



# Reservoirs Act 1975

## 1975 CHAPTER 23

E+W+S

An Act to make futher provision against escapes of water from large reservoirs or from lakes or lochs artificially created or enlarged.

### Textual Amendments

- F1** S. 27A inserted (E.W.) (1.10.2004 for E., 11.11.2004 for W.) by [Water Act 2003 \(c. 37\)](#), **ss. 80**, 105(3); [S.I. 2004/2528](#), **art. 2(p)** (with [Sch. para. 8](#)); [S.I. 2004/2916](#), **art. 2(c)**
- F2** S. 12B inserted (E.W.) (1.10.2004 for E., 11.11.2004 for W.) by [Water Act 2003 \(c. 37\)](#), **ss. 78(2)**, 105(3); [S.I. 2004/2528](#), **art. 2(n)** (with [Sch. para. 8](#)); [S.I. 2004/2916](#), **art. 2(b)**
- F3** S. 12A inserted (E.W.) (1.10.2004 for E., 11.11.2004 for W.) by [Water Act 2003 \(c. 37\)](#), **ss. 77**, 105(3); [S.I. 2004/2528](#), **art. 2(m)** (with [Sch. para. 8](#)); [S.I. 2004/2916](#), **art. 2(a)**

### Modifications etc. (not altering text)

- C1** Power to modify Act conferred by [Local Government \(Interim Provisions\) Act 1984 \(c. 53, SIF 81:1\)](#), **s. 6(3)**
- C2** Act modified by [Channel Tunnel Act 1987 \(c. 53, SIF 102\)](#), **s. 6, Sch. 2 Pt. II para. 6** (with **s. 45, Sch. 7 Pt. VI para. 2**)
- C3** Act modified (5.11.1993) by [1993 c. 42, s.25\(2\)](#), (with **s. 30(1), Sch. 2 para. 9**).
- C4** Act amended (1.4.1996) by [S.I. 1996/593, reg. 2, Sch. 1](#)
- C5** Act: Transfer of functions (W.) (1.7.1999) by [S.I. 1999/672, art. 2, Sch. 1](#)  
Act extended (18.7.2000) by [S.I. 2000/1884, art. 38](#)
- C6** Act amendment to earlier affecting provision [S.I. 1999/672, Sch. 1 \(E.W.\) \(1.10.2004\)](#) by [Water Act 2003 \(c. 37\)](#), **ss. 100(1)**, 105(3); [S.I. 2004/2528, art. 2\(s\)\(i\)](#) (with [Sch. para. 8](#))
- C7** Act amendment to earlier affecting provision [S.I. 1999/672, Sch. 1 \(E.W.\) \(1.10.2004\)](#) by [Water Act 2003 \(c. 37\)](#), **s. 100(1)(6)105(3)** (with **s. 100(7)**); [S.I. 2004/2528, art. 2\(s\)](#) (with [Sch. para. 78](#)) (which transitional provisions in [Sch. para. 7](#) are revoked (1.4.2005) by [S.I. 2005/968, art. 4](#))

### Commencement Information

- I1** Act not in force at Royal Assent see **s. 29(1)**; Act wholly in force at 1.4.1987.

*Status: Point in time view as at 01/04/2016.*

*Changes to legislation: Reservoirs Act 1975 is up to date with all changes known to be in force on or before 14 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## *[<sup>F4</sup>Operation of Act, and administration*

### Textual Amendments

- F4** Act repealed (S.) (1.4.2016) by [Reservoirs \(Scotland\) Act 2011 \(asp 9\)](#), **ss. 8(2)**, 116(1) (with s. 110); [S.S.I. 2016/42, art. 2, sch.](#) (with art. 3)

### **[<sup>F5</sup>A1 Large raised reservoir”]: England and Wales** **E+W**

- (1) In this Act “large raised reservoir” means—
  - (a) a large, raised structure designed or used for collecting and storing water, and
  - (b) a large, raised lake or other area capable of storing water which was created or enlarged by artificial means.
- (2) A structure or area is “raised” if it is capable of holding water above the natural level of any part of the surrounding land.
- (3) A raised structure or area is “large” if it is capable of holding 10,000 cubic metres of water above the natural level of any part of the surrounding land.
- (4) The Minister must make regulations about how to calculate capacity for the purpose of subsection (3) (and “natural level” and “surrounding land” are to be construed in accordance with the regulations).
- (5) The Minister may by regulations provide for a structure or area to be treated as “large” by reason of proximity to, or actual or potential communication with, another structure or area.
- (6) In making regulations under subsection (5) the Minister shall aim to ensure that a structure or area is treated as large under the regulations only if 10,000 or more cubic metres of water might be released as a result of the proximity or communication mentioned in that subsection.
- (7) The Minister may by order substitute a different volume of water for the volume specified in subsection (3) or (6).
- (8) The Minister may by regulations provide for specified things not to be treated as large raised reservoirs for the purposes of this Act.
- (9) A reference to a large raised reservoir includes a reference to anything used or designed to contain the water or control its flow.]

### Textual Amendments

- F5** S. A1 inserted (1.10.2011 for specified purposes, 30.7.2013 for E. so far as not already in force, 1.4.2016 for W. in so far as not already in force) by [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), **Sch. 4 para. 2** (with s. 49(1)(6)); [S.I. 2011/2204, art. 3\(1\)\(e\)](#); [S.I. 2013/1590, art. 3\(b\)](#); [S.I. 2016/79, art. 2\(b\)](#)

### Modifications etc. (not altering text)

- C8** S. A1(3)(6) modified (temp.) (3.7.2013) by [The Flood and Water Management Act 2010 \(Commencement No. 2, Transitional and Savings Provisions\) \(England\) Order 2013 \(S.I. 2013/1590\)](#), **art. 4(1)**

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## 1 Ambit of Act and interpretation. **E+W+S**

- (1) <sup>F6</sup> ...
- (2) <sup>F6</sup> ...
- (3) <sup>F6</sup> ...
- (4) In relation to any reservoir “undertakers” means for purposes of this Act—
  - (a) in the case of a reservoir that is or, when constructed, is to be managed and operated [<sup>F7</sup>by the Environment Agency, the Natural Resources Body for Wales (the “NRBW”) or a water undertaker, the Environment Agency, the NRBW or, as the case may be, the water][<sup>F8</sup>undertaker]; and
  - (b) in any other case—
    - (i) if the reservoir is used or intended to be used for the purposes of any undertaking, the persons for the time being carrying on that undertaking; or
    - (ii) if the reservoir is not so used or intended to be used, the owners or lessees of the reservoir.

[<sup>F9</sup>(4A) The “area” of the Environment Agency, in its capacity as a relevant authority for purposes of this Act, is the whole of England <sup>F10</sup>....]

[<sup>F11</sup>(4C) The “area” of the NRBW, in its capacity as a relevant authority for the purposes of this Act, is the whole of Wales.]

- (5) This Act shall not be taken as conferring on any person a claim to damages in respect of a breach by undertakers of their obligations under this Act.

[<sup>F12</sup>(5A) In this Act, “appropriate agency” means—

- (a) in relation to reservoirs in England, the Environment Agency;
- (b) in relation to reservoirs in Wales, the NRBW.]

- (6) The expressions listed in column 1 of Schedule 1 to this Act have for purposes of this Act the meanings given to them by the provisions of this Act shown in column 2 of the Schedule.

### Textual Amendments

- F6** S. 1(1)-(3) omitted (30.7.2013 for E., 1.4.2016 for W.) by virtue of [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), [Sch. 4 para. 3\(1\)](#) (with s. 49(1)(6)); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(b)
- F7** Words in s. 1(4)(a) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 2 para. 118\(2\)](#) (with Sch. 7)
- F8** Words in s. 1(4)(a) substituted (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 190, [Sch. 25 para. 49](#) (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)-(10), 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)
- F9** S. 1(4A) inserted (1.10.2004) by [Water Act 2003 \(c. 37\)](#), [ss. 74\(1\)\(c\)](#), 105(3); S.I. 2004/2528, art. 2(k) (with [Sch. para. 8](#))
- F10** Words in s. 1(4A) omitted (1.4.2013) by virtue of [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 2 para. 118\(3\)](#) (with Sch. 7)
- F11** S. 1(4C) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 2 para. 118\(4\)](#) (with Sch. 7)
- F12** S. 1(5A) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 2 para. 118\(5\)](#) (with Sch. 7)

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

C9 S. 1 excluded (16.3.1992) by [Avon Weir Act 1992 \(c. v\)](#), s. 12(2)

**<sup>F132</sup> Registration of large raised reservoirs, and enforcement of Act, by local authorities. E+W+S**

- (1) [<sup>F14</sup> The relevant authorities for purposes of this Act shall be, in England <sup>F15</sup>... the Environment Agency ] [<sup>F16</sup>, in Wales the NRBW] and, in Scotland, [<sup>F17</sup> councils constituted under section 2 of the Local Government etc. (Scotland) Act 1994].
- (2) It shall be the duty of each [<sup>F18</sup> relevant authority ] to establish and maintain for their area a register showing the large raised reservoirs situated wholly or partly in the area, and giving the prescribed information about each of them; and—
  - (a) the register maintained by a [<sup>F18</sup> relevant authority ] under this subsection and copies of it or a prescribed part of it shall be kept at such place or places as may be prescribed; and
  - (b) the register so maintained, and any copy required under sub-paragraph (a) above to be kept at any place, shall be available for inspection at all reasonable times by any person.

[<sup>F13</sup>(2A) If it appears to the Secretary of State that the inclusion of any information in the register maintained under subsection (2) above by the Environment Agency [<sup>F19</sup> or the NRBW] would be contrary to the interests of national security, he may direct the Agency [<sup>F20</sup> or the NRBW] not to include that information in the register.]

[<sup>F21</sup>(2B) The undertaker must register a large raised reservoir with the relevant authority.

(2C) The Minister may make regulations about registration under this section.

(2D) Regulations under subsection (2C) may, in particular, include provision about—

- (a) the information to be registered, and
- (b) the time by which information, or changes to information, must be registered.

(2E) The regulations may require an undertaker to notify the relevant authority about—

- (a) proposed alterations to which section 6 applies;
- (b) a proposal to abandon a large raised reservoir under section 14;
- (c) the appointment, or termination of appointment, of an engineer for a purpose of this Act.]

(3) It shall be for the [<sup>F18</sup> relevant authority] in whose area a reservoir is situated, if they are not themselves the undertakers, to secure that the undertakers observe and comply with the requirements of this Act.

(4) Where a reservoir extends into the areas of more than one [<sup>F18</sup> relevant authority], then unless one of those authorities are the undertakers, the authority charged under subsection (3) above with securing that the undertakers observe and comply with the requirements of this Act shall be such one of those authorities as may be agreed between them or, in default of agreement, may be determined by the Secretary of State.

(5) Where a reservoir extends into the areas of more than one [<sup>F18</sup> relevant authority], and one of those authorities are the undertakers, subsections (3) and (4) above shall apply as if the reservoir did not extend into the area of that one of the authorities.

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- (6) For purposes of this Act “enforcement authority” means, in relation to a reservoir, the [<sup>F18</sup>relevant authority] charged under subsection (3) above with securing that the undertakers observe and comply with the requirements of this Act (and, where the context so requires, includes the authority that would be so charged if the reservoir were a large raised reservoir); and accordingly the provisions of this Act relating to the enforcement authority for a reservoir do not apply in the case of a reservoir if a [<sup>F18</sup>relevant authority] are the undertakers and the reservoir is situated wholly in the area of that authority.
- (7) There shall be paid out of money provided by Parliament any increase attributable to this Act in the amounts so payable under any enactment by way of rate support grant.

#### Textual Amendments

- F13** S. 2(2A) inserted (E.W.) (1.10.2004 for E., 11.11.2004 for W.) by Water Act 2003 (c. 37), ss. 78(1), 105(3); S.I. 2004/2528, art. 2(n) (with Sch. para. 8); S.I. 2004/2916, art. 2(b)
- F14** Words in s. 2(1) substituted (1.10.2004) by Water Act 2003 (c. 37), ss. 74(1)(a), 105(3); S.I. 2004/2528, art. 2(k) (with Sch. para. 8)
- F15** Words in s. 2(1) omitted (1.4.2013) by virtue of The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), Sch. 2 para. 119(2)(a) (with Sch. 7)
- F16** Words in s. 2(1) inserted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), Sch. 2 para. 119(2)(b) (with Sch. 7)
- F17** Words in s. 2(1) substituted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), Sch. 13 para. 98; S.I. 1996/323, art. 4(1)(b)(c)
- F18** Words in s. 2 substituted (1.10.2004) by Water Act 2003 (c. 37), ss. 74(1)(b), 105(3); S.I. 2004/2528, art. 2(k) (with Sch. para. 8)
- F19** Words in s. 2(2A) inserted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), Sch. 2 para. 119(3)(a) (with Sch. 7)
- F20** Words in s. 2(2A) inserted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), Sch. 2 para. 119(3)(b) (with Sch. 7)
- F21** S. 2(2B)-(2E) inserted (1.10.2011 for specified purposes, 30.7.2013 for E. so far as not already in force, 1.4.2016 for W. in so far as not already in force) by Flood and Water Management Act 2010 (c. 29), s. 49(3), Sch. 4 para. 4 (with s. 49(1)(6)); S.I. 2011/2204, art. 3(1)(e); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(b)

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

- C10** S. 2 modified by S.I. 1985/176, art. 2(3)(ii), Sch. and 1986/466, art. 2(2), Sch. 2

### <sup>F22</sup>2A Consideration of risk and provisional designation: England and Wales **E+W**

- (1) As soon as is reasonably practicable after the registration of a large raised reservoir under section 2 [<sup>F23</sup>the appropriate agency] shall consider whether the reservoir is to be designated as a high-risk reservoir (applying the criteria set out in section 2C).
- (2) [<sup>F23</sup>the appropriate agency] may—
- make a provisional designation by giving notice to the undertaker, or
  - notify the undertaker that the reservoir is not designated as a high-risk reservoir.
- (3) A provisional designation notice must specify—
- the reasons for the provisional designation,

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- (b) how representations to [<sup>F23</sup>the appropriate agency] may be made, and
  - (c) the period within which those representations may be made.
- (4) The Minister may by order specify a minimum period within which representations may be made under subsection (3)(c).

#### Textual Amendments

- F22** Ss. 2A-2E inserted (1.10.2011 for specified purposes, 30.7.2013 for E. so far as not already in force, 1.4.2016 for W. in so far as not already in force) by [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), [Sch. 4 para. 7](#) (with s. 49(1)(6)); S.I. 2011/2204, art. 3(1)(e); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(b)
- F23** Words in ss. 2A-2D substituted (1.4.2013) by: [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 2 para. 120](#) (with [Sch. 7](#)); 2010 c. 29, Sch. 4 para. 7 (as amended by S.I. 2013/755, Sch. 2 para. 468(2)(a) (with [Sch. 7](#)))

## 2B Designation E+W

- (1) [<sup>F23</sup>the appropriate agency] may designate a large raised reservoir as a high-risk reservoir by giving notice confirming a provisional designation to the undertaker.
- (2) In deciding whether to confirm a provisional designation [<sup>F23</sup>the appropriate agency] must have regard to the representations made in accordance with section 2A.
- (3) A notice under subsection (1) may not be given before the end of the period within which representations may be made under section 2A(3)(c).
- (4) The notice must—
  - (a) specify the provisional notice to which it relates,
  - (b) specify the reasons for the designation,
  - (c) give information about the procedure for bringing an appeal under regulations under section 2E,
  - (d) specify the period within which an appeal may be brought, and
  - (e) specify the date on which the designation takes effect, which must be after the end of the period specified under paragraph (d).

