



The Flood and Water Management Act 2010

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The Flood and Water Management Act 2010 will have significant implications for landowners, developers, the water industry, local government, the Environment Agency and the wider business community. The Act contains a number of disparate provisions relating to water management, the water industry and flood and coastal erosion risk management. The Act was originally intended to be a comprehensive overhaul of UK water legislation but, due to the shortened parliamentary session, many of the water management provisions were sidelined to focus on flood and coastal erosion risk management. However, the Act still touches on a number of other aspects of water management.

There is a new regime for risk management, with a shift away from "flood defence" to the more holistic flood and coastal erosion risk management, and an improved demarcation between the roles of the Environment Agency and local government to ensure that the duties and responsibilities of those public bodies are clear.

The Act also promotes sustainable drainage by revoking the automatic right of developers to connect into the existing sewerage system under Section 106 of the Water Industry Act 1991 and replacing it with an obligation to incorporate sustainable drainage systems.

The Act alters the regulatory regime for reservoirs by moving to risk based regulation with lighter touch regulation for reservoirs where a containment failure would not pose a risk to human life. However, the threshold for the capacity of regulated reservoirs has been decreased from 25,000 cubic metres to 10,000 cubic metres and therefore many more reservoirs will be included in the regulatory regime than before. In particular landowners and agribusinesses may now find themselves caught within the regulatory regime.

The Act contains a provision to enable water companies to impose temporary bans on water use, effectively increasing the "hosepipe ban" to cover a wider category of uses. There is a new special administration regime for water companies to bring those companies in line with the special administration regimes for other utilities such as energy companies, and there are also provisions to enable large infrastructure projects to increase upstream capacity, for example by constructing large new reservoirs servicing several water company areas.

The Act also provides for the creation of a register of property assets which have flood resistance capabilities so that local government can have better control over the fate of those assets.

During its Parliamentary passage, additional provisions were inserted to allow community groups to benefit from concessionary charges for surface water drainage following the public outcry at the financial burden to church halls and scout huts that has arisen from recent water company increases to surface water drainage charges.

The wide scope of the Flood and Water Management Act 2010 dictates that many businesses, individuals and community groups will be affected in some way by the new law. We are also likely to see further changes in the new Parliament as both Labour and the Conservatives have promised additional water legislation to implement the recommendations in the recent reports by Professor Martin Cave and Anna Walker.

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