



# Land Drainage Act 1991

## 1991 CHAPTER 59

### PART IV

#### FINANCIAL PROVISIONS

#### CHAPTER II

#### DRAINAGE RATES

##### *Determination and modification of annual value*

#### **42 Determination of annual value.**

- (1) Without prejudice to sections 43 and 44 below, the drainage board for every internal drainage district shall, not later than 31st December 1992, determine the annual value for the purposes of section 41 above of each chargeable property in their district on that date.
- (2) Where after 31st December 1992—
  - (a) any property in an internal drainage district becomes chargeable property;
  - (b) any property consisting of agricultural land or buildings becomes part of an internal drainage district,then, as soon as practicable after the date (“the valuation date”) on which the property has become chargeable property or, as the case may be, part of that district, the drainage board for that district shall determine the annual value for the purposes of section 41 above of that property.
- (3) A determination made under subsection (2) above shall have effect from the valuation date.
- (4) Where any drainage board make a determination under this section [<sup>F1</sup>or under regulations under section 41A(1) above], they shall serve notice of the determination,

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together with a statement in writing of the right of appeal under section 45 below, on the occupier of the property to which the determination relates.

- (5) For the purpose of enabling the drainage board for an internal drainage district to comply with their obligations under subsections (1) and (2) above [<sup>F2</sup>or under regulations under section 41A above], the occupier of a chargeable property shall afford reasonable facilities for inspecting the property to the drainage board for the internal drainage district in which the property lies and to the officers and agents of that board.

#### Textual Amendments

- F1** Words in s. 42(4) inserted (29.9.2022 for specified purposes) by [Environment Act 2021 \(c. 30\)](#), ss. [96\(4\)\(a\)](#), [147\(3\)\(4\)](#) (with s. 144); S.I. 2022/988, reg. 2(b)
- F2** Words in s. 42(5) inserted (29.9.2022 for specified purposes) by [Environment Act 2021 \(c. 30\)](#), ss. [96\(4\)\(b\)](#), [147\(3\)\(4\)](#) (with s. 144); S.I. 2022/988, reg. 2(b)

### 43 Adjustment of annual values to secure fair distribution of rating burden.

- (1) If the drainage board for any internal drainage district are of the opinion that the amount of the annual value of any chargeable property in that district should be increased or reduced, having regard to changes in the relevant circumstances, for the purpose of securing that the burden of the drainage rates payable in respect of all chargeable properties in the district is fairly distributed so far as reasonably practicable among the persons liable to pay those rates, the board may make a determination of annual value under this section.
- (2) If the occupier of any chargeable property in a drainage district is of the opinion that, having regard to changes in the relevant circumstances, the amount of the annual value of the property should be altered for the purpose mentioned in subsection (1) above—
- (a) he may request the drainage board in writing to make a determination under this section in respect of the property; and
  - (b) the board shall either comply with the request or, if they consider that no alteration of the value is required for that purpose, determine that the request be refused.
- (3) A determination of annual value under this section shall be a determination in accordance with section 44 below specifying as the annual value of the chargeable property in question such greater or smaller amount than the amount of the annual value as the board, having regard—
- (a) to the changes in the relevant circumstances; and
  - (b) to any other alterations of annual values under this section made or proposed by the board,
- consider just for the purpose mentioned in subsection (1) above.
- (4) For the purposes of this section a change in the relevant circumstances, in relation to any chargeable property, is a change in the circumstances by reference to which the annual value of the property in question, or of any other chargeable property in the district in question, was fixed.

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#### 44 Effect of determinations under section 43.

