Water Resources Act 1991

1991 CHAPTER 57

An Act to consolidate enactments relating to the National Rivers Authority and the matters in relation to which it exercises functions, with amendments to give effect to recommendations of the Law Commission. [25th July 1991]

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:—

Modifications etc. (not altering text)

C1 Act: definition applied (1.12.1991) by Water Industry Act 1991 (c. 56, SIF 130), **s. 219(1)**

C2 Act: definition applied (1.12.1991) by Land Drainage Act 1991 (c. 59, SIF 73:1), **s. 72(1)**

C3 Act applied (16.3.1992) by Avon Weir Act 1992 (c. v), **s. 12(1)**
Act excluded (28.7.1995) by 1995 c. 25, **s. 7(6)** (with ss. 115, 117); S.I. 1995/1983, **art. 2**
Act modified (1.4.1996) by 1995 c. 25, **s. 14(2)(b)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
Act applied (18.12.1996) by 1996 c. 61, s. 2, **Sch. 2 para. 9(8)(c)**
Act amended (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

C4 Act: transfer of certain functions (1.7.1999) by 1999/672, art. 2, Sch. 1

C5 Act applied (with modifications) (24.3.2005) by New Forest National Park Authority (Establishment) Order 2005 (S.I. 2005/421), **Sch. 3 para. 5(2)**

Commencement Information

I1 Act wholly in force at 1.12.1991 see s. 225(2).

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

PART I

PRELIMINARY

CHAPTER I

THE NATIONAL RIVERS AUTHORITY

[F1]1 . . . . . .

Textual Amendments

F1 Ss. 1-14 repealed (1.4.1996) by 1995 c. 25, s. 120, Sch. 22 para. 129, **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

[F2]2 . . . . . .

Textual Amendments

F2 Ss. 1-14 repealed (1.4.1996) by 1995 c. 25, s. 120, Sch. 22 para. 129, **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

[F3]3 . . . . . .

Textual Amendments

F3 Ss. 1-14 repealed (1.4.1996) by 1995 c. 25, s. 120, Sch. 22 para. 129, **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

[F4]4 . . . . . .

Textual Amendments

F4 Ss. 1-14 repealed (1.4.1996) by 1995 c. 25, s. 120, Sch. 22 para. 129, **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

[F5]5 . . . . . .

Textual Amendments

F5 Ss. 1-14 repealed (1.4.1996) by 1996 c. 25, s. 120, Sch. 22 para. 129, **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

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CHAPTER II

COMMITTEES WITH FUNCTIONS IN RELATION TO THE AUTHORITY

Advisory committees

[F6]6 . . . . . .

Textual Amendments

F6 Ss. 1-14 repealed (1.4.1996) by 1995 c. 25, s. 120, Sch. 22, para. 129, **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

[F7]7 . . . . . .

Textual Amendments

F7 Ss. 1-14 repealed (1.4.1996) by 1995 c. 25, s. 120, Sch. 22, para. 129, **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

[F8]8 . . . . . .

Textual Amendments

F8 Ss. 1-14 repealed (1.4.1996) by 1995 c. 25, s. 120, Sch. 22, para. 129, **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Flood defence committees

[F9]9 . . . . . .

Textual Amendments

F9 Ss. 1-14 repealed (1.4.1996) by 1995 c. 25, s. 120, Sch. 22, para. 129, **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

[F10]10 . . . . . .

Textual Amendments

F10 Ss. 1-14 repealed (1.4.1996) by 1995 c. 25, s. 120, Sch. 22 para. 129, **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

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[F11]11 . . . . . .

Textual Amendments

F11 Ss. 1-14 repealed (1.4.1996) by 1995 c. 25, s. 120, Sch. 22 para. 129, **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

[F12]12 . . . . . .

Textual Amendments

F12 Ss. 1-14 repealed (1.4.1996) by 1995 c. 25, s. 120, Sch. 22, para. 129, **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

[F13]13 . . . . . .

Textual Amendments

F13 Ss. 1-14 repealed (1.4.1996) by 1995 c. 25, s. 120, Sch. 22 para. 129, **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

[F14]14 . . . . . .

Textual Amendments

F14 Ss. 1-14 repealed (1.4.1996) by 1995 c. 25, s. 120, Sch. 22 para. 129, **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

CHAPTER III

GENERAL DUTIES

15 General duties with respect to the water industry.

(1) It shall be the duty of the **[**[F15]Agency**]**, in exercising any of its powers under any enactment, to have particular regard to the duties imposed, by virtue of the provisions of Parts II to IV of the [M1]Water Industry Act 1991, on any water undertaker or sewerage undertaker which appears to the **[**[F15]Agency**]** to be or to be likely to be affected by the exercise of the power in question.

(2) It shall be the duty of each of the Ministers, in exercising—

(a) any power conferred by virtue of **[**[F16]the 1995 Act,**]**this Act, the [M2]Land Drainage Act 1991, the Water Industry Act 1991 or the [M3]Water Act 1989 in relation to, or to decisions of, the **[**[F15]Agency**]**; or

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(b) any power which, but for any direction given by one of the Ministers, would fall to be exercised by the **[**[F15]Agency**]**,

to take into account the duty imposed on the **[**[F15]Agency**]** by subsection (1) above.

Textual Amendments

F15 Word in s. 15 substituted (subject to the other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F16 Words in s. 15(2)(a) substituted (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 130** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Marginal Citations

M1 1991 c. 56.

M2 1991 c. 59.

M3 1989 c. 15.

[F17]16 . . . . . .

Textual Amendments

F17 Ss. 16-19 repealed (1.4.1996) by 1995 c. 25, s. 120, Sch. 22, para. 131, **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

[F18]17 . . . . . .

Textual Amendments

F18 Ss. 16-19 repealed (1.4.1996) by 1995 c. 25, s. 120, Sch. 22, para. 131, **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

[F19]18 . . . . . .

Textual Amendments

F19 Ss. 16-19 repealed (1.4.1996) by 1995 c. 25, **s. 120**, SCh. 22, para. 131, Sch. 24 (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Status: *Point in time view as at 01/10/2006.*
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PART II

WATER RESOURCES MANAGEMENT

Modifications etc. (not altering text)

C6 Pt. II: transfer of functions to the Environment Agency (1.4.1996) by 1995 c. 25, **s. 2(1)(a)(i)** (with ss. 115, 117); S.I. 1996/186, **art. 3**

CHAPTER I

GENERAL MANAGEMENT FUNCTIONS

19 General management of resources by the [F20Agency.]

(1) It shall be the duty of the **[**F21Agency **]**to take all such action as it may from time to time consider, in accordance (if any have been given for the purposes of this section) with the directions of the Secretary of State, to be necessary or expedient for the purpose—

(a) of conserving, redistributing or otherwise augmenting water resources in England and Wales; and

(b) of securing the proper use of water resources in England and Wales.

(2) Nothing in this section shall be construed as relieving any water undertaker of the obligation to develop water resources for the purpose of performing any duty imposed on it by virtue of section 37 of the M4Water Industry Act 1991 (general duty to maintain water supply system).

Textual Amendments

F20 Words in s. 19 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F21 Words in s. 19 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Marginal Citations

M4 1991 c. 56.

20 Water resources management schemes.

(1) It shall be the duty of the **[**F22Agency**]** so far as reasonably practicable to enter into and maintain such arrangements with water undertakers for securing the proper management or operation of—

(a) the waters which are available to be used by water undertakers for the purposes of, or in connection with, the carrying out of their functions; and

(b) any reservoirs, apparatus or other works which belong to, are operated by or are otherwise under the control of water undertakers for the purposes of, or in connection with, the carrying out of their functions,

as the **[**F22Agency**]** from time to time considers appropriate for the purpose of carrying out its functions under **[**F23section 6(2) of the 1995 Act**]**.

Status: *Point in time view as at 01/10/2006.*
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(2) Without prejudice to the power of the **[**[F22]Agency**]** and any water undertaker to include any such provision as may be agreed between them in arrangements under this section, such arrangements may—

(a) make provision by virtue of subsection (1)(a) above with respect to the construction or installation of any reservoirs, apparatus or other works which will be used by the undertaker in the carrying out of its functions;

(b) contain provision requiring payments to be made by the **[**[F22]Agency**]** to the undertaker; and

(c) require the reference to and determination by the Secretary of State or the **[**[F24]Water Services Regulation Authority **]** of questions arising under the arrangements.

(3) The **[**[F22]Agency**]** shall send a copy of any arrangements entered into by it under this section to the Secretary of State; and the obligations of a water undertaker by virtue of any such arrangements shall be enforceable under section 18 of the [M5]Water Industry Act 1991 (enforcement orders) by the Secretary of State.

Textual Amendments

F22 Words in s. 20 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F23 Words in s. 20(1) substituted (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 132** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F24 Words in s. 20(2)(c) substituted (1.4.2006) by Water Act 2003 (c. 37), s. 105(3), **Sch. 7 para. 28(2)**; S.I. 2005/2714, art. 4(f) (with Sch. para. 8)

Marginal Citations

M5 1991 c. 56

[[F25]**20A Water resources management schemes: other abstractors**

(1) The Agency may enter into and maintain such arrangements with holders of abstraction licences other than water undertakers for securing the proper management or operation of—

(a) the waters from which they have the right by virtue of their licences to abstract water; and

(b) any reservoirs, apparatus or other works which are used for the purposes of or in connection with their abstractions and which belong to them, are operated by them or are otherwise under their control,

as the Agency from time to time considers appropriate for the purpose of carrying out its functions under section 6(2) of the 1995 Act.

(2) Without prejudice to the power of the Agency and any holder of an abstraction licence to include any such provision as may be agreed between them in arrangements under this section, such arrangements may—

(a) make provision by virtue of subsection (1)(a) above with respect to the construction or installation of any reservoirs, apparatus or other works which the holder of the licence will use for the purposes of or in connection with his abstraction;

(b) contain provision requiring payments to be made by the Agency to the holder of the licence; and

(c) require the reference to and determination by the Secretary of State or the Water Services Regulation Authority of questions arising under the arrangements.

(3) The Agency shall send a copy of any arrangements entered into by it under this section to the Secretary of State.

(4) In this section, references to abstraction licences are to licences under Chapter 2 of this Part to abstract water.**]**

Textual Amendments

F25 S. 20A inserted (1.10.2004) by Water Act 2003 (c. 37), **ss. 28**, 105(3); S.I. 2004/2528, art. 2(b) (with Sch. para. 8)

[F26 20B Water resources management schemes: referral to Secretary of State

(1) This section applies where—

(a) the Agency has sought to enter into arrangements acceptable to it under section 20 or 20A above, but is satisfied that the other party is unwilling to enter into such arrangements or to do so on terms appearing to the Agency to be reasonable; or

(b) having entered into such arrangements, the Agency has sought to renew or vary them but is satisfied that the other party is unwilling to do so or to do so on terms appearing to the Agency to be reasonable.

(2) Where this section applies, the Agency may refer to the Secretary of State the question (as the case may be)—

(a) whether such arrangements should be entered into, and if so, on what terms; or

(b) whether the arrangements should be renewed or varied (as the case may be), and if so, on what terms.

(3) If the Secretary of State determines that arrangements should be entered into or (as the case may be) renewed or varied, such arrangements on the terms determined by the Secretary of State shall be enforceable—

(a) by civil proceedings by the Secretary of State for an injunction or for any other appropriate relief; and

(b) where the other party is a water undertaker, also under section 18 of the Water Industry Act 1991 (enforcement orders) by the Secretary of State.

(4) The functions of the Secretary of State under subsection (2) above shall be treated for the purposes of section 114 of the 1995 Act (delegation or reference of appeals) as if they were functions to which paragraph (a) of subsection (1) of that section applied.**]**

Textual Amendments

F26 S. 20B inserted (1.10.2004) by Water Act 2003 (c. 37), **ss. 29(1)**, 105(3); S.I. 2004/2528, art. 2(b) (with Sch. para. 8)

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[F27 20C Proposals for bulk supply arrangements

(1) In the circumstances mentioned in subsection (2) below, the Agency may, in carrying out its functions under section 6(2) of the 1995 Act, propose to a qualifying person (within the meaning of section 40 of the Water Industry Act 1991) that he make an application under that section for a bulk supply of water from a water undertaker.

(2) The circumstances referred to in subsection (1) above are that it appears to the Agency that such a bulk supply is necessary in order to secure the proper use of water resources.

(3) The Agency shall not make such a proposal without first consulting the Water Services Regulation Authority.

(4) The Agency may include in its proposal the period for which, and terms and conditions on which, the Agency considers it appropriate that the bulk supply should be given.**]**

Textual Amendments

F27 S. 20C inserted (1.10.2004) by Water Act 2003 (c. 37), **ss. 31(1)**, 105(3); S.I. 2004/2528, art. 2(c) (with Sch. para. 8)

21 Minimum acceptable flows.

(1) The **[**F28 Agency**]** may, if it thinks it appropriate to do so, submit a draft statement to the Secretary of State containing, in relation to any inland waters that are not discrete waters—

(a) provision for determining the minimum acceptable flow for those waters; or

(b) where any provision for determining such a flow is for the time being in force in relation to those waters, provision for amending that provision or for replacing it with different provision for determining the minimum acceptable flow for those waters.

(2) The provision contained in any statement for determining the minimum acceptable flow for any inland waters shall, in relation to the inland waters to which it relates, set out—

(a) the control points at which the flow in the waters is to be measured;

(b) the method of measurement which is to be used at each control point; and

(c) the flow which is to be the minimum acceptable flow at each control point or, where appropriate, the flows which are to be the minimum acceptable flows at each such point for the different times or periods specified in the statement.

(3) Before preparing so much of any draft statement under this section as relates to any particular inland waters, the **[**F28 Agency**]** shall consult—

(a) any water undertaker having the right to abstract water from those waters;

(b) any other water undertaker having the right to abstract water from any related underground strata;

(c) the drainage board for any internal drainage district from which water is discharged into those waters or in which any part of those waters is situated;

(d) any navigation authority, harbour authorityor conservancy authority having functions in relation to those waters or any related inland waters;

(e) if those waters **[**F29 are wholly or partly situated in Wales (or in an area of the sea adjoining either the coast of Wales or an area of sea forming part of Wales)

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and they**]** or any related inland waters are tidal waters in relation to which there is no such navigation authority, harbour authority or conservancy authority, **[**[F30]the Secretary of State for Transport**]**; and

(f) any person authorised by a licence under Part I of the [M6]Electricity Act 1989 to generate electricity **[**[F31]who has a right to abstract water from those waters**]**.

(4) In determining the flow to be specified in relation to any inland waters under subsection (2)(c) above, the **[**[F28]Agency**]** shall have regard—

(a) to the flow of water in the inland waters from time to time;

(b) in the light of its duties under **[**[F32]sections 6(1), 7 and 8 of the 1995 Act**]**, to the character of the inland waters and their surroundings; and

(c) to any water quality objectives established under Chapter I of Part III of this Act in relation to the inland waters or any other inland waters which may be affected by the flow in the inland waters in question.

(5) The flow specified in relation to any inland waters under subsection (2)(c) above shall be not less than the minimum which, in the opinion of the **[**[F28]Agency**]**, is needed for safeguarding the public health and for meeting (in respect of both quantity and quality of water)—

(a) the requirements of existing lawful uses of the inland waters, whether for agriculture, industry, water supply or other purposes; and

(b) the requirements, in relation to both those waters and other inland waters whose flow may be affected by changes in the flow of those waters, of navigation, fisheries or land drainage.

(6) The provisions of Schedule 5 to this Act shall have effect with respect to draft statements under this section and with respect to the approval of statements submitted as draft statements.

(7) The approval under Schedule 5 to this Act of a draft statement under this section shall bring into force, on the date specified in that approval, so much of that statement, as approved, as contains provision for determining, amending or replacing the minimum acceptable flow for any inland waters.

(8) For the purposes of subsection (3) above—

(a) underground strata are related underground strata in relation to any inland waters if—

(i) a water undertaker has a right to abstract water from the strata; and

(ii) it appears to the **[**[F28]Agency**]**, having regard to the extent to which the level of water in the strata depends on the flow of those waters, that the exercise of that right may be substantially affected by so much of the draft statement in question as relates to those waters;

(b) inland waters are related inland waters in relation to any other inland waters, where it appears to the **[**[F28]Agency**]** that changes in the flow of the other waters may affect the flow of the first-mentioned inland waters.

(9) For the purposes of subsection (5) above the **[**[F28]Agency**]** shall be entitled (but shall not be bound) to treat as lawful any existing use of any inland waters unless—

(a) by a decision given in any legal proceedings, it has been held to be unlawful; and

(b) that decision has not been quashed or reversed;

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and in that subsection the reference to land drainage includes a reference to defence against water (including sea water), irrigation other than spray irrigation, warping and the provision of flood warning systems.

Textual Amendments

F28 Words in s. 21 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F29 Words in s. 21(3)(e) inserted (26.1.1998) by S.I. 1997/2971, art. 6(1), Sch. paras. 18, **19(a)**

F30 Words in s. 21(3)(e) substituted (25.11.2002) by S.I. 2002/2626, art. 20, **Sch. 2 para. 18(2)**

F31 Words in s. 21(3)(f) added (21.9.1995) by 1995 c. 25, s. 120(1), **Sch. 22 para. 133(1)** (with ss. 7(6), 115, 117); S.I. 1995/1983, **art. 3**

F32 Words in s. 21(4)(b) substituted (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 133(2)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Marginal Citations

M6 1989 c. 29.

22 Directions to the [F33Agency] to consider minimum acceptable flow.

(1) If the **[**F33Agency**]** is directed by the Secretary of State to consider whether the minimum acceptable flow for any particular inland waters ought to be determined or reviewed, the **[**F33Agency**]** shall consider that matter as soon as reasonably practicable after being directed to do so.

(2) After considering any matter under subsection (1) above the **[**F33Agency**]** shall submit to the Secretary of State with respect to the inland waters in question either—

(a) such a draft statement as is mentioned in subsection (1) of section 21 above; or

(b) a draft statement that no minimum acceptable flow ought to be determined for those waters or, as the case may require, that the minimum acceptable flow for those waters does not need to be changed.

and subsections (6) and (7) of that section shall apply in relation to a draft statement under this subsection as they apply in relation to a draft statement under that section.

(3) Without prejudice to the generality of paragraph 4 of Schedule 5 to this Act, the power of the Secretary of State under that paragraph to alter a draft statement before approving it shall include power to substitute a statement containing or amending any such provision as is mentioned in subsection (2) of section 21 above for such a draft statement as is mentioned in subsection (2)(b) of this section.

Textual Amendments

F33 Words in s. 22 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

23 Minimum acceptable level or volume of inland waters.

(1) Where it appears to the **[**F34Agency**]**, in the case of any particular inland waters, that it would be appropriate to measure the level or the volume (either instead of or in addition to the flow) the **[**F34Agency**]** may determine that sections 21 and 22 above

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shall apply in relation to those inland waters as if any reference to the flow were or, as the case may be, included a reference to the level or to the volume.

(2) Where the **[**[F34]Agency**]** makes a determination under subsection (1) above with respect to any inland waters, any draft statement prepared for the purposes of section 21 or 22 above, in so far as it relates to those waters, shall state—

(a) whether the level or the volume is to be measured; and

(b) whether it is to be measured instead of, or in addition to, the flow.

(3) Chapter II of this Part shall apply in relation to any inland waters with respect to which a determination has been made under subsection (1) above as if any reference in that Chapter to the flow were, or (as the case may be) included, a reference to the level or, as the case may be, the volume.

Textual Amendments

F34 Words in s. 23 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

CHAPTER II

ABSTRACTION AND IMPOUNDING

Modifications etc. (not altering text)

C7 Chapter II of Part II excluded (1.4.1996) by 1995 c. 25, **s. 6(3)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

C8 Chapter II of Part II modified (18.12.1996) by 1996 c. 61, s. 52, **Sch. 15 Pt. III para. 11**

C9 Pt. II Ch. II modified (22.3.2005) by Midland Metro (Wednesbury to Brierley Hill and Miscellaneous Amendments) Order 2005 (S.I. 2005/927), **Sch. 11 para. 11** (with art. 51)

C10 Pt. II Ch. II modified (26.8.2005) by River Tyne (Tunnels) Order 2005 (S.I. 2005/2222), art. 1, **Sch. 10 para. 14** (with arts. 45(1), 48, Sch. 10 paras. 21, 29)

Restrictions on abstraction and impounding

24 Restrictions on abstraction.

(1) Subject to the following provisions of this Chapter and to any drought order **[**[F35]or drought permit**]** under Chapter III of this Part, no person shall—

(a) abstract water from any source of supply; or

(b) cause or permit any other person so to abstract any water,

except in pursuance of a licence under this Chapter granted by the **[**[F36]Agency**]** and in accordance with the provisions of that licence.

(2) Where by virtue of subsection (1) above the abstraction of water contained in any underground strata is prohibited except in pursuance of a licence under this Chapter, no person shall begin, or cause or permit any other person to begin—

(a) to construct any well, borehole or other work by which water may be abstracted from those strata;

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) to extend any such well, borehole or other work; or

(c) to instal or modify any machinery or apparatus by which additional quantities of water may be abstracted from those strata by means of a well, borehole or other work,

unless the conditions specified in subsection (3) below are satisfied.

(3) The conditions mentioned in subsection (2) above are—

(a) that the abstraction of the water or, as the case may be, of the additional quantities of water is authorised by a licence under this Chapter; and

(b) that—

(i) the well, borehole or work, as constructed or extended; or

(ii) the machinery or apparatus, as installed or modified,

fulfils the requirements of that licence as to the means by which water is authorised to be abstracted.

(4) A person shall be guilty of an offence if—

(a) he contravenes subsection (1) or (2) above; or

(b) he is for the purposes of this section the holder of a licence under this Chapter and, in circumstances not constituting such a contravention, does not comply with a condition or requirement imposed by the provisions, as for the time being in force, of that licence.

(5) A person who is guilty of an offence under this section shall be liable—

(a) on summary conviction, to a fine not exceeding **[**[F37]£20,000**]**;

(b) on conviction on indictment, to a fine.

(6) The restrictions imposed by this section shall have effect notwithstanding anything in any enactment contained in any Act passed before the passing of the [M7]Water Resources Act 1963 on 31st July 1963 or in any statutory provision made or issued, whether before or after the passing of that Act, by virtue of such an enactment.

Textual Amendments

F35 By S.I. 1996/593, reg. 3, **Sch. 2 para. 8** it is provided that the words "or drought permit" be substituted (1.4.1996) for the words following "drought order"

F36 Word in s. 24(1) substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F37 Word in s. 24(5)(a) substituted (1.4.2004) by Water Act 2003 (c. 37), **ss. 60(1)**, 105(3) (with s. 60(2)); S.I. 2004/641, art. 3(n) (with Sch. 3 para. 7)

Modifications etc. (not altering text)

C11 S. 24(1) restricted (16.3.1992) by Aire and Calder Navigation Act 1992 (c. iv), **s. 17(2)**

Marginal Citations

M7 1963 c. 38.

[[F38]**24A Abstraction licences**

(1) Each licence to abstract water shall be of one of the following three types—

(a) a licence to abstract water from one source of supply over a period of twenty-eight days or more for any purpose (a "full licence");

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) a licence to abstract water from one source of supply over a period of twenty-eight days or more for the purpose of—

(i) transferring water to another source of supply; or

(ii) transferring water to the same source of supply, but at another point, in the course of dewatering activities in connection with mining, quarrying, engineering, building or other operations (whether underground or on the surface),

in either case without intervening use (a "transfer licence");

(c) a licence to abstract water from one source of supply over a period of less than twenty-eight days (a "temporary licence").

(2) In this Act, a reference (however expressed) to a licence to abstract water is to be taken as a reference to all types of licence, unless it is clear that a different meaning is intended.**]**

Textual Amendments

F38 S. 24A inserted (1.4.2006) by Water Act 2003 (c. 37), **ss. 1(1)**, 105(3); S.I. 2006/984, art. 2(a) (with Sch. paras. 1, 2)

25 Restrictions on impounding.

[[F39](1) Subject to the following provisions of this Chapter and to any drought order or drought permit under Chapter 3 of this Part, no person shall—

(a) begin, or cause or permit any other person to begin, to construct or alter any impounding works at any point in any inland waters which are not discrete waters; or

(b) cause or permit the flow of any inland waters which are not discrete waters to be obstructed or impeded at any point by means of impounding works,

unless (in either case) the conditions mentioned in subsection (1A) below are satisfied.

(1A) The conditions are—

(a) a licence under this Chapter granted by the Agency to obstruct or impede the flow of those inland waters at that point by means of impounding works is in force;

(b) the impounding works will not (or, as the case may be, do not) obstruct or impede the flow of the inland waters except to the extent, and in the manner, authorised by the licence; and

(c) any other conditions or requirements imposed by the provisions, as for the time being in force, of the licence (whether as to the provision of compensation water or otherwise) are complied with.**]**

(2) A person shall be guilty of an offence if—

(a) he contravenes subsection (1) above; or

(b) he is for the purposes of this section the holder of a licence under this Chapter and [F40]... does not comply with a condition or requirement imposed by the provisions, as for the time being in force, of that licence.

(3) A person who is guilty of an offence under this section shall be liable—

(a) on summary conviction, to a fine not exceeding **[**[F41]£20,000**]**;

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) on conviction on indictment, to a fine.

(4) Subject to subsection (5) below, the restrictions imposed by this section shall have effect notwithstanding anything in any enactment contained in any Act passed before the passing of the [M8]Water Resources Act 1963 on 31st July 1963 or in any statutory provision made or issued, whether before or after the passing of that Act, by virtue of such an enactment.

(5) Subject to subsection (6) below, the restriction on impounding works **[**[F42]shall not apply in respect of any impounding works**]**, if—

(a) the construction or alteration of those works; or

(b) the obstruction or impeding of the flow of the inland waters resulting from the construction or alteration of the works,

is authorised (in whatsoever terms, and whether expressly or by implication) by virtue of any such statutory provision as at the coming into force of this Act was an alternative statutory provision for the purposes of section 36(2) of the Water Resources Act 1963.

(6) The provisions of this Chapter shall have effect in accordance with subsection (7) below where by virtue of any such provision as is mentioned in subsection (5) above and is for the time being in force—

(a) any water undertaker or sewerage undertaker to which rights under that provision have been transferred in accordance with a scheme under Schedule 2 to the [M9]Water Act 1989 or Schedule 2 to the [M10]Water Industry Act 1991; or

(b) any other person,

is authorised (in whatsoever terms, and whether expressly or by implication) to obstruct or impede the flow of any inland waters by means of impounding works (whether those works have already been constructed or not).

(7) Where subsection (6) above applies, the provisions of this Chapter shall have effect (with the necessary modifications), where the reference is to the revocation or variation of a licence under this Chapter, as if—

(a) any reference in those provisions to a licence under this Chapter included a reference to the authorisation mentioned in that subsection; and

(b) any reference to the holder of such a licence included a reference to the undertaker or other person so mentioned.

(8) In this Chapter "impounding works" means either of the following, that is to say—

(a) any dam, weir or other works in any inland waters by which water may be impounded;

(b) any works for diverting the flow of any inland waters in connection with the construction or alteration of any dam, weir or other works falling within paragraph (a) above.

[[F43](9) In relation to impounding works, references to alteration include the removal or partial removal of those works, and cognate expressions shall be construed accordingly.**]**

Textual Amendments

F39 S. 25(1)(1A) substituted for s. 25(1) (1.4.2006) by Water Act 2003 (c. 37), **ss. 2(2)**, 105(3) (with s. 2(10)); S.I. 2006/984, art. 2(b) (with Sch. para. 2)

F40 Words in s. 25(2) repealed (1.4.2006) by Water Act 2003 (c. 37), ss. 2(3), 105(3), **Sch. 9 Pt. 1** (with s. 2(10)); S.I. 2006/984, art. 2(b)(s)(ii) (with Sch. para. 2)

Status: *Point in time view as at 01/10/2006.*
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F41 Word in s. 25(3)(a) substituted (1.4.2004) by Water Act 2003 (c. 37), **ss. 60(1)**, 105(3) (with s. 60(2)); S.I. 2004/641, art. 3(n) (with Sch. 3 para. 7)

F42 Words in s. 25(5) substituted (1.4.2006) by Water Act 2003 (c. 37), **ss. 2(4)**, 105(3) (with s. 2(10)); S.I. 2006/984, art. 2(b) (with Sch. para. 2)

F43 S. 25(9) added (1.4.2006) by Water Act 2003 (c. 37), **ss. 2(5)**, 105(3) (with s. 2(10)); S.I. 2006/984, art. 2(b) (with Sch. para. 2)

Modifications etc. (not altering text)

C12 S. 25(1)(b) modified (1.4.2006) by Water Act 2003 (c. 37), **ss. 3**, 105(3); S.I. 2006/984, art. 2(c) (with Sch. para. 2)

Marginal Citations

M8 1963 c. 38.

M9 1989 c. 15.

M10 1991 c. 56.

[F44 25A Enforcement notices

(1) Subject to the following provisions of this section, where it appears to the Agency that a person is—

(a) in breach of section 24(1) or (2) or section 25(1) above; or

(b) for the purposes of section 24 or 25 above a holder of a licence under this Chapter and has not complied with a condition or requirement imposed by the provisions, as for the time being in force, of that licence,

the Agency shall be entitled to serve an enforcement notice on him if the condition in subsection (2) below is satisfied.

(2) The condition is that it appears to the Agency that the breach or failure to comply is causing or is likely to cause significant damage to the environment.

(3) An enforcement notice is a notice requiring the person on whom it is served—

(a) to cease his breach of section 24(1) or (2) or section 25(1) above, or to comply with the condition or requirement in question; and

(b) to carry out any works or operations specified in the notice.

(4) The works or operations which may be specified are works or operations which it appears to the Agency are appropriate for the purpose of remedying or mitigating the effects of the breach or failure to comply, and may include—

(a) works or operations for the purpose, so far as it is reasonably practicable to do so, of restoring any affected waters, including any flora and fauna dependent on them, to their state immediately before the breach or failure to comply; and

(b) in the case of a breach of section 25(1) above, the removal of any unauthorised impounding works or the reversal of any unauthorised alteration to impounding works.

(5) An enforcement notice must specify the periods within which the person on whom it is served must do each of the things specified in the notice.

(6) Before serving an enforcement notice on any person, the Agency shall take reasonable steps to consult that person about the works or operations which are to be specified in the notice.

(7) The Secretary of State may by regulations make provision for or in connection with—

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(a) the form or content of enforcement notices;

(b) requirements for consultation, before the service of an enforcement notice, with persons other than the person upon whom the notice is to be served;

(c) steps to be taken for the purposes of any consultation required under subsection (6) above or regulations made by virtue of paragraph (b) above;

(d) any other steps of a procedural nature which are to be taken in connection with, or in consequence of, the service of an enforcement notice.

(8) An enforcement notice is not invalid, or invalidly served, merely because of a failure to comply with subsection (6) above or with regulations made by virtue of subsection (7) (b) above.

(9) The Secretary of State may, if he thinks fit in relation to any person, give directions to the Agency as to whether or how it should exercise its powers under this section.

(10) In proceedings for any offence under section 24 or 25 above against a person upon whom an enforcement notice has been served, the following are not to be taken as evidence that he has committed the offence—

(a) the fact that an enforcement notice has been served on him;

(b) the fact that he does not appeal against it;

(c) the fact that on an appeal against it the notice is confirmed (whether with or without modifications).

Textual Amendments

F44 Ss. 25A-25C inserted (1.4.2006) by Water Act 2003 (c. 37), **ss. 30**, 105(3); S.I. 2006/984, art. 2(o)

Modifications etc. (not altering text)

C13 S. 25A excluded (1.4.2006) by Water Resources (Abstraction and Impounding) Regulations 2006 (S.I. 2006/641), regs. 1(2), **26**

C14 Ss. 25A(5)-(9) applied (with modifications) (1.4.2006) by Water Act 2003 (c. 37), **ss. 4(3)(a)**, 105(3); S.I. 2006/984, art. 2(d)

25B Rights of entry and appeals

Sections 161B and 161C below (including any power to make regulations) shall apply in relation to enforcement notices as they apply in relation to works notices under section 161A below.

Textual Amendments

F44 Ss. 25A-25C inserted (1.4.2006) by Water Act 2003 (c. 37), **ss. 30**, 105(3); S.I. 2006/984, art. 2(o)

Modifications etc. (not altering text)

C15 S. 25B excluded (1.4.2006) by Water Resources (Abstraction and Impounding) Regulations 2006 (S.I. 2006/641), regs. 1(2), **26**

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25C Consequences of not complying with an enforcement notice

(1) If a person on whom the Agency serves an enforcement notice fails to comply with any of its requirements, he shall be guilty of an offence.

(2) A person who commits an offence under subsection (1) above shall be liable—
  (a) on summary conviction, to a fine not exceeding £20,000;
  (b) on conviction on indictment, to a fine.

(3) If a person on whom an enforcement notice has been served fails to comply with any of its requirements, the Agency may do what that person was required to do and may recover from him any costs or expenses reasonably incurred by the Agency in doing it.

(4) If the Agency is of the opinion that proceedings for an offence under subsection (1) above would afford an ineffectual remedy against a person who has failed to comply with the requirements of an enforcement notice, the Agency may take proceedings in the High Court for the purpose of securing compliance with the notice.**]**

Textual Amendments

F44 Ss. 25A-25C inserted (1.4.2006) by Water Act 2003 (c. 37), **ss. 30**, 105(3); S.I. 2006/984, art. 2(o)

Modifications etc. (not altering text)

C16 S. 25C excluded (1.4.2006) by Water Resources (Abstraction and Impounding) Regulations 2006 (S.I. 2006/641), regs. 1(2), **26**

Rights to abstract or impound

26 Rights of navigation, harbour and conservancy authorities.

(1) The restriction on abstraction shall not apply to any transfer of water from one area of inland waters to another in the course of, or resulting from, any operations carried out by a navigation authority, harbour authority or conservancy authority in the carrying out of their functions as such an authority.

(2) The restriction on impounding works shall not apply to the construction or alteration of impounding works in the course of the performance by a navigation authority, harbour authority or conservancy authority of their functions as such an authority.

[[F45]27 Rights to abstract small quantities.

(1) The restriction on abstraction shall not apply to any abstraction of a quantity of water not exceeding twenty cubic metres in any period of twenty-four hours, if the abstraction does not form part of a continuous operation, or of a series of operations, by which a quantity of water which, in aggregate, is more than twenty cubic metres is abstracted during the period.

(2) In the case of any abstraction of water from underground strata which falls within subsection (1) above, the restriction imposed by section 24(2) above shall not apply—
  (a) to the construction or extension of any well, borehole or other work; or
  (b) to the installation or modification of machinery or other apparatus,

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if the well, borehole or other work is constructed or extended, or the machinery or apparatus is installed or modified, for the purpose of abstracting the water.

(3) Where a person is authorised by a licence under this Chapter to carry on a particular abstraction operation (or series of operations), this section does not permit him to carry it on beyond the authorisation conferred by the licence.

Textual Amendments

F45 Ss 27, 27A substituted (1.4.2004 for the insertion of s. 27A, 1.4.2005 in so far as not already in force) for s. 27 by Water Act 2003 (c. 37), **ss. 6(1)**, 105(3); S.I. 2004/641, art. 3(a) (with Sch. 3 paras. 17); S.I. 2005/968, art. 2(a)

27A Variation of small quantity threshold

(1) The Secretary of State may by order made by statutory instrument provide that section 27(1) above is to have effect in relation to—

(a) a geographical area; or

(b) a class of inland waters; or

(c) a class of underground strata; or

(d) a class of inland waters or of underground strata within a geographical area,

(in each case as specified in the order) as if for "twenty cubic metres" there were substituted another quantity specified in the order.

(2) The Secretary of State shall not make such an order except upon the application of the Agency; but he may direct the Agency to make such an application.

(3) Such an order may—

(a) make different provision in relation to the different paragraphs in subsection (1) above; and

(b) make different provision for different areas, waters or underground strata.

(4) Schedule 6 to this Act shall have effect with respect to applications for orders under subsection (1) above and with respect to the making of such orders.

(5) An order under subsection (1) above which specifies a greater quantity than the one which previously had effect in relation to the area, waters or strata in question may make provision for a licence to abstract water granted under this Chapter—

(a) which is for the time being in force; but

(b) which by virtue of the order has become wholly or partly unnecessary,

to cease to have effect, or to cease to have effect to the extent specified in the order.

(6) An order under subsection (1) above may include provision for or in relation to the payment by the Agency of compensation, in cases specified in the order, to a person who—

(a) immediately before the making of an order under subsection (1) above, had been in a position to carry out an abstraction to which, by virtue of section 27(1) above, the restriction on abstraction did not apply;

(b) following the making of that order, requires a licence under this Chapter in order to carry out that abstraction; and

(c) has suffered loss or damage as a result of his having been—

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(i) refused such a licence in respect of that abstraction; or

(ii) granted such a licence, but in respect of an abstraction of more limited extent than the one he had been in a position to carry out.

(7) Paragraphs (e) and (f) of section 219(2) below apply in relation to orders under subsection (1) above as they apply to regulations made under this Act.

(8) A statutory instrument containing an order under subsection (1) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.**]**

Textual Amendments

F45 Ss 27, 27A substituted (1.4.2004 for the insertion of s. 27A, 1.4.2005 in so far as not already in force) for s. 27 by Water Act 2003 (c. 37), **ss. 6(1)**, 105(3); S.I. 2004/641, art. 3(a) (with Sch. 3 paras. 17); S.I. 2005/968, art. 2(a)

28 Curtailment of rights under section 27.

[[F46](1) The provisions of this section shall have effect where a person ("the occupier") is entitled, by virtue of subsection (6) of section 27 above, to a protected right for the purposes of this Chapter by reason of his being the occupier of such a holding as is mentioned in subsection (4) of that section in relation to an abstraction falling within that subsection ("the holding").

(2) If it appears to the **[**[F47]Agency**]** that the occupier is entitled, as against other occupiers of land contiguous to the inland waters in question, to abstract water from those waters for use on part of the holding ("the relevant part"), but is not so entitled to abstract water for use on other parts of the holding—

(a) the **[**[F47]Agency**]** may serve on him a notice specifying the relevant part of the holding; and

(b) subject to the following provisions of this section, the notice shall have effect so as to require subsections (3) and (4) of section 27 above to be construed in relation to the holding as if the references in subsection (4) to use on the holding were references to use on the part of the holding specified in the notice.

(3) Where a notice is served under subsection (2) above and the occupier objects to the notice on the grounds—

(a) that he is entitled, as against other occupiers of land contiguous to the inland waters in question, to abstract water from those waters for use on every part of the holding; or

(b) that he is so entitled to abstract water for use on a larger part of the holding than that specified in the notice,

he may, within such period (not being less than twenty-eight days from the date of service of the notice) and in such manner as may be prescribed, appeal to the court against the notice.

(4) On any appeal under subsection (3) above, the court shall determine the matter in dispute and, in accordance with its decision, confirm, quash or vary the **[**[F47]Agency's**]** notice and—

(a) where the court quashes a notice served under subsection (2) above, paragraph (b) of that subsection shall not have effect; and

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) where the court varies such a notice, that paragraph shall have effect, but with the substitution, for the reference to the part of the holding specified in the notice, of a reference to the part specified in the notice as varied by the court.

(5) In this section—

"the court" means the county court for the district in which the holding, or the part of the holding which is contiguous to the inland waters in question, is situated; and

"entitled" (except in subsection (1) above) means entitled apart from this Chapter or any other statutory provision.**]**

Textual Amendments

F46 S. 28 repealed (1.4.2005) by Water Act 2003 (c. 37), ss. 6(2), 105(3), **Sch. 9 Pt. 1**; S.I. 2005/968, art. 2(a)(n)

F47 Words in s. 28 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

29 Rights to abstract for drainage purposes etc.

(1) The restriction on abstraction shall not apply to any abstraction of water from a source of supply in the course of, or resulting from, any operations for purposes of land drainage.

(2) The restriction on abstraction shall not apply to any abstraction of water from a source of supply in so far as the abstraction (where it does not fall within subsection (1) above) is necessary—

(a) to prevent interference with any mining, quarrying, engineering, building or other operations (whether underground or on the surface); or

(b) to prevent damage to works resulting from any such operations.

(3) Where—

(a) water is abstracted, in the course of any such operations as are mentioned in subsection (2) above, from any excavation into underground strata in a case in which the level of water in the underground strata depends wholly or mainly on water entering it from those strata; and

(b) the abstraction is necessary as mentioned in that subsection,

the exemption conferred by that subsection shall apply notwithstanding that the water is used for the purposes of the operations.

(4) In the case of any abstraction of water from underground strata which falls within subsection (1) or (2) above, the restriction imposed by section 24(2) above shall not apply—

(a) to the construction or extension of any well, borehole or other work; or

(b) to the installation or modification of machinery or other apparatus,

if the well, borehole or other work is constructed or extended, or the machinery or apparatus is installed or modified, for the purpose of abstracting the water.

(5) In this section, "land drainage" includes the protection of land against erosion or encroachment by water, whether from inland waters or from the sea, and also includes warping and irrigation other than spray irrigation.

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[F48]30 Notices with respect to borings not requiring licences.

. . . . . .

Textual Amendments

F48 S. 30 repealed (1.4.2006) by Water Act 2003 (c. 37), ss. 8(3), 105(3), **Sch. 9 Pt. 1**; S.I. 2006/984, art. 2(e)(s)(ii) (with savings in Sch. paras. 4, 5)

[F49]31 Appeals against conservation notices under section 30.

. . . . . .

Textual Amendments

F49 S. 31 repealed (1.4.2006) by Water Act 2003 (c. 37), ss. 8(3), 105(3), **Sch. 9 Pt. 1**; S.I. 2006/984, art. 2(e)(s)(ii) (with savings in Sch. paras. 4, 5)

32 Miscellaneous rights to abstract.

(1) The restriction on abstraction shall not apply to any abstraction by machinery or apparatus installed on a vessel, where the water is abstracted for use on that, or any other, vessel.

(2) The restriction on abstraction and the other restrictions imposed by section 24 above shall not apply to the doing of anything—

(a) for **[**[F50]extinguishing fires or protecting life and property in the event of fire**]** ; or

(b) for the purpose of testing apparatus used for **[**[F51]either of **]** those purposes or of training or practice in the use of such apparatus.

(3) The restriction on abstraction and the other restrictions imposed by section 24 above shall not apply—

(a) to any abstraction of water;

(b) to the construction or extension of any well, borehole or other work; or

(c) to the installation or modification of machinery or other apparatus,

if the abstraction, construction, extension, installation or modification is for any of the purposes specified in subsection (4) below and takes place with the consent of the **[**[F52]Agency**]** and in compliance with any conditions imposed by the **[**[F52]Agency**]**.

(4) The purposes mentioned in subsection (3) above are—

(a) the purpose of ascertaining the presence of water in any underground strata or the quality or quantity of any such water; and

(b) the purpose of ascertaining the effect of abstracting water from the well, borehole or other work in question on the abstraction of water from, or the level of water in, any other well, borehole or other work or any inland waters.

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F50 Words in s. 32(2)(a) substituted (1.10.2004 except in relation to W., 10.11.2004 for W.) by Fire and Rescue Services Act 2004 (c. 21), s. 61, **Sch. 1 para. 79(a)**; S.I. 2004/2304, art. 2; S.I. 2004/2917, art. 2

F51 Words in s. 32(2)(b) inserted (1.10.2004 except in relation to W., 10.11.2004 for W.) by Fire and Rescue Services Act 2004 (c. 21), s. 61, **Sch. 1 para. 79(b)**; S.I. 2004/2304, art. 2; S.I. 2004/2917, art. 2

F52 Words in s. 32 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

[F53]33 Power to provide for further rights to abstract.

. . . . . .

Textual Amendments

F53 S. 33 repealed with a saving (1.4.2004) by Water Act 2003 (c. 37), ss. 10(11), 105(3), **Sch. 9 Pt. 1**; S.I. 2004/641, art. 3(c)(z)

[[F54]33A Power to provide for further exemptions

(1) The Secretary of State may make regulations providing for further cases in which—

(a) the restriction on abstraction (and, in the case of abstractions from underground strata, the other restrictions imposed by section 24 above); or

(b) the restriction on impounding works,

shall not apply; and in this section such a case is referred to as an "exemption".

(2) The regulations may, in particular, make provision, in relation to an exemption—

(a) for the exemption to apply only for a prescribed period;

(b) for the exemption not to apply unless prescribed conditions are satisfied, or continue to be satisfied;

(c) for the Agency to be notified, or its consent obtained—

(i) before any particular abstraction operation or series of such operations begins; or

(ii) in connection with such an operation or series of operations relating to the abstraction of water in underground strata, before any other thing which is mentioned in section 24(2) above is done; or

(iii) before any impounding works are constructed or altered,

in reliance on the exemption.

(3) The regulations may provide for an exemption to apply generally or to relate to—

(a) a prescribed geographical area;

(b) a prescribed source of supply (in the case of an exemption from the restriction on abstraction or the other restrictions imposed by section 24 above); or

(c) prescribed inland waters (in the case of an exemption from the restriction on impounding works).

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(4) Subject to subsection (5) below, if regulations under this section provide for an exemption falling within subsection (1)(a) above, the regulations shall—

(a) if appropriate, make provision for the exemption not to permit a person who is authorised by a licence under this Chapter to carry on an abstraction operation (or series of operations) to carry it on beyond the authorisation conferred by the licence; and

(b) make provision as to whether or not, in relation to any abstraction, the exemption provided for by the regulations is to be counted cumulatively with any other exemption which a person has by virtue of this section or section 27 above.

(5) The regulations may make provision for a licence granted under this Chapter and which is for the time being in force to cease to have effect, or to cease to have effect to the extent specified in the regulations, if it authorises an activity which falls to any extent within the exemption provided for by the regulations.**]**

Textual Amendments

F54 S. 33A inserted (1.4.2004) by Water Act 2003 (c. 37), **ss. 9**, 105(3); S.I. 2004/641, art. 3(b) (with Sch. 3 paras. 17)

Applications for a licence

34 Regulations with respect to applications.

(1) Any application for a licence under this Chapter shall be made in such manner as may be prescribed, and shall include such particulars, **[**[F55]be accompanied by such reports, **]** and be verified by such evidence, as may be prescribed.

(2) The Secretary of State may by regulations make provision as to the manner in which applications for the grant of licences under this Chapter are to be dealt with, including provision requiring the giving of notices of, and information relating to, the making of such applications or decisions on such applications **[**[F56], and provision for making such applications available for public inspection.**]**

(3) Without prejudice to the generality of subsection (2) above, provision shall be made by regulations under this section for securing that, in such circumstances as may be prescribed (being circumstances in which it appears to the Secretary of State that applications for licences under this Chapter would be of special concern to National Park [F57]. . . authorities)—

(a) notice of any such application will be given to such one or more National Park [F57]. . . authorities as may be determined in accordance with the regulations; and

(b) the matters to which the **[**[F58]Agen cy**]** or, as the case may be, the Secretary of State is to have regard in dealing with the application will include any representations made by any such National Park [F57]. . . authority within such period and in such manner as may be prescribed.

(4) The preceding provisions of this section shall have effect subject to any express provision contained in, or having effect by virtue of, any other enactment contained in this Chapter; and any regulations made under this section shall have effect subject to any such express provision.

Status: *Point in time view as at 01/10/2006.*
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[F59](5) . . . . . .

Textual Amendments

F55 Words in s. 34(1) inserted (1.10.2004) by Water Act 2003 (c. 37), s. 105(3), **Sch. 7 para. 2(a)**; S.I. 2004/2528, art. 2(t)(i) (with Sch. para. 8)

F56 Words in s. 34(2) added (1.10.2004) by Water Act 2003 (c. 37), s. 105(3), **Sch. 7 para. 2(b)**; S.I. 2004/2528, art. 2(t)(i) (with Sch. para. 8)

F57 Words in s. 34 repealed (1.4.1997) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/2560, art. 2, **Sch.**

F58 Words in s. 34 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F59 S. 34(5) repealed (1.4.1997) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/2560, art. 2, **Sch.**

35 Restrictions on persons who may make applications for abstraction licences.

(1) No application for a licence under this Chapter to abstract water shall be entertained unless it is made by a person entitled to make the application in accordance with the following provisions of this section.

[[F60](2) In relation to abstractions from any inland waters, a person shall be entitled to make the application if, as respects the place (or, if more than one, as respects each of the places) at which the proposed abstractions are to be effected, he satisfies the Agency that—

(a) he has, or at the time when the proposed licence is to take effect will have, a right of access to land contiguous to the inland waters at that place (or those places); and

(b) he will continue to have such a right for the period of at least one year beginning with the date on which the proposed licence is to take effect, or until it is to expire (if sooner).

(3) In relation to abstractions from underground strata, a person shall be entitled to make the application if he satisfies the Agency that—

(a) he has, or at the time when the proposed licence is to take effect will have, a right of access to land consisting of or comprising those underground strata; and

(b) he will continue to have such a right for the period of at least one year beginning with the date on which the proposed licence is to take effect, or until it is to expire (if sooner).

(3A) The Agency may, in particular, take evidence of a person's occupation of land to be evidence of his right of access to it.**]**

(4) Any reference in this section to a person who **[**[F61]will have a right of access to **]** land of any description—

(a) includes a reference to a person who satisfies the **[**[F62]Agency**]** that he has entered into negotiations for the acquisition of an interest in land of that description such that, if the interest is acquired by him, he will be entitled to **[**[F63]a right of access to **]** that land; and

(b) without prejudice to the application of paragraph (a) above to a person who is or can be authorised to acquire land compulsorily, also includes any person

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who satisfies the **[**[F62]Agency**]** that by virtue of any enactment, the compulsory acquisition by that person of land of that description either has been authorised or can be authorised and has been initiated.

(5) In subsection (4) above the reference to initiating the compulsory acquisition of land by a person is a reference to—

(a) the submission to the relevant Minister of a draft of an order which, if made by that Minister in the form of the draft, will authorise that person to acquire that land compulsorily, with or without other land; or

(b) the submission to the relevant Minister of an order which, if confirmed by that Minister as submitted will authorise that person to acquire that land compulsorily, with or without other land.

(6) In subsection (5) above "the relevant Minister", in relation to the compulsory acquisition of land by any person, means the Minister who, in accordance with the enactment mentioned in subsection (4)(b) above, is empowered to authorise that person to acquire land compulsorily.

Textual Amendments

F60 S. 35(2)(3)(3A) substituted for s. 35(2)(3) (1.4.2006) by Water Act 2003 (c. 37), **ss. 11(2)**, 105(3); S.I. 2006/984, art. 2(f) (with Sch. paras. 67(3))

F61 Words in s. 35(4) substituted (1.4.2006) by Water Act 2003 (c. 37), **ss. 11(3)(a)**, 105(3); S.I. 2006/984, art. 2(f) (with Sch. paras. 67(3))

F62 Words in s. 35 substituted (subject to other provisions of the amending Act) (1.4.1996) 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F63 Words in s. 35(4)(a) substituted (1.4.2006) by Water Act 2003 (c. 37), **ss. 11(3)(b)**, 105(3); S.I. 2006/984, art. 2(f) (with Sch. paras. 67(3))

Modifications etc. (not altering text)

C17 S. 35 applied (with modifications) (1.4.2006) by Water Resources (Abstraction and Impounding) Regulations 2006 (S.I. 2006/641), reg. 1(2), **Sch. 2 para. 8(1)**

[F64]36 Application for combined abstraction and impounding licence.

. . . . . .

Textual Amendments

F64 S. 36 repealed (1.4.2006) by Water Act 2003 (c. 37), ss. 12, 105(3), **Sch. 9 Pt. 1**; S.I. 2006/984, art. 2(g)(s)(ii) (with Sch. paras. 1, 2)

[[F65]36A Applications: types of abstraction licence

(1) The Agency may decide that—

(a) an application for a full licence, a transfer licence or a temporary licence ought to be for one of the other types of licence;

(b) a number of applications for licences (of any type or types) to abstract water from a particular source of supply ought to be treated as an application for a single such licence (of any type);

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(c) an application for a single licence (of any type) to abstract water from a particular source of supply ought to be treated as a number of applications for such licences (of any type or types); or

(d) any such application as is referred to above ought to be accompanied by an application for revocation of an existing licence to abstract water.

(2) The Agency may arrive at the decision referred to in paragraph (a), (b), (c) or (d) of subsection (1) above on the basis of its assessment of any one or more of the following—

(a) the likely effect of the abstraction (or abstractions) for which the applicant has applied for a licence (or licences);

(b) the likely effect of that abstraction (or those abstractions) taken together with abstractions under any other licence held by the applicant, or abstractions which would be authorised under any other licence for which the applicant has applied;

(c) any other prescribed matter.

(3) If the Agency does so decide, it shall serve a notice of its decision on the applicant; and, subject to subsections (4) to (8) below, shall deal with the application (or applications) accordingly (which, if the Agency made the decision referred to in paragraph (d) of subsection (1) above in relation to any application (or applications), means not publishing any notice under section 37 below, or taking any further step in connection with the application (or applications), until the application for revocation has been received).

(4) The applicant may by notice appeal to the Secretary of State against the decision, and shall serve a copy of any such notice on the Agency.

(5) That notice, and the copy of it, shall be served in such manner and within such period as may be prescribed.

(6) If the Agency serves a notice under subsection (3) above, it shall not publish any notice under section 37 below, or take any further step in connection with the application (or applications), before—

(a) the end of the period within which notice of an appeal may be served on the Secretary of State; or

(b) if notice of an appeal is so served, the appeal has been determined.

(7) The Secretary of State—

(a) may allow or dismiss the appeal, or vary any part of the decision of the Agency, whether the appeal relates to that part of the decision or not; and

(b) shall direct the Agency to deal with the application, or applications, accordingly (which, if the Agency's decision was made under paragraph (d) of subsection (1) above in relation to any such application, and that decision is upheld, may mean not publishing any notice under section 37 below, or taking any further step in connection with the application, until the application for revocation has been received).

(8) Subsections (2) and (7) of section 44 below apply in relation to an appeal under this section as they apply in relation to an appeal under section 43 below.

(9) This section is subject to section 114 of the 1995 Act (delegation or reference of appeals).**]**

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F65 S. 36A inserted (1.4.2006) by Water Act 2003 (c. 37), **ss. 13(1)**, 105(3); S.I. 2006/984, art. 2(h) (with Sch. para. 7)

Modifications etc. (not altering text)

C18 S. 36A excluded (1.4.2006) by Water Resources (Abstraction and Impounding) Regulations 2006 (S.I. 2006/641), reg. 1(2), **Sch. 2 para. 8(2)**

[F66 37 Publication of application for licence.

(1) The Agency shall publish a notice of an application for—

(a) a full licence or a transfer licence; or

(b) a licence under this Chapter to obstruct or impede the flow of any inland waters by means of impounding works,

in the prescribed way or (if no way is prescribed) in a way calculated to bring the application to the attention of persons who in the Agency's view are likely to be affected by the licence.

(2) Not later than the date on which that notice is first published, the Agency shall also serve a copy of it on the persons referred to in subsection (3) below (except the applicant, if the applicant is one of those persons).

(3) Those persons are—

(a) any water undertaker within whose area any proposed point of abstraction or impounding is situated;

(b) any navigation authority, harbour authority or conservancy authority having functions in relation to any inland waters at any such proposed point; and

(c) the drainage board for any internal drainage district within which any such proposed point is situated,

but paragraphs (b) and (c) above do not apply if the licence applied for is exclusively for the abstraction of water from a source of supply that does not form part of any inland waters.

(4) A notice for the purposes of the preceding provisions of this section shall—

(a) be in the prescribed form and shall include any prescribed matters; and

(b) state that any person may make representations in writing to the Agency with respect to the application at any time before the end of a period specified in the notice.

(5) The period referred to in subsection (4)(b) above—

(a) begins on the date the notice referred to in subsection (1) above is first published as mentioned there; and

(b) shall not end before the end of the period of twenty-eight days beginning with that date.

(6) The Secretary of State may make regulations providing for—

(a) the requirements of subsection (2) above, or of both subsections (1) and (2) above, not to apply in prescribed cases;

(b) notices of applications to exclude prescribed classes of information, either generally or as respects prescribed classes of application.

