

2012 No. 2048 (W. 239) (C. 81)

**WATER INDUSTRY,
ENGLAND AND WALES**

**The Flood and Water Management
Act 2010 (Commencement No.8
and Transitional Provisions) Order
2012**

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 2010 Act”).

Article 2 of this Order specifies that section 42 of the 2010 Act, to the extent not already commenced and in relation to sewerage undertakers whose areas are wholly or mainly in Wales comes into force on 1 October 2012.

Section 42 of the 2010 Act inserts section 106B into the Water Industry Act 1991 (“the 1991 Act”). Section 106B provides that a person may only exercise the right, under section 106(1) of the 1991 Act, to have his drains or sewers communicate with public sewers only if the conditions set out in section 106B(2) and (3) of that Act have been satisfied. These conditions include a requirement for the person to, prior to the construction of a sewer or lateral drain, enter into an agreement with the relevant sewerage undertaker under section 104 of the 1991 Act for the adoption of the sewer or lateral drain.

Section 106B of the 1991 Act also enables the Welsh Ministers to publish standards (in relation to sewerage undertakers whose areas are wholly or mainly in Wales) for design and construction of sewers and lateral drains. All adoption agreements under section 104 of the 1991 Act (pursuant to section 106B of that Act) must include any relevant standards, or depart from them with the express consent of the parties to the agreement.

Section 42 of the 2010 Act also makes related amendments to sections 104, 105 and 112 of the 1991 Act.

Article 3 of this Order contains transitional provisions in relation to the application of section 106B(4) to sewers or lateral drains connected with building work started before 1 October 2013.

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>	1 September 2010	2010/2169 (C.108)
Section 1 <i>(remainder)</i>	1 October 2010	2010/2169 (C. 108)
Section 2 <i>(partially)</i>	1 September 2010	2010/2169 (C. 108)
Section 2 <i>(remainder)</i>	1 October 2010	2010/2169 (C. 108)
Section 3 <i>(partially)</i>	1 September 2010	2010/2169 (C. 108)
Section 3 <i>(remainder)</i>	1 October 2010	2010/2169 (C. 108)
Section 4 <i>(partially)</i>	1 September 2010	2010/2169 (C. 108)
Section 4 <i>(remainder)</i>	1 October 2010	2010/2169 (C. 108)
Section 5	1 October 2010	2010/2169 (C. 108)
Section 6 <i>(partially)</i>	1 September 2010	2010/2169 (C. 108)
Section 6 <i>(remainder)</i>	1 October 2010	2010/2169 (C. 108)
Sections 7 to 10	1 October 2010	2010/2169 (C. 108)
Section 11 <i>(in relation to England only)</i>	19 July 2011	2011/1770 (C. 7)
Section 11 <i>(in relation to Wales only)</i>	1 November 2011	2011/2204 (C. 80)
Section 12	1 November 2011	2011/2204 (C. 80)

<i>Provision of the Act</i>	<i>Date of commencement</i>	<i>S.I. No.</i>
Section 13	1 October 2010	2010/2169 (C. 108)
Section 14	6 April 2011	2011/694 (C. 25)
Section 15 (<i>partially</i>)	18 January 2011	2011/95 (C. 4)
Section 15 (<i>remainder, in relation to Wales only</i>)	6 April 2011	2011/694 (C. 25)
Section 16	1 October 2010	2010/2169 (C. 108)
Section 17 (<i>partially</i>)	1 October 2010	2010/2169 (C. 108)
Section 17 (<i>remainder</i>)	1 April 2011	2011/694 (C. 25)
Section 18 (<i>in relation to England only</i>)	19 July 2011	2011/1770 (C. 7)
Section 18 (<i>in relation to Wales only</i>)	1 November 2011	2011/2204 (C. 80)
Section 19	6 April 2011	2011/694 (C. 25)
Section 20	1 October 2010	2010/2169 (C. 108)
Section 21	6 April 2011	2011/694 (C. 25)
Section 22 (<i>partially</i>)	1 October 2010	2010/2169 (C. 108)
Section 22 (<i>remainder</i>)	1 April 2011	2011/694 (C. 25)
Section 23	1 April 2011	2011/694 (C. 25)
Section 24	1 October 2010	2010/2169 (C. 108)
Section 25	1 April 2011	2011/694 (C. 25)
Section 26	1 October 2010	2010/2169 (C. 108)
Section 27	1 October 2011	2011/2204 (C. 80)
Sections 28 and 29	1 October 2010	2010/2169 (C. 108)
Section 30 (<i>partially</i>)	6 April 2011	2011/694 (C. 25)
Section 30 (<i>remainder</i>)	1 August 2012	2012/2000 (C.79)
Section 31 (<i>partially</i>)	1 October 2010	2010/2169 (C. 108)
	1 April 2011	2011/694

