



# Environment Act 1995

## 1995 CHAPTER 25

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

#### THE ENVIRONMENT AGENCY AND THE SCOTTISH ENVIRONMENT PROTECTION AGENCY

### [<sup>F1</sup>CHAPTER 1A **E+W+S**

#### GENERAL FUNCTIONS OF THE AGENCY AND THE NATURAL RESOURCES BODY FOR WALES]

##### Textual Amendments

- F1** Pt. I Ch. 1A heading inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 2 para. 363\(1\)](#) (with Sch. 7)

## 5 **General functions with respect to pollution control.** **E+W+S**

- (1) [<sup>F2</sup>An appropriate agency's] pollution control powers shall be exercisable for the purpose of preventing or minimising, or remedying or mitigating the effects of, pollution of the environment.
- (2) [<sup>F3</sup>An appropriate agency] shall, for the purpose—
  - (a) of facilitating the carrying out of its pollution control functions, or
  - (b) of enabling it to form an opinion of the general state of pollution of the environment,compile information relating to such pollution (whether the information is acquired by the Agency carrying out observations or is obtained in any other way).
- (3) If required by [<sup>F4</sup>the appropriate national authority] to do so, [<sup>F5</sup>an appropriate agency] shall—
  - (a) carry out assessments (whether generally or for such particular purpose as may be specified in the requirement) of the effect, or likely effect, on the

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- environment of existing or potential levels of pollution of the environment and report its findings to <sup>F6</sup>the appropriate national authority]; or
- (b) prepare and send to <sup>F7</sup>the appropriate national authority] a report identifying—
- (i) the options which the <sup>F8</sup>appropriate agency] considers to be available for preventing or minimising, or remedying or mitigating the effects of, pollution of the environment, whether generally or in cases or circumstances specified in the requirement; and
- (ii) the costs and benefits of such options as are identified by the <sup>F8</sup>appropriate agency] pursuant to sub-paragraph (i) above.
- (4) <sup>F9</sup>An appropriate agency] shall follow developments in technology and techniques for preventing or minimising, or remedying or mitigating the effects of, pollution of the environment.
- (5) In this section, “pollution control powers” and “pollution control functions”, in relation to <sup>F10</sup>an appropriate agency], mean respectively its powers or its functions under or by virtue of the following enactments, that is to say—
- (a) the <sup>M1</sup>Alkali, &c, Works Regulation Act 1906;
- (b) Part I of the <sup>M2</sup>Health and Safety at Work etc. Act 1974;
- (c) Part I of the <sup>M3</sup>Control of Pollution Act 1974;
- (d) the <sup>M4</sup>Control of Pollution (Amendment) Act 1989;
- (e) Parts<sup>F11</sup> I,]II and IIA of the 1990 Act (integrated pollution control etc, waste on land and contaminated land);
- (f) Chapter III of Part IV of the <sup>M5</sup>Water Industry Act 1991 (special category effluent);
- (g) Part III and sections 161 to 161D of the 1991 Act (control of pollution of water resources);
- (h) <sup>F12</sup>the <sup>M6</sup>Radioactive Substances Act 1993;]
- <sup>F13</sup>(i) regulations under section 2 of the Pollution Prevention and Control Act 1999;]
- <sup>F14</sup>(i) regulations under section 2 of the Pollution Prevention and Control Act 1999;]
- (j) regulations made by virtue of section 2(2) of the <sup>M7</sup>European Communities Act 1972, to the extent that the regulations relate to pollution.
- <sup>F15</sup>(6) But in relation to the Natural Resources Body for Wales, “pollution control powers” and “pollution control functions” do not include powers or functions which—
- (a) were exercisable by the Countryside Council for Wales or the Forestry Commissioners immediately before 1 April 2013; and
- (b) are functions of that Body by virtue of the Natural Resources Body for Wales (Functions) Order 2013.]

#### Textual Amendments

- F2** Words in s. 5(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. 364(2)** (with Sch. 7)
- F3** Words in s. 5(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. 364(3)** (with Sch. 7)
- F4** Words in s. 5(3) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 364(4)(a)(i)** (with Sch. 7)
- F5** Words in s. 5(3) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 364(4)(a)(ii)** (with Sch. 7)

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- F6** Words in s. 5(3)(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. 364(4)(b)** (with Sch. 7)
- F7** Words in s. 5(3)(b) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), **Sch. 2 para. 364(4)(c)(i)** (with Sch. 7)
- F8** Words in s. 5(3)(b) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), **Sch. 2 para. 364(4)(c)(ii)** (with Sch. 7)
- F9** Words in s. 5(4) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), **Sch. 2 para. 364(5)** (with Sch. 7)
- F10** Words in s. 5(5) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), **Sch. 2 para. 364(5)** (with Sch. 7)
- F11** Word in s. 5(5)(e) repealed (1.4.2015 for S.) by Pollution Prevention and Control Act 1999 (c. 24), s. 7(3), **Sch. 3**; S.S.I. 2015/74, art. 2(2)(g)
- F12** S. 5(5)(h) repealed (E.W.) (6.4.2010) by The Environmental Permitting (England and Wales) Regulations 2010 (S.I. 2010/675), reg. 1(1)(b), Sch. 26 para. 13(2), **Sch. 28** (with reg. 1(2), Sch. 4)
- F13** S. 5(5)(i) inserted (1.4.2015 for S.) by Pollution Prevention and Control Act 1999 (c. 24), s. 7(3), **Sch. 2 para. 15**; S.S.I. 2015/74, art. 2(1)
- F14** S. 5(5)(i) inserted (21.3.2000 for E.W and otherwise *prosp.*) by 1999 c. 24, ss. 6(1), 7(3), **Sch. 2 para. 15**; S.I. 2000/800, **art. 2**
- F15** S. 5(6) inserted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), **Sch. 2 para. 364(6)** (with Sch. 7)

#### Commencement Information

- I1** S. 5 wholly in force at 1.4.1996; s. 5 not in force at Royal Assent see s. 125(3); s. 5(2)(5) in force at 1.2.1996 by S.I. 1996/186, **art 2**; s. 5(1)(3)(4) in force at 1.4.1996 by S.I. 1996/186, **art 3**

#### Marginal Citations

- M1** 1906 c. 14.  
**M2** 1974 c. 37.  
**M3** 1974 c. 40.  
**M4** 1989 c. 14.  
**M5** 1991 c. 56.  
**M6** 1993 c. 12.  
**M7** 1972 c. 68.

