



# Water Resources Act 1991

## 1991 CHAPTER 57

### PART VI

#### FINANCIAL PROVISIONS IN RELATION TO THE [F1 AGENCY]

##### Textual Amendments

- F1** Word in the heading to Pt. VI substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

### CHAPTER I

#### GENERAL FINANCIAL PROVISIONS

**F2 117** .....

##### Textual Amendments

- F2** S. 117 repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), **Sch. 22 para. 149, Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

#### **118 Special duties with respect to flood defence revenue.**

- (1) Revenue raised by the [F3 Agency] as mentioned in subsection (2) below—
- (a) shall, except for any amount falling within subsection (3) below, be spent only in the carrying out of the [F3 Agency's] flood defence functions in or for the benefit of the local flood defence district in which it is raised; and
  - (b) shall be disregarded in determining the amount of any surplus for the purposes of [F4 section 44(4) of the 1995 Act].

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- (2) The revenue referred to in subsection (1) above is revenue raised by the [<sup>F3</sup>Agency] in a local flood defence district—
- (a) by virtue of any regulations under section 74 of the <sup>M1</sup>Local Government Finance Act 1988 (power to issue levies);
  - (b) by general drainage charges under sections 134 [<sup>F5</sup>and 135] below;
  - (c) by special drainage charges under sections 137 and 138 below; or
  - (d) by contributions required under section 139(1) below.
- (3) An amount falls within this subsection if it is an amount which the [<sup>F3</sup>Agency] considers it appropriate—
- (a) to set aside towards research or related activities or towards meeting the [<sup>F3</sup>Agency's] administrative expenses; or
  - (b) to be paid by way of contribution towards expenses incurred by the [Agency] or any regional flood defence committee under arrangements made for the purposes of section 106(1)(b) above.
- (4) Any amount specified in a resolution under section 58(1)(b) of the <sup>M2</sup>Land Drainage Act 1991 in relation to any local flood defence district (allocation of revenue in lieu of contributions) shall be treated for the purposes of this section as if it were revenue actually raised by contributions required under section 139(1) below.
- (5) For the purposes of this section, the following sums, that is to say—
- (a) any sums held by the [<sup>F3</sup>Agency] by virtue of any transfer of property, rights or liabilities from a water [<sup>F3</sup>agency] in accordance with a scheme under Schedule 2 to the <sup>M3</sup>Water Act 1989, in so far as those sums represent amounts which the water [<sup>F3</sup>Agency] was required by virtue of paragraph 31 of Schedule 3 to the <sup>M4</sup>Water Act 1973 to spend only in the discharge of their land drainage functions in or for the benefit of a particular local land drainage district; and
  - (b) any sums raised by the [<sup>F3</sup> Agency] in a flood defence district by virtue of a precept issued under section 46 of the <sup>M5</sup>Land Drainage Act 1976,
- shall be treated as revenue raised by the [<sup>F3</sup>Agency] as mentioned in subsection (2) above in the corresponding local flood defence district or, as the case may be, in that local flood defence district.
- (6) For the purposes of this section so much of the area of a regional flood defence committee as is an area in relation to which no local flood defence scheme is in force shall be treated as a single local flood defence district.

#### Textual Amendments

- F3** Words in s. 118 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F4** Words in s. 118(1)(b) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22**, para. 150(2) (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F5** Words in s. 118(2)(b) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22**, para. 150(3) (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

#### Marginal Citations

- M1** 1988 c. 41.  
**M2** 1991 c. 59.  
**M3** 1989 c. 15.

*Status: Point in time view as at 01/04/2004.*

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

**M4** 1973 c. 37.

**M5** 1976 c. 70.

#### **<sup>F6</sup>119 Duties with respect to certain funds raised under local enactments.**

(1) Where the Agency holds any funds, or any interest in any funds, which immediately before the transfer date the National Rivers Authority, by virtue of this subsection as originally enacted, was not permitted to use except for particular purposes, those funds or that interest shall not be used except for the purposes for which they could be used by virtue of this subsection as originally enacted.

(1A) For the purposes of subsection (1) above, “the transfer date” has the same meaning as in Part I of the 1995 Act.]

(2) Any funds to which subsection (1) above applies shall be disregarded in determining the amount of any surplus under [<sup>F7</sup>section 44(3) of the 1995 Act].

#### **Textual Amendments**

**F6** S. 119 (1)(1A) substituted (1.4.1996) for s. 119(1) by 1995 c. 25, s. 120(1), Sch. 22 para. 151(1) (with ss. 7(6), 115, 117); S.I. 1996/186, art. 3

**F7** Words in s. 119(2) substituted (1.4.1996) by 1995 c. 25, s. 120(1), Sch. 22 para. 151(2) (with ss. 7(6), 115, 117); S.I. 1996/186, art. 3

#### **120 Contributions between the [<sup>F8</sup>Agency] and certain other authorities.**

(1) Where, on the application of a navigation authority, harbour authority or conservancy authority, it appears to the [<sup>F8</sup>Agency] that any works constructed or maintained by the applicants have made, or will make, a beneficial contribution towards the fulfilment of the purposes of the [<sup>F8</sup>Agency’s] water resources functions, the [<sup>F8</sup>Agency] shall contribute towards the expenditure incurred or to be incurred by the applicants in constructing or maintaining those works.

