



# Flood and Water Management Act 2010

## 2010 CHAPTER 29

### PART 1

#### FLOOD AND COASTAL EROSION RISK MANAGEMENT

##### *1. Key concepts and definitions*

#### **1 “Flood” and “coastal erosion”**

- (1) “Flood” includes any case where land not normally covered by water becomes covered by water.
- (2) It does not matter for the purpose of subsection (1) whether a flood is caused by—
  - (a) heavy rainfall,
  - (b) a river overflowing or its banks being breached,
  - (c) a dam overflowing or being breached,
  - (d) tidal waters,
  - (e) groundwater, or
  - (e) anything else (including any combination of factors).
- (3) But “flood” does not include—
  - (a) a flood from any part of a sewerage system, unless wholly or partly caused by an increase in the volume of rainwater (including snow and other precipitation) entering or otherwise affecting the system, or
  - (b) a flood caused by a burst water main (within the meaning given by section 219 of the Water Industry Act 1991).
- (4) “Coastal erosion” means the erosion of the coast of any part of England or Wales.

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## **2 “Risk”**

- (1) “Risk” means a risk in respect of an occurrence assessed and expressed (as for insurance and scientific purposes) as a combination of the probability of the occurrence with its potential consequences.
- (2) “Flood risk” means a risk in respect of flood.
- (3) “Coastal erosion risk” means a risk in respect of coastal erosion.
- (4) In each case the potential harmful consequences to be considered in assessing risk include, in particular, consequences for—
  - (a) human health,
  - (b) the social and economic welfare of individuals and communities,
  - (c) infrastructure, and
  - (d) the environment (including cultural heritage).

## **3 “Risk management”**

- (1) “Risk management” means anything done for the purpose of—
  - (a) analysing a risk,
  - (b) assessing a risk,
  - (c) reducing a risk,
  - (d) reducing a component in the assessment of a risk,
  - (e) altering the balance of factors combined in assessing a risk, or
  - (f) otherwise taking action in respect of a risk or a factor relevant to the assessment of a risk (including action for the purpose of flood defence).
- (2) In particular, risk management includes things done—
  - (a) that increase the probability of an event but reduce or alter its potential consequences, or
  - (b) that increase the probability of an event occurring at one time or in one place but reduce the probability of it occurring at another time or in another place.
- (3) The following are examples of things that might be done in the course of flood or coastal erosion risk management—
  - (a) planning, erecting, maintaining, altering or removing buildings or other structures (including structures built or used for flood defence purposes),
  - (b) maintaining or restoring natural processes,
  - (c) reducing or increasing the level of water in a place (whether or not it results in a change to the water level in another place),
  - (d) carrying out work in respect of a river or other watercourse (such as taking things out of it or supporting or diverting the banks),
  - (e) moving things onto, off or around a beach, or carrying out other works in respect of the shoreline,
  - (f) using statutory or other powers to permit, require, restrict or prevent activities,
  - (g) making arrangements for financial or other support for action taken by persons in respect of a risk of, or in preparing to manage the consequences of, flooding or coastal erosion,
  - (h) making arrangements for forecasting and warning,

- (i) preparing, gathering and disseminating maps, plans, surveys and other information, and
- (j) providing education and giving guidance (including, for example, guidance on changes to land management).

#### **4 “Flood risk management function”**

- (1) “Flood risk management function” means a function listed in subsection (2) which may be exercised by a risk management authority for a purpose connected with flood risk management.
- (2) The functions are—
  - (a) a function under this Part,
  - (b) a function under section 159 or 160 of the Water Resources Act 1991,
  - (c) a flood defence function within the meaning of section 221 of that Act,
  - (d) a function under the Land Drainage Act 1991,
  - (e) a function under section 100, 101, 110 or 339 of the Highways Act 1980, and
  - (f) any other function, under an enactment, specified for the purposes of this section by order made by the Minister.
- (3) In this section and section 5 “the Minister” means—
  - (a) the Secretary of State in relation to flood and coastal erosion risk management in England, and
  - (b) the Welsh Ministers in relation to flood and coastal erosion risk management in Wales.

