



# Water Act 2014

## 2014 CHAPTER 21

### PART 4

#### FLOOD INSURANCE

##### *The Flood Reinsurance Scheme*

#### 64 The Flood Reinsurance Scheme

- (1) For the purposes of this Part, the Flood Reinsurance Scheme is a scheme which—
  - (a) is established for the purpose mentioned in subsection (2), and
  - (b) is designated for the purposes of this Part by regulations made by the Secretary of State.
- (2) The purpose referred to in subsection (1)(a) is the purpose of providing reinsurance to relevant insurers in respect of such risks arising from a flood as are identified by the scheme, in such a way as to—
  - (a) promote the availability and affordability of flood insurance for household premises while minimising the costs of doing so, and
  - (b) manage, over the period of operation of the scheme, the transition to risk-reflective pricing of flood insurance for household premises.
- (3) The Secretary of State may by regulations make provision as to levels of reinsurance premiums payable by relevant insurers under the FR Scheme, and may make different provision for different purposes.
- (4) Regulations under subsection (3) may, in particular, make different provision for different purposes by reference to the value of the household premises insured.
- (5) In this section “flood insurance” means insurance in respect of risks arising from a flood.
- (6) In this Part, the Flood Reinsurance Scheme is called “the FR Scheme”.

*Status: This version of this part contains provisions that are prospective.*

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**Commencement Information**

**II** S. 64 in force at 1.1.2015 by S.I. 2014/3320, art. 4(a)

**65 Scheme administrator**

- (1) The FR Scheme is to be administered by a body designated by regulations made by the Secretary of State.
- (2) The Secretary of State may under subsection (1) designate a company registered under the Companies Act 2006 or a body of another kind.
- (3) In this Part, the body designated under subsection (1) is called “the FR Scheme administrator”.

**Commencement Information**

**I2** S. 65 in force at 1.1.2015 by S.I. 2014/3320, art. 4(b)

**66 Scheme funding**

- (1) The Secretary of State may, with the consent of the Treasury, make regulations requiring relevant insurers to pay to the FR Scheme administrator—
  - (a) a levy, the amount and timing of which is to be determined in accordance with the regulations;
  - (b) such further amounts, by way of levy or contribution, as may be requested by the FR Scheme administrator from time to time in accordance with the FR Scheme.
- (2) Regulations under subsection (1) may make provision as to—
  - (a) the circumstances in which a request under subsection (1)(b) may be made;
  - (b) the amounts that may be requested under subsection (1)(b).
- (3) The Secretary of State may by regulations make provision for amounts payable under subsection (1) to be recoverable summarily (or in Scotland recoverable) as a civil debt.
- (4) The Secretary of State may by regulations make provision as to the application of any amounts paid under subsection (1).
- (5) The Secretary of State may by regulations provide that, where such conditions as are specified in the regulations as regards the reserves of the FR Scheme are satisfied, the FR Scheme administrator must pay to the Secretary of State an amount of the reserves to be determined in accordance with the regulations.
- (6) Regulations under subsection (5) may—
  - (a) define “reserves”;
  - (b) make provision about determining the amount of the reserves of the FR Scheme.
- (7) Before making regulations under subsection (5), the Secretary of State must obtain the consent of the FR Scheme administrator, which is not to be unreasonably withheld.

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### Commencement Information

