

WATER ACT 2003

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3: Miscellaneous

Sections 66 to 69 Land drainage and flood defence 356.

Section 66: Revocation of local flood defence schemes.

This inserts a new section 18A into the Environment Act 1995 (which extends to the whole of Great Britain) to enable the Minister, by order made by statutory instrument, to revoke any local flood defence scheme and make provision for supplementary purposes. These include altering the number of members of the regional flood defence committee in whose area the local flood defence scheme was situated, and adjusting the members appointed by constituent councils to the regional committee.

357. Provisions in this section are devolved to the Assembly.

358.

Section 67: Membership of regional flood defence committees in Wales.

This section inserts new sections 16A and 16B into the Environment Act 1995. New section 16A enables the National Assembly for Wales, by order made by statutory instrument, to make provision determining the total number of members, and the method of selection and appointment of the chairman and other members of Welsh regional flood defence committees, and to make provision for such supplementary purposes as the National Assembly for Wales considers appropriate. Where a Welsh Committee is not wholly in Wales then this power may only be exercised with the agreement of the Secretary of State. New section 16B disapplies the provisions of sections 15, 16 and 18A(3) of the Environment Act 1995 (which make provision as to the membership of regional flood defence committees) where an order under section 16A is in force. It also ensures, by modifying section 18 and Schedule 5 of the Act, that the composition of local and regional committees is not incompatible in such circumstances.

359.

Section 68: Regional flood defence communities.

This section amends paragraph 1 of Schedule 4 to the Environment Act 1995 to enable the relevant Minister to make orders which establish a new regional flood defence committee for such area as may be specified in the order, or to abolish a regional flood defence committee.

360. Taken together, sections 66 and 68 enable Ministers to abolish some or all of the present local flood defence committees in order to establish a single tier of regional flood defence committee in that region. Orders abolishing the local committees may adjust the membership of the “parent” regional flood defence committee. They also provide powers to create new and additional regional committees and abolish existing regional

*These notes refer to the Water Act 2003 (c.37)
which received Royal Assent on 20th November 2003*

committees. Paragraphs 2 to 6 of Schedule 4 to the 1995 Act set out the procedures for making orders under that Schedule, including those under the extended paragraph 1. These procedures are also being applied to orders under the new section 18A.

361. Provisions in this section are devolved to the Assembly, and the power to establish or abolish a regional flood defence committee, part but not all of which is in Wales, is exercisable by the Secretary of State and the Assembly acting jointly.

362.

Section 69: Grants for drainage works and flood warning systems.

Ministers currently make grants to the EA for drainage (which includes flood defence) and flood warning purposes under sections 147-149 of the WRA 1991. Those powers require each project to be approved individually; it is not open to Ministers to make block grants to the Agency for these purposes. A general power for Ministers to make grants to the Agency exists under section 47 of the Environment Act 1995 but the existence of the specific powers in sections 147-149 of the 1991 Act may give rise to uncertainty as to whether the general power is intended to be capable of being used to make block grants to the Agency for drainage or flood warning purposes. This section therefore repeals sections 147-149 so as to remove any doubt that drainage and flood warning grants to the Agency may be paid under section 47 of 1995 Act (with the agreement of the Treasury). The section makes consequential amendments to sections 165(4), 166(4) and 221(1) of the WRA which refer to the repealed provisions. The Land Drainage (Grants) Regulations 1967 will automatically lapse with the repeal of these sections.

363. Provisions in this section are devolved to the Assembly.