

What does the Flood and Water Management Bill mean for the water industry?

Introduction

Climate change and population growth projections point to a future of greater demand for clean water and more frequent extreme weather. This means more water stress, more water quality problems and a greater risk of flooding.

The Bill has responded to these challenges. It will create new roles and opportunities for the industry and improve the way it works and is regulated.

The aims of the Bill are to:

- reduce the likelihood and impacts of flooding;
- improve authorities' ability to manage flood risk;
- introduce a new risk based approach to reservoir safety;
- encourage sustainable drainage;
- enhance water quality;
- allow water companies more flexibility to conserve water during drought;
- reform the special administration regime for insolvent water companies;
- optimise the financing and delivery of very large water-infrastructure projects;
- allow water companies to operate concessionary schemes for surface water drainage charges and to assist customers who would have difficulty paying their bills in full; and
- make it easier for water companies to recover unpaid bills by requiring landlords to provide details of tenants who are liable for bill payment.

Managing flood risk

The Bill will require the production of national and local flood and coastal erosion risk management strategies. Water companies will be consulted on these strategies. Local strategies will set out the contribution that they expect from water companies to avoid surface water related flooding. The Environment Agency may also provide guidance about the national strategy to water companies.

The Bill enables Ministers to classify water company functions as flood or coastal erosion risk management functions through further legislation. Defra will discuss how this should be framed with water companies and Ofwat.

When carrying out these flood and coastal erosion risk management functions, water companies will have to act consistently with the national strategy and guidance, and have regard to local strategies and guidance. When carrying out any other functions which might affect flood risk they must have regard to both national and local strategies and guidance.

In England, water companies will be subject to scrutiny by lead local flood authority overview and scrutiny committees when they are addressing flood and coastal erosion risk management. This will mean that they will need to provide information and respond to reports, and have regard to the recommendations of those committees. Ministers will be able to decide the procedure and this may include allowing local authorities to require the attendance of water companies at scrutiny meetings.

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Irrespective of whether a water company's functions are identified as flood risk management functions, water companies will in any event be required to co-operate with other authorities on managing flood and coastal erosion risk. If water companies agree, other flood authorities will also be able to delegate some of their functions to them.

Water companies will also be obliged to comply with requests for information from lead local authorities and the Environment Agency. An example of this could be a request for information to contribute to the asset register of local flood risk management assets that local authorities will be required to keep.

Drainage – the role of Sustainable Drainage Systems (SuDS)

The Bill would end the automatic right to connect surface water to sewers by making connection *conditional* on the proposed surface water drainage system being approved by a SuDS Approving Body or SAB (the unitary or county local authority). In order to encourage the uptake of SuDS in new developments and redevelopments, construction cannot be commenced unless the SAB has approved the new drainage system as meeting new National Standards for sustainable drainage.

The Minister must consult on the National Standards before publication, and the water industry is represented on the project Advisory Board for the development of national standards. Water and sewerage will also become statutory consultees in the approval process for SuDS.

Water and sewerage companies will be statutory consultees to the Approving Body for cases where a connection to the public sewer is proposed. The SuDS Approving Body *must* have regard to their advice.

The Bill also places a duty on the local authority SuDS Approving Body to adopt and maintain SuDS that serve more than one property, when it is satisfied that the drainage system is constructed as approved to National Standards. The SAB would not adopt SuDS which serve only a single property, but private SuDS would be protected from damage and interference by way of designation as flood risk assets under Schedule 1 of the Bill.

The right to connect foul water to the sewerage system will remain except that an agreement to adopt under s104 of the Water Industry Act 1991 will have to be in place first. The agreement to suit the parties but (a) must provide for a build standard, and (b) set out arrangements for its adoption. The parties to the agreement may either agree a build standard or otherwise follow a build standard to be published by Ministers. Companies will be able to require reasonable securities (e.g. bonds) as part of the agreements, to ensure that the sewers do meet performance and construction standards.

Work on build standards to be published by Ministers is well underway and Water UK and developers are key participants in this work.

Reservoirs

The Bill will introduce new risk-based arrangements for reservoir safety and extend the scope of the Reservoirs Act 1975 to include reservoirs of 10,000 cu metres capacity or more, in line with Sir Michael Pitt's recommendations. The current criterion for inclusion in the Act's controls is 25,000 cu metres.

The aim is to provide for regulation that is proportionate to the risks to the public. Where no risk exists, some routine supervision and inspection requirements will not apply. The overall effect for many reservoir owners will be a smaller regulatory burden where reservoirs are maintained well and represent a low risk to life.

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Water usage

Climate change models forecast hotter, drier summers and more frequent droughts. There may well be times when water restrictions are needed to protect the public supply. Present legislation on hosepipe bans is outdated and does not cover non-essential uses such as pressure washing patios or filling swimming pools.

The Bill will extend the list of water uses water companies may restrict using their temporary bans powers during droughts, rather than relying on cumbersome drought orders and enable them to take action to conserve water at an earlier stage during a drought.

Water industry management

The special administration regime will be more flexible, streamlined and consistent with general insolvency law and best practice operated in other sectors. It will place greater emphasis on maintaining the value of a financially distressed water company's business, resulting in a better outcome for customers and creditors in the longer term.

The Bill also enables the establishment of new regulated entities to deliver exceptional, high-risk infrastructure projects, helping the industry to finance them more efficiently while still delivering a cost effective service to customers. It makes clear that the lower-risk elements of these projects will still be deliverable by incumbent water companies under the existing regulatory regime.

Surface water drainage charges

The Bill will allow companies to operate concessionary schemes for surface water drainage charges. Such schemes will protect certain community groups from unaffordable charges when there is a change in how surface water drainage charges are assessed: that is, on the basis of site area rather than rateable value. It will be for water companies to decide how their scheme should operate, subject to Government guidance which will be subject to consultation.

Social tariffs

The Bill enables water and sewerage companies to include social tariffs for groups of customers who have particular difficulty in paying water and sewerage bills in full in their charges scheme. Such tariffs may introduce cross subsidies between different groups of customers, and cannot be rejected purely on this basis.

Water and sewerage charges: non-owner occupiers

Finally, the Bill requires property owners to provide details of non-owner occupiers who are liable to pay water bills to water and sewerage companies so that they can pursue them for debt if they leave the property without payment. Water and sewerage companies may also seek payment from the property owner, if the owner fails to arrange provisions of these details to be provided to the water company.