



Land Drainage Act 1961

1961 CHAPTER 48

PART I

DRAINAGE CHARGES

Provisions applicable to general and special drainage charges

5 Operation and incidence of drainage charges

- (1) A drainage charge shall be raised by a river board in writing under the common seal of the board and shall be deemed to be raised on the date on which a resolution is passed by the board authorising their seal to be affixed to the charge.
- (2) Every drainage charge shall be raised for a year ending on the thirty-first day of March and shall be raised in the year preceding that for which it is raised.
- (3) The Minister may by statutory instrument make regulations prescribing the forms of drainage charges and of demands for drainage charges.
- (4) The following provisions shall have effect with respect to the assessing of persons to a drainage charge in respect of any hereditament, 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 hereditament;
 - (b) the full amount of the charge may be recovered by the river board from any person who is the occupier of the hereditament at any time during the period for which the charge is raised ; but
 - (c) a person who is in occupation of the hereditament for part only of the period for which the charge is raised is liable to bear a proportionate part only of the charge and, if he has been required under paragraph (b) of this subsection to pay the full amount of the charge, he , may recover from any person who was in occupation of the hereditament for part of that period the amount which that other person is liable to bear.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (5) Where a hereditament is a chargeable hereditament 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 hereditament; and any amount overpaid shall be repaid.
- (6) Where the name of any person liable to be assessed to any drainage charge is not known to the river board, 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 river board shall not be required to demand or enforce payment of a drainage charge in any case where the amount thereof is in their opinion insufficient to justify the expense of collection.

6 Publication of drainage charges

- (1) A drainage charge shall not be valid unless notice thereof is given in accordance with subsection (2) of this section within ten 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 affixed in one or more public or conspicuous places in the river board area and published in one or more newspapers circulating in that area.

7 Ascertainment of annual value

- (1) The annual value of any land for the purposes of any drainage charge shall be its annual value as determined, within the meaning of section one of the Drainage Rates Act, 1958, for the purposes of income tax under Schedule A for the last year of assessment ending before the end of the period for which the charge is raised; and subsections (2), (3) and (5) of that section shall apply as if the charge were a drainage rate made at the date the charge was raised.
- (2) Where a chargeable hereditament consists of or includes part only of any land in respect of which an assessment to income tax is made under Schedule A, the river board shall ascertain its annual value by apportioning the annual value of the land.
- (3) The Minister may by statutory instrument make regulations prescribing principles to be observed in making apportionments under this section, and such regulations may require apportionments made by internal drainage boards for the purposes of drainage rates to be used for the purposes of this section and may require such boards to furnish to river boards such information as may be required to enable them to comply with the regulations. A statutory instrument containing regulations under this subsection shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament.
- (4) Where any land owned by or occupied for the purposes of the Crown is not assessed to income tax under Schedule A, subsections (1) and (2) of this section shall not apply to any hereditament which is or forms part of the land, but the annual value of such a hereditament for the purposes of any drainage charge shall be such as the river board may determine.
- (5) Where a river board have made an apportionment or determination under this section, they shall serve notice of their decision upon both the owner and the occupier of the hereditament, and the owner and the occupier, or either of them, may within twenty-

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

eight days after the service of the notice appeal against the decision to a magistrates' court.

- (6) A river board may from time to time require the surveyors of taxes for their area to furnish to them, on payment at such rate as the Treasury may determine, a copy of the annual values for the time being in force for the purposes of income tax under Schedule A for all or any of the properties in that area, and such particulars of notices of assessments, appeals against assessments and the determination of such appeals as may be required to enable the river board to give effect to subsections (1) and (2) of this section.
- (7) Notwithstanding anything in the foregoing provisions of this section, where the annual value of any land for the purposes of any drainage charge would include a fraction of a pound, the fraction shall, if greater than ten shillings, be treated as one pound and shall in any other case be disregarded.

8 Amendments as respects drainage charge

- (1) A river board may, as respects any drainage charge raised by them for the current or the preceding year, make such additions to, cancellations of or 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 the provisions of 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—
 - (i) any change in the occupation of any chargeable hereditament; or
 - (ii) any property previously occupied as a single hereditament becoming liable to be treated as two or more separate hereditaments; or
 - (iii) any property ceasing to be a chargeable hereditament.
- (2) An amendment may be made under subsection (2) of section one of the Drainage Rates Act, 1958, as applied by section seven of this Act, notwithstanding that the charge in respect of which it is made was raised for an earlier year than is mentioned in subsection (1) of this section, and such an amendment shall have effect from the beginning of the year for which that charge was raised.
- (3) A river board shall serve a notice of any amendment made by them in pursuance of this section or of the said subsection (2) on the owner and occupier of every hereditament affected thereby.

