

**2011 No. 2856 (C. 101)**

**COAST PROTECTION, ENGLAND AND WALES**

**ENVIRONMENTAL PROTECTION, ENGLAND AND  
WALES**

**FLOOD RISK MANAGEMENT, ENGLAND AND WALES**

**The Flood and Water Management Act 2010 (Commencement  
No. 5 and Transitional Provisions) Order 2011**

*Made* - - - - *28th November 2011*

This Order is made—

- (a) in exercise of the powers conferred on the Secretary of State—
  - (i) by section 48(2) of the Flood and Water Management Act 2010(a), and
  - (ii) 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, and
  - (ii) 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. 5 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 December 2011**

3. The following provisions of the 2010 Act come into force on 1st December 2011—
- (a) section 38 (incidental flooding or coastal erosion: Environment Agency), so far as not already commenced;
  - (b) section 39 (incidental flooding or coastal erosion: local authorities), so far as not already commenced.

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(a) 2010 c. 29.

## **Transitional provisions**

4.—(1) Despite the commencement of section 38 of the 2010 Act, the requirement in subsection (5)(c) of that section does not apply unless—

- (a) for an area in England, the lead local flood authority has published a summary of the local flood risk management strategy for that area under section 9(7) of the 2010 Act; or
- (b) for an area in Wales, the Welsh Ministers have approved a draft local flood risk management strategy for that area under section 10(10) of the 2010 Act.

(2) Despite the commencement of section 39 of the 2010 Act, the requirement in subsection (7)(c) of that section does not apply unless—

- (a) for an area in England, the lead local flood authority has published a summary of the local flood risk management strategy for that area under section 9(7) of the 2010 Act; or
- (b) for an area in Wales, the Welsh Ministers have approved a draft local flood risk management strategy for that area under section 10(10) of the 2010 Act.

28th November 2011

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

21st November 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 December 2011. These make provision for the Environment Agency and local authorities to carry out incidental flood or coastal erosion risk management work that may cause flooding or coastal erosion, but only if certain conditions are satisfied.

Article 4 contains transitional provisions.

An impact assessment of the effect that the commencement of sections 38 and 39 of 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 for Environment, Food and Rural Affairs at [www.defra.gov.uk](http://www.defra.gov.uk). It is published alongside the Explanatory Memorandum and this instrument at [www.legislation.gov.uk](http://www.legislation.gov.uk).

## 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 11 <i>in relation to Wales only</i>	1st November 2011	S.I. 2011/2204 (C. 80)
Section 12	1st November 2011	S.I. 2011/2204 (C. 80)
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)
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 18 <i>in relation to Wales only</i>	1st November 2011	S.I. 2011/2204 (C. 80)

<i>Provision of the Act</i>		<i>Date of commencement</i>	<i>S.I. No.</i>
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)
Section 26		1st October 2010	S.I. 2010/2169 (C. 108)
Section 27		1st October 2011	S.I. 2011/2204 (C. 80)
Sections 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)
	<i>partially</i>	1st October 2011	S.I. 2011/2204 (C. 80)
Section 33	<i>partially</i>	1st October 2011	S.I. 2011/2204 (C. 80)
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 and 43	<i>partially</i>	1st October 2010	S.I. 2010/2169 (C. 108)
Section 44		1st October 2011	S.I. 2011/2204 (C. 80)

<i>Provision of the Act</i>		<i>Date of commencement</i>	<i>S.I. No.</i>
Section 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 1—</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 1 to 24 <i>in relation to Wales only</i>		1st October 2011	S.I. 2011/2204 (C. 80)
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)
Paragraphs 29, 30, 35 and 36 <i>in relation to Wales only</i>		1st October 2011	S.I. 2011/2204 (C. 80)
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 38 and 39 <i>in relation to Wales only</i>		1st October 2011	S.I. 2011/2204 (C. 80)
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)
Paragraphs 45 to 47 <i>in relation to Wales only</i>		1st October 2011	S.I. 2011/2204 (C. 80)
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)
Paragraph 49 <i>in relation to Wales only</i>		1st October 2011	S.I. 2011/2204 (C. 80)
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 4—</i>			
Paragraph 1		1st October 2011	S.I. 2011/2204 (C. 80)
Paragraphs 2, 4, 7, 10, 12, 22, 25, 27, 30, 31, 32, 33 and 37	<i>partially</i>	1st October 2011	S.I. 2011/2204 (C. 80)

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<i>Provision of the Act</i>	<i>Date of commencement</i>	<i>S.I. No.</i>
Paragraphs 38 to 40, 42 and 43	1st October 2011	S.I. 2011/2204 (C. 80)
<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)

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STATUTORY INSTRUMENTS

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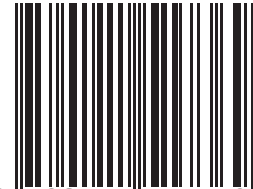
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