

Status: Point in time view as at 25/04/2024. This version of this schedule contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Flood and Water Management Act 2010, SCHEDULE 2. (See end of Document for details)

SCHEDULES

SCHEDULE 2

Section 31

RISK MANAGEMENT: AMENDMENT OF OTHER ACTS

Coast Protection Act 1949

1 The Coast Protection Act 1949 is amended as follows.

Commencement Information

- I1** Sch. 2 para. 1 in force at 19.7.2011 for E. by S.I. 2011/1770, art. 3(d) (with art. 4(1))
I2 Sch. 2 para. 1 in force at 1.10.2011 for W. by S.I. 2011/2204, art. 3(2)(b) (with art. 5(1))

2 Section 2 (constitution of coast protection boards) is repealed.

Commencement Information

- I3** Sch. 2 para. 2 in force at 19.7.2011 for E. by S.I. 2011/1770, art. 3(d) (with art. 4(1))
I4 Sch. 2 para. 2 in force at 1.10.2011 for W. by S.I. 2011/2204, art. 3(2)(b) (with art. 5(1))

3 After section 2 insert—

“2A Coastal erosion risk management authorities

The following are “coastal erosion risk management authorities” for the purposes of this Act—

- (a) coast protection authorities, and
- (b) the Environment Agency.”

Commencement Information

- I5** Sch. 2 para. 3 in force at 19.7.2011 for E. by S.I. 2011/1770, art. 3(d) (with art. 4(1))
I6 Sch. 2 para. 3 in force at 1.10.2011 for W. by S.I. 2011/2204, art. 3(2)(b) (with art. 5(1))

4 (1) Section 4 (general powers) is amended as follows.

(2) For subsection (1) substitute—

“(1) A coast protection authority may carry out coast protection work inside or outside the authority's district if Conditions 1 and 2 are satisfied.

(1A) Condition 1 is that the authority thinks the work desirable having regard to the national flood and coastal erosion risk management strategies under sections 7 and 8 of the Flood and Water Management Act 2010.

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(1B) Condition 2 is that the purpose of the work is to manage a coastal erosion risk, within the meaning of Part 1 of the Flood and Water Management Act 2010, in the authority's district.

(1C) The Environment Agency may carry out coast protection work if it thinks the work desirable having regard to the national flood and coastal erosion risk management strategies under sections 7 and 8 of the Flood and Water Management Act 2010.”

(3) Omit subsection (2).

(4) In subsection (3) for “coast protection authority” substitute “ coastal erosion risk management authority ”.

Commencement Information

I7 Sch. 2 para. 4 in force at 19.7.2011 for E. by S.I. 2011/1770, art. 3(d) (with art. 4(1))

I8 Sch. 2 para. 4 in force at 1.10.2011 for W. by S.I. 2011/2204, art. 3(2)(b) (with art. 5(1))

5 (1) Section 5 (coast protection work: objections and approvals) is amended as follows.

(2) In subsection (1)—

- (a) for “coast protection authority” substitute “ coastal erosion risk management authority ”,
- (b) for “area of the authority” substitute “ area in which the proposed work is to take place ”, and
- (c) for the words from “on the Environment Agency” to the end substitute “ on the persons listed in subsection (1A). ”

(3) After subsection (1) insert—

“(1A) The notice shall be served—

- (a) on any internal drainage board in whose district any of the work is to be carried out, and
- (b) in the case of work proposed by a coast protection authority, on the Environment Agency.”

(4) In subsection (3) for “and on the authority” substitute “ , the authority proposing to carry out the work and, in the case of work proposed by a coast protection authority, the Environment Agency ”.

(5) In subsection (5)—

- (a) at the beginning insert “ In the case of work proposed by a coast protection authority, ” and
- (b) for “Minister” substitute “ Environment Agency ”.

(6) After subsection (5) insert—

“(5A) In the case of work proposed by the Environment Agency, the Agency—

- (a) may not begin the work before the time for serving notices of objection has expired and any objections have been determined by the Minister, and

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(b) must have regard to any determination of the Minister in deciding whether to carry out the proposed work, with or without modification.”

(7) In subsection (6)—

- (a) for “coast protection authority”, in the first place where it occurs, substitute “coastal erosion risk management authority ”,
- (b) for “the coast protection authority shall” substitute “ the authority shall ”,
- (c) in paragraph (a) for “where it is not represented on the coast protection authority” substitute “ (in the case of work carried out by a coast protection authority) ”, and
- (d) in paragraph (b) omit “which are not so represented and”.