**I3** S. 66 in force at 1.1.2015 by S.I. 2014/3320, art. 4(c)

## 67 Scheme administration

- (1) The Secretary of State may by regulations make provision in connection with the administration of the FR Scheme.
- (2) Regulations under subsection (1) may require the FR Scheme administrator to have regard to the following in discharging its functions—
  - (a) the need to ensure economy, efficiency and effectiveness in the discharge of those functions,
  - (b) the need to act in the public interest,
  - (c) the need to ensure propriety and regularity in the operation of the FR Scheme, and
  - (d) the need to manage, over the period of operation of the FR Scheme, the transition to risk-reflective pricing of flood insurance for household premises.
- (3) Regulations under subsection (1) may require the FR Scheme administrator to produce and publish, in accordance with the regulations, a plan for achieving the transition mentioned in subsection (2)(d).
- (4) Regulations under subsection (1) may require the FR Scheme administrator to provide the following information to relevant insurers who have issued insurance policies that are reinsured under the FR Scheme, so that those insurers may supply the information to holders of those policies—
  - (a) information about how to find out about the levels of flood risk to which an area in which household premises are situated is subject and how any flood risk may be managed;
  - (b) information about the FR Scheme, including information about the effect of section 64(2)(b) (transition to risk-reflective pricing of flood insurance for household premises).
- (5) Regulations under subsection (1) may—
  - (a) limit, to any extent, the power of the FR Scheme administrator to borrow money or otherwise incur debt;
  - (b) make provision about the reserves of the FR Scheme, including limitations on draw downs and transfers;
  - (c) require the FR Scheme administrator to take steps to limit the overall net losses that may be incurred by the FR Scheme in any year to an amount specified in or determined in accordance with the regulations;
  - (d) provide for the form and contents of the FR Scheme's accounts;
  - (e) provide for a copy of the audited FR Scheme's accounts and a copy of the auditor's report on those accounts to be laid before Parliament;
  - (f) provide for the Comptroller and Auditor General to examine—
    - (i) the economy, efficiency and effectiveness with which the FR Scheme administrator has used resources in discharging its functions, and
    - (ii) the propriety and regularity in the operation of the FR Scheme, and for a report on any such examination to be laid before Parliament;

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- (g) provide that for the purposes of an examination under paragraph (f)—
  - (i) the Comptroller and Auditor General is to have a right of access at all reasonable times to any of the documents relating to the FR Scheme, and
  - (ii) a person who holds or has control of any of those documents is to give the Comptroller and Auditor General any assistance, information or explanation which the Comptroller and Auditor General requires in relation to any of those documents.
- (6) Regulations under subsection (1) may—
  - (a) require the FR Scheme administrator to designate an individual of a description specified in the regulations as the responsible officer of the FR Scheme;
  - (b) provide for the responsible officer to have such responsibilities in respect of—
    - (i) the FR Scheme's finances,
    - (ii) the FR Scheme's accounts,
    - (iii) accountability to Parliament for the economy, efficiency and effectiveness with which the FR Scheme uses resources in discharging its functions,
    - (iv) accountability to Parliament for propriety and regularity in the operation of the FR Scheme, and
    - (v) examinations and reports under subsection (5)(f),
 as are specified in the regulations.
- (7) Regulations under subsection (1) may make provision about the disclosure of information required for the purposes of the FR Scheme and may, in particular, require relevant insurers to supply to the FR Scheme administrator such information as it may request in relation to insurance policies issued by them.
- (8) Regulations under subsection (1) may provide for the supply by the FR Scheme administrator of information held by it in connection with the FR Scheme to—
  - (a) the Environment Agency,
  - (b) the Scottish Environment Protection Agency,
  - (c) the Natural Resources Body for Wales,
  - (d) the Department of Agriculture and Rural Development in Northern Ireland, or
  - (e) such other body as may be specified in the regulations.
- (9) Regulations under subsection (1) may provide for the supply by the FR Scheme administrator of information held by it in connection with the FR Scheme to the Secretary of State for purposes relating to government accounting.
- (10) Subsections (2) to (9) are not exhaustive of what may be done under subsection (1).
- (11) In this section—
  - “flood insurance” has the meaning given in section 64;
  - “the FR Scheme's accounts” means the accounts for a financial year of the FR Scheme prepared by the FR Scheme administrator in respect of the FR Scheme.

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**Commencement Information**

**I4** S. 67 in force at 1.1.2015 by S.I. 2014/3320, art. 4(d)

**68 Replacement of the scheme or administrator**

- (1) Where regulations under section 64 replace the FR Scheme by revoking a designation and making a new designation, the regulations may make such provision as the Secretary of State thinks fit in connection with the replacement of the old FR scheme with the new FR scheme.
- (2) Where regulations under section 65 replace the FR Scheme administrator by revoking a designation and making a new designation, the regulations may make provision for the transfer of property, rights and liabilities (whether or not otherwise capable of being transferred, and including pension liabilities in respect of staff) relating to the FR Scheme from the old administrator to the new administrator.