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(7) In this section, "proposed point of abstraction or impounding", in relation to an application for a licence referred to in subsection (1) above, means a place where a licence, if granted in accordance with the application, would authorise—

(a) water to be abstracted; or

(b) the flow of inland waters to be obstructed or impeded by means of impounding works,

(as the case may be).

(8) This section is subject to section 37A below.**]**

Textual Amendments

F66 S. 37 substituted (1.4.2006) by Water Act 2003 (c. 37), **ss. 14(1)**, 105(3); S.I. 2006/984, art. 2(i) (with Sch. paras. 12)

Modifications etc. (not altering text)

C19 S. 37(1)(2) excluded (1.4.2006) by Water Resources (Abstraction and Impounding) Regulations 2006 (S.I. 2006/641), reg. 1(2), **Sch. 2 para. 3**

C20 S. 37(1)(2) applied (1.4.2006) by Water Resources (Abstraction and Impounding) Regulations 2006 (S.I. 2006/641), reg. 1(2), **Sch. 2 para. 2**

C21 S. 37(1)(2) excluded (1.4.2006) by Water Resources (Abstraction and Impounding) Regulations 2006 (S.I. 2006/641), regs. 1(2), **7**

[F67 37A Power to dispense with publication requirements

The Secretary of State may by regulations make provision for—

(a) enabling the Agency; or

(b) him, in the case of applications referred to him in accordance with section 41 below,

to direct or determine that the requirements of subsections (1) and (2) of section 37 above may in any case (except where the Agency is the applicant) be dispensed with, if in that case it appears to the Agency (or, as the case may be, the Secretary of State) to be appropriate to do so.**]**

Textual Amendments

F67 S. 37A inserted (1.4.2006) by Water Act 2003 (c. 37), **ss. 14(2)**, 105(3); S.I. 2006/984, art. 2(i) (with Sch. paras. 1, 2)

Consideration of licence applications

38 General consideration of applications.

(1) The **[F68** Agency**]** shall not determine any application for a licence under this Chapter before the end of the period specified **[F69** in the notice referred to in section 37(4)(b)**]** above.

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[[F70](1A) An application shall be determined in two stages in accordance with subsections (1B) and (1C) below if it is an application for a full licence or a transfer licence which, if granted—

(a) would take effect immediately after the expiry of an existing licence of the same type (the "existing licence") and be held by the same person as the holder of that licence; but

(b) would in any other respect be different from the existing licence in a way which, if the existing licence were to continue without expiring, would require an application to be made under section 51(2) below for a variation of the licence.

(1B) So far as the application relates to any such difference as is mentioned in subsection (1A)(b) above, it shall first be treated for determination purposes as if it were an application for a variation under section 51(2) below (but as if the existing licence were to continue without expiring).

(1C) If the result of that would have been the grant of the application for variation of the licence, the application referred to in subsection (1) above shall be treated as one for a licence with that variation, and its determination concluded accordingly; and otherwise its determination shall be concluded as if it were an application for a licence with no such variation.**]**

(2) Subject to the following provisions of this Chapter, on any application to the **[**[F68]Agency**]** for a licence under this Chapter, the **[**[F68]Agency**]**—

(a) may grant a licence containing such provisions as the **[**[F68]Agency**]** considers appropriate; or

(b) if, having regard to the provisions of this Chapter, the **[**[F68]Agency**]** considers it necessary or expedient to do so, may refuse to grant a licence.

(3) Without prejudice to section 39(1) below, the **[**[F68]Agency**]**, in dealing with any application for a licence under this Chapter, shall have regard to **[**[F71]all the relevant circumstances, including any duty imposed by or under any enactment on bodies having functions in relation to inland waters (for example, navigation authorities and internal drainage boards), and shall have regard in particular to**]** —

(a) any representations in writing relating to the application which are received by the **[**[F68]Agency**]** before the end of the period mentioned in subsection (1) above; and

(b) the requirements of the applicant, in so far as they appear to the **[**[F68]Agency**]** to be reasonable requirements.

[[F72] and may have regard to any failure on the part of the applicant to make an application under section 40 of the Water Industry Act 1991 pursuant to a proposal made by the Agency under section 20C above.**]**

[[F73](4) Subsection (1) above, and paragraph (a) of subsection (3) above, do not apply if in relation to the application in question the requirements of section 37(1) above do not apply by virtue of section 37(6)(a) above or have been dispensed with by virtue of section 37A above.**]**

Textual Amendments

F68 Words in s. 38 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Status: *Point in time view as at 01/10/2006.*
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F69 Words in s. 38(1) substituted (1.4.2006) by Water Act 2003 (c. 37), **ss. 14(3)(a)(i)**, 105(3); S.I. 2006/984, art. 2(i) (with Sch. paras. 1, 2)

F70 S. 38(1A)-(1C) inserted (1.4.2004) by Water Act 2003 (c. 37), **ss. 15(2)**, 105(3); S.I. 2004/641, art. 3(d) (with Sch. 3 paras. 2, 7)

F71 Words in s. 38(3) inserted (1.4.2004) by Water Act 2003 (c. 37), **ss. 15(3)**, 105(3); S.I. 2004/641, art. 3(d) (with Sch. 3 paras. 2, 7)

F72 Words in s. 38(3) inserted (1.10.2004) by Water Act 2003 (c. 37), **ss. 31(2)**, 105(3); S.I. 2004/2528, art. 2(c) (with Sch. para. 8)

F73 S. 38(4) added (1.4.2006) by Water Act 2003 (c. 37), **ss. 14(3)(a)(ii)**, 105(3); S.I. 2006/984, art. 2(i) (with Sch. paras. 1, 2)

Modifications etc. (not altering text)

C22 S. 38 applied (with modifications) (1.4.2006) by Water Resources (Abstraction and Impounding) Regulations 2006 (S.I. 2006/641), reg. 1(2), **Sch. 2 para. 8(3)**

39 Obligation to have regard to existing rights and privileges.

(1) **[**[F74]Subject to subsection (1A) below,**]** the **[**[F75]Agency**]** shall not, except with the consent of the person entitled to the rights, grant a licence so authorising—

(a) the abstraction of water; or

(b) the flow of any inland waters to be obstructed or impeded by means of impounding works,

as to derogate from any rights which, at the time when the application is determined by the **[**[F75]Agency**]**, are protected rights for the purposes of this Chapter.

[[F76](1A) Subsection (1) above does not apply when—

(a) the application to be determined is one which does not fall within subsection (1A) of section 38 above only because paragraph (b) of that subsection is not satisfied; or

(b) the determination of an application is being concluded in accordance with subsection (1C) of that section.**]**

(2) In a case where an application for a licence under this Chapter relates to abstraction from underground strata, the **[**[F75]Agency**]**, in dealing with the application, shall have regard to the requirements of existing lawful uses of water abstracted from those strata, whether for agriculture, industry, water supply or other purposes.

[F77](3) . . . . . .

(4) Any reference in this Chapter, in relation to the abstraction of water or obstructing or impeding the flow of any inland waters by means of impounding works, to derogating from a right which is a protected right for the purposes of this Chapter is a reference to, as the case may be—

(a) abstracting water; or

(b) so obstructing or impeding the flow of any such waters,

in such a way, or to such an extent, as to prevent the person entitled to that right from abstracting water to the extent mentioned in **[**[F78](as the case may be) section 39A(2) or (7), 48(1) or 59C(10) below or section 102(3) of the Water Act 2003, or in a provision made in an order by virtue of section 10(5)(b) of that Act, in each case subject to any limitations mentioned there**]** .

Status: *Point in time view as at 01/10/2006.*
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(5) For the purposes of subsection (2) above the **[**[F75]Agency**]** shall be entitled (but shall not be bound) to treat as lawful any existing use of water from underground strata unless—

(a) by a decision given in any legal proceedings, it has been held to be unlawful; and

(b) that decision has not been quashed or reversed.

Textual Amendments

F74 Words in s. 39(1) inserted (1.4.2004) by Water Act 2003 (c. 37), **ss. 16(2)**, 105(3); S.I. 2004/641, art. 3(e) (with Sch. 3 para. 7)

F75 Words in s. 39 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F76 S. 39(1A) inserted (1.4.2004) by Water Act 2003 (c. 37), **ss. 16(3)**, 105(3); S.I. 2004/641, art. 3(e) (with Sch. 3 para. 7)

F77 S. 39(3) repealed (1.4.2005) by Water Act 2003 (c. 37), ss. 16(4), 105(3), **Sch. 9 Pt. 1**; S.I. 2005/968, art. 2(c)(n)

F78 Words in s. 39(4) substituted (1.4.2005) by Water Act 2003 (c. 37), **ss. 16(5)**, 105(3); S.I. 2005/968, art. 2(c)

Modifications etc. (not altering text)

C23 S. 39 applied (with modifications) (1.4.2006) by Water Resources (Abstraction and Impounding) Regulations 2006 (S.I. 2006/641), reg. 1(2), **Sch. 2 para. 8(4)**

[[F79]39A Protected rights for the purposes of this Chapter

(1) For the purposes of this Chapter, a right is a protected right if—

(a) it is such a right as a person who is the holder of a full licence is taken to have by virtue of section 48(1) below;

(b) it is such a right as a person is taken to have by virtue of subsection (2) below;

(c) it is such a right as a person continues to be taken to have by virtue of subsection (7) below;

(d) it is such a right as a person is taken to have by virtue of subsection (10) of section 59C below;

(e) it is such a right as a person continues to be taken to have by virtue of a provision made under subsection (5)(b) of section 10 of the Water Act 2003 in an order made under that section; or

(f) it is such a right as a person continues to be taken to have by virtue of section 102(3) of that Act.

(2) A person who is in a position to carry out an abstraction of a quantity of water which—

(a) by virtue of section 27(1) above is not subject to the restriction on abstraction; and

(b) also falls within subsection (4) or (5) below,

shall be taken, for the purposes of this Chapter, to have a right to do so in respect of the maximum quantity mentioned in subsection (3) below.

(3) The maximum quantity is the lower of the following—

(a) twenty cubic metres;

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(b) if, by virtue of an order under section 27A(1) above, section 27(1) above has, or has ever had, effect in relation to the source of supply and point of abstraction in question as if it referred to a quantity lower than twenty cubic metres, that lower quantity (or, if more than one, the lowest of them).

(4) An abstraction falls within this subsection if it is an abstraction from inland waters carried out by or on behalf of an occupier of land contiguous to those waters at the place where the abstraction is effected ("contiguous land"), and—

(a) the water is abstracted for use on a holding consisting of the contiguous land with or without other land held with that land; and

(b) it is abstracted for use on that holding for either or both of the following purposes—

(i) the domestic purposes of the occupier's household;

(ii) agricultural purposes other than spray irrigation.

(5) An abstraction falls within this subsection if it is an abstraction from underground strata and the water is abstracted by or on behalf of an individual as a supply of water for the domestic purposes of his household.

(6) Subsection (2) above shall not apply to a person in respect of an abstraction which that person is, or was at any time, taken to have a right to carry out by virtue of any provision mentioned in paragraph (a), (c), (d), (e) or (f) of subsection (1) above.

(7) Subject to subsection (8) below, a person who was the holder of a full licence which has ceased to have effect (or has ceased in part to have effect) by virtue of—

(a) any provision made by virtue of section 27A(5) above in an order made under section 27A(1) above; or

(b) any provision made by virtue of section 33A(5) above in regulations made under section 33A above,

and who was taken in consequence of that licence (or that part of the licence) to have a right to abstract water by virtue of section 48(1) below shall continue to be taken to have that right for the purposes of this Chapter.

(8) For the purposes of this Chapter, the person who was the holder of the licence in question ("the old licence") shall cease to continue to be taken to have a right, by virtue of subsection (7) above, to abstract water if—

(a) during a period mentioned in subsection (9) below he does not carry out any such abstraction as would have been authorised by the old licence if it had still been in force; or

(b) following a further order under section 27A(1) above or further regulations under section 33A above, he is granted another full licence in respect of abstraction from the same point as that authorised by the old licence.

(9) The period referred to in subsection (8)(a) above is—

(a) four years; or

(b) if the abstractions authorised under the old licence were abstractions planned to be carried out at intervals of more than four years, or abstractions for emergency purposes only, such longer period as the Agency may determine on the application of the holder of the old licence.

(10) In subsections (8) and (9) above, references to the old licence, in the case of a licence which ceased to have effect only to the extent specified in the order or regulations

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referred to in subsection (7) above, are to the part of the licence which ceased to have effect.

(11) Any reference in this Chapter to the person entitled to a protected right shall be construed in accordance with this section.

(12) This section is subject to any provision made by virtue of subsection (3) of section 39B below, and to subsections (4) and (5) of that section.**]**

Textual Amendments

F79 S. 39A inserted (1.4.2005) by Water Act 2003 (c. 37), **ss. 17(1)**, 105(3); S.I. 2005/968, art. 2(d) (with Sch. 1 para. 2)

[[F80]39B Register of certain protected rights

(1) The Secretary of State may by regulations make provision for and in connection with the establishment, and for the keeping and maintenance by the Agency, of one or more registers of protected rights which arise otherwise than by virtue of a licence under this Chapter to abstract water.

(2) The regulations may, in particular, provide for—

(a) a register to relate to a prescribed geographical area, or for different sections of a register to relate to different geographical areas (whether prescribed or not);

(b) the inclusion of protected rights which arise other than by virtue of any provision of this Act;

(c) the form and contents of the register, and its inspection by members of the public;

(d) the procedure for applying for a protected right to be included in the register, including any information which is to accompany the application;

(e) cases in which it is the duty of the Agency to include a protected right in the register without an application for inclusion having been made.

(3) The Secretary of State may by order designate any geographical area in respect of which a register, or a section of a register, relates as an area of compulsory registration.

(4) If he does so, a protected right in that area which is not registered shall not have effect as a protected right for any purpose of this Act (other than that of registering it) for so long as it is not registered.

(5) Subsection (4) above does not apply in relation to any protected right until after the expiry of the period of two years beginning with the date on which the order under subsection (3) above was made, or such longer period as may be specified in the order.

(6) An order under subsection (3) above may be made only on the application of the Agency; but the Secretary of State may direct the Agency to make such an application.

(7) Schedule 6 to this Act shall have effect with respect to applications for orders under subsection (3) above and with respect to the making of such orders.

(8) The power to make orders under this section shall be exercisable by statutory instrument; and a statutory instrument containing an order under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Status: *Point in time view as at 01/10/2006.*
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(9) Paragraphs (d) to (f) of section 219(2) below apply in relation to orders under this section as they apply to regulations made under this Act.**]**

Textual Amendments

F80 S. 39B inserted (1.4.2004) by Water Act 2003 (c. 37), **ss. 18**, 105(3); S.I. 2004/641, art. 3(f) (with Sch. 3 paras. 3, 7)

40 Obligation to take river flow etc. into account.

(1) Without prejudice to sections 38(3) and 39(1) above, subsection (2) or, as the case may be, subsection (3) below shall apply where any application for a licence under this Chapter relates to abstraction from any inland waters or to obstructing or impeding the flow of any inland waters by means of impounding works.

(2) If, in the case of such an application as is mentioned in subsection (1) above, the application is made at a time when no minimum acceptable flow for the inland waters in question has been determined under Chapter I of this Part, the **[**[F81]Agency**]**, in dealing with the application, shall have regard to the considerations by reference to which, in accordance with section 21(4) and (5) above, a minimum acceptable flow for those waters would fall to be determined.

(3) If, in the case of such an application as is mentioned in subsection (1) above, the application is made at a time after a minimum acceptable flow for the waters in question has been determined under Chapter I of this Part, the **[**[F81]Agency**]**, in dealing with the application, shall have regard to the need to secure or, as the case may be, secure in relation to the different times or periods for which the flow is determined—

(a) that the flow at any control point will not be reduced below the minimum acceptable flow at that point; or

(b) if it is already less than that minimum acceptable flow, that the flow at any control point will not be further reduced below the minimum acceptable flow at that point.

(4) Without prejudice to sections 38(3) and 39(1) above, where—

(a) an application for a licence under this Chapter relates to abstraction from underground strata; and

(b) it appears to the **[**[F81]Agency**]** that the proposed abstraction is likely to affect the flow, level or volume of any inland waters which are neither discrete waters nor waters comprised in an order under section 33 above,

subsection (2) or, as the case may be, subsection (3) above shall apply as if the application related to abstraction from those waters.

Textual Amendments

F81 Words in s. 40 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Modifications etc. (not altering text)

C24 S. 40(1) applied (1.4.2006) by Water Resources (Abstraction and Impounding) Regulations 2006 (S.I. 2006/641), reg. 1(2), **Sch. 2 para. 8(5)**

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Call-in of applications

41 Secretary of State's power to call in applications

(1) The Secretary of State may give directions to the **[**[F82]Agency**]** requiring applications for licences under this Chapter to be referred to him, instead of being dealt with by the **[**[F82]Agency**]**.

(2) A direction under this section—

(a) may relate either to a particular application or to applications of a class specified in the direction; and

(b) may except from the operation of the direction such classes of applications as may be specified in the direction in such circumstances as may be so specified.

[[F83](3) An application may not be referred to the Secretary of State under this section—

(a) if in relation to the application the Agency is still considering whether to make any such decision as is referred to in subsection (1) of section 36A above, or if it has made such a decision but has not yet served the notice referred to in subsection (3) of that section; or

(b) where the Agency has served a notice on the applicant under subsection (3) of that section, until the period for appealing under that section has expired or (if the applicant appeals) the appeal has been determined.**]**

Textual Amendments

F82 Words in s. 41 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F83 S. 41(3) added (1.4.2006) by Water Act 2003 (c. 37), **ss. 13(2)**, 105(3); S.I. 2006/984, art. 2(h) (with Sch. para. 7)

Modifications etc. (not altering text)

C25 S. 41 applied (1.4.2006) by Water Resources (Abstraction and Impounding) Regulations 2006 (S.I. 2006/641), reg. 1(2), **Sch. 2 para. 8(5)**

42 Consideration of called-in applications.

(1) Subject to the following provisions of this section and to section 46 below, the Secretary of State, on considering a called-in application—

(a) may determine that a licence shall be granted containing such provisions as he considers appropriate; or

(b) if, having regard to the provisions of this Act, he considers it necessary or expedient to do so, may determine that no licence shall be granted.

(2) Before determining a called-in application, the Secretary of State may, if he thinks fit-

(a) cause a local inquiry to be held; or

(b) afford to the applicant and the **[**[F84]Agency**]** an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose;

and the Secretary of State shall act as mentioned in paragraph (a) or (b) above if a request is made by the applicant or the **[**[F84]Agency**]** to be heard with respect to the application.

Status: *Point in time view as at 01/10/2006.*
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(3) The provisions of sections 37, 38(1) and (3), 39(2) and 40 above shall apply in relation to any called-in application as if—

(a) any reference in those provisions to the **[**[F84]Agency**]**, except the references in sections **[**[F85]37 **]** and 38(3)(a), were a reference to the Secretary of State; and

(b) any reference to section 39(1) above were a reference to subsection (4) below.

(4) **[**[F86]Subject to subsection (4A) below,**]** in determining any called-in application and, in particular, in determining what (if any) direction to give under subsection (5) below, the Secretary of State shall consider whether any such direction would require the grant of a licence which would so authorise—

(a) the abstraction of water; or

(b) the flow of any inland waters to be obstructed or impeded by means of impounding works,

as to derogate from rights which, at the time when the direction in question is given, are protected rights for the purposes of this Chapter.

[[F87](4A) Subsection (1A) of section 39 above applies in relation to subsection (4) above as it applies in relation to section 39(1) above.**]**

(5) Where the decision of the Secretary of State on a called-in application is that a licence is to be granted, the decision shall include a direction to the **[**[F84]Agency**]** to grant a licence containing such provisions as may be specified in the direction.

(6) The decision of the Secretary of State on any called-in application shall be final.

(7) In this section "called-in application" means an application referred to the Secretary of State in accordance with directions under section 41 above.

Textual Amendments

F84 Words in s. 42 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F85 Word in s. 42(3)(a) substituted (1.4.2006) by Water Act 2003 (c. 37), **ss. 14(3)(b)**, 105(3); S.I. 2006/984, art. 2(i) (with Sch. paras. 1, 2)

F86 Words in s. 42(4) inserted (1.4.2004) by Water Act 2003 (c. 37), **ss. 16(6)(a)**, 105(3); S.I. 2004/641, art. 3(e) (with Sch. 3 para. 7)

F87 S. 42(4A) inserted (1.4.2004) by Water Act 2003 (c. 37), **ss. 16(6)(b)**, 105(3); S.I. 2004/641, art. 3(e) (with Sch. 3 para. 7)

Modifications etc. (not altering text)

C26 S. 42 applied (with modifications) (1.4.2006) by Water Resources (Abstraction and Impounding) Regulations 2006 (S.I. 2006/641), reg. 1(2), **Sch. 2 para. 7**

Appeals with respect to decisions on licence applications

43 Appeals to the Secretary of State.

(1) Where an application has been made to the **[**[F88]Agency**]** for a licence under this Chapter, the applicant may by notice appeal to the Secretary of State if—

(a) the applicant is dissatisfied with the decision of the **[**[F88]Agency**]** on the application; or

(b) the **[**[F88]Agency**]** fails within the period specified in subsection (2) below to give to the applicant either—

(i) notice of the **[**[F88]Agency's**]** decision on the application; or

(ii) notice that the application has been referred to the Secretary of State in accordance with any direction under section 41 above.

[[F89](1A) This section is subject to section 114 of the 1995 Act (delegation or reference of appeals etc).**]**

(2) The period mentioned in subsection (1)(b) above is—

(a) except in a case falling within paragraph (b) below, such period as may be prescribed; and

(b) where an extended period is at any time agreed in writing between the applicant and the **[**[F88]Agency**]**, the extended period.

(3) A notice of appeal under this section shall be served—

(a) in such manner as may be prescribed; and

(b) within such period as may be prescribed, being a period of not less than twenty-eight days from, as the case may be—

(i) the date on which the decision to which it relates was notified to the applicant; or

(ii) the end of the period which, by virtue of subsection (2) above, is applicable for the purposes of subsection (1)(b) above.

(4) Where a notice is served under this section in respect of any application, the applicant shall, within the period prescribed for the purposes of subsection (3)(b) above, serve a copy of the notice on the **[**[F88]Agency**]**.

(5) Where any representations in writing with respect to an application were made within the period specified **[**[F90]in any such notice as is referred to in section 37(4)(b)**]** above, the Secretary of State shall, before determining an appeal under this section in respect of the application, require the **[**[F88]Agency**]** to serve a copy of the notice of appeal on each of the persons who made those representations.

Textual Amendments

F88 Words in s. 43 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F89 S. 43(1A) inserted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 134** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F90 Words in s. 43(5) substituted (1.4.2006) by Water Act 2003 (c. 37), **ss. 14(3)(c)**, 105(3); S.I. 2006/984, art. 2(i) (with Sch. paras. 1, 2)

Modifications etc. (not altering text)

C27 S. 43: power to delegate functions conferred (1.4.1996) by 1995 c. 25, **s. 114(2)(v)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

C28 S. 43(1)(a) modified (1.4.2005) by The Water Act 2003 (Commencement No. 4, Transitional Provisions and Savings) Order 2005 (S.I. 2005/968), art. 4(1)(3), **Sch. 1 para. 5(5)**

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

44 Determination of appeals.

(1) Subject to the following provisions of this Chapter, where an appeal is brought under section 43 above, the Secretary of State—

(a) may allow or dismiss the appeal or reverse or vary any part of the decision of the **[**[F91]Agency**]**, whether the appeal relates to that part of the decision or not; and

(b) may deal with the application as if it had been made to him in the first instance;

and for the purposes of this section an appeal by virtue of section 43(1)(b) above shall be taken to be an appeal against a refusal of the application.

(2) Before determining an appeal under section 43 above, the Secretary of State may, if he thinks fit—

(a) cause a local inquiry to be held; or

(b) afford to the applicant and the **[**[F91]Agency**]** an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose;

and the Secretary of State shall act as mentioned in paragraph (a) or (b) above if a request is made by the applicant or the **[**[F91]Agency**]** to be heard with respect to the appeal.

(3) The Secretary of State, in determining an appeal under section 43 above, shall take into account—

(a) any further representations in writing received by him, within the prescribed period, from the persons mentioned in section 43(5) above; and

(b) the requirements of the applicant, in so far as they appear to the Secretary of State to be reasonable requirements.

(4) **[**[F92]Subject to subsection (4A) below,**]** in determining any appeal under section 43 above and, in particular, in determining what (if any) direction to give under subsection (6) below, the Secretary of State shall consider whether any such direction would require such a grant or variation of a licence as would so authorise—

(a) the abstraction of water; or

(b) the flow of any inland waters to be obstructed or impeded by means of impounding works,

as to derogate from rights which, at the time when the direction in question is given, are protected rights for the purposes of this Chapter.

[[F93](4A) Subsection (1A) of section 39 above applies in relation to subsection (4) above as it applies in relation to section 39(1) above.**]**

(5) The provisions of sections 39(2) and 40 above shall apply in relation to any appeal under section 43 above as if—

(a) any reference in those provisions to the **[**[F91]Agency**]**, were a reference to the Secretary of State; and

(b) the references to sections 38(3) and 39(1) above were references to subsections (3) and (4) above.

(6) Where the decision on an appeal under section 43 above is that a licence is to be granted or to be varied or revoked, the decision shall include a direction to the **[**[F91]Agency**]**, as the case may be—

(a) to grant a licence containing such provisions as may be specified in the direction;

(b) to vary the licence so as to contain such provisions as may be so specified; or

(c) to revoke the licence.

(7) The decision of the Secretary of State on any appeal under section 43 above shall be final.

Textual Amendments

F91 Words in s. 44 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F92 Words in s. 44(4) inserted (1.4.2004) by Water Act 2003 (c. 37), **ss. 16(7)(a)**, 105(3); S.I. 2004/641, art. 3(e) (with Sch. 3 para. 7)

F93 S. 44(4A) inserted (1.4.2004) by Water Act 2003 (c. 37), **ss. 16(7)(b)**, 105(3); S.I. 2004/641, art. 3(e) (with Sch. 3 para. 7)

45 Regulations with respect to appeals.

(1) The Secretary of State may by regulations make provision as to the manner in which appeals against decisions **[**[F94]of the Agency under section 36A above or **]** on applications for the grant, revocation or variation of licences under this Chapter are to be dealt with, including provision requiring the giving of notices of, and information relating to, the making of such appeals or decisions on any such appeals.

(2) Without prejudice to the generality of subsection (1) above, provision shall be made by regulations under this section for securing that, in prescribed circumstances (being circumstances in which it appears to the Secretary of State that applications for licences under this Chapter would be of special concern to National Park [F95]. . . authorities)—

(a) notice of any appeal against the decision on such an application, will be served on any National Park [F95]. . . authority who made representations falling within paragraph (b) of section 34(3) above; and

(b) the Secretary of State, in determining the appeal, will take account of any further representations made by such an authority within such period and in such manner as may be prescribed.

[[F96](2A) Subsection (2) above does not apply in relation to appeals against decisions of the Agency under section 36A above.**]**

(3) Subsections (4) [F95]. . . of section 34 above shall apply for the purposes of this section as they apply for the purposes of that section.

Textual Amendments

F94 Words in s. 45(1) inserted (1.4.2006) by Water Act 2003 (c. 37), **ss. 13(3)(a)**, 105(3); S.I. 2006/984, art. 2(h) (with Sch. para. 7)

F95 Words in s. 45 repealed (1.4.1997) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/2560, art. 2, **Sch.**

F96 S. 45(2A) inserted (1.4.2006) by Water Act 2003 (c. 37), **ss. 13(3)(b)**, 105(3); S.I. 2006/984, art. 2(h) (with Sch. para. 7)

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Form, contents and effect of licences

46 Form and contents of licences.

(1) The Secretary of State may by regulations make provision as to the form of licences under this Chapter or of any class of such licences; but any regulations under this subsection shall have effect subject to the following provisions of this section and to any other express provision contained in, or having effect by virtue of, any other enactment contained in this Chapter.

(2) **[**[F97]Every full licence under this Chapter shall, and any other licence under this Chapter to abstract water may, make— **]**

(a) provision as to the quantity of water authorised to be abstracted in pursuance of the licence from the source of supply to which the licence relates during a period or periods specified in the licence, including provision as to the way in which that quantity is to be measured or assessed for the purposes of this Chapter; and

(b) provision for determining, by measurement or assessment, what quantity of water is to be taken to have been abstracted during any such period by the holder of the licence from the source of supply to which the licence relates.

[[F98](2A) For the purposes of section 61(4A) below—

(a) every full licence under this Chapter which is for a term exceeding twelve years shall; and

(b) any transfer licence under this Chapter which is for a term exceeding twelve years may,

specify a minimum value for the quantity referred to in subsection (2)(a) above.**]**

(3) Every licence under this Chapter to abstract water shall indicate the means by which water is authorised to be abstracted in pursuance of the licence, by reference either to specified works, machinery or apparatus or to works, machinery or apparatus fulfilling specified requirements.

[[F99](4) Every licence under this Chapter to abstract water shall also specify the purposes for which water abstracted in pursuance of the licence is to be used.

(5) Every licence under this Chapter to abstract water shall state—

(a) the date on which it takes effect; and

(b) the date on which it expires.

(5A) Every licence under this Chapter to obstruct or impede any inland waters shall remain in force until revoked.**]**

(6) Different provision may be made by the same licence with respect to any one or more of the following matters, that is to say—

(a) the abstraction of water during different periods;

(b) the abstraction of water from the same source of supply but at different points or by different means;

(c) the abstraction of water for use for different purposes;

and any such provision as is mentioned in subsection (2) above may be made separately in relation to each of the matters for which (in accordance with this subsection) different provision is made in the licence.

Status: *Point in time view as at 01/10/2006.*
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(7) Nothing in subsection (6) above shall be construed as preventing two or more licences from being granted to the same person to be held concurrently in respect of the same source of supply, if the licences authorise the abstraction of water at different points **[**[F100], by different means or for different purposes **]** .

Textual Amendments

F97 Words in s. 46(2) substituted (1.4.2006) by Water Act 2003 (c. 37), **ss. 19(2)**, 105(3); S.I. 2006/984, art. 2(j) (with Sch. para. 1)

F98 S. 46(2A) inserted (1.4.2006) by Water Act 2003 (c. 37), **ss. 19(3)**, 105(3); S.I. 2006/984, art. 2(j) (with Sch. para. 1)

F99 S. 46(4)(5)(5A) substituted for s. 46(4)(5) (1.4.2004) by Water Act 2003 (c. 37), **ss. 19(4)**, 105(3); S.I. 2004/641, art. 3(g) (with Sch. 3 para. 7)

F100 Words in s. 46(7) substituted (1.4.2006) by Water Act 2003 (c. 37), **ss. 19(5)**, 105(3); S.I. 2006/984, art. 2(j) (with Sch. para. 1)

[[F101]**46A Limited extension of abstraction licence validity**

(1) If the condition in subsection (2) below is met, a full licence or a transfer licence whose term exceeded twelve months but whose expiry date ("the expiry date") has passed shall be treated for all the purposes of this Act as not expiring until the date mentioned in subsection (4) below.

(2) The condition is that the Agency receives, not later than the beginning of the period of three months ending on the expiry date (or such later date before the expiry date as the Agency agrees), a valid application for a new licence—

(a) for abstraction from the same point as the abstraction licensed by the expiring licence;

(b) whose holder would be the same as the holder of the expiring licence; and

(c) which would take effect immediately after the expiry date.

(3) For the purposes of subsection (2) above, a "valid" application is one which complies with all the requirements of this Act in relation to the making of applications for licences of the type in question.

(4) The date referred to in subsection (1) above is whichever is the later of—

(a) if a new licence is granted (whether or not on the terms applied for), the date on which it takes effect;

(b) otherwise—

(i) except where the Secretary of State calls in an application under section 41 above, the expiry of the period for appealing under section 43 above, or if an appeal is brought, the date of its withdrawal; or

(ii) where the Secretary of State decides (under section 42 or 44 above) that no licence is to be granted, the date on which that decision is notified to the applicant.**]**

Textual Amendments

F101 S. 46A inserted (1.4.2004) by Water Act 2003 (c. 37), **ss. 20**, 105(3); S.I. 2004/641, art. 3(g) (with Sch. 3 paras. 2, 7)

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Modifications etc. (not altering text)

C29 S. 46A applied (with modifications) (1.4.2006) by Water Resources (Abstraction and Impounding) Regulations 2006 (S.I. 2006/641), regs. 1(2), **17**

47 Holders of licence.

(1) Every licence under this Chapter [F102]... shall specify the person to whom the licence is granted.

[[F103](2) The person to whom a licence under this Chapter is granted to abstract water or to obstruct or impede any inland waters is the holder of the licence for the purposes of this Act, subject to sections 59A to 59C and 67 below.**]**

[F104](3) . . . . . .

Textual Amendments

F102 Words in s. 47(1) repealed (1.4.2006) by Water Act 2003 (c. 37), ss. 19(6), 105(3), **Sch. 9 Pt. 1**; S.I. 2006/984, art. 2(j) (with Sch. para. 1)

F103 S. 47(2) substituted (1.4.2006) by Water Act 2003 (c. 37), **ss. 23(2)(a)**, 105(3); S.I. 2006/984, art. 2(m) (with Sch. para. 3)

F104 S. 47(3) repealed (1.4.2006) by Water Act 2003 (c. 37), ss. 23(2)(b), 105(3), **Sch. 9 Pt. 1**; S.I. 2006/984, art. 2(m) (with Sch. para. 3)

48 General effect of licence.

(1) For the purposes of this Chapter a person who is for the time being the holder of a licence under this Chapter to abstract water shall be taken to have a right to abstract water to the extent authorised by the licence and in accordance with the provisions contained in it.

(2) In any action brought against a person in respect of the abstraction of water from a source of supply **[**[F105](other than an abstraction in respect of which a claim could be brought under section 48A below, in which case that section shall apply) **]** , it shall be a defence, subject to paragraph 2 of Schedule 7 to this Act, for him to prove—

(a) that the water was abstracted in pursuance of a licence under this Chapter; and

(b) that the provisions of the licence were complied with.

(3) In any action brought against a person in respect of any obstruction or impeding of the flow of any inland waters at any point by means of impounding works, it shall be a defence for him to prove—

(a) that the flow was so obstructed or impeded in pursuance of a licence under this Chapter;

(b) that the obstructing or impeding was in the manner specified in that licence and to an extent not exceeding the extent so specified; and

(c) that the other requirements of the licence (if any) were complied with.

(4) Nothing in subsection (2) or (3) above shall exonerate a person from any action for negligence or breach of contract.

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F105 Words in s. 48(2) inserted (1.4.2005) by Water Act 2003 (c. 37), **ss. 24(2)**, 105(3) (with s. 24(3)(b)); S.I. 2004/641, art. 5 (with Sch. 3 paras. 4, 7)

Modifications etc. (not altering text)

C30 S. 48(1) modified (1.4.2005) by The Water Act 2003 (Commencement No. 4, Transitional Provisions and Savings) Order 2005 (S.I. 2005/968), art. 4(1)(3), Sch. 1 paras. 7(10), **8(3)**

[F106 48A Civil remedies for loss or damage due to water abstraction

(1) Subject to subsection (7) below and to section 79 (including that section as applied by section 79A(9)) below, a person who abstracts water from any inland waters or underground strata (an "abstractor") shall not by that abstraction cause loss or damage to another person.

(2) A person who suffers such loss or damage (a "relevant person") may bring a claim against the abstractor.

(3) Such a claim shall be treated as one in tort for breach of statutory duty.

(4) In proceedings in respect of a claim under this section, the court may not grant an injunction against the abstractor if that would risk interrupting the supply of water to the public, or would put public health or safety at risk.

(5) Except as provided in this section, no claim may be made in civil proceedings by a person (whether or not a relevant person) against an abstractor in respect of loss or damage caused by his abstraction of water.

(6) Nothing in this section prevents or affects a claim for negligence or breach of contract.

(7) This section does not apply, and no claim may be brought under this section, where the loss or damage is caused by an abstractor acting in pursuance of a licence under this Chapter and is loss or damage—

(a) in respect of which a person is entitled to bring a claim under section 60 below (or would be so entitled if there were a breach of the duty referred to in that section);

(b) in respect of which a person would have been entitled to bring a claim under section 60 below but for an express provision (including, for example, section 39(1A) above and section 59C(6) below) disapplying that duty; or

(c) constituting grounds on which a person is entitled to apply to the Secretary of State under section 55 below (or would be so entitled but for subsection (2) of that section) for the revocation or variation of that licence,

but without prejudice to the application of section 48 above.**]**

Textual Amendments

F106 S. 48A inserted (1.4.2005) by Water Act 2003 (c. 37), **ss. 24(1)**, 105(3) (with s. 24(3)(a)); S.I. 2004/641, art. 5 (with Sch. 3 paras. 4, 7)

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Succession to licences

[F107]49 Succession to licences to abstract where person ceases to occupy the relevant land.

. . . . . .

Textual Amendments

F107 S. 49 repealed (1.4.2006) by Water Act 2003 (c. 37), ss. 23(4)(5), 105(3), **Sch. 9 Pt. 1**; S.I. 2006/984, art. 2(m)(s)(ii) (with Sch. para. 3)

[F108]50 Succession where person becomes occupier of part of the relevant land.

. . . . . .

Textual Amendments

F108 S. 50 repealed (1.4.2006) by Water Act 2003 (c. 37), s. 23(4)(5), 105(3), **Sch. 9 Pt. 1**; S.I. 2006/984, art. 2(m)(s)(ii) (with Sch. para. 3)

Modification of licences

51 Modification on application of licence holder.

(1) The holder of a licence under this Chapter **[**[F109]to abstract water**]** may apply to the **[**[F110]Agency**]** to revoke the licence and, on any such application, the **[**[F110]Agency**]** shall revoke the licence accordingly.

[[F111](1A) The holder of a licence under this Chapter to obstruct or impede the flow of inland waters (an "impounding licence") may apply to the Agency to revoke the licence and, on any such application, the Agency may revoke the licence accordingly.

(1B) The Agency may require conditions to be met to its satisfaction before revocation of the impounding licence takes effect, and those conditions may in particular include conditions—

(a) requiring the removal of all or part of the impounding works;

(b) as to the restoration of the site of the impounding works to a state which is satisfactory to the Agency;

(c) relating to the inland waters the flow of which is obstructed or impeded by means of the impounding works.

(1C) The person making an application under subsection (1A) above ("the applicant") may by notice appeal to the Secretary of State if—

(a) he is dissatisfied with the decision of the Agency as to—

(i) whether his licence may be revoked; or

(ii) any conditions imposed by virtue of subsection (1B) above; or

(b) the Agency fails to give notice of its decision to the applicant within the prescribed period or within such extended period as may be agreed in writing between the Agency and the applicant.

(1D) The Secretary of State may by regulations make provision with respect to—

(a) the manner in which notices of appeal under subsection (1C) above shall be served;

(b) the period within which such notices shall be served;

(c) the procedure on any such appeal.

(1E) Where an appeal is brought under subsection (1C) above, the Secretary of State may—

(a) allow or dismiss the appeal or reverse or vary any part of the decision of the Agency, whether the appeal relates to that part of the decision or not; and

(b) may deal with the application as if it had been made to him in the first place.

(1F) The decision of the Secretary of State on any appeal under subsection (1C) above shall be final.

(1G) Subsections (1C) to (1F) above are subject to section 114 of the 1995 Act (delegation or reference of appeals).**]**

(2) The holder of a licence under this Chapter may apply to the **[**[F110]Agency**]** to vary the licence.

[[F112](2A) An application may not be made under subsection (2) above to convert an abstraction licence of one type into an abstraction licence of a different type.**]**

(3) Subject to subsection (4) below, the provisions of sections 37 to 44 above shall apply (with the necessary modifications) to applications under subsection (2) above, and to the variation of licences in pursuance of such applications, as they apply to applications for, and the grant of, licences under this Chapter.

(4) Where the variation proposed in an application under subsection (2) above is limited to reducing the quantity of water authorised to be abstracted in pursuance of the licence during one or more periods—

(a) sections 37 and 38(1) above shall not apply by virtue of subsection (3) above; and

(b) sections 43 and 44 above, as applied by that subsection, shall have effect as if subsection (5) of section 43 and paragraph (a) of section 44(3) were omitted.

Textual Amendments

F109 Words in s. 51(1) inserted (1.4.2006) by Water Act 2003 (c. 37), **ss. 21(2)**, 105(3) (with s. 21(5)); S.I. 2006/984, art. 2(k)

F110 Words in s. 51 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F111 S. 51(1A)-(1G) inserted (1.4.2006) by Water Act 2003 (c. 37), **ss. 21(3)**, 105(3) (with s. 21(5)); S.I. 2006/984, art. 2(k)

F112 S. 51(2A) inserted (1.4.2006) by Water Act 2003 (c. 37), s. 105(3), **Sch. 7 para. 4**; S.I. 2006/984, art. 2(s)(i)

Modifications etc. (not altering text)

C31 S. 51 applied (with modifications) (1.4.2006) by Water Resources (Abstraction and Impounding) Regulations 2006 (S.I. 2006/641), regs. 1(2), **18**

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

52 Proposals for modification at instance of the [F113Agency] or Secretary of State.

(1) Where it appears to the [F113Agency] that a licence under this Chapter should be revoked or varied, the [F113Agency] may formulate proposals for revoking or varying the licence.

[F114(1A) In the case of a licence to obstruct or impede any inland waters, a variation may take the form of a requirement that the impounding works be modified in ways specified in the proposed new provision of the licence.]

(2) Where—

(a) it appears to the Secretary of State (either in consequence of representations made to the Secretary of State or otherwise) that a licence under this Chapter ought to be reviewed; but

(b) no proposals for revoking or varying the licence have been formulated by the [F113Agency] under subsection (1) above,

the Secretary of State may, as he may consider appropriate in the circumstances, give the [F113Agency] a direction under subsection (3) below.

(3) A direction under this subsection may—

(a) direct the [F113Agency] to formulate proposals for revoking the licence in question; or

(b) direct the [F113Agency] to formulate proposals for varying that licence in such manner as may be specified in the direction.

(4) Notice in the prescribed form of any proposals formulated under this section with respect to any licence shall—

(a) be served on the holder of the licence; and

[F115(b) be published in the prescribed way or (if no way is prescribed) in a way calculated to bring it to the attention of persons likely to be affected if the licence were revoked or varied as proposed.]

(5) If—

(a) a licence with respect to which any proposals are formulated under this section relates to any inland waters; and

(b) the proposals provide for variation of that licence,

a copy of the notice for the purposes of subsection (4) above shall, not later than the date on which it is first published [F116as mentioned in subsection (4)(b) above] , be served on any navigation authority, harbour authority or conservancy authority having functions in relation to those waters at a place where the licence, if varied in accordance with the proposals, would authorise water to be abstracted or impounded.

[F117(6) A notice for the purposes of subsection (4) above shall—

(a) include any prescribed matters; and

(b) state that, before the end of a period specified in the notice—

(i) the holder of the licence may give notice in writing to the Agency objecting to the proposals; and

(ii) any other person may make representations in writing to the Agency with respect to the proposals.]

[F118(7) The period referred to in subsection (6)(b) above—

(a) begins on the date the notice referred to in subsection (4) above is first published as mentioned there; and

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) shall not end before the end of the period of twenty-eight days beginning with that date.**]**

[F119](8) . . . . . .

Textual Amendments

F113 Words in s. 52 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F114 S. 52(1A) inserted (1.4.2006) by Water Act 2003 (c. 37), **ss. 22(2)**, 105(3); S.I. 2006/984, art. 2(l)

F115 S. 52(4)(b) substituted (1.4.2006) by Water Act 2003 (c. 37), **ss. 22(3)**, 105(3); S.I. 2006/984, art. 2(l)

F116 Words in s. 52(5) substituted (1.4.2006) by Water Act 2003 (c. 37), **ss. 22(4)**, 105(3); S.I. 2006/984, art. 2(l)

F117 S. 52(6) substituted (1.4.2006) by Water Act 2003 (c. 37), **ss. 22(5)**, 105(3); S.I. 2006/984, art. 2(l)

F118 S. 52(7) substituted (1.4.2006) by Water Act 2003 (c. 37), **ss. 22(6)**, 105(3); S.I. 2006/984, art. 2(l)

F119 S. 52(8) repealed (1.4.2006) by Water Act 2003 (c. 37), ss. 22(7), 105(3), **Sch. 9 Pt. 1**; S.I. 2006/984, art. 2(l)(s)(ii)

Modifications etc. (not altering text)

C32 S. 52 applied (with modifications) (1.4.2006) by Water Resources (Abstraction and Impounding) Regulations 2006 (S.I. 2006/641), regs. 1(2), **19(1)**

53 Modification in pursuance of proposals under section 52.

(1) Subject to the following provisions of this section, where the **[**[F120]Agency**]** has formulated any proposals under section 52 above with respect to any licence under this Chapter, it may—

(a) if the proposals are for the revocation of the licence, revoke the licence; and

(b) if the proposals are proposals for varying the licence, vary the licence in accordance with those proposals or, with the consent of the holder of the licence, in any other way.

(2) The **[**[F120]Agency**]** shall not proceed with any proposals formulated under section 52 above before the end of the period specified, in accordance with subsection (7) of that section, for the purposes in relation to those proposals of subsection (6) of that section.

(3) If no notice under subsection (4) below is given to the **[**[F120]Agency**]** before the end of the period mentioned in subsection (2) above, the **[**[F120]Agency**]** may proceed with the proposals.

(4) If the holder of the licence gives notice to the **[**[F120]Agency**]** objecting to the proposals before the end of the period mentioned in subsection (2) above, the **[**[F120]Agency**]** shall refer the proposals to the Secretary of State, with a copy of the notice of objection.

(5) Where the **[**[F120]Agency**]** proceeds with any proposals under subsection (3) above and the proposals are proposals for varying the licence, the provisions of sections 38(3), 39(1) and (2) and 40 above shall apply (with the necessary modifications) to any action of the **[**[F120]Agency**]** in proceeding with the proposals as they apply to the action of the **[**[F120]Agency**]** in dealing with an application for a licence.

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F120 Words in s. 53 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Modifications etc. (not altering text)

C33 S. 53 applied (with modifications) (1.4.2006) by Water Resources (Abstraction and Impounding) Regulations 2006 (S.I. 2006/641), regs. 1(2), **19(2)**

54 Reference of modification proposals to the Secretary of State.

(1) Where any proposals of the **[**[F121]Agency**]** with respect to a licence are referred to the Secretary of State in accordance with subsection (4) of section 53 above, the Secretary of State shall consider—

(a) the proposals;

(b) the objection of the holder of the licence; and

(c) any representations in writing relating to the proposals which were received by the **[**[F121]Agency**]** before the end of the period mentioned in subsection (2) of that section,

and, subject to subsection (2) below, shall determine (according to whether the proposals are for the revocation or variation of the licence) the question whether the licence should be revoked or the question whether it should be varied as mentioned in subsection (1)(b) of that section.

(2) Before determining under this section whether a licence should be revoked or varied in a case in which proposals have been formulated under section 52 above, the Secretary of State may, if he thinks fit—

(a) cause a local inquiry to be held; or

(b) afford to the holder of the licence and the **[**[F121]Agency**]** an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose;

and the Secretary of State shall act as mentioned in paragraph (a) or (b) above if a request is made by the holder of the licence or the **[**[F121]Agency**]** to be heard with respect to the proposals.

(3) In determining under this section whether a licence should be varied and, if so, what directions should be given under subsection (5) below, the Secretary of State shall consider whether any such direction would require such a variation of the licence as would so authorise—

(a) the abstraction of water; or

(b) the flow of any inland waters to be obstructed or impeded by means of impounding works,

as to derogate from rights which, at the time when the direction is given, are protected rights for the purposes of this Chapter.

(4) The provisions of sections 39(2) and 40 above shall apply in relation to any proposals referred to the Secretary of State in accordance with section 53(4) above as if in those provisions—

(a) any reference to the **[**[F121]Agency**]** were a reference to the Secretary of State;

(b) any reference to the application were a reference to the proposals; and

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(c) the references to sections 38(3) and 39(1) were references to subsections (1) and (3) above.

(5) Where the decision of the Secretary of State on a reference in accordance with section 53(4) above is that the licence in question should be revoked or varied, the decision shall include a direction to the **[**[F121]Agency**]** to revoke the licence or, as the case may be, to vary it so as to contain such provisions as may be specified in the direction.

(6) A decision of the Secretary of State under this section with respect to any proposals shall be final.

Textual Amendments

F121 Words in s. 54 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Modifications etc. (not altering text)

C34 S. 54 applied (with modifications) (1.4.2006) by Water Resources (Abstraction and Impounding) Regulations 2006 (S.I. 2006/641), regs. 1(2), **19(3)**

55 Application for modification of licence by owner of fishing rights.

(1) Subject to the following provisions of this section and to Schedule 7 to this Act, where a licence under this Chapter authorises abstraction from any inland waters in respect of which no minimum acceptable flow has been determined under Chapter I of this Part, any person who is the owner of fishing rights in respect of those inland waters may apply to the Secretary of State for the revocation or variation of the licence.

(2) No application shall be made under this section in respect of any licence except at a time after the end of the period of one year beginning with the date on which the licence was granted but before a minimum acceptable flow has been determined in relation to the waters in question.

(3) Any application under this section made by a person as owner of fishing rights in respect of any inland waters shall be made on the grounds that, in his capacity as owner of those rights, he has sustained loss or damage which is directly attributable to the abstraction of water in pursuance of the licence in question and either—

(a) he is not entitled to a protected right for the purposes of this Chapter in respect of those inland waters; or

(b) the loss or damage which he has sustained in his capacity as owner of those rights is not attributable to any such breach of statutory duty as is mentioned in subsection (2) or (3) of section 60 below or is in addition to any loss or damage attributable to any such breach.

(4) Where an application is made under this section in respect of any licence, the applicant shall serve notice in the prescribed form on the **[**[F122]Agency**]** and on the holder of the licence, stating that each of them is entitled, at any time before the end of the period of twenty-eight days beginning with the date of service of the notice, to make representations in writing to the Secretary of State with respect to the application.

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(5) In this section and section 56 below "fishing rights", in relation to any inland waters, means any right (whether it is an exclusive right or a right in common with one or more other persons) to fish in those waters, where the right in question—

(a) constitutes or is included in an interest in land; or

(b) is exercisable by virtue of an exclusive licence granted for valuable consideration;

and any reference to an owner of fishing rights is a reference to the person for the time being entitled to those rights.

(6) In this section any reference to a right included in an interest in land is a reference to a right which is exercisable only by virtue of, and as a right incidental to, the ownership of that interest.

Textual Amendments

F122 Word in s. 55 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Modifications etc. (not altering text)

C35 S. 55 applied (with modifications) (1.4.2006) by Water Resources (Abstraction and Impounding) Regulations 2006 (S.I. 2006/641), regs. 1(2), **20(1)**

56 Determination of application under section 55.

(1) The Secretary of State, in determining any application under section 55 above in respect of any licence, shall take into account any representations in writing received by him, within the period mentioned in subsection (4) of that section, from the **[**[F123]Agency**]** or from the holder of the licence.

(2) Before determining on an application under section 55 above whether a licence should be revoked or varied the Secretary of State may, if he thinks fit—

(a) cause a local inquiry to be held; or

(b) afford to the applicant, the holder of the licence and the **[**[F123]Agency**]** an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose;

and the Secretary of State shall act as mentioned in paragraph (a) or (b) above if a request is made by the applicant, the holder of the licence or the **[**[F123]Agency**]** to be heard with respect to the proposals.

(3) Subject to subsections (4) and (5) below, on an application under section 55 above in respect of any licence, the Secretary of State shall not determine that the licence shall be revoked or varied unless—

(a) the grounds of the application, as mentioned in subsection (3) of that section, are established to his satisfaction; and

(b) he is satisfied that the extent of the loss or damage which the applicant has sustained, as mentioned in that subsection, is such as to justify the revocation or variation of the licence.

(4) On an application under section 55 above in respect of any licence, the Secretary of State shall not determine that the licence shall be revoked or varied if he is satisfied that the fact that the abstraction of water in pursuance of the licence caused the loss

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

or damage which the applicant has sustained, as mentioned in subsection (3) of that section, was wholly or mainly attributable to exceptional shortage of rain or to an accident or other unforeseen act or event not caused by, and outside the control of, the **[**[F123]Agency**]**.

(5) Where the Secretary of State determines, on an application under section 55 above, that a licence shall be varied, the variation shall be limited to that which, in the opinion of the Secretary of State, is requisite having regard to the loss or damage which the applicant has sustained as mentioned in subsection (3) of that section.

(6) Where the decision of the Secretary of State on an application under section 55 above in respect of any licence is that the licence should be revoked or varied, the decision shall include a direction to the **[**[F123]Agency**]** to revoke the licence or, as the case may be, to vary it so as to contain such provisions as may be specified in the direction.

(7) A decision of the Secretary of State on an application under section 55 above shall be final.

Textual Amendments

F123 Words in s. 56 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Modifications etc. (not altering text)

C36 S. 56 applied (with modifications) (1.4.2006) by Water Resources (Abstraction and Impounding) Regulations 2006 (S.I. 2006/641), regs. 1(2), **20(2)**

57 Emergency variation of licences for spray irrigation purposes.

(1) This section applies where at any time—

(a) one or more licences under this Chapter are in force in relation to a source of supply authorising water abstracted in pursuance of the licences to be used for the purpose of spray irrigation, or for that purpose together with other purposes; and

(b) by reason of exceptional shortage of rain or other emergency, it appears to the **[**[F124]Agency**]** that it is necessary to impose a temporary restriction on the abstraction of water for use for that purpose.

(2) Subject to subsections (3) and (4) below, where this section applies the **[**[F124]Agency**]** may serve a notice on the holder of any of the licences reducing, during such period as may be specified in the notice, the quantity of water authorised to be abstracted in pursuance of the licence from the source of supply for use for the purpose of spray irrigation; and, in relation to that period, the licence shall have effect accordingly subject to that reduction.

(3) The **[**[F124]Agency**]** shall not serve a notice under this section in respect of abstraction of water from underground strata unless it appears to the **[**[F124]Agency**]** that such abstraction is likely to affect the flow, level or volume of any inland waters which are neither discrete waters nor inland waters comprised in an order under section 33 above.

(4) In the exercise of the power conferred by this section in a case where there are two or more licences under this Chapter in force authorising abstraction from the same source

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of supply either at the same point or at points which, in the opinion of the **[**[F124]Agency**]**, are not far distant from each other—

(a) the **[**[F124]Agency**]** shall not serve a notice under this section on the holder of one of the licences unless a like notice is served on the holders of the other licences in respect of the same period; and

(b) the reductions imposed by the notices on the holders of the licences shall be so calculated as to represent, as nearly as appears to the **[**[F124]Agency**]** to be practicable, the same proportion of the quantity of water authorised by the licences (apart from the notices) to be abstracted for use for the purpose of spray irrigation.

(5) The provisions of this section shall have effect without prejudice to the exercise of any power conferred by sections 51 to 54 above.

Textual Amendments

F124 Words in s. 57 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Modifications etc. (not altering text)

C37 S. 57 modified (18.5.1992) by S.I. 1992/1096, **art. 4**

C38 S. 57(1)(2)(4) modified (18.5.1992) by S.I. 1992/1096, arts. 3, 4, **Sch.**

[F125]58 . . . . . .

Textual Amendments

F125 S. 58 repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 136, **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3(xxix)**

59 Regulations with respect to modification applications.

(1) The Secretary of State may by regulations make provision as to the manner in which applications for the revocation or variation of licences under this Chapter are to be dealt with, including provision requiring the giving of notices of, and information relating to, the making of such applications or decisions on any such applications.

(2) Subsection (1) above shall have effect subject to any express provision contained in, or having effect by virtue of, any other enactment contained in this Chapter; and any regulations made under this section shall have effect subject to any such express provision.