#### **5 “Coastal erosion risk management function”**

- (1) “Coastal erosion risk management function” means a function listed in subsection (2) which may be exercised by a risk management authority for a purpose connected with coastal erosion.
- (2) The functions are—
  - (a) a function under this Part,
  - (b) a function under the Coast Protection Act 1949, and
  - (c) any other function, under an enactment, specified for the purposes of this section by order made by the Minister.

#### **6 Other definitions**

- (1) “Main river” has the meaning given by section 113 of the Water Resources Act 1991.
- (2) “Watercourse” has the meaning given by section 72(1) of the Land Drainage Act 1991.
- (3) “Ordinary watercourse” means a watercourse that does not form part of a main river.
- (4) “Groundwater” means all water which is below the surface of the ground and in direct contact with the ground or subsoil.
- (5) “Surface runoff” means rainwater (including snow and other precipitation) which—
  - (a) is on the surface of the ground (whether or not it is moving), and
  - (b) has not entered a watercourse, drainage system or public sewer.

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- (6) In subsection (5)(b)—
- (a) the reference to a watercourse includes a reference to a lake, pond or other area of water which flows into a watercourse, and
  - (b) “drainage system” has the meaning given by paragraph 1 of Schedule 3.
- (7) “Lead local flood authority” in relation to an area in England means—
- (a) the unitary authority for the area, or
  - (b) if there is no unitary authority, the county council for the area.
- (8) “Unitary authority” means—
- (a) the council of a county for which there are no district councils;
  - (b) the council of a district in an area for which there is no county council;
  - (c) the council of a London borough;
  - (d) the Common Council of the City of London;
  - (e) the Council of the Isles of Scilly.
- (9) “Lead local flood authority” in relation to an area in Wales means—
- (a) the county council for the area;
  - (b) the county borough council for the area.
- (10) “Internal drainage board” has the same meaning as in section 1 of the Land Drainage Act 1991.
- (11) “Water company” means a company which holds—
- (a) an appointment under Chapter 1 of Part 2 of the Water Industry Act 1991, or
  - (b) a licence under Chapter 1A of Part 2 of that Act.
- (12) “Highway authority” has the meaning given by section 1 of the Highways Act 1980.
- (13) “Risk management authority” means—
- (a) the Environment Agency,
  - (b) a lead local flood authority,
  - (c) a district council for an area for which there is no unitary authority,
  - (d) an internal drainage board,
  - (e) a water company, and
  - (f) a highway authority.
- (14) “English risk management authority” means—
- (a) the Environment Agency,
  - (b) a risk management authority within subsection (13)(b), (c) or (f) for an area that is wholly in England,
  - (c) an internal drainage board for an internal drainage district that is wholly or mainly in England, and
  - (d) a water company that exercises functions in relation to an area in England.
- (15) “Welsh risk management authority” means—
- (a) the Environment Agency,
  - (b) a risk management authority within subsection (13)(b), (c) or (f) for an area that is wholly in Wales,
  - (c) an internal drainage board for an internal drainage district that is wholly or mainly in Wales, and

- (d) a water company that exercises functions in relation to an area in Wales.
- (16) “Cross-border internal drainage board” means an internal drainage board for an internal drainage district that is partly in England and partly in Wales.

