

*Draft Regulations laid before Parliament under section \*\*\* of the Water Act 2014, for approval by resolution of each House of Parliament.*

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S T A T U T O R Y   I N S T R U M E N T S

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**2015 No.**

**[INSURANCE]**

**The Flood Reinsurance Scheme Funding and Administration  
Regulations 2015**

<i>Made</i>	- - - -	***
<i>Coming into force</i>	- -	***

The Secretary of State, with the consent of the Treasury, in exercise of the powers conferred by sections 64(3), 66(1), (3) and (4), 67(1) to (7), 67(9) and 82(3) and (5) of the Water Act 2014(a) (“the Act”), makes the following Regulations.

The Secretary of State has consulted such persons as the Secretary of State thinks appropriate in accordance with section 82(4) of the Act.

A draft of these Regulations has been laid before and approved by a resolution of each House of Parliament pursuant to section 84(6) of the Act.

**Citation and commencement**

1. These Regulations may be cited as the Flood Reinsurance Scheme Funding and Administration Regulations 2015 and come into force on 6th April 2015.

**Interpretation**

2. In these Regulations—

“the Act” means the Water Act 2014;

“buildings only policy” means an insurance policy covering the structure of a dwelling including fixtures and fittings, swimming pools, permanently fixed hot tubs, tennis courts, patios, terraces, service tanks, drains, septic tanks, pipes and cables, central heating fuel storage tanks, driveways, footpaths, garden walls, hedges, gates and fences;

“combined policy” means an insurance policy which comprises a buildings only policy and a contents only policy;

“consumer prices index” means the all items consumer prices index published by the Statistics Board or, if that index is not published for a relevant month, any substituted index or index figures published by the Statistics Board;

“contents” may include household goods and personal possessions including valuables (except fine art), clothes, sports equipment and bicycles, camping equipment, money, satellite dishes, aerials and other articles, unless otherwise insured, for which the policyholder is responsible or that belong to the policyholder, domestic staff who live in the dwelling or guests, except paying guests;

“contents only policy” means an insurance policy covering the contents of a dwelling;

“dwelling” means any land and building in the United Kingdom that is held by the occupier for private, domestic and residential use (whether or not with others), including a house or other single dwelling; and any property which forms part of, or is enjoyed with, the dwelling;

“financial year” means a period of 12 months ending on the 31st March;

“the FR Scheme administrator” means the body designated by the Flood Reinsurance Scheme Administrator Designation Regulations 2015;

“the FR Scheme” means the scheme designated as the Flood Reinsurance Scheme by the Flood Reinsurance Scheme Designation Regulations 2015;

“gross written premium” means the amount paid or payable by, or on behalf of, policyholders for home insurance in the United Kingdom, in sterling, before the deduction of any amount including any commission by any party but excluding insurance premium tax;

“home insurance” means a contract of insurance effected in the UK covering any risk of damage to, or loss or destruction of, either or both of the whole or part of a dwelling and its contents, and which meets the criteria set out in [AA] of the Scheme;

“preceding calendar year”, in relation to a financial year, means the year ending on 31<sup>st</sup> December immediately preceding the period of the financial year.

### Definitions in the Act

3. For the purposes of Part 4 of the Act, “relevant insurer” means an insurer(a) who as at any date within the period beginning 6th April 2015 and ending 31st March 2016 (“the period”) or during any subsequent financial year—

- (a) is authorised to effect and carry out home insurance, or has been authorised at any time during the period of 12 months immediately preceding the first day of the period or the financial year; or
- (b) is a member of the Society (within the meaning of the Lloyd’s Act 1982) and, as such a member—
  - (i) effected or was party to any agreement to effect any contract of home insurance in the UK at any time during the period of 12 months immediately preceding the first day of the period or the financial year; or
  - (ii) effects or is party to any agreement to effect any contract of home insurance in the UK during the period or the financial year.

4. For the purposes of sections 64 to 69 of the Act—

“flood” means water, from any source external to a property, which enters that property at or below ground level;

“household premises” means a dwelling which is covered by a home insurance policy and meets the criteria set out in [BB] of the FR Scheme.

