
STATUTORY INSTRUMENTS

2012 No. [XXXX]

WATER INDUSTRY, ENGLAND AND WALES

**The Sustainable Drainage (Approval and Adoption) (England)
Order 2012**

Made - - - - - ***
Laid before Parliament ***
Coming into force - - - - - *1st October 2012*

CONTENTS

1.	Citation, application, commencement, expiry and review	1
2.	Interpretation	2
3.	Exceptions to requirement for approval	2
4.	Determining requests for adoption	2
5.	Proposed construction work with drainage implications	3

The Secretary of State, in relation to drainage systems in England, in exercise of the powers conferred by sections 32 and 48(2) and paragraphs 4, 7(4)(b) and (c), 20 and 23(4)(a) of Schedule 3 to the Flood and Water Management Act 2010(a), makes the following Order.

Citation, application, commencement, expiry and review

1.—(1) This Order—

- (a) may be cited as the Sustainable Drainage (Approval and Adoption) (England) Order 2012;
- (b) applies in relation to drainage systems in England;
- (c) comes into force on 1st October 2012; and
- (d) ceases to have effect at the end of 30th September 2019.

(2) Before the end of the review period, the Secretary of State must—

- (a) carry out a review of this Order;
- (b) set out the conclusions of the review in a report; and
- (c) publish the report.

(3) The report must in particular—

- (a) set out the objectives intended to be achieved by the regulatory system established by this Order;
- (b) assess the extent to which those objectives are achieved; and

(a) 2010 c. 29.

- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(4) In this article, “review period” means the period of 5 years beginning with the day on which this Order comes into force.

Interpretation

2. In this Order—

“construction work” means construction work which has drainage implications; and

“Schedule 3” means Schedule 3 to the Flood and Water Management Act 2010.

Exceptions to requirement for approval

3.—(1) For the purpose of paragraph 7(4)(b) of Schedule 3, construction work carried out in the following circumstances is not to be treated as having drainage implications—

- (a) construction work carried out by an internal drainage board in exercise of its functions under the Land Drainage Act 1991(a);
- (b) construction work carried out for the purpose of, or in connection with, the construction of—
 - (i) a road for which the Minister is the highway authority, or
 - (ii) a railway by Network Rail.

(2) Paragraph 7(1) of Schedule 3 does not apply to construction work—

- (a) unless the construction work requires planning permission; or
- (b) if the construction work does not require planning permission, unless it involves the construction of a building or other structure covering an area of land of 100 square metres or more.

(3) In this article—

“highway authority” has the meaning given in section 1 of the Highways Act 1980(b);

“internal drainage board” has the meaning given in section 1 of the Land Drainage Act 1991;

“Network Rail” means Network Rail Infrastructure Limited (Company No 02904587) whose registered office is at Kings Place, 90 York Way, London N1 9AG; and

“railway” has the same meaning as in section 67(1) of the Transport and Works Act 1992(c).

Determining requests for adoption

4.—(1) For the purpose of paragraph 23(4)(a) of Schedule 3, the period within which an approving body(d) for a drainage system must determine a request to adopt the drainage system is—

- (a) the period of 8 weeks beginning with the day after it receives the request; or
- (b) any extended period agreed to by the approving body and developer before the end of that period.

(2) For the purpose of regulations made under paragraph 25(1)(b) of Schedule 3, an approving body which fails to determine a request within the period specified in paragraph (1) is taken to have refused the request.

(3) In this article, “developer” has the meaning given in paragraph 23(2)(b) of Schedule 3.

(a) 1991 c. 59.

(b) 1980 c. 66.

(c) 1992 c. 42.

(d) See paragraph 6 of Schedule 3 to the Flood and Water Management Act 2010 for the meaning of “approving body”.

Proposed construction work with drainage implications

5.—(1) Subject to paragraph (2), the requirement for approval under paragraph 7(1) of Schedule 3 does not apply to any construction work in respect of which, before 1st October 2012—

- (a) planning permission was granted or deemed to be granted (whether or not subject to any condition as to a reserved matter); or
- (b) a local planning authority received a valid application for planning permission but by that date had not finally determined it.

(2) The requirement for approval under paragraph 7(1) of Schedule 3 does apply to construction work in respect of which planning permission was granted before 1st October 2012 if—

- (a) the grant was subject to a condition as to a reserved matter; and
- (b) an application for approval of the reserved matter is not made within the period of 12 months beginning with 1st October 2012.

(3) A valid application for planning permission was received before 1st October 2012 if—

- (a) it is made before that date; and
- (b) complies with article 29(3) of the Town and Country Planning (Development Management Procedure) (England) Order 2010^(a).

(4) In this article, “reserved matter” has the meaning given in section 92 of the Town and Country Planning Act 1990.

	<i>Name</i>
	Parliamentary Under Secretary of State
Date	Department for Environment, Food and Rural Affairs

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision in relation to—

- (a) exceptions to the requirement for approval of drainage systems for construction work which has drainage implications (article 3); and
- (b) the determination by approving bodies of requests for adoption of drainage systems (article 4).

It makes transitional provision for construction work for which an application for planning permission has been made, or for which planning permission has been given (article 5).

Article 1(1)(d) provides that this Order is to cease to have effect 7 years after it comes into force.

Article 1(2) requires the Secretary of State to review the operation and effect of this Order and publish a report within 5 years after the Order comes into force.

An impact assessment of the effect that this instrument will have on the costs of business, the voluntary sector and the public sector is available from the website of the Department for Environment, Food and Rural Affairs at www.defra.gov.uk and is published with the Explanatory Memorandum alongside the instrument on www.legislation.gov.uk.

(a) S.I. 2010/2184.