## *2. Strategies, co-operation and funding*

### **7 National flood and coastal erosion risk management strategy: England**

- (1) The Environment Agency must develop, maintain, apply and monitor a strategy for flood and coastal erosion risk management in England (a “national flood and coastal erosion risk management strategy”).
- (2) The strategy must specify—
- (a) the English risk management authorities,
  - (b) the flood and coastal erosion risk management functions that may be exercised by those authorities in relation to England,
  - (c) the objectives for managing flood and coastal erosion risk,
  - (d) the measures proposed to achieve those objectives,
  - (e) how and when the measures are to be implemented,
  - (f) the costs and benefits of those measures, and how they are to be paid for,
  - (g) the assessment of flood and coastal erosion risk for the purpose of the strategy,
  - (h) how and when the strategy is to be reviewed,
  - (i) the current and predicted impact of climate change on flood and coastal erosion risk management, and
  - (j) how the strategy contributes towards the achievement of wider environmental objectives.
- (3) The Agency must consult the following about the national flood and coastal erosion risk management strategy—
- (a) the English risk management authorities,
  - (b) the public,
  - (c) so far as the strategy may affect flood and coastal erosion risk management in Wales, the Welsh Ministers, and
  - (d) so far as the strategy may affect flood and coastal erosion risk management in Scotland, the Scottish Ministers.
- (4) The Agency must publish a summary of the strategy.
- (5) The Agency may issue guidance about the application of the strategy.
- (6) The Agency may, in particular, issue guidance about how English risk management authorities are to comply with the duties under sections 13(1) and 14.
- (7) The Agency must submit a draft of the strategy and any guidance under this section to the Secretary of State for review.
- (8) On a review, the Secretary of State may—
- (a) approve the draft strategy or guidance, with or without modification, or
  - (b) reject it.

- (9) The Secretary of State must lay any approved strategy or guidance before Parliament; and it may not be issued if during the period of 40 days beginning with the date of laying (ignoring any periods for which Parliament is dissolved or prorogued or for which both Houses are adjourned for more than 4 days) either House of Parliament resolves that it should not be issued (in that form).

## **8 National flood and coastal erosion risk management strategy: Wales**

- (1) The Welsh Ministers must develop, maintain and apply a strategy for flood and coastal erosion risk management in Wales (a “national flood and coastal erosion risk management strategy”).
- (2) The strategy must specify—
- (a) the Welsh risk management authorities,
  - (b) the flood and coastal erosion risk management functions that may be exercised by those authorities in relation to Wales,
  - (c) the objectives for managing flood and coastal erosion risk,
  - (d) the measures proposed to achieve those objectives,
  - (e) how and when the measures are to be implemented,
  - (f) the costs and benefits of those measures, and how they are to be paid for,
  - (g) the assessment of flood and coastal erosion risk for the purpose of the strategy,
  - (h) how and when the strategy is to be reviewed,
  - (i) the current and predicted impact of climate change on flood and coastal erosion risk management, and
  - (j) how the strategy contributes towards the achievement of wider environmental objectives.
- (3) The Welsh Ministers must consult the Secretary of State about the national flood and coastal erosion risk management strategy, so far as the strategy may affect flood and coastal erosion risk management in England.
- (4) The Welsh Ministers must publish a summary of the strategy.
- (5) The Welsh Ministers may issue guidance about the application of the strategy.
- (6) The Welsh Ministers may, in particular, issue guidance about how Welsh risk management authorities are to comply with the duties under sections 13(1) and 14.
- (7) The Welsh Ministers must lay any guidance in draft before the National Assembly for Wales; and it may not be issued if during the period of 40 days beginning with the date of laying (ignoring any periods for which the National Assembly is dissolved or is in recess for more than 4 days) the National Assembly resolves that it should not be issued (in that form).
- (8) The Welsh Ministers must lay the strategy before the National Assembly for Wales.

## **9 Local flood risk management strategies: England**

- (1) A lead local flood authority for an area in England must develop, maintain, apply and monitor a strategy for local flood risk management in its area (a “local flood risk management strategy”).
- (2) In subsection (1) “local flood risk” means flood risk from—

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- (a) surface runoff,
  - (b) groundwater, and
  - (c) ordinary watercourses.
- (3) In subsection (2)(c) the reference to an ordinary watercourse includes a reference to a lake, pond or other area of water which flows into an ordinary watercourse.
- (4) The strategy must specify—
- (a) the risk management authorities in the authority’s area,
  - (b) the flood and coastal erosion risk management functions that may be exercised by those authorities in relation to the area,
  - (c) the objectives for managing local flood risk (including any objectives included in the authority’s flood risk management plan prepared in accordance with the Flood Risk Regulations 2009),
  - (d) the measures proposed to achieve those objectives,
  - (e) how and when the measures are expected to be implemented,
  - (f) the costs and benefits of those measures, and how they are to be paid for,
  - (g) the assessment of local flood risk for the purpose of the strategy,
  - (h) how and when the strategy is to be reviewed, and
  - (i) how the strategy contributes to the achievement of wider environmental objectives.
- (5) The strategy must be consistent with the national flood and coastal erosion risk management strategy for England under section 7.
- (6) A lead local flood authority must consult the following about its local flood risk management strategy—
- (a) risk management authorities that may be affected by the strategy (including risk management authorities in Wales), and
  - (b) the public.
- (7) A lead local flood authority must publish a summary of its local flood risk management strategy (including guidance about the availability of relevant information).
- (8) A lead local flood authority may issue guidance about the application of the local flood risk management strategy in its area.
- (9) A lead local flood authority must have regard to any guidance issued by the Secretary of State about—
- (a) the local flood risk management strategy, and
  - (b) guidance under subsection (8).