[[F126]*Transfer and apportionment of licences*

Textual Amendments

F126 Ss. 59A-59D and cross-heading inserted (1.4.2006) by Water Act 2003 (c. 37), **ss. 23(1)**, 105(3); S.I. 2006/984, art. 2(m) (with Sch. para. 3)

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

59A Transfer of licence

(1) The following licences—

(a) a full licence;

(b) a transfer licence; or

(c) a licence to obstruct or impede the flow of inland waters by means of impounding works,

may be transferred by the holder of the licence to another person ("the transferee") in accordance with the following provisions of this section.

(2) The holder and the proposed transferee shall give notice (a "transfer notice") to the Agency of their agreement that the licence should be transferred.

(3) The transfer notice shall include—

(a) such information as the Agency reasonably requires; and

(b) (in the case of the transfer of a full licence or of a transfer licence) a declaration by the proposed transferee that—

(i) he has, or at the time when the proposed transfer is to take effect will have, a right of access in relation to each point of abstraction; and

(ii) he will continue to have such a right for the period of at least one year beginning with the date on which the proposed transfer is to take effect, or until the licence is to expire (if sooner),

and may specify the date on which the holder and the transferee wish the transfer to take effect.

(4) If the holder is a person in whom the licence has vested under section 59B below, a transfer notice shall be of no effect unless the notice required by section 59B(4) has been given.

(5) Subject to subsection (4) above, if the Agency receives a transfer notice which complies with the requirements of subsections (2) and (3) above, the Agency shall amend the licence by substituting the name of the transferee as holder of the licence.

(6) The transfer shall take effect—

(a) from the date on which the Agency amends the licence; or

(b) from the date specified in the transfer notice, if later.

(7) Nothing in this section shall affect the liability of the holder of the licence for any failure by him, before the transfer took effect, to comply with any condition or requirement of that licence.

(8) In this section—

"point of abstraction" means a place where the licence authorises water to be abstracted from inland waters or (as the case may be) a place consisting of or comprising underground strata from which the licence authorises water to be abstracted; and

"right of access" means, in relation to a point of abstraction, a right of access to land of the kind referred to in subsection (2)(a) or, as the case may be, (3)(a) of section 35 above; and references to a person who will have such a right of access shall be construed in accordance with that section (including subsections (4) to (6)).

Status: *Point in time view as at 01/10/2006.*
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Modifications etc. (not altering text)

C39 S. 59A applied (with modifications) (1.4.2006) by Water Resources (Abstraction and Impounding) Regulations 2006 (S.I. 2006/641), regs. 1(2), **21**

59B Vesting of licence on death or bankruptcy of holder

(1) On the death of the holder of a licence under this Chapter, the licence shall be regarded as property forming part of the deceased's personal estate, whether or not it would be so regarded apart from this subsection, and shall accordingly vest in his personal representatives.

(2) If a bankruptcy order is made against the holder of a licence under this Chapter, the licence shall be regarded for the purposes of any of the Second Group of Parts of the Insolvency Act 1986 (insolvency of individuals; bankruptcy) as property forming part of the bankrupt's estate, whether or not it would be so regarded apart from this subsection, and shall accordingly vest as such in the trustee in bankruptcy.

(3) A person in whom a licence vests under this section shall become the holder of the licence, in place of the prior holder, from the date of the vesting.

(4) Where a licence other than a temporary licence vests in any person under this section, that person shall give notice of that fact to the Agency not later than the end of the period of fifteen months beginning with the date of the vesting.

(5) If—

(a) a licence vests in any person under this section; but

(b) that person fails to give the notice required by subsection (4) above within the period mentioned there,

the licence shall cease to have effect.

59C Apportionment of licence to abstract

(1) The holder of a full licence or of a transfer licence (the "old licence") may apply to the Agency for the division of the holder's right to abstract water in accordance with the old licence and for the transfer—

(a) to another person of part, or to a number of other persons of parts not amounting to the whole; or

(b) to a number of other persons of parts amounting in all to the whole,

of that right.

(2) The holder of the old licence and any person proposing to carry on a part of the abstraction authorised by the old licence in place of the holder (a "successor") shall give notice to the Agency of their agreement to the division and transfer (an "apportionment notice").

(3) The apportionment notice shall, in relation to the abstraction authorised by the old licence—

(a) specify, for each proposed successor, what quantity of water he proposes to abstract, and (if the holder of the old licence is to continue the abstraction in part) what quantity of water he proposes to abstract;

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(b) specify the purpose or purposes for which those persons referred to in paragraph (a) above who would require a new licence granted under subsection (5) below would abstract water (being one or more of the purposes for which abstraction is authorised under the old licence);

(c) specify the point (or points) of abstraction from which it is proposed that the persons referred to in paragraph (a) above would abstract water (being one or more of the points from which abstraction is authorised under the old licence);

(d) include a declaration by each of those persons who requires a licence under this Chapter in order to carry on the abstraction that—

(i) he has, or at the time when the proposed grant to him of a new licence under subsection (5) below is to take effect will have, a right of access in relation to each such point of abstraction; and

(ii) he will continue to have such a right for the period of at least one year beginning with the date on which the new licence is to take effect, or until it is to expire (if sooner); and

(e) include such other information as the Agency reasonably requires,

and may specify the date on which the holder and the successor (or successors) wish the division and transfer (or transfers) to take effect.

(4) The apportionment notice shall be accompanied by an application on the part of the holder of the old licence for its revocation.

(5) Subject to subsection (9) below, if the Agency receives an apportionment notice and the application for revocation referred to in subsection (4) above, the Agency shall—

(a) revoke the old licence;

(b) if the holder is to continue the abstraction in part and a licence is required under this Chapter for that purpose, grant to the holder of the old licence a licence relating to that part of the abstraction; and

(c) grant to each successor who requires a licence under this Chapter in order to carry on his part of the abstraction a licence relating to that part of the abstraction.

(6) Sections 34 to 45 above shall not apply to the grant of a new licence under subsection (5) above.

(7) Subject to section 46 above and to any provision of regulations made under section 59D(1) below, each new licence to be granted under subsection (5) above shall be granted subject to provisions which correspond as nearly as practicable to those of the old licence in relation to the part of the abstraction to be authorised by the new licence.

(8) The revocation of the old licence and the grant of the new licences shall take effect—

(a) from the date on which the Agency revokes the old licence and grants the new ones; or

(b) from the date specified in the apportionment notice, if later.

(9) The Agency shall not grant a new licence to the holder of the old licence or to a successor if, by virtue of an exemption, the restriction on abstraction would not apply to that part of the abstraction proposed in relation to him in the apportionment notice.

(10) For the purposes of this Chapter, a person (whether the holder of the old licence or a successor) who proposes to carry on a part of the abstraction in the circumstances

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mentioned in subsection (9) above shall, if the old licence was a full licence, be taken to have the right to do so in relation to that part, subject to subsection (11) below.

(11) For the purposes of this Chapter, a person shall cease to be taken to have a right, by virtue of subsection (10) above, to carry on an abstraction if—

(a) during a period mentioned in subsection (12) below that person does not carry out any such abstraction; or

(b) following an order under section 27A(1) above or regulations under section 33A above, that person is granted a full licence in respect of abstraction from the same point.

(12) The period referred to in subsection (11)(a) above is—

(a) four years; or

(b) if the abstractions authorised under the old licence were abstractions planned to be carried out at intervals of more than four years, or abstractions for emergency purposes only, such longer period as the Agency may determine on the application of the person in question.

(13) For the purposes of section 39A above, a new licence granted under subsection (5) above shall be treated—

(a) as if it had been granted at the time the old licence was granted; and

(b) as if it and any other new licence granted by virtue of the relevant apportionment notice had been granted in place of the old licence.

(14) In this section—

"exemption" means the disapplication of the restriction on abstraction under or by virtue of section 27 or 33A above; and

"point of abstraction" and "right of access" have the same meanings as in section 59A above.

Modifications etc. (not altering text)

C40 S. 59C applied (with modifications) (1.4.2006) by Water Resources (Abstraction and Impounding) Regulations 2006 (S.I. 2006/641), regs. 1(2), **22**

59D Apportionment of licence to abstract: supplementary

(1) The Secretary of State may make regulations about the provisions to be contained in licences granted under section 59C above.

(2) Nothing in section 59C above shall affect the liability of the holder of the old licence for any failure by him, before the revocation of that licence took effect, to comply with any condition or requirement of that licence.

(3) If the holder of the old licence is a person in whom the old licence has vested under section 59B above, an apportionment notice shall be of no effect unless the notice required by section 59B(4) has been given.

(4) In this section, "apportionment notice" and "old licence" have the same meanings as in section 59C above.**]**

Status: *Point in time view as at 01/10/2006.*
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Remedies and compensation in respect of infringement of protected rights etc.

60 Liability of the [F127Agency] for derogation from protected right.

(1) A breach of the duty imposed by subsection (1) of section 39 above (including that duty as applied by section 51(3) or 53(5) above) shall neither invalidate the grant or variation of a licence nor be enforceable by any criminal proceedings, by prohibition or injunction or by action against any person other than the **[**F127Agency**]**.

(2) Instead, the duty referred to in subsection (1) above shall be enforceable, at the suit of any person entitled to a protected right for the purposes of this Chapter, by an action against the **[**F127Agency**]** for damages for breach of statutory duty.

(3) Where under any provision of this Chapter, the **[**F127Agency**]** is directed by the Secretary of State to grant or vary a licence, and the licence, as granted or varied in compliance with the direction, authorises derogation from protected rights, then—

(a) the grant or variation of the licence shall, as between the **[**F127Agency**]** and the person entitled to those rights, have effect as a breach on the part of the **[**F127Agency**]** of a statutory duty not to authorise derogation from those rights; and

(b) subsection (2) above shall apply in relation to that statutory duty as it applies in relation to the duty imposed by section 39(1) above.

(4) Subsection (3) above shall be without prejudice to the duty of the **[**F127Agency**]**, to comply with the direction in question, but that duty shall not afford any defence in an action brought by virtue of paragraph (b) of that subsection.

(5) In any action brought against the **[**F127Agency**]** in pursuance of this section it shall be a defence for the **[**F127Agency**]** to show that the fact, as the case may be—

(a) that the abstraction of water authorised by the licence, as granted or varied by the **[**F127Agency**]**, derogated from the plaintiff's protected right; or

(b) that the obstruction or impeding of the flow of the inland waters authorised by the licence, as so granted or varied, derogated from the plaintiff's protected right,

was wholly or mainly attributable to exceptional shortage of rain or to an accident or other unforeseen act or event not caused by, and outside the control of, the **[**F127Agency**]**.

(6) This section has effect subject to the provision made by Schedule 7 to this Act.

(7) In this section any reference to authorising a derogation from protected rights is a reference to so authorising—

(a) the abstraction of water; or

(b) the flow of any inland waters to be obstructed or impeded by means of impounding works,

as to derogate from rights which, at the time of the authorisation, are protected rights for the purposes of this Chapter.

Textual Amendments

F127 Words in s. 60 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Status: *Point in time view as at 01/10/2006.*
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Modifications etc. (not altering text)

C41 S. 60 applied (with modifications) (1.4.2006) by Water Resources (Abstraction and Impounding) Regulations 2006 (S.I. 2006/641), regs. 1(2), **23**

61 Compensation where licence modified on direction of the Secretary of State.

(1) Where a licence is revoked or varied in pursuance of a direction under section 54 or **[**[F128]56**]** above and it is shown that the holder of the licence—

(a) has incurred expenditure in carrying out work which is rendered abortive by the revocation or variation; or

(b) has otherwise sustained loss or damage which is directly attributable to the revocation or variation,

the **[**[F129]Agency**]** shall pay him compensation in respect of that expenditure, loss or damage.

(2) For the purposes of this section, any expenditure incurred in the preparation of plans for the purposes of any work, or upon other similar matters preparatory to any work, shall be taken to be included in the expenditure incurred in carrying out that work.

(3) Subject to subsection (2) above and to Schedule 7 to this Act, no compensation shall be paid under this section—

(a) in respect of any work carried out before the grant of the licence which is revoked or varied; or

(b) in respect of any other loss or damage arising out of anything done or omitted to be done before the grant of that licence.

(4) No compensation shall be payable under this section in respect of a licence to abstract water, if it is shown that no water was abstracted in pursuance of the licence during the period of **[**[F130]four**]** years ending with the date on which notice of the proposals for revoking or varying the licence was served on the holder of the licence.

[[F131](4A) No compensation shall be payable under this section in respect of the variation of a full licence, or of a transfer licence which specifies a minimum value under section 46(2A) above, so as to reduce the quantity of water which the holder of the licence is authorised by the licence to abstract from the source of supply to which the licence relates if—

(a) the ground for varying the licence is that the Secretary of State is satisfied that the variation is necessary in order to protect the availability of water in the source of supply to which the licence relates;

(b) the variation does not reduce the quantity of water which the holder of the licence is authorised by the licence to abstract to less than the minimum value specified in the licence under section 46(2A) above for the purposes of this subsection; and

(c) the conditions set out in subsection (4B) below are satisfied.

(4B) Those conditions are that—

(a) the licence was granted after the coming into force of section 19 of the Water Act 2003;

(b) the variation is made no sooner than the end of the period of six years beginning with the date on which the licence took effect; and

(c) the variation takes effect no sooner than the end of the period of six years beginning with the date of the variation.**]**

Status: *Point in time view as at 01/10/2006.*
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(5) Any question of disputed compensation under this section shall be referred to and determined by the Lands Tribunal; and in relation to the determination of any such compensation the provisions of sections 2 and 4 of the [M11]Land Compensation Act 1961 shall apply, subject to any necessary modifications.

(6) For the purpose of assessing any compensation under this section, in so far as that compensation is in respect of loss or damage consisting of depreciation of the value of an interest in land, the rules set out in section 5 of the Land Compensation Act 1961 shall, so far as applicable and subject to any necessary modifications, have effect as they have effect for the purpose of assessing compensation for the compulsory acquisition of an interest in land.

(7) Where the interest in land, in respect of which any compensation falls to be assessed in accordance with subsection (6) above, is subject to a mortgage—

(a) the compensation shall be assessed as if the interest were not subject to the mortgage;

(b) a claim for the compensation may be made by any mortgagee of the interest, but without prejudice to the making of a claim by the person entitled to the interest;

(c) no such compensation shall be payable in respect of the interest of the mortgagee (as distinct from the interest which is subject to the mortgage);

(d) any such compensation which is payable in respect of the interest which is subject to the mortgage shall be paid to the mortgagee or, if there is more than one mortgagee, to the first mortgagee, and shall in either case be applied by him as if it were proceeds of sale.

Textual Amendments

F128 Word in s. 61(1) substituted (1.4.2004) by Water Act 2003 (c. 37), s. 105(3), **Sch. 7 para. 6**; S.I. 2004/641, art. 3(y), Sch. 2 (with Sch. 3 para. 7)

F129 Word in s. 61 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F130 Word in s. 61(4) substituted (1.4.2004) by Water Act 2003 (c. 37), **ss. 25(2)**, 105(3) (with s. 25(4)); S.I. 2004/641, art. 3(h) (with Sch. 3 para. 7)

F131 S. 61(4A)(4B) inserted (1.4.2006) by Water Act 2003 (c. 37), **ss. 25(3)**, 105(3); S.I. 2006/984, art. 2(n)

Modifications etc. (not altering text)

C42 S. 61 modified (1.4.2004) by Water Act 2003 (c. 37), **ss. 27(2)**, 105(3); S.I. 2004/641, art. 3(i) (with Sch. 3 para. 7)

C43 S. 61 excluded (1.4.2006) by Water Resources (Abstraction and Impounding) Regulations 2006 (S.I. 2006/641), regs. 1(2), **24**

Marginal Citations

M11 1961 c. 33.

[[F132]61A Recovery of compensation from new licence-holder

(1) This section applies where compensation has been paid under section 61 above to the holder of a licence ("licence A") following its revocation, and—

(a) the holder of licence A was a water undertaker;

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(b) at the time of the revocation an application from a qualifying person for a licence to abstract water ("licence B") was outstanding;

(c) if the Agency had granted licence B while licence A still had effect, the Agency would have been in breach of the duty imposed on it by section 39(1) above owed to the holder of licence A;

(d) the ground for revoking licence A was that the Agency was of the view that in the interests of greater efficiency in the use of water resources it would be better for licence B to be granted and licence A revoked; and

(e) the Agency proposes to grant licence B.

(2) If this section applies, the Agency may (if licence B is granted) recover from the qualifying person the amount of the compensation referred to in subsection (1) above (or such lesser amount as the Agency determines).

(3) Subsection (6) of section 41 of the 1995 Act (which confers powers to make schemes imposing charges) shall apply to the amount referred to in subsection (2) above as if it were a charge due and payable to the Agency in respect of the subsistence of licence B.

(4) In this section, "qualifying person" means—

(a) a water undertaker; or

(b) a person who has made an application for an appointment or variation replacing a company as a water undertaker under section 8 of the Water Industry Act 1991 which has not been determined.**]**

Textual Amendments

F132 S. 61A inserted (1.10.2004) by Water Act 2003 (c. 37), **ss. 26**, 105(3); S.I. 2004/2528, art. 2(a) (with Sch. paras. 1, 8)

62 Compensation for owner of fishing rights applying under section 55.

(1) Where a licence is revoked or varied on an application under section 55 above, the applicant shall be entitled to compensation from the **[**[F133]Agency**]** in respect of the loss or damage which he has sustained as mentioned in subsection (3) of that section.

(2) Where, on an application under section 55 above for the revocation or variation of a licence, the Secretary of State determines—

(a) that the grounds of the application (as mentioned in subsection (3) of that section) have been established to his satisfaction; but

(b) that the licence shall not be revoked or varied in pursuance of that application,

he shall certify accordingly for the purposes of the following provisions of this section.

(3) Unless within the period of six months from the date on which a certificate under subsection (2) above is granted either—

(a) notice to treat for the acquisition of the fishing rights of the applicant, or of an interest in land which includes those rights, has been served by the **[**[F133]Agency**]**; or

(b) an offer has been made by the **[**[F133]Agency**]** to the owner of those rights to acquire them on compulsory purchase terms or, where the rights subsist only as rights included in an interest in land, to acquire that interest on such terms,

the owner of the fishing rights shall be entitled to compensation from the **[**[F133]Agency**]**.

Status: *Point in time view as at 01/10/2006.*
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(4) The amount of the compensation payable under subsection (3) above in respect of any fishing rights shall be the amount by which—

(a) the value of those rights; or

(b) where they subsist only as rights included in an interest in land, the value of that interest,

is depreciated by the operation of section 48(2) above in relation to the licence to which the application related.

(5) Any question of disputed compensation under this section shall be referred to and determined by the Lands Tribunal; and in relation to the determination of any such compensation the provisions of sections 2 and 4 of the [M12]Land Compensation Act 1961 shall apply, subject to any necessary modifications.

(6) For the purposes of this section a right or interest is acquired on compulsory purchase terms if it is acquired on terms that the price payable shall be equal to and shall, in default of agreement, be determined in like manner as the compensation which would be payable in respect thereof if the right or interest were acquired compulsorily by the **[**[F133]Agency**]**.

(7) Where—

(a) the Secretary of State, on an application under section 55 above, determines that the licence to which the application relates shall not be revoked or varied and grants a certificate under subsection (2) above; and

(b) notice to treat for the acquisition of the fishing rights to which the application related, or of an interest in land in which those rights are included, has been served by the **[**[F133]Agency**]** within the period of six months from the date on which that certificate is granted,

then, for the purpose of assessing compensation in respect of any compulsory acquisition in pursuance of that notice to treat, no account shall be taken of any depreciation of the value of the fishing rights, or of the interest in question, which is applicable to the operation, in relation to that licence, of section 48(2) above.

(8) Subsections (5) and (6) of section 55 above shall apply for construing references in this section to fishing rights or to rights included in an interest in land as they have effect for construing such references in that section.

Textual Amendments

F133 Words in s. 62 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Marginal Citations

M12 1961 c. 33.

63 Secretary of State to indemnify [F134Agency] in certain cases.

(1) Where—

(a) the **[**[F134]Agency**]** is liable under section 60 above to pay damages to any person in consequence of the grant or variation of a licence in compliance with a direction given by the Secretary of State; and

(b) the **[**[F134]Agency**]** pay to that person any sum in satisfaction of that liability,

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

then, whether an action for recovery of those damages has been brought or not, the Secretary of State may, if he thinks fit, pay to the **[**[F134]Agency**]** the whole or such part as he considers appropriate of the relevant amount.

(2) If—

(a) proposals for revoking or varying the licence, in a case falling within subsection (1) above, are formulated by the **[**[F134]Agency**]**, or an application with respect to any licence is made under section 55 above;

(b) in consequence of those proposals or that application, the licence is revoked or varied; and

(c) compensation in respect of the revocation or variation is payable by the **[**[F134]Agency**]** under section 61 above,

the Secretary of State may, if he thinks fit, pay to the **[**[F134]Agency**]** the whole or such part as he considers appropriate of the relevant amount.

(3) Where—

(a) the Secretary of State determines under section 55 above—

(i) that a licence granted in compliance with a direction given by the Secretary of State shall be revoked or varied; or

(ii) that a licence shall not be revoked or varied;

and

(b) in consequence of that determination, compensation is payable by the **[**[F134]Agency**]** under section 62 above,

the Secretary of State may, if he thinks fit, pay to the **[**[F134]Agency**]** the whole or such part as he considers appropriate of the relevant amount.

(4) In this section "the relevant amount" means—

(a) for the purposes of subsection (1) above, the amount of the sum paid by the **[**[F134]Agency**]** and, if an action has been brought against the **[**[F134]Agency**]** in respect of the liability mentioned in that subsection, the amount of any costs reasonably incurred by the **[**[F134]Agency**]** in connection with the action (including any costs of the plaintiff which the **[**[F134]Agency**]** was required to pay); and

(b) for the purposes of subsections (2) and (3) above, the amount of the compensation and, if any question relating to that compensation is referred to the Lands Tribunal, the amount of any costs reasonably incurred by the **[**[F134]Agency**]** in connection with that reference (including any costs of the claimant which the **[**[F134]Agency**]** is required to pay).

Textual Amendments

F134 Words in s. 63 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Supplemental provisions of Chapter II

64 Abstracting and impounding by the [[F135]Agency].

(1) The provisions of this Chapter shall have effect—

Status: *Point in time view as at 01/10/2006.*
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(a) in relation to the abstraction of water by the **[**[F135]Agency**]** from sources of supply; and

[[F136](b) in relation to—

(i) the construction or alteration by the Agency of impounding works; and

(ii) the obstruction or impeding by the Agency of the flow of inland waters by means of impounding works,**]**

subject to such exceptions and modifications as may be prescribed.

(2) Regulations under this section may, in particular, provide for securing—

(a) that any licence required by the **[**[F135]Agency**]** in relation to the matters mentioned in subsection (1) above shall be granted (or be deemed to be granted) by the Secretary of State, and not be granted by the **[**[F135]Agency**]**;

(b) that, in such cases and subject to such conditions as may be prescribed, any licence so required by the **[**[F135]Agency**]** shall be deemed to be granted by the Secretary of State unless the Secretary of State requires an application for the licence to be made to him by the **[**[F135]Agency**]**; and

(c) that where a licence is deemed to be granted as mentioned in paragraph (b) above, the **[**[F135]Agency**]** shall give such notice of that fact as may be prescribed.

(3) Without prejudice to the preceding provisions of this section, section 52 above shall not apply in relation to any licence which by virtue of any regulations under this section is granted or deemed to have been granted by the Secretary of State, except in accordance with regulations under this section.

Textual Amendments

F135 Words in s. 64 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F136 S. 64(1)(b) substituted (1.4.2006) by Water Act 2003 (c. 37), **ss. 2(7)**, 105(3) (with s. 2(10)); S.I. 2006/984, art. 2(b) (with Sch. para. 2)

65 Licences of right.

Schedule 7 to this Act shall have effect for the purposes of giving effect to provisions conferring an entitlement to licences under this Chapter and with respect to licences granted in pursuance of that entitlement or the entitlement conferred by section 33 of the [M13]Water Resources Act 1963 or paragraph 30 or 31 of Schedule 26 to the [M14]Water Act 1989.

Marginal Citations

M13 1963 c. 38.

M14 1989 c. 15.

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

66 Inland waters owned or managed by British Waterways Board.

(1) This section applies to all inland waters owned or managed by the British Waterways Board ("the Board"), except any such inland waters to which the Secretary of State may by order made by statutory instrument direct that this section shall not apply.

(2) In respect of abstraction from any inland waters to which this section applies—

[F137](a) . . . . . .

(b) no person other than the Board shall be entitled to apply for a licence under this Chapter;

(c) in relation to any application by the Board for a licence under this Chapter—

(i) section 35 above shall not apply; and

(ii) section 37 above shall apply as if **[**[F138]paragraphs (b) and (c), and the succeeding words, of subsection (3) of that section were omitted.**]**

(3) Before making an order under subsection (1) above, the Secretary of State shall consult the Board and the **[**[F139]Agency**]**.

Textual Amendments

F137 S. 66(2)(a) repealed (1.4.2006) by Water Act 2003 (c. 37), s. 105(3), Sch. 7 para. 7, **Sch. 9 Pt. 3**; S.I. 2006/984, art. 2(s)(i)

F138 Words in s. 66(2)(c)(ii) substituted (1.4.2006) by Water Act 2003 (c. 37), **ss. 14(3)(d)**, 105(3); S.I. 2006/984, art. 2(i) (with Sch. paras. 1, 2)

F139 Word in s. 66 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

67 Ecclesiastical property.

(1) Where the relevant land **[**[F140]is vested in the incumbent of a benefice**][**[F141]or (in the case of a licence under this Chapter to abstract water) where it is a benefice which has a right of access to the relevant land**]**—

(a) an application for a licence under this Chapter may be made by the **[**[F142]Diocesan Board of Finance for the diocese in which the land is situated**]** if the benefice is for the time being vacant; and

(b) any reference in this Chapter to the applicant for a licence shall be construed—

(i) in relation to any time when the benefice in question is vacant, as a reference to the**[**[F142]Diocesan Board of Finance for the diocese in which the land is situated**]**; and

(ii) in relation to any time when there is an incumbent of the benefice, as a reference to that incumbent.

(2) Where the relevant land **[**[F143]is vested in the incumbent of a benefice**][**[F141]or (in the case of a licence under this Chapter to abstract water) where it is a benefice which has a right of access to the relevant land**]**, any licence under this Chapter shall provide that (notwithstanding anything in the preceding provisions of this Chapter) whoever is for the time being the incumbent of the benefice shall be the holder of the licence.

(3) Where a licence under this Chapter provides as mentioned in subsection (2) above—

(a) the licence shall not be required to specify the person to whom the licence is granted; and

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(b) the licence shall be deemed to be held by the **[**[F144]Diocesan Board of Finance for the diocese in which the land is situated**]** at any time when the benefice in question is vacant.

(4) So much of any compensation falling to be paid under this Chapter as is payable—

(a) in respect of damage to land which is ecclesiastical property and to the owner of the fee simple in the land; or

(b) in respect of depreciation of the value of the fee simple in land which is ecclesiastical property,

shall be paid (where the fee simple is vested in any person other than the **[**[F145]Diocesan Board of Finance for the diocese in which the land is situated**]**) to **[**[F146]it**]**, instead of to the person in whom the fee simple is vested.

(5) Any sums paid under subsection (4) above to the **[**[F147]Diocesan Board of Finance**]** with reference to any land shall—

(a) if the land is not consecrated, be applied by **[**[F147]it**]** for the purposes for which the proceeds of a sale by agreement of the fee simple in the land would be applicable under any enactment or Measure authorising such a sale or disposing of the proceeds of such a sale; and

(b) if the land is consecrated, be applied by **[**[F147]it**]****[**[F147]as if the land had been sold under the Pastoral Measure 1983**]**.

(6) Where—

(a) **[**[F148]a Diocesan Board of Finance is**]** required, by virtue of subsection (3)(b) above, to pay any fee or other charge in respect of a licence under this Chapter; and

(b) any moneys are then payable by the **[**[F149]Board**]** to the incumbent of the benefice in question or subsequently become so payable,

the **[**[F149]Board**]** shall be entitled to retain out of those moneys an amount not exceeding the amount of that fee or other charge.

(7) Where under any provision of this Chapter a document is required to be served on an owner of land and the land is ecclesiastical property, a copy of the document shall be served on the **[**[F150]Diocesan Board of Finance for the diocese in which the land is situated**]**.

(8) In this section —

"benefice" means an ecclesiastical benefice of the Church of England;

"ecclesiastical property" means land which—

(a) belongs to a benefice;

(b) is or forms part of a church subject to the jurisdiction of the bishop of any diocese of the Church of England or the site of a church so subject; or

(c) is or forms part of a burial ground so subject;

and

"the relevant land", in relation to a licence under this Chapter or an application for such a licence, means—

(a) **[**[F151]the land to which an applicant for a licence to abstract water is required by section 35 above to have a right of access; or**]**

(b) in the case of a licence for the purposes of section 25 above or an application for such a licence—

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(i) the land on which any part of the impounding works **[**[F152]is, or**]** is to be, or is proposed to be, constructed; or

(ii) in relation to an alteration of impounding works, the land on which any part of those works is situated or is to be, or is proposed to be, situated.

Textual Amendments

F140 Words in s. 67(1) substituted (1.10.2006) by Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), s. 16(2), **Sch. 5 para. 30(b)**; 2006 No. 2, Instrument made by Archbishops

F141 Words in s. 67(1)(2) inserted (1.4.2006) by Water Act 2003 (c. 37), s. 105(3), **Sch. 7 para. 8(2)**; S.I. 2006/984, art. 2(s)(i)

F142 Words in s. 67(1) substituted (1.10.2006) by Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), s. 16(2), **Sch. 5 para. 30(a)**; 2006 No. 2, Instrument made by Archbishops

F143 Words in s. 67(2) substituted (1.10.2006) by Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), s. 16(2), **Sch. 5 para. 30(b)**; 2006 No. 2, Instrument made by Archbishops

F144 Words in s. 67(3) substituted (1.10.2006) by Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), s. 16(2), **Sch. 5 para. 30(a)**; 2006 No. 2, Instrument made by Archbishops

F145 Words in s. 67(4) substituted (1.10.2006) by Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), s. 16(2), **Sch. 5 para. 30(a)**; 2006 No. 2, Instrument made by Archbishops

F146 Word in s. 67(4) substituted (1.10.2006) by Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), s. 16(2), **Sch. 5 para. 30(c)**; 2006 No. 2, Instrument made by Archbishops

F147 Words in s. 67(5) substituted (1.10.2006) by Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), s. 16(2), **Sch. 5 para. 30(d)**; 2006 No. 2, Instrument made by Archbishops

F148 Words in s. 67(6)(a) substituted (1.10.2006) by Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), s. 16(2), **Sch. 5 para. 30(e)**; 2006 No. 2, Instrument made by Archbishops

F149 Words in s. 67(6) substituted (1.10.2006) by Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), s. 16(2), **Sch. 5 para. 30(f)**; 2006 No. 2, Instrument made by Archbishops

F150 Words in s. 67(7) substituted (1.10.2006) by Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), s. 16(2), **Sch. 5 para. 30(a)**; 2006 No. 2, Instrument made by Archbishops

F151 Words in s. 67(8) substituted (1.4.2006) by Water Act 2003 (c. 37), s. 105(3), **Sch. 7 para. 8(3)**; S.I. 2006/984, art. 2(s)(i)

F152 Words in s. 67(8) inserted (1.4.2006) by Water Act 2003 (c. 37), **ss. 2(8)**, 105(3) (with s. 2(10)); S.I. 2006/984, art. 2(b) (with Sch. para. 2)

[F153]68 . . . . . .

Textual Amendments

F153 S. 68 repealed (21.9.1995) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 138, **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1995/1983, **art. 3**

69 Validity of decisions of Secretary of State and related proceedings.

(1) Except as provided by the following provisions of this section, the validity of a decision of the Secretary of State on—

(a) any appeal to the Secretary of State under this Chapter; or

(b) any reference to the Secretary of State in pursuance of a direction under section 41 above or in pursuance of section 53(4) above,

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shall not be questioned in any legal proceedings whatsoever.

(2) If, in the case of any such appeal or reference, the **[**[F154]Agency**]** or the other party desires to question the validity of the decision of the Secretary of State on the grounds—

(a) that the decision is not within the powers of this Act; or

(b) that any of the requirements of, or of any regulations made under, this Chapter which are applicable to the appeal or reference have not been complied with,

the **[**[F154]Agency**]** or, as the case may be, the other party may, at any time within the period of six weeks beginning with the date on which the decision is made, make an application to the High Court under this section.

(3) On any application under this section, the High Court may by interim order suspend the operation of the decision to which the application relates until the final determination of the proceedings.

(4) If the High Court is satisfied, on an application under this section—

(a) that the decision to which the application relates is not within the powers of this Act; or

(b) that the interests of the person making the application under this section have been substantially prejudiced by a failure to comply with any of the requirements mentioned in subsection (2)(b) above,

the High Court may quash the decision.

[F155](5) . . . . . .

(6) In this section—

"decision" includes a direction; and

"other party" —

(a) in relation to an appeal, means the appellant;

(b) in relation to a reference in pursuance of a direction under section 41 above, means the applicant for the licence or, where that section applies by virtue of section 51(3) above, for the revocation or variation; and

(c) in relation to a reference in pursuance of section 53(4) above, means (subject, without prejudice to their application to the other provisions of this Chapter, to subsections (6) and (7) of section 25 above) the holder of the licence.

Textual Amendments

F154 Words in s. 69 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F155 S. 69(5) repealed (21.9.1995) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 138, **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1995/1983, **art. 3**

70 Civil liability under Chapter II.

Except in so far as this Act otherwise expressly provides and subject to the provisions of section 18 of the [M15]Interpretation Act 1978 (which relates to offences under two or more laws), the restrictions imposed by sections **[**[F156]24 and 25**]** above shall not be construed as—

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(a) conferring a right of action in any civil proceedings (other than proceedings for the recovery of a fine) in respect of any contravention of those restrictions;
(b) affecting any restriction imposed by or under any other enactment, whether contained in a public general Act or in a local or private Act; or
(c) derogating from any right of action or other remedy (whether civil or criminal) in proceedings instituted otherwise than under this Chapter.

Textual Amendments

F156 Words in s. 70 substituted (1.4.2006) by Water Act 2003 (c. 37), **ss. 8(4)**, 105(3); S.I. 2006/984, art. 2(e) (with Sch. paras. 4, 5)

Marginal Citations

M15 1978 c. 30.

71 Modification of local enactments.

(1) If it appears to the Secretary of State by whom an order is made under a provision of this Chapter to which this section applies that any local enactment passed or made before the relevant date—
(a) is inconsistent with any of the provisions of that order; or
(b) requires to be amended or adapted, having regard to any of the provisions of that order,

the Secretary of State may by order repeal, amend or adapt that enactment to such extent, or in such manner, as he may consider appropriate.

(2) Any order under this section may include such transitional, incidental, supplementary and consequential provisions as the Secretary of State may consider necessary or expedient.

(3) The power to make an order under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

(4) This section applies to the following provisions of this Chapter, that is to say, sections 33, 66, 68 and 72(5).

(5) In this section—

"local enactment" means—
(a) a local or private Act;
(b) a public general Act relating to London;
(c) an order or scheme made under an Act, confirmed by Parliament or brought into operation in accordance with special parliamentary procedure; or
(d) an enactment in a public general Act amending a local or private Act or any such order or scheme;

"relevant date" means the date which was the second appointed day for the purposes of section 133 of the [M16]Water Resources Act 1963.

Status: *Point in time view as at 01/10/2006.*
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(6) The provisions of this section shall have effect without prejudice to the exercise of any other power to repeal, amend or adapt local enactments which is conferred by any other enactment.

Marginal Citations
M16 1963 c. 38.

72 Interpretation of Chapter II.

(1) In this Chapter—

"derogate", in relation to a protected right, shall be construed in accordance with section 39(4) above;

"flow" shall be construed subject to section 23(3) above;

[[F157]"full licence" has the meaning given in section 24A above;**]**

"impounding works" has the meaning given by section 25(8) above;

"licence", in relation to the variation or revocation of a licence, shall be construed subject to section 25(6) and (7) above;

"protected right" shall be construed in accordance with **[**[F158]section 39A**]** above;

"the restriction on abstraction" means the restriction imposed by section 24(1) above;

"the restriction on impounding works" means the restriction imposed by section **[**[F159]25(1)(a) and (b)**]** above;

"spray irrigation" means (subject to subsection (5) below) the irrigation of land or plants (including seeds) by means of water or other liquid emerging (in whatever form) from apparatus designed or adapted to eject liquid into the air in the form of jets or spray; and

"statutory provision" means a provision (whether of a general or special nature) which is contained in, or in any document made or issued under, any Act (whether of a general or special nature).

[[F157]"temporary licence" and "transfer licence" have the meanings given in section 24A above.**]**

(2) References in this Chapter to a watercourse shall not include references—

(a) to any sewer or part of a sewer vested in—

(i) a sewerage undertaker;

(ii) a local authority or joint planning board;

(iii) the Commission for the New Towns or a development corporation for a new town;

(iv) a harbour board within the meaning of the [M17]Railway and Canal Traffic Act 1888;

or

(b) to any adit or passage constructed in connection with a well, borehole or other similar work for facilitating the collection of water in the well, borehole or work.

(3) Any reference in this Chapter to the doing of anything in pursuance of a licence under this Chapter is a reference to its being done—

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(a) by the holder of such a licence; or

(b) by a person acting as a servant or agent of, or otherwise under the authority of, the holder of such a licence,

at a time when the licence is in force and in circumstances such that, if no such licence were in force, the doing of that thing would contravene a restriction imposed by this Chapter.

(4) For the purposes of this Chapter land shall be taken to be contiguous to any inland waters notwithstanding that it is separated from those waters by a towpath or by any other land used, or acquired for use, in connection with the navigation of the inland waters, unless that other land comprises any building or works other than a lock, pier, wharf, landing-stage or similar works.

(5) The Ministers may by order direct that references to spray irrigation in this Chapter, and in any other enactments in which "spray irrigation" is given the same meaning as in this Chapter, or such of those references as may be specified in the order—

(a) shall be construed as not including spray irrigation if carried out by such methods or in such circumstances or for such purposes as may be specified in the order; and

(b) without prejudice to the exercise of the power conferred by virtue of paragraph (a) above, shall be construed as including references to the carrying out, by such methods or in such circumstances or for such purposes as may be specified in the order, of irrigation of any such description, other than spray irrigation, as may be so specified.

(6) The power of the Ministers to make an order under subsection (5) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

Textual Amendments

F157 Words in s. 72(1) inserted (1.4.2006) by Water Act 2003 (c. 37), **ss. 1(2)**, 105(3); S.I. 2006/984, art. 2(a) (with Sch. paras. 1, 2)

F158 Words in s. 72(1) substituted (1.4.2005) by Water Act 2003 (c. 37), **ss. 17(2)**, 105(3); S.I. 2005/968, art. 2(d) (with Sch. 1 para. 2)

F159 Words in s. 72(1) substituted (1.4.2006) by Water Act 2003 (c. 37), **ss. 2(9)**, 105(3) (with s. 2(10)); S.I. 2006/984, art. 2(b) (with Sch. para. 2)

Modifications etc. (not altering text)

C44 S. 72(2)(a) applied (with modifications) (4.6.1996) by S.I. 1996/1243, art. 18, **Sch. 5 Pt. II para. 6(2)(a)**

Marginal Citations

M17 1888 c. 25.

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

CHAPTER III

DROUGHT

73 Power to make ordinary and emergency drought orders.

[[F160](1) If the Secretary of State is satisfied that, by reason of an exceptional shortage of rain, there exists or is threatened—

(a) a serious deficiency of supplies of water in any area, or

(b) such a deficiency in the flow or level of water in any inland waters as to pose a serious threat to any of the flora or fauna which are dependent on those waters,

then,**]**, subject to the following provisions of this Chapter, he may by order (in this Chapter referred to as an "ordinary drought order") make such provision authorised by this Chapter as appears to him to be expedient with a view to meeting the deficiency.

(2) If the Secretary of State—

(a) is satisfied that, by reason of an exceptional shortage of rain, a serious deficiency of supplies of water in any area exists or is threatened; and

(b) is further satisfied that the deficiency is such as to be likely to impair the economic or social well-being of persons in the area,

then, subject to the following provisions of this Chapter, he may by order (in this Chapter referred to as an "emergency drought order") make such provision authorised by this Chapter as appears to him to be expedient with a view to meeting the deficiency.

(3) Subject to section 76(3) below, the power to make a drought order in relation to any area shall not be exercisable **[**[F161]unless**]** an application is made to the Secretary of State—

(a) by the **[**[F162]Agency**]**; or

(b) **[**[F163]except in the case of an ordinary drought order by virtue of subsection (1)(b) above,**]**by a water undertaker which supplies water to premises in that area.

(4) The power to make a drought order shall be exercisable by statutory instrument; and Schedule 8 to this Act shall have effect with respect to the procedure on an application for such an order.

Textual Amendments

F160 Words in s. 73(1) substituted (21.9.1995) by 1995 c. 25, s. 120(1), **Sch. 22 para. 139(2)** (with ss. 7(6), 115, 117); S.I. 1995/1983, **art. 3**

F161 Words in s. 73 substituted (21.9.1995) by 1995 c. 25, s. 120(1), **Sch. 22 para. 139(3)(a)** (with ss. 7(6), 115, 117); S.I. 1995/1983, **art. 3**

F162 Word in s. 73 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F163 Words in s. 73 inserted (21.9.1995) by 1995 c. 25, s. 120(1), **Sch. 22 para. 139(3)(b)** (with ss. 7(6), 115, 117); S.I. 1995/1983, **art. 3**

74 Provisions and duration of ordinary drought order.

(1) An ordinary drought order made on the application of the **[**[F164]Agency**]** may contain any of the following provisions, that is to say—

Status: *Point in time view as at 01/10/2006.*
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(a) provision authorising the **[**[F164]Agency**]** (or persons authorised to do so by the **[**[F164]Agency**]**) to take water from any source specified in the order subject to any conditions or restrictions so specified;

(b) provision authorising the **[**[F164]Agency**]** (or persons authorised to do so by the **[**[F164]Agency**]**) to discharge water to any place specified in the order subject to any conditions or restrictions so specified;

(c) provision authorising the **[**[F164]Agency**]** to prohibit or limit the taking by any person (including a water undertaker) of water from a source specified in the order if the **[**[F164]Agency**]** is satisfied that the taking of water from that source seriously affects the supplies available to the **[**[F164]Agency**]**, any water undertaker or any other person;

(d) provision suspending or modifying, subject to any conditions specified in the order, any restriction or obligation to which the **[**[F164]Agency**]**, any water undertaker or sewerage undertaker or any other person is subject as respects—

(i) the taking of water from any source;

(ii) the discharge of water;

(iii) the supply of water (whether in point of quantity, pressure, quality, means of supply or otherwise); or

(iv) the filtration or other treatment of water;

(e) provision authorising the **[**[F164]Agency**]** to suspend or vary, or attach conditions to, any consent specified in the order for the discharge of any effluent by any person, including any sewerage undertaker or water undertaker.

(2) An ordinary drought order made on the application of a water undertaker may contain any of the following provisions, that is to say—

(a) provision authorising the water undertaker to take water from any source specified in the order subject to any conditions or restrictions so specified;

(b) provision authorising the water undertaker to prohibit or limit the use of water for any purpose specified in the order, being a purpose for the time being set out in a direction given by the Secretary of State to water undertakers generally as a purpose which may be specified by virtue of this paragraph in any ordinary drought order;

(c) provision authorising the water undertaker to discharge water to any place specified in the order subject to any conditions or restrictions so specified;

(d) provision authorising the **[**[F164]Agency**]** to prohibit or limit the taking by any person of water from a source specified in the order if the **[**[F164]Agency**]** is satisfied that the taking of water from that source seriously affects the supplies available to the water undertaker;

(e) provision prohibiting or limiting the taking by the **[**[F164]Agency**]** of water from a source specified in the order if the taking of water from that source is determined, in accordance with provision made by the order, seriously to affect the supplies available to the water undertaker;

(f) provision suspending or modifying, subject to any conditions specified in the order, any restriction or obligation to which the water undertaker or any sewerage undertaker or other person is subject as respects—

(i) the taking of water from any source;

(ii) the discharge of water;

(iii) the supply of water (whether in point of quantity, pressure, quality, means of supply or otherwise); or

(iv) the filtration or other treatment of water;

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(g) provision authorising the **[**[F164]Agency**]** to suspend or vary, or attach conditions to, any consent specified in the order for the discharge of any effluent by any person, including the company which applied for the order (whether in the capacity in which it made the application, in its capacity as a sewerage undertaker or in any other capacity).

(3) The period for which—

(a) an authorisation given by or under an ordinary drought order;

(b) a prohibition or limitation imposed by or under any such order; or

(c) a suspension or modification effected by or under any such order,

has effect shall expire before the end of the period of six months beginning with the day on which the order comes into force, unless that period of six months is extended, in relation to that order, by virtue of the exercise by the Secretary of State of his power (subject to subsection (4) below) to amend the order.

(4) The power of the Secretary of State to amend an ordinary drought order shall not be exercised so as to extend the period of six months mentioned in subsection (3) above beyond the end of the period of one year beginning with the day on which that order came into force.

(5) Without prejudice to the following provisions of this Chapter, an ordinary drought order may—

(a) make different provision for different cases, including different provision in relation to different persons, circumstances or localities; and

(b) contain such supplemental, consequential and transitional provision as the Secretary of State considers appropriate.

Textual Amendments

F164 Words in s. 74 substituted (subject to other provisions of the amending act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

75 Provisions and duration of emergency drought order.

(1) An emergency drought order made on the application of the **[**[F165]Agency**]** may contain any of the provisions which could be included, by virtue of section 74(1) above, in an ordinary drought order made on the application of the **[**[F165]Agency**]**.

(2) An emergency drought order made on the application of a water undertaker may contain any of the following provisions, that is to say—

(a) any provision which could be included, by virtue of subsection (2) of section 74 above, in an ordinary drought order made on the application of a water undertaker, except provision authorised by paragraph (b) of that subsection;

(b) provision authorising the water undertaker to prohibit or limit the use of water for such purposes as the water undertaker thinks fit;

(c) provision authorising the water undertaker—

(i) to supply water in its area, or in any place within its area, by means of stand-pipes or water tanks; and

(ii) to erect or set up and maintain stand-pipes or water tanks in any street in that area.

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(3) The period for which—

(a) an authorisation given by or under an emergency drought order;

(b) a prohibition or limitation imposed by or under any such order; or

(c) a suspension or modification effected by or under any such order,

has effect shall expire before the end of the period of three months beginning with the day on which the order comes into force unless that period of three months is extended, in relation to that order, by virtue of the exercise by the Secretary of State of his power (subject to subsection (4) below) to amend the order.

(4) The power of the Secretary of State to amend an emergency drought order shall not be exercised so as to extend the period of three months mentioned in subsection (3) above beyond the end of the period of five months beginning with the day on which that order came into force.

(5) Where powers have been conferred by an emergency drought order on any person—

(a) the Secretary of State may give to that person such directions as he considers necessary or expedient as to the manner in which, or the circumstances in which, any of those powers is or is not to be exercised;

(b) it shall be the duty of that person to comply with any such direction; and

(c) where that person is a water undertaker or sewerage undertaker, the duty to comply with any such direction shall be enforceable under section 18 of the [M18]Water Industry Act 1991 by the Secretary of State.

(6) The giving of a direction under subsection (5) above in relation to any power shall not affect—

(a) the validity of anything done in the exercise of that power before the giving of the direction; or

(b) any obligation or liability incurred before the giving of the direction.

(7) Without prejudice to the following provisions of this Chapter, an emergency drought order may—

(a) make different provision for different cases, including different provision in relation to different persons, circumstances or localities; and

(b) contain such supplemental, consequential and transitional provision as the Secretary of State considers appropriate.

Textual Amendments

F165 Words in s. 75 substituted (subject to other provisions of the amending act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Marginal Citations

M18 1991 c. 56.

76 Provisions of drought order restricting use of water.

(1) The following provisions apply where a drought order contains a provision authorising a water undertaker to prohibit or limit the use of water, that is to say—

(a) the power may be exercised in relation to consumers generally, a class of consumer or a particular consumer;

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(b) the water undertaker shall take such steps as it thinks appropriate for bringing the prohibition or limitation to the attention of the persons to whom the prohibition or limitation will apply and, in particular, shall (as the undertaker thinks appropriate)—

(i) cause notice of the prohibition or limitation to be published in one or more local newspapers circulating within that part of the water undertaker's area which would be affected by the provision of the order; or

(ii) send notice of the prohibition or limitation to the persons to whom the prohibition or limitation will apply;

(c) the prohibition or limitation shall not come into operation until the end of the period of seventy-two hours beginning with the day on which the notice is published or, as the case may be, sent to the person in question.

(2) The Secretary of State may revoke or vary any direction given by him for the purposes of section 74(2)(b) above by a further direction for those purposes.

(3) Where any purpose set out in a direction given for the purposes of section 74(2)(b) above will cease, by virtue of the variation or revocation of the direction, to be one which may be specified in an ordinary drought order, the Secretary of State shall (without an application having been made to him) exercise his power to vary or revoke ordinary drought orders, in so far as any orders in force will be affected by the variation or revocation of the direction, so as to make those orders conform to the variation or reflect the revocation.

(4) The revocation or variation of a direction under subsection (3) above shall not affect either—

(a) the validity of anything done in pursuance of an order before the giving of the further direction; or

(b) any obligation or liability accrued or incurred before the giving of the further direction.

77 Provisions of drought order with respect to abstractions and discharges.

(1) Any drought order which-

(a) authorises the taking of water from a source from which water is supplied to an inland navigation; or

(b) suspends or modifies—

(i) a restriction as respects the taking of water from a source from which water is supplied to an inland navigation; or

(ii) an obligation to discharge compensation water into a canal or into any river or stream which forms part of, or from which water is supplied to, an inland navigation,

may include provision for prohibiting or imposing limitations on the taking of water from the inland navigation or for the suspension or modification of any obligation to which a navigation authority are subject as respects the discharge of water from the inland navigation.

(2) A prohibition or limitation by or under a drought order on the taking of water from any source may be imposed so as to have effect in relation to a source from which a person to whom the prohibition or limitation applies has a right to take water whether by virtue of an enactment or instrument, an agreement or the ownership of land.

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(3) Where a drought order made on the application of a water undertaker confers power on the **[**[F166]Agency**]**—

(a) to prohibit or limit the taking of water from any source; or

(b) to suspend or vary, or attach conditions to, any consent for the discharge of any effluent,

the **[**[F166]Agency**]** shall exercise that power in such manner as will ensure, so far as reasonably practicable, that the supplies of water available to the water undertaker are not seriously affected.

[F167](4) . . . . . .

(5) Where—

(a) any drought order confers power on the **[**[F166]Agency**]** to suspend or vary, or attach conditions to, any consent for the discharge of any effluent; and

(b) the **[**[F166]Agency**]** exercises that power so as to restrict the discharge of effluent by a sewerage undertaker,

the sewerage undertaker may so modify any consents or agreements relating to the discharge by other persons of trade effluent as to enable it to comply with any requirements or conditions imposed on it by or under the order with respect to discharges from sewers or works of the undertaker.

(6) In this section—

"compensation water" means water which a water undertaker or the **[**[F166]Agency**]** is under an obligation to discharge—

(a) in accordance with the provisions of a licence under Chapter II of this Part into a source of supply; or

(b) under any local statutory provision, into any river, stream, brook or other running water or into a canal;

and

"inland navigation" includes any canal or navigable river.

Textual Amendments

F166 Words in s. 77 substituted (subject to other provisions of the amending act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F167 S. 77(4) repealed (1.4.2004) by Water Act 2003 (c. 37), ss. 64(1), 105(3), **Sch. 9 Pt. 3**; S.I. 2004/641, art. 3(o)(z)

78 Works under drought orders.

(1) A drought order may authorise the **[**[F168]Agency**]** or a water undertaker, subject to any conditions and restrictions specified in the order, to carry out any works required for the performance of any duty or the exercise of any power which is imposed or conferred by or under the order.

(2) A drought order authorising the **[**[F168]Agency**]** or a water undertaker to carry out any works—

(a) may authorise the **[**[F168]Agency**]** or that undertaker for that purpose to enter upon any land specified in the order and to occupy and use the land to

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such extent and in such manner as may be requisite for the carrying out and maintenance of the works; and

(b) may apply in relation to the carrying out of the works such of the provisions of Part VII of this Act or Part VI of the [M19]Water Industry Act 1991 as appear to the Secretary of State to be appropriate, subject to such modifications as may be specified in the order.

(3) The Secretary of State shall include in any drought order authorising the **[**[F168]Agency**]** or a water undertaker to enter any land provisions requiring the **[**[F168]Agency**]** or that undertaker to give to the occupier of the land and to such other persons concerned with the land as may be specified in the order not less than twenty-four hours' notice of any intended entry.

(4) Subject to subsection (3) above, a drought order may make any such provision in relation to provisions of the order authorising any person to enter any land as corresponds to provision having effect by virtue of section 173 below or to provision contained in Part II of Schedule 6 to the Water Industry Act 1991.

(5) Any works to be carried out under the authority of an emergency drought order shall be included in the definition of emergency works in section 52 of the New Roads and Street Works Act 1991.

(6) Until the coming into force of section 52 of the [M20]New Roads and Street Works Act 1991, subsection (5) above shall have effect as if the reference to that section were a reference to section 39(1) of the [M21]Public Utilities Street Works Act 1950; but nothing in this section shall be taken to prejudice the power of the Secretary of State under that Act of 1991 to make an order bringing that section 52 into force on different days for different purposes (including the purposes of this section).

Textual Amendments

F168 Words in s. 78 substituted (subject to other provisions of the amending act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Marginal Citations

M19 1991 c. 56.
M20 1991 c. 22.
M21 1950 c. 39.

79 Compensation and charges where drought order made.

(1) Schedule 9 to this Act shall have effect with respect to the payment of compensation where a drought order has been made.

(2) Except as provided by Schedule 9 to this Act, neither the **[**[F169]Agency**]** nor any water undertaker or sewerage undertaker shall incur any liability to any person for loss or damage sustained by reason of anything done in pursuance of any drought order or of any omission in pursuance of such an order.

(3) Nothing in any drought order shall affect the right of the **[**[F169]Agency**]**, a water undertaker or a sewerage undertaker, in the event of an interruption or diminution of the supply of water, to recover any fixed or minimum charge which might have been recovered from any person by the **[**[F169]Agency**]** or that undertaker if there had been no such interruption or diminution.

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[[F170](4) Where a water undertaker makes an application for a drought order, the Agency may recover from the water undertaker any expenses it incurs (whether of a revenue or capital nature)—

(a) in connection with any local inquiry held in respect of the application;

(b) in the exercise of the Agency's functions so far as their exercise is attributable to the application and (if the order is made) to the order,

in so far as those expenses have not been recovered (whether from the water undertaker or not) under or by virtue of any other enactment.

(5) Sections 125 to 129 below shall not apply in respect of any charges which may be made under subsection (4) above.**]**

Textual Amendments

F169 Words in s. 79 substituted (subject to other provisions of the amending act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F170 S. 79(4)(5) added (1.4.2004) by Water Act 2003 (c. 37), **ss. 64(2)**, 105(3); S.I. 2004/641, art. 3(o) (with Sch. 3 para. 7)

[[F171]79A Drought permits.

(1) If the Agency is satisfied that, by reason of an exceptional shortage of rain, a serious deficiency of supplies of water in any area exists or is threatened then, subject to the following provisions of this section, it may, upon the application of a water undertaker which supplies water to premises in that area, issue to that undertaker a drought permit making such provision authorised by this section as appears to the Agency to be expedient with a view to meeting the deficiency.

(2) A drought permit may contain any of the following provisions, that is to say—

(a) provision authorising the water undertaker to which it is issued to take water from any source specified in the permit subject to any conditions or restrictions so specified;

(b) provision suspending or modifying, subject to any conditions specified in the permit, any restriction or obligation to which that undertaker is subject as respects the taking of water from any source.

(3) A drought permit shall specify—

(a) the day on which it comes into force; and

(b) the period for which, subject to subsections (4) and (5) below, any authorisation given, or suspension or modification effected, by the permit is to have effect.