## 6 General provisions with respect to water. **E+W+S**

- (1) It shall be the duty of [<sup>F16</sup>an appropriate agency], to such extent as it considers desirable, generally to promote—
- the conservation and enhancement of the natural beauty and amenity of inland and coastal waters and of land associated with such waters;
  - the conservation of flora and fauna which are dependent on an aquatic environment; and
  - the use of such waters and land for recreational purposes;
- and it shall be the duty of [<sup>F16</sup>an appropriate agency], in determining what steps to take in performance of the duty imposed by virtue of paragraph (c) above, to take into account the needs of persons who are chronically sick or disabled. This subsection is without prejudice to the duties of the Agency under section 7 below.
- (2) It shall be the duty of the Agency to take all such action as it may from time to time consider, in accordance with any directions given under section 40 below, to be necessary or expedient for the purpose—

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- (a) of conserving, redistributing or otherwise augmenting water resources in England <sup>F17</sup>...; and
- (b) of securing the proper use of water resources in England <sup>F17</sup>...<sup>F18</sup>(including the efficient use of those resources)];

but nothing in this subsection shall be construed as relieving any water undertaker of the obligation to develop water resources for the purpose of performing any duty imposed on it by virtue of section 37 of the <sup>M8</sup>Water Industry Act 1991 (general duty to maintain water supply system).

<sup>F19</sup>(2A) The Natural Resources Body for Wales must take all such action as it may from time to time consider, in accordance with any directions given under article 11 of the Natural Resources Body for Wales (Establishment) Order 2012 (S.I.2012/1903), to be necessary or expedient for the purpose—

- (a) of conserving, redistributing or otherwise augmenting water resources in Wales; and
- (b) of securing the proper use of water resources in Wales (including the efficient use of those resources);

but nothing in this subsection shall be construed as relieving any water undertaker of the obligation to develop water resources for the purpose of performing any duty imposed on it by virtue of section 37 of the Water Industry Act 1991 (general duty to maintain water supply system).]

- (3) The provisions of the 1991 Act relating to the functions of the Agency under Chapter II of Part II of that Act and the related water resources provisions so far as they relate to other functions of the Agency shall not apply to so much of any inland waters as—
  - (a) are part of the River Tweed;
  - (b) are part of the River Esk or River Sark at a point where either of the banks of the river is in Scotland; or
  - (c) are part of any tributary stream of the River Esk or the River Sark at a point where either of the banks of the tributary stream is in Scotland.

<sup>F20</sup>(3A) Subsection (3) above shall apply to—

- (a) sections 3 and 4 of the Water Act 2003; and
- (b) such of the related water resources provisions as apply in relation to those sections by virtue of section 33(2) of the Water Act 2003,

as it applies to the provisions referred to in that subsection.]

<sup>F21</sup>(4) The Agency shall in relation to England and <sup>F22</sup>the Natural Resources Body for Wales shall in relation to] Wales exercise a general supervision over all matters relating to flood and coastal erosion risk management, in accordance with Part 1 of the Flood and Water Management Act 2010.]

- (5) The Agency's flood defence functions shall extend to the territorial sea adjacent to England and <sup>F23</sup>the Natural Resources Body for Wales' flood defence functions shall extend to the territorial sea adjacent to] Wales in so far as—
  - (a) <sup>F24</sup>the region of any Regional Flood and Coastal Committee] includes any area of that territorial sea; or
  - (b) section 165(2) or (3) of the 1991 Act (drainage works for the purpose of defence against sea water or tidal water, and works etc to secure an adequate outfall for a main river) provides for the exercise of any power in the territorial sea.

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- (6) It shall be the duty of [<sup>F25</sup>an appropriate agency] to maintain, improve and develop [<sup>F26</sup>fisheries of—
- (a) salmon, trout, eels, lampreys, smelt and freshwater fish, and
  - (b) fish of such other description as may be specified for the purposes of this subsection by order under section 40A of the Salmon and Freshwater Fisheries Act 1975.]
- (7) The area in respect of which the Agency shall carry out its functions relating to fisheries shall be the whole of England <sup>F27</sup>..., together with—
- (a) such part of the territorial sea adjacent to England <sup>F27</sup>... as extends for six miles from the baselines from which the breadth of that sea is measured,
  - (b) in the case of—
    - <sup>F28</sup>(i) . . . . .
    - (ii) the <sup>M9</sup>Salmon and Freshwater Fisheries Act 1975,
    - (iii) Part V of the 1991 Act (general control of fisheries), and
    - (iv) subsection (6) above,
 so much of the River Esk, with its banks and tributary streams up to their source, as is situated in Scotland, and
  - (c) in the case of sections 31 to 34 and 36(2) of the <sup>M10</sup>Salmon and Freshwater Fisheries Act 1975 as applied by section 39(1B) of that Act, so much of the catchment area of the River Esk as is situated in Scotland,
- but, in the case of the enactments specified in paragraph (b) above, excluding the River Tweed.
- [<sup>F29</sup>(7A) The area in respect of which the Natural Resources Body for Wales shall carry out its functions relating to fisheries shall be the whole of Wales, together with such part of the territorial sea adjacent to Wales as extends for six miles from the baselines from which the breadth of that sea is measured.]
- (8) In this section—
- “miles” means international nautical miles of 1,852 metres;
- “the related water resources provisions” has the same meaning as it has in the 1991 Act;
- [<sup>F30</sup>“the River Esk” means that River as defined by section 111(4) of the Scotland Act 1998 or as such definition as may be modified by an order under section 111(1) of that Act;]
- “the River Tweed” means “the river” within the meaning of the <sup>M11</sup>Tweed Fisheries Amendment Act 1859 as amended by byelaws.
- [<sup>F31</sup>“salmon”, “trout”, “eels”, “smelt”, “fish” and “freshwater fish” have the same meanings as in the Salmon and Freshwater Fisheries Act 1975].
- [<sup>F32</sup>(9) For the purposes of this section, the parts of the territorial sea which are adjacent to Wales, and which are therefore not adjacent to England, are the parts of the sea which are treated as adjacent to Wales for the purposes of section 158 of the Government of Wales Act 2006.]