## **10 Local flood risk management strategies: Wales**

- (1) A lead local flood authority for an area in Wales must develop, maintain, apply and monitor a strategy for local flood risk management its area (a “local flood risk management strategy”).
- (2) In subsection (1) “local flood risk” means flood risk from—
- (a) surface runoff,
  - (b) groundwater, and
  - (c) ordinary watercourses.

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- (3) In subsection (2)(c) the reference to an ordinary watercourse includes a reference to a lake, pond or other area of water which flows into an ordinary watercourse.
- (4) The strategy must specify—
- (a) the risk management authorities in the authority’s area,
  - (b) the flood and coastal erosion risk management functions that may be exercised by those authorities in relation to the area,
  - (c) the objectives for managing local flood risk (including any objectives included in the authority’s flood risk management plan prepared in accordance with the Flood Risk Regulations 2009),
  - (d) the measures proposed to achieve those objectives,
  - (e) how and when the measures are expected to be implemented,
  - (f) the costs and benefits of those measures, and how they are to be paid for,
  - (g) the assessment of local flood risk for the purpose of the strategy,
  - (h) how and when the strategy is to be reviewed, and
  - (i) how the strategy contributes to the achievement of wider environmental objectives.
- (5) The strategy must be consistent with the national flood and coastal erosion risk management strategy for Wales under section 8.
- (6) A lead local flood authority must consult the following about its local flood risk management strategy—
- (a) risk management authorities that may be affected by the strategy (including risk management authorities in England), and
  - (b) the public.
- (7) A lead local flood authority must publish a summary of its local flood risk management strategy (including guidance about the availability of relevant information).
- (8) A lead local flood authority may issue guidance about the application of the local flood risk management strategy in its area.
- (9) A lead local flood authority must submit a draft of the strategy and any guidance under this section to the Welsh Ministers for review.
- (10) On a review, the Welsh Ministers may—
- (a) approve the draft strategy or guidance, with or without modification, or
  - (b) reject it.

## **11 Effect of national and local strategies: England**

- (1) In exercising its flood and coastal erosion risk management functions, an English risk management authority must—
- (a) act in a manner which is consistent with the national strategy and guidance, and
  - (b) except in the case of a water company, act in a manner which is consistent with the local strategies and guidance.
- (2) But—
- (a) subsection (1) does not apply in relation to the function of the Environment Agency under section 7(1);



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- (b) the Agency must have regard to the national and local strategies and guidance in exercising that function.
- (3) In exercising a flood or coastal erosion risk management function in relation to an area in England, a water company must have regard to the local strategies and guidance.
- (4) In exercising any other function in a manner which may affect a flood risk or coastal erosion risk, an English risk management authority must have regard to the national and local strategies and guidance.
- (5) A cross-border internal drainage board for an internal drainage district that is mainly in Wales must—
  - (a) act in a manner which is consistent with the local strategies and guidance, and
  - (b) have regard to the national strategy and guidance.
- (6) Subsection (5) does not affect the duties of a cross-border internal drainage board under section 12.
- (7) The Secretary of State may by order require a specified person to have regard to the national and local strategies and guidance in exercising a statutory function which may affect a flood risk or coastal erosion risk in England.
- (8) In this section—
  - (a) references to the national strategy and guidance are references to (i) the national flood and coastal erosion risk management strategy under section 7, and (ii) any guidance on the national strategy issued by the Environment Agency, and
  - (b) references to the local strategies and guidance are references to (i) any local flood risk management strategy under section 9 for the relevant area, and (ii) any guidance on a local strategy issued by a lead local flood authority.
- (9) In subsection (7) “statutory function” means a function conferred by or under an enactment.

