
STATUTORY INSTRUMENTS

2011 No. 2855

The Incidental Flooding and Coastal
Erosion (England) Order 2011

Application of compulsory purchase provisions to section 38 of the 2010 Act

3.—(1) Subject to paragraphs (3) and (4), section 154 of the 1991 Act⁽¹⁾ applies for the purposes of section 38 of the 2010 Act as if the functions referred to in section 154(1) of the 1991 Act included functions under section 38 of the 2010 Act.

(2) Section 157 of the 1991 Act⁽²⁾ applies for the purposes of section 38 of the 2010 Act as if—

- (a) section 157(2)(b) were omitted;
- (b) the [^{F1}references in section 157(6)(a) and (7)(a)] to an order under section 168 were omitted; and
- (c) section 157(6)(c) to (e) [^{F2}and (7)(c)] were omitted.

(3) An authorisation to the Environment Agency [^{F3}or the Natural Resources Body for Wales] under section 154 of the 1991 Act as applied by paragraph (1) may be given only for the purposes of enabling [^{F4}compliance with the retained EU law which implemented] —

- (a) the Habitats Directive in relation to any necessary steps and measures under Article 6 of that Directive or policies under Article 10 of that Directive;
- (b) the Water Framework Directive in relation to any environmental objectives ; or
- (c) the Wild Birds Directive in relation to any necessary measures under Articles 2, 3 or 4 of that Directive.

(4) In this article—

[^{F5}(a) “environmental objectives”—

- (i) in relation to the Solway Tweed River Basin District, means the objectives as defined in regulation 2 of the Water Environment (Water Framework Directive) (Solway Tweed River Basin District) Regulations 2004;
- (ii) in relation to the Northumbria River Basin District, means the objectives referred to in the WFD Regulations as applied and modified by regulation 5 of the Water Environment (Water Framework Directive) (Northumbria River Basin District) Regulations 2003;
- (iii) in relation to any other river basin district, within the meaning of the WFD Regulations, has the same meaning as in those Regulations;]

(b) “the Habitats Directive” means Council Directive [92/43/EEC](#) on the conservation of natural habitats and of wild fauna and flora⁽³⁾[^{F6}, as last amended by Council Directive 2013/17/EU];

(1) Section 154 was amended by the Environment Act 1995 (c. 25), section 120 and Schedule 22, paragraphs 128 and 157.

(2) Section 157 was amended by the Environment Act 1995, section 120 and Schedule 22, paragraphs 128 and 159.

(3) OJ No L 206, 22.7.1992, p. 7, last amended by Council Directive [2006/105/EC](#) (OJ No L 363, 20.12.2006, p. 368).

- (c) “the Water Framework Directive” means Directive [2000/60/EC](#) of the European Parliament and of the Council establishing a framework for Community action in the field of water policy(4)^{F7}, as last amended by Commission Directive 2014/101/EU^{F8}...
- (d) “the Wild Birds Directive” means Directive [2009/147/EC](#) of the European Parliament and of the Council on the conservation of wild birds(5)^{F9}, as amended by Council Directive 2013/17/EU].
- [^{F10}(e) “the WFD Regulations” means the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017.]

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| F1 | Words in art. 3(2)(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. 414(2)(a) (with Sch. 7) |
| F2 | Words in art. 3(2)(c) inserted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755) , art. 1(2), Sch. 4 para. 414(2)(b) (with Sch. 7) |
| F3 | Words in art. 3(3) inserted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755) , art. 1(2), Sch. 4 para. 414(3) (with Sch. 7) |
| F4 | Words in art. 3(3) substituted (31.12.2020) by The Floods and Water (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/558) , regs. 1(1), 14(a) ; 2020 c. 1, Sch. 5 para. 1(1) |
| F5 | Art. 3(4)(a) substituted (31.12.2020) by The Floods and Water (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/558) , regs. 1(1), 14(b) ; 2020 c. 1, Sch. 5 para. 1(1) |
| F6 | Words in art. 3(4)(b) inserted (1.6.2018) by The Environment, Food and Rural Affairs (Miscellaneous Amendments) (England) Regulations 2018 (S.I. 2018/575) , regs. 1(2), 8(a) |
| F7 | Words in art. 3(4)(c) inserted (1.6.2018) by The Environment, Food and Rural Affairs (Miscellaneous Amendments) (England) Regulations 2018 (S.I. 2018/575) , regs. 1(2), 8(b) |
| F8 | Word in art. 3(4) omitted (1.6.2018) by virtue of The Environment, Food and Rural Affairs (Miscellaneous Amendments) (England) Regulations 2018 (S.I. 2018/575) , regs. 1(2), 8(c) |
| F9 | Words in art. 3(4)(d) inserted (1.6.2018) by The Environment, Food and Rural Affairs (Miscellaneous Amendments) (England) Regulations 2018 (S.I. 2018/575) , regs. 1(2), 8(d) |
| F10 | Art. 3(4)(e) inserted (31.12.2020) by The Floods and Water (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/558) , regs. 1(1), 14(c) ; 2020 c. 1, Sch. 5 para. 1(1) |

(4) OJ No L 327, 22.12.2000, p. 1, last amended by Directive [2009/31/EC](#) of the European Parliament and of the Council on the geological storage of carbon dioxide (OJ No L 140, 5.6.2009, p. 114).

(5) OJ No L 20, 26.1.2010, p. 7.

Changes to legislation:

There are currently no known outstanding effects for the The Incidental Flooding and Coastal Erosion (England) Order 2011, Section 3.