WELSH STATUTORY INSTRUMENTS

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—

"the 1984 Act" ("*Deddf 1984*") means the Building Act 1984(**2**);

"the 1991 Act ("*Deddf 1991*") means the Water Industry Act 1991(**3**);

"the 2010 Regulations ("*Rheoliadau 2010*") means the Building Regulations 2010(**4**);

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

(**1**) 2010 c. 29.
(**2**) 1984 c. 55.
(**3**) 1991 c. 56.
(**4**) S.I. 2010/2214.

"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 "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

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.

Provision of the Act	*Date of commencement*	*S.I.No.*
Section 1 (*partially*)	1 September 2010	2010/2169 (C.108)
Section 1 (*remainder*)	1 October 2010	2010/2169 (C. 108)
Section 2 (*partially*)	1 September 2010	2010/2169 (C. 108)
Section 2 (*remainder*)	1 October 2010	2010/2169 (C. 108)
Section 3 (*partially*)	1 September 2010	2010/2169 (C. 108)
Section 3 (*remainder*)	1 October 2010	2010/2169 (C. 108)
Section 4 (*partially*)	1 September 2010	2010/2169 (C. 108)
Section 4 (*remainder*)	1 October 2010	2010/2169 (C. 108)