district.

## **PART V**

### POWERS OF THE MINISTER AND LOCAL AUTHORITIES

#### *Powers of the Minister*

### **90 Grants to water authorities**

- (1) Subject to subsection (2) below, the Minister may make towards expenditure incurred by water authorities in the improvement of existing drainage works or the construction of new drainage works grants of such amounts as the Treasury may from time to time

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sanction and subject to such conditions as may, with the approval of the Treasury, be prescribed.

- (2) No grant shall be made under subsection (1) above towards expenditure incurred in connection with any improvement or construction unless the plans and sections for it have been approved by the Minister, and the Minister is satisfied that the work is being or has been properly carried out.
- (3) Where a water authority are about to incur in respect of any work expenditure towards which, if the work is properly carried out, a grant will be payable under subsection (1) above, the Minister may, with the approval of the Treasury, make advances to the authority on account of the expenditure.
- (4) The Minister may, with the approval of the Treasury, make grants to water authorities in respect of expenditure properly incurred by them with a view to carrying out drainage works, being expenditure towards which, if the works had been properly carried out, a grant would have been payable under subsection (1) above.
- (5) Where a water authority are about to incur expenditure in respect of which it appears to the Minister that a grant will be payable under subsection (4) above, the Minister may, with the approval of the Treasury, make advances to the authority on account of the expenditure.
- (6) The Minister may, with the approval of the Treasury, make to a water authority grants in respect of expenditure incurred by the authority, and advances on account of expenditure to be incurred by the authority, in connection with the authority's functions under section 17(1)(b) or (c) above—
  - (a) in making payments arising from the exercise of any power conferred on the authority by sections 65 and 66 of the Water Resources Act 1963 (which among other things provide for the acquisition of land and rights over land);
  - (b) in providing housing accommodation for persons employed or to be employed by the authority in controlling works of such a kind or so located that those persons are or will be required to reside in the vicinity of the works;
  - (c) for making payments in pursuance of section 17(5) above;
  - (d) in paying compensation in pursuance of section 33(4) above in respect of injury which the Minister considers was or will be unavoidable,and grants in respect of or advances on account of expenditure incurred or to be incurred in carrying out works for the rebuilding or repair of any bridge maintained by the authority, other than works appearing to the Minister to be maintenance works of a routine kind.
- (7) The Minister may, with the approval of the Treasury, make to a water authority grants in respect of the cost of any works executed by the authority in pursuance of section 22 above; and the reference to expense in that section shall be construed as excluding the amount of any grant paid under this subsection in respect of the works in question.

## **91 Grants to other drainage bodies**

- (1) The Minister may make towards expenditure incurred by drainage bodies to which this subsection applies in the exercise of their functions in carrying out drainage schemes grants of such amounts and subject to such conditions as may be approved by the Treasury.

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- (2) Subsection (1) above applies to internal drainage boards and to all other drainage bodies except water authorities.
- (3) Where a drainage body are about to incur in respect of any work expenditure which, if the work is properly carried out, a grant will be payable under subsection (1) above, the Minister may, with the approval of the Treasury, make advances to them on account of the expenditure.
- (4) The Minister may, With the approval of the Treasury, make grants to drainage bodies in respect of expenditure properly incurred by them with a view to carrying out drainage works, being expenditure towards which, if the works had been properly carried out, a grant would have been payable under subsection (1) above.
- (5) Where a drainage body are about to incur expenditure in respect of which it appears to the Minister that a grant will be payable under subsection (4) above, the Minister may, with the approval of the Treasury, make advances to the body on account of the expenditure.
- (6) The Minister may, with the approval of the Treasury, make grants to an internal drainage board or a local authority in respect of the cost of any works executed by the board or authority in pursuance of section 22 above or section 99 below ; and the reference to expense in those sections shall be construed as excluding the amount of any grant paid under this subsection in respect of the works in question.
- (7) The Minister may, with the approval of the Treasury, make to an internal drainage board grants in respect of expenditure incurred by the board, and advances on account of expenditure to be incurred by the board, in carrying out works for the rebuilding or repair of any bridge maintained by the board, other than works appearing to the Minister to be maintenance works of a routine kind.

## **92 Grants towards cost of flood warning systems**

- (1) The Minister may make grants, of such amounts as the Treasury may from time to time sanction, towards expenditure incurred by a water authority or the Greater London Council in—
  - (a) providing or installing apparatus, or carrying out other engineering or building operations, for the purposes of a flood warning system, or
  - (b) adapting for those purposes any apparatus or works to which a hydrometric scheme relates, being a scheme made for any part of the area of the authority or the Council, as the case may be, under section 15 of the Water Resources Act 1963.
- (2) No grant shall be payable under this section towards expenditure incurred in connection with any work unless the work has been approved by the Minister and the Minister is satisfied that the work is being or has been properly carried out; and grants under this section shall be made subject to such conditions as may be imposed by the Minister with the approval of the Treasury.
- (3) Where any such expenditure as is mentioned in subsection (1) above is about to be incurred by a water authority or the Greater London Council the Minister may, with the approval of the Treasury, make advances to the authority or, as the case may be, the Council on account of the expenditure.
- (4) Expressions used in this section have the same meaning as in section 32 above.

### **93 Power to authorise landowners to execute drainage works**

- (1) Where any persons interested in any land are of opinion that it is capable of improvement by drainage works but the works cannot be executed by reason of the objection or disability of any person whose land would be entered upon, cut through or interfered with by or for the purpose of the works, they may present an application to the Minister for an order under this section authorising them to execute such drainage works as are expedient with a view to the improvement of the land.
- (2) The application shall be in the prescribed form and shall contain particulars of the proposed works and the persons by whom they are to be executed and such further particulars as the Minister may prescribe or require.
- (3) Notice of the application and of the place where it can be inspected and of the time within which objections to the proposed works may be made to the Minister shall be given in the prescribed manner and to all persons, not parties to the application, whose lands are proposed to be entered upon, cut through or interfered with, and to any drainage authority having jurisdiction in any district or area within which all or any of the proposed works are to be executed.
- (4) The applicants shall give such security for expenses as may be required by the Minister.
- (5) If within the prescribed time no objection to the proposed works has been made to the Minister by any person interested or in any way affected by the proposed works or if every such objection has been withdrawn, the Minister shall in his discretion either refuse to authorise or by order authorise with or without alteration the execution of the proposed works.
- (6) If such an objection has been made and has not been withdrawn, the Minister shall forthwith cause a public inquiry to be held in the locality in which the proposed works are to be executed and after receiving the report of such inquiry he shall proceed as provided by subsection (5) above.
- (7) The persons authorised by an order made under this section to execute works shall have full power to execute the works and to maintain them for ever thereafter; but every person interested in the land (other than any person who is one of those authorised to execute the works) shall be entitled to compensation for any injury suffered by him in respect of that interest by reason of the works.
- (8) In case of dispute as to the amount of any compensation payable under subsection (7) above, the amount shall be determined by the Lands Tribunal.
- (9) No order of the Minister under this section shall authorise any work whereby the streams, reservoirs or feeders supplying any ornamental waters will be cut through, diverted or interfered with otherwise than by agreement and with the consent of the persons to whom such ornamental waters belong.

### **94 Compensation for loss of office etc.**

- (1) The Minister shall by regulations provide for the payment, subject to such exceptions or conditions as may be specified in the regulations, of compensation to any officer or other employee of a relevant authority who suffers loss of employment or loss or diminution of emoluments which is attributable to—
  - (a) a scheme under section 10 or 11 above, or anything done in pursuance of such a scheme ;

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- (b) an order under section 12 above, or anything done in pursuance of such an order ;
  - (c) an order under section 13 above or anything done in pursuance of such an order ;
  - (d) an agreement under section 81 above, or anything done in pursuance of such an agreement.
- (2) For the purposes of subsection (1) above the relevant authorities are—
- (a) in cases falling within paragraph (a) of that subsection, drainage bodies within the meaning of this Act;
  - (b) in cases falling within paragraph (b) or (d) of that subsection, internal drainage boards ; and
  - (c) in cases falling within paragraph (c) of that subsection, water authorities.
- (3) Any compensation payable by virtue of this section shall be paid—
- (a) in the case of compensation for loss attributable to a scheme under section 10 above or an order under section 12 above, by the water authority to whom the transfer effected by the scheme or order is made ;
  - (b) in the case of compensation for loss attributable to an order under section 13 above, by the water authority from whom the transfer effected by the order is made ;
  - (c) in the case of compensation for loss attributable to an agreement under section 81 above, by the internal drainage board with whom the agreement is made ; and
  - (d) in the case of compensation for loss attributable to a scheme under section 11 above, by such water authority as may be specified for this purpose in the scheme or such internal drainage board or boards as may be so specified.
- (4) Regulations under this section—
- (a) may make different provision in relation to different classes of persons;
  - (b) may include provision as to the manner in which and the persons to whom any claim for compensation by virtue of this section is to be made, and for the determination of all questions arising under the regulations.

## **95 Power to make regulations**

The Minister may make regulations for the purpose of prescribing anything which may be prescribed under this Act (other than under section 115) and generally for the purpose of carrying this Act into effect.

## **96 Power to hold enquiries**

- (1) The Minister may cause to be held such inquiries as he considers necessary or desirable for the purposes of this Act.
- (2) Subject to subsection (3) below, for the purposes of any inquiry held under this Act (whether under subsection (1) above or under any other provision of this Act) the person appointed to hold the inquiry may by summons require any person to attend, at a time and place stated in the summons, to give evidence or to produce any documents in his custody or under his control which relate to any matter in question at the inquiry, and may take evidence on oath, and for that purpose administer oaths, or may, instead of administering an oath, require the person examined to make a solemn affirmation.

