

Rivers Authorities and Land Drainage Bill

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Department for Environment, Food and Rural Affairs with the agreement of David Warburton, are published separately as Bill 172-EN.

Rivers Authorities and Land Drainage Bill

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TO

Make provision about rivers authorities; to make provision about the expenses of internal drainage boards; and for connected purposes.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Rivers authorities

1 Rivers authorities

- (1) The Flood and Water Management Act 2010 is amended in accordance with—
- (a) subsections (2) and (3), and
 - (b) Schedule 1. 5
- (2) In section 6 (other definitions) —
- (a) after subsection (6) insert —
 - “(6A) “Rivers authority” means a rivers authority established by regulations under section 21A(1).”,
 - (b) in subsection (13) (meaning of risk management authority) after paragraph (aa) insert —
 - “(ab) a rivers authority,”, and
 - (c) after subsection (15) insert —
 - “(15A) “Relevant risk management authority”, in relation to a rivers authority (or proposed rivers authority), means a risk management authority —
 - (a) for an area all or part of which falls within the area of the rivers authority (or proposed rivers authority), or
 - (b) which exercises functions in relation to the area of the rivers authority (or proposed rivers authority).” 10

- (3) After section 21 (and before the italic heading before section 22) insert –

“3A Rivers authorities

21A Power to establish rivers authority

- (1) The Secretary of State may by regulations establish a rivers authority as a body corporate. 5
- (2) A rivers authority has the functions conferred on such authorities by or under this Act or by or under any other enactment.
- (3) Regulations under subsection (1) must specify the area for which the rivers authority is established, and that area must meet the following conditions. 10
- (4) The first condition is that the area consists of the whole of one or more local government areas in England.
- (5) “Local government area” means the area of – 15
- (a) a county council,
 - (b) a district council,
 - (c) a London borough council,
 - (d) the Common Council of the City of London, or
 - (e) the Council of the Isles of Scilly.
- (6) The second condition is that no part of the area forms part of the area of another rivers authority. 20
- (7) Schedule A1 makes provision about the procedure to be followed before regulations are made under subsection (1).

21B Provision about initial period

- (1) If the Secretary of State makes regulations under section 21A(1) establishing a rivers authority, the Secretary of State may by regulations make provision about any of the following matters in relation to the initial period – 25
- (a) the composition of the rivers authority (including its members, staff, committees and sub-committees);
 - (b) the proceedings of the rivers authority; 30
 - (c) the functions of the rivers authority;
 - (d) the funding of the rivers authority.
- (2) The provision that may be made under subsection (1)(d) includes, in particular, provision for the rivers authority’s costs for the initial period to be met by one or more relevant risk management authorities. 35
- (3) Regulations under subsection (1) may provide –
- (a) for provision to which subsection (4) applies not to apply in relation to the rivers authority for the initial period;
 - (b) for such provision to apply with modifications in relation to the rivers authority for that period. 40
- (4) This subsection applies to provision which –
- (a) is made by or under this Act or any other Act, and

- (b) applies in relation to the rivers authority (or would apply in relation to the rivers authority in the absence of the regulations).
- (5) In this section “the initial period” means the period which—
 - (a) begins with the day on which the rivers authority is established, and
 - (b) ends with the following 31 March.

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21C Composition of rivers authority

- (1) The Secretary of State may by regulations make provision about the composition of a rivers authority, including provision—
 - (a) about the number of members of the authority; 10
 - (b) about eligibility for appointment as a member;
 - (c) about how or by whom members are to be appointed;
 - (d) about disqualification for being appointed as or continuing as a member;
 - (e) for the appointment of a member of the authority as its chair. 15
- (2) The Secretary of State may by regulations make provision about the payment of remuneration, expenses, allowances or gratuities to the chair of a rivers authority or its other members.
- (3) The Secretary of State may by regulations make provision about—
 - (a) the appointment of staff by a rivers authority; 20
 - (b) the payment of remuneration or expenses to the staff of the authority;
 - (c) the payment of pensions, allowances or gratuities to or in respect of persons who are or have been members of the authority’s staff; 25
 - (d) the payment of amounts towards provision for the payment of pensions, allowances or gratuities to or in respect of persons who are or have been members of the authority’s staff.
- (4) A rivers authority—
 - (a) must make arrangements for the proper administration of its financial affairs, and
 - (b) must secure that one of its members of staff has responsibility for the administration of those affairs. 30
- (5) Section 113 of the Local Government Finance Act 1988 applies to the person mentioned in subsection (4)(b) as it applies to the persons having responsibility for the administration of financial affairs mentioned in that section (and see further sections 114 to 116 of that Act on the other functions of that person). 35
- (6) Subsection (7) applies if the Secretary of State makes regulations under section 21A(1) establishing a rivers authority. 40
- (7) The Secretary of State must make regulations providing for the rivers authority to have a committee with sole responsibility for making the calculations in relation to the authority required by section 42A of the Local Government Finance Act 1992 (council tax requirement) for each financial year. 45
- (8) The Secretary of State may by regulations make—

- (a) further provision about the committee mentioned in subsection (7);
 - (b) provision for a rivers authority to have other committees;
 - (c) provision for a rivers authority to have sub-committees.
- (9) This includes provision – 5
- (a) about the composition of a committee or sub-committee;
 - (b) for a person who is not a member of the rivers authority to be a member of a committee or sub-committee of the authority;
 - (c) for a person who is not a member of a committee of a rivers authority to be a member of a sub-committee of the authority; 10
 - (d) about the rights of members of a committee or sub-committee to vote on questions which fall to be decided at meetings of the committee or sub-committee;
 - (e) about the functions of a committee or sub-committee.
- (10) The Secretary of State may by regulations make provision for the delegation of functions – 15
- (a) by a rivers authority to a member, committee, sub-committee or member of staff of the authority;
 - (b) by a committee of a rivers authority to a sub-committee of the authority. 20
- (11) “Financial year” means a period of 12 months beginning with 1 April.