Commencement Information

I9 Sch. 2 para. 5 in force at 19.7.2011 for E. by S.I. 2011/1770, art. 3(d) (with art. 4(1))

I10 Sch. 2 para. 5 in force at 1.10.2011 for W. by S.I. 2011/2204, art. 3(2)(b) (with art. 5(1))

6 In section 6 (power to make schemes for carrying out work) in subsection (1) for “coast protection authority” substitute “coastal erosion risk management authority ”.

Commencement Information

I11 Sch. 2 para. 6 in force at 19.7.2011 for E. by S.I. 2011/1770, art. 3(d) (with art. 4(1))

I12 Sch. 2 para. 6 in force at 1.10.2011 for W. by S.I. 2011/2204, art. 3(2)(b) (with art. 5(1))

7 (1) In section 8(1) (confirmation of works schemes)—

- (a) for “coast protection authority” substitute “coastal erosion risk management authority ”,
- (b) for “area of the authority” substitute “area in which the proposed work is to take place ”, and
- (c) after “Environment Agency” insert “ (in the case of a scheme prepared by a coast protection authority) ”.

(2) In section 8(5) for “coast protection authority” substitute “coastal erosion risk management authority ”.

Commencement Information

I13 Sch. 2 para. 7 in force at 19.7.2011 for E. by S.I. 2011/1770, art. 3(d) (with art. 4(1))

I14 Sch. 2 para. 7 in force at 1.10.2011 for W. by S.I. 2011/2204, art. 3(2)(b) (with art. 5(1))

8 In section 9 (carrying out of work) in subsection (4) for “coast protection authority” substitute “coastal erosion risk management authority ”.

Commencement Information

I15 Sch. 2 para. 8 in force at 19.7.2011 for E. by S.I. 2011/1770, art. 3(d) (with art. 4(1))

I16 Sch. 2 para. 8 in force at 1.10.2011 for W. by S.I. 2011/2204, art. 3(2)(b) (with art. 5(1))

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- 9 In section 10 (recovery of coast protection charges) in subsections (2), (5) and (8) for “coast protection authority” substitute “ coastal erosion risk management authority ”.

Commencement Information

- I17** Sch. 2 para. 9 in force at 19.7.2011 for E. by S.I. 2011/1770, art. 3(d) (with art. 4(1))
I18 Sch. 2 para. 9 in force at 1.10.2011 for W. by S.I. 2011/2204, art. 3(2)(b) (with art. 5(1))

- 10 In section 12 (maintenance and repair) in subsections (1) and (3) for “coast protection authority” substitute “ coastal erosion risk management authority ”.

Commencement Information

- I19** Sch. 2 para. 10 in force at 19.7.2011 for E. by S.I. 2011/1770, art. 3(d) (with art. 4(1))
I20 Sch. 2 para. 10 in force at 1.10.2011 for W. by S.I. 2011/2204, art. 3(2)(b) (with art. 5(1))

- 11 In section 13 (recovery of maintenance cost) in subsections (1), (3)(b), (4) and (6) for “coast protection authority” substitute “ coastal erosion risk management authority ”.

Commencement Information

- I21** Sch. 2 para. 11 in force at 19.7.2011 for E. by S.I. 2011/1770, art. 3(d) (with art. 4(1))
I22 Sch. 2 para. 11 in force at 1.10.2011 for W. by S.I. 2011/2204, art. 3(2)(b) (with art. 5(1))

- 12 (1) Section 14 (compulsory acquisition of land) is amended as follows.
- (2) In subsection (1)—
- (a) for “coast protection authority” insert “ coastal erosion risk management authority ”, and
- (b) omit from “Provided that” to the end.
- (3) Omit subsection (2).

Commencement Information

- I23** Sch. 2 para. 12 in force at 19.7.2011 for E. by S.I. 2011/1770, art. 3(d) (with art. 4(1))
I24 Sch. 2 para. 12 in force at 1.10.2011 for W. by S.I. 2011/2204, art. 3(2)(b) (with art. 5(1))

- 13 In section 19 (compensation for depreciation of value of an interest in land) in subsections (1) and (2) for “coast protection authority”, in each place, substitute “ coastal erosion risk management authority ”.

