

1970 No. 1152

LAND DRAINAGE

The Drainage Rates (Appeals) Regulations 1970

<i>Made</i>	- - -	<i>3rd August 1970</i>
<i>Laid before Parliament</i>		<i>10th August 1970</i>
<i>Coming into Operation</i>		<i>11th August 1970</i>

ARRANGEMENT OF REGULATIONS

PRELIMINARY

1. Citation and commencement.
2. Interpretation.

JURISDICTION

3. General provisions as to jurisdiction.
4. Hereditaments assessable on basis of annual value.
5. Hereditaments occupied for purposes of extensive undertakings.
6. Hereditament comprising one rating unit.
7. Hereditaments containing contiguous rating units.
8. Hereditaments not otherwise provided for.

PROCEDURE

9. Notice of hearing.
10. Representation.
11. Hearing.
12. Non-appearance.
13. Adjournment and separate hearings.
14. Withdrawal of parties etc.
15. Decision.
16. Non-compliance with procedural regulations.

The Minister of Agriculture, Fisheries and Food, in exercise of the powers conferred on him by sections 32(5) and 34(1) of the Agriculture (Miscellaneous Provisions) Act 1968(a) and section 76(2) of the General Rate Act 1967(b), as applied by sections 33(2) and 34(1) of the said Act of 1968, and of all other

(a) 1968 c. 34.

(b) 1967 c. 9.

powers enabling him in that behalf, and after consultation with the Council on Tribunals, hereby makes the following regulations :—

PRELIMINARY

Citation and commencement

1. These regulations may be cited as the Drainage Rates (Appeals) Regulations 1970 and shall come into operation on 11th August 1970.

Interpretation

2.—(1) Except in so far as the context otherwise requires—

(a) any reference in these regulations to a regulation bearing a number is a reference to the regulation bearing that number in these regulations ;
and

(b) any reference in a regulation to a paragraph bearing a number is a reference to the paragraph bearing that number in that regulation.

(2) In these regulations the following expressions have the meanings hereby assigned to them respectively, that is to say :—

“the Act” means the Agriculture (Miscellaneous Provisions) Act 1968 ;

“the Act of 1930” means the Land Drainage Act 1930(a) ;

“the Act of 1967” means the General Rate Act 1967 ;

“appeal” means an appeal against a determination made by a drainage board under section 30 or section 31 of the Act or a decision of a drainage board under section 29(2) of the Act of 1930, and in relation to an appeal—

“appellant” means the person whose notice of objection to the determination or decision results in the hearing of the appeal ;

“the court” means the local valuation court convened, or (where the context so requires) to be convened, under section 33(1) of the Act to hear and determine the appeal ;

“the drainage board” means the drainage board whose determination or decision is the subject of the appeal ;

“the drainage district” means the district for which such board is the drainage board ;

“party” means a person who is entitled to appear and be heard as a party and who appears at the hearing whether in person or in other manner permitted by these regulations ; and

“the chairman” means the person acting as chairman of the court ;

“divided hereditament” means a hereditament different parts of which are situated in different panel areas ;

“drainage board” has the same meaning as in the Act of 1930 ;

“hereditament” means a hereditament for the purposes of drainage rates ;

“the Minister” means the Minister of Agriculture, Fisheries and Food ;

“panel” means a local valuation panel constituted in pursuance of the Act of 1967 ;

“panel area” means an area for which a panel is constituted under a scheme in force for the purposes of section 88 of the Act of 1967 ;

(a) 1930 c. 44.

“prescribed panel” has the meaning assigned to it by regulation 3 ;

“rating unit” means a hereditament for the purposes of general rates ;

“relevant panel area”, in relation to a divided hereditament, means a panel area in which a part of the hereditament is situated ;

“undivided hereditament” means a hereditament the whole of which is situated in one panel area ; and

“valuation list” and “valuation officer” have the meanings assigned to them respectively by section 115(1) of the Act of 1967.

(3) The Interpretation Act 1889(a) applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

JURISDICTION

General provisions as to jurisdiction

3.—(1) The panel to whose clerk a notice of objection to a determination made by a drainage board under section 30 or section 31 of the Act (together with a note of such determination) or a notice of objection to a decision of a drainage board under section 29(2) of the Act of 1930 is required to be transmitted is in these regulations referred to as “the prescribed panel”, whether the hereditament to which the determination or decision relates is a divided or an undivided hereditament.

(2) Where the hereditament to which the determination or decision relates is a divided hereditament, the prescribed panel shall be determined in accordance with the following five regulations.

Hereditaments assessable on basis of annual value

4. Where a divided hereditament, not being a hereditament to which regulation 5 applies, consists of land which falls to be assessed to drainage rates only on the basis of annual value, the prescribed panel shall be the panel for the panel area in which is situated that portion of the hereditament which has a greater area than the portion situated in any other panel area.

Hereditaments occupied for purposes of extensive undertakings

5.—(1) This regulation applies where a divided hereditament consists of or includes any land to which paragraph (2) applies.

(2) This paragraph applies to land which is occupied—

(a) for the purposes of the Post Office ; or

(b) for the purposes of a statutory water undertaking ; or

(c) for the purposes of any of the following Boards, that is to say, the British Railways Board, the London Passenger Transport Board and the British Waterways Board ; or

(d) by the National Coal Board ; or

(e) by a Gas Board or the Gas Council or an Electricity Board.

