

SCHEDULES

SCHEDULE 4 **E+W+S**

RESERVOIRS

High-risk reservoirs

7 After section 2 (registration) insert—

“2A Consideration of risk and provisional designation: England and Wales

- (1) As soon as is reasonably practicable after the registration of a large raised reservoir under section 2 [^{F1}the appropriate agency] shall consider whether the reservoir is to be designated as a high-risk reservoir (applying the criteria set out in section 2C).
- (2) [^{F1}The appropriate agency] may—
 - (a) make a provisional designation by giving notice to the undertaker, or
 - (b) notify the undertaker that the reservoir is not designated as a high-risk reservoir.
- (3) A provisional designation notice must specify—
 - (a) the reasons for the provisional designation,
 - (b) how representations to [^{F1}the appropriate agency] may be made, and
 - (c) the period within which those representations may be made.
- (4) The Minister may by order specify a minimum period within which representations may be made under subsection (3)(c).

2B Designation

- (1) [^{F1}The appropriate agency] may designate a large raised reservoir as a high-risk reservoir by giving notice confirming a provisional designation to the undertaker.
- (2) In deciding whether to confirm a provisional designation [^{F1}the appropriate agency] must have regard to the representations made in accordance with section 2A.
- (3) A notice under subsection (1) may not be given before the end of the period within which representations may be made under section 2A(3)(c).
- (4) The notice must—
 - (a) specify the provisional notice to which it relates,
 - (b) specify the reasons for the designation,
 - (c) give information about the procedure for bringing an appeal under regulations under section 2E,

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- (d) specify the period within which an appeal may be brought, and
- (e) specify the date on which the designation takes effect, which must be after the end of the period specified under paragraph (d).

2C Meaning of “high-risk reservoir”

- (1) [F1The appropriate agency] may designate a large raised reservoir as a high-risk reservoir if—
 - (a) [F1the appropriate agency] thinks that, in the event of an uncontrolled release of water from the reservoir, human life could be endangered, and
 - (b) the reservoir does not satisfy the conditions (if any) specified in regulations made by the Minister.
- (2) The conditions specified in regulations under subsection (1)(b) may, in particular, include conditions as to—
 - (a) the purpose for which the reservoir is used,
 - (b) the materials used to construct the reservoir,
 - (c) the way in which the reservoir is constructed, and
 - (d) the maintenance of the reservoir.
- (3) Sections 10 to 12 make provision about requirements for inspection, monitoring and supervision of high-risk reservoirs.
- (4) References in this Act to a “high-risk reservoir” are references to a large raised reservoir that has been designated under section 2B as a high-risk reservoir.

2D Review

- (1) [F1The appropriate agency] must carry out a review if it thinks that—
 - (a) the designation of a large raised reservoir as a high-risk reservoir may have ceased to be appropriate, or
 - (b) it may be appropriate to designate a large raised reservoir as a high-risk reservoir.
- (2) Sections 2A to 2C apply following a review as they apply following the registration of a reservoir.

2E Appeals

- (1) The Minister must by regulations provide a right of appeal against designations under section 2B.
- (2) The regulations must—
 - (a) confer jurisdiction on the Minister, a court or a tribunal, and
 - (b) make provision about procedure.
- (3) Where an appeal against a designation is brought—
 - (a) the designation is suspended while the appeal is pending;
 - (b) the person or body hearing the appeal may cancel the designation.”

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Textual Amendments

- F1** Words in Sch. 4 para. 7 substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\)](#), art. 1(2), **Sch. 2 para. 468(2)(a)** (with Sch. 7)

Commencement Information

- I1** Sch. 4 para. 7 in force at 1.10.2011 for specified purposes by [S.I. 2011/2204](#), **art. 3(1)(e)**
- I2** Sch. 4 para. 7 in force at 30.7.2013 for E. so far as not already in force by [S.I. 2013/1590](#), **art. 3(b)**
- I3** [Sch. 4 para. 7](#) in force at 1.4.2016 for W. in so far as not already in force by [S.I. 2016/79](#), **art. 2(b)**

- 8 In section 7 (certificates of construction engineers) in subsection (5) after “a reservoir” insert “ which is designated, or in the opinion of the engineer is likely to be designated, as a high-risk reservoir ”.

Commencement Information

- I4** [Sch. 4 para. 8](#) in force at 30.7.2013 for E. by [S.I. 2013/1590](#), **art. 3(b)**
- I5** [Sch. 4 para. 8](#) in force at 1.4.2016 for W. by [S.I. 2016/79](#), **art. 2(b)**

Changes to legislation:

There are currently no known outstanding effects for the Flood and Water Management Act 2010, Cross Heading: High-risk reservoirs.