Commencement Information

- I25** Sch. 2 para. 13 in force at 19.7.2011 for E. by S.I. 2011/1770, art. 3(d) (with art. 4(1))
I26 Sch. 2 para. 13 in force at 1.10.2011 for W. by S.I. 2011/2204, art. 3(2)(b) (with art. 5(1))

- 14 Section 20 (contributions towards expenses) is repealed.

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I27 Sch. 2 para. 14 in force at 19.7.2011 for E. by S.I. 2011/1770, art. 3(d) (with art. 4(1))

I28 Sch. 2 para. 14 in force at 1.10.2011 for W. by S.I. 2011/2204, art. 3(2)(b) (with art. 5(1))

15 Section 21 (grants to coast protection authorities) is repealed.

Commencement Information

I29 Sch. 2 para. 15 in force at 19.7.2011 for E. by S.I. 2011/1770, art. 3(d) (with art. 4(1))

I30 Sch. 2 para. 15 in force at 1.10.2011 for W. by S.I. 2011/2204, art. 3(2)(b) (with art. 5(1))

16 In section 23 (power to sell materials) in subsections (1) and (2) for “coast protection authority” substitute “coastal erosion risk management authority”.

Commencement Information

I31 Sch. 2 para. 16 in force at 19.7.2011 for E. by S.I. 2011/1770, art. 3(d) (with art. 4(1))

I32 Sch. 2 para. 16 in force at 1.10.2011 for W. by S.I. 2011/2204, art. 3(2)(b) (with art. 5(1))

17 In section 24 (arbitrations) in subsection (3) for “coast protection authority” substitute “coastal erosion risk management authority”.

Commencement Information

I33 Sch. 2 para. 17 in force at 19.7.2011 for E. by S.I. 2011/1770, art. 3(d) (with art. 4(1))

I34 Sch. 2 para. 17 in force at 1.10.2011 for W. by S.I. 2011/2204, art. 3(2)(b) (with art. 5(1))

18 In section 25 (powers of entry and inspection) in subsections (1) and (9)(b) for “coast protection authority” substitute “coastal erosion risk management authority”.

Commencement Information

I35 Sch. 2 para. 18 in force at 19.7.2011 for E. by S.I. 2011/1770, art. 3(d) (with art. 4(1))

I36 Sch. 2 para. 18 in force at 1.10.2011 for W. by S.I. 2011/2204, art. 3(2)(b) (with art. 5(1))

19 In section 26 (power to require information) in subsections (1) and (2) for “coast protection authority” substitute “coastal erosion risk management authority”.

Commencement Information

I37 Sch. 2 para. 19 in force at 19.7.2011 for E. by S.I. 2011/1770, art. 3(d) (with art. 4(1))

I38 Sch. 2 para. 19 in force at 1.10.2011 for W. by S.I. 2011/2204, art. 3(2)(b) (with art. 5(1))

20 In section 27 (acquisition of right of passage) in subsections (1), (4)(b) and (5) for “coast protection authority” substitute “coastal erosion risk management authority”.

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I39 Sch. 2 para. 20 in force at 19.7.2011 for E. by S.I. 2011/1770, art. 3(d) (with art. 4(1))

I40 Sch. 2 para. 20 in force at 1.10.2011 for W. by S.I. 2011/2204, art. 3(2)(b) (with art. 5(1))

- 21 In section 28 (power of Minister to facilitate coast protection work) in subsections (1) and (2) for “coast protection authority”, in each place, substitute “ coastal erosion risk management authority ”.

Commencement Information

I41 Sch. 2 para. 21 in force at 19.7.2011 for E. by S.I. 2011/1770, art. 3(d) (with art. 4(1))

I42 Sch. 2 para. 21 in force at 1.10.2011 for W. by S.I. 2011/2204, art. 3(2)(b) (with art. 5(1))

- 22 In section 44 (regulations and orders) in subsection (2) for “coast protection authority” substitute “ coastal erosion risk management authority ”.

Commencement Information

I43 Sch. 2 para. 22 in force at 19.7.2011 for E. by S.I. 2011/1770, art. 3(d) (with art. 4(1))

I44 Sch. 2 para. 22 in force at 1.10.2011 for W. by S.I. 2011/2204, art. 3(2)(b) (with art. 5(1))

- 23 In section 45 (service) in subsection (2) for “coast protection authority” substitute “ coastal erosion risk management authority ”.

