



Flood and Water Management Act 2010

2010 CHAPTER 29

PART 3

GENERAL

47 Pre-consolidation amendments

- (1) The Secretary of State may by order amend a water Act—
 - (a) to eliminate differences between two or more provisions (whether or not of the same Act);
 - (b) to simplify procedure;
 - (c) to correct errors or resolve obscurity.
- (2) The Secretary of State may make an order only if satisfied that—
 - (a) it will make it easier to consolidate one or more water Acts, and
 - (b) the substantive effect of the change (if any) is proportionate to the advantage to be gained by consolidating the legislation and does not remove any protection.
- (3) The water Acts are—
 - (a) this Act,
 - (b) the Public Health Act 1936 (so far as relevant to water),
 - (c) the Coast Protection Act 1949,
 - (d) the Reservoirs Act 1975,
 - (e) the Highways Act 1980 (so far as relevant to water),
 - (f) the Land Drainage Act 1991,
 - (g) the Water Industry Act 1991,
 - (h) the Water Resources Act 1991, and
 - (i) the Environment Act 1995 (so far as relevant to water).
- (4) An order may, in particular, aim to standardise provisions relating to—
 - (a) appeals;
 - (b) compulsory purchase;

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- (c) rights of entry;
 - (d) compensation.
- (5) An order under this section may not be made unless—
- (a) the Welsh Ministers have consented to the making of the order,
 - (b) a draft has been laid before and approved by resolution of each House of Parliament, and
 - (c) a Bill for consolidating the enactments amended by the order (with or without other enactments) has been presented to either House of Parliament.
- (6) A draft laid under subsection (5) must be accompanied by an explanation of—
- (a) the effect of any changes made, and
 - (b) how they will make consolidation easier.

Commencement Information

II S. 47 in force at 1.10.2010 by S.I. 2010/2169, art. 4, Sch.

48 Subordinate legislation

- (1) In this section “subordinate legislation” means regulations and orders under this Act.
- (2) Subordinate legislation—
- (a) may apply generally or only for specified purposes,
 - (b) may make different provision for different purposes, and
 - (c) may include incidental, consequential or transitional provision.
- (3) Subordinate legislation shall be made by statutory instrument.
- (4) Subordinate legislation made by the Secretary of State shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) Subordinate legislation made by the Welsh Ministers shall be subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (6) But subsections (4) and (5) do not apply—
- (a) where an alternative procedure is expressly provided, or
 - (b) to orders under section 49.

49 Technical provision

- (1) This Act binds the Crown; but—
- (a) nothing in this Act affects (i) Her Majesty in Her private capacity, or (ii) land in which there is an interest which belongs to Her Majesty in right of the Crown or of the Duchy of Lancaster, or to the Duchy of Cornwall, and
 - (b) subject to paragraph (a), section 221(2) to (8) of the Water Industry Act 1991 (Crown application) apply to this Act (for which purpose section 221(6) applies to all powers under this Act).
- (2) There shall be paid out of money provided by Parliament—
- (a) any expenditure incurred under or by virtue of this Act by the Secretary of State, and

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- (b) any increase attributable to this Act in the sums payable under any other Act out of money so provided.
- (3) This Act comes into force as follows—
- (a) sections 22(1)(a), 28, 29, 34 (and Schedule 5), 41, 46 and paragraph 43 of Schedule 4 come into force in accordance with provision made by order of the Secretary of State,
 - (b) section 22(1)(b) and (2) and sections 23 to 26, so far as they relate to English Committees, come into force in accordance with provision made by order of the Secretary of State,
 - ^{F1}(c)
 - (d) sections 35, 36 and 42 to 45, so far as they relate to water or sewerage undertakers whose areas are wholly or mainly in England, come into force in accordance with provision made by order of the Secretary of State,
 - (e) sections 35, 36 and 42 to 45, so far as they relate to water or sewerage undertakers whose areas are wholly or mainly in Wales, come into force in accordance with provision made by order of the Welsh Ministers,
 - (f) section 37, so far as it relates to orders made by a Minister of the Crown under Part 3 of the Regulatory Enforcement and Sanctions Act 2008, comes into force in accordance with provision made by order of the Secretary of State,
 - (g) section 37, so far as it relates to orders made by the Welsh Ministers under Part 3 of the Regulatory Enforcement and Sanctions Act 2008, comes into force in accordance with provision made by order of the Welsh Ministers,
 - (h) other provisions of Parts 1 and 2 come into force in relation to England in accordance with provision made by order of the Secretary of State,
 - (i) other provisions of Parts 1 and 2 come into force in relation to Wales in accordance with provision made by order of the Welsh Ministers,
 - (j) section 47 comes into force on a day specified by order of the Secretary of State, and
 - (k) section 48 and this section come into force on Royal Assent.
- (4) An order under subsection (3) may, in particular, provide for experimental staged commencement by reference to specified areas or other criteria.
- (5) This Act extends only to England and Wales, except that—
- (a) section 46(1) extends to Scotland only,
 - (b) the amendments in section 46(2) to (5) have the same extent as the provisions amended,
 - (c) paragraph 43 of Schedule 4 extends to England and Wales and Scotland, and
 - (d) section 48 and this section extend to Scotland in their application to a provision mentioned in paragraphs (a) to (c).
- (6) An amendment by this Act of another Act does not prevent the continued operation of any transfer of functions by or by virtue of the Government of Wales Act 1998 or 2006; and—
- (a) this subsection applies irrespective of whether the amendment amends an existing function or confers a new function,
 - (b) if and to the extent that the amendment creates a new function replacing or similar to a function that has been transferred to the Welsh Ministers by or by virtue of those Acts, the new function is to be treated as having been transferred in the same way as the old,

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- (c) a provision made by or by virtue of either of those Acts in respect of a function amended or replaced by this Act (such as a provision about laying documents before the National Assembly for Wales instead of before Parliament) continues to apply to the provision as amended or replaced, and
- (d) a transfer by or by virtue of those Acts in respect of a provision applied by subsection (1)(b) above has effect in relation to the provision as applied.

(7) This Act may be cited as the Flood and Water Management Act 2010.

Textual Amendments

- F1** S. 49(3)(c) omitted (E.W.) (14.7.2017) by virtue of [Environment \(Wales\) Act 2016 \(anaw 3\)](#), s. 88(3)(c), [Sch. 2 para. 25\(10\)](#); S.I. 2017/714, art. 2

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