

2010 No. 2232

**ENVIRONMENTAL PROTECTION, ENGLAND AND
WALES**

FLOOD RISK MANAGEMENT, ENGLAND AND WALES

The Flood Risk Management Functions Order 2010

<i>Made</i>	- - - -	<i>6th September 2010</i>
<i>Laid before Parliament</i>		<i>9th September 2010</i>
<i>Laid before the National Assembly for Wales</i>		<i>9th September 2010</i>
<i>Coming into force</i>	- -	<i>1st October 2010</i>

The Secretary of State, in relation to flood risk management in England, and the Welsh Ministers, in relation to flood risk management in Wales, make the following Order in exercise of the powers conferred by sections 4(2)(f) and (3) and 48(2) of the Flood and Water Management Act 2010(a).

Citation and commencement

1. This Order—

- (a) may be cited as the Flood Risk Management Functions Order 2010; and
- (b) comes into force on 1st October 2010.

Flood risk management functions

2.—(1) The following are specified for the purposes of section 4(2)(f) of the Flood and Water Management Act 2010—

- (a) a function of the Environment Agency under the Flood Risk Regulations 2009(b);
- (b) a function of a lead local flood authority(c) under the Flood Risk Regulations 2009;
- (c) a function of a sewerage undertaker under section 94 of the Water Industry Act 1991(d) in relation to any sewer that conveys surface water.

(a) 2010 c. 29.

(b) S.I. 2009/3042, amended by S.I. 2010/1102.

(c) This term has the same meaning in the Flood Risk Regulations 2009 as in the Flood and Water Management Act 2010.

(d) 1991 c. 56; section 94 was amended by sections 36(2), 88(2) and 97(1) and (3) of the Water Act 2003 (c. 37). The functions of the Secretary of State under section 94 of the Water Industry Act 1991, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) in relation to any water or sewerage undertaker whose area is wholly or mainly in Wales. Those functions are now exercisable by the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32).

(2) But, for the purposes of section 20 of the Flood and Water Management Act 2010, a function of a sewerage undertaker under section 94 of the Water Industry Act 1991 is not a flood risk management function.

(3) In this article, “sewer” and “surface water” have the same meaning as in section 219 of the Water Industry Act 1991.

2nd September 2010

Richard Benyon
Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

6th September 2010

Jane Davidson
Minister for Environment, Sustainability and Housing
one of the Welsh Ministers

EXPLANATORY NOTE

(This note is not part of the Order)

This Order specifies additional functions as flood risk management functions for the purposes of section 4(2) of the Flood and Water Management Act 2010 (c. 29) (“the Act”). The effect of defining a function as a flood risk management function is to bring it within the scope of certain provisions in the Act which require such functions to be performed in specified ways.

The additional functions fall into two groups—

- (a) functions of the Environment Agency and lead local flood authorities under the Flood Risk Regulations 2009 (S.I. 2009/3042) (relating to the preparation of risk assessments, maps and plans);
- (b) functions of a sewerage undertaker under section 94 of the Water Industry Act 1991 (c. 56) in relation to any sewer that conveys surface water.

This Order provides that functions of sewerage undertakers are not risk management functions for the purposes of directions under section 20 of the Act. Under section 18 of the Water Industry Act 1991, the Secretary of State (or the Welsh Ministers in relation to any sewerage undertaker whose area is wholly or mainly in Wales) must issue an enforcement order if satisfied that a sewerage undertaker is contravening a requirement under section 94 of that Act.

A separate impact assessment has not been prepared in respect of this Order because the impact assessments which were prepared for the Act and the Flood Risk Regulations 2009 included assumptions which are reflected in this Order.

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£4.00