(4) Subject to subsection (5) below, the period for which—

(a) an authorisation given by a drought permit, or

(b) a suspension or modification effected by such a permit,

has effect shall expire before the end of the period of six months beginning with the day on which the permit comes into force.

(5) At any time before the expiration of the period for which such an authorisation, suspension or modification has effect, the Agency may, by giving notice to the water undertaker to which the permit in question was issued, extend that period, but not so

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as to extend it beyond the end of the period of one year beginning with the day on which the permit came into force.

(6) A drought permit which—

(a) authorises the taking of water from a source from which water is supplied to an inland navigation; or

(b) suspends or modifies—

(i) a restriction as respects the taking of water from a source from which water is supplied to an inland navigation; or

(ii) an obligation to discharge compensation water into a canal or into any river or stream which forms part of, or from which water is supplied to, an inland navigation,

shall not be issued without the consent of every navigation authority exercising functions over any or all of the parts of the canal or inland navigation in question which are affected by the permit.

(7) Schedule 8 to this Act shall have effect with respect to the procedure on an application for a drought permit as it has effect with respect to the procedure on an application for a drought order, but with the following modifications, that is to say—

(a) with the substitution for any reference to a drought order of a reference to a drought permit;

(b) with the substitution for any reference to the Secretary of State of a reference to the Agency;

(c) with the omission of the reference to the Agency in the Table in paragraph 1;

(d) with the insertion, in paragraph 1(3)(c), of a requirement that the notice in question shall specify the address at which any objections are to be made to the Agency; and

(e) with the omission—

(i) of paragraph 2(1)(a) and the word “either" immediately preceding it, and

(ii) of paragraph 2(6).

F172(8) . . . . . .

[F173(8A) Where a water undertaker makes an application for a drought permit, the Agency may recover from the water undertaker any expenses it incurs (whether of a revenue or capital nature) in the exercise of its functions so far as their exercise is attributable to—

(a) the application;

(b) (if the permit is issued) the permit,

in so far as those expenses have not been recovered (whether from the water undertaker or not) under or by virtue of any other enactment.

(8B) Sections 125 to 129 below shall not apply in respect of any charges which may be made under subsection (8A) above.**]**

(9) Section 79 above and Schedule 9 to this Act shall apply in relation to drought permits and their issue as they apply in relation to ordinary drought orders and their making.

(10) A drought permit may—

(a) make different provision for different cases, including different provision in relation to different persons, circumstances or localities; and

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(b) contain such supplemental, consequential and transitional provisions as the Agency considers appropriate.

(11) In this section—

"compensation water" has the same meaning as in section 77 above;
"drought permit" means a drought permit under this section;
"inland navigation" has the same meaning as in section 77 above.**]**

Textual Amendments

F171 S. 79A inserted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 140** (with 7(6), 115, 117); S.I. 1996/186, **art. 3**

F172 S. 79A(8) repealed (1.4.2004) by Water Act 2003 (c. 37), ss. 64(3)(a), 105(3), **Sch. 9 Pt. 3**; S.I. 2004/641, art. 3(o)(z)

F173 S. 79A(8A)(8B) inserted (1.4.2004) by Water Act 2003 (c. 37), **ss. 64(3)(b)**, 105(3); S.I. 2004/641, art. 3(o) (with Sch. 3 para. 7)

80 Offences against drought order.

(1) If any person—

(a) takes or uses water in contravention of a prohibition or limitation imposed by or under any drought order or takes or uses water otherwise than in accordance with any condition or restriction **[**[F174]imposed by or under any drought order or by any drought permit**]**; or

(b) discharges water otherwise than in accordance with any condition or restriction imposed by or under such an order,

he shall be guilty of an offence under this section.

(2) If any person—

(a) fails to construct or maintain in good order a gauge, weir or other apparatus for measuring the flow of water which he was required to construct or maintain by any drought order **[**[F175]or drought permit**]**; or

(b) fails to allow some person authorised for the purpose by or under any such order **[**[F176]or by virtue of any such permit**]** to inspect and examine any such apparatus or any records made thereby or kept by that person in connection therewith or to take copies of any such records,

he shall be guilty of an offence under this section.

(3) In any proceedings against any person for an offence under this section it shall be a defence for that person to show that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(4) A person who is guilty of an offence under this section shall be liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum;

(b) on conviction on indictment, to a fine.

Textual Amendments

F174 Words in s. 80(1)(a) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 141(a)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

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F175 Words in s. 80(2)(a) inserted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 141(b)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F176 Words in s. 80(2)(b) inserted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 141(c)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

81 Interpretation of Chapter III.

In this Chapter—

(a) references to the taking of water include references to the collection, impounding, diversion or appropriation of water; and

(b) references to an obligation or to a restriction include references to an obligation or, as the case may be, to a restriction which is imposed by or under any enactment or agreement.

PART III

CONTROL OF POLLUTION OF WATER RESOURCES

Modifications etc. (not altering text)

C45 Pt. III (ss. 82-104) modified (subject to other provisions of the amending Act) (1.2.1996) by 1995 c. 25, **s. 5(5)(g)** (with ss. 7(6), 115, 117); S,I. 1996/186, art. 2

C46 Pt. III (ss. 82-104): functions transferred to the Environment Agency (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, **s. 2(1)(a)(ii)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

C47 Pt. III: definition of "controlled waters" applied (1.12.1991) by water Consolidation (Consequential Provisions) Act 1991 (c. 60, SIF 130), ss. 2(1), 4(2), **Sch. 1 para. 1**

CHAPTER I

QUALITY OBJECTIVES

82 Classification of quality of waters.

(1) The Secretary of State may, in relation to any description of controlled waters (being a description applying to some or all of the waters of a particular class or of two or more different classes), by regulations prescribe a system of classifying the quality of those waters according to criteria specified in the regulations.

(2) The criteria specified in regulations under this section in relation to any classification shall consist of one or more of the following, that is to say—

(a) general requirements as to the purposes for which the waters to which the classification is applied are to be suitable;

(b) specific requirements as to the substances that are to be present in or absent from the water and as to the concentrations of substances which are or are required to be present in the water;

(c) specific requirements as to other characteristics of those waters;

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and for the purposes of any such classification regulations under this section may provide that the question whether prescribed requirements are satisfied may be determined by reference to such samples as may be prescribed.

Modifications etc. (not altering text)

C48 S. 82 modified (1.7.1999) by S.I. 1999/672, art. 5, **Sch. 2**

C49 S. 82 amended (27.8.1993) by 1993 c. 12, ss. 40, 51(2), **Sch. 3 Pt. I para.9** (with s. 46).

83 Water quality objectives.

(1) For the purpose of maintaining and improving the quality of controlled waters the Secretary of State may, by serving a notice on the **[**[F177]Agency**]** specifying—

(a) one or more of the classifications for the time being prescribed under section 82 above; and

(b) in relation to each specified classification, a date,

establish the water quality objectives for any waters which are, or are included in, waters of a description prescribed for the purposes of that section.

(2) The water quality objectives for any waters to which a notice under this section relates shall be the satisfaction by those waters, on and at all times after each date specified in the notice, of the requirements which at the time of the notice were the requirements for the classification in relation to which that date is so specified.

(3) Where the Secretary of State has established water quality objectives under this section for any waters he may review objectives for those waters if—

(a) five years or more have elapsed since the service of the last notice under subsection (1) or (6) of this section to be served in respect of those waters; or

(b) the **[**[F177]Agency**]**, after consultation with such water undertakers and other persons as it considers appropriate, requests a review;

and the Secretary of State shall not exercise his power to establish objectives for any waters by varying the existing objectives for those waters except in consequence of such a review.

(4) Where the Secretary of State proposes to exercise his power under this section to establish or vary the objectives for any waters he shall—

(a) give notice setting out his proposal and specifying the period (not being less than three months from the date of publication of the notice) within which representations or objections with respect to the proposal may be made; and

(b) consider any representations or objections which are duly made and not withdrawn;

and, if he decides, after considering any such representations or objections, to exercise his power to establish or vary those objectives, he may do so either in accordance with the proposal contained in the notice or in accordance with that proposal as modified in such manner as he considers appropriate.

(5) A notice under subsection (4) above shall be given—

(a) by publishing the notice in such manner as the Secretary of State considers appropriate for bringing it to the attention of persons likely to be affected by it; and

(b) by serving a copy of the notice on the **[**[F177]Agency**]**.

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(6) If, on a review under this section or in consequence of any representations or objections made following such a review for the purposes of subsection (4) above, the Secretary of State decides that the water quality objectives for any waters should remain unchanged, he shall serve notice of that decision on the **[**[F177]Agency**]**.

Textual Amendments

F177 Words in s. 83 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

Modifications etc. (not altering text)

C50 S. 83 amended (20.3.1992) by S.I. 1992/337, **reg. 4**

C51 S. 83 applied (with modifications) (6.1.1997) by S.I. 1996/3001, **reg. 7(1)**
S. 83 applied (with modifications) (26.11.1997) by S.I. 1997/2560, **reg. 5**

C52 S. 83 modified (12.6.1997) by S.I. 1997/1331, **reg. 6(1)**
S. 83 modified (12.6.1997) by S.I. 1997/1332, **reg. 6(1)**
S. 83 modified (25.3.1998) by S.I. 1998/389, **reg. 5**

84 General duties to achieve and maintain objectives etc.

(1) It shall be the duty of the Secretary of State and of the **[**[F178]Agency**]** to exercise the powers conferred on him or it by or under the water pollution provisions of this Act (other than the preceding provisions of this Chapter and sections 104 and 192 below) in such manner as ensures, so far as it is practicable by the exercise of those powers to do so, that the water quality objectives specified for any waters in—

(a) a notice under section 83 above; or

(b) a notice under section 30C of the [M22]Control of Pollution Act 1974 (which makes corresponding provision for Scotland),

are achieved at all times.

(2) It shall be the duty of the **[**[F178]Agency**]**, for the purposes of the carrying out of its functions under the water pollution provisions of this Act—

(a) to monitor the extent of pollution in controlled waters; and

(b) to consult, in such cases as it may consider appropriate, with **[**[F179]the Scottish Environment Protection Agency**]**.

Textual Amendments

F178 Words in s. 84 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

F179 Words in s. 84(2)(b) substituted (S.) (1.4.1996) by S.I. 1996/973, reg. 2, **Sch. para. 11**

Modifications etc. (not altering text)

C53 S. 84 amended (27.8.1993) by 1993 c. 12, ss. 40, 51(2), **Sch. 3 Pt. I para. 9** (with s. 46).

Marginal Citations

M22 1974 c. 40.

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

CHAPTER II

POLLUTION OFFENCES

Modifications etc. (not altering text)

C54 Pt. III Chapter II (ss. 85-91) amended (1.5.1994) by S.I. 1994/1056, regs. 1(3), 19, **Sch. 4 Pt. I para. 11**

Principal offences

85 Offences of polluting controlled waters.

(1) A person contravenes this section if he causes or knowingly permits any poisonous, noxious or polluting matter or any solid waste matter to enter any controlled waters.

(2) A person contravenes this section if he causes or knowingly permits any matter, other than trade effluent or sewage effluent, to enter controlled waters by being discharged from a drain or sewer in contravention of a prohibition imposed under section 86 below.

(3) A person contravenes this section if he causes or knowingly permits any trade effluent or sewage effluent to be discharged—
- (a) into any controlled waters; or
- (b) from land in England and Wales, through a pipe, into the sea outside the seaward limits of controlled waters.

(4) A person contravenes this section if he causes or knowingly permits any trade effluent or sewage effluent to be discharged, in contravention of any prohibition imposed under section 86 below, from a building or from any fixed plant—
- (a) on to or into any land; or
- (b) into any waters of a lake or pond which are not inland freshwaters.

(5) A person contravenes this section if he causes or knowingly permits any matter whatever to enter any inland freshwaters so as to tend (either directly or in combination with other matter which he or another person causes or permits to enter those waters) to impede the proper flow of the waters in a manner leading, or likely to lead, to a substantial aggravation of—
- (a) pollution due to other causes; or
- (b) the consequences of such pollution.

(6) Subject to the following provisions of this Chapter, a person who contravenes this section or the conditions of any consent given under this Chapter for the purposes of this section shall be guilty of an offence and liable—
- (a) on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding £20,000 or to both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

Modifications etc. (not altering text)

C55 S. 85 restricted (13.4.2001) by S.I. 2001/1478, **reg. 3(c)**

C56 S. 85 applied by London Docklands Railway Act 1991 (c. xxiii), **s. 7(2)(a)**

C57 S. 85 applied (with modifications) (16.3.1992) by Avon Weir Act 1992 (c. v), **s. 18(6)** (with s. 61)

C58 S. 85 applied (with modifications) (13.2.1992) by British Railways Act 1992 (c. i), **s. 18(3)(a)**

C59 S. 85 applied (with modifications) (16.3.1992) by London Underground Act 1992 (c.iii), **s. 12(2)(a)**

C60 S. 85 applied (with modifications) (16.3.1992) by Aire and Calder Navigation Act 1992 (c. iv), **s. 18(4)(a)**

C61 S. 85 applied (with modifications) (18.6.1992) by British Railways (No. 2) Act 1992 (c. xi), **s. 22(4)(a)**

C62 S. 85 amended (27.8.1993) by 1993 c. 12, ss. 40, 51(2), **Sch. 3 Pt. I para.9** (with s. 46).

C63 S. 85 applied (with modifications) (29.3.1993) by 1993 c. iv, **s. 23(4)(a)** (with ss. 36, 41(5), 44(1)).

C64 S. 85 applied (with modifications) (27.5.1993) by 1993 c. vii, **s. 11(2)(a)** (with ss. 19(2), 29(1)).

C65 S. 85 applied (with modifications) (1.7.1993) by 1993 c. ix, **s. 9(2)(a)** (with ss. 15(2), 24(1)).

C66 S. 85 applied (with modifications) (27.7.1993) by 1993 c. xv, **s. 22(3)(a)** (with s. 44(1)).
S. 85 applied (with modifications) (31.3.1994) by 1994 c. iv, **s. 13(4)(a)**
S. 85 applied (with modifications) (5.7.1994) by 1994 c. ix, **s. 8(2)(a)**
S. 85 applied (with modifications) (21.7.1994) by 1994 c. xi, **s. 24(3)(a)**
S. 85 applied (with modifications) (21.7.1994) by 1994 c. xv, **s. 23(3)(a)**
S. 85 applied (with modifications) (7.3.1995) by S.I. 1995/519, **art. 16(5)**
S. 85 applied (with modifications) (28.7.1998) by 1998 c. iv, **s. 22(4)(a)**

C67 S. 85 modified (5.11.1993) by 1993 c.42, ss. 2, 19, Sch. 2 para. 10(8), Sch. 6 paras. 5, **8** (with s. 30(1), Sch. 2 para. 9).

C68 S. 85(1) modified by S.I. 1994/1056, Sch. 4 para. 11 (as inserted (15.5.2006) by The Waste Management (England and Wales) Regulations 2006 (S.I. 2006/937), regs. 1(2), **6(10)(c)**)

86 Prohibition of certain discharges by notice or regulations.

(1) For the purposes of section 85 above a discharge of any effluent or other matter is, in relation to any person, in contravention of a prohibition imposed under this section if, subject to the following provisions of this section—

(a) the **[**[F180]Agency**]** has given that person notice prohibiting him from making or, as the case may be, continuing the discharge; or

(b) the **[**[F180]Agency**]** has given that person notice prohibiting him from making or, as the case may be, continuing the discharge unless specified conditions are observed, and those conditions are not observed.

(2) For the purposes of section 85 above a discharge of any effluent or other matter is also in contravention of a prohibition imposed under this section if the effluent or matter discharged—

(a) contains a prescribed substance or a prescribed concentration of such a substance; or

(b) derives from a prescribed process or from a process involving the use of prescribed substances or the use of such substances in quantities which exceed the prescribed amounts.

(3) Nothing in subsection (1) above shall authorise the giving of a notice for the purposes of that subsection in respect of discharges from a vessel; and nothing in any regulations made by virtue of subsection (2) above shall require any discharge from a vessel to be treated as a discharge in contravention of a prohibition imposed under this section.

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(4) A notice given for the purposes of subsection (1) above shall expire at such time as may be specified in the notice.

(5) The time specified for the purposes of subsection (4) above shall not be before the end of the period of three months beginning with the day on which the notice is given, except in a case where the **[**[F180]Agency**]** is satisfied that there is an emergency which requires the prohibition in question to come into force at such time before the end of that period as may be so specified.

(6) Where, in the case of such a notice for the purposes of subsection (1) above as (but for this subsection) would expire at a time at or after the end of the said period of three months, an application is made before that time for a consent under this Chapter in respect of the discharge to which the notice relates, that notice shall be deemed not to expire until the result of the application becomes final—

(a) on the grant or withdrawal of the application;

(b) on the expiration, without the bringing of an appeal with respect to the decision on the application, of any period prescribed as the period within which any such appeal must be brought; or

(c) on the withdrawal or determination of any such appeal.

Textual Amendments

F180 Words in s. 86 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

Modifications etc. (not altering text)

C69 S. 86 applied (with modifications) (16.3.1992) by Avon Weir Act 1992 (c. v), **s. 18(6)** (with s. 61)
S. 86 applied (with modifications) (7.3.1995) by S.I. 1995/519, **art. 16(5)**

C70 S. 86 amended (27.8.1993) by 1993 c. 12, ss. 40, 51(2), **Sch. 3 Pt. I para. 9** (with s. 46).

87 Discharges into and from public sewers etc.

[[F181](1) This section applies for the purpose of determining liability where sewage effluent is discharged as mentioned in subsection (3) or (4) of section 85 above from any sewer or works ("the discharging sewer") vested in a sewerage undertaker ("the discharging undertaker").

(1A) If the discharging undertaker did not cause, or knowingly permit, the discharge it shall nevertheless be deemed to have caused the discharge if—

(a) matter included in the discharge was received by it into the discharging sewer or any other sewer or works vested in it;

(b) it was bound (either unconditionally or subject to conditions which were observed) to receive that matter into that sewer or works; and

(c) subsection (1B) below does not apply.

(1B) This subsection applies where the sewage effluent was, before being discharged from the discharging sewer, discharged through a main connection into that sewer or into any other sewer or works vested in the discharging undertaker by another sewerage undertaker ("the sending undertaker") under an agreement having effect between the discharging undertaker and the sending undertaker under section 110A of the Water Industry Act 1991.

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(1C) Where subsection (1B) above applies, the sending undertaker shall be deemed to have caused the discharge if, although it did not cause, or knowingly permit, the sewage effluent to be discharged into the discharging sewer, or into any other sewer or works of the discharging undertaker—

(a) matter included in the discharge was received by it into a sewer or works vested in it; and

(b) it was bound (either unconditionally or subject to conditions which were observed) to receive that matter into that sewer or works.**]**

(2) A sewerage undertaker shall not be guilty of an offence under section 85 above by reason only of the fact that a discharge from a sewer or works vested in the undertaker contravenes conditions of a consent relating to the discharge if—

(a) the contravention is attributable to a discharge which another person caused or permitted to be made into the sewer or works;

(b) the undertaker either was not bound to receive the discharge into the sewer or works or was bound to receive it there subject to conditions which were not observed; and

(c) the undertaker could not reasonably have been expected to prevent the discharge into the sewer or works.

(3) A person shall not be guilty of an offence under section 85 above in respect of a discharge which he caused or permitted to be made into a sewer or works vested in a sewerage undertaker if the undertaker was bound to receive the discharge there either unconditionally or subject to conditions which were observed.

[[F182](4) In this section "main connection" has the same meaning as in section 110A of the Water Industry Act 1991.**]**

Textual Amendments

F181 S. 87(1)(1A)(1B)(1C) substituted (1.7.1992) for s. 87(1) by Competition and Service (Utilities) Act 1992 (c. 43), **s. 46(1)(3)**; Competition and Service (Utilities) Act 1992 (Commencement No. 1) Order 1992, dated 29th May 1992

F182 S. 87(4) inserted (1.7.1992) by Competition and Service (Utilities) Act 1992 (c. 43), **s. 46(2)(3)**; Competition and Service (Utilities) Act 1992 (Commencement No. 1) Order 1992, dated 29 May 1992

Modifications etc. (not altering text)

C71 S. 87 applied (with modifications) (16.3.1992) by Avon Weir Act 1992 (c. v), **s. 18(6)** (with s. 61)
S. 87 applied (with modifications) (7.3.1995) by S.I. 1995/519, **art. 16(5)**

C72 S. 87(1) amended (27.8.1993) by 1993 c. 12, ss. 40, 51(2), **Sch. 3 Pt. I para.9** (with s. 46).

88 Defence to principal offences in respect of authorised discharges.

(1) Subject to the following provisions of this section, a person shall not be guilty of an offence under section 85 above in respect of the entry of any matter into any waters or any discharge if the entry occurs or the discharge is made under and in accordance with, or as a result of any act or omission under and in accordance with—

(a) a consent given under this Chapter or under Part II of the [M23]Control of Pollution Act 1974 (which makes corresponding provision for Scotland);

[[F183](aa) a permit granted, under regulations under section 2 of the Pollution Prevention and Control Act 1999, by an authority exercising functions under the

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regulations that are exercisable for the purpose of preventing or reducing emissions in to the air, water and land;**]**

(b) an authorisation for a prescribed process designated for central control granted under Part I of the [M24]Environmental Protection Act 1990;

(c) a waste management or disposal licence;

(d) a licence granted under Part II of the [M25]Food and Environment Protection Act 1985;

(e) section 163 below or section 165 of the [M26]Water Industry Act 1991 (discharges for works purposes);

(f) any local statutory provision or statutory order which expressly confers power to discharge effluent into water; or

(g) any prescribed enactment.

(2) Schedule 10 to this Act shall have effect, subject to section 91 below, with respect to the making of applications for consents under this Chapter for the purposes of subsection (1)(a) above and with respect to the giving, revocation and modification of such consents.

(3) Nothing in any disposal licence shall be treated for the purposes of subsection (1) above as authorising—

(a) any such entry or discharge as is mentioned in subsections (2) to (4) of section 85 above; or

(b) any act or omission so far as it results in any such entry or discharge.

(4) In this section—

"disposal licence" means a licence issued in pursuance of section 5 of the Control of Pollution Act 1974;

"statutory order" means—

(a) any order under section 168 below or section 167 of the Water Industry Act 1991 (compulsory works orders); or

(b) any order, byelaw, scheme or award made under any other enactment, including an order or scheme confirmed by Parliament or brought into operation in accordance with special parliamentary procedure;

and

"waste management licence" means such a licence granted under Part II of the the [M27]Environmental Protection Act 1990.

Textual Amendments

F183 S. 88(1)(aa) inserted (1.8.2000) by S.I. 2000/1973, reg. 39, **Sch. 10 para. 9**

Modifications etc. (not altering text)

C73 S. 88 excluded (5.11.1993) by 1993 c. 42, ss. 2, 19, Sch. 2 para. 10(8), Sch. 6 paras. 5, **8** (with s. 30(1), Sch. 2 para. 9).

C74 S. 88(1) applied (with modifications) (1.4.1999) by S.I. 1998/2746, **reg. 14(2)**

C75 S. 88(2) amended (27.8.1993) by 1993 c. 12, ss. 40, 51(2), **Sch. 3 Pt. I para. 9** (with s. 46).

Marginal Citations

M23 1974 c. 40.

M24 1990 c. 43.

M25 1985 c. 48.55.

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

M26 1991 c. 56.
M27 1990 c. 43.

89 Other defences to principal offences.

(1) A person shall not be guilty of an offence under section 85 above in respect of the entry of any matter into any waters or any discharge if—

(a) the entry is caused or permitted, or the discharge is made, in an emergency in order to avoid danger to life or health;

(b) that person takes all such steps as are reasonably practicable in the circumstances for minimising the extent of the entry or discharge and of its polluting effects; and

(c) particulars of the entry or discharge are furnished to the **[**[F184]Agency**]** as soon as reasonably practicable after the entry occurs.

(2) A person shall not be guilty of an offence under section 85 above by reason of his causing or permitting any discharge of trade or sewage effluent from a vessel.

(3) A person shall not be guilty of an offence under section 85 above by reason only of his permitting water from an abandoned mine **[**[F185]or an abandoned part of a mine**]**to enter controlled waters.

[[F186](3A) Subsection (3) above shall not apply to the owner or former operator of any mine or part of a mine if the mine or part in question became abandoned after 31st December 1999.

(3B) In determining for the purposes of subsection (3A) above whether a mine or part of a mine became abandoned before, on or after 31st December 1999 in a case where the mine or part has become abandoned on two or more occasions, of which—

(a) at least one falls on or before that date, and

(b) at least one falls after that date,

the mine or part shall be regarded as becoming abandoned after that date (but without prejudice to the operation of subsection (3) above in relation to that mine or part at, or in relation to, any time before the first of those occasions which falls after that date).

(3C) Where, immediately before a part of a mine becomes abandoned, that part is the only part of the mine not falling to be regarded as abandoned for the time being, the abandonment of that part shall not be regarded for the purposes of subsection (3A) or (3B) above as constituting the abandonment of the mine, but only of that part of it.**]**

(4) A person shall not, otherwise than in respect of the entry of any poisonous, noxious or polluting matter into any controlled waters, be guilty of an offence under section 85 above by reason of his depositing the solid refuse of a mine or quarry on any land so that it falls or is carried into inland freshwaters if—

(a) he deposits the refuse on the land with the consent of the **[**[F184]Agency**]**;

(b) no other site for the deposit is reasonably practicable; and

(c) he takes all reasonably practicable steps to prevent the refuse from entering those inland freshwaters.

(5) A highway authority or other person entitled to keep open a drain by virtue of section 100 of the [M28]Highways Act 1980 shall not be guilty of an offence under section 85 above by reason of his causing or permitting any discharge to be made from

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a drain kept open by virtue of that section unless the discharge is made in contravention of a prohibition imposed under section 86 above.

(6) In this section "mine" and "quarry" have the same meanings as in the [M29]Mines and Quarries Act 1954.

Textual Amendments

F184 Words in s. 89 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F185 Words in s. 89(3) inserted (subject to other provisions of the amending Act) (1.7.1998) by 1995 c. 25, **s. 60(1)** (with ss. 7(6), 115, 117); S.I. 1998/604, **art. 3**

F186 S. 89(3A)-(3C) inserted (subject to other provisions of the amending Act) (1.7.1998) by 1995 c. 25, **s. 60(2)** (with ss. 7(6), 115, 117); S.I. 1998/604, **art. 3**

Marginal Citations

M28 1980 c. 66.

M29 1954 c. 70.

Offences in connection with deposits and vegetation in rivers

90 Offences in connection with deposits and vegetation in rivers.

(1) A person shall be guilty of an offence under this section if, without the consent of the **[**[F187]Agency**]**, he—

(a) removes from any part of the bottom, channel or bed of any inland freshwaters a deposit accumulated by reason of any dam, weir or sluice holding back the waters; and

(b) does so by causing the deposit to be carried away in suspension in the waters.

(2) A person shall be guilty of an offence under this section if, without the consent of the **[**[F187]Agency**]**, he—

(a) causes or permits a substantial amount of vegetation to be cut or uprooted in any inland freshwaters, or to be cut or uprooted so near to any such waters that it falls into them; and

(b) fails to take all reasonable steps to remove the vegetation from those waters.

(3) A person guilty of an offence under this section shall be liable, on summary conviction, to a fine not exceeding level 4 on the standard scale.

(4) Nothing in subsection (1) above applies to anything done in the exercise of any power conferred by or under any enactment relating to land drainage, flood prevention or navigation.

(5) In giving a consent for the purposes of this section the **[**[F187]Agency**]** may make the consent subject to such conditions as it considers appropriate.

(6) The Secretary of State may by regulations provide that any reference to inland freshwaters in subsection (1) or (2) above shall be construed as including a reference to such coastal waters as may be prescribed.

Status: *Point in time view as at 01/10/2006.*
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Textual Amendments

F187 Words in s. 90 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

[F188 Consents for the purposes of sections 88 to 90

Textual Amendments

F188 Ss. 90A, 90B and preceding cross-heading inserted (subject to other provisions of the amending Act) (21.11.1996 for certain purposes and 31.12.1996 otherwise) by 1995 c. 25, s. 120(1), **Sch. 22 para. 142** (with ss. 7(6), 115, 117); S.I. 1996/2909, **arts. 2**, 3 (with art. 4)

F189 90A Applications for consent under section 89 or 90.

(1) Any application for a consent for the purposes of section 89(4)(a) or 90(1) or (2) above—

(a) must be made on a form provided for the purpose by the Agency, and

(b) must be advertised in such manner as may be required by regulations made by the Secretary of State,

except that paragraph (b) above shall not have effect in the case of an application of any class or description specified in the regulations as being exempt from the requirements of that paragraph.

(2) The applicant for such a consent must, at the time when he makes his application, provide the Agency—

(a) with all such information as it reasonably requires; and

(b) with all such information as may be prescribed for the purpose by the Secretary of State.

(3) The information required by subsection (2) above must be provided either on, or together with, the form mentioned in subsection (1) above.

(4) The Agency may give the applicant notice requiring him to provide it with all such further information of any description specified in the notice as it may require for the purpose of determining the application.

(5) If the applicant fails to provide the Agency with any information required under subsection (4) above, the Agency may refuse to proceed with the application or refuse to proceed with it until the information is provided.

Textual Amendments

F189 Ss. 90A, 90B and preceding cross-heading inserted (subject to other provisions of the amending Act) (21.11.1996 for certain purposes and 31.12.1996 otherwise) by 1995 c. 25, s. 120(1), **Sch. 22 para. 142** (with ss. 7(6), 115, 117); S.I. 1996/2909, **arts. 2**, 3 (with art. 4)

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[F190]90B Enforcement notices.

(1) If the Agency is of the opinion that the holder of a relevant consent is contravening any condition of the consent, or is likely to contravene any such condition, the Agency may serve on him a notice (an "enforcement notice").

(2) An enforcement notice shall—
- (a) state that the Agency is of the said opinion;
- (b) specify the matters constituting the contravention or the matters making it likely that the contravention will arise;
- (c) specify the steps that must be taken to remedy the contravention or, as the case may be, to remedy the matters making it likely that the contravention will arise; and
- (d) specify the period within which those steps must be taken.

(3) Any person who fails to comply with any requirement imposed by an enforcement notice shall be guilty of an offence and liable—
- (a) on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding £20,000 or to both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

(4) If the Agency is of the opinion that proceedings for an offence under subsection (3) above would afford an ineffectual remedy against a person who has failed to comply with the requirements of an enforcement notice, the Agency may take proceedings in the High Court for the purpose of securing compliance with the notice.

(5) The Secretary of State may, if he thinks fit in relation to any person, give to the Agency directions as to whether the Agency should exercise its powers under this section and as to the steps which must be taken.

(6) In this section—

"relevant consent" means—
- (a) a consent for the purposes of section 89(4)(a) or 90(1) or (2) above; or
- (b) a discharge consent, within the meaning of section 91 below; and

"the holder", in relation to a relevant consent, is the person who has the consent in question.**]**

Textual Amendments

F190 Ss. 90A, 90B and preceding cross-heading inserted (subject to other provisions of the amending Act) (21.11.1996 for certain purposes and 31.12.1996 otherwise) by 1995 c. 25, s. 120(1), **Sch. 22 para. 142** (with ss. 7(6), 115, 117); S.I. 1996/2909, **arts. 2**, 3 (with art. 4)

Appeals in respect of consents under Chapter II

91 Appeals in respect of consents under Chapter II.

(1) This section applies where the **[**[F191]Agency**]**, otherwise than in pursuance of a direction of the Secretary of State—

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) on an application for a consent under this Chapter for the purposes of section 88(1)(a) above, has refused a consent for any discharges;

(b) in giving a discharge consent, has made that consent subject to conditions;

(c) has revoked a discharge consent, modified the conditions of any such consent or provided that any such consent which was unconditional shall be subject to conditions;

(d) has, for the purposes of paragraph **[**[F192]8(1)**]** or (2) of Schedule 10 to this Act, specified a period in relation to a discharge consent without the agreement of the person who proposes to make, or makes, discharges in pursuance of that consent;

(e) has refused a consent for the purposes of section 89(4)(a) above for any deposit; [F193]. . .

(f) he refused a consent for the purposes of section 90 above for the doing of anything by any person or, in giving any such consent, made that consent subject to conditions;

[[F194](g) has refused a person a variation of any such consent as is mentioned in paragraphs (a) to (f) above or, in allowing any such variation, has made the consent subject to conditions; or

(h) has served an enforcement notice on any person.**]**

(2) The person, if any, who applied for the consent **[**[F195]or variation**]** in question, or any person whose deposits, discharges or other conduct is or would be authorised by the consent **[**[F196], or the person on whom the enforcement notice was served,**]** may appeal against the decision to the Secretary of State.

[[F197](2A) This section is subject to section 114 of the 1995 Act (delegation or reference of appeals etc).

(2B) An appeal under this section shall, if and to the extent required by regulations under subsection (2K) below, be advertised in such manner as may be prescribed by regulations under that subsection.

(2C) If either party to the appeal so requests or the Secretary of State so decides, an appeal shall be or continue in the form of a hearing (which may, if the person hearing the appeal so decides, be held, or held to any extent, in private).

(2D) On determining an appeal brought by virtue of any of paragraphs (a) to (g) of subsection (1) above against a decision of the Agency, the Secretary of State—

(a) may affirm the decision;

(b) where the decision was a refusal to grant a consent or a variation of a consent, may direct the Agency to grant the consent or to vary the consent, as the case may be;

(c) where the decision was as to the conditions of a consent, may quash all or any of those conditions;

(d) where the decision was to revoke a consent, may quash the decision;

(e) where the decision relates to a period specified for the purposes of paragraph 8(1) or (2) of Schedule 10 to this Act, may modify any provisions specifying that period;

and where he exercises any of the powers in paragraphs (b), (c) or (d) above, he may give directions as to the conditions to which the consent is to be subject.

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(2E) On the determination of an appeal brought by virtue of paragraph (h) of subsection (1) above, the Secretary of State may either quash or affirm the enforcement notice and, if he affirms it, may do so either in its original form or with such modifications as he may in the circumstances think fit.

(2F) Subject to subsection (2G) below, where an appeal is brought by virtue of subsection (1)(c) above against a decision—

(a) to revoke a discharge consent,

(b) to modify the conditions of any such consent, or

(c) to provide that any such consent which was unconditional shall be subject to conditions,

the revocation, modification or provision shall not take effect pending the final determination or the withdrawal of the appeal.

(2G) Subsection (2F) above shall not apply to a decision in the case of which the notice effecting the revocation, modification or provision in question includes a statement that in the opinion of the Agency it is necessary for the purpose of preventing or, where that is not practicable, minimising—

(a) the entry into controlled waters of any poisonous, noxious or polluting matter or any solid waste matter, or

(b) harm to human health,

that that subsection should not apply.

(2H) Where the decision under appeal is one falling within subsection (2G) above, if, on the application of the holder or former holder of the consent, the Secretary of State or other person determining the appeal determines that the Agency acted unreasonably in excluding the application of subsection (2F) above, then—

(a) if the appeal is still pending at the end of the day on which the determination is made, subsection (2F) above shall apply to the decision from the end of that day; and

(b) the holder or former holder of the consent shall be entitled to recover compensation from the Agency in respect of any loss suffered by him in consequence of the exclusion of the application of that subsection;

and any dispute as to a person's entitlement to such compensation or as to the amount of it shall be determined by arbitration.

(2J) Where an appeal is brought under this section against an enforcement notice, the bringing of the appeal shall not have the effect of suspending the operation of the notice.

(2K) Provision may be made by the Secretary of State by regulations with respect to appeals under this section and in particular—

(a) as to the period within which and the manner in which appeals are to be brought; and

(b) as to the manner in which appeals are to be considered.**]**

(8) In this section "discharge consent" means such a consent under this Chapter for any discharges or description of discharges as is given for the purposes of section 88(1)(a) above either on an application for a consent or, by virtue of paragraph **[**[F198]6**]** of Schedule 10 to this Act, without such an application having been made.

Status: *Point in time view as at 01/10/2006.*
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Textual Amendments

F191 Words in s. 91 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F192 Words in s. 91(1)(d) substituted (subject to other provisions of the amending Act) (21.11.1996 for certain purposes and 31.12.1996 otherwise) by 1995 c. 25, s. 120(1), **Sch. 22 para. 143(1)(a)** (with ss. 7(6), 115, 117); S.I. 1996/2909, **arts. 2**, 3 (with art. 4)

F193 Word in s. 91(1) repealed (1.4.1997) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/2560, **art. 2**

F194 S. 91(1)(g)(h) added (subject to other provisions of the amending Act) (21.11.1996 for certain purposes and 31.12.1996 otherwise) by 1995 c. 25, s. 120(1), **Sch. 22 para. 143(1)(b)** (with ss. 7(6), 115, 117); S.I. 1996/2909, **arts. 2**, 3 (with art. 4)

F195 Words in s. 91(2) inserted (subject to other provisions of the amending Act) (21.11.1996 for certain purposes and 31.12.1996 otherwise) by 1995 c. 25, s. 120(1), **Sch. 22 para. 143(2)(a)** (with ss. 7(6), 115, 117); S.I. 1996/2909, **arts. 2**, 3 (with art. 4)

F196 Words in s. 91(2) inserted (subject to other provisions of the amending Act) (21.11.1996 for certain purposes and 31.12.1996 otherwise) by 1995 c. 25, s. 120(1), **Sch. 22 para. 143(2)(b)** (with ss. 7(6), 115, 117); S.I. 1996/2909, **arts. 2**, 3 (with art. 4)

F197 S. 91(2A)-(2K) substituted for s. 91(3)-(7) (subject to other provisions of the amending Act) (21.11.1996 for certain purposes and 31.12.1996 otherwise) by 1995 c. 25, s. 120(1), **Sch. 22 para. 143(3)** (with ss. 7(6), 115, 117); S.I. 1996/2909, **arts. 2**, 3 (with art. 4)

F198 Word in s. 91(8) substituted (subject to other provisions of the amending Act) (21.11.1996 for certain purposes and 31.12.1996 otherwise) by 1995 c. 25, s. 120(1), **Sch. 22 para. 143(4)** (with ss. 7(6), 115, 117); S.I. 1996/2909, **arts. 2**, 3 (with art. 4)

Modifications etc. (not altering text)

C76 S. 91: power to delegate functions conferred (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, **s. 114(2)(a)(v)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

[F199 CHAPTER IIA

ABANDONED MINES

Textual Amendments

F199 Chapter IIA (ss. 91A-91B) inserted (subject to other provisions of the amending Act) (21.9.1995 for certain purposes and 1.7.1998 otherwise) by 1995 c. 25, **s. 58** (with ss. 7(6), 115, 117); S.I. 1995/1983, **art. 3** (with art. 4); S.I. 1998/604, **art. 3**

F200 91A Introductory.

(1) For the purposes of this Chapter, "abandonment", in relation to a mine,—

(a) subject to paragraph (b) below, includes—

(i) the discontinuance of any or all of the operations for the removal of water from the mine;

(ii) the cessation of working of any relevant seam, vein or vein-system;

(iii) the cessation of use of any shaft or outlet of the mine;

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(iv) in the case of a mine in which activities other than mining activities are carried on (whether or not mining activities are also carried on in the mine)—

(A) the discontinuance of some or all of those other activities in the mine; and

(B) any substantial change in the operations for the removal of water from the mine; but

(b) does not include—

(i) any disclaimer under section 178 or 315 of the [M30]Insolvency Act 1986 (power of liquidator, or trustee of a bankrupt's estate, to disclaim onerous property) by the official receiver acting in a compulsory capacity; or

(ii) the abandonment of any rights, interests or liabilities by the Accountant in Bankruptcy acting as permanent or interim trustee in a sequestration (within the meaning of the [M31]Bankruptcy (Scotland) Act 1985);

and cognate expressions shall be construed accordingly.

(2) In this Chapter, except where the context otherwise requires—

"the 1954 Act" means the [M32]Mines and Quarries Act 1954;

"acting in a compulsory capacity", in the case of the official receiver, means acting as—

(a) liquidator of a company;

(b) receiver or manager of a bankrupt's estate, pursuant to section 287 of the [M33]Insolvency Act 1986;

(c) trustee of a bankrupt's estate;

(d) liquidator of an insolvent partnership;

(e) trustee of an insolvent partnership;

(f) trustee, or receiver or manager, of the insolvent estate of a deceased person;

"mine" has the same meaning as in the 1954 Act;

"the official receiver" has the same meaning as it has in the [M34]Insolvency Act 1986 by virtue of section 399(1) of that Act;

"prescribed" means prescribed in regulations;

"regulations" means regulations made by the Secretary of State;

"relevant seam, vein or vein-system", in the case of any mine, means any seam, vein or vein-system for the purpose of, or in connection with, whose working any excavation constituting or comprised in the mine was made.

Textual Amendments

F200 Chapter IIA (ss. 91A-91B) inserted (subject to other provisions of the amending Act) (21.9.1995 for certain purposes and 1.7.1998 otherwise) by 1995 c. 25, **s. 58** (with ss. 7(6), 115, 117); S.I. 1995/1983, **art. 3** (with art. 4); S.I. 1998/604, **art. 3**

Marginal Citations

M30 1986 c. 45.

M31 1985 c. 66.

M32 1954 c. 70.

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

M33 1986 c. 45.
M34 1986 c. 45.

[F201]91B Mine operators to give the Agency six months' notice of any proposed abandonment.

(1) If, in the case of any mine, there is to be an abandonment at any time after the expiration of the initial period, it shall be the duty of the operator of the mine to give notice of the proposed abandonment to the Agency at least six months before the abandonment takes effect.

(2) A notice under subsection (1) above shall contain such information (if any) as is prescribed for the purpose, which may include information about the operator's opinion as to any consequences of the abandonment.

(3) A person who fails to give the notice required by subsection (1) above shall be guilty of an offence and liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to a fine.

(4) A person shall not be guilty of an offence under subsection (3) above if—
- (a) the abandonment happens in an emergency in order to avoid danger to life or health; and
- (b) notice of the abandonment, containing such information as may be prescribed, is given as soon as reasonably practicable after the abandonment has happened.

(5) Where the operator of a mine is—
- (a) the official receiver acting in a compulsory capacity, or
- (b) the Accountant in Bankruptcy acting as permanent or interim trustee in a sequestration (within the meaning of the [M35]Bankruptcy (Scotland) Act 1985),

he shall not be guilty of an offence under subsection (3) above by reason of any failure to give the notice required by subsection (1) above if, as soon as reasonably practicable (whether before or after the abandonment), he gives to the Agency notice of the abandonment or proposed abandonment, containing such information as may be prescribed.

(6) Where a person gives notice under subsection (1), (4)(b) or (5) above, he shall publish prescribed particulars of, or relating to, the notice in one or more local newspapers circulating in the locality where the mine is situated.

(7) Where the Agency—
- (a) receives notice under this section or otherwise learns of an abandonment or proposed abandonment in the case of any mine, and
- (b) considers that, in consequence of the abandonment or proposed abandonment taking effect, any land has or is likely to become contaminated land, within the meaning of Part IIA of the [M36]Environmental Protection Act 1990,

it shall be the duty of the Agency to inform the local authority in whose area that land is situated of the abandonment or proposed abandonment.

(8) In this section—

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"the initial period" means the period of six months beginning with the day on which subsection (1) above comes into force;

"local authority" means—

(a) any unitary authority;

(b) any district council, so far as it is not a unitary authority;

(c) the Common Council of the City of London and, as respects the Temples, the Sub-Treasurer of the Inner Temple and the Under-Treasurer of the Middle Temple respectively;

"unitary authority" means—

(a) the council of a county, so far as it is the council of an area for which there are no district councils;

(b) the council of any district comprised in an area for which there is no county council;

(c) the council of a London borough;

(d) the council of a county borough in Wales.**]**

Textual Amendments

F201 Chapter IIA (ss. 91A-91B) inserted (subject to other provisions of the amending Act) (21.9.1995 for certain purposes and 1.7.1998 otherwise) by 1995 c. 25, **s. 58** (with ss. 7(6), 115, 117); S.I. 1995/1983, **art. 3** (with art. 4); S.I. 1998/604, **art. 3**

Marginal Citations

M35 1985 c. 66.

M36 1990 c. 43.

CHAPTER III

POWERS TO PREVENT AND CONTROL POLLUTION

92 Requirements to take precautions against pollution.

(1) The Secretary of State may by regulations make provision—

(a) for prohibiting a person from having custody or control of any poisonous, noxious or polluting matter unless prescribed works and prescribed precautions and other steps have been carried out or taken for the purpose of preventing or controlling the entry of the matter into any controlled waters;

(b) for requiring a person who already has custody or control of, or makes use of, any such matter to carry out such works for that purpose and to take such precautions and other steps for that purpose as may be prescribed.

(2) Without prejudice to the generality of the power conferred by subsection (1) above, regulations under that subsection may—

(a) confer power on the **[**[F202]Agency**]**—

(i) to determine for the purposes of the regulations the circumstances in which a person is required to carry out works or to take any precautions or other steps; and

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(ii) by notice to that person, to impose the requirement and to specify or describe the works, precautions or other steps which that person is required to carry out or take;

(b) provide for appeals to the Secretary of State against notices served by the **[**[F202]Agency**]** in pursuance of provision made by virtue of paragraph (a) above; and

(c) provide that a contravention of the regulations shall be an offence the maximum penalties for which shall not exceed the penalties specified in subsection (6) of section 85 above.

[[F203](3) This section is subject to section 114 of the 1995 Act (delegation or reference of appeals etc).**]**

Textual Amendments

F202 Words in s. 92 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

F203 S. 92(3) added (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 144** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

Modifications etc. (not altering text)

C77 S. 92 amended (27.8.1993) by 1993 c. 12, ss. 40, 51(2), **Sch. 3 Pt. I para. 9** (with s. 46).

C78 S. 92: power to delegate functions conferred (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, **s. 114(2)(a)(v)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

93 Water protection zones.

(1) Where the Secretary of State considers, after consultation (in the case of an area wholly or partly in England) with the Minister, that subsection (2) below is satisfied in relation to any area, he may by order make provision—

(a) designating that area as a water protection zone; and

(b) prohibiting or restricting the carrying on in the designated area of such activities as may be specified or described in the order.

(2) For the purposes of subsection (1) above this subsection is satisfied in relation to any area if (subject to subsection (3) below) it is appropriate, with a view to preventing or controlling the entry of any poisonous, noxious or polluting matter into controlled waters, to prohibit or restrict the carrying on in that area of activities which the Secretary of State considers are likely to result in the pollution of any such waters.

(3) The reference in subsection (2) above to the entry of poisonous, noxious or polluting matter into controlled waters shall not include a reference to the entry of nitrate into controlled waters as a result of, or of anything done in connection with, the use of any land for agricultural purposes

(4) Without prejudice to the generality of the power conferred by virtue of subsection (1) above, an order under this section may—

(a) confer power on the **[**[F204]Agency**]** to determine for the purposes of the order the circumstances in which the carrying on of any activities is prohibited or restricted and to determine the activities to which any such prohibition or restriction applies;

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(b) apply a prohibition or restriction in respect of any activities to cases where the activities are carried on without the consent of the **[**[F204]Agency**]** or in contravention of any conditions subject to which any such consent is given;

(c) provide that a contravention of a prohibition or restriction contained in the order or of a condition of a consent given for the purposes of any such prohibition or restriction shall be an offence the maximum penalties for which shall not exceed the penalties specified in subsection (6) of section 85 above;

(d) provide (subject to any regulations under section 96 below) for anything falling to be determined under the order by the **[**[F204]Agency**]** to be determined in accordance with such procedure and by reference to such matters and to the opinion of such persons as may be specified in the order;

(e) make different provision for different cases, including different provision in relation to different persons, circumstances or localities; and

(f) contain such supplemental, consequential and transitional provision as the Secretary of State considers appropriate.

(5) The power of the Secretary of State to make an order under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament; but the Secretary of State shall not make such an order except on an application made by the **[**[F204]Agency**]** in accordance with Schedule 11 to this Act and otherwise in accordance with that Schedule.

Textual Amendments

F204 Words in s. 93 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

Modifications etc. (not altering text)

C79 S. 93 extended (01.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60, SIF 130), ss. 2(2), 4(2), **Sch. 2 Pt. I para. 4(3)**.

C80 S. 93 amended (27.8.1993) by 1993 c. 12, ss. 40, 51(2), **Sch. 3 Pt. I para. 9** (with s. 46).

94 Nitrate sensitive areas.

(1) Where the relevant Minister considers that it is appropriate to do so with a view to achieving the purpose specified in subsection (2) below in relation to any land, he may by order make provision designating that land, together with any other land to which he considers it appropriate to apply the designation, as a nitrate sensitive area.

(2) The purpose mentioned in subsection (1) above is preventing or controlling the entry of nitrate into controlled waters as a result of, or of anything done in connection with, the use for agricultural purposes of any land.

(3) Where it appears to the relevant Minister, in relation to any area which is or is to be designated by an order under this section as a nitrate sensitive area, that it is appropriate for provision for the imposition of requirements, prohibitions or restrictions to be contained in an order under this section (as well as for him to be able to enter into such agreements as are mentioned in section 95 below), he may, by a subsequent order under this section or, as the case may be, by the order designating that area—

(a) with a view to achieving the purpose specified in subsection (2) above, require, prohibit or restrict the carrying on, either on or in relation to any

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agricultural land in that area, of such activities as may be specified or described in the order; and

(b) provide for such amounts (if any) as may be specified in or determined under the order to be paid by one of the Ministers, to such persons as may be so specified or determined, in respect of the obligations imposed in relation to that area on those persons by virtue of paragraph (a) above.

(4) Without prejudice to the generality of subsection (3) above, provision contained in an order under this section by virtue of that subsection may—

(a) confer power on either of the Ministers to determine for the purposes of the order the circumstances in which the carrying on of any activities is required, prohibited or restricted and to determine the activities to which any such requirement, prohibition or restriction applies;

(b) provide for any requirement to carry on any activity not to apply in cases where one of the Ministers has consented to a failure to carry on that activity and any conditions on which the consent has been given are complied with;

(c) apply a prohibition or restriction in respect of any activities to cases where the activities are carried on without the consent of one of the Ministers or in contravention of any conditions subject to which any such consent is given;

(d) provide that a contravention of a requirement, prohibition or restriction contained in the order or in a condition of a consent given in relation to or for the purposes of any such requirement, prohibition or restriction shall be an offence the maximum penalties for which shall not exceed the penalties specified in subsection (6) of section 85 above;

(e) provide for amounts paid in pursuance of any provision contained in the order to be repaid at such times and in such circumstances, and with such interest, as may be specified in or determined under the order; and

(f) provide (subject to any regulations under section 96 below) for anything falling to be determined under the order by any person to be determined in accordance with such procedure and by reference to such matters and to the opinion of such persons as may be specified in the order.

(5) An order under this section may—

(a) make different provision for different cases, including different provision in relation to different persons, circumstances or localities; and

(b) contain such supplemental, consequential and transitional provision as the relevant Minister considers appropriate.

(6) The power of the relevant Minister to make an order under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament; but the relevant Minister shall not make such an order except in accordance with any applicable provisions of Schedule 12 to this Act.

(7) In this section and in Schedule 12 to this Act "the relevant Minister"—

(a) in relation to the making of an order in relation to an area which is wholly in England or which is partly in England and partly in Wales, means the Ministers; and

(b) in relation to the making of an order in relation to an area which is wholly in Wales, means the Secretary of State.

Status: *Point in time view as at 01/10/2006.*
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95 Agreements in nitrate sensitive areas.

(1) Where—

(a) any area has been designated as a nitrate sensitive area by an order under section 94 above; and

(b) the relevant Minister considers that it is appropriate to do so with a view to achieving the purpose mentioned in subsection (2) of that section,

he may, subject to such restrictions (if any) as may be set out in the order, enter into an agreement falling within subsection (2) below.

(2) An agreement falls within this subsection if it is one under which, in consideration of payments to be made by the relevant Minister—

(a) the owner of the freehold interest in any agricultural land in a nitrate sensitive area; or

(b) where the owner of the freehold interest in any such land has given his written consent to the agreement being entered into by any person having another interest in that land, that other person,

accepts such obligations with respect to the management of that land or otherwise as may be imposed by the agreement.

(3) An agreement such as is mentioned in subsection (2) above between the relevant Minister and a person having an interest in any land shall bind all persons deriving title from or under that person to the extent that the agreement is expressed to bind that land in relation to those persons.

(4) In this section "the relevant Minister"—

(a) in relation to an agreement with respect to land which is wholly in England, means the Minister;

(b) in relation to an agreement with respect to land which is wholly in Wales, means the Secretary of State; and

(c) in relation to an agreement with respect to land which is partly in England and partly in Wales, means either of the Ministers.

96 Regulations with respect to consents required by virtue of section 93 or 94.

(1) The Secretary of State may, for the purposes of any orders under section 93 above which require the consent of the **[**[F205]Agency**]** to the carrying on of any activities, by regulations make provision with respect to—

(a) applications for any such consent;

(b) the conditions of any such consent;

(c) the revocation or variation of any such consent;

(d) appeals against determinations on any such application;

(e) the exercise by the Secretary of State of any power conferred on the **[**[F205]Agency**]** by the orders;

(f) the imposition of charges where such an application has been made, such a consent has been given or anything has been done in pursuance of any such consent; and

(g) the registration of any such application or consent.

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) The Ministers may, for the purposes of any orders under section 94 above which require the consent of either of those Ministers to the carrying on of any activities or to any failure to carry on any activity, by regulations make provision with respect to—
  (a) applications for any such consent;
  (b) the conditions of any such consent;
  (c) the revocation or variation of any such consent;
  (d) the reference to arbitration of disputes about determinations on any such application;
  (e) the imposition of charges where such an application has been made, such a consent has been given or there has been any act or omission in pursuance of any such consent; and
  (f) the registration of any such application or consent.

(3) Without prejudice to the generality of the powers conferred by the preceding provisions of this section, regulations under subsection (1) above may apply (with or without modifications) any enactment having effect in relation to consents under Chapter II of this Part.

[[F206](4) This section is subject to section 114 of the 1995 Act (delegation or reference of appeals etc).**]**

Textual Amendments

F205 Words in s. 96 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

F206 S. 96(4) added (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 145** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

Modifications etc. (not altering text)

C81 S. 96: power to delegate functions conferred (1.4.1996) by 1995 c. 25, **s. 114(2)(a)(v)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

97 Codes of good agricultural practice.

(1) The Ministers may by order made by statutory instrument approve any code of practice issued (whether by either or both of the Ministers or by another person) for the purpose of—
  (a) giving practical guidance to persons engaged in agriculture with respect to activities that may affect controlled waters; and
  (b) promoting what appear to them to be desirable practices by such persons for avoiding or minimising the pollution of any such waters,

  and may at any time by such an order approve a modification of such a code or withdraw their approval of such a code or modification.

(2) A contravention of a code of practice as for the time being approved under this section shall not of itself give rise to any criminal or civil liability, but the **[**[F207]Agency**]** shall take into account whether there has been or is likely to be any such contravention in determining when and how it should exercise—
  (a) its power, by giving a notice under subsection (1) of section 86 above, to impose a prohibition under that section; and

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Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) any powers conferred on the **[**[F207]Agency**]** by regulations under section 92 above.

(3) The Ministers shall not make an order under this section unless they have first consulted the **[**[F207]Agency**]**.

Textual Amendments

F207 Words in s. 97 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

CHAPTER IV

SUPPLEMENTAL PROVISIONS WITH RESPECT TO WATER POLLUTIONS

98 Radioactive substances.

(1) Except as provided by regulations made by the Secretary of State under this section, nothing in this Part shall apply in relation to radioactive waste within the meaning of the **[**[F208]Radioactive Substances Act 1993**]**.

(2) The Secretary of State may by regulations—

(a) provide for prescribed provisions of this Part to have effect with such modifications as he considers appropriate for dealing with such waste;

(b) make such modifications of the said Act of **[**[F209]1993**]** or, in relation to such waste, of any other enactment as he considers appropriate in consequence of the provisions of this Part and of any regulations made by virtue of paragraph (a) above.

Textual Amendments

F208 Words in s. 98(1) substituted (27.8.1993) by 1993 c. 12, ss. 49(1), 51(2), **Sch. 4 para. 11**(a) (with s. 46).

