

EXPLANATORY MEMORANDUM TO
THE EUROPEAN COMMUNITIES (DESIGNATION) ORDER 2011

2011 No. 1683

1. This explanatory memorandum has been prepared by the Cabinet Office and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 Section 2(2) of the European Communities Act 1972 includes a power for “designated” Ministers and departments to make subordinate legislation. The instrument designates the Welsh Ministers in relation to flood risk management.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Context

4.1 A designation is required in relation to flood risk management to allow the Welsh Ministers to make subordinate legislation to support implementation of Directive 2007/60/EC of the European Parliament and of the Council of 23 October 2007, on the assessment and management of flood risks (“the Flood Directive”).

4.2 The aim of the Flood Directive is to establish a framework for the assessment and management of flood risks to reduce the adverse consequences for human health, the environment, cultural heritage and economic activity associated with flooding. The Directive requires Member States to undertake preliminary flood risk assessments and imposes requirements in relation to the content of those assessments. Member States are also required to prepare flood hazard maps and flood risk maps by deadlines set out in the Directive. The maps will form the basis of flood risk management plans which will set out the objectives for the management of flood risks in flood risk areas identified in line with Article 5 of the Directive. The management plans must include details about how the objectives are to be achieved, and address all aspects of flood risk management including prevention, protection, preparedness, including flood forecasts and early warning systems.

4.3 The Flood Directive was implemented by the Flood Risk Regulations 2009 (S.I. 2009/3042) which were made under section 2(2) of the European Communities Act 1972, and which apply to England and Wales. These regulations have since been amended by the Flood Risk (Cross Border Areas) Regulations 2010 (S.I. 2010/1102).

5. Territorial Extent and Application

5.1 This instrument applies to Wales.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The Secretary of State and the Northern Ireland departments are already designated in relation to the environment (S.I. 2008/301) – which includes flood risk management. Flood risk management functions have been devolved to Wales.

7.2 It is envisaged that it will be necessary to further amend the regulations implementing the Flood Directive in relation to Wales. The new designation will be used for this.

7.3 The designation could also apply in relation to obligations arising from a future EU instrument amending the Flood Directive, or other EU obligations concerning flood risk management.

8. Consultation outcome

8.1 As this Order is an enabling instrument, which in itself has no impact on business, charities or voluntary bodies, no consultation was carried out.

9. Guidance

9.1 As this Order is an enabling instrument, which in itself has no impact on business, charities or voluntary bodies, no guidance has been prepared in relation to it.

10. Impact

10.1 An Impact Assessment has not been prepared for this instrument as it is an enabling instrument and in itself has no impact on business, charities or voluntary bodies.

11. Regulating small business

11.1 The Order does not apply to small business.

12. Monitoring & review

12.1 The designations in this and similar Orders are intended to identify clearly the subject areas in relation to which a Minister or government department is designated.

12.2 The designation contained in this Order will be subject to review before any further designations are made in relation to related subject areas, with this end in mind.

13. Contact

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