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STATUTORY INSTRUMENTS

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**2009 No. 3042**

**ENVIRONMENTAL PROTECTION**

**The Flood Risk Regulations 2009**

*Made* - - - - 13th November 2009

*Laid before Parliament* 19th November 2009

*Coming into force* - - 10th December 2009

The Secretary of State is designated <sup>F1</sup> for the purposes of section 2(2) of the European Communities Act 1972 <sup>F2</sup> in relation to the environment.

The Secretary of State makes the following Regulations under the powers conferred by that section.

**F1** See the European Communities (Designation) Order 2008 (S.I. 2008/301).

**F2** 1972 c. 68.

**PART 1**

**GENERAL PROVISIONS**

**Citation, commencement and extent**

1.—(1) These regulations may be cited as the Flood Risk Regulations 2009.

(2) They come into force on 10th December 2009.

(3) A duty imposed under these regulations to prepare or publish a document may be satisfied by having prepared or published a document before [<sup>F3</sup>22nd December 2010].

(4) Subject to paragraph (5) these regulations extend to England and Wales only.

(5) This regulation and [<sup>F4</sup>regulations 14A, 17A, 37, 38 and 39] also extend to Scotland.

**F3** Words in reg. 1(3) substituted (W.) (22.12.2011) by [The Flood Risk \(Amendment\) \(Wales\) Regulations 2011 \(S.I. 2011/2880\)](#), regs. 1, **2(2)**

**F4** Words in reg. 1(5) substituted (30.4.2010) by [The Flood Risk \(Cross Border Areas\) Regulations 2010 \(S.I. 2010/1102\)](#), regs. 1(2), **3**

## “Flood”

2.—(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 paragraph (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, or
- (e) any other event (or combination of events).

(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 <sup>M1</sup>).

### Marginal Citations

**M1** 1991 c. 56. Relevant amendments were made by section 101 of, and Schedule 8 to, the Water Act 2003.

## “Risk”

3. “Risk” means a risk in respect of an occurrence assessed and expressed (as for scientific and insurance purposes) as a combination of the probability of the occurrence with its potential consequences.

## “Main river” and “reservoir”

4.—(1) “Main river” has the meaning given by section 113 of the Water Resources Act 1991<sup>M2</sup>.

(2) <sup>M3</sup>[<sup>F5</sup>“Reservoir” means a large raised reservoir as defined by the Reservoirs Act 1975.]

**F5** Reg. 4(2) substituted (W.) (22.12.2011) by [The Flood Risk \(Amendment\) \(Wales\) Regulations 2011 \(S.I. 2011/2880\)](#), regs. 1, 2(3)

### Marginal Citations

**M2** 1991 c. 57.

**M3** 1975 c. 23.

## [<sup>F6</sup>“River basin district”

5. “River basin district” means—

- (a) a river basin district (within the meaning of regulation 2 of the Water Environment Regulations) which is entirely within England and Wales,
- (b) the Northumbria River Basin District referred to in regulation 37, and
- (c) an area so identified on the Cross Border Map consisting of either—

- (i) a river basin in England, or
- (ii) an English cross border area.

**F6** Regs. 5-5B substituted for reg. 5 (30.4.2010) by [The Flood Risk \(Cross Border Areas\) Regulations 2010 \(S.I. 2010/1102\)](#), regs. 1(2), 4

#### **“Cross border areas”**

**5A.**—(1) “English cross border area” means an area so identified on the Cross Border Map consisting, in relation to a river basin which is partly in England and partly in Scotland, of the part of that basin which is in England.

(2) “Scottish cross border area” has the same meaning as in the Scottish Act.

**F6** Regs. 5-5B substituted for reg. 5 (30.4.2010) by [The Flood Risk \(Cross Border Areas\) Regulations 2010 \(S.I. 2010/1102\)](#), regs. 1(2), 4

#### **“Cross Border Map”**

**5B.** “Cross Border Map” means the map which is—

- (a) recorded electronically,
- (b) entitled “Cross Border River Basins Map (England and Scotland) 2010”, and
- (c) deposited in the principal library of the Department for Environment, Food and Rural Affairs.]

**F6** Regs. 5-5B substituted for reg. 5 (30.4.2010) by [The Flood Risk \(Cross Border Areas\) Regulations 2010 \(S.I. 2010/1102\)](#), regs. 1(2), 4

#### **“Minister”**

**6.**—(1) “The Minister” means—

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

(2) For the purposes of anything done in relation to a river basin district which includes land in England and land in Wales, a reference to the Minister is a reference to the Secretary of State and the Welsh Ministers acting jointly.

#### **“Lead local flood authority”**

**7.**—(1) “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.

(2) “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.
- (3) “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.

### “Water Environment Regulations”

**8.** “Water Environment Regulations” means [<sup>F7</sup>the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017].

**F7** Words in reg. 8 substituted (10.4.2017) by [The Water Environment \(Water Framework Directive\) \(England and Wales\) Regulations 2017 \(S.I. 2017/407\)](#), reg. 1(a), **Sch. 4 para. 2(2)** (with reg. 1(c))

### [<sup>F8</sup>“River basin management plan”

**8A.** “River basin management plan” [<sup>F9</sup>has the same meaning as in the Water Environment Regulations].

**F8** Regs. 8A, 8B inserted (30.4.2010) by [The Flood Risk \(Cross Border Areas\) Regulations 2010 \(S.I. 2010/1102\)](#), regs. 1(2), **5**

**F9** Words in reg. 8A substituted (10.4.2017) by [The Water Environment \(Water Framework Directive\) \(England and Wales\) Regulations 2017 \(S.I. 2017/407\)](#), reg. 1(a), **Sch. 4 para. 2(3)** (with reg. 1(c))

### “Scottish Act”

**8B.** “The Scottish Act” means the Flood Risk Management (Scotland) Act 2009.]

**F8** Regs. 8A, 8B inserted (30.4.2010) by [The Flood Risk \(Cross Border Areas\) Regulations 2010 \(S.I. 2010/1102\)](#), regs. 1(2), **5**

### [<sup>F10</sup>“Appropriate agency”

**8C** The “appropriate agency” means—

- (a) in relation to a river basin district that is wholly in Wales, the Natural Resources Body for Wales;
- (b) in relation to a river basin district that is partly in Wales and partly in England, the Natural Resources Body for Wales and the Environment Agency acting jointly;
- (c) in relation to any other river basin district, the Environment Agency.]

**F10** Reg. 8C inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 332** (with Sch. 7)

## PART 2

### PRELIMINARY FLOOD RISK ASSESSMENTS

#### **Duty to prepare preliminary assessment maps and reports: [F11 appropriate agency]**

- 9.—(1) The [F12 appropriate agency] must prepare in relation to each river basin district—
- (a) a preliminary assessment map, and
  - (b) a preliminary assessment report in relation to flooding from—
    - (i) the sea,
    - (ii) main rivers, and
    - (iii) reservoirs.
- (2) This regulation is subject to regulations 31 and 32.

**F11** Words in reg. 9 heading substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 4 para. 333](#) (with Sch. 7)

**F12** Words in reg. 9(1) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 4 para. 333](#) (with Sch. 7)

#### **Duty to prepare preliminary assessment reports: lead local flood authorities**

10.—(1) A lead local flood authority must prepare a preliminary assessment report in relation to flooding in its area.

(2) A lead local authority is not required to include in its report information about flooding from a source mentioned in regulation 9(1)(b) unless the authority thinks that it may affect flooding from another source.

