

Changes to legislation: There are currently no known outstanding effects for the Water Act 1989, SCHEDULE 15. (See end of Document for details)

SCHEDULES

[^{F1}SCHEDULE 15

Section 136.

AMENDMENTS OF THE LAND DRAINAGE ACT 1976

Textual Amendments

- F1** Schs. 5, 15, 17 paras. 6(b), 7(2)(7)(a)(14)(a)?(f)(g)(i)(16) repealed (E. W.) by [Water Consolidation \(Consequential Provisions\) Act 1991 \(c.60, SIF 130\)](#), s. 3, **Sch. 3 Pt. I** (with s. 2, [Sch. 2 paras. 10, 14\(1\), 15](#))

General

- 1 (1) Subject to the following provisions of this Schedule and to any repeal made by this Act—
- (a) for any reference in the 1976 Act (however framed) to any one or more water authorities there shall be substituted a reference to the Authority;
 - (b) for any reference in that Act to a regional land drainage committee there shall be substituted a reference to a regional flood defence committee;
 - (c) for any reference in that Act to a local land drainage scheme there shall be substituted a reference to a local flood defence scheme;
 - (d) for any reference in that Act to a local land drainage committee there shall be substituted a reference to a local flood defence committee; and
 - (e) for any reference in that Act to a local land drainage district there shall be substituted a reference to a local flood defence district.
- (2) Subject as aforesaid, any function of a Minister of the Crown under any provision of the 1976 Act shall, in so far as immediately before the transfer date it is exercisable by different Ministers according to the water authority in relation to which it is exercised, be exercisable on and after that date concurrently by the Minister of Agriculture, Fisheries and Food and by the Secretary of State.
- (3) Any function which is a function of a water authority immediately before the transfer date by virtue of any scheme or order made under the 1976 Act shall, subject to the provisions of that Act, be a function of the Authority on and after that date.
- (4) In the 1976 Act, for the words “the main river”, wherever they occur (except where they occur in the expression “the main river map”), there shall be substituted the words “a main river”.

Modifications etc. (not altering text)

- C1** [Sch. 15 para. 1\(3\)](#): Functions of the National Rivers Authority transferred to the Environment Agency (1.4.1996) by [1995 c. 25, s. 2\(1\)\(a\)\(iii\)](#) (with ss. 115, 117); [S.I. 1996/186, art. 3](#)

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Section 4 of the 1976 Act

- 2 (1) In subsection (2)(a) of section 4 of the 1976 Act (local land drainage schemes and local land drainage committees), for the word “that” there shall be substituted the word “their”.
- (2) For subsection (5) of that section there shall be substituted the following subsection—
- “(5) A local flood defence scheme may define a local flood defence district—
- (a) by reference to the districts which were local land drainage districts immediately before the date which is the transfer date for the purposes of the Water Act 1989;
 - (b) by reference to the area of the regional flood defence committee in which that district is situated;
 - (c) by reference to a map;
- or partly by one of those means and partly by another or the others.”

Section 5 of the 1976 Act

- 3 For subsection (6) of section 5 of the 1976 Act (appointment of members and proceedings of local land drainage committees) there shall be substituted the following subsection—
- “(6) In appointing a person to be a member of a local flood defence committee, the regional flood defence committee shall have regard to the desirability of appointing a person who has experience of, and has shown capacity in, some matter relevant to the functions of the committee to which he is appointed.”

Section 9 of the 1976 Act

- 4 (1) Section 9 of the 1976 Act (main river maps) shall be amended as follows.
- (2) In subsection (1), for the words “of a water authority area relating to the water authority’s land drainage functions” there shall be substituted the words “relating to the area of a regional flood defence committee”.
- (3) In subsection (3), for the words “the main river map of the authority’s area” there shall be substituted the words “a main river map”.
- (4) For subsection (5) there shall be substituted the following subsection—
- “(5) Where—
- (a) the area of a regional flood defence committee is altered so as to affect any of the particulars shown on the main river map for that area, or
 - (b) the Minister confirms a scheme under section 50 below, or
 - (c) the National Rivers Authority applies to the Minister for the variation of a main river map, so far as it shows the extent to which any watercourse is to be treated as a main river or part of a main river,
- the Minister shall take such action as he considers appropriate either—