21D Proceedings of rivers authority

- (1) The provisions of the Local Government Act 1972 mentioned in subsection (2) apply –
- (a) in relation to a rivers authority as they apply in relation to a principal council or a local authority, 25
 - (b) in relation to a committee of a rivers authority as they apply in relation to a committee of a principal council or a local authority, and
 - (c) in relation to a sub-committee of a rivers authority as they apply in relation to a sub-committee of a principal council or a local authority. 30
- (2) Those provisions are –
- (a) section 100A (admission to meetings of principal councils);
 - (b) section 100B (access to agenda and connected reports); 35
 - (c) section 100C (inspection of minutes and other documents after meetings);
 - (d) section 100D (inspection of background papers);
 - (e) section 100E (application to committees and sub-committees);
 - (f) section 100H (supplemental provisions and offences); 40
 - (g) section 100I (exempt information and power to vary Schedule 12A);
 - (h) section 100K (interpretation and application of Part 5A);
 - (i) section 104(1) (disqualification for membership of committees and joint committees); 45
 - (j) section 106 (standing orders relating to committees and sub-committees);

- (k) section 270(3) (proper officer of local authority), to the extent that it has effect for the purposes of any other provision mentioned in this subsection;
 - (l) paragraphs 39 to 45 of Schedule 12 (other provisions about meetings and proceedings of local authorities); 5
 - (m) Parts 1 to 3 of Schedule 12A (access to information: exempt information).
- (3) In its application in relation to a rivers authority by virtue of subsection (1), section 100E of the Local Government Act 1972 has effect as if subsection (3) were omitted. 10
 - (4) In its application in relation to a rivers authority by virtue of subsection (1), section 104(1) of the Local Government Act 1972 has effect as if –
 - (a) the reference to a person who is disqualified under Part 5 of that Act for being elected as or being a member of a local authority were a reference to a person who is disqualified under regulations under section 21C(1)(d) for being appointed as or continuing as a member of a rivers authority, and 15
 - (b) the reference to a committee appointed under Part 6 of that Act or another enactment were to a committee appointed under regulations under section 21C. 20
 - (5) The Secretary of State may by regulations make further provision about the proceedings of a rivers authority or any of its committees or sub-committees.

21E Main functions of rivers authority

- (1) A rivers authority must, before the beginning of each financial year, prepare and publish a plan of the activities proposed to be carried out in its area in the financial year by relevant risk management authorities in the exercise of their flood risk management functions. 25
- (2) Subsection (3) applies if, having prepared a plan under subsection (1) for a financial year, a rivers authority thinks that there are opportunities for cooperation between relevant risk management authorities in carrying on the activities identified in the plan. 30
- (3) The rivers authority may advise those authorities of those opportunities for cooperation.
- (4) In subsections (2) and (3) the references to opportunities for cooperation between relevant risk management authorities include in particular – 35
 - (a) the joint exercise of functions by those authorities, and
 - (b) the making of arrangements under section 13(4) for one of those authorities to carry on activities on behalf of another. 40
- (5) A rivers authority must, before the beginning of each financial year, consider whether there are any activities which –
 - (a) could be carried on in the rivers authority’s area in the financial year by a relevant risk management authority in the exercise of its flood risk management functions, 45
 - (b) are not proposed to be carried on in that financial year by that relevant risk management authority (or are only proposed to be

- carried on by that authority if funded in whole or in part under subsection (8)(a)), and
- (c) the rivers authority thinks should be carried on in that financial year.
- (6) If the rivers authority determines that, in relation to a financial year, there are no activities to which paragraphs (a) to (c) of subsection (5) apply, it must publish a statement to that effect together with the reasons for its determination. 5
- (7) If the rivers authority determines that, in relation to a financial year, there are activities to which paragraphs (a) to (c) of subsection (5) apply, it must prepare and publish a plan which – 10
- (a) identifies those activities, and
- (b) specifies whether and how the authority proposes to exercise its powers under subsection (8) in relation to those activities.
- (8) The rivers authority may do either or both of the following – 15
- (a) make payments to the relevant risk management authority to cover all or part of the costs of the activities;
- (b) carry on any of the activities itself on behalf of the relevant risk management authority, if an arrangement is made under section 13(4) with that authority for it to do so. 20
- (9) A statement under subsection (6) or a plan under subsection (7) must be published by the rivers authority as soon as reasonably practicable after the authority issues its precept for the financial year in accordance with section 40 of the Local Government Finance Act 1992 (issue of council tax precepts by major precepting authorities). 25
- (10) A plan or statement required by this section to be published by a rivers authority may be published by the authority in such manner as it thinks appropriate for bringing the plan or statement to the attention of persons who live in its area and other interested parties.
- (11) A rivers authority must notify each of the following as soon as reasonably practicable after publishing a plan or statement under this section – 30
- (a) the relevant risk management authorities;
- (b) Natural England;
- (c) the Secretary of State. 35

21F Incidental functions of rivers authority

- (1) A rivers authority may do anything that is calculated to facilitate, or is conducive or incidental to, the carrying out of its functions.
- (2) This includes in particular power to – 40
- (a) enter into contracts and other agreements;
- (b) acquire and dispose of property (including land).