- (3) The [F13 appropriate agency]—
- (a) must review a preliminary assessment report prepared under this regulation, and
  - (b) may recommend modifications.
- (4) Following a review, a lead local flood authority may revise its preliminary assessment report.
- (5) [F14 The Environment Agency's] power to require information under regulation 36 includes power to require a lead local flood authority [F15 for an area in England] to provide a preliminary assessment report by a specified date.
- [F16(5A) The power of the Natural Resources Body for Wales to require information under regulation 36 includes power to require a lead local flood authority for an area in Wales to provide a preliminary assessment report by a specified date.]
- (6) This regulation is subject to regulations 33 and 34.

**F13** Words in [reg. 10\(3\)](#) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 4 para. 334\(2\)](#) (with Sch. 7)

**F14** Words in [reg. 10\(5\)](#) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 4 para. 334\(3\)\(a\)](#) (with Sch. 7)

**F15** Words in [reg. 10\(5\)](#) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 4 para. 334\(3\)\(b\)](#) (with Sch. 7)

**F16** [Reg. 10\(5A\)](#) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 4 para. 334\(4\)](#) (with Sch. 7)

### Preliminary assessment maps

- 11.**—(1) A preliminary assessment map is a map of the river basin district showing—
- (a) the borders of each river basin and each river sub-basin in the area,
  - (b) any areas of coastline,
  - (c) topography, and
  - (d) the purposes for which the land in the area is used.
- (2) The map must be based on all of the following—
- (a) relevant information which is in the possession of the Environment Agency [<sup>F17</sup>or the Natural Resources Body for Wales];
  - (b) relevant information which is in the possession of an authority listed in regulation 36(3);
  - (c) relevant information which is available to the public.

**F17** Words in [reg. 11\(2\)\(a\)](#) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 4 para. 335](#) (with [Sch. 7](#))

### Preliminary assessment reports

- 12.**—(1) A preliminary assessment report is a report about—
- (a) past floods, and
  - (b) the possible harmful consequences of future floods.
- (2) The report must be based on all of the following—
- (a) relevant information which is in the possession of the person preparing the report;
  - (b) relevant information which is in the possession of the Environment Agency [<sup>F18</sup>or the Natural Resources Body for Wales];
  - (c) relevant information which is in the possession of an authority listed in regulation 36(3);
  - (d) relevant information which is available to the public.
- (3) The floods to be included under paragraph (1)(a) are those—
- (a) which had significant harmful consequences for—
    - (i) human health,
    - (ii) economic activity, or
    - (iii) the environment (including cultural heritage), or
  - (b) which would have significant harmful consequences for those matters if they were to occur now.
- (4) But the report may ignore past floods of a kind that are not likely to occur now.
- (5) The report must include—
- (a) any information that the person making the report has about the extent and the conveyance route of past floods, and
  - (b) an assessment of the harmful consequences of past floods.
- (6) The assessment of possible consequences of future floods for the purposes of paragraph (1)(b) must take account of—
- (a) topography,
  - (b) the location of watercourses,

- (c) the location of flood plains that retain flood water,
- (d) the characteristics of watercourses,
- (e) the effectiveness of any works constructed for the purpose of flood risk management,
- (f) the location of populated areas,
- (g) the areas in which economic activity is concentrated, and
- (h) the current and predicted impact of climate change and any other long term developments.

(7) A lead local flood authority must have regard to any guidance issued by the [<sup>F19</sup>appropriate agency][<sup>F20</sup>or, in relation to an English cross border area the Environment Agency and the Scottish Environment Protection Agency acting jointly,] about the form of a preliminary assessment report.

- F18** Words in reg. 12(2)(b) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 336(2)** (with Sch. 7)
- F19** Words in reg. 12(7) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 336(3)** (with Sch. 7)
- F20** Words in reg. 12(7) inserted (30.4.2010) by [The Flood Risk \(Cross Border Areas\) Regulations 2010 \(S.I. 2010/1102\)](#), regs. 1(2), **6**

#### **Duty to identify flood risk areas: [<sup>F21</sup>appropriate agency]**

**13.**—(1) The [<sup>F22</sup>appropriate agency] must—

- (a) determine in relation to each river basin district whether, in its opinion, there is a significant flood risk from—
  - (i) the sea,
  - (ii) main rivers, and
  - (iii) reservoirs, and
- (b) identify the part of the river basin district affected by that risk (the “flood risk area”).

(2) The [<sup>F23</sup>appropriate agency] may have regard to any guidance issued by the Minister about the criteria for assessing whether a risk of flooding is significant.

(3) This regulation is subject to regulation 32.

[<sup>F24</sup>(4) This regulation does not apply in relation to an English cross border area.]

- F21** Words in reg. 13 heading substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 337(4)** (with Sch. 7)
- F22** Words in reg. 13(1) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 337(2)** (with Sch. 7)
- F23** Words in reg. 13(2) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 337(3)** (with Sch. 7)
- F24** Reg. 13(4) inserted (30.4.2010) by [The Flood Risk \(Cross Border Areas\) Regulations 2010 \(S.I. 2010/1102\)](#), regs. 1(2), **7**

#### **Duty to identify flood risk areas: lead local flood authorities**

**14.**—(1) A lead local flood authority must—

- (a) determine whether, in its opinion, there is a significant flood risk in its area, and
- (b) identify the part of the area affected by the risk (the “flood risk area”).

(2) In making a determination under paragraph (1)(a), a lead local authority is not required to take into account flooding from a source mentioned in regulation 13(1)(a) unless the authority thinks that it may affect flooding from another source.

(3) The authority may have regard to any guidance issued by the Minister about the criteria for assessing whether a risk of flooding is significant.

(4) The [<sup>F25</sup>appropriate agency]—

- (a) must review the determination and identification of flood risk areas under paragraph (1), and
- (b) may recommend that the lead local flood authority identifies—
  - (i) a different flood risk area,
  - (ii) an additional flood risk area, or
  - (iii) no flood risk area.

(5) If the lead local flood authority disagrees with a recommendation of the [<sup>F26</sup>appropriate agency], the matter must be referred to the Minister.

(6) On a referral the Minister must determine the flood risk area (if any) for which the lead local authority must prepare a flood hazard map and a flood risk map under regulation 19.

(7) In making a determination under paragraph (6) the Minister must have regard to the cumulative effect of the risk of flooding identified by the [<sup>F27</sup>appropriate agency] and the lead local flood authority.

(8) [<sup>F28</sup>The Environment Agency's] power to require information under regulation 36 includes power to require a lead local authority [<sup>F29</sup>for an area in England] to notify the Agency of its determination and identification of a flood risk area by a specified date.

[<sup>F30</sup>(8A) The power of the Natural Resources Body for Wales to require information under regulation 36 includes power to require a lead local flood authority for an area in Wales to notify the Body of its determination and identification of a flood risk area by a specified date.]

(9) This regulation is subject to regulation 34.

[<sup>F31</sup>(10) This regulation does not apply in relation to an English cross border area.]