- (3) No person shall be required, in obedience to a summons under this section, to attend to give evidence or to produce any documents, unless the necessary expenses of his attendance are paid or tendered to him; and nothing in this section shall empower the person holding the inquiry to require the production of the title, or of any instrument relating to the title, of any land not being the property of a local authority.
- (4) Any person who refuses or deliberately fails to attend in obedience to a summons under this section, or to give evidence, or who deliberately alters, suppresses, conceals, destroys, or refuses to produce any book or other document which he is required or is liable to be required to produce for the purposes of this section, shall be liable on summary conviction to a fine not exceeding £100 or to imprisonment for a term not exceeding 6 months, or to both.
- (5) Where the Minister causes an inquiry to be held under this Act, the costs incurred by him in relation to the inquiry (including such reasonable sum not exceeding £30 a day as he may determine for the services of any officer engaged in the inquiry) shall be paid by such authority or party to the inquiry as he may direct, and the Minister may cause the amount of the costs so incurred to be certified, and any amount so certified and directed to be paid by any authority or person shall be recoverable from that authority or person by the Minister summarily as a civil debt.
- (6) Where the Minister causes an inquiry to be held under this section he may make orders as to the costs of the parties at the inquiry and as to the parties by whom the costs are to be paid, and every such order may be made a rule of the High Court on the application of any party named in the order.

#### *Powers of local authorities*

### **97 General drainage powers**

- (1) Subject to subsection (2) below the council of a county, district or London borough and the Common Council shall, as respects any land which is within their area, have all the powers conferred on internal drainage boards by section 18 above.
- (2) The powers exercisable under subsection (1) above by a London borough shall also be exercisable as respects the metropolitan watercourses by the Greater London Council, and as respects the main metropolitan watercourses, including the banks thereof, and drainage works in connection therewith shall be exercisable solely by that Council.
- (3) Before exercising in relation to any watercourse or part of a watercourse in a water authority area any power conferred on them by this section, a council shall notify—
  - (a) if the watercourse or part is in an internal drainage district, the internal drainage board of that district;
  - (b) in any other case, the water authority.

### **98 Powers to undertake drainage works against flooding**

- (1) So far as may be necessary for the purpose of preventing flooding or remedying or mitigating any damage caused by flooding the council of a district or London borough or the Common Council shall, subject to the provisions of this section, have all the powers conferred on drainage authorities by sections 17(1) and (4), 33, and 34 above; and in connection with the exercise of those powers—

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- (a) a council shall, except as provided by subsection (3) below, be subject to the same restrictions and liabilities as a drainage authority ;
  - (b) section 34(4) and (5) above shall apply in relation to byelaws made by a council as they apply in relation to byelaws made by a drainage authority and as if, in the case of section 34(5), a reference to the council were substituted for the reference to the drainage authority.
- (2) Byelaws made in pursuance of this section shall not be valid until they have been confirmed by the Minister and, notwithstanding subsection (1) above, section 236 of the Local Government Act 1972 (and not Schedule 4 to this Act) shall have effect in relation to them.
- (3) The exercise of the powers conferred by this section shall, be among the purposes for which the council of a district or London borough or the Common Council may be authorised by the Secretary of State to purchase land compulsorily; and the Acquisition of Land (Authorisation Procedure) Act 1946 shall apply in relation to any authorisation under this subsection as it applies in relation to such an authorisation as is mentioned in section 1 of that Act.
- (4) The functions exercisable under subsections (1) and (3) above by a London borough council shall also be exercisable as respects the metropolitan watercourses by the Greater London Council and as respects the main metropolitan watercourses, including the banks thereof, and drainage works in connection therewith shall be exercisable solely by that Council.
- (5) Where the powers conferred by this section on a district council are not exercised by that council they may be exercised by the county council—
  - (a) at the request of the council of the district; or
  - (b) after not less than 6 weeks' notice given in writing by the county council to the district council;but where the council of the district, before the expiry of a notice given under paragraph (b) of this subsection, appeal against the notice to the Secretary of State and inform the county council of the appeal, the powers shall not be exercised by the county council in pursuance of the notice unless it is confirmed by the Secretary of State.
- (6) Any expenses incurred by a county council under subsection (5) above shall be special expenses chargeable on the district in respect of which they were incurred.
- (7) This section does not authorise the execution of any drainage works in connection with the main river.
- (8) A council shall not execute any drainage works authorised by this section in connection with any watercourse except with the consent of, and in accordance with any reasonable conditions imposed by, the water authority or, if the place where the works are to be executed is in the London excluded area, the Minister.
- (9) The consent of the Minister under subsection (8) above shall not be required in respect of works executed by the Greater London Council, but it shall be the duty of any other council to send to the Greater London Council a copy of any application to the Minister under that subsection.
- (10) Before giving any consent or imposing any condition under subsection (8) above with respect to any drainage works in connection with a watercourse under the control of an internal drainage board a water authority shall consult with the internal drainage board.



- (11) A consent (whether of a water authority or the Minister) required under subsection (8) above shall not be unreasonably withheld and shall, if neither given nor refused within 2 months after application for it is made, be deemed to have been given.
- (12) Any question arising under this section whether the consent of a water authority is unreasonably withheld or whether any condition imposed by a water authority is reasonable shall be referred to and determined by the Ministers.
- (13) Subsection (8) above shall not apply to any work executed in an emergency, but a council executing any work excepted by this subsection shall as soon as practicable inform the water authority or, as the case may be, the Minister, in writing of the execution and of the circumstances in which it was executed.

#### **99 Power to execute drainage works by agreement with other persons**

The council of a county or London borough, the Common Council and, as regards the main metropolitan watercourses, the Greater London Council, may by agreement with any person execute at his expense, within the council's area, any drainage works which that person is entitled to execute.

#### **100 Schemes for drainage of small areas**

- (1) Section 30 above shall apply to the council of a county or London borough and the Common Council as it applies to a water authority, and section 31 above shall apply accordingly but with the omission of the words from " and shall" onwards in section 31(3).
- (2) Before making a scheme by virtue of this section, a council shall consult the water authority for the area concerned.
- (3) A council shall, in relation to any works executed in pursuance of a scheme made by virtue of this section, have all the powers of an internal drainage board under sections 17 and 33 above, exercisable subject to the same restrictions and liabilities as are imposed by those sections on the exercise of those powers by such boards.

#### **101 Power of Greater London Council to provide flood warning system**

- (1) The Greater London Council shall have power—
  - (a) to provide and operate a flood warning system for the London excluded area;
  - (b) both within and outside that area, to provide, install and maintain apparatus required for the purposes of such a system; and
  - (c) to carry out within that area any other engineering or building operations so required.
- (2) Before the Greater London Council exercise within the area of any water authority any power conferred on them by subsection (1)(b) above, other than the power to maintain apparatus, they shall consult with that water authority.
- (3) Expressions used in this section have the same meaning as in section 32 above, and section 32(2) shall apply in relation to the Greater London Council as it applies in relation to a water authority, and as though the references in it to section 32(1) were references to subsection (1) of this section.

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## **102 Power to contribute to expenses of drainage works**

- (1) A local authority may contribute, or undertake to contribute, to the expenses of the execution or maintenance of any drainage works by a drainage body such an amount as, having regard to the public benefit to be derived therefrom, appears to the local authority to be proper.
- (2) References in this section to a local authority include references to the Sub-Treasurer of the Inner Temple and to the Under Treasurer of the Middle Temple, and the making of contributions under this section shall (without prejudice to section 104 below) be a purpose for which a local authority may borrow.

## **103 Powers of entry**

Section 39 above shall apply in relation to local authorities, and in relation to their functions under this Act, as it applies in relation to, and to the functions of, internal drainage boards.

## **104 Power to borrow**

The council of a county or London borough and the Common Council may borrow for the purposes of this Act.

# **PART VI**

## **MISCELLANEOUS AND GENERAL**

## **105 Provisions relating to London**

Schedule 5 to this Act, which contains provisions relating to London, shall have effect.

## **106 Power of navigation authorities etc. to divert sewers**

- (1) Where any watercourses under the control of a drainage authority pass under or interfere with, or with the improvement or alteration of, any river, canal, dock, harbour, basin or other work (including any towing-path adjacent thereto) which belongs to or is under the jurisdiction of any navigation, harbour or conservancy authority, the latter authority may at their own expense, and on substituting for those watercourses other equally effective watercourses, take up, divert or alter the level of those watercourses and do all such matters and things as may be necessary in connection with the works authorised to be done by them as aforesaid.
- (2) If any question arises under this section between any drainage authority and any navigation, harbour or conservancy authority as to whether any watercourses substituted or proposed to be substituted by the latter authority for any existing watercourses are as effective as the existing watercourses, that question shall be referred to a single arbitrator to be agreed between the parties or failing such agreement to be appointed by the President of the Institution of Civil Engineers on the application of either party.

### **107 Power to invest money on security of drainage rates**

Where the owner of any land comprised within any internal drainage district is authorised to invest money on real security, he shall, unless the instrument authorising the investment provides to the contrary, have power to invest money on a first mortgage of the drainage rates leviable by the drainage board for that district.

### **108 Service of notices**

A notice required or authorised to be served under or by virtue of this Act by any person shall be in writing and may be served by registered post or the recorded delivery service or by delivery to or at the residence of the person to whom it is addressed or, where addressed to the owner or occupier of premises, by delivery of the notice or a copy of it to some person on the premises or, if there is no person on the premises to whom the notice or copy can be delivered, by fixing the notice or the copy of it on some conspicuous part of the premises.

