



# Water Act 1981

## 1981 CHAPTER 12

An Act to provide for increasing the borrowing powers of the British Waterways Board and to make further provision relating to water supply. [15th April 1981]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### **1 Increased borrowing powers of British Waterways Board.**

(1) For paragraph (iv) of subsection (3) of section 19 of the Transport Act 1962 there shall be substituted the following paragraph—

“(iv) for the British Waterways Board £25 million or such greater sum not exceeding £35 million as the Secretary of State may by order made by statutory instrument specify.”

(2) After the said subsection (3) there shall be inserted the following subsection—

“(3A) An order made under paragraph (iv) of subsection (3) above shall be made by statutory instrument, and no such order shall be made unless a draft of the order has been approved by resolution of the House of Commons.”

(3) Section 3 of the Transport (Financial Provisions) Act 1977 is hereby repealed.

### **2 Exemption from charges for water for fire fighting.**

(1) Notwithstanding anything in section 30 or in any charges scheme made under section 31 of the Water Act 1973 or in any agreement made under section 27 of the Water Act 1945, but subject to the provisions of any order made under subsection (2) below, no charge may be made by statutory water undertakers in respect of—

- (a) water taken for the purposes of extinguishing fires or of testing apparatus installed or equipment used for extinguishing fires,
- (b) the availability of water for those purposes.

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*Status: This is the original version (as it was originally enacted).*

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- (2) The Secretary of State may by order made by statutory instrument make provision as to the method by which and the criteria by reference to which statutory water undertakers shall calculate the charges payable to them for water supplied where the supply of water provided for the purposes mentioned in paragraph (a) of subsection (1) above is by means of a service pipe which also supplies water for other purposes; and such order may make provision for arbitration.
- (3) This section shall not prevent the making of charges in respect of work carried out at the request of or for the benefit of any person receiving a supply of water for the purposes mentioned in paragraph (a) of subsection (1) above.
- (4) This section shall not prevent the making of charges in respect of a supply of water for domestic purposes where any of the water is used for any of the purposes mentioned in paragraph (a) of subsection (1) above.
- (5) This section shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint; and different days may be so appointed for different provisions of this section, or for different purposes of the same provision and in particular, different days may be so appointed for the coming into force of the same provision in different water authority areas or for different parts of the same area.
- (6) An order under subsection (5) above may make such transitional, incidental, supplementary and consequential provisions as the Secretary of State may consider necessary or expedient in connection with the provisions of this section which are thereby brought into force.
- (7) A statutory instrument containing an order under subsection (2) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) In this section—
  - (a) " service pipe " and " a supply of water for domestic purposes " have the meanings assigned to them by section 1(1) of Schedule 3 to the Water Act 1945;
  - (b) " statutory water undertakers " has the meaning assigned to it by section 11(6) of the Water Act 1973.

### **3 Application of sections 35 to 38 of Part VIII of Schedule 3 to the Water Act 1945.**

- (1) Sections 35 to 38 of Part VIII of Schedule 3 to the Water Act 1945 (which make provision as to the supply of water for public purposes) shall by virtue of this section apply throughout every water authority area; and accordingly any local statutory provision applying those sections with or without modifications shall cease to have effect.
- (2) In this section " local statutory provision " has the meaning assigned to it by section 38(1) of the Water Act 1973.

### **4 Separation of common water service pipes.**

- (1) Notwithstanding anything in any agreement, where on the passing of this Act the supply of water to two or more houses is by a single service pipe, statutory water undertakers shall not require the provision of separate service pipes for those houses until either—

