

2010 No. 2169 (C. 108)

COAST PROTECTION, ENGLAND AND WALES

**ENVIRONMENTAL PROTECTION, ENGLAND AND
WALES**

FLOOD RISK MANAGEMENT, ENGLAND AND WALES

WATER INDUSTRY, ENGLAND AND WALES

The Flood and Water Management Act 2010 (Commencement
No. 1 and Transitional Provisions) Order 2010

Made - - - -

31st August 2010

This Order is made—

- (a) in exercise of the powers conferred on the Secretary of State—
 - (i) by sections 48(2) and 49(3)(a) and (j), (5)(a), (b) and (d) and (6) of the Flood and Water Management Act 2010(a),
 - (ii) by section 49(3)(b) of that Act, so far as sections 22(1)(b) and (2), 24 and 26 of that Act relate to English Committees(b),
 - (iii) by section 49(3)(d) of that Act, so far as sections 35, 36, 42, 43 and 45 of that Act relate to water or sewerage undertakers whose areas are wholly or mainly in England, and
 - (iv) in relation to England, by section 49(3)(h) of that Act; and
- (b) in exercise of the powers conferred on the Welsh Ministers—
 - (i) by section 48(2) of that Act,
 - (ii) by section 49(3)(c) of that Act, so far as sections 22(1)(c) and (2), 24 and 26 of that Act relate to Welsh Committees(c),
 - (iii) by section 49(3)(e) of that Act, so far as sections 36, 42 and 45 of that Act relate to water or sewerage undertakers whose areas are wholly or mainly in Wales, and
 - (iv) in relation to Wales, by section 49(3)(i) and (6) of that Act.

The Secretary of State and the Welsh Ministers make the following Order.

(a) 2010 c. 29.

(b) See section 22(1)(b) of the Flood and Water Management Act 2010 for the meaning of an “English Committee”.

(c) See section 22(1)(c) of the Flood and Water Management Act 2010 for the meaning of a “Welsh Committee”.

Citation

1. This Order may be cited as the Flood and Water Management Act 2010 (Commencement No. 1 and Transitional Provisions) Order 2010.

Interpretation

2. In this Order, “the Act” means the Flood and Water Management Act 2010.

Provisions coming into force on 1st September 2010

3.—(1) Section 4 of the Act (“flood risk management function”) comes into force on 1st September 2010, so far as it provides power for the Minister, as defined in subsection (3) of that section, to make an order under subsection (2)(f) of that section.

(2) The following sections of the Act come into force on 1st September 2010, so far as required for the exercise of the power in section 4(2)(f) of the Act—

- (a) section 1 (definitions of “flood” and “coastal erosion”);
- (b) section 2 (definition of “risk”);
- (c) section 3 (definition of “risk management”);
- (d) section 6 (other definitions).

(3) Section 36 of the Act (water use: temporary bans) comes into force on 1st September 2010, so far as the amendments made by that section provide power for the Minister, as defined in section 76A(4) of the Water Industry Act 1991 (temporary bans: supplemental)(a), to make an order under section 76A(2) of that Act.

Provisions coming into force on 1st October 2010

4. The provisions of the Act specified in the Schedule come into force on 1st October 2010.

Transitional provisions

5.—(1) Despite the amendments made by section 36 of the Act (which substitutes section 76 of the Water Industry Act 1991), an existing prohibition or restriction continues in force until 31st October 2010 unless, before that date, it—

- (a) expires; or
- (b) is varied or revoked under paragraph (2).

(2) A water undertaker may vary or revoke an existing prohibition or restriction before 31st October 2010 as if it were a prohibition issued under section 76 of the Water Industry Act 1991, as in force on 1st October 2010.

(3) A variation must not extend the period of an existing prohibition or restriction beyond 31st October 2010.

(4) In this article, “an existing prohibition or restriction” means a prohibition or restriction in force on 30th September 2010 under section 76 of the Water Industry Act 1991, as in force on that date.

30th August 2010

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

(a) 1991 c. 56; section 76A is inserted by section 36 of the Flood and Water Management Act 2010.

31st August 2010

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

SCHEDULE

article 4

Provisions coming into force on 1st October 2010

<i>Provision of the Act</i>	<i>Subject matter</i>
<i>In Part 1—</i>	<i>Flood and coastal erosion risk management</i>
Section 1, so far as not already commenced	Definitions of “flood” and “coastal erosion”
Section 2, so far as not already commenced	Definition of “risk”
Section 3, so far as not already commenced	Definition of “risk management”
Section 4, so far as not already commenced	Definition of “flood risk management function”
Section 5	Definition of “coastal erosion risk management function”
Section 6, so far as not already commenced	Other definitions
Section 7, in relation to England only	National flood and coastal erosion risk management strategy: England
Section 8, in relation to Wales only	National flood and coastal erosion risk management strategy: Wales
Section 9, in relation to England only	Local flood risk management strategies: England
Section 10, in relation to Wales only	Local flood risk management strategies: Wales
Section 13	Co-operation and arrangements
Section 16(1), in relation to England only	Grants by Environment Agency
Section 16(2), in relation to Wales only	Grants by Welsh Ministers
Section 16(3)	Conditions of grants