### Payment of the Levy

5.—(1) A relevant insurer must pay to the FR Scheme administrator a levy each financial year calculated in accordance with the following formula—

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(a) For the definition of insurer see section 82(1) of the Act.

$$TL \times \frac{X}{Y}$$

(2) For the purposes of the formula in regulation 5(1)—

For the period 6th April 2015 to 31st March 2016, “TL” means the total levy of £180 million;

For each of the following 4 financial years, “TL” means the total levy of £180 million;

“X” means the relevant insurer’s gross written premium for the preceding calendar year unless regulation 6 applies; and

“Y” means the sum of all relevant insurers’ “X” for the preceding calendar year.

6. If a relevant insurer fails to provide the information in regulation 9 within the required period, “X” is the amount considered by the FR Scheme administrator to be a reasonable estimate of the gross written premium of the relevant insurer.

7. For the financial year commencing on the 1st April 2015, the levy under regulation 5 is due on the [6th April 2015] and shall be payable quarterly by each relevant insurer no later than 30 days following a request in writing by the FR Scheme administrator.

8. For each subsequent financial year, the levy under regulation 5 is due on the 1st April of that subsequent year and shall be payable quarterly by each relevant insurer no later than 30 days following a request in writing by the FR Scheme administrator.

#### **Provision of information by relevant insurers**

9. A relevant insurer must provide to the FR Scheme administrator within 30 days of a written request, information relating to the total of the gross written premium of home insurance policies effected by it in the preceding calendar year.

#### **Payment of additional levy or contributions**

10.—(1) A relevant insurer must pay by levy or contribution any additional amount as may be requested by the FR Scheme administrator from time to time in accordance with the FR Scheme.

(2) When making a request for any additional amount under regulation 10(1), the FR Scheme administrator must comply with the circumstances set out in regulation 11.

#### **Circumstances for payment of additional levy or contribution**

11.—(1) The circumstances referred to in regulation 10(2) are that—

- (a) the total additional amount requested from all relevant insurers at any one time must not be more than the amount that the FR Scheme administrator considers appropriate for the prudent management of the FR Scheme;
- (b) the FR Scheme administrator must notify the Secretary of State within 30 days of the request, the amount requested and the reasons for the request;
- (c) the amount requested from a relevant insurer shall be calculated in accordance with the following formula—

$$TAA \times \frac{X}{Y}$$

(2) For the purposes of the formula in regulation 11(1)—

‘TAA’ means the total additional amount requested by the FR Scheme administrator in accordance with regulation 10 at any one time; and

‘X’ and ‘Y’ have the same meaning as in regulation 5.

### Application of levy or contributions collected

12. The FR Scheme administrator must use the levy collected under regulation 5, and any additional levy or contributions collected under the regulation 10 for the following purposes only—

- (a) the purposes of the FR Scheme; and
- (b) the administration of the FR Scheme.

### Recovery of amounts due as a civil debt

13. The FR Scheme administrator may recover as a civil debt any levy under regulation 5 or additional amount under regulation 10 that remains unpaid 30 days after the date of the request in writing.

### FR Scheme reinsurance premium thresholds

14.—(1) The FR Scheme administrator in the financial year commencing on 1<sup>st</sup> April 2015 shall charge a relevant insurer for reinsurance premiums in respect of the flood risk element of a combined policy, a buildings only policy or a contents only policy, for household premises, no more than the amount specified for each such policy corresponding with the relevant valuation band as set out in Table 1 in the Schedule:

- (a) in the second column of the table for a combined policy;
- (b) in the third column of the table for a buildings only policy; or
- (c) in the fourth column of the table for a contents only policy,  
where the relevant household premises being insured is located in England, Wales or Scotland.

(2) The FR Scheme administrator in the financial year commencing on 1<sup>st</sup> April 2015 shall charge a relevant insurer for reinsurance premiums in respect of the flood risk element of a combined policy, a buildings cover policy or a contents cover policy, for household premises, no more than the amount specified for each such policy corresponding with the relevant Flood Re category as set out in Table 2 in the Schedule:

- (a) in the second column of the table for a combined policy;
- (b) in the third column of the table for a buildings only policy; or
- (c) in the fourth column of the table for a contents only policy,  
where the relevant household premises being insured is located in Northern Ireland.

