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## SCHEDULES

### SCHEDULE 5 **E+W+S**

Section 19.

#### MEMBERSHIP AND PROCEEDINGS OF REGIONAL AND LOCAL FLOOD DEFENCE COMMITTEES

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

##### MEMBERSHIP OF FLOOD DEFENCE COMMITTEES

###### *Terms of membership*

- 1 (1) Members of a flood defence committee (that is to say a regional flood defence committee or a local flood defence committee), other than those appointed by or on behalf of one or more constituent councils, shall hold and vacate office in accordance with the terms of their appointment.
- (2) The first members of a local flood defence committee appointed by or on behalf of any one or more constituent councils—
  - (a) shall come into office on the day on which the committee comes into existence or, in the case of a member who is for any reason appointed after that day, on the day on which the appointment is made; and
  - (b) subject to the following provisions of this Schedule, shall hold office until the end of May in such year as may be specified for the purposes of this paragraph in the scheme establishing the committee.
- (3) Any members of a flood defence committee appointed by or on behalf of any one or more constituent councils who are not members to whom sub-paragraph (2) above applies—
  - (a) shall come into office at the beginning of the June next following the day on which they are appointed; and
  - (b) subject to the following provisions of this Schedule, shall hold office for a term of four years.
- (4) If for any reason any such member as is mentioned in sub-paragraph (3) above is appointed on or after the day on which he ought to have come into office, he shall—
  - (a) come into office on the day on which he is appointed; and
  - (b) subject to the following provisions of this Schedule, hold office for the remainder of the term.
- (5) References in this paragraph and the following provisions of this Schedule to a member of a flood defence committee include references to the chairman of such a committee.

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*Membership of constituent council as qualification for membership of committee*

- 2 (1) Members of a flood defence committee appointed by or on behalf of any one or more constituent councils may be members of that council, or one of those councils, or other persons.
- (2) Any member of a flood defence committee appointed by or on behalf of a constituent council who at the time of his appointment was a member of that council shall, if he ceases to be a member of that council, also cease to be a member of the committee with whichever is the earlier of the following—
- (a) the end of the period of three months beginning with the date when he ceases to be a member of the council; and
  - (b) the appointment of another person in his place.
- (3) For the purposes of sub-paragraph (2) above a member of a council shall not be deemed to have ceased to be a member of the council by reason of retirement if he has been re-elected a member of the council not later than the date of his retirement.

*Disqualification for membership of committee*

- 3 (1) Subject to the following provisions of this paragraph, a person shall be disqualified for appointment as a member of a flood defence committee if he—
- (a) is a paid officer of the Agency; or
  - (b) is a person who has been adjudged bankrupt, or whose estate has been sequestrated or who has made a composition or arrangement with, or granted a trust deed for, his creditors; or
  - (c) within the period of five years before the day of his appointment, has been convicted, in the United Kingdom, the Channel Islands or the Isle of Man, of any offence and has had passed on him a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine; or
  - (d) is disqualified for being elected or for being a member of a local authority under [<sup>F1</sup>the Audit Commission Act 1998] or Part III of the Representation of the <sup>M1</sup>People Act 1983 (legal proceedings).
- (2) Where a person is disqualified under sub-paragraph (1) above by reason of having been adjudged bankrupt, the disqualification shall cease—
- (a) unless the bankruptcy order made against that person is previously annulled, on his discharge from bankruptcy; and
  - (b) if the bankruptcy order is so annulled, on the date of the annulment.
- (3) Where a person is disqualified under sub-paragraph (1) above by reason of having had his estate sequestrated, the disqualification shall cease—
- (a) unless the sequestration is recalled or reduced, on the person's discharge under section 54 of the <sup>M2</sup>Bankruptcy (Scotland) Act 1985; and
  - (b) if the sequestration is recalled or reduced, on the date of the recall or reduction.
- (4) Where a person is disqualified under sub-paragraph (1) above by reason of his having made a composition or arrangement with, or having granted a trust deed for, his creditors, the disqualification shall cease—
- (a) if he pays his debts in full, on the date on which the payment is completed; and