- F25** Words in [reg. 14\(4\)](#) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), [art. 1\(2\)](#), [Sch. 4 para. 338\(2\)](#) (with Sch. 7)
- F26** Words in [reg. 14\(5\)](#) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), [art. 1\(2\)](#), [Sch. 4 para. 338\(3\)](#) (with Sch. 7)
- F27** Words in [reg. 14\(7\)](#) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), [art. 1\(2\)](#), [Sch. 4 para. 338\(3\)](#) (with Sch. 7)
- F28** Words in [reg. 14\(8\)](#) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), [art. 1\(2\)](#), [Sch. 4 para. 338\(4\)\(a\)](#) (with Sch. 7)
- F29** Words in [reg. 14\(8\)](#) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), [art. 1\(2\)](#), [Sch. 4 para. 338\(4\)\(b\)](#) (with Sch. 7)
- F30** [Reg. 14\(8A\)](#) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), [art. 1\(2\)](#), [Sch. 4 para. 338\(5\)](#) (with Sch. 7)
- F31** [Reg. 14\(10\)](#) inserted (30.4.2010) by [The Flood Risk \(Cross Border Areas\) Regulations 2010 \(S.I. 2010/1102\)](#), [regs. 1\(2\)](#), [8](#)

### [<sup>F32</sup>Duty to identify flood risk areas: English cross border areas

**14A.** The Secretary of State and the Scottish Ministers acting jointly must—



- (a) determine in relation to each English cross border area whether, in their opinion, there is a significant flood risk, and
- (b) identify the part of the English cross border area affected by that risk (the “flood risk area”).]

**F32** Reg. 14A inserted (30.4.2010) by [The Flood Risk \(Cross Border Areas\) Regulations 2010 \(S.I. 2010/1102\)](#), regs. 1(2), **9**

## Publication

**15.—**(1) The [<sup>F33</sup>appropriate agency] must publish—

- (a) the preliminary assessment maps for each river basin district, and
- (b) the preliminary assessment reports prepared by the [<sup>F34</sup>appropriate agency] and by the lead local flood authorities for each river basin district.

(2) The first preliminary assessment maps and the first preliminary assessment reports for each river basin district must be published before 22nd December 2011.

[<sup>F35</sup>(3) In relation to an English cross border area, this regulation applies as if the reference to preliminary assessment maps and preliminary assessment reports includes the flood risk assessment prepared by SEPA under section 9 of the Scottish Act for an adjacent Scottish cross border area.]

- F33** Words in [reg. 15\(1\)](#) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 4 para. 339\(2\)](#) (with [Sch. 7](#))
- F34** Words in [reg. 15\(1\)\(b\)](#) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 4 para. 339\(3\)](#) (with [Sch. 7](#))
- F35** Reg. 15(3) inserted (30.4.2010) by [The Flood Risk \(Cross Border Areas\) Regulations 2010 \(S.I. 2010/1102\)](#), regs. 1(2), **10**

## Review: [<sup>F36</sup>appropriate agency]

**16.—**(1) The [<sup>F36</sup>appropriate agency] must review—

- (a) the preliminary assessment maps and the preliminary assessment reports prepared by it under regulation 9, and
- (b) its determination and identification of flood risk areas under regulation 13.

(2) Following a review, the [<sup>F36</sup>appropriate agency] may prepare a revised preliminary assessment map or report.

(3) The first review must be completed before 22nd December 2017.

(4) Subsequent reviews must be carried out at intervals of no more than 6 years.

**F36** Words in [reg. 16](#) and heading substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 4 para. 340](#) (with [Sch. 7](#))

## Review: lead local flood authorities

**17.—**(1) A lead local flood authority must review—

- (a) the preliminary assessment report prepared by it under regulation 10, and
- (b) its determination and identification of flood risk areas under regulation 14.

(2) Following a review, a lead local authority may prepare a revised preliminary assessment report.

(3) The first review must be completed before 22nd June 2017.

(4) Subsequent reviews must be carried out at intervals of no more than 6 years.

(5) Regulation 10 applies in relation to a review of a preliminary assessment report as it applies to the first report.

(6) Regulation 14 applies in relation to a review of a determination and identification of flood risk areas as it applies in relation to the first determination or identification of flood risk areas.

### **[<sup>F37</sup>Review: Secretary of State and Scottish Ministers**

**17A.**—(1) The Secretary of State and Scottish Ministers acting jointly must review the determination and identification of flood risk areas under regulation 14A.

(2) The first review must be completed before 22nd December 2017.

(3) Subsequent reviews must be carried out at intervals of not more than 6 years.]

**F37** Reg. 17A inserted (30.4.2010) by [The Flood Risk \(Cross Border Areas\) Regulations 2010 \(S.I. 2010/1102\)](#), regs. 1(2), **11**

## **PART 3**

### **FLOOD HAZARD MAPS AND FLOOD RISK MAPS**

#### **Duty to prepare flood hazard maps and flood risk maps: [<sup>F38</sup>appropriate agency]**

**18.**—[<sup>F39</sup>(1)] The [<sup>F38</sup>appropriate agency] must prepare in relation to [<sup>F40</sup>each relevant flood risk area]—

(a) a flood hazard map relating to the risk of flooding from—

(i) the sea,

(ii) main rivers, and

(iii) reservoirs, and

(b) a flood risk map.

[<sup>F41</sup>(2) “Relevant flood risk area” means—

(a) a flood risk area identified by the [<sup>F38</sup>appropriate agency] under regulation 13, and

(b) a flood risk area in an English cross border area in which the Secretary of State and Scottish Ministers have identified (under regulation 14A) that there is a significant flood risk from—

(i) the sea,

(ii) main rivers, or

(iii) reservoirs.]

**F38** Words in reg. 18 and heading substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 340** (with Sch. 7)

**F39** Reg. 18(1): reg. 18 renumbered as reg. 18(1) (30.4.2010) by [The Flood Risk \(Cross Border Areas\) Regulations 2010 \(S.I. 2010/1102\)](#), regs. 1(2), **12**

- F40** Words in reg. 18(1) substituted (30.4.2010) by [The Flood Risk \(Cross Border Areas\) Regulations 2010 \(S.I. 2010/1102\)](#), regs. 1(2), **12(a)**
- F41** Reg. 18(2) inserted (30.4.2010) by [The Flood Risk \(Cross Border Areas\) Regulations 2010 \(S.I. 2010/1102\)](#), regs. 1(2), **12(b)**

### **Duty to prepare flood hazard maps and flood risk maps: lead local flood authorities**

- 19.**—(1) A lead local flood authority must prepare in relation to each relevant flood risk area—
- (a) a flood hazard map, and
  - (b) a flood risk map.
- (2) “Relevant flood risk area” means—
- (a) the flood risk area identified by the lead local flood authority under regulation 14(1),<sup>F42</sup>...
  - (b) if a referral is made to the Minister, the flood risk area determined by the Minister under regulation 14(6)[<sup>F43</sup>, or]
  - [<sup>F44</sup>(c) the flood risk area identified by the Secretary of State and the Scottish Ministers under regulation 14A, other than any mentioned in regulation 18(2)(b)].
- (3) A lead local authority is not required to include in the maps that it prepares information about flooding from a source mentioned in regulation 18(1)(a) unless the authority thinks that it may affect flooding from another source.
- (4) The [<sup>F45</sup>appropriate agency]—
- (a) must review flood hazard maps and flood risk maps prepared under this regulation, and
  - (b) may recommend modifications.
- (5) Following a review, a lead local flood authority may revise its flood hazard map or flood risk map.
- (6) [<sup>F46</sup>The Environment Agency's] power to require information under regulation 36 includes power to require a lead local flood authority [<sup>F47</sup>for an area in England] to provide a flood hazard map or a flood risk map by a specified date.
- [<sup>F48</sup>(7) The power of the Natural Resources Body for Wales to require information under regulation 36 includes power to require a lead local flood authority for an area in Wales to provide a flood hazard map or a flood risk map by a specified date.]