- (1) Where a drainage board make a determination under section 43 above, they shall serve notice of the determination, together with a statement in writing of the rights of appeal conferred by section 45 below, on the occupier of the chargeable property to which the determination relates.
- (2) Subject to [<sup>F3</sup>regulations under section 41A above and to] section 46 below (and notwithstanding anything in section 41 above), where a determination of annual value under section 43 above is made in pursuance of section 43(1) above, the annual value of the property in question shall, for the purposes of any drainage rate made after the effective date, be that specified in the determination.
- (3) Subject to [<sup>F4</sup>regulations under section 41A above and to] section 46 below (and notwithstanding anything in section 41 above), where a determination of annual value under section 43 above is made in pursuance of section 43(2) above, the annual value of the property in question shall for the purposes of—
  - (a) any drainage rate made in respect of any period included in the financial year in which the request for the determination was made; and
  - (b) any drainage rate made in respect of any subsequent period,be that specified in the determination.
- (4) Where—
  - (a) the annual value of any chargeable property is altered by a determination under section 43 above which is made in pursuance of subsection (2) of that section;
  - (b) drainage rates for any period in respect of the chargeable property have been or are subsequently paid by reference to its annual value before the alteration; and
  - (c) the period is one for which, in accordance with subsection (3) 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.
- (5) In this section “the effective date”, in relation to a determination under section 43 above, means the date on which notice of the determination is served in pursuance of subsection (1) above on the occupier of the chargeable property to which the determination relates.

#### Textual Amendments

- F3** Words in s. 44(2) inserted (29.9.2022 for specified purposes) by [Environment Act 2021 \(c. 30\)](#), ss. [96\(5\)](#), [147\(3\)\(4\)](#) (with s. 144); S.I. 2022/988, reg. 2(b)
- F4** Words in s. 44(3) inserted (29.9.2022 for specified purposes) by [Environment Act 2021 \(c. 30\)](#), ss. [96\(5\)](#), [147\(3\)\(4\)](#) (with s. 144); S.I. 2022/988, reg. 2(b)

#### 45 Appeals against determinations of annual value.

- (1) Subject to the following provisions of this section, where a determination under [<sup>F5</sup>regulations under section 41A above or a determination under] section 42 or 43

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above is made by the drainage board for an internal drainage district, the occupier of the land in respect of which the determination is made may appeal, in accordance with this section, against the determination.

- (2) An occupier who wishes to appeal under this section against any determination must, before the end of—
- (a) the period of twenty-eight days beginning with the date of service on him of notice of the determination; or
  - (b) such longer period as the drainage board which made the determination 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 which made the determination, if they think fit, may, before the end of the period of twenty-eight days beginning with the date of service of the notice on them—
- (a) cancel the determination; and
  - (b) subject to subsection (4) below, make in its place a fresh determination under [F6]regulations under section 41A above or a fresh determination under] section 42 or, as the case may be, section 43 above;
- and section 46(7) below shall have effect in relation to the cancellation and the other provisions of this Chapter shall have effect in relation 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 43 above, the board—
- (a) may cancel the determination in accordance with subsection (3) above without making a fresh determination in its place; and
  - (b) where they do so, shall serve notice of cancellation on the person by whom the notice of objection was served on them.
- (5) Where—
- (a) notice of objection to a determination is served in pursuance of subsection (2) above and is not withdrawn before the end of the period mentioned in subsection (3) above; and
  - (b) the drainage board which made the determination do not cancel it in accordance with subsection (3) above,
- that board shall, forthwith after the end of that period, transmit the notice and a note of the determination to the clerk of the appropriate tribunal.
- (6) The transmission in pursuance of subsection (5) above of the notice of objection to a determination by 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 [F7]valuation tribunal] constituted in accordance with section 46 below.
- (7) In subsection (5) above “the appropriate tribunal”, in relation to a determination under [F8]regulations under section 41A above or a determination under] section 42 or 43 above, means-
- (a) the [F7]valuation tribunal] established, F9..., for the area in which the land to which the determination relates is situated; or

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- (b) where different parts of that land are situated in different areas for which such tribunals are established, such one of those tribunals as may be determined by or under the <sup>M1</sup>Drainage Rates (Appeals) Regulations 1970.

[<sup>F10</sup>(8) For the purposes of subsection (7)—

- (a) “valuation tribunal” means—
- (i) the Valuation Tribunal for England, or
  - (ii) a valuation tribunal established under paragraph 1 of Schedule 11 to the Local Government Finance Act 1988;
- (b) England is to be treated as the area for which the Valuation Tribunal for England is established.]

