

*Status: Point in time view as at 01/12/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Water Consolidation (Consequential Provisions) Act 1991, Part II. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 2

#### TRANSITIONAL AND TRANSITORY PROVISIONS AND SAVINGS

##### Modifications etc. (not altering text)

- C1** Sch. 2: power to modify conferred (1.12.1991) by [Water Industry Act 1991 \(c. 56, SIF 130\)](#), **ss. 74(6), 223(2)** (with s. 219(3))

#### PART II

##### TRANSITORY PROVISIONS IN RESPECT OF FLOOD DEFENCE AND LAND DRAINAGE

###### *Disqualification for membership of regional flood defence committee*

- 13 Where a person is disqualified for membership of a regional flood defence committee by virtue of having been adjudged bankrupt before the coming into force of the <sup>M1</sup>Insolvency Act 1986, the rules applicable apart from the repeals made by this Act, rather than paragraph 3(2) of Schedule 4 to the <sup>M2</sup>Water Resources Act 1991, shall apply for determining when that disqualification shall cease.

##### Marginal Citations

- M1** 1986 c. 45.  
**M2** 1991 c. 57.

###### *Savings in relation to local flood defence schemes*

- 14 (1) Where immediately before commencement—
- (a) any scheme or committee falls to be treated as a local flood defence scheme or a local flood defence committee by virtue of subsection (2) of section 139 of the 1989 Act; or
  - (b) any person holds office in accordance with subsection (4) of that section, that scheme or committee shall continue to be so treated or, as the case may be, that person shall continue so to hold office, notwithstanding the provisions of section 13 of, or Schedule 4 to, the Water Resources Act 1991 or the repeal of any enactment by this Act.
- (2) Where a person is disqualified for membership of a local flood defence committee by virtue of having been adjudged bankrupt before the coming into force of the Insolvency Act 1986, the rules applicable apart from the repeals made by this Act, rather than paragraph 3(2) of Schedule 4 to the Water Resources Act 1991, shall apply for determining when that disqualification shall cease.

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**Modifications etc. (not altering text)**

- C1** Sch. 2 para. 14 continued (1.4.1996) by 1995 c. 25, s. 120(2), **Sch. 23 Pt. II**, para. 23(1)(a) (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3(xxxi)**

*Drainage rates etc. for the financial years beginning before 1993*

- 15 (1) The repeals and revocations made by this Act shall not affect—
- (a) any provisions regulating, in relation to a drainage district or sub-district, the apportionment for any financial year beginning before 1993 between drainage rates and special levies of any expenses of an internal drainage board; or
  - (b) the powers of the drainage board for any internal drainage district to make a drainage rate, or to levy differential drainage rates, in respect of a financial year beginning before 1993;

and the applicable provisions of the 1976 Act and of the <sup>M3</sup>Internal Drainage Boards (Finance) Regulations 1990 shall continue, notwithstanding those repeals and revocations, to have effect (instead of any provisions of the Land Drainage Act 1991) for the purposes of, and in connection with, the making or levying of any such apportionment or rate and otherwise in relation to drainage rates made in respect of any such financial year.

- (2) Where—
- (a) any order has been made under section 68 of the 1976 Act or is made under that section by virtue of sub-paragraph (1) above or any other thing has been or is done under or for the purposes of any provision having effect by virtue of that sub-paragraph in relation to drainage rates made in respect of a financial year beginning before 1993; and
  - (b) apart from the repeals and revocations made by this Act, that order or thing would have effect both in relation to a rate so made and in relation to drainage rates made in respect of one or more financial years beginning in or after 1993,

that order or other thing shall have effect in relation to the drainage rates made in respect of the latter years as if it had been made or done under or for the purposes of the corresponding provision of Part IV of the Land Drainage Act 1991; and references in that Act, in any other enactment or in any subordinate legislation or document to orders made under that Act or to any other thing done under or for the purposes of that Act shall be construed accordingly.

- (3) References in paragraphs 17 to 19 below, in relation to any drainage rate made for a financial year beginning before 1993, to section 64 of the 1976 Act include references to that section as it has effect, subject to the provisions of the Internal Drainage Boards (Finance) Regulations 1990, by virtue of sub-paragraph (1) above.

**Marginal Citations**

- M3** S.I. 1990/72.

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*Restrictions on appointed members of internal drainage boards until 1993*