#### Textual Amendments

- F22** Ss. 2A-2E inserted (1.10.2011 for specified purposes, 30.7.2013 for E. so far as not already in force, 1.4.2016 for W. in so far as not already in force) by [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), [Sch. 4 para. 7](#) (with s. 49(1)(6)); S.I. 2011/2204, art. 3(1)(e); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(b)
- F23** Words in ss. 2A-2D substituted (1.4.2013) by: [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 2 para. 120](#) (with [Sch. 7](#)); 2010 c. 29, Sch. 4 para. 7 (as amended by S.I. 2013/755, Sch. 2 para. 468(2)(a) (with [Sch. 7](#)))

## 2C Meaning of “high-risk reservoir” E+W

- (1) [<sup>F23</sup>the appropriate agency] may designate a large raised reservoir as a high-risk reservoir if—



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- (a) [<sup>F23</sup>the appropriate agency] thinks that, in the event of an uncontrolled release of water from the reservoir, human life could be endangered, and
  - (b) the reservoir does not satisfy the conditions (if any) specified in regulations made by the Minister.
- (2) The conditions specified in regulations under subsection (1)(b) may, in particular, include conditions as to—
- (a) the purpose for which the reservoir is used,
  - (b) the materials used to construct the reservoir,
  - (c) the way in which the reservoir is constructed, and
  - (d) the maintenance of the reservoir.
- (3) Sections 10 to 12 make provision about requirements for inspection, monitoring and supervision of high-risk reservoirs.
- (4) References in this Act to a “high-risk reservoir” are references to a large raised reservoir that has been designated under section 2B as a high-risk reservoir.

#### Textual Amendments

- F22** Ss. 2A-2E inserted (1.10.2011 for specified purposes, 30.7.2013 for E. so far as not already in force, 1.4.2016 for W. in so far as not already in force) by [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), [Sch. 4 para. 7](#) (with s. 49(1)(6)); S.I. 2011/2204, art. 3(1)(e); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(b)
- F23** Words in ss. 2A-2D substituted (1.4.2013) by: [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 2 para. 120](#) (with [Sch. 7](#)); 2010 c. 29, Sch. 4 para. 7 (as amended by S.I. 2013/755, Sch. 2 para. 468(2)(a) (with [Sch. 7](#)))

## 2D Review **E+W**

- (1) [<sup>F23</sup>the appropriate agency] must carry out a review if it thinks that—
- (a) the designation of a large raised reservoir as a high-risk reservoir may have ceased to be appropriate, or
  - (b) it may be appropriate to designate a large raised reservoir as a high-risk reservoir.
- (2) Sections 2A to 2C apply following a review as they apply following the registration of a reservoir.

#### Textual Amendments

- F22** Ss. 2A-2E inserted (1.10.2011 for specified purposes, 30.7.2013 for E. so far as not already in force, 1.4.2016 for W. in so far as not already in force) by [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), [Sch. 4 para. 7](#) (with s. 49(1)(6)); S.I. 2011/2204, art. 3(1)(e); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(b)
- F23** Words in ss. 2A-2D substituted (1.4.2013) by: [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 2 para. 120](#) (with [Sch. 7](#)); 2010 c. 29, Sch. 4 para. 7 (as amended by S.I. 2013/755, Sch. 2 para. 468(2)(a) (with [Sch. 7](#)))

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## 2E Appeals **E+W**

- (1) The Minister must by regulations provide a right of appeal against designations under section 2B.
- (2) The regulations must—
  - (a) confer jurisdiction on the Minister, a court or a tribunal, and
  - (b) make provision about procedure.
- (3) Where an appeal against a designation is brought—
  - (a) the designation is suspended while the appeal is pending;
  - (b) the person or body hearing the appeal may cancel the designation.]

### Textual Amendments

**F22** Ss. 2A-2E inserted (1.10.2011 for specified purposes, 30.7.2013 for E. so far as not already in force, 1.4.2016 for W. in so far as not already in force) by [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), [Sch. 4 para. 7](#) (with s. 49(1)(6)); S.I. 2011/2204, art. 3(1)(e); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(b)

## 3 Reports by local authorities to, and supervisory powers of, Secretary of State.

**E+W+S**

- (1) Each [<sup>F24</sup> relevant authority ] shall, at such intervals as may be prescribed, make to the Secretary of State a report giving such information as may be prescribed as to the steps taken by them as enforcement authority to secure that undertakers observe and comply with the requirements of this Act or as to the steps taken by them to observe and comply with those requirements as undertakers for any reservoir situated wholly in their area.
- (2) If it appears to the Secretary of State that he should do so, the Secretary of State may cause an inquiry to be held into the question whether a [<sup>F24</sup> relevant authority ] have failed to perform any of their functions as such under this Act in a case where they ought to have performed them.
- (3) If, after an inquiry under subsection (2) above or without such an inquiry, the Secretary of State is satisfied that a [<sup>F24</sup> relevant authority ] have failed to perform any of their functions as such under this Act in a case where they ought to have performed them, the Secretary of State may make an order declaring the authority to be in default; and the order may, for the purpose of remedying the default, direct the authority to perform such of their functions as may be specified in the order, and may specify the manner in which, and the time or times within which, those functions are to be performed.
- (4) An order under this section may be varied or revoked by a further order of the Secretary of State.
- (5) In Scotland, if the authority declared to be in default by an order under this section fail to comply with any requirement thereof within the time limited thereby for compliance with that requirement, the Court of Session may, on the application of the Lord Advocate on behalf of the Secretary of State, order specific performance of the functions in respect of which there has been default, and do otherwise as to the court appears to be just.



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#### Textual Amendments

**F24** Words in s. 3 substituted (1.10.2004) by [Water Act 2003 \(c. 37\)](#), **ss. 74(1)(b)**, 105(3); [S.I. 2004/2528](#), [art. 2\(k\)](#) (with [Sch. para. 8](#))

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

**C11** S. 3 modified by [S.I. 1985/176](#), [art. 2\(3\)\(ii\)](#), [Sch.](#) and 1986/466, [art. 2\(2\)](#), [Sch. 2](#)

**C12** S. 3: Functions of the Lord Advocate transferred to the Advocate General (*temp.* from 20.5.1999 to 1.7.1999) by [S.I. 1999/901](#), [arts. 2\(1\)](#), 5, [Sch.](#)

## 4 Qualification of engineers. **E+W+S**

- (1) There shall be a panel of civil engineers for the purposes of this Act, or such number of different panels for different purposes of this Act or for different classes of reservoir as, after consultation, the Secretary of State may from time to time determine; and any reference in this Act to a qualified civil engineer is a reference to a civil engineer who is a member of the panel constituted under this section or, if there are for the time being more than one such panel, a member of the appropriate panel.
- (2) Any civil engineer may apply in the prescribed manner to be placed on any panel; and if the application is accompanied by the prescribed fee (if any), and the Secretary of State is satisfied after consultation that the applicant is qualified and fit to be placed on that panel, the Secretary of State shall appoint him to be a member of the panel.
- (3) Any appointment under subsection (2) above shall be for a term of five years; but an engineer whose appointment expires may be re-appointed under that subsection for a further term.
- (4) Any appointment to a panel shall also lapse on the abolition or alteration of that panel; but—
  - (a) before abolishing or altering any panel the Secretary of State shall give to the engineers for the time being on the panel such notice as he considers reasonable to allow them to apply for appointment to any other panel constituted or to be constituted wholly or partly for the same purposes; and
  - (b) subject to subsection (5) below, a person who is appointed to act for any purpose of this Act (otherwise than as supervising engineer) at a time when he is a qualified civil engineer for that purpose may, on ceasing under this subsection to be a member of the appropriate panel, continue for not more than four years to act by virtue of that appointment and shall be for the purpose a qualified civil engineer.
- (5) The Secretary of State may remove an engineer from any panel, or direct that he shall no longer be qualified to act by virtue of subsection (4)(b) above, if the Secretary of State is satisfied after consultation that the engineer is not fit to remain on the panel or not fit so to act.
- (6) References in this section to consultation by the Secretary of State are references to consultation with the President of the Institution of Civil Engineers or, if that institution appoint a committee for the relevant purpose, with that committee.
- (7) The Secretary of State may reimburse to the Institution of Civil Engineers any expenses incurred by the Institution for purposes of this section.

*Status: Point in time view as at 01/04/2016.*

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- (8) Any expenses of the Secretary of State under this section shall be defrayed out of money provided by Parliament; and any fees received by the Secretary of State under subsection (2) above shall be paid into the Consolidated Fund.
- (9) If at any time the Institution of Civil Engineers ceases to exist references in this section to that institution or its President shall have effect as references to the prescribed institution or head of the prescribed institution.
- [<sup>F25</sup>(10) The Secretary of State and the Welsh Ministers acting jointly may establish one or more panels of engineers under this section (“joint panels”).
- (11) For the purposes of anything done in relation to a joint panel, a reference in this section to the Secretary of State is a reference to the Secretary of State and the Welsh Ministers acting jointly.]

#### Textual Amendments

**F25** S. 4(10)(11) added (30.7.2013 for E., 1.4.2016 for W.) by [Flood and Water Management Act 2010](#) (c. 29), s. 49(3), [Sch. 4 para. 9](#) (with s. 49(1)(6)); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(b)

## 5 Power to prescribe by regulations. **E+W+S**

- [<sup>F26</sup>(1)] The Secretary of State may by statutory instrument make regulations for prescribing anything which is under this Act to be prescribed (and in this Act “prescribed” means prescribed by regulations so made).
- [<sup>F27</sup>(2) A statutory instrument under this Act—
- (a) may make provision that applies generally or only for specified purposes,
  - (b) may make different provision for different purposes, and
  - (c) may include incidental, consequential or transitional provision.
- (3) Regulations or an order made under any provision listed in subsection (5) or (7) shall be made by statutory instrument.
- (4) A statutory instrument containing regulations, rules or an order made under any provision listed in subsection (5)—
- (a) shall be subject to annulment in pursuance of a resolution of either House of Parliament, in the case of an instrument made by the Secretary of State, or
  - (b) shall be subject to annulment in pursuance of a resolution of the National Assembly for Wales, in the case of an instrument made by the Welsh Ministers.
- (5) The provisions are—
- (a) section A1(4) and (5),
  - (b) section 2(2) or (2C),
  - (c) section 2A(4),
  - (d) section 2E(1),
  - (e) section 3(1) or (3),
  - (f) section 4(9),
  - (g) section 11(1),
  - (h) section 14(6),
  - (i) section 19(5),

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- (j) section 19A(1),
  - (k) section 20(1),
  - (l) section 20A(1),
  - (m) section 21(1),
  - (n) section 21B(1), and
  - (o) section 22D(1).
- (6) A statutory instrument containing regulations or an order made under any provision listed in subsection (7) may not be made unless a draft has been laid before and approved by resolution of—
- (a) each House of Parliament, in the case of regulations or an order made by the Secretary of State, or
  - (b) the National Assembly for Wales, in the case of regulations or an order made by the Welsh Ministers.
- (7) The provisions are—
- (a) section A1(7) and (8),
  - (b) section 2C(1)(b),
  - (c) section 6(6B),
  - (d) section 10(2), and
  - (e) section 13(4).
- (8) The first sets of regulations under section 2E or 19A may not be made unless a draft has been laid before and approved by resolution of—
- (a) each House of Parliament, in the case of the first regulations made by the Secretary of State under either section, and
  - (b) the National Assembly for Wales, in the case of the first regulations made by the Welsh Ministers under either section.]

#### Textual Amendments

- F26** S. 5 renumbered as s. 5(1) (E.W.) (1.10.2011) by [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), [Sch. 4 para. 38\(2\)](#) (with s. 49(1)(6)); S.I. 2011/2204, art. 3(1)(g)
- F27** S. 5(2)-(8) added (E.W.) (1.10.2011) by [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), [Sch. 4 para. 38\(3\)](#) (with s. 49(1)(6)); S.I. 2011/2204, art. 3(1)(g)

### *New, enlarged and restored reservoirs*

## 6 Construction or enlargement of reservoirs. **E+W+S**

- (1) No large raised reservoir shall be constructed (whether as a new reservoir or by the alteration of an [<sup>F28</sup>existing structure or area] that is not a large raised reservoir) or shall be altered so as to increase [<sup>F29</sup>or decrease] its capacity, unless a qualified civil engineer (“the construction engineer”) is employed to design and supervise the construction or alteration; and where the use of a reservoir as a reservoir has been abandoned, and the reservoir is to be brought back into use after being altered so as to increase [<sup>F29</sup>or decrease] its capacity, that shall be treated for purposes of this Act as the construction of a new reservoir.

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- (2) Where a large raised reservoir is constructed as a new reservoir, it shall not be used for the storage of water, or be filled wholly or partially with water, otherwise than in accordance with the certificate of the construction engineer responsible for its construction (or, in the event of any alteration to it, in accordance with subsection (4) below).
- (3) Where a large raised reservoir is constructed by the alteration of an [<sup>F30</sup>existing structure or area] that is not a large raised reservoir, the <sup>F31</sup>... reservoir shall not be used for the storage of water, or be filled wholly or partially with water, otherwise than in accordance with the certificate of the construction engineer responsible for the construction of the reservoir (or, in the event of any alteration to it, in accordance with subsection (4) below).
- (4) Where a large raised reservoir is altered so as to increase [<sup>F32</sup>or decrease] its capacity, then from the time when the construction engineer responsible for the alteration gives any certificate for the reservoir, the reservoir shall not be used for the storage of water, or be filled wholly or partially with water, otherwise than in accordance with the certificate of that construction engineer (or, in the event of any further alteration to it, in accordance with this subsection as it applies on that alteration).
- (5) Where the construction or alteration of a reservoir is by this section required to be supervised by a construction engineer, the reservoir shall be under the supervision of the construction engineer until he gives his final certificate for the reservoir.
- (6) <sup>F33</sup>...
- [<sup>F34</sup>(6A) This section and sections 7 and 8 do not apply in relation to alterations, or proposed alterations, to decrease the capacity of a large raised reservoir so that it is incapable of holding 10,000 cubic metres of water above the natural level of any part of the surrounding land (in which case section 13 applies instead).
- (6B) The Minister may by order substitute a different volume of water for the volume specified in subsection (6A).]

#### Textual Amendments

- F28** Words in s. 6(1) substituted (30.7.2013 for E., 1.4.2016 for W.) by [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), [Sch. 4 para. 3\(2\)](#) (with s. 49(1)(6)); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(b)
- F29** Words in s. 6(1) inserted (1.10.2011 for specified purposes, 30.7.2013 for E. so far as not already in force, 1.4.2016 for W. in so far as not already in force) by [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), [Sch. 4 para. 10\(2\)](#) (with s. 49(1)(6)); S.I. 2011/2204, art. 3(1)(e); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(b)
- F30** Words in s. 6(3) substituted (30.7.2013 for E., 1.4.2016 for W.) by [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), [Sch. 4 para. 3\(3\)](#) (with s. 49(1)(6)); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(b)
- F31** Words in s. 6(3) omitted (1.10.2011 for specified purposes, 30.7.2013 for E. so far as not already in force, 1.4.2016 for W. in so far as not already in force) by virtue of [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), [Sch. 4 para. 10\(3\)](#) (with s. 49(1)(6)); S.I. 2011/2204, art. 3(1)(e); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(b)
- F32** Words in s. 6(4) inserted (1.10.2011 for specified purposes, 30.7.2013 for E. so far as not already in force, 1.4.2016 for W. in so far as not already in force) by [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), [Sch. 4 para. 10\(4\)](#) (with s. 49(1)(6)); S.I. 2011/2204, art. 3(1)(e); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(b)

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- F33** S. 6(6) omitted (1.10.2011 for specified purposes, 30.7.2013 for E. so far as not already in force, 1.4.2016 for W. in so far as not already in force) by virtue of [Flood and Water Management Act 2010 \(c. 29\), s. 49\(3\), Sch. 4 para. 10\(5\)](#) (with s. 49(1)(6)); S.I. 2011/2204, art. 3(1)(e); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(b)
- F34** S. 6(6A)(6B) added (1.10.2011 for specified purposes, 30.7.2013 for E. so far as not already in force, 1.4.2016 for W. in so far as not already in force) by [Flood and Water Management Act 2010 \(c. 29\), s. 49\(3\), Sch. 4 para. 10\(6\)](#) (with s. 49(1)(6)); S.I. 2011/2204, art. 3(1)(e); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(b)

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

- C13** Ss. 6–10 modified by [S.I. 1986/466, art. 2\(2\), Sch. 1](#)
- C14** S. 6(6A) modified (temp.) (3.7.2013) by [The Flood and Water Management Act 2010 \(Commencement No. 2, Transitional and Savings Provisions\) \(England\) Order 2013 \(S.I. 2013/1590\), art. 4\(1\)](#)

**7 Certificates of construction engineers. E+W+S**

- (1) As soon as the construction engineer responsible for any reservoir or [<sup>F35</sup>alteration] to a reservoir considers that the construction of the reservoir or [<sup>F35</sup>alteration] has reached a stage at which the reservoir <sup>F36</sup>... can properly be filled wholly or partially with water, he shall give a certificate (“the preliminary certificate”) specifying the level up to which it may be filled and the conditions (if any) subject to which it may be so filled; and the construction engineer may from time to time supersede a preliminary certificate by the issue of a further preliminary certificate varying the previous certificate, whether as to water level or as to conditions.
- (2) Where the construction engineer responsible for an [<sup>F37</sup>alteration] to a large raised reservoir considers at any time during the carrying out of the alteration to the reservoir that the reservoir ought not to be filled with water up to the level or subject to the conditions that would be lawful apart from this subsection, he may give a certificate (“an interim certificate”) specifying the level up to which it may be filled until the issue of a preliminary certificate, and the conditions (if any) subject to which it may be so filled; and the construction engineer may from time to time supersede an interim certificate by the issue of a further interim certificate varying the previous certificate, whether as to water level or as to conditions.
- (3) If, at the end of three years after a preliminary certificate is first issued for a reservoir or [<sup>F38</sup>alteration] to a reservoir or at any time thereafter, the construction engineer is satisfied that the reservoir <sup>F39</sup>... is sound and satisfactory and may safely be used for the storage of water, he shall give a certificate (“the final certificate”) to that effect, and the final certificate shall specify the level up to which water may be stored and the conditions (if any) subject to which it may be so stored.
- (4) If at the end of five years after a preliminary certificate is first issued for a reservoir or [<sup>F40</sup>alteration] to a reservoir the construction engineer has not issued his final certificate, he shall give the undertakers a written explanation of his reasons for deferring the issue of the final certificate.
- (5) The construction engineer giving a final certificate for a reservoir [<sup>F41</sup>which is designated, or in the opinion of the engineer is likely to be designated, as a high-risk reservoir] shall consider the matters (if any) that need to be watched by a supervising engineer during the period before there is an inspection of the reservoir under this Act, and shall include in an annex to the certificate a note of any such matters.