Commencement Information

I45 Sch. 2 para. 23 in force at 19.7.2011 for E. by S.I. 2011/1770, art. 3(d) (with art. 4(1))

I46 Sch. 2 para. 23 in force at 1.10.2011 for W. by S.I. 2011/2204, art. 3(2)(b) (with art. 5(1))

- 24 In section 49 (interpretation) for the definition of “coast protection work” substitute—

““coast protection work” means any of the following done for the purpose of managing a coastal erosion risk (within the meaning of Part 1 of the Flood and Water Management Act 2010)—

- (a) anything done to construct, alter, repair, maintain or remove works;
- (b) anything done for the purpose of maintaining or restoring natural processes;
- (c) planting vegetation.”

Commencement Information

I47 Sch. 2 para. 24 in force at 19.7.2011 for E. by S.I. 2011/1770, art. 3(d) (with art. 4(1))

I48 Sch. 2 para. 24 in force at 1.10.2011 for W. by S.I. 2011/2204, art. 3(2)(b) (with art. 5(1))

Land Drainage Act 1991

- 25 The Land Drainage Act 1991 is amended as follows.

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Commencement Information

I49 Sch. 2 para. 25 in force at 1.10.2010 by S.I. 2010/2169, art. 4, Sch.

26 Section 8 (concurrent powers of the Environment Agency) is repealed.

Commencement Information

I50 Sch. 2 para. 26 in force at 6.4.2012 by S.I. 2012/879, art. 3(b)

27 In section 9(1) (default powers of the Agency)—
(a) omit “but without prejudice to section 8 above”, and
(b) omit “flooding or”.

Commencement Information

I51 Sch. 2 para. 27 in force at 6.4.2012 by S.I. 2012/879, art. 3(b)

28 At the end of section 11 (arrangements between drainage authorities) add—
“(5) Two internal drainage boards may agree that one is to provide administrative, professional or technical services for the other.”

Commencement Information

I52 Sch. 2 para. 28 in force at 1.10.2010 by S.I. 2010/2169, art. 4, Sch.

29 (1) After section 14 (general drainage powers of boards and local authorities) insert—

“14A General powers: flood risk management works

- (1) A lead local flood authority may carry out flood risk management work if Conditions 1 and 2 are satisfied.
- (2) An authority listed in subsection (3) may carry out flood risk management work if—
 - (a) Conditions 1 and 3 are satisfied, or
 - (b) Conditions 1 and 4 are satisfied.
- (3) The authorities are—
 - (a) an internal drainage board,
 - (b) a district council, and
 - (c) a lead local flood authority for an area for which there is no district council.
- (4) Condition 1 is that the authority considers the work desirable having regard to the local flood risk management strategy for its area under section 9 or 10 of the Flood and Water Management Act 2010.
- (5) Condition 2 is that the purpose of the work is to manage a flood risk in the authority's area from—

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- (a) surface runoff, or
 - (b) groundwater.
- (6) Condition 3 is that the purpose of the work is to manage a flood risk in the authority's area from an ordinary watercourse.
- (7) In subsection (6) the reference to an ordinary watercourse includes a reference to a lake, pond or other area of water which flows into an ordinary watercourse.
- (8) Condition 4 is that the purpose of the work is to manage a flood risk in the authority's area from the sea and either—
- (a) the work is within subsection (9)(a), (b) or (f), or
 - (b) the Environment Agency has consented to the work.
- (9) In this section “flood risk management work” means anything done—
- (a) to maintain existing works (including buildings and structures) including cleansing, repairing or otherwise maintaining the efficiency of an existing watercourse or drainage work;
 - (b) to operate existing works (such as sluiceways or pumps);
 - (c) to improve existing works (including buildings or structures) including anything done to deepen, widen, straighten or otherwise improve an existing watercourse, to remove or alter mill dams, weirs or other obstructions to watercourses, or to raise, widen or otherwise improve a drainage work;
 - (d) to construct or repair new works (including buildings, structures, watercourses, drainage works and machinery);
 - (e) for the purpose of maintaining or restoring natural processes;
 - (f) to monitor, investigate or survey a location or a natural process;
 - (g) to reduce or increase the level of water in a place;
 - (h) to alter or remove works.
- (10) Nothing in this section authorises a person to enter land except for the purpose of maintaining existing works.
- (11) Section 14(5) and (6) applies in relation to the exercise by any authority of powers under this section as to the exercise of powers under section 14.
- (12) The powers under section 62 and 64 are available to an authority for a purpose in connection with the exercise of powers under this section.
- (13) In this section the following terms have the meaning given by Part 1 of the Flood and Water Management Act 2010—
- (a) flood risk,
 - (b) lead local flood authority,
 - (c) surface runoff, and
 - (d) groundwater.”
- (2) In section 14(1)(b)—
- (a) omit “either”, and
 - (b) omit sub-paragraph (ii) (and the “or” before it).
- (3) Omit section 14(4)(b) (and the “or” before it).