(2) Where, on the application of the [<sup>F8</sup>Agency], it appears to a navigation authority, harbour authority or conservancy authority that any works constructed or maintained by the [<sup>F8</sup>Agency] in the carrying out of its water resources functions have made, or will make, a beneficial contribution towards the carrying out of the functions of the authority to whom the application is made, that authority shall contribute to the [<sup>F8</sup>Agency] towards the expenditure incurred or to be incurred by the [<sup>F8</sup>Agency] in constructing or maintaining those works.

(3) Subject to the following provisions of this section, the sums to be paid by way of contribution and the terms and conditions on which they are to be paid shall be such as the [<sup>F8</sup>Agency] and the other authority concerned may agree to be appropriate.

(4) If on any application under this section—

- (a) the [<sup>F8</sup>Agency] or, as the case may be, the other authority to whom the application is made refuses to make a contribution; or
- (b) the [<sup>F8</sup>Agency] and the other authority concerned are unable to agree as to the sums to be contributed or the terms and conditions on which they are to be contributed,

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the [<sup>F8</sup>Agency] or the other authority concerned may refer the matter in dispute to the Secretary of State.

- (5) On a reference under subsection (4) above the Secretary of State may either—
  - (a) determine that matter himself; or
  - (b) refer it for determination to an arbitrator appointed by him for the purpose;
 and where any decision has been made by the Secretary of State or an arbitrator under this subsection, the decision shall be final and a contribution shall be made in accordance with the decision as if the sums, terms or conditions determined under this subsection had been agreed to be appropriate as mentioned in subsection (3) above.
- (6) Any expenditure incurred by a navigation authority, harbour authority or conservancy authority in paying any contribution under this section shall be defrayed in the like manner as any corresponding expenditure of that authority; and that authority shall have the same powers for the purpose of raising money required for paying any such contribution as they would have for the purpose of raising money required for defraying any corresponding expenditure of that authority.
- (7) In subsection (6) above the references to corresponding expenditure of a navigation authority, harbour authority or conservancy authority, in relation to the payment of a contribution in respect of any works, are references to expenditure incurred by the authority in performing the functions in respect of which it is claimed by the [<sup>F8</sup>Agency] that the works have made, or will make, such a beneficial contribution as is mentioned in subsection (2) above.
- (8) References in this section to the water resources functions of the [<sup>F8</sup>Agency] are references to the functions of the [<sup>F8</sup>Agency] under Part II of this Act or under any provisions not contained in that Part which are related water resources provisions in relation to Chapter II of that Part.

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**Textual Amendments**

**F8** Words in s. 120 and the sidenote substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

<sup>F9</sup>121 .....

.....

**Textual Amendments**

**F9** Ss. 121-124 repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), **Sch. 22 para. 152, Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

<sup>F10</sup>122 .....

.....

**Textual Amendments**

**F10** Ss. 121-124 repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), **Sch. 22 para. 152, Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

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## CHAPTER II

### REVENUE PROVISIONS

#### *Water resources charges*

<sup>F11</sup>123 .....

#### Textual Amendments

**F11** Ss. 121-124 repealed (1.4.1996) by 1995 c. 25, s.120(1)(3), Sch. 22 para. 152, **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

<sup>F12</sup>124 .....

#### Textual Amendments

**F12** Ss. 121-124 repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 152, **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

#### **125 Specific exemptions from water resources charges.**

- (1) No charges, other than those for the purpose of recovering administrative expenses attributable to the exercise by the [<sup>F13</sup>Agency] of its functions in relation to the application for the licence, shall be levied in respect of water authorised by a licence to be abstracted for use in the production of electricity or any other form of power by any generating station or apparatus of a capacity of not more than five megawatts.
- (2) No charges shall be levied in respect of water authorised by a licence to be abstracted from underground strata, in so far as—
  - (a) the water is authorised to be abstracted for use for agricultural purposes other than spray irrigation; and
  - (b) the quantity of water authorised to be abstracted from the strata in any period of twenty-four hours does not exceed twenty cubic metres in aggregate.

#### Textual Amendments

**F13** Word in s. 125 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

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

**C1** S. 125(2) modified (18.5.1992) by S.I. 1992/1096, arts. 3, 4, **Sch.**

#### **126 Agreements containing exemptions from charges.**

- (1) The [<sup>F14</sup>Agency] may, on the application of any person who is liable to pay charges to the [<sup>F14</sup>Agency] for the abstraction of water under a licence under Chapter II of Part

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II of this Act, make an agreement with him either exempting him from the payment of charges or providing for charges to be levied on him at reduced rates specified in the agreement.