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- (6) The construction engineer for any reservoir or [<sup>F42</sup>alteration] to a reservoir shall also, as soon as practicable after the completion of the works and in any event not later than the giving of the final certificate, give a certificate that the works have been efficiently executed in accordance with the drawings and descriptions annexed to the certificate, and shall annex to the certificate detailed drawings and descriptions giving full information of the works actually constructed, including dimensions and levels and details of the geological strata or deposits encountered in trial holes or excavations made in connection with the works.
- (7) References in this Act to a final certificate or to a certificate under subsection (6) above include the annex to the certificate, where there is one.

#### Textual Amendments

- F35** Word in s. 7(1) substituted (30.7.2013 for E., 1.4.2016 for W.) by [Flood and Water Management Act 2010 \(c. 29\), s. 49\(3\), Sch. 4 para. 11\(1\)\(a\)](#) (with s. 49(1)(6)); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(b)
- F36** Words in s. 7(1) omitted (30.7.2013 for E., 1.4.2016 for W.) by virtue of [Flood and Water Management Act 2010 \(c. 29\), s. 49\(3\), Sch. 4 para. 11\(1\)\(b\)](#) (with s. 49(1)(6)); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(b)
- F37** Word in s. 7(2) substituted (30.7.2013 for E., 1.4.2016 for W.) by [Flood and Water Management Act 2010 \(c. 29\), s. 49\(3\), Sch. 4 para. 11\(2\)](#) (with s. 49(1)(6)); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(b)
- F38** Word in s. 7(3) substituted (30.7.2013 for E., 1.4.2016 for W.) by [Flood and Water Management Act 2010 \(c. 29\), s. 49\(3\), Sch. 4 para. 11\(3\)\(a\)](#) (with s. 49(1)(6)); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(b)
- F39** Words in s. 7(3) omitted (30.7.2013 for E., 1.4.2016 for W.) by virtue of [Flood and Water Management Act 2010 \(c. 29\), s. 49\(3\), Sch. 4 para. 11\(3\)\(b\)](#) (with s. 49(1)(6)); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(b)
- F40** Word in s. 7(4) substituted (30.7.2013 for E., 1.4.2016 for W.) by [Flood and Water Management Act 2010 \(c. 29\), s. 49\(3\), Sch. 4 para. 11\(4\)](#) (with s. 49(1)(6)); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(b)
- F41** Words in s. 7(5) inserted (30.7.2013 for E., 1.4.2016 for W.) by [Flood and Water Management Act 2010 \(c. 29\), s. 49\(3\), Sch. 4 para. 8](#) (with s. 49(1)(6)); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(b)
- F42** Word in s. 7(6) substituted (30.7.2013 for E., 1.4.2016 for W.) by [Flood and Water Management Act 2010 \(c. 29\), s. 49\(3\), Sch. 4 para. 11\(4\)](#) (with s. 49(1)(6)); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(b)

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

- C15** Ss. 6–10 modified by [S.I. 1986/466, art. 2\(2\), Sch. 1](#)

## 8 Powers of enforcement authority in event of non-compliance with requirements as to construction or enlargement of reservoirs. **E+W+S**

- (1) Where it appears to the enforcement authority either—
- (a) that a large raised reservoir is being constructed (whether as a new reservoir or by the alteration of an [<sup>F43</sup>existing structure or area] that is not a large raised reservoir) or is being altered so as to increase [<sup>F44</sup>or decrease] its capacity; or
  - (b) that, a large raised reservoir having been so constructed or altered, no final certificate has yet been given for the reservoir on the construction or alteration, as the case may be;



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but that no qualified civil engineer is responsible for the reservoir or [<sup>F45</sup>alteration] as construction engineer, the authority may by written notice served on the undertakers require them within twenty eight days after the date when the notice is served to appoint a qualified civil engineer for the purposes of this section, unless an appointment has already been made, and (in either case) to notify the authority of the appointment.

- (2) An engineer appointed for the purposes of this section shall be appointed to inspect the reservoir and make a report on the construction or alteration, and to supervise the reservoir until he gives a final certificate for the reservoir under this section.
- (3) An engineer acting under this section shall include in his report any recommendations he sees fit to make as to measures to be taken in the interests of safety; and, subject to any reference of the matter to a referee in accordance with this Act, the undertakers shall carry any such recommendation into effect [<sup>F46</sup>within the period which the report must specify in respect of each recommendation.]

[<sup>F47</sup>(3A) Where it appears to the enforcement authority that the report of an engineer acting under this section includes a recommendation as to measures to be taken in the interests of safety that has not been carried into effect as required by this section, the authority may by written notice served on the undertakers require them to carry the recommendation into effect within a time specified in the notice.

(3B) Where an enforcement authority propose to serve such a notice, the authority shall consult as to the time to be specified in the notice a civil engineer, being a qualified civil engineer for the purpose of inspecting and supervising the reservoir under this section.]

- (4) Except as provided by subsections (5) and (6) below, an engineer acting under this section shall have the same powers and duties in relation to the giving of preliminary certificates, interim certificates and final certificates as if he were the construction engineer responsible for the reservoir or, as the case may be, the [<sup>F48</sup>alteration] to it; and certificates under this subsection shall have effect for purposes of this Act as if they were certificates of a construction engineer.
- (5) A final certificate under this section may be given less than three years after the first issue of a preliminary certificate, or without the previous issue of a preliminary certificate, if the engineer is satisfied that the reservoir <sup>F49</sup>... has for a period of three years or more been filled with water up to the level that is specified in the preliminary certificate or, if no preliminary certificate has been issued, up to the level that is specified in the final certificate, and that the reservoir <sup>F50</sup>... is sound and satisfactory and may safely be used for the storage of water.
- (6) A final certificate under this section, other than one given by virtue of subsection (5) above, shall not be required to state that the engineer is satisfied the reservoir <sup>F51</sup>... is sound and satisfactory; but, if it does not do so and the engineer's report includes any recommendations as to measures to be taken in the interests of safety, the certificate shall instead state that those recommendations have been carried into effect.
- (7) In addition to certificates under subsection (4) above, an engineer acting under this section, shall, as soon as practicable after the completion of the works and in any event not later than the giving of the final certificate, give a certificate that, so far as he has been able to ascertain, the works have been efficiently executed in accordance with the drawings and descriptions annexed to the certificate, and shall annex to the certificate detailed drawings and descriptions giving such information as he can of the works

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actually constructed, including dimensions and levels and details of the geological strata or deposits encountered in trial holes or excavations made in connection with the works

- (8) References in this Act to a final certificate under this section or to a certificate under subsection (7) above include the annex to the certificate, where there is one.

#### Textual Amendments

- F43** Words in s. 8(1) substituted (30.7.2013 for E., 1.4.2016 for W.) by **Flood and Water Management Act 2010** (c. 29), s. 49(3), **Sch. 4 para. 3(4)** (with s. 49(1)(6)); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(b)
- F44** Words in s. 8(1)(a) inserted (30.7.2013 for E., 1.4.2016 for W.) by **Flood and Water Management Act 2010** (c. 29), s. 49(3), **Sch. 4 para. 11(5)(a)** (with s. 49(1)(6)); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(b)
- F45** Word in s. 8(1) substituted (30.7.2013 for E., 1.4.2016 for W.) by **Flood and Water Management Act 2010** (c. 29), s. 49(3), **Sch. 4 para. 11(5)(b)** (with s. 49(1)(6)); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(b)
- F46** Words in s. 8(3) added (30.7.2013 for E., 1.4.2016 for W.) by **Flood and Water Management Act 2010** (c. 29), s. 49(3), **Sch. 4 para. 11(6)** (with s. 49(1)(6)); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(b)
- F47** S. 8(3A)(3B) inserted (E.W.) (1.4.2004 for E., 1.4.2004 for W.) by **Water Act 2003** (c. 37), **ss. 75(2), 105(3)**; S.I. 2004/641, art. 3(t) (with Sch. 3 para. 7); S.I. 2004/910, art. 2(1)(e); S.I. 2004/641, art. 3(t) (with Sch. 3 para. 7); S.I. 2004/910, art. 2(1)(e)
- F48** Word in s. 8(4) substituted (30.7.2013 for E., 1.4.2016 for W.) by **Flood and Water Management Act 2010** (c. 29), s. 49(3), **Sch. 4 para. 11(7)** (with s. 49(1)(6)); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(b)
- F49** Words in s. 8(5) omitted (30.7.2013 for E., 1.4.2016 for W.) by virtue of **Flood and Water Management Act 2010** (c. 29), s. 49(3), **Sch. 4 para. 11(8)(a)** (with s. 49(1)(6)); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(b)
- F50** Words in s. 8(5) omitted (30.7.2013 for E., 1.4.2016 for W.) by virtue of **Flood and Water Management Act 2010** (c. 29), s. 49(3), **Sch. 4 para. 11(8)(b)** (with s. 49(1)(6)); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(b)
- F51** Words in s. 8(6) omitted (30.7.2013 for E., 1.4.2016 for W.) by virtue of **Flood and Water Management Act 2010** (c. 29), s. 49(3), **Sch. 4 para. 11(9)** (with s. 49(1)(6)); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(b)

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

- C16** Ss. 6–10 modified by S.I. 1986/466, art. 2(2), **Sch. 1**

## 9 Re-use of abandoned reservoirs. **E+W+S**

- (1) Where the use of a large raised reservoir as a reservoir has been abandoned (whether before or after the commencement of this Act), the reservoir shall not again be used as a reservoir unless a qualified civil engineer has been employed to inspect the reservoir and make a report on it, and to supervise the reservoir until he gives a final certificate for the reservoir under this section.
- (2) Where a large raised reservoir is brought back into use as a reservoir after that use had been abandoned, it shall not be used for the storage of water, or be filled wholly or partially with water, otherwise than in accordance with the certificate of the engineer acting under this section (unless, on a subsequent alteration to it, section 6(4) above applies).

*Status: Point in time view as at 01/04/2016.*

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- (3) An engineer acting under this section shall include in his report any recommendations he see fit to make as to measures to be taken in the interests of safety; and, subject to any reference of the matter to a referee in accordance with this Act, the reservoir shall not be used as such if any such recommendation has not been carried into effect.
- (4) Except as provided by subsection (5) below, an engineer acting under this section shall have the same powers and duties in relation to the giving of preliminary certificates and final certificates as if he were the construction engineer responsible on the construction of the reservoir; and certificates under this subsection shall have effect for purposes of this Act as if they were certificates of a construction engineer.
- (5) A final certificate under this section shall not be required to state that the engineer is satisfied that the reservoir is sound and satisfactory; but, if it does not do so and the engineer's report includes any recommendations as to measures to be taken in the interests of safety, the certificate shall instead state that those recommendations have been carried into effect.
- (6) Nothing in this section shall apply in relation to a reservoir, if before it is brought back into use, either—
  - (a) it is altered in such manner as is to be treated for purposes of this Act as the construction of a new reservoir; or
  - (b) it is altered under the supervision of a qualified civil engineer so as not to be a large raised reservoir when brought back into use.
- (7) Where it appears to the enforcement authority—
  - (a) that a large raised reservoir has been brought back into use as a reservoir after that used had been abandoned but that a report has not been obtained as required by this section; or
  - (b) that a report obtained under this section on a reservoir includes a recommendation as to measures to be taken in the interests of safety that has not been carried into effect as required by this section;the authority may by written notice served on the undertakers require them within twenty-eight days after the date when the notice is served to appoint a qualified civil engineer for the purposes of this section, unless an appointment has already been made, and (in either case) to notify the authority of the appointment or, as the case may be, require them to carry the recommendation into effect within a time specified in the notice.
- (8) Where an enforcement authority propose to serve a notice under subsection (7) above requiring undertakers to carry a recommendation into effect, the authority shall consult as to the time to be specified in the notice a civil engineer, being a qualified civil engineer for the purpose of inspecting and supervising the reservoir under this section.

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

C17 Ss. 6–10 modified by [S.I. 1986/466](#), art. 2(2), [Sch. 1](#)

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### *Inspections*

#### 10 **Periodical inspection of large raised reservoirs.** E+W+S

- (1) The undertakers shall have any [<sup>F52</sup>high-risk reservoir] inspected from time to time by an independent qualified civil engineer (“the inspecting engineer”) and obtain from him a report of the result of his inspection.
- (2) Unless it is at the time under the supervision of a construction engineer (or of an engineer acting under section 8 or 9 above) a [<sup>F53</sup>high-risk reservoir must be inspected under this section at the times specified by regulations made by the Minister.]
- (3) As soon as practicable after an inspection under this section, the inspecting engineer shall make a report of the result of the inspection, including in it any recommendations he sees fit to make as to—
  - [<sup>F54</sup>(a) the time of the next inspection;
  - (b) the maintenance of the reservoir;
  - (c) any measures required in the interests of safety and the period within which those measures must be taken.]
- [<sup>F55</sup>(3A) If the inspecting engineer has not provided a report before the end of the period of 6 months beginning with the date of completion of the inspection, the engineer must—
  - (a) notify [<sup>F56</sup>the appropriate agency], and
  - (b) provide a written statement of the reasons.]
- (4) An inspecting engineer shall consider the matters (if any) that need to be watched by the supervising engineer during the period before the next inspection of the reservoir under this section, and shall include in his report a note of any such matters.
- (5) An inspecting engineer, when he makes his report, shall also give a certificate stating that the report does or does not include recommendations as to measures to be taken in the interests of safety [<sup>F57</sup>or as to the maintenance of the reservoir], if it includes a recommendation as to the time of the next inspection, stating also the period within which he recommends the inspection should be made.
- [<sup>F58</sup>(5A) The undertaker must comply with a recommendation made under subsection (3)(b), unless the recommendation is the subject of a reference under section 19 and the reference has not been determined.]
- (6) Where an inspecting engineer includes in his report any recommendation as to measures to be taken in the interests of safety, then subject to any reference of the matter to a referee in accordance with this Act the undertakers shall [<sup>F59</sup>, within the period specified in the report,] carry the recommendation into effect under the supervision of a qualified civil engineer; and that engineer shall give a certificate, as soon as he is satisfied it is so, that the recommendation has been carried into effect.
- [<sup>F60</sup>(6A) The inspecting engineer must include in the report of the inspection—
  - (a) a statement as to whether all of the safety measures recommended in the previous report under subsection (3)(c) have been taken, and
  - (b) either (i) recommendations to take any safety measure that has not yet been taken or (ii) an explanation of why it is no longer required.]
- (7) Where it appears to the enforcement authority, in the case of any [<sup>F61</sup>high-risk reservoir]—

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- (a) that an inspection and report thereon have not been made as required by this section; or
- (b) that the latest report of the inspecting engineer includes a recommendation as to measures to be taken in the interests of safety that has not been carried into effect as so required;

the authority may by written notice served on the undertakers require them within twenty-eight days after the date when the notice is served to appoint an independent qualified civil engineer to carry out an inspection under this section, unless an appointment has already been made, and (in either case) to notify the authority of the appointment or, as the case may be, require them to carry the recommendation into effect within a time specified in the notice.