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I53 Sch. 2 para. 29 in force at 19.7.2011 for E. by S.I. 2011/1770, art. 3(e)

I54 Sch. 2 para. 29 in force at 1.10.2011 for W. by S.I. 2011/2204, art. 3(2)(c)

30 Section 17 (supervision by the Agency: works) is repealed.

Commencement Information

I55 Sch. 2 para. 30 in force at 19.7.2011 for E. by S.I. 2011/1770, art. 3(e) (with art. 4(2))

I56 Sch. 2 para. 30 in force at 1.10.2011 for W. by S.I. 2011/2204, art. 3(2)(c) (with art. 5(2))

31 (1) Section 21 (enforcement of obligations to repair watercourses and bridges) is amended as follows.

(2) For subsection (6)(b) substitute—

“(b) in relation to any watercourse, bridge or drainage works in an area outside an internal drainage district, are references to the lead local flood authority for the area.”

(3) After subsection (6) add—

“(7) Lead local flood authority” has the meaning given by section 6 of the Flood and Water Management Act 2010.”

Commencement Information

I57 Sch. 2 para. 31 in force at 6.4.2012 by S.I. 2012/879, art. 3(b)

PROSPECTIVE

32 (1) Section 23 (prohibitions on obstructions) is amended as follows.

(2) For subsection (1)(b) substitute—

“(b) erect a culvert in an ordinary watercourse, or

(c) alter a culvert in a manner that would be likely to affect the flow of an ordinary watercourse,”.

(3) After subsection (1) insert—

“(1A) Consent under this section may be given subject to reasonable conditions.

(1B) An internal drainage board or lead local flood authority must consult the Environment Agency before carrying out work within subsection (1)(a), (b) or (c) if the board or authority is “the drainage board concerned” for the purposes of this section.

(1C) The drainage board concerned must have regard to any guidance issued by the Environment Agency about the exercise of the board’s functions under this section.”

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- (4) In subsection (2) for “and the amount of that fee shall be £50 or such other sum as may be prescribed” substitute “ and the amount of the fee shall be determined in accordance with a prescribed charging scheme. ”
- (5) In subsection (8) for “section 24” substitute “ sections 24 and 25 ”.
- (6) For subsection (8)(b) substitute—
 “(b) in relation to a watercourse in an area outside an internal drainage district, are references to the lead local flood authority for the area.”
- (7) After subsection (8) add—
 “(9) Lead local flood authority” has the meaning given by section 6 of the Flood and Water Management Act 2010.”

Commencement Information

I58 S. 32(1)(2)(3)(5)(6)(7) in force at 6.4.2012 by [S.I. 2012/879](#), **art. 3(b)**

- 33 (1) Section 25 (powers to require works for maintaining the flow of watercourse) is amended as follows.
- (2) In subsection (1)—
 (a) omit “Subject to section 26 below”, and
 (b) omit “or local authority”.
- (3) Omit subsection (2).
- (4) In subsections (6)(a), (7) and (8) omit “or local authority”.

Commencement Information

I59 [Sch. 2 para. 33](#) in force at 6.4.2012 by [S.I. 2012/879](#), **art. 3(b)** (with [art. 4](#))

- 34 Section 26 (competing jurisdictions under section 25) is repealed.

Commencement Information

I60 [Sch. 2 para. 34](#) in force at 6.4.2012 by [S.I. 2012/879](#), **art. 3(b)** (with [art. 4](#))

- 35 (1) Section 33 (commutation of obligations) is amended as follows.
- (2) In subsection (1) for “Agency or the drainage board for the internal drainage district” substitute “ relevant authority for the area ”.
- (3) In subsection (2)—
 (a) for “Agency or an internal drainage board propose” substitute “ relevant authority proposes ”, and
 (b) for “Agency or board” substitute “ authority ”.
- (4) In subsection (3) for “Agency or board”, in each place, substitute “ relevant authority ”.