- (2) In the exercise of its powers under subsection (1) above in relation to any person, the [Agency] shall have regard to—
  - (a) the extent to which any works constructed at any time by that person or any works to be constructed by him have made, or will make, a beneficial contribution towards the fulfilment of the purposes of the functions of the [F14 Agency] under any enactment;
  - (b) any financial assistance which that person has rendered, or has agreed to render, towards the carrying out of works by the [Agency] in the performance of those functions; and
  - (c) any other material considerations.
- (3) The Secretary of State may give directions as to the exercise by the [F14 Agency] of its powers under subsection (1) above.
- (4) Without prejudice to the exercise of the power conferred by subsection (3) above, if on any application under this section—
  - (a) the [F14 Agency] refuses to make an agreement with the applicant as mentioned in subsection (1) above; or
  - (b) the applicant objects to the terms of such an agreement as proposed by the [F14 Agency] and that objection is not withdrawn,
 the applicant or the [F14 Agency] may refer the question in dispute to the Secretary of State.
- (5) On a reference under subsection (4) above—
  - (a) the Secretary of State shall determine the question in dispute, having regard to the matters to which, in accordance with subsection (2) above, the [F14 Agency] was required to have regard in relation to the applicant; and
  - (b) may give directions to the [F14 Agency] requiring it to make an agreement with the applicant in accordance with his decision.

<sup>F15</sup>(6) .....

- (7) Any decision of the Secretary of State on a reference under subsection (4) above shall be final; and section 69 above shall apply in relation to the decision on a reference under this section as it applies in relation to a decision on a reference such as is mentioned in subsection (1)(b) of that section, but as if references to the other party were references to the applicant.

**Textual Amendments**

- F14** Words in s. 126 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, Sch. 22 para. 128 (with ss. 7(6), 115, 117); S.I. 1996/186, art. 3
- F15** S. 126(6) repealed (21.9.1995) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 153, Sch. 24 (with ss. 7(6), 115, 117); S.I. 1995/1983, art. 3

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## **127 Special charges in respect of spray irrigation.**

- (1) Where a person (“the applicant”) is for the time being the holder of a licence under Chapter II of Part II of this Act to abstract water (“the applicant’s licence”), and in accordance with the provisions of that licence—
  - (a) the water is to be used on land of which the applicant is the occupier; and
  - (b) the purposes for which water abstracted in pursuance of the licence is to be used consist of or include spray irrigation,the applicant may apply to the [<sup>F16</sup>Agency] to make an agreement with him under this section and, subject to the following provisions of this section and sections 128 and 129 below, the [<sup>F16</sup>Agency] may make such an agreement accordingly.
- (2) During any period for which an agreement under this section is in force, the following charges shall be payable by the applicant to the [<sup>F16</sup>Agency] in respect of the applicant’s licence, in so far as it relates to water authorised to be abstracted and used on the relevant land, that is to say—
  - (a) basic charges calculated, in accordance with the agreement, by reference to the quantity of water authorised to be so abstracted and used from time to time in pursuance of the licence; and
  - (b) supplementary charges calculated, in accordance with the agreement, by reference to the quantity of water which is measured or assessed as being abstracted from time to time by or on behalf of the applicant from the source of supply to which the applicant’s licence relates for use on the relevant land.
- (3) In determining—
  - (a) whether to make an agreement with the applicant under this section; and
  - (b) the charges to be leviable under such an agreement,the [<sup>F16</sup>Agency] shall have regard to the extent to which, in any year within the period proposed to be specified in the agreement as the period for which it is made, the quantity of water referred to in paragraph (a) of subsection (2) above is likely to exceed the quantity referred to in paragraph (b) of that subsection.
- (4) Where the applicant’s licence authorises water abstracted in pursuance of the licence to be used on the relevant land for purposes which include spray irrigation and other purposes—
  - (a) any agreement made under this section shall provide for apportioning, as between those purposes respectively, the quantity referred to in paragraph (a) of subsection (2) above and the quantity referred to in paragraph (b) of that subsection;
  - (b) subsection (2) above shall have effect as if in each of those paragraphs the reference to the quantity of water mentioned in that paragraph were a reference to so much of that quantity as in accordance with the agreement is apportioned to the purpose of spray irrigation; and
  - (c) in subsection (3) above any reference to either of those paragraphs shall be construed as a reference to that paragraph as modified by paragraph (b) of this subsection.
- (5) An application under subsection (1) above may be made by a person who has applied for, but is not yet the holder of, a licence under Chapter II of Part II of this Act to abstract water; and, in relation to an application so made or to an agreement made on such an application—

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- (a) the reference in that subsection to the provisions of the applicant’s licence shall be construed as a reference to the proposals contained in the application for a licence; and
  - (b) any other reference in this section or in section 128 or 129 below to the applicant’s licence shall be construed as a reference to any licence granted to the applicant in pursuance of the application mentioned in paragraph (a) above or in pursuance of an appeal consequential upon the application so mentioned.
- (6) In this section and sections 128 and 129 below—
- “the applicant” and “the applicant’s licence” shall be construed, subject to subsection (5) above, in accordance with subsection (1) above;
  - “the relevant land” means the land on which the applicant’s licence, as for the time being in force, authorises water abstracted in pursuance of the licence to be used for purposes which consist of or include spray irrigation; and
  - “year” means a period of twelve months beginning—
- (a) with the date on which an agreement under this section comes into force or is proposed to come into force; or
  - (b) with an anniversary of that date.