9 Appeal against demand for drainage charge

- (1) If any person is aggrieved by a demand for a drainage charge made on him as the occupier of a chargeable hereditament, or an amendment of such a demand, on any ground on which he could not have appealed to a magistrates' court under section seven of this Act, he may appeal to the court of quarter sessions for the county or borough in which the hereditament is situated.
- (2) Notice of appeal under this section, specifying the grounds of appeal, must be given within twenty-eight days after the date on which the demand was made or notice of the amendment was served on the appellant, as the case may be, to the court to which the

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

appeal is made and to the river board and also, if the appeal relates to a hereditament not in the occupation of the appellant, to the occupier of the hereditament.

- (3) On an appeal under this section the court shall, as it thinks just, either confirm the demand or annul or modify it.
- (4) Sections twelve, thirteen and fourteen of the Quarter Sessions Act, 1849 (which relate to arbitration) shall not apply in the case of an appeal under this section, but the appellant and the respondent to the appeal may agree in writing to refer the matter in dispute to the arbitration of such a person as may be agreed on between them, or as may in default of agreement be appointed by the Minister.

10 Recovery of drainage charges

- (1) Arrears of any drainage charge may be recovered by a river board in the same manner as if the charge were a rate within the meaning of the Distress for Rates Act, 1960.
- (2) A river board may by resolution authorise any member or officer of the river board, 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 seven or section nine of this Act.

11 Agreements for assessment to and recovery of drainage charge

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

12 Power of river boards to require information from owners of chargeable hereditaments

A river board may require the owner of any chargeable hereditament in their area to state in writing the name and address of any person known to him as being an occupier of that hereditament; and if the owner fails to comply with the requirement or knowingly makes a misstatement in respect of the information required, he shall be liable on summary conviction to a fine not exceeding five pounds.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

13 Unoccupied hereditaments

For the purposes of this Part of this Act the owner of any hereditament shall be deemed to be its occupier during any period during which it is unoccupied.

14 Assessment of drainage charge on owners

- (1) Notwithstanding anything in this Part of this Act, where the owner of a chargeable hereditament has made a request under section one hundred and ten of the Income Tax Act, 1952 (which provides for the assessment, at their option, of landlords to tax under Schedule A), any drainage charge raised for a period for which the request has effect shall, in the case of that hereditament, be assessed on the owner, and references in this Part of this Act (other than this section) to the occupier and to occupation shall be construed accordingly.
- (2) Where by virtue of this section a drainage charge is assessed on the owner and he pays the amount due before the expiration of one half of the period for which the charge is raised, the river board shall make to him an allowance equal to ten per cent. of the full amount of the charge.
- (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.
- (4) The occupier of a chargeable hereditament may by notice in writing served on the river board—
 - (a) elect that subsection (1) of this section shall not apply to the hereditament; and
 - (b) cancel any election previously made under this subsection ;and any such election or cancellation shall have effect in relation to any drainage charge raised for any period beginning after the date on which the notice is served.
- (5) A river board shall send a copy of any notice served on them under subsection (4) of this section to the owner of the hereditament to which the notice relates.
- (6) A river board may from time to time require the surveyors of taxes for their area to furnish to them, on payment at such rate as the Treasury may determine, such information as may be required to enable the board to give effect to this section.

15 Appointment of additional members of river boards

- (1) Where a river board have raised a drainage charge for any year the Minister may appoint not more than two additional members of the board from among persons appearing to him to represent occupiers of chargeable hereditaments in the river board area, and any member so appointed—
 - (a) shall be disregarded for the purposes of subsection (2) of section two of the River Boards Act, 1948 (which requires an order establishing a river board to provide for the appointment of not more than forty members in accordance with the provisions of that subsection); and
 - (b) shall (notwithstanding paragraph 3 of the Second Schedule to that Act) come into office on the first day of that year or the day of his appointment, whichever is the later, and hold office so long as the other members of the board will hold office, except that if, for any year beginning within that period, neither a general nor a special drainage charge is raised by the river board, he shall cease to hold office at the end of the preceding year.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (2) Before making an appointment under this section the Minister shall consult such associations and persons as appear to him to represent occupiers of chargeable hereditaments in the river board area.

16 Interpretation of Part I

In this Part of this Act—" agricultural buildings " has the meaning assigned to it by subsection (2) of section two of the Rating and Valuation (Apportionment) Act, 1928 ; " agricultural land" has the meaning assigned to it by section twenty-nine of the Land Drainage Act, 1930; " chargeable hereditament" has the meaning assigned to it by subsection (2) of section one of this Act; " drainage charge " means general drainage charge or special drainage charge.