- F42** Word in reg. 19(2)(a) omitted (30.4.2010) by virtue of [The Flood Risk \(Cross Border Areas\) Regulations 2010 \(S.I. 2010/1102\)](#), regs. 1(2), **13(a)**
- F43** Word in reg. 19(2)(b) inserted (30.4.2010) by [The Flood Risk \(Cross Border Areas\) Regulations 2010 \(S.I. 2010/1102\)](#), regs. 1(2), **13(b)**
- F44** Reg. 19(2)(c) inserted (30.4.2010) by [The Flood Risk \(Cross Border Areas\) Regulations 2010 \(S.I. 2010/1102\)](#), regs. 1(2), **13(c)**
- F45** Words in reg. 19(4) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 341(2)** (with Sch. 7)
- F46** Words in reg. 19(6) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 341(3)(a)** (with Sch. 7)
- F47** Words in reg. 19(6) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 341(3)(b)** (with Sch. 7)
- F48** Reg. 19(7) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 341(4)** (with Sch. 7)

## Flood hazard maps

- 20.**—(1) A flood hazard map is a map which identifies flood risk areas and shows—
- (a) the likely extent (including water level or depth) of possible floods,
  - (b) the likely direction and speed of flow of possible floods, and
  - (c) whether the probability of each possible flood occurring is low, medium or high (in the opinion of the person preparing the map).
- (2) The floods to be included are those for which a significant flood risk has been identified under regulation 13 or 14.
- (3) But the following may be ignored—
- (a) a medium or high probability flood caused only by groundwater,
  - (b) a medium or high probability flood which would affect only an area of coastline that, in the opinion of the person preparing the map, is adequately protected against flooding.
- (4) In paragraph (3) “groundwater” means water which is below the surface of the ground and in direct contact with the ground or subsoil.
- (5) For the purposes of this regulation—
- (a) the probability of a flood occurring is low if the chances of it occurring in any 12 month period are 0.1% or less,
  - (b) the probability of a flood occurring is medium if the chances of it occurring in any 12 month period are more than 0.1% but not more than 1%, and
  - (c) the probability of a flood occurring is high if the chances of it occurring in any 12 month period are more than 1%.
- (6) The information included in a flood hazard map must not be inconsistent with the information included in the river basin management plan for the district.
- <sup>F49</sup>(7) .....
- (8) A lead local flood authority must have regard to any guidance issued by the [<sup>F50</sup>appropriate agency][<sup>F51</sup>or, in relation to an English cross border area the Environment Agency and the Scottish Environment Protection Agency acting jointly,] about the form of flood hazard maps.

**F49** Reg. 20(7) omitted (30.4.2010) by virtue of [The Flood Risk \(Cross Border Areas\) Regulations 2010](#) (S.I. 2010/1102), regs. 1(2), **14(a)**

**F50** Words in reg. 20(8) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013](#) (S.I. 2013/755), art. 1(2), **Sch. 4 para. 342** (with Sch. 7)

**F51** Words in reg. 20(8) inserted (30.4.2010) by [The Flood Risk \(Cross Border Areas\) Regulations 2010](#) (S.I. 2010/1102), regs. 1(2), **14(b)**

## Flood risk maps

- 21.**—(1) A flood risk map is a map showing in relation to each flood risk—
- (a) the number of people living in the area who are likely to be affected in the event of flooding,
  - (b) the type of economic activity likely to be affected in the event of flooding,
  - (c) any industrial activities in the area that may increase the risk of pollution in the event of flooding,
  - (d) any relevant protected areas that may be affected in the event of flooding,
  - (e) any areas of water subject to specified measures or protection for the purpose of maintaining the water quality that may be affected in the event of flooding, and

- (f) any other effect on—
- (i) human health,
  - (ii) economic activity, or
  - (iii) the environment (including cultural heritage).
- (2) “Relevant protected area” means an area—
- (a) that is a protected area within [<sup>F52</sup>regulation 10(2)(a) or 10(2)(b)(ii) or (iv)] of the Water Environment Regulations, and
  - (b) that is registered under [<sup>F53</sup>regulation 10(1)] of those regulations.
- (3) The information included in a flood risk map must not be inconsistent with the information included in the river basin management plan for the district.
- (4) A lead local flood authority must have regard to any guidance issued by the [<sup>F54</sup>appropriate agency][<sup>F55</sup>or, in relation to an English cross border area the Environment Agency and the Scottish Environment Protection Agency acting jointly,] about the form of flood risk maps.

- F52** Words in reg. 21(2)(a) substituted (10.4.2017) by [The Water Environment \(Water Framework Directive\) \(England and Wales\) Regulations 2017 \(S.I. 2017/407\)](#), reg. 1(a), **Sch. 4 para. 2(4)(a)** (with reg. 1(c))
- F53** Words in reg. 21(2)(b) substituted (10.4.2017) by [The Water Environment \(Water Framework Directive\) \(England and Wales\) Regulations 2017 \(S.I. 2017/407\)](#), reg. 1(a), **Sch. 4 para. 2(4)(b)** (with reg. 1(c))
- F54** Words in reg. 21(4) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 343** (with Sch. 7)
- F55** Words in reg. 21(4) inserted (30.4.2010) by [The Flood Risk \(Cross Border Areas\) Regulations 2010 \(S.I. 2010/1102\)](#), regs. 1(2), **15**

## Publication

**22.—**(1) [<sup>F56</sup>The appropriate agency] must publish the flood hazard maps and flood risk maps prepared by [<sup>F56</sup>the appropriate agency] and the lead local flood authorities for each river basin district.

(2) The first flood hazard maps and the first flood risk maps for each river basin district must be published before 22nd December 2013.

[<sup>F57</sup>(3) In relation to an English cross border area, this regulation applies as if the reference to flood hazard maps and flood risk maps includes the maps prepared by the Scottish Environment Protection Agency under section 21 of the Scottish Act for an adjacent Scottish cross border area.]

- F56** Words in [reg. 22](#) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 344** (with Sch. 7)
- F57** Reg. 22(3) inserted (30.4.2010) by [The Flood Risk \(Cross Border Areas\) Regulations 2010 \(S.I. 2010/1102\)](#), regs. 1(2), **16**

## [<sup>F58</sup>Review: appropriate agency]

**23.—**(1) The [<sup>F59</sup>appropriate agency] must review each flood hazard map and each flood risk map prepared by it under regulation 18.

(2) Following a review, the [<sup>F60</sup>appropriate agency] may prepare—

- (a) a revised flood hazard map;
- (b) a revised flood risk map.
- (3) The first review must be completed before 22nd December 2019.
- (4) Subsequent reviews must be carried out at intervals of no more than 6 years.
- (5) The [<sup>F61</sup>appropriate agency] must, so far as is reasonably practicable, co-ordinate a review under this regulation with a review of a river basin district under regulation 5(2) of the Water Environment Regulations.

- F58** Words in reg. 23 heading substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 345(4)** (with Sch. 7)
- F59** Words in reg. 23(1) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 345(2)** (with Sch. 7)
- F60** Words in reg. 23(2) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 345(3)** (with Sch. 7)
- F61** Words in reg. 23(5) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 345(3)** (with Sch. 7)

#### **Review: lead local flood authorities**

- 24.**—(1) A lead local flood authority must review each flood hazard map and each flood risk map prepared by it under regulation 19.
- (2) Following a review, a lead local flood authority may prepare—
- (a) a revised flood hazard map;
  - (b) a revised flood risk map.
- (3) The first review must be completed before 22nd June 2019.
- (4) Subsequent reviews must be carried out at intervals of no more than 6 years.
- (5) Regulation 19 applies in relation to a review of a flood hazard and flood risk map as it applies to the first such map.