F209 Words in s. 98(2)(b) substituted (27.8.1993) by 1993 c. 12, ss. 49(1), 51(2), **Sch. 4 para. 11(b)** (with s. 46).

99 Consents required by the [F210]Agency].

(1) The Secretary of State may by regulations—

(a) make provision modifying the water pollution provisions of this Act in relation to cases in which consents under Chapter II of this Part are required by the **[**[F210]Agency**]**; and

(b) for the purposes of the application of the provisions of this Part in relation to discharges by the **[**[F210]Agency**]**, make such other modifications of those provisions as may be prescribed.

(2) Without prejudice to the generality of subsection (1) above, regulations under this section may provide for such consents as are mentioned in paragraph (a) of that subsection to be required to be given by the Secretary of State (instead of by the **[**[F210]Agency**]**) and, in prescribed cases, to be deemed to have been so given.

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F210 Words in s. 99 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

Modifications etc. (not altering text)

C82 S. 99 amended (27.8.1993) by 1993 c. 12, ss. 40, 51(2), **Sch. 3 Pt. I para. 9** (with s. 46).

100 Civil liability in respect of pollution and savings.

Except in so far as this Part expressly otherwise provides and subject to the provisions of section 18 of the [M37]Interpretation Act 1978 (which relates to offences under two or more laws), nothing in this Part—

(a) confers a right of action in any civil proceedings (other than proceedings for the recovery of a fine) in respect of any contravention of this Part or any subordinate legislation, consent or other instrument made, given or issued under this Part;

(b) derogates from any right of action or other remedy (whether civil or criminal) in proceedings instituted otherwise than under this Part; or

(c) affects any restriction imposed by or under any other enactment, whether public, local or private.

Marginal Citations

M37 1978 c. 30.

101 Limitation for summary offences under Part III.

Notwithstanding anything in section 127 of the [M38]Magistrates' Courts Act 1980 (time limit for summary proceedings), a magistrates' court may try any summary offence under this Part, or under any subordinate legislation made under this Part, if the information is laid not more than twelve months after the commission of the offence.

Marginal Citations

M38 1980 c. 43.

102 Power to give effect to international obligations.

The Secretary of State shall have power by regulations to provide that the water pollution provisions of this Act shall have effect with such modifications as may be prescribed for the purpose of enabling Her Majesty's Government in the United Kingdom to give effect—

(a) to any Community obligations; or

(b) to any international agreement to which the United Kingdom is for the time being a party.

Status: *Point in time view as at 01/10/2006.*
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103 Transitional pollution provisions.

The provisions of this Part shall have effect subject to the provisions of Schedule 13 to this Act (which reproduce transitional provision originally made in connection with the coming into force of provisions of the [M39]Water Act 1989).

Marginal Citations
M39 1989 c. 15.

104 Meaning of "controlled waters" etc. in Part III.

(1) References in this Part to controlled waters are references to waters of any of the following classes—

(a) relevant territorial waters, that is to say, subject to subsection (4) below, the waters which extend seaward for three miles from the baselines from which the breadth of the territorial sea adjacent to England and Wales is measured;

(b) coastal waters, that is to say, any waters which are within the area which extends landward from those baselines as far as—

(a) the limit of the highest tide; or

(b) in the case of the waters of any relevant river or watercourse, the fresh-water limit of the river or watercourse,

together with the waters of any enclosed dock which adjoins waters within that area;

(c) inland freshwaters, that is to say, the waters of any relevant lake or pond or of so much of any relevant river or watercourse as is above the fresh-water limit;

(d) ground waters, that is to say, any waters contained in underground strata;

and, accordingly, in this Part "coastal waters", "controlled waters", "ground waters", "inland freshwaters" and "relevant territorial waters" have the meanings given by this subsection.

(2) In this Part any reference to the waters of any lake or pond or of any river or watercourse includes a reference to the bottom, channel or bed of any lake, pond, river or, as the case may be, watercourse which is for the time being dry.

(3) In this section—

"fresh-water limit", in relation to any river or watercourse, means the place for the time being shown as the fresh-water limit of that river or watercourse in the latest map deposited for that river or watercourse under section 192 below;

"miles" means international nautical miles of 1,852 metres;

"lake or pond" includes a reservoir of any description;

"relevant lake or pond" means (subject to subsection (4) below) any lake or pond which (whether it is natural or artificial or above or below ground) discharges into a relevant river or watercourse or into another lake or pond which is itself a relevant lake or pond;

"relevant river or watercourse" means (subject to subsection (4) below) any river or watercourse (including an underground river or watercourse and an artificial river or watercourse) which is neither a public sewer nor a sewer or drain which drains into a public sewer.

(4) The Secretary of State may by order provide—

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(a) that any area of the territorial sea adjacent to England and Wales is to be treated as if it were an area of relevant territorial waters for the purposes of this Part and of any other enactment in which any expression is defined by reference to the meanings given by this section;

(b) that any lake or pond which does not discharge into a relevant river or watercourse or into a relevant lake or pond is to be treated for those purposes as a relevant lake or pond;

(c) that a lake or pond which does so discharge and is of a description specified in the order is to be treated for those purposes as if it were not a relevant lake or pond;

(d) that a watercourse of a description so specified is to be treated for those purposes as if it were not a relevant river or watercourse.

(5) An order under this section may—

(a) contain such supplemental, consequential and transitional provision as the Secretary of State considers appropriate; and

(b) make different provision for different cases, including different provision in relation to different persons, circumstances or localities.

(6) The power of the Secretary of State to make an order under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

Modifications etc. (not altering text)

C83 S. 104 definition of "controlled waters" applied by London Docklands Railway Act 1991 (c. xxiii), **s. 7(2)(a)**

C84 S. 104(1) modified (12.6.1997) by S.I. 1997/1331, **reg. 6(2)**
S. 104(1) modified (12.6.1997) by S.I. 1997/1332, **reg. 6(2)**

C85 S. 104(1) modified (1.6.2003 for E.) by Bathing Waters (Classification) (England) Regulations 2003 (S.I. 2003/1238), regs. 1, **2(1)**

C86 S. 104(1)(c) applied (with modifications) (6.1.1997) by S.I. 1996/3001, **reg. 7(2)**

PART IV

FLOOD DEFENCE

Modifications etc. (not altering text)

C87 Pt. IV (ss. 105-113): functions transferred to the Environment Agency (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, **s. 2(1)(a)(iii)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

General

105 General functions with respect to flood defence.

[F211](1) . . . . . .

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) For the purpose of carrying out its flood defence functions the **[**[F212]Agency**]** shall from time to time carry out surveys of the areas in relation to which it carries out those functions.

(3) In the exercise of the powers conferred by the following provisions of this Part and the other flood defence provisions of this Act due regard shall be had to the interests of fisheries, including sea fisheries.

(4) Nothing in the following provisions of this Part or the other flood defence provisions of this Act shall prejudice or affect the provisions of Part V of this Act or the [M40]Salmon and Freshwater Fisheries Act 1975 or any right, power or duty conferred or imposed by that Part or that Act.

Textual Amendments

F211 S. 105(1) repealed (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 146, **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F212 Word in s. 105 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

Modifications etc. (not altering text)

C88 S. 105 excluded (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, ss. 19, 120(2), Sch. 5 Pt. II para. 13(2), **Sch. 23 Pt. II para. 23** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Marginal Citations

M40 1975 c. 51.

106 Obligation to carry out flood defence functions through committees.

(1) Without prejudice to any scheme for the appointment of local flood defence committees and subject to subsection (2) below, the **[**[F213]Agency**]** shall arrange for all its functions relating to flood defence under the following provisions of this Act and the [M41]Land Drainage Act 1991 to be carried out by regional flood defence committees, so that those functions of the **[**[F213]Agency**]** are carried out—

(a) in relation to the area of each regional flood defence committee, by the committee for that area; and

(b) in cases involving the areas of more than one regional flood defence committee, by such committee, or jointly by such committees, as may be determined in accordance with arrangements made by the **[**[F213]Agency**]**.

(2) The **[**[F213]Agency**]** shall not make arrangements for the carrying out by any other body, or by any committee, of any of its functions with respect to—

(a) the issuing of levies (within the meaning of the [M42]Local Government Finance Act 1988); or

(b) the making of drainage charges under Chapter II of Part VI of this Act;

and nothing in this section shall enable the **[**[F213]Agency**]** to authorise any such other body or any committee to borrow money for purposes connected with the **[**[F213]Agency's**]** functions relating to flood defence.

(3) The **[**[F213]Agency**]** may give a regional flood defence committee a direction of a general or specific character as to the carrying out of any function relating to flood defence,

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other than one of its internal drainage functions, so far as the carrying out of that function appears to the **[**[F213]Agency**]** likely to affect materially the **[**[F213]Agency's**]** management of water for purposes other than flood defence.

(4) It shall be the duty of a regional flood defence committee to comply with any direction under subsection (3) above.

(5) In subsection (3) above "internal drainage functions" means the functions of the **[**[F213]Agency**]** under sections 108, 139 and 140 below and the following provisions of the [M43]Land Drainage Act 1991, that is to say—

(a) sections 2 to 9 (transfer to the **[**[F213]Agency**]** and supervision by the **[**[F213]Agency**]**of the functions of internal drainage boards);

(b) sections 38, 39 and 47 (differential drainage rates and exemptions from such rates);

(c) sections 57 and 58(1) (provisions with respect to contributions by the **[**[F213]Agency**]** to the expenses of internal drainage boards and the expenses of the **[**[F213]Agency**]** as such a board).

Textual Amendments

F213 Words in s. 106 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Modifications etc. (not altering text)

C89 S. 106 excluded (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, ss. 19, 120(2), Sch. 5 Pt. II para. 13(2), **Sch. 23 Pt. II para. 23** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Marginal Citations

M41 1991 c. 59.
M42 1988 c. 41.
M43 1991 c. 59.

Main river functions

107 Main river functions under the Land Drainage Act 1991.

(1) This section has effect for conferring functions in relation to main rivers on the **[**[F214]Agency**]** which are functions of drainage boards in relation to other watercourses.

(2) Notwithstanding subsection (3) of section 21 of the Land Drainage Act 1991 (power to secure compliance with drainage obligations), the powers of the **[**[F214]Agency**]** in relation to a main river shall, by virtue of this section, include the powers which under that section are exercisable otherwise than in relation to a main river by the drainage board concerned; and the provisions of that section shall have effect accordingly.

(3) The powers of the **[**[F214]Agency**]** in relation to a main river shall, by virtue of this section, include the powers which under section 25 of the Land Drainage Act 1991 (powers for securing the maintenance of flow of watercourses) are exercisable in relation to an ordinary watercourse by the drainage board concerned; and the provisions of that section and section 27 of that Act shall have effect accordingly.

Status: *Point in time view as at 01/10/2006.*
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(4) Sections 33 and 34 of the Land Drainage Act 1991 (commutation of obligations) shall have effect where—

(a) any person is under an obligation imposed on him by reason of tenure, custom, prescription or otherwise to do any work in connection with the drainage of land (whether by way of repairing banks or walls, maintaining watercourses or otherwise); and

(b) that work is in connection with a main river,

as they have effect in relation to an obligation to do work otherwise than in connection with a main river but as if the **[**[F214]Agency**]** were under a duty to take steps to commute the obligation and the references in those sections to the drainage board for the internal drainage district where the works fall to be done were omitted.

(5) In this section—

(a) references to the exercise of a power in relation to a main river shall include a reference to its exercise in connection with a main river or in relation to the banks of such a river or any drainage works in connection with such a river; and

(b) expressions used both in this section and in a provision applied by this section have the same meanings in this section as in that provision.

(6) The functions of the **[**[F214]Agency**]** by virtue of this section are in addition to the functions of the **[**[F214]Agency**]** which by virtue of the provisions of the [M44]Land Drainage Act 1991 are exercisable by the **[**[F214]Agency**]** concurrently with an internal drainage board.

Textual Amendments

F214 Words in s. 107 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

Marginal Citations

M44 1991 c. 59.

108 Schemes for transfer to the [F215]Agency] of functions in relation to main river.

(1) The **[**[F215]Agency**]** may at any time prepare and submit to either of the Ministers for confirmation a scheme making provision for the transfer to the **[**[F215]Agency**]** from any drainage body of—

(a) all rights, powers, duties, obligations and liabilities (including liabilities incurred in connection with works) over or in connection with a main river; and

(b) any property held by the drainage body for the purpose of, or in connection with, any functions so transferred;

and the **[**[F215]Agency**]** shall prepare such a scheme and submit it to one of the Ministers if it is directed to do so by that Minister.

(2) A scheme prepared and submitted under subsection (1) above may make provisions for any matter supplemental to or consequential on the transfers for which the scheme provides.

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) The Minister to whom a scheme is submitted under this section may by order made by statutory instrument confirm that scheme; and Schedule 14 to this Act shall have effect with respect to the procedure to be followed in connection with the making of such an order and with respect to challenges to such orders.

(4) An order under this section may contain provisions with respect to the persons by whom all or any of the expenses incurred by the Ministers or other persons in connection with the making or confirmation of the order, or with the making of the scheme confirmed by the order, are to be borne.

(5) Where, under a scheme made by the **[**[F215]Agency**]** under this section, liabilities incurred in connection with drainage works are transferred to the **[**[F215]Agency**]** from a local authority, the **[**[F215]Agency**]** may require the local authority to make contributions to the **[**[F215]Agency**]** towards the discharge of the liabilities.

(6) If the amount to be paid by a local authority by way of contributions required under subsection (5) above is not agreed between the **[**[F215]Agency**]** and the local authority, it shall be referred to the arbitration of a single arbitrator appointed—

(a) by agreement between them; or

(b) in default of agreement, by the Ministers.

(7) The relevant Minister shall by regulations provide for the payment, subject to such exceptions or conditions as may be specified in the regulations, of compensation by the **[**[F215]Agency**]** to any officer or other employee of a drainage body who suffers loss of employment or loss or diminution of emoluments which is attributable to a scheme under this section or anything done in pursuance of such a scheme.

(8) Regulations under subsection (7) above may include provision—

(a) as to the manner in which and the persons to whom any claim for compensation by virtue of the regulations is to be made; and

(b) for the determination of all questions arising under the regulations.

(9) In this section—

"drainage body" means an internal drainage board or any other body having power to make or maintain works for the drainage of land;

"the relevant Minister"—

(a) in relation to employees of a drainage body wholly in Wales, means the Secretary of State;

(b) in relation to employees of a drainage body partly in Wales, means the Ministers; and

(c) in any other case, means the Minister.

Textual Amendments

F215 Words in s. 108 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

109 Structures in, over or under a main river.

(1) No person shall erect any structure in, over or under a watercourse which is part of a main river except with the consent of and in accordance with plans and sections approved by the **[**[F216]Agency**]**.

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) No person shall, without the consent of the **[**[F216]Agency**]**, carry out any work of alteration or repair on any structure in, over or under a watercourse which is part of a main river if the work is likely to affect the flow of water in the watercourse or to impede any drainage work.

(3) No person shall erect or alter any structure designed to contain or divert the floodwaters of any part of a main river except with the consent of and in accordance with plans and sections approved by the **[**[F216]Agency**]**.

(4) If any person carries out any work in contravention of this section the **[**[F216]Agency**]** may—
   (a) remove, alter, or pull down the work; and
   (b) recover from that person the expenses incurred in doing so.

(5) Subsections (1) and (2) above shall not apply to any work carried out in an emergency; but a person carrying out any work excepted from those subsections by this subsection shall inform the **[**[F216]Agency**]** in writing as soon as practicable—
   (a) of the carrying out of the work; and
   (b) of the circumstances in which it was carried out.

(6) Nothing in this section shall be taken to affect any enactment requiring the consent of any government department for the erection of a bridge or any powers exercisable by any government department in relation to a bridge.

Textual Amendments

F216 Words in s. 109 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

Modifications etc. (not altering text)

C90 S. 109 modified (16.3.1992) by London Government Act 1992 (c. iii), **s. 32(9)(10)**
S. 109 modified (18.12.1996) by 1996 c. 61, s. 52, **Sch. 15 Pt. III para. 11**

C91 S. 109 amended (16.3.1992) by Aire and Calder Navigation Act 1992 (c. iv), **s. 33(12)**

C92 S. 109 amended (18.6.1992) by British Railways (No. 2) Act 1992 (c. xi), **s. 42(8)**

C93 S. 109 amended (16.3.1992) by Midland Metro Act 1992 (c. vii), **s. 21(9)**

C94 S. 109 excluded (5.11.1993) by 1993 c. 42, **s. 25(1)** (with s. 30(1), Sch. 2 para. 9).

C95 S. 109 applied (21.7.1994) by 1994 c. xv, **s. 43(11)**

C96 S. 109 applied (with modifications) (7.3.1995) by S.I. 1995/519, **arts. 3(9)**, 57-64

C97 S. 109 excluded (2.4.2004) by Docklands Light Railway (Woolwich Arsenal Extension) Order 2004 (S.I. 2004/757), arts. 1, **4(8)(b)**

C98 S. 109 excluded (11.2.2005) by Merseytram (Liverpool City Centre to Kirkby) Order 2005 (S.I. 2005/120), arts. 1, **5(9)** (with arts. 65, 66)

C99 S. 109 modified (22.3.2005) by Midland Metro (Wednesbury to Brierley Hill and Miscellaneous Amendments) Order 2005 (S.I. 2005/927), **Sch. 11 para. 11** (with art. 51)

C100 S. 109 modified (26.8.2005) by River Tyne (Tunnels) Order 2005 (S.I. 2005/2222), art. 1, **Sch. 10 para. 14** (with arts. 45(1), 48, Sch. 10 paras. 21, 29)

C101 S. 109 excluded (25.11.2005) by Docklands Light Railway (Capacity Enhancement) Order 2005 (S.I. 2005/3105), arts. 1, **5(7)(a)** (with arts. 3(5), 15(3))

C102 S. 109 modified (11.1.2006) by The Cambridgeshire Guided Busway Order 2005 (S.I. 2005/3523), art. 1, **Sch. 11 para. 10** (with art. 52)

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

110 Applications for consents and approvals under section 109.

(1) The **[**[F217]Agency**]** may require the payment of an application fee by a person who applies to it for its consent under section 109 above; and the amount of that fee shall be £50 or such other sum as may be **[**[F218]prescribed**]**.

(2) A consent or approval required under section 109 above—

(a) shall not be unreasonably withheld;

(b) shall be deemed to have been given if it is neither given nor refused within the relevant period; and

(c) in the case of a consent, may be given subject to any reasonable condition as to the time at which and the manner in which any work is to be carried out.

(3) For the purposes of subsection (2)(b) above the relevant period is—

(a) in the case of a consent, the period of two months after whichever is the later of—

(i) the day on which application for the consent is made; and

(ii) if at the time when that application is made an application fee is required to be paid, the day on which the liability to pay that fee is discharged;

and

(b) in the case of an approval, the period of two months after application for the approval is made.

(4) If any question arises under this section whether any consent or approval is unreasonably withheld or whether any condition imposed is reasonable, the question shall—

(a) if the parties agree to arbitration, be referred to a single arbitrator appointed by agreement between the parties or, in default of agreement, by the President of the Institution of Civil Engineers; and

(b) if the parties do not agree to arbitration, be referred to and determined by **[**[F219]the Minister**]** or the Secretary of State, according to whether the determination falls to be made in relation to England or Wales.

(5) The power of the Ministers to make an order under subsection (1) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

[[F220](6) In subsection (1) above "prescribed" means specified in, or determined in accordance with, an order made by the Ministers; and any such order may make different provision for different cases, including different provision in relation to different persons, circumstances or localities.**]**

Textual Amendments

F217 Word in s. 110 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F218 Word in s. 110(1) substituted (subject to other provisions of the amending Act) (21.9.1995) by 1995 c. 25, s. 120(1), **Sch. 22 para. 147(1)** (with ss. 7(6), 115, 117); S.I. 1995/1983, **art. 3**

F219 Words in s. 110(4)(b) substituted (subject to other provisions of the amending Act) (21.9.1995) by 1995 c. 25, s. 120(1), **Sch. 22 para. 147(2)** (with ss. 7(6), 115, 117); S.I. 1995/1983, **art. 3**

Status: *Point in time view as at 01/10/2006.*
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F220 S. 110(6) inserted (subject to other provisions of the amending Act) (21.9.1995) by 1995 c. 25, s. 120(1), **Sch. 22 para. 147(3)** (with ss. 7(6), 115, 117); S.I. 1995/1983, **art. 3**

Arrangements with certain authorities

111 Arrangements with navigation and conservancy authorities.

(1) Subject to subsection (2) below, the **[**[F221]Agency**]**, with a view to improving the drainage of any land, may enter into an arrangement with a navigation authority or conservancy authority for any of the following purposes, that is to say—

(a) the transfer to the **[**[F221]Agency**]** of—

(i) the whole or any part of the undertaking of the navigation authority or conservancy authority or of any of the rights, powers, duties, liabilities and obligations of that authority; or

(ii) any property vested in that authority as such;

(b) the alteration or improvement by the **[**[F221]Agency**]** of any of the works of the navigation authority or conservancy authority;

(c) the making of payments by the **[**[F221]Agency**]** to the navigation authority or conservancy authority or by that authority to the **[**[F221]Agency**]** in respect of any matter for which provision is made by the arrangement.

(2) The exercise by the **[**[F221]Agency**]** of its power to enter into an arrangement under this section shall require the approval of the Ministers.

(3) Where the **[**[F221]Agency**]** is intending to enter into an arrangement under this section it shall publish a notice of its intention in such manner as may be directed by either of the Ministers.

(4) Where an arrangement has been made under this section, the **[**[F221]Agency**]** shall cause a notice under subsection (5) below to be published in the London Gazette in such form as may be prescribed by regulations made by one of the Ministers.

(5) A notice under this subsection is a notice—

(a) stating that the arrangement has been made; and

(b) specifying the place at which a copy of the arrangement may be inspected by persons interested.

Textual Amendments

F221 Words in s. 111 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

Supplemental

112 Flood defence regulations.

The Ministers shall each have power by regulations to make provision generally for the purpose of carrying into effect the provisions of this Part and the other flood defence provisions of this Act.

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

113 Interpretation of Part IV.

(1) In this Part—

"banks" means banks, walls or embankments adjoining or confining, or constructed for the purposes of or in connection with, any channel or sea front, and includes all land and water between the bank and low-watermark;

"drainage" includes—

(a) defence against water, including sea water;

(b) irrigation other than spray irrigation; [F222]. . .

(c) warping; **[**[F223]and

(d) the carrying on, for any purpose, of any other practice which involves management of the level of water in a watercourse;**]**

"flood defence" means the drainage of land and the provision of flood warning systems;

"main river" (subject to section 137(4) below) means a watercourse shown as such on a main river map and includes any structure or appliance for controlling or regulating the flow of water into, in or out of the channel which—

(a) is a structure or appliance situated in the channel or in any part of the banks of the channel; and

(b) is not a structure or appliance vested in or controlled by an internal drainage board;

"watercourse" shall be construed as if for the words from "except" onwards in the definition in section 221(1) below there were substituted the words "except a public sewer".

(2) If any question arises under this Part—

(a) whether any work is a drainage work in connection with a main river; or

(b) whether any proposed work will, if constructed, be such a drainage work,

the question shall be referred to one of the Ministers for decision or, if either of the parties so requires, to arbitration.

(3) Where any question is required under subsection (2) above to be referred to arbitration it shall be referred to the arbitration of a single arbitrator appointed—

(a) by agreement between the parties; or

(b) in default of agreement, by the President of the Institution of Civil Engineers, on the application of either party.

(4) Nothing in this Part shall affect the powers exercisable by the **[**[F224]Agency**]** under any local Act, as they existed immediately before the coming into force of this Act.

Textual Amendments

F222 Word in definition in s. 113(1) repealed (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F223 Words in definition in s. 113(1) added (subject to other provisions of the amending Act) (21.9.1995) by 1995 c. 25, **s. 100(1)** (with ss. 7(6), 115, 117); S.I. 1995/1983, **art. 3**

F224 Word in s. 113(4) substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

Status: *Point in time view as at 01/10/2006.*
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Modifications etc. (not altering text)

C103 S. 113 definitions of "main river" and "banks" applied by London Docklands Railway Act 1991 (c. xxiii), **s. 7(2)(b)**

PART V

GENERAL CONTROL OF FISHERIES

Modifications etc. (not altering text)

C104 Pt. V (ss. 114-116): certain functions transferred to the Environment Agency (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, **s. 2(1)(a)(v)** (with ss. 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

[F225]114 . . . . . .

Textual Amendments

F225 S. 114 repealed (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 148, **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

115 Fisheries orders.

(1) Subject to the following provisions of this section, each of the Ministers shall have power, on an application made to him by the **[**[F226]Agency**]**, by order made by statutory instrument to make provision in relation to an area defined by the order for the modification, in relation to the fisheries in that area—

(a) of any provisions of the [M45]Salmon and Freshwater Fisheries Act 1975 relating to the regulation of fisheries;

[[F227](b) of section 142 or 156 below or paragraph 6 or 7 of Schedule 25 to this Act; or**]**

(c) of any provisions of a local Act relating to any fishery in that area.

(2) An order under this section—

(a) may contain such supplemental, consequential and transitional provision, including provision for the payment of compensation to persons injuriously affected by the order, as may appear to be necessary or expedient in connection with the other provisions of the order; but

(b) shall not apply to any waters in respect of which either of the Ministers has granted a licence under section 29 of the Salmon and Freshwater Fisheries Act 1975 (fish rearing licences).

(3) Before either of the Ministers makes an order under this section he shall—

(a) send to the **[**[F226]Agency**]** a copy of the draft order; and

(b) notify the **[**[F226]Agency**]** of the time within which, and the manner in which, objections to the draft order may be made to him.

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(4) Neither of the Ministers shall make an order under this section unless the **[**[F226]Agency**]** has caused notice of—

(a) that Minister's intention to make the order;

(b) the place where copies of the draft order may be inspected and obtained; and

(c) the matters notified under subsection (3)(b) above,

to be published in the London Gazette and, if it is directed to do so by one of the Ministers, in such other manner as that Minister thinks best adapted for informing persons affected.

(5) Before either of the Ministers makes an order under this section he-

(a) shall consider any objection which may be duly made to the draft order; and

(b) may cause a public local inquiry to be held with respect to any such objections.

(6) A statutory instrument containing an order under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament; and, where a statutory instrument is laid before Parliament for the purposes of this paragraph, a copy of the report of any local inquiry held with respect to objections considered in connection with the making of the order contained in that instrument shall be so laid at the same time.

(7) Where—

(a) any fishery, land or foreshore proposed to be comprised in an order under this section **[**[F228]making provision, by virtue of subsection (1)(b) above, for the modification of section 156 below in relation to fisheries in an area**]**; or

(b) any fishery proposed to be affected by any such order; or

(c) any land over which it is proposed to acquire an easement under any such order,

belongs to Her Majesty in right of the Crown or forms part of the possessions of the Duchy of Lancaster or the Duchy of Cornwall or belongs to, or is under the management of, any government department, the order may be made by one of the Ministers only if he has previously obtained the consent of the appropriate authority.

(8) In subsection (7) above "the appropriate authority"—

(a) in the case of any foreshore under the management of the Crown Estate Commissioners or of any fishery or land belonging to Her Majesty in right of the Crown, means those Commissioners;

(b) in the case of any foreshore, fishery or land forming part of the possessions of the Duchy of Lancaster, means the Chancellor of the Duchy;

(c) in the case of any foreshore, fishery or land forming part of the possessions of the Duchy of Cornwall, means the Duke of Cornwall or the persons for the time being empowered to dispose for any purpose of the land of the Duchy;

(d) in the case of any foreshore, fishery or land which belongs to or is under the management of a government department, means that government department.

(9) In this section "foreshore" includes the shore and bed of the sea and of every channel, creek, bay, estuary and navigable river as far as the tide flows.

Status: *Point in time view as at 01/10/2006.*
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Textual Amendments

F226 Words in s. 115 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

F227 S. 115(1)(b) substituted (subject to other provisions of the amending Act) (21.9.1995) by 1995 c. 25, s. 105, **Sch. 15 para. 25** (with ss. 7(6), 115, 117); S.I. 1995/1983, **art. 3** (with art. 4)

F228 Words in s. 115(7)(a) inserted (subject to other provisions of the amending Act) (21.9.1995) by 1995 c. 25, s. 116, **Sch. 21 Pt. I para. 2(2)** (with ss. 7(6), 115, 117); S.I. 1995/1983, **art. 3**

Modifications etc. (not altering text)

C105 S. 115 excluded by S.I. 1999/1746, **arts. 1(1)**, 4(1) (with art. 2) (the exclusion coming into force immediately before the principal appointed day (1.7.1999 appointed by S.I. 1998/3178, **art. 3**))

Marginal Citations

M45 1975 c. 51.

116 Power to give effect to international obligations.

Each of the Ministers shall have power by regulations to provide that the provisions of this Part or of any other enactment relating to the carrying out by the **[**[F229]Agency**]** of such of its functions as relate to fisheries shall have effect with such modifications as may be prescribed by the regulations for the purpose of enabling Her Majesty's Government in the United Kingdom to give effect—

(a) to any Community obligations; or

(b) to any international agreement to which the United Kingdom is for the time being a party.

Textual Amendments

F229 Words in s. 116 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

Modifications etc. (not altering text)

C106 S. 116 excluded by S.I. 1999/1746, **arts. 1(1)**, 4(1) (with art. 2) (the exclusion coming into force immediately before the principal appointed day (1.7.1999 appointed by S.I. 1998/3178, **art. 3**))

PART VI

FINANCIAL PROVISIONS IN RELATION TO THE **[**[F230]AGENCY**]**

Textual Amendments

F230 Word in the heading to Pt. VI substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Status: *Point in time view as at 01/10/2006.*
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CHAPTER I

GENERAL FINANCIAL PROVISIONS

[F231]117 . . . . . .

Textual Amendments

F231 S. 117 repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 149, **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

118 Special duties with respect to flood defence revenue.

(1) Revenue raised by the **[**[F232]Agency**]** as mentioned in subsection (2) below—

(a) shall, except for any amount falling within subsection (3) below, be spent only in the carrying out of the **[**[F232]Agency's**]** flood defence functions in or for the benefit of the local flood defence district in which it is raised; and

(b) shall be disregarded in determining the amount of any surplus for the purposes of **[**[F233]section 44(4) ofthe 1995 Act**]**.

(2) The revenue referred to in subsection (1) above is revenue raised by the **[**[F232]Agency**]** in a local flood defence district—

(a) by virtue of any regulations under section 74 of the [M46]Local Government Finance Act 1988 (power to issue levies);

(b) by general drainage charges under sections 134 **[**[F234]and 135**]** below;

(c) by special drainage charges under sections 137 and 138 below; or

(d) by contributions required under section 139(1) below.

(3) An amount falls within this subsection if it is an amount which the **[**[F232]Agency**]** considers it appropriate—

(a) to set aside towards research or related activities or towards meeting the **[**[F232]Agency's**]** administrative expenses; or

(b) to be paid by way of contribution towards expenses incurred by the **[**Agency**]** or any regional flood defence committee under arrangements made for the purposes of section 106(1)(b) above.

(4) Any amount specified in a resolution under section 58(1)(b) of the [M47]Land Drainage Act 1991 in relation to any local flood defence district (allocation of revenue in lieu of contributions) shall be treated for the purposes of this section as if it were revenue actually raised by contributions required under section 139(1) below.

(5) For the purposes of this section, the following sums, that is to say—

(a) any sums held by the **[**[F232]Agency**]** by virtue of any transfer of property, rights or liabilities from a water **[**[F232]agency**]** in accordance with a scheme under Schedule 2 to the [M48]Water Act 1989, in so far as those sums represent amounts which the water **[**[F232]Agency**]**was required by virtue of paragraph 31 of Schedule 3 to the [M49]Water Act 1973 to spend only in the discharge of their land drainage functions in or for the benefit of a particular local land drainage district; and

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(b) any sums raised by the **[**[F232] Agency**]**in a flood defence district by virtue of a precept issued under section 46 of the [M50]Land Drainage Act 1976,

shall be treated as revenue raised by the **[**[F232]Agency**]** as mentioned in subsection (2) above in the corresponding local flood defence district or, as the case may be, in that local flood defence district.

(6) For the purposes of this section so much of the area of a regional flood defence committee as is an area in relation to which no local flood defence scheme is in force shall be treated as a single local flood defence district.

Textual Amendments

F232 Words in s. 118 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F233 Words in s. 118(1)(b) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22**, para. 150(2) (with ss. 7(6), 115, 117)); S.I. 1996/186, **art. 3**

F234 Words in s. 118(2)(b) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22**, para. 150(3) (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Marginal Citations

M46 1988 c. 41.

M47 1991 c. 59.

M48 1989 c. 15.

M49 1973 c. 37.

M50 1976 c. 70.

[F235]119 Duties with respect to certain funds raised under local enactments.

[(1) Where the Agency holds any funds, or any interest in any funds, which immediately before the transfer date the National Rivers Authority, by virtue of this subsection as originally enacted, was not permitted to use except for particular purposes, those funds or that interest shall not be used except for the purposes for which they could be used by virtue of this subsection as originally enacted.

(1A) For the purposes of subsection (1) above, "the transfer date" has the same meaning as in Part I of the 1995 Act.**]**

(2) Any funds to which subsection (1) above applies shall be disregarded in determining the amount of any surplus under **[**[F236]section 44(3) of the 1995 Act**]**.

Textual Amendments

F235 S. 119 (1)(1A) substituted (1.4.1996) for s. 119(1) by 1995 c. 25, s. 120(1), **Sch. 22 para. 151(1)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F236 Words in s. 119(2) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 151(2)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

120 Contributions between the [[F237]Agency] and certain other authorities.

(1) Where, on the application of a navigation authority, harbour authority or conservancy authority, it appears to the **[**[F237]Agency**]** that any works constructed or maintained

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by the applicants have made, or will make, a beneficial contribution towards the fulfilment of the purposes of the **[**[F237]Agency's**]** water resources functions, the **[**[F237]Agency**]** shall contribute towards the expenditure incurred or to be incurred by the applicants in constructing or maintaining those works.

(2) Where, on the application of the **[**[F237]Agency**]**, it appears to a navigation authority, harbour authority or conservancy authority that any works constructed or maintained by the **[**[F237]Agency**]** in the carrying out of its water resources functions have made, or will make, a beneficial contribution towards the carrying out of the functions of the authority to whom the application is made, that authority shall contribute to the **[**[F237]Agency**]** towards the expenditure incurred or to be incurred by the **[**[F237]Agency**]** in constructing or maintaining those works.

(3) Subject to the following provisions of this section, the sums to be paid by way of contribution and the terms and conditions on which they are to be paid shall be such as the **[**[F237]Agency**]** and the other authority concerned may agree to be appropriate.

(4) If on any application under this section—
   (a) the **[**[F237]Agency**]** or, as the case may be, the other authority to whom the application is made refuses to make a contribution; or
   (b) the **[**[F237]Agency**]** and the other authority concerned are unable to agree as to the sums to be contributed or the terms and conditions on which they are to be contributed,

   the **[**[F237]Agency**]** or the other authority concerned may refer the matter in dispute to the Secretary of State.

(5) On a reference under subsection (4) above the Secretary of State may either—
   (a) determine that matter himself; or
   (b) refer it for determination to an arbitrator appointed by him for the purpose;

   and where any decision has been made by the Secretary of State or an arbitrator under this subsection, the decision shall be final and a contribution shall be made in accordance with the decision as if the sums, terms or conditions determined under this subsection had been agreed to be appropriate as mentioned in subsection (3) above.

(6) Any expenditure incurred by a navigation authority, harbour authority or conservancy authority in paying any contribution under this section shall be defrayed in the like manner as any corresponding expenditure of that authority; and that authority shall have the same powers for the purpose of raising money required for paying any such contribution as they would have for the purpose of raising money required for defraying any corresponding expenditure of that authority.

(7) In subsection (6) above the references to corresponding expenditure of a navigation authority, harbour authority or conservancy authority, in relation to the payment of a contribution in respect of any works, are references to expenditure incurred by the authority in performing the functions in respect of which it is claimed by the **[**[F237]Agency**]** that the works have made, or will make, such a beneficial contribution as is mentioned in subsection (2) above.

(8) References in this section to the water resources functions of the **[**[F237]Agency**]** are references to the functions of the **[**[F237]Agency**]** under Part II of this Act or under any provisions not contained in that Part which are related water resources provisions in relation to Chapter II of that Part.

Status: *Point in time view as at 01/10/2006.*
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Textual Amendments

F237 Words in s. 120 and the sidenote substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Modifications etc. (not altering text)

C107 S. 120 applied (1.4.2006) by Water Act 2003 (c. 37), **ss. 33(3)(a)**, 105(3); S.I. 2006/984, art. 2(p)

F238 121 . . . . . .

Textual Amendments

F238 Ss. 121-124 repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 152, **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F239 122 . . . . . .

Textual Amendments

F239 Ss. 121-124 repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 152, **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

CHAPTER II

REVENUE PROVISIONS

Water resources charges

F240 123 . . . . . .

Textual Amendments

F240 Ss. 121-124 repealed (1.4.1996) by 1995 c. 25, s.120(1)(3), Sch. 22 para. 152, **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F241 124 . . . . . .

Textual Amendments

F241 Ss. 121-124 repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 152, **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

125 Specific exemptions from water resources charges.

(1) No charges, other than those for the purpose of recovering administrative expenses attributable to the exercise by the **[**[F242]Agency**]** of its functions in relation to the application for the licence, shall be levied in respect of water authorised by a licence to be abstracted for use in the production of electricity or any other form of power by any generating station or apparatus of a capacity of not more than five megawatts.

[F243](2) . . . . . .

Textual Amendments

F242 Word in s. 125 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F243 S. 125(2) repealed (1.4.2006) by Water Act 2003 (c. 37), s. 105(3), Sch. 7 para. 10, **Sch. 9 Pt. 3**; S.I. 2006/984, art. 2(s)

126 Agreements containing exemptions from charges.

(1) The **[**[F244] Agency**]** may, on the application of any person who is liable to pay charges to the **[**[F244]Agency**]** for the abstraction of water under a licence under Chapter II of Part II of this Act, make an agreement with him either exempting him from the payment of charges or providing for charges to be levied on him at reduced rates specified in the agreement.

(2) In the exercise of its powers under subsection (1) above in relation to any person, the **[**Agency**]** shall have regard to—

(a) the extent to which any works constructed at any time by that person or any works to be constructed by him have made, or will make, a beneficial contribution towards the fulfilment of the purposes of the functions of the **[**[F244]Agency**]** under any enactment;

(b) any financial assistance which that person has rendered, or has agreed to render, towards the carrying out of works by the **[**Agency**]** in the performance of those functions; and

(c) any other material considerations.

(3) The Secretary of State may give directions as to the exercise by the **[**[F244]Agency**]** of its powers under subsection (1) above.

(4) Without prejudice to the exercise of the power conferred by subsection (3) above, if on any application under this section—

(a) the **[**[F244]Agency**]** refuses to make an agreement with the applicant as mentioned in subsection (1) above; or

(b) the applicant objects to the terms of such an agreement as proposed by the **[**[F244] Agency**]** and that objection is not withdrawn,

the applicant or the **[**[F244]Agency**]** may refer the question in dispute to the Secretary of State.

(5) On a reference under subsection (4) above—

(a) the Secretary of State shall determine the question in dispute, having regard to the matters to which, in accordance with subsection (2) above, the **[**[F244]Agency**]** was required to have regard in relation to the applicant; and

Status: *Point in time view as at 01/10/2006.*
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(b) may give directions to the **[**[F244]Agency**]** requiring it to make an agreement with the applicant in accordance with his decision.

[F245](6) . . . . . .

(7) Any decision of the Secretary of State on a reference under subsection (4) above shall be final; and section 69 above shall apply in relation to the decision on a reference under this section as it applies in relation to a decision on a reference such as is mentioned in subsection (1)(b) of that section, but as if references to the other party were references to the applicant.

Textual Amendments

F244 Words in s. 126 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F245 S. 126(6) repealed (21.9.1995) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 153, **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1995/1983, **art. 3**

127 Special charges in respect of spray irrigation.

(1) Where a person ("the applicant") is for the time being the holder of a licence under Chapter II of Part II of this Act to abstract water ("the applicant's licence"), and in accordance with the provisions of that licence—

(a) the water is to be used on land of which the applicant is the occupier; and

(b) the purposes for which water abstracted in pursuance of the licence is to be used consist of or include spray irrigation,

the applicant may apply to the **[**[F246]Agency**]** to make an agreement with him under this section and, subject to the following provisions of this section and sections 128 and 129 below, the **[**[F246]Agency**]**may make such an agreement accordingly.

(2) During any period for which an agreement under this section is in force, the following charges shall be payable by the applicant to the **[**[F246]Agency**]** in respect of the applicant's licence, in so far as it relates to water authorised to be abstracted and used on the relevant land, that is to say—

(a) basic charges calculated, in accordance with the agreement, by reference to the quantity of water authorised to be so abstracted and used from time to time in pursuance of the licence; and

(b) supplementary charges calculated, in accordance with the agreement, by reference to the quantity of water which is measured or assessed as being abstracted from time to time by or on behalf of the applicant from the source of supply to which the applicant's licence relates for use on the relevant land.

(3) In determining—

(a) whether to make an agreement with the applicant under this section; and

(b) the charges to be leviable under such an agreement,

the **[**[F246]Agency**]** shall have regard to the extent to which, in any year within the period proposed to be specified in the agreement as the period for which it is made, the quantity of water referred to in paragraph (a) of subsection (2) above is likely to exceed the quantity referred to in paragraph (b) of that subsection.

Status: *Point in time view as at 01/10/2006.*
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(4) Where the applicant's licence authorises water abstracted in pursuance of the licence to be used on the relevant land for purposes which include spray irrigation and other purposes—

(a) any agreement made under this section shall provide for apportioning, as between those purposes respectively, the quantity referred to in paragraph (a) of subsection (2) above and the quantity referred to in paragraph (b) of that subsection;

(b) subsection (2) above shall have effect as if in each of those paragraphs the reference to the quantity of water mentioned in that paragraph were a reference to so much of that quantity as in accordance with the agreement is apportioned to the purpose of spray irrigation; and

(c) in subsection (3) above any reference to either of those paragraphs shall be construed as a reference to that paragraph as modified by paragraph (b) of this subsection.

(5) An application under subsection (1) above may be made by a person who has applied for, but is not yet the holder of, a licence under Chapter II of Part II of this Act to abstract water; and, in relation to an application so made or to an agreement made on such an application—

(a) the reference in that subsection to the provisions of the applicant's licence shall be construed as a reference to the proposals contained in the application for a licence; and

(b) any other reference in this section or in section 128 or 129 below to the applicant's licence shall be construed as a reference to any licence granted to the applicant in pursuance of the application mentioned in paragraph (a) above or in pursuance of an appeal consequential upon the application so mentioned.

(6) In this section and sections 128 and 129 below—

"the applicant" and "the applicant's licence" shall be construed, subject to subsection (5) above, in accordance with subsection (1) above;

"the relevant land" means the land on which the applicant's licence, as for the time being in force, authorises water abstracted in pursuance of the licence to be used for purposes which consist of or include spray irrigation; and

"year" means a period of twelve months beginning—

(a) with the date on which an agreement under this section comes into force or is proposed to come into force; or

(b) with an anniversary of that date.

Textual Amendments

F246 Words in s. 127 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Modifications etc. (not altering text)

C108 S. 127(1)(4) modified (18.5.1992) by S.I. 1992/1096, arts. 3, 4, **Sch.**

128 Duration of agreement under section 127.

(1) The period specified in an agreement under section 127 above as the period for which it is made shall not be less than five years.

Status: *Point in time view as at 01/10/2006.*
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(2) An agreement under section 127 above shall remain in force until the occurrence of whichever of the following events first occurs, that is to say—

(a) the period specified in the agreement, as mentioned in subsection (1) above, comes to an end;

(b) the applicant's licence expires or is revoked;

(c) the applicant ceases to be the occupier of the relevant land or, if he has previously ceased to be the occupier of a part or parts of that land, ceases to be the occupier of the remainder of it;

(d) the agreement is terminated under subsection (4) below.

(3) At any time while an agreement under section 127 above is in force, the applicant may apply to the **[**[F247]Agency**]** to terminate the agreement.

(4) If, on an application for the termination of an agreement under section 127 above, the **[**[F247]Agency**]**is satisfied that, by reason of any change of circumstances since the agreement was made, it ought to be terminated, it may terminate the agreement, either unconditionally or subject to such conditions (whether as to any payment to be made by the applicant or otherwise) as the **[**[F247]Agency**]**and the applicant may agree.

Textual Amendments

F247 Words in s. 128 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

129 Directions and appeals with respect to exercise of powers under sections 127 and 128.

(1) The Secretary of State may give directions as to the exercise by the **[**[F248]Agency**]**of its powers under sections 127 and 128 above.

(2) Without prejudice to the exercise of the power conferred by subsection (1) above, if on any application under section 127 or 128 above—

(a) the **[**[F248]Agency**]** refuses to make or terminate an agreement under section 127 above; or

(b) the applicant objects to the proposals of the **[**[F248]Agency**]**—

(i) as to the terms of such an agreement; or

(ii) as to the conditions subject to which such an agreement is to be terminated,

and that objection is not withdrawn,

the applicant or the **[**[F248]Agency**]** may refer the question in dispute to the Secretary of State.

(3) On a reference under subsection (2) above—

(a) the Secretary of State shall determine the question in dispute, having regard to the matters to which, in accordance with subsection (3) of section 127 above, the **[**[F248]Agency**]** would be required to have regard in relation to the applicant on an application under that section; and

(b) may give directions to the **[**[F248]Agency**]** requiring it to make an agreement with the applicant in accordance with his decision.

[F249](4) . . . . . .

Status: *Point in time view as at 01/10/2006.*
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(5) Any decision of the Secretary of State on a reference under subsection (2) above shall be final; and section 69 above shall apply in relation to the decision on a reference under this section as it applies in relation to a decision on a reference such as is mentioned in subsection (1)(b) of that section, but as if references to the other party were references to the applicant.

Textual Amendments

F248 Words in s.129 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F249 S. 129(4) repealed (21.9.1995) by 1995 c. 25, s. 120(1)(3), **Sch. 22 para. 153** (with ss. 7(6), 115, 117); S.I. 1995/1983, **art. 3**

130 Charges in respect of abstraction from waters of British Waterways Board.

(1) Where the British Waterways Board are the holders of a licence under Chapter II of Part II of this Act authorising abstraction from any inland waters to which section 66 above applies, then, the charges which, apart from this subsection, would be payable in respect of that licence either—

(a) shall be reduced to such extent, and as so reduced shall be payable subject to such conditions; or

(b) shall not be payable,

as the Board and the **[**[F250]Agency**]** may agree or, in default of such agreement, the Secretary of State may determine.

(2) Where—

(a) a person other than the British Waterways Board is the holder of a licence under Chapter II of Part II of this Act authorising abstraction from any inland waters to which section 66 above applies; and

(b) any charges in respect of that licence are payable,

the **[**[F250] Agency**]** shall pay to the Board such proportion of those charges, subject to such conditions, as the Board and the **[**[F250]Agency**]** may agree, or, in default of such agreement, the Secretary of State may determine.

Textual Amendments

F250 Words in s. 130 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Charges in connection with control of pollution

[F251]**131** . . . . . .

Textual Amendments

F251 Ss. 131, 132 repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 154, **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[F252]132 . . . . . .

Textual Amendments

F252 Ss. 131, 132 repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 154, **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

*Levies by the **[**[F253]Agency**]** on local authorities*

Textual Amendments

F253 Word in cross-heading to s. 133 substituted (subject to other provisions of amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

133 Power to authorise the [[F254]Agency] to issue levies.

For the purposes of its flood defence functions the **[**[F254]Agency**]** shall be a levying body within the meaning of section 74 of the [M51]Local Government Finance Act 1988 (power to make regulations authorising a levying body to issue a levy); and that section shall have effect accordingly.

Textual Amendments

F254 Words in s. 133 and the sidenote substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Marginal Citations

M51 1988 c. 41.

General drainage charges

134 Raising of general drainage charges.

(1) Subject to subsection (2) below, the **[**[F255]Agency**]** may raise at an amount per hectare of chargeable land in a local flood defence district a charge to be known as a general drainage charge and to be levied in accordance with sections 135 and 136 below.

(2) The **[**[F255]Agency**]** shall not levy a general drainage charge in respect of any local flood defence district unless the regional flood defence committee for the area in which that district is situated have recommended that such a charge should be raised.

(3) For the purposes of this section and sections 135 and 136 below the area of a regional flood defence committee in relation to which no local flood defence scheme is in force shall be treated as a single local flood defence district; and any parts of such an area in relation to which no such scheme is in force shall be treated as included in a single such district.

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F255 Words in s. 134 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Modifications etc. (not altering text)

C109 S. 134 restricted (1.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60, SIF 130), ss. 2(2), 4(2), **Sch. 2 Pt. I para. 2(2)**

135 Amount, assessment etc. of general drainage charge.

(1) A general drainage charge raised by the **[**[F256]Agency**]** for a local flood defence district for any year shall be at a uniform amount per hectare of chargeable land in that district.

(2) The uniform amount referred to in subsection (1) above shall be ascertained, subject to subsection (3) below, by multiplying the relevant quotient [F257]. . . by one penny and by such number as may be specified by either of the Ministers by order made for the purposes of this subsection.

(3) The number specified in an order under this section for the purposes of subsection (2) above shall (apart from any adjustment made to it to take account of rough grazing land) be such as the Minister making the order considers will secure, so far as reasonably practicable, that the amount specified in paragraph (a) below will be equal to the amount specified in paragraph (b) below, that is to say—

(a) the aggregate amount produced by any charge levied by reference to a relevant quotient [F258]. . .; and

(b) the aggregate amount which, if the chargeable land in the local flood defence district had been liable to be rated for the financial year beginning in 1989, would have been produced by a rate levied on the land at an amount in the pound (of rateable value) equal to that quotient multiplied by one penny.

(4) An order under this section may be made so as to apply either—

(a) to all general drainage charges; or

(b) to the general drainage charges proposed to be raised in any one or more local flood defence districts specified in the order;

and any such order applying to more than one local flood defence district may make different provision as respects the different districts to which it applies.

(5) Schedule 15 to this Act shall have effect with respect to the assessment, incidence, payment and enforcement of general drainage charges.

(6) The power of each of the Ministers to make an order under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

[[F259](7) In this section "relevant quotient" means a quotient determined for the year concerned in accordance with rules contained in regulations made by either of the Ministers.**]**

Textual Amendments

F256 Word in s. 135 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F257 Words in s. 135(2) repealed (1.8.1992 subject to savings in S.I. 1992/1755, **art. 2(2)**) by Local Government Finance Act 1992 (c. 14), s. 117(1)(2), Sch. 13 para. 96(1), **Sch. 14** (with s. 118(1)(2)(4)); S.I. 1992/1755, **art. 2(1)**

F258 Words in s. 135(3)(a) repealed (1.8.1992 subject to savings in S.I. 1992/1755, **art. 2(2)**) by Local Government Finance Act 1992 (c. 14), s. 117(1)(2), Sch. 13 para. 96(2), **Sch. 14** (with s. 118(1)(2)(4)); S.I. 1992/1755, **art. 2(1)**

F259 S. 135(7) added (1.8.1992 subject to savings in S.I. 1992/1755, **art. 2(2)**) by Local Government Finance Act 1992 (c. 14), s. 117(1), **Sch. 13 para. 96(3)** (with s. 118(1)(2)(4)); S.I. 1992/1755, **art. 2(1)**

Modifications etc. (not altering text)

C110 S. 135 restricted (1.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60, SIF 130), ss. 2(2), 4(2), **Sch. 2 Pt. I para. 2(2)**.

[F260]136 . . . . . .

Textual Amendments

F260 S. 136 repealed (1.8.1992 subject to savings in S.I. 1992/1755, **art. 2(2)**) by Local Government Finance Act 1992 (c. 14), s. 117(1)(2), Sch. 13 para. 97, **Sch.14** (with s. 118(1)(2)(4)); S.I. 1992/1755, **art. 2(1)**

Special drainage charges

137 Special drainage charges in interests of agriculture.

(1) Where it appears to the **[**[F261]Agency**]** that the interests of agriculture require the carrying out, improvement or maintenance of drainage works in connection with any watercourses in the area of any regional flood defence committee, the **[**Agency**]** may submit to either of the Ministers for confirmation a scheme under this section with respect to those watercourses.

(2) A scheme under this section with respect to any watercourses is a scheme—

(a) designating those watercourses, and any watercourses connected with them, for the purposes of this section; and

(b) making provision for the raising, in accordance with section 138 below, of a charge (known as a "special drainage charge") for the purpose of meeting the expenses of drainage works in connection with the designated watercourses and any expenses arising from such works.

(3) A scheme under this section shall designate for the purposes of the special drainage charge so much of the area of the regional flood defence committee as consists of land which, in the opinion of the **[**[F261]Agency**]**, is agricultural land that would benefit from drainage works in connection with the designated watercourses.

(4) The watercourses designated in any scheme under this section shall, if the scheme is confirmed, be treated for the purposes of this Act and the [M52]Land Drainage Act 1991 as part of a main river.

(5) A scheme under this section-

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(a) may make provision for any of the matters referred to in subsections (1) and (2) of section 108 above; and

(b) may provide for the revocation or amendment of, and for the retransfer of property, rights, powers, duties, obligations and liabilities transferred by, any previous scheme under this section.

(6) Schedule 16 to this Act shall have effect with respect to the making and confirmation of schemes under this section.

(7) For the purposes of this section—

(a) the reference to expenses of drainage works is a reference to expenses incurred in the construction, improvement or maintenance of drainage works;

(b) the expenses of any drainage works which may be necessary in consequence of other drainage works, and so much of any contribution made under section 57 of the [M53]Land Drainage Act 1991 as is fairly attributable to such expenses, shall be deemed to be expenses arising from those other drainage works; and

(c) the expenses of any drainage works shall be taken (without prejudice to section 221(5) below) to include a proper proportion of the cost of the officers and buildings and establishment of the authority carrying them out.

(8) In this section and Schedule 16 to this Act "watercourse" has the same meaning as in Part IV of this Act.

Textual Amendments

F261 Words in s. 137 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Marginal Citations

M52 1991 c. 59.

M53 1991 c. 59.

138 Levying and amount of special drainage charge.

(1) A special drainage charge shall be levied by the **[**[F262]Agency**]** in respect of chargeable land included in the area designated for the purposes of the charge by the scheme authorising it ("the relevant chargeable land").

(2) The special drainage charge raised for any year shall be at a uniform amount per hectare of the relevant chargeable land.

(3) The uniform amount referred to in subsection (2) above shall be determined by the regional flood defence committee for the area which includes the relevant chargeable land but shall exceed neither—

(a) an amount to be specified in the scheme as the maximum amount of the charge or such greater amount as may be authorised for the purposes of the scheme by an order made by one of the Ministers on the application of the **[**[F262]Agency**]**; nor

(b) twenty-five pence or such other amount as may be substituted for twenty-five pence by an order made by one of the Ministers and approved by a resolution of the House of Commons.

Status: *Point in time view as at 01/10/2006.*
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(4) Before either of the Ministers makes an order under subsection (3)(a) above he shall—
- (a) consult with such of the associations and persons concerned as he considers appropriate;
- (b) cause a notice of his intention to make the order, and of the time (which shall not be less than thirty days) within which objections to the proposed order may be made to him, to be published in such manner as he thinks best adapted for informing persons affected;
- (c) if he considers it necessary, afford such persons an opportunity of appearing before and being heard by a person appointed by him for the purpose; and
- (d) consider the report of the person so appointed and any objections duly made.

(5) An order under subsection (3)(b) above may be made so as to apply—
- (a) to special drainage charges in general; or
- (b) to the special drainage charges proposed to be raised in respect of such areas of regional flood defence committees as may be specified in the order; or
- (c) to special drainage charges proposed to be raised in pursuance of one or more schemes made under section 137 above and so specified;

and any such order applying to the charges proposed to be raised in respect of more than one area of a regional flood defence committee, or authorised by more than one such scheme, may make different provision for the charges in respect of different areas or, as the case may be, the charges authorised by the different schemes.