21G National framework for rivers authority

- (1) The Secretary of State must prepare and publish a national framework for rivers authorities.
- (2) The framework – 45

- (a) must set out priorities and objectives for rivers authorities in connection with the exercise of their functions,
 - (b) may contain guidance to rivers authorities in connection with the exercise of any of their functions;
 - (c) may require rivers authorities to prepare statements or returns of a kind specified in the framework; 5
 - (d) may require rivers authorities to publish such statements or returns or to submit them to the Secretary of State in accordance with the framework;
 - (e) may contain any other matter relating to rivers authorities or their functions that the Secretary of State thinks appropriate. 10
- (3) The Secretary of State must keep the national framework for rivers authorities under review and may from time to time make revisions to it.
- (4) Rivers authorities must – 15
- (a) comply with any requirements or prohibitions contained in the framework, and
 - (b) otherwise have regard to the framework in exercising their functions.
- 21H Changes to rivers authority’s area** 20
- (1) The Secretary of State may by regulations change the boundaries of a rivers authority’s area by –
- (a) adding a local government area to an existing area of a rivers authority, or
 - (b) removing a local government area from an existing area of a rivers authority. 25
- (2) No part of the area created by regulations under subsection (1) may form part of the area of another rivers authority.
- (3) The Secretary of State may make regulations under subsection (1) only if – 30
- (a) a relevant risk management authority other than the rivers authority has submitted a proposal for the regulations to be made, or
 - (b) the Secretary of State thinks that it is necessary to do so in consequence of an order under Part 1 of the Local Government and Public Involvement in Health Act 2007. 35
- 21I Winding up of rivers authority**
- (1) The Secretary of State may by regulations make provision for the abolition of a rivers authority.
- (2) The provision that may be made by regulations under subsection (1) includes, in particular – 40
- (a) provision for the transfer of property, rights and liabilities of the rivers authority (including rights and liabilities under a contract of employment) to a specified person;
 - (b) provision about – 45
 - (i) the disposal of assets held by the rivers authority;

- (ii) the making, by the rivers authority or a specified person, of payments to persons who cease to be members of the rivers authority on its dissolution;
 - (iii) the termination of the contracts of employment of staff of the rivers authority and the payment of compensation for their loss of employment; 5
 - (iv) the treatment of any surplus funds of the rivers authority, including provisions for such funds to be paid to the Secretary of State.
- (3) The provision which may be made by virtue of subsection (2)(a) includes in particular provision for the transfer of – 10
- (a) property, rights and liabilities which could not otherwise be transferred;
 - (b) property acquired, and rights and liabilities arising, after the regulations come into force; 15
 - (c) criminal liabilities.
- (4) The provision which may be made by virtue of subsection (2)(a) includes in particular –
- (a) provision which creates rights, or imposes liabilities, in relation to property or rights transferred; 20
 - (b) provision about the continuing effect of things done by the transferor in respect of anything transferred;
 - (c) provision about the continuation of things (including legal proceedings) in the process of being done by, on behalf of or in relation to the transferor in respect of anything transferred; 25
 - (d) provision for references to the transferor in an instrument or other document in respect of anything transferred to be treated as references to the transferee;
 - (e) provision for the shared ownership or use of property.
- (5) In this section “specified” means specified in regulations under subsection (1). 30

21J Further provision about regulations relating to rivers authorities

- (1) Subsections (2) and (3) apply to regulations made under any of the following provisions – 35
- (a) section 21A(1) (power to establish rivers authority);
 - (b) section 21B(1) (provision about initial period);
 - (c) section 21C (composition of rivers authority);
 - (d) section 21D(5) (proceedings of rivers authority);
 - (e) section 21H(1) (changes to rivers authority’s area);
 - (f) section 21I(1) (winding up of rivers authority). 40
- (2) A statutory instrument containing regulations to which this subsection applies may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (3) If a draft of an instrument containing regulations to which this subsection applies would, apart from this subsection, be treated for the purposes of the standing orders of either House of Parliament as a hybrid instrument, it is to proceed in that House as if it were not a hybrid instrument. 45

- (4) Subsection (5) applies to—
- (a) regulations under section 21B(1), 21C or 21D(5) relating to a rivers authority which are not contained in the same instrument as regulations under section 21A(1), and
 - (b) regulations under section 21H(1) or 21I(1) relating to a rivers authority. 5
- (5) Before making regulations to which this subsection applies, the Secretary of State must consult—
- (a) the rivers authority,
 - (b) the relevant risk management authorities in relation to the rivers authority, 10
 - (c) Natural England,
 - (d) persons liable to pay council tax in respect of dwellings (within the meaning of the Local Government Finance Act 1992) within— 15
 - (i) the area of the rivers authority, and
 - (ii) in the case of regulations under section 21H(1)(a), the local government area to be added to the area of the rivers authority,
 - (e) the persons whom the Secretary of State thinks would be affected by the regulations (if not covered by paragraphs (a) to (d)), and 20
 - (f) such other persons as the Secretary of State thinks appropriate.”
- (4) Schedule 2 contains amendments consequential on this section.

Expenses of internal drainage boards 25

2 Valuation of other land in drainage district

- (1) Section 37 of the Land Drainage Act 1991 (apportionment of internal drainage board’s drainage expenses) is amended in accordance with subsections (2) to (4).
- (2) In subsection (5), in the words before paragraph (a), after “shall” insert “, subject to subsections (5ZA) and (5A) below,”. 30
- (3) After subsection (5) insert—
- “(5ZA) The Secretary of State may by regulations make provision for the value of other land in an English internal drainage district to be determined in accordance with the regulations. 35
- (5ZB) The provision that may be made under subsection (5ZA) includes, in particular, provision—
- (a) about methods to be applied, or factors to be taken into account, in determining the value of land;
 - (b) for the value of land to be determined on the basis of estimates, assumptions or averages; 40
 - (c) for the value of land to be determined by reference to such time or times as may be specified in the regulations;