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- (b) in any other case, at the end of five years from the date on which the terms of the deed of composition or arrangement, or of the trust deed, are fulfilled.
- (5) For the purposes of sub-paragraph (1)(c) above the date of the conviction shall be taken to be—
  - (a) the ordinary date on which the period allowed for making an appeal or application with respect to the conviction expires; or
  - (b) if such an appeal or application is made, the date on which it is finally disposed of or abandoned or fails by reason of non-prosecution.
- (6) Section 92 of the <sup>M3</sup>Local Government Act 1972 (proceedings for disqualification) shall apply in relation to disqualification under this paragraph for appointment as a member of a flood defence committee as it applies in relation to disqualification for acting as a member of a local authority.

#### Textual Amendments

- F1** Words in [Sch. 5 para. 3\(1\)\(d\)](#) substituted (E.W.) (11.9.1998) by [1998 c. 18, ss. 54\(1\), 55\(2\)](#), [Sch. 3 para. 29](#)

#### Marginal Citations

- M1** [1982 c. 32.](#)  
**M2** [1985 c. 66.](#)  
**M3** [1972 c. 70.](#)

#### *Vacation of office by disqualifying event*

- 4 (1) The office of a member of a flood defence committee shall become vacant upon the fulfilment of any of the following conditions, that is to say—
- (a) the person holding that office is adjudged bankrupt, is a person whose estate is sequestrated or makes a composition or arrangement with, or grants a trust deed for, his creditors;
  - (b) that person is convicted, in the United Kingdom, the Channel Islands or the Isle of Man, of any offence and has passed on him a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine;
  - (c) that person is disqualified for being elected or for being a member of a local authority under [<sup>F2</sup>the Audit Commission] or Part III of the <sup>M4</sup>Representation of the People Act 1983 (legal proceedings); or
  - (d) that person has, for a period of six consecutive months been absent from meetings of the committee, otherwise than by reason of illness or some other cause approved during the period by the committee.
- (2) For the purposes of sub-paragraph (1)(d) above, the attendance of a member of a flood defence committee—
- (a) at a meeting of any sub-committee of the committee of which he is a member, or
  - (b) at any joint committee to which he has been appointed by that committee, shall be treated as attendance at a meeting of the committee.

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#### Textual Amendments

- F2** Words in [Sch. 5 para. 4\(1\)\(c\)](#) substituted (E. W.) (11.9.1998) by [1998 c. 18, ss. 54\(1\), 55\(2\)](#), [Sch. 3 para. 29](#)

#### Marginal Citations

- M4** [1982 c. 32.](#)

#### *Resignation of office by members of regional committee*

- 5 (1) The chairman of a regional flood defence committee may resign his office at any time by giving notice to the chairman of the Agency and to one of the Ministers.
- (2) Any other member of such a committee may resign his office at any time by giving notice to the chairman of the committee and also, if he was appointed by one of the Ministers, to that Minister.

#### *Resignation of office by members of local committee*

- 6 (1) The chairman of a local flood defence committee may resign his office at any time by giving notice to the chairman of the regional flood defence committee.
- (2) Any other member of a local flood defence committee may resign his office at any time by giving notice to the chairman of that local flood defence committee.

#### *Appointments to fill casual vacancies*

- 7 (1) Where, for any reason whatsoever, the office of a member of a flood defence committee becomes vacant before the end of his term of office, the vacancy—
- (a) shall, if the unexpired portion of the term of office of the vacating member is six months or more, be filled by the appointment of a new member; and
- (b) may be so filled in any other case.
- (2) A person appointed by virtue of sub-paragraph (1) above to fill a casual vacancy shall hold office for so long only as the former member would have held office.

#### *Eligibility of previous members for re-appointment*

- 8 Subject to the provisions of this Schedule, a member of a flood defence committee shall be eligible for reappointment.