### **109 Regulations and orders**

- (1) Any power to make regulations under this Act, and any power of the Minister or the Secretary of State, or the Minister and the Secretary of State acting jointly, to make orders under this Act, other than orders under section 51(2)(a), 84, 86, 88(4) or 93, shall be exercisable by statutory instrument.
- (2) Any regulations under this Act, other than regulations for the purposes of section 53(3), and any order under section 49 above shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Any power to make an order under section 2, 3, 27, 49, 51, 62 or 68 above, or under paragraph 1 of Schedule 5 to this Act shall include power to make an order varying or revoking any order previously made in exercise of the power.
- (4) An order under section 62 above shall be subject to special parliamentary procedure and an order under section 11, 12, 13, 25, 27, 50 or 88(1) above, shall be subject to special parliamentary procedure if opposed.
- (5) The provisions of Schedule 3 to this Act shall have effect as follows:—
  - (a) the whole Schedule shall apply (subject as provided by paragraph 15 thereof) with respect to any such order as is mentioned in subsection (4) above, other than an order under section 62 ;
  - (b) paragraphs 1 to 4 and 9 to 14 thereof shall apply with respect to any order under section 10 above ;
  - (c) paragraphs 5 to 8 thereof shall apply with respect to any order under section 88(1) above, but so that references in those paragraphs to the Minister are construed as references to the Secretary of State.
- (6) An order under section 10, 11, 12, 13, 25, 26 or 50 above may contain provisions with respect to the persons by whom the expenses or any of the expenses incurred by the Minister or other persons in connection with the making or confirmation of the order (including, in the case of an order confirming a scheme, expenses incurred in connection with the making of the scheme) are to be borne or the rates upon which they are to be charged.

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## **110 Expenses of local authorities**

- (1) Any amount due to a water authority from a county council under sections 45 to 47 above shall be defrayed in one or other of the following ways according as the council, having regard to the benefit, if any, derived by various areas, think just and equitable, that is to say—
  - (a) as general expenses ;
  - (b) as special expenses chargeable on such part or parts of the county within the water authority area as the council think fit;
  - (c) by apportioning it between, and charging it on, such parts of the water authority area, and in such proportions, as the council think fit,and by the issue of precepts accordingly to rating authorities.
- (2) Any amount due to a water authority from the council of a London borough under sections 45 to 47 above shall be defrayed as the council, having regard to the benefit, if any, derived by various areas, think just and equitable as general expenses or as special expenses chargeable on such part or parts of the borough within the water authority area as the council think fit.
- (3) The expenses of the council of a county or London borough under this Act, except in so far as they are by virtue of subsection (1) or (2) above or any other provision of this Act otherwise defrayed, shall be defrayed as general expenses or, if and so far as the council think fit, as special expenses charged on such parts of the county or, as the case may be, borough as the council think fit.
- (4) The expenses of the Greater London Council under this Act shall be special expenses chargeable on the London boroughs falling wholly or partly within the London excluded area and on the City and the Inner Temple and the Middle Temple, and where part only of a London borough falls within that area those expenses shall be chargeable only on that part of the borough.
- (5) Where any expenses of the Greater London Council under this Act are by virtue of subsection (4) above chargeable on part of a London borough, any payments made by the council of that borough for meeting precepts for defraying expenses incurred by some other body of persons in the discharge of the like functions with respect to another part of the borough shall be chargeable only on that other part of the borough or such part thereof as the council of that borough shall determine (in like manner as under subsection (2) above).
- (6) Subsections (4) and (5) above shall have effect subject to section 67 of the London Government Act 1963.

## **111 Protection of ancient monuments**

Nothing in this Act shall authorise any person to execute any works or do anything in contravention of the provisions of the Ancient Monuments Acts 1913 to 1972.

## **112 Protection of nationalised undertakings etc.**

- (1) Nothing in this Act or any order made under it shall authorise any person, except with the consent of the undertakers (which may be given subject to reasonable conditions but shall not be unreasonably withheld), to do any work which, whether directly or indirectly, interferes or will interfere with, or with the use of, the works or any property which is vested in or under the control of the persons carrying on any undertaking

to which this section applies, in their capacity as such, in such manner as to affect injuriously those works or that property or the carrying on of the undertaking.

- (2) The undertakings to which this section applies are the following:—
- (a) the undertakings of the British Airports Authority, the British Gas Corporation, the Civil Aviation Authority, any Electricity Board, the National Coal Board and the Post Office;
  - (b) undertakings for the supply of water to any place;
  - (c) the undertakings of navigation, harbour or conservancy authorities;
  - (d) public utility undertakings carried on by local authorities under any Act or under any order having the force of an Act.
- (3) Nothing in this Act shall authorise any person except with the consent of (as the case may require) the British Railways Board, the London Transport Executive or the railway company (which may be given subject to reasonable conditions but shall not be unreasonably withheld), to interfere with any railway bridge or any other work connected with a railway or the structure, use or maintenance of a railway or the traffic on it.
- (4) If any question arises under this section whether anything done or proposed to be done interferes or will interfere as aforesaid, or whether any consent is being unreasonably withheld or whether any condition subject to which any consent was given was reasonable that question shall be referred to a single arbitrator to be agreed between the parties or failing such agreement to be appointed by the President of the Institution of Civil Engineers on the application of either party.
- (5) Without prejudice to the provisions of this Act with respect to the transfer to drainage authorities of the powers and duties of navigation authorities and with respect to the power of the Minister to vary navigation rights, and subject to section 29(8) above, nothing in this Act or any order made under it shall prejudice the exercise of any statutory power, authority or jurisdiction from time to time vested in or exercisable by the persons carrying on any undertaking to which this section applies.

### **113 Protection of fisheries**

- (1) Nothing in this Act shall prejudice or affect the provisions of the Salmon and Freshwater Fisheries Act 1975 or any rights, powers or duties conferred or imposed thereby.
- (2) In the exercise of the powers conferred by this Act due regard shall be had to the interests of fisheries (including sea fisheries).

### **114 Effect of Act on local Acts etc.**

- (1) Nothing in this Act shall affect the powers exercisable by any drainage authority or local authority under any local Act, as they existed immediately before the commencement of this Act.
- (2) Provisions for the protection of any authorities or persons contained in any local Act shall, so far as they applied immediately before the commencement of this Act in relation to the exercise by any drainage authority or local authority of powers under any enactment re-enacted by this Act, apply to the like extent in relation to the exercise by that authority of powers under the corresponding provision of this Act.

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- (3) Where the boundaries of an internal drainage district are altered under this Act, all powers exercisable under any local Act by the internal drainage board of the district with respect to land included in it shall, except so far as the scheme or order effecting the alteration otherwise provides, be exercisable with respect to land added to the district by the scheme or order.

## **115 Application to Crown**

- (1) Subject as otherwise expressly provided in this Act, this Act shall apply to land belonging to Her Majesty in right of the Crown or the Duchy of Lancaster, to land belonging to the Duchy of Cornwall and to land belonging to a government department, and as respects—

- (a) land belonging to Her Majesty in right of the Crown, the Crown Estate Commissioners or the Secretary of State, according as the land is under the management of those Commissioners or the Secretary of State,
- (b) land belonging to Her Majesty in right of the Duchy of Lancaster, the Chancellor of the Duchy,
- (c) land belonging to the Duchy of Cornwall, such person as the Duke of Cornwall or the possessor for the time being of the Duchy of Cornwall appoints,

shall for the purposes of this Act be deemed to be the owner of the land.

- (2) Notwithstanding subsection (1) above, nothing in this Act shall—

- (a) authorise the compulsory acquisition of any land belonging to Her Majesty in right of the Crown or the Duchy of Lancaster, or of any land belonging to the Duchy of Cornwall or a government department;
- (b) operate as a grant by or on behalf of Her Majesty as owner, whether in right of the Crown or in right of the Duchy of Lancaster, of any tidal lands or by or on behalf of the Duchy of Cornwall as owner of any such lands, of any estate or interest in or right over any of those lands or any part of them; or
- (c) authorise any person to do any work on, over, or under, or to use for any purpose, any tidal lands or any lands belonging to Her Majesty in right of the Crown or of the Duchy of Lancaster, to the Duchy of Cornwall, or to any government department, except—
  - (i) with the consent of the owner of the land ; and
  - (ii) in the case of tidal lands, with the consent also of the Secretary of State ; and
  - (iii) in any case otherwise than in accordance with the approved plans and sections and subject to the prescribed restrictions and conditions ;

so, however, that nothing in this paragraph shall apply to work done in maintaining existing works on tidal lands, or on land not in the occupation of Her Majesty, the Duke of Cornwall, or a government department; or

- (d) confer any power of levying drainage rates or drainage charges in respect of tidal lands.

- (3) In this section—

" tidal lands " means lands below the high-water mark of ordinary spring tides, but for the purposes of subsection (2)(c) above does not include any lands which by means of walls, embankments, or otherwise are protected from the incursion of the tides ; and

" approved " and " prescribed " mean respectively approved and prescribed by the Secretary of State or the owner of the lands, as the case may be, before the commencement of the work in question.

## 116 Interpretation

(1) In this Act, unless the context otherwise requires—

" agricultural land " means any land used as arable, meadow or pasture ground only, land used for a plantation or a wood or for the growth of saleable underwood, land exceeding one quarter of an acre used for the purpose of poultry farming, market gardens, nursery grounds, orchards or allotments, including allotment gardens within the meaning of the Allotments Act 1922, but does not include land occupied together with a house as a park, gardens (other than as aforesaid), pleasure grounds, or land kept or preserved mainly or exclusively for purposes of sport or recreation, or land used as a racecourse ;

" banks " means banks, walls or embankments adjoining or confining, or constructed for the purposes of or in connection with, any channel or sea front, and includes all land between the bank and low-watermark;

" the City " means the City of London ;

" the Common Council " means the Common Council of the City of London;

" conservancy authority " has the same meaning as in the Merchant Shipping Act 1894 ;

" constituent council ", in relation to a water authority's regional land drainage committee, has the meaning provided by section 2(6) above and, in relation to a local land drainage committee, has the meaning provided by section 5(8) above ;

" drainage " includes defence against water (including sea water), irrigation, other than spray irrigation, and warping;

" drainage authority " has the meaning provided by section 17(7) above;

" drainage body " means a drainage authority or any other body having power to make or maintain works for the drainage of land ;

" harbour " and " harbour authority " have the same respective meanings as in the Merchant Shipping Act 1894;

" land " includes water and any interests in land or water and any easement or right in, to, or over land or water;

" land drainage " means the drainage of land and the provision of flood warning systems, and " land drainage functions " shall be construed accordingly ;

" local authority " means any of the following, namely, the council of a county, district or London borough, the Common Council of the City of London, and the Greater London Council;

" local land drainage committee " has the meaning provided by section 4(1) above ;

" local land drainage district " has the meaning (subject to sections 3(11) and 89(2) above) provided by section 4(1) above;

" local land drainage scheme " has the meaning provided by section 4(1) above ;

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" London excluded area " means so much of Greater London, and of any area adjoining Greater London, as does not lie, for the purpose of the exercise of land drainage functions, within the area of any water authority;

" main river " has the meaning provided by section 8(3) above;

" the Minister " means the Minister of Agriculture, Fisheries and Food;

" the Ministers " means the Minister and the Secretary of State acting jointly;

" navigation authority " means any person or body having powers under any Act of Parliament to work or maintain a canal or other inland navigation (including a navigation in tidal water);

" prescribed " means (except in section 115) prescribed by regulations made by the Minister ;

" qualified authority ", in relation to an internal drainage district, means an authority in whose case an agreement made with the drainage board of the district under section 81 above is in force;

" water charges option order " means an order made pursuant to section 62 above ; and

" watercourse " includes all rivers and streams and all ditches, drains, cuts, culverts, dikes, sluices, sewers (other than public sewers within the meaning of the Public Health Act 1936) and passages, through which water flows.