- (a) the existing supply pipe becomes so defective as to require renewal or is no longer sufficient to meet the requirements of the houses; or
  - (b) a payment in respect of the supply of water to any of the houses remains unpaid after the end of the period for which it is due; or
  - (c) the houses are, by structural alterations to one or more of them, converted into a larger number of houses; or
  - (d) the owner or occupier of any of the houses has interfered with or allowed another person to interfere with the existing service pipe or the stopcock fixed to it and thereby caused the supply of water to any house to be interfered with or the undertakers have reasonable grounds to believe that such interference is likely to take place.
- (2) In subsection (1) of section 42 of Schedule 3 to the Water Act 1945, after the word " section " there shall be inserted the words " and of section 4 of the Water Act 1981 ".
- (3) Without prejudice to any modification made by any local statutory provision, subsections (1) to (6) of section 42 of Schedule 3 to the Water Act 1945 shall by virtue of this section apply throughout every water authority area, whether or not applied by or under any other enactment.
- (4) Any local statutory provision so far as inconsistent with any provision of this section or applying with or without modifications subsections (7) and (8) of section 42 of the said Schedule 3 shall cease to have effect; and the said subsections (7) and (8) are hereby repealed.
- (5) In this section—
- (a) " local statutory provision " has the meaning assigned to it by section 38(1) of the Water Act 1973;
  - (b) " house ", " service pipe " and " supply pipe " have the meanings assigned to them by section 1(1) of Schedule 3 to the Water Act 1945;
  - (c) " statutory water undertakers " has the meaning assigned to it by section 11(6) of the Water Act 1973.

## **5 Increase of limits of expenses recoverable in relation to water supply.**

- (1) In the proviso to section 138(3) of the Public Health Act 1936 (under which a householder may be required to pay up to £60 towards the cost of providing a water supply for a house) for the words " sixty pounds " there shall be substituted the words " £300 ".
- (2) Nothing in this section applies to a notice given under the said section 138 before the commencement of this section.
- (3) In the said section 138, after subsection (3) there shall be inserted the following subsection—
- “(3A) The Secretary of State may by order made by statutory instrument increase the amount specified in the proviso to subsection (3) of this section; and a statutory instrument containing an order under this subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Nothing in an order made under this subsection shall apply to a notice given under this section before the commencement of the order.”

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- (4) Section 78 of the Public Health Act 1961 (which amended the proviso to section 138(3) of the Public Health Act 1936) is hereby repealed.

## **6 Civil liability of statutory water undertakers for escapes of water.**

- (1) Where an escape of water, however caused, from a communication pipe or main of statutory water undertakers causes loss or damage, the undertakers shall be liable, except as otherwise provided in this section, for the loss or damage.
- (2) Statutory water undertakers shall not incur any liability under subsection (1) above if the escape was due wholly to the fault of the person who suffered the loss or damage or of any servant, agent or contractor of his.
- (3) Statutory water undertakers shall not incur any liability under subsection (1) above in respect of any loss or damage suffered by any excepted undertakers for which they would not be liable apart from that subsection.
- (4) The Law Reform (Contributory Negligence) Act 1945, the Fatal Accidents Act 1976 and the Limitation Act 1980 shall apply in relation to any loss or damage for which statutory water undertakers are liable under this section, but which is not due to their fault, as if it were due to their fault.
- (5) Nothing in subsection (1) above affects any entitlement which statutory water undertakers may have to recover contribution under the Civil Liability (Contribution) Act 1978; and for the purposes of that Act, any loss for which statutory water undertakers are liable under that subsection shall be treated as if it were damage.
- (6) Where statutory water undertakers are liable, under any enactment or agreement passed or made before the coming into force of this section, to make a payment in respect of any loss or damage, they shall not incur liability under subsection (1) above in respect of the same loss or damage.
- (7) In this section—
- (a) " communication pipe " and " main " have the meanings assigned to them by section 1(1) of Schedule 3 to the Water Act 1945;
  - (b) " damage" includes the death of, or injury to, any person (including any disease and any impairment of physical or mental condition);
  - (c) " excepted undertakers " means—
    - (i) statutory undertakers within the meaning of section 290(1) of the Town and Country Planning Act 1971;
    - (ii) any highway authority within the meaning of the Highways Act 1980;
    - (iii) any bridge authority, bridge managers, street authority or street managers within the meaning of section 39(1) of the Public Utilities Street Works Act 1950; and
    - (iv) any person on whom a right to compensation under section 26 of the said Act of 1950 is conferred;
  - (d) " fault" has the same meaning as in the Law Reform (Contributory Negligence) Act 1945; and
  - (e) " statutory water undertakers " has the meaning assigned to it by section 11(6) of the Water Act 1973.
- (8) This section shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint.

**7 Short title and extent.**

- (1) This Act may be cited as the Water Act 1981.
- (2) Section 1 of this Act extends to Scotland and Northern Ireland but otherwise this Act extends to England and Wales only.