

2012 No. 1693

COAST PROTECTION, ENGLAND
ENVIRONMENTAL PROTECTION, ENGLAND
FLOOD RISK MANAGEMENT, ENGLAND

The Designation of Features (Notices) (England) Regulations
2012

<i>Made</i> - - - -	<i>27th June 2012</i>
<i>Laid before Parliament</i>	<i>29th June 2012</i>
<i>Coming into force</i> - -	<i>25th July 2012</i>

The Secretary of State in exercise of the powers conferred by sections 30 and 48(2) of, and paragraph 16 of Schedule 1 to, the Flood and Water Management Act 2010^(a), makes the following Regulations.

Citation, commencement and application

1. These Regulations—

- (a) may be cited as the Designation of Features (Notices) (England) Regulations 2012;
- (b) come into force on 25th July 2012; and
- (c) apply in relation to designations of structures or features in England.

Notices relating to consent to alter, remove or replace designated structure or feature

2.—(1) A notice issued under paragraph 6(3)(b) (notices given otherwise than on application by owner) of Schedule 1 to the Flood and Water Management Act 2010 must specify the date on which it is proposed the notice shall have effect, which, subject to paragraph (2), must be a date not less than 28 days after the date on which the notice is issued.

(2) The date required to be specified under paragraph (1) may be less than 28 days if the responsible authority considers it necessary in an emergency.

Review

3.—(1) The Secretary of State, in relation to designations of structures or features, must from time to time—

- (a) carry out a review of these Regulations;

(a) 2010 c. 29. Paragraph 16 of Schedule 1 to the Flood and Water Management Act 2010 confers powers on “the Minister”, and paragraph 17 of Schedule 1 to that Act defines “the Minister” for the purposes of that Schedule.

- (b) set out the conclusions of the review in a report; and
 - (c) publish the report.
- (2) The report must in particular—
- (a) set out the objectives intended to be achieved by these Regulations;
 - (b) assess the extent to which those objectives are achieved; and
 - (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.
- (3) The first report under this regulation must be published before the end of the period of 5 years beginning with the day on which these Regulations come into force.
- (4) Reports under this regulation are afterwards to be published at intervals not exceeding 5 years.

27th June 2012

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

Under section 30 of, and Schedule 1 to, the Flood and Water Management Act 2010 (c. 29) (“the Act”), the Environment Agency, lead local flood authority or an internal drainage board may designate structures or environmental features that affect a flood or coastal erosion risk, though they may not necessarily have been designed or constructed for that purpose. Once designated, the owner of the designated feature cannot alter, remove or replace it without consent from the relevant authority, being either the authority which designated the feature or the authority who has since taken over responsibility for the designation in accordance with Schedule 1 to the Act (the “Responsible Authority”). Paragraph 6(3)(b) of Schedule 1 to the Act gives power to the Responsible Authority to issue a consent to alter, remove or replace a designated structure or feature (or a variation or withdrawal of such a consent) other than in response to an application by an owner (a “paragraph 6(3)(b) notice”). Paragraph 16 of Schedule 1 to the Act gives the Minister the power to make provision about the form, content and method of service of a notice made under Schedule 1 to the Act.

These Regulations provide a requirement for all paragraph 6(3)(b) notices to specify a minimum notice period before they have effect and an exception to this requirement. The specified notice period is 28 days after the date on which the notice is issued although a Responsible Authority may specify a shorter notice period if it considers it necessary in an emergency.

Regulation 3 requires the Secretary of State to review the operation and effect of these Regulations in relation to designations of structures or features and to publish a report within 5 years after these Regulations come 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 this instrument on www.legislation.gov.uk.

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STATUTORY INSTRUMENTS

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