#### Textual Amendments

- F5** Words in s. 45(1) inserted (29.9.2022 for specified purposes) by [Environment Act 2021 \(c. 30\)](#), **ss. 96(6)(a)**, 147(3)(4) (with s. 144); S.I. 2022/988, reg. 2(b)
- F6** Words in s. 45(3)(b) inserted (29.9.2022 for specified purposes) by [Environment Act 2021 \(c. 30\)](#), **ss. 96(6)(b)**, 147(3)(4) (with s. 144); S.I. 2022/988, reg. 2(b)
- F7** Words in s. 45(6)(7)(a) substituted (6.3.1992) by [Local Government Finance Act 1992 \(c. 14\)](#), s. 117(1), **Sch. 13 para.99** (with s. 118(1)(2)(4)).
- F8** Words in s. 45(7) inserted (29.9.2022 for specified purposes) by [Environment Act 2021 \(c. 30\)](#), **ss. 96(6)(c)**, 147(3)(4) (with s. 144); S.I. 2022/988, reg. 2(b)
- F9** Words in s. 45(7)(a) repealed (1.10.2009) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(5), **Sch. 16 para. 6(2)**, **Sch. 18 Pt. 17**; S.I. 2008/3110, art. 6(d)(i)
- F10** S. 45(8) inserted (1.10.2009) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(5), **Sch. 16 para. 6(3)**; S.I. 2008/3110, art. 6(d)(i)

#### Marginal Citations

- M1** [S.I. 1970/1152](#).

#### <sup>X1</sup>46 Hearing and determination of appeals under section 45.

- (1) It shall be the duty of the president of the [<sup>F11</sup>valuation tribunal] to whose clerk a notice of objection is transmitted in pursuance of section 45 above to arrange for the appeal to which the notice relates to be heard and determined.
- (2) Subsections (5) and (6) of section 88 of the 1967 Act shall apply—
- (a) to the constitution of the tribunal to hear and determine an appeal against a determination under [<sup>F12</sup>regulations under section 41A above or a determination under] section 42 or 43 above; and
  - (b) to the rehearing of such an appeal in case of such a failure to agree as is mentioned in subsection (6) of section 88 of that Act.
- (3) On the hearing of an appeal to a [<sup>F11</sup>valuation tribunal] against a determination under [<sup>F13</sup>regulations under section 41A above or a determination under] section 42 or 43 above 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 occupier of any land to which the determination relates; and
  - (c) the drainage board by which the determination was made,

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shall be entitled to appear and be heard as parties to the appeal and to call witnesses and to examine any witness before the tribunal.

- (4) On an appeal to a [<sup>F11</sup>valuation tribunal] against a determination under [<sup>F14</sup>regulations under section 41A above or a determination under] section 42 or 43 above, the tribunal—
- (a) shall sit in public, unless the tribunal otherwise orders, on being satisfied, on the application of a party to the appeal, that the interests of that party would be prejudicially affected; and
  - (b) shall have power to administer oaths and to take evidence on oath;
- but, subject to that and to the <sup>M2</sup>Drainage Rates (Appeals) Regulations 1970, the procedure of such a tribunal in relation to such an appeal shall be such as the tribunal may determine.
- (5) The tribunal which is convened under this section to determine an appeal against a determination under [<sup>F15</sup>regulations under section 41A above or a determination under] section 42 or 43 above shall, after hearing the persons mentioned in subsection (3) above or such of them as desire to be heard, do one of the following—
- (a) quash the determination to which the appeal relates; or
  - (b) alter the determination in such manner as the tribunal thinks just; or
  - (c) dismiss the appeal.
- (6) Section 77 of the 1967 Act (which provides for appeals from [<sup>F16</sup>valuation tribunals] to the [<sup>F17</sup>Upper Tribunal]) shall have effect in relation to a decision of a [<sup>F18</sup>valuation tribunal] on an appeal against a determination under [<sup>F19</sup>regulations under section 41A above or a determination under] section 42 or 43 above as if—
- (a) for the reference to section 76 of that Act there were substituted a reference to the preceding provisions of this section; and
  - (b) the words from “and the valuation officer” onwards were omitted.
- (7) Where a determination under [<sup>F20</sup>regulations under section 41A above or a determination under] section 42 or 43 above of the amount of the annual value of any property is quashed or altered on appeal or is cancelled in accordance with section 45 above, then (except in so far as the parties agree otherwise)—
- (a) that amount of the annual value shall be recalculated accordingly; and
  - (b) any sum overpaid shall be repaid or allowed and any sum underpaid may be recovered as if it were arrears of drainage rates.
- (8) Where a determination under [<sup>F21</sup>regulations under section 41A above or a determination under] section 42 or 43 above which has been quashed is subsequently restored on appeal—
- (a) 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
  - (b) any sum overpaid shall be repaid or allowed and any sum underpaid may be recovered as if it were arrears of drainage rates.
- (9) In this section “the 1967 Act” means the <sup>M3</sup>General Rate Act 1967.

