



# Water Resources Act 1991

## 1991 CHAPTER 57

### PART I **E+W+S**

#### PRELIMINARY

### CHAPTER I **E+W+S**

#### THE NATIONAL RIVERS AUTHORITY

#### **1 The National Rivers Authority. **E+W****

- (1) There shall continue to be a body corporate, known as the National Rivers Authority, for the purpose of carrying out the functions specified in section 2 below.
- (2) The Authority shall consist of not less than eight nor more than fifteen members of whom—
  - (a) two shall be appointed by the Minister; and
  - (b) the others shall be appointed by the Secretary of State.
- (3) The Secretary of State shall designate one of the members appointed by him as the chairman of the Authority and may, if he thinks fit, designate another member of the Authority (whether or not appointed by him) as the deputy chairman of the Authority.
- (4) In appointing a person to be a member of the Authority, the Secretary of State or, as the case may be, the Minister 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 Authority.
- (5) The Authority shall not be regarded—
  - (a) as the servant or agent of the Crown, or as enjoying any status, immunity or privilege of the Crown; or
  - (b) by virtue of any connection with the Crown, as exempt from any tax, duty, rate, levy or other charge whatsoever, whether general or local;

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and the Authority's property shall not be regarded as property of, or property held on behalf of, the Crown.

(6) The provisions of Schedule 1 to this Act shall have effect with respect to the Authority.

## 2 The Authority's functions. **E+W+S**

- (1) The functions of the Authority are—
- (a) its functions with respect to water resources by virtue of Part II of this Act;
  - (b) its functions with respect to water pollution by virtue of Part III of this Act;
  - (c) its functions with respect to flood defence and land drainage by virtue of Part IV of this Act and the <sup>M1</sup>Land Drainage Act 1991 and the functions transferred to the Authority by virtue of section 136(8) of the <sup>M2</sup>Water Act 1989 and paragraph 1(3) of Schedule 15 to that Act (transfer of land drainage functions under local statutory provisions and subordinate legislation);
  - (d) its functions with respect to fisheries by virtue of Part V of this Act, the <sup>M3</sup>Diseases of Fish Act 1937, the <sup>M4</sup>Sea Fisheries Regulation Act 1966, the <sup>M5</sup>Salmon and Freshwater Fisheries Act 1975 and other enactments relating to fisheries;
  - (e) the functions as a navigation authority, harbour authority or conservancy authority which were transferred to the Authority by virtue of Chapter V of Part III of the Water Act 1989 or paragraph 23(3) of Schedule 13 to that Act or which are transferred to the Authority by any order or agreement under Schedule 2 to this Act; and
  - (f) the functions assigned to the Authority by any other enactment.
- (2) Without prejudice to its duties under section 16 below, it shall be the duty of the Authority, to such extent as it considers desirable, generally to promote—
- (a) the conservation and enhancement of the natural beauty and amenity of inland and coastal waters and of land associated with such waters;
  - (b) the conservation of flora and fauna which are dependent on an aquatic environment; and
  - (c) the use of such waters and land for recreational purposes;
- and it shall be the duty of the Authority, in determining what steps to take in performance of the duty imposed by virtue of paragraph (c) above, to take into account the needs of persons who are chronically sick or disabled.
- (3) It shall be the duty of the Authority to make arrangements for the carrying out of research and related activities (whether by the Authority or others) in respect of matters to which the functions of the Authority relate.
- (4) The provisions of this Act relating to the functions of the Authority under Chapter II of Part II of this Act, and the related water resources provisions so far as they relate to other functions of the Authority, shall not apply to so much of any inland waters as—
- (a) are part of the River Tweed;
  - (b) are part of the River Esk or River Sark at a point where either of the banks of the river is in Scotland; or
  - (c) are part of any tributary stream of the River Esk or the River Sark at a point where either of the banks of the tributary stream is in Scotland.
- (5) The functions of the Authority specified in subsection (1)(c) above extend to the territorial sea adjacent to England and Wales in so far as—

