



# 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.

#### **Modifications etc. (not altering text)**

- C1** Ss. 1-3 applied by 2005 c. 5, s. 86B(4) (as inserted (with effect in accordance with Sch. 5 para. 9 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 5 para. 1](#))

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#### **Commencement Information**

- I1** S. 1 in force at 1.9.2010 for specified purposes by [S.I. 2010/2169, art. 3\(2\)\(a\)](#)  
**I2** S. 1 in force at 1.10.2010 in so far as not already in force by [S.I. 2010/2169, art. 4, Sch.](#)

## **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).

#### **Modifications etc. (not altering text)**

- C1** Ss. 1-3 applied by 2005 c. 5, s. 86B(4) (as inserted (with effect in accordance with Sch. 5 para. 9 of the amending Act) by [Finance Act 2015 \(c. 11\), Sch. 5 para. 1](#))

#### **Commencement Information**

- I3** S. 2 in force at 1.9.2010 for specified purposes by [S.I. 2010/2169, art. 3\(2\)\(b\)](#)  
**I4** S. 2 in force at 1.10.2010 in so far as not already in force by [S.I. 2010/2169, art. 4, Sch.](#)

## **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—

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- (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).

**Modifications etc. (not altering text)**

- C1** Ss. 1-3 applied by 2005 c. 5, s. 86B(4) (as inserted (with effect in accordance with Sch. 5 para. 9 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 5 para. 1](#))

**Commencement Information**

- I5** S. 3 in force at 1.9.2010 for specified purposes by [S.I. 2010/2169](#), [art. 3\(2\)\(c\)](#)  
**I6** S. 3 in force at 1.10.2010 in so far as not already in force by [S.I. 2010/2169](#), [art. 4](#), [Sch.](#)

#### 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.

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**Commencement Information**

- I7** S. 4 in force at 1.9.2010 for specified purposes by [S.I. 2010/2169](#), [art. 3\(1\)](#)  
**I8** S. 4 in force at 1.10.2010 in so far as not already in force by [S.I. 2010/2169](#), [art. 4](#), [Sch.](#)

**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.

**Commencement Information**

- I9** S. 5 in force at 1.10.2010 by [S.I. 2010/2169](#), [art. 4](#), [Sch.](#)

**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.
- (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.

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- (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 <sup>F1</sup>... —
- (a) [<sup>F2</sup>a company which holds] an appointment under Chapter 1 of Part 2 of the Water Industry Act 1991, or
  - (b) [<sup>F3</sup>a person who holds] 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,
  - [<sup>F4</sup>(aa) the Natural Resources Body for Wales,]
  - (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) [<sup>F5</sup>the Natural Resources Body for Wales],
  - (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.
- [<sup>F6</sup>(17) “Wales” has the meaning given by section 158 of the Government of Wales Act 2006.]

#### Textual Amendments

**F1** Words in s. 6(11) repealed (1.4.2016) by [Water Act 2014 \(c. 21\)](#), s. 94(3), [Sch. 7 para. 144\(a\)](#); S.I. 2016/465, art. 2(m), [Sch. 1 para. 1\(ff\)](#) (with Sch. 2)

**F2** Words in s. 6(11)(a) inserted (1.4.2016) by [Water Act 2014 \(c. 21\)](#), s. 94(3), [Sch. 7 para. 144\(b\)](#); S.I. 2016/465, art. 2(m), [Sch. 1 para. 1\(ff\)](#) (with Sch. 2)

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- F3** Words in s. 6(11)(b) inserted (1.4.2016) by Water Act 2014 (c. 21), s. 94(3), **Sch. 7 para. 144(c)**; S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(ff)** (with Sch. 2)
- F4** S. 6(13)(aa) inserted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 452(2)** (with Sch. 7)
- F5** Words in s. 6(15)(a) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 452(3)** (with Sch. 7)
- F6** S. 6(17) inserted (14.7.2017) by Environment (Wales) Act 2016 (anaw 3), s. 88(3)(c), **Sch. 2 para. 25(2)**; S.I. 2017/714, art. 2

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#### **Commencement Information**

- I10** S. 6 in force at 1.9.2010 for specified purposes by S.I. 2010/2169, **art. 3(2)(d)**
- I11** S. 6 in force at 1.10.2010 in so far as not already in force by S.I. 2010/2169, art. 4, **Sch.**

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