

To: Business Committee

From: Carwyn Jones
Minister for Environment, Planning and Countryside

EXPLANATORY MEMORANDUM

LAND DRAINAGE, WALES

THE WELSH REGIONAL FLOOD DEFENCE COMMITTEE (COMPOSITION) ORDER 2006

Summary

This Order amends the composition of the Welsh Regional Flood Defence Committee (RFDC) to a committee of eighteen members, eight to be appointed by the Minister, two by the Environment Agency and eight by groups of constituent local authorities.

1. This Memorandum is submitted to the Assembly's Business Committee in relation to The Welsh Regional Flood Defence Committee (Composition) Order 2006, in accordance with Standing Order 24. 6
2. A copy of the proposed Instrument is submitted with this Memorandum.

Enabling power

3. The powers enabling this Instrument to be made are contained in section 16A of the Environment Act 1995. The powers have been transferred to the National Assembly for Wales, and in turn have been delegated to my portfolio as Minister for Environment, Planning and Countryside. .

Effect

4. The Regional Flood Defence Committee (RFDC) is a statutory committee of the Environment Agency with responsibilities for the delivery of the flood risk management activities in Wales. The composition of the committee is currently set by the Regional Flood Defence Committee (Welsh Region) Order 1996, at twenty one members with eleven members appointed by groupings of local authorities, two by the Environment Agency and eight by the Minister.
5. The effect of the Order will be to set the composition of the RFDC at eighteen members with eight members appointed by groupings of local authorities, two by the Environment Agency and eight including the chairman by the Minister.
6. The purpose of the change is to establish a balanced committee where all members' views will have equal weight and there is no individual group majority so that it will be able to take a strategic overview in approving expenditure plans funded largely by the Assembly.
7. If the Order does not come into force on 1 April 2006 the composition of the committee will be as amended by the North-West, Severn-Trent and Welsh

Regional Flood Defence Committee (Boundary Alteration) Order 2005, i.e. with a local authority membership of nine, six ministerial appointments and two appointments made by the Environment Agency. This committee would have a majority of local authority members and would not be a balanced committee with the majority group having a greater influence over the decisions of the committee

Target Implementation

8. It is intended that the proposed Instrument will be made on 28 March 2006 and come into force on 1 April 2006.

Financial Implications

9. The work of the committee is funded annually by grant in aid provided by the National Assembly for Wales, precept on internal drainage boards and at present time European grants. These funding arrangements will not change as a result of this Order.
10. The grant in aid amounts to approximately £24m and is set annually by the Assembly, the precept on Internal Drainage Boards (IDB) is set annually by prior agreement, but may be the subject of appeal to the Minister if deemed unreasonable by the IDB.
11. Therefore there are no additional financial implications for the National Assembly for Wales or the local authorities as a result of amending the composition of the RFDC or from any of the arrangements arising from the enactment of this Order.
12. There are no cost impacts on businesses, or external bodies arising from the making of this Order.

Regulatory Appraisal

13. A Regulatory Appraisal has been carried out in relation to this Instrument and is attached.

Consultation

With Stakeholders

14. The proposed arrangements for the flood defence administration in Wales were the subject of extensive consultation between 22 September 2003 and 5 December 2003. A report on this consultation exercise and the decisions reached were announced at the plenary meeting on the 29 June 2004.
15. Concerns have been expressed through the consultation process that the Environment Agency may continue to exercise its powers in relation to the levy on local authorities. This is currently being controlled by the Welsh Assembly Government through the Environment Agency's remit letter, which sets out the expectation of the Assembly in this matter. If the Environment Agency ignores the remit letter the National Assembly for Wales has the power to direct the Agency in this matter or may set in motion other actions to mitigate its impact on local authorities.

16. Furthermore, a detailed consultation was undertaken between 17 August and 21 October 2005. A letter and explanatory note was issued to: all local authorities in Wales; the Welsh Local Government Association; the Environment Agency and other interested parties such as representatives of business, the internal drainage boards and conservation and professional bodies. In total 196 organisations, authorities and individuals were directly consulted. A list of consultees is attached at Annex A to the Regulatory Appraisal.
17. The explanatory note set out a proposal for a committee of fourteen with six members appointed by the Minister, six appointed by groups of local authorities, and two appointed by the Environment Agency. The consultation sought comments on the size and composition of the committee and the method of appointment so that any practical issues could be identified prior to implementation.
18. A majority (70%) of those who responded to the consultation favoured increasing the committee size to: provide a better geographical coverage; improve access to local knowledge and to democratically elect members. There were however only 26% of the responses that suggested an alternative size for the committee, and of these 60% were in favour of a committee of eighteen.
19. Twenty five percent (25%) of the responses suggested that local authorities should have a majority of members on a committee that had powers to set a levy on local authorities in Wales. However, the majority (50%) of those who expressed a view supported the balanced committee with no local authority majority. A report on this consultation exercise was published on the National Assembly for Wales Internet site in December 2005, and is attached at Annex B to the Regulatory Appraisal.
20. After considering the responses I decided that a committee comprising eighteen would be appropriate with eight members appointed by groups of local authorities, two by the Environment Agency and eight by the Minister.
21. The groups of local authorities were also amended to reflect the comments received, and the increase in the numbers of members. The groups were therefore based on the existing arrangements and to satisfy comments received about catchments and authorities with similar interests. The groups are set out below and in the Order and local authority members will be appointed to the committee from each of the groups in accordance with Schedule 5 to the Environment Act 1995.

<i>Group</i>	<i>Constituent Councils</i>
1	Denbighshire, Flintshire and Wrexham
2	Anglesey, Conwy and Gwynedd
3	Carmarthenshire, Ceredigion and Pembrokeshire
4	Vale of Glamorgan and Cardiff
5	Swansea, Neath Port Talbot and Bridgend
6	Powys, Monmouthshire and Torfaen
7	Blaenau Gwent, Caerphilly and Newport
8	Merthyr Tydfil and Rhondda Cynon Taff

With Subject Committee

22. The proposed Order was notified to the Environment, Planning and Countryside Committee, via the list of forthcoming legislation on 5 October 2005 (EPC(2)11-05 (p.7) Annex 2, item No. 62) and was identified for detailed scrutiny. The Committee will be scrutinising the Order at its meeting on 1 February 2006. (sentence to be amended following the scrutiny)

Recommended Procedure

23. Subject to the views of the Business Committee, I recommend that this Order proceed to Plenary under the standard procedure, to give Assembly Members an opportunity to further debate this Order.

Compliance

24. The proposed legislation will (as far as is applicable):

- have due regard to the principle of equality of opportunity for all people (Government of Wales Act 1998 section 120);
- be compatible with the Assembly's scheme for sustainable development (section 121);
- be compatible with Community law (section 106)
- be compatible with the Assembly's human rights legislation (section 107); and
- be compatible with any international obligations binding the UK Government and the Assembly (section 108).

25. The information in this Memorandum has been cleared by the Directorate of Legal Services and by the Assembly Compliance Officer.

26. Drafting Lawyer: Sean Bradley, Ext 3202.

27. Head of Division: June Milligan, Ext 3256.

28. Policy Division contact: Geoffrey Bayliss, Ext 3148.

CARWYN JONES
MINISTER FOR ENVIRONMENT, PLANNING AND COUNTRYSIDE

JANUARY 2006

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