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- (a) the area of any regional flood defence committee includes any area of that territorial sea; or
  - (b) section 165(2) or (3) below provides for the exercise of any power in the territorial sea.
- (6) The area in respect of which the Authority shall carry out its functions relating to fisheries shall be the whole of England and Wales, together with—
- (a) such part of the territorial sea adjacent to England and Wales as extends for six miles from the baselines from which the breadth of that sea is measured; and
  - (b) in the case of Part V of this Act, the <sup>M6</sup>Diseases of Fish Act 1937 and the <sup>M7</sup>Salmon and Freshwater Fisheries Act 1975, so much of the River Esk, with its banks and tributary streams up to their source, as is situated in Scotland, but, in the case of Part V of this Act and those Acts, excluding the River Tweed.
- (7) In this section—
- “miles” means international nautical miles of 1,852 metres; and
  - “the River Tweed” means “the river” within the meaning of the <sup>M8</sup>Tweed Fisheries Amendment Act 1859, as amended by byelaws.

#### Marginal Citations

- M1** 1991 c. 59.
- M2** 1989 c. 15.
- M3** 1937 c. 33.
- M4** 1966 c. 38.
- M5** 1975 c. 51.
- M6** 1937 c. 33.
- M7** 1975 c. 51.
- M8** 1859 c. lxx.

### 3 Incidental functions of the Authority. **E+W**

- (1) This section has effect, without prejudice to section 2 above, for the purposes of section 4(1) below and the construction of any other enactment which, by reference to the functions of the Authority, confers any power on or in relation to the Authority.
- (2) For the purposes to which this section applies the functions of the Authority shall be taken to include the protection against pollution—
  - (a) of any waters, whether on the surface or underground, which belong to the Authority or any water undertaker or from which the Authority or any water undertaker is authorised to take water;
  - (b) without prejudice to paragraph (a) above, of any reservoir which belongs to or is operated by the Authority or any water undertaker or which the Authority or any water undertaker is proposing to acquire or construct for the purpose of being so operated; and
  - (c) of any underground strata from which the Authority or any water undertaker is for the time being authorised to abstract water in pursuance of a licence under Chapter II of Part II of this Act.
- (3) For the purposes to which this section applies the functions of the Authority shall be taken to include the furtherance of research into matters in respect of which functions

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are conferred by or under this Act, the other consolidation Acts or the <sup>M9</sup>Water Act 1989 on the Authority or on relevant undertakers.

- (4) For the purposes to which this section applies the functions of the Authority shall be taken to include joining with or acting on behalf of one or more relevant undertakers for the purpose of carrying out any works or acquiring any land which at least one of the undertakers with which it joins, or on whose behalf it acts, is authorised to carry out or acquire for the purposes of—
- (a) any function of that undertaker under any enactment; or
  - (b) any function which is taken to be a function of that undertaker for the purposes to which section 217 of the <sup>M10</sup>Water Industry Act 1991 applies.
- (5) For the purposes to which this section applies the functions of the Authority shall be taken to include the provision of supplies of water in bulk, whether or not such supplies are provided for the purposes of, or in connection with, the carrying out of any other function of the Authority.
- (6) For the purposes to which this section applies the functions of the Authority shall be taken to include the provision of houses and other buildings for the use of persons employed by the Authority and the provision of recreation grounds for persons so employed.
- (7) In this section—
- “the other consolidation Acts” means the <sup>M11</sup>Water Industry Act 1991, the <sup>M12</sup>Statutory Water Companies Act 1991, the <sup>M13</sup>Land Drainage Act 1991 and the Water Consolidation (Consequential Provisions) Act 1991;
- “relevant undertaker” means a water undertaker or sewerage undertaker; and
- “supply of water in bulk” means a supply of water for distribution by a water undertaker taking the supply.

#### Marginal Citations

- M9** 1989 c. 15.  
**M10** 1991 c. 56.  
**M11** 1991 c. 58.  
**M12** 1991 c. 59.  
**M13** 1991 c. 60.