- (8) Where an enforcement authority propose to serve a notice under subsection (7) above requiring the undertakers to carry a recommendation into effect, the authority shall consult as to the time to be specified in the notice a civil engineer, being a qualified civil engineer for the purpose of supervising under subsection (6) above the carrying into effect of the recommendation.
- (9) For purposes of this Act “independent” when used of a civil engineer in relation to a reservoir means—
  - (a) that he is not in the employment of the undertakers otherwise than in a consultant capacity; and
  - (b) that he was not the engineer responsible for the reservoir or any [<sup>F62</sup>alteration] to it as construction engineer, nor is connected with any such engineer as his partner, employer, employee or fellow employee in a civil engineering business.

The reference in this subsection to a construction engineer includes an engineer acting under section 8 or 9 above.

#### Textual Amendments

- F52** Words in s. 10(1) substituted (1.10.2011 for specified purposes, 30.7.2013 for E. so far as not already in force, 1.4.2016 for W. for specified purposes, otherwise on “the applicable day” for W. in so far as not already in force) by [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), [Sch. 4 para. 12\(2\)](#) (with s. 49(1)(6)); S.I. 2011/2204, art. 3(1)(e); S.I. 2013/1590, art. 3(b); S.I. 2016/79, arts. 2(c), 3
- F53** Words in s. 10(2) substituted (1.10.2011 for specified purposes, 30.7.2013 for E. so far as not already in force, 1.4.2016 for W. for specified purposes, otherwise on “the applicable day” for W. in so far as not already in force) by [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), [Sch. 4 para. 12\(3\)](#) (with s. 49(1)(6)); S.I. 2011/2204, art. 3(1)(e); S.I. 2013/1590, art. 3(b); S.I. 2016/79, arts. 2(c), 3
- F54** S. 10(3)(a)-(c) substituted (1.10.2011 for specified purposes, 30.7.2013 for E. so far as not already in force, 1.4.2016 for W. for specified purposes, otherwise on “the applicable day” for W. in so far as not already in force) by [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), [Sch. 4 para. 12\(4\)](#) (with s. 49(1)(6)); S.I. 2011/2204, art. 3(1)(e); S.I. 2013/1590, art. 3(b); S.I. 2016/79, arts. 2(c), 3
- F55** S. 10(3A) inserted (1.10.2011 for specified purposes, 30.7.2013 for E. so far as not already in force, 1.4.2016 for W. for specified purposes, otherwise on “the applicable day” for W. in so far as not already in force) by [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), [Sch. 4 para. 12\(5\)](#) (with s. 49(1)(6)); S.I. 2011/2204, art. 3(1)(e); S.I. 2013/1590, art. 3(b); S.I. 2016/79, arts. 2(c), 3
- F56** Words in s. 10(3A) substituted by 2010 c. 29 Sch. 4 para. 12(5) (as amended (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 2 para. 468\(2\)\(b\)](#) (with Sch. 7))
- F57** Words in s. 10(5) inserted (1.10.2011 for specified purposes, 30.7.2013 for E. so far as not already in force, 1.4.2016 for W. for specified purposes, otherwise on “the applicable day” for W. in so far as not

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- already in force) by Flood and Water Management Act 2010 (c. 29), s. 49(3), **Sch. 4 para. 12(6)** (with s. 49(1)(6)); S.I. 2011/2204, art. 3(1)(e); S.I. 2013/1590, art. 3(b); S.I. 2016/79, arts. 2(c), 3
- F58** S. 10(5A) inserted (1.10.2011 for specified purposes, 30.7.2013 for E. so far as not already in force, 1.4.2016 for W. for specified purposes, otherwise on "the applicable day" for W. in so far as not already in force) by Flood and Water Management Act 2010 (c. 29), s. 49(3), **Sch. 4 para. 12(7)** (with s. 49(1)(6)); S.I. 2011/2204, art. 3(1)(e); S.I. 2013/1590, art. 3(b); S.I. 2016/79, arts. 2(c), 3
- F59** Words in s. 10(6) substituted (1.10.2011 for specified purposes, 30.7.2013 for E. so far as not already in force, 1.4.2016 for W. for specified purposes, otherwise on "the applicable day" for W. in so far as not already in force) by Flood and Water Management Act 2010 (c. 29), s. 49(3), **Sch. 4 para. 12(8)** (with s. 49(1)(6)); S.I. 2011/2204, art. 3(1)(e); S.I. 2013/1590, art. 3(b); S.I. 2016/79, arts. 2(c), 3
- F60** S. 10(6A) inserted (1.10.2011 for specified purposes, 30.7.2013 for E. so far as not already in force, 1.4.2016 for W. for specified purposes, otherwise on "the applicable day" for W. in so far as not already in force) by Flood and Water Management Act 2010 (c. 29), s. 49(3), **Sch. 4 para. 12(9)** (with s. 49(1)(6)); S.I. 2011/2204, art. 3(1)(e); S.I. 2013/1590, art. 3(b); S.I. 2016/79, arts. 2(c), 3
- F61** Words in s. 10(7) substituted (1.10.2011 for specified purposes, 30.7.2013 for E. so far as not already in force, 1.4.2016 for W. for specified purposes, otherwise on "the applicable day" for W. in so far as not already in force) by Flood and Water Management Act 2010 (c. 29), s. 49(3), **Sch. 4 para. 12(10)** (with s. 49(1)(6)); S.I. 2011/2204, art. 3(1)(e); S.I. 2013/1590, art. 3(b); S.I. 2016/79, arts. 2(c), 3
- F62** Word in s. 10(9)(b) substituted (30.7.2013 for E., 1.4.2016 for W.) by Flood and Water Management Act 2010 (c. 29), s. 49(3), **Sch. 4 para. 11(10)** (with s. 49(1)(6)); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(b)

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

- C18** Ss. 6–10 modified by S.I. 1986/466, art. 2(2), **Sch. 1**
- C19** S. 10 applied (E.) (28.7.2013) by The Reservoirs Act 1975 (Exemptions, Appeals and Inspections) (England) Regulations 2013 (S.I. 2013/1896), regs. 1(b), **7(2)**

### Monitoring and supervision

#### 11 Recording of water levels etc. **E+W+S**

- (1) For every [<sup>F63</sup>high-risk reservoir] the undertakers shall keep a record in the prescribed form of—
- water levels and depth of water, including the flow of water over the waste weir or overflow;
  - leakages, settlements of walls or other works, and repairs;
  - such other matters as may be prescribed;
- and shall install and maintain such instruments as may be needed to provide the information to be recorded.
- (2) The record to be kept for a reservoir under this section shall give such information as may be prescribed of any of the matters to be included in the record, and shall give it at such intervals and in such manner as may from time to time be required by any directions of the construction engineer or inspecting engineer.

#### Textual Amendments

- F63** Words in s. 11(1) substituted (30.7.2013 for E., 1.4.2016 for W. for specified purposes, otherwise on "the applicable day" for W. in so far as not already in force) by Flood and Water Management Act 2010 (c. 29), s. 49(3), **Sch. 4 para. 16** (with s. 49(1)(6)); S.I. 2013/1590, art. 3(b) (with art. 4(2)-(5)); S.I. 2016/79, arts. 2(c), 3



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

**C20** S. 11 modified by S.I. 1985/176, art. 2(3)(ii), Sch. and 1986/466, art. 2(2), Sch. 2

**12 Supervision of large raised reservoirs. E+W+S**

- (1) At all times when a [<sup>F64</sup>high-risk reservoir] is not under the supervision of a construction engineer, a qualified civil engineer (“the supervising engineer”) shall be employed to supervise the reservoir and keep the undertakers advised of its behaviour in any respect that might affect safety, and to watch that the provisions of section 6(2) to (4) or section 9(2) above and of section 11 are observed and complied with and draw the attention of the undertakers to any breach of those provisions.
- (2) It shall be the duty of the supervising engineer, so long as any matters are noted as matters that need to be watched by him in any annex to the final certificate for the reservoir or in the latest report of an inspecting engineer, to pay attention in particular to those matters and to give the undertakers not less often than once a year written statement of the action he has taken to do so.
- [<sup>F65</sup>(2A) The supervising engineer must provide the undertaker with a written statement of any steps taken to maintain the reservoir in accordance with the recommendations of the inspecting engineer under section 10(3)(b).
- (2B) The engineer must provide a statement under subsection (2A) at least once every 12 months.]
- (3) The supervising engineer shall recommend to the undertakers that the reservoir be inspected under section 10 above, if at any time he thinks that such an inspection is called for.
- (4) Where it appears to the enforcement authority that a [<sup>F66</sup>high-risk reservoir] is not for the time being under the supervision either of a construction engineer or of a supervising engineer, the authority may by written notice served on the undertakers require them within twenty-eight days after the date the notice is served to appoint a supervising engineer and to notify the authority of the appointment or, if the reservoir is at that date under the supervision of a construction engineer or of a supervising engineer, to notify the authority of that fact.
- (5) References in this section to a construction engineer include an engineer acting under section 8 or 9 above.
- [<sup>F67</sup>(6) The supervising engineer may direct the undertaker to carry out a visual inspection of the reservoir at specified intervals for the purpose of identifying anything that might affect the safety of the reservoir.
- (7) The undertaker must notify the supervising engineer of—
  - (a) each visual inspection that is carried out, and
  - (b) anything noticed in the course of it.
- (8) The Minister may issue guidance about supervision in accordance with this section (and may take compliance into account when making decisions under section 4).]

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### Textual Amendments

- F64** Words in s. 12(1) substituted (30.7.2013 for E., 1.4.2016 for W. for specified purposes, otherwise on "the applicable day" for W. in so far as not already in force) by [Flood and Water Management Act 2010 \(c. 29\), s. 49\(3\)](#), [Sch. 4 para. 17\(2\)](#) (with s. 49(1)(6)); S.I. 2013/1590, art. 3(b) (with art. 4(2)-(5)); S.I. 2016/79, arts. 2(c), 3
- F65** S. 12(2A)(2B) inserted (30.7.2013 for E., 1.4.2016 for W. for specified purposes, otherwise on "the applicable day" for W. in so far as not already in force) by [Flood and Water Management Act 2010 \(c. 29\), s. 49\(3\)](#), [Sch. 4 para. 17\(3\)](#) (with s. 49(1)(6)); S.I. 2013/1590, art. 3(b) (with art. 4(2)-(5)); S.I. 2016/79, arts. 2(c), 3
- F66** Words in s. 12(4) substituted (30.7.2013 for E., 1.4.2016 for W. for specified purposes, otherwise on "the applicable day" for W. in so far as not already in force) by [Flood and Water Management Act 2010 \(c. 29\), s. 49\(3\)](#), [Sch. 4 para. 17\(4\)](#) (with s. 49(1)(6)); S.I. 2013/1590, art. 3(b) (with art. 4(2)-(5)); S.I. 2016/79, arts. 2(c), 3
- F67** S. 12(6)-(8) added (30.7.2013 for E., 1.4.2016 for W. for specified purposes, otherwise on "the applicable day" for W. in so far as not already in force) by [Flood and Water Management Act 2010 \(c. 29\), s. 49\(3\)](#), [Sch. 4 para. 17\(5\)](#) (with s. 49(1)(6)); S.I. 2013/1590, art. 3(b) (with art. 4(2)-(5)); S.I. 2016/79, arts. 2(c), 3

### Modifications etc. (not altering text)

- C21** Ss. 12–14 modified by [S.I. 1986/466, art. 2\(2\)](#), [Sch. 1](#)

## *F<sup>3</sup>Flooding*

### 12A Flood plans: large raised reservoirs **E+W+S**

- (1) The Secretary of State may, by written notice served on the undertakers in relation to a large raised reservoir, direct them to prepare a plan (a "flood plan")<sup>F68</sup> ...

[ A flood plan is a document—

- <sup>F69</sup>(1A) (a) giving information about the areas that may be flooded in the event of an uncontrolled escape of water from the large raised reservoir,
- (b) specifying the action that the undertaker would take in order to prevent an uncontrolled escape of water, and
- (c) specifying the action that the undertaker would take in order to control or mitigate the effects of a flood.]
- (2) A direction may in particular—
- (a) specify the matters to be included in the flood plan;
- (b) require the flood plan to be prepared in accordance with such methods of technical or other analysis as may be specified by the Environment Agency [<sup>F70</sup>or the NRBW];
- (c) require the flood plan, or any information about the matters contained in it, to be given to the Environment Agency [<sup>F71</sup>or the NRBW] at such time or times as may be directed by that Agency [<sup>F72</sup>, by the NRBW] or by the Secretary of State;
- (d) require a copy of the flood plan to be sent to such persons as may be specified in the direction;

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- (e) require publication of the flood plan, in such manner as may be specified in the direction, for the purpose of bringing the matters contained in the flood plan to the attention of persons likely to be interested.
- (3) Before giving a direction under this section the Secretary of State shall consult—
- (a) the undertakers concerned;
  - (b) the Environment Agency [<sup>F73</sup>if the reservoir concerned is in England or any of the flooding to which the plan relates would be in England];
  - [<sup>F74</sup>(ba) the NRBW if the reservoir concerned is in Wales or any of the flooding to which the plan relates would be in Wales;]
  - (c) if the reservoir concerned is in England, the county council, metropolitan district council or London borough council in whose area the reservoir is situated;
  - (d) if the reservoir concerned is in Wales, the county council or county borough council in whose area the reservoir is situated;
  - (e) such persons appearing to the Secretary of State to represent the emergency services in the area where the reservoir is situated; and
  - (f) such other persons (if any) as the Secretary of State considers appropriate.
- (4) If—
- (a) the functions of the Secretary of State under the preceding provisions of this section are transferred to the National Assembly for Wales so far as exercisable in relation to Wales;
  - (b) no direction has been given by the Assembly under subsection (1) above in relation to a reservoir in Wales; and
  - (c) it appears to the Secretary of State that it is necessary or expedient in the interests of public safety in England that such a direction be given,
- he may give a direction under that subsection in relation to that reservoir.
- (5) This section is subject to section 12B below.]