## **12 Effect of national and local strategies: Wales**

- (1) In exercising its flood and coastal erosion risk management functions, a Welsh risk management authority must—
  - (a) act in a manner which is consistent with the national strategy and guidance, and
  - (b) except in the case of a water company, act in a manner which is consistent with the local strategies and guidance.
- (2) In exercising a flood or coastal erosion risk management function in relation to an area in Wales, a water company must have regard to the local strategies and guidance.
- (3) In exercising any other function in a manner which may affect a flood risk or coastal erosion risk, a Welsh risk management authority must have regard to the national and local strategies and guidance.
- (4) A cross-border internal drainage board for an internal drainage district that is mainly in England must—
  - (a) act in a manner which is consistent with the local strategies and guidance, and
  - (b) have regard to the national strategy and guidance.

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- (5) Subsection (4) does not affect the duties of a cross-border internal drainage board under section 11.
- (6) The Welsh Ministers may by order require a specified person to have regard to the national and local strategies and guidance in exercising a statutory function which may affect a flood risk or coastal erosion risk in Wales.
- (7) In this section—
  - (a) references to the national strategy and guidance are references to (i) the national flood and coastal erosion risk management strategy under section 8, and (ii) any guidance on the national strategy issued by the Welsh Ministers, and
  - (b) references to the local strategies and guidance are references to (i) any local flood risk management strategy under section 10 for the relevant area, and (ii) any guidance on a local strategy issued by a lead local flood authority.
- (8) In subsection (6) “statutory function” means a function conferred by or under an enactment.

### **13 Co-operation and arrangements**

- (1) A relevant authority must co-operate with other relevant authorities in the exercise of their flood and coastal erosion risk management functions.
- (2) A relevant authority may share information with another relevant authority for the purpose of discharging its duty under subsection (1).
- (3) In subsections (1) and (2) “relevant authority” means—
  - (a) a risk management authority, and
  - (b) the Welsh Ministers.
- (4) A risk management authority may arrange for a flood risk management function to be exercised on its behalf by—
  - (a) another risk management authority, or
  - (b) a navigation authority (within the meaning given by section 219 of the Water Industry Act 1991).
- (5) But subsection (4) does not apply in relation to—
  - (a) the function of the Environment Agency under section 7(1), or
  - (b) the function of a lead local flood authority under section 9(1) or 10(1).
- (6) A coast protection authority may, with the appropriate consent, arrange for a person to exercise a coastal erosion risk management function on its behalf.
- (7) In subsection (6) the “appropriate consent” means—
  - (a) in relation to a coast protection authority in England, the consent of the Environment Agency, and
  - (b) in relation to a coast protection authority in Wales, the consent of the Welsh Ministers.
- (8) The Environment Agency may arrange for a coastal erosion risk management function to be exercised on its behalf by—
  - (a) a coast protection authority,

- (b) a lead local flood authority, or
  - (c) an internal drainage board.
- (9) In subsections (4), (6) and (8) a reference to a flood risk management function or a coastal erosion risk management function includes a reference to anything that may be done by a risk management authority for a purpose connected with the exercise of that function.
- (10) In this section “coast protection authority” has the meaning given by section 1 of the Coast Protection Act 1949.

#### **14 Power to request information**

- (1) An authority listed in subsection (2) may request a person to provide information in connection with the authority’s flood and coastal erosion risk management functions.
- (2) The authorities are—
- (a) the Environment Agency, and
  - (b) lead local flood authorities.
- (3) The Welsh Ministers may request a person to provide information in connection with the function under section 8.
- (4) Information requested under subsection (1) or (3) must be provided—
- (a) in the form or manner specified in the request, and
  - (b) within the period specified in the request.