## 4 Incidental general powers of the Authority. E+W

- (1) The Authority—
- (a) shall have power to do anything which, in the opinion of the Authority, is calculated to facilitate, or is conducive or incidental to, the carrying out of the Authority’s functions; and
  - (b) without prejudice to the generality of that power, shall have power, for the purposes of, or in connection with, the carrying out of those functions, to institute criminal proceedings, to acquire and dispose of land and other property and to carry out such engineering or building operations at such places as the Authority considers appropriate.

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- (2) Subject to subsection (3) below, the Authority may provide for any person outside the United Kingdom advice or assistance, including training facilities, as respects any matter in which the Authority has skill or experience.
- (3) Without prejudice to any power of the Authority apart from subsection (2) above to provide advice or assistance of the kind mentioned in that subsection, the power conferred by that subsection shall not be exercised except—
  - (a) with the consent in writing of the Secretary of State; and
  - (b) if the exercise of that power involves capital expenditure by the Authority, or the guaranteeing by the Authority of any liability, with that consent given with the approval of the Treasury;and a consent under this subsection may be given subject to such conditions as the Secretary of State thinks fit.
- (4) Without prejudice to subsection (1) above, the powers conferred by section 1 of the <sup>M14</sup>Local Authorities (Goods and Services) Act 1970 shall be exercisable by the Authority as if the Authority were a public body within the meaning of that section.
- (5) Nothing in this section with respect to the carrying out of works shall be construed as conferring any power to do anything otherwise than for the purpose of giving the Authority capacity as a corporation to do that thing; and, accordingly, without prejudice to the provisions of Part VII of this Act, this section shall be disregarded for the purpose of determining whether the Authority is liable, on grounds other than an incapacity by virtue of its constitution, for any act or omission in exercise of a power to carry out works conferred by this section.

#### Marginal Citations

M14 1970 c. 39.

## 5 Ministerial directions to the Authority. **E+W**

- (1) Directions of a general or specific character may be given to the Authority—
  - (a) with respect to the carrying out of the Authority’s functions mentioned in paragraphs (a), (b) and (e) of subsection (1) of section 2 above (other than its functions in connection with the making of applications for orders under section 94 below), by the Secretary of State;
  - (b) with respect to the making of applications for orders under section 94 below or with respect to the carrying out of its functions mentioned in paragraphs (c) and (d) of that subsection, by either of the Ministers; and
  - (c) with respect to anything not falling within paragraph (a) or (b) above which is connected with the carrying on of the Authority’s activities generally, by the Ministers.
- (2) Without prejudice to the generality of the power conferred by subsection (1) above, directions under that subsection may include such directions as the Secretary of State, the Minister or, as the case may be, both of them consider appropriate in order to enable Her Majesty’s Government in the United Kingdom to give effect—
  - (a) to any Community obligations; or
  - (b) to any international agreement to which the United Kingdom is for the time being a party.

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- (3) The power to give a direction under this section shall be exercisable, except in an emergency, only after consultation with the Authority.
- (4) Any power of the Secretary of State or the Minister otherwise than by virtue of this section to give directions to the Authority shall be without prejudice to the power conferred by this section.
- (5) It shall be the duty of the Authority to comply with any direction which is given to the Authority, under this section or any of the other provisions of this Act, by either or both of the Ministers.

## CHAPTER II **E+W**

### COMMITTEES WITH FUNCTIONS IN RELATION TO THE AUTHORITY

#### *Advisory committees*

#### **6 The advisory committee for Wales. **E+W****

- (1) The Secretary of State shall continue to maintain the committee established under section 3 of the <sup>M15</sup>Water Act 1989 for advising him with respect to matters affecting or otherwise connected with the carrying out in Wales of the Authority's functions.
- (2) The committee maintained under this section shall consist of such persons as may, from time to time, be appointed by the Secretary of State.
- (3) The committee maintained under this section shall meet at least once a year.
- (4) The Secretary of State shall pay to the members of the committee maintained under this section such sums reimbursing them for loss of remuneration, for travelling expenses and for other out-of-pocket expenses as he may, with the consent of the Treasury, determine.