#### **Textual Amendments**

**F16** Words in s. 127 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

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

**C2** S. 127(1)(4) modified (18.5.1992) by S.I. 1992/1096, arts. 3, 4, **Sch.**

### **128 Duration of agreement under section 127.**

- (1) The period specified in an agreement under section 127 above as the period for which it is made shall not be less than five years.
- (2) An agreement under section 127 above shall remain in force until the occurrence of whichever of the following events first occurs, that is to say—
  - (a) the period specified in the agreement, as mentioned in subsection (1) above, comes to an end;
  - (b) the applicant’s licence expires or is revoked;
  - (c) the applicant ceases to be the occupier of the relevant land or, if he has previously ceased to be the occupier of a part or parts of that land, ceases to be the occupier of the remainder of it;
  - (d) the agreement is terminated under subsection (4) below.
- (3) At any time while an agreement under section 127 above is in force, the applicant may apply to the [<sup>F17</sup>Agency] to terminate the agreement.
- (4) If, on an application for the termination of an agreement under section 127 above, the [<sup>F17</sup>Agency] is satisfied that, by reason of any change of circumstances since the agreement was made, it ought to be terminated, it may terminate the agreement, either unconditionally or subject to such conditions (whether as to any payment to be made by the applicant or otherwise) as the [<sup>F17</sup>Agency] and the applicant may agree.



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#### Textual Amendments

**F17** Words in s. 128 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, Sch. 22 para. 128 (with ss. 7(6), 115, 117); S.I. 1996/186, art. 3

### 129 Directions and appeals with respect to exercise of powers under sections 127 and 128.

- (1) The Secretary of State may give directions as to the exercise by the [<sup>F18</sup>Agency] of its powers under sections 127 and 128 above.
- (2) Without prejudice to the exercise of the power conferred by subsection (1) above, if on any application under section 127 or 128 above—
  - (a) the [<sup>F18</sup>Agency] refuses to make or terminate an agreement under section 127 above; or
  - (b) the applicant objects to the proposals of the [<sup>F18</sup>Agency]—
    - (i) as to the terms of such an agreement; or
    - (ii) as to the conditions subject to which such an agreement is to be terminated,and that objection is not withdrawn, the applicant or the [<sup>F18</sup>Agency] may refer the question in dispute to the Secretary of State.
- (3) On a reference under subsection (2) above—
  - (a) the Secretary of State shall determine the question in dispute, having regard to the matters to which, in accordance with subsection (3) of section 127 above, the [<sup>F18</sup>Agency] would be required to have regard in relation to the applicant on an application under that section; and
  - (b) may give directions to the [<sup>F18</sup>Agency] requiring it to make an agreement with the applicant in accordance with his decision.

<sup>F19</sup>(4) .....

- (5) Any decision of the Secretary of State on a reference under subsection (2) above shall be final; and section 69 above shall apply in relation to the decision on a reference under this section as it applies in relation to a decision on a reference such as is mentioned in subsection (1)(b) of that section, but as if references to the other party were references to the applicant.

#### Textual Amendments

**F18** Words in s.129 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, Sch. 22 para. 128 (with ss. 7(6), 115, 117); S.I. 1996/186, art. 3

**F19** S. 129(4) repealed (21.9.1995) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 153 (with ss. 7(6), 115, 117); S.I. 1995/1983, art. 3

### 130 Charges in respect of abstraction from waters of British Waterways Board.

- (1) Where the British Waterways Board are the holders of a licence under Chapter II of Part II of this Act authorising abstraction from any inland waters to which section 66

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above applies, then, the charges which, apart from this subsection, would be payable in respect of that licence either—

- (a) shall be reduced to such extent, and as so reduced shall be payable subject to such conditions; or
- (b) shall not be payable,

as the Board and the [F20 Agency] may agree or, in default of such agreement, the Secretary of State may determine.

(2) Where—

- (a) a person other than the British Waterways Board is the holder of a licence under Chapter II of Part II of this Act authorising abstraction from any inland waters to which section 66 above applies; and
- (b) any charges in respect of that licence are payable,

the [F20 Agency] shall pay to the Board such proportion of those charges, subject to such conditions, as the Board and the [F20 Agency] may agree, or, in default of such agreement, the Secretary of State may determine.

**Textual Amendments**  
**F20** Words in s. 130 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

*Charges in connection with control of pollution*

<sup>F21</sup>**131** .....

**Textual Amendments**  
**F21** Ss. 131, 132 repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 154, **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

<sup>F22</sup>**132** .....

**Textual Amendments**  
**F22** Ss. 131, 132 repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 154, **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

*Levies by the [F23 Agency] on local authorities*

**Textual Amendments**  
**F23** Word in cross-heading to s. 133 substituted (subject to other provisions of amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

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### 133 Power to authorise the [<sup>F24</sup>Agency] to issue levies.

For the purposes of its flood defence functions the [<sup>F24</sup>Agency] shall be a levying body within the meaning of section 74 of the <sup>M6</sup>Local Government Finance Act 1988 (power to make regulations authorising a levying body to issue a levy); and that section shall have effect accordingly.