**Commencement Information**

**I5** S. 68 in force at 1.1.2015 by S.I. 2014/3320, art. 4(e)

**69 Disclosure of HMRC council tax information**

- (1) The Commissioners for Her Majesty's Revenue and Customs may disclose relevant HMRC council tax information to any person who requires that information for either of the following descriptions of purposes—
  - (a) purposes connected with such scheme as may be established and designated in accordance with section 64 (in any case arising before any scheme is so designated);
  - (b) purposes connected with the FR Scheme (in any case arising after the designation of a scheme in accordance with section 64).
- (2) A person to whom information is disclosed under subsection (1)(a) or (b)—
  - (a) may use the information only for the purposes mentioned in subsection (1)(a) or (b), as the case may be;
  - (b) may not further disclose the information except with the consent of the Commissioners.
- (3) In this section—

“HMRC council tax information” means information which is held for council tax purposes by the Valuation Office of Her Majesty's Revenue and Customs;

“relevant HMRC council tax information” means HMRC council tax information relating to premises which are household premises and consisting of any of the following—

  - (a) the address (including the postcode) of the premises;
  - (b) the council tax valuation band in which the premises fall;
  - (c) information about when the premises were constructed;
  - (d) the National [F<sup>1</sup>Address] Gazetteer unique property reference number for the premises;

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- (e) the unique address reference number allocated to the premises by the Valuation Office of Her Majesty's Revenue and Customs.
- (4) The Secretary of State may by regulations amend the definition of “relevant HMRC council tax information” in subsection (3).
- (5) If the Secretary of State by regulations under subsection (4) amends the definition of “relevant HMRC council tax information” to add further descriptions of information, those regulations may include the provision described in subsection (6).
- (6) The regulations may provide that if a person discloses, in contravention of subsection (2)(b), information which is relevant HMRC council tax information by virtue of the regulations and which relates to a person whose identity—
- (a) is specified in the disclosure, or
  - (b) can be deduced from it,
- section 19 of the Commissioners for Revenue and Customs Act 2005 (wrongful disclosure) applies in relation to that disclosure as it applies in relation to a disclosure, in contravention of section 20(9) of that Act, of revenue and customs information relating to a person whose identity is specified in the disclosure or can be deduced from it.
- (7) The Secretary of State must consult the Commissioners for Her Majesty's Revenue and Customs before making regulations under subsection (4).

#### Textual Amendments

- F1** Word in s. 69(3)(d) substituted (11.11.2015) by [The Flood Reinsurance \(Scheme Funding and Administration\) Regulations 2015 \(S.I. 2015/1902\)](#), regs. 1(b), **29**

#### Commencement Information

- I6** S. 69 in force at 1.1.2015 in so far as not already in force by [S.I. 2014/3320](#), art. 4(f)

PROSPECTIVE

### *Flood insurance obligations*

#### **70 Flood insurance obligations**

- (1) The Secretary of State may by regulations require a relevant insurer to issue in a prescribed period insurance policies that provide cover against a prescribed description of risk for a prescribed number of registered premises.
- (2) The regulations may prescribe different numbers of registered premises for different descriptions of risk.
- (3) The descriptions of risks that may be prescribed are those arising from a flood.
- (4) The regulations may provide for a prescribed number relating to a relevant insurer to be determined by reference to factors that include in particular—
  - (a) a target number (see section 71);
  - (b) the relevant insurer's share of insurance business of a prescribed description.

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- (5) The regulations may—
- (a) make provision about determining the size of a relevant insurer's share of insurance business of a prescribed description;
  - (b) provide for a relevant insurer to be exempt from the obligation described in subsection (1) in prescribed circumstances, whether wholly or so far as regards a particular description of risk, including circumstances relating to the amount of insurance business done by the relevant insurer;
  - (c) make provision about the circumstances in which a relevant insurer ceases to be subject to the obligation described in subsection (1), whether wholly or so far as regards a particular description of risk;
  - (d) make provision about the cases in which issuing an insurance policy is not to count towards discharging an obligation imposed on a relevant insurer by the regulations, including cases in which an insurance policy is not to count because of the content of its terms;
  - (e) make provision for allowing an insurance policy issued by another insurer to count towards the discharge of an obligation to issue a number of insurance policies imposed on a relevant insurer by the regulations;
  - (f) make provision about determining the number of registered premises for which a relevant insurer has issued insurance policies, including provision for varying, by reference to the risk band applicable to the particular registered premises, the extent to which insuring those premises counts in determining that number.
- (6) Provision under subsection (5)(a) may require an insurer, in determining the insurer's share of insurance business of a prescribed description, to use information about that insurance business held by—
- (a) the Secretary of State,
  - (b) a person acting on behalf of the Secretary of State, or
  - (c) the FCA.
- (7) Subsection (5)(e) is not to be taken as requiring a change in the person who is the insurer in relation to an insurance policy.
- (8) Regulations under this section may include provision in respect of cases where an insurer has not provided such information as is required by regulations under section 72 including—
- (a) provision for determining whether the insurer is a relevant insurer,
  - (b) provision for determining whether an exemption applies, and
  - (c) provision for determining what share of insurance business of a prescribed description the insurer is to be treated as having.
- (9) Before making regulations under this section, the Secretary of State must consult such persons as the Secretary of State considers appropriate.
- (10) In this section “prescribed” means specified in or determined in accordance with regulations under this section.