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(5) After subsection (5) insert—

“(5A) In this section and section 34, references to the relevant authority for an area—

- (a) in relation to work in an area which forms part of an internal drainage district, are references to the drainage board for the district, and
- (b) in relation to work in any other area, are references to the lead local flood authority for the area.

(5B) “Lead local flood authority” has the meaning given by section 6 of the Flood and Water Management Act 2010.”

(6) For subsection (6)(a) substitute—

- “(a) in relation to a lead local flood authority for an area in England, means the Secretary of State,
- (aa) in relation to a lead local flood authority for an area in Wales, means the Welsh Ministers, and”.

Commencement Information

I61 Sch. 2 para. 35 in force at 19.7.2011 for E. by S.I. 2011/1770, art. 3(e)

I62 Sch. 2 para. 35 in force at 1.10.2011 for W. by S.I. 2011/2204, art. 3(2)(c)

- 36 (1) Section 34 (financial consequences of commutation) is amended as follows.
- (2) In subsection (2) for “Agency or internal drainage board” substitute “ relevant authority ”.
- (3) In subsection (4)—
- (a) for “Agency or internal drainage board” substitute “ relevant authority ”, and
 - (b) for “Agency or, as the case may be, that board” substitute “ relevant authority ”.
- (4) In subsection (5) for “Agency or, as the case may be, the internal drainage board” substitute “ relevant authority ”.
- (5) In subsection (6)—
- (a) for “Agency or an internal drainage board” substitute “ relevant authority ”, and
 - (b) for “Agency or board” substitute “ authority ”.
- (6) In subsections (7) and (9) for “Agency or internal drainage board” substitute “ relevant authority ”.

Commencement Information

I63 Sch. 2 para. 36 in force at 19.7.2011 for E. by S.I. 2011/1770, art. 3(e)

I64 Sch. 2 para. 36 in force at 1.10.2011 for W. by S.I. 2011/2204, art. 3(2)(c)

- 37 In section 59 (grants) omit subsection (4)(c).

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Commencement Information

I65 Sch. 2 para. 37 in force at 6.4.2011 by S.I. 2011/694, art. 4(1)(i)

38 (1) Section 66 (byelaws) is amended as follows.

(2) For subsection (1) substitute—

“(1) An internal drainage board may make byelaws for Purpose 1, 2 or 3.

(1A) A local authority, except an English county council, may make byelaws for Purpose 1, 2, 3 or 4.

(1B) An English county council which is a lead local flood authority may make byelaws for Purpose 3 or 4.

(1C) Purpose 1 is to secure the efficient working of a drainage system in the authority's district or area.

(1D) Purpose 2 is to regulate the effects on the environment in the authority's district or area of a drainage system.

(1E) Purpose 3 is to secure the effectiveness of flood risk management work within the meaning of section 14A.

(1F) Purpose 4 is to secure the effectiveness of works done in reliance on section 38 or 39 of the Flood and Water Management Act 2010 (incidental flooding or coastal erosion).”

(3) In subsection (2) for “Without prejudice to the generality of subsection (1) above but subject as aforesaid, an internal drainage board or local authority, other than an English county council, may, in particular, make byelaws for any of the following purposes, that is to say” substitute “Byelaws may, in particular, have the purpose of”.

(4) For subsection (3) substitute—

“(3) An internal drainage board may not rely on this section to do anything in connection with a main river, the banks of a main river or any drainage works in connection with a main river.”

Commencement Information

I66 Sch. 2 para. 38 in force at 19.7.2011 for E. by S.I. 2011/1770, art. 3(e)

I67 Sch. 2 para. 38 in force at 1.10.2011 for W. by S.I. 2011/2204, art. 3(2)(c)

39 In section 72 (interpretation) in subsection (1) after the definition of “conservancy authority” insert—

““culvert” means a covered channel or pipe which prevents the obstruction of a watercourse or drainage path by an artificial construction.”