#### **15 Civil sanctions**

- (1) An authority that requests a person (P) to provide information under section 14(1) or (3) may give P an enforcement notice if P fails to comply with the request.
- (2) An enforcement notice must—
- (a) specify the information requested,
  - (b) state that the authority may impose a penalty if P fails to provide the information within a specified period, which must be at least 28 days beginning with the date of issue of the notice, and
  - (c) state that P may make representations to the authority about the notice within that period.
- (3) The authority may by penalty notice impose a penalty on P if P fails to provide the specified information in the specified period.
- (4) The amount of the penalty—
- (a) is to be determined by the authority, but
  - (b) must not exceed £1000.
- (5) In deciding whether to impose a penalty and in determining the amount of a penalty the authority must have regard to—
- (a) any representations under subsection (2)(c), and
  - (b) any partial compliance with the initial request under section 14.
- (6) The penalty notice must—

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- (a) specify the reasons for the decision to impose a penalty,
  - (b) state a period within which payment must be made, which must be at least 14 days beginning with the date of issue of the notice, and
  - (c) notify P of the right of appeal under subsection (8).
- (7) A penalty is recoverable as a debt.
- (8) The Minister must by regulations provide a right of appeal against penalties; and the regulations must—
- (a) confer jurisdiction on the Minister, a court or a tribunal, and
  - (b) make provision about procedure.
- (9) The Minister may by order substitute a different amount for the amount specified in subsection (4)(b) to reflect a change in the value of money.
- (10) In this section “the Minister” means—
- (a) the Secretary of State in relation to penalties issued by—
    - (i) lead local flood authorities for areas in England, and
    - (ii) the Environment Agency in respect of a failure to comply with a request in connection with a flood or coastal erosion risk management function in relation to England, and
  - (b) the Welsh Ministers in relation to penalties issued by—
    - (i) lead local flood authorities for areas in Wales,
    - (ii) the Environment Agency in respect of a failure to comply with a request in connection with a flood or coastal erosion risk management function in relation to Wales, and
    - (iii) the Welsh Ministers.
- (11) A reference in this section to an authority includes a reference to the Welsh Ministers.
- (12) The first sets of regulations under subsection (8) 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, and
  - (b) the National Assembly for Wales, in the case of the first regulations made by the Welsh Ministers.

## **16 Funding**

- (1) The Environment Agency may make grants in respect of expenditure incurred or expected to be incurred in connection with flood or coastal erosion risk management in England.
- (2) The Welsh Ministers may make grants in respect of expenditure incurred or expected to be incurred in connection with flood or coastal erosion risk management in Wales.
- (3) A grant may be subject to conditions (including conditions as to repayment and interest).

## **17 Levies**

- (1) The Environment Agency may issue levies to the lead local flood authority for an area in respect of the Agency's flood and coastal erosion risk management functions in that area.
- (2) A levy issued under this section shall be issued in accordance with regulations under section 74 of the Local Government Finance Act 1988.
- (3) The Agency shall be treated as a levying body within the meaning of that section.
- (4) This section is subject to the requirement in section 23(3) to obtain the consent of the appropriate Regional Flood and Coastal Committee.

### *3. Supplemental powers and duties*

## **18 Environment Agency: reports**

- (1) The Environment Agency must report to the Minister about flood and coastal erosion risk management.
- (2) In particular, the report must include information about the application of the national flood and coastal erosion risk management strategies under sections 7 and 8.
- (3) The Minister may make regulations about—
  - (a) the times or intervals at which a report must be made, and
  - (b) the content of a report.
- (4) In this section “the Minister” means—
  - (a) the Secretary of State in relation to flood and coastal erosion risk management in England, and
  - (b) the Welsh Ministers in relation to flood and coastal erosion risk management in Wales.

## **19 Local authorities: investigations**

- (1) On becoming aware of a flood in its area, a lead local flood authority must, to the extent that it considers it necessary or appropriate, investigate—
  - (a) which risk management authorities have relevant flood risk management functions, and
  - (b) whether each of those risk management authorities has exercised, or is proposing to exercise, those functions in response to the flood.
- (2) Where an authority carries out an investigation under subsection (1) it must—
  - (a) publish the results of its investigation, and
  - (b) notify any relevant risk management authorities.