#### *Appointment of deputies*

- 9 (1) Subject to the following provisions of this paragraph, a person nominated by one or more constituent councils may act as deputy for a member of a flood defence committee appointed by or on behalf of that council or those councils and may, accordingly, attend and vote at a meeting of the committee, instead of that member.
- (2) A person nominated under sub-paragraph (1) above as deputy for a member of a flood defence committee may, by virtue of that nomination, attend and vote at a meeting of a sub-committee of that committee which—
- (a) has been appointed by that committee under Part II of this Schedule; and

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- (b) is a committee to which the member for whom he is a deputy belongs.
- (3) A person acting as deputy for a member of a flood defence committee shall be treated for the purposes for which he is nominated as a member of that committee.
- (4) A person shall not act as deputy for a member of a flood defence committee unless his nomination has been notified to such officer of the Agency as is appointed to receive such nominations.
- (5) A nomination under this paragraph shall be in writing and may apply either to a particular meeting or to all meetings during a stated period or until the nomination is revoked.
- (6) A person shall not act as deputy for more than one member of a flood defence committee.
- (7) Nothing in this paragraph shall entitle a person to attend and vote at a meeting of a local flood defence committee by reason of his nomination as deputy for a member of a regional flood defence committee.

*Payments to past and present chairmen and to members*

- 10 (1) The Agency shall pay to any person who is a chairman of a flood defence committee such remuneration and allowances as may be determined by the relevant Minister.
- (2) If the relevant Minister so determines in the case of any person who is or has been chairman of a flood defence committee, the Agency shall pay or make arrangements for the payment of a pension in relation to that person in accordance with the determination.
- (3) If a person ceases to be chairman of a flood defence committee and it appears to the relevant Minister that there are special circumstances which make it right that that person should receive compensation in respect of his ceasing to be chairman, the relevant Minister may require the Agency to pay to that person a sum of such amount as that Minister may determine.
- (4) The Agency may pay to any person who is a member of a flood defence committee such allowances as may be determined by the relevant Minister.
- (5) In this paragraph—
- “pension”, in relation to any person, means a pension (whether contributory or not) of any kind payable to or in respect of him, and includes an allowance, gratuity or lump sum so payable and a return of contributions with or without interest or any other addition; and
- “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 and in relation to any local flood defence committee for any district comprised in the area of such a regional flood defence committee, means the Secretary of State; and
- (b) in relation to any other flood defence committee, means the Minister.

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## PART II E+W+S

### PROCEEDINGS OF FLOOD DEFENCE COMMITTEES

#### *Appointment of sub-committees, joint sub-committees etc.*

- 11 (1) For the purpose of carrying out any functions in pursuance of arrangements under paragraph 12 below—
- (a) a flood defence committee may appoint a sub-committee of the committee;
  - (b) two or more regional or two or more local flood defence committees may appoint a joint sub-committee of those committees;
  - (c) any sub-committee may appoint one or more committees of that sub-committee (“under sub-committees”).
- (2) The number of members of any sub-committee and their terms of office shall be fixed by the appointing committee or committees or, in the case of an under sub-committee, by the appointing sub-committee.
- (3) A sub-committee appointed under this paragraph may include persons who are not members of the appointing committee or committees or, in the case of an under sub-committee, the committee or committees of whom they are an under sub-committee; but at least two thirds of the members appointed to any such sub-committee shall be members of that committee or those committees, as the case may be.
- (4) A person who is disqualified for being a member of a flood defence committee shall be disqualified also for being a member of a sub-committee or under sub-committee appointed under this paragraph.

#### *Delegation of functions to sub-committees etc.*

- 12 (1) Subject to section 106 of the 1991 Act and to any other express provision contained in any enactment, a flood defence committee may arrange for the carrying out of any of their functions—
- (a) by a sub-committee, or an under sub-committee of the committee or an officer of the Agency; or
  - (b) by any other regional or, as the case may be, local flood defence committee; and two or more regional or two or more local flood defence committees may arrange to carry out any of their functions jointly or may arrange for the carrying out of any of their functions by a joint sub-committee of theirs.
- (2) Where by virtue of this paragraph any functions of a flood defence committee or of two or more such committees may be carried out by a sub-committee, then, unless the committee or committees otherwise direct, the sub-committee may arrange for the carrying out of any of those functions by an under sub-committee or by an officer of the Agency.
- (3) Where by virtue of this paragraph any functions of a flood defence committee or of two or more such committees may be carried out by an under sub-committee, then, unless the committee or committees or the sub-committee otherwise direct, the under sub-committee may arrange for the carrying out of any of those functions by an officer of the Agency.