#### Textual Amendments

- F16** Words in s. 6(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. 365\(2\)](#) (with Sch. 7)

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- F17** Words in s. 6(2) 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. 365(3)** (with Sch. 7)
- F18** Words in s. 6(2)(b) inserted (E.W.) (1.4.2004) by Water Act 2003 (c. 37), **ss. 72, 105(3)**; S.I. 2004/641, art. 3(s) (with Sch. 3 para. 7)
- F19** S. 6(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. 365(4)** (with Sch. 7)
- F20** S. 6(3A) inserted (1.4.2006) by Water Act 2003 (c. 37), s. 105(3), **Sch. 7 para. 15(2)**; S.I. 2006/984, art. 2(s)(i)
- F21** S. 6(4) substituted (E.W.) (1.4.2011) by Flood and Water Management Act 2010 (c. 29), s. 49(3), **Sch. 2 para. 52** (with s. 49(1)(6)); S.I. 2011/694, art. 3(i)
- F22** Words in s. 6(4) inserted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), **Sch. 2 para. 365(5)** (with Sch. 7)
- F23** Words in s. 6(5) inserted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), **Sch. 2 para. 365(6)** (with Sch. 7)
- F24** Words in s. 6(5)(a) substituted (14.7.2014) by Water Act 2014 (c. 21), s. 94(2)(r), **Sch. 10 para. 16**
- F25** Words in s. 6(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. 365(7)** (with Sch. 7)
- F26** Words in s. 6(6) substituted (12.1.2010) by Marine and Coastal Access Act 2009 (c. 23), **ss. 230(2), 324(3)**; S.I. 2009/3345, art. 2, Sch. para. 14
- F27** Words in s. 6(7) 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. 365(8)** (with Sch. 7)
- F28** S. 6(7)(b)(i) omitted (E.W.) (27.3.2009) by virtue of The Aquatic Animal Health (England and Wales) Regulations 2009 (S.I. 2009/463), reg. 1(2), **Sch. 2 para. 9(b)** (with reg. 2(2)) and s. 6(7)(b)(i) omitted (S.) (27.3.2009) by virtue of The Aquatic Animal Health (Scotland) Regulations 2009 (S.S.I. 2009/85), reg. 1(2)(c), **sch. 2 para. 9(b)** (with reg. 2.)
- F29** S. 6(7A) inserted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), **Sch. 2 para. 365(9)** (with Sch. 7)
- F30** S. 6: definition of “the River Esk” inserted (30.6.1999) by S.I. 1999/1746, **arts. 1(1), 5(3)**; S.I. 1998/3178, **art. 3**
- F31** Words in s. 6(8) inserted (12.1.2010) by Marine and Coastal Access Act 2009 (c. 23), **ss. 230(3), 324(3)**; S.I. 2009/3345, art. 2, Sch. para. 14
- F32** S. 6(9) inserted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), **Sch. 2 para. 365(10)** (with Sch. 7)

#### Marginal Citations

- M8** 1991 c. 56.  
**M9** 1975 c. 51.  
**M10** 1975 c. 51.  
**M11** 1859 c. lxx.

## 7 General environmental and recreational duties. **E+W+S**

- (1) It shall be the duty of each of the Ministers and of the Agency, in formulating or considering—
- (a) any proposals relating to any functions of the Agency other than its pollution control functions, so far as may be consistent—
- (i) with the purposes of any enactment relating to the functions of the Agency,
  - (ii) in the case of each of the Ministers, with the objective of achieving sustainable development,
  - (iii) in the case of the Agency, with any guidance under section 4 above,



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- (iv) in the case of the Secretary of State, with his duties under section 2 of the <sup>M12</sup>Water Industry Act 1991,
- so to exercise any power conferred on him or it with respect to the proposals as to further the conservation and enhancement of natural beauty and the conservation of flora, fauna and geological or physiographical features of special interest;
- (b) any proposals relating to pollution control functions of the Agency, to have regard to the desirability of conserving and enhancing natural beauty and of conserving flora, fauna and geological or physiographical features of special interest;
- (c) any proposal relating to any functions of the Agency—
- (i) to have regard to the desirability of protecting and conserving buildings, sites and objects of archaeological, architectural, engineering or historic interest;
  - (ii) to take into account any effect which the proposals would have on the beauty or amenity of any rural or urban area or on any such flora, fauna, features, buildings, sites or objects; and
  - (iii) to have regard to any effect which the proposals would have on the economic and social well-being of local communities in rural areas.
- (2) Subject to subsection (1) above, it shall be the duty of each of the Ministers and of the Agency, in formulating or considering any proposals relating to any functions of the Agency—
- (a) to have regard to the desirability of preserving for the public any freedom of access to areas of woodland, mountains, moor, heath, down, cliff or foreshore and other places of natural beauty;
  - (b) to have regard to the desirability of maintaining the availability to the public of any facility for visiting or inspecting any building, site or object of archaeological, architectural, engineering or historic interest; and
  - (c) to take into account any effect which the proposals would have on any such freedom of access or on the availability of any such facility.
- (3) Subsections (1) and (2) above shall apply so as to impose duties on the Agency in relation to—
- (a) any proposals relating to the functions of a water undertaker or sewerage undertaker,
  - (b) any proposals relating to the management, by the company holding an appointment as such an undertaker, of any land for the time being held by that company for any purpose whatever (whether or not connected with the carrying out of the functions of a water undertaker or sewerage undertaker), and
  - (c) any proposal which by virtue of section 156(7) of the <sup>M13</sup>Water Industry Act 1991 (disposals of protected land) falls to be treated for the purposes of section 3 of that Act as a proposal relating to the functions of a water undertaker or sewerage undertaker,
- as they apply in relation to proposals relating to the Agency's own functions, other than its pollution control functions.
- (4) Subject to obtaining the consent of any navigation authority, harbour authority or conservancy authority before doing anything which causes obstruction of, or other

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interference with, navigation which is subject to the control of that authority, it shall be the duty of the Agency to take such steps as are—

- (a) reasonably practicable, and
- (b) consistent with the purposes of the enactments relating to the functions of the Agency,

for securing, so long as the Agency has rights to the use of water or land associated with water, that those rights are exercised so as to ensure that the water or land is made available for recreational purposes and is so made available in the best manner.