Commencement Information

I68 Sch. 2 para. 39 in force at 19.7.2011 for E. by S.I. 2011/1770, art. 3(e)

I69 Sch. 2 para. 39 in force at 1.10.2011 for W. by S.I. 2011/2204, art. 3(2)(c)

Status: Point in time view as at 25/04/2024. This version of this schedule contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Flood and Water Management Act 2010, SCHEDULE 2. (See end of Document for details)

Water Resources Act 1991

40 The Water Resources Act 1991 is amended as follows.

Commencement Information

I70 Sch. 2 para. 40 in force at 1.4.2011 by S.I. 2011/694, art. 3(g)

41 Section 106 (obligation to carry out flood defence functions through committees) is repealed.

Commencement Information

I71 Sch. 2 para. 41 in force at 1.4.2011 by S.I. 2011/694, art. 3(g)

PROSPECTIVE

42 In section 110 (main river structures: applications for consent) in subsection (1) for “and the amount of that fee shall be £50 or such other sum as may be prescribed” substitute “ and the amount of the fee shall be determined in accordance with a prescribed charging scheme ”.

43 (1) Section 118 (special duties with respect to flood defence revenues) is amended as follows.

(2) In subsection (1)—

(a) for “flood defence functions” substitute “ flood and coastal erosion risk management functions, within the meaning of Part 1 of the Flood and Water Management Act 2010, ”, and

(b) for “local flood defence district” substitute “ flood risk management region ”.

(3) In subsection (2) for “local flood defence district” substitute “ flood risk management region ”.

(4) Omit subsection (3)(b) (and the “or” before it).

(5) In subsection (4) for “local flood defence district” substitute “ flood risk management region ”.

(6) In subsection (5)—

(a) in paragraph (b) for “flood defence district” substitute “ flood risk management region ”, and

(b) for “local flood defence district” substitute “ flood risk management region ”.

(7) Omit subsection (6).

(8) At the end add—

“(7) In this section “flood risk management region” means the region of a Regional Flood and Coastal Committee, within the meaning of section 22 of the Flood and Water Management Act 2010.”

Status: Point in time view as at 25/04/2024. This version of this schedule contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Flood and Water Management Act 2010, SCHEDULE 2. (See end of Document for details)

Commencement Information

I72 Sch. 2 para. 43 in force at 1.4.2011 by S.I. 2011/694, art. 3(g)

44 Section 133 (power to authorise the Agency to issue levies) is repealed.

Commencement Information

I73 Sch. 2 para. 44 in force at 1.4.2011 by S.I. 2011/694, art. 3(g) (with art. 5(1))

45 In section 159 (powers to lay pipes in streets) after subsection (1) insert—

“(1A) The Agency may carry out work within subsection (1)(a) to (c) if—

- (a) it thinks the work desirable having regard to the national flood and coastal erosion risk management strategies under sections 7 and 8 of the Flood and Water Management Act 2010, and
- (b) the purpose of the work is to manage a flood risk (within the meaning of that Act) from (i) the sea, or (ii) a main river.”

Commencement Information

I74 Sch. 2 para. 45 in force at 19.7.2011 for E. by S.I. 2011/1770, art. 3(f)

I75 Sch. 2 para. 45 in force at 1.10.2011 for W. by S.I. 2011/2204, art. 3(2)(d)

46 In section 160 (power to lay pipes in other land) after subsection (1) insert—

“(1A) The Agency may carry out work within subsection (1)(a) to (c) if—

- (a) it thinks the work desirable having regard to the national flood and coastal erosion risk management strategies under sections 7 and 8 of the Flood and Water Management Act 2010, and
- (b) the purpose of the work is to manage a flood risk (within the meaning of that Act) from (i) the sea, or (ii) a main river.”

Commencement Information

I76 Sch. 2 para. 46 in force at 19.7.2011 for E. by S.I. 2011/1770, art. 3(f)

I77 Sch. 2 para. 46 in force at 1.10.2011 for W. by S.I. 2011/2204, art. 3(2)(d)

47 (1) Section 165 (powers to carry out works) is amended as follows.

(2) For subsection (1) substitute—

“(1) The Agency may—

- (a) carry out flood risk management work within subsection (1D)(a) to (f) if Conditions 1 and 2 are satisfied;
- (b) carry out flood risk management work within subsection (1D)(g) or (h) if Condition 1 is satisfied.

(1A) Condition 1 is that the Agency considers the work desirable having regard to the national flood and coastal erosion risk management strategies under sections 7 and 8 of the Flood and Water Management Act 2010.

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Changes to legislation: There are currently no known outstanding effects for the Flood and Water Management Act 2010, SCHEDULE 2. (See end of Document for details)

(1B) Condition 2 is that the purpose of the work is to manage a flood risk (within the meaning of that Act) from—

- (a) the sea, or
- (b) a main river.