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- (4) Any arrangements made by a flood defence committee under this paragraph for the carrying out of any function shall not prevent the committee from discharging their functions themselves.
- (5) References in the preceding provisions of this paragraph to the carrying out of any functions of a flood defence committee include references to the doing of anything which is calculated to facilitate, or is conducive or incidental to, the carrying out of any of those functions.
- (6) A regional flood defence committee shall not, under this paragraph, make arrangements for the carrying out in a local flood defence district of any functions which fall to be carried out there by the local flood defence committee.

#### *Rules of procedure*

- 13 (1) A flood defence committee may, with the approval of the relevant Minister, make rules for regulating the proceedings of the committee.
- (2) Nothing in section 6(4) of this Act or section 105 or 106 of the 1991 Act shall entitle the Agency to make any arrangements or give any directions for regulating the proceedings of any flood defence committee.
- (3) In this paragraph “the relevant Minister” has the same meaning as in paragraph 10 above.

#### *Declarations of interest etc.*

- 14 (1) Subject to the following provisions of this paragraph, the provisions of sections 94 to 98 of the <sup>M5</sup>Local Government Act 1972 (pecuniary interests of members of local authorities) shall apply in relation to members of a flood defence committee as those provisions apply in relation to members of local authorities.
- (2) In their application by virtue of this paragraph those provisions shall have effect in accordance with the following provisions—
  - (a) for references to meetings of the local authority there shall be substituted references to meetings of the committee;
  - (b) in section 94(4), for the reference to provision being made by standing orders of a local authority there shall be substituted a reference to provisions being made by directions of the committee;
  - (c) in section 96, for references to the proper officer of the local authority there shall be substituted a reference to an officer of the Agency appointed for the purposes of this paragraph; and
  - (d) section 97 shall apply as it applies to a local authority other than a parish or community council.
- (3) Subject to sub-paragraph (4) below, a member of a flood defence committee shall be disqualified, for so long as he remains such a member and for twelve months after he ceases to be such a member, for appointment to any paid office by the Agency or any regional flood defence committee.
- (4) Sub-paragraph (3) above shall not disqualify any person for appointment to the office of chairman of a local flood defence committee.

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**Marginal Citations**

**M5** 1972 c. 70.

*Authentication of documents*

- 15 (1) Any notice or other document which a flood defence committee are required or authorised to give, make or issue by or under any enactment may be signed on behalf of the committee by any member of the committee or any officer of the Agency who is generally or specifically authorised for that purpose by a resolution of the committee.
- (2) Any document purporting to bear the signature of a person expressed to be authorised as mentioned in sub-paragraph (1) above shall be deemed, unless the contrary is shown, to be duly given, made or issued by authority of the committee.
- (3) In this paragraph “signature” includes a facsimile of a signature by whatever process reproduced.

*Proof and validity of proceedings*

- 16 (1) A minute of the proceedings of a meeting of a flood defence committee, purporting to be signed at that or the next ensuing meeting by—
- (a) the chairman of the meeting to the proceedings of which the minute relates, or
  - (b) by the chairman of the next ensuing meeting,
- shall be evidence of the proceedings and shall be received in evidence without further proof.
- (2) Where a minute has been signed as mentioned in sub-paragraph (1) above in respect of a meeting of a committee or sub-committee, then, unless the contrary is shown—
- (a) the meeting shall be deemed to have been duly convened and held;
  - (b) all the proceedings had at any such meeting shall be deemed to have been duly had; and
  - (c) that committee or sub-committee shall be deemed to have been duly constituted and have had power to deal with the matters referred to in the minute.
- (3) The validity of any proceedings of a flood defence committee shall not be affected by any vacancy among the members of the committee or by any defect in the appointment of such a member.



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