#### Textual Amendments

- F68** Words in s. 12A(1) omitted (30.7.2013 for E., 1.4.2016 for W.) by virtue of [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), [Sch. 4 para. 20\(2\)](#) (with s. 49(1)(6)); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(d)
- F69** S. 12A(1A) inserted (30.7.2013 for E., 1.4.2016 for W.) by [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), [Sch. 4 para. 20\(3\)](#) (with s. 49(1)(6)); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(d)
- F70** Words in . 12A(2)(b) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 2 para. 121\(2\)\(a\)](#) (with Sch. 7)
- F71** Words in s. 12A(2)(c) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 2 para. 121\(2\)\(b\)\(i\)](#) (with Sch. 7)
- F72** Words in s. 12A(2)(c) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 2 para. 121\(2\)\(b\)\(ii\)](#) (with Sch. 7)
- F73** Words in s. 12A(3)(b) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 2 para. 121\(3\)\(a\)](#) (with Sch. 7)
- F74** S. 12A(3)(ba) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 2 para. 121\(3\)\(b\)](#) (with Sch. 7)

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## [<sup>F75</sup>12A] **Flood plans: preparation** **E+W**

- (1) This section applies where an undertaker is directed to prepare a flood plan under section 12A.
- (2) The undertaker must prepare a flood plan in consultation with the appointed engineer.
- (3) The undertaker may not provide a copy of, or publish, a flood plan in accordance with a direction under section 12A(2)(d) or (e) unless the appointed engineer has certified that the requirements of a direction under section 12A(2)(a) and (b) are satisfied.
- (4) The undertaker must test a flood plan at such times and in such manner as may be directed by the appointed engineer.
- (5) In the event of flooding, or if flooding is reasonably expected to occur, the undertaker must implement the flood plan without delay.
- (6) The undertaker—
  - (a) must keep a flood plan under review, and
  - (b) may revise a flood plan.
- (7) The undertaker must revise the flood plan in accordance with the directions of the appointed engineer.
- (8) The following apply to a revision of a flood plan as they apply to a flood plan—
  - (a) subsections (2) to (7), and
  - (b) any requirements of a direction under section 12A.
- (9) In this section “appointed engineer” means—
  - (a) in the case of a high-risk reservoir, the supervising engineer, and
  - (b) in any other case, the engineer appointed for the purposes of this section.]

### Textual Amendments

**F75** S. 12AA inserted (30.7.2013 for E., 1.4.2016 for W.) by [Flood and Water Management Act 2010](#) (c. 29), s. 49(3), [Sch. 4 para. 21](#) (with s. 49(1)(6)); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(d)

## [<sup>F2</sup>12B] **Flood plans and national security** **E+W+S**

- (1) If it appears to the Secretary of State that in the interests of national security any person or class of persons referred to in any one or more of paragraphs (a) to (e) of section 12A(3) above should not be consulted about a proposed direction, he may treat that subsection as not referring to that person or to that class of person.
- (2) In relation to any reservoir (whether [<sup>F76</sup>large or raised] or not, as the case may be) the Secretary of State may, by written notice served on the undertakers, require them not to publish, or not to publish except as specified in the notice—
  - (a) a flood plan prepared by them pursuant to a notice given under section 12A above;
  - (b) any corresponding plan prepared by them other than pursuant to such a notice, and a notice under this subsection may also require the undertakers to withhold access to any such plan from any person except as specified in the notice.]

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### Textual Amendments

- F2** S. 12B inserted (E.W.) (1.10.2004 for E., 11.11.2004 for W.) by [Water Act 2003 \(c. 37\), ss. 78\(2\), 105\(3\); S.I. 2004/2528, art. 2\(n\)](#) (with [Sch. para. 8](#)); [S.I. 2004/2916, art. 2\(b\)](#)
- F76** Words in s. 12B(2) substituted (30.7.2013 for E., 1.4.2016 for W.) by [Flood and Water Management Act 2010 \(c. 29\), s. 49\(3\), Sch. 4 para. 3\(5\)](#) (with [s. 49\(1\)\(6\)](#)); [S.I. 2013/1590, art. 3\(b\)](#); [S.I. 2016/79, art. 2\(b\)](#)

### *Discontinuance or abandonment*

## 13 Discontinuance of large raised reservoirs. **E+W+S**

- (1) No large raised reservoir shall be altered in order to render it incapable of holding [<sup>F77</sup> 10,000 cubic metres of water above the natural level of any part of the surrounding land], unless a qualified civil engineer is employed to design or approve and to supervise the alteration.
- [<sup>F78</sup>(1A) An engineer employed for the purposes of subsection (1) may issue a certificate (the “interim certificate”) if the engineer thinks that the level of water in the reservoir should be reduced before the alteration is completed.
- (1B) The interim certificate must specify—
- the reduced water level,
  - the time by which it must be reduced, and
  - the conditions (if any) on which the reservoir may be filled to the reduced level.
- (1C) The undertaker must ensure that the reservoir does not contain water except in accordance with the interim certificate.
- (1D) The engineer employed for the purposes of subsection (1) may vary an interim certificate by giving written notice to the undertaker.
- (1E) An interim certificate ceases to have effect on the issue of a certificate under subsection (2).]
- (2) An engineer employed for the purposes of subsection (1) above shall give a certificate, as soon as he is satisfied it is so, that the alteration has been completed and has been efficiently executed.
- (3) Where a certificate is given under subsection (2) above, a [<sup>F79</sup>relevant authority] on receipt of the certificate or a copy of it shall remove the reservoir from their register of large raised reservoirs; but a reservoir that has been a large raised reservoir but is altered so as no longer to be capable of holding [<sup>F80</sup>10,000 cubic metres of water above the natural level of any part of the surrounding land] shall nevertheless continue for purposes of this Act to be a large raised reservoir, unless the alteration is made and a certificate given in accordance with this section.
- [<sup>F81</sup>(4) The Minister may by order substitute a different volume of water for the volume specified in subsection (1) or (3).

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- (5) Where it appears to [<sup>F82</sup>the appropriate agency] that a qualified civil engineer has not been employed as required by subsection (1) [<sup>F82</sup>the appropriate agency] may by notice require the undertaker—
- (a) to appoint a qualified civil engineer for the purposes of this section before the end of the period of 28 days beginning with the day on which the notice is given, unless the appointment has already been made, and
  - (b) to notify [<sup>F82</sup>the appropriate agency] of the appointment (whether it was made before or after the notice was given).]

#### Textual Amendments

- F77** Words in s. 13(1) substituted (1.10.2011 for specified purposes, 30.7.2013 for E. so far as not already in force, 1.4.2016 for W. in so far as not already in force) by [Flood and Water Management Act 2010 \(c. 29\), s. 49\(3\), Sch. 4 para. 25\(2\)](#) (with s. 49(1)(6)); S.I. 2011/2204, art. 3(1)(e); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(d)
- F78** S. 13(1A)-(1E) inserted (1.10.2011 for specified purposes, 30.7.2013 for E. so far as not already in force, 1.4.2016 for W. in so far as not already in force) by [Flood and Water Management Act 2010 \(c. 29\), s. 49\(3\), Sch. 4 para. 25\(3\)](#) (with s. 49(1)(6)); S.I. 2011/2204, art. 3(1)(e); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(d)
- F79** Words in s. 13 substituted (1.10.2004) by [Water Act 2003 \(c. 37\), ss. 74\(1\)\(b\), 105\(3\)](#); S.I. 2004/2528, art. 2(k) (with [Sch. para. 8](#))
- F80** Words in s. 13(3) substituted (1.10.2011 for specified purposes, 30.7.2013 for E. so far as not already in force, 1.4.2016 for W. in so far as not already in force) by [Flood and Water Management Act 2010 \(c. 29\), s. 49\(3\), Sch. 4 para. 25\(4\)](#) (with s. 49(1)(6)); S.I. 2011/2204, art. 3(1)(e); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(d)
- F81** S. 13(4)(5) added (1.10.2011 for specified purposes, 30.7.2013 for E. so far as not already in force, 1.4.2016 for W. in so far as not already in force) by [Flood and Water Management Act 2010 \(c. 29\), s. 49\(3\), Sch. 4 para. 25\(5\)](#) (with s. 49(1)(6)); S.I. 2011/2204, art. 3(1)(e); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(d)
- F82** Words in s. 13(5) substituted by 2010 c. 29 Sch. 4 para. 25(5) (as amended (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\), art. 1\(2\), Sch. 2 para. 468\(2\)\(c\)](#) (with [Sch. 7](#)))

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

- C22** Ss. 12–14 modified by [S.I. 1986/466, art. 2\(2\), Sch. 1](#)
- C23** S. 13(1)(3) modified (temp.) (3.7.2013) by [The Flood and Water Management Act 2010 \(Commencement No. 2, Transitional and Savings Provisions\) \(England\) Order 2013 \(S.I. 2013/1590\), art. 4\(1\)](#)

## 14 Abandonment of large raised reservoirs. E+W+S

- (1) Where the use of a large raised reservoir as a reservoir is to be abandoned, the undertakers shall obtain from a qualified civil engineer a report as to the measures (if any) that ought to be taken in the interests of safety to secure that the reservoir is incapable of filling accidentally or naturally with water above the natural level of any part of the land adjoining the reservoir or is only capable of doing so to an extent that does not constitute a risk.
- (2) Where the report of an engineer under this section makes any recommendation as to measures to be taken in the interests of safety, then subject to any reference of the matter to a referee in accordance with this Act the undertakers obtaining the report



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shall, [<sup>F83</sup>within the period specified in the report], carry the recommendation into effect; and if the recommendation involves any alteration of the reservoir, section 13 above shall apply accordingly.

- (3) The engineer from whom a report is obtained under this section shall give with it a certificate stating that the report does or does not make recommendations for measures to be taken in the interests of safety.
- (4) Where it appears to the enforcement authority, in the case of any large raised reservoir,
  - (a) that the use of the reservoir as a reservoir has been abandoned but that a report has not been obtained as required by this section; or
  - (b) that a report obtained under this section includes a recommendation as to measures to be taken in the interests of safety that has not been carried into effect as required by this section;

the authority may by written notice served on the undertakers require them within twenty-eight days after the date when the notice is served to appoint a qualified civil engineer to make the report under this section, unless an appointment has already been made, and (in either case) to notify the authority of the appointment or, as the case may be, require them to carry the recommendation into effect within a time specified in the notice.

References in this subsection, and in any other provision of this Act as it operates in relation thereto, to the enforcement authority or to the undertakers shall have effect as at the time when the use of the reservoir as such is abandoned.

- (5) Where an enforcement authority propose to serve a notice under subsection (4) above requiring undertakers to carry a recommendation into effect, the authority shall consult as to the time to be specified in the notice a civil engineer, who, if the recommendation involves any alteration of the reservoir, shall be a qualified civil engineer for the purpose of supervising the alteration under section 13 above.

- [<sup>F84</sup>(6) The Minister may by regulations make provision about what is and is not to be treated for the purposes of this Act as—
- (a) abandonment of use of a large raised reservoir as a reservoir, and
  - (b) bringing a large raised reservoir back into use as a reservoir.]

#### Textual Amendments

**F83** Words in s. 14(2) substituted (1.10.2011 for specified purposes, 30.7.2013 for E. so far as not already in force, 1.4.2016 for W. in so far as not already in force) by [Flood and Water Management Act 2010 \(c. 29\), s. 49\(3\), Sch. 4 para. 27\(2\)](#) (with s. 49(1)(6)); S.I. 2011/2204, art. 3(1)(e); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(d)

**F84** S. 14(6) added (1.10.2011 for specified purposes, 30.7.2013 for E. so far as not already in force, 1.4.2016 for W. in so far as not already in force) by [Flood and Water Management Act 2010 \(c. 29\), s. 49\(3\), Sch. 4 para. 27\(3\)](#) (with s. 49(1)(6)); S.I. 2011/2204, art. 3(1)(e); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(d)

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

**C24** Ss. 12–14 modified by [S.I. 1986/466, art. 2\(2\), Sch. 1](#)

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### *Additional powers of enforcement authority*

## 15 Reserve powers. **E+W+S**

- (1) Where undertakers are required by a notice from the enforcement authority under section 8, 9, 10, 12 <sup>F85</sup>, 13] or 14 above to appoint an engineer for any purpose of this Act, and the undertakers fail to make the appointment, the authority may appoint an engineer for that purpose, being a person eligible for appointment by the undertakers; and, except as otherwise provided, the provisions of this Act shall apply in relation to any person appointed under this section and to anything done by him as if he had been duly appointed by the undertakers.
- (2) Where undertakers are required by a notice from the enforcement authority under section <sup>F86</sup> 8, ] 9, 10 or 14 above to carry into effect any recommendation as to measures to be taken in the interests of safety, and the undertakers fail to comply with that requirement, the authority may cause the recommendation to be carried into effect under the supervision of a qualified civil engineer appointed by them, who shall give a certificate, as soon as he is satisfied that it is so, that the recommendation has been carried into effect.
- (3) An appointment made under subsection (1) above for any purpose of this Act shall be of no effect, if before it is made the undertakers have appointed for that purpose an engineer eligible to be so appointed; and an appointment under that subsection of a supervising engineer shall terminate when an appointment of a supervising engineer duly made by the undertakers takes effect.
- (4) Without prejudice to <sup>F87</sup> section 123 of the Environment Act 1995 as it is applied by section 22A of this Act] or section 192 of the <sup>M1</sup>Local Government (Scotland) Act 1973, where the enforcement authority are unable after reasonable enquiry to ascertain the name or address of the undertakers for any large raised reservoir, then for purposes of this section a notice relating to the reservoir shall be deemed to have been duly served on the undertakers if it has been left in the hands of a person who is or appears to be resident or employed at the reservoir or if it has been left conspicuously affixed to some building or object at the reservoir.
- (5) Where an enforcement authority make any appointment under subsection (1) above or exercise powers conferred by subsection (2), the undertakers shall pay them the amount of the expenses reasonably incurred by them by reason of the appointment or, as the case may be, in the exercise of those powers.

#### Textual Amendments

- F85** Word in s. 15(1) inserted (30.7.2013 for E., 1.4.2016 for W.) by [Flood and Water Management Act 2010 \(c. 29\), s. 49\(3\), Sch. 4 para. 26\(1\)](#) (with s. 49(1)(6)); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(d)
- F86** Word in s. 15(2) inserted (E.W.) (1.4.2004 for E., 1.4.2004 for W.) by [Water Act 2003 \(c. 37\), ss. 75\(3\), 105\(3\)](#); S.I. 2004/641, art. 3(t) (with Sch. 3 para. 7); S.I. 2004/910, art. 2(1)(e); S.I. 2004/641, art. 3(t) (with Sch. 3 para. 7); S.I. 2004/910, art. 2(1)(e)
- F87** Words in s. 15(4) substituted (1.10.2004) by [Water Act 2003 \(c. 37\), ss. 76\(1\), 105\(3\)](#); S.I. 2004/2528, art. 2(l) (with Sch. para. 8)

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

- C25** S. 15 modified by [S.I. 1985/176, art. 2\(3\)\(ii\), Sch.](#) and [1986/466, art. 2\(2\), Schs. 1, 2](#)

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#### Marginal Citations

M1 1973 c. 63.

### 16 Emergency powers. **E+W+S**

- (1) Where it appears to the enforcement authority, in the case of any large raised reservoir, that the reservoir is unsafe and that immediate action is needed to protect persons or property against an escape of water from the reservoir, they may take at the reservoir such measures as they consider proper to remove or reduce the risk or to mitigate the effects of an escape.
- (2) Where it appears to the enforcement authority, in the case of any large raised reservoir, that the use of the reservoir as a reservoir has been abandoned, but that there may from time to time be an undue accumulation of water there and immediate action is needed to protect persons or property against an escape of water, they may take there such measures as they consider proper to remove or reduce the risk or to mitigate the effects of an escape.
- (3) An enforcement authority proposing to exercise the powers conferred by this section shall appoint a qualified civil engineer to make recommendations as to the measures to be taken in the exercise of those powers; and any measures so taken shall be carried into effect under the supervision of a qualified civil engineer appointed by the authority.
- (4) Subject to subsection (5) below, an enforcement authority exercising or proposing to exercise at a reservoir the powers conferred by this section shall, as early as practicable, serve on the undertakers a notice giving full information of the measures that are being or are to be taken in the exercise of those powers; and if that notice cannot be given before the work is begun, the authority shall notify the undertakers as early as practicable of the beginning of the work.
- (5) Subsection (4) above shall not require an enforcement authority to serve any notice on the undertakers after work is begun at the reservoir, if the authority are unable after reasonable enquiry to ascertain the name or address of the undertakers; and in relation to notices served before work is begun section 15(4) above shall apply for purposes of this section as it applies for the purposes of that.
- (6) Where an enforcement authority exercise the powers conferred by this section, the undertakers shall pay them the amount of the expenses reasonably incurred by them in the exercise of those powers.
- (7) For purposes of subsection (2) above references in this section, and in any other provision of this Act as it operates in relation thereto, to the enforcement authority or to the undertakers shall have effect as at the time when the use of the reservoir as such is abandoned.