## **PART 4**

### **FLOOD RISK MANAGEMENT PLANS**

#### **Duty to prepare flood risk management plans: [<sup>F62</sup>appropriate agency]**

**25.**—[<sup>F63</sup>(1)] The [<sup>F62</sup>appropriate agency] must prepare a flood risk management plan in relation to [<sup>F64</sup>each relevant flood risk area].

[<sup>F65</sup>(2) “Relevant flood risk area” means—

- (a) a flood risk area identified by the [<sup>F62</sup>appropriate agency] under regulation 13, and
- (b) a flood risk area in an English cross border area in which the Secretary of State and Scottish Ministers have identified (under regulation 14A) that there is a significant flood risk from—
  - (i) the sea,
  - (ii) main rivers, or
  - (iii) reservoirs.]

- F62** Words in reg. 25 and heading substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 346** (with Sch. 7)
- F63** Reg. 25(1): reg. 25 renumbered as reg. 25(1) (30.4.2010) by [The Flood Risk \(Cross Border Areas\) Regulations 2010 \(S.I. 2010/1102\)](#), regs. 1(2), **17**
- F64** Words in reg. 25(1) substituted (30.4.2010) by [The Flood Risk \(Cross Border Areas\) Regulations 2010 \(S.I. 2010/1102\)](#), regs. 1(2), **17(a)**
- F65** Reg. 25(2) inserted (30.4.2010) by [The Flood Risk \(Cross Border Areas\) Regulations 2010 \(S.I. 2010/1102\)](#), regs. 1(2), **17(b)**

### Duty to prepare flood risk management plans: lead local flood authorities

**26.—(1)** A lead local flood authority must prepare a flood risk management plan in relation to each relevant flood risk area.

(2) “Relevant flood risk area” means—

- (a) the flood risk area identified by the lead local flood authority under regulation 14(1), <sup>F66</sup>...
- (b) if a referral is made to the Minister, the flood risk area determined by the Minister under regulation 14(6)<sup>[F67]</sup>, or]
- <sup>[F68]</sup>(c) the flood risk area identified by the Secretary of State and the Scottish Ministers under regulation 14A, other than any mentioned in regulation 25(2)(b)].

(3) The <sup>[F69]</sup>appropriate agency]—

- (a) must review a flood risk management plan prepared under this regulation, and
- (b) may recommend modifications.

(4) Following a review, a lead local flood authority may revise its flood risk management plan.

(5) <sup>[F70]</sup>The Environment Agency's] power to require information under regulation 36 includes power to require a lead local flood authority <sup>[F71]</sup>for an area in England] to provide a flood risk management plan by a specified date.

<sup>[F72]</sup>(6) The power of the Natural Resources Body for Wales to require information under regulation 36 includes power to require a lead local flood authority for an area in Wales to provide a flood risk management plan by a specified date.]

- F66** Word in reg. 26(2)(a) omitted (30.4.2010) by virtue of [The Flood Risk \(Cross Border Areas\) Regulations 2010 \(S.I. 2010/1102\)](#), regs. 1(2), **18(a)**
- F67** Word in reg. 26(2)(b) inserted (30.4.2010) by [The Flood Risk \(Cross Border Areas\) Regulations 2010 \(S.I. 2010/1102\)](#), regs. 1(2), **18(b)**
- F68** Reg. 26(2)(c) inserted (30.4.2010) by [The Flood Risk \(Cross Border Areas\) Regulations 2010 \(S.I. 2010/1102\)](#), regs. 1(2), **18(c)**
- F69** Words in reg. 26(3) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 347(2)** (with Sch. 7)
- F70** Words in reg. 26(5) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 347(3)(a)** (with Sch. 7)
- F71** Words in reg. 26(5) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 347(3)(b)** (with Sch. 7)
- F72** Reg. 26(6) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 347(4)** (with Sch. 7)

### **Flood risk management plans**

- 27.—**(1) A flood risk management plan is a plan for the management of a significant flood risk.
- (2) The plan must include details of—
- (a) objectives set by the person preparing the plan for the purpose of managing the flood risk, and
  - (b) the proposed measures for achieving those objectives (including measures required by any provision of an Act or subordinate legislation).
- (3) In setting the objectives, the person preparing the plan must have regard to the desirability of—
- (a) reducing the adverse consequences of flooding for—
    - (i) human health,
    - (ii) economic activity, or
    - (iii) the environment (including cultural heritage), and
  - (b) reducing the likelihood of flooding, whether by exercising powers to carry out structural work or otherwise.
- (4) The measures must, in particular, include measures relating to—
- (a) the prevention of flooding,
  - (b) the protection of individuals, communities and the environment against the consequences of flooding, and
  - (c) arrangements for forecasting and warning.
- (5) In determining the proposed measures for achieving the objectives, the person preparing the plan must have regard to—
- (a) the costs and benefits of different methods of managing the flood risk,
  - (b) the information included in the flood hazard map and the flood risk map,
  - (c) the river basin management plan for the area,
  - (d) the effect of floodplains that retain flood water,
  - (e) the environmental objectives, within the meaning of regulation 2 of the Water Environment Regulations, and
  - (f) the likely effect of a flood, and of different methods of managing a flood, on the local area and the environment.
- (6) A flood risk management plan must include—
- (a) a map showing the boundaries of the flood risk area,
  - (b) a summary of the conclusions drawn from the flood hazard maps and flood risk maps for the area,
  - (c) a description of the proposed timing and manner of implementing the measures mentioned in paragraph (2)(b), including details of the bodies responsible for implementation,
  - (d) a description of the way in which implementation of those measures will be monitored,
  - (e) a report of the consultation under paragraph (7), and
  - (f) where the person preparing the report thinks it appropriate, information about how the implementation of measures under the flood risk management plan and the river basin management plan for the area will be co-ordinated.
- (7) The [<sup>F73</sup>appropriate agency] and each lead local flood authority must consult the following about the proposed content of a flood risk management plan—



- (a) authorities listed in regulation 36(3) that may be affected by the plan, and
  - (b) the public.
- (8) A lead local flood authority must have regard to any guidance issued by the [F74 appropriate agency] about the form of flood risk management plans.
- [F75(9) In relation to an English cross border area—
- (a) paragraph (7) applies as if the reference to the [F76 appropriate agency] is a reference to the Environment Agency and the Scottish Environment Protection Agency acting jointly, and
  - (b) paragraph (8) applies as if the reference to guidance issued by the [F77 appropriate agency] is a reference to guidance issued by the Environment Agency and the Scottish Environment Protection Agency acting jointly.]

- F73** Words in reg. 27(7) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 348(2)** (with Sch. 7)
- F74** Words in reg. 27(8) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 348(2)** (with Sch. 7)
- F75** Reg. 27(9) substituted (30.4.2010) by [The Flood Risk \(Cross Border Areas\) Regulations 2010 \(S.I. 2010/1102\)](#), regs. 1(2), **19**
- F76** Words in reg. 27(9)(a) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 348(3)** (with Sch. 7)
- F77** Words in reg. 27(9)(b) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 348(3)** (with Sch. 7)

## Publication

**28.—**(1) [F78 The appropriate agency] must publish the flood risk management plans prepared by [F78 the appropriate agency] and by the lead local flood authorities for each river basin district.

(2) The first flood risk management plans for each river basin district must be published before 22nd December 2015.