(3) For the purposes of regulation 14(1);

- (a) ‘relevant valuation band’ for properties in England shall be the same as those set out in section 5(2) of the Local Government Finance Act 1992(a).
- (b) ‘relevant valuation band’ for properties in Wales shall be the same as those set out in section 5(3) of the Local Government Finance Act 1992.
- (c) ‘relevant valuation band’ for properties in Scotland shall be the same as those set out in section 74(2) of the Local Government Finance Act 1992.

(4) For the purposes of regulation 14(2) Flood Re categories are set out in the table below—

<i>Values of Properties at 1<sup>st</sup> January 2005</i>	<i>Flood Re Category</i>
Values not exceeding £72,500	1
Values exceeding £72,500 but not exceeding £92,500	2
Values exceeding £92,500 but not exceeding £125,000	3
Values exceeding £125,000 but not exceeding £160,000	4
Values exceeding £160,000 but not exceeding £205,000	5

(a) 1992 c.14.

Values exceeding £205,000 but not exceeding £260,000	6
Values exceeding £260,000 but not exceeding £450,000	7
Values exceeding £450,000	8

### Calculation of reinsurance premium thresholds

**15.**—(1) For the financial year commencing on or after 1st April 2016, and each subsequent financial year, the amounts set out in Table 1 and Table 2 in the Schedule for the reinsurance premium thresholds will be adjusted in accordance with the following formula—

$$A \times CP$$

with the resulting figure being stated to two decimal places and rounded to the nearest penny.

(2) In paragraph (1)—

“A” is the amount of the reinsurance premium threshold in the preceding financial year; and

“CP” is the percentage increase or decrease in the consumer prices index for the immediately preceding calendar year.

### Exercise of the FR Scheme administrator’s functions

**16.** The FR Scheme administrator must 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, and
- (c) the need to ensure propriety and regularity in the operation of the FR Scheme.

### Restrictions on the exercise of the FR Scheme administrator’s functions

**17.**—(1) In discharging its functions, the FR Scheme administrator must comply with the following conditions—

- (a) there shall be a limit on the borrowed amount of £5 million;
- (b) the FR Scheme administrator must not borrow from a relevant insurer;
- (c) the FR Scheme administrator must not use, or transfer, any assets relating to the FR Scheme, other than for the purposes and the administration of the FR Scheme;
- (d) [in the event that the FR Scheme causes an increase in public sector net borrowing, such increase must not exceed £100 million in any financial year.]

(2) For the purposes of regulation 17(1)(a), “borrowed amount” means “the aggregate amount outstanding at the end of the financial year in respect of any sums borrowed by the FR Scheme administrator”.

(3) For the purposes of regulation 17(1)(c), “purposes” includes purposes incidental to the FR Scheme.

### Transition to risk reflective pricing of flood insurance

**18.**—(1) The FR Scheme administrator must have regard to 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.

(2) The FR Scheme administrator must produce and publish a plan for achieving the transition referred to in regulation 18(1) (to be known as the transition plan) within 3 months of these regulations coming into force.

(3) The transition plan may contain the following—

- (a) the steps which the FR Scheme administrator will take to manage the transition referred to in regulation 18(1) over the period of operation of the FR Scheme;
  - (b) general information about the estimated impact of those steps on the amount of the levy and the reinsurance premium thresholds payable under regulation 14 over the period of operation of the FR Scheme;
  - (c) any other general information relating to the transition plan which the FR Scheme administrator may decide to publish.
- (4) The FR Scheme administrator must update and publish the transition plan at regular intervals and at least every 5 years.
- (5) The FR Scheme administrator must publish the transition plan and any subsequent updated transition plan by placing it on its website.

### **The Responsible Officer**

19. The FR Scheme administrator must designate the person who acts as its Chief Executive Officer as the responsible officer of the FR Scheme.

20. The responsible officer has the following responsibilities in relation to the FR Scheme—

- (a) accountability to Parliament for the stewardship of the FR Scheme, including management of its finances;
- (b) accountability to Parliament for the economy, efficiency and effectiveness with which the FR Scheme uses resources in discharging its functions;
- (c) accountability to Parliament for propriety and regularity in the operation of the FR Scheme;
- (d) accountability to Parliament for any reports laid under regulation 22; and
- (e) the laying of a copy of the audited statement of accounts of the FR Scheme and the annual report of its auditor before the House of Commons, no later than 3 months after the end of the financial year to which those accounts and annual report apply.