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

C26 S. 16 modified by S.I. 1985/176, art. 2(3)(ii), Sch. and 1986/466, art. 2(2), Sch. 2

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## 17 Powers of entry. **E+W+S**

- (1) Subject to the following provisions of this section a person duly authorised in writing by an enforcement authority may at any reasonable time enter upon the land on which a reservoir is situated—
- (a) [<sup>F88</sup>for the purpose of carrying out an inspection, survey or other operation to determine whether any provision of this Act applies;]
  - (b) for the purpose of carrying out any survey or other operation needed to determine whether any recommendation as to measures to be taken in the interests of safety [<sup>F89</sup>, or as to the maintenance of the reservoir,] has been carried into effect as required by section [<sup>F90</sup>8,] 9, 10 or 14 above or what period should be specified in a notice under section [<sup>F90</sup>8,] 9, 10 or 14 requiring the undertakers to carry such a recommendation into effect;
  - (c) for the purpose of carrying out any inspection of the reservoir that he has been appointed under section 15(1) above to carry out, or any survey or other operation needed for the purpose of a report that he has been appointed under section 15(1) to make;
  - (d) for any purpose connected with the carrying into effect under section 15(2) above of a recommendation as to measures to be taken in the interests of safety;
  - (e) for the purpose of carrying out any survey or other operation needed to determine whether any or what measures should be taken under section 16 above, or for any purpose connected with the carrying into effect of any measures taken under that section.
- (2) Where the entry is for a purpose within subsection (1)(e) above, the power to enter upon the land on which a reservoir is situated shall extend also to any neighbouring land.
- (3) Where the use of a large raised reservoir as a reservoir is abandoned, subsection (1) above (so far as material) shall continue to apply in relation to the site of the reservoir as land on which a reservoir is situated; and for this purpose references in subsection (1), and in any other provision of this Act as it operates in relation thereto, to the enforcement authority or to the undertakers shall have effect as at the time when the use of the reservoir as such is abandoned.
- (4) Except for a purpose within subsection (1)(e) above, a person may not under this section demand admission as of right to any land that is occupied, unless at least seven days' notice in writing of the intended entry has been given to the occupier or the entry is authorised by a warrant granted under subsection (5) below.

A notice under this subsection shall specify the purpose for which entry is required and shall indicate so far as practicable the nature of any works to be executed on the land.

- (5) If it is shown to the satisfaction of a justice of the peace on sworn information in writing—
- (a) that admission to any land on which any person is entitled to enter under this section has been refused to that person, or that a refusal is apprehended, or that the occupier is temporarily absent; and
  - (b) that there is reasonable ground for entry on to the land for the purpose for which entry is required;

the justice may by warrant under his hand authorise that person to enter on the land, if need be by force; but such a warrant shall not be issued on the ground that entry has

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- been refused or that a refusal of entry is apprehended unless the justice is satisfied that notice in writing of the intention to apply for a warrant has been given to the occupier.
- (6) Every warrant granted under this section shall continue in force until the purpose for which the entry is required has been satisfied.
- (7) A person duly authorised to enter on any land by virtue of this section shall, if so required, produce evidence of his authority before so entering and may take with him on to the land such other persons and such equipment as may be necessary.
- (8) Any person who wilfully obstructs a person entitled to enter on land by virtue of this section shall be liable on summary conviction to a fine not exceeding [<sup>F91</sup>level 3 on the standard scale].
- (9) In the application of this section to Scotland—
- (a) any reference to a justice of the peace includes a reference to the sheriff having jurisdiction in the place where the land is situated;
  - (b) for the reference to be sworn information in writing there shall be substituted a reference to evidence on oath.

#### Textual Amendments

- F88** S. 17(1)(a) substituted (30.7.2013 for E., 1.4.2016 for W.) by [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), [Sch. 4 para. 29](#) (with s. 49(1)(6)); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(d)
- F89** Words in s. 17(1)(b) inserted (30.7.2013 for E., 1.4.2016 for W.) by [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), [Sch. 4 para. 13](#) (with s. 49(1)(6)); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(b)
- F90** Words in s. 17(1)(b) inserted (E.W.) (1.4.2004 for E., 1.4.2004 for W.) by [Water Act 2003 \(c. 37\)](#), [ss. 75\(4\)](#), 105(3); S.I. 2004/641, art. 3(t) (with [Sch. 3 para. 7](#)); S.I. 2004/910, art. 2(1)(e); S.I. 2004/641, art. 3(t) (with [Sch. 3 para. 7](#)); S.I. 2004/910, art. 2(1)(e)
- F91** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [ss. 38](#), 46 and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c.21, SIF 39:1\)](#), [ss. 289F](#), 289G

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

- C27** S. 17 modified by [S.I. 1985/176, art. 2\(3\)\(ii\)](#), [Sch.](#) and 1986/466, art. 2(2), Schs. 1, 2

## 18 Compensation to third parties for damage or disturbance. E+W+S

- (1) Where in the exercise in relation to any reservoir of powers conferred by section 17 above—
- (a) any land on which entry is made and which is not in the occupation of the undertakers is damaged; or
  - (b) any person is disturbed in his enjoyment of any such land;
- any person interested in the land which is damaged or, as the case may be, the person whose enjoyment of land is disturbed shall be entitled to receive compensation from the enforcement authority in respect of the damage or disturbance.
- (2) Any dispute as to a right to compensation under this section or as to the amount of any such compensation shall be determined by the [<sup>F92</sup>Upper Tribunal or] , if the land in question is in Scotland, by the Lands Tribunal for Scotland.

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- (3) Compensation payable under this section by an enforcement authority shall for the purpose of recovery from the undertakers be treated as an expense incurred in the exercise of the powers conferred by section 16 above.

#### Textual Amendments

**F92** Words in s. 18(2) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, **Sch. 1 para. 113** (with Sch. 5)

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

**C28** S. 18 modified by [S.I. 1985/176](#), art. 2(3)(ii), **Sch.** and 1986/466, art. 2(2), Sch. 2

### Supplementary

## 19 Reference of disputed recommendations to referee. **E+W+S**

- (1) Where—
- an inspecting engineer includes in his report recommendations as to measures to be taken in the interests of safety [<sup>F93</sup>, or as to the maintenance of the reservoir] or as to the time of the next inspection; or
  - an engineer acting under section 8, 9 or 14 above includes in his report recommendations as to measures to be taken in the interests of safety;
- the undertakers if aggrieved by any recommendation may, in accordance with rules under this section, refer their complaint to a referee.

[<sup>F94</sup>(1A) If an engineer determines that the requirements of a direction under section 12A(2)(a) and (b) are not satisfied for the purposes of section 12AA(3), the undertaker may refer the matter to a referee in accordance with rules under this section.]

- A referee under this section shall be an independent qualified civil engineer appointed by agreement between the undertakers and the engineer making the recommendation [<sup>F95</sup>or determination] complained of, or in default of their agreement shall be a person appointed by the Secretary of State.
- A referee under [<sup>F96</sup>subsection (1)], after investigating the complaint, shall have power to make such modifications as he thinks fit in the report containing the recommendation complained of, and the report shall for the purposes of this Act have effect accordingly.
- A referee under [<sup>F97</sup>subsection (1)], when he gives his decision on a report, shall also give a certificate stating that the decision does or does not modify the report, and (if necessary in consequence of any modification) revising accordingly any certificate given with reference to the report by the engineer making the report.

[<sup>F98</sup>(4A) A referee under subsection (1A) may direct the engineer to issue a certificate for the purposes of section 12AA(3).]

- The Secretary of State may by statutory instrument make rules as to the time within which a referee may be appointed by agreement under this section, as to the time within which, and the manner in which, a request for the appointment of a referee under this section may be made to him, as to the procedure before the referee and as to the costs of the proceedings before and investigation by the referee (including the



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remuneration of the referee), so, however, that those costs (including the remuneration of the referee) shall be paid by the undertakers.

#### Textual Amendments

- F93** Words in s. 19(1)(a) inserted (30.7.2013 for E., 1.4.2016 for W.) by [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), [Sch. 4 para. 14](#) (with s. 49(1)(6)); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(b)
- F94** S. 19(1A) inserted (1.10.2011 for specified purposes, 30.7.2013 for E. so far as not already in force, 1.4.2016 for W. in so far as not already in force) by [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), [Sch. 4 para. 22\(2\)](#) (with s. 49(1)(6)); S.I. 2011/2204, art. 3(1)(f); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(d)
- F95** Words in s. 19(2) inserted (1.10.2011 for specified purposes, 30.7.2013 for E. so far as not already in force, 1.4.2016 for W. in so far as not already in force) by [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), [Sch. 4 para. 22\(3\)](#) (with s. 49(1)(6)); S.I. 2011/2204, art. 3(1)(f); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(d)
- F96** Words in s. 19(3) substituted (1.10.2011 for specified purposes, 30.7.2013 for E. so far as not already in force, 1.4.2016 for W. in so far as not already in force) by [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), [Sch. 4 para. 22\(4\)](#) (with s. 49(1)(6)); S.I. 2011/2204, art. 3(1)(f); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(d)
- F97** Words in s. 19(4) substituted (1.10.2011 for specified purposes, 30.7.2013 for E. so far as not already in force, 1.4.2016 for W. in so far as not already in force) by [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), [Sch. 4 para. 22\(4\)](#) (with s. 49(1)(6)); S.I. 2011/2204, art. 3(1)(f); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(d)
- F98** S. 19(4A) inserted (1.10.2011 for specified purposes, 30.7.2013 for E. so far as not already in force, 1.4.2016 for W. in so far as not already in force) by [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), [Sch. 4 para. 22\(5\)](#) (with s. 49(1)(6)); S.I. 2011/2204, art. 3(1)(f); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(d)

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

- C29** Ss. 19, 20 modified by [S.I. 1986/466](#), art. 2(2), [Sch. 1](#)

#### [<sup>F99</sup>19A Appeals **E+W**]

- (1) The Minister must by regulations provide a right of appeal against—
- a requirement to appoint an engineer under sections 8(1), 9(7), 10(7), 12(4), 13(5) and 14(4), and
  - a requirement to carry a recommendation of an engineer into effect under sections 8(3A), 9(7), 10(7) and 14(4).
- (2) The regulations must—
- confer jurisdiction on the Minister, a court or a tribunal, and
  - make provision about procedure (including the effect of pending appeals).]

#### Textual Amendments

- F99** S. 19A inserted (E.W.) (1.10.2011 for specified purposes) by [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), [Sch. 4 para. 30](#) (with s. 49(1)(6)); S.I. 2011/2204, art. 3(1)(e)

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## 20 General provisions as to reports, certificates etc. of engineers. **E+W+S**

- (1) Any report [<sup>F100</sup>, certificate or directions] of an engineer acting for any purpose of this Act, including a referee under section 19 above, shall be in the prescribed form.
- (2) Any such report or certificate, unless the engineer in question is appointed to act by the enforcement authority, shall be delivered to and kept by the undertakers.
- (3) Any such report or certificate, where the engineer in question is appointed to act by the enforcement authority, shall be delivered to the authority, but a copy of it shall be sent by the engineer at the same time to the undertakers and shall be kept by them.
- (4) Where any document to which this subsection applies is delivered by the engineer in question to the undertakers, the engineer shall within twenty-eight days after he delivers it to the undertakers send a copy of it to the enforcement authority.

The documents to which this subsection applies are—

- (a) any certificate of an engineer acting for any purpose of this Act;
- (b) any report made by an inspecting engineer or an engineer acting for purposes of section 14 above <sup>F101</sup>... , and any report made by an engineer acting under section 8 or 9 above;
- (c) any decision of a referee <sup>F102</sup>... ;
- (d) any written explanation given by a construction engineer to the undertakers of his reasons for deferring the issue of his final certificate;
- (e) any advice given by a supervising engineer to the undertakers which either—
  - (i) recommends them to have the reservoir inspected under section 10 above or to take any other action; or
  - (ii) draws their attention to a breach of any provision of section 6(2) to (4) or 9(2) or of section 11 above.
- <sup>F103</sup>(f) any written statement given under section 12(2) or (2A);
- (g) any direction given under section 12(6);]
- <sup>F104</sup>(h) any direction given under section 12AA(4) or (7).]

- (5) Where an enforcement authority receive a certificate of an engineer acting for the purposes of section 13 above or a copy of such a certificate, and the reservoir is situated partly in the area of another [<sup>F105</sup>relevant authority] not being the undertakers, the enforcement authority shall send a copy of the certificate to that other [<sup>F105</sup>relevant authority].

### Textual Amendments

- F100** Words in s. 20(1) substituted (E.W.) (1.10.2011 for specified purposes) by [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), [Sch. 4 para. 31](#) (with s. 49(1)(6)); S.I. 2011/2204, art. 3(1)(f)
- F101** Words in s. 20(4)(b) omitted (30.7.2013 for E., 1.4.2016 for W.) by virtue of [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), [Sch. 4 para. 28](#) (with s. 49(1)(6)); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(d)
- F102** Words in s. 20(4)(c) omitted (30.7.2013 for E., 1.4.2016 for W.) by virtue of [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), [Sch. 4 para. 23\(2\)](#) (with s. 49(1)(6)); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(d)
- F103** S. 20(4)(f)(g) added (30.7.2013 for E., 1.4.2016 for W. for specified purposes, otherwise on "the applicable day" for W. in so far as not already in force) by [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), [Sch. 4 para. 17\(6\)](#) (with s. 49(1)(6)); S.I. 2013/1590, art. 3(b) (with art. 4(2)-(5)); S.I. 2016/79, arts. 2(c), 3

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- F104** S. 20(4)(h) added (30.7.2013 for E., 1.4.2016 for W.) by [Flood and Water Management Act 2010](#) (c. 29), s. 49(3), [Sch. 4 para. 23\(3\)](#) (with s. 49(1)(6)); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(d)
- F105** Words in s. 20 substituted (1.10.2004) by [Water Act 2003](#) (c. 37), [ss. 74\(1\)\(b\)](#), 105(3); S.I. 2004/2528, art. 2(k) (with [Sch. para. 8](#))

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

- C30** Ss. 19, 20 modified by [S.I. 1986/466](#), art. 2(2), [Sch. 1](#)

**[<sup>F106</sup>20A Assessment of reports and statements E+W]**

- (1) The Minister may by regulations make provision for the assessment of the quality of reports and written statements prepared by—
  - (a) inspecting engineers, and
  - (b) supervising engineers.
- (2) The regulations may make provision for the assessment to be made by a committee consisting of members of the Institution of Civil Engineers; and the regulations may specify the conditions for membership of the committee.
- (3) The regulations may, in particular, make provision about—
  - (a) the criteria for assessment,
  - (b) the documents, or categories of documents, that are to be assessed,
  - (c) the assessment procedure, which may include provision about oral or written representations, and
  - (d) timing.]

**Textual Amendments**

- F106** S. 20A inserted (E.W.) (1.10.2011 for specified purposes) by [Flood and Water Management Act 2010](#) (c. 29), s. 49(3), [Sch. 4 para. 32](#) (with s. 49(1)(6)); S.I. 2011/2204, art. 3(1)(e)

**21 Duty of undertakers to furnish information. E+W+S**

- (1) Where undertakers intend—
  - (a) to construct a large raised reservoir <sup>F107</sup>... ; or
  - (b) to bring a large raised reservoir back into use as a reservoir after that use has been abandoned;

the undertakers, if they are not a [<sup>F108</sup>relevant authority], shall serve notice of their intention, giving the prescribed information, on the [<sup>F108</sup>relevant authority] in whose area the intended large raised reservoir will be or, if it will extend into the areas of more than one [<sup>F108</sup>relevant authority], on each of those authorities; and if the undertakers are a [<sup>F108</sup>relevant authority] and the reservoir or any part of it will be in the area of another [<sup>F108</sup>relevant authority] or authorities, they shall serve notice of their intention on the other authority or authorities.

A notice under this subsection shall be served not less than twenty-eight days before any work on the construction or alteration of the reservoir is begun or, if the case is within paragraph (b) above and the reservoir is to be brought back into use without alteration, not less than twenty-eight days before it is brought back into use.