[F79(3) In relation to an English cross border area, this regulation applies as if the reference to flood risk management plans includes the plans produced by the Scottish Environment Protection Agency under section 27 of the Scottish Act for an adjacent Scottish cross border area.]

- F78** Words in reg. 28(1) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 349** (with Sch. 7)
- F79** Reg. 28(3) inserted (30.4.2010) by [The Flood Risk \(Cross Border Areas\) Regulations 2010 \(S.I. 2010/1102\)](#), regs. 1(2), **20**

## [F80 Review: appropriate agency]

**29.—**(1) The [F81 appropriate agency] must review each flood risk management plan prepared by it under regulation 25.

(2) The first review must be completed before 22nd December 2021.

(3) Subsequent reviews must be carried out at intervals of no more than 6 years.

(4) Following a review, the [F82 appropriate agency] must prepare a revised flood risk management plan.

(5) The revised flood risk management plan must—

- (a) take account of the likely impact of climate change on the occurrence of floods,
- (b) include an assessment of the progress made towards implementing the measures under regulation 27(2)(b), and
- (c) if any measures proposed in the previous flood risk management plan have not been implemented, include a statement of the reasons why those measures have not been implemented.

- F80** Words in reg. 29 heading substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 4 para. 350\(4\)](#) (with Sch. 7)
- F81** Words in reg. 29(1) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 4 para. 350\(2\)](#) (with Sch. 7)
- F82** Words in reg. 29(4) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 4 para. 350\(3\)](#) (with Sch. 7)

#### **Review: lead local flood authorities**

**30.**—(1) A lead local flood authority must review a flood risk management plan prepared by it under regulation 26.

(2) The first review must be completed before 22nd June 2021.

(3) Subsequent reviews must be carried out at intervals of no more than 6 years.

(4) Following a review, the lead local flood authority must prepare a revised flood risk management plan.

(5) The revised flood risk management plan must—

- (a) take account of the likely impact of climate change on the occurrence of floods,
- (b) include an assessment of the progress made towards implementing the measures under regulation 27(2)(b), and
- (c) if any measures proposed in the previous flood risk management plan have not been implemented, include a statement of the reasons why those measures have not been implemented.

(6) Regulation 26 applies in relation to a review of a flood risk management plan as it applies to the first such plan.

## **PART 5**

### **EXCEPTIONS**

#### **Preliminary flood risk assessments: Environment Agency**

**31.**—(1) Regulation 9(1)(b) does not apply to the Environment Agency in relation to a river basin district if before 22nd December 2010—

- (a) the Agency carries out an assessment (whether or not the assessment complies with the requirements of Part 2) of the flood risk in the district from—
  - (i) the sea,
  - (ii) main rivers, and
  - (iii) reservoirs, and

- (b) having regard to that assessment, the Agency considers that there is a significant flood risk in the district.
- (2) Where paragraph (1) applies—
  - (a) the Agency must prepare a preliminary assessment report for the river basin district before 22nd December 2017,
  - (b) the first review of the preliminary assessment report must be carried out no more than 6 years after the date on which the documents are published, and
  - (c) regulations 15(2) and 16(3) do not apply in relation to the first preliminary assessment report to be prepared by the Agency for the relevant river basin district.
- (3) This regulation ceases to apply in relation to a river basin district on completion of the first review of the preliminary assessment map prepared by the Agency for the area.

## **[<sup>F83</sup>Part 2: appropriate agency]**

**32.—**[<sup>F84</sup>(1) If the Environment Agency determines before 22nd December 2010 that it will prepare a flood hazard map, a flood risk map and a flood risk management plan for the whole of the river basin district then, in relation to that district—

- (a) regulations 9(1)(b), 13 and 16 do not apply to the [<sup>F85</sup>appropriate agency], and
- (b) regulation 14A does not apply insofar as it relates to the risk of flooding from sources mentioned in regulation 13(1)(a) (although the Secretary of State and Scottish Ministers may take those risks into account if they consider that such flooding may affect flooding from a source not mentioned in regulation 13(1)(a)).]
- (2) Where paragraph (1) applies, these regulations have effect with the following modifications—
  - (a) the reference in regulation 18 to each flood risk area identified by the [<sup>F86</sup>appropriate agency] is a reference to the river basin district,
  - (b) the reference in regulation 20(1) to flood risk areas is a reference to the river basin district,
  - (c) regulation 20(2) is omitted, and
  - (d) the reference in regulation 25 to each flood risk area identified by the [<sup>F86</sup>appropriate agency] is a reference to the river basin district.
- (3) Where paragraph (1) applies, the [<sup>F87</sup>appropriate agency] must review the decision whether—
  - (a) to prepare a new flood hazard map, flood risk map and flood risk management plan for the river basin district, or
  - (b) to prepare a preliminary assessment report for the district in accordance with Part 2 of these regulations.
- (4) The first review must be completed before 22nd December 2017.
- (5) Subsequent reviews must be carried out at intervals of no more than 6 years.
- (6) Where the [<sup>F88</sup>appropriate agency] prepares a preliminary assessment map and report following a review under this regulation—
  - (a) Part 2 (apart from regulations 15(2) and 16(3) insofar as they relate to the report to be prepared by the [<sup>F88</sup>appropriate agency]) shall apply to the [<sup>F88</sup>appropriate agency] in relation to the district (and this regulation shall cease to apply), <sup>F89</sup>...
  - [<sup>F90</sup>(b) if the district is an English cross border area, regulation 14A applies (to the extent that it was previously disapplied in relation to the district by paragraph (1)(b)), and]
  - [<sup>F91</sup>(c)] the first review of the preliminary assessment map and report under regulation 15 must be carried out no more than 6 years after the date on which the documents are published.

- F83** Words in reg. 32 heading substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 351(4)** (with Sch. 7)
- F84** Reg. 32(1) substituted (30.4.2010) by [The Flood Risk \(Cross Border Areas\) Regulations 2010 \(S.I. 2010/1102\)](#), regs. 1(2), **21(a)**
- F85** Words in reg. 32(1)(a) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 351(2)** (with Sch. 7)
- F86** Words in reg. 32(2) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 351(3)** (with Sch. 7)
- F87** Words in reg. 32(3) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 351(2)** (with Sch. 7)
- F88** Words in reg. 32(6) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 351(3)** (with Sch. 7)
- F89** Word in reg. 32(6)(a) omitted (30.4.2010) by virtue of [The Flood Risk \(Cross Border Areas\) Regulations 2010 \(S.I. 2010/1102\)](#), regs. 1(2), **21(b)**
- F90** Reg. 32(6)(b) inserted (30.4.2010) by [The Flood Risk \(Cross Border Areas\) Regulations 2010 \(S.I. 2010/1102\)](#), regs. 1(2), **21(c)**
- F91** Reg. 32(6)(c): reg. 32(6)(b) renumbered as reg. 32(6)(c) (30.4.2010) by [The Flood Risk \(Cross Border Areas\) Regulations 2010 \(S.I. 2010/1102\)](#), regs. 1(2), **21(d)**

### **Preliminary flood risk assessment: lead local flood authorities**

**33.—**(1) Regulation 10 does not apply to a lead local flood authority if before 22nd December 2010—

- (a) the authority carries out an assessment (whether or not the assessment complies with the requirements of Part 2) of the flood risk in its area, and
- (b) having regard to that assessment, the authority considers that there is a significant flood risk in the area.