- (d) for the value of land to be determined by reference to the value shown for the time being in a list or register prepared for the purposes of another enactment;
- (e) for determining the value of land which is only partly within the internal drainage district in question; 5
- (f) for the making of adjustments to what would otherwise be determined to be the value of land;
- (g) for land to be taken to have a nil value.
- (5ZC) Regulations under subsection (5ZA) may apply in relation to— 10
- (a) English drainage boards specified in the regulations;
- (b) English drainage boards of a description specified in the regulations;
- (c) all English drainage boards.
- (5ZD) Provision made by virtue of subsection (5ZC) may, in particular, include provision for an English drainage board— 15
- (a) to elect that the regulations are to apply to them, and
- (b) to make such an election in accordance with the procedure specified in the regulations.
- (5ZE) Regulations under subsection (5ZA) may— 20
- (a) make different provision for different cases, including different provision in relation to different circumstances or different descriptions of English drainage board or of land;
- (b) make such incidental, supplementary, consequential, transitional, transitory or saving provision as the Secretary of State considers appropriate. 25
- (5ZF) Provision made by virtue of subsection (5ZE)(b) may, in particular, include provision which amends, repeals or revokes any provision of an enactment (including this Act).
- (5ZG) Regulations may not be made under subsection (5ZA) unless a draft of the instrument containing the regulations has been laid before, and approved by a resolution of, each House of Parliament. 30
- (5ZH) If a draft of an instrument containing regulations under subsection (5ZA) would, apart from this subsection, be treated for the purposes of the standing orders of either House of Parliament as a hybrid instrument, it is to proceed in that House as if it were not a hybrid instrument.” 35
- (4) After subsection (6) insert—
- “(7) In this Act—
- “English drainage board” means a drainage board for an English internal drainage district; 40
- “English internal drainage district” means an internal drainage district which is wholly or mainly in England;
- “Welsh drainage board” means a drainage board for a Welsh internal drainage district;
- “Welsh internal drainage district” means an internal drainage district which is wholly or mainly in Wales.” 45

- (5) In section 65(2) of the Land Drainage Act 1991 (regulations) for “section” substitute “sections 37(5ZG) and (5D).”
- (6) In section 72(1) of the Land Drainage Act 1991 (interpretation), at the appropriate places insert—
- ““enactment” includes an enactment comprised in subordinate legislation within the meaning of the Interpretation Act 1978;” 5
 - ““English drainage board” has the meaning given by section 37(7);”;
 - ““English internal drainage district” has the meaning given by section 37(7);”;
 - ““Welsh drainage board” has the meaning given by section 37(7);”;
 - ““Welsh internal drainage district” has the meaning given by section 37(7).” 10
- (7) Section 83 of the Environment (Wales) Act 2016 (which amends the Land Drainage Act 1991) is amended in accordance with subsections (8) and (9). 15
- (8) In subsection (2) —
- (a) omit paragraph (a), and
 - (b) in paragraph (b) —
 - (i) for the inserted subsection (5A) substitute —
 - “(5A) The Welsh Ministers may by regulations make provision for the value of other land in a Welsh internal drainage district to be determined in accordance with the regulations.”; and 20
 - (ii) in each of the inserted subsections (5B) and (5C) for “The Regulations” substitute “Regulations under subsection (5A)”. 25
- (9) Omit subsection (3).

3 Disclosure of Revenue and Customs information

- (1) The Land Drainage Act 1991 is amended as follows.
- (2) After section 37 insert—

“Disclosure of Revenue and Customs information” 30

37A Disclosure of Revenue and Customs information

- (1) An officer of the Valuation Office of Her Majesty’s Revenue and Customs may disclose Revenue and Customs information to a qualifying person for a qualifying purpose.
- (2) Information disclosed to a qualifying person under this section may be retained and used for any qualifying purpose. 35
- (3) Each of the following is a “qualifying person” —
- (a) an internal drainage board;
 - (b) the Agency;
 - (c) the Natural Resources Body for Wales; 40
 - (d) a person authorised to exercise any function of a body within paragraph (a), (b) or (c) relating to drainage rates or special levies;

- (e) a person providing services to a body within paragraph (a), (b) or (c) relating to drainage rates or special levies;
- (f) the Secretary of State;
- (g) the Welsh Ministers.
- (4) Each of the following is a “qualifying purpose” – 5
- (a) enabling the qualifying person to whom the disclosure is made, or any other qualifying person, to carry out any functions conferred by or under Chapter 1 or 2 of this Part or section 75 of the Local Government Finance Act 1988;
- (b) enabling the qualifying person to whom the disclosure is made, or any other qualifying person, to determine for the purposes of Part 1 how functions mentioned in paragraph (a) might be exercised by – 10
- (i) an internal drainage board which is proposed to be constituted under that Part, or 15
- (ii) the drainage board for an internal drainage district which is proposed to be constituted under that Part.
- (5) The appropriate national authority may by regulations –
- (a) amend subsection (3) so as to add, amend a reference to or remove a qualifying person; 20
- (b) amend subsection (4) so as to add, amend or remove a qualifying purpose.
- (6) Regulations under subsection (5) may make consequential amendments to section 37B(2) (cases in which onward disclosure requires consent of Commissioners for Her Majesty’s Revenue and Customs). 25
- (7) In this section –
- “the appropriate national authority” means –
- (a) the Secretary of State in relation to English internal drainage districts, and 30
- (b) the Welsh Ministers in relation to Welsh internal drainage districts;
- “drainage rates” means drainage rates made by an internal drainage board under Chapter 2 of this Part;
- “Revenue and Customs information” means information held as mentioned in section 18(1) of the Commissioners for Revenue and Customs Act 2005; 35
- “special levy” means a special levy issued by an internal drainage board under regulations under section 75 of the Local Government Finance Act 1988. 40
- (8) Regulations under subsection (5) may only be made with the consent of the Commissioners for Her Majesty’s Revenue and Customs.
- (9) Regulations may not be made under subsection (5) by the Secretary of State unless a draft of the instrument containing the regulations has been laid before, and approved by a resolution of, each House of Parliament. 45
- (10) Regulations may not be made under subsection (5) by the Welsh Ministers unless a draft of the instrument containing the regulations

has been laid before, and approved by a resolution of, the National Assembly for Wales.