- (2) <sup>F109</sup>...

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- (3) <sup>F109</sup> ...
- (4) <sup>F109</sup> ...
- (5) The supervising engineer and every inspecting engineer for a [<sup>F110</sup>high-risk reservoir], and any civil engineer employed by the undertakers for purposes of section 8, 9, 10(6) [<sup>F111</sup>, 13] or 14 above or appointed by an enforcement authority under section 15(2) or 16(3), shall be afforded by the undertakers all reasonable facilities for the effective performance of his functions; and the undertakers shall furnish him—
- (a) with the statutory record required to be kept for the reservoir; and
  - (b) with copies of any statutory certificates relating to the reservoir, with their annexes (if any); and
  - (c) with copies of the reports made by inspecting engineers on any statutory inspection of the reservoir; and
  - (d) with such further information and particulars as he may require
- (6) In this section “statutory” refers to matters provided for by this Act or by the <sup>M2</sup>Reservoirs (Safety Provisions) Act 1930.

#### Textual Amendments

- F107** Words in s. 21(1)(a) omitted (30.7.2013 for E., 1.4.2016 for W.) by virtue of [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), [Sch. 4 para. 5\(a\)](#) (with s. 49(1)(6)); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(b)
- F108** Words in s. 21 substituted (1.10.2004) by [Water Act 2003 \(c. 37\)](#), [ss. 74\(1\)\(b\)](#), 105(3); S.I. 2004/2528, art. 2(k) (with [Sch. para. 8](#))
- F109** S. 21(2)-(4) omitted (30.7.2013 for E., 1.4.2016 for W.) by virtue of [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), [Sch. 4 para. 5\(b\)](#) (with s. 49(1)(6)); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(b)
- F110** Words in s. 21(5) substituted (30.7.2013 for E., 1.4.2016 for W. for specified purposes, otherwise on "the applicable day" for W. in so far as not already in force) by [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), [Sch. 4 para. 18](#) (with s. 49(1)(6)); S.I. 2013/1590, art. 3(b) (with art. 4(2)-(5)); S.I. 2016/79, arts. 2(c), 3
- F111** Word in s. 21(5) inserted (30.7.2013 for E., 1.4.2016 for W.) by [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), [Sch. 4 para. 26\(2\)](#) (with s. 49(1)(6)); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(d)

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

- C31** S. 21 modified by [S.I. 1985/176](#), art. 2(3)(ii), [Sch.](#) and 1986/466, art. 2(2), Schs. 1, 2

#### Marginal Citations

- M2** 1930 c. 51.

#### <sup>F112</sup>21A Power to require information **E+W**

- (1) For the purposes of carrying out its functions under this Act, [<sup>F113</sup>the appropriate agency] may by notice require an undertaker to provide information specified in the notice.
- (2) The notice may require the information to be provided—
  - (a) within a specified period;

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- (b) in a specified manner or form.
- (3) The period specified under subsection (2)(a) must be a period of at least 28 days beginning with the day on which the notice is issued.

#### Textual Amendments

**F112** Ss. 21A, 21B inserted (1.10.2011 for specified purposes, 30.7.2013 for E. so far as not already in force, 1.4.2016 for W. in so far as not already in force) by [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), [Sch. 4 para. 33](#) (with s. 49(1)(6)); S.I. 2011/2204, art. 3(1)(e); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(d)

**F113** Words in s. 21A substituted by 2010 c. 29, Sch. 4 para. 33 (as amended (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 2 para. 468\(2\)\(d\)](#) (with Sch. 7))

## 21B Reports **E+W+S**

- (1) The Minister may by regulations require a specified person to make a report to the [<sup>F114</sup>appropriate agency] about any incident of a specified kind which affected, or could have affected, the safety of a large raised reservoir.
- (2) The regulations may, in particular, provide that the duty to report applies to—
  - (a) an undertaker, and
  - (b) an engineer appointed for any purpose of this Act.
- (3) The regulations may make provision about—
  - (a) the form and manner of a report,
  - (b) the timing of a report.]

#### Textual Amendments

**F112** Ss. 21A, 21B inserted (1.10.2011 for specified purposes, 30.7.2013 for E. so far as not already in force, 1.4.2016 for W. in so far as not already in force) by [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), [Sch. 4 para. 33](#) (with s. 49(1)(6)); S.I. 2011/2204, art. 3(1)(e); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(d)

**F114** Words in s. 21B(1) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 2 para. 122](#) (with Sch. 7)

## 22 Criminal liability of undertakers and their employees. **E+W+S**

- [<sup>F115</sup>(A1) It is an offence for an undertaker to fail to comply with either of the following—
- (a) the requirement to register a large raised reservoir imposed by section 2(2B);
  - (b) a requirement of regulations made under section 2(2C).
- (A2) A person guilty of an offence under subsection (A1) is liable—
- (a) on conviction on indictment, to a fine;
  - (b) on summary conviction, to a fine not exceeding the statutory maximum.]
- (1) If—

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- (a) <sup>F116</sup>... any of the provisions of section 6, 8(3), 9(1), (2) or (3), 10(1) or (6), 11, 12(1), 13 or 14(1) or (2) above is not observed or complied with in relation to a large raised reservoir; <sup>F117</sup>...
- (b) the undertakers fail to comply with a notice from the enforcement authority under section 8, 9, 10, 12 [<sup>F118</sup>, 13] or 14 above;
- then <sup>F119</sup>..., the undertakers shall be guilty of an offence and liable on conviction on indictment or on summary conviction to a fine, which on summary conviction shall not exceed £400.
- [<sup>F120</sup>(c) the undertakers fail to comply with a direction under section 12A above;]
- [<sup>F121</sup>(1AA) An undertaker who fails to comply with section 10(5A) is guilty of an offence.
- (1AB) A person guilty of an offence under subsection (1A) is liable—
- (a) on conviction on indictment, to a fine;
- (b) on summary conviction, to a fine not exceeding the statutory maximum.]
- [<sup>F122</sup>(1AC) An undertaker who, without reasonable excuse, fails to comply with a direction to carry out a visual inspection under section 12(6) or with the notification requirement under section 12(7) is guilty of an offence.
- (1AD) A person guilty of an offence under subsection (1AC) is liable—
- (a) on conviction on indictment, to a fine;
- (b) on summary conviction, to a fine not exceeding the statutory maximum.]
- [<sup>F123</sup>(1AE) An undertaker who fails to comply with section 12AA(4), (6)(a) or (7) is guilty of an offence and liable—
- (a) on conviction on indictment, to a fine, or
- (b) on summary conviction, to a fine not exceeding the statutory maximum.
- (1AF) An undertaker who fails to comply with section 12AA(5) is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.]
- [<sup>F124</sup>(1A) If the undertakers fail without reasonable excuse to comply with a notice under section 12B above, they shall be guilty of an offence and liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine, or to both.]
- (2) If, in the case of any large raised reservoir, the undertakers fail without reasonable excuse to give the enforcement authority in due time any notice required by this Act to be given by them to that authority, the undertakers shall be guilty of an offence and liable on summary conviction to a fine not exceeding [<sup>F125</sup>level 4 on the standard scale].
- (3) If, in the case of any large raised reservoir, the undertakers or persons employed by them without reasonable excuse refuse or knowingly fail to afford to any person the facilities required by section 21(5) above or to furnish to any person the information and particulars so required, the undertakers shall be guilty of an offence and liable on summary conviction to a fine not exceeding [<sup>F125</sup>level 4 on the standard scale].
- (4) If for purposes of section 21(5) above a person makes use of any document or furnishes any information or particulars which he knows to be false in a material respect, or recklessly makes use of any document or furnishes any information or particulars which is or are false in a material respect, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding [<sup>F125</sup>level 5 on the standard scale].



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[<sup>F126</sup>(4A) An undertaker who fails to comply with a requirement of a notice given under section 21A is guilty of an offence.

(4B) An undertaker who fails to comply with a requirement to make a report under regulations made under section 21B is guilty of an offence.

(4C) A person guilty of an offence under subsection (4A) or (4B) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.]

(5) Where an offence committed by a body corporate under this section is proved to have been committed with the consent or connivance of any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence, and shall be liable to be proceeded against and punished accordingly.

Where the affairs of a body corporate are managed by its members, this section shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(6) In England and Wales proceedings for an offence under this section may be instituted [<sup>F127</sup>only by the [<sup>F128</sup>appropriate agency] or] the Secretary of State or by or with the consent of the Director of Public Prosecutions.

#### Textual Amendments

**F115** S. 22(A1)(A2) inserted (30.7.2013 for E., 1.4.2016 for W.) by [Flood and Water Management Act 2010](#) (c. 29), s. 49(3), [Sch. 4 para. 6](#) (with s. 49(1)(6)); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(b)

**F116** Words in s. 22(1) omitted (30.7.2013 for E., 1.4.2016 for W.) by virtue of [Flood and Water Management Act 2010](#) (c. 29), s. 49(3), [Sch. 4 para. 35\(a\)](#) (with s. 49(1)(6)); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(d)

**F117** Word in s. 22(1)(a) repealed (E.W.) (1.10.2004) by [Water Act 2003](#) (c. 37), ss. 79(2), 105(3), [Sch. 9 Pts. 3](#); S.I. 2004/2528, art. 2(o)(u)

**F118** Word in s. 22(1)(b) inserted (30.7.2013 for E., 1.4.2016 for W.) by [Flood and Water Management Act 2010](#) (c. 29), s. 49(3), [Sch. 4 para. 26\(3\)](#) (with s. 49(1)(6)); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(d)

**F119** Words in s. 22(1) omitted (30.7.2013 for E., 1.4.2016 for W.) by virtue of [Flood and Water Management Act 2010](#) (c. 29), s. 49(3), [Sch. 4 para. 35\(b\)](#) (with s. 49(1)(6)); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(d)

**F120** S. 22(1)(c) inserted (E.W.) (1.10.2004) by [Water Act 2003](#) (c. 37), ss. 79(2), 105(3); S.I. 2004/2528, art. 2(o) (with [Sch. para. 8](#))

**F121** S. 22(1AA)(1AB) inserted (30.7.2013 for E., 1.4.2016 for W. for specified purposes, otherwise on "the applicable day" for W. in so far as not already in force) by [Flood and Water Management Act 2010](#) (c. 29), s. 49(3), [Sch. 4 para. 15](#) (with s. 49(1)(6)); S.I. 2013/1590, art. 3(b); S.I. 2016/79, arts. 2(c), 3

**F122** S. 22(1AC)(1AD) inserted (30.7.2013 for E., 1.4.2016 for W. for specified purposes, otherwise on "the applicable day" for W. in so far as not already in force) by [Flood and Water Management Act 2010](#) (c. 29), s. 49(3), [Sch. 4 para. 19](#) (with s. 49(1)(6)); S.I. 2013/1590, art. 3(b); S.I. 2016/79, arts. 2(c), 3

**F123** S. 22(1AE)(1AF) inserted (30.7.2013 for E., 1.4.2016 for W.) by [Flood and Water Management Act 2010](#) (c. 29), s. 49(3), [Sch. 4 para. 24](#) (with s. 49(1)(6)); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(d)

**F124** S. 22(1A) inserted (E.W.) (1.10.2004) by [Water Act 2003](#) (c. 37), ss. 79(3), 105(3); S.I. 2004/2528, art. 2(o) (with [Sch. para. 8](#))

**F125** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982](#) (c. 48, SIF 39:1), ss. 38, 46 and (S.) [Criminal Procedure \(Scotland\) Act 1975](#) (c.21, SIF 39:1), ss. 289F, 289G

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- F126** S. 22(4A)-(4C) inserted (30.7.2013 for E., 1.4.2016 for W.) by [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), [Sch. 4 para. 34](#) (with s. 49(1)(6)); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(d)
- F127** Words in s. 22(6) substituted (1.10.2004) by [Water Act 2003 \(c. 37\)](#), [ss. 74\(1\)\(d\)](#), 105(3); S.I. 2004/2528, art. 2(k) (with [Sch. para. 8](#))
- F128** Words in s. 22(6) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 2 para. 122](#) (with [Sch. 7](#))

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

- C32** S. 22 modified by [S.I. 1985/176](#), art. 2(3)(ii), [Sch.](#) and 1986/466, art. 2(2), Schs. 1, 2

### [<sup>F129</sup>22A][<sup>F130</sup>Service of notices by the Environment Agency and the NRBW] **E+W+S**

Section 123 of the Environment Act 1995 (service of documents) applies to any document authorised or required by virtue of any provision of this Act to be served or given by the Environment Agency [<sup>F131</sup>or the NRBW] as if it were authorised or required to be served or given by or under that Act.]

#### Textual Amendments

- F129** S. 22A inserted (1.10.2004) by [Water Act 2003 \(c. 37\)](#), [ss. 76\(2\)](#), 105(3); S.I. 2004/2528, art. 2(l) (with [Sch. para. 8](#))
- F130** S. 22A heading substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 2 para. 123\(3\)](#) (with [Sch. 7](#))
- F131** Words in s. 22A inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 2 para. 123\(2\)](#) (with [Sch. 7](#))

### [<sup>F132</sup>22C]Expenses **E**

The undertaker must pay to [<sup>F133</sup>the appropriate agency] the amount of expenses reasonably incurred by [<sup>F134</sup>the appropriate agency] in connection with the consultation of an engineer under—

- (a) section 8(3B),
- (b) section 9(8),
- (c) section 10(8), and
- (d) section 14(5).]

#### Textual Amendments

- F132** S. 22C inserted (30.7.2013 for E., 1.4.2016 for W.) by [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), [Sch. 4 para. 36](#) (with s. 49(1)(6)); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(d)
- F133** Words in s. 22C substituted by 2010 c. 29, [Sch. 4 para. 36](#) (as amended (1.4.2013) by S.I. 2013/755, [Sch. 2 para. 468\(2\)\(e\)](#)) (with [Sch. 7](#))
- F134** Words in s. 22C substituted by 2010 c. 29, [Sch. 4 para. 36](#) (as amended (1.4.2013) by S.I. 2013/755, [Sch. 2 para. 468\(2\)\(e\)](#)) (with [Sch. 7](#))

*Status: Point in time view as at 01/04/2016.*

*Changes to legislation: Reservoirs Act 1975 is up to date with all changes known to be in force on or before 14 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## **[<sup>F135</sup>22D Arrangements for civil protection: charges** **E+W**

- (1) A person who is listed in Part 1 of Schedule 1 to the Civil Contingencies Act 2004 (a “Category 1 responder”) may charge an undertaker a fee in accordance with a scheme prescribed by regulations made by the Minister.
- (2) The purpose of the scheme must be to enable Category 1 responders to charge fees to undertakers in respect of costs incurred in carrying out functions under section 2 of the 2004 Act in connection with their reservoirs.]

### **Textual Amendments**

**F135** S. 22D inserted (E.W.) (1.10.2011 for specified purposes) by [Flood and Water Management Act 2010](#) (c. 29), s. 49(3), [Sch. 4 para. 37](#) (with s. 49(1)(6)); S.I. 2011/2204, art. 3(1)(e)

### *Transitional and temporary provisions*

## **23 Continuity with previous Act.** **E+W+S**

- (1) Where a large raised reservoir has been wholly or partly constructed before the commencement of this Act any certificate given, report made, or other thing done in relation to the reservoir under or for purposes of the <sup>M3</sup>Reservoirs (Safety Provisions) Act 1930 shall for the purposes of this Act have the same effect as if given, made or done under or for purposes of this Act.
- (2) The repeal by this Act of the <sup>M4</sup>Reservoirs (Safety Provisions) Act 1930 shall not affect the continuance in force of regulations or rules made under that Act or of any panel of qualified civil engineers constituted under that Act, but they shall continue as if made or constituted for corresponding purposes under this Act; but any appointment made to any such panel before the commencement of this Act shall lapse at the end of five years after the date of that commencement or, in the case of any engineer or engineers, at such earlier date as may be notified to him or them by the Secretary of State by written notice given not less than six months before that date.