## **71 Target number**

- (1) The Secretary of State may, from time to time, by regulations prescribe a number to be a target number for the purposes of regulations under section 70.

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- (2) A target number is the number of registered premises to be covered against a prescribed description of risk by insurance policies issued in a prescribed period by those relevant insurers upon whom obligations are imposed by regulations under section 70.
- (3) The regulations may prescribe different target numbers for different descriptions of risk.
- (4) The regulations may in particular provide for a target number to be expressed as a percentage of the number of registered premises.
- (5) The regulations may, at any one time, prescribe target numbers for two or more consecutive prescribed periods.
- (6) In this section “prescribed” means specified in or determined in accordance with regulations under this section.

## 72 Information

- (1) The Secretary of State may by regulations make provision about—
  - (a) the provision of information, and
  - (b) the production of documents,
 by insurers for the purposes of regulations under section 70.
- (2) The regulations may in particular require an insurer to provide information of a prescribed description or produce documents of a prescribed description for the purpose of showing, in relation to a prescribed period—
  - (a) whether or not an insurer is a relevant insurer;
  - (b) whether or not an exemption applies (see section 70(5)(b)).
- (3) The regulations may in particular require an insurer to provide information or produce documents about—
  - (a) the insurance policies issued by it in a prescribed period that provide cover against prescribed descriptions of risk;
  - (b) the value of the insurance policies so issued;
  - (c) insurance policies so issued that do not remain in force to the end of the period of cover;
  - (d) the value of such insurance policies.
- (4) The regulations may provide for information to be provided or documents to be produced to the Secretary of State or a person acting on behalf of the Secretary of State.
- (5) The regulations may make provision—
  - (a) about the time within which information must be provided or documents produced;
  - (b) about the form in which information is to be provided;
  - (c) about the place where documents are to be produced;
  - (d) requiring information to be verified in a prescribed manner;
  - (e) requiring documents to be authenticated in a prescribed manner.
- (6) The regulations may make provision about—



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- (a) the persons to whom, and the purposes for which, information supplied by an insurer may be disclosed;
  - (b) the publication of information by the Secretary of State about the amount of insurance business of a prescribed description done by insurers, taken together.
- (7) In this section “prescribed” means specified in or determined in accordance with regulations under this section.

### **73 Section 72: further provision**

- (1) The Secretary of State may by regulations make provision for and in connection with enforcing compliance with obligations imposed by regulations under section 72.
- (2) The regulations may in particular include—
- (a) provision about the sanctions, including civil penalties, that may be imposed by the Secretary of State or a person acting on behalf of the Secretary of State for non-compliance with the obligations;
  - (b) provision about the procedure to be followed when imposing a sanction;
  - (c) provision about the recovery of costs incurred in connection with imposing a sanction up to the time of its imposition;
  - (d) provision enabling an appeal to the First-tier Tribunal against the imposition of a sanction or a requirement to pay costs.
- (3) Provision under subsection (2)(a) may in particular include—
- (a) provision for civil penalties of a fixed amount;
  - (b) provision for further amounts to be payable by way of civil penalty where an insurer continues to fail to comply with the obligation in question;
  - (c) provision about how a civil penalty or an amount of costs may be recovered.
- (4) Provision under subsection (2)(d) may include provision as to the grounds on which an appeal may be made.