37B Restrictions on onward disclosure of Revenue and Customs information

- | | | |
|------|---|----|
| (1) | Information disclosed under section 37A or this section may not be further disclosed unless that further disclosure is – | 5 |
| | (a) to a qualifying person for a qualifying purpose, | |
| | (b) in pursuance of a court order, | |
| | (c) with the consent of each person to whom the information relates, | 10 |
| | (d) required under any other enactment, or | |
| | (e) permitted under any other enactment. | |
| (2) | Information may not be disclosed – | |
| | (a) under subsection (1)(a) to a qualifying person within section 37A(3)(d), (e), (f) or (g), or | 15 |
| | (b) under subsection (1)(e), | |
| | except with the consent of the Commissioners for Her Majesty’s Revenue and Customs (which may be general or specific). | |
| (3) | Information disclosed to a qualifying person under this section may be retained and used for any qualifying purpose. | 20 |
| (4) | A person commits an offence if the person contravenes subsection (1) or (2) by disclosing information relating to a person whose identity – | |
| | (a) is specified in the disclosure, or | |
| | (b) can be deduced from it. | |
| (5) | It is a defence for a person charged with an offence under this section to prove that the person reasonably believed – | 25 |
| | (a) that the disclosure was lawful, or | |
| | (b) that the information had already lawfully been made available to the public. | |
| (6) | A person guilty of an offence under this section is liable – | 30 |
| | (a) on summary conviction, to imprisonment for a term not exceeding 12 months, to a fine or to both; | |
| | (b) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine or to both. | |
| (7) | A prosecution under this section may be instituted only by, or with the consent of, the Director of Public Prosecutions. | 35 |
| (8) | In relation to an offence under this section committed before the coming into force of section 154(1) of the Criminal Justice Act 2003 (increase in maximum term that may be imposed on summary conviction of offence triable either way) the reference in subsection (6)(a) to 12 months is to be read as a reference to 6 months. | 40 |
| (9) | This section is without prejudice to the pursuit of any remedy or the taking of any action in relation to a contravention of subsection (1) or (2) (whether or not subsection (4) applies to the contravention). | |
| (10) | In this section – | 45 |

“qualifying person” has the same meaning as in section 37A;
 “qualifying purpose” has the same meaning as in that section.

37C Further provisions about disclosure under section 37A or 37B

- (1) A disclosure of information under section 37A or 37B does not breach—
- (a) any obligation of confidence owed by the person making the disclosure, or
 - (b) any other restriction on the disclosure of information (however imposed).
- (2) But nothing in section 37A or 37B authorises the making of a disclosure which—
- (a) contravenes the Data Protection Act 1998, or
 - (b) is prohibited by any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016.
- (3) Until the repeal of Part 1 of the Regulation of Investigatory Powers Act 2000 by paragraphs 45 and 54 of Schedule 10 to the Investigatory Powers Act 2016 is fully in force, subsection (2)(b) has effect as if it included a reference to that Part.
- (4) Revenue and customs information relating to a person which has been disclosed under section 37A or 37B is exempt information by virtue of section 44(1)(a) of the Freedom of Information Act 2000 (prohibition on disclosure) if its further disclosure—
- (a) would specify the identity of the person to whom the information relates, or
 - (b) would enable the identity of such a person to be deduced.
- (5) In subsection (4) “revenue and customs information relating to a person” has the same meaning as in section 19(2) of the Commissioners for Revenue and Customs Act 2005.”
- (3) In section 65(2) (regulations) after “37(5ZG) and (5D),” (as inserted by section 2(5)) insert “37A(9) and (10),”.
- (4) In section 70 (confidentiality of information obtained by Environment Agency and Natural Resources Body for Wales)—
- (a) at the beginning insert “(1)”, and
 - (b) at the end of subsection (1) insert—
- “(2) Subsection (1) does not apply to information obtained by virtue of section 37A (disclosure of Revenue and Customs information).”

4 Valuation of agricultural land in drainage district

- (1) The Land Drainage Act 1991 is amended as follows.
- (2) In section 41 (rates charged by reference to annual value of agricultural land and buildings), in subsection (2), at the end insert—
- “This is subject to section 41A below.”

(3) After section 41 insert—

“41A Alternative method of calculating annual value of agricultural land and buildings

- (1) The appropriate national authority may by regulations make provision for the annual value of each chargeable property in an internal drainage district to be determined for the purposes of this Chapter by the drainage board for that district in accordance with the regulations. 5
Any determination made under the regulations is subject to sections 43 and 44 below.
- (2) In this section “the appropriate national authority” means— 10
(a) in the case of any English internal drainage district, the Secretary of State;
(b) in the case of any Welsh internal drainage district, the Welsh Ministers.
- (3) Regulations under subsection (1) may, in particular, make provision— 15
(a) about the date by which a drainage board are to determine the annual value of each chargeable property in their internal drainage district;
(b) about methods to be applied, or factors to be taken into account, in determining the annual value of a chargeable property; 20
(c) for the annual value of a chargeable property to be determined on the basis of estimates, assumptions or averages;
(d) for the annual value of a chargeable property to be determined by reference to such time or times as may be specified in the regulations; 25
(e) for the annual value of a chargeable property to be determined by reference to the value shown for the time being in a list or register prepared for the purposes of another enactment;
(f) for the annual value of a chargeable property to be determined by reference to the amount payable under a hypothetical transaction involving the property; 30
(g) for determining the annual value of a chargeable property which is only partly within the internal drainage district in question;
(h) for the making of adjustments to what would otherwise be determined to be the annual value of a chargeable property; 35
(i) for the determination of the annual value of a chargeable property to be made on behalf of a drainage board by a person, or a person of a description, specified in the regulations;
(j) about the appointment by the drainage board of such a person. 40
- (4) Provision made by virtue of subsection (3)(f) may, in particular, include provision as to—
(a) the assumptions to be made about— 45
(i) the date of the transaction;
(ii) the nature of the transaction;
(iii) the characteristics of the parties to the transaction;
(iv) the characteristics of the property;
(v) the terms of the transaction;

