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CHAPTER 48

An Act to enable river boards and catchment boards to raise drainage charges for the purpose of meeting part of their expenses; and to make further provision relating to the drainage of land and to drainage boards.
[27th July, 1961]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I

DRAINAGE CHARGES

General drainage charges

1.—(1) For the purpose of increasing revenue available to meet the expenses of drainage works a river board may raise, and levy on the occupiers of chargeable hereditaments in the river board area, a charge to be known as a general drainage charge. Power of river board to raise revenue by means of general drainage charges.

(2) For the purposes of this Part of this Act the chargeable hereditaments in any river board area shall be the agricultural land and agricultural buildings in so much of the area as does not fall within an internal drainage district.

(3) Every general drainage charge shall be at a uniform amount per pound on the annual value of each chargeable hereditament within the river board area, and that amount shall be an amount ascertained in accordance with regulations made under section two of this Act.

2.—(1) The Minister shall make regulations for ascertaining the amount per pound of annual value at which a river board may raise a general drainage charge for any year. Amount of general drainage charge.

(2) The regulations shall define that amount by stating the proportion which it is to bear to the river board's precept rate

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for that year, and in determining that proportion the Minister shall secure that the amount of the drainage charge will be such as appears to him to be as nearly as practicable equivalent to that precept rate, but may, so far as necessary to avoid small fractions of a penny, make different provisions for different precept rates.

(3) For the purposes of subsection (2) of this section, the precept rate of a river board for any year shall be taken to be the amount per pound (of rateable value) at which a rate levied for that year on so much of the areas of county boroughs and county districts wholly or partly within the river board area as is within that area would have produced the amount for which precepts are issued in that year by the river board under section ten of the River Boards Act, 1948.

(4) Regulations under this section shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament.

Special drainage charges in interests of agriculture

Designation of watercourses for drainage works in the interests of agriculture.

3.—(1) Where it appears to a river board that the interests of agriculture in the river board area or any part of it require the carrying out of drainage works in connection with any watercourses in the area, the river board may submit to the Minister for confirmation a scheme designating those watercourses, and any watercourses connected with them, for the purposes of this section and making provision for the raising, in accordance with this Part of this Act, of a charge, to be known as a special drainage charge, for the purpose of meeting the expenses of drainage works in connection with the designated watercourses and any expenses arising from such works.

(2) Any such scheme shall designate either the whole or any part of the river board area for the purposes of the special drainage charge, according as the carrying out of drainage works in connection with the designated watercourses would, in the opinion of the river board, be in the interest of agriculture in the whole of the river board area or only in the designated part.

(3) The watercourses designated in any such scheme shall, if the scheme is confirmed, be treated for the purposes of the Act of 1930 as part of the main river, and the Minister shall cause such variations to be made in any map prepared under section six of the River Boards Act, 1948, as may be necessary to show the designated watercourses as part of the main river and distinguish them from any other part of the main river; and any such variation shall for the purposes of subsection (4) of that section (which makes any map as approved or varied in accordance with the provisions of that section conclusive evidence as to what is the main river) be deemed to be a variation made in accordance with those provisions.

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(4) The power under subsection (3) of the said section six to vary a map approved under that section shall include power to vary it with respect to the watercourses shown on it as designated under this section.

(5) A scheme under this section may make provision for any of the matters referred to in sub-paragraphs (i) and (ii) of paragraph (a) of subsection (1) of section four of the Act of 1930 (as modified by paragraph 3 of the Third Schedule to the River Boards Act, 1948) and, subject to subsections (6) to (10) of this section, those Acts shall apply to such a scheme as they apply to a scheme under paragraph (b) of the said subsection (1).

(6) So much of the said paragraph 3 as enables the Minister to direct a river board to submit a scheme shall not apply to a scheme under this section.

(7) Before submitting a scheme under this section a river board shall consult organisations appearing to them to represent the interests of persons engaged in agriculture in the river board area or, as the case may be, the part of that area designated in the scheme.

(8) Where a river board submit a scheme under this section which designates any watercourse wholly or partly within an internal drainage district, then, unless the river board are the drainage board for that district, the scheme must be accompanied either by a statement that the drainage board for that district have consented to the designation or by a statement that they have not consented thereto and a further statement setting out the reasons why the watercourse should nevertheless be designated for the purposes of this section.

(9) The persons to whom copies of any scheme submitted under this section are to be sent as required by subsection (2) of section four of the Act of 1930 shall be the council of any county, county borough or county district wholly or partly included in the river board area or, as the case may be, any part of it designated in the scheme, the drainage board for any internal drainage district included in that area or part, and organisations appearing to the river board to represent the interests of persons engaged in agriculture in that area or part.

(10) The Minister shall not confirm a scheme under this section unless he is satisfied that, having regard to all the circumstances, and in particular to any contributions from local authorities and internal drainage boards which, if the scheme is confirmed, are likely to be available to the river board in addition to the special drainage charge authorised by the scheme, the scheme is reasonable and financially sound.

(11) For the purposes of this section—

(a) the expenses of any drainage works which may be necessary in consequence of other drainage works, and

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so much of any contribution made under subsection (3) of section twenty-one of the Act of 1930 as is fairly attributable to such expenses, shall be deemed to be expenses arising from those other drainage works; and

- (b) the expenses of any drainage works shall be taken to include a proper proportion of the cost of the officers and buildings and establishment of the authority carrying them out.