### **74 Register of premises subject to greater flood risk**

- (1) The Secretary of State may by regulations provide for the creation and maintenance of a register of household premises in the United Kingdom that are subject to greater flood risk for the purposes of regulations under section 70.
- (2) The regulations may provide for the levels of flood risk to which premises are subject to be divided into two or more bands (“risk bands”), and may prescribe the upper and lower limits of each band.
- (3) The regulations may provide for the register to specify the level of flood risk to which particular household premises are subject by specifying the risk band applicable to the premises.
- (4) The regulations may provide for premises of a description specified in the regulations to be excluded from the register, and the premises excluded may include in particular premises where construction is completed on or after a date specified in the regulations.
- (5) The regulations may—

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- (a) specify the information to be contained in the register;
  - (b) make provision about access to the information contained in the register;
  - (c) provide for the publication of the register in whole or in part;
  - (d) provide for the disclosure of information contained in the register;
  - (e) provide for notification if premises are entered in, or omitted from, the register.
- (6) Regulations made under subsection (5)(d) may provide for—
- (a) the persons to whom information or any description of information contained in the register may be disclosed;
  - (b) the imposition of conditions on persons to whom information contained in the register is disclosed, including conditions limiting further disclosure;
  - (c) penalties for non-compliance with conditions imposed under paragraph (b).
- (7) The regulations may require applications for premises to be entered in the register to be made by or on behalf of a person who has the qualifying interest in the premises.
- (8) The regulations may provide for premises to be omitted from the register at the request of a person who has the qualifying interest in the premises.
- (9) Before making regulations under this section the Secretary of State must consult—
- (a) the Welsh Ministers;
  - (b) the Scottish Ministers;
  - (c) the Department of Agriculture and Rural Development in Northern Ireland.

## **75 Functions of relevant bodies**

- (1) Regulations under section 74 may provide for a relevant body to carry out functions in connection with—
- (a) the creation and maintenance of the register;
  - (b) giving access to information contained in the register;
  - (c) publication of the register;
  - (d) disclosure of information contained in the register;
  - (e) notification when premises are entered in, or omitted from, the register.
- (2) The following are relevant bodies for the purposes of this Part—
- (a) the Environment Agency;
  - (b) the Scottish Environment Protection Agency, in relation to Scotland;
  - (c) the Natural Resources Body for Wales, in relation to Wales;
  - (d) the Department of Agriculture and Rural Development in Northern Ireland, in relation to Northern Ireland.
- (3) The regulations may provide for the Environment Agency—
- (a) to coordinate the carrying out of functions conferred or imposed under subsection (1);
  - (b) to promote consistency in the carrying out of those functions.
- (4) The regulations may—
- (a) require the relevant bodies to cooperate with each other as regards the functions conferred or imposed on any of them under subsection (1);

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- (b) require the relevant bodies (other than the Environment Agency) to cooperate with the Environment Agency as regards the carrying out of functions conferred or imposed on the Environment Agency under subsection (3).
- (5) Regulations under section 74 may provide for the Commissioners for Her Majesty's Revenue and Customs, or a person authorised by them, to disclose information held for council tax purposes by the Valuation Office to—
  - (a) the Environment Agency, or
  - (b) the Natural Resources Body for Wales,for use in identifying premises to be excluded from the register by reference to the date of completion of construction (see section 74(4)).
- (6) The regulations may include provision restricting the use or further disclosure of information disclosed under subsection (5).

## **76      Reviews and appeals**

- (1) Regulations under section 74 may make provision for a person with the qualifying interest in particular premises—
  - (a) to request a review of a decision by a relevant body that the premises are not eligible to be entered in the register;
  - (b) to appeal against a decision by a relevant body that the premises are not eligible to be entered in the register to—
    - (i) the sheriff, in relation to Scotland,
    - (ii) the Water Appeals Commission for Northern Ireland, in relation to Northern Ireland, or
    - (iii) the First-tier Tribunal, in any other case.
- (2) For “relevant body”, see section 75(2).

## **77      Expenses of relevant bodies**

- (1) The Secretary of State may, with the consent of the Treasury, by regulations provide for a levy to be payable to the Secretary of State by insurers of a description specified in the regulations.
- (2) The regulations may—
  - (a) specify the rate of the levy or the method by which it is to be calculated;
  - (b) make provision as to the times when, and the manner in which, payments are to be made in respect of the levy.
- (3) The regulations may in particular make provision for determining the amount of the levy by reference to the qualifying expenses of the relevant bodies and the Secretary of State.
- (4) The regulations may make provision for amounts payable by way of levy under the regulations to be recoverable summarily (or in Scotland recoverable) as a civil debt.
- (5) Before making regulations under this section the Secretary of State must consult—
  - (a) the Welsh Ministers;
  - (b) the Scottish Ministers;
  - (c) the Department of Agriculture and Rural Development in Northern Ireland.