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

**C33** S. 23 modified by [S.I. 1986/466, art. 2\(2\)](#), [Sch. 1](#)

### **Marginal Citations**

**M3** 1930 c. 51.

**M4** 1930 c. 51.

## **24 Notification to local authorities of existing reservoirs.** **E+W+S**

- (1) Where a large raised reservoir has been constructed before, or is in course of construction at, the commencement of this Act, the undertakers, if they are not a [<sup>F136</sup> relevant authority ], shall, not later than nine months after the date of that commencement, give to the [<sup>F136</sup> relevant authority ] in whose area the reservoir is situated (or, if it extends or will extend into the areas of more than one [<sup>F136</sup> relevant authority ], to one of those authorities) notice of the situation of the reservoir and of the name and address of the undertakers; and if the undertakers are a [<sup>F136</sup> relevant

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authority ], and the reservoir or any part of it is or will be in the area of another [ <sup>F136</sup> relevant authority ] or authorities, they shall, not later than nine months after that date, give notice of the situation of the reservoir and of their being the undertakers to the other authority or to one of the other authorities.

- (2) With the notice under subsection (1) above the undertakers shall send for inspection and return by the [ <sup>F136</sup> relevant authority ]—
- (a) any final certificate given under the <sup>M5</sup>Reservoirs (Safety Provisions) Act 1930 on the construction of the reservoir or any alteration of it or, if the preliminary certificate has been so given but no final certificate, the preliminary certificate;
  - (b) any certificate so given as to the execution of the works on the construction of the reservoir or any alteration of it (including the annex to the certificate);
  - (c) the report made on the latest inspection of the reservoir under that Act (if any).
- (3) The notice under subsection (1) above shall state, if it is so—
- (a) that no final certificate was given under the <sup>M6</sup>Reservoirs (Safety Provisions) Act 1930 on the construction of the reservoir or on its alteration to become a large reservoir because the construction or alteration was completed before the commencement of that Act;
  - (b) that no certificate has been given for the reservoir or inspection made of it under that Act because it was not a reservoir to which the Act applied.
- (4) Every [ <sup>F136</sup> relevant authority ] shall during the three months after the date of the commencement of this Act take such steps as they think are reasonably required to inform undertakers of the requirements of subsections (1) to (3) above.

#### Textual Amendments

**F136** Words in s. 24 substituted (1.10.2004) by [Water Act 2003 \(c. 37\)](#), **ss. 74(1)(b)**, 105(3); [S.I. 2004/2528](#), art. 2(k) (with [Sch. para. 8](#))

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

**C34** S. 24 modified by [S.I. 1985/176](#), art. 2(3)(ii), [Sch.](#) and 1986/466, art. 2(2), Sch. 2

#### Marginal Citations

**M5** 1930 c. 51.

**M6** 1930 c. 51.

## 25 Reservoirs in course of construction or alteration, or newly constructed or altered. **E+W+S**

- (1) Subject to subsections (2) to (4) below, where at the commencement of this Act—
- (a) a large raised reservoir is in course of construction or is in course of being altered so as to increase its capacity; or
  - (b) a large raised reservoir having been constructed or having been altered, no final certificate has yet been given under the <sup>M7</sup>Reservoirs (Safety Provisions) Act 1930 on the construction or alteration;

sections 6 to 8 above shall from that commencement apply as they apply in the case of a construction or alteration carried out wholly after that commencement.

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- (2) Subsection (1)(b) above shall not apply where a final certificate was not given as there mentioned because the construction or alteration of the reservoir was completed before the commencement of the <sup>M8</sup>Reservoirs (Safety Provisions) Act 1930; and nothing in that subsection shall apply where before the commencement of this Act a qualified civil engineer (within the meaning of that Act) was not employed to design and supervise the construction or alteration of the reservoir because the reservoir was not one to which that Act applied.
- (3) If in the case within the subsection (1) above five years have elapsed since the issue of a preliminary certificate for the reservoir or the addition to it, as the case may be, section 7(4) above shall apply with the substitution of a reference to the commencement of this Act for the reference to the end of five years after a preliminary certificate is first issued.
- (4) If in a case within subsection (1) above there is at the commencement of this Act no qualified civil engineer responsible for the reservoir or addition as construction engineer, the undertakers shall appoint a qualified civil engineer for purposes of section 8 above without being required by a notice from the enforcement authority; and if they fail to do so within six months after the date of the commencement of this Act, sections 15 and 22(1) above shall apply as if the undertakers had been served with a notice under section 8 so as to require them to make the appointment by the end of those six months.
- If a [<sup>F137</sup> relevant authority ] are the undertakers and the reservoir will be wholly in the area of that authority, then notwithstanding anything in section 2(6) above this subsection shall have effect in relation to the reservoir as it would have effect in relation to it if the undertakers were not a [<sup>F137</sup> relevant authority ], except that the reference to section 15 shall not apply.
- (5) Where at the commencement of this Act a final certificate has been given under the <sup>M9</sup>Reservoirs (Safety Provisions) Act 1930 on the construction of a large raised reservoir or on the alteration of a reservoir so as to increase its capacity, but the reservoir has not been inspected under that Act since the date of the certificate, section 10(2) above shall apply as if that certificate had been given on the date of the commencement of this Act.

#### Textual Amendments

**F137** Words in s. 25 substituted (1.10.2004) by [Water Act 2003 \(c. 37\)](#), **ss. 74(1)(b)**, 105(3); S.I. 2004/2528, art. 2(k) (with [Sch. para. 8](#))

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

**C35** Ss. 25–28 modified by [S.I. 1986/466](#), art. 2(2), **Sch. 1**

#### Marginal Citations

**M7** 1930 c. 51.

**M8** 1930 c. 51.

**M9** 1930 c. 51.

*Status: Point in time view as at 01/04/2016.*

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## 26 Reservoirs constructed before commencement of previous Act. **E+W+S**

- (1) Where the construction of a large raised reservoir (whether as a new reservoir or by the alteration of an existing reservoir that was not a large raised reservoir) was completed before the commencement of the <sup>M10</sup>Reservoirs (Safety Provisions) Act 1930 and the reservoir was not inspected under that Act then unless section 25(1) or (5) above applies by reason of any alteration of the reservoir increasing its capacity, the first inspection of the reservoir under this Act shall be made as soon as practicable after the commencement of this Act.
- (2) Where the construction of a large raised reservoir (whether as a new reservoir or by the alteration of an existing reservoir that was not a large raised reservoir) was completed before the commencement of the Reservoirs (Safety Provisions) Act 1930, then on the first inspection of the reservoir under this Act the inspecting engineer shall annex to his report drawings and descriptions giving, so far as he can, the like information of the works actually constructed at any time before the commencement of that Act (and not removed on any subsequent alteration increasing the capacity of the reservoir) as would have been annexed to a certificate under section 7(6) above.
- (3) Where subsection (2) above applies on the inspection of a reservoir, any reference in section 20 or section 21(5) above to an inspecting engineer's report shall include the annex, and section 20(4)(b) shall apply whether or not the report is stated in the inspecting engineer's certificate to include a recommendation as to measures to be taken in the interests of safety.

### Modifications etc. (not altering text)

**C36** Ss. 25–28 modified by [S.I. 1986/466, art. 2\(2\), Sch. 1](#)

### Marginal Citations

**M10** 1930 c. 51.

## 27 Large raised reservoirs not within previous Act. **E+W+S**

- (1) Where before the commencement of this Act a qualified civil engineer within the meaning of the <sup>M11</sup>Reservoirs (Safety Provisions) Act 1930 has not been employed to design and supervise the construction of a large raised reservoir or an alteration of a reservoir to increase its capacity because the reservoir was not one to which that Act applied, then—
  - (a) notwithstanding that the construction or alteration is not completed at the commencement of this Act, section 6(1) and (5) and section 7 above shall not apply except in so far as section 7 is applied by section 8;
  - (b) whether or not the construction or alteration is so completed, the undertakers shall appoint a qualified civil engineer for purposes of section 8 without being required by a notice from the enforcement authority;
  - (c) if the construction or alteration is so completed, section 6(2) to (4) shall apply in accordance with section 8 as they apply in the case of a construction or alteration carried out wholly after the commencement of this Act.
- (2) If the undertakers fail within six months after the date of the commencement of this Act to appoint a qualified civil engineer as required by subsection (1)(b) above, sections 15 and 22(1) above shall apply as if the undertakers had been served with a notice under section 8 so as to require them to make the appointment by the end of those six months.



*Status: Point in time view as at 01/04/2016.*

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- (3) If a [<sup>F138</sup> relevant authority ] are the undertakers and the reservoir is situated wholly in the area of that authority, then notwithstanding anything in section 2(6) above this section shall have effect in relation to the reservoir as it would have effect in relation to it if the undertakers were not a [<sup>F138</sup> relevant authority ], except that the reference to section 15 in subsection (2) above shall not apply.

#### Textual Amendments

**F138** Words in s. 27 substituted (1.10.2004) by [Water Act 2003 \(c. 37\)](#), **ss. 74(1)(b)**, 105(3); S.I. 2004/2528, art. 2(k) (with [Sch. para. 8](#))

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

**C37** Ss. 25–28 modified by [S.I. 1986/466](#), art. 2(2), **Sch. 1**

#### Marginal Citations

**M11** 1930 c. 51.

*[<sup>F1</sup>Crown application*

## 27A Crown application **E+W+S**

- (1) Subject to the provisions of this section, this Act binds the Crown.
- (2) No contravention by the Crown of any provision made by or under this Act shall make the Crown criminally liable; but the High Court may, on the application of the [<sup>F139</sup>appropriate agency], declare unlawful any act or omission of the Crown which constitutes such a contravention.
- (3) Notwithstanding anything in subsection (2) above, the provisions of this Act shall apply to persons in the public service of the Crown as they apply to other persons.
- (4) If the Secretary of State certifies that it appears to him, as respects any Crown premises and any power of entry exercisable in relation to them specified in the certificate, that it is requisite or expedient that, in the interests of national security, the powers should not be exercisable in relation to those premises, those powers shall not be exercisable in relation to those premises.
- (5) Subject to subsection (4) above, the power conferred by section 17 above shall be exercisable in relation to land in which there is a Crown or Duchy interest only with the consent of the appropriate authority.
- (6) Nothing in this section shall be taken as in any way affecting Her Majesty in Her private capacity; and this subsection shall be construed as if section 38(3) of the Crown Proceedings Act 1947 (interpretation of references to Her Majesty in Her private capacity) were contained in this Act.
- (7) In this section—
  - “the appropriate authority” has the same meaning as it has in Part 13 of the Town and Country Planning Act 1990 by virtue of section 293(2) of that Act;
  - “Crown or Duchy interest” means an interest which belongs to Her Majesty in right of the Crown or of the Duchy of Lancaster, or to the Duchy of

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Cornwall, or belonging to a government department or held in trust for Her Majesty for the purposes of a government department;

“Crown premises” means premises held by or on behalf of the Crown.

- (8) The provisions of subsection (3) of section 293 of the Town and Country Planning Act 1990 (questions relating to Crown application) as to the determination of questions shall apply for the purposes of this section.]

#### Textual Amendments

**F139** Words in s. 27A(2) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 124** (with Sch. 7)

#### [<sup>F140</sup>27C Ministerial responsibility **E+W**

References to “the Minister” in this Act are to be construed in accordance with paragraph 42 of Schedule 4 to the Flood and Water Management Act 2010.]

#### Textual Amendments

**F140** S. 27C inserted (E.W.) (1.10.2011) by [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), **Sch. 4 para. 42(2)** (with s. 49(1)(6)); S.I. 2011/2204, art. 3(1)(j)

*Repeal, commencement etc.*

#### 28 Repeal. **E+W+S**

- (1) There are hereby repealed the <sup>M12</sup>Reservoirs (Safety Provisions) Act 1930 and the entry relating to section 5(1) of that Act in Part II of Schedule 9 to the <sup>M13</sup>Courts Act 1971.
- (2) Notwithstanding the repeal of the <sup>M14</sup>Reservoirs (Safety Provisions) Act 1930, the provision made by section 7 of that Act shall continue to have effect as reproduced in Schedule 2 to this Act with certain changes in the wording of section 7 (to avoid mention in terms of the commencement or the passing of that Act or of the undertakers); but the inclusion of that provision in this Act shall not affect its operation, and in particular sections 1(2) and 6(1) above shall not apply for the interpretation of Schedule 2.

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

**C38** Ss. 25–28 modified by [S.I. 1986/466](#), art. 2(2), **Sch. 1**

#### Marginal Citations

**M12** 1930 c. 51.

**M13** 1971 c. 23.

**M14** 1930 c. 51.

*Status: Point in time view as at 01/04/2016.*

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**29 Commencement.** **E+W+S**

- (1) This Act shall come into force on such a day as may be appointed by order of the Secretary of State made by statutory instrument, and the day appointed may differ for different provisions of the Act or for different purposes of the same provision.
- (2) An order of the Secretary of State under this section may adapt references in this Act to its commencement in such manner as appears to the Secretary of State to be required by the operation of the order in bringing any provision of the Act into force; but subject to any such adaptation a reference in any provision of this Act to its commencement shall be construed for any purpose of that provision as a reference to the coming into force of the provision for that purpose.

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

**C39** S. 29 amended by [Local Government \(Interim Provisions\) Act 1984 \(c.53, SIF 81:1\)](#), s. 6(3)

**C40** Power of appointment conferred by s. 29(1) fully exercised: [S.I. 1983/1666](#), 1985/176, 1986/466, 2202

**30 Short title and extent.** **E+W+S**

- (1) This Act may be cited as the Reservoirs Act 1975.
- (2) This Act shall not extend to Northern Ireland.]

*Status: Point in time view as at 01/04/2016.*

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## [<sup>F 4</sup> SCHEDULES

### <sup>F141</sup>SCHEDULE 1 **E+W+S**

Section 1.

#### INDEX OF GENERAL DEFINITIONS

##### Textual Amendments

**F141** Sch. 1 entry repealed (1.10.2004 for E., 11.11.2004 for W.) by [Water Act 2003 \(c. 37\), s. 105\(3\), Sch. 7 para. 38, Sch. 9 Pt. 3](#); [S.I. 2004/2528, art. 2\(t\)\(iii\)\(u\)](#); [S.I. 2004/2916, art. 2\(f\)](#)

<i>Expression defined</i>	<i>Reference in Act</i>
Addition (to a reservoir)	Section 6(6)
[ <sup>F142</sup> Appropriate agency	Section 1(5A)]
[ <sup>F143</sup> Area (in relation to the Environment Agency)	Section 1(4A)]
[ <sup>F142</sup> Area (in relation to the NRBW)	Section 1(4C)]
Commencement (of this Act)	Section 29(2)
Construction (of reservoir)	Section 6(1)
Construction engineer	Section 6(1)
Enforcement authority	Section 2(6)
Final certificate	Section 7(3)
Independent (civil engineer)	Section 10(9)
Inspecting engineer	Section 10(1)
Interim certificate	Section 7(2)
[ <sup>F142</sup> NRBW	Section 1(4)(a)]
<b>F141</b>	<b>F141</b>
...	...
Preliminary certificate	Section 7(1)
Prescribed	Section 5
Qualified civil engineer	Section 4(1)
[ <sup>F143</sup> Relevant authority	Section 2(1)]
Reservoir, raised reservoir and large raised reservoir	Section 1(1) and (2)
Supervising engineer	Section 12(1)

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Undertakers

Section 1(4)

**Textual Amendments**

- F142** Words in Sch. 1 inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 125** (with Sch. 7)
- F143** Sch. 1 entry inserted (1.10.2004) by [Water Act 2003 \(c. 37\)](#), **ss. 74(1)(e)**, 105(3); S.I. 2004/2528, art. 2(k) (with Sch. para. 8)

SCHEDULE 2 **E+W+S**

Section 28.

LIABILITY FOR DAMAGE AND INJURY

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

- C41** Sch. 2 modified by [S.I. 1986/466](#), art. 2(2), **Sch. 1**

Where damage or injury is caused by the escape of water from a reservoir constructed after the year 1930 under statutory powers granted after July 1930, the fact that the reservoir was so constructed shall not exonerate the persons for the time being having the management and control of the reservoir from any indictment, action or other proceedings to which they would otherwise have been liable.]

**Status:**

Point in time view as at 01/04/2016.

**Changes to legislation:**

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