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- (i) by requiring the National Rivers Authority to send him any part of the main river map in question, altering it and sending it back to the National Rivers Authority; or
 - (ii) by preparing a new main river map and sending it to the National Rivers Authority, or
 - (iii) by notifying the National Rivers Authority that he does not intend to vary the main river map in question.”
- (5) For subsections (7) and (8) there shall be substituted the following subsections—
- “(7) The National Rivers Authority shall, subject to subsection (5) above, keep the main river map for the area of a regional flood defence committee at the principal office of the National Rivers Authority for that area, and shall provide reasonable facilities for inspecting that map and taking copies of and extracts from it.
- (8) Any local authority whose area is wholly or partly within the area of a regional flood defence committee shall, on application to the National Rivers Authority, be entitled to be furnished with copies of the main river map for the area of that committee on payment of such sum as the authority and the National Rivers Authority may agree.”

Section 17 of the 1976 Act

- 5 (1) Section 17 of the 1976 Act (general drainage powers) shall be amended as follows.
- (2) In subsection (1)—
- (a) for the words “acting within their area” there shall be substituted the words “(in the case of an internal drainage board, acting within their district)”; and
 - (b) in paragraph (c), for the words “of their area” there shall be substituted the words “of any land”.
- (3) For subsection (2) there shall be substituted the following subsection—
- “(2) Subsection (1) above shall not be taken as authorising the National Rivers Authority to do any work otherwise than in connection with a main river, save that the power of that Authority to maintain, improve or construct drainage works for the purpose of defence against sea water or tidal water shall be exercisable below the low-water mark and shall be exercisable (both above and below the low-water mark) irrespective of whether they are works in connection with a main river.”
- (4) For subsection (3) there shall be substituted the following subsection—
- “(3) The National Rivers Authority may construct all such works and do all such things in the sea or in any estuary as may, in its opinion, be necessary to secure an adequate outfall for a main river.”
- (5) In subsection (4)—
- (a) for the words “a drainage authority”, in both places where they occur, there shall be substituted the words “an internal drainage board”; and
 - (b) for the word “area”, in each place where it occurs, there shall be substituted the word “district”.
- (6) For subsection (7) there shall be substituted the following subsection—

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“(7) In this Act “drainage authority” means the National Rivers Authority or an internal drainage board.”

Section 21 of the 1976 Act

6 (1) In subsection (1) of section 21 of the 1976 Act (arrangements between drainage authorities), the words from “and which” onwards shall be omitted.

(2) For subsections (2) and (3) of that section there shall be substituted the following subsections—

“(2) Notwithstanding the provisions of section 17(2) above, the National Rivers Authority may, with the consent of an internal drainage board, execute and maintain in that board’s district any works which the board might execute or maintain, on such terms as to payment or otherwise as may be agreed between the board and the Authority, or may agree to contribute to the expense of the execution or maintenance of any works by any internal drainage board.

(3) An internal drainage board may, with the consent of an internal drainage board for any other district, execute and maintain in that other district any works which the first-mentioned board might execute or maintain within their own district, on such terms as to payment or otherwise as may be agreed between the boards, or may agree to contribute to the expense of the execution or maintenance of any works by the internal drainage board for any other district.

(4) Any expense incurred by an internal drainage board under subsection (3) above shall be defrayed as if the expense had been incurred in their own district.”

Section 22 of the 1976 Act

7 In section 22 of the 1976 Act (arrangements with other persons generally), for the words “whether within or outside their area” there shall be substituted the words “(in the case of an internal drainage board, whether within or outside their district)”.

Section 23 of the 1976 Act

8 In section 23(2) of the 1976 Act (arrangements with certain authorities for the carrying out of works etc.), for the words “their area” there shall be substituted the words “any land (being, in the case of an internal drainage board, land situated in their district)”.

Section 24 of the 1976 Act

9 (1) In subsection (2) of section 24 of the 1976 Act (enforcement of obligations to repair watercourses, bridges etc.)—

(a) for the words “the drainage authority in whose area” there shall be substituted the words “the National Rivers Authority or any internal drainage board in whose district”; and

(b) for the words “the authority” there shall be substituted the words “the Authority or board”.

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- (2) Subsection (4) of that section (watercourses in London) shall cease to have effect.