(2) Where any provision of this Act refers, in relation to an internal drainage district, to the making of any appeal or petition by a sufficient number of qualified persons, the persons who are qualified are the owners and the occupiers of any land in the district in respect of which a drainage rate is levied; and their number shall be sufficient if (but only if)—

- (a) they are not less than 40 ; or
- (b) they are not less than one-fifth of the number of persons who are qualified to make the petition or appeal; or
- (c) the annual value for the purposes of the last drainage rate levied in the district of all the land in respect of which they are qualified persons is not less than one-fifth of the annual value of all the land in respect of which that rate was levied ;

but in relation to a district divided into sub-districts the persons qualified to make a petition under section 69 above as being the owners or occupiers of land in one of the sub-districts shall also be sufficient in any case where the condition in paragraph (b) or (c) above would be satisfied if the sub-district were an internal drainage district.

(3) The references to the value of land in paragraph (c) of subsection (2) above are references to—

- (a) in the case of any land as respects which the rate referred to in that paragraph was assessed (in accordance with section 64 above) by reference to annual value (within the meaning of that section), that value;
- (b) in the case of any land as respects which the rate referred to in that paragraph was assessed (in accordance with section 65 above) by reference to rateable value, the value arrived at by applying to the rateable value (within the meaning of that section) the relative fraction applied in respect of the said rate pursuant to that section (whether pursuant to subsection (2) or to subsection (3)).



- (4) References in this Act to the execution or carrying out of drainage works include references to the improvement of drainage works and in sections 15, 20, 22, 28, 50 and 98 also include references to the maintenance of drainage works.

**117 Transitional provisions, consequential amendments, repeals and saving**

- (1) Schedule 6 to this Act, which contains transitional provisions shall have effect.
- (2) The enactments mentioned in Schedule 7 to this Act shall, in consequence of this Act, be amended as there provided.
- (3) The enactments specified in Schedule 8 to this Act are hereby repealed to the extent specified in the third column of that Schedule.
- (4) Notwithstanding the repeal by this Act of the Land Drainage (Amendment) Act 1976, section 6(3) of the Water Act 1973 shall continue to have effect as amended by paragraph 55 of Schedule 2 to the said Act of 1976 (but so that, in consequence of this Act, the words thereby inserted after " charges " are amended to " applying for a water charges option order pursuant to section 62 of the Land Drainage Act 1976 ").

**118 Short title, commencement and extent**

- (1) This Act may be cited as the Land Drainage Act 1976.
- (2) This Act shall come into force immediately after the coming into force of the Land Drainage (Amendment) Act 1976.
- (3) Save as provided by section 32(4) above, this Act extends to England and Wales only.

## SCHEDULES

### SCHEDULE 1

Section 3(9).

#### MEMBERS AND PROCEEDINGS OF REGIONAL AND LOCAL LAND DRAINAGE COMMITTEES

##### *Terms of office of members*

- 1       Members of a regional or local land drainage committee other than those appointed by or on behalf of constituent councils shall hold and vacate office in accordance with the terms of their appointment.
- 2       (1) Members of a regional or local land drainage committee appointed by or on behalf of a constituent council or councils may be members of that council or one of those councils or other persons.
- (2) Any member of a regional or local land drainage committee appointed by or on behalf of a constituent council who at the time of his appointment was a member of that council shall if he ceases to be a member of that council, cease also to be a member of the committee at the expiration of the period of 3 months beginning with the date when he ceases to be a member of the council or on the appointment of another person in his place, whichever first occurs; but for the purposes of this sub-paragraph a member of a council shall not be deemed to have ceased to be a member of the council by reason of retirement if he has been re-elected a member thereof not later than the date of his retirement.
- 3       (1) The first members of a regional or local land drainage committee appointed by or on behalf of a constituent council or councils shall come into office on the day on which the committee comes into existence, or, in the case of a member who is for any reason appointed after that day, on the day on which the appointment is made, and, subject to the following provisions of this Schedule, shall hold office until the end of May in such year as may be specified for the purposes of this paragraph in the resolution or scheme establishing the committee.
- (2) Any other members of a regional or local land drainage committee appointed by or on behalf of a constituent council or councils shall come into office at the beginning of the June next following the day on which they are appointed, and, subject to the following provisions of this Schedule, shall hold office for a term of 4 years.
- (3) If for any reason any such member as is mentioned in sub-paragraph (2) above is appointed on or after the day on which he ought to have come into office, he shall come into office on the day on which he is appointed and shall hold office for the remainder of the term.

##### *Vacation of office by members*

- 4       (1) The chairman of a regional land drainage committee may resign his office at any time by giving notice in writing to the chairman of the water authority and to the Minister.

- (2) Any other member of such a committee may resign his office at any time by giving notice in writing to the chairman of the committee and also to the Minister if he was appointed by him.
- (3) The chairman of a local land drainage committee may resign his office at any time by giving notice in writing to the chairman of the regional land drainage committee.
- (4) Any other member of such a committee may resign his office at any time by giving notice in writing to the chairman of the committee.
- 5 (1) The office of a member of a regional or local land drainage committee shall become vacant upon the happening of any of the following events, namely, if he—
- (a) is adjudged bankrupt, or makes a composition or arrangement with his creditors ; or
  - (b) is convicted in the United Kingdom, the Channel Islands or the Isle of Man of any offence and has passed on him a sentence of imprisonment (whether suspended or not) for a period of not less than 3 months without the option of a fine ; or
  - (c) is disqualified for being elected or for being a member of a local authority or water authority under Part III of the Representation of the People Act 1949 or under Part VIII of the Local Government Act 1972 ; or
  - (d) has, for a period of 6 consecutive months, been absent from meetings of the committee, otherwise than by reason of illness or some other cause approved during that period by the committee.
- (2) For the purposes of sub-paragraph (1)(d) above, the attendance of a member of a regional or local land drainage committee at a meeting of any sub-committee of the committee of which he is a member, or at any joint committee to which he has been appointed by the committee, shall be treated as attendance at a meeting of the committee.

*Appointments to fill casual vacancies*

- 6 Where, for any reason whatsoever, the place of a member of a regional or local land drainage committee becomes vacant before the end of his term of office the vacancy—
- (a) shall, if the unexpired portion of the term of office of the vacating member is 6 months or more, be filled by the appointment of a new member ; and
  - (b) may be so filled in any other case.
- 7 A person appointed by virtue of paragraph 6 above to fill a casual vacancy shall hold office so long only as the former member would have held office.

*Disqualification and re-appointment*

- 8 (1) Subject to the following provisions of this paragraph, a person shall be disqualified for appointment as a member of a regional or local land drainage committee if he—
- (a) is a paid officer of the committee ; or
  - (b) is a person who has been adjudged bankrupt, or made a composition or arrangement with his creditors ; or
  - (c) has within the period of 5 years ending on the day on which his qualification for appointment falls to be determined, incurred an obligation to pay an amount exceeding £500 pursuant to an order of the court under, or a

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certificate of a district auditor under, section 161 of the Local Government Act 1972 (or pursuant to a surcharge by a district auditor under the corresponding provisions of the Local Government Act 1933); or

- (d) has within 5 years before the day of his appointment been convicted in the United Kingdom, the Channel Islands or the Isle of Man of any offence and has had passed on him a sentence of imprisonment (whether suspended or not) for a period of not less than 3 months without the option of a fine ; or
- (e) is disqualified for being elected or for being a member of a local authority or water authority under Part III of the Representation of the People Act 1949 or Part VIII of the Local Government Act 1972.

(2) Where a person is disqualified under sub-paragraph (1) above by reason of having been adjudged bankrupt, then—

- (a) if the bankruptcy is annulled on the ground that he ought not to have been adjudged bankrupt or on the ground that his debts have been paid in full, the disqualification shall cease on the date of the annulment;
- (b) if he is discharged with a certificate that the bankruptcy was caused by misfortune without any misconduct on his part, the disqualification shall cease on the date of his discharge ; and
- (c) if he is discharged without such a certificate his disqualification shall cease on the expiration of 5 years from the date of his discharge.

(3) Where a person is disqualified under sub-paragraph (1) above by reason of his having made a composition or arrangement with his creditors and he pays his debts in full, the disqualification shall cease on the date on which the payment is completed, and in any other case it shall cease on the expiration of 5 years from the date on which the terms of the deed of composition or arrangement are fulfilled.

(4) For the purposes of sub-paragraph (1)(c) and (d) above, the ordinary date on which the period allowed for making an appeal or application with respect to the surcharge or conviction expires or, if such an appeal or application is made, the date on which it is finally disposed of or abandoned or fails by reason of non-prosecution shall be taken to be the date of the surcharge or conviction, as the case may be.