- (b) any matters relating to the chargeable property which are to be taken into account or disregarded;
- (c) any matters relating to comparable transactions which are to be taken into account or disregarded.
- (5) Regulations under subsection (1) may make provision which – 5
- (a) applies to a drainage board which have determined the annual values of the chargeable properties in their internal drainage district for the purposes of this Chapter under the regulations (regardless of whether any of those determinations has been replaced under section 43 below or altered on appeal under section 46 below), and 10
- (b) requires the drainage board to make further determinations of those values for those purposes in accordance with the regulations at such times or at the end of such periods as may be specified in the regulations. 15
- (6) Provision made by virtue of subsection (5) may, in particular –
- (a) make provision in relation to such a further determination which is the same or similar to that made in relation to an initial determination, or
- (b) apply provision in the regulations relating to an initial determination to a further determination, with or without modifications. 20
- (7) Regulations made by the Secretary of State under subsection (1) may apply in relation to –
- (a) English drainage boards specified in the regulations; 25
- (b) English drainage boards of a description specified in the regulations;
- (c) all English drainage boards.
- (8) Regulations made by the Welsh Ministers under subsection (1) may apply in relation to – 30
- (a) Welsh drainage boards specified in the regulations;
- (b) Welsh drainage boards of a description specified in the regulations;
- (c) all Welsh drainage boards.
- (9) Provision made by virtue of subsection (7) or (8) may, in particular, include provision for an internal drainage board – 35
- (a) to elect that the regulations are to apply to them, and
- (b) to make such an election in accordance with the procedure specified in the regulations.
- (10) Regulations under subsection (1) may – 40
- (a) make different provision for different cases, including different provision in relation to different circumstances or different descriptions of drainage board or of land;
- (b) make such incidental, supplementary, consequential, transitional, transitory or saving provision as the appropriate national authority considers appropriate. 45

- (11) Provision made by virtue of subsection (11)(b) may, in particular, include provision which amends, repeals or revokes any provision of an enactment (including this Act).
- (12) Regulations may not be made under subsection (1) by the Secretary of State unless a draft of the instrument containing the regulations has been laid before, and approved by a resolution of, each House of Parliament. 5
- (13) Regulations may not be made under subsection (1) by the Welsh Ministers unless a draft of the instrument containing the regulations has been laid before, and approved by a resolution of, the National Assembly for Wales. 10
- (14) If a draft of an instrument containing regulations under subsection (1) would, apart from this subsection, be treated for the purposes of the standing orders of either House of Parliament as a hybrid instrument, it is to proceed in that House as if it were not a hybrid instrument.” 15
- (4) In section 42 (determination of annual value) –
- (a) in subsection (4) after “under this section” insert “or under regulations under section 41A(1) above”, and
- (b) in subsection (5) after “subsections (1) and (2) above” insert “or under regulations under section 41A above”. 20
- (5) In section 44 (effect of determinations under section 43) in each of subsections (2) and (3) after “Subject to” insert “regulations under section 41A above and to”.
- (6) In section 45 (appeals against determinations of annual value) –
- (a) in subsection (1) after “determination under” insert “regulations under section 41A above or a determination under”, 25
- (b) in subsection (3)(b) after “determination under” insert “regulations under section 41A above or a fresh determination under”, and
- (c) in subsection (7) after “determination under” insert “regulations under section 41A above or a determination under”. 30
- (7) In section 46 (hearing and determination of appeals under section 45) in each of subsections (2)(a), (3), (4), (5), (6), (7) and (8) after “determination under” insert “regulations under section 41A above or a determination under”.
- (8) In section 65(2) (regulations) after “37A(9) and (10),” (as inserted by section 3(3)) insert “41A(12) and (13) and”. 35

Final provisions

5 Consequential provision

- (1) The Secretary of State may by regulations made by statutory instrument make provision in consequence of any provision of this Act.
- (2) Regulations under subsection (1) may amend, repeal or revoke any enactment. 40
- (3) A statutory instrument containing (whether alone or with any other provision) regulations under subsection (1) which amend primary legislation may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

- (4) A statutory instrument containing regulations under subsection (1) and to which subsection (3) does not apply is subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) Regulations under subsection (1) may make—
- (a) different provision for different purposes or areas; 5
 - (b) provision which applies generally or for particular purposes or areas;
 - (c) transitional, transitory or saving provision.
- (6) In this section—
- “enactment” includes—
- (a) an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978, and 10
 - (b) an enactment contained in, or in an instrument made under, a Measure or Act of the National Assembly for Wales;
- “primary legislation” means—
- (a) an Act of Parliament, or 15
 - (b) a Measure or Act of the National Assembly for Wales.
- 6 Extent**
- (1) This Act extends to England and Wales only, subject to subsections (2) and (3).
- (2) An amendment made by Schedule 2 has the same extent as the provision to which it relates. 20
- (3) Section 5, this section and sections 7 and 8 extend to England and Wales, Scotland and Northern Ireland.
- 7 Commencement**
- (1) Section 1 and Schedules 1 and 2 come into force at the end of the period of two months beginning with the day on which this Act is passed. 25
- (2) Sections 2, 3 and 4—
- (a) so far as they relate to internal drainage districts which are wholly or mainly in England, come into force on such day as the Secretary of State appoints by regulations made by statutory instrument;
 - (b) so far as they relate to internal drainage districts which are wholly or mainly in Wales, come into force on such day as the Welsh Ministers appoint by regulations made by statutory instrument. 30
- (3) Regulations under subsection (2) may appoint different days for different purposes or areas.
- (4) Sections 5 and 6, this section and section 8 come into force on the day on which this Act is passed. 35
- (5) The Secretary of State may by regulations made by statutory instrument make transitional, transitory or saving provision in connection with the coming into force of any provision of this Act, subject to subsection (6).
- (6) Subsection (5) does not apply to sections 2, 3 and 4, so far as they relate to internal drainage districts which are wholly or mainly in Wales. 40

- (7) The Welsh Ministers may by regulations made by statutory instrument make transitional, transitory or saving provision in connection with the coming into force of any of sections 2, 3 and 4, so far as they relate to internal drainage districts which are wholly or mainly in Wales.