## **20 Ministerial directions**

- (1) The Minister may direct a risk management authority to exercise a flood or coastal erosion risk management function on behalf of another risk management authority (the “defaulting authority”).

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- (2) The Minister may give a direction under subsection (1) only if satisfied that the defaulting authority—
  - (a) has failed to exercise the function, or
  - (b) has failed to exercise the function in accordance with the national strategies under sections 7 and 8 or the local strategies under sections 9 and 10.
- (3) A direction under subsection (1) may include provision about the recovery of costs of compliance from the defaulting authority.
- (4) The Minister must—
  - (a) send a copy of the direction to the defaulting authority, and
  - (b) publish the direction.
- (5) But the Minister may decide not to publish a direction if it appears that to do so would be contrary to the interests of national security.
- (6) In this section “the Minister” means—
  - (a) the Secretary of State in relation to risk management authorities that exercise functions only in England,
  - (b) the Welsh Ministers in relation to risk management authorities that exercise functions only in Wales, and
  - (c) the Secretary of State and the Welsh Ministers acting jointly in relation to risk management authorities that exercise functions in both England and Wales.

## **21 Lead local authorities: duty to maintain a register**

- (1) A lead local flood authority must establish and maintain—
  - (a) a register of structures or features which, in the opinion of the authority, are likely to have a significant effect on a flood risk in its area, and
  - (b) a record of information about each of those structures or features, including information about ownership and state of repair.
- (2) The Minister may by regulations make provision about the content of the register and record.
- (3) The lead local flood authority must arrange for the register to be available for inspection at all reasonable times.
- (4) The Minister may by regulations provide for information of a specified description to be excluded from the register or record.
- (5) In this section, “the Minister” means—
  - (a) the Secretary of State in relation to authorities in England, and
  - (b) the Welsh Ministers in relation to authorities in Wales.

### *4. Regional Flood and Coastal Committees*

## **22 Establishment**

- (1) The Environment Agency—
  - (a) must divide England and Wales into regions for the purposes of this section,

- (b) must establish a Regional Flood and Coastal Committee for each region that is wholly or mainly in England (an “English Committee”), and
  - (c) must establish a Regional Flood and Coastal Committee for each region that is wholly or mainly in Wales (a “Welsh Committee”).
- (2) The Minister may by regulations—
- (a) specify the procedure to be followed by the Agency in exercising its functions under subsection (1)(a) (which may include provision about revision, consultation and appeals);
  - (b) make transitional provision with respect to the establishment of Regional Flood and Coastal Committees in place of regional flood defence committees.

## **23 Consultation and consent**

- (1) The Environment Agency must—
- (a) consult each Regional Flood and Coastal Committee about the way in which the Agency proposes to carry out its flood and coastal erosion risk management functions in relation to the Committee’s region, and
  - (b) take into account any representations (whether made in response to a consultation or otherwise) made by the Committee about the exercise of the Agency’s flood and coastal erosion risk management functions in that region.
- (2) The Agency may not implement the regional programme without the consent of the Regional Flood and Coastal Committee for the region concerned.
- (3) The Agency may not issue a levy under section 17 to a lead local flood authority without the consent of the Regional Flood and Coastal Committee for the region concerned.
- (4) The Agency may not spend revenue under section 118 of the Water Resources Act 1991 without the consent of the Regional Flood and Coastal Committee for the region in which the revenue is raised.

## **24 Membership**

The Minister may by regulations make provision about—

- (a) the number of members of a Regional Flood and Coastal Committee,
- (b) conditions of eligibility for appointment,
- (c) the method of selection and appointment of the members (including who is to appoint them), and
- (d) the proceedings of a Committee (including provision about (i) quorum, and (ii) the nature and extent of a majority required for specified purposes).

## **25 Money**

- (1) The Minister may direct the Environment Agency to pay to or in respect of persons who chair or have chaired Regional Flood and Coastal Committees—
- (a) remuneration,
  - (b) allowances,
  - (c) sums by way of or in respect of pension, and

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- (d) compensation, if the Minister thinks that a person who ceases to chair a Committee should, because of special circumstances, receive compensation.
- (2) The Agency may pay allowances to members of Committees.
- (3) The Minister may determine amounts or maximum amounts to be paid under this section.