Section 26 of the 1976 Act

- 10 In section 26(11) of the 1976 Act (records to be kept of charges)—
- (a) for the words “the clerk of the water authority or” there shall be substituted the words “an authorised officer of the National Rivers Authority or of the”; and
 - (b) for the words “the said clerk” there shall be substituted the words “such an officer”.

Section 27 of the 1976 Act

- 11 In section 27(2) of the 1976 Act (power of Minister to make an order varying navigation rights), for the words “drainage authorities within whose areas” there shall be substituted the words “National Rivers Authority and every internal drainage board within whose district any of”.

Section 28 of the 1976 Act

- 12 (1) In subsection (1) of section 28 of the 1976 Act (obstructions in watercourses), for the words “the drainage authority” there shall be substituted the words “the National Rivers Authority or, in the case of works in the district of an internal drainage board, of that Authority or the board.”
- (2) After subsection (1) of that section there shall be inserted the following subsection—
- “(1A) A drainage authority may require the payment of an application fee by a person who applies to them for their consent under this section; and the amount of that fee shall be £50 or such other sum as may be specified by order made jointly by the Minister of Agriculture, Fisheries and Food and the Secretary of State.”
- (3) In subsection (2), for the words “receipt of the application” there shall be substituted the words “relevant day”.
- (4) After subsection (11), there shall be inserted the following subsection—
- “(11A) In this section “relevant day”, in relation to an application for a consent under this section, means whichever is the later of—
- (a) the day on which the application is made; and
 - (b) if at the time when the application is made an application fee is required to be paid, the day on which the liability to pay that fee is discharged.”
- (5) Subsection (12) of that section (watercourses in London) shall cease to have effect.

Section 29 of the 1976 Act

- 13 (1) In section 29 of the 1976 Act (structures in, over or under watercourses), after subsection (2) there shall be inserted the following subsection—
- “(2A) The National Rivers Authority may require the payment of an application fee by a person who applies to it for its consent under this section; and the

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amount of that fee shall be £50 or such other sum as may be specified by order made jointly by the Minister of Agriculture, Fisheries and Food and the Secretary of State.”

(2) In subsection (3) of that section, for paragraph (b) and the word “and” immediately preceding it there shall be substituted the following paragraphs—

“(b) any such consent shall, if neither given nor refused within 2 months after the relevant day, be deemed to have been given; and

(c) any such approval shall, if neither given nor refused within 2 months after application for approval is made, be deemed to have been given.”

(3) After subsection (8) there shall be inserted the following subsection—

“(9) In this section “relevant day”, in relation to an application for a consent under this section, means whichever is the later of—

(a) the day on which the application is made; and

(b) if at the time when the application is made an application fee is required to be paid, the day on which the liability to pay that fee is discharged.”

Section 32 of the 1976 Act

14 (1) For subsection (1) of section 32 of the 1976 Act (power of water authorities to provide flood warning systems) there shall be substituted the following subsection—

“(1) Without prejudice to its powers by virtue of Chapter VI of Part III and Part IV of the Water Act 1989, the National Rivers Authority shall have power—

(a) to provide and operate flood warning systems;

(b) to provide, install and maintain apparatus required for the purposes of such systems;

(c) to carry out any other engineering or building operations so required.”

(2) In subsection (4) of that section, for the words from the beginning to “authority’s area” there shall be substituted the words “The National Rivers Authority may exercise the powers conferred by subsection (1)(b) or (c) above in an area in Scotland as if its functions in relation to the areas of the regional flood defence committees whose areas are adjacent to Scotland were functions in relation to that area in Scotland and as if that area in Scotland were included in the areas of each of those committees, but”.

Section 34 of the 1976 Act

15 (1) For subsection (1) of section 34 of the 1976 Act (byelaws) there shall be substituted the following subsection—

“(1) Subject to the provisions of this Act—

(a) the National Rivers Authority may make such byelaws in relation to any particular locality or localities as it considers necessary for securing the efficient working of any drainage system, including the proper defence of any land against sea or tidal water; and

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- (b) an internal drainage board may make such byelaws as they consider necessary for securing the efficient working of the drainage system in their district.”
- (2) In subsection (3) of that section, at the end there shall be inserted the words “by an internal drainage board; and Schedule 24 to the Water Act 1989 has effect with respect to the making of such byelaws by the National Rivers Authority”.