8 Short title

5

This Act may be cited as the Rivers Authorities and Land Drainage Act 2018.

SCHEDULES

SCHEDULE 1

Section 1(1)

RIVERS AUTHORITIES: FURTHER AMENDMENTS TO THE FLOOD AND WATER MANAGEMENT ACT 2010

- | | | |
|---|---|----|
| 1 | The Flood and Water Management Act 2010 is amended as follows. | 5 |
| 2 | (1) Section 27 (sustainable development duty) is amended as follows. | |
| | (2) In subsection (3) before paragraph (a) insert –
“(za) rivers authorities,”. | |
| | (3) In subsection (6)(a)(i) before “lead local flood authority” insert “rivers authority,”. | 10 |
| 3 | In section 39 (incidental flooding or coastal erosion: local authorities) in subsection (6), before paragraph (a) insert –
“(za) a rivers authority,”. | |
| 4 | Before Schedule 1 insert – | |

“SCHEDULE A1

Section 21A(7)

15

PROCEDURE FOR REGULATIONS UNDER SECTION 21A(1)

Requirement for scheme

- | | | |
|---|--|----|
| 1 | The Secretary of State may make regulations under section 21A(1) establishing a rivers authority only if a scheme for its establishment has been submitted to the Secretary of State by a relevant risk management authority in accordance with this Schedule. | 20 |
|---|--|----|

Requirement to consult on draft scheme

- | | | |
|---|---|----|
| 2 | (1) Before submitting a scheme to the Secretary of State under paragraph 1, a relevant risk management authority must consult the following on a draft of the scheme – | 25 |
| | (a) any relevant risk management authority that is not proposing to submit the scheme to the Secretary of State; | |
| | (b) Natural England; | |
| | (c) persons liable to pay council tax in respect of dwellings (within the meaning of the Local Government Finance Act 1992) within the proposed area of the rivers authority; | 30 |

- (d) the persons whom the authority thinks would be affected by the proposals in the scheme (if not covered by paragraphs (a) to (c));
 - (e) such other persons as the authority thinks appropriate.
- (2) The draft scheme must – 5
- (a) identify the relevant risk management authority by which the draft scheme has been prepared,
 - (b) describe the proposed area of the rivers authority,
 - (c) describe the proposed composition of the rivers authority,
 - (d) describe the proposed activities of the rivers authority in its first full financial year, including – 10
 - (i) any activities proposed to be funded in that period by the rivers authority under section 21E(8)(a) (funding of works by relevant risk management authority), and 15
 - (ii) any activities proposed to be carried on in that period by the rivers authority under section 21E(8)(b) (carrying on of activities on behalf of relevant risk management authority),
 - (e) explain the benefits of those activities, including the benefits in terms of a reduction in flood risk for people living in the proposed area of the rivers authority, 20
 - (f) contain an estimate of the amount of the precept proposed to be issued by the rivers authority under section 40 of the Local Government Finance Act 1992 for its first full financial year, and 25
 - (g) explain how that precept has been calculated, including by describing the activities that it is proposed will be funded by the precept and the other costs proposed to be incurred by the rivers authority in that financial year. 30

Further provisions about consultation

- 3 (1) In consulting on a draft scheme under paragraph 2, a relevant risk management authority must –
- (a) explain how to make representations about the draft scheme, 35
 - (b) specify the period within which representations may be made, and
 - (c) explain the effect of paragraph 4(3).
- (2) A period specified under sub-paragraph (1)(b) must be not less than 6 weeks beginning with the relevant date. 40
- (3) In sub-paragraph (2) “the relevant date”, in relation to a person consulted under paragraph 2, means –
- (a) if the relevant risk management authority consults the person by sending the draft scheme to the person, the date on which the draft scheme is sent; 45
 - (b) if the relevant risk management authority consults the person by publishing the draft scheme, the date on which the draft scheme is published.

- (4) Once a relevant risk management authority has consulted on a draft scheme, the authority must—
- (a) consider the representations made about the scheme,
 - (b) decide whether to submit the scheme to the Secretary of State, with or without revisions, and 5
 - (c) if the authority decides to submit the scheme to the Secretary of State, make such revisions to it as the authority considers appropriate.
- (5) Consultation is capable of complying with the requirements of this Schedule even though it took place before the coming into force of paragraph 4 of Schedule 1 to the Rivers Authorities and Land Drainage Act 2018 (which inserted this Schedule). 10

Submission of the scheme

- 4 (1) This paragraph applies if, having carried out a consultation in accordance with paragraphs 2 and 3, a relevant risk management authority decides to submit a scheme to the Secretary of State under paragraph 1. 15
- (2) The submitted scheme must—
- (a) comply with paragraph 2(2) (reading the reference in paragraph (a) to the draft scheme as a reference to the submitted scheme), 20
 - (b) describe the consultation carried out under paragraph 2 on a draft of the scheme,
 - (c) summarise the representations made in the consultation,
 - (d) explain whether and how the relevant risk management authority has addressed the representations, 25
 - (e) if the draft scheme has been revised, explain how it has been revised, and
 - (f) give reasons for any revisions made by, or any failure to revise the scheme by, the relevant risk management authority in response to the representations. 30
- (3) The relevant risk authority must publish, in such manner as it thinks appropriate—
- (a) the scheme as submitted, and
 - (b) an indication that it has submitted the scheme to the Secretary of State. 35

Power to hold inquiry

- 5 (1) Before making regulations under section 21A(1) establishing a rivers authority the Secretary of State may cause an inquiry to be held. 40
- (2) Subsections (2) to (5) of section 250 of the Local Government Act 1972 (powers in relation to local inquiries) apply, with the modification described in sub-paragraph (3), in relation to an inquiry under sub-paragraph (1) as they apply in relation to an local inquiry under that section. 45

- (3) That modification is that the references in subsection (4) of that section to a local authority or a party to the inquiry are to be read as references to the relevant risk management authority that submitted the scheme proposing that the regulations should be made.

