



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

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.