#### Textual Amendments

**F24** Words in s. 133 and the sidenote substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

#### Marginal Citations

**M6** 1988 c. 41.

### *General drainage charges*

### 134 Raising of general drainage charges.

- (1) Subject to subsection (2) below, the [<sup>F25</sup>Agency] may raise at an amount per hectare of chargeable land in a local flood defence district a charge to be known as a general drainage charge and to be levied in accordance with sections 135 and 136 below.
- (2) The [<sup>F25</sup>Agency] shall not levy a general drainage charge in respect of any local flood defence district unless the regional flood defence committee for the area in which that district is situated have recommended that such a charge should be raised.
- (3) For the purposes of this section and sections 135 and 136 below the area of a regional flood defence committee in relation to which no local flood defence scheme is in force shall be treated as a single local flood defence district; and any parts of such an area in relation to which no such scheme is in force shall be treated as included in a single such district.

#### Textual Amendments

**F25** Words in s. 134 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

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

**C3** S. 134 restricted (1.12.1991) by **Water Consolidation (Consequential Provisions) Act 1991** (c. 60, SIF 130), ss. 2(2), 4(2), **Sch. 2 Pt. 1 para. 2(2)**

### 135 Amount, assessment etc. of general drainage charge.

- (1) A general drainage charge raised by the [<sup>F26</sup>Agency] for a local flood defence district for any year shall be at a uniform amount per hectare of chargeable land in that district.
- (2) The uniform amount referred to in subsection (1) above shall be ascertained, subject to subsection (3) below, by multiplying the relevant quotient <sup>F27</sup>. . . by one penny and by such number as may be specified by either of the Ministers by order made for the purposes of this subsection.

*Status: Point in time view as at 01/04/2004.*

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

- (3) The number specified in an order under this section for the purposes of subsection (2) above shall (apart from any adjustment made to it to take account of rough grazing land) be such as the Minister making the order considers will secure, so far as reasonably practicable, that the amount specified in paragraph (a) below will be equal to the amount specified in paragraph (b) below, that is to say—
- (a) the aggregate amount produced by any charge levied by reference to a relevant quotient<sup>F28</sup> . . .; and
  - (b) the aggregate amount which, if the chargeable land in the local flood defence district had been liable to be rated for the financial year beginning in 1989, would have been produced by a rate levied on the land at an amount in the pound (of rateable value) equal to that quotient multiplied by one penny.
- (4) An order under this section may be made so as to apply either—
- (a) to all general drainage charges; or
  - (b) to the general drainage charges proposed to be raised in any one or more local flood defence districts specified in the order;
- and any such order applying to more than one local flood defence district may make different provision as respects the different districts to which it applies.
- (5) Schedule 15 to this Act shall have effect with respect to the assessment, incidence, payment and enforcement of general drainage charges.
- (6) The power of each of the Ministers to make an order under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

[<sup>F29</sup>(7) In this section “relevant quotient” means a quotient determined for the year concerned in accordance with rules contained in regulations made by either of the Ministers.]

#### Textual Amendments

- F26** Word in s. 135 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F27** Words in s. 135(2) repealed (1.8.1992 subject to savings in S.I. 1992/1755, **art. 2(2)**) by Local Government Finance Act 1992 (c. 14), s. 117(1)(2), Sch. 13 para. 96(1), **Sch. 14** (with s. 118(1)(2)(4)); S.I. 1992/1755, **art. 2(1)**
- F28** Words in s. 135(3)(a) repealed (1.8.1992 subject to savings in S.I. 1992/1755, **art. 2(2)**) by Local Government Finance Act 1992 (c. 14), s. 117(1)(2), Sch. 13 para. 96(2), **Sch. 14** (with s. 118(1)(2)(4)); S.I. 1992/1755, **art. 2(1)**
- F29** S. 135(7) added (1.8.1992 subject to savings in S.I. 1992/1755, **art. 2(2)**) by Local Government Finance Act 1992 (c. 14), s. 117(1), **Sch. 13 para. 96(3)** (with s. 118(1)(2)(4)); S.I. 1992/1755, **art. 2(1)**

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

- C4** S. 135 restricted (1.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60, SIF 130), ss. 2(2), 4(2), **Sch. 2 Pt. I para. 2(2)**.

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

### Textual Amendments

**F30** S. 136 repealed (1.8.1992 subject to savings in S.I. 1992/1755, **art. 2(2)**) by Local Government Finance Act 1992 (c. 14), s. 117(1)(2), Sch. 13 para. 97, **Sch.14** (with s. 118(1)(2)(4)); S.I. 1992/1755, **art. 2(1)**