Section 36 of the 1976 Act

- 16 In section 36(1) of the 1976 Act (power of water authorities to acquire accretions of land resulting from drainage works), for the words from “the water authority” to “compulsorily” there shall be substituted the words “the powers of the National Rivers Authority by virtue of the Water Act 1989 to acquire land by agreement or compulsorily for the purpose of carrying out any of its functions shall include power so to acquire”.

Section 37 of the 1976 Act

- 17 In section 37(1) of the 1976 Act (power of internal drainage boards to acquire land), for the word “area” there shall be substituted the word “district”.

Section 45 of the 1976 Act

- 18 In section 45(3) of the 1976 Act (definitions for the purposes of revenue raising provisions), in the definition of “relevant expenditure”, for the words from “of the expenses” to the end of the definition there shall be substituted the words “and of the expenses of the Authority’s research and related activities”.

Section 46 of the 1976 Act

- 19 In section 46(6) of the 1976 Act (aggregate amount for which precepts in respect of a local land drainage district may be issued in a case where a water authority borrows or proposes to borrow money under the 1973 Act), for the words “the Water Act 1973” there shall be substituted the words “the Water Act 1989”.

Section 48 of the 1976 Act

- 20 In section 48(2) of the 1976 Act (raising of general drainage charges in respect of any local land drainage district), for the words “for the authority’s area” there shall be substituted the words “for the area in which that district is situated”.

Section 49 of the 1976 Act

- 21 In section 49(3) of the 1976 Act (application of order relating to amount of general drainage charge), for the words from “water authority areas”, where they first occur, to “and there specified” there shall be substituted the words “local flood defence districts specified in the order”.

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Section 50 of the 1976 Act

- 22 (1) In subsection (1) of section 50 of the 1976 Act (special drainage charges in interests of agriculture), for the words “that area” there shall be substituted the words “the area of any regional flood defence committee”.
- (2) For subsection (2) of that section there shall be substituted the following subsection—
- “(2) Any such scheme shall designate for the purposes of the special drainage charge so much of the area of the regional flood defence committee as consists of land which, in the opinion of the National Rivers Authority, is agricultural land that would benefit from drainage works in connection with the designated watercourses.”

Section 51 of the 1976 Act

- 23 (1) In subsection (2) of section 51 of the 1976 Act (levying and amount of special drainage charge), for the words “authority’s regional land drainage committee” there shall be substituted the words “regional flood defence committee for the area which includes that land”.
- (2) For subsection (4) of that section there shall be substituted the following subsection—
- “(4) An order under subsection (2)(b) above may be made so as to apply—
- (a) to special drainage charges in general, or
- (b) to the special drainage charges proposed to be raised in respect of such areas of regional flood defence committees as may be specified in the order, or
- (c) to special drainage charges proposed to be raised in pursuance of one or more schemes made under section 50 above and so specified;
- and any such order applying to the charges proposed to be raised in respect of more than one area of a regional flood defence committee or authorised by more than one such scheme may make different provision for the charges in respect of different areas or, as the case may be, the charges authorised by the different schemes.”

Section 54 of the 1976 Act

- 24 (1) In subsection (3) of section 54 of the 1976 Act (arrangements for payment of drainage charges by owners), for the words from the beginning to “section” there shall be substituted the words “Where arrangements are made under this section it shall be the duty of the National Rivers Authority”.
- (2) In subsection (6) of that section, for the words from the beginning to “above” there shall be substituted the words “Where notice is given to the National Rivers Authority under subsection (5) above it shall be the duty of that Authority”.

Section 59 of the 1976 Act

- 25 (1) In subsection (1) of section 59 of the 1976 Act (specified authorities in relation to agreements for assessment to and recovery of drainage charges), the word “chargeable” shall be omitted.

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- (2) In subsection (2) of that section, for the words from “wholly” onwards there shall be substituted the words “and the drainage board of any internal drainage district; and the land referred to in subsection (1) above is, in relation to any such council, the chargeable land within the area of the council and, in relation to any drainage board, such land as may be specified in the agreement.”

Section 62 of the 1976 Act

- 26 Section 62 of the 1976 Act (power to make water charges option orders) shall cease to have effect.