#### **Marginal Citations**

**M15** 1989 c. 15.

#### **7 Regional rivers advisory committees. **E+W****

- (1) It shall be the duty of the Authority—
  - (a) to establish and maintain advisory committees, consisting of persons who are not members of the Authority, for the different regions of England and Wales;
  - (b) to consult the advisory committee for any region as to any proposals of the Authority relating generally to the manner in which the Authority carries out its functions in that region; and
  - (c) to consider any representations made to it by the advisory committee for any region (whether in response to consultation under paragraph (b) above or otherwise) as to the manner in which the Authority carries out its functions in that region.

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- (2) The duty to establish and maintain advisory committees imposed by subsection (1) above is a duty—
- (a) to establish and maintain an advisory committee for each area which the Authority considers it appropriate for the time being to regard as a region of England and Wales for the purposes of this section; and
  - (b) to ensure that the persons appointed by the Authority to each such committee are persons who appear to the Authority to have an interest in matters likely to be affected by the manner in which the Authority carries out any of its functions in the region in question;
- and it shall be the duty of the Authority in determining the regions for which advisory committees are established and maintained under this section to ensure that one of those regions consists wholly or mainly of, or of most of, Wales.
- (3) There shall be paid by the Authority—
- (a) to the chairman of an advisory committee established and maintained under this section such remuneration and such travelling and other allowances; and
  - (b) to any other members of that committee such sums reimbursing them for loss of remuneration, for travelling expenses or for any other out-of-pocket expenses,
- as may, with the consent of the Treasury, be determined by the Secretary of State.
- (4) For the purposes of this section functions of the Authority which are carried out in any area of Scotland or of the territorial sea which is adjacent to any region for which an advisory committee is maintained shall be regarded as carried out in that region.

## **8 Regional and local fisheries advisory committees. E+W**

- (1) It shall be the duty of the Authority—
- (a) to establish and maintain advisory committees of persons who are not members of the Authority but appear to it to be interested in salmon fisheries, trout fisheries, freshwater fisheries or eel fisheries in the different parts of the controlled area; and
  - (b) to consult those committees as to the manner in which the Authority is to perform its duty under section 114 below.
- (2) The duty to establish and maintain advisory committees imposed by subsection (1) above is a duty to establish and maintain—
- (a) a regional advisory committee for each such region of the controlled area as the Authority considers it appropriate for the time being to regard as a region of that area for the purposes of this section; and
  - (b) such local advisory committees as the Authority considers necessary to represent the interests referred to in paragraph (a) of that subsection in the different parts of each such region;
- and it shall be the duty of the Authority in determining the regions for which regional advisory committees are established and maintained under this section to ensure that one of those regions consists (apart from territorial waters) wholly or mainly of, or of most of, Wales.
- (3) There shall be paid by the Authority—
- (a) to the chairman of an advisory committee established and maintained under this section such remuneration and such travelling and other allowances; and

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(b) to any other members of that committee such sums reimbursing them for loss of remuneration, for travelling expenses or for any other out-of-pocket expenses,  
as may, with the consent of the Treasury, be determined by one of the Ministers.

(4) In this section “the controlled area” means the area specified in section 2(6) above in respect of which the Authority carries out functions under Part V of this Act.

### *Flood defence committees*

## **9 Continuance of regional flood defence committees. E+W**

(1) There shall continue to be committees, known as regional flood defence committees, for the purpose of carrying out the functions which fall to be carried out by such committees by virtue of this Act.

(2) Subject to Schedule 3 to this Act (which makes provision for the alteration of the boundaries of and the amalgamation of the areas of regional flood defence committees)

(a) each regional flood defence committee shall have the same area as immediately before the coming into force of this section; but

(b) where under section 165(2) or (3) below any function of the Authority falls to be carried out at a place beyond the seaward boundaries of the area of any regional flood defence committee, that place shall be assumed for the purposes of this Act to be within the area of the regional flood defence committee to whose area the area of sea where that place is situated is adjacent.

(3) The Authority shall maintain a principal office for the area of each regional flood defence committee.