- (5) It shall be the duty of the Agency, in determining what steps to take in performance of any duty imposed by virtue of subsection (4) above, to take into account the needs of persons who are chronically sick or disabled.
- (6) Nothing in this section, the following provisions of this Act or the 1991 Act shall require recreational facilities made available by the Agency to be made available free of charge.
- (7) In this section—
  - “building” includes structure;
  - “pollution control functions”, in relation to the Agency, has the same meaning as in section 5 above.

#### Marginal Citations

M12 1991 c. 56.

M13 1991 c. 56.

## 8 Environmental duties with respect to sites of special interest. **E+W+S**

(1) Where [<sup>F33</sup>Natural England]<sup>F34</sup> ... is of the opinion that any area of land in England <sup>F35</sup> ...

- (a) is of special interest by reason of its flora, fauna or geological or physiographical features, and
- (b) may at any time be affected by schemes, works, operations or activities of [<sup>F36</sup>an appropriate agency] or by an authorisation given by [<sup>F36</sup>an appropriate agency],

[<sup>F37</sup>Natural England] shall notify the fact that the land is of special interest for that reason [<sup>F38</sup>to the appropriate agency].

[<sup>F39</sup>(1A) Where the Natural Resources Body for Wales is of the opinion that any area of land in Wales—

- (a) is of special interest by reason of its flora, fauna or geological or physiographical features, and
- (b) may at any time be affected by schemes, works, operations or activities of the Agency or by an authorisation given by the Agency,

the Natural Resources Body for Wales shall notify the fact that the land is of special interest for that reason to the Agency.]

(2) Where a National Park authority or the Broads Authority is of the opinion that any area of land in a National Park or in the Broads—



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- (a) is land in relation to which the matters for the purposes of which sections 6(1) and 7 above (other than section 7(1)(c)(iii) above) have effect are of particular importance, and
- (b) may at any time be affected by schemes, works, operations or activities of [<sup>F40</sup>an appropriate agency] or by an authorisation given by [<sup>F40</sup>an appropriate agency],

the National Park authority or Broads Authority shall notify the [<sup>F41</sup>appropriate agency] of the fact that the land is such land, and of the reasons why those matters are of particular importance in relation to the land.

(3) Where [<sup>F42</sup>an appropriate agency] has received a notification under subsection (1) [<sup>F43</sup>, (1A)] or (2) above with respect to any land, it shall consult the notifying body before carrying out or authorising any works, operations or activities which appear to the [<sup>F44</sup>appropriate agency] to be likely—

- (a) to destroy or damage any of the flora, fauna, or geological or physiographical features by reason of which the land is of special interest; or
- (b) significantly to prejudice anything the importance of which is one of the reasons why the matters mentioned in subsection (2) above are of particular importance in relation to that land.

(4) Subsection (3) above shall not apply in relation to anything done in an emergency where particulars of what is done and of the emergency are notified to [<sup>F45</sup>Natural England], [<sup>F46</sup>the Natural Resources Body for Wales], the National Park authority in question or, as the case may be, the Broads Authority as soon as practicable after that thing is done.

(5) In this section—

“authorisation” includes any consent or licence;

“the Broads” has the same meaning as in the <sup>M14</sup>Norfolk and Suffolk Broads Act 1988; and

“National Park authority”, <sup>F47</sup>. . . , means a National Park authority established under section 63 below which has become the local planning authority for the National Park in question.

<sup>F48</sup>(6) . . . . .

**Textual Amendments**

- F33** Words in s. 8(1) substituted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\), s. 107, Sch. 11 para. 141\(2\)\(a\)](#); S.I. 2006/2541, art. 2 (with Sch.)
- F34** Words in s. 8(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. 366\(2\)\(a\)\(i\)](#) (with Sch. 7)
- F35** Words in s. 8(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. 366\(2\)\(a\)\(ii\)](#) (with Sch. 7)
- F36** Words in s. 8(1)(b) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\), art. 1\(2\), Sch. 2 para. 366\(2\)\(b\)](#) (with Sch. 7)
- F37** Words in s. 8(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. 366\(2\)\(c\)\(i\)](#) (with Sch. 7)
- F38** Words in s. 8(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. 366\(2\)\(c\)\(ii\)](#) (with Sch. 7)
- F39** S. 8(1A) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\), art. 1\(2\), Sch. 2 para. 366\(3\)](#) (with Sch. 7)

*Status: Point in time view as at 16/05/2017.*

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- F40** Words in s. 8(2)(b) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 366(4)(a)** (with Sch. 7)
- F41** Words in s. 8(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. 366(4)(b)** (with Sch. 7)
- F42** Words in s. 8(3) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 366(5)(a)** (with Sch. 7)
- F43** Word in s. 8(3) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 366(5)(b)** (with Sch. 7)
- F44** Words in s. 8(3) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 366(5)(c)** (with Sch. 7)
- F45** Words in s. 8(4) substituted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), s. 107, **Sch. 11 para. 141(3)**; S.I. 2006/2541, art. 2 (with Sch.)
- F46** Words in s. 8(4) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 366(6)** (with Sch. 7)
- F47** Words in definition of “National Park authority” in s. 8(6) repealed (1.4.1997) by [1995 c. 25](#), s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/2560, art. 2, **Sch.**
- F48** S. 8(6) repealed (1.4.1997) by [1995 c. 25](#), s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/2560, art. 2, **Sch.**