Provisions as to special drainage charge.

4.—(1) A special drainage charge shall be levied by a river board on the occupiers of chargeable hereditaments in the area of the river board or, if part only of that area is designated for the purposes of the charge in the scheme authorising it, in that part.

(2) The special drainage charge shall be at a uniform amount per pound on the annual value of each chargeable hereditament concerned and that amount shall not exceed—

- (a) an amount to be specified in the scheme as the maximum amount of the charge or such greater amount as may be authorised by an order made by the Minister on the application of the river board; nor
- (b) one shilling or such other amount as may be substituted for one shilling by an order made by the Minister by statutory instrument and approved by a resolution of the Commons House of Parliament, less, in either case, the amount (if any) per pound at which a general drainage charge is raised for the same year by the river board.

(3) Before making an order under paragraph (a) of subsection (2) of this section the Minister shall consult with such of the associations and persons concerned as he considers appropriate and shall cause a notice of his intention to make the order and of the time (which shall not be less than thirty days) within which objections to the proposed order may be made to him, to be published in such manner as he thinks best adapted for informing persons affected, shall, if he considers it necessary, afford such persons an opportunity of appearing before and being heard by a person appointed by him for the purpose, and shall consider the report of the person so appointed and any objections duly made.

(4) Any order under paragraph (a) or paragraph (b) of subsection (2) of this section may be varied or revoked by a subsequent order made thereunder.

Provisions applicable to general and special drainage charges

Operation and incidence of drainage charges.

5.—(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.

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(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.

(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.—(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.

Publication of drainage charges.

(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.—(1) The annual value of any land for the purposes of any drainage charge shall be its annual value as determined, within

Ascertainment of annual value.

PART I

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-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.

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8.—(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.—(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 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.

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(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.

Recovery of
drainage
charges.

10.—(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.

Agreements for
assessment to
and recovery
of drainage
charge.

11.—(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.

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

12. 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.

Unoccupied
hereditaments.

13. 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.—(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.—(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

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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.

(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.

Interpretation
of Part I.

16. 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.

PART II

MISCELLANEOUS PROVISIONS AS TO LAND DRAINAGE AND
DRAINAGE BOARDS*Amendments of Act of 1930*Contribution
by local
authority in
respect of
liabilities
transferred to
river board.

17. Where, under a scheme made by a river board under paragraph (a) of subsection (1) of section four of the Act of 1930, liabilities incurred in connection with drainage works are transferred from the council of a county, county borough or county district to the river board, the river board may require the council to make to them contributions towards the discharge of the liabilities; and if the amount of those contributions is not agreed between the board and the council it shall be determined by a single arbitrator agreed on by them or, in default of such agreement, by the Minister and the Minister of Housing and Local Government acting jointly.

Performance
by river board
of functions
of internal
drainage
board.

18.—(1) A scheme under paragraph (b) of subsection (1) of section four of the Act of 1930 which makes provision for the constitution of a new internal drainage district may provide for the river board submitting the scheme to be constituted the drainage board of that district and for conferring on it in relation to that district the powers and duties of an internal drainage board; and any expenses incurred by the river board as the drainage board of such a district shall be defrayed under and in accordance with the powers so conferred and not in any other manner.

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(2) Where, whether by virtue of subsection (1) of this section or of an order under section eleven of the Act of 1930, a river board are the drainage board of an internal drainage district and a petition for constituting an internal drainage board for that district is made to the river board by a sufficient number of qualified persons or by a qualified authority, the Minister may by order constitute an internal drainage board for that district and transfer to it the property and liabilities of the river board so far as vested in or incurred by them in their capacity as the drainage board for that district.

(3) The provisions of the Act of 1930 shall apply in relation to an order under subsection (2) of this section as they apply in relation to an order under section eleven of that Act.

(4) On receiving such a petition as is mentioned in subsection (2) of this section the river board shall send a copy of it to the Minister and they shall inform the Minister, within six months of the date on which the petition is received, whether in their opinion an order under that subsection ought to be made.

(5) Before making an order under subsection (2) of this section the Minister shall consider the views expressed by the river board in accordance with subsection (4) of this section.

(6) (a) The Minister shall by regulations provide for the payment by a river board, subject to such exceptions or conditions as may be specified in the regulations, of compensation to any officer or servant of that board who suffers loss of employment or loss or diminution of emoluments which is attributable to an order made under subsection (2) of this section or anything done in pursuance of any such order.

(b) Different regulations may be made under this subsection in relation to different classes of persons.

(c) Regulations made under this subsection may include provision as to the manner in which and the persons to whom any claim for compensation by virtue of this subsection is to be made, and for the determination of all questions arising under the regulations.

(d) Regulations made under this subsection shall be made by statutory instrument and shall be subject to annulment in pursuance of a resolution of either House of Parliament.

19.—(1) The power of a river board to maintain, improve or construct drainage works for the purpose of defence against sea works. water or tidal water shall be exercisable anywhere in the river board area, irrespective of whether they are works in connection with the main river; and for the purposes of this subsection the river board area shall be deemed to extend beyond the low-water mark.