(2) Where paragraph (1) applies—

- (a) the authority must prepare a preliminary assessment report for its area before 22nd June 2017,
- (b) the first review of the preliminary assessment report must be carried out no more than 6 years after the date on which the report is published, and
- (c) regulations 15(2) and 17(3) do not apply in relation to the first report prepared by the authority.

(3) This regulation ceases to apply in relation to a lead local flood authority on completion of the first review of the preliminary assessment report prepared by the authority.

### **Part 2: lead local flood authorities**

**34.—**<sup>F92</sup>(1) If a lead local authority determines before 22nd December 2010 that it will prepare a flood hazard map, a flood risk map and a flood risk management plan for the whole of its area then, in relation to that area—

- (a) Part 2 does not apply to the authority, and
- (b) regulation 14A does not apply in relation to the authority's area, except insofar as it relates to the risk of flooding from—
  - (i) the sea,
  - (ii) main rivers, and
  - (iii) reservoirs.]

- (2) Where paragraph (1) applies, these regulations have effect with the following modifications—
- (a) the reference in regulation 19(1) to a relevant flood risk area is a reference to the authority's area,
  - (b) the reference in regulation 20(1) to flood risk areas is a reference to the authority's area,
  - (c) regulation 20(2) is omitted, and
  - (d) the reference in regulation 26(1) to a relevant flood risk area is a reference to the authority's area.
- (3) Where paragraph (1) applies, the authority must review the decision whether—
- (a) to prepare a new flood hazard map, flood risk map and flood risk management plan for the whole of its area, or
  - (b) to prepare a preliminary assessment report in accordance with Part 2 of these regulations.
- (4) The first review must be completed before 22nd June 2017.
- (5) Subsequent reviews must be carried out at intervals of no more than 6 years.
- (6) If the authority prepares a preliminary assessment report following a review under this regulation—
- (a) Part 2, apart from regulations 15(2) and 17(3), shall apply in relation to the lead local flood authority (and this regulation shall cease to apply),
  - [<sup>F93</sup>(b) if the authority's area is wholly or partly within an English cross border area, regulation 14A applies in relation to that part of the authority's area (to the extent that it was previously disapplied in relation to the area by paragraph (1)(b)), and]
  - [<sup>F94</sup>(c)] the first review of the preliminary assessment report under regulation 17 must be carried out no more than 6 years after the date on which the report is published.

**F92** Reg. 34(1) substituted (30.4.2010) by [The Flood Risk \(Cross Border Areas\) Regulations 2010 \(S.I. 2010/1102\)](#), regs. 1(2), **22(a)**

**F93** Reg. 34(6)(b) inserted (30.4.2010) by [The Flood Risk \(Cross Border Areas\) Regulations 2010 \(S.I. 2010/1102\)](#), regs. 1(2), **22(b)**

**F94** Reg. 34(6)(c): reg. 34(6)(b) renumbered as reg. 34(6)(c) (30.4.2010) by [The Flood Risk \(Cross Border Areas\) Regulations 2010 \(S.I. 2010/1102\)](#), regs. 1(2), **22(c)**

## PART 6

### CO-OPERATION

#### Duty to co-operate

**35.—**(1) A relevant authority must co-operate with any other relevant authority which is exercising any function under these regulations.

(2) The following are “relevant authorities”—

- (a) the Environment Agency, <sup>F95</sup>...
- [<sup>F96</sup>(aa) the Natural Resources Body for Wales, and]
- (b) each lead local flood authority.

[<sup>F97</sup>(3) The Environment Agency and a lead local authority must—

- (a) co-operate with any Scottish flood authority for the purpose of assisting that authority to exercise its functions under the Scottish Act in relation to a Scottish cross border area, and
  - (b) co-ordinate the exercise of its functions which relate to an English cross border area with a Scottish flood authority so as to take into account the risk of flooding in an adjacent Scottish cross border area.
- (4) “Scottish flood authority” means—
- (a) the Scottish Environment Protection Agency, and
  - (b) a lead authority within the meaning of section 34 of the Scottish Act whose area falls wholly or partly in a Scottish cross border area.]

**F95** Word in reg. 35(2)(a) omitted (1.4.2013) by virtue of [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 352(2)** (with Sch. 7)

**F96** Reg. 35(2)(aa) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 352(3)** (with Sch. 7)

**F97** Reg. 35(3)(4) inserted (30.4.2010) by [The Flood Risk \(Cross Border Areas\) Regulations 2010 \(S.I. 2010/1102\)](#), regs. 1(2), **23**

### Power to require information

**36.**—(1) An authority listed in paragraph (3) must comply with any request of the Environment Agency [<sup>F98</sup>or the Natural Resources Body for Wales] to provide information which the Agency [<sup>F99</sup>or the Body] reasonably requires in connection with its functions under these regulations.

[<sup>F100</sup>(2) [<sup>F101</sup>An] authority listed in paragraph (3) must comply with a request of a lead local flood authority or the Minister to provide information reasonably required in connection with the exercise of functions under these regulations.]

(3) The authorities are—

- [<sup>F102</sup>(za) the Environment Agency,
- (zb) the Natural Resources Body for Wales,]
  - (a) a lead local flood authority,
  - (b) a district council for an area for which there is no unitary authority,
  - (c) an internal drainage board (within the meaning given by section 1 of the Land Drainage Act 1991 <sup>M4</sup>),
  - (d) a highway authority (within the meaning given by section 1 of the Highways Act 1980<sup>M5</sup>),
  - (e) a company which holds an appointment under Chapter 1 of Part 2 of the Water Industry Act 1991<sup>M6</sup> or [<sup>F103</sup>a person who holds] a licence under Chapter 1A of Part 2 of that Act,
  - (f) a reservoir undertaker (within the meaning given by section 1 of the Reservoirs Act 1975 <sup>M7</sup>),
  - (g) a navigation authority (within the meaning given by section 219 of the Water Industry Act 1991,
  - (h) a harbour authority (within the meaning given by section 313 of the Merchant Shipping Act 1995 <sup>M8</sup>),
  - (i) Natural England,
  - (j) the Historic Building and Monuments Commission for England,
  - <sup>F104</sup>(k) ..... and

- (l) the Welsh Ministers.
- (4) The information must be provided—
  - (a) in the form or manner specified in the request, and
  - (b) within the period specified in the request.

- F98** Words in reg. 36(1) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 353(2)(a)** (with Sch. 7)
- F99** Words in reg. 36(1) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 353(2)(b)** (with Sch. 7)
- F100** Reg. 36(2) substituted (W.) (22.12.2011) by [The Flood Risk \(Amendment\) \(Wales\) Regulations 2011 \(S.I. 2011/2880\)](#), regs. 1, **2(4)**
- F101** Word in reg. 36(2) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 353(3)** (with Sch. 7)
- F102** Reg. 36(3)(za)(zb) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 353(4)(a)** (with Sch. 7)
- F103** Words in reg. 36(3)(e) inserted (31.3.2017) by [The Water Act 2014 \(Consequential Amendments etc.\) Order 2017 \(S.I. 2017/506\)](#), arts. 1(1), **26**
- F104** Reg. 36(3)(k) omitted (1.4.2013) by virtue of [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 353(4)(b)** (with Sch. 7)