## **10 Composition of regional flood defence committees. E+W**

(1) Subject to subsection (2) below, a regional flood defence committee shall consist of the following, none of whom shall be a member of the Authority, that is to say—

(a) a chairman and a number of other members appointed by the relevant Minister;

(b) two members appointed by the Authority;

(c) a number of members appointed by or on behalf of the constituent councils.

(2) Subject to section 11 below and to any order under Schedule 3 to this Act amalgamating the areas of any two or more regional flood defence committees—

(a) the total number of members of the regional flood defence committee for any area shall be the same as immediately before the coming into force of this section; and

(b) the number of members to be appointed to a regional flood defence committee for any area by or on behalf of each of the constituent councils or, as the case may be, jointly by or on behalf of more than one of them shall be the same number as fell to be so appointed immediately before the coming into force of this section.

(3) Where—



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- (a) the appointment of one or more members of a regional flood defence committee is (by virtue of subsection (2) above or an order under section 11(5) below), to be made jointly by more than one constituent council; and
- (b) the councils by whom that appointment is to be made are unable to agree on an appointment,

the member or members in question shall be appointed by the relevant Minister on behalf of those councils.

- (4) In appointing a person to be the chairman or a member of a regional flood defence committee under subsection (1)(a) or (c) or (3) above the relevant Minister or, as the case may be, a constituent council 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.
- (5) The councils of every county, metropolitan district or London borough any part of which is in the area of a regional flood defence committee shall be the constituent councils for the regional flood defence committee for that area, and the Common Council of the City of London shall be a constituent council for the regional flood defence committee for any area which comprises any part of the City.
- (6) In this section “the relevant Minister”—
  - (a) in relation to the regional flood defence committee for an area the whole or the greater part of which is in Wales, means the Secretary of State; and
  - (b) in relation to any other regional flood defence committee, means the Minister.

## **11 Change of composition of regional flood defence committee. E+W**

- (1) The Authority may, in accordance with the following provisions of this section, from time to time make a determination varying the total number of members of a regional flood defence committee.
- (2) The Authority shall submit any determination under subsection (1) above to the relevant Minister.
- (3) For the purposes of this section—
  - (a) the total number of members of a regional flood defence committee shall not be less than eleven; and
  - (b) any determination by the Authority under subsection (1) above that a regional flood defence committee should consist of more than seventeen members shall be provisional and shall take effect only if the relevant Minister makes an order under subsection (4) below.
- (4) If the Authority submits a provisional determination to the relevant Minister with respect to any regional flood defence committee and he considers that the committee should consist of more than seventeen members, he may by order made by statutory instrument—
  - (a) confirm it; or
  - (b) substitute for the number of members determined by the Authority some other number not less than seventeen.
- (5) Subject to the following provisions of this section, whenever—
  - (a) the total number of members of a regional flood defence committee is varied under this section; or

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[<sup>F1</sup>(b) the relevant Minister considers it necessary or expedient to make an order under this subsection,]

the relevant Minister shall by order made by statutory instrument specify, <sup>F2</sup> . . . , the number of members to be appointed to the committee by each of the constituent councils.

[<sup>F3</sup>(5A) An order under subsection (5) above shall relate—

- (a) where paragraph (a) of that subsection applies, to times after the coming into force of the variation; and
- (b) where paragraph (b) of that subsection applies, to such times as are specified in the order.]

(6) An order under subsection (5) above shall be so framed that the total number of members appointed under section 10(1)(a) and (b) above is one less than the number of those appointed by or on behalf of constituent councils.

(7) For the purpose of determining for the purposes of subsection (5) above the number of persons to be appointed to a regional flood defence committee by or on behalf of each constituent council, the relevant Minister—

- [<sup>F4</sup>(a) if he considers it to be inappropriate that that council should appoint a member of the committee; or
  - (b) if he considers that one or more members should be appointed jointly by that council and one or more other constituent councils,
- may include provision to that effect in the order.]

(8) In this section—

“member”, in relation to a regional flood defence committee, includes the chairman of the committee;

<sup>F5</sup>  
. . .

“the relevant Minister” has the same meaning as in section 10 above;

<sup>F5</sup>  
. . .

