
DRAFT STATUTORY INSTRUMENTS

2024 No.

LAND DRAINAGE, ENGLAND

The English Drainage Boards (Alternative Valuation Calculation) Regulations 2024

Made - - - - - ***
Coming into force - - - - - ***

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 37(5ZA) and 41A(1) of the Land Drainage Act 1991(a).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the English Drainage Boards (Alternative Valuation Calculation) Regulations 2024.

(2) These Regulations come into force on ***.

(3) In these Regulations—

“board” means an English drainage board which continues to exist by virtue of section 1 or is constituted or reconstituted in accordance with sections 3 to 5;

“district” means an internal drainage district which continues to exist by virtue of section 1 or which is constituted or reconstituted in accordance with section 3;

“election year” has the meaning given in regulation 2(2);

“standing orders” means the set of rules made by a board with the approval of the Secretary of State under paragraph 3(1) of the Second Schedule.

(4) In these Regulations—

- (a) a reference to a section is a reference to that section of the Land Drainage Act 1991;
- (b) a reference to a Chapter is a reference to that Chapter of Part IV of that Act;
- (c) a reference to a Schedule is a reference to that Schedule of that Act.

Election procedure

2.—(1) The board for an English internal drainage district may elect, in compliance with any applicable rules and procedures set out in its standing orders, for the following to be determined in accordance with these Regulations—

(a) 1991 c. 59. Sections 37(5ZA) to (5ZH) and 41A of the Land Drainage Act 1991 were inserted by sections 94 and 96 respectively of the Environment Act 2021 (c. 30). The definition of “the appropriate national authority” is contained in section 41A(2) of the Land Drainage Act 1991.

- (a) the aggregate value of each chargeable property in that district for the purposes of Chapter II; and
 - (b) the aggregate value of other land in that district for the purposes of Chapter I.
- (2) The election must be made by giving notice in writing to the Secretary of State before 31st October in a financial year (the “election year”).
- (3) A notice under paragraph (2) must—
- (a) explain that the board is making an election under these Regulations; and
 - (b) state the first financial year in relation to which the election will have effect.
- (4) The board must then publish a statement about the election within a period of 10 days beginning with the day on which notice was given under paragraph (2).
- (5) The statement must—
- (a) explain that the board has made an election under these Regulations;
 - (b) state the values referred to in regulations 3(3) and 4(3);
 - (c) explain that the election means that the board must determine those values in accordance with these Regulations; and
 - (d) state the first financial year in relation to which the election will have effect.
- (6) The statement must be published in a manner which the board considers appropriate to bring it to the attention of the public.
- (7) A notice under paragraph (2) may not be withdrawn.

Value of other land

3.—(1) This regulation applies to a board for an English internal drainage district which makes an election under regulation 2.

(2) The board must, in relation to each financial year following the election year, determine the value of other land in that district for the purposes of section 37 in accordance with this regulation.

(3) The board must, not later than 31st December in the election year, determine the value of other land in their district on that date.

(4) The value of other land in an English internal drainage district is taken to be—

- (a) in the case of a hereditament shown in the local non-domestic rating list of a billing authority on [Date], one third of the relevant proportion of the rateable value shown for that hereditament;
- (b) in the case of domestic property shown in a valuation list [Date], one third of the relevant proportion of the notional rateable value shown for it in the list multiplied by a factor of 6.73;
- (c) in the case of any land which, as at [Date] was in the district but to which none of paragraphs (a) to (b) applies, and which did not then comprise agricultural land or agricultural buildings, a nil value;
- (d) in the case of any land to which none of paragraphs (a) to (c) applies, the amount calculated by multiplying—
 - (i) the area of the land, expressed in hectares and parts of a hectare; by
 - (ii) such a unit value per hectare as represents the average value per hectare of all land to which those paragraphs do apply if the average is calculated by reference to the values determined under those paragraphs.

(5) In paragraph (4)—

“billing authority” has the same meaning as in the Local Government Finance Act 1992(a);

(a) 1992 (c. 14).

“local non-domestic rating list” means a local non-domestic rating maintained in accordance with section 41 of the Local Government Finance Act 1988(a);

“notional rateable value” means—

- (a) for domestic properties in valuation bands A to G, the highest value specified in the range of values given for the valuation band for the relevant domestic property, divided by 1000;
- (b) for domestic properties in valuation band H, £321,000(b) divided by 1000;

“relevant proportion”, in relation to the rateable value of any hereditament, means the proportion of that value which the area of the part of the hereditament lying within the English internal drainage district in question bears to the total area of that hereditament;

“valuation band” means the valuation band which is for the time being effective for the purposes of section 5(2) of the Local Government Finance Act 1992;

“valuation list” means a valuation list maintained in accordance with section 22(1) of the Local Government Finance Act 1992.

Value of chargeable property

4.—(1) This regulation applies to a board for an English internal drainage district which has made an election under regulation 2.

(2) The board must, in relation to each financial year following the election year, determine the value of each chargeable property in that district for the purposes of section 42 in accordance with this regulation.

