

2011 No. 2204 (C. 80)

COAST PROTECTION, ENGLAND AND WALES

**ENVIRONMENTAL PROTECTION, ENGLAND AND
WALES**

FLOOD RISK MANAGEMENT, ENGLAND AND WALES

WATER INDUSTRY, ENGLAND AND WALES

WATER, ENGLAND AND WALES

The Flood and Water Management Act 2010 (Commencement
No. 4 and Transitional Provisions) Order 2011

Made - - - -

5th September 2011

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) of the Flood and Water Management Act 2010^(a),
 - (ii) by section 49(3)(d) of that Act, so far as section 44 of that Act relates to water or sewerage undertakers whose areas are wholly or mainly in England, and
 - (iii) in relation to England, by section 49(3)(h) and (6) 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)(e) of that Act, so far as section 44 of that Act relates to water or sewerage undertakers whose areas are wholly or mainly in Wales, and
 - (iii) 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.

Citation

1. This Order may be cited as the Flood and Water Management Act 2010 (Commencement No. 4 and Transitional Provisions) Order 2011.

Interpretation

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

Provisions coming into force on 1st October 2011

3.—(1) The following provisions of the 2010 Act come into force on 1st October 2011—

- (a) section 27 (sustainable development);
- (b) section 33 (reservoirs), so far as it relates to the provisions of Schedule 4 (reservoirs) commenced by this article;
- (c) section 44 (social tariffs);
- (d) paragraph 1 of Schedule 4;
- (e) paragraphs 2, 4, 7, 10, 12, 25, 27, 30, 32, 33 and 37 of Schedule 4, so far as the amendments made by those paragraphs provide power for the Minister, as defined in paragraph 42(1) of that Schedule, to make regulations or orders under the Reservoirs Act 1975(a);
- (f) paragraphs 22 and 31 of Schedule 4, so far as the amendments made by those paragraphs amend the power for the Minister, as defined in paragraph 42(1) of that Schedule, to make regulations or rules under the Reservoirs Act 1975;
- (g) paragraph 38 of Schedule 4 (regulations and orders);
- (h) paragraph 39 of Schedule 4 (charges);
- (i) paragraph 40 of Schedule 4 (power to make further provision);
- (j) paragraph 42 of Schedule 4 (Ministerial responsibility);
- (k) paragraph 43 of Schedule 4 (cross-border England-Scotland reservoirs).

(2) The following provisions of the 2010 Act come into force on 1st October 2011 in relation to Wales only—

- (a) section 31 (amendment of other Acts), so far as it relates to the provisions of Schedule 2 commenced by this article;
- (b) paragraphs 1 to 24 of Schedule 2 (amendment of the Coast Protection Act 1949(b));
- (c) paragraphs 29, 30, 35, 36, 38 and 39 of Schedule 2 (amendment of the Land Drainage Act 1991(c));
- (d) paragraphs 45 to 47 and 49 of Schedule 2 (amendment of the Water Resources Act 1991(d)).

Provisions coming into force on 1st November 2011

4. The following provisions of the 2010 Act come into force on 1st November 2011—

- (a) section 11 (effect of national and local strategies: England) in relation to Wales only;
- (b) section 12 (effect of national and local strategies: Wales);
- (c) section 18 (Environment Agency: reports) in relation to Wales only.

Transitional provisions

5.—(1) Despite the amendments made by paragraphs 1 to 24 of Schedule 2 to the 2010 Act, the provisions of the Coast Protection Act 1949(e) as in force immediately before 1st October 2011 in

(a) 1975 c. 23.

(b) 1949 c. 74.

(c) 1991 c. 59.

(d) 1991 c. 57.

(e) 1949 c. 74. The provisions of the Coast Protection Act 1949 affected by paragraphs 1 to 24 of Schedule 2 to the Flood and Water Management Act 2010 have been previously amended by the Water Resources Act 1963 (c. 38), the Courts Act 1971

relation to Wales continue to apply to any coast protection work started in relation to Wales before that date.

(2) Despite the amendment made by paragraph 30 of Schedule 2 to the 2010 Act, section 17 of the Land Drainage Act 1991^(a) continues to apply to a local authority for an area in Wales unless the lead local flood authority for that area has published a summary of its local flood risk management strategy under section 10(7) of the 2010 Act.

(3) In this article—

“coast protection work” has the meaning given in section 49(1) of the Coast Protection Act 1949 as in force immediately before 1st October 2011 in relation to Wales; and

“local authority” has the meaning given in section 72(1) of the Land Drainage Act 1991.

5th September 2011

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

2nd September 2011

John Griffiths
Minister for Environment and Sustainable Development
one of the Welsh Ministers

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”).

Article 3 specifies provisions of the Act that come into force on 1st October 2011. These include—

- (a) provision for the Minister to issue guidance about how authorities are to achieve sustainable development when exercising flood or coastal erosion risk management functions;
- (b) provision for the reduction and subsidisation of an undertaker’s charges in a scheme under section 143 of the Water Industry Act (c. 56);
- (c) provision for the Minister to make orders and regulations under the Reservoirs Act 1975 (c. 23).

The provisions in article 3(2) come into force on 1st October 2011 in relation to Wales only. These include provision for the commencement of amendments to the Coast Protection Act 1949 (c. 74), the Land Drainage Act 1991 (c. 59) and the Water Resources Act 1991 (c. 57) in relation to Wales.

Article 4 specifies provisions of the Act that come into force on 1st November 2011. These include—

- (a) provisions about the effect of national and local strategies on Welsh risk management authorities; and

(c. 23), the Local Government Act 1972 (c. 70), the Local Land Charges Act 1975 (c. 76), the Local Government, Planning and Land Act 1980 (c. 65), the Southern Water Authority Act 1980, the Acquisition of Land Act 1981 (c. 67), the Criminal Justice Act 1982 (c. 48), the Water Act 1989 (c. 15), the Transport and Works Act 1992 (c. 42), the Criminal Justice Act 2003 (c. 44), the Marine and Coastal Access Act 2009 (c. 23) and S.I. 1955/554, 1985/442, 1991/1730, 1996/593, 1999/1820 and 2009/1307. The functions conferred on the Secretary of State were transferred to the National Assembly for Wales by virtue of 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).

(a) 1991 c. 59. Section 17 was amended by the Environment Act 1995 (c. 25), section 120 and Schedule 22, paragraph 191.

- (b) the requirement for the Environment Agency to report to the Welsh Ministers about flood and coastal erosion risk management in Wales.

Article 5 contains transitional provisions relating to the amendments to the Coast Protection Act 1949 and the Land Drainage Act 1991.

An impact assessment of the effect of the provisions commenced by this Order has not been produced as no impact on the private, voluntary or business sectors is foreseen.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the Flood and Water Management Act 2010 were brought into force by commencement order made before the date of this Order.

<i>Provision of the Act</i>	<i>Date of commencement</i>	<i>S.I. No.</i>
Section 1	<i>partially</i> 1st September 2010	S.I. 2010/2169 (C. 108)
	<i>remainder</i> 1st October 2010	S.I. 2010/2169 (C. 108)
Section 2	<i>partially</i> 1st September 2010	S.I. 2010/2169 (C. 108)
	<i>remainder</i> 1st October 2010	S.I. 2010/2169 (C. 108)
Section 3	<i>partially</i> 1st September 2010	S.I. 2010/2169 (C. 108)
	<i>remainder</i> 1st October 2010	S.I. 2010/2169 (C. 108)
Section 4	<i>partially</i> 1st September 2010	S.I. 2010/2169 (C. 108)
	<i>remainder</i> 1st October 2010	S.I. 2010/2169 (C. 108)
Section 5	1st October 2010	S.I. 2010/2169 (C. 108)
Section 6	<i>partially</i> 1st September 2010	S.I. 2010/2169 (C. 108)
	<i>remainder</i> 1st October 2010	S.I. 2010/2169 (C. 108)
Sections 7 to 10	1st October 2010	S.I. 2010/2169 (C. 108)
Section 11 <i>in relation to England only</i>	19th July 2011	S.I. 2011/1770 (C. 7)
Section 13	1st October 2010	S.I. 2010/2169 (C. 108)
Section 14	6th April 2011	S.I. 2011/694 (C. 25)
Section 15	<i>partially</i> 18th January 2011	S.I. 2011/95 (C. 4)
	<i>remainder, in relation to Wales only</i> 6th April 2011	S.I. 2011/694 (C. 25)
Section 16	1st October 2010	S.I. 2010/2169 (C. 108)

<i>Provision of the Act</i>		<i>Date of commencement</i>	<i>S.I. No.</i>
Section 17	<i>partially</i>	1st October 2010	S.I. 2010/2169 (C. 108)
	<i>remainder</i>	1st April 2011	S.I. 2011/694 (C. 25)
Section 18 <i>in relation to England only</i>		19th July 2011	S.I. 2011/1770 (C. 7)
Section 19		6th April 2011	S.I. 2011/694 (C. 25)
Section 20		1st October 2010	S.I. 2010/2169 (C. 108)
Section 21		6th April 2011	S.I. 2011/694 (C. 25)
Section 22	<i>partially</i>	1st October 2010	S.I. 2010/2169 (C. 108)
	<i>remainder</i>	1st April 2011	S.I. 2011/694 (C. 25)
Section 23		1st April 2011	S.I. 2011/694 (C. 25)
Section 24		1st October 2010	S.I. 2010/2169 (C. 108)
Section 25		1st April 2011	S.I. 2011/694 (C. 25)
Sections 26, 28 and 29		1st October 2010	S.I. 2010/2169 (C. 108)
Section 30	<i>partially</i>	6th April 2011	S.I. 2011/694 (C. 25)
Section 31	<i>partially</i>	1st October 2010	S.I. 2010/2169 (C. 108)
	<i>partially</i>	1st April 2011	S.I. 2011/694 (C. 25)
	<i>partially</i>	6th April 2011	S.I. 2011/694 (C. 25)
	<i>partially</i>	19th July 2011	S.I. 2011/1770 (C. 7)
Section 34	<i>partially</i>	1st October 2010	S.I. 2010/2169 (C. 108)
	<i>partially</i>	1st April 2011	S.I. 2011/694 (C. 25)
Section 35	<i>partially</i>	1st October 2010	S.I. 2010/2169 (C. 108)
Section 36	<i>partially</i>	1st September 2010	S.I. 2010/2169 (C. 108)
	<i>remainder</i>	1st October 2010	S.I. 2010/2169 (C. 108)
Section 37		6th April 2011	S.I. 2011/694 (C. 25)
Sections 38 and 39	<i>partially</i>	18th January 2011	S.I. 2011/95 (C. 4)
Sections 40 and 41		1st October 2010	S.I. 2010/2169 (C. 108)
Sections 42, 43 and 45	<i>partially</i>	1st October 2010	S.I. 2010/2169 (C. 108)
Sections 46 and 47		1st October 2010	S.I. 2010/2169 (C. 108)

In Schedule 1—

<i>Provision of the Act</i>		<i>Date of commencement</i>	<i>S.I. No.</i>
Paragraphs 15 and 16	<i>partially</i>	6th April 2011	S.I. 2011/694 (C. 25)
Paragraph 17		6th April 2011	S.I. 2011/694 (C. 25)
<i>In Schedule 2—</i>			
Paragraphs 1 to 24 <i>in relation to England only</i>		19th July 2011	S.I. 2011/1770 (C. 7)
Paragraphs 25 and 28		1st October 2010	S.I. 2010/2169 (C. 108)
Paragraphs 29, 30, 35 and 36 <i>in relation to England only</i>		19th July 2011	S.I. 2011/1770 (C. 7)
Paragraph 37		6th April 2011	S.I. 2011/694 (C. 25)
Paragraphs 38 and 39 <i>in relation to England only</i>		19th July 2011	S.I. 2011/1770 (C. 7)
Paragraphs 40, 41, 43 and 44		1st April 2011	S.I. 2011/694 (C. 25)
Paragraphs 45 to 47 <i>in relation to England only</i>		19th July 2011	S.I. 2011/1770 (C. 7)
Paragraph 48		1st April 2011	S.I. 2011/694 (C. 25)
Paragraph 49 <i>in relation to England only</i>		19th July 2011	S.I. 2011/1770 (C. 7)
Paragraphs 50 to 53		1st April 2011	S.I. 2011/694 (C. 25)
Paragraph 54	<i>partially</i>	1st October 2010	S.I. 2010/2169 (C. 108)
	<i>remainder</i>	6th April 2011	S.I. 2011/694 (C. 25)
<i>In Schedule 5—</i>			
Paragraphs 1 and 2		1st April 2011	S.I. 2011/694 (C. 25)
Paragraph 3	<i>partially</i>	1st October 2010	S.I. 2010/2169 (C. 108)
Paragraph 4		1st April 2011	S.I. 2011/694 (C. 25)
Paragraphs 5 and 6	<i>partially</i>	1st October 2010	S.I. 2010/2169 (C. 108)