#### Marginal Citations

- M4** [1991 c.59](#).
- M5** [1980 c.66](#). Section 1 has been amended by section 8 of, and paragraph 1 of Schedule 4 to, the Local Government Act 1985, section 21(2) of the New Roads and Street Works Act 1991 and section 259 of the Greater London Authority Act 1999.
- M6** [1991 c. 56](#). Relevant amendments were made by the Competition and Service (Utilities) Act 1992 (sections 40 and 42 and schedule 1), the Competition Act 1998 (section 54 and 74 and schedule 10), the [Competition Act 1998 \(Competition Commission\) Transitional, Consequential and Supplemental Provisions Order 1999 \(S.I. 1999/506\)](#) (article 30), the [Water and Sewerage Undertakers \(Inset Appointments\) Regulations 2000 \(S.I. 2000/1842\)](#) (regulation 2), the Enterprise Act 2002 (sections 86, 164 and 278 and schedules 9 and 25), the [Enterprise Act 2002 \(Protection of Legitimate Interests\) Order 2003 \(S.I. 2003/1592\)](#) (article 16), and the Water Act 2003 (sections 11, 36, 53 to 56 and 101 and schedules 4, 8 and 9).
- M7** [1975 c. 23](#). Relevant amendments were made by section 190 of, and Schedule 25 to, the Water Act 1989 and regulation 2 of, and Schedule 2 to, the Environment Act 1995 ([Consequential Amendments Regulations 1996 \(S.I. 1996/593\)](#)).
- M8** [1995 c. 21](#). A relevant amendment was made by section 29 of, and Schedule 6 to, the Merchant Shipping and Maritime Security Act 1997.

## PART 7

### NORTHUMBRIA AND SOLWAY TWEED RIVER BASIN DISTRICTS

#### Northumbria River Basin District

**37.—**(1) These regulations apply in relation to the Northumbria River Basin District, including the part of the district that is in Scotland.

(2) Before exercising any function under these regulations in relation to the Northumbria River Basin District, a relevant authority must consult the Scottish Environment Protection Agency.

- (3) The following are “relevant authorities”—
- (a) the Environment Agency, and
  - (b) each lead local flood authority.
- (4) “Northumbria River Basin District” has the meaning given by regulation 2 of the Water Environment (Water Framework Directive) (Northumbria River Basin District) Regulations 2003<sup>M9</sup>.

#### Marginal Citations

**M9** [S.I. 2003/3245](#).

#### [<sup>F105</sup>Cross Border Advisory Group

**38.**—(1) The Secretary of State and Scottish Ministers must convene a Cross Border Advisory Group.

- (2) The Group is to consist of at least one individual nominated by each of the following—
- (a) the Environment Agency,
  - (b) each Regional Flood Defence Committee (established under section 14 of the Environment Act 1995) whose area includes all or part of an English cross border area,
  - (c) the lead local flood authority for each area which includes all or part of an English cross border area,
  - (d) the Scottish Environment Protection Agency,
  - (e) the district advisory group (established under section 49 of the Scottish Act) for each Scottish cross border area,
  - (f) the sub-district advisory group (established under section 50 of the Scottish Act) for each part of a Scottish cross border area,
  - (g) any other responsible authority within the meaning of the Scottish Act which has functions under that Act that relate to a Scottish cross border area, and
  - (h) any other organisation that the Secretary of State and Scottish Ministers acting jointly invite to make a nomination.

**F105** Regs. 38-40 substituted for reg. 38 (30.4.2010) by [The Flood Risk \(Cross Border Areas\) Regulations 2010 \(S.I. 2010/1102\)](#), regs. 1(2), **25**

#### Advice from the Cross Border Advisory Group

**39.**—(1) The Cross Border Advisory Group must advise the relevant authority on the manner in which it should exercise the functions contained in the following regulations insofar as they relate to an English cross border area—

- (a) regulation 9(1),
- (b) regulation 10,
- (c) regulation 14A,
- (d) regulation 16,
- (e) regulation 17,
- (f) regulation 17A,
- (g) regulation 18(1),



- (h) regulation 19,
- (i) regulation 23,
- (j) regulation 24,
- (k) regulation 25(1),
- (l) regulation 26,
- (m) regulation 29, and
- (n) regulation 30.

(2) The Cross Border Advisory Group must advise the relevant authority on the manner in which it should exercise the functions contained in the following provisions of the Scottish Act insofar they relate to a Scottish cross border area—

- (a) section 9(1),
- (b) section 10(1),
- (c) section 13(1),
- (d) section 14(1),
- (e) section 21(1),
- (f) section 24(1),
- (g) section 27(1),
- (h) section 33(1), and
- (i) section 34(1).

(3) The advice provided by the Cross Border Advisory Group must address the manner in which the relevant authorities should co-ordinate the exercise of their functions in relation to English cross border areas and Scottish cross border areas in order to ensure that the following are taken into account—

- (a) the impact on flood risk in an English cross border area of actions and inactions in an adjacent Scottish cross border area, and
- (b) the impact on flood risk in a Scottish cross border area of actions and inactions in an adjacent English cross border area.

<p><b>F105</b> Regs. 38-40 substituted for reg. 38 (30.4.2010) by <a href="#">The Flood Risk (Cross Border Areas) Regulations 2010 (S.I. 2010/1102)</a>, regs. 1(2), 25</p>
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### **Cross border areas: exercise of functions**

**40.** When exercising the functions listed in regulation 39(1) in relation to an English cross border area, the authority exercising the function must have regard to—

- (a) the impact on flood risk in the English cross border area of actions and inactions in an adjacent Scottish cross border area,
- (b) the impact on flood risk in an adjacent Scottish cross border area of actions and inactions in the English cross border area,
- (c) documents produced under Part 3 of the Scottish Act in relation to an adjacent Scottish cross border area, and
- (d) the advice given by the Cross Border Advisory Group under regulation 39.]

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**Changes to legislation:** There are currently no known outstanding effects  
for the The Flood Risk Regulations 2009. (See end of Document for details)

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**F105** Regs. 38-40 substituted for reg. 38 (30.4.2010) by [The Flood Risk \(Cross Border Areas\) Regulations 2010 \(S.I. 2010/1102\)](#), regs. 1(2), **25**

Department for Environment, Food and Rural  
Affairs

*Huw Irranca-Davies*  
Parliamentary Under Secretary of State

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations transpose Directive [2007/60/EC](#) of the European Parliament and of the Council on the assessment and management of flood risks for England and Wales.

Part 1 of the regulations is introductory.

Part 2 imposes duties on the Environment Agency and local authorities to prepare preliminary assessment reports about past floods in each river basin district, and the possible harmful consequences of future floods. The Environment Agency is also under a duty to prepare a preliminary assessment map of each river basin district. Following these assessments, the authorities must identify areas which are at significant risk of flooding. The assessments and decisions of areas at significant risk must be reviewed at least every 6 years.

Part 3 imposes a duty on the Environment Agency and local authorities to prepare flood risk maps and flood hazard maps for each area which has been identified as being at significant risk of flooding.

Part 4 imposes a duty on the Environment Agency and local authorities to prepare a flood risk management plan for each area which has been identified as being at significant risk of flooding. The plan must set objectives for the purpose of managing the flood risk and propose measures for achieving those objectives.

Part 5 provides some exceptions to these duties.

Part 6 imposes duties on the Environment Agency and relevant local authorities to co-operate with one another for the purpose of these regulations, and certain authorities to comply with requests to supply information those purposes.

Part 7 makes special provision for the two river basin districts which straddle the border between England and Scotland.

A full regulatory impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector, and a transposition note have been prepared and are available on the Defra website at [www.defra.gov.uk](http://www.defra.gov.uk).

**Changes to legislation:**

There are currently no known outstanding effects for the The Flood Risk Regulations 2009.