<i>Provision of the Act</i>	<i>Subject matter</i>
Subsections (2) and (3) of section 17, so far as those provisions provide power for the Secretary of State to make regulations under section 74 of the Local Government Finance Act 1988(a) for the purpose of section 17 of the Flood and Water Management Act 2010	Environment Agency to issue levy in accordance with regulations
Section 20	Ministerial directions
Section 22(1)(b), only so far as it defines an “English Committee”	Definition of an “English Committee”
Section 22(1)(c), only so far as it defines a “Welsh Committee”	Definition of a “Welsh Committee”
Section 22(2)	Power to make regulations in relation to establishment of Regional Flood and Coastal Committees
Section 24	Membership of Regional Flood and Coastal Committees
Section 26	Definition of “the Minister”
Section 28	Power to make further amendments
Section 29	Restructuring
Section 31, so far as it relates to the provisions of Schedule 2 to the Act commenced by this Order	Amendment of other Acts
<i>In Part 2—</i>	<i>Miscellaneous</i>
Section 34, so far as it relates to the provisions of Schedule 5 to the Act commenced by this Order	Special administration
Section 35, so far as it relates to water or sewerage undertakers whose areas are wholly or mainly in England	Provision of infrastructure
Section 36, so far as not already commenced	Water use: temporary bans
Section 40	Building regulations: flood resistance
Section 41	Compulsory works orders

(a) 1988 c. 41; section 74 was amended by the Local Government Finance Act 1992 (c. 14), section 117(1) and Schedule 13, paragraph 72(1) and (2). The functions of the Secretary of State under section 74 of the Local Government Finance Act 1988 were, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). 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).

<i>Provision of the Act</i>	<i>Subject matter</i>
Section 42, so far as the amendments made by that section provide power for the Minister, as defined in section 106B(8) of the Water Industry Act 1991(a), to make regulations under section 106B(5) or (6) of that Act	Agreements on new drainage systems
Section 43, so far as it relates to water or sewerage undertakers whose areas are wholly or mainly in England	Drainage: concessionary charges for community groups
Section 45, so far as the amendments made by that section provide power for the Minister, as defined in section 144C(8) of the Water Industry Act 1991(b), to make regulations under section 144C(4) or (5) of that Act	Water and sewerage charges: non-owner occupiers
Section 46	Abolition of Fisheries Committee (Scotland)
<i>In Part 3—</i>	<i>General</i>
Section 47	Pre-consolidation amendments
<i>In Schedule 2—</i>	<i>Risk management: amendment of other Acts</i>
Paragraphs 25 and 28	Amendment of the Land Drainage Act 1991(c)
Paragraph 54, so far as the amendments made by that paragraph provide power for the Secretary of State to make regulations under section 21F of the Local Government Act 2000 (overview and scrutiny committees: flood risk management)(d)	Amendment of the Local Government Act 2000
<i>In Schedule 5—</i>	<i>Special administration</i>
Paragraph 3, so far as the amendments made by that paragraph provide power for the Secretary of State to make regulations under section 23(2E) of the Water Industry Act 1991(e)	Amendment of the Water Industry Act 1991
Paragraph 5, so far as it provides power for the Secretary of State to amend Schedule 2 to the Water Industry Act 1991(f)	Amendment of the Water Industry Act 1991 by Order

(a) Section 106B is inserted by section 42 of the Flood and Water Management Act 2010.

(b) Section 144C is inserted by section 45 of the Flood and Water Management Act 2010.

(c) 1991, c. 59.

(d) 2000, c. 22; section 21F is inserted by section 31 of, and paragraph 54 of Schedule 2 to, the Flood and Water Management Act 2010.

(e) Section 23(2E) is inserted by section 34 of, and paragraph 3 of Schedule 5 to, the Flood and Water Management Act 2010.

(f) Schedule 2 is amended by section 34 of, and paragraph 1 of Schedule 5 to, the Flood and Water Management Act 2010. That paragraph is not yet commenced.

<i>Provision of the Act</i>	<i>Subject matter</i>
Paragraph 6, so far as the amendments made by that paragraph provide power for the Secretary of State to make regulations under section 23(3A) of the Water Industry Act 1991(a)	Amendment of the Water Industry Act 1991

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force provisions of the Flood and Water Management Act 2010 (“the Act”) to provide power for Ministers to make orders and regulations to give effect to the Act. The Order refers to the relevant definitions of “the Minister”.

Article 3 provides that sections 4 and 36 of the Act, and some definition sections, come into force on 1st September 2010, so far as to enable Ministers to make orders relating to flood risk management functions and temporary hosepipe bans; those sections come into force on 1st October 2010 for all other purposes.

The Schedule (introduced by article 4) specifies other provisions which are to come into force on 1st October 2010. These include the power to make regulations relating to levies (section 17), adoption of drains or sewers by the sewerage undertaker (section 42), liability of occupiers of residential premises for water and sewerage charges (section 45), duties of a risk management authority (paragraph 54 of Schedule 2) and special administration (paragraphs 3 and 6 of Schedule 5).

Article 5 contains transitional provisions.

An impact assessment of the effect that the Act will have on the costs of business and the voluntary sector has been produced, and copies are available from the website of the Department of Environment, Food and Rural Affairs at www.defra.gov.uk. No separate impact assessment has been produced for this instrument.

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(a) Section 23(2A) is inserted by section 34 of, and paragraph 6 of Schedule 5 to, the Flood and Water Management Act 2010.

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