

1990 No. 214

RATING AND VALUATION

The Drainage Charges Regulations 1990

<i>Made</i>	- - - -	<i>12th February 1990</i>
<i>Laid before Parliament</i>		<i>13th February 1990</i>
<i>Coming into force</i>	-	<i>14th February 1990</i>

The Secretary of State for the Environment as respects England and the Secretary of State for Wales as respects Wales, in exercise of the powers conferred on them by section 149(1) and (2) of the Local Government and Housing Act 1989(a), and of all other powers enabling them in that behalf, hereby make the following Regulations:-

Title and commencement

1. These Regulations may be cited as the Drainage Charges Regulations 1990 and shall come into force on 14th February 1990.

Interpretation

2. In these Regulations, "the principal Act" means the Land Drainage Act 1976(b) and, unless the context otherwise requires-

"the Authority" means the National Rivers Authority established by section 1 of the Water Act 1989(c);

"charging authority" has the meaning provided by section 144(1) of the 1988 Act;

"district" means a local flood defence district which is treated as such by virtue of section 139(2) of the Water Act 1989 or by virtue of section 89(2) of the principal Act, or is created by a scheme made in accordance with section 4 of the principal Act(d);

"drainage charge" means a general drainage charge, or a special drainage charge raised under a scheme made under section 50 of the principal Act(e);

"financial year" means a period of 12 months beginning with 1st April;

"general drainage charge" means a general drainage charge raised under section 48(1) of the principal Act(f);

"the 1988 Act" means the Local Government Finance Act 1988(g).

Amount of general drainage charge

3.—(1) For the purposes of ascertaining, under subsection (1) of section 49 of the

(a) 1989 c.42.

(b) 1976 c.70.

(c) 1989 c.15.

(d) Section 89(2) was amended by the Water Act 1989, Schedule 15, paragraphs 1(1) and 30(2); section 4 was amended by paragraphs 1(1) and 2 of Schedule 15, and by Schedule 27, to that Act.

(e) Section 50 was amended by paragraphs 1(1) and 22 of Schedule 15, and by Schedule 27, to the Water Act 1989.

(f) Section 48(1) was amended by the Land Drainage Act 1976 (Amendment) Regulations 1978 (S.I. 1978/319) and by the Water Act 1989, Schedule 15, paragraph 1(1).

(g) 1988 c.41.

principal Act(a), the amount per hectare of a general drainage charge for any time after 31st March 1990, the quotient referred to in paragraph (b) of that subsection shall cease to be calculated under paragraph (a) of that subsection but shall instead be calculated in accordance with the following provisions of this regulation.

(2) The said quotient shall be determined by the application of the following formula:

$$\frac{A}{B} \times \frac{D}{E}$$

C

where—

A means the aggregate amount demanded by the precepts issued by the Authority in respect of the district under section 46(3) of the principal Act in respect of the financial year beginning in 1989;

B means the aggregate amount of the estimated penny rate products on the basis of which the amount A was apportioned in pursuance of section 46(1) of the principal Act in respect of that financial year;

C means the amount ascertained by dividing the amount A by the number of the relevant population of the district for the financial year beginning in 1990;

D means the aggregate amount of the levies issued by the Authority in respect of the district under the National Rivers Authority (Levies) Regulations 1990(b) for the financial year in respect of which the drainage charge is raised;

E means the relevant population of the district for the financial year in respect of which the drainage charge is raised.

(3) For the purposes of this regulation, the relevant population of a district means the relevant population of each charging authority's area or (as the case may be) the part of that area which falls within the district, and for a financial year—

(a) in relation to the area of an English charging authority, is the relevant population of the area for the year, calculated by the Secretary of State under paragraph 4 of Schedule 12A to the 1988 Act(e);

(b) in relation to the area of a Welsh charging authority, is the relevant population of the area for the year, calculated in accordance with the rules for the time being effective (as regards the year) under regulations made under paragraph 5(1) of the said Schedule 12A;

(c) for part of the area of a charging authority, is the relevant population of that part for the year, calculated in accordance with the rules for the time being effective (as regards the year) under regulations made under paragraph 6(2) of the said Schedule 12A.

(4) Regulations referred to in sub-paragraphs (b) and (c) of the preceding paragraph shall have effect for the purposes of this regulation as they have effect for the purposes of section 69 of the 1988 Act(d).

4.—(1) For the purposes of any order made under section 49(1) of the principal Act and having effect after 31st March 1990, the reference in section 49(2) of that Act to the number specified in such an order shall be taken to be a reference to such number as (apart from any adjustment made to it to take account of rough grazing land) the Minister considers will secure, so far as reasonably practicable, that the aggregate amount produced by any general drainage charge levied by reference to a quotient determined under regulation 3(2) above will be equal to the aggregate amount which, if the chargeable land in the district had been liable to be rated for the financial year beginning in 1989, would have been produced by a rate levied on that land at an amount in the pound (of rateable value) equal to that quotient multiplied by 1p.

(a) Section 49(1) was amended by the Land Drainage Act 1976 (Amendment) Regulations 1978 and by the Water Act 1989, Schedule 15, paragraph 1(1).

(b) S.I. 1990/118.

(c) Schedule 12A was inserted by the Local Government and Housing Act 1989, Schedule 5, paragraph 74.

(d) Section 69 was amended by the Local Government and Housing Act 1989, Schedule 5, paragraph 50.

(2) In this regulation, the expressions "chargeable land" and "rough grazing land" have the meanings respectively provided by section 89(1) of the principal Act(a), and the expression "the Minister" has the meaning provided by section 116(1) of that Act(b).

Recovery of drainage charges

5. Arrears of any drainage charge raised in respect of any time after 31st March 1990 may be recovered by the Authority in the same manner in which arrears of a non-domestic rate may, under the 1988 Act, be recovered by a charging authority.

12th February 1990

Chris Patten
Secretary of State for the Environment

12th February 1990

Peter Walker
Secretary of State for Wales

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the method of ascertaining, under section 49 of the Land Drainage Act 1976 ("the 1976 Act"), the amount per hectare of a general drainage charge raised after 31st March 1990 by the National Rivers Authority ("the Authority") in respect of a local flood defence district under section 48 of the 1976 Act.

The Regulations provide that the quotient to be calculated under section 49(1) of the 1976 Act shall be determined by reference to a prescribed factor instead of by reference to precepts issued, and estimated penny rate products determined, under section 46 of that Act (regulation 3(1)). The factor is expressed in terms of a formula (regulation 3(2)), which varies the quotient calculated in respect of the financial year 1989/90 by reference to the amount of levies issued by the Authority in respect of a local flood defence district and the relevant population of the district in the financial year for which the drainage charge is raised. "Relevant population" is defined in regulation 3(3).

The Regulations provide that a number specified by order under section 49(1) of the 1976 Act is to be determined by reference (inter alia) to a penny rate product calculated as if the land subject to a general drainage charge were liable to be rated for the financial year 1989/90 (regulation 4).

The Regulations also provide for the recovery of arrears of general drainage charges and special drainage charges (regulation 5).

(a) Section 89(1) was amended by paragraph 30(1) of Schedule 15, and by Schedule 27, to the Water Act 1989.

(b) The definition of the "the Minister" is to be read subject to paragraph 1(2) of Schedule 15 to the Water Act 1989.