### **Powers of the Comptroller and Auditor General**

21. The Comptroller and Auditor General may carry out examinations into—

- (a) the economy, efficiency and effectiveness with which the FR Scheme administrator has used resources in discharging its functions, and
- (b) propriety and regularity in the operation of the FR Scheme.

22.—(1) For the purposes of carrying out an examination under regulation 21, the Comptroller and Auditor General shall have a right of access, at all reasonable times, to all such documents relating to the FR Scheme as may be reasonably required.

(2) The Comptroller and Auditor General shall be entitled to require from any person who holds or has control of any such document such information and explanation as are reasonably necessary in relation to any of those documents.

(3) The Comptroller and Auditor General shall lay any reports on any examinations carried out under regulation 21 before the House of Commons.

### **Provision of information by the FR Scheme administrator**

23. If, and in so far as, the FR Scheme impacts on public accounts, the FR Scheme administrator must provide to the Secretary of State any information in relation to the FR Scheme which the Secretary of State requires for the purposes of government accounting.

**Provision of information to relevant insurers**

24. The FR Scheme administrator must provide, by [xx date] of each year, the following information to relevant insurers who have issued insurance policies that are reinsured under the FR Scheme, so that a relevant insurer may supply the information to holders of those policies—

- (a) general 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 general information about how to find out about how any flood risk may be managed;
- (b) general information about the FR Scheme; and
- (c) general information about the estimated impact of the transition referred to in regulation 18(1) on the cost of those insurance policies.

**Review**

25.—(1) Not less than 12 months before the end of the review period or on request by the Secretary of State whichever is the sooner, the FR Scheme administrator must—

- (a) produce a report reviewing the scheme and setting out possible combinations of the levy under regulation 5 and the reinsurance premium thresholds under regulation 14, in light of the transitional arrangements as outlined in the published transition plan and all other relevant evidence; and
- (b) send a copy of this report, including any recommendations, to the Secretary of State.

(2) The report must in particular set out an assessment of the levy under regulation 5 and the reinsurance premium thresholds under regulation 14 proposed for the following 5 year period; including the actuarial evidence which underpins this assessment.

(3) In considering whether to amend these Regulations the Secretary of State must consider any recommendations made in a report referred to in regulation 25(1)(a).

(4) The FR Scheme administrator must provide to the Secretary of State any information requested by Secretary of State to enable the Secretary of State to carry out an actuarial review of the recommendations in the report.

(5) In this regulation, “review period” means the period of 5 years ending 5th April 2020 and each successive period of 5 years.

26.—(1) If the total net additional amount by way of contribution requested by the FR Scheme administrator exceeds £100million at any time the FR Scheme administrator must—

- (a) evaluate the circumstances and reasons that led to each request for additional amounts; and
- (b) set out the detail of this evaluation in a report to the Secretary of State and make recommendations (including but not limited to, any suggested changes to the level of reinsurance premium thresholds or the levy).

(2) In considering whether to amend these regulations the Secretary of State must consider the recommendations in the report referred to in regulation 26(1)(b).

**SCHEDULE**

Regulation 14

**Reinsurance Premium Thresholds****Table 1****Household premises in England, Wales and Scotland**

<i>Valuation Band</i>	<i>Combined Policy</i>	<i>Buildings only policy</i>	<i>Content only policy</i>
A	£210	£132	£78

B	£210	£132	£78
C	£246	£148	£98
D	£276	£168	£108
E	£330	£199	£131
F	£408	£260	£148
G	£540	£334	£206

**Table 2**  
**Household premises in Northern Ireland**

<i>Flood Re category</i>	<i>Combined Policy</i>	<i>Buildings only policy</i>	<i>Contents only policy</i>
1	£210	£132	£78
2	£210	£132	£78
3	£246	£148	£98
4	£276	£168	£108
5	£330	£199	£131
6	£408	£260	£148
7	£540	£334	£206

We consent

*Name*

*Name*

Two of the Lords Commissioners of Her Majesty's Treasury

Date

*Name*

Address

Parliamentary Under Secretary of State

Date

Department

### EXPLANATORY NOTE

*(This note is not part of the Regulations)*

The Water Act 2014(a) ("the Act") contains new arrangements designed to promote the availability and affordability of home insurance in areas of high flood risk.