(3) The board must, not later than 31st December in the election year, determine the value of each chargeable property in their district on that date.

(4) Paragraph (5) applies where, after 31st December in the election year—

- (a) any property in the board’s district becomes chargeable property; or
- (b) any property consisting of agricultural land or buildings becomes part of the board’s district.

(5) As soon as practicable after the date on which the property has become chargeable property or part of the board’s district, that board must determine the value of that property under paragraphs (6) to (10) for the purposes of section 41(1).

(6) The value of any chargeable property is the amount, determined in accordance with paragraphs (2) to (5), which is equal to the yearly rent, in respect of a holding comprising the chargeable property, at which the holding might reasonably be expected to have been let, by a prudent and willing landlord to a prudent and willing tenant, on a tenancy from year to year commencing on [Date] and on the relevant terms.

(7) For the purposes of paragraph (6) chargeable property is let on the relevant terms if—

- (a) the tenancy incorporates the terms set out in paragraph (8); and
- (b) the property is let on the terms relating to maintenance, repair and insurance of fixed equipment which are set out in Schedule 1 to the Agriculture (Model Clauses for Fixed Equipment) (England) Regulations 2015(c).

(8) The terms mentioned in paragraph (7)(a) are—

- (a) a covenant by the tenant, in the event of the destruction by fire of harvested crops grown on the holding for consumption on it, to return to the holding the full equivalent manorial value of the crops destroyed, in so far as the return of that value is required for

(a) 1988 (c. 41). Section 41 was amended by paragraph 59 of Schedule 13 to the Local Government Finance Act 1992.
(b) Domestic properties in valuation band H are those properties whose values exceed £320,000. There is no equivalent to the highest value used in relation to other valuation bands so the value of £321,000 has been set for this valuation band instead.
(c) S.I. 2015/950.

the fulfilment of his responsibilities to farm in accordance with the rules of good husbandry;

- (b) a covenant by the tenant to insure against damage by fire all dead stock on the holding and all harvested crops grown on the holding for consumption on it;
- (c) a power for the landlord to re-enter on the holding in the event of the tenant not performing his obligations under the tenancy agreement; and
- (d) a covenant by the tenant not to assign, sub-let or part with possession of the holding or any part of it without the landlord's consent in writing.

(9) In determining for the purposes of paragraph (6) the yearly rents at which a property might reasonably be expected to have been let, any liability for the payment of drainage rates must be disregarded, but account must be taken of all other relevant factors, including, in every case—

- (a) the character and situation of the holding (including the locality in which it is situated);
- (b) the productive capacity of the holding and its related earning capacity; and
- (c) the level of rents for comparable lettings current on [Date].

(10) In determining for the purposes of paragraph (9) the level of rents current on [Date] for comparable lettings—

- (a) account may be taken of any available evidence with respect to the rents which are or were payable in respect of tenancies of comparable agricultural holdings on terms (other than terms fixing the rent payable) similar to those assumed for the holding in question; but
- (b) the following are to be disregarded—
 - (i) any element of the rents in question which is due to appreciable scarcity of comparable holdings available for letting on such terms compared with the number of persons seeking to become tenants of such holdings on such terms;
 - (ii) any element of those rents which is due to the fact that the tenant of, or a person tendering for, a comparable holding is in occupation of other land in the vicinity of that holding that may conveniently be occupied with that holding; and
 - (iii) any effect on those rents which is due to any allowances or reductions made in consideration of the charging of premiums.

(11) In this regulation—

“productive capacity”, in relation to a holding, means the productive capacity of the holding determined (taking into account fixed equipment and any other available facilities on the holding) on the assumption that the holding is in the occupation of a competent tenant practising a system of farming suitable to the holding; and

“related earning capacity”, in relation to the productive capacity of a holding, means the extent to which, in the light of that productive capacity, a competent tenant practising such a system of farming could reasonably be expected to profit from farming that holding.

Address
Date

Name
Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for the value of chargeable property (i.e. agricultural land and buildings) and other land (i.e. non-agricultural properties) in an English internal drainage district to be determined in accordance with alternative valuation calculations to those provided in Chapters 1 and 2 of Part 4 to the Land Drainage Act 1991.

Regulation 1 sets out the general provisions, including interpretation.

Regulation 2 sets out the election procedure that an English drainage board must follow should they wish to use the alternative valuation calculations for the determination of the aggregate values of chargeable property and other land in their internal drainage district.

Regulation 3 provides the alternative valuation calculation and supporting provisions for the valuation of other land within an internal drainage district.

Regulation 4 provides the alternative valuation calculation and supporting provisions for the valuation of chargeable property (i.e. agricultural land and buildings) within an internal drainage district.

A full impact assessment has not been produced for this instrument, as no significant impact on the private, voluntary or public sector is foreseen. Furthermore, this is not a regulatory provision, since it is a local choice to establish a new internal drainage board or amend the boundary of an existing one and therefore any proposal must be supported by the local community and partners.