(5) Section 92 of the Local Government Act 1972 (proceedings for disqualification) shall apply in relation to disqualification under this paragraph for appointment as a member of a regional or local land drainage committee as it applies in relation to disqualification for acting as a member of a local authority.

9 Subject to the provisions of this Schedule, a member of a regional or local land drainage committee shall be eligible for reappointment.

#### *Payment*

10 A water authority—

- (a) shall pay the chairman of their regional land drainage committee and their local land drainage committees such remuneration and such allowances as may be determined by the Ministers with the consent of the Minister for the Civil Service ; and
- (b) if the Ministers with the consent of the Minister for the Civil Service so determine in the case of any person who is or has been chairman of any such committee, shall pay or make arrangements for the payment of a pension,

allowance or gratuity to or in respect of that person in accordance with the determination.

*Arrangements for discharge of functions*

- 11 (1) Subject to any express provision contained in this Act or any Act passed after this Act, a regional or local land drainage committee may arrange for the discharge of any of their functions—
- (a) by a sub-committee, a committee of a sub-committee (referred to in the following provisions of this paragraph as " an under sub-committee ") or an officer of the committee ; or
  - (b) by any other regional or, as the case may be, local land drainage committee ; and two or more regional or two or more local land drainage committees may arrange to discharge any of their functions jointly or may arrange for the discharge of any of their functions by a joint sub-committee of theirs.
- (2) Where by virtue of this paragraph any functions of a regional or local land drainage committee or two or more such committees may be discharged by a sub-committee, then, unless the committee or committees otherwise direct, the sub-committee may arrange for the discharge of any of those functions by an under sub-committee or by an officer of the committee or one of those committees, and where by virtue of this paragraph any such functions may be discharged by an under sub-committee, then, unless the committee or committees or the sub-committee otherwise direct, the under subcommittee may arrange for the discharge of any of those functions by an officer of the committee or one of those committees.
- (3) Any arrangements made by a regional or local land drainage committee under this paragraph for the discharge of any functions shall not prevent the committee from discharging those functions.
- (4) References in the foregoing provisions of this paragraph to the discharge of any functions of a regional or local land drainage committee include references to the doing of anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of those functions.
- (5) For the purpose of discharging any functions in pursuance of arrangements under this paragraph—
- (a) a regional or local land drainage committee may appoint a sub-committee of the committee ; or
  - (b) two or more regional or two or more local land drainage committees may appoint a joint sub-committee of those committees; or
  - (c) any such sub-committee may appoint one or more under sub-committees; and the number of members of any such sub-committee and their term of office shall be fixed by the appointing committee or committees or, in the case of an under sub-committee, by the appointing sub-committee.
- (6) A sub-committee appointed under sub-paragraph (5) above may include persons who are not members of the appointing committee or committees or, in the case of an under sub-committee, the committee or committees of whom they are an under sub-committee, but at least two-thirds of the members appointed to any such sub-committee shall be members of that committee or those committees, as the case may be.

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- (7) A person who is disqualified for being a member of a regional or local land drainage committee shall be disqualified also for being a member of a sub-committee or under sub-committee appointed under this paragraph.
- (8) A regional land drainage committee shall not, under this paragraph, make arrangements for the discharge in a local land drainage district of any functions which fall to be discharged there by the local land drainage committee.

*Appointment of deputies*

- 12 (1) Subject to the following provisions of this paragraph, a person nominated by one or more constituent councils may act as deputy for a member of a regional or local land drainage committee appointed by or on behalf of that council or those councils and may accordingly (instead of that member) attend and vote at a meeting of the committee.
- (2) A person nominated under sub-paragraph (1) above as deputy for a member of a regional land drainage committee may by virtue of that nomination attend and vote at a meeting of a sub-committee of that committee (other than a meeting of a local land drainage committee) to which the member for whom he is a deputy belongs.
- (3) A person nominated under sub-paragraph (1) above as deputy for a member of a local land drainage committee may attend and vote at a meeting of a sub-committee of that committee to which the member for whom he is a deputy belongs.
- (4) A person acting as deputy for a member of a regional or local land drainage committee shall be treated for the purposes for which he is nominated as a member of that committee.
- (5) A person shall not act as deputy for a member of a regional or local land drainage committee unless his nomination has been notified to an officer of the water authority appointed to receive such nominations.
- (6) A nomination shall be in writing and may apply either to a particular meeting or to all meetings during a stated period or until the nomination is revoked.
- (7) A person shall not act as deputy for more than one member of a regional or local land drainage committee.

*Authentication of documents*

- 13 (1) Any notice or other document which a regional or local land drainage committee are required or authorised to give, make or issue by or under this Act or any other enactment may be signed on behalf of the committee by any member or officer of the committee generally or specifically authorised for that purpose by a resolution of the committee; and any document purporting to bear the signature of a person expressed to be so authorised shall be deemed, until the contrary is proved, to be duly given, made or issued by authority of the committee.
- (2) In this paragraph "signature" includes a facsimile of a signature by whatever process reproduced.

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*Proceedings*

- 14 A water authority may not make rules with regard to the proceedings of their regional land drainage committee or any of their local land drainage committees.

*Disqualification for paid office of water authority*

- 15 A person shall, so long as he is, and for 12 months after he ceases to be, a member of a water authority's regional land drainage committee or any of their local land drainage committees, be disqualified from being appointed to any paid office by the water authority other than the office of chairman of the authority or chairman of their regional land drainage committee or one of their local land drainage committees.

*Interpretation*

- 16 Any reference in this Schedule to an officer of a regional or local land drainage committee is a reference to an officer of the parent water authority.

SCHEDULE 2

Section 7(2)(3).

INTERNAL DRAINAGE BOARDS

**PART I**

MEMBERS AND PROCEEDINGS ETC.

*Members, etc.*

- 1 (1) A person shall not be qualified for election as a member of an internal drainage board unless he is either—
- (a) the owner of not less than 10 acres 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 20 acres of such land as aforesaid; or
  - (c) the owner or occupier of land which is of the 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 owner (whether the owner is an individual or a body of persons) of land which is situated in the electoral district in question, and is either of not less than 10 acres in extent or of the 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 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 1 month.
- (3) A person shall not be qualified for the purposes of sub-paragraph (1) above as being the owner, or a person nominated by the owner, of any land if at the date of the

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election any amount demanded in respect of any owner's drainage rate levied in respect of that land remains unpaid, unless—

- (a) the date of the election falls less than 6 months after the beginning of the period for which the rate was made, or
- (b) the land was occupied, when the amount was demanded, by a person who, as between the owner and the occupier, was liable to pay the owner's drainage rate.

(4) In sub-paragraph (1) above, the reference to the value of land is a reference to—

- (a) in the case of any land as respects which a drainage rate levied at the relevant date would (in accordance with section 64 above) be assessable by reference to annual value (within the meaning of that section), that value ;
- (b) in the case of any land as respects which a drainage rate levied at the relevant date would (in accordance with section 65 above) be assessable by reference to rateable value, the value arrived at by applying to the rateable value (within the meaning of that section) the relative fraction applied pursuant to that section (whether pursuant to subsection (2) or to subsection (3)) in respect of the last drainage rate made before the relevant date,

and in this sub-paragraph " the relevant date " means the date as at which, in accordance with rules made under section 7(3) above, the qualifications of candidates for the election in question are determined.

- 2 (1) The first members of a board shall be persons appointed by the Minister or, in the case of any board for a district wholly or partly in Wales, the Minister and the Secretary of State jointly, and shall hold office until the expiration of 1 year from 1st November next following the day on which they are appointed.
- (2) The discharge of any functions exercisable under sub-paragraph (1) above by the Secretary of State shall belong to the Secretary of State for Wales; but nothing in this sub-paragraph shall be taken—
  - (a) to prejudice any powers exercisable in relation to the functions of Ministers of the Crown and government departments by virtue of Her Majesty's prerogative, or
  - (b) to affect the power of any Secretary of State to perform any functions of that office in place of the Secretary of State entrusted with the discharge of those functions.

3 Any members of a board other than the first members thereof shall come into office on 1st November next after the day on which they are elected and shall hold office for a term of 3 years:

Provided that—

- (a) a member may resign his office by notice in writing given to the chairman of the board ; and
- (b) if a member becomes bankrupt or makes a composition or arrangement with his creditors he shall vacate his office ; and
- (c) if a member is absent from meetings of the board for more than 6 months consecutively, he shall, unless his absence is due to illness or some other reason approved by the board, vacate his office on the expiration of the said 6 months.

4 If for any reason whatsoever the place of a member of a board becomes vacant before the end of his term of office, the vacancy shall be filled by the election by the board



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- of a new member; but where the unexpired portion of the term of office of the vacating member is less than 6 months, the vacancy need not be filled.
- 5 A person elected to fill a casual vacancy shall hold office so long only as the vacating member would have held office.
- 6 A person who is an undischarged bankrupt or who has at any time within the preceding 5 years made a composition or arrangement with his creditors shall be ineligible for election as or being a member of a board.
- 7 A vacating member shall, subject to the provisions of this Schedule, be eligible for re-election.
- 8 The Minister may, if he thinks fit, by order authorise a 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.
- 9 A board may pay any reasonable expenses incurred by their members and officers in attending meetings of the board or a committee or sub-committee thereof, in carrying out inspections necessary for the discharge of the functions of the board, or 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 any reasonable expenses so incurred in purchasing reports of the proceedings of any such conference or meeting.
- 10 A board may pay to persons employed by them such reasonable remuneration as they think fit.
- 11 A board may provide housing accommodation for persons employed by them (and may accordingly acquire land for that purpose under section 37 of this Act).

