



Land Drainage Act 1976

1976 CHAPTER 70

PART IV

RAISING OF REVENUE BY DRAINAGE AUTHORITIES

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.

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- (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 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.

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- (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 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

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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
 - (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.