5

Making of regulations

- 6 (1) Sub-paragraph (2) applies if—
- (a) a relevant risk management authority submits a scheme to the Secretary of State under paragraph 1,
 - (b) the Secretary of State proposes to make regulations under section 21A(1) in response, 10
 - (c) any provision proposed to be made by the regulations, or proposed to be made in the same instrument by regulations under section 21B(1), 21C or 21D(5), differs from that proposed by the scheme, and 15
 - (d) the Secretary of State thinks that the differences are significant enough to make it necessary to consult on them.
- (2) Before making the regulations, the Secretary of State must consult the following on the differences—
- (a) the relevant risk management authorities in relation to the rivers authority (including any that did not submit the scheme to the Secretary of State); 20
 - (b) Natural England;
 - (c) persons liable to pay council tax in respect of dwellings (within the meaning of the Local Government Finance Act 1992) within the proposed area of the rivers authority; 25
 - (d) the persons whom the Secretary of State thinks would be affected by the proposals in the scheme (if not covered by paragraphs (a) to (c));
 - (e) such other persons as the Secretary of State thinks appropriate. 30

Joint proposals

- 7 (1) Anything that may be done under this Schedule by a relevant risk management authority may be done by two or more such authorities acting jointly. 35
- (2) In such a case references in this Schedule to a relevant risk management authority are to be read as references to all of the relevant risk management authorities in question.”

SCHEDULE 2

Section 1(4)

RIVERS AUTHORITIES: AMENDMENTS TO OTHER ACTS

Public Works Loans Act 1965 (c. 63)

- 1 In section 2 of the Public Works Loans Act 1965 (new form of local loan), in subsection (1)(a)(i) (loans to billing authorities and precepting authorities) after “1992” insert “, other than a rivers authority established by regulations under section 21A(1) of the Flood and Water Management Act 2010”. 5

National Loans Act 1968 (c. 13)

- 2 In Schedule 4 to the National Loans Act 1968 (local loans), in paragraph 1(a)(i) (loans to billing authorities and precepting authorities) after “1992” insert “, other than a rivers authority established by regulations under section 21A(1) of the Flood and Water Management Act 2010”. 10

Local Government Act 1974 (c. 7)

- 3 In section 25(1) of the Local Government Act 1974 (authorities subject to investigation by the Commission for Local Administration) after paragraph (d) (but before the “and” at the end of that paragraph) insert – 15
“(da) a rivers authority established by regulations under section 21A(1) of the Flood and Water Management Act 2010;”.

Local Government Finance Act 1988 (c. 41)

- 4 The Local Government Finance Act 1988 is amended as follows. 20
- 5 (1) Section 76 (interpretation for the purposes of the provisions in Part 5 about grants) is amended as follows.
- (2) In subsection (2) after “major precepting authority” insert “, subject to subsection (2A)”.
- (3) After subsection (2) insert – 25
“(2A) A rivers authority established by regulations under section 21A(1) of the Flood and Water Management Act 2010 is not a receiving authority.”
- 6 In section 111(2) (authorities to which provisions on financial administration apply) after paragraph (m) insert – 30
“(n) a rivers authority established by regulations under section 21A(1) of the Flood and Water Management Act 2010.”
- 7 In section 114(1) (functions of responsible officer of authority as regards reports) – 35
(a) after “section 127 of the 1999 Act,” omit “or”, and
(b) after “Schedule 1, 2 or 4 to the 2011 Act” insert “, section 21C(4)(b) of the Flood and Water Management Act 2010”.

Local Government and Housing Act 1989 (c. 42)

- 8 The Local Government and Housing Act 1989 is amended as follows.

- 9 In section 4(6)(a) (authorities to which provisions on designation etc of head of paid service apply) for “and the London Fire Commissioner” substitute “, the London Fire Commissioner and a rivers authority established by regulations under section 21A(1) of the Flood and Water Management Act 2010”. 5
- 10 In section 5(8) (defined terms for the purposes of provisions on designation etc of monitoring officers) –
- (a) in the definition of “chief finance officer” after “section 4D(4) of the Fire and Rescue Services Act 2004” insert “, section 21C(4) of the Flood and Water Management Act 2010”, and 10
 - (b) in paragraph (a) of the definition of “relevant authority” for “and the London Fire Commissioner” substitute “, the London Fire Commissioner and a rivers authority established by regulations under section 21A(1) of the Flood and Water Management Act 2010”.
- Local Government Finance Act 1992 (c. 14)* 15
- 11 The Local Government Finance Act 1992 is amended as follows.
- 12 In section 39(1) (major precepting authorities) after paragraph (db) insert –
“(dc) a rivers authority established by regulations under section 21A(1) of the Flood and Water Management Act 2010;”.
- 13 In section 65(3) (duty of relevant authority to consult ratepayers: meaning of “relevant authority”) for “or a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004” substitute “, a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004 or a rivers authority established by regulations under section 21A(1) of the Flood and Water Management Act 2010”. 20
25
- Local Audit and Accountability Act 2014 (c. 2)*
- 14 In Schedule 2 to the Local Audit and Accountability Act 2014 (relevant authorities) after paragraph 26 insert –
“26A A rivers authority established by regulations under section 21A(1) of the Flood and Water Management Act 2010.” 30

Rivers Authorities and Land Drainage Bill

A

B I L L

To make provision about rivers authorities; to make provision about the expenses of internal drainage boards; and for connected purposes.

*Presented by David Warburton
supported by
Neil Parish, Mr Ian Liddell-Grainger,
James Heapey and Mr Marcus Fysh.*

*Ordered, by The House of Commons,
to be Printed, 5th March 2018.*

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