

# FLOOD AND WATER MANAGEMENT ACT 2010

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## EXPLANATORY NOTES

### COMMENTARY

#### **Part 1: Flood and Coastal Erosion Risk Management**

##### **Supplemental powers and duties**

##### *Section 18: Environment Agency: reports*

74. This section requires the Environment Agency to report about flood and coastal erosion risk management to the Minister (who may by way of regulations specify reporting times or intervals and the information which a report should contain). The report must include information about the application of the national flood and coastal erosion risk management strategies under sections 7 and 8.

##### *Section 19: Local authorities: investigations*

75. This section requires a lead local flood authority to investigate flooding incidents in its area which it becomes aware of, and to the extent that it considers necessary or appropriate. This is in order to: (a) identify which risk management authority has flood risk management functions in respect of the flooding; and (b) establish whether that authority has responded or is proposing to respond to the flood. The lead local flood authority must publish the results of any investigation and notify any relevant risk management authority of those results. While the management responsibility for a flood may be clear in many cases, there may be occasions where this is not so and the purpose of this provision is to require the lead local flood authority to investigate where appropriate, so as to try and ascertain where responsibility for managing the flood risk lies and what is being done about it.

##### *Section 20: Ministerial directions*

76. This section allows the Minister (the Secretary of State in England and the Welsh Ministers in Wales) to direct a risk management authority to exercise a flood or coastal erosion risk management function on behalf of another risk management authority (subsection (1)). The Secretary of State and the Welsh Ministers can act separately in respect of risk management authorities in England or Wales, or jointly in respect of a risk management authority that operates in both England and Wales.
77. A direction may only be given where the Minister is satisfied that the defaulting authority has failed to exercise the function either at all, or in a way that accords with national or local strategies issued under sections 7 to 10 (see subsection (2)).
78. The Minister has the power to include a provision in the direction as to the recovery of costs (see subsection (3)).
79. The Minister must send a copy of any direction to the authority concerned, and publish the direction (except where this might be contrary to the interests of national security) (subsections (4) and (5)).

***Section 21: Lead local authorities: duty to maintain a register***

80. This section requires lead local flood authorities to establish and maintain a register of structures, or features, which may significantly affect a flood risk in their area and also a record of information about such structures and features including ownership and state of repair. The Minister may make regulations about the content of the register and record and also describe information to be excluded from them (subsections (2) and (4)).
81. Subsection (3) provides that the register must be available for public inspection at all reasonable times. This requirement does not apply to the record which may contain personal or other confidential data. The method by which inspection of the register is provided is not specified in the legislation, and so a lead local flood authority will have discretion as to whether the register should, for instance be placed on its website or to provide access by some other means.