Section 64 of the 1976 Act

- 27 In section 64(1) of the 1976 Act (assessment of drainage charges on the basis of annual value), for the words “the area” there shall be substituted the words “their district”.

Section 68 of the 1976 Act

- 28 (1) In each of subsections (1) and (4) of section 68 of the 1976 Act (power to make orders relating to differential drainage rates), for the words “the district” there shall be substituted the words “their district”.
- (2) In subsection (5) of that section, for the word “area” there shall be substituted the word “district”.

Section 88 of the 1976 Act

- 29 In section 88(1) of the 1976 Act (power of drainage authorities to levy navigation tolls)—
- (a) for the words “within a drainage authority area” there shall be substituted the words “in England and Wales or in so much of the territorial sea adjacent to England and Wales as is included in the area of a regional flood defence committee”; and
- (b) for the words “the drainage authority for the area” there shall be substituted the words “the National Rivers Authority or, in the case of waters within the district of an internal drainage board, that Authority or that board”.

Section 89 of the 1976 Act

- 30 (1) In subsection (1) of section 89 of the 1976 Act (interpretation of Part IV), in the definition of “chargeable land”, for the words “the area” there shall be substituted the words “the area of a regional flood defence committee”.
- (2) In subsection (2) of that section, for the words “a water authority area” there shall be substituted the words “the area of a regional flood defence committee”.

Section 90 of the 1976 Act

- 31 In paragraph (a) of section 90(6) of the 1976 Act (grants to water authorities for the acquisition of land and rights over land), for the words from “conferred” to the end of the paragraph there shall be substituted the words “of the National

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Rivers Authority by virtue of the Water Act 1989 to acquire land by agreement or compulsorily”.

Section 93 of the 1976 Act

- 32 In section 93(3) of the 1976 Act (notice of application for authority to execute drainage works to be given to persons including a drainage authority), for the words “any drainage authority having jurisdiction in any district or area” there shall be substituted the words “the National Rivers Authority and to the internal drainage board for any district”.

Section 94 of the 1976 Act

- 33 In section 94(3)(d) of the 1976 Act (compensation for loss attributable to a scheme under section 11 of the 1976 Act), for the words “such water authority as may be” there shall be substituted the words “the National Rivers Authority if it is”.

Section 100 of the 1976 Act

- 34 In section 100(1) of the 1976 Act (schemes for drainage of small areas), for the words “as it applies to a water authority” there shall be substituted the words “in relation to their area as it applies to the National Rivers Authority in relation to any such land as is mentioned in that section”.

Section 109 of the 1976 Act

- 35 (1) In subsection (2) of section 109 of the 1976 Act (regulations and orders), for the words “section 46” there shall be substituted the words “section 28(1A), 29(2A), 46”.
- (2) In subsection (3) of that section, after “27,” there shall be inserted “28(1A), 29(2A),”.

Section 110 of the 1976 Act

- 36 In section 110(1)(c) of the 1976 Act (apportionment of expenses of local authorities), for the words “water authority area” there shall be substituted the word “county”.

Section 112 of the 1976 Act

- 37 In section 112(2) of the 1976 Act (protection of certain undertakings), for paragraph (b) there shall be substituted the following paragraph—
- “(b) the undertakings of the National Rivers Authority and of any water undertaker or sewerage undertaker;”.

Section 116 of the 1976 Act

- 38 In section 116(1) of the 1976 Act (general interpretation)—
- (a) for the definition of “constituent council” there shall be substituted the following definition—
- ““constituent council”, in relation to a regional flood defence committee, has the meaning provided by section 137(10) of the

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Water Act 1989 and, in relation to a local flood defence committee, has the meaning provided by section 5(8) above;”;

and

- (b) for the definitions of “local land drainage committee”, “local land drainage district” and “local land drainage scheme” there shall be substituted the following definitions—

““local flood defence committee” has the meaning provided by section 139(1) of the Water Act 1989;

“local flood defence district” has the meaning (subject to section 89(2) above) provided by section 139(1) of the said Act of 1989;

“local flood defence scheme” has the meaning provided by section 139(1) of the said Act of 1989;”.