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### Editorial Information

- X1** 1967 c. 9 which is referred to in s. 46(2)(6) was repealed with savings by [Local Government Finance Act 1988 \(c. 41\)](#), ss. 117(1)(8), 149, **Sch. 13**, Pt. I. and is not available on the SLDB.

### Textual Amendments

- F11** Words in s. 46(1)(3)(4) substituted (6.3.1992) by [Local Government Finance Act 1992 \(c. 14\)](#), s. 117(1), **Sch. 13 para. 100(1)** (with s. 118(1)(2)(4))
- F12** Words in s. 46(2)(a) inserted (29.9.2022 for specified purposes) by [Environment Act 2021 \(c. 30\)](#), **ss. 96(7)**, 147(3)(4) (with s. 144); S.I. 2022/988, reg. 2(b)
- F13** Words in s. 46(3) inserted (29.9.2022 for specified purposes) by [Environment Act 2021 \(c. 30\)](#), **ss. 96(7)**, 147(3)(4) (with s. 144); S.I. 2022/988, reg. 2(b)
- F14** Words in s. 46(4) inserted (29.9.2022 for specified purposes) by [Environment Act 2021 \(c. 30\)](#), **ss. 96(7)**, 147(3)(4) (with s. 144); S.I. 2022/988, reg. 2(b)
- F15** Words in s. 46(5) inserted (29.9.2022 for specified purposes) by [Environment Act 2021 \(c. 30\)](#), **ss. 96(7)**, 147(3)(4) (with s. 144); S.I. 2022/988, reg. 2(b)
- F16** Words in s. 46(6) substituted (6.3.1992) by [Local Government Finance Act 1992 \(c. 14\)](#), s. 117(1), **Sch. 13 para. 100(2)(a)** (with s. 118(1)(2)(4))
- F17** Words in s. 46(6) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, **Sch. 1 para. 241** (with Sch. 5)
- F18** Words in s. 46(6) substituted (6.3.1992) by [Local Government Finance Act 1992 \(c. 14\)](#), s. 117(1), **Sch. 13 para. 100(2)(b)** (with s. 118(1)(2)(4))
- F19** Words in s. 46(6) inserted (29.9.2022 for specified purposes) by [Environment Act 2021 \(c. 30\)](#), **ss. 96(7)**, 147(3)(4) (with s. 144); S.I. 2022/988, reg. 2(b)
- F20** Words in s. 46(7) inserted (29.9.2022 for specified purposes) by [Environment Act 2021 \(c. 30\)](#), **ss. 96(7)**, 147(3)(4) (with s. 144); S.I. 2022/988, reg. 2(b)
- F21** Words in s. 46(8) inserted (29.9.2022 for specified purposes) by [Environment Act 2021 \(c. 30\)](#), **ss. 96(7)**, 147(3)(4) (with s. 144); S.I. 2022/988, reg. 2(b)

### Marginal Citations

- M2** [S.I. 1970/1152](#).
- M3** 1967 c. 9.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 37(5A)-(5D) inserted by [2016 anaw 3 s. 83\(2\)\(b\)](#)
- s. 37(5A) substituted in earlier affecting provision [2016 anaw 3, s. 83\(2\)\(b\)](#) by [2021 c. 30 s. 95\(2\)\(b\)\(i\)](#)
- s. 37(5B)(5C) words substituted in earlier affecting provision [2016 anaw 3, s. 83\(2\)\(b\)](#) by [2021 c. 30 s. 95\(2\)\(b\)\(ii\)](#)
- s. 37(5D)(5E) substituted in earlier affecting provision [2016 anaw 3, s. 83\(2\)\(b\)](#) by [2021 c. 30 s. 95\(2\)\(b\)\(ii\)](#)