- 16 (1) In the period ending with 31st March 1993 the number of appointed members of an internal drainage board—
- (a) shall not exceed two-fifths of the number of all the members of the board; and
  - (b) subject to paragraph (a) above, shall be such that the number of appointed members bears, as nearly as possible, the same proportion to the maximum number of all the members of the board as the first of the following amounts bears to the second, that is to say—
    - (i) the aggregate amount raised by the board by means of drainage rates assessed on land other than agricultural land and agricultural buildings in respect of the financial year beginning in 1989 (including any amount payable to the board under an agreement made under section 81 of the 1976 Act); and
    - (ii) the total amount raised by that board by means of drainage rates in respect of that financial year.
- (2) If, in that period, more than one charging authority is entitled to appoint members of an internal drainage board under paragraph 5 of Schedule 1 to the <sup>M4</sup>Land Drainage Act 1991—
- (a) each such authority may appoint the number of members of the board calculated by multiplying the maximum number of appointed members by the relevant fraction for that authority and disregarding any fraction in the resulting product; and
  - (b) where in respect of the board—
    - (i) any such authority has appointed a member; or
    - (ii) the calculation referred to in paragraph (a) above results in respect of each such authority in a product of less than one,the charging authorities shall, unless they otherwise agree, jointly appoint the number of members of the board representing the difference between the maximum number of appointed members and the aggregate number of members that may be appointed by individual charging authorities or, as the case may be, constituting the maximum number of appointed members.
- (3) For the purposes of sub-paragraph (2) above the relevant fraction, in relation to a charging authority, is the fraction which bears the same proportion to one as the aggregate for that authority of the values specified in sub-paragraph (4) below bears to the sum of such aggregate values for all the local charging authorities whose areas lie within the board's district.
- (4) The values mentioned in sub-paragraph (3) above are, in relation to any internal drainage board, the following values for the area of every charging authority whose area lies wholly within the internal drainage district of that board and for such parts of the areas of other charging authorities as lie within that district, that is to say—
- (a) the rateable values shown, on 1st January 1990, for hereditaments in the valuation lists maintained under Part V of the <sup>M5</sup>General Rate Act 1967;
  - (b) the annual values of hereditaments, other than agricultural land and agricultural buildings shown on 1st January 1990 in the register maintained by the board by virtue of the <sup>M6</sup>Registers of Drainage Boards Regulations 1968.

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(5) In this paragraph—

“agricultural buildings” has the meaning provided by paragraphs 2 to 8 of Schedule 5 to the <sup>M7</sup>Local Government Finance Act 1988;

“agricultural land” has the meaning provided by paragraphs 2 and 4 to 8 of that Schedule;

“appointed members”, in relation to an internal drainage board, means members of the board appointed by one or more charging authorities under Part II of Schedule 1 to the Land Drainage Act 1991 or, at a time before commencement, under the corresponding provisions of the <sup>M8</sup>Internal Drainage Boards (Finance) Regulations 1990;

“charging authority” has the same meaning as in the Land Drainage Act 1991.

**Marginal Citations**

**M4** 1991 c. 59.

**M5** 1967 c. 9.

**M6** S.I. 1968/1672.

**M7** 1988 c. 41.

**M8** S.I. 1990/72.

*Qualification of electors of members of internal drainage boards—pre 1993 rates*

- 17 (1) Paragraph 2 of Schedule 1 to the Land Drainage Act 1991 (persons entitled to vote in elections of internal drainage board members) shall have effect until the beginning of the financial year beginning in 1993 as if—
- (a) in sub-paragraph (1), for the reference to occupying land on which a drainage rate has been levied there were substituted a reference to owning or occupying such land; and
  - (b) sub-paragraph (2) prevented a person from being entitled to be an elector in respect of his ownership of any land if any amount in respect of an owner’s drainage rate levied on that land remained unpaid for more than a month at the date of the election.
- (2) In paragraph 3(1) of that Schedule, a reference to the assessable value of any land, in relation to a relevant date before 1st April 1993, is a reference to the annual value on which any such drainage rate would be assessable in accordance with section 64 of the 1976 Act.
- (3) In this paragraph “the relevant date” has the same meaning as in paragraph 3 of Schedule 1 to that Act of 1991.

*Qualification for election to internal drainage board—pre 1993 rates*

- 18 (1) Paragraph 4 of Schedule 1 to the <sup>M9</sup>Land Drainage Act 1991, shall have effect until the beginning of the financial year beginning in 1993, as if—
- (a) in paragraphs (a) and (d) of sub-paragraph (1), the requirement for the purposes of those paragraphs that a person who is the owner of land such as is mentioned in those paragraphs should also be its occupier were omitted; and

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- (b) in paragraph (c) of that sub-paragraph, the reference to the occupier of any such land as is mentioned in that paragraph were a reference to a person who is the owner or the occupier of any such land.
- (2) Subject to sub-paragraph (3) below, a person shall not, by virtue of paragraph 4(1)(a), (c) or (d) of Schedule 1 to the Land Drainage Act 1991 and sub-paragraph (1) above, be qualified for election as being the owner of any land or a person nominated by the owner of any land if at the date of the election any amount demanded in respect of any owner's drainage rate levied in respect of that land remains unpaid.
- (3) Sub-paragraph (2) above shall not apply if—
- (a) the date of the election falls less than 6 months after the beginning of the period for which the unpaid rate was made; or
- (b) the land was occupied, when the amount was demanded, by a person who, as between the owner and the occupier, was liable to pay the owner's drainage rate.
- (4) In paragraph 4(1) of Schedule 1 to the Land Drainage Act 1991, a reference to the assessable value of land is, in relation to a relevant date before 1st April 1993, a reference to the annual value on which any such a drainage rate would be assessable in accordance with section 64 of the 1976 Act.
- (5) In this paragraph "the relevant date" has the same meaning as in paragraph 4 of Schedule 1 to the Land Drainage Act 1991.

**Marginal Citations**

M9 1991 c. 59.

*Qualification for making certain applications—pre-1993 rates*

- 19 (1) Subsections (2) and (3) of section 72 of the Land Drainage Act 1991 (qualification for making certain applications) shall have effect in relation to qualification by reference to a drainage rate made in respect of a financial year beginning before 1993, as if a reference in those subsections to the occupiers of any land included a reference to the owners of the land.
- (2) In paragraph (b)(iii) of subsection (2) of that section, a reference to the assessable value of land is, where the rate referred to in that paragraph was made for a year beginning before 1993, a reference to the annual value on which any such drainage rate would be assessable in accordance with section 64 of the 1976 Act.

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