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- (6) In this section “qualifying expenses” means—
- (a) in relation to a relevant body, such proportion of the expenses of the relevant body as the Secretary of State considers reasonable having regard to the functions exercisable by that body under regulations under section 74;
  - (b) in relation to the Secretary of State, the expenses of the Secretary of State attributable to the exercise of functions conferred by or under this section.
- (7) For “relevant body”, see section 75(2).

## **78 Compliance reports**

- (1) The Secretary of State may by regulations make provision about reporting compliance with obligations imposed by regulations under section 70.
- (2) The regulations may require a relevant insurer to make a report—
  - (a) stating the extent to which it has complied with obligations imposed on it by regulations under section 70 in relation to a prescribed period;
  - (b) providing prescribed details about the basis on which it considers that it has complied with those obligations to that extent.
- (3) The regulations may provide for reports to be given to the FCA.
- (4) In this section “prescribed” means specified in or determined in accordance with regulations under this section.

## **79 Functions of the FCA**

- (1) The Treasury may by regulations provide for the FCA to take action for monitoring and enforcing compliance with—
  - (a) such of the obligations imposed on relevant insurers by regulations under section 70 or 78 as may be specified in the regulations;
  - (b) such description of those obligations as may be specified in the regulations.
- (2) The regulations may provide for the FCA to take action for enforcing compliance with—
  - (a) such of the obligations imposed on insurers by regulations under section 72 as may be specified in the regulations;
  - (b) such description of those obligations as may be specified in the regulations.
- (3) Regulations under subsection (2) may only provide for the FCA to take action as regards cases where—
  - (a) the failure to comply, if proved, would consist in or involve providing information that is not true or producing a document that is not correct, or
  - (b) measures available under section 73 have been taken without securing compliance.
- (4) The regulations may apply, or make provision corresponding to, any of the provisions of the Financial Services and Markets Act 2000 or the Financial Services Act 2012, with or without modification.
- (5) The provisions of the Financial Services and Markets Act 2000 and the Financial Services Act 2012 referred to in subsection (4) include in particular—

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- (a) provisions about gathering information and investigating, including provisions as to powers of entry and search;
  - (b) provisions as to criminal offences and disciplinary measures;
  - (c) provisions for the grant of an injunction in relation to a contravention or anticipated contravention;
  - (d) provisions giving the Treasury or the FCA powers to make subordinate legislation;
  - (e) provisions for the FCA to charge fees;
  - (f) provisions restricting liability in damages in relation to the discharge of functions of the FCA.
- (6) The regulations may make provision enabling the FCA, to such extent as the regulations may prescribe, to make arrangements for the performance of functions on its behalf.

## **80 Reports by the FCA**

- (1) The Treasury may by regulations provide for the FCA to prepare reports on its discharge of the functions conferred on it under section 79.
- (2) The regulations may—
- (a) make provision about the contents of the reports;
  - (b) make provision about the timing of the reports;
  - (c) provide for copies of the report to be given to the Secretary of State and such other persons as the regulations may specify;
  - (d) provide for publication of the reports.

## **81 Intervention by the FCA or the PRA**

- (1) The Treasury may by regulations confer on a regulator the power to disapply or modify, in relation to a relevant insurer, an obligation imposed by regulations under—
- (a) section 70 (flood insurance obligations),
  - (b) section 72 (information), or
  - (c) section 78 (compliance reports).
- (2) In this section “the intervention power” means the power conferred by regulations under subsection (1).
- (3) The regulations may specify which obligations, or which descriptions of obligations, a regulator may disapply or modify under the intervention power.
- (4) The regulations may specify what modifications, or what descriptions of modifications, may be made by a regulator under the intervention power.
- (5) The regulations may specify the circumstances in which, and the conditions subject to which, a regulator may exercise the intervention power.
- (6) Provision under subsection (5) may in particular provide for a regulator to exercise the intervention power in relation to a relevant insurer—
- (a) where the relevant insurer is failing, or is likely to fail, to satisfy the threshold conditions for which the regulator is responsible,
  - (b) in connection with advancing—