#### Textual Amendments

- F1** S. 11(5)(b) substituted (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. 95(1)(a)** (with s. 118(1)(2)(4)); S.I. 1992/1755, **art. 2(1)**
- F2** Words in s.11 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. 95(1)(b), **Sch. 14** (with s. 118(1)(2)(4)); S.I. 1992/1755, **art. 2(1)**
- F3** S. 11(5A) inserted (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. 95(2)** (with s. 118(1)(2)(4)); S.I. 1992/1755, **art. 2(1)**
- F4** Words in s. 11(7) substituted (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. 95(3)** (with s. 118(1)(2)(4)); S.I. 1992/1755, **art. 2(1)**
- F5** Definitions in s. 11(8) 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. 95(4), **Sch. 14** (with s. 118(1)(2)(4)); S.I. 1992/1755, **art. 2(1)**

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## 12 Local flood defence schemes and local flood defence committees. **E+W**

- (1) A scheme, known as a local flood defence scheme, may be made by the Authority, in accordance with the following provisions of this section—
  - (a) for the creation in the area of a regional flood defence committee of one or more districts, to be known as local flood defence districts; and
  - (b) for the constitution, membership, functions and procedure of a committee for each such district, to be known as the local flood defence committee for that district.
- (2) A regional flood defence committee may at any time submit to the Authority—
  - (a) a local flood defence scheme for any part of their area for which there is then no such scheme in force; or
  - (b) a scheme varying a local flood defence scheme or revoking such a scheme and, if the committee think fit, replacing it with another such scheme;
 and references in the following provisions of this section and in section 13 below to local flood defence schemes are references to schemes under either of paragraphs (a) and (b) above.
- (3) Before submitting a scheme to the Authority under subsection (2) above, a regional flood defence committee shall consult—
  - (a) every local authority any part of whose area will fall within the area to which the scheme is proposed to relate; and
  - (b) such organisations representative of persons interested in flood defence (within the meaning of Part IV of this Act) or agriculture as the regional flood defence committee consider to be appropriate.
- (4) It shall be the duty of the Authority to send any scheme submitted to it under subsection (2) above to one of the Ministers.
- (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 1st September 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.
- (6) A local flood defence scheme may contain incidental, consequential and supplementary provisions.
- (7) Either of the Ministers may approve a local flood defence scheme with or without modifications; and any scheme approved under this subsection shall come into force on a date fixed by the Minister approving it.

## 13 Composition of local flood defence committees. **E+W**

- (1) Subject to subsections (2) and (3) below, a local flood defence scheme shall provide that any local flood defence committee to which it relates shall consist of not less than eleven and not more than fifteen members.
- (2) A regional flood defence committee may include in a local flood defence scheme which they submit to the Authority a recommendation that a committee to which

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the scheme relates should consist of a number of members greater than fifteen; and a scheme so submitted shall be taken to provide for the number of members of a committee if it contains a recommendation under this subsection relating to that committee.

- (3) The power conferred on each of the Ministers by section 12(7) above shall include power to direct that a committee to which a recommendation under subsection (2) above relates shall consist either of the recommended number of members or of some other number of members greater than fifteen.
- (4) A local flood defence committee shall consist of—
  - (a) a chairman appointed from among their own members by the regional flood defence committee;
  - (b) other members appointed by that committee; and
  - (c) members appointed, in accordance with and subject to the terms of the local flood defence scheme, by or on behalf of constituent councils.
- (5) The number of members appointed to a local flood defence committee by or on behalf of constituent councils shall be one more than the total number of members appointed by the regional flood defence committee.
- (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.
- (7) The councils of every county, metropolitan district or London borough any part of which is in a local flood defence district shall be the constituent councils for the local flood defence committee for that district, and the Common Council of the City of London shall be a constituent council for the local flood defence committee of any local flood defence district which comprises any part of the City.

#### **14 Membership and proceedings of flood defence committees. E+W**

Schedule 4 to this Act shall have effect in relation to regional flood defence committees and local flood defence committees.