#### Marginal Citations

**M14** [1988 c. 4](#).

## 9 Codes of practice with respect to environmental and recreational duties. E+W +S

- [<sup>F49</sup>(1) The appropriate national authority shall have power by order to approve any code of practice issued (whether by the appropriate national authority or by another person) for the purpose of—
- (a) giving practical guidance to an appropriate agency with respect to any of the matters for the purposes of which the provisions specified in subsection (5) have effect, and
  - (b) promoting what appear to the appropriate national authority to be desirable practices by an appropriate agency with respect to those matters,
- and may at any time by such an order approve a modification of such a code or withdraw its approval of such a code or modification.]
- (2) In discharging its duties under [<sup>F50</sup>the provisions specified in subsection (5), an appropriate agency] shall have regard to any code of practice, and any modifications of a code of practice, for the time being approved under this section.
- (3) [<sup>F51</sup>The Secretary of State shall not] make an order under this section unless he has first consulted—
- (a) the Agency;
  - (b) [<sup>F52</sup>Natural England]<sup>F53</sup> ...;
  - (c) the Historic Buildings and Monuments Commission for England;
  - (d) the Sports Council <sup>F54</sup> ...; and
  - (e) such other persons as he considers it appropriate to consult.
- [<sup>F55</sup>(3A) The Welsh Ministers shall not make an order under this section unless they have first consulted—
- (a) the Natural Resources Body for Wales;

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- (b) the Sports Council for Wales; and
  - (c) such other persons as they consider it appropriate to consult.]
- (4) The power <sup>F56</sup>... to make an order under this section shall be exercisable by statutory instrument; and any statutory instrument containing such an order shall be subject to annulment in pursuance of a resolution of either House of Parliament [<sup>F57</sup>(in the case of an order made by the Secretary of State) or of the National Assembly for Wales (in the case of an order made by the Welsh Ministers)].
- [<sup>F58</sup>(5) The provisions referred to in subsections (1) and (2) are—
- (a) in relation to the Agency, sections 6(1), 7 and 8;
  - (b) in relation to the Natural Resources Body for Wales—
    - (i) sections 6(1) and 8; and
    - (ii) articles 5A, 5C, 5D [<sup>F59</sup>, 5E] and 5G of the Natural Resources Body for Wales (Establishment) Order 2012 (S.I.2012/1903).]

#### Textual Amendments

- F49** S. 9(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. 367(2)** (with Sch. 7)
- F50** Words in s. 9(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. 367(3)** (with Sch. 7)
- F51** Words in s. 9(3) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 367(4)(a)** (with Sch. 7)
- F52** Words in s. 9(3)(b) substituted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), s. 107, **Sch. 11 para. 142**; S.I. 2006/2541, art. 2 (with Sch.)
- F53** Words in s. 9(3)(b) 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. 367(4)(b)** (with Sch. 7)
- F54** Words in s. 9(3)(d) 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. 367(4)(c)** (with Sch. 7)
- F55** S. 9(3A) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 367(5)** (with Sch. 7)
- F56** Words in s. 9(4) 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. 367(6)(a)** (with Sch. 7)
- F57** Words in s. 9(4) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 367(6)(b)** (with Sch. 7)
- F58** S. 9(5) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 367(7)** (with Sch. 7)
- F59** Word in s. 9(5)(b)(ii) omitted (E.W.) (21.5.2016) by virtue of [Environment \(Wales\) Act 2016 \(anaw 3\)](#), s. 88(2)(a), **Sch. 2 para. 6(2)**

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

- C1** S. 9(3) excluded (1.7.1999) by [S.I. 1999/672](#), art. 2, **Sch. 1**

#### [<sup>F60</sup>9A **Duty of the Agency to cooperate with the Natural Resources Body for Wales** **E** **+W+S**

The Agency must cooperate with the Natural Resources Body for Wales, and coordinate its activities with those of the Natural Resources Body for Wales, as may be appropriate in the circumstances.]

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### Textual Amendments

**F60** S. 9A inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 368** (with Sch. 7)

## 10 Incidental functions of the Agency [<sup>F61</sup>and the Natural Resources Body for Wales]. **E+W+S**

- (1) This section has effect—
- (a) for the purposes of section 37(1) below, as it applies in relation to the Agency;  
<sup>F62</sup>...
  - [<sup>F63</sup>(aa) for the purposes of article 9 of the Natural Resources Body for Wales (Establishment) Order 2012 (S.I.2012/1903), in relation to the Natural Resources Body for Wales; and]
  - (b) for the construction of any other enactment which, by reference to the functions of [<sup>F64</sup>an appropriate agency], confers any power on or in relation to [<sup>F64</sup>an appropriate agency];
- and any reference in this section to “the relevant purposes” is a reference to the purposes described in paragraphs (a) [<sup>F65</sup>, (aa)] and (b) above.
- (2) For the relevant purposes, the functions of [<sup>F66</sup>an appropriate agency] shall be taken to include the protection against pollution of—
- (a) any waters, whether on the surface or underground, which belong to the [<sup>F67</sup>appropriate agency] or any water undertaker or from which the [<sup>F67</sup>appropriate agency] or any water undertaker is authorised to take water;
  - (b) without prejudice to paragraph (a) above, any reservoir which belongs to or is operated by the [<sup>F67</sup>appropriate agency] or any water undertaker or which the [<sup>F67</sup>appropriate agency] or any water undertaker is proposing to acquire or construct for the purpose of being so operated; and
  - (c) any underground strata from which the [<sup>F67</sup>appropriate agency] or any water undertaker is for the time being authorised to abstract water in pursuance of a licence under Chapter II of Part II of the 1991 Act (abstraction and impounding).
- (3) For the relevant purposes, the functions of [<sup>F68</sup>an appropriate agency] shall be taken to include joining with or acting on behalf of one or more relevant undertakers for the purpose of carrying out any works or acquiring any land which at least one of the undertakers with which it joins, or on whose behalf it acts, is authorised to carry out or acquire for the purposes of—
- (a) any function of that undertaker under any enactment; or
  - (b) any function which is taken to be a function of that undertaker for the purposes to which section 217 of the <sup>M15</sup>Water Industry Act 1991 applies.
- (4) For the relevant purposes, the functions of [<sup>F69</sup>an appropriate agency] shall be taken to include the provision of supplies of water in bulk, whether or not such supplies are provided for the purposes of, or in connection with, the carrying out of any other function of the [<sup>F70</sup>appropriate agency] .
- (5) For the relevant purposes, the functions of [<sup>F71</sup>an appropriate agency] shall be taken to include the provision of houses and other buildings for the use of persons employed

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by the [<sup>F72</sup>appropriate agency] and the provision of recreation grounds for persons so employed.

