

**EXPLANATORY MEMORANDUM TO
THE GENERAL DRAINAGE CHARGES (ANGLIAN REGION) ORDER 2006**

2006 No. 826

1. This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 A general drainage charge (GDC) is raised by the Environment Agency (EA) on agricultural land, outside Internal Drainage Board (IDB) districts, within its Anglian region only. The charge, which generates some £3m annually, is calculated by a formula specified in section 135(2) of the Water Resources Act 1991.

2.2 The ‘specified number’ in this formula needs to be changed by Order.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Background

4.1 Under section 133 and 134 of the Water Resources Act 1991, the EA is able to raise a general drainage charge to fund the cost of flood defence activities in a local flood defence district, or, where no local flood defence scheme is in force in the area of a Regional Flood Defence Committee (RFDC), in the area of the RFDC. A general drainage charge (GDC) can only be raised by the EA on agricultural land, outside Internal Drainage Board (IDB) districts. The charge, is calculated by a formula specified in section 135(2) and (3) of the Water Resources Act 1991. One element of this formula must be specified by order. An order may specify the local or regional flood defence district to which it applies.

4.2 This instrument specifies, in relation to the Anglian (Central) Regional Flood Defence District, the Anglian (Eastern) Regional Flood Defence District and the Anglian (Northern) Regional Flood Defence District, the number which, when multiplied by the relevant quotient and by one penny ascertains the general drainage charge per hectare of chargeable land for each of the districts for the year ending on 31st March 2007 and each subsequent year. The combined charge for the three Anglian RFDCs generates some £3m annually.

5. Extent

5.1 This instrument, which extends to England, applies only in relation to the three Anglian RFDCs mentioned above.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 Subject to any scheme for the appointment of Local Flood Defence Committees (LFDCs) under section 17 of the Environment Act 1995, the EA is required by section 106 of the Water Resources Act 1991 to arrange for all its flood defence functions (except certain financial ones) to be carried out by RFDCs. Prior to April 2005, some RFDCs (including that covering the EA's Anglian region) arranged for some or all of these functions to be carried out by LFDCs under a scheme approved by the Secretary of State. In March 2003, as one of the changes arising from the Government's Flood and Coastal Defence Funding Review, Defra Ministers announced the intention to move to a single tier of flood defence committee in England in order to remove the bureaucracy and second guessing of the decisions involved in having two tiers of committee. Having carefully considered proposals from the EA for creating this single tier following extensive consultation by the Agency, Ministers concluded that in abolishing all the English LFDCs the current Anglian region should be split to create three new regional committees.

7.2 After a statutory consultation period, the Secretary of State's Orders were finalised, made and laid before Parliament. The changes took effect from April 2005.

7.3 Under section 134 of the Water Resources Act 1991, the Environment Agency is able to raise a general drainage charge to fund the cost of flood defence activities in a local flood defence district or (where no local flood defence scheme is in force in the area of an RFDC) in the area of the RFDC. Revenue of this nature has to be both raised within and expended solely for the benefit of each flood defence district.

7.4 Each RFDC (which has a local authority majority) sets levies and drainage changes in February each year.

7.5 The GDC is raised by the EA on agricultural land, outside IDB districts, within its Anglian region only. The maintenance of the data to enable the charge to be made has led other regions either not to make the charge or abandon it. The geography of Anglian region, with large areas of land below sea level, is unlike that of any other region making land drainage of greater significance.

7.6 The charge, which generates some £3m annually, is calculated by a formula specified in section 135(2) of the Water Resources Act 1991. The formula is calculated as follows:

A "relevant quotient" calculated under regulations (the General Drainage Charges (Relevant Quotient) Regulations 1993 (SI 1993/165); *multiplied by*
A number specified by order; *multiplied by*
1 penny

7.7 The relevant quotient comprises several elements including the flood defence levy paid by local authorities to EA. A different "specified number" was previously set for each of the five former Local Flood Defence Committees in Anglian Region.

Following the restructuring outlined above, these numbers need to be amended by order to relate to the three successor Regional Flood Defence Committees.