## 26 “The Minister”

In this group of sections “the Minister” means—

- (a) the Secretary of State in relation to English Committees, and
- (b) the Welsh Ministers in relation to Welsh Committees.

### *5. General*

## 27 Sustainable development

- (1) In exercising a flood or coastal erosion risk management function, an authority listed in subsection (3) must aim to make a contribution towards the achievement of sustainable development.
- (2) The Minister must issue guidance about how authorities are to discharge the duty under subsection (1) (including guidance about the meaning of sustainable development); and the authorities must have regard to the guidance.
- (3) The authorities are—
  - (a) lead local flood authorities,
  - (b) district councils,
  - (c) internal drainage boards, and
  - (d) highway authorities.
- (4) In this section “flood risk management function” means (in place of the definition in section 4) any of the following functions which may be exercised by an authority listed in subsection (3), in so far as it is or may be exercised for a purpose connected with flood risk management—
  - (a) a function under this Part,
  - (b) a function under the Land Drainage Act 1991,
  - (c) a function under section 100, 101, 110 or 339 of the Highways Act 1980, and
  - (d) any other function specified for the purposes of this section by order made by the Minister.
- (5) In this section “Minister” means—
  - (a) the Secretary of State, in relation to English authorities, and
  - (b) the Welsh Ministers, in relation to Welsh authorities.
- (6) For the purposes of subsection (5)—
  - (a) an “English authority” is—
    - (i) a lead local flood authority, district council or highway authority for an area in England, and
    - (ii) an internal drainage board for an internal drainage district that is wholly or mainly in England;



- (b) a “Welsh authority” is—
  - (i) a lead local flood authority or highway authority for an area in Wales, and
  - (ii) an internal drainage board for an internal drainage district that is wholly or mainly in Wales.

## **28 Power to make further amendments**

- (1) The Minister may by order amend an Act listed in subsection (2) if the Minister thinks the amendment necessary or desirable in consequence of this Part.
- (2) The Acts are—
  - (a) the Public Health Act 1936 (so far as relevant to water),
  - (b) the Coast Protection Act 1949,
  - (c) the Highways Act 1980 (so far as relevant to water),
  - (d) the Land Drainage Act 1991,
  - (e) the Water Resources Act 1991, and
  - (f) the Environment Act 1995.
- (3) In this section “the Minister” means—
  - (a) the Welsh Ministers, where the amendment relates to—
    - (i) a matter in respect of which functions may be exercised by the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government, or
    - (ii) a matter within the legislative competence of the National Assembly for Wales, and
  - (b) the Secretary of State, for all other purposes.
- (4) An order under this section 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 an order made by the Secretary of State, and
  - (b) the National Assembly for Wales, in the case of an order made by the Welsh Ministers.

## **29 Restructuring**

- (1) The Minister may by order transfer responsibilities of lead local flood authorities, district councils or internal drainage boards in respect of flood risk and coastal erosion risk to risk management authorities or other bodies.
- (2) An order may in particular—
  - (a) amend the definition of risk management authority in section 6;
  - (b) reassign a flood risk management function;
  - (c) reassign a coastal erosion risk management function.
- (3) An order may amend this Act or another enactment.
- (4) Before making an order the Minister must consult the bodies that would be affected by it.

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- (5) An order under this section 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 an order made by the Secretary of State, or
  - (b) the National Assembly for Wales, in the case of an order made by the Welsh Ministers.
- (6) In this section “the Minister” means—
- (a) the Secretary of State in relation to English risk management authorities and other bodies with responsibilities in relation to England, and
  - (b) the Welsh Ministers in relation to Welsh risk management authorities and other bodies with responsibilities in relation to Wales.

**30 Designation of features**

Schedule 1 (designation of features) shall have effect.

**31 Amendment of other Acts**

Schedule 2 (which amends other Acts in connection with this Part) shall have effect.