#### *Proceedings*

- 12 The proceedings of a board shall not be invalidated by any vacancy in the membership, or by any defect in the appointment or qualification of any member of the board.
- 13 A board may, with the approval of the Minister, make rules—
- (a) for regulating the proceedings, including quorum, place of meetings and notices to be given of meetings, of the board;
  - (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, including quorum, place of meeting and notices to be given of meetings, of committees.
- 14 The first meeting of a board shall be held on such day and at such time and place as may be fixed by the Minister, and the Minister shall cause notice of the meeting to be sent by post to each member of the board not less than 14 days before the appointed day.
- 15 A minute of the proceedings of a meeting of a board or of a committee of 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, shall be evidence of the proceedings and shall be received in evidence without further proof, and until the contrary is proved every meeting in

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respect of the proceedings of which a minute has been so signed shall be deemed to have been duly convened and held and all the proceedings had at the meeting to have been duly had, and where the proceedings 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.

- 16 Any member of a board shall, if he is interested in any company with which the board has or proposes to make any contract, disclose to the board the fact and nature of his interest, and shall 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.

#### *Reports and accounts*

- 17 A board shall, before such date in every year as the Minister may fix, send to the Minister a report of their proceedings during the preceding year, and shall at the same time send a copy of the report to the water authority and to the council of every county and London borough in which any part of the board's district is situated.
- 18 Every such report shall be in such form and shall contain particulars with respect to such matters as the Minister may direct.
- 19 The accounts of the income and expenditure of a board and of the officers of a board shall be made up in such manner and to such date in each year, and shall be audited by such persons and in such manner, as the Minister may from time to time direct.
- 20 As soon as the accounts of a board have been audited, the board shall send a copy of them to the Minister and shall at the same time send a copy to the water authority and to the council of every county or London borough in which any part of the board's district is situated.
- 21 A copy of the audited accounts of a 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.

## **PART II**

### PERSONS TO VOTE AT THE ELECTION OF MEMBERS

- 22 The electors for members of an internal drainage board shall be the persons who at the date of the election own or occupy land in the board's district on which a drainage rate has been levied in the year immediately preceding, save that—
- (a) a person shall not be entitled to be an elector by reason of his occupation 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 a month; and
  - (b) a person shall not be entitled to be an elector by reason of his ownership of any land if at the date of the election any amount demanded in respect of any owner's drainage rate levied on that land has remained unpaid for more than one month.
- 23 (1) Each elector at an election of members of a board shall be entitled to 1 or more votes in accordance with the following scale:—

Where the assessable value of the property in respect of which the elector is entitled to vote—

is less than £50	1 vote
is not less than £50, but is less than £100	2 votes
is not less than £100, but is less than £150	3 votes
is not less than £150, but is less than £200	4 votes
is not less than £200, but is less than £250	5 votes
is not less than £250, but is less than £500	6 votes
is not less than £500, but is less than £1,000	8 votes
is £1,000 or more	10 votes

(2) In sub-paragraph (1) above, " assessable value " means—

- (a) in the case of any land as respects which a drainage rate levied at the relevant date would (in accordance with section 64 above) be assessable by reference to annual value (within the meaning of that section), the value on which such a drainage rate would be assessable ;
- (b) in the case of any land as respects which a drainage rate levied at the relevant date would (in accordance with section 65 above) be assessable by reference to rateable value, the value on which such a rate would be assessable under subsection (2) of section 65 (whether or not there is then in force a resolution pursuant to that subsection);

and for this purpose the relevant date is the date as at which, in accordance with rules made under section 7(3) above, the voting entitlement of electors at the election in question is determined.

### SCHEDULE 3

Section 109(5).

#### PROVISIONS AS TO CERTAIN ORDERS

##### *General*

- 1 The Minister may make regulations in relation to the publication of notices and advertisements under this Schedule, the holding of and procedure at public local inquiries under this Schedule and any other matters of procedure respecting the making of orders.

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*Procedure and other matters with respect to the making of an order*

2 Before making an order the Minister shall cause notice of the intention to make it and of the place where copies of the draft order may be inspected and obtained, and of the time within 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—

- (a) every relevant local authority in whose area any part of the area proposed to be affected by the order is situated, and
- (b) every drainage body, navigation authority, harbour authority or conservancy authority that is known to the Minister to be exercising jurisdiction within the area proposed to be affected by the order.

3 In paragraph 2 above " relevant local authority " means any local authority other than a district council.

4 Before making an order the Minister shall consider any objections duly made to the draft order and may in any case cause a public local inquiry to be held with respect to any objections to the draft order ; and in making the order the Minister 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*

5 After the Minister has made an order it shall be published in such manner as he thinks best adapted for informing the persons affected, together with a notice that the Minister has made the order and that the order will become final and have effect unless within such period of not less than 30 days as may be specified in the notice a memorial is presented to the Minister, by a person who is affected by the order and has such interest as may be prescribed as being sufficient for the purpose, praying that the order shall be subject to special parliamentary procedure.

6 If no such memorial has been presented within such period as aforesaid or if every such memorial has been withdrawn, the Minister shall confirm the order and it shall thereupon have effect, but if such a memorial has been presented and has not been withdrawn the order shall be subject to special parliamentary procedure.

7 An order shall in any event be subject to special parliamentary procedure if the Minister so directs.

8 The Minister may revoke, either wholly or partially, any order that is subject to special parliamentary procedure, at any time before it has been laid before Parliament.

*Validity of orders*

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

10 If any person aggrieved by an order desires to question its validity on the ground that it is not within the powers of this Act or that any requirement of this Act has not been complied with he may, within 6 weeks of the date specified in paragraph 11 below, make an application for the purpose to the High Court.

11 The date referred to in paragraph 10 above is—

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- (a) where the order is subject to special parliamentary procedure, the date on which the order becomes operative under the Statutory Orders (Special Procedure) Act 1945;
  - (b) where the order is not subject to special parliamentary procedure, the date of publication of the notice mentioned in paragraph 9 above.
- 12 Where an application is duly made under paragraph 10 above, the court, if satisfied that the order is not within the powers of this Act or 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.
- 13 Subject to paragraphs 10 to 12 above, an order shall not at any time be questioned by prohibition or certiorari or in any legal proceedings whatsoever.
- 14 Except by leave of the Court of Appeal, no appeal shall lie to the House of Lords from a decision of the Court of Appeal in proceedings under this section.
- 15 Paragraphs 9 to 14 above shall not apply to an order that is confirmed by Act of Parliament under section 6 of the Statutory Orders (Special Procedure) Act 1945.

#### SCHEDULE 4

Section 34.

##### BYELAWS MADE BY DRAINAGE AUTHORITIES

- 1 No byelaw made by a drainage authority under this Act shall have effect until confirmed by the Minister.
- 2 An authority 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.
- 3 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 authority.
- 4 The authority shall provide reasonable facilities for the inspection without charge of a byelaw deposited under paragraph 3 above.
- 5 Any person on application to the authority shall be entitled to be furnished free of charge with a printed copy of such a byelaw.
- 6 The Minister, with or without a local inquiry, may refuse to confirm any byelaw submitted for confirmation under this Schedule, or may confirm the byelaw either without or, if the authority consent, with modifications ; and the authority shall if so directed by the Minister, cause notice of any proposed modifications to be given in accordance with such directions.
- 7 The Minister may fix the date on which any byelaw confirmed under this Schedule is to come into operation, and if no date is so fixed the byelaw shall come into operation at the end of the period of one month beginning with the date of confirmation.

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- 8 Any byelaw confirmed under this Schedule shall be printed and deposited at the office of the authority and copies of it shall, at all reasonable hours, be open to public inspection without charge.
- 9 Any person on application to the authority shall be entitled to be furnished with a copy of it, on payment of such reasonable sum as the authority may determine.
- 10 If it appears to the Minister that the revocation of a byelaw is necessary or expedient, he may, after giving notice to the authority and considering any objections raised by them and, if required by them, holding a local inquiry, revoke that byelaw.
- 11 The production of a printed copy of a byelaw purporting to be made by a drainage authority upon which is indorsed a certificate, purporting to be signed on their behalf, stating—
- (a) that the byelaw was made by the authority ;
  - (b) that the copy is a true copy of the byelaw ;
  - (c) that on a specified date the byelaw was confirmed under this Schedule ; and
  - (d) the date, if any, fixed under paragraph 7 above for the coming into operation 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.

## SCHEDULE 5

Section 105.

### PROVISIONS RELATING TO LONDON

#### *Interpretation*

- 1 (1) In this Act, subject to any order under sub-paragraph (2) below, " the metropolitan watercourses " means—
- (a) so much of the river Thames as lies within the London excluded area, including all its associated watercourses within the flow and re-flow of its tides in that area;
  - (b) the watercourses shown marked in red on the signed plan as defined in and for the purposes of Part II (Alteration of Kent River Authority area and London excluded area) of the Greater London Council (General Powers) Act 1968 ;
  - (c) the river Ravensbourne, the Chaffinch Brook, the Beck River, the Pool River, the Quaggy River, the Kid Brook, the Kyd Brook and the Lower Kid Brook, and their associated watercourses ;
  - (d) the Beverley Brook, the river Graveney, the Pyl Brook and the river Wandle, and their associated watercourses ;
  - (e) the river Brent, the river Crane and the Duke of Northumberland's river, and their associated watercourses ;
  - (f) any watercourse that immediately before the commencement of this Act was a metropolitan watercourse by virtue of an order under paragraph 15(2) of Schedule 14 to the London Government Act 1963 ;
- and " the main metropolitan watercourses " means the watercourses falling within paragraph (a) above (referred to below as " the tidal Thames "), the watercourses

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falling within paragraph (b) above, the watercourses mentioned by name in paragraphs (c) to (e) above and any watercourse that immediately before the commencement of this Act was a main metropolitan watercourse by virtue of an order under the said paragraph 15(2).

(2) The Minister may, after consultation with the Greater London Council and the council of any district or London borough appearing to him to be affected, by order provide that—

- (a) the whole or any part of a watercourse within the London excluded area shall become a metropolitan watercourse ; or
- (b) the whole or any part of a watercourse other than the tidal Thames shall cease to be a metropolitan watercourse; or
- (c) the whole or any part of a metropolitan watercourse shall become or cease to be a main metropolitan watercourse ;

and an order under paragraph (a) above shall specify the local enactments that are to be the local enactments for the purposes of this Schedule in relation to the watercourse or part of a watercourse dealt with by the order.