(6) The power of each of the Ministers to make an order under subsection (3)(b) above shall be exercisable by statutory instrument; and section 14 of the [M54]Interpretation Act 1978 (power to revoke or amend orders made by statutory instrument) shall apply to the power to make orders under subsection (3)(a) above as it applies, by virtue of this subsection, to the power to make orders under subsection (3)(b) above.

(7) Schedule 15 to this Act shall have effect with respect to the assessment, incidence, payment and enforcement of special drainage charges.

Textual Amendments

F262 Words in s. 138 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Marginal Citations

M54 1978 c. 30.

Revenue from internal drainage boards

139 Contributions from internal drainage boards.

(1) Subject to subsections (2) and (3) below, the **[**[F263]Agency**]** shall by resolution require every internal drainage board to make towards the expenses of the **[**[F263]Agency**]** such contribution as the **[**[F263]Agency**]** may consider to be fair.

(2) Subject to subsection (3) below, where an internal drainage district (" the main internal drainage district") comprises two or more other internal districts ("minor internal drainage districts"), the **[**[F263]Agency**]** shall not require the drainage board for that

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district to make any contribution towards the expenses of the **[**[F263]Agency**]** except in respect of such part, if any, of that district as is not situated within any minor internal drainage district.

(3) Notwithstanding subsection (2) above, the **[**[F263]Agency**]**, after determining what contribution should be made by the drainage board for each of the minor internal drainage districts, may, if it thinks fit, require the drainage board for the main internal drainage district to pay direct to the **[**[F263]Agency**]** an amount equal to the aggregate of those contributions.

(4) If the **[**[F263]Agency**]** make a requisition under subsection (3) above, the drainage board of the main internal drainage district shall raise the amount paid by them under that subsection to the **[**[F263]Agency**]** by means of drainage rates levied by them within, or special levies issued in respect of, the main internal drainage district or, as the case may be, such part of that district as is situated within a minor internal drainage district.

(5) Without prejudice to subsection (3) of section 140 below, a resolution under this section may be acted upon by the **[**[F263]Agency**]** forthwith, notwithstanding that the time for bringing an appeal under that section has not expired or that an appeal so brought is pending.

Textual Amendments

F263 Words in s. 139 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

140 Appeals in respect of resolutions under section 139.

(1) If—

(a) an internal drainage board is aggrieved by a resolution of the **[**[F264]Agency**]** under section 139 above determining the amount of any contribution; or

(b) the council of any county **[**[F265], county borough**]** or London borough is aggrieved by any such resolution on the ground that the amount of the contribution required to be made by an internal drainage board is inadequate,

the board or council may, within six weeks after the date on which notice of the resolution is given by the **[**[F264]Agency**]** to the internal drainage board in question, appeal to the relevant Minister against the resolution.

(2) On an appeal under this section the relevant Minister may, after—

(a) considering any objections made to him; and

(b) if he thinks fit, holding a local public inquiry,

make such an order in the matter as he thinks just.

(3) Where the **[**[F264]Agency**]** has acted on a resolution by virtue of section 139(5) above and an appeal is brought in respect of the resolution, the relevant Minister shall by his order direct such adjustment to be made in respect of any sums recovered or paid in pursuance of the resolution as may be necessary for giving effect to his decision.

(4) Where the relevant Minister makes an order under this section, he shall lay before Parliament particulars of the matter in respect of which the appeal was made and of the reasons for his order.

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(5) Compliance with any order made by the relevant Minister under this section may be enforced by mandamus.

(6) In this section "the relevant Minister"—

(a) in relation to an internal drainage district wholly in Wales or the drainage board for such a district, means the Secretary of State;

(b) in relation to an internal drainage district partly in Wales or the drainage board for such a district, means the Ministers; and

(c) in any other case, means the Ministers.

Textual Amendments

F264 Words in s. 140 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F265 Words in s. 140(1)(b) inserted (1.4.1996) by 1994 c. 19, s. 22(5), **Sch. 11 Pt. I para. 3(3)** (with ss. 54(4)(7), 55(5)Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**

Modifications etc. (not altering text)

C111 S. 140 extended (1.12.1991) by Land Drainage Act 1991 (c. 59, SIF 73:1), **ss. 58(7)**, 76(2).

141 Precepts for recovery of contributions from internal drainage boards.

(1) The **[**[F266]Agency**]**may issue precepts to internal drainage boards requiring payment of any amount required to be contributed by those boards under section 139 above.

(2) An internal drainage board shall pay, in accordance with any precept issued to them under this section, the amount thereby demanded.

(3) It shall be the duty of the **[**[F266]Agency**]** to prepare, in such form as the relevant Minister may direct, a statement of—

(a) the purposes to which the amount demanded by any precept issued by the **[**[F266]Agency**]** under this section is intended to be applied; and

(b) the basis on which it is calculated;

and an internal drainage board shall not be liable to pay the amount demanded by any such precept until they have received such a statement.

(4) Compliance with any precept issued by the **[**[F266]Agency**]** in accordance with this section may be enforced by mandamus.

(5) In this section "the relevant Minister" has the same meaning as in section 140 above.

Textual Amendments

F266 Words in s. 141 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

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Fisheries contributions

142 Fisheries contributions.

(1) Each of the Ministers shall have power, on an application made to him by the **[**[F267]Agency**]**, by order made by statutory instrument to make provision in relation to an area defined by the order—

(a) for the imposition on the owners and occupiers of fisheries in that area of requirements to pay contributions to the **[**[F267]Agency**]**, of such amounts as may be determined under the order, in respect of the expenses of the carrying out in relation to that area of the **[**[F267]Agency's**]** functions with respect to fisheries;

(b) for such contributions to be paid or recovered in such manner, and to be refundable, in such circumstances as may be specified in or determined under the order.

(2) Subsections **[**[F268](2) to (6)**]**of section 115 above shall have effect in relation to the power conferred by subsection (1) above as they have effect in relation to the power conferred by subsection (1) of that section.

(3) The reference in this section to the owners and occupiers of fisheries shall have the same meaning as any such reference in the [M55]Salmon and Freshwater Fisheries Act 1975.

Textual Amendments

F267 Words in s. 142 substituted (subject to other provisions of amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F268 Words in s. 142(2) substituted (21.9.1995) by 1995 c. 25, s. 116, **Sch. 21 para. 2(3)** (with ss. 7(6), 115, 117); S.I. 1995/1983, **art. 3**

Modifications etc. (not altering text)

C112 S. 142 excluded (1.7.1999) by S.I. 1999/1746, **arts. 1(1)**, 4(1); S.I. 1998/3178, **art. 3**

Marginal Citations

M55 1975 c. 51.

Navigation tolls

143 Power of Authority to levy navigation tolls.

(1) Where any navigable waters—

(a) in England and Wales; or

(b) in so much of the territorial sea adjacent to England and Wales as is included in the area of a regional flood defence committee,

are not subject to the control of any navigation authority, harbour authority or conservancy authority, the **[**[F269]Agency**]** may apply to the Secretary of State for an order imposing tolls in respect of the navigation of vessels in those waters.

(2) An order under this section shall not be made unless the Secretary of State is satisfied that the cost of the maintenance or works in connection with the waters to which the

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order relates has been or will be increased as a result of the use of those waters for purposes of navigation.

(3) Schedule 17 to this Act shall have effect with respect to the making of orders under this section.

(4) Any tolls payable under this section in respect of the navigation of a vessel in any water referred to in subsection (1) above—

(a) may be demanded from the person in charge of the vessel by any person authorised for that purpose by the **[**[F269]Agency**]**; and

(b) if not paid on demand, may be recovered from either the person in charge of the vessel or the owner of the vessel.

Textual Amendments

F269 Words in s. 143 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Modifications etc. (not altering text)

C113 S. 143 modified (01.12.1991) by Land Drainage Act 1991 (c. 59, SIF 73:1), **ss. 56(1)**, 76(2).

C114 S. 143(4) modified (01.12.1991) by Land Drainage Act 1991 (c. 59, SIF 73:1), **ss. 56(2)**, 76(2).

Incidental power of the Authority to impose charges

Interpretation of Chapter II

145 Interpretation of Chapter II.

In this Chapter—

"agricultural buildings" has the meaning provided by section 26(4) of the [M56]General Rate Act 1967 as amended by the [M57]Rating Act 1971;

"agricultural land" means—

(a) land used as arable, meadow or pasture ground only;

(b) land used for a plantation or a wood or for the growth of saleable underwood; and

(c) land exceeding one tenth of a hectare used for the purpose of poultry farming, market gardens, nursery grounds, orchards or allotments, including allotment gardens within the meaning of the [M58]Allotments Act 1922,

but does not include land occupied together with a house as a park, gardens (other than as aforesaid) or pleasure grounds, land kept or preserved mainly or exclusively for purposes of sport or recreation or land used as a racecourse;

"chargeable land" means the agricultural land and agricultural buildings in so much of the area of a regional flood defence committee as does not fall within an internal drainage district, excluding rough grazing land and woodlands other than commercial woodlands;

"commercial woodlands" means woodlands managed on a commercial basis with a view to the realisation of profits;

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"drainage" has the same meaning as in Part IV above;

"drainage charge" means general drainage charge or special drainage charge;

"rough grazing land" means land of either of the following descriptions, that is to say—

(a) land used as pasture ground on which the vegetation consists solely or mainly of one or more of the following, that is to say, bracken, gorse, heather, rushes and sedge; and

(b) land so used which is unsuitable for mowing by machine and on which the vegetation consists solely or mainly of grass of poor feeding value; and

"spray irrigation" has the same meaning as in Chapter II of Part II of this Act.

Marginal Citations

M56 1967 c. 9.
M57 1971 c. 39.
M58 1922 c. 51.

CHAPTER III

GRANTS AND LOANS

Grants to the [F270 Agency]

Textual Amendments

F270 Word in s. 146 cross-heading substituted (subject to other provisions of amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F271 146 . . . . . .

Textual Amendments

F271 S. 146 repealed (1.4.1996) by 1995 c. 25, s. 120, Sch. 22 para. 155, **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F272 147 Grants for drainage works.

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Textual Amendments

F272 Ss. 147-149 repealed (17.3.2004 for E., 1.4.2004 for W.) by Water Act 2003 (c. 37), ss. 69(1), 105(3), **Sch. 9 Pt. 3**; S.I. 2004/641, art. 2(a)(d); S.I. 2004/910, art. 2(1)(b)

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[F272]148 Grants towards cost of flood warning systems.

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Textual Amendments

F272 Ss. 147-149 repealed (17.3.2004 for E., 1.4.2004 for W.) by Water Act 2003 (c. 37), ss. 69(1), 105(3), **Sch. 9 Pt. 3**; S.I. 2004/641, art. 2(a)(d); S.I. 2004/910, art. 2(1)(b)

[F272]149 Other grants in respect of exercise of powers under Part VII for drainage purposes.

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Textual Amendments

F272 Ss. 147-149 repealed (17.3.2004 for E., 1.4.2004 for W.) by Water Act 2003 (c. 37), ss. 69(1), 105(3), **Sch. 9 Pt. 3**; S.I. 2004/641, art. 2(a)(d); S.I. 2004/910, art. 2(1)(b)

[F273]150 . . . . . .

Textual Amendments

F273 Ss. 150-153 repealed (1.4.1996) by 1995 c. 25, s. 120, Sch. 22 para. 156, **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Borrowing by the Authority

[F274]151 . . . . . .

Textual Amendments

F274 Ss. 150-153 repealed (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 156** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

[F275]152 . . . . . .

Textual Amendments

F275 Ss. 150-153 repealed (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 156** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

[F276]153 . . . . . .

Status: *Point in time view as at 01/10/2006.*
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Textual Amendments

F276 Ss. 150-153 repealed (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 156** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

PART VII

LAND AND WORKS POWERS

Modifications etc. (not altering text)

C115 Pt. VII (ss. 154-186): Transfer of functions (1.4.1996) to the Agency by 1995 c. 25, **s. 2(1)(a)(iv)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

CHAPTER I

POWERS OF THE [F277AGENCY]

Textual Amendments

F277 Word in Pt. VII Chapter I heading substituted (subject to the other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Provisions in relation to land

154 Compulsory purchase etc.

(1) The [F278Agency] may be authorised by either of the Ministers to purchase compulsorily any land anywhere in England and Wales which is required by the [F278Agency] for the purposes of, or in connection with, the carrying out of its functions.

(2) The power of each of the Ministers under subsection (1) above shall include power—

(a) to authorise the acquisition of interests in, and rights over, land by the creation of new interests and rights; and

(b) by authorising the acquisition by the [F278Agency] of any rights over land which is to be or has been acquired by the [F278Agency], to provide for the extinguishment of those rights.

(3) Without prejudice to the generality of subsection (1) above, the land which the [F278Agency] may be authorised under that subsection to purchase compulsorily shall include land which is or will be required for the purpose of being given in exchange for, or for any right over, any other land which for the purposes of the M59Acquisition of Land Act 1981 is or forms part of a common, open space or a fuel or field garden allotment.

(4) Subject to section 182 below, the Acquisition of Land Act 1981 shall apply to any compulsory purchase under subsection (1) above of any land by the [F278Agency]; and

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Schedule 3 to the said Act of 1981 shall apply to the compulsory acquisition under that subsection of rights by the creation of new rights.

(5) Schedule 18 to this Act shall have effect for the purpose of modifying enactments relating to compensation and the provisions of the [M60]Compulsory Purchase Act 1965 in their application in relation to the compulsory acquisition under subsection (1) above of a right over land by the creation of a new right.

(6) The provisions of Part I of the [M61]Compulsory Purchase Act 1965 (so far as applicable), other than sections 4 to 8, 10, 21, 27(1) and 31 and Schedule 4, shall apply in relation to any power to acquire land by agreement which is conferred, by virtue of any provision of this Act **[**[F279]or otherwise (including section 37 of the 1995 Act (incidental general powers of the Agency))**]**, on the **[**Agency**]** as if—

(a) any reference in those provisions to the acquiring authority were a reference to the **[**[F278]Agency**]**; and

(b) any reference to land subject to compulsory purchase were a reference to land which may be purchased by agreement under that power.

Textual Amendments

F278 Word in s. 154 substituted (subject to the other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F279 Words in s. 154(6) substituted (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 157** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Marginal Citations

M59 1981 c. 67.

M60 1965 c. 56.

M61 1965 c. 56.

155 Accretions of land resulting from drainage works.

(1) If the relevant Minister certifies that, as the result of—

(a) any drainage works carried out or improved, or proposed to be carried out or improved, by the **[**[F280]Agency**]** in connection with the tidal waters of a main river; or

(b) any drainage works transferred from a drainage body to the **[**[F280]Agency**]** in pursuance of this Act or the [M62]Land Drainage Act 1991,

there has been or is likely to be any accretion of land, the powers of the **[**[F280]Agency**]** by virtue of this Act, for the purpose of carrying out its functions, to acquire land or any interest in or right over land by agreement or compulsorily shall include power so to acquire the land mentioned in subsection (2) below.

(2) The land mentioned in subsection (1) above is—

(a) the accretion of land or the land to which the accretion will, if it takes place, be added, together with any right to reclaim or embank the accretion; and

(b) such other land as is reasonably required for the purpose of reclamation of the accretion or for the enjoyment of it when reclaimed.

(3) An agreement or order with respect to the acquisition of any land or rights by virtue of this section may provide for the transfer to the **[**[F280]Agency**]** of any liability for the

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upkeep, maintenance and repair of any bank or drainage work or of any other like liability.

(4) Where the value of any land or right is increased by the carrying out or proposed carrying out of drainage works by the **[**[F280]Agency**]** the amount of the increase shall not be taken into account in assessing the compensation in respect of the compulsory acquisition of it.

(5) Where, by reason of a certificate having been given by the relevant Minister under this section in relation to any drainage works, the **[**Agency**]** has acquired any land or right and a grant has been made out of public moneys for defraying the cost or part of the cost of the carrying out of the works, the **[**[F280]Agency**]** shall—

(a) on being so required by the Crown Estate Commissioners; and

(b) on payment by the Commissioners to the **[**Agency**]** of the sum paid by the **[**[F280]Agency**]** in respect of the acquisition of the land or right, together with the amount of any costs incurred by the **[**[F280]Agency**]** in connection with the acquisition,

transfer the land or right to the Commissioners or to any person nominated by them.

(6) If the **[**[F280]Agency**]**, on being so required by the Crown Estate Commissioners in pursuance of subsection (5) above, fail to transfer to the Commissioners any land or right, the relevant Minister may by a vesting order transfer the land or right to the Commissioners or to a person nominated by them; and, for the purposes of this subsection, the relevant Minister shall be deemed to be a competent authority within the meaning of section 9 of the [M63]Law of Property Act 1925.

(7) In this section—

"banks" has the same meaning as in Part IV of this Act;

"drainage body" has the same meaning as in section 108 above;

"the relevant Minister"—

(a) in relation to England, means the Minister; and

(b) in relation to Wales, means the Secretary of State.

Textual Amendments

F280 Word in s. 155 substituted (subject to the other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Marginal Citations

M62 1991 c. 59.

M63 1925 c. 20.

156 Acquisition of land etc. for fisheries purposes.

(1) **[**[F281]Without prejudice to section 37 of the 1995 Act (incidental general powers of the Agency)**]**, the powers conferred on the **[**[F282]Agency**]** by that section and section 154 above include power to purchase or take on lease (either by agreement or, if so authorised, compulsorily)—

(a) any dam, fishing weir, fishing mill dam, fixed engine or other artificial obstruction and any fishery attached to or worked in connection with any such obstruction;

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(b) so much of the bank adjoining a dam as may be necessary for making or maintaining a fish pass for the purposes of section 10 of the [M64]Salmon and Freshwater Fisheries Act 1975; and

(c) for the purpose of erecting and working a fixed engine, any fishery land or foreshore together with any easement over any adjoining land necessary for securing access to the fishery land or foreshore so acquired.

(2) **[**[F281]Without prejudice to section 37 of the 1995 Act (incidental general powers of the Agency)**]**, the may—

(a) either alter or remove an obstruction acquired in the exercise of the powers mentioned in subsection (1) above; or

(b) by itself or its lessees use or work in any lawful manner the obstruction for fishing purposes and exercise the right by any fishery so acquired,

subject, in the case of an obstruction or fishery acquired by way of lease, to the terms of the lease.

(3) Expressions used in this section and in the Salmon and Freshwater Fisheries Act 1975 have the same meanings in this section as in that Act.

Textual Amendments

F281 Words in s. 156(1)(2) substituted (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 158** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F282 Word in s. 156 substituted (subject to the other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Marginal Citations

M64 1975 c. 51.

157 Restriction on disposals of compulsorily acquired land.

(1) The **[**[F283]Agency**]** shall not dispose of any of its compulsorily acquired land, or of any interest or right in or over any of that land, except with the consent of, or in accordance with a general authorisation given by, one of the Ministers.

(2) A consent or authorisation for the purposes of this section—

(a) shall be set out in a notice served on the **[**[F283]Agency**]** by the Minister who is giving the consent or authorisation; and

(b) in the case of an authorisation, may be combined with an authorisation for the purposes of section 156 of the [M65]Water Industry Act 1991 (restrictions on disposals of land by a water or sewerage undertaker).

(3) A consent or authorisation for the purposes of this section may be given on such conditions as the Minister who is giving it considers appropriate.

(4) Without prejudice to the generality of subsection (3) above, the conditions of a consent or authorisation for the purposes of this section may include a requirement that, before there is any disposal, an opportunity of acquiring the land in question, or an interest or right in or over that land, is to be made available to such person as may be specified in or determined under provision contained in the notice setting out the consent or authorisation in question.

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(5) A requirement under subsection (4) above may require the opportunity to be made available in such manner and on such terms as may be specified in or determined under provision contained in the notice setting out the consent or authorisation in question.

[[F284](6) In this section "compulsorily acquired land", in relation to the Agency, means any land of the Agency which—

(a) was acquired by the Agency compulsorily under the provisions of section 154 above or of an order under section 168 below;

(b) was acquired by the Agency at a time when it was authorised under those provisions to acquire the land compulsorily;

(c) being land which has been transferred to the Agency from the Authority by section 3 of the 1995 Act, was acquired by theAuthority—

(i) compulsorily, under the provisions of section 154 above or of an order under section 168 below or under the provisions of section 151 of the [M66]Water Act 1989 or of an order under section 155 of that Act; or

(ii) at a time when it was authorised under those provisions to acquire the land compulsorily;

(d) being land—

(i) which has been so transferred, and

(ii) which was transferred to theAuthority in accordance with a scheme under Schedule 2 to the [M67]Water Act 1989,

was acquired by a predecessor of the Authority compulsorily under so much of any enactment in force at any time before 1st September 1989 as conferred powers of compulsory acquisition; or

(e) being land transferred as mentioned in sub-paragraphs (i) and (ii) of paragraph (d) above, was acquired by such a predecessor at a time when it was authorised to acquire the land by virtue of any such powers as are mentioned in that paragraph.**]**

Textual Amendments

F283 Words in s. 157 substituted (subject to the other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F284 S. 157(6) substituted (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 159** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Marginal Citations

M65 1991 c. 56.

M66 1989 c. 15.

M67 1989 c. 29.

Works agreements for water resources purposes

158 Works agreements for water resources purposes.

(1) Without prejudice to the generality of the powers of the **[**[F285]Agency**]** by virtue of **[**[F286]section 37 of the 1995 Act (incidental general powers of the Agency)**]** but subject to subsection (2) below, those powers shall include power to enter into an agreement with any water undertaker, with any sewerage undertaker, with any local authority or

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joint planning board, or with the owner or occupier of any land, with respect to any one or more of the following matters, that is to say—

(a) the carrying out by any party to the agreement of works which the **[**[F285]Agency**]** considers necessary or expedient in connection with the carrying out of any of the **[**[F285]Agency's**]** functions by virtue of Part II of this Act;

(b) the maintenance by any party to the agreement of works carried out in pursuance of the agreement;

(c) provision for the **[**[F285]Agency**]** to use, or have access to, any land for any purpose connected with the carrying out of any of those functions;

(d) the manner in which any reservoir is to be operated.

(2) The Secretary of State may by a direction to the **[**Agency**]** direct that, in such cases or classes of cases as are specified in the direction, the **[**[F285]Agency**]** shall not enter into any such agreement as is mentioned in subsection (1) above except with his consent.

(3) An agreement such as is mentioned in subsection (1) above may contain such incidental and consequential provisions (including provisions of a financial character) as appear to the **[**[F285]Agency**]** necessary or expedient for the purposes of the agreement.

(4) Where an agreement such as is mentioned in subsection (1) above is made with an owner of land, other than registered land, and the agreement provides that the provisions of this subsection shall have effect in relation to the agreement—

(a) the agreement may be registered as a land charge under the [M68]Land Charges Act 1972 as if it were a charge affecting land falling within paragraph (iii) of Class D;

(b) the provisions of section 4 of that Act (which relates to the effect of non-registration) shall apply as if the agreement were such a land charge; and

(c) subject to the provisions of section 4 of that Act, the agreement shall be binding upon any successor of that owner to the same extent as it is binding upon that owner, notwithstanding that it would not have been binding upon that successor apart from the provisions of this paragraph.

(5) Where an agreement such as is mentioned in subsection (1) above is made with an owner of land which is registered land, and the agreement provides that the provisions of this subsection shall have effect in relation to the agreement—

[[F287](a) the agreement may be the subject of a notice in the register of title under the Land Registration Act 2002 as if it were an interest affecting the registered land;**]**

[[F287](b) the provisions of sections 28 to 30 of that Act (effect of dispositions of registered land on priority of adverse interests) shall apply as if the agreement were such an interest;**]**

(c) **[**[F288]subject to the provisions of those sections, **]** the agreement shall be binding upon any successor of that owner to the same extent as it is binding upon that owner, notwithstanding that it would not have been binding upon that successor apart from the provisions of this paragraph.

(6) In this section—

"registered land" has the same meaning as in the **[**[F289] Land Registration Act 2002**]** ; and

"successor", in relation to an agreement with the owner of any land, means a person deriving title or otherwise claiming under that owner, otherwise than

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in right of an interest or charge to which the interest of the owner was subject immediately before the following time, that is to say—

(a) where the land is not registered land, the time when the agreement was made; and

(b) where the land is registered land, the time when the notice of the agreement was registered.

Textual Amendments

F285 Word in s. 158 substituted (subject to the other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F286 Words in s. 158(1) substituted (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 160** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F287 S. 158(5)(a)(b) substituted (13.10.2003) by Land Registration Act 2002 (c. 9), s. 136(2), **Sch. 11 para. 25(2)(a)** (with s. 129); S.I. 2003/1725, art. 2(1)

F288 Words in s. 158(5)(c) substituted (13.10.2003) by Land Registration Act 2002 (c. 9), s. 136(2), **Sch. 11 para. 25(2)(b)** (with s. 129); S.I. 2003/1725, art. 2(1)

F289 Words in s. 158(6) substituted (13.10.2003) by Land Registration Act 2002 (c. 9), s. 136(2), **Sch. 11 para. 25(3)** (with s. 129); S.I. 2003/1725, art. 2(1)

Modifications etc. (not altering text)

C116 S. 158 applied (1.4.2006) by Water Act 2003 (c. 37), **ss. 33(3)(b)**, 105(3); S.I. 2006/984, art. 2(p)

C117 S. 158(1) applied (with modifications) (4.6.1996) by S.I. 1996/1243, art. 18, **Sch. 5 para. 6(2)(b)**

Marginal Citations

M68 1972 c. 61.

General pipe-laying powers

159 Powers to lay pipes in streets.

(1) Subject to the following provisions of this Part, the **[**[F290]Agency**]** shall, for the purpose of carrying out its functions, have power—

(a) to lay a relevant pipe in, under or over any street and to keep that pipe there;

(b) to inspect, maintain, adjust, repair or alter any relevant pipe which is in, under or over any street; and

(c) to carry out any works requisite for, or incidental to, the purposes of any works falling within paragraph (a) or (b) above, including for those purposes the following kinds of works, that is to say—

(i) breaking up or opening a street;

(ii) tunnelling or boring under a street;

(iii) breaking up or opening a sewer, drain or tunnel;

(iv) moving or removing earth and other materials.

(2) Without prejudice to the generality of subsection (1)(c) above, the **[**[F290]Agency**]** shall have power to erect and keep in any street notices indicating the position of such underground accessories for its relevant pipes as may be used for controlling the flow of water in those pipes.

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(3) The power conferred by subsection (2) above shall include power to attach any such notice as is mentioned in that subsection to any building, fence or other structure which is comprised in premises abutting on the street in question.

(4) Until the coming into force of its repeal by the [M69]New Roads and Street Works Act 1991 section 20 of the [M70]Highways Act 1980 (works in special roads) shall have effect as if the reference in that section to a power under any enactment to lay down or erect apparatus included a reference to any power to lay any pipe which is conferred by this section.

(5) In this section references to a relevant pipe are references to a resource main or discharge pipe and references to laying such a pipe shall include references-

(a) to the laying of any drain or sewer for any of the purposes specified in subsection (6) below; and

(b) to the construction of a watercourse for any of those purposes.

(6) The purposes mentioned in subsection (5) above are—

(a) intercepting, treating or disposing of any foul water arising or flowing upon any land; or

(b) otherwise preventing the pollution—

(i) of any waters, whether on the surface or underground, which belong to the **[**[F290]Agency**]** or any water undertaker or from which the **[**[F290]Agency**]** or any water undertaker is authorised to take water;

(ii) without prejudice to sub-paragraph (i) above, of any reservoir which belongs to or is operated by the **[**[F290]Agency**]** or any water undertaker or which the **[**[F290]Agency**]** or any water undertaker is proposing to acquire or construct for the purpose of being so operated; or

(iii) of any underground strata from which the **[**[F290]Agency**]** or any water undertaker is for the time being authorised to abstract water in pursuance of a licence under Chapter II of Part II of this Act.

(7) References in this section to maintaining a pipe include references to cleansing it and references to altering a pipe include references to altering its size or course, to moving or removing it and to replacing it with a pipe which is of the same description of relevant pipe as the pipe replaced.

Textual Amendments

F290 Word in s. 159 substituted (subject to the other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Marginal Citations

M69 1991 c. 22.

M70 1980 c. 66.

160 Power to lay pipes in other land.

(1) Subject to the following provisions of this Part, the **[**[F291]Agency**]** shall, for the purpose of carrying out its functions, have power—

(a) to lay a relevant pipe (whether above or below the surface) in any land which is not in, under or over a street and to keep that pipe there;

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(b) to inspect, maintain, adjust, repair or alter any relevant pipe which is in any such land;

(c) to carry out any works requisite for, or incidental to, the purposes of any works falling within paragraph (a) or (b) above.

(2) The powers conferred by this section shall be exercisable only after reasonable notice of the proposed exercise of the power has been given to the owner and to the occupier of the land where the power is to be exercised.

(3) Subject to subsection (4) below, in relation to any exercise of the powers conferred by this section for the purpose of laying or altering a relevant pipe, the minimum period that is capable of constituting reasonable notice for the purposes of subsection (2) above shall be deemed—

(a) where the power is exercised for the purpose of laying a relevant pipe otherwise than in substitution for an existing pipe of the same description, to be three months; and

(b) where the power is exercised for the purpose of altering an existing pipe, to be forty-two days.

(4) In this section references to a relevant pipe are references to a resource main or discharge pipe; and subsection (7) of section 159 above shall apply for the purposes of this section as it applies for the purposes of that section.

Textual Amendments

F291 Word in s. 160 substituted (subject to the other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Anti-pollution works

161 Anti-pollution works and operations.

(1) **[**[F292]Subject to subsections (1A) and (2) below**]** where it appears to the **[**[F293]Agency**]** that any poisonous, noxious or polluting matter or any solid waste matter is likely to enter, or to be or to have been present in, any controlled waters, the **[**[F293]Agency**]**shall be entitled to carry out the following works and operations, that is to say-

(a) in a case where the matter appears likely to enter any controlled waters, works and operations for the purpose of preventing it from doing so; or

(b) in a case where the matter appears to be or to have been present in any controlled waters, works and operations for the purpose—

(i) of removing or disposing of the matter;

(ii) of remedying or mitigating any pollution caused by its presence in the waters; or

(iii) so far as it is reasonably practicable to do so, of restoring the waters, including any flora and fauna dependent on the aquatic environment of the waters, to their state immediately before the matter became present in the waters.

[[F294]and, in either case, the Agency shall be entitled to carry out investigations for the purpose of establishing the source of the matter and the identity of the person who has caused or knowingly permitted it to be present in controlled

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waters or at a place from which it was likely, in the opinion of the Agency, to enter controlled waters.**]**

[[F295](1A) Without prejudice to the power of the Agency to carry out investigations under subsection (1) above, the power conferred by that subsection to carry out works and operations shall only be exercisable in a case where—

(a) the Agency considers it necessary to carry out forthwith any works or operations falling within paragraph (a) or (b) of that subsection; or

(b) it appears to the Agency, after reasonable inquiry, that no person can be found on whom to serve a works notice under section 161A below.**]**

(2) Nothing in subsection (1) above shall entitle the **[**[F293]Agency**]** to impede or prevent the making of any discharge in pursuance of a consent given under Chapter II of Part III of this Act.

(3) Where the **[**[F293]Agency**]** carries out any such works **[**[F296]operations or investigations**]**as are mentioned in subsection (1) above, it shall, subject to subsection (4) below, be entitled to recover the expenses reasonably incurred in doing so from any person who, as the case may be—

(a) caused or knowingly permitted the matter in question to be present at the place from which it was likely, in the opinion of the **[**[F293]Agency**]**, to enter any controlled waters; or

(b) caused or knowingly permitted the matter in question to be present in any controlled waters.

(4) No such expenses shall be recoverable from a person for any works **[**[F297]operations or investigations**]** in respect of water from an abandoned mine **[**[F298]or an abandoned part of a mine**]**which that person permitted to reach such a place as is mentioned in subsection (3) above or to enter any controlled waters.

[[F299](4A) Subsection (4) above shall not apply to the owner or former operator of any mine or part of a mine if the mine or part in question became abandoned after 31st December 1999.

(4B) Subsections (3B) and (3C) of section 89 above shall apply in relation to subsections (4) and (4A) above as they apply in relation to subsections (3) and (3A) of that section.**]**

(5) Nothing in this section—

(a) derogates from any right of action or other remedy (whether civil or criminal) in proceedings instituted otherwise than under this section; or

(b) affects any restriction imposed by or under any other enactment, whether public, local or private.

(6) In this section—

"controlled waters" has the same meaning as in Part III of this Act; and

[[F300]"expenses" includes costs;**]**

"mine" has the same meaning as in the [M71]Mines and Quarries Act 1954.

Textual Amendments

F292 Words in s. 161(1) substituted (29.4.1999) by 1995 c. 25, s. 120, **Sch. 22 para. 161(2)** (with ss. 7(6), 115, 117); S.I. 1999/1301, **art. 2**

F293 Word in s. 161 substituted (subject to the other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

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F294 Words in s. 161(1) inserted (1.7.1997) by 1995 c. 25, **s. 60(3)** (with ss. 7(6), 115, 117); S.I. 1997/1626, **art. 2** (with transitional provisions in art. 3)

F295 S. 161(1A) inserted (29.4.1999) by 1995 c. 25, s. 120, **Sch. 22 para. 161(3)** (with ss. 7(6), 115, 117); S.I. 1999/1301, **art. 2**

F296 Words in s. 161(3) substituted (1.7.1997) by 1995 c. 25, **s. 60(4)** (with ss. 7(6), 115, 117); S.I. 1997/1626, **art. 2** (with transitional provisions in art. 3)

F297 Words in s. 161(4) substituted (1.7.1997) by 1995 c. 25, **s. 60(5)(a)** (with ss. 7(6), 115, 117); S.I. 1997/1626, **art. 2** (with transitional provisions in art. 3)

F298 Words in s. 161(4) inserted (1.7.1998) by 1995 c. 25, **s. 60(5)(b)** (with ss. 7(6), 115, 117); S.I. 1998/604, **art. 3**

F299 S. 161(4A)(4B) inserted (1.7.1998) by 1995 c. 25, **s. 60(6)** (with ss. 7(6), 115, 117); S.I. 1998/604, **art. 3**

F300 Definition of "expenses" in s. 161(6) inserted (1.7.1997) by 1995 c. 25, **s. 60(7)** (with ss. 7(6), 115, 117); S.I. 1997/1626, **art. 2** (with transitional provisions in art. 3)

Modifications etc. (not altering text)

C118 S. 161 amended (27.8.1993) by 1993 c. 12, ss. 40, 51(2), **Sch. 3 Pt. I para. 9** (with s. 46).
s. 161 applied (with modifications) (21.7.1994) by 1994 c. xiii, **s. 14**
ss. 161-161D modified (1.2.1996) by 1995 c. 25, **s. 5(5)(g)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 2**

Marginal Citations

M71 1954 c. 70.

[F301 161A Notices requiring persons to carry out anti-pollution works and operations.

(1) Subject to the following provisions of this section, where it appears to the Agency that any poisonous, noxious or polluting matter or any solid waste matter is likely to enter, or to be or to have been present in, any controlled waters, the Agency shall be entitled to serve a works notice on any person who, as the case may be,—

(a) caused or knowingly permitted the matter in question to be present at the place from which it is likely, in the opinion of the Agency, to enter any controlled waters; or

(b) caused or knowingly permitted the matter in question to be present in any controlled waters.

(2) For the purposes of this section, a "works notice" is a notice requiring the person on whom it is served to carry out such of the following works or operations as may be specified in the notice, that is to say—

(a) in a case where the matter in question appears likely to enter any controlled waters, works or operations for the purpose of preventing it from doing so; or

(b) in a case where the matter appears to be or to have been present in any controlled waters, works or operations for the purpose—

(i) of removing or disposing of the matter;

(ii) of remedying or mitigating any pollution caused by its presence in the waters; or

(iii) so far as it is reasonably practicable to do so, of restoring the waters, including any flora and fauna dependent on the aquatic environment of the waters, to their state immediately before the matter became present in the waters.

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(3) A works notice—

(a) must specify the periods within which the person on whom it is served is required to do each of the things specified in the notice; and

(b) is without prejudice to the powers of the Agency by virtue of section 161(1A)(a) above.

(4) Before serving a works notice on any person, the Agency shall reasonably endeavour to consult that person concerning the works or operations which are to be specified in the notice.

(5) The Secretary of State may by regulations make provision for or in connection with—

(a) the form or content of works notices;

(b) requirements for consultation, before the service of a works notice, with persons other than the person on whom that notice is to be served;

(c) steps to be taken for the purposes of any consultation required under subsection (4) above or regulations made by virtue of paragraph (b) above; or

(d) any other steps of a procedural nature which are to be taken in connection with, or in consequence of, the service of a works notice.

(6) A works notice shall not be regarded as invalid, or as invalidly served, by reason only of any failure to comply with the requirements of subsection (4) above or of regulations made by virtue of paragraph (b) of subsection (5) above.

(7) Nothing in subsection (1) above shall entitle the Agency to require the carrying out of any works or operations which would impede or prevent the making of any discharge in pursuance of a consent given under Chapter II of Part III of this Act.

(8) No works notice shall be served on any person requiring him to carry out any works or operations in respect of water from an abandoned mine or an abandoned part of a mine which that person permitted to reach such a place as is mentioned in subsection (1)(a) above or to enter any controlled waters.

(9) Subsection (8) above shall not apply to the owner or former operator of any mine or part of a mine if the mine or part in question became abandoned after 31st December 1999.

(10) Subsections (3B) and (3C) of section 89 above shall apply in relation to subsections (8) and (9) above as they apply in relation to subsections (3) and (3A) of that section.

(11) Where the Agency—

(a) carries out any such investigations as are mentioned in section 161(1) above, and

(b) serves a works notice on a person in connection with the matter to which the investigations relate,

it shall (unless the notice is quashed or withdrawn) be entitled to recover the costs or expenses reasonably incurred in carrying out those investigations from that person.

(12) The Secretary of State may, if he thinks fit in relation to any person, give directions to the Agency as to whether or how it should exercise its powers under this section.

(13) In this section—

"controlled waters" has the same meaning as in Part III of this Act;

"mine" has the same meaning as in the [M72]Mines and Quarries Act 1954.**]**

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Textual Amendments

F301 Ss. 161A-161D inserted (21.9.1995 for specified purposes, 16.3.1999 for other specified purposes and otherwise 29.4.1999) by 1995 c. 25, s. 120, **Sch. 22 para. 162** (with ss. 7(6), 115, 117); S.I. 1995/1983, **art. 3**; S.I. 1999/803, **art. 2**; S.I. 1999/1301, **art. 2**

Marginal Citations

M72 1954 c. 70.

[F302]161B Grant of, and compensation for, rights of entry etc.

(1) A works notice may require a person to carry out works or operations in relation to any land or waters notwithstanding that he is not entitled to carry out those works or operations.

(2) Any person whose consent is required before any works or operations required by a works notice may be carried out shall grant, or join in granting, such rights in relation to any land or waters as will enable the person on whom the works notice is served to comply with any requirements imposed by the works notice.

(3) Before serving a works notice, the Agency shall reasonably endeavour to consult every person who appears to it—

(a) to be the owner or occupier of any relevant land, and

(b) to be a person who might be required by subsection (2) above to grant, or join in granting, any rights,

concerning the rights which that person may be so required to grant.

(4) A works notice shall not be regarded as invalid, or as invalidly served, by reason only of any failure to comply with the requirements of subsection (3) above.

(5) A person who grants, or joins in granting, any rights pursuant to subsection (2) above shall be entitled, on making an application within such period as may be prescribed and in such manner as may be prescribed to such person as may be prescribed, to be paid by the person on whom the works notice in question is served compensation of such amount as may be determined in such manner as may be prescribed.

(6) Without prejudice to the generality of the regulations that may be made by virtue of subsection (5) above, regulations by virtue of that subsection may make such provision in relation to compensation under this section as may be made by regulations by virtue of subsection (4) of section 35A of the [M73]Environmental Protection Act 1990 in relation to compensation under that section.

(7) In this section—

"prescribed" means prescribed in regulations made by the Secretary of State;

"relevant land" means—

(a) any land or waters in relation to which the works notice in question requires, or may require, works or operations to be carried out; or

(b) any land adjoining or adjacent to that land or those waters;

"works notice" means a works notice under section 161A above.

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Textual Amendments

F302 Ss. 161A-161D inserted (21.9.1995 for specified purposes, 16.3.1999 for other specified purposes and otherwise 29.4.1999) by 1995 c. 25, s. 120, **Sch. 22 para. 162** (with ss. 7(6), 115, 117);S.I. 1995/1983, **art. 3**; S.I. 1999/803, **art. 2**; S.I. 1999/1301, **art. 2**

Modifications etc. (not altering text)

C119 S. 161B applied (with modifications) (1.4.2006) by Water Act 2003 (c. 37), **ss. 4(3)(b)**, 105(3); S.I. 2006/984, art. 2(d)

Marginal Citations

M73 1990 c. 43.

[F303]161C Appeals against works notices.

(1) A person on whom a works notice is served may, within the period of twenty-one days beginning with the day on which the notice is served, appeal against the notice to the Secretary of State.

(2) On any appeal under this section the Secretary of State—
- (a) shall quash the notice, if he is satisfied that there is a material defect in the notice; but
- (b) subject to that, may confirm the notice, with or without modification, or quash it.

(3) The Secretary of State may by regulations make provision with respect to—
- (a) the grounds on which appeals under this section may be made; or
- (b) the procedure on any such appeal.

(4) Regulations under subsection (3) above may (among other things)—
- (a) include provisions comparable to those in section 290 of the [M74]Public Health Act 1936 (appeals against notices requiring the execution of works);
- (b) prescribe the cases in which a works notice is, or is not, to be suspended until the appeal is decided, or until some other stage in the proceedings;
- (c) prescribe the cases in which the decision on an appeal may in some respects be less favourable to the appellant than the works notice against which he is appealing;
- (d) prescribe the cases in which the appellant may claim that a works notice should have been served on some other person and prescribe the procedure to be followed in those cases;
- (e) make provision as respects—
  - (i) the particulars to be included in the notice of appeal;
  - (ii) the persons on whom notice of appeal is to be served and the particulars, if any, which are to accompany the notice; or
  - (iii) the abandonment of an appeal.

(5) In this section "works notice" means a works notice under section 161A above.

(6) This section is subject to section 114 of the 1995 Act (delegation or reference of appeals).

Status: *Point in time view as at 01/10/2006.*
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Textual Amendments

F303 Ss. 161A-161D inserted (21.9.1995 for specified purposes, 16.3.1999 for other specified purposes and otherwise 29.4.1999) by 1995 c. 25, s. 120, **Sch. 22 para. 162** (with ss. 7(6), 115, 117);S.I. 1995/1983, **art. 3**; S.I. 1999/803, **art. 2**; S.I. 1999/1301, **art. 2**

Modifications etc. (not altering text)

C120 S. 161C: power to delegate functions conferred (1.4.1996) by 1995 c. 25, **s. 114(2)(a)(v)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

C121 S. 161C applied (with modifications) (1.4.2006) by Water Act 2003 (c. 37), **ss. 4(3)(b)**, 105(3); S.I. 2006/984, art. 2(d)

Marginal Citations

M74 1936 c. 49.

[F304]161D Consequences of not complying with a works notice.

(1) If a person on whom the Agency serves a works notice fails to comply with any of the requirements of the notice, he shall be guilty of an offence.

(2) A person who commits an offence under subsection (1) above shall be liable—

(a) on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding £20,000 or to both;

(b) on conviction on indictment to imprisonment for a term not exceeding two years or to a fine or to both.

(3) If a person on whom a works notice has been served fails to comply with any of the requirements of the notice, the Agency may do what that person was required to do and may recover from him any costs or expenses reasonably incurred by the Agency in doing it.

(4) If the Agency is of the opinion that proceedings for an offence under subsection (1) above would afford an ineffectual remedy against a person who has failed to comply with the requirements of a works notice, the Agency may take proceedings in the High Court for the purpose of securing compliance with the notice.

(5) In this section "works notice" means a works notice under section 161A above.

Textual Amendments

F304 Ss. 161A-161D inserted (21.9.1995 for specified purposes, 16.3.1999 for other specified purposes and otherwise 29.4.1999) by 1995 c. 25, s. 120, **Sch. 22 para. 162** (with ss. 7(6), 115, 117); S.I. 1995/1983, **art. 3**; S.I. 1999/803, **art. 2**; S.I. 1999/1301, **art. 2**

162 Other powers to deal with foul water and pollution.

(1) Without prejudice to the powers conferred by **[**[F305]sections 161 to 161D**]** above and subsections (2) and (3) below, the **[**[F306]Agency**]** shall have power, on any land—

(a) which belongs to the **[**[F306]Agency**]**; or

(b) over or in which the **[**[F306]Agency**]** has acquired the necessary easements or rights,

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

to construct and maintain drains, sewers, watercourses, catchpits and other works for the purpose of intercepting, treating or disposing of any foul water arising or flowing on that land or of otherwise preventing any such pollution as is mentioned in section 159(6)(b) above.

(2) Subject to the following provisions of this Part, the **[**[F306]Agency**]** shall, for the purpose of carrying out its functions, have power—

(a) to carry out in a street all such works as are requisite for securing that the water in any relevant waterworks is not polluted or otherwise contaminated; and

(b) to carry out any works requisite for, or incidental to, the purposes of any works falling within paragraph (a) above, including for those purposes the following kinds of works, that is to say—

(i) breaking up or opening a street;

(ii) tunnelling or boring under a street;

(iii) breaking up or opening a sewer, drain or tunnel;

(iv) moving or removing earth and other materials;

and the provisions of section 159 above shall, so far as applicable, have effect in relation to the powers conferred by this subsection as they have effect in relation to the powers conferred by subsection (1) of that section.

(3) Subject to the following provisions of this Part, the **[**[F306]Agency**]** shall, for the purpose of carrying out its functions, have power—

(a) to carry out on any land which is not in, under or over a street all such works as are requisite for securing that the water in any relevant waterworks is not polluted or otherwise contaminated; and

(b) to carry out any works requisite for, or incidental to, the purposes of any works falling within paragraph (a) above;

and the provisions of section 160 above shall, so far as applicable, have effect in relation to the powers conferred by this subsection as they have effect in relation to the powers conferred by subsection (1) of that section.

(4) Without prejudice to the provisions of sections 178 to 184 below, nothing in subsection (1) above shall authorise the **[**[F306]Agency**]**, without the consent of the navigation authority in question, to intercept or take any water which a navigation authority are authorised to take or use for the purposes of their undertaking.

(5) Any dispute as to whether any consent for the purposes of subsection (4) above is being unreasonably withheld shall be referred to the arbitration of a single arbitrator to be appointed by agreement between the parties to the dispute or, in default of agreement, by the President of the Institution of Civil Engineers.

(6) In this section—

"relevant waterworks" means any waterworks which contain water which is or may be used by a water undertaker for providing a supply of water to any premises;

"service pipe" and "water main" have the same meanings as in the [M75]Water Industry Act 1991;

"waterworks" includes any water main, resource main, service pipe or discharge pipe and any spring, well, adit, borehole, service reservoir or tank.

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F305 Words in s. 162(1) substituted (29.4.1999) by 1995 c. 25, s. 120, **Sch. 22 para. 163** (with ss. 7(6), 115, 117); S.I. 1999/1301, **art. 2**

F306 Word in s.162 substituted (subject to the other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Marginal Citations

M75 1991 c. 56.

Powers to discharge water

163 Discharges for works purposes.

(1) Subject to the following provisions of this section and to section 164 below, where the **[**[F307]Agency**]**—

(a) is carrying out, or is about to carry out, the construction, alteration, repair, cleaning, or examination of any reservoir, well, borehole or other work belonging to or used by the **[**[F307]Agency**]** for the purposes of, or in connection with, the carrying out of any of its functions; or

(b) is exercising or about to exercise any power conferred by section 159, 160 or 162(2) or (3) above,

the **[**[F307]Agency**]** may cause the water in any relevant pipe or in any such reservoir, well, borehole or other work to be discharged into any available watercourse.

(2) Nothing in this section shall authorise any discharge which—

(a) damages or injuriously affects the works or property of any railway company or navigation authority; or

(b) floods or damages any highway.

(3) If the **[**[F307]Agency**]** fails to take all necessary steps to secure that any water discharged by it under this section is as free as may be reasonably practicable from—

(a) mud and silt;

(b) solid, polluting, offensive or injurious substances; and

(c) any substances prejudicial to fish or spawn, or to spawning beds or food of fish,

it shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

(4) In this section—

"railway company" means the British Railways Board, **[**[F308]Transport for London or any subsidiary (within the meaning of the Greater London Authority Act 1999) of Transport for London,**]** or any other person authorised by any enactment, or by any order, rule or regulation made under any enactment, to construct, work or carry on a railway; and

"relevant pipe" has the same meaning as in section 159 above.

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F307 Words in s. 163 substituted (subject to the other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F308 Words in s. 163(4) substituted (15.7.2003) by The Transport for London (Consequential Provisions) Order 2003 (S.I. 2003/1615), art. 1(1), **Sch. 1 para. 16(2)**

164 Consents for certain discharges under section 163.

(1) Except in an emergency, no discharge through any pipe the diameter of which exceeds two hundred and twenty-nine millimetres shall be made under section 163 above except with such consent as may be prescribed.

(2) Where the **[**[F309]Agency**]** makes an application to any person for a consent for the purposes of this section—

(a) that application shall be accompanied or supplemented by all such information as that person may reasonably require; and

(b) the **[**[F309]Agency**]** shall serve a copy of the application, and of any consent given on that application, on every person who—

(i) is registered with the **[**[F309]Agency**]** in respect of any premises which are within three miles of the place where the discharge to which the application relates is proposed to be made and are not upstream from that place; and

(ii) has not agreed in writing that he need not be served with such a copy;

but, subject to subsection (4) below and without prejudice to the effect (if any) of any other contravention of the requirements of this section in relation to such an application, a failure to provide information in pursuance of the obligation to supplement such an application shall not invalidate the application.

(3) Subject to subsection (4) below, an application for a consent for the purposes of this section shall be determined—

(a) in the case of an application with respect to a particular discharge, before the end of the period of seven days beginning with the day after the application is made; and

(b) in any other case, before the end of the period of three months beginning with that day;

and, subject to that subsection, where an application for any consent is required to be determined within the period specified in paragraph (a) above and is not so determined, the consent applied for shall be deemed to have been given unconditionally.

(4) Where—

(a) the **[**Agency**]**, having made an application to any person for a consent for the purposes of this section, has failed to comply with its obligation under subsection (2)(a) above to supplement that application with information required by that person; and

(b) that requirement was made by that person at such a time before the end of the period within which he is required to determine the application as gave the **[**[F309]Agency**]** a reasonable opportunity to provide the required information within that period,

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that person may delay his determination of the application until a reasonable time after the required information is provided.

(5) A consent for the purposes of this section may relate to a particular discharge or to discharges of a particular description and may be made subject to such reasonable conditions as may be specified by the person giving it; but a consent for those purposes shall not be unreasonably withheld.

(6) Any dispute as to whether a consent for the purposes of this section should be given or withheld, or as to whether the conditions to which any such consent is made subject are reasonable, shall be referred to the arbitration of a single arbitrator appointed by agreement between the parties to the dispute or, in default of agreement, by the President of the Institution of Civil Engineers.

(7) Where any discharge under section 163 above is made in an emergency without the consent which, if there were no emergency, would be required by virtue of this section, the **[**[F309]Agency**]** shall, as soon as practicable after making the discharge, serve a notice which—

(a) states that the discharge has been made; and

(b) gives such particulars of the discharge and of the emergency as the persons served with the notice might reasonably require,

on every person on whom the **[**[F309]Agency**]** would have been required to serve the application for that consent or any copy of that application.

(8) If the **[**[F309]Agency**]** contravenes, without reasonable excuse, any of the requirements of this section or any condition of a consent given for the purposes of this section, it shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

(9) Nothing in this section shall require any consent to be obtained, or any notice to be served, in respect of any discharge if the requirements of section 34 of the [M76]Water Act 1945 (temporary discharges into watercourses) in relation to that discharge had been satisfied before 1st September 1989.

Textual Amendments

F309 Words in s. 164 substituted (subject to the other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Marginal Citations

M76 1945 c. 42.

Flood defence and drainage works

165 General powers to carry out flood defence and drainage works.

(1) The **[**[F310]Agency**]** shall have power, in connection with a main river—

(a) to maintain existing works, that is to say, to cleanse, repair or otherwise maintain in a due state of efficiency any existing watercourse or any drainage work;

(b) to improve any existing works, that is to say, to deepen, widen, straighten or otherwise improve any existing watercourse or remove or alter mill dams,

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weirs or other obstructions to watercourses, or raise, widen or otherwise improve any existing drainage work;

(c) to construct new works, that is to say, to make any new watercourse or drainage work or erect any machinery or do any other act (other than an act referred to in paragraph (a) or (b) above) required for the drainage of any land.

(2) The **[**[F310]Agency**]** shall also have power, irrespective of whether the works are in connection with a main river, to maintain, improve or construct drainage works for the purpose of defence against sea water or tidal water; and that power shall be exercisable both above and below the low-water mark.

(3) The **[**[F310]Agency**]** may construct all such works and do all such things in the sea or in any estuary as may, in its opinion, be necessary to secure an adequate outfall for a main river.

[[F311](4) The Agency may by agreement with any person carry out, improve or maintain, at that person's expense, any drainage works which that person is entitled to carry out, improve or maintain; but for the purposes of this subsection the expense to be borne by that person shall not include such part (if any) of the amount of any grant made under section 47 of the Environment Act 1995 (grants to the new Agencies) as the Agency decides (subject to any terms on which the grant is made) to allocate for the works in question.**]**

(5) The **[**[F310]Agency**]** may enter into an agreement with any local authority or with any navigation authority for the carrying out by that authority, on such terms as to payment or otherwise as may be specified in the agreement, of any work in connection with a main river which the **[**[F310]Agency**]** is authorised to carry out.

(6) Nothing in subsections (1) to (3) above authorises any person to enter on the land of any person except for the purpose of maintaining existing works.

(7) In this section "watercourse" has the same meaning as in Part IV of this Act; and subsections (2) and (3) of section 113 above shall apply for the purposes of determining any question arising under this section as to—

(a) whether any work is a drainage work in connection with a main river; or

(b) whether any proposed work will, if constructed, be such a drainage work,

as they apply for the purposes of that Part.

Textual Amendments

F310 Words in s. 165 substituted (subject to the other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F311 S. 165(4) substituted (17.3.2004 for E., 1.4.2004 for W.) by Water Act 2003 (c. 37), **ss. 69(2)**, 105(3); S.I. 2004/641, art. 2(a) (with Sch. 3 para. 7); S.I. 2004/910, art. 2(1)(b)

Modifications etc. (not altering text)

C122 S. 165 excluded (01.12.1991) by Land Drainage Act 1991 (c. 59, SIF 73:1), **ss. 11(2)**, 76(2).

C123 S. 165(1)(a)(b) explained (16.3.1992) by Avon Weir Act 1992 (c. v), **s. 7(4)** (with s. 61)

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

166 Power to carry out works for purpose of providing flood warning system.

(1) Without prejudice to its other powers by virtue of **[**[F312]section 37 of the 1995 Act (incidental general powers of the Agency)**]**, Part IV of this Act and this Part, the **[**[F313]Agency**]** shall have power—

(a) to provide and operate flood warning systems;

(b) to provide, install and maintain apparatus required for the purposes of such systems;

(c) to carry out any other engineering or building operations so required.

(2) Subsection (1) above shall not be construed as authorising, on the part of the **[**[F313]Agency**]**, any act or omission which, apart from that subsection, would be actionable at the suit of any person on any grounds other than a limitation imposed by law on the capacity of the **[**[F313]Agency**]** by virtue of its constitution.