(6) In this section—

“relevant undertaker” means a water undertaker or sewerage undertaker; and  
 “supply of water in bulk” means a supply of water for distribution by a water undertaker taking the supply.

#### Textual Amendments

- F61** Words in s. 10 heading inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 2 para. 369\(6\)](#) (with Sch. 7)
- F62** Word in s. 10(1)(a) 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. 369\(2\)\(a\)](#) (with Sch. 7)
- F63** S. 10(1)(aa) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 2 para. 369\(2\)\(b\)](#) (with Sch. 7)
- F64** Words in s. 10(1)(b) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 2 para. 369\(2\)\(c\)](#) (with Sch. 7)
- F65** Word in s. 10(1)(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. 369\(2\)\(d\)](#) (with Sch. 7)
- F66** Words in s. 10(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. 369\(3\)\(a\)](#) (with Sch. 7)
- F67** Words in s. 10(2)(a)-(c) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 2 para. 369\(3\)\(b\)](#) (with Sch. 7)
- F68** Words in s. 10(3) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 2 para. 369\(4\)](#) (with Sch. 7)
- F69** Words in s. 10(4) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 2 para. 369\(5\)\(a\)](#) (with Sch. 7)
- F70** Words in s. 10(4) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 2 para. 369\(5\)\(b\)](#) (with Sch. 7)
- F71** Words in s. 10(5) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 2 para. 369\(5\)\(a\)](#) (with Sch. 7)
- F72** Words in s. 10(5) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 2 para. 369\(5\)\(b\)](#) (with Sch. 7)

#### Marginal Citations

**M15** 1991 c. 56.

#### Advisory committees

#### <sup>F73</sup>[11] **Advisory committee for Wales.** **E+W+S**

- (1) The Secretary of State shall establish and maintain a committee for advising him with respect to matters affecting, or otherwise connected with, the carrying out in Wales of the Agency’s functions.
- (2) The committee shall consist of such persons as may from time to time be appointed by the Secretary of State.
- (3) The committee shall meet at least once a year.

*Status: Point in time view as at 16/05/2017.*

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- (4) The Secretary of State may pay to the members of the committee such sums by way of reimbursement (whether in whole or in part) for loss of remuneration, for travelling expenses and for other out-of-pocket expenses as he may determine.]

**Textual Amendments**

**F73** S. 11 repealed (W.) (1.4.2002) by [S.I. 2002/784](#), [art. 2\(2\)](#)

**<sup>F74</sup>12 Environment protection advisory committees. E+W+S**

.....

**Textual Amendments**

**F74** S. 12 repealed (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), [arts. 1\(2\), 9\(2\)](#) (with Sch. 7)

**<sup>F75</sup>13 Regional and local fisheries advisory committees. E+W+S**

.....

**Textual Amendments**

**F75** S. 13 repealed (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), [arts. 1\(2\), 9\(2\)](#) (with Sch. 7)

*Flood defence committees*

**14 Regional flood defence committees. E+W+S**

[<sup>F76</sup>(1) There shall be committees, known as regional flood defence committees, for the purpose of carrying out the functions which fall to be carried out by such committees by virtue of this Act and the 1991 Act.

- (2) Subject to Schedule 4 to this Act (which makes provision for the alteration of the boundaries of and the amalgamation of the areas of regional flood defence committees)

- (a) there shall be a regional flood defence committee for each of the areas for which there was an old committee immediately before the transfer date; but
- (b) where under section 165(2) or (3) of the 1991 Act any function of the Agency falls to be carried out at a place beyond the seaward boundaries of the area of any regional flood defence committee, that place shall be assumed for the purposes of this Act and the 1991 Act to be within the area of the regional flood defence committee to whose area the area of sea where that place is situated is adjacent.

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



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- (4) In this section “old committee” means a regional flood defence committee for the purposes of section 9 of the 1991 Act.]

#### Textual Amendments

**F76** Ss. 14-19 repealed (E.W.) (1.4.2011) by [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), [Sch. 2 para. 53](#) (with s. 49(1)(6)); S.I. 2011/694, art. 3(i)

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

[<sup>F76</sup>(1) Subject to subsection (2) below, a regional flood defence committee shall consist of the following, none of whom shall be a member of the Agency, that is to say—

- (a) a chairman and a number of other members appointed by the relevant Minister;
- (b) two members appointed by the Agency;
- (c) a number of members appointed by or on behalf of the constituent councils.

(2) Any person who immediately before the transfer date is, by virtue of his appointment—

- (a) by a Minister of the Crown,
- (b) by or on behalf of any council, or
- (c) by the National Rivers Authority,

the chairman or a member of an old committee which, by virtue of section 14 above, is replaced by a new committee shall be treated, on and after that date, for the remainder of the period for which he would, under the terms of his appointment, have held office in relation to the old committee, as if he had been appointed as the chairman or, as the case may be, a member of the new committee, and on the same terms, by that Minister or, as the case may be, by or on behalf of that council or, in the case of a person appointed by the National Rivers Authority, by the Agency.

(3) Subject to section 16 below and to any order under Schedule 4 to this Act amalgamating the areas of any two or more regional flood defence committees—

- (a) the total number of members of a new committee for any area shall be the same as the total number of members of the old committee for that area immediately before the transfer date;
- (b) the number of members to be appointed to a new committee for any area by or on behalf of each of the constituent councils or, as the case may be, jointly by or on behalf of more than one of them shall be the same as the number of members of the old committee for that area which fell to be so appointed immediately before the transfer date.