### *Special drainage charges*

#### **137 Special drainage charges in interests of agriculture.**

- (1) Where it appears to the [<sup>F31</sup>Agency] that the interests of agriculture require the carrying out, improvement or maintenance of drainage works in connection with any watercourses in the area of any regional flood defence committee, the [Agency] may submit to either of the Ministers for confirmation a scheme under this section with respect to those watercourses.
- (2) A scheme under this section with respect to any watercourses is a scheme—
  - (a) designating those watercourses, and any watercourses connected with them, for the purposes of this section; and
  - (b) making provision for the raising, in accordance with section 138 below, of a charge (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.
- (3) A scheme under this section 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 [<sup>F31</sup>Agency], is agricultural land that would benefit from drainage works in connection with the designated watercourses.
- (4) The watercourses designated in any scheme under this section shall, if the scheme is confirmed, be treated for the purposes of this Act and the <sup>M7</sup>Land Drainage Act 1991 as part of a main river.
- (5) A scheme under this section-
  - (a) may make provision for any of the matters referred to in subsections (1) and (2) of section 108 above; and
  - (b) may provide for the revocation or amendment of, and for the retransfer of property, rights, powers, duties, obligations and liabilities transferred by, any previous scheme under this section.
- (6) Schedule 16 to this Act shall have effect with respect to the making and confirmation of schemes under this section.
- (7) For the purposes of this section—
  - (a) the reference to expenses of drainage works is a reference to expenses incurred in the construction, improvement or maintenance of drainage works;
  - (b) the expenses of any drainage works which may be necessary in consequence of other drainage works, and so much of any contribution made under section 57 of the <sup>M8</sup>Land Drainage Act 1991 as is fairly attributable to such expenses, shall be deemed to be expenses arising from those other drainage works; and

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- (c) the expenses of any drainage works shall be taken (without prejudice to section 221(5) below) to include a proper proportion of the cost of the officers and buildings and establishment of the authority carrying them out.
- (8) In this section and Schedule 16 to this Act “watercourse” has the same meaning as in Part IV of this Act.

#### Textual Amendments

**F31** Words in s. 137 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

#### Marginal Citations

**M7** 1991 c. 59.

**M8** 1991 c. 59.

### **138 Levy and amount of special drainage charge.**

- (1) A special drainage charge shall be levied by the [<sup>F32</sup>Agency] in respect of chargeable land included in the area designated for the purposes of the charge by the scheme authorising it (“the relevant chargeable land”).
- (2) The special drainage charge raised for any year shall be at a uniform amount per hectare of the relevant chargeable land.
- (3) The uniform amount referred to in subsection (2) above shall be determined by the regional flood defence committee for the area which includes the relevant chargeable land but shall exceed neither—
- (a) an amount to be specified in the scheme as the maximum amount of the charge or such greater amount as may be authorised for the purposes of the scheme by an order made by one of the Ministers on the application of the [<sup>F32</sup>Agency]; nor
  - (b) twenty-five pence or such other amount as may be substituted for twenty-five pence by an order made by one of the Ministers and approved by a resolution of the House of Commons.
- (4) Before either of the Ministers makes an order under subsection (3)(a) above he shall—
- (a) consult with such of the associations and persons concerned as he considers appropriate;
  - (b) 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;
  - (c) 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
  - (d) consider the report of the person so appointed and any objections duly made.
- (5) An order under subsection (3)(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

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- (c) to special drainage charges proposed to be raised in pursuance of one or more schemes made under section 137 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.
- (6) The power of each of the Ministers to make an order under subsection (3)(b) above shall be exercisable by statutory instrument; and section 14 of the <sup>M9</sup>Interpretation Act 1978 (power to revoke or amend orders made by statutory instrument) shall apply to the power to make orders under subsection (3)(a) above as it applies, by virtue of this subsection, to the power to make orders under subsection (3)(b) above.
- (7) Schedule 15 to this Act shall have effect with respect to the assessment, incidence, payment and enforcement of special drainage charges.

#### Textual Amendments

**F32** Words in s. 138 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

#### Marginal Citations

**M9** 1978 c. 30.

### *Revenue from internal drainage boards*

#### **139 Contributions from internal drainage boards.**

- (1) Subject to subsections (2) and (3) below, the [<sup>F33</sup>Agency] shall by resolution require every internal drainage board to make towards the expenses of the [<sup>F33</sup>Agency] such contribution as the [<sup>F33</sup>Agency] may consider to be fair.
- (2) Subject to subsection (3) below, where an internal drainage district (“the main internal drainage district”) comprises two or more other internal districts (“minor internal drainage districts”), the [<sup>F33</sup>Agency] shall not require the drainage board for that district to make any contribution towards the expenses of the [<sup>F33</sup>Agency] except in respect of such part, if any, of that district as is not situated within any minor internal drainage district.
- (3) Notwithstanding subsection (2) above, the [<sup>F33</sup>Agency], after determining what contribution should be made by the drainage board for each of the minor internal drainage districts, may, if it thinks fit, require the drainage board for the main internal drainage district to pay direct to the [<sup>F33</sup>Agency] an amount equal to the aggregate of those contributions.
- (4) If the [<sup>F33</sup>Agency] make a requisition under subsection (3) above, the drainage board of the main internal drainage district shall raise the amount paid by them under that subsection to the [<sup>F33</sup>Agency] by means of drainage rates levied by them within, or special levies issued in respect of, the main internal drainage district or, as the case may be, such part of that district as is situated within a minor internal drainage district.
- (5) Without prejudice to subsection (3) of section 140 below, a resolution under this section may be acted upon by the [<sup>F33</sup>Agency] forthwith, notwithstanding that the time

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for bringing an appeal under that section has not expired or that an appeal so brought is pending.