Schedule 1 to the 1976 Act

- 39 (1) Schedule 1 to the 1976 Act (members and proceedings of regional and local land drainage committees) shall be amended as follows.
- (2) In paragraph 5 (vacation of office upon the happening of certain events), for paragraph (a) of sub-paragraph (1) there shall be substituted the following paragraph—
- “(a) is adjudged bankrupt, is a person whose estate is sequestrated or makes a composition or arrangement with, or grants a trust deed for, his creditors; or”.
- (3) In paragraph 8 (disqualification for appointment as a member of a committee)—
- (a) for paragraph (b) of sub-paragraph (1) there shall be substituted the following paragraph—
- “(b) is a person who has been adjudged bankrupt, or whose estate has been sequestrated or who has made a composition or arrangement with, or granted a trust deed for, his creditors; or”;
- (b) after sub-paragraph (2) there shall be inserted the following sub-paragraph—
- “(2A) Where a person is disqualified under sub-paragraph (1) above by reason of having had his estate sequestrated, the disqualification shall cease—
- (a) unless the sequestration is recalled or reduced, on the person’s discharge under section 54 of the Bankruptcy (Scotland) Act 1985; and
- (b) if the sequestration is recalled or reduced, on the date of the recall or reduction.”
- (c) in sub-paragraph (3), after the words “arrangement with” there shall be inserted the words “or having granted a trust deed for” and after the word “arrangement”, in the second place where it occurs, there shall be inserted the words “or of the trust deed”.
- (4) In paragraph 10 (payments to members of committees of amounts determined by the appropriate Minister)—

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- (a) in sub-paragraph (1), for the words from “not being” to “committees” there shall be substituted the words “is a chairman of a regional flood defence committee or of a local flood defence committee”;
- (b) in sub-paragraph (2), for the words “the regional” there shall be substituted the words “a regional”;
- (c) in sub-paragraph (3), for the words from “not being” to “committees” there shall be substituted the words “is a member of a regional flood defence committee or of a local flood defence committee”; and
- (d) in sub-paragraph (4), for the definition of “the appropriate Minister” there shall be substituted the following definition—

““the appropriate Minister” means—

- (a) in relation to the regional flood defence committee for an area the whole or the greater part of which is in Wales and in relation to any local flood defence committee for any district comprised in the area of such a regional flood defence committee, the Secretary of State; and
- (b) in relation to any other regional flood defence committee or local flood defence committee, the Minister;”.

- (5) For paragraph 14 (proceedings) there shall be substituted the following paragraph—

“14 A regional flood defence committee or a local flood defence committee may, with the approval of the appropriate Minister (within the meaning of paragraph 10 above), make rules for regulating the proceedings of the committee; and nothing in section 136 of the Water Act 1989 shall entitle the National Rivers Authority to make any arrangements or give any directions for regulating the proceedings of any such committee.”

- (6) In paragraph 15 (disqualification for paid office of water authority), for the words from “water authority’s” onwards there shall be substituted the words “regional flood defence committee or a local flood defence committee, be disqualified from being appointed to any paid office by the National Rivers Authority or by any regional flood defence committee other than the office of chairman of a local flood defence committee.”

- (7) For paragraph 16 (interpretation) there shall be substituted the following paragraph—

“16 In this Schedule—

- (a) any reference to a member of a committee shall include a reference to the chairman of that committee; and
- (b) any reference to an officer of a regional or local flood defence committee shall be construed as a reference to an officer of the National Rivers Authority.”

Schedule 2 to the 1976 Act

- 40 (1) In paragraph (b) of the proviso to paragraph 3 of Schedule 2 to the 1976 Act (termination of office of members of a board), for the words “becomes bankrupt or makes a composition or arrangement with” there shall be substituted the words “is adjudged bankrupt, or his estate is sequestrated, or he makes a composition or arrangement with, or grants a trust deed for,”.

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- (2) In paragraph 6 of that Schedule (disqualification), after the word “with” there shall be inserted the words “or granted a trust deed for”.

Schedule 4 to the 1976 Act

- 41 In Schedule 4 to the 1976 Act (byelaws made by drainage authorities)—
- (a) in paragraphs 1 and 11, for the words “a drainage authority” there shall be substituted the words “an internal drainage board”; and
 - (b) in paragraphs 2 to 6, 8 to 10 and 11(a), for the word “authority”, in each place where it occurs, there shall be substituted the words “internal drainage board”.]

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