*Status: This version of this part contains provisions that are prospective.*

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- (i) if the regulator is the FCA, one or more of the FCA's operational objectives, or
  - (ii) if the regulator is the PRA, one or more of the PRA's objectives,
  - (c) in conjunction with the exercise by the regulator, in respect of the relevant insurer, of a power that is conferred on the regulator by or under an enactment and is specified in the regulations, or
  - (d) at the request of, or for the purpose of assisting, an overseas regulator of a kind specified in the regulations.
- (7) The regulations may—
- (a) make provision about the procedure to be followed when exercising the intervention power, including provision about consulting such persons as may be specified in the regulations about a proposed exercise of the power;
  - (b) make provision requiring a regulator to give a relevant insurer notice in writing specifying how the intervention power has been exercised in relation to that relevant insurer;
  - (c) make provision about when an exercise of the intervention power takes effect;
  - (d) make provision about the period for which a provision of regulations may be disapplied or modified under the intervention power, including—
    - (i) provision enabling a regulator to specify the period for which a provision of regulations is disapplied or modified;
    - (ii) provision for disapplying or modifying a provision of regulations until a regulator provides for it to apply again or to apply again without modification;
  - (e) make provision requiring a regulator—
    - (i) to send copies of a notice under paragraph (b) to the Secretary of State and such other persons as may be specified in the regulations;
    - (ii) to notify such persons as may be specified in the regulations of the exercise of the intervention power;
  - (f) make provision requiring a regulator to publish such details about the exercise of the intervention power as may be specified in the regulations;
  - (g) make provision requiring a regulator to keep under review each case in which a provision of regulations is disapplied or modified;
  - (h) make provision about the matters to which a regulator is to have regard in exercising its functions under the regulations.
- (8) Provision under subsection (7)(e) or (f) may allow for the omission of information publication of which would in the opinion of the regulator be against the public interest.
- (9) The intervention power may be exercised in respect of an obligation imposed by regulations under section 70(1) only so as to disapply the obligation (and not so as to modify it).
- (10) The regulations may apply, or make provision corresponding to, any of the provisions of the Financial Services and Markets Act 2000 or the Financial Services Act 2012, with or without modification.
- (11) The provisions of the Financial Services and Markets Act 2000 or the Financial Services Act 2012 referred to in subsection (10) include in particular—
- (a) provisions about gathering information and investigating, including provisions as to powers of entry and search;

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- (b) provisions as to criminal offences and disciplinary measures;
  - (c) provisions for the grant of an injunction in relation to a contravention or anticipated contravention;
  - (d) provisions giving the Treasury, the FCA or the PRA powers to make subordinate legislation;
  - (e) provisions for the FCA or the PRA to charge fees;
  - (f) provisions restricting liability in damages in relation to the discharge of functions of the FCA or the PRA.
- (12) In this section “regulator” means the FCA or the PRA.
- (13) For—
- “objective of the PRA”, see section 2F of the Financial Services and Markets Act 2000;
  - “operational objective of the FCA”, see section 1B(3) of that Act;
  - “overseas regulator”, see section 55Q of that Act;
  - “threshold condition”, see section 55B of that Act.

### General

## 82 Interpretation

- (1) In this Part “insurer” means—
- (a) a person who—
    - (i) is authorised for the purposes of the Financial Services and Markets Act 2000 (see section 31 of that Act), and
    - (ii) has permission to carry on the activities specified in Article 10 of the Financial Services and Markets (Regulated Activities) Order 2001 (S.I. 2001/544), or
  - (b) a member of the Society (within the meaning of the Lloyd's Act 1982).
- (2) The Secretary of State may by regulations amend the definition of “insurer” in subsection (1).
- (3) The Secretary of State may by regulations define “relevant insurer” for the purposes of this Part.
- (4) Before making regulations under subsection (3) as to the meaning of “relevant insurer”, the Secretary of State must consult such persons as the Secretary of State thinks appropriate.
- (5) The Secretary of State may by regulations define for the purposes of sections 64 to 69—
- “flood”;
  - “flood risk”;
  - “household premises”.
- (6) The Secretary of State may by regulations define for the purposes of sections 70 to 81—
- “flood”;
  - “flood risk”;

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“greater flood risk”;  
 “household premises”;  
 “insurance policy”;  
 “issue”, in relation to an insurance policy;  
 “the qualifying interest”, in relation to household premises.

- (7) Regulations under subsection (5) or (6) as to the meaning of “flood” may specify descriptions of water that are, or are not, to be taken into account.
- (8) In sections 70 to 81—
- “the FCA” means the Financial Conduct Authority;
  - “the PRA” means the Prudential Regulation Authority;
  - “registered premises” means premises registered in the register maintained under section 74;
  - “risk band” has the meaning given by section 74(2).

