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STATUTORY INSTRUMENTS

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**2012 No. 879 (C. 25)**

**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. 6 and Transitional Provisions) Order 2012**

*Made - - - - 19th March 2012*

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<sup>(1)</sup>, 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. 6 and Transitional Provisions) Order 2012.

**Interpretation**

2. In this Order—

“the 2010 Act” means the Flood and Water Management Act 2010; and  
“the 1991 Act” means the Land Drainage Act 1991<sup>(2)</sup>.

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(1) 2010 c. 29.  
(2) 1991 c. 59.

**Provisions coming into force on 6th April 2012**

3. The following provisions of the 2010 Act come into force on 6th April 2012—
- (a) section 31 (amendment of other Acts), so far as it relates to the provisions of Schedule 2 commenced by this article; and
  - (b) paragraphs 26, 27, 31, 32(1), (2), (3), (5), (6) and (7), 33 and 34 of Schedule 2 (amendment of the 1991 Act).

**Transitional provisions**

4. Despite the amendments made by the provisions of paragraphs 32, 33 and 34 of Schedule 2 to the 2010 Act commenced by article 3 of this Order—
- (a) section 23 of the 1991 Act as in force immediately before 6th April 2012 continues to apply in relation to any application for consent made under that section and not finally determined by that date; and
  - (b) in relation to a notice served under section 21, 24 or 25 of the 1991 Act before 6th April 2012, the provisions of the 1991 Act in force immediately before that date shall apply.

18th March 2012

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

19th March 2012

*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 6 April 2012. These make provision for certain amendments to the Land Drainage Act 1991 (“the 1991 Act”) in relation to flood risk management. These amendments include:

- (a) the removal of the following powers from the Environment Agency in relation to ordinary watercourses —
  - (i) concurrent flood risk management powers;
  - (ii) default powers in relation to flooding; and
  - (iii) enforcement powers in relation to watercourse, bridge or drainage maintenance obligations;
- (b) the alteration of the prohibition on obstructions to ordinary watercourses to preclude the erection of any culvert without prior consent;
- (c) the transfer of the role of the Environment Agency as the consenting and enforcement authority in areas outside an internal drainage district under sections 23, 24 and 25 of the 1991 Act to the relevant lead local flood authority (“LLFA”) (and the creation of a requirement to consult the Environment Agency where the drainage board are consenting to work they are themselves proposing); and
- (d) the creation of the power to attach reasonable conditions to a consent issued under section 23.

Article 4 contains transitional provisions.

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	<a href="#">S.I. 2010/2169 (C. 108)</a>
	<i>remainder</i> 1st October 2010	<a href="#">S.I. 2010/2169 (C. 108)</a>
Section 2	<i>partially</i> 1st September 2010	<a href="#">S.I. 2010/2169 (C. 108)</a>
	<i>remainder</i> 1st October 2010	<a href="#">S.I. 2010/2169 (C. 108)</a>
Section 3	<i>partially</i> 1st September 2010	<a href="#">S.I. 2010/2169 (C. 108)</a>
	<i>remainder</i> 1st October 2010	<a href="#">S.I. 2010/2169 (C. 108)</a>
Section 4	<i>partially</i> 1st September 2010	<a href="#">S.I. 2010/2169 (C. 108)</a>

<i>Provision of the Act</i>	<i>Date of commencement</i>	<i>S.I. No.</i>
<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)
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)

<i>Provision of the Act</i>		<i>Date of commencement</i>	<i>S.I. No.</i>
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 38 and 39	<i>remainder</i>	1st December 2011	S.I. 2011/2856 (C. 101)
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)
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)

<i>Provision of the Act</i>	<i>Date of commencement</i>	<i>S.I. No.</i>
Paragraph 48	1st April 2011	<a href="#">S.I. 2011/694 (C. 25)</a>
Paragraph 49 <i>in relation to England only</i>	19th July 2011	<a href="#">S.I. 2011/1770 (C. 7)</a>
Paragraph 49 <i>in relation to Wales only</i>	1st October 2011	<a href="#">S.I. 2011/2204 (C. 80)</a>
Paragraphs 50 to 53	1st April 2011	<a href="#">S.I. 2011/694 (C. 25)</a>
Paragraph 54 <i>partially</i>	1st October 2010	<a href="#">S.I. 2010/2169 (C. 108)</a>
<i>remainder</i>	6th April 2011	<a href="#">S.I. 2011/694 (C. 25)</a>
<i>In Schedule 4—</i>		
Paragraph 1	1st October 2011	<a href="#">S.I. 2011/2204 (C. 80)</a>
Paragraphs 2, 4, 7, 10, 12, 22, 25, 27, 30, 31, 32, 33 and 37 <i>partially</i>	1st October 2011	<a href="#">S.I. 2011/2204 (C. 80)</a>
Paragraphs 38 to 40, 42 and 43	1st October 2011	<a href="#">S.I. 2011/2204 (C. 80)</a>
<i>In Schedule 5—</i>		
Paragraphs 1 and 2	1st April 2011	<a href="#">S.I. 2011/694 (C. 25)</a>
Paragraph 3 <i>partially</i>	1st October 2010	<a href="#">S.I. 2010/2169 (C. 108)</a>
Paragraph 4	1st April 2011	<a href="#">S.I. 2011/694 (C. 25)</a>
Paragraphs 5 and 6 <i>partially</i>	1st October 2010	<a href="#">S.I. 2010/2169 (C. 108)</a>