8. Impact

A Regulatory Impact Assessment is attached to this memorandum

9. Contact

9.1 Sarah Steeds at the Department for Environment, Food and Rural Affairs; Tel. 020 7238 6536; or Email. sarah.h.steeds@defra.gsi.gov.uk can answer any queries regarding the instrument.

Regulatory Impact Assessment

1. Title of proposal

General Drainage Charges (Anglian Region) Order 2006

2. Purpose and intended effect

• Objective

A general drainage charge (GDC) is raised by the Environment Agency on agricultural land, outside Internal Drainage Board (IDB) districts, within its Anglian region only. The charge, which generates some £3m annually, is calculated by a formula specified in section 135(2) of the Water Resources Act 1991.

The 'specified number' in this formula needs to be changed by Order.

• Background

The EA is required to arrange for all its flood defence functions (except certain financial ones) to be carried out by Regional Flood Defence Committees (RFDCs). Prior to April 2005, some RFDCs arranged for some or all of these functions to be carried out by Local Flood Defence Committees (LFDCs) under a scheme approved by the Secretary of State. This local tier existed in the Anglian, Southern and Wessex RFDC areas (and also in the Welsh RFDC area). In March 2003, as one of the changes arising from the Government's Flood and Coastal Defence Funding Review, Defra Ministers announced the intention to move to a single tier of flood defence committee in England in order to remove the bureaucracy and second guessing of the decisions involved in having two tiers of committee. Having carefully considered proposals from the EA for creating this single tier following extensive consultation by the Agency, Ministers concluded that in abolishing all the English LFDCs:

- Southern and Wessex regions should each continue to have a single RFDC, the area of which remains unchanged; and
- the current Anglian region should be split to create three new regional committees.

After a statutory consultation period, the Secretary of State's Orders were finalised, made and laid before Parliament. The changes took effect from April 2005.

Under section 106 of the Water Resources Act 1991, the Environment Agency is able to issue notices of levies and drainage charges to fund the cost of flood defence activities. Revenue of this nature has to be both raised within and expended solely for the benefit of each flood defence district.

Each RFDC (which has a local authority majority) sets levies and drainage charges in February each year.

The GDC is raised by the EA on agricultural land, outside IDB districts, within its Anglian region only. The maintenance of the data to enable the charge to be made has led other regions either not to make the charge or abandon it. The geography of

Anglian region, with large areas of land below sea level, is unlike that of any other region making land drainage of greater significance.

The charge, which generates some £3m annually, is calculated by a formula specified in section 135(2) of the Water Resources Act 1991. The formula is calculated as follows:

A "relevant quotient" calculated under regulations; *multiplied by*

A number specified by order; *multiplied by*

1 penny

The relevant quotient comprises several elements including the flood defence levy paid by local authorities to EA. A different "specified number" was previously set for each of the five former Local Flood Defence Committees in Anglian. Following the restructuring outlined above, these numbers need to be amended by order to relate to the three successor Regional Flood Defence Committees.

- **Rationale for government intervention**

The decision to move to a single tier of flood defence committees followed consultation on the Flood and Coastal Defence Funding Review, in which the proposal was widely welcomed. The EA consulted on detailed proposals in 2003 and recommended that Anglian region be split into three RFDCs.

The decision to remove the second tier was taken to create clearer accountabilities so that there is only one committee covering any one part of the country. It also helps reduce the bureaucracy, overheads and second guessing implicit in having two tiers. There was some pressure in Anglian Region for there to be only two committees, or just one. But the Minister concluded that the flood risk management needs in the Anglian Region indicated that the region should be split into three. He felt that this ensured regions which are the right size to ensure a sufficiently strategic focus whilst also maintaining an appropriate degree of local democratic input. He also took into account other issues including the diversity of the regions and the relative complexity of their flood risk management needs.

In the recent past, the amount of money raised by the EA through the general drainage charge in Anglian region has been increased due to inflation and large capital schemes by changing the "relevant quotient" – parts of which are made up by the levy contributed by the local authorities in the area. However due to the changes in the RFDC structure outlined above, it is now necessary to change the "specified number" part of the GDC formula so that it reflects the three new RFDC regions.