(4) In any case where—

- (a) the appointment of one or more members of a regional flood defence committee is (by virtue of subsection (3) above or an order under section 16(5) below), to be made jointly by more than one constituent council, and
- (b) the councils by whom that appointment is to be made are unable to agree on an appointment,

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

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- (5) In appointing a person to be the chairman or a member of a regional flood defence committee under subsection (1)(a) or (c) or (4) above the relevant Minister or, as the case may be, a constituent council shall have regard to the desirability of appointing a person who has experience of, and has shown capacity in, some matter relevant to the functions of the committee.
- (6) The councils of every county, county borough, metropolitan district or London borough any part of which is in the area of a regional flood defence committee shall be the constituent councils for the regional flood defence committee for that area, and the Common Council of the City of London shall be a constituent council for the regional flood defence committee for any area which comprises any part of the City.
- (7) In this section—
- “old committee” has the same meaning as in section 14 above;
  - “new committee” means a regional flood defence committee established under section 14 above;
  - “the relevant Minister”—
- (a) in relation to the regional flood defence committee for an area the whole or the greater part of which is in Wales, means the Secretary of State; and
  - (b) in relation to any other regional flood defence committee, means the Minister.]

#### Textual Amendments

**F76** Ss. 14-19 repealed (E.W.) (1.4.2011) by [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), [Sch. 2 para. 53](#) (with s. 49(1)(6)); S.I. 2011/694, art. 3(i)

## 16 Change of composition of regional flood defence committee. E+W+S

- [<sup>F76</sup>(1) The Agency may, in accordance with the following provisions of this section, from time to time make a determination varying the total number of members of a regional flood defence committee.
- (2) The Agency shall submit any determination under subsection (1) above to the relevant Minister.
- (3) For the purposes of this section—
- (a) the total number of members of a regional flood defence committee shall not be less than eleven; and
  - (b) any determination by the Agency under subsection (1) above that a regional flood defence committee should consist of more than seventeen members shall be provisional and shall take effect only if the relevant Minister makes an order under subsection (4) below.
- (4) If the Agency submits a provisional determination to the relevant Minister with respect to any regional flood defence committee and he considers that the committee should consist of more than seventeen members, he may by order made by statutory instrument—
- (a) confirm it; or
  - (b) substitute for the number of members determined by the Agency some other number not less than seventeen.

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- (5) Subject to the following provisions of this section, whenever—
  - (a) the total number of members of a regional flood defence committee is varied under this section, or
  - (b) the relevant Minister considers it necessary or expedient to make an order under this subsection,
 the relevant Minister shall by order made by statutory instrument specify the number of members to be appointed to the committee by each of the constituent councils.
- (6) An order under subsection (5) above shall relate—
  - (a) where paragraph (a) of that subsection applies, to times after the coming into force of the variation; and
  - (b) where paragraph (b) of that subsection applies, to such times as are specified in the order.
- (7) An order under subsection (5) above shall be so framed that the total number of members appointed under section 15(1)(a) and (b) above is one less than the number of those appointed by or on behalf of constituent councils.
- (8) For the purpose of determining for the purposes of subsection (5) above the number of persons to be appointed to a regional flood defence committee by or on behalf of each constituent council, the relevant Minister—
  - (a) if he considers it to be inappropriate that that council should appoint a member of the committee, or
  - (b) if he considers that one or more members should be appointed jointly by that council and one or more other constituent councils,
 may include provision to that effect in the order.
- (9) In this section—
  - “member”, in relation to a regional flood defence committee, includes the chairman of the committee;
  - “the relevant Minister” has the same meaning as in section 15 above.]

**Textual Amendments**

**F76** Ss. 14-19 repealed (E.W.) (1.4.2011) by [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), [Sch. 2 para. 53](#) (with s. 49(1)(6)); S.I. 2011/694, art. 3(i)

**<sup>F76</sup>16A Power to alter composition of regional flood defence committees in Wales E**  
**+W**

.....

**Textual Amendments**

**F76** Ss. 14-19 repealed (E.W.) (1.4.2011) by [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), [Sch. 2 para. 53](#) (with s. 49(1)(6)); S.I. 2011/694, art. 3(i)

**<sup>F76</sup>16B Effect of order under section 16A E+W**

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### Textual Amendments

**F76** Ss. 14-19 repealed (E.W.) (1.4.2011) by [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), [Sch. 2 para. 53](#) (with s. 49(1)(6)); S.I. 2011/694, art. 3(i)

## 17 Local flood defence schemes and local flood defence committees. E+W+S

- [<sup>F76</sup>(1) A scheme, known as a local flood defence scheme, may be made by the Agency, in accordance with the following provisions of this section—
- (a) for the creation in the area of a regional flood defence committee of one or more districts, to be known as local flood defence districts; and
  - (b) for the constitution, membership, functions and procedure of a committee for each such district, to be known as the local flood defence committee for that district.
- (2) Any local flood defence scheme which was made under the 1991 Act or continued in force by virtue of paragraph 14(1) of Schedule 2 to the <sup>M16</sup>Water Consolidation (Consequential Provisions) Act 1991 and which, immediately before the transfer date, is in force in relation to the area of a regional flood defence committee, shall on and after that date have effect, and may be amended or revoked, as if it were a local flood defence scheme made under this section in relation to that area; and, accordingly, subject to any such amendment or revocation—
- (a) any local flood defence district created by that scheme and in being immediately before that date shall be treated, on and after that date, as a local flood defence district created by a scheme under this section in relation to the area of that regional flood defence committee; and
  - (b) any local flood defence committee created by that scheme for any such district and in being immediately before that date shall be treated, on and after that date, as the local flood defence committee for that district.
- (3) A regional flood defence committee may at any time submit to the Agency—
- (a) a local flood defence scheme for any part of their area for which there is then no such scheme in force; or
  - (b) a scheme varying a local flood defence scheme or revoking such a scheme and, if the committee think fit, replacing it with another such scheme;
- and references in the following provisions of this section and in [<sup>F77</sup>sections 18 and 18A] below to local flood defence schemes are references to schemes under either of paragraphs (a) and (b) above.
- (4) Before submitting a scheme to the Agency under subsection (3) above, a regional flood defence committee shall consult—
- (a) every local authority any part of whose area will fall within the area to which the scheme is proposed to relate; and
  - (b) such organisations representative of persons interested in flood defence (within the meaning of Part IV of the 1991 Act) or agriculture as the regional flood defence committee consider to be appropriate.
- (5) It shall be the duty of the Agency to send any scheme submitted to it under subsection (3) above to one of the Ministers.
- (6) A local flood defence scheme may define a local flood defence district—