(3) Notwithstanding anything to the contrary in any enactment or instrument, no part of any of the metropolitan watercourses shall be or form part of a public sewer.

2 In this Schedule—

" associated watercourse ", in relation to any river, means a tributary or other watercourse the water from which ultimately flows into, or which is directly or indirectly connected with, that river;

" the Authority " means the Thames Water Authority ;

" flood works ", in relation to the tidal Thames, has the same meaning as in the local enactments relating thereto ;

" the former county of London " means the area constituted by the county of London as it existed immediately before the passing of the London Government Act 1963 (under which the said county ceased to exist);

" local enactment " means—

- (a) in relation to any watercourse falling within paragraph 1(1)(a) above, the Thames River (Prevention of Floods) Acts 1879 to 1962 and section 14 of the London County Council (General Powers) Act 1932;
- (b) in relation to any watercourse falling within paragraph 1(1)(b) above, the River Ravensbourne, &c. (Improvement and Flood Prevention) Act 1961 ;
- (c) in relation to any watercourse falling within paragraph 1(1)(c) above, the River Ravensbourne, &c. (Improvement and Flood Prevention) Act 1961 ;
- (d) in relation to any watercourse falling within paragraph 1(1)(d) above, Part II of the Surrey County Council Act 1925, section 15 of the Surrey County Council Act 1931, Part II of the Surrey County Council Act 1936 and the London and Surrey (River Wandle and River Graveney) (Jurisdiction) Act 1960 ;
- (e) in relation to any watercourse falling within paragraph 1(1)(e) above, Part V of the Middlesex County Council Act 1944 ;
- (f) in relation to any watercourse that is a metropolitan watercourse by virtue of an order under paragraph 1(2)(a) above, such enactments as may be specified in relation thereto by the order ;

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" the tidal Thames " means the watercourses falling within paragraph 1(1) (a) above ;

" watercourse " includes all rivers and streams and all ditches, drains, cuts, culverts, dykes, sluices, sewers and passages through which water flows ;  
and any mention of a particular river shall not be construed as prejudicing the meaning of the expression " associated watercourse ".

*General provision with respect to the London excluded area*

- 3 (1) Nothing in section 1(1) or any other provision of this Act shall make any land drainage function exercisable in the London excluded area by the Authority or any other water authority, and no part of the London excluded area shall be included in any local land drainage district.
- (2) Land drainage functions relating to the London excluded area shall continue to be exercisable (subject to the provisions of this Schedule) by the Greater London Council and other authorities by whom they were exercisable immediately before the passing of this Act, and in accordance with the enactments by virtue of which they are exercisable.
- (3) Part III of the Surrey County Council Act 1925 shall not apply to any area outside the London excluded area.

*Functions of the Greater London Council with respect to the metropolitan watercourses*

- 4 (1) Subject to paragraph 6 below, and to any provision made by an order under section 84 or 87 of the London Government Act 1963—
- (a) the functions conferred on the council of any county or county borough by the local enactments relating to the metropolitan watercourses shall (instead of being exercisable by that council, or the successor to that council under the Local Government Act 1972) be exercisable by the Greater London Council, and references in any such enactment to any such council shall be construed accordingly;
- (b) the local enactments relating to so much of the tidal Thames as lies within the former county of London shall apply to the whole of the tidal Thames (as defined for the purposes of this Schedule), and in those enactments references to, or which are to be taken as references to, the county of London shall be construed as references to the London excluded area;
- (c) no functions relating to the drainage of land, flood prevention and the like matters shall (subject to paragraph 6 below) be exercisable with respect to the tidal Thames by any authority under any local statutory provisions other than the enactments mentioned in sub-paragraph (b) above.
- (2) In sub-paragraph (1)(c) above " local statutory provisions" means provisions of a local Act (including an Act confirming a provisional order) or provisions of a public general Act passed with respect only to the whole or part of the former county of London or provisions of an instrument made under any such local or public general Act or of an instrument in the nature of a local enactment made under any other Act.
- 5 Subject to section 21 of the Metropolis Management (Thames River Prevention of Floods) Amendment Act 1879 and to any provision made by an order under section 84 or 87 of the London Government Act 1963, the power of the Greater London Council under the said Act of 1879 and the other enactments relating to the



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tidal Thames to approve, require the execution of and execute flood works for the protection of land from flooding by the river Thames in the London excluded area shall be exercisable by them for the protection of land from flooding by such of the river's associated watercourses as immediately before 1st April 1974 lay within the flow and re-flow of its tides in the Lee catchment area.

- 6 Paragraph 4(a) and (b) above and so much of paragraph 2 above as relates to paragraph 4(a) and (b) above shall not be construed as extending or restricting the application of any of the local enactments relating to the tidal Thames to property for the time being held for the purposes of their undertaking by the Port of London Authority or as extending or restricting the functions of that Authority.

*General provision with respect to the Greater  
London Council and the Thames Water Authority*

- 7 The Minister may give the Greater London Council directions, either of a general or of a particular character, as to the exercise by the Council of their land drainage functions.
- 8 (1) The following provisions of the Water Act 1973, namely—  
section 4(5)(a) and (b) ;  
section 8(1) to (4);  
section 22; and  
section 24(5) and (6) and (8) to (12),  
shall have effect in relation to the land drainage functions of the Greater London Council as if that Council were a water authority and the London excluded area were their water authority area.
- (2) The Greater London Council shall send the Authority a copy of any report which sets out the results of a survey made by them under section 24(5) of the Water Act 1973, as applied by sub-paragraph (1) above, and of any programme submitted by them to the Minister under section 24(6) of that Act as applied by that sub-paragraph.
- 9 (1) If the Greater London Council intend to carry out any works for the purpose of their land drainage functions or to exercise any of those functions in a manner which is likely to affect the exercise by the Authority of any of their functions in the London excluded area, the Council shall notify the Authority in writing of their intention.
- (2) The Authority may within 2 months of the date of a notice under sub-paragraph (1) above require the Council to consult with them about any of the matters to which the notice relates.
- (3) If, within a period of 2 months beginning with the date on which a requirement under sub-paragraph (2) above was sent by the Authority to the Council, the Authority and the Council have not reached agreement as to any of the matters to which the notice relates, the Authority shall notify the Ministers of that fact and the Ministers shall give directions to the Council as to any such matter.
- 10 (1) If the Authority intend—  
(a) to carry out works in their area for the purpose of their land drainage functions or to exercise any of those functions in a manner which is likely to affect the exercise by the Greater London Council of their land drainage functions, or  
(b) to carry out any works in the London excluded area for the purposes of any of their functions or to exercise any of those functions in that area in a manner

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which is likely to affect the exercise by the Greater London Council of their land drainage functions,

the Authority shall notify the Greater London Council in writing of their intention.

- (2) The Greater London Council may within 2 months of the date of a notice under sub-paragraph (1) above require the Authority to consult with them about any of the matters to which the notice relates.
- (3) If, within a period of 2 months beginning with the date on which a requirement under sub-paragraph (2) above was sent to the Authority by the Greater London Council, the Authority and the Council have not reached agreement as to any of the matters to which the notice relates, the Council shall notify the Ministers of that fact and the Ministers shall give directions to the Authority as to any such matter.

*Provision with respect to the Common Council*

- 11 The powers conferred by the provisions of this Act other than section 98 on the Common Council shall be exercisable as respects the City, the Inner Temple and the Middle Temple.

SCHEDULE 6

Section 117(1).

TRANSITIONAL PROVISIONS

*Commissioners of Sewers*

- 1 Commissioners of Sewers in existence immediately before the commencement of this Act shall (subject to any scheme under section 11 above for the abolition of or the abrogation of the powers of any such Commissioners, or to any other scheme under this Act affecting their powers) continue to have the powers then exercisable by them, subject to the conditions, restrictions and qualifications then attaching to them, save that so far as any such powers were exercisable under, or subject to any conditions, restrictions or qualifications in, any enactment repealed by this Act they shall now be exercisable under, or subject to the conditions, restrictions or qualifications in, the corresponding provision of this Act.

*Penny rate product*

- 2 Without prejudice to paragraph 6 below, any rules in force immediately before the commencement of this Act under section 113(1)(c) of the General Rate Act 1967 for determining the appropriate penny rate product for the purposes of Part III of Schedule 5 to the Water Act 1973 shall thereafter have effect (so far as they relate to the determination aforesaid) for determining the estimated penny rate product for the purposes of section 46(1) of this Act (and accordingly for the purposes of section 3 of this Act too), and references in any such rules shall thereafter be construed accordingly (so that, in particular, references to the appropriate penny rate product are construed as references to the estimated penny rate product).

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### *Drainage rates*

- 3 (1) As regards any drainage rates raised in order to defray expenses incurred, or charges in respect of liabilities incurred, before the commencement of the Land Drainage Act 1930, the provisions as to the incidence of rates contained in section 38 of the Land Drainage Act 1861 or, in the case of drainage rates raised under any local Act, the corresponding provisions in that Act, shall have effect in substitution for the provisions of section 63(2) above.
- (2) Without prejudice to paragraph 6 below, any resolution by an internal drainage board pursuant to section 1 of the Drainage Rates Act 1962 shall, if in force immediately before the commencement of this Act, have effect thereafter as a resolution pursuant to section 65(2) of this Act, that is to say as a resolution that the relative fraction for the purposes of section 65 shall be applied on a values basis.

### *Grants*

- 4 Where a grant could have been made under any enactment repealed by this Act in respect of any expenditure a grant may be made in respect of that expenditure under the corresponding provision of this Act.