### **CHAPTER III E+W**

#### **GENERAL DUTIES**

#### **15 General duties with respect to the water industry. E+W**

- (1) It shall be the duty of the Authority, in exercising any of its powers under any enactment, to have particular regard to the duties imposed, by virtue of the provisions of Parts II to IV of the <sup>M16</sup>Water Industry Act 1991, on any water undertaker or sewerage undertaker which appears to the Authority to be or to be likely to be affected by the exercise of the power in question.
- (2) It shall be the duty of each of the Ministers, in exercising—
  - (a) any power conferred by virtue of this Act, the <sup>M17</sup>Land Drainage Act 1991, the Water Industry Act 1991 or the <sup>M18</sup>Water Act 1989 in relation to, or to decisions of, the Authority; or

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- (b) any power which, but for any direction given by one of the Ministers, would fall to be exercised by the Authority,  
to take into account the duty imposed on the Authority by subsection (1) above.

#### Marginal Citations

- M16 1991 c. 56.  
M17 1991 c. 59.  
M18 1989 c. 15.

## 16 General environmental and recreational duties. **E+W**

- (1) It shall be the duty of each of the Ministers and of the Authority, in formulating or considering any proposals relating to any functions of the Authority—
- (a) so far as may be consistent—
- (i) with the purposes of any enactment relating to the functions of the Authority; and
- (ii) in the case of the Secretary of State, with his duties under section 2 of the <sup>M19</sup>Water Industry Act 1991,
- so to exercise any power conferred on him or it with respect to the proposals as to further the conservation and enhancement of natural beauty and the conservation of flora, fauna and geological or physiographical features of special interest;
- (b) to have regard to the desirability of protecting and conserving buildings, sites and objects of archaeological, architectural or historic interest; and
- (c) to take into account any effect which the proposals would have on the beauty or amenity of any rural or urban area or on any such flora, fauna, features, buildings, sites or objects.
- (2) Subject to subsection (1) above, it shall be the duty of each of the Ministers and of the Authority, in formulating or considering any proposals relating to the functions of the Authority—
- (a) to have regard to the desirability of preserving for the public any freedom of access to areas of woodland, mountains, moor, heath, down, cliff or foreshore and other places of natural beauty;
- (b) to have regard to the desirability of maintaining the availability to the public of any facility for visiting or inspecting any building, site or object of archaeological, architectural or historic interest; and
- (c) to take into account any effect which the proposals would have on any such freedom of access or on the availability of any such facility.
- (3) Subsections (1) and (2) above shall apply so as to impose duties on the Authority in relation to-
- (a) any proposals relating to the functions of a water undertaker or sewerage undertaker;
- (b) any proposals relating to the management, by the company holding an appointment as such an undertaker, of any land for the time being held by that company for any purpose whatever (whether or not connected with the carrying out of the functions of a water undertaker or sewerage undertaker); and

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- (c) any proposal which by virtue of section 156(7) of the <sup>M20</sup>Water Industry Act 1991 (disposals of protected land) falls to be treated for the purposes of section 3 of that Act as a proposal relating to the functions of a water undertaker or sewerage undertaker,
- as they apply in relation to proposals relating to the Authority's own functions but as if, for that purpose, the reference in subsection (1)(a) above to enactments relating to the functions of the Authority were a reference to enactments relating to that to which the proposal relates.
- (4) Subject to obtaining the consent of any navigation authority, harbour authority or conservancy authority before doing anything which causes navigation which is subject to the control of that authority to be obstructed or otherwise interfered with, it shall be the duty of the Authority to take such steps as are—
- (a) reasonably practicable; and
  - (b) consistent with the purposes of the enactments relating to the functions of the Authority,
- for securing, so long as the Authority has rights to the use of water or land associated with water, that those rights are exercised so as to ensure that the water or land is made available for recreational purposes and is so made available in the best manner.
- (5) It shall be the duty of the Authority, in determining what steps to take in performance of any duty imposed by virtue of subsection (4) above, to take into account the needs of persons who are chronically sick or disabled.
- (6) Nothing in this section or the following provisions of this Act shall require recreational facilities made available by the Authority to be made available free of charge.
- (7) In this section “building” includes structure.