#### Commencement Information

- I7** S. 82(1)-(5) in force at 1.1.2015 by S.I. 2014/3320, art. 4(g)(i)  
**I8** S. 82(7) in force at 1.1.2015 for specified purposes by S.I. 2014/3320, art. 4(g)(ii)

### 83 Period of operation

- (1) Sections 64 to 81 are repealed at the end of the period of 25 years beginning with the day on which this Act is passed.
- (2) The Secretary of State may by order amend subsection (1) so as to bring forward the day on which—
- (a) sections 64 to 69 are repealed;
  - (b) sections 70 to 78 are repealed.
- (3) The Secretary of State may by order make provision in connection with—
- (a) the repeal of—
    - (i) sections 64 to 69, or
    - (ii) sections 70 to 78, or
  - (b) the revocation of a scheme's designation under section 64(1)(b) without a new designation being made under that provision, at any time before sections 64 to 69 are repealed,
- including provision amending or repealing an enactment.
- (4) Provision made in an order by virtue of subsection (3) may, in particular, include—
- (a) such provision for the transfer of property, rights and liabilities (whether or not otherwise capable of being transferred, and including pension liabilities in respect of staff) relating to the FR Scheme as the Secretary of State thinks fit;
  - (b) provision about legal proceedings relating to anything done in connection with the FR Scheme;
  - (c) provision about the accounts of the FR Scheme;
  - (d) provision about information held by the FR Scheme administrator.



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- (5) Before making an order under subsection (3)(a)(i) or (b) which includes provision for the transfer of an amount of the reserves of the FR Scheme, the Secretary of State must consult the FR Scheme administrator about the amount to be transferred.
- (6) The Secretary of State may by regulations define “reserves” for the purposes of subsection (5).
- (7) The Treasury may by order amend subsection (1) so as to bring forward the day on which sections 79 to 81 are repealed.
- (8) The Treasury may by order make provision in consequence of the repeal of sections 79 to 81, including provision amending or repealing an enactment.

#### Commencement Information

**19** [S. 83](#) in force at 1.1.2015 by [S.I. 2014/3320](#), [art. 4\(h\)](#)

## 84 Regulations and orders

- (1) A power to make regulations or an order under this Part is exercisable by statutory instrument.
- (2) Subsection (1) does not apply in relation to an order under section 83(3) if the only provision made by the order is provision for, or in connection with, the transfer of property, rights and liabilities.
- (3) A power to make regulations or an order under this Part includes power to make different provision for different purposes and different areas.
- (4) A power to make regulations or an order under this Part includes power to make incidental, supplementary, consequential, transitional or transitory provision or savings.
- (5) Subject to subsection (6), a statutory instrument containing regulations or an order made under this Part is subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) A statutory instrument containing—
  - (a) regulations under section 64 (the Flood Reinsurance Scheme),
  - (b) regulations under section 65 (scheme administrator),
  - (c) regulations under section 66 (scheme funding),
  - (d) regulations under section 67 (scheme administration),
  - (e) regulations under section 69 (disclosure of HMRC council tax information),
  - (f) regulations under section 70 (flood insurance obligations),
  - (g) the first regulations to be made under section 71 (target number),
  - (h) regulations under section 72 or 73 (information),
  - (i) the first regulations to be made under section 74 (register of premises subject to greater flood risk),
  - (j) regulations under section 77 (expenses of relevant bodies),
  - (k) regulations under section 78 (compliance reports),
  - (l) regulations under section 79 (functions of FCA),
  - (m) regulations under section 81 (intervention by FCA or PRA),

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- (n) regulations under section 82 (interpretation), or
- (o) an order under section 83 (period of operation),

may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

- (7) If a draft of an instrument containing an order under section 83(3) 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.

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**Commencement Information**

**I10** S. 84 in force at 1.1.2015 by S.I. 2014/3320, art. 4(i)

**Status:**

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**Changes and effects yet to be applied to :**

- specified provision(s) amendment to earlier commencing S.I. 2017/1288, art. 3(c)(d) by [S.I. 2019/706 art. 2](#)
- specified provision(s) amendment to earlier commencing S.I. 2017/462, arts. 4, 5 by [S.I. 2017/926 art. 2](#)