

**EXPLANATORY MEMORANDUM TO**  
**THE REGIONAL FLOOD AND COASTAL COMMITTEES (ENGLAND AND WALES)**  
**REGULATIONS 2011**

**2011 No. 695**

1. This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs (Defra) and is laid before Parliament by Command of Her Majesty.
2. **Purpose of the instrument**
  - 2.1 These Regulations are concerned with the establishment of Regional Flood and Coastal Committees, to be made up of local authority and other members. These new committees are replacing the old Regional Flood Defence Committees, and they will exercise a supervisory role in relation to the Environment Agency's flood and coastal erosion risk management functions. The Regulations specify the procedure, provide details on membership, appointment and proceedings, and make transitional provision.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
  - 3.1 These Regulations are made under separate powers by the Secretary of State and the Welsh Ministers on a composite basis. They provide for the establishment by the Environment Agency of cross-border bodies in England and Wales for the purpose of managing flood and coastal erosion risk across both administrative areas.
  - 3.2 The Environment Agency is required by section 22(1)(a) of the Act to divide England and Wales into regions and, under section 22(1)(b) and (c) of the Act, to establish a Regional Flood and Coastal Committee for each region. The Act was conceived as consistent legislation to be applied in both England and Wales to manage flooding and coastal erosion issues across boundaries. Neither floods nor coastal erosion processes are respecters of administrative boundaries and require consistent management across boundaries.
  - 3.3 The Environment Agency is a cross-border body, and the Act envisages that the regions established by the Environment Agency could cut across the English-Welsh border. The regions may be established following river catchments. Where rivers border England and Wales, flood risk management requires co-ordination between the different administrations on each bank of the river. Adjacent Regional Flood and Coastal Committees need to be able to share information and co-operate with their upstream and downstream neighbours in the management of flood risk. Similarly, coastal erosion risk needs to be managed in

a way that does not create cross-border problems. A composite instrument is likely to minimise the differences of approach between administrations.

- 3.4 Defra and the Welsh Assembly Government (WAG) consider that the convenience and coordination achieved by a composite statutory instrument outweigh any uncertainty which might arise from an annulment motion. Where there is a consistent policy across England and Wales, Defra and WAG consider it is convenient for both administrations and for those governed by the instrument that there be a single instrument for the single legal jurisdiction.

#### **4. Legislative Context**

- 4.1 This is the first use of the new powers under sections 22 and 24 of the Flood and Water Management Act 2010. The Regulations are needed to ensure that the establishment of the committees by the Environment Agency is consistent with Government policy.
- 4.2 These Regulations are related to the Environment Agency (Levies) (England and Wales) Regulations 2011 which are being made under section 74 of the Local Government Finance Act 1988. The Environment Agency has a power under section 17 of the Flood and Water Management Act 2010 to issue levies to local authorities to fund flood and coastal erosion risk management functions. Under section 17, these levies must be issued in accordance with regulations made under section 74 of the Local Government Finance Act 1988, and must be consented to by the appropriate Regional Flood and Coastal Committee.

#### **5. Territorial Extent and Application**

- 5.1 This instrument extends to England and Wales.

#### **6. European Convention on Human Rights**

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

#### **7. Policy background**

- 7.1 The Flood and Water Management Act 2010 (“the 2010 Act”) gives the Environment Agency a leadership role across England and Wales in dealing with flood and coastal erosion risk. Sections 22 to 26 of the 2010 Act make provision in relation to the establishment of Regional Flood and Coastal Committees to provide supervision of the Environment Agency’s role. These Regulations specify the procedure to be followed by the Environment Agency in dividing England and Wales into regions (section 22(2)(a) of the 2010 Act), make transitional provision with respect to the establishment of Regional Flood and Coastal Committees in place of regional flood defence committees (section 22(2)(b) of the 2010 Act), and

make provision about committee membership and proceedings (section 24 of the 2010 Act).

- 7.2 Part 1 deals with preliminary matters.
- 7.3 Part 2 addresses the division of England and Wales into regions, and covers the map of the regions and provisions related to revision of boundaries and renaming of regions.
- 7.4 Part 3 covers the establishment of Regional Flood and Coastal Committees including the number of members, committee composition and variation to composition.
- 7.5 Part 4 deals with the selection and appointment of members to Regional Flood and Coastal Committees including eligibility, appointment of chair by the Minister, appointment of members by the constituent authorities, and appointment of members by the Environment Agency.
- 7.6 Part 5 sets out details about holding office as a member of a Regional Flood and Coastal Committee, covering terms and date of appointment, period of office, resignation or removal from office, appointment of acting chair or temporary chair, and nomination of deputies for members representing constituent authorities.
- 7.7 Part 6 provides for proceedings of Regional Flood and Coastal Committees including quorum, consent provisions, voting procedure, declarations of interest, authentication of documents and proof and validity of proceedings.
- 7.8 Part 7 sets out the transitional provisions including provision for the area and membership of transitional committees, specific provision for the inclusion of the Isles of Scilly in a region, membership of transitional committees, holding office as a member of a transitional committee and the conditions for a transitional committee to continue in existence.
- 7.9 These Regulations do not amend other instruments.

## **8. Consultation outcome**

- 8.1 A similar approach was consulted on as part of the consultation on the Flood and Water Management Act 2010. No formal consultation has been carried out since, however, aspects of these Regulations were the subject of informal consultations by the Environment Agency with interested parties. These, and discussions with Regional Flood Defence Committee chairs, informed the development of these Regulations.

## **9. Guidance**

9.1 No formal guidance is considered necessary.

## **10. Impact**

10.1 There is no impact on business, charities or voluntary bodies.

10.2 Through the extended remit of the new committees, the public sector will be able to deliver its flood and coastal erosion risk management responsibilities more effectively.

10.3 An Impact Assessment is attached to this memorandum and will be published alongside the Explanatory Memorandum on [www.legislation.gov.uk](http://www.legislation.gov.uk).

## **11. Regulating small business**

11.1 The legislation does not apply to small business.

## **12. Monitoring & review**

12.1 No additional monitoring of the committees is planned. Current arrangements for periodic meetings to report progress and problems will be maintained.

12.2 There is no provision for a statutory review process, however a review of the effectiveness of the regulations with respect to the committees will be carried out in 2016.

## **13. Contact**

13.1 John Goudie at the Department for Environment, Food and Rural Affairs, Tel: 020 7238 6173 or email: [john.r.goudie@defra.gsi.gov.uk](mailto:john.r.goudie@defra.gsi.gov.uk), can answer any queries regarding the instrument with respect to England.

13.2 Nicola Edwards at the Welsh Assembly Government, Tel: 029 2082 3568 or email: [nicola.edwards@wales.gsi.gov.uk](mailto:nicola.edwards@wales.gsi.gov.uk), can answer any queries regarding the instrument with respect to Wales.