#### Marginal Citations

**M19** 1991 c. 56.

**M20** 1991 c. 56.

## 17 Environmental duties with respect to sites of special interest. E+W

- (1) Where the Nature Conservancy Council for England or the Countryside Council for Wales are of the opinion that any area of land in England or, as the case may be, in Wales—
- (a) is of special interest by reason of its flora, fauna or geological or physiographical features; and
  - (b) may at any time be affected by schemes, works, operations or activities of the Authority or by an authorisation given by the Authority,
- that Council shall notify the fact that the land is of special interest for that reason to the Authority.
- (2) Where a National Park authority or the Broads Authority is of the opinion that any area of land in a National Park or in the Broads—
- (a) is land in relation to which the matters for the purposes of which sections 2(2) and 16 above have effect are of particular importance; and
  - (b) may at any time be affected by schemes, works, operations or activities of the Authority or by an authorisation given by the Authority,

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the National Park authority or Broads Authority shall notify the fact that the land is such land, and the reasons why those matters are of particular importance in relation to the land, to the Authority.

- (3) Where the Authority has received a notification under subsection (1) or (2) above with respect to any land, it shall consult the notifying body before carrying out or authorising any works, operations or activities which appear to the Authority to be likely—
- (a) to destroy or damage any of the flora, fauna, or geological or physiographical features by reason of which the land is of special interest; or
  - (b) significantly to prejudice anything the importance of which is one of the reasons why the matters mentioned in subsection (2) above are of particular importance in relation to that land.
- (4) Subsection (3) above shall not apply in relation to anything done in an emergency where particulars of what is done and of the emergency are notified to the Nature Conservancy Council for England, the Countryside Council for Wales, the National Park authority in question or, as the case may be, the Broads Authority as soon as practicable after that thing is done.
- (5) In this section—
- “the Broads” has the same meaning as in the<sup>M21</sup>Norfolk and Suffolk Broads Act 1988; and
  - “National Park authority” means a National Park Committee or a joint or special planning board for a National Park.

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

**C1** S. 17 amended (*temp.*) (23.11.1995-31.3.1996) by 1995 c. 25, s. 78, **Sch. 10**, para. 34(1)(b)(2) (with ss. 7(6), 115, 117); S.I. 1995/2950, **art. 2**

**Marginal Citations**

**M21** 1988 c. 4.

**18 Codes of practice with respect to environmental and recreational duties. E+W**

- (1) Each of the Ministers shall have power by order to approve any code of practice issued (whether by him or by another person) for the purpose of—
- (a) giving practical guidance to the Authority with respect to any of the matters for the purposes of which sections 2(2), 16 and 17 above have effect; and
  - (b) promoting what appear to him to be desirable practices by the Authority with respect to those matters,
- and may at any time by such an order approve a modification of such a code or withdraw his approval of such a code or modification.
- (2) A contravention of a code of practice as for the time being approved under this section shall not of itself constitute a contravention of any requirement imposed by section 2(2), 16 or 17 above or give rise to any criminal or civil liability; but each of the Ministers shall be under a duty to take into account whether there has been or is likely to be any such contravention in determining when and how he should exercise his powers in relation to the Authority by virtue of this Act, the<sup>M22</sup>Land Drainage Act 1991, the<sup>M23</sup>Water Industry Act 1991 or the<sup>M24</sup>Water Act 1989.

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- (3) 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.
- (4) Neither of the Ministers shall make an order under this section unless he has first consulted—
- (a) the Authority;
  - (b) the Countryside Commission, the Nature Conservancy Council for England and the Countryside Council for Wales;
  - (c) the Historic Buildings and Monuments Commission for England;
  - (d) the Sports Council and the Sports Council for Wales; and
  - (e) such water undertakers, sewerage undertakers and other persons as he considers it appropriate to consult.

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**Marginal Citations**

**M22** 1991 c. 59.

**M23** 1991 c. 56.

**M24** 1989 c. 15.



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