#### Textual Amendments

**F33** Words in s. 139 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

### 140 Appeals in respect of resolutions under section 139.

- (1) If—
- (a) an internal drainage board is aggrieved by a resolution of the [<sup>F34</sup>Agency] under section 139 above determining the amount of any contribution; or
  - (b) the council of any county [<sup>F35</sup>, county borough] or London borough is aggrieved by any such resolution on the ground that the amount of the contribution required to be made by an internal drainage board is inadequate, the board or council may, within six weeks after the date on which notice of the resolution is given by the [<sup>F34</sup>Agency] to the internal drainage board in question, appeal to the relevant Minister against the resolution.
- (2) On an appeal under this section the relevant Minister may, after—
- (a) considering any objections made to him; and
  - (b) if he thinks fit, holding a local public inquiry,
- make such an order in the matter as he thinks just.
- (3) Where the [<sup>F34</sup>Agency] has acted on a resolution by virtue of section 139(5) above and an appeal is brought in respect of the resolution, the relevant Minister shall by his order direct such adjustment to be made in respect of any sums recovered or paid in pursuance of the resolution as may be necessary for giving effect to his decision.
- (4) Where the relevant Minister makes an order under this section, he shall lay before Parliament particulars of the matter in respect of which the appeal was made and of the reasons for his order.
- (5) Compliance with any order made by the relevant Minister under this section may be enforced by mandamus.
- (6) In this section “the relevant Minister”—
- (a) in relation to an internal drainage district wholly in Wales or the drainage board for such a district, means the Secretary of State;
  - (b) in relation to an internal drainage district partly in Wales or the drainage board for such a district, means the Ministers; and
  - (c) in any other case, means the Minister.

#### Textual Amendments

**F34** Words in s. 140 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

**F35** Words in s. 140(1)(b) inserted (1.4.1996) by 1994 c. 19, s. 22(5), **Sch. 11 Pt. I para. 3(3)** (with ss. 54(4)(7), 55(5)Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**



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

C5 S. 140 extended (1.12.1991) by [Land Drainage Act 1991 \(c. 59, SIF 73:1\)](#), [ss. 58\(7\), 76\(2\)](#).

**141 Precepts for recovery of contributions from internal drainage boards.**

- (1) The [<sup>F36</sup>Agency] may issue precepts to internal drainage boards requiring payment of any amount required to be contributed by those boards under section 139 above.
- (2) An internal drainage board shall pay, in accordance with any precept issued to them under this section, the amount thereby demanded.
- (3) It shall be the duty of the [<sup>F36</sup>Agency] to prepare, in such form as the relevant Minister may direct, a statement of—
  - (a) the purposes to which the amount demanded by any precept issued by the [<sup>F36</sup>Agency] under this section is intended to be applied; and
  - (b) the basis on which it is calculated;and an internal drainage board shall not be liable to pay the amount demanded by any such precept until they have received such a statement.
- (4) Compliance with any precept issued by the [<sup>F36</sup>Agency] in accordance with this section may be enforced by mandamus.
- (5) In this section “the relevant Minister” has the same meaning as in section 140 above.

**Textual Amendments**

F36 Words in [s. 141](#) substituted (subject to other provisions of the amending Act) (1.4.1996) by [1995 c. 25, s. 120, Sch. 22 para. 128](#) (with [ss. 7\(6\), 115, 117](#)); [S.I. 1996/186, art. 3](#)

*Fisheries contributions*

**142 Fisheries contributions.**

- (1) Each of the Ministers shall have power, on an application made to him by the [<sup>F37</sup>Agency], by order made by statutory instrument to make provision in relation to an area defined by the order—
  - (a) for the imposition on the owners and occupiers of fisheries in that area of requirements to pay contributions to the [<sup>F37</sup>Agency], of such amounts as may be determined under the order, in respect of the expenses of the carrying out in relation to that area of the [<sup>F37</sup>Agency’s] functions with respect to fisheries;
  - (b) for such contributions to be paid or recovered in such manner, and to be refundable, in such circumstances as may be specified in or determined under the order.
- (2) Subsections [<sup>F38</sup>(2) to (6)] of section 115 above shall have effect in relation to the power conferred by subsection (1) above as they have effect in relation to the power conferred by subsection (1) of that section.
- (3) The reference in this section to the owners and occupiers of fisheries shall have the same meaning as any such reference in the <sup>M10</sup>Salmon and Freshwater Fisheries Act 1975.

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

#### Textual Amendments

- F37** Words in s. 142 substituted (subject to other provisions of amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F38** Words in s. 142(2) substituted (21.9.1995) by 1995 c. 25, s. 116, **Sch. 21 para. 2(3)** (with ss. 7(6), 115, 117); S.I. 1995/1983, **art. 3**

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

- C6** S. 142 excluded (1.7.1999) by S.I. 1999/1746, **arts. 1(1), 4(1)**; S.I. 1998/3178, **art. 3**

#### Marginal Citations

- M10** 1975 c. 51.

### *Navigation tolls*

#### **143 Power of Authority to levy navigation tolls.**

- (1) Where any navigable waters—
- (a) in England and Wales; or
  - (b) in so much of the territorial sea adjacent to England and Wales as is included in the area of a regional flood defence committee,
- are not subject to the control of any navigation authority, harbour authority or conservancy authority, the [<sup>F39</sup>Agency] may apply to the Secretary of State for an order imposing tolls in respect of the navigation of vessels in those waters.
- (2) An order under this section shall not be made unless the Secretary of State is satisfied that the cost of the maintenance or works in connection with the waters to which the order relates has been or will be increased as a result of the use of those waters for purposes of navigation.
- (3) Schedule 17 to this Act shall have effect with respect to the making of orders under this section.
- (4) Any tolls payable under this section in respect of the navigation of a vessel in any water referred to in subsection (1) above—
- (a) may be demanded from the person in charge of the vessel by any person authorised for that purpose by the [<sup>F39</sup>Agency]; and
  - (b) if not paid on demand, may be recovered from either the person in charge of the vessel or the owner of the vessel.