(3) The **[**[F313]Agency**]** may exercise the powers conferred by subsection (1)(b) or (c) above in an area in Scotland as if—

(a) its functions in relation to the areas of the regional flood defence committees whose areas are adjacent to Scotland were functions in relation to that area in Scotland; and

(b) that area in Scotland were included in the areas of each of those committees;

but the powers conferred by this subsection are subject (except in the case of a power to maintain apparatus) to prior consultation with the local authority (within the meaning of section 1 of the [M77]Flood Prevention (Scotland) Act 1961) for the area in Scotland in question.

[[F314](4) In this section—

"flood warning system" means any system whereby, for the purpose of providing warning of any danger of flooding, information with respect to—

(a) rainfall, as measured at a particular place within a particular period; or

(b) the level or flow of any inland water, or part of an inland water, at a particular time; or

(c) other matters appearing to the Agency to be relevant for that purpose,

is obtained and transmitted, whether automatically or otherwise, with or without provision for carrying out calculations based on such information and for transmitting the results of those calculations;

"inland water" means any of the following in any part of Great Britain, that is to say—

(a) any river, stream or other watercourse, whether natural or artificial and whether tidal or not;

(b) any lake or pond, whether natural or artificial, and any reservoir or dock; and

(c) any channel, creek, bay, estuary or arm of the sea;

"rainfall" includes any fall of snow, hail or sleet.**]**

Textual Amendments

F312 Words in s. 166(1) substituted (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 164** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F313 Words in s. 166 substituted (subject to the other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

F314 S. 166(4) substituted (17.3.2004 for E., 1.4.2004 for W.) by Water Act 2003 (c. 37), **ss. 69(3)**, 105(3); S.I. 2004/641, art. 2(a) (with Sch. 3 para. 7); S.I. 2004/910, art. 2(1)(b)

Marginal Citations

M77 1961 c. 41.

167 Power to dispose of spoil in connection with flood defence works.

(1) Subject to subsection (2) below, the **[**[F315]Agency**]** may—

(a) without making payment for it, appropriate and dispose of any matter removed in the course of the carrying out of any work for widening, deepening or dredging any watercourse; and

(b) deposit any matter so removed on the banks of the watercourse, or on such width of land adjoining the watercourse as is sufficient to enable the matter in question to be removed and deposited by mechanical means in one operation.

(2) Subsection (1) above shall not authorise the deposit of any matter if the matter deposited would constitute a statutory nuisance within the meaning of Part III of the [M78]Environmental Protection Act 1990.

(3) The **[**[F315]Agency**]** and the council of any district or London borough **[**[F316] or Welsh county or county borough**]** may enter into an agreement providing—

(a) for the disposal by the council of any matter removed as mentioned in subsection (1) above; and

(b) for the payment by the **[**[F315]Agency**]** to the council, in respect of the disposal of the matter by the council, of such sum as may be provided by the agreement.

(4) In this section "banks" and "watercourse" have the same meanings as in Part IV of this Act.

Textual Amendments

F315 Words in s.167 substituted (subject to the other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F316 Words in s. 167(3) inserted (1.4.1996) by 1994 c. 19, s. 22(5), **Sch. 11 para. 3(4)** (with ss. 54(4)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**

Marginal Citations

M78 1990 c. 43.

Compulsory works orders

168 Compulsory works orders.

(1) Where the **[**[F317]Agency**]** is proposing, for the purposes of, or in connection with, the carrying out of any of its functions—

(a) to carry out any engineering or building operations; or

(b) to discharge water into any inland waters or underground strata,

the **[**[F317]Agency**]** may apply to either of the Ministers for an order under this section ("a compulsory works order").

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) Subject to the following provisions of this section, the Ministers shall each have power, on an application under subsection (1) above, by order made by statutory instrument—
   (a) to confer such compulsory powers; and
   (b) to grant such authority,

   as he considers necessary or expedient for the purpose of enabling any engineering or building operations or discharges of water to be carried out or made for the purposes of, or in connection with, the carrying out of the functions with respect to which the application was made.

(3) Schedule 19 to this Act shall have effect with respect to applications for compulsory works orders and with respect to such orders.

(4) Subject to the provisions of Schedule 19 to this Act, a compulsory works order may—
   (a) without prejudice to section 154 above, confer power to acquire compulsorily any land, including—
      (i) power to acquire interests in and rights over land by the creation of new rights and interests; and
      (ii) power, by the compulsory acquisition by the **[**[F317]Agency**]** of any rights over land which is to be or has been acquired by the **[**[F317]Agency**]**, to extinguish any such rights;
   (b) apply for the purposes of the order, either with or without modifications, any of the relevant provisions of this Part which do not apply for those purposes apart from by virtue of this paragraph;
   (c) make any authority granted by the order subject to such conditions as may be specified in the order;
   (d) amend or repeal any local statutory provision;
   (e) contain such supplemental, consequential and transitional provision as the Minister making the order considers appropriate;

   and section 156(1) above shall apply in relation to the powers conferred by virtue of this section as it applies in relation to the power conferred by section 154 above.

(5) Without prejudice to any duty imposed by virtue of section 184 below, where—
   (a) either of the Ministers makes a compulsory works order authorising the **[**[F317]Agency**]** to carry out works for or in connection with the construction or operation of a reservoir or conferring compulsory powers for that purpose on the **[**[F317]Agency**]**; and
   (b) it appears to him that the works to be carried out may permanently affect the area in which they are situated and are not primarily intended to benefit the inhabitants of that area,

   he may include in the order provision with respect to facilities for recreation or other leisure-time occupation for the benefit of those inhabitants.

(6) Nothing in any compulsory works order shall exempt the **[**[F317]Agency**]** from any restriction imposed by Chapter II of Part II of this Act.

(7) It is hereby declared that a compulsory works order may grant authority for discharges of water by the **[**[F317]Agency**]** where the **[**[F317]Agency**]** has no power to take water, or to require discharges to be made, from the inland waters or other source from which the discharges authorised by the order are intended to be made; but nothing in so much of any such order as grants authority for any discharges of water shall have the effect of conferring any such power.

Status: *Point in time view as at 01/10/2006.*
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(8) In this section the reference to the relevant provisions of this Part is a reference to the provisions of this Part except sections 155 to 158 and 165 to 167 above.

Textual Amendments

F317 Words in s. 168 substituted (subject to the other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

CHAPTER II

POWERS OF ENTRY

169 Powers of entry for enforcement purposes.

(1) Any person designated in writing for the purpose by either of the Ministers or by the **[**[F318]Agency**]** may—

(a) enter any premises or vessel for the purpose of ascertaining whether any provision of an enactment to which this section applies, of any subordinate legislation or other instrument made by virtue of any such enactment or of any byelaws made by the **[**[F318]Agency**]** is being or has been contravened; and

(b) carry out such inspections, measurements and tests on any premises or vessel entered by that person or of any articles found on any such premises or vessel, and take away such samples of water or effluent or of any land or articles, as that Minister or the **[**[F318]Agency**]**—

(i) considers appropriate for the purpose mentioned in paragraph (a) above; and

(ii) has authorised that person to carry out or take away.

[[F319](2) The powers conferred by subsection (1) above in relation to any premises shall include power, in order to obtain information for the purpose mentioned in subsection (1)(a) above—

(a) to carry out experimental borings or other works on those premises; and

(b) to install and keep monitoring and other apparatus there.**]**

(3) **[**[F320]Subject to subsection (4) below,**]**this section applies to any enactment contained in this Act and to any other enactment under or for the purposes of which the **[**[F318]Agency**]** carries out functions.

[F321]**[**(4) The powers conferred by this section shall not have effect for the purposes of any of the Agency's pollution control functions, within the meaning of section 108 of the 1995 Act.**]**

Textual Amendments

F318 Words in s. 169 substituted (subject to the other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F319 S. 169(2) substituted (1.4.2004) by Water Act 2003 (c. 37), **ss. 71**, 105(3); S.I. 2004/641, art. 3(r) (with Sch. 3 paras. 67)

F320 Words in s. 169(3) inserted (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 165** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Status: *Point in time view as at 01/10/2006.*
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F321 S. 169(4) added (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 165** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

170 Power of entry for certain works purposes.

(1) Any person designated in writing for the purpose by the **[**[F322]Agency**]** may enter any premises for any of the purposes specified in subsection (2) below.

(2) The purposes mentioned in subsection (1) above are—

(a) the carrying out of any survey or tests for the purpose of determining—

(i) whether it is appropriate and practicable for the **[**Agency**]** to exercise any relevant works power; or

(ii) how any such power should be exercised;

(b) the exercise of any such power.

(3) The power by virtue of subsection (1) above of a person designated by the **[**[F322]Agency**]** to enter any premises for the purposes of carrying out any survey or tests shall include power—

(a) to carry out experimental borings or other works for the purpose of ascertaining the nature of the sub-soil; and

(b) to take away and analyse such samples of water or effluent or of any land or articles as the **[**Agency**]** considers necessary for the purpose of determining either of the matters mentioned in subsection (2)(a) above and has authorised that person to take away and analyse.

(4) In this section "relevant works power" means any power conferred by any of the provisions of sections 159, 160, 162(2) and (3) and 163 above.

Textual Amendments

F322 Words in s. 170 substituted (subject to the other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

171 Power to carry out surveys and to search for water.

(1) Without prejudice to the rights and powers conferred by the other provisions of this Chapter, any person designated in writing under this section by the **[**[F323]Agency**]** may enter any premises for any of the purposes specified in subsection (2) below.

(2) The purposes mentioned in subsection (1) above are the carrying out of any survey or tests for the purpose of determining—

(a) whether it would be appropriate for the **[**[F323]Agency**]** to acquire any land, or any interest or right in or over land, for purposes connected with the carrying out of its functions; or

(b) whether it would be appropriate for the **[**[F323]Agency**]** to apply for an order under section 168 above and what compulsory powers it would be appropriate to apply for under that section.

(3) The power by virtue of subsection (1) above of a person designated under this section to enter any premises for the purpose of carrying out any survey or tests shall include power—

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(a) to carry out experimental borings or other works for the purpose of ascertaining the nature of the sub-soil, the presence of underground water in the sub-soil or the quantity or quality of any such water;

(b) to install and keep monitoring or other apparatus on the premises for the purpose of obtaining the information on which any such determination as is mentioned in subsection (2) above may be made; and

(c) to take away and analyse such samples of water or of any land or articles as the **[**[F323]Agency**]** considers necessary for any of the purposes so mentioned and has authorised that person to take away and analyse.

(4) The powers conferred by this section shall not be exercised in any case for purposes connected with the determination of—

(a) whether, where or how a reservoir should be constructed; or

(b) whether, where or how a borehole should be sunk for the purpose of abstracting water from or discharging water into any underground strata,

unless the Secretary of State has, in accordance with subsection (5) below, given his written authorisation in relation to that case for the exercise of those powers for those purposes.

(5) The Secretary of State shall not give his authorisation for the purposes of subsection (4) above unless—

(a) he is satisfied that notice of the proposal to apply for the authorisation has been given to the owner and to the occupier of the premises in question; and

(b) he has considered any representation or objections with respect to the proposed exercise of the powers under this section which—

(i) have been duly made to him by the owner or occupier of those premises, within the period of fourteen days beginning with the day after the giving of the notice; and

(ii) have not been withdrawn.

Textual Amendments

F323 Words in s. 171 substituted (subject to the other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

172 Powers of entry for other purposes.

(1) Any person designated in writing for the purpose by either of the Ministers or the **[**[F324]Agency**]** may enter any premises or vessel for the purpose of—

(a) determining whether, and if so in what manner, any power or duty conferred or imposed on either of the Ministers or on the **[**[F324]Agency**]** by virtue of any enactment to which this section applies (including a power of either or both of the Ministers to make subordinate legislation) should be exercised or, as the case may be, performed; or

(b) exercising or performing any power or duty which is so conferred or imposed.

(2) Any person designated in writing for the purpose by either of the Ministers or the **[**[F324]Agency**]** may—

(a) carry out such inspections, measurements and tests on any premises or vessel entered by that person under this section or of any articles found on any such premises or vessel; and

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(b) take away such samples of water or effluent or of any land or articles,

as that Minister or the **[**[F324]Agency**]** considers appropriate for any purpose mentioned in subsection (1) above and has authorised that person to carry out or take away.

(3) **[**[F325]Subject to subsection (3A) below,**]**the powers which by virtue of subsections (1) and (2) above are conferred in relation to any premises for the purpose of enabling either of the Ministers or the **[**[F324]Agency**]** to determine whether or in what manner to exercise or perform any power or duty conferred or imposed on him or it by or under the water pollution provisions of this Act shall include power, in order to obtain the information on which that determination may be made—

(a) to carry out experimental borings or other works on those premises; and

(b) to install and keep monitoring and other apparatus there.

[[F326](3A) The powers conferred by this section shall not have effect for the purposes of any of the Agency's pollution control functions, within the meaning of section 108 of the 1995 Act.**]**

(4) This section applies to any enactment contained in this Act and to any other enactment under or for the purposes of which the **[**[F324]Agency**]** carries out functions.

Textual Amendments

F324 Words in s. 172 substituted (subject to the other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F325 Words in s. 172(3) inserted (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 166** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F326 S. 172(3A) added (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 166** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

173 Powers of entry: supplemental provisions.

Schedule 20 to this Act shall have effect with respect to the powers of entry and related powers which are conferred by the preceding provisions of this Chapter.

174 Impersonation of persons exercising powers of entry.

(1) A person who, without having been designated or authorised for the purpose by the **[**[F327]Agency**]**, purports to be entitled to enter any premises or vessel in exercise of a power exercisable in pursuance of any such designation or authorisation shall be guilty of an offence and **[**[F328]liable—**]**.

[[F328](a) on summary conviction, to a fine not exceeding the statutory maximum;

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or to both.**]**

(2) For the purposes of this section it shall be immaterial, where a person purports to be entitled to enter any premises or vessel, that the power which that person purports to be entitled to exercise does not exist, or would not be exercisable, even if that person had been designated or authorised by the **[**[F327]Agency**]**.

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Textual Amendments

F327 Words in s.174 substituted (subject to the other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F328 S. 174(1)(a)(b) and the word preceding them substituted (1.4.1996) for words by 1995 c. 25, s. 120, **Sch. 22 para. 167** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

CHAPTER III

PROVISIONS SUPPLEMENTAL TO LAND AND WORK POWERS

Vesting of pipes in the [F329 Agency]

Textual Amendments

F329 Word in s. 175 cross-heading substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

175 Vesting of pipes in the [F330 Agency].

(1) Subject to any provision to the contrary contained in an agreement between the [F330 Agency] and the person in whom an interest in the pipe is or is to be vested, every pipe which—

(a) is a relevant pipe for the purposes of section 159 or 160 above; and

(b) has been laid, in exercise of any power conferred by Chapter I of this Part or otherwise, by the [F330 Agency],

shall vest in the [F330 Agency].

(2) Subsection (1) above is without prejudice to the vesting of anything in the [F330 Agency] by virtue of the exercise by the [F330 Agency] of any power to acquire property by agreement or compulsorily.

Textual Amendments

F330 Word in s. 175 and the sidenote substituted (subject to the other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Offence of interference with works etc.

176 Offence of interference with works etc.

(1) Subject to subsection (2) below, if any person without the consent of the [F331 Agency]—

(a) intentionally or recklessly interferes with any resource main or other pipe vested in the [F331 Agency] or with any structure, installation or apparatus belonging to the [F331 Agency]; or

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(b) by any act or omission negligently interferes with any such main or other pipe or with any such structure, installation or apparatus so as to damage it or so as to have an effect on its use or operation,

that person shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

(2) A person shall not be guilty of an offence under subsection (1) above—

(a) by reason of anything done in an emergency to prevent loss or damage to persons or property; or

(b) by reason of his opening or closing the stopcock fitted to a service pipe by means of which water is supplied to any premises by a water undertaker if—

(i) he has obtained the consent of every consumer whose supply is affected by the opening or closing of that stopcock or, as the case may be, of every other consumer whose supply is so affected; and

(ii) in the case of opening a stopcock, the stopcock was closed otherwise than by the undertaker.

(3) Any person who without the consent of the **[**[F331]Agency**]**—

(a) attaches any pipe or apparatus to any resource main or other pipe vested in the **[**[F331]Agency**]**; or

(b) subject to subsection (4) below, uses any pipe or apparatus which has been attached or altered in contravention of this section,

shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

(4) In proceedings against any person for an offence by virtue of paragraph (b) of subsection (3) above it shall be a defence for that person to show that he did not know, and had no grounds for suspecting, that the pipe or apparatus in question had been attached or altered as mentioned in that subsection.

(5) An offence under subsection (1) or (3) above shall constitute a breach of a duty owed to the **[**[F331]Agency**]**; and any such breach of duty which causes the **[**[F331]Agency**]** to sustain loss or damage shall be actionable at the suit of the **[**[F331]Agency**]**.

(6) The amount recoverable by virtue of subsection (5) above from a person who has committed an offence under subsection (3) above shall include such amount as may be reasonable in respect of any water wasted, misused or improperly consumed in consequence of the commission of the offence.

(7) In this section "service pipe" and "stopcock" have the same meanings as in the [M79]Water Industry Act 1991, and "consumer" has the same meaning as in Part III of that Act.

Textual Amendments

F331 Words in s. 176 substituted (subject to the other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Marginal Citations

M79 1991 c. 56.

Status: *Point in time view as at 01/10/2006.*
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Compensation etc. in respect of exercise of works powers

177 Compensation etc. in respect of exercise of works powers.

Schedule 21 to this Act shall have effect for making provision for imposing obligations as to the payment of compensation in respect of the exercise of the powers conferred on the **[**[F332]Agency**]** by sections 159 to 167 above and otherwise for minimising the damage caused by the exercise of those powers.

Textual Amendments

F332 Word in s. 177 substituted (subject to the other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Protective provisions

178 Protection for particular undertakings.

Schedule 22 to this Act shall have effect for the protection of particular undertakings in connection with the carrying out of works and other activities by the **[**[F333]Agency**]**.

Textual Amendments

F333 Word in s. 178 substituted (subject to the other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

179 Protective provisions in respect of flood defence works and watercourses etc.

(1) Nothing in this Act shall confer power on any person to do anything, except with the consent of the person who so uses them, which interferes—

(a) with any sluices, floodgates, groynes, sea defences or other works used by any person for draining, preserving or improving any land under any local statutory provision; or

(b) with any such works used by any person for irrigating any land.

(2) Where the **[**[F334]Agency**]** proposes, otherwise than in exercise of any compulsory powers—

(a) to construct or alter any such inland waters in any internal drainage district as do not form part of a main river; or

(b) to construct or alter any works on or in any such inland waters,

the **[**[F334]Agency**]** shall consult the internal drainage board for that district before doing so.

(3) A consent for the purposes of subsection (1) above may be given subject to reasonable conditions but shall not be unreasonably withheld.

(4) Any dispute—

(a) as to whether anything done or proposed to be done interferes or will interfere as mentioned in subsection (1) above;

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(b) as to whether any consent for the purposes of this section is being unreasonably withheld; or

(c) as to whether any condition subject to which any such consent has been given was reasonable,

shall be referred to the arbitration of a single arbitrator to be appointed by agreement between the parties or, in default of agreement, by the President of the Institution of Civil Engineers.

(5) The provisions of this section shall be without prejudice to the provisions of Schedule 22 to this Act.

Textual Amendments

F334 Words in s. 179 substituted (subject to the other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Modifications etc. (not altering text)

C124 S. 179 applied (01.12.1991) by Land Drainage Act 1991 (c. 59, SIF 73:1), **ss. 67(2)**, 76(2).

180 Power of navigation authorities etc to divert the Authority's watercourses.

(1) Where any watercourses under the control of the **[**[F335]Agency**]** pass under or interfere with, or with the improvement or alteration of, any river, canal, dock, harbour, basin or other work (including any towing-path adjacent thereto) which belongs to or is under the jurisdiction of any relevant authority, the relevant authority may, at their own expense and on substituting for those watercourses other equally effective watercourses—

(a) take up, divert or alter the level of those watercourses; and

(b) do all such matters and things as may be necessary in connection with the works authorised to be done by them under this section.

(2) If any question arises under this section between the **[**[F335]Agency**]** and any relevant authority as to whether any watercourses substituted or proposed to be substituted by the relevant authority for any existing watercourses are as effective as the existing watercourses, that question shall be referred to the arbitration of a single arbitrator appointed by agreement between the parties or, in default of agreement, by the President of the Institution of Civil Engineers on the application of either party.

(3) In this section—

"relevant authority" means any navigation authority, harbour authority or conservancy authority; and

"watercourse" has the same meaning as in Part IV of this Act.

Textual Amendments

F335 Words in s.180 substituted (subject to the other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

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181 Works in tidal lands etc.

(1) Nothing in any of the provisions of this Part relating to any relevant works power shall authorise the **[**[F336]Agency**]** to carry out any works at any place below the place to which the tide flows at mean high water springs, except in accordance with such plans and sections, and subject to such restrictions, as may, before the works are commenced, have been approved by the Secretary of State.

(2) An approval for the purposes of subsection (1) above shall be given to the **[**[F336]Agency**]** by the service on the **[**[F336]Agency**]** of a notice containing the approval.

(3) Section 38 of the [M80]Salmon and Freshwater Fisheries Act 1975 (tidal lands etc.) shall apply to any proposed construction, alteration or extension under section 156 above as it applies to any proposed construction, alteration or extension under that Act.

(4) Section 74 of the [M81]Land Drainage Act 1991 (application to Crown and tidal lands), so far as it relates to lands below the high-water mark of ordinary spring tides shall apply, as it applies in relation to that Act, to the flood defence provisions of this Act.

(5) In subsection (1) above the reference to a relevant works power is a reference to a power conferred by any of sections 159, 160, 162(2) and (3) and 163 above.

Textual Amendments

F336 Words in s. 181 substituted (subject to the other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Marginal Citations

M80 1975 c. 51.
M81 1991 c. 59.

182 Mineral rights.

Schedule 23 to this Act (which makes provision with respect to the acquisition of mineral rights by the **[**[F337]Agency**]** and with respect to the working of mines and minerals where pipes, sewers or other related works are affected) shall have effect and, in the case of the compulsory acquisition of land by virtue of this Act, shall have effect instead of Schedule 2 to the [M82]Acquisition of Land Act 1981 (mineral rights etc. in relation to compulsory purchase orders).

Textual Amendments

F337 Word in s. 182 substituted (subject to the other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Marginal Citations

M82 1981 c. 67.

183 Saving for planning controls etc.

(1) Without prejudice to the operation of section 90 of the [M83]Town and Country Planning Act 1990 (planning permission deemed to be granted in certain cases) in relation to

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any provision made by or under this Act or any other enactment which by virtue of this Act or the [M84]Water Act 1989 relates to the functions of the **[**[F338]Agency**]**, nothing in this Act or in any such enactment shall be construed as authorising the carrying out of any development (within the meaning of that Act of 1990) without the grant of such planning permission as may be required by that Act of 1990.

(2) Nothing in the flood defence provisions of this Act shall authorise any person to carry out any works or do anything in contravention of any of the provisions of the [M85]Ancient Monuments and Archaelogical Areas Act 1979.

Textual Amendments

F338 Word in s. 183 substituted (subject to the other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Modifications etc. (not altering text)

C125 S. 183 applied (01.12.1991) by Land Drainage Act 1991 (c. 59, SIF 73:1), **ss. 67(2)**, 76(2).

Marginal Citations

M83 1990 c. 8.
M84 1989 c. 15.
M85 1979 c. 46.

184 Duties to make recreational facilities available when building reservoirs in Wales.

(1) Where the **[**[F339]Agency**]** carries out any works for or in connection with the construction or operation of a reservoir in Wales which—

(a) permanently affect one or more communities; and

(b) are not primarily intended by the **[**[F339]Agency**]** to benefit the inhabitants of that or those communities,

it shall be the duty of the **[**[F339]Agency**]** to make available facilities for recreation or other leisure-time occupation for the benefit of those inhabitants or to assist others to make such facilities available.

(2) It shall be the duty of the **[**[F339]Agency**]**, in performing its duty under subsection (1) above, to consult—

(a) the community councils of the communities affected, in the case of communities having such councils; and

(b) in any case, the council of any **[**[F340]county or county borough**]** in which any community affected is situated.

Textual Amendments

F339 Words in s. 184 substituted (subject to the other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F340 Words in s. 184(2)(b) substituted (1.4.1996) by 1994 c. 19, s. 22(5), **Sch. 11**, para. 3(5) (with ss. 54(4)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**

Status: *Point in time view as at 01/10/2006.*
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Savings in respect of existing drainage obligations

185 Savings in respect of existing drainage obligations.

(1) Nothing in the flood defence provisions of this Act shall operate to release any person from an obligation to which section 21 of the [M86]Land Drainage Act 1991 applies.

(2) The functions of the **[**[F341]Agency**]** as respects the doing of any work under the flood defence provisions of this Act are not to be treated as in any way limited by the fact that some other person is under an obligation, by reason of tenure, custom, prescription or otherwise, to do that work.

Textual Amendments

F341 Word in s. 185 substituted (subject to the other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Marginal Citations

M86 1991 c. 59.

Interpretation of Part VII

186 Interpretation of Part VII.

(1) In this Part—

"discharge pipe" means a pipe from which discharges are or are to be made under section 163 above;

"resource main" means any pipe, not being a trunk main within the meaning of the [M87]Water Industry Act 1991, which is or is to be used for the purpose of—

(a) conveying water from one source of supply to another, from a source of supply to a regulating reservoir or from a regulating reservoir to a source of supply; or

(b) giving or taking a supply of water in bulk.

(2) In subsection (1) above—

"source of supply" shall be construed without reference to the definition of that expression in section 221 below; and

"supply of water in bulk" has the same meaning as in section 3 above.

(3) The powers conferred by Chapter I of this Part shall be without prejudice to the powers conferred on the **[**[F342]Agency**]** by any other enactment or by any agreement.

Textual Amendments

F342 Word in s. 186 substituted (subject to the other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Marginal Citations

M87 1991 c. 56.

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

PART VIII

INFORMATION PROVISIONS

Annual report and publication of information

[F343]187 . . . . . .

Textual Amendments

F343 S. 187 repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 168, **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

188 Duty of [[F344]Agency] to publish certain information.

It shall be the duty of the **[**[F344]Agency**]**—

(a) to collate and publish information from which assessments can be made of the actual and prospective demand for water, and of actual and prospective water resources, in England and Wales; and

(b) so far as it considers it appropriate to do so, to collaborate with others in collating and publishing any such information or any similar information in relation to places outside England and Wales.

Textual Amendments

F344 Words in s. 188 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

*Registers etc. to be kept by the **[**[F345]Agency**]***

Textual Amendments

F345 Words in cross-heading substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

189 Register of abstraction and impounding licences.

(1) The **[**[F346]Agency**]** shall keep, in such manner as may be prescribed, registers containing such information as may be prescribed with respect—

(a) to applications made for the grant, revocation or variation of licences under Chapter II of Part II of this Act, including information as to the way in which such applications have been dealt with; and

(b) to persons becoming the holders of such licences by virtue of **[**[F347]section 59A, 59B or 59C above**]** .

(2) Every register kept by the **[**[F346]Agency**]** under this section shall also contain such information as may be prescribed with respect—

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(a) to applications made in accordance with regulations under section 64 above; and

(b) to licences granted or deemed to be granted, and licences revoked or varied, in accordance with regulations made under that section.

(3) Subject to any regulations under this section, the information which the **[**[F346]Agency**]** is required to keep in registers under this section shall continue to include the information which immediately before 1st September 1989 was contained in a register kept by a water authority under section 53 of the [M88]Water Resources Act 1963.

(4) The contents of every register kept under this section shall be available, at such place as may be prescribed, for inspection by the public at all reasonable hours.

Textual Amendments

F346 Words in s. 189 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

F347 Words in s. 189(1)(b) substituted (1.4.2006) by Water Act 2003 (c. 37), **ss. 23(3)**, 105(3); S.I. 2006/984, art. 2(m) (with Sch. para. 3)

Modifications etc. (not altering text)

C126 S. 189 modified (1.4.2005) by The Water Act 2003 (Commencement No. 4, Transitional Provisions and Savings) Order 2005 (S.I. 2005/968), art. 4(1)(3), Sch. 1 paras. 7(10), 8(3), **9**

Marginal Citations

M88 1963 c. 38.

190 Pollution control register.

(1) It shall be the duty of the **[**[F348]Agency**]** to maintain, in accordance with regulations made by the Secretary of State, registers containing prescribed particulars of **[**[F349]or relating to**]**—

(a) any notices of water quality objectives or other notices served under section 83 above;

(b) applications made for consents under Chapter II of Part III of this Act;

(c) consents given under that Chapter and the conditions to which the consents are subject;

[F350](d) . . . . . .

(e) the following, that is to say—

(i) samples of water or effluent taken by the **[**[F348]Agency**]** for the purposes of any of the water pollution provisions of this Act;

(ii) information produced by analyses of those samples;

(iii) such information with respect to samples of water or effluent taken by any other person, and the analyses of those samples, as is acquired by the **[**[F348]Agency**]** from any person under arrangements made by the **[**[F348]Agency**]** for the purposes of any of those provisions; and

(iv) the steps taken in consequence of any such information as is mentioned in any of sub-paragraphs (i) to (iii) above;

[F351] . . .

[F351](f) . . . . . .

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[[F352](g) applications made to the Agency for the variation of discharge consents;

(h) enforcement notices served under section 90B above;

(j) revocations, under paragraph 7 of Schedule 10 to this Act, of discharge consents;

(k) appeals under section 91 above;

(l) directions given by the Secretary of State in relation to the Agency's functions under the water pollution provisions of this Act;

(m) convictions, for offences under Part III of this Act, of persons who have the benefit of discharge consents;

(n) information obtained or furnished in pursuance of conditions of discharge consents;

(o) works notices under section 161A above;

(p) appeals under section 161C above;

(q) convictions for offences under section 161D above;

(r) such other matters relating to the quality of water or the pollution of water as may be prescribed by the Secretary of State.

(1A) Where information of any description is excluded from any register by virtue of section 191B below, a statement shall be entered in the register indicating the existence of information of that description.**]**

(2) It shall be the duty of the **[**[F348]Agency**]**—

(a) to secure that the contents of registers maintained by the **[**[F348]Agency**]** under this section are available, at all reasonable times, for inspection by the public free of charge; and

(b) to afford members of the public reasonable facilities for obtaining from the **[**[F348]Agency**]**, on payment of reasonable charges, copies of entries in any of the registers.

[[F353]and, for the purposes of this subsection, places may be prescribed by the Secretary of State at which any such registers or facilities as are mentioned in paragraph (a) or (b) above are to be available or afforded to the public in pursuance of the paragraph in question.**]**

(3) Section 101 above shall have effect in relation to any regulations under this section as it has effect in relation to any subordinate legislation under Part III of this Act.

[[F354](4) The Secretary of State may give to the Agency directions requiring the removal from any register maintained by it under this section of any specified information which is not prescribed for inclusion under subsection (1) above or which, by virtue of section 191A or 191B below, ought to have been excluded from the register.

(5) In this section "discharge consent" has the same meaning as in section 91 above.**]**

Textual Amendments

F348 Words in s. 190 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

F349 Words in s. 190(1) inserted (21.11.1996 for certain purposes and 31.12.1996 otherwise) by 1995 c. 25, s. 120(1), **Sch. 22 para. 169(2)** (with ss. 7(6), 115, 117); S.I. 1996/2909, **arts. 2**, 3 (subject to saving provisions in art. 4)

F350 S. 190(1)(d) repealed (21.11.1996 for certain purposes and 31.12.1996 otherwise) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 169(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/2909, **arts. 2**, 3 (subject to saving provisions in art. 4)

F351 S. 190(1)(f) and word preceding it repealed (21.11.1996 for certain purposes and 31.12.1996 otherwise) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 169(4), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/2909, **arts. 2**, 3 (subject to saving provisions in art. 4)

F352 S. 190(1)(g)-(r)(1A) added (21.11.1996 for certain purposes and 31.12.1996 otherwise) by 1995 c. 25, s. 120(1), **Sch. 22 para. 169(4)** (with ss. 7(6), 115, 117); S.I. 1996/2909, **arts. 2**, 3 (subject to saving provisions in art. 4)

F353 Words in s. 190(2) added (21.11.1996 for certain purposes and 31.12.1996 otherwise) by 1995 c. 25, s. 120(1), **Sch. 22 para. 169(5)** (with ss. 7(6), 115, 117); S.I. 1996/2909, **arts. 2**, 3 (subject to saving provisions in art. 4)

F354 S. 190(4)(5) added (21.11.1996 for certain purposes and 31.12.1996 otherwise) by 1995 c. 25, s. 120(1), **Sch. 22 para. 169(6)** (with ss. 7(6), 115, 117); S.I. 1996/2909, **arts. 2**, 3 (subject to saving provisions in art. 4)

Modifications etc. (not altering text)

C127 S. 190 amended (27.8.1993) by 1993 c. 12, ss. 40, 51(2), **Sch. 3 Pt. I para. 9** (with s. 46).

191 Register for the purposes of works discharges.

(1) The **[**[F355]Agency**]** shall keep a register of persons and premises for the purposes of section 164 above.

(2) The **[**[F355]Agency**]** shall enter the name and address of a person in that register in respect of any premises which abut on any watercourse if that person has requested to be so registered and is either—

(a) the owner or occupier of those premises; or

(b) an officer of an association of owners or occupiers of premises which abut on that watercourse and include those premises.

(3) If the **[**[F355]Agency**]** contravenes, without reasonable excuse, any of the requirements of this section, it shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

Textual Amendments

F355 Words in s. 191 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

[[F356]191A Exclusion from registers of information affecting national security.

(1) No information shall be included in a register kept or maintained by the Agency under any provision of this Act if and so long as, in the opinion of the Secretary of State, the inclusion in such a register of that information, or information of that description, would be contrary to the interests of national security.

(2) The Secretary of State may, for the purpose of securing the exclusion from registers of information to which subsection (1) above applies, give to the Agency directions—

(a) specifying information, or descriptions of information, to be excluded from their registers; or

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(b) specifying descriptions of information to be referred to the Secretary of State for his determination;

and no information referred to the Secretary of State in pursuance of paragraph (b) above shall be included in any such register until the Secretary of State determines that it should be so included.

(3) The Agency shall notify the Secretary of State of any information it excludes from a register in pursuance of directions under subsection (2) above.

(4) A person may, as respects any information which appears to him to be information to which subsection (1) above may apply, give a notice to the Secretary of State specifying the information and indicating its apparent nature; and, if he does so—

(a) he shall notify the Agency that he has done so; and

(b) no information so notified to the Secretary of State shall be included in any such register until the Secretary of State has determined that it should be so included.**]**

Textual Amendments

F356 S. 191A inserted (21.11.1996 for certain purposes and 31.12.1996 otherwise) by 1995 c. 25, s. 120(1), **Sch. 22 para. 170** (with ss. 7(6), 115, 117); S.I. 1996/2909, **arts. 2**, 3 (subject to saving provisions in art. 4)

Modifications etc. (not altering text)

C128 S. 191A applied (with modifications) (1.4.1999) by S.I. 1998/2746, **reg. 14(3)**

[F357 191B Exclusion from registers of certain confidential information.

(1) No information relating to the affairs of any individual or business shall, without the consent of that individual or the person for the time being carrying on that business, be included in a register kept or maintained by the Agency under any provision of this Act, if and so long as the information—

(a) is, in relation to him, commercially confidential; and

(b) is not required to be included in the register in pursuance of directions under subsection (7) below;

but information is not commercially confidential for the purposes of this section unless it is determined under this section to be so by the Agency or, on appeal, by the Secretary of State.

(2) Where information is furnished to the Agency for the purpose of—

(a) an application for a discharge consent or for the variation of a discharge consent,

(b) complying with any condition of a discharge consent, or

(c) complying with a notice under section 202 below,

then, if the person furnishing it applies to the Agency to have the information excluded from any register kept or maintained by the Agency under any provision of this Act, on the ground that it is commercially confidential (as regards himself or another person), the Agency shall determine whether the information is or is not commercially confidential.

Status: *Point in time view as at 01/10/2006.*
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(3) A determination under subsection (2) above must be made within the period of fourteen days beginning with the date of the application and if the Agency fails to make a determination within that period it shall be treated as having determined that the information is commercially confidential.

(4) Where it appears to the Agency that any information (other than information furnished in circumstances within subsection (2) above) which has been obtained by the Agency under or by virtue of any provision of any enactment might be commercially confidential, the Agency shall—

(a) give to the person to whom or whose business it relates notice that that information is required to be included in a register kept or maintained by the Agency under any provision of this Act, unless excluded under this section; and

(b) give him a reasonable opportunity—

(i) of objecting to the inclusion of the information on the ground that it is commercially confidential; and

(ii) of making representations to the Agency for the purpose of justifying any such objection;

and, if any representations are made, the Agency shall, having taken the representations into account, determine whether the information is or is not commercially confidential.

(5) Where, under subsection (2) or (4) above, the Agency determines that information is not commercially confidential—

(a) the information shall not be entered on the register until the end of the period of twenty-one days beginning with the date on which the determination is notified to the person concerned; and

(b) that person may appeal to the Secretary of State against the decision;

and, where an appeal is brought in respect of any information, the information shall not be entered on the register until the end of the period of seven days following the day on which the appeal is finally determined or withdrawn.

(6) Subsections (2A), (2C) and (2K) of section 91 above shall apply in relation to appeals under subsection (5) above; but—

(a) subsection (2C) of that section shall have effect for the purposes of this subsection with the substitution for the words from “(which may" onwards of the words “(which must be held in private)"; and

(b) subsection (5) above is subject to section 114 of the 1995 Act (delegation or reference of appeals etc).

(7) The Secretary of State may give to the Agency directions as to specified information, or descriptions of information, which the public interest requires to be included in registers kept or maintained by the Agency under any provision of this Act notwithstanding that the information may be commercially confidential.

(8) Information excluded from a register shall be treated as ceasing to be commercially confidential for the purposes of this section at the expiry of the period of four years beginning with the date of the determination by virtue of which it was excluded; but the person who furnished it may apply to the Agency for the information to remain excluded from the register on the ground that it is still commercially confidential and the Agency shall determine whether or not that is the case.

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(9) Subsections (5) and (6) above shall apply in relation to a determination under subsection (8) above as they apply in relation to a determination under subsection (2) or (4) above.

(10) The Secretary of State may by regulations substitute (whether in all cases or in such classes or descriptions of case as may be specified in the regulations) for the period for the time being specified in subsection (3) above such other period as he considers appropriate.

(11) Information is, for the purposes of any determination under this section, commercially confidential, in relation to any individual or person, if its being contained in the register would prejudice to an unreasonable degree the commercial interests of that individual or person.

(12) In this section "discharge consent" has the same meaning as in section 91 above.**]**

Textual Amendments

F357 S. 191B inserted (21.11.1996 for certain purposes and 31.12.1996 otherwise) by 1995 c. 25, s. 120(1), **Sch. 22 para. 170** (with ss. 7(6), 115, 117); S.I. 1996/2909, **arts. 2**, 3 (subject to saving provisions in art. 4)

Modifications etc. (not altering text)

C129 S. 191B applied (with modifications) (1.4.1999) by S.I. 1998/2746, **reg. 14(3)**

C130 S. 191B(5): power to delegate functions conferred (1.4.1996) by 1995 c. 25, **s. 114(2)(a)(v)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

192 Maps of fresh-water limits.

(1) The Secretary of State—

(a) shall deposit maps with the **[**[F358]Agency**]** showing what appear to him to be the fresh-water limits of every relevant river or watercourse; and

(b) may from time to time, if he considers it appropriate to do so by reason of any change of what appears to him to be the fresh-water limit of any river or watercourse, deposit a map showing a revised limit for that river or watercourse.

(2) It shall be the duty of the **[**[F358]Agency**]** to keep any maps deposited with it under subsection (1) above available, at all reasonable times, for inspection by the public free of charge.

(3) In this section "relevant river or watercourse" has the same meaning as in section 104 above.

Textual Amendments

F358 Words in s. 192 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

193 Main river maps.

(1) Subject to section 194 below, the **[**[F359]Agency**]** shall—

(a) keep the main river map for the area of a regional flood defence committee at the principal office of the **[**[F359]Agency**]** for that area; and

(b) provide reasonable facilities for inspecting that map and taking copies of and extracts from it;

and any local authority whose area is wholly or partly within the area of a regional flood defence committee shall, on application to the **[**[F359]Agency**]**, be entitled to be furnished with copies of the main river map for the area of that committee on payment of such sum as may be agreed between the **[**[F359]Agency**]** and that local authority.

(2) For the purposes of this Act a main river map is a map relating to the area of a regional flood defence committee which—

(a) shows by a distinctive colour the extent to which any watercourse in that area is to be treated as a main river, or part of a main river, for the purposes of this Act; and

(b) indicates (by a distinctive colour or otherwise) which (if any) of those watercourses are watercourses designated in a scheme made under section 137 above;

and, subject to section 194 below, references in this Act to a main river map, in relation to the area of a regional flood defence committee, include so much of any map as, by virtue of paragraph 38 of Schedule 26 to the Water Act 1989, has effect as such a map at the coming into force of this Act.

(3) A main river map—

(a) shall be conclusive evidence for all purposes as to what is a main river; and

(b) shall be taken for the purposes of the [M89]Documentary Evidence Act 1868, as it applies to either of the Ministers, to be a document within the meaning of that Act and to have been issued by that Minister.

(4) In this section and section 194 below "watercourse" has the same meaning as in Part IV of this Act.

Textual Amendments

F359 Words in s. 193 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

Marginal Citations

M89 1868 c. 37.

194 Amendment of main river maps.

(1) Either of the Ministers may at any time send the **[**[F360]Agency**]** one or more new maps to be substituted for the whole or part of a main river map and containing a statement to that effect.

(2) A statement contained in a map in pursuance of subsection (1) above shall specify the date on which the substitution is to take effect and the substitution shall take effect in accordance with the statement.

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) Where—

(a) the area of a regional flood defence committee is altered so as to affect any of the particulars shown on the main river map for that area; or

(b) one of the Ministers confirms a scheme under section 137 above; or

(c) the **[**[F360]Agency**]** applies to one of the Ministers for the variation of a main river map, so far as it shows the extent to which any watercourse is to be treated as a main river or part of a main river,

the Ministers shall each be under a duty to ensure that such action as he considers appropriate is taken under subsection (4) below.

(4) The action referred to in subsection (3) above is action by one of the Ministers—

(a) requiring the **[**[F360]Agency**]** to send him any part of the main river map in question, altering it and sending it back to the ; or

(b) preparing a new main river map and sending it to the **[**[F360]Agency**]**; or

(c) notifying the **[**[F360]Agency**]** that he does not intend to vary the main river map in question.

(5) Before one of the Ministers alters a map or prepares a new map by virtue of subsection (3)(c) above, he shall—

(a) give notice of his intention to do so in such manner as he thinks best adapted for informing persons affected; and

(b) consider any objections made to him within the time and in the manner specified in that notice;

and he may then alter or prepare the map either in accordance with the proposals contained in the notice or otherwise.

Textual Amendments

F360 Words in s. 194 substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

Modifications etc. (not altering text)

C131 S. 194(5) excluded (16.3.1992) by Aire and Calder Navigation Act 1992 (c. iv), **s. 15(3)**

195 Maps of waterworks.

(1) Subject to subsections (4) and (5) below, it shall be the duty of the **[**[F361]Agency**]** to keep records of the location of—

(a) every resource main or discharge pipe which is for the time being vested in the **[**[F361]Agency**]**; and

(b) any other underground works which are for the time being vested in the **[**[F361]Agency**]**.

(2) It shall be the duty of the **[**[F361]Agency**]** to secure that the contents of any records for the time being kept by it under this section are available, at all reasonable times, for inspection by the public free of charge at an office of the **[**[F361]Agency**]**.

(3) Any information which is required under this section to be made available by the **[**[F361]Agency**]** for inspection by the public shall be so made available in the form of a map.

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(4) For the purpose of determining whether any failure to make a modification of any records kept under this section constitutes a breach of the duty imposed by subsection (1) above, that duty shall be taken to require any modification of the records to be made as soon as reasonably practicable after the completion of the works which make the modification necessary; and, where records kept under this section are modified, the date of the modification and of the completion of the works making the modification necessary shall be incorporated in the records.

(5) Nothing in this section shall require the **[**[F361]Agency**]**, at any time before 1st September 1999, to keep records of—

(a) any pipe which was laid before 1st September 1989; or

(b) any underground works which were completed before 1st September 1989,

unless those particulars were shown on 31st August 1989 on a map kept by a water authority or statutory water company under section 12 of Schedule 3 to the [M90]Water Act 1945 (maps of underground works).

(6) The reference in subsection (5) above to section 12 of Schedule 3 to the Water Act 1945 shall have effect, without prejudice to section 20(2) of the [M91]Interpretation Act 1978 (references to enactments to include references to enactments as amended, extended or applied), as including a reference to that section as applied, with or without modifications, by any local statutory provision.

(7) In this section—

"discharge pipe" and "resource main" have the same meanings as in Part VII of this Act;

"underground works" does not include a service pipe within the meaning of the [M92]Water Industry Act 1991.

Textual Amendments

F361 Words in s. 195 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

Marginal Citations

M90 1945 c. 42.

M91 1978 c. 30.

M92 1991 c. 56.

Provision and acquisition of information etc.

[F362]196 . . . . . .

Textual Amendments

F362 S. 196 repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 171, **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

Status: *Point in time view as at 01/10/2006.*
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197 Provision of information about water flow etc.

(1) It shall be the duty of the **[**[F363]Agency**]**—

(a) to provide a water undertaker with all such information to which this section applies as is in the possession of the **[**[F363]Agency**]** and is reasonably requested by the undertaker for purposes connected with the carrying out of its functions; and

(b) to provide reasonable facilities to all persons—

(i) for the inspection of the contents of any records kept by the **[**[F363]Agency**]** and containing information to which this section applies; and

(ii) for the taking of copies of, or of extracts from, any such records.

(2) It shall be the duty of every water undertaker to provide the **[**[F363]Agency**]** with all such information to which this section applies as is in the possession of the undertaker and is reasonably requested by the **[**[F363]Agency**]** for purposes connected with the carrying out of any of its functions.

(3) Where records of the flow, level or volume of any inland waters, other than discrete waters, are kept by a person other than a water undertaker, the **[**[F363]Agency**]** shall have the right at all reasonable times—

(a) to inspect the contents of any of those records; and

(b) to take copies of, or of extracts from, the contents of any of those records;

and any person who, without reasonable excuse, refuses or fails to permit the **[**[F363]Agency**]** to exercise its right under this subsection shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 1 on the standard scale.

(4) Information provided to a water undertaker or to the **[**[F363]Agency**]** under subsection (1) or (2) above shall be provided in such form and in such manner and at such times as the undertaker or, as the case may be, the **[**[F363]Agency**]** may reasonably require; and the duties of the **[**[F363]Agency**]** under subsection (1) above shall extend to information provided to or obtained by the **[**[F363]Agency**]** under subsection (2) or (3) above.

(5) Information or facilities provided under subsection (1) or (2) above to the **[**[F363]Agency**]**, to a water undertaker, to a local authority or joint planning board, or to an internal drainage board, shall be provided free of charge; and facilities provided under subsection (1) above to other persons may be provided on terms requiring the payment by persons making use of the facilities of such reasonable charges as the may determine.

(6) The duties of a water undertaker under subsection (2) above shall be enforceable under section 18 of the [M93]Water Industry Act 1991 by the Secretary of State.

(7) This section applies to information about the flow, level or volume of any inland waters or any water contained in underground strata, about rainfall or any fall of snow, hail or sleet or about the evaporation of any water.

Textual Amendments

F363 Words in s. 197 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

Status: *Point in time view as at 01/10/2006.*
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Marginal Citations
M93 1991 c. 56.

198 Information about underground water.

(1) Any person who, for the purpose of searching for or abstracting water, proposes to sink a well or borehole intended to reach a depth of more than fifty feet below the surface shall, before he begins to do so, give notice to the Natural Environment Research Council of his intention to do so.

(2) Any person sinking any such well or borehole as is mentioned in subsection (1) above shall-

(a) keep a journal of the progress of the work and, on completion or abandonment of the work, send a complete copy of the journal to the Natural Environment Research Council;

(b) send to that Council particulars of any test made before completion or abandonment of the work of the flow of water;

(c) allow any person authorised by that Council for the purpose, on production of some duly authenticated document showing his authority, at all reasonable times to exercise any of the rights specified in subsection (5) below.

(3) The journal required to be kept under this section shall include measurements of—

(a) the strata passed through; and

(b) the levels at which water is struck and subsequently rests.

(4) The particulars required to be sent to the Natural Environment Research Council under subsection (2)(b) above shall specify—

(a) the rate of flow throughout the test;

(b) the duration of the test;

(c) where practicable, the water levels during the test and afterwards until the water returns to its natural level; and

(d) where the well or borehole is sunk in connection with an existing pumping station, the rate of pumping at the existing works during the test.

(5) The rights mentioned in subsection (2)(c) above are the rights, subject to section 205 below—

(a) to have free access to the well or borehole;

(b) to inspect the well or borehole and the material extracted from it;

(c) to take specimens of any such material and of water abstracted from the well or borehole; and

(d) to inspect and take copies of or extracts from the journal required to be kept under this section.

(6) Where the person sinking a well or borehole on any land is not the occupier of the land, the obligation imposed on that person by virtue of subsection (2)(c) above shall be the obligation of the occupier as well.

(7) Where—

(a) any person contracts to sink any well or borehole on land belonging to or occupied by another; and

(b) the carrying out of the work is under the control of the contractor,

Status: *Point in time view as at 01/10/2006.*
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the contractor and no other person shall be deemed for the purposes of this section to be the person sinking the well or borehole.

(8) Any person who fails to comply with any obligation imposed on him by this section shall be guilty of an offence and liable, on summary conviction—
(a) to a fine not exceeding level 3 on the standard scale; and
(b) where the the offence continues after conviction, to a further fine of £20 for every day during which it so continues.

199 Notice etc. of mining operations which may affect water conservation.

(1) Where a person proposes to construct or extend a boring for the purpose of searching for or extracting minerals, he shall, before he begins to construct or extend the boring, give to the **[**[F364]Agency**]** a notice of his intention in the prescribed form.

[[F365](2) Where a notice under subsection (1) above is given to the Agency by any person, the Agency may (subject to section 199A below) by notice to that person require him, in connection with the construction, extension or use of the work to which that person's notice relates, to take such reasonable measures for conserving water as are specified in the notice.

(2A) The measures that may be specified in a notice under subsection (2) above shall be measures which, in the opinion of the Agency, will not interfere with the winning of minerals.

(3) Section 70 above shall apply to the restrictions imposed by this section as it applies to the restrictions imposed by sections 24 and 25 above.**]**

(4) Any person who contravenes subsection (1) above or fails to comply with a **[**[F366]notice under**]** subsection (2) above shall be guilty of an offence and liable—
(a) on summary conviction, to a fine not exceeding the statutory maximum;
(b) on conviction on indictment, to a fine.

Textual Amendments

F364 Word in s. 199 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

F365 S. 199(2)(2A)(3) substituted for s. 199(2)(3) (1.4.2006) by Water Act 2003 (c. 37), **ss. 8(5)(a)**, 105(3); S.I. 2006/984, art. 2(e) (with Sch. paras. 4, 5)

F366 Words in s. 199(4) substituted (1.4.2006) by Water Act 2003 (c. 37), **ss. 8(5)(b)**, 105(3); S.I. 2006/984, art. 2(e) (with Sch. paras. 4, 5)

[[F367]199AAppeals against conservation notices under section 199

(1) The person on whom a notice under section 199(2) above ("a conservation notice") is served may, by notice to the Secretary of State, appeal to him against the conservation notice on either or both of the following grounds, that is to say—
(a) that the measures required by the conservation notice are not reasonable;
(b) that those measures would interfere with the winning of minerals.

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(2) Any notice of appeal against a conservation notice shall be served within such period (not being less than twenty-eight days from the date of service of the conservation notice) and in such manner as may be prescribed.

(3) Before determining an appeal against a conservation notice, the Secretary of State may, if he thinks fit—

(a) cause a local inquiry to be held; or

(b) afford to the appellant and the Agency an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose;

and the Secretary of State shall act as mentioned in paragraph (a) or (b) above if a request is made by the appellant or the Agency to be heard with respect to an appeal.

(4) On an appeal against a conservation notice the Secretary of State may confirm, quash or vary the notice as he may consider appropriate.

(5) The decision of the Secretary of State on any appeal against a conservation notice shall be final.

(6) The Secretary of State may by regulations make provision as to the manner in which appeals against conservation notices are to be dealt with, including provision requiring the giving of notices of, and information relating to, the making of such appeals or decisions on any such appeals.

(7) Section 69 above applies to a decision of the Secretary of State on any appeal to him under this section as it applies to a decision of his on an appeal to him under Chapter 2 of Part 2, taking the reference in subsection (2)(b) of that section to that Chapter as a reference to this section.

(8) This section is subject to section 114 of the 1995 Act (delegation or reference of appeals).**]**

Textual Amendments

F367 S. 199A inserted (1.4.2006) by Water Act 2003 (c. 37), **ss. 8(6)**, 105(3); S.I. 2006/984, art. 2(e) (with Sch. paras. 4, 5)

200 Gauges and records kept by other persons.

(1) Subject to subsection (3) below, any person other than the **[**[F368]Agency**]**, who proposes to install a gauge for measuring and recording the flow, level or volume of any inland waters other than discrete waters—

(a) shall give notice to the **[**[F368]Agency**]** of his proposal to install the gauge; and

(b) shall not begin the work of installing it before the end of the period of three months beginning with the date of service of the notice or such shorter period as the **[**[F368]Agency**]** may in any particular case allow.

(2) Not more than one month after any such work as is mentioned in paragraph (b) of subsection (1) above is completed, the person required to give notice under that subsection shall give notice to the **[**[F368]Agency**]** stating where the records obtained by means of the gauge are to be kept.

(3) Subsections (1) and (2) above shall not apply—

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(a) to any gauge installed for the sole purpose of indicating the level of any inland waters for the benefit of persons who fish in them; or

(b) to any gauge which is removed at or before the end of the period of twenty-eight days beginning with the date on which it is installed.

(4) Any person who contravenes subsection (1) or (2) above shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 1 on the standard scale.

Textual Amendments

F368 Words in s. 200 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

[[F369]201 Power to require information in respect of water resources functions

(1) Subject to subsection (2) below, the Secretary of State or the Agency may serve on any person a notice requiring that person to furnish him or, as the case may be, it, within a period or at times specified in the notice and in a form and manner so specified, with such information as is reasonably required by the Secretary of State or by the Agency for the purpose of carrying out any of his or, as the case may be, its water resources functions.

(2) The Secretary of State shall have power by regulations to make provision for restricting the information which may be required under subsection (1) above and for determining the form in which the information is to be so required.

(3) A person who fails without reasonable excuse to comply with the requirements of a notice served on him under this section shall be guilty of an offence and liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum;

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or to both.

(4) References in this section to the water resources functions of the Secretary of State or of the Agency are references to the functions of the Secretary of State or of the Agency under Part 2 of this Act or under any provisions not contained in that Part which are related water resources provisions in relation to Chapter 2 of that Part.**]**

Textual Amendments

F369 S. 201 substituted (1.4.2005) by Water Act 2003 (c. 37), **ss. 70**, 105(3); S.I. 2005/968, art. 2(k)

Modifications etc. (not altering text)

C132 S. 201 applied (1.4.2006) by Water Act 2003 (c. 37), **ss. 33(3)(c)**, 105(3); S.I. 2006/984, art. 2(p)

202 Information and assistance required in connection with the control of pollution.

(1) It shall be the duty of the **[**[F370]Agency**]**, if and so far as it is requested to do so by either of the Ministers, to give him all such advice and assistance as appears to it to be appropriate for facilitating the carrying out by him of his functions under the water pollution provisions of this Act.

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(2) Subject to subsection (3) below, either of the Ministers or the **[**[F370]Agency**]** may serve on any person a notice requiring that person to furnish him or, as the case may be, it, within a period or at times specified in the notice and in a form and manner so specified, with such information as is reasonably required by the the Minister in question or by the **[**[F370]Agency**]** for the purpose of carrying out any of his or, as the case may be, its functions under the water pollution provisions of this Act.