(1C) In subsection (1B)(b) the reference to a main river includes a reference to a lake, pond or other area of water which flows into a main river.

(1D) In this section “flood risk management work” means anything done—

- (a) to maintain existing works (including buildings or structures) including cleansing, repairing or otherwise maintaining the efficiency of an existing watercourse or drainage work;
- (b) to operate existing works (such as sluiceways or pumps);
- (c) to improve existing works (including buildings or structures) including anything done to deepen, widen, straighten or otherwise improve an existing watercourse, to remove or alter mill dams, weirs or other obstructions to watercourses, or to raise, widen or otherwise improve a drainage work;
- (d) to construct or repair new works (including buildings, structures, watercourses, drainage works and machinery);
- (e) for the purpose of maintaining or restoring natural processes;
- (f) to monitor, investigate or survey a location or a natural process;
- (g) to reduce or increase the level of water in a place;
- (h) to alter or remove works.”

(3) In subsection (2) omit “, irrespective of whether the works are in connection with a main river,”.

(4) In subsection (5)—

- (a) omit “in connection with a main river”, and
- (b) at the end add “ under this section ”.

(5) In subsection (7) omit from “; and subsections (2)” to the end.

(6) The heading becomes “General powers to carry out works”.

Commencement Information

I78 Sch. 2 para. 47 in force at 19.7.2011 for E. by S.I. 2011/1770, art. 3(f)

I79 Sch. 2 para. 47 in force at 1.10.2011 for W. by S.I. 2011/2204, art. 3(2)(d)

48 After section 204(2)(c) (exceptions to prohibition on disclosure of information) insert—

“(ca) for the purpose of complying with a request under section 14 of the Flood and Water Management Act 2010;”.

Commencement Information

I80 Sch. 2 para. 48 in force at 1.4.2011 by S.I. 2011/694, art. 3(g)

49 In Schedule 25 (byelaws) for paragraph 5(1)(a) and (b) substitute—

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“for any of Purposes 1 to 4.

(1A) Purpose 1 is to secure the efficient working of a drainage system.

(1B) Purpose 2 is to regulate the effects on the environment of a drainage system.

(1C) Purpose 3 is to secure the effectiveness of flood risk management work within the meaning of section 165.

(1D) Purpose 4 is to secure the effectiveness of works done in reliance on section 38 or 39 of the Flood and Water Management Act 2010 (incidental flooding or coastal erosion).”

Commencement Information

I81 Sch. 2 para. 49 in force at 19.7.2011 for E. by S.I. 2011/1770, art. 3(f)

I82 Sch. 2 para. 49 in force at 1.10.2011 for W. by S.I. 2011/2204, art. 3(2)(d)

Water Industry Act 1991

50 After section 206(3)(c) of the Water Industry Act 1991 (exceptions to prohibition on disclosure of information) insert—

“(ca) for the purpose of complying with a request under section 14 of the Flood and Water Management Act 2010;”.

Commencement Information

I83 Sch. 2 para. 50 in force at 1.4.2011 by S.I. 2011/694, art. 3(h)

Environment Act 1995

51 The Environment Act 1995 is amended as follows.

Commencement Information

I84 Sch. 2 para. 51 in force at 1.4.2011 by S.I. 2011/694, art. 3(i)

52 For section 6(4) (general supervision by the Environment Agency) substitute—

“(4) The Agency shall in relation to England and 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.”

Commencement Information

I85 Sch. 2 para. 52 in force at 1.4.2011 by S.I. 2011/694, art. 3(i)

53 Sections 14 to 19 and Schedules 4 and 5 (flood defence committees) are repealed.

Status: Point in time view as at 25/04/2024. This version of this schedule contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Flood and Water Management Act 2010, SCHEDULE 2. (See end of Document for details)

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Commencement Information

I86 Sch. 2 para. 53 in force at 1.4.2011 by S.I. 2011/694, art. 3(i) (with art. 5(2))

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Textual Amendments

F1 Sch. 2 para. 54 and preceding italic heading repealed (4.5.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 25 Pt. 4; S.I. 2012/1008, art. 4(c)

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Status:

Point in time view as at 25/04/2024. This version of this schedule contains provisions that are prospective.

Changes to legislation:

There are currently no known outstanding effects for the Flood and Water Management Act 2010, SCHEDULE 2.