#### Textual Amendments

- F39** Words in s. 143 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

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

- C7** S. 143 modified (01.12.1991) by *Land Drainage Act 1991 (c. 59, SIF 73:1)*, **ss. 56(1), 76(2)**.
- C8** S. 143(4) modified (01.12.1991) by *Land Drainage Act 1991 (c. 59, SIF 73:1)*, **ss. 56(2), 76(2)**.

*Status: Point in time view as at 01/04/2004.*

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

## *Incidental power of the Authority to impose charges*

### *Interpretation of Chapter II*

#### **145 Interpretation of Chapter II.**

In this Chapter—

“agricultural buildings” has the meaning provided by section 26(4) of the <sup>M11</sup>General Rate Act 1967 as amended by the <sup>M12</sup>Rating Act 1971;

“agricultural land” means—

- (a) land used as arable, meadow or pasture ground only;
- (b) land used for a plantation or a wood or for the growth of saleable underwood; and
- (c) land exceeding one tenth of a hectare used for the purpose of poultry farming, market gardens, nursery grounds, orchards or allotments, including allotment gardens within the meaning of the <sup>M13</sup>Allotments Act 1922,

but does not include land occupied together with a house as a park, gardens (other than as aforesaid) or pleasure grounds, land kept or preserved mainly or exclusively for purposes of sport or recreation or land used as a racecourse;

“chargeable land” means the agricultural land and agricultural buildings in so much of the area of a regional flood defence committee as does not fall within an internal drainage district, excluding rough grazing land and woodlands other than commercial woodlands;

“commercial woodlands” means woodlands managed on a commercial basis with a view to the realisation of profits;

“drainage” has the same meaning as in Part IV above;

“drainage charge” means general drainage charge or special drainage charge;

“rough grazing land” means land of either of the following descriptions, that is to say—

- (a) land used as pasture ground on which the vegetation consists solely or mainly of one or more of the following, that is to say, bracken, gorse, heather, rushes and sedge; and
- (b) land so used which is unsuitable for mowing by machine and on which the vegetation consists solely or mainly of grass of poor feeding value; and

“spray irrigation” has the same meaning as in Chapter II of Part II of this Act.

#### **Marginal Citations**

**M11** 1967 c. 9.

**M12** 1971 c. 39.

**M13** 1922 c. 51.

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

**CHAPTER III**

**GRANTS AND LOANS**

*Grants to the <sup>F40</sup> Agency]*

**Textual Amendments**

**F40** Word in s. 146 cross-heading substituted (subject to other provisions of amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

<sup>F41</sup>**146** .....

**Textual Amendments**

**F41** S. 146 repealed (1.4.1996) by 1995 c. 25, s. 120, Sch. 22 para. 155, **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

<sup>F42</sup>**147 Grants for drainage works.**

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**Textual Amendments**

**F42** Ss. 147-149 repealed (17.3.2004 for E., 1.4.2004 for W.) by Water Act 2003 (c. 37), ss. 69(1), 105(3), **Sch. 9 Pt. 3**; S.I. 2004/641, art. 2(a)(d); S.I. 2004/910, art. 2(1)(b)

<sup>F42</sup>**148 Grants towards cost of flood warning systems.**

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**Textual Amendments**

**F42** Ss. 147-149 repealed (17.3.2004 for E., 1.4.2004 for W.) by Water Act 2003 (c. 37), ss. 69(1), 105(3), **Sch. 9 Pt. 3**; S.I. 2004/641, art. 2(a)(d); S.I. 2004/910, art. 2(1)(b)

<sup>F42</sup>**149 Other grants in respect of exercise of powers under Part VII for drainage purposes.**

.....

**Textual Amendments**

**F42** Ss. 147-149 repealed (17.3.2004 for E., 1.4.2004 for W.) by Water Act 2003 (c. 37), ss. 69(1), 105(3), **Sch. 9 Pt. 3**; S.I. 2004/641, art. 2(a)(d); S.I. 2004/910, art. 2(1)(b)

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

F43 **150** .....

**Textual Amendments**

**F43** Ss. 150-153 repealed (1.4.1996) by 1995 c. 25, s. 120, Sch. 22 para. 156, **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

*Borrowing by the Authority*

F44 **151** .....

**Textual Amendments**

**F44** Ss. 150-153 repealed (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 156** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F45 **152** .....

**Textual Amendments**

**F45** Ss. 150-153 repealed (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 156** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F46 **153** .....

**Textual Amendments**

**F46** Ss. 150-153 repealed (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 156** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

**Status:**

Point in time view as at 01/04/2004.

**Changes to legislation:**

There are currently no known outstanding effects for the Water Resources Act 1991, Part VI.