### *Local land charges*

- 5 (1) If on the coming into force of this Act the Local Land Charges Act 1975 has not come into force, then—
- (a) the repeal by this Act of the entry relating to the Land Drainage Act 1961 in Schedule 1 to the said Act of 1975 shall not have effect until immediately after the coming into force of the said Act of 1975 ;
  - (b) until the coming into force of the said Act of 1975 the following subsection (" the transitional subsection") shall have effect in substitution for subsection (4) of section 31 of this Act ( " the permanent subsection " ):—
    - “(4) Any such scheme shall be registered in the register of local land charges by the proper officer of the district council or, in Greater London, in accordance with section 79 of the London Government Act 1963, in such manner as may be prescribed by rules made under section 15 of the Land Charges Act 1925,”; and
  - (c) upon the coming into force of the said Act of 1975 the entry referred to in paragraph (a) above shall operate in relation to this Act (so that the permanent subsection shall then have effect and the transitional subsection shall then cease to have effect).
- (2) This paragraph is hereby repealed as from immediately after the time when the repeal by this Act of the entry referred to in sub-paragraph (1)(a) above has effect.

### *General*

- 6 In so far as any instrument made or any other thing done or having effect as if made or done under any enactment repealed by this Act could have been made or done under a corresponding provision of this Act it shall not be invalidated by the repeal but shall have effect as if made or done under that provision and anything begun under any such repealed enactment may be continued under the corresponding provision of this Act as if begun under that provision.

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- 7 Without prejudice to paragraph 6 above, any reference in this Act (whether express or implied) to a thing done or required or authorised to be done, or omitted to be done, or to an event which has occurred, under or for the purposes of, or by reference to or in contravention of this Act or any provision of this Act, or an instrument made under any such provision, shall, except where the context otherwise requires, be construed as including a reference to the corresponding thing done or required or authorised to be done, or omitted, or to the corresponding event which occurred, as the case may be, under or for the purposes of or by reference to or in contravention of the corresponding enactment repealed by this Act, or an instrument made thereunder.
- 8 Where any period of time specified in any enactment repealed by this Act is current at the commencement of this Act, this Act shall have effect as if the corresponding provision of this Act had been in force when that period began to run.
- 9 Any enactment or other document of any kind referring, or to be treated as referring, to an enactment repealed by this Act shall, so far as may be necessary for preserving its effect, be construed as referring, or as including a reference, to the corresponding provision of this Act.
- 10 The provisions of this Schedule are without prejudice to the operation, in relation to this Act and the enactments repealed by this Act, of section 38 of the Interpretation Act 1889.

## SCHEDULE 7

Section 117(2).

### CONSEQUENTIAL AMENDMENTS

#### *The Water Act 1973*

- 1 In the Water Act 1973—
- (a) in section 36, for the words from " other statutory undertakers " onwards in subsection (3) substitute " and other statutory undertakers under any enactment, other than byelaws made by water authorities under section 34 of the Land Drainage Act 1976 (in respect of which Schedule 4 to that Act contains provisions corresponding to those in the said Part II) ";
  - (b) in section 38(1)—
    - (i) in the definition of "local land drainage committee " and " regional land drainage committee ", for the words from "established" onwards substitute " referred to by those names in sections 2 and 4 respectively of the Land Drainage Act 1976 " , and
    - (ii) in the definition of " local land drainage district" for " established under that Schedule " substitute " established or continued under section 4 of the Land Drainage Act 1976 " and for "Parts II and III of that Schedule" substitute " sections 45 to 49 of that Act (in accordance with section 89(2) of that Act) ";
  - (c) in paragraph 2(1) of Schedule 2, for " section 19(1) of the Land Drainage Act 1961 " substitute " section 17(2) of the Land Drainage Act 1976 ";
  - (d) in paragraph 12(1) of Schedule 2, for "paragraph 11(1) above " substitute " section 9(5) of the Land Drainage Act 1976 ";
  - (e) in paragraph 31(2) of Schedule 3—

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- (i) for " Part II of Schedule 5 to this Act" in paragraph (a) substitute " sections 45 to 49 of the Land Drainage Act 1976 ",
  - (ii) for "section 21(1) of the Land Drainage Act 1930 " in paragraph (b) substitute " section 84(1) of the Land Drainage Act 1976 " , and
  - (iii) for " section 3 of the Land Drainage Act 1961 " in paragraph (c) substitute " section 50 of the Land Drainage Act 1976 ";
- (f) in paragraph 31(3) of Schedule 3, for " section 21(1) of the Land Drainage Act 1961 " substitute " section 86(1) of the Land Drainage Act 1976 ", for " section 21(1) of the Land Drainage Act 1930 " substitute " section 84(1) of the Land Drainage Act 1976 " and for " section 21(1) of the said Act of 1930" substitute " section 84(1) of the said Act of 1976 ";
- (g) in paragraph 12(2) of Schedule 7, omit the words from " and to internal drainage boards " onwards.

#### *Other Acts*

- 2 In Part I of Schedule 1 to the Highways Act 1959, as set out in Schedule 13 to the Highways Act 1971, in paragraph (ii) of the Table in paragraph 3 for "paragraph 15(3) of Schedule 14 to the London Government Act 1963" substitute " section 116(1) of the Land Drainage Act 1976 ".
- 3 In paragraph 1(3) of Part III of Schedule 9 to the London Government Act 1963 for " Section 31(2) of the Land Drainage Act 1930 " substitute " Section 29(1) of the Land Drainage Act 1976 ".
- 4 In the Water Resources Act 1963—
- (a) in section 67(4), for " section 61 of the Land Drainage Act 1930" substitute " section 112 of the Land Drainage Act 1976 ";
  - (b) in section 69(4), for " Section 61 of the Land Drainage Act 1930" substitute " section 112 of the Land Drainage Act 1976 " and for " the said Act of 1930 " substitute " the said Act of 1976 ";
  - (c) in section 71(6), for " section 76 of the Land Drainage Act 1930" substitute " section 36 of the Land Drainage Act 1976 ".
- 5 In section 3(9) of the New Forest Act 1964 for " any drainage authority as defined by the Land Drainage Act 1930 " substitute " any drainage body as defined by the Land Drainage Act 1976 ".
- 6 In paragraph 1 of the Schedule to the Public Works Loan Act 1965, for " section 46 of the Land Drainage Act 1930 " substitute " section 87 of the Land Drainage Act 1976 ".
- 7 In section 22(12) of the Highways Act 1971 for " other drainage authority within the meaning of the Land Drainage Act 1930" substitute " other drainage body within the meaning of the Land Drainage Act 1976 ".
- 8 In paragraph 1(d) of Schedule 2 to the Land Charges Act 1972, for " The Land Drainage Act 1930 " substitute " The Land Drainage Act 1976 " (with a corresponding amendment to the Chapter number) and for " Section 9(5)" substitute " Section 26(6) ".

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## SCHEDULE 8

Section 117(3).

## REPEALS

Chapter	Short Title	Extent of Repeal
20 & 21 Geo.5. c. 44.	The Land Drainage Act 1930.	The whole Act.
1 Edw. 8. & 1 Geo. 6. c. 70.	The Agriculture Act 1937.	Section 15.
3 & 4 Geo. 6. c. 50.	The Agriculture (Miscellaneous War Provisions) (No. 2) Act 1940.	Section 3.
9 & 10 Geo. 6. c. 26.	The Emergency Laws (Transitional Provisions) Act 1946.	In Schedule 2, the entry numbered 2 under the heading beginning "Amendments of enactments relating to land drainage ".
6 & 7 Eliz. 2. c. 37.	The Drainage Rates Act 1958.	The whole Act.
9 & 10 Eliz. 2. c. 48.	The Land Drainage Act 1961.	The whole Act.
10 & 11 Eliz. 2. c. 39.	The Drainage Rates Act 1962.	The whole Act.
1963 c. 10.	The Drainage Rates Act 1963.	The whole Act.
1963 c. 25.	The Finance Act 1963.	In Schedule 12, paragraphs 21, 23 and 24(7) and (8).
1963 c. 33.	The London Government Act 1963.	Schedule 14, except paragraph 10.
1968 c. 34.	The Agriculture (Miscellaneous Provisions) Act 1968.	Part IV and Schedule 6.
1968 c. xxxix.	The Greater London Council (General Powers) Act 1968.	In section 7(4), paragraphs (c) and (d).
1969 c. 48.	The Post Office Act 1969.	In Schedule 4, paragraph 32.
1970 c. 40.	The Agriculture Act 1970.	Part V.
1971 c. 23.	The Courts Act 1971.	In Schedule 9, in Part I the entry relating to the Land Drainage Act 1930.
1971 c. 75.	The Civil Aviation Act 1971.	In Schedule 5, paragraph 1.
1972 c. 60.	The Gas Act 1972.	In Schedule 6, paragraph 1.
1972 c. 70.	The Local Government Act 1972.	In Schedule 29, paragraphs 24 and 25.
1972 c. xv.	The Thames Barrier and Flood Prevention Act 1972.	Section 69(3).

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Chapter	Short Title	Extent of Repeal
1973 c. 37.	The Water Act 1973.	Section 19. In Schedule 2, in paragraph 6 the definition of " main river map", paragraphs 8 to 11 and paragraph 13(2) and (3)(b). In Schedule 3, in paragraph 11(1)(a) the words from " and the chairmen " to " committees ", and in paragraph 11(1)(b) the words "or any such committee ". Schedule 5. In Schedule 7, in paragraph 12(2) the words from " and to internal" onwards. In Schedule 8, paragraphs 20, 21, 24 to 31 and 72 to 75.
1974 c. 7.	The Local Government Act 1974.	In Schedule 7, paragraph 13.
1975 c. 76.	The Local Land Charges Act 1975.	In Schedule 1, the entry relating to the Land Drainage Act 1961.
1975 c. 78.	The Airports Authority Act 1975.	Section 25(4).
1976 c. 15.	The Rating (Caravan Sites) Act 1976.	Section 1(8).
1976 c. 17.	The Land Drainage (Amendment) Act 1976.	The whole Act.