



Land Drainage Act 1976

1976 CHAPTER 70

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
 - (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

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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

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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 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)

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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

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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,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.

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(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 Levy 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.
- (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 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.

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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 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

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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.
- (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

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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

" 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

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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—
- (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

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- (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.
- (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

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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 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

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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.

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

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- (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—
 - (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

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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.

(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.

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- (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.