(3) Each of the Ministers shall have power by regulations to make provision for restricting the information which may be required under subsection (2) above and for determining the form in which the information is to be so required.

(4) A person who fails without reasonable excuse to comply with the requirements of a notice served on him under this section shall be guilty of an offence and **[**[F371]liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum;

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or to both.**]**

[F372](5) . . . . . .

Textual Amendments

F370 Words in s. 202 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

F371 Words in s. 202(4) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 172(1)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

F372 S. 202(5) repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 172(2), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

Modifications etc. (not altering text)

C133 S. 202 amended (27.8.1993) by 1993 c. 12, ss. 40, 51(2), **Sch. 3 Pt. I para. 9** (with s. 46).

C134 S. 202 modified (2.1.2004) by The Water Environment (Water Framework Directive) (England and Wales) Regulations 2003 (S.I. 2003/3242), regs. 1(a), **19(2)** (with reg. 1(c))

C135 S. 202(2) modified (6.1.1997) by S.I. 1996/3001, **reg. 7(3)**
S. 202(2) modified (12.6.1997) by S.I. 1997/1331, **reg. 6(3)**
S. 202(2) modified (12.6.1997) by S.I. 1997/1332, **reg. 6(3)**

203 Exchange of information with respect to pollution incidents etc.

(1) It shall be the duty of the **[**[F373]Agency**]** to provide a water undertaker with all such information to which this section applies as is in the possession of the **[**[F373]Agency**]** and is reasonably requested by the undertaker for purposes connected with the carrying out of its functions.

[[F374](1A) It shall be the duty of the Agency to provide a licensed water supplier with all such information to which this section applies as is in the possession of the Agency and is reasonably requested by the supplier for purposes connected with the carrying on of activities under its licence.**]**

(2) It shall be the duty of every water undertaker to provide the **[**[F373]Agency**]** with all such information to which this section applies as is in the possession of the undertaker and is reasonably requested by the **[**[F373]Agency**]** for purposes connected with the carrying out of any of its functions.

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[[F375](2A) It shall be the duty of every licensed water supplier to provide the Agency with all such information to which this section applies as is in the possession of the supplier and is reasonably requested by the Agency for purposes connected with the carrying out of any of its functions.**]**

[[F376](3) Information provided to a water undertaker, to a licensed water supplier or to the Agency under subsection (1), (1A), (2) or (2A) above shall be provided in such form and in such manner and at such times as the undertaker, the supplier or the Agency, as the case may be, may reasonably require.**]**

(4) Information provided under **[**[F377]subsection (1), (1A), (2) or (2A)**]** above to a water undertaker**[**[F378], to a licensed water supplier**]** or to the **[**[F373]Agency**]** shall be provided free of charge.

(5) The duties of

[[F379](a) a water undertaker under subsection (2) above; or

(b) a licensed water supplier under subsection (2A) above,

shall**]** be enforceable under section 18 of the [M94]Water Industry Act 1991 by the Secretary of State.

(6) This section applies to information—

(a) about the quality of any controlled waters or of any other waters; or

(b) about any incident in which any poisonous, noxious or polluting matter or any solid waste matter has entered any controlled waters or other waters.

(7) In this section "controlled waters" has the same meaning as in Part III of this Act.

[[F380](8) Any reference in this section to a licensed water supplier is a reference to a company holding a licence under Chapter 1A of Part 2 of the Water Industry Act 1991.**]**

Textual Amendments

F373 Words in s. 203 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

F374 S. 203(1A) inserted (1.12.2005) by Water Act 2003 (c. 37), s. 105(3), **Sch. 8 para. 53(2)(a)**; S.I. 2005/2714, art. 3(c) (with Sch. para. 8)

F375 S. 203(2A) inserted (1.12.2005) by Water Act 2003 (c. 37), s. 105(3), **Sch. 8 para. 53(2)(b)**; S.I. 2005/2714, art. 3(c) (with Sch. para. 8)

F376 S. 203(3) substituted (1.12.2005) by Water Act 2003 (c. 37), s. 105(3), **Sch. 8 para. 53(2)(c)**; S.I. 2005/2714, art. 3(c) (with Sch. para. 8)

F377 Words in s. 203(4) substituted (1.12.2005) by Water Act 2003 (c. 37), s. 105(3), **Sch. 8 para. 53(2)(d)(i)**; S.I. 2005/2714, art. 3(c) (with Sch. para. 8)

F378 Words in s. 203(4) inserted (1.12.2005) by Water Act 2003 (c. 37), s. 105(3), **Sch. 8 para. 53(2)(d)(ii)**; S.I. 2005/2714, art. 3(c) (with Sch. para. 8)

F379 Words in s. 203(5) substituted (1.12.2005) by Water Act 2003 (c. 37), s. 105(3), **Sch. 8 para. 53(2)(e)**; S.I. 2005/2714, art. 3(c) (with Sch. para. 8)

F380 S. 203(8) inserted (1.12.2005) by Water Act 2003 (c. 37), s. 105(3), **Sch. 8 para. 53(2)(f)**; S.I. 2005/2714, art. 3(c) (with Sch. para. 8)

Modifications etc. (not altering text)

C136 S. 203 amended (27.8.1993) by 1993 c. 12, ss. 40, 51(2), **Sch. 3 Pt. I para. 9** (with s. 46).

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Marginal Citations
M94 1991 c. 56.

Restriction on disclosure of information

204 Restriction on disclosure of information.

(1) Subject to the following provisions of this section, no information with respect to any particular business which—
(a) has been obtained by virtue of any of the provisions of this Act; and
(b) relates to the affairs of any individual or to any particular business,
shall, during the lifetime of that individual or so long as that business continues to be carried on, be disclosed without the consent of that individual or the person for the time being carrying on that business.

(2) Subsection (1) above does not apply to any disclosure of information which is made—
(a) for the purpose of facilitating the carrying out by either of the Ministers, **[**[F381]the Agency, the Scottish Environmental Protection Agency**]**, the **[**[F382]the Water Services Regulation Authority, the Consumer Council for Water**]**, the **[**[F383]Competition Commission**]** or a local authority of any of his, its or, as the case may be, their functions by virtue of this Act, any of the other consolidation Acts **[**[F384], the Water Act 1989, Part I or IIA of the Environmental Protection Act 1990**[**[F385], the 1995 Act**[**[F386], regulations under section 2 of the Pollution Prevention and Control Act 1999, or the Water Act 2003**]]]**;
(b) for the purpose of facilitating the performance by a water undertaker**[**[F387], sewerage undertaker or company holding a licence under Chapter 1A of Part 2 of the Water Industry Act 1991**]** of any of the duties imposed on it by or under this Act, any of the other consolidation Acts**[**[F388], the Water Act 1989 or the Water Act 2003**]**;
(c) in pursuance of any duty imposed by section 197(1)(a) or (2) or **[**[F389]203(1), (1A), (2) or (2A)**]** above or **[**[F390]of any duty imposed by section 27H**]** of the Water Industry Act 1991;
(d) for the purpose of facilitating the carrying out by any person mentioned in Part I of Schedule 24 to this Act of any of his functions under any of the enactments or instruments specified in Part II of that Schedule;
[[F391](e) for the purpose of enabling or assisting the Secretary of State, the Treasury or the Financial Services Authority to exercise any powers conferred by or under the Financial Services and Markets Act 2000 or by the enactments relating to companies or insolvency;
(ea) for the purpose of enabling or assisting any inspector appointed under enactments relating to companies to carry out his functions;**]**
(f) for the purpose of enabling an official receiver to carry out his functions under the enactments relating to insolvency or for the purpose of enabling or assisting a recognised professional body for the purposes of section 391 of the [M95]Insolvency Act 1986 to carry out its functions as such;
(g) for the purpose of facilitating the carrying out by the Health and Safety Commission or the Health and Safety Executive of any of its functions under any enactment or of facilitating the carrying out by any enforcing authority, within the meaning of Part I of the [M96]Health and Safety at Work etc. Act 1974,

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of any functions under a relevant statutory provision, within the meaning of that Act;

(h) for the purpose of facilitating the carrying out by the Comptroller and Auditor General of any of his functions under any enactment;

(i) in connection with the investigation of any criminal offence or for the purposes of any criminal proceedings;

(j) for the purposes of any civil proceedings brought under or by virtue of this Act, any of the other consolidation Acts, the [M97]Water Act 1989**[**[F392], the Water Act 2003**]** or any of the enactments or instruments specified in Part II of Schedule 24 to this Act, or of any arbitration under this Act, any of the other consolidation Acts**[**[F393], the Water Act 1989 or the Water Act 2003**]**; or

(k) in pursuance of a Community obligation.

(3) Nothing in subsection (1) above shall be construed—

(a) as limiting the matters which may be included in, or made public as part of, a report of—

(i) the **[**[F394]Agency**]**;

[[F395](ia) the Scottish Environment Protection Agency;**]**

[[F396](ii) the Water Services Regulation Authority;**]**

[[F397](iii) the Consumer Council for Water (or any regional committee of that Council established under section 27A of the Water Industry Act 1991); or**]**

(iv) the **[**[F398]Competition Commission**]**,

under any provision of this Act**[**[F399], Part I or IIA of the Environmental Protection Act 1990, that Act of 1991**[**[F400], the 1995 Act**[**[F401], regulations under section 2 of the Pollution Prevention and Control Act 1999, or the Water Act 2003**]]]**;

(b) as limiting the matters which may be published under section 201 of that Act **[**[F402]of 1991**]**; or

(c) as applying to any information which has been made public as part of such a report or has been so published or to any information exclusively of a statistical nature.

(4) Subject to subsection (5) below, nothing in subsection (1) above shall preclude the disclosure of information—

(a) if the disclosure is of information relating to a matter connected with the carrying out of the functions of a water undertaker or sewerage undertaker**[**[F403], or with the carrying on by a company holding a licence under Chapter 1A of Part 2 of the Water Industry Act 1991 of activities under its licence,**]** and is made by one Minister of the Crown or government department to another; or

(b) if the disclosure is for the purpose of enabling or assisting any public or other authority for the time being designated for the purposes of this section by an order made by the Secretary of State to discharge any functions which are specified in the order.

(5) The power to make an order under subsection (4) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament; and where such an order designates an authority for the purposes of paragraph (b) of that subsection, the order may—

(a) impose conditions subject to which the disclosure of information is permitted by virtue of that paragraph; and

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(b) otherwise restrict the circumstances in which disclosure is so permitted.

(6) Any person who discloses any information in contravention of the preceding provisions of this section shall be guilty of an offence and liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum;

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

(7) In this section "the other consolidation Acts" means the [M98]Water Industry Act 1991, the [M99]Statutory Water Companies Act 1991, the [M100]Land Drainage Act 1991 and the [M101]Water Consolidation (Consequential Provisions) Act 1991.

Textual Amendments

F381 Words in s. 204(2)(a) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 173(2)(a)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

F382 Words in s. 204(2)(a) substituted (1.10.2005) by Water Act 2003 (c. 37), s. 105(3), **Sch. 7 para. 28(3)(a)(i)**; S.I. 2005/2714, art. 2(l)(aa)(vi) (with Sch. para. 8)

F383 Words in s. 204(2)(a) substituted (1.4.1999) by S.I. 1999/506, **art. 31(a)**

F384 Words in s. 204(2)(b) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 173(2)(b)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

F385 Words in s. 204(2)(a) substituted (21.3.2000) by 1999 c. 24, s. 6, **Sch. 2 para. 8**; S.I. 2000/800, **art. 2**

F386 Words in s. 204(2)(a) substituted (1.4.2004) by Water Act 2003 (c. 37), s. 105(3), **Sch. 7 para. 28(3)(a)(ii)**; S.I. 2004/641, art. 3(y), Sch. 2 (with Sch. 3 para. 7)

F387 Words in s. 204(2)(b) substituted (1.12.2005) by Water Act 2003 (c. 37), s. 105(3), **Sch. 8 para. 53(3)(a)**; S.I. 2005/2714, art. 3(c) (with Sch. para. 8)

F388 Words in s. 204(2)(b) substituted (1.4.2004) by Water Act 2003 (c. 37), s. 105(3), **Sch. 7 para. 28(3)(a)(iii)**; S.I. 2004/641, art. 3(y), Sch. 2 (with Sch. 3 para. 7)

F389 Words in s. 204(2)(c) substituted (1.12.2005) by Water Act 2003 (c. 37), s. 105(3), **Sch. 8 para. 53(3)(b)**; S.I. 2005/2714, art. 3(c) (with Sch. para. 8)

F390 Words in s. 204(2)(c) substituted (1.10.2005) by Water Act 2003 (c. 37), s. 105(3), **Sch. 7 para. 28(3)(a)(iv)**; S.I. 2005/2714, art. 2(l)(aa)(vi) (with Sch. para. 8)

F391 S. 204(2)(e)(ea) substituted for s. 204(2)(e) (1.12.2001) by S.I. 2001/3649, **art. 329**

F392 Words in s. 204(2)(j) inserted (1.4.2004) by Water Act 2003 (c. 37), s. 105(3), **Sch. 7 para. 28(3)(a)(v)(a)**; S.I. 2004/641, art. 3(y), Sch. 2 (with Sch. 3 para. 7)

F393 Words in s. 204(2)(j) substituted (1.4.2004) by Water Act 2003 (c. 37), s. 105(3), Sch. 7 para. 28(3)(a)(v)(b); S.I. 2004/641, art. 3(y), Sch. 2 (with Sch. 3 para. 7)

F394 Words in s. 204 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

F395 S. 204(3)(a)(ia) inserted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 173(3)(a)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

F396 S. 204(3)(a)(ii) substituted (1.4.2006) by Water Act 2003 (c. 37), s. 105(3), **Sch. 7 para. 28(3)(b)(i)**; S.I. 2005/2714, art. 4(f) (with Sch. para. 8)

F397 S. 204(3)(a)(iii) substituted (1.10.2005) by Water Act 2003 (c. 37), s. 105(3), **Sch. 7 para. 28(3)(b)(ii)**; S.I. 2005/2714, art. 2(l)(aa)(vi) (with Sch. para. 8)

F398 Words in s. 204(3)(a)(iv) substituted (1.4.1999) by S.I. 1999/506, **art. 31(a)**

F399 Words in s. 204(3)(a) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 173(3)(b)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

F400 Words in s. 204(3)(a) substituted (21.3.2000) by 1999 c. 24, s. 6, **Sch. 2 para. 8**; S.I. 2000/800, **art. 2**

F401 Words in s. 204(3)(a) substituted (1.4.2004) by Water Act 2003 (c. 37), s. 105(3), **Sch. 7 para. 28(3)(b)(iii)**; S.I. 2004/641, art. 3(y), Sch. 2 (with Sch. 3 para. 7)

F402 Words in s. 204(3)(b) inserted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 173(4)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

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F403 Words in s. 204(4)(a) inserted (1.4.2004) by Water Act 2003 (c. 37), s. 105(3), **Sch. 8 para. 53(3)(c)**; S.I. 2004/641, art. 3(y), Sch. 2 (with Sch. 3 para. 7)

Modifications etc. (not altering text)

C137 S. 204 applied (01.12.1991) by Land Drainage Act 1991 (c. 59, SIF 73:1), **ss. 70**, 76(2).

C138 S. 204 restricted (31.10.2003) by Railways and Transport Safety Act 2003 (c. 20), **s. 115**; S.I. 2003/2681, art. 2(b)

C139 S. 204(2): disclosure powers extended (14.12.2001) by 2001 c. 24, s. 17, **Sch. 4 Pt.I para. 32**

Marginal Citations

M95 1986 c. 45.
M96 1974 c. 37.
M97 1989 c. 15.
M98 1991 c. 56.
M99 1991 c. 58.
M100 1991 c. 59.
M101 1991 c. 60.

205 Confidentiality of information relating to underground water etc.

(1) The person sinking any such well or borehole as is mentioned in section 198 above or, if it is a different person, the owner or occupier of the land on which any such well or borehole is sunk may by notice to the Natural Environment Research Council require that Council to treat as confidential—

(a) any copy of or extract from the journal required to be kept under that section; or

(b) any specimen taken in exercise of the rights specified in subsection (5) of that section.

(2) Subject to subsections (3) and (4) below, the Natural Environment Research Council shall not, without the consent of the person giving the notice, allow any matter to which any notice under subsection (1) above relates to be published or shown to any person who is not an officer of that Council or of a department of the Secretary of State.

(3) Subsection (2) above shall not prohibit any matter from being published or shown to any person in so far as it contains or affords information as to water resources and supplies.

(4) If at any time the Natural Environment Research Council give notice to any person that in their opinion his consent for the purposes of subsection (2) above is being unreasonably withheld—

(a) that person may, within three months after the giving of the notice, appeal to the High Court for an order restraining that Council from acting as if consent had been given; and

(b) that Council may proceed as if consent had been given if either no such appeal is brought within that period or the High Court, after hearing the appeal, do not make such an order.

(5) Any person who fails to comply with any obligation imposed on him by the preceding provisions of this section shall be guilty of an offence and liable, on summary conviction—

(a) to a fine not exceeding level 3 on the standard scale; and

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(b) where the offence continues after conviction, to a further fine of £20 for every day during which it so continues.

(6) If any person who is admitted to any premises in compliance with section 198(2)(c) above discloses to any person any information obtained by him there with regard to any manufacturing process or trade secret, he shall, unless the disclosure is in performance of his duty, be guilty of an offence and liable—

(a) on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding the statutory maximum or to both;

(b) on conviction on indictment, to imprisonment for a term not exceeding three months or to a fine or to both.

Making of false statements etc.

206 Making of false statements etc.

[[F404](1) If, in furnishing any information or making any application under or for the purposes of any provision of this Act **[**[F405]or of section 3, 4 or 10 of the Water Act 2003 **]** , any person makes a statement which he knows to be false or misleading in a material particular, or recklessly makes any statement which is false or misleading in a material particular, he shall be guilty of an offence under this section.**]**

[F406](2) . . . . . .

(3) Where—

(a) the provisions contained in a licence under Chapter II of Part II of this Act in pursuance of paragraph (b) of subsection (2) of section 46 above, or of that paragraph as modified by subsection (6) of that section, require the use of a meter, gauge or other device; and

(b) such a device is used for the purposes of those provisions,

any person who wilfully alters or interferes with that device so as to prevent it from measuring correctly shall be guilty of an offence under this section.

[[F407](3A) If a person intentionally makes a false entry in any record required to be kept by virtue of a licence under Chapter II of Part II of this Act, or a consent under Chapter II of Part III of this Act, he shall be guilty of an offence under this section.**]**

(4) If, in keeping any record or journal or in furnishing any information which he is required to keep or furnish under section 198 or 205 above, any person knowingly or recklessly makes any statement which is false in a material particular, he shall be guilty of an offence under this section.

[[F408](5) A person who is guilty of an offence under this section shall be liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum;

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or to both.**]**

Textual Amendments

F404 S. 206(1) substituted (1.4.1996) by 1995 c. 25, s. 112, **Sch. 19 para. 5(2)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

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F405 Words in s. 206(1) inserted (1.4.2006) by Water Act 2003 (c. 37), s. 105(3), **Sch. 7 para. 11**; S.I. 2006/984, art. 2(s)(i)

F406 S. 206(2) repealed (1.4.1996) by 1995 c. 25, ss. 112, 125(2), Sch. 19 para. 5(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

F407 S. 206(3A) inserted (1.4.1996) by 1995 c. 25, s. 112, **Sch. 19 para. 5(4)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

F408 S. 206(5) substituted for s. 206(5)-(7) (1.4.1996) by 1995 c. 25, s. 112, **Sch. 19 para. 5(5)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

PART IX

MISCELLANEOUS AND SUPPLEMENTAL

Miscellaneous

207 Directions in the interests of national security etc.

(1) The Secretary of State may, after consultation with the **[**[F409]Agency**]**, give to the **[**[F409]Agency**]** such directions of a general character as appear to the Secretary of State to be requisite or expedient in the interests of national security or for the purpose of mitigating the effects of any civil emergency which may occur.

(2) If it appears to the Secretary of State to be requisite or expedient to do so in the interests of national security or for the purpose of mitigating the effects of any civil emergency which has occurred or may occur, he may, after consultation with the **[**[F409]Agency**]**, give to the **[**[F409]Agency**]** a direction requiring it to do, or not to do, a particular thing specified in the direction.

(3) The duty of the **[**[F409]Agency**]** to comply with a direction under this section is a duty which has effect notwithstanding any other duty imposed on it (whether or not by or under this Act).

(4) The Secretary of State shall lay before each House of Parliament a copy of every direction given under this section unless he is of the opinion that disclosure of the direction is against the interests of national security.

(5) A person shall not disclose, or be required by virtue of any enactment or otherwise to disclose, anything done by virtue of this section if the Secretary of State has notified him that the Secretary of State is of the opinion that disclosure of that thing is against the interests of national security.

(6) Any person who discloses any matter in contravention of subsection (5) above shall be guilty of an offence and liable, on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

(7) Any reference in this section to a civil emergency is a reference to any natural disaster or other emergency which, in the opinion of the Secretary of State, is or may be likely, in relation to any area—

(a) so to disrupt water supplies or sewerage services; or

(b) to involve such destruction of or damage to life or property in that area,

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as seriously and adversely to affect all the inhabitants of that area, or a substantial number of them, whether by depriving them of any of the essentials of life or otherwise.

(8) In this section "sewerage services" has the same meaning as in the [M102]Water Industry Act 1991.

Textual Amendments

F409 Words in s. 207 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

Marginal Citations

M102 1991 c. 56.

208 Civil liability of the [[F410]Agency] for escapes of water etc.

(1) Where an escape of water, however caused, from a pipe vested in the **[**[F410]Agency**]** causes loss or damage, the **[**[F410]Agency**]** shall be liable, except as otherwise provided in this section, for the loss or damage.

(2) The **[**[F410]Agency**]** shall not incur any liability under subsection (1) above if the escape was due wholly to the fault of the person who sustained the loss or damage or of any servant, agent or contractor of his.

(3) The **[**[F410]Agency**]** shall not incur any liability under subsection (1) above in respect of any loss or damage for which the **[**[F410]Agency**]** would not be liable apart from that subsection and which is sustained—

(a) by any water undertaker or sewerage undertaker or by any statutory undertakers, within the meaning of section 336(1) of the [M103]Town and Country Planning Act 1990;

(b) by any public gas supplier within the meaning of Part I of the [M104]Gas Act 1986 or the holder of a licence under section 6(1) of the [M105]Electricity Act 1989;

(c) by any highway authority; or

(d) by any person on whom a right to compensation is conferred by section 82 of the [M106]New Roads and Street Works Act 1991.

(4) The [M107]Law Reform (Contributory Negligence) Act 1945, the [M108]Fatal Accidents Act 1976 and the [M109]Limitation Act 1980 shall apply in relation to any loss or damage for which the **[**[F410]Agency**]** is liable under this section, but which is not due to the **[**[F410]Agency's**]** fault, as if it were due to its fault.

(5) Nothing in subsection (1) above affects any entitlement which the **[**[F410]Agency**]** may have to recover contribution under the [M110]Civil Liability (Contribution) Act 1978; and for the purposes of that Act, any loss for which the **[**[F410]Agency**]** is liable under that subsection shall be treated as if it were damage.

(6) Where the **[**[F410]Agency**]** is liable under any enactment or agreement passed or made before 1st April 1982 to make any payment in respect of any loss or damage the **[**[F410]Agency**]** shall not incur liability under subsection (1) above in respect of the same loss or damage.

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(7) In this section "fault" has the same meaning as in the [M111]Law Reform (Contributory Negligence) Act 1945.

(8) Until the coming into force of section 82 of the [M112]New Roads and Street Works Act 1991, subsection (3) above shall have effect as if for paragraph (d) there were substituted the following paragraphs—

"(d) by any bridge authority, bridge managers, street authority or street managers within the meaning of the [M113]Public Utilities Street Works Act 1950; or

(e) by any person on whom a right to compensation under section 26 of that Act of 1950 is conferred.";but nothing in this section shall be taken to prejudice the power of the Secretary of State under that Act of 1991 to make an order bringing section 82 of that Act into force on different days for different purposes (including the purposes of this section).

Textual Amendments

F410 Words in s. 208 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

Modifications etc. (not altering text)

C140 S. 208(3)(b) amended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(2)(n)**; S.I. 1996/218, **art. 2**

Marginal Citations

M103 1990 c. 8.
M104 1986 c. 44.
M105 1989 c. 29.
M106 1991 c. 22.
M107 1945 c. 28.
M108 1976 c. 30.
M109 1980 c. 58.
M110 1978 c. 47.
M111 1945 c. 28.
M112 1991 c. 22.
M113 1950 c. 39.

209 Evidence of samples and abstractions.

[F411](1) . . . . . .

[F411](2) . . . . . .

(3) Where, in accordance with the provisions contained in a licence in pursuance of paragraph (b) of subsection (2) of section 46 above, or in pursuance of that paragraph as read with subsection (6) of that section, it has been determined what quantity of water is to be taken—

(a) to have been abstracted during any period from a source of supply by the holder of the licence; or

(b) to have been so abstracted at a particular point or by particular means, or for use for particular purposes,

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that determination shall, for the purposes of any proceedings under Chapter II of Part II of this Act or any of the related water resources provisions, be conclusive evidence of the matters to which it relates.

[F411](4) . . . . . .

Textual Amendments

F411 S. 209(1)(2)(4) repealed (1.4.1996) by 1995 c. 25, ss. 111(1)(c), 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

Byelaws

210 Byelaw-making powers of the [[F412]Agency].

(1) Schedule 25 to this Act shall have effect for conferring powers on the **[**[F412]Agency**]** to make byelaws for purposes connected with the carrying out of its functions.

(2) Schedule 26 to this Act shall have effect in relation to byelaws made by the **[**[F412]Agency**]**, whether by virtue of subsection (1) above or by virtue of any other enactment.

Textual Amendments

F412 Words in s. 210 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

211 Enforcement of byelaws.

(1) If any person contravenes any byelaws made by virtue of paragraph 1 of Schedule 25 to this Act, he shall be guilty of an offence and liable, on summary conviction—
   (a) to a fine not exceeding level 1 on the standard scale; and
   (b) if the contravention is continued after conviction, to a fine not exceeding £5 for each day on which it is so continued.

(2) Byelaws made by virtue of paragraph 2 or 3 of that Schedule may contain provision providing for a contravention of the byelaws to constitute a summary offence punishable, on summary conviction, by a fine not exceeding level 5 on the standard scale or such smaller sum as may be specified in the byelaws.

(3) A person who contravenes any byelaws made by virtue of paragraph 4 or 6 of that Schedule shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 4 on the standard scale or, in the case of byelaws made by virtue of paragraph 4, such smaller sum as may be specified in the byelaws.

(4) If any person acts in contravention of any byelaw made by virtue of paragraph 5 of that Schedule he shall be guilty of an offence and liable, on summary conviction—
   (a) to a fine not exceeding level 5 on the standard scale; and
   (b) if the contravention is continued after conviction, to a further fine not exceeding £40 for each day on which it is so continued.

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(5) Without prejudice to any proceedings by virtue of subsection (1) or (4) above, the **[**[F413]Agency**]** may—

(a) take such action as it considers necessary to remedy the effect of any contravention of byelaws made by virtue of paragraph 1 of Schedule 25 to this Act;

(b) take such action as may be necessary to remedy the effect of any person's contravention of byelaws made by virtue of paragraph 5 of that Schedule; and

(c) recover the expenses reasonably incurred by the **[**[F413]Agency**]** in taking any action under paragraph (a) or (b) above from the person in default.

(6) So much of the [M114]Salmon and Freshwater Fisheries Act 1975 as makes provision with respect to or by reference to offences under that Act shall have effect as if an offence consisting in a contravention of byelaws made by virtue of paragraph 6 of Schedule 25 to this Act were an offence under that Act.

(7) Section 70 above shall apply in relation to any restrictions imposed by byelaws made by virtue of paragraph 1 of Schedule 25 to this Act as it applies in relation to restrictions imposed by the provisions of Chapter II of Part II of this Act which are mentioned in that section; and sections 100 and 101 above shall have effect in relation to contraventions of byelaws made by virtue of paragraph 4 of that Schedule as they have effect in relation to contraventions of provisions of Part III of this Act.

Textual Amendments

F413 Words in s. 211 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

Modifications etc. (not altering text)

C141 S. 211 excluded (1.7.1999) by S.I. 1999/1746, **art. 4(1)**; S.I. 1998/3178, **art. 3**

Marginal Citations

M114 1975 c. 51.

212 Compensation in respect of certain fisheries byelaws.

(1) Where—

(a) the owner or occupier of any fishery by notice to the **[**[F414]Agency**]** claims that the fishery is injuriously affected by a byelaw made for any of the purposes specified in subsection (2) below; and

(b) that claim is made at any time before the end of twelve months after the confirmation of the byelaw,

the claim and the amount of compensation to be paid, by way of annual payment or otherwise, for the damage (if any) to the fishery shall be determined, in default of agreement, by a single arbitrator appointed by one of the Ministers.

(2) The purposes mentioned in subsection (1)(a) above are the following purposes specified in paragraph 6(2) of Schedule 25 to this Act, that is to say—

(a) prohibiting the use for taking salmon, trout, or freshwater fish of any instrument (not being a fixed engine) in such waters and at such times as are prescribed by the byelaw;

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(b) specifying the nets and other instruments (not being fixed engines) which may be used for taking salmon, trout, freshwater fish and eels and imposing requirements as to the use of such nets and other instruments;

(c) imposing requirements as to the construction, design, material and dimensions of any such nets or instruments, including in the case of nets the size of mesh.

(3) Where by virtue of this section any compensation is payable under any award by way of an annual payment—

(a) the **[**[F414]Agency**]** or the person entitled to the annual payment may at any time after the end of five years from the date of the award require it to be reviewed by a single arbitrator appointed by one of the Ministers; and

(b) the compensation to be paid after the review shall be such, if any, as may be determined by that arbitrator.

(4) Expressions used in this section and in the Salmon and Freshwater Fisheries Act 1975 have the same meanings in this section as in that Act.

Textual Amendments

F414 Words in s. 212 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

Local inquiries

[F415]213 . . . . . .

Textual Amendments

F415 S. 213 repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 174, **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

[F416]214 . . . . . .

Textual Amendments

F416 S. 214 repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 174, **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

[F417]215 . . . . . .

Textual Amendments

F417 S. 215 repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 174, **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

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Offences etc.

216 Enforcement: powers and duties.

(1) Without prejudice to its powers of enforcement in relation to the other provisions of this Act, it shall be the duty of the **[**[F418]Agency**]** to enforce the provisions to which this section applies.

(2) No proceedings for any offence under any provision to which this section applies shall be instituted except—

(a) by the **[**[F418]Agency**]**; or

(b) by, or with the consent of, the Director of Public Prosecutions.

(3) This section applies to Chapter II of Part II of this Act and the related water resources provisions.

Textual Amendments

F418 Words in s. 216 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

Modifications etc. (not altering text)

C142 S. 216 applied (1.4.2006) by Water Act 2003 (c. 37), **ss. 33(3)(d)**, 105(3); S.I. 2006/984, art. 2(p)

217 Criminal liabilities of directors and other third parties.

(1) Where a body corporate is guilty of an offence under this Act **[**[F419]or under section 4 of the Water Act 2003 **]** and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, then he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) above shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(3) Without prejudice to subsections (1) and (2) above, where the commission by any person of an offence under the water pollution provisions of this Act is due to the act or default of some other person, that other person may be charged with and convicted of the offence whether or not proceedings for the offence are taken against the first-mentioned person.

Textual Amendments

F419 Words in s. 217(1) inserted (1.4.2006) by Water Act 2003 (c. 37), s. 105(3), **Sch. 7 para. 12**; S.I. 2006/984, art. 2(s)(i)

Status: *Point in time view as at 01/10/2006.*
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Judicial disqualification

[F420]218 . . . . . .

Textual Amendments

F420 S. 218 repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 175, **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

Powers to make regulations

219 Powers to make regulations.

(1) Any power of one or both of the Ministers to make regulations under any provision of this Act shall be exercisable by statutory instrument subject (except in the case of regulations made by virtue of paragraph 1(3) of Schedule 15 to this Act) to annulment in pursuance of a resolution of either House of Parliament.

(2) [F421]. . . The provisions of any regulations made by one or both the Ministers under this Act may include-

(a) provision for any duty or other requirement imposed by the regulations on a water undertaker or sewerage undertaker to be enforceable under section 18 of the [M115]Water Industry Act 1991 by the Secretary of State, by **[**[F422] the Water Services Regulation Authority **]** or by either of them;

(b) provision, where such a duty or requirement is so enforceable by either of them, for enforcement by **[**[F423] the Water Services Regulation Authority **]** to be subject to such consent or authorisation as may be prescribed;

(c) provision which, in relation to the furnishing of any information or the making of any application under the regulations, makes provision corresponding to section 206(1) and (5) above;

(d) provision for anything that may be prescribed by the regulations to be determined under the regulations and for anything falling to be so determined to be determined by such persons, in accordance with such procedure and by reference to such matters, and to the opinion of such persons, as may be prescribed;

(e) different provision for different cases, including different provision in relation to different persons, circumstances or localities; and

(f) such supplemental, consequential and transitional provision as the Minister or Ministers exercising the power considers or consider appropriate.

[F424](3) . . . . . .

Textual Amendments

F421 Words in s. 219(2) repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 176(a), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

F422 Words in s. 219(2)(a) substituted (1.4.2006) by Water Act 2003 (c. 37), s. 105(3), **Sch. 7 para. 28(4)**; S.I. 2005/2714, art. 4(f) (with Sch. para. 8)

F423 Words in s. 219(2)(b) substituted (1.4.2006) by Water Act 2003 (c. 37), s. 105(3), **Sch. 7 para. 28(4)**; S.I. 2005/2714, art. 4(f) (with Sch. para. 8)

Status: *Point in time view as at 01/10/2006.*
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F424 S. 219(3) repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 176(b), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

Marginal Citations
M115 1991 c. 56.

Construction of Act

220 Provisions relating to service of documents.

(1) Any document required or authorised by virtue of this Act to be served on any person may be served—
  (a) by delivering it to him or by leaving it at his proper address or by sending it by post to him at that address; or
  (b) if the person is a body corporate, by serving it in accordance with paragraph (a) above on the secretary or clerk of that body; or
  (c) if the person is a partnership, by serving it in accordance with paragraph (a) above on a partner or a person having the control or management of the partnership business.

(2) For the purposes of this section and section 7 of the [M116]Interpretation Act 1978 (which relates to the service of documents by post) in its application to this section, the proper address of any person on whom a document is to be served shall be his last known address, except that—
  (a) in the case of service on a body corporate or its secretary or clerk, it shall be the address of the registered or principal office of the body;
  (b) in the case of service on a partnership or a partner or a person having the control or management of a partnership business, it shall be the address of the principal office of the partnership;

  and for the purposes of this subsection the principal office of a company registered outside the United Kingdom, or of a partnership carrying on business outside the United Kingdom, is its principal office within the United Kingdom.

(3) If a person to be served by virtue of this Act with any document by another has specified to that other an address within the United Kingdom other than his proper address (as determined in pursuance of subsection (2) above) as the one at which he or someone on his behalf will accept documents of the same description as that document, that address shall also be treated as his proper address for the purposes of this section and for the purposes of the said section 7 in its application to this section.

(4) Where under any provision of this Act any document is required to be served on the owner, on a lessee or on the occupier of any premises then—
  (a) if the name or address of the owner, of the lessee or, as the case may be, of the occupier of the premises cannot after reasonable inquiry be ascertained; or
  (b) in the case of service on the occupier, if the premises appear to be or are unoccupied,

  that document may be served either by leaving it in the hands of a person who is or appears to be resident or employed on the land or by leaving it conspicuously affixed to some building or object on the land.

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(5) This section shall not apply to any document in relation to the service of which provision is made by rules of court.

Modifications etc. (not altering text)

C143 S. 220 applied (21.7.1994) by 1994 c. xiii, **s. 29(4)**

C144 S. 220 applied (1.4.2006) by Water Act 2003 (c. 37), **ss. 33(4)**, 105(3); S.I. 2006/984, art. 2(p)

Marginal Citations

M116 1978 c. 30.

221 General interpretation.

(1) In this Act, except in so far as the context otherwise requires—

[[F425]"the 1995 Act" means the Environment Act 1995;**]**

"abstraction", in relation to water contained in any source of supply, means the doing of anything whereby any of that water is removed from that source of supply, whether temporarily or permanently, including anything whereby the water is so removed for the purpose of being transferred to another source of supply; and "abstract" shall be construed accordingly;

"accessories", in relation to a main, sewer or other pipe, includes any manholes, ventilating shafts, inspection chambers, settling tanks, wash-out pipes, pumps, ferrules or stopcocks for the main, sewer or other pipe, or any machinery or other apparatus which is designed or adapted for use in connection with the use or maintenance of the main, sewer or other pipe or of another accessory for it, but does not include any **[**[F426]electronic communications apparatus**]** unless it—

(a) is or is to be situated inside or in the close vicinity of the main, sewer or other pipe or inside or in the close vicinity of another accessory for it; and

(b) is intended to be used only in connection with the use or maintenance of the main, sewer or other pipe or of another accessory for it;

and in this definition "stopcock" has the same meaning as in the [M117]Water Industry Act 1991;

[[F427]"the Agency" means the Environment Agency;**]**

"agriculture" has the same meaning as in the [M118]Agriculture Act 1947 and "agricultural" shall be construed accordingly;

"analyse", in relation to any sample of land, water or effluent, includes subjecting the sample to a test of any description, and cognate expressions shall be construed accordingly;

[F428] . . . . . .

"conservancy authority" means any person who has a duty or power under any enactment to conserve, maintain or improve the navigation of a tidal water and is not a navigation authority or harbour authority;

[F429] . . . . . .

"contravention" includes a failure to comply, and cognate expressions shall be construed accordingly;

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"damage", in relation to individuals, includes death and any personal injury (including any disease or impairment of physical or mental condition);

"discrete waters" means inland waters so far as they comprise—

(a) a lake, pond or reservoir which does not discharge to any other inland waters; or

(b) one of a group of two or more lakes, ponds or reservoirs (whether near to or distant from each other) and of watercourses or mains connecting them, where none of the inland waters in the group discharges to any inland waters outside the group;

"disposal"—

(a) in relation to land or any interest or right in or over land, includes the creation of such an interest or right and a disposal effected by means of the surrender or other termination of any such interest or right; and

(b) in relation to sewage, includes treatment;

and cognate expressions shall be construed accordingly;

"drain" has, subject to subsection (2) below, the same meaning as in the [M119]Water Industry Act 1991;

"drainage" in the expression "drainage works" has the meaning given by section 113 above for the purposes of Part IV of this Act;

"drought order" means an ordinary drought order under subsection (1) of section 73 above or an emergency drought order under subsection (2) of that section;

"effluent" means any liquid, including particles of matter and other substances in suspension in the liquid;

"enactment" includes an enactment contained in this Act or in any Act passed after this Act;

[[F430]"enforcement notice" has the meaning given by section 90B above;**]**

"engineering or building operations", without prejudice to the generality of that expression, includes—

(a) the construction, alteration, improvement, maintenance or demolition of any building or structure or of any reservoir, watercourse, dam, weir, well, borehole or other works; and

(b) the installation, modification or removal of any machinery or apparatus;

"financial year" means the twelve months ending with 31st March;

[[F431]"flood defence functions", in relation to the Agency, means—

(a) its functions with respect to flood defence and land drainage by virtue of Part IV of this Act, the [M120]Land Drainage Act 1991 and section 6 of the 1995 Act;

(b) those functions transferred to the Agency by section 2(1)(a)(iii) of the 1995 Act which were previously transferred to the Authority by virtue of section 136(8) of the [M121]Water Act 1989 and paragraph 1(3) of Schedule 15 to that Act (transfer of land drainage functions under local statutory provisions and subordinate legislation); and

(c) any other functions of the Agency under any of the flood defence provisions of this Act;**]**

[[F432]"flood defence provisions", in relation to this Act, means—

(a) any of the following provisions of this Act, that is to say—

(i) Part IV;

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(ii) sections 133 to 141 (including Schedule 15), 143, [F433]... 155, 165 to 167, 180, 193, 194 and paragraph 5 of Schedule 25;

(b) any of the following provisions of the 1995 Act, that is to say—

(i) section 6(4) (general supervision of flood defence);

(ii) section 53 (inquiries and other hearings); and

(iii) Schedule 5 (membership and proceedings of regional and local flood defence committees); and

(c) any other provision of this Act or the 1995 Act so far as it relates to a provision falling within paragraph (a) or (b) above;**]**

"harbour" has the same meaning for the purposes of the flood defence provisions of this Act as in **[**[F434]section 313 of the Merchant Shipping Act 1995**]**;

"harbour authority" (except in the flood defence provisions of this Act, in which it has the same meaning as in **[**[F435]section 313 of the Merchant Shipping Act 1995**]**) means a person who is a harbour authority **[**[F435]as defined in section 151 for the purposes of Chapter II of Part VI of that Act**]** and is not a navigation authority;

"highway" has the same meaning as in the [M122]Highways Act 1980;

"information" includes anything contained in any records, accounts, estimates or returns;

"inland waters" means the whole or any part of—

(a) any river, stream or other watercourse (within the meaning of Chapter II of Part II of this Act), whether natural or artificial and whether tidal or not;

(b) any lake or pond, whether natural or artificial, or any reservoir or dock, in so far as the lake, pond, reservoir or dock does not fall within paragraph (a) of this definition; and

(c) so much of any channel, creek, bay, estuary or arm of the sea as does not fall within paragraph (a) or (b) of this definition;

"joint planning board" has the same meaning as in the [M123]Town and Country Planning Act 1990;

"local authority" means the council of any county, **[**[F436]county borough,**]** district or London borough or the Common Council of the City of London;

"local statutory provision" means—

(a) a provision of a local Act (including an Act confirming a provisional order);

(b) a provision of so much of any public general Act as has effect with respect to a particular area, with respect to particular persons or works or with respect to particular provisions falling within any paragraph of this definition;

(c) a provision of an instrument made under any provision falling within paragraph (a) or (b) above; or

(d) a provision of any other instrument which is in the nature of a local enactment;

"main river" means a main river within the meaning of Part IV of this Act;

"main river map" has, subject to section 194 above, the meaning given by section 193(2) above;

"micro-organism" includes any microscopic, biological entity which is capable of replication;

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"minimum acceptable flow", in relation to any inland waters, means (except in sections 21 and 22 above and subject to section 23(3) above) the minimum acceptable flow as for the time being contained in provisions which are in force under section 21(7) above in relation to those waters;

"the Minister" means the Minister of Agriculture, Fisheries and Food;

"the Ministers" means the Secretary of State and the Minister;

"modifications" includes additions, alterations and omissions, and cognate expressions shall be construed accordingly;

"mortgage" includes any charge or lien on any property for securing money or money's worth, and "mortgagee" shall be construed accordingly;

"navigation authority" means any person who has a duty or power under any enactment to work, maintain, conserve, improve or control any canal or other inland navigation, navigable river, estuary, harbour or dock;

"notice" means notice in writing;

"owner", in relation to any premises, means the person who—

(a) is for the time being receiving the rack-rent of the premises, whether on his own account or as agent or trustee for another person; or

(b) would receive the rack-rent if the premises were let at a rack-rent,

but for the purposes of Schedule 2 to this Act, Chapter II of Part II of this Act and the related water resources provisions does not include a mortgagee not in possession, and cognate expressions shall be construed accordingly;

"prescribed" means prescribed by regulations made by the Secretary of State or, in relation to regulations made by the Minister, by those regulations;

"public authority" means any Minister of the Crown or government department, the **[**[F437]Agency**]**, any local authority or any person certified by the Secretary of State to be a public authority for the purposes of this Act;

"public sewer" means a sewer for the time being vested in a sewerage undertaker in its capacity as such, whether vested in that undertaker by virtue of a scheme under Schedule 2 to the [M124]Water Act 1989, section 179 of or Schedule 2 to the [M125]Water Industry Act 1991 or otherwise;

"records" includes computer records and any other records kept otherwise than in a document;

[[F438]"the related water resources provisions", in relation to Chapter II of Part II of this Act, means—

(a) the following provisions of this Act, that is to say, the provisions—

(i) of sections 21 to 23 (including Schedule 5);

(ii) of sections 120, 125 to 130, 158, 189, 199 to 201, 206(3), 209(3), 211(1) and 216; and

(iii) of paragraph 1 of Schedule 25; and

(b) the following provisions of the 1995 Act, that is to say, the provisions—

(i) of sections 41 and 42 (charging schemes) as they have effect by virtue of subsection (1)(a) of section 41 (licences under Chapter II of Part II of this Act); and

(ii) of subsections (1) and (2) of section 53 (inquiries and other hearings);**]**

"sewage effluent" includes any effluent from the sewage disposal or sewerage works of a sewerage undertaker but does not include surface water;

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"sewer" has, subject to subsection (2) below, the same meaning as in the Water Industry Act 1991;

"source of supply" means—

(a) any inland waters except, without prejudice to subsection (3) below in its application to paragraph (b) of this definition, any which are discrete waters; or

(b) any underground strata in which water is or at any time may be contained;

"street" has, subject to subsection (4) below, the same meaning as in Part III of the [M126]New Roads and Street Works 1991;

"subordinate legislation" has the same meaning as in the [M127]Interpretation Act 1978;

"substance" includes micro-organisms and any natural or artificial substance or other matter, whether it is in solid or liquid form or in the form of a gas or vapour;

"surface water" includes water from roofs;

"trade effluent" includes any effluent which is discharged from premises used for carrying on any trade or industry, other than surface water and domestic sewage, and for the purposes of this definition any premises wholly or mainly used (whether for profit or not) for agricultural purposes or for the purposes of fish farming or for scientific research or experiment shall be deemed to be premises used for carrying on a trade;

"underground strata" means strata subjacent to the surface of any land;

"vessel" includes a hovercraft within the meaning of the [M128]Hovercraft Act 1968;

"watercourse" includes (subject to sections 72(2) and 113(1) above) all rivers, streams, ditches, drains, cuts, culverts, dykes, sluices, sewers and passages through which water flows, except mains and other pipes which—

(a) belong to the **[**[F437]Agency**]** or a water undertaker; or

(b) are used by a water undertaker or any other person for the purpose only of providing a supply of water to any premises;

"water pollution provisions", in relation to this Act, means the following provisions of this Act—

(a) the provisions of Part III of this Act;

(b) sections 161 **[**[F439]to 161D**]**, 190, 202, **[**[F440]and 203**]** above; and

(c) paragraph 4 of Schedule 25 to this Act and section 211 above so far as it relates to byelaws made under that paragraph.

[[F441]and the following provisions of the 1995 Act, that is to say, the provisions of subsections (1) and (2) of section 53.**]**

(2) References in this Act to a pipe, including references to a main, a drain or a sewer, shall include references to a tunnel or conduit which serves or is to serve as the pipe in question and to any accessories for the pipe; and, accordingly, references to the laying of a pipe shall include references to the construction of such a tunnel or conduit, to the construction or installation of any such accessories and to the making of a connection between one pipe and another.

(3) Any reference in this Act to water contained in underground strata is a reference to water so contained otherwise than in a sewer, pipe, reservoir, tank or other

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underground works constructed in any such strata; but for the purposes of this Act water for the time being contained in—

(a) a well, borehole or similar work, including any adit or passage constructed in connection with the well, borehole or work for facilitating the collection of water in the well, borehole or work; or

(b) any excavation into underground strata, where the level of water in the excavation depends wholly or mainly on water entering it from those strata,

shall be treated as water contained in the underground strata into which the well, borehole or work was sunk or, as the case may be, the excavation was made.

(4) Until the coming into force of Part III of the [M129]New Roads and Street Works Act 1991, the definition of "street" in subsection (1) above shall have effect as if the reference to that Part were a reference to the [M130]Public Utilities Street Works Act 1950; but nothing in this section shall be taken—

(a) to prejudice the power of the Secretary of State under that Act of 1991 to make an order bringing Part III of that Act into force on different days for different purposes (including the purposes of this section); or

(b) in the period before the coming into force of that Part, to prevent references in this Act to a street, where the street is a highway which passes over a bridge or through a tunnel, from including that bridge or tunnel.

(5) For the purposes of any provision of this Act by or under which power is or may be conferred on any person to recover the expenses incurred by that person in doing anything, those expenses shall be assumed to include such sum as may be reasonable in respect of establishment charges or overheads.

(6) References in this Act to the later or latest of two or more different times or days are, in a case where those times or days coincide, references to the time at which or, as the case may be, the day on which they coincide.

(7) For the purposes of this Act—

(a) references in this Act to more than one Minister of the Crown, in relation to anything falling to be done by those Ministers, are references to those Ministers acting jointly; and

(b) any provision of this Act by virtue of which any function of a Minister of the Crown is exercisable concurrently by different Ministers, shall have effect as providing for that function also to be exercisable jointly by any two or more of those Ministers.

(8) Sub-paragraph (1) of paragraph 1 of Schedule 2 to the [M131]Water Consolidation (Consequential Provisions) Act 1991 has effect (by virtue of sub-paragraph (2)(b) of that paragraph) so that references in this Act to things done under or for the purposes of provisions of this Act, the [M132]Water Industry Act 1991 or the [M133]Land Drainage Act 1991 include references to things done, or treated as done, under or for the purposes of the corresponding provisions of the law in force before the commencement of this Act.

(9) Subject to any provision to the contrary which is contained in Schedule 26 to the [M134]Water Act 1989 or in the [M135]Water Consolidation (Consequential Provisions) Act 1991, nothing in any local statutory provision passed or made before 1st September 1989 shall be construed as relieving any water undertaker or sewerage undertaker from any liability arising by virtue of this Act in respect of any act or omission occurring on or after that date.

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Textual Amendments

F425 Words in s. 221(1) inserted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 177(2)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

F426 Words in s. 221 substituted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by Communications Act 2003 (c. 21), s. 411(2), **Sch. 17 para. 113** (with Sch. 18); S.I. 2003/1900, arts. 1(2), 2(1), Sch. 1 (with art. 3) (as amended by S.I. 2003/3142, art. 1(3)); S.I. 2003/3142, art. 3(2) (with art. 11)

F427 Words in s. 221(1) inserted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 177(3)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

F428 Words in s. 221(1) repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 177(4), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

F429 Words in s. 221(1) repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 177(5), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

F430 Words in s. 221(1) inserted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 177(6)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

F431 Words in s. 221(1) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 177(7)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

F432 Words in s. 221(1) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 177(8)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

F433 Words in s. 221(1) repealed (17.3.2004 for E., 1.4.2004 for W.) by Water Act 2003 (c. 37), ss. 69(4), 105(3), **Sch. 9 Pt. 3**; S.I. 2004/641, art. 2(a)(d); S.I. 2004/910, art. 2(1)(b)

F434 Words in s. 221(1) substituted (1.1.1996) by 1995 c. 21, ss. 314(2), 316(2), **Sch. 13 para. 90(a)** (with s. 312(1))

F435 Words in s. 221(1) substituted (1.1.1996) by 1995 c. 21, ss. 314(2), 316(2), **Sch. 13 para. 90(b)** (with s. 312(1))

F436 Words in s. 221(1) inserted (1.4.1996) by 1994 c. 19, s. 22(5), **Sch. 11 Pt. I para. 3(6)** (with ss. 54(4)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**

F437 Words in s. 221 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

F438 Words in s. 221(1) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 177(9)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

F439 Words in s. 221(1) inserted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 177(10)(a)(i)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

F440 Words in s. 221(1) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 177(10)(a)(ii)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

F441 Words in s. 221(1) added (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 177(10)(b)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

Modifications etc. (not altering text)

C145 S. 221 applied (1.4.2004) by Water Act 2003 (c. 37), **ss. 27(3)**, 105(3); S.I. 2004/641, art. 3(i) (with Sch. 3 para. 7)

C146 S. 221(1): definition applied (01.12.1991) by Land Drainage Act 1991 (c. 59, SIF 73:1), **ss. 61(2)**, 67(2)(6), 76(2).

Marginal Citations

M117 1991 c. 56.
M118 1947 c. 48.
M119 1991 c. 56.
M120 1991 c. 59.
M121 1989 c. 15.
M122 1980 c. 66.

Status: *Point in time view as at 01/10/2006.*
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M123 1990 c. 8.
M124 1989 c. 15.
M125 1991 c. 56.
M126 1991 c. 22.
M127 1978 c. 30.
M128 1968 c. 59.
M129 1991 c. 22.
M130 1950 c. 39.
M131 1991 c. 60.
M132 1991 c. 56.
M133 1991 c. 59.
M134 1989 c. 15.
M135 1991 c. 60.

Other supplemental provisions

[F442 222 Crown application.

(1) Subject to the provisions of this section, this Act binds the Crown.

(2) No contravention by the Crown of any provision made by or under this Act shall make the Crown criminally liable; but the High Court may, on the application of the Agency, declare unlawful any act or omission of the Crown which constitutes such a contravention.

(3) Notwithstanding anything in subsection (2) above, the provisions of this Act shall apply to persons in the public service of the Crown as they apply to other persons.

(4) If the Secretary of State certifies that it appears to him, as respects any Crown premises and any powers of entry exercisable in relation to them specified in the certificate, that it is requisite or expedient that, in the interests of national security, the powers should not be exercisable in relation to those premises, those powers shall not be exercisable in relation to those premises.

(5) Subject to subsection (4) above, the powers conferred by sections 154, 156, 160, 162(3) and 168 above shall be exercisable in relation to land in which there is a Crown or Duchy interest only with the consent of the appropriate authority.

(6) Nothing in this section shall be taken as in any way affecting Her Majesty in her private capacity; and this subsection shall be construed as if section 38(3) of the [M136]Crown Proceedings Act 1947 (interpretation of references to Her Majesty in her private capacity) were contained in this Act.

(7) Nothing in this Act, as read with the other provisions of this section, shall be construed as conferring any power of levying drainage charges in respect of lands below the high-water mark of ordinary spring tides.

(8) Section 74 of the [M137]Land Drainage Act 1991 (Crown application), so far as it relates to land in which there is a Crown or Duchy interest, shall apply in relation to the flood defence provisions of this Act as it applies in relation to that Act; but nothing in this subsection shall affect any power conferred by this Act for the purposes both of the Agency's functions under those provisions and of other functions of the Agency.

(9) In this section—

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"the appropriate authority" has the same meaning as it has in Part XIII of the [M138]Town and Country Planning Act 1990 by virtue of section 293(2) of that Act;

"Crown or Duchy interest" means an interest which belongs to Her Majesty in right of the Crown or of the Duchy of Lancaster, or to the Duchy of Cornwall, or belonging to a government department or held in trust for Her Majesty for the purposes of a government department;

"Crown premises" means premises held by or on behalf of the Crown.

(10) The provisions of subsection (3) of section 293 of the [M139]Town and Country Planning Act 1990 (questions relating to Crown application) as to the determination of questions shall apply for the purposes of this section.

[F443](11) **[** This section shall apply in relation to sections 3, 4 and 10 of the Water Act 2003 as it applies in relation to the provisions of this Act.**]]**

Textual Amendments

F442 S. 222 substituted (1.7.1997 for certain purposes and otherwise *prosp.*) by 1995 c. 25, ss. 116, 125(2), **Sch. 21 Pt. I para. 2(4)** (with ss. 7(6), 115, 117); S.I. 1997/1626, **art. 2** (with transitional provisions in art. 3)

F443 S. 222(11) added (1.4.2006) by Water Act 2003 (c. 37), s. 105(3), **Sch. 7 para. 13**; S.I. 2006/984, art. 2(s)(i)

Modifications etc. (not altering text)

C147 S. 222 (as in force immediately before the substitution made by 1995 c. 25, Sch. 21 para. 2(4) and for so long as the substituted s. 222 does not apply to Pt. 2 of this Act) applied (1.4.2006) by Water Act 2003 (c. 37), **ss. 33(3)(e)**, 105(3); S.I. 2006/984, art. 2(p)

Marginal Citations

M136 1947 c. 44.
M137 1991 c. 59.
M138 1990 c. 8.
M139 1990 c. 8.

223 Exemption for visiting forces.

(1) Chapter II of Part II of this Act and the related water resources provisions shall not apