

2011 No. 694 (C. 25)

LOCAL GOVERNMENT, ENGLAND AND WALES

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. 3 and Transitional Provisions) Order 2011**

Made - - - -

7th March 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) 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), 23 and 25 of that Act relate to English Committees(b),
 - (iii) by section 49(3)(f) of that Act, so far as section 37 of that Act relates to orders made by a Minister of the Crown under Part 3 of the Regulatory Enforcement and Sanctions Act 2008(c), and
 - (iv) in relation to England, by section 49(3)(h) of the Flood and Water Management Act 2010; 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), 23 and 25 of that Act relate to Welsh Committees(d),

(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) 2008 c. 13. See section 74 of the Regulatory Enforcement and Sanctions Act 2008 for the meaning of “Minister of the Crown”.

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

- (iii) by section 49(3)(g) of that Act, so far as section 37 of that Act relates to orders made by the Welsh Ministers under Part 3 of the Regulatory Enforcement and Sanctions Act 2008, and
- (iv) in relation to Wales, by section 49(3)(i) and (6) of the Flood and Water Management Act 2010.

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. 3 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 April 2011

3. The following provisions of the 2010 Act come into force on 1st April 2011—
- (a) section 17 (levies), so far as not already commenced;
 - (b) subsection (1) of section 22 (establishment), so far as not already commenced;
 - (c) section 23 (consultation and consent);
 - (d) section 25 (money);
 - (e) section 31 (amendment of other Acts), so far as it relates to the provisions of Schedule 2 (risk management: amendment of other Acts) commenced by this article;
 - (f) section 34 (special administration), so far as it relates to the provisions of Schedule 5 (special administration) commenced by this article;
 - (g) paragraphs 40, 41, 43, 44 and 48 of Schedule 2 (amendment of the Water Resources Act 1991(a));
 - (h) paragraph 50 of Schedule 2 (amendment of the Water Industry Act 1991(b));
 - (i) paragraphs 51, 52 and 53 of Schedule 2 (amendment of the Environment Act 1995(c));
 - (j) paragraphs 1, 2, 4 and 7 of Schedule 5 (amendment of the Water Industry Act 1991).

Provisions coming into force on 6th April 2011

- 4.—(1) The following provisions of the 2010 Act come into force on 6th April 2011—
- (a) section 14 (power to request information);
 - (b) section 19 (local authorities: investigations);
 - (c) section 21 (lead local authorities: duty to maintain a register);
 - (d) section 30 (designation of features), so far as it relates to the provisions of Schedule 1 (risk management: designation of features) commenced by this article;
 - (e) section 31 (amendment of other Acts), so far as it relates to the provisions of Schedule 2 commenced by this article;
 - (f) section 37 (civil sanctions);

(a) 1991 c. 57.
(b) 1991 c. 56.
(c) 1995 c. 25.

- (g) paragraphs 15 and 16 of Schedule 1, so far as those provisions provide power for the Minister, as defined in paragraph 17 of that Schedule, to make regulations;
- (h) paragraph 17 of Schedule 1;
- (i) paragraph 37 of Schedule 2 (amendment of the Land Drainage Act 1991(a));
- (j) paragraph 54 of Schedule 2 (amendment of the Local Government Act 2000(b)), so far as not already commenced.

(2) Section 15 of the 2010 Act (civil sanctions), so far as not already commenced, comes into force on 6th April 2011 in relation to Wales only.

Transitional provisions

5.—(1) Despite the repeal of section 133 of the Water Resources Act 1991 by paragraph 44 of Schedule 2 to the 2010 Act, the provisions of that section continue to have effect so far as they authorise the Environment Agency to issue a levy for the purpose of its flood defence functions under regulations made under section 74 of the Local Government Finance Act 1988(c) for the financial year beginning with 1st April 2011.

(2) Despite the repeal of Schedule 5 to the Environment Act 1995 (“the 1995 Act”) by paragraph 53 of Schedule 2 to the 2010 Act, the following continue to have effect—

- (a) any payment, or arrangement for payment, under paragraph 10 of Schedule 5 to the 1995 Act of a pension by the Agency to a person who has been or, on 31st March 2011, is the chairman of a regional flood defence committee; and
- (b) any requirement under that paragraph for the Agency to pay compensation to a person who has ceased to be the chairman of a regional flood defence committee.

(3) The amendments made by paragraphs 1 and 2 of Schedule 5 to the 2010 Act do not apply in relation to any scheme made under paragraph 2(1) of Schedule 2 to the Water Industry Act 1991 before 1st April 2011.

7th March 2011

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

6th March 2011

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 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 April 2011. These include provisions relating to the issue of levies, the establishment of Regional Flood and Coastal Committees and amendments to the special administration regime for water companies. Article 3 provides for amendments to other Acts, including the Water Resources Act 1991 (c. 57), the Environment Act 1995 (c. 25) and the Water Industry Act 1991 (c. 56).

(a) 1991 c. 59.

(b) 2000 c. 22.

(c) 1988 c. 41. See the Environment Agency (Levies) Regulations 1993 (S.I. 1993/61).

Article 4 specifies provisions of the Act that come into force on 6th April 2011. These include provisions relating to the functions of lead local flood authorities. Article 4 provides that paragraphs 15 and 16 of Schedule 1 to the Act come into force on 6th April 2011 so far as to enable Ministers to make regulations relating to designation of features. Article 4 also provides for civil sanctions to be used in Wales only, where an information request under section 14 is not complied with. It provides for amendments to the Land Drainage Act 1991 (c. 59) and the Local Government Act 2000 (c. 22).

Article 5 contains transitional provisions in relation to levies issued for flood defence works for the financial year beginning with 1st April 2011. It also provides for the continuation of payment, or arrangements for payment, of pension and compensation to chairmen of regional flood defence committees under the Environment Act 1995.

Impact assessments of the effect that the commencement of sections 14, 17, 19 and 21 to 26 of, and some provisions of Schedule 2 to, the Act will have on the costs of business and the voluntary sector have been produced, and copies are available from the website of the Department for Environment, Food and Rural Affairs at www.defra.gov.uk. They are published alongside the Explanatory Memorandum and this instrument at www.legislation.gov.uk. Impact assessments for the remaining provisions commenced by this Order have not been developed as they have no impact on business or the voluntary sector.

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, 8, 9, 10 and 13	1st October 2010	S.I. 2010/2169 (C. 108)
Section 15	<i>partially</i> 18th January 2011	S.I. 2011/95 (C. 4)

<i>Provision of the Act</i>		<i>Date of commencement</i>	<i>S.I. No.</i>
Section 16		1st October 2010	S.I. 2010/2169 (C. 108)
Section 17	<i>partially</i>	1st October 2010	S.I. 2010/2169 (C. 108)
Section 20		1st October 2010	S.I. 2010/2169 (C. 108)
Section 22	<i>partially</i>	1st October 2010	S.I. 2010/2169 (C. 108)
Sections 24, 26, 28 and 29		1st October 2010	S.I. 2010/2169 (C. 108)
Sections 31, 34 and 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)
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)
<i>In Schedule 2—</i>			
Paragraphs 25 and 28		1st October 2010	S.I. 2010/2169 (C. 108)
Paragraph 54	<i>partially</i>	1st October 2010	S.I. 2010/2169 (C. 108)
<i>In Schedule 5—</i>			
Paragraphs 3, 5 and 6	<i>partially</i>	1st October 2010	S.I. 2010/2169 (C. 108)

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