

Circulation:

River Authorities
Catchment Boards
Internal Drainage Boards

AGRICULTURE (MISCELLANEOUS PROVISIONS) ACT 1968
DRAINAGE RATES

1. The Agriculture (Miscellaneous Provisions) Act 1968 received the Royal Assent on 3rd July 1968. Sections 30 - 36 contain important provisions affecting the valuation of hereditaments for drainage rates and the procedure for the hearing of appeals against determinations of value by drainage boards. The purpose of this circular is to draw the attention of internal drainage boards to the background to the new legislation and to the salient features of its new provisions.

The need for new legislation

2. The last general valuation for Schedule A purposes was in 1935. Many assessments of agricultural land and buildings are therefore seriously out of date and this has given rise to widespread anomalies. The position has been aggravated by the abolition of Schedule A tax which removed any possibility of existing Schedule A assessments being revised. The only complete solution would be to re-value all agricultural land and buildings in internal drainage districts. Unfortunately this is not possible in the immediate future because of the shortage of valuers and the pre-occupation of the Inland Revenue with other pressing work, but the new legislation will enable drainage boards to remedy the more serious anomalies.

Determinations of annual value

3. Under Section 30 a drainage board will be able to determine a revised annual value for any "relevant" land in their district if, in their opinion, this is necessary to secure a fair distribution of the burden of drainage rates over all land in their district. Relevant land is land assessed for drainage rates on the basis of its Schedule A value or of an annual value determined by the drainage board. This means primarily agricultural land. It could also include split urban hereditaments but these would more appropriately be dealt with under Section 31 (see para. 7 below). Boards may determine a revised value on their own initiative; and if the owner or occupier of any relevant land so requests in writing, the board must either determine a revised annual value for the land or determine that the request be refused.

4. Any new annual value determined under this Section will have to be in line with that of other properties in the drainage district and will therefore normally reflect a pre-war value. In determining the value the board should have regard to any changes in circumstances that have occurred since the last determination of the annual value of the land concerned or of any other

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relevant land and to any alterations of annual value that they may themselves have already made or propose to make under the Act.

5. Many hereditaments are likely to have experienced some change in circumstances since they were last valued, such as erection of additional buildings or improvements to existing buildings or, perhaps, the transformation of marsh into valuable arable land by drainage works. Drainage boards may not however consider it necessary to make adjustments in the annual values of these properties on their own initiative except where such changes of circumstances affecting certain holdings may have resulted in serious anomalies in the distribution of the drainage rate between one hereditament and another. When such anomalies have occurred the board could remedy them either by increasing or reducing any of the valuations concerned.

6. The Act only empowers drainage boards to make adjustments in values where in their opinion these are necessary to secure a fair distribution of the drainage rate burden in respect of all land in their district. This means that any revised valuation of agricultural land must be fair not only in relation to the valuations of other agricultural properties but also in relation to the assessments of urban properties for drainage rates, and that drainage boards should not reduce the valuation of agricultural properties in their district to an extent which would lead to an unjustifiable increase in the urban share of the total drainage rate.

Apportionment of rateable values

7. Section 31 of the Act makes more satisfactory arrangements for assessing the value for drainage rate purposes of properties assessed for general rates which are only partly within the drainage district, or which are split between differentially rated sub-districts. Formerly drainage rates on this type of property had to be assessed on a proportion of the old Schedule A value even though an up-to-date rateable value was available for the property as a whole. The changes that have been made will enable the drainage board, if they so wish, to determine that drainage rates shall be assessed instead on a specified proportion of the rateable value; and the board must make such a determination if so requested (in writing) by the owner or occupier of the part of the property concerned. The proportion of the general rate valuation determined in this way should be taken into account (where the hereditament lies only partly within the drainage district) in calculating the relative fraction under Section 23 of the Land Drainage Act 1961.

8. The local valuation officer of the Inland Revenue will, if requested, assist any drainage board who may need help in apportioning rateable values under this new provision, but it will be for the board themselves - not the valuation officer - to defend the valuation if there is an appeal. The local valuation officer will not be able to assist in apportioning the rateable value of public utilities i.e. gas, electricity and water undertakings which are assessed by means of statutory formulae. The valuation officer will not have the information necessary to enable him to make an apportionment in these cases. Drainage boards will therefore have to continue, as in the past, to determine these assessments in consultation with the undertakings concerned.

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Appeals against determinations by drainage boards

9. Drainage ratepayers will have a right of appeal to local valuation courts under Section 32 against determinations or apportionments made by the drainage board under Sections 30 and 31. These provisions have also been extended to determinations and apportionments of annual value under Section 29(2) of the Land Drainage Act 1930. Reference to local valuations courts is a new departure in drainage rating but these courts are undoubtedly a more appropriate forum for appeals than the Magistrates Courts which are concerned essentially with criminal matters. There will also be a further right of appeal to the Lands Tribunal against any decision of the local valuation court.

10. Drainage boards must serve notice of any new determination on the owner and occupier of the hereditament concerned and at the same time inform them of their rights of appeal. To exercise this right of appeal the appellant must make objection to the drainage board within 28 days of receiving notice of the determination, or within such further time as the drainage board may allow. Within 28 days of receiving an appeal the board may cancel the determination and replace it by a new one; in the case of a determination made under Section 30 (1) on their own initiative, they may either replace their original determination by a new one, or simply cancel it altogether. If a determination is not cancelled, and if the objection is not withdrawn, the notice of objection and a note of the board's determination must be transmitted to the clerk of the local valuation panel. It then constitutes an appeal to the local valuation court.

11. The Minister has power under Section 32 (5) to make regulations determining to which local valuation panel an appeal should be referred if it involves land within the area of more than one panel. Proposals for regulations are under consideration. On an appeal to a local valuation court the drainage board, the objector, and anyone else who owns or occupies land to which the determination relates will be entitled to appear and be heard and may call witnesses, including expert witnesses. It will be important to ensure that the local valuation court is fully appraised of all factors relevant to the determination which is under appeal.

Appeals to the Lands Tribunal

12. The right of appeal to the Lands Tribunal against any decision of the local valuation court may be exercised by the drainage board as well as by the owner or occupier concerned.

Appeals to Quarter Sessions

13. Quarter sessions will continue to hear appeals under Section 30 (1) of the Land Drainage Act 1930 on matters other than appeals against determinations or apportionments of value.

Adjustment of drainage rates following appeals

14. There is no obligation on the drainage board to suspend the operation of a determination, apportionment, or decision while an appeal is pending. Adjustments in the amount of the drainage rate can be made at each step of the appeals ladder if the Board wish to do so. In practice it is thought

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that boards may prefer to let matters stand, if an appeal has been lodged, until a decision has been reached.

Register of drainage hereditaments

15. Section 35 makes provision for drainage ratepayers to have access to a register showing the values of hereditaments in their district so that they can judge whether they are fairly assessed in comparison with their neighbours. Drainage boards will be required to prepare and maintain a register of drainage hereditaments and a map on which agricultural and certain other hereditaments can be identified. The register and map will have to be made available for inspection by the public at all reasonable times. The form which the register will take, and the information it and the map must contain, will be prescribed by the Minister in regulations which will be made as soon as possible after consultation with the Association of Drainage Authorities and other interested organisations. It is hoped that in the meantime boards will give ratepayers, and any other members of the public who may wish to obtain information, facilities for access to such records as may already be available.

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