3. **Consultation**

- Public consultation – there was extensive consultation carried out when considering the change to the RFDC structure. This is outlined above.
- Within government – The RFDC committee structure changes were also agreed in Cabinet Office Correspondence.

There has been limited consultation around the change in formula associated with the General Drainage Charges Order. The RFDC (which has a local authority majority) met and agreed the amounts to be levied and charged in their areas on the basis of the necessary capital works needing to be undertaken in 2006/07.

4. Options

Option 1 – Do Nothing

Doing nothing will mean that the legislation continues to refer to the now defunct Local Flood Defence Committees. The GDC must be raised at a uniform amount per hectare of chargeable land within a local flood defence district (s135 WRA). Four of the old local flood defence committees have been amalgamated into two new ones, and without a new Order the EA will not be able to raise the GDC in these two new RFDCs. The EA will still be able to raise GDC of £0.8m in the Anglian (Central) RFDC as this area has not changed as a result of the restructuring. However there will be a deficit of £2.2m in flood risk management spend across the rest of Anglian region in 2006/07.

Option 2 – Introduce General Drainage Charges (Anglian Region) Order 2006

This option would relate the specified numbers to the new RFDC Committee structure and allow the EA to raise £3m income to be expended solely for the benefit of the flood defence region in which it was raised.

5. Costs and benefits

(i) Economic

Option 1 – Doing nothing would cause a £2.2m deficit in flood risk management spend in 2006/07. This income would be lost to the parts of Anglian region in which GDC could not be raised. Money raised by an RFDC must be spent in or for the benefit of the area in which it was raised.

Option 2 – the changes required in the formula due to the restructured RFDCs provide for an overall 12.3% decrease in GDC across the 3 Anglian RFDCs as a whole. However, the Anglian (Northern) RFDC merges the former Welland and Nene LFDC and former Lincolnshire LFDC which had significantly different “specified numbers”. Producing a single number across the new RFDC area means that former Welland and Nene GDC payers will experience an increase of 28.5% and the former Lincolnshire GDC payers will experience a decrease of 25.1%.

This is calculated as follows:

	GDC (pence per hectare)	Percentage Change
Lincolnshire LFDC	313.61	-25%
Welland and Nene LFDC	182.70	+28%
Anglian (Northern) RFDC	234.83	

In monetary terms, the income from the Welland and Nene GDC payers will increase by approximately £100k. The total landbase on which the EA charge in the Welland and Nene area is some 210,000 hectares with a charge to approximately 2,150 occupiers. This means that the average landholding in this area is some 84ha, producing an average increase in GDC payment of some £44 per annum.

It should be noted that in recent years, Anglian region of the EA has had cause to increase the GDC by similar amounts due to significant increases in the level of scheme expenditure to support the capital programme, e.g. Lincshire, and Northampton Flood Alleviation Schemes. On these occasions the increase was provided for by changing the levies which contribute to the “relevant quotient”. The 28% increase outlined above however, is not directly related to capital scheme costs, but has come about due to the change in structure of the Regional Flood Defence Committees in England.

(ii) Environmental – No additional environmental benefits or costs have been identified.

(iii) Social – No additional social benefits or costs have been identified.

- **Sectors and groups affected**

Those occupiers in the Welland and Nene area paying the increased GDC would be most significantly affected by these proposals. Conversely, those in Lincolnshire will have a significant reduction in their GDC.

6. Enforcement, sanctions and monitoring

The provisions will be enforced by the Environment Agency, as they are now. No statutory monitoring procedures are proposed, however the changes should contribute to the achievement of the Environment Agency’s strategic objectives.

7. Summary and recommendation

Government recommends that option 2 be taken forward, and that the changes outlined above be made to ensure that £2.2m is not lost to the flood risk management service in the Anglian region.

Declaration and publication

I have read the regulatory impact assessment and I am satisfied that the benefits justify the costs

Signed *Elliot Morley*

Date 15 March 2006

**Elliot Morley MP, Minister of State (Climate Change and the Environment),
Department for Environment, Food and Rural Affairs**

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