These Regulations set out the funding arrangements for the FR Scheme and the administrative requirements for the running of the FR Scheme by the FR Scheme administrator. The FR Scheme and the FR Scheme administrator have been designated by the Secretary of State.

Regulations 3 and 4 define the terms 'relevant insurer', 'household premises' and 'flood' for the purposes of the Act. Regulations 5 to 8 set out that the levy from relevant insurers in each of the first 5 years will be £180million and how the FR Scheme administrator will calculate the levy due from each relevant insurer. The levy will become due at the beginning of each financial year and is payable quarterly.

Regulation 9 requires relevant insurers to provide information on their gross written premium in the previous year so that the levy can be calculated.

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(a) c.21.



Regulations 10 to 12 require relevant insurers to pay additional levy or contribution if requested by the FR Scheme administrator, set out the conditions the FR Scheme administrator must adhere to when making a request for additional levy or contribution and the formula to be used in calculating how much each relevant insurer must pay. Regulation 13 provides for unpaid levy payable under regulation 5 or unpaid additional levy payable under regulation 10 to be collected as a civil debt.

Regulation 14 and the tables in the Schedule, set out the maximum (the thresholds) the FR Scheme administrator may charge relevant insurers for reinsurance premium in respect of the flood risk element of an insurance policy. Regulation 15 provides for those thresholds to be adjusted each year in line with the change in value of the consumer prices index.

Regulation 16 requires the FR Scheme administrator to consider the need to ensure economy, efficiency and effectiveness when discharging its functions. The FR Scheme administrator must also consider the need to act in the public interest and the need to ensure propriety and regularity in the operation of the FR Scheme.

Regulation 17 set out various restrictions on the FR Scheme administrator when it is discharging its functions.

Section 64(2)(b) of the Act provides that one of the purposes of the FR Scheme is to manage, over the period of operation of the Scheme, the transition to risk reflective pricing of flood insurance for household premises. Regulation 18 requires the FR Scheme administrator to have regard to the need to manage the transition to risk reflective pricing. Regulation 18 also places a requirement on the FR Scheme administrator to produce and publish a transition plan, and sets out some of the matters which may be dealt with in the plan. The FR Scheme administrator must update the transition plan at least every 5 years. The FR Scheme administrator must publish the plan (and any updated transition plan) on its website.

Regulation 19 requires the FR Scheme administrator to appoint the person acting as its Chief Executive Officer as its responsible officer. Regulation 20 sets out the responsibilities of the responsible officer in relation to the FR Scheme.

Regulations 21 and 22 provide powers for the Comptroller and Auditor General to carry out examinations into the economy, efficiency and effectiveness with which the FR Scheme administrator has used its resources, and also to carry out examinations into the propriety and regularity in the operation of the FR Scheme. Regulation 22 provides powers of access to necessary documentation for these examinations, as well as requiring those with custody of such documentation to provide information and explanation as reasonably required.

Regulation 23 requires the FR Scheme administrator to provide any information which the Secretary of State may require for the purposes of government accounting. This requirement will apply should the FR Scheme impact on government accounts.

Regulation 24 places requirements on the FR Scheme administrator to provide general information on certain matters to relevant insurers, who may then supply that information to holders of insurance policies which are reinsured under the FR Scheme.

Regulation 25 sets out arrangements for the review of the FR Scheme by the FR Scheme administrator, which must take place not less than 12 months before the end of the review period (which is 5 years from the coming into force of these Regulations). The FR Scheme administrator must produce a report and provide a copy to the Secretary of State. Regulation 25 also places a requirement on the FR Scheme administrator to provide any information which the Secretary of State may require to carry out an actuarial review of the recommendations in the report provided by the FR Scheme administrator.

Regulation 26 sets out what the FR Scheme administrator is required to do if the total amount of funds which are called by the FR Scheme administrator from relevant insurers exceeds £100 million at any one time. The FR Scheme administrator must evaluate the circumstances which led to the calling of each individual instance of the contribution and report to the Secretary of State on

the evaluation. When considering whether to amend these Regulations, the Secretary of State must consider the recommendations provided in any such report.