



Water Resources Act 1991

1991 CHAPTER 57

PART VI

FINANCIAL PROVISIONS IN RELATION TO THE [F¹APPROPRIATE AGENCY]

CHAPTER II

REVENUE PROVISIONS

Special drainage charges

137 Special drainage charges in interests of agriculture.

- (1) Where it appears to the [F¹appropriate agency] that the interests of agriculture require the carrying out, improvement or maintenance of drainage works in connection with any watercourses in [F²any flood risk management region], the [F¹appropriate agency] may submit to either of the Ministers for confirmation a scheme under this section with respect to those watercourses.
- (2) A scheme under this section with respect to any watercourses is 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 section 138 below, of a charge (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.
- (3) A scheme under this section shall designate for the purposes of the special drainage charge so much of [F³the flood risk management region] as consists of land which, in the opinion of the [F¹appropriate agency], is agricultural land that would benefit from drainage works in connection with the designated watercourses.

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- (4) The watercourses designated in any scheme under this section shall, if the scheme is confirmed, be treated for the purposes of this Act and the ^{M1}Land Drainage Act 1991 as part of a main river.
- (5) A scheme under this section-
- (a) may make provision for any of the matters referred to in subsections (1) and (2) of section 108 above; and
 - (b) 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.
- (6) Schedule 16 to this Act shall have effect with respect to the making and confirmation of schemes under this section.
- (7) 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 57 of the ^{M2}Land Drainage Act 1991 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 (without prejudice to section 221(5) below) to include a proper proportion of the cost of the officers and buildings and establishment of the authority carrying them out.
- (8) In this section and Schedule 16 to this Act “watercourse” has the same meaning as in Part IV of this Act.

Textual Amendments

- F1** Words in ss. 120-143 substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 276** (with Sch. 7)
- F2** Words in s. 137(1) substituted (14.7.2014) by [Water Act 2014 \(c. 21\)](#), s. 94(2)(r), **Sch. 10 para. 8(2)**
- F3** Words in s. 137(3) substituted (14.7.2014) by [Water Act 2014 \(c. 21\)](#), s. 94(2)(r), **Sch. 10 para. 8(3)**

Marginal Citations

- M1** 1991 c. 59.
- M2** 1991 c. 59.

138 Levying and amount of special drainage charge.

- (1) A special drainage charge shall be levied by the [^{F1}appropriate agency] in respect of chargeable land included in the area designated for the purposes of the charge by the scheme authorising it (“the relevant chargeable land”).
- (2) The special drainage charge raised for any year shall be at a uniform amount per hectare of the relevant chargeable land.
- (3) The uniform amount referred to in subsection (2) above shall be determined by [^{F4}the Regional Flood and Coastal Committee for the flood risk management region within which is the area] which includes the relevant chargeable land [^{F5}(where that land is

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in England) or by the NRBW (where the relevant chargeable land is in Wales)] 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 one of the Ministers on the application of the ^{F1}appropriate agency]; nor
 - (b) twenty-five pence or such other amount as may be substituted for twenty-five pence by an order made by one of the Ministers and approved by a resolution of the House of Commons.
- (4) Before either of the Ministers makes an order under subsection (3)(a) above he 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 thirty 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.
- (5) An order under subsection (3)(b) above may be made so as to apply—
- (a) to special drainage charges in general; or
 - (b) to the special drainage charges proposed to be raised in respect of ^{F6}areas within such flood risk management regions] as may be specified in the order; or
 - (c) to special drainage charges proposed to be raised in pursuance of one or more schemes made under section 137 above and so specified;
- and any such order applying to the charges proposed to be raised in respect of ^{F7}areas within more than one flood risk management region], or authorised by more than one such scheme, may make different provision for the charges in respect of ^{F8}different flood risk management regions] or, as the case may be, the charges authorised by the different schemes.
- (6) The power of each of the Ministers to make an order under subsection (3)(b) above shall be exercisable by statutory instrument; and section 14 of the ^{M3}Interpretation Act 1978 (power to revoke or amend orders made by statutory instrument) shall apply to the power to make orders under subsection (3)(a) above as it applies, by virtue of this subsection, to the power to make orders under subsection (3)(b) above.
- (7) Schedule 15 to this Act shall have effect with respect to the assessment, incidence, payment and enforcement of special drainage charges.

Textual Amendments

- F1** Words in ss. 120-143 substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\), art. 1\(2\), Sch. 2 para. 276](#) (with Sch. 7)
- F4** Words in s. 138(3) substituted (14.7.2014) by [Water Act 2014 \(c. 21\), s. 94\(2\)\(r\), Sch. 10 para. 9\(2\)](#)
- F5** Words in s. 138(3) inserted (14.7.2017) by [Environment \(Wales\) Act 2016 \(anaw 3\), s. 88\(3\)\(c\), Sch. 2 para. 20\(4\); S.I. 2017/714, art. 2](#)
- F6** Words in s. 138(5)(b) substituted (14.7.2014) by [Water Act 2014 \(c. 21\), s. 94\(2\)\(r\), Sch. 10 para. 9\(3\)\(a\)](#)

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- F7** Words in s. 138(5) substituted (14.7.2014) by [Water Act 2014 \(c. 21\)](#), s. 94(2)(r), **Sch. 10 para. 9(3)(b)(i)**
- F8** Words in s. 138(5) substituted (14.7.2014) by [Water Act 2014 \(c. 21\)](#), s. 94(2)(r), **Sch. 10 para. 9(3)(b)(ii)**

Marginal Citations

- M3** 1978 c. 30.

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