*Status: Point in time view as at 16/05/2017.*

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- (a) by reference to the districts which were local land drainage districts immediately before 1st September 1989;
  - (b) by reference to the area of the regional flood defence committee in which that district is situated;
  - (c) by reference to a map;
- or partly by one of those means and partly by another or others.
- (7) A local flood defence scheme may contain incidental, consequential and supplementary provisions.
- (8) Either of the Ministers may approve a local flood defence scheme with or without modifications; and any scheme approved under this subsection shall come into force on a date fixed by the Minister approving it.]

#### Textual Amendments

**F76** Ss. 14-19 repealed (E.W.) (1.4.2011) by [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), [Sch. 2 para. 53](#) (with s. 49(1)(6)); S.I. 2011/694, art. 3(i)

**F77** Words in s. 17(3) substituted (1.4.2004) by [Water Act 2003 \(c. 37\)](#), [ss. 66\(3\)](#), 105(3); S.I. 2004/641, [art. 3\(q\)](#) (with [Sch. 3 para. 7](#))

#### Marginal Citations

**M16** 1991 c. 60.

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

- [<sup>F76</sup>(1) Subject to subsections (2) and (3) below, a local flood defence scheme shall provide that any local flood defence committee to which it relates shall consist of not less than eleven and not more than fifteen members.
- (2) A regional flood defence committee may include in a local flood defence scheme which they submit to the Agency a recommendation that a committee to which the scheme relates should consist of a number of members greater than fifteen; and a scheme so submitted shall be taken to provide for the number of members of a committee if it contains a recommendation under this subsection relating to that committee.
- (3) The power conferred on each of the Ministers by section 17(8) above shall include power to direct that a committee to which a recommendation under subsection (2) above relates shall consist either of the recommended number of members or of some other number of members greater than fifteen.
- (4) A local flood defence committee shall consist of—
- (a) a chairman appointed from among their own members by the regional flood defence committee;
  - (b) other members appointed by that committee; and
  - (c) members appointed, in accordance with and subject to the terms of the local flood defence scheme, by or on behalf of constituent councils.
- (5) The number of members appointed to a local flood defence committee by or on behalf of constituent councils shall be one more than the total number of members appointed by the regional flood defence committee.

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- (6) In appointing a person to be a member of a local flood defence committee, the regional flood defence committee shall have regard to the desirability of appointing a person who has experience of, and has shown capacity in, some matter relevant to the functions of the committee to which he is appointed.
- (7) Any person who, immediately before the transfer date is, by virtue of an appointment by an old regional committee or by or on behalf of any council, the chairman or a member of a local flood defence committee which is continued in force by virtue of section 17(2) above shall be treated, on and after that date, for the remainder of the period for which he would, under the terms of his appointment, have held office in relation to the local flood defence committee—
- (a) as if he had been appointed as such under this section by the regional flood defence committee or, as the case may be, by or on behalf of that council; and
  - (b) in the case of the chairman, as if he were a member of the regional flood defence committee.
- (8) The councils of every county, county borough, metropolitan district or London borough any part of which is in a local flood defence district shall be the constituent councils for the local flood defence committee for that district, and the Common Council of the City of London shall be a constituent council for the local flood defence committee of any local flood defence district which comprises any part of the City.
- (9) In this section “old regional committee” means a regional flood defence committee for the purposes of section 9 of the 1991 Act.]

#### Textual Amendments

**F76** Ss. 14-19 repealed (E.W.) (1.4.2011) by [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), [Sch. 2 para. 53](#) (with s. 49(1)(6)); S.I. 2011/694, art. 3(i)

#### [<sup>F78</sup>18A Power to revoke local flood defence schemes **E+W+S**

- [<sup>F76</sup>(1) The Secretary of State may by order made by statutory instrument revoke any local flood defence scheme.
- (2) The power to make an order under this section shall include power to make such supplemental, consequential and transitional provision as the Secretary of State considers appropriate.
- (3) The provision which may be made under subsection (2) above includes provision altering—
- (a) the total number of members of the regional flood defence committee in whose area the local flood defence district created by the scheme was situated; and
  - (b) the total number of such members to be appointed by the constituent councils of that committee,
- and subsections (7) and (8) of section 16 of this Act shall apply in relation to so much of an order under this section as is made by virtue of this subsection as they apply in relation to an order under subsection (5) of that section.
- (4) Paragraphs 2 to 6 of Schedule 4 to this Act, apart from paragraph 3(3), apply in relation to an order under this section as they apply in relation to an order under that Schedule,



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reading references there to the relevant Minister as references to the Secretary of State.]]

#### Textual Amendments

- F76** Ss. 14-19 repealed (E.W.) (1.4.2011) by Flood and Water Management Act 2010 (c. 29), s. 49(3), **Sch. 2 para. 53** (with s. 49(1)(6)); S.I. 2011/694, art. 3(i)
- F78** S. 18A inserted (1.4.2004) by Water Act 2003 (c. 37), **ss. 66(2)**, 105(3); S.I. 2004/641, **art. 3(q)** (with Sch. 3 para. 7)

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

[<sup>F76</sup>Schedule 5 to this Act shall have effect in relation to regional flood defence committees and local flood defence committees.]

#### Textual Amendments

- F76** Ss. 14-19 repealed (E.W.) (1.4.2011) by Flood and Water Management Act 2010 (c. 29), s. 49(3), **Sch. 2 para. 53** (with s. 49(1)(6)); S.I. 2011/694, art. 3(i)

**Status:**

Point in time view as at 16/05/2017.

**Changes to legislation:**

Environment Act 1995, Chapter 1A is up to date with all changes known to be in force on or before 15 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.