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STATUTORY INSTRUMENTS

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**2009 No. 3042**

**The Flood Risk Regulations 2009**

**PART 2**

**PRELIMINARY FLOOD RISK ASSESSMENTS**

**Duty to prepare preliminary assessment maps and reports: Environment Agency**

- 9.**—(1) The Environment 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.

**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 Environment 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) The Agency's power to require information under regulation 36 includes power to require a lead local flood authority to provide a preliminary assessment report by a specified date.
- (6) This regulation is subject to regulations 33 and 34.

**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;
- (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.

**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;
  - (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 Environment Agency about the form of a preliminary assessment report.

**Duty to identify flood risk areas: Environment Agency**

- 13.**—(1) The Environment 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 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.

#### **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 Environment 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 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 Agency and the lead local flood authority.
- (8) The Agency’s power to require information under regulation 36 includes power to require a lead local authority to notify the Agency of its determination and identification of a flood risk area by a specified date.
- (9) This regulation is subject to regulation 34.

#### **Publication**

- 15.**—(1) The Environment Agency must publish—
- (a) the preliminary assessment maps for each river basin district, and
  - (b) the preliminary assessment reports prepared by the 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.

**Review: Environment Agency**

16.—(1) The Environment 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 Environment 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.

**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.