<i>Provision of the Act</i>	<i>Date of commencement</i>	<i>S.I. No.</i>
		(C. 25)
	6 April 2011	2011/694 (C. 25)
	19 July 2011	2011/1770 (C. 7)
	1 October 2011	2011/2204 (C. 80)
	6 April 2012	2012/879 (C. 25)
Section 33 (<i>partially</i>)	1 October 2011	2011/2204 (C. 80)
Section 34 (<i>partially</i>)	1 October 2010	2010/2169 (C. 108)
	1 April 2011	2011/694 (C. 25)
Section 35 (<i>partially</i>)	1 October 2010	2010/2169 (C. 108)
Section 36 (<i>partially</i>)	1 September 2010	2010/2169 (C. 108)
Section 36 (<i>remainder</i>)	1 October 2010	2010/2169 (C. 108)
Section 37	6 April 2011	2011/694 (C. 25)
Sections 38 and 39 (<i>partially</i>)	18 January 2011	2011/95 (C. 4)
Sections 38 and 39 (<i>remainder</i>)	1 December 2011	2011/2856 (C. 101)
Sections 40 and 41	1 October 2010	2010/2169 (C. 108)
Sections 42 and 43 (<i>partially</i>)	1 October 2010	2010/2169 (C. 108)
Section 44	1 October 2011	2011/2204 (C. 80)
Section 45 (<i>partially</i>)	1 October 2010	2010/2169 (C. 108)
Sections 46 and 47	1 October 2010	2010/2169 (C. 108)
<i>In Schedule 1—</i>		
Paragraphs 15 and 16 (<i>partially</i>)	6 April 2011	2011/694 (C. 25)
Paragraph 17	6 April 2011	2011/694 (C. 25)
Schedule 1 (<i>remainder</i>)	1 August 2012	2012/2000 (C.79)
<i>In Schedule 2—</i>		
Paragraphs 1 to 24 (<i>in relation to England only</i>)	19 July 2011	2011/1770 (C. 7)

<i>Provision of the Act</i>	<i>Date of commencement</i>	<i>S.I. No.</i>
Paragraphs 1 to 24 (<i>in relation to Wales only</i>)	1 October 2011	2011/2204 (C. 80)
Paragraph 25	1 October 2010	2010/2169 (C. 108)
Paragraphs 26 and 27	6 April 2012	2012/879 (C. 25)
Paragraph 28	1 October 2010	2010/2169 (C. 108)
Paragraphs 29 and 30 (<i>in relation to England only</i>)	19 July 2011	2011/1770 (C. 7)
Paragraphs 29 and 30 (<i>in relation to Wales only</i>)	1 October 2011	2011/2204 (C. 80)
Paragraphs 31, 32(1) to (3) and (5) to (7), 33 and 34	6 April 2012	2012/879 (C. 25)
Paragraphs 35 and 36 (<i>in relation to England only</i>)	19 July 2011	2011/1770 (C. 7)
Paragraphs 35 and 36 (<i>in relation to Wales only</i>)	1 October 2011	2011/2204 (C. 80)
Paragraph 37	6 April 2011	2011/694 (C. 25)
Paragraphs 38 and 39 (<i>in relation to England only</i>)	19 July 2011	2011/1770 (C. 7)
Paragraphs 38 and 39 (<i>in relation to Wales only</i>)	1 October 2011	2011/2204 (C. 80)
Paragraphs 40, 41, 43 and 44	1 April 2011	2011/694 (C. 25)
Paragraphs 45 to 47 (<i>in relation to England only</i>)	19 July 2011	2011/1770 (C. 7)
Paragraphs 45 to 47 (<i>in relation to Wales only</i>)	1 October 2011	2011/2204 (C. 80)
Paragraph 48	1 April 2011	2011/694 (C. 25)
Paragraph 49 (<i>in relation to England only</i>)	19 July 2011	2011/1770 (C. 7)