(a) 1889 c. 63.

(3) In a case to which this regulation applies the prescribed panel shall be the panel for that one of the relevant panel areas which contains a greater portion of the drainage district in which the hereditament is comprised than the portion of that district comprised in any other relevant panel area.

(4) In this regulation—

“Electricity Board” has the meaning assigned to it by section 34(5) of the Act of 1967 ;

“Gas Board” means an Area Board within the meaning of the Gas Act 1948(a) ; and

“statutory water undertaking” has the meaning assigned to it by section 31 of the Act of 1967.

Hereditament comprising one rating unit

6. Where a divided hereditament, not being a hereditament to which regulation 5 applies, includes the whole or part of one, but not more than one, rating unit, the prescribed panel shall be the panel for the panel area in which the rating unit is situated.

Hereditaments containing contiguous rating units

7.—(1) The following provisions of this regulation shall apply where—

(a) a divided hereditament, not being a hereditament to which regulation 5 applies, consists of or includes two or more rating units, or parts of two or more rating units, or one or more rating units and parts of other rating units ; and

(b) all such rating units are within the same curtilage or contiguous and in the same occupation but (in either case) within not more than two panel areas.

(2) If in one relevant panel area there are situated rating units having in the aggregate and according to the valuation lists for the time being in force or, if there are no relevant entries in those valuation lists, according to entries included in proposals made by the valuation officer, a greater rateable value than the rating units situated within the other relevant panel area, the prescribed panel shall be the panel for the relevant panel area first mentioned in this paragraph.

(3) If there is an equality of the aggregate rateable values of the said rating units or, where there is no entry in the valuation list, an equality of the aggregate rateable values of the entries included in proposals made by the valuation officer, the prescribed panel shall be the panel for such one of the relevant panel areas as the Minister may determine.

Hereditaments not otherwise provided for

8. In the case of any divided hereditament for which the foregoing regulations do not provide the prescribed panel shall be the panel for such one of the relevant panel areas as the Minister may determine.

PROCEDURE

Notice of hearing

9.—(1) The clerk to the prescribed panel shall give not less than fourteen days' notice of the date, time and place fixed for the hearing of an appeal to the appellant and to the drainage board.

(2) The clerk to the prescribed panel shall not less than fourteen days before the date of such hearing advertise the date, time and place at which the court will sit to hear appeals by causing a notice of the same to be affixed to the office of the prescribed panel and also to be affixed to the office of the drainage board or posted in some conspicuous place or places within the drainage district, and such notice shall name a place where a list of the appeals to be heard by the court may be inspected.

Representation

10. On the hearing of an appeal the drainage board may appear by their clerk or other officer duly appointed for the purpose or by counsel or solicitor, and any other person entitled to appear may appear in person or by counsel or solicitor or by any other representative ; but no member of the prescribed panel shall be entitled to act in relation to the appeal as representative for any person entitled to appear.

Hearing

11.—(1) On the hearing of an appeal the appellant shall begin unless the court, having regard to the particular circumstances of the case and with the consent of the appellant, otherwise determines.

(2) Subject to paragraph (1) the parties to the appeal shall be heard in such order as the court may determine.

Non-appearance

12. If any person entitled to appear does not appear at the hearing of an appeal, the court may, on being satisfied that the requirements of regulation 9 have been duly complied with, proceed with the hearing on the assumption that he does not desire to be heard.

Adjournment and separate hearings

13. The court may postpone or adjourn the hearing of an appeal for such time and to such place and upon such terms, if any, as it thinks fit, or may order that different questions arising on the appeal be heard at such different times or in such order or at such different places as to the court may seem expedient.

Withdrawal of parties etc.

14. No person, being a party to an appeal or an employee or a member of a body which is such a party, or a person acting for such a party, or a person called as a witness during the hearing, shall be present while the court is considering its decision on the appeal.

Decision

15.—(1) Except where the court consists of only two persons, the decision of the majority of the court shall be the decision of the court.

(2) The decision of the court shall be in writing and signed by the chairman.

(3) The clerk to the prescribed panel shall send a copy of the decision certified by him to every party to the appeal and shall inform every such party of the right to appeal against the decision of the court.

Non-compliance with procedural regulations

16. Non-compliance with regulations 10 to 15 or any of them shall not render any proceeding in an appeal void unless the court shall so direct, but such proceeding may be set aside either wholly or in part as irregular, or amended, or otherwise dealt with in such manner and upon such terms as the court shall think fit.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 3rd August 1970.

(L.S.)

J. M. L. Prior,
Minister of Agriculture, Fisheries and Food.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations concern appeals against determinations by drainage boards of the values of properties for the purposes of drainage rates.

The owner or occupier of a property the subject of such a determination can serve on the drainage board a notice of objection to the determination; and, unless the determination is cancelled or the objection withdrawn, the notice must be sent to the clerk to a local valuation panel. Where the property lies wholly within the area of one panel, the notice must be sent to the clerk to that panel. These Regulations in the first place prescribe the panel to whose clerk a notice must be sent where the property lies within the area of more than one panel. In the second place they make provision as to the procedure to be followed by local valuation courts on the hearing of appeals against these determinations by drainage boards.

The Regulations apply to England and Wales.

SI 1970/1152
ISBN 0-11-001152-X

