

SCHEDULES

SCHEDULE 16

Section 137.

BOUNDARIES OF REGIONAL FLOOD DEFENCE AREAS

Power to make order

- 1 (1) The appropriate Minister may by order made by statutory instrument alter the boundaries of the area of any regional flood defence committee or provide for the amalgamation of any two or more such areas.
- (2) Where an order under this Schedule makes provision by reference to anything shown on a main river map (within the meaning of the 1976 Act) that map shall be conclusive evidence for the purposes of the order of what is shown on the map.
- (3) The power to make an order under this Schedule shall include power to make such supplemental, consequential and transitional provision as the appropriate Minister considers appropriate.
- (4) In the case of an order under this Schedule amalgamating the areas of any two or more regional flood defence committees, the provision made by virtue of sub-paragraph (3) above may include provision determining the total number of members of the amalgamated committee and the total number of such members to be appointed by the constituent councils of that committee; and subsections (6) and (7) of section 138 of this Act shall apply in relation to so much of an order under this Schedule as is made by virtue of this sub-paragraph as they apply in relation to an order under subsection (5) of that section.
- (5) In this Schedule “the appropriate Minister” —
- (a) in relation—
 - (i) to any alteration of the boundaries of an area where the whole or any part of that area is in Wales; or
 - (ii) to the amalgamation of any two or more areas where the whole or any part of any one of those areas is in Wales,means the Secretary of State and the Minister acting jointly; and
 - (b) in any other case, means the Minister.

Consultation and notice of intention to make order

- 2 (1) Before making an order under this Schedule, the appropriate Minister shall—
- (a) consult such persons or representative bodies as he considers it appropriate to consult at that stage;
 - (b) prepare a draft order;
 - (c) publish a notice complying with sub-paragraph (2) below in the London Gazette and in such other manner as he considers appropriate for bringing the draft order to the attention of persons likely to be affected by it if it is made.

Status: This is the original version (as it was originally enacted).

- (2) A notice for the purposes of sub-paragraph (1)(c) above with respect to a draft order shall—
- (a) state the appropriate Minister’s intention to make the order and its general effect;
 - (b) specify the places where copies of the draft order and of any map to which it refers may be inspected by any person free of charge at all reasonable times during the period of twenty-eight days beginning with the date on which the notice is first published otherwise than in the London Gazette; and
 - (c) state that any person may within that period by notice in writing to the appropriate Minister object to the making of the order.
- (3) The appropriate Minister shall also cause copies of the notice and of the draft order to be served on every person carrying out functions under any enactment who appears to him to be concerned.

Objections to draft order and making of order

- 3 (1) Before making an order under this Schedule, the appropriate Minister shall consider any representations or objections which are duly made with respect to the draft order and are not withdrawn, and may, if he thinks fit, cause a local inquiry to be held with respect to any such representations or objections.
- (2) Where notice of a draft order has been published and given in accordance with paragraph 2 above and any representations or objections considered under sub-paragraph (1) above, the appropriate Minister may make the order either in the terms of the draft or in those terms as modified in such manner as he thinks fit, or may decide not to make the order.
- (3) The appropriate Minister shall not make a modification of a draft order in so far as the modification is such as to include in the area of any regional flood defence committee any tidal waters which, if the order had been made in the form of the draft, would have been outside the area of every regional flood defence committee.

Procedure for making of order

- 4 (1) Where the appropriate Minister makes an order under this Schedule, he shall serve notice of the making of the order on every person (if any) on whom notice is required to have been served under paragraph 2(3) above and who has duly made an objection to the making of the order that has not been withdrawn.
- (2) Where a notice is required to be served under sub-paragraph (1) above with respect to any order, the order shall not have effect before the end of a period of twenty-eight days from the date of service of the last notice served under that sub-paragraph.
- (3) If before an order takes effect under sub-paragraph (2) above—
- (a) any person who has been served with a notice under sub-paragraph (1) above with respect to that order serves notice objecting to the order on the Minister (or, in the case of an order made jointly by the Minister and the Secretary of State, on either of them); and
 - (b) the objection is not withdrawn,
- the order shall be subject to special parliamentary procedure.

Status: This is the original version (as it was originally enacted).

- (4) A statutory instrument containing an order under this Schedule which is not subject to special parliamentary procedure under sub-paragraph (3) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Notice after making of order

- 5 (1) Subject to sub-paragraph (2) below, after making an order under this Schedule, the appropriate Minister shall publish in the London Gazette, and in such other manner as he considers appropriate for bringing the order to the attention of persons likely to be affected by it, a notice stating that the order has been made and naming the places where a copy of the order may be inspected at all reasonable times.
- (2) In the case of an order to which sub-paragraph (2) of paragraph 4 above applies, the notice shall not be published until the end of the period of twenty-eight days referred to in that sub-paragraph, and shall state whether or not the order is to be subject to special parliamentary procedure.

Questioning of order in courts

- 6 (1) Subject to sub-paragraph (3) below, if any person desires to question the validity of an order under this Schedule on the ground—
- (a) that it is not within the powers of this Schedule; or
 - (b) that any requirement of this Schedule has not been complied with,
- he may, within six weeks after the date of the first publication of the notice required by paragraph 5 above, make an application for the purpose to the High Court.
- (2) On an application under this paragraph the High Court, if satisfied—
- (a) that the order is not within the powers of this Schedule; or
 - (b) that the interests of the applicant have been substantially prejudiced by a failure to comply with any of the requirements of this Schedule,
- may quash the order either generally or in so far as it affects the applicant.
- (3) Sub-paragraph (1) above shall not apply to any order which is confirmed by Act of Parliament under section 6 of the Statutory Orders (Special Procedure) Act 1945 and shall have effect in relation to any other order which is subject to special parliamentary procedure by virtue of the provisions of this Schedule as if the reference to the date of the first publication of the notice required by paragraph 5 above were a reference to the date on which the order becomes operative under the said Act of 1945.
- (4) Except as provided by this paragraph the validity of an order under this Schedule shall not, either before or after the order has been made, be questioned in any legal proceedings whatsoever.