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

2012 No. 2048 (W. 239) (C. 81)

**WATER INDUSTRY,
ENGLAND AND WALES**

**The Flood and Water Management
Act 2010 (Commencement No.8
and Transitional Provisions) Order
2012**

Made

6 August 2012

The Welsh Minister make the following Order in exercise of the powers conferred on them—

(a) by section 48(2) of the Flood and Water Management Act 2010(1), and

(b) by section 49(3)(e) and (6) of that Act, so far as section 42 of that Act relates to sewerage undertakers whose areas are wholly or mainly in Wales.

Title

1.The title of this Order is the Flood and Water Management Act 2010 (Commencement No.8 and Transitional Provisions) Order 2012.

Provision coming into force on 1 October 2012

2.—(1) Section 42 of the Flood and Water Management Act 2010, to the extent not already commenced, comes into force on 1 October 2012 in relation to sewerage undertakers whose areas are wholly or mainly in Wales.

(2) But article 2(1) is subject to article 3.

Transitional Provisions

3.—(1) In this article—

(1) 2010 c.29

“the 1984 Act” (“*Deddf 1984*”) means the *Building Act 1984*(1)

“the 1991 Act” (“*Deddf 1991*”) means the *Water Industry Act 1991*(2);

“the 2010 Regulations” (“*Rheoliadau 2010*”) means the *Building Regulations 2010*(3);

“amendment notice” (“*hysbysiad diwygio*”) means a notice given under section 51A of the 1984 Act;

“building” (“*adeilad*”) has the meaning given in regulation 3(1) of the 2010 Regulations;

“building notice” (“*hysbysiad adeiladu*”) means a notice given under regulations 12(2)(a) and 13 of the 2010 Regulations;

“building work” (“*gwaith adeiladu*”) has the meaning given in regulation 3(1) of the 2010 Regulations;

“full plans” (“*planiau llawn*”) means plans deposited with a local authority for the purposes of section 16 of the 1984 Act in accordance with regulations 12(2)(b) and 14 of the 2010 Regulations;

“initial notice” (“*hysbysiad cychwynnol*”) means a notice given under section 47 of the 1984 Act;

“lateral drain” (“*draen ochrol*”) has the meaning given in section 219(1) of the 1991 Act;

“local authority” (“*awdurdod lleol*”) has the meaning in section 126 of the 1984 Act;

“plans certificate” (“*tystysgrif planiau*”) means a certificate given under section 50 of the 1984 Act;

“public body’s notice” (“*hybysiad corff cyhoeddus*”) means a notice given under section 54 of the 1984 Act;

“sewer” (“*carthffos*”) has the meaning given in section 219(1) of the 1991 Act.

(2) Where a sewer or lateral drain is connected with building work where—

(a) before 1 October 2012 a building notice, an initial notice, a plans certificate, an amendment notice or a public body’s notice has been given to, or full plans deposited with, a local authority, and

(b) the work is started before 1 October 2013,

then section 106B(4) of the 1991 Act applies as if the reference in section 106B(4)(a) of the 1991 Act to the “standards published by the Minister” and the reference in section 106B(4)(b) of the 1991 Act to

(1) 1984 c.55
(2) 1991 c.56
(3) S.I. 2010/2214

“those standards” were references to the relevant notice, certificate or plans.

(3) Section 106B(4) of the 1991 Act does not apply to a sewer or lateral drain that is connected exclusively with buildings or extensions in relation to work which may be started without the requirement under the 2010 Regulations for a building notice, an initial notice, a plans certificate, an amendment notice or a public body’s notice to be given to a local authority, or full plans to be deposited with a local authority.

(4) Article 3(3) does not apply after 1 October 2013 except to a sewer or lateral drain which is connected with buildings or extensions for which work has started before that date.

John Griffiths

Minister for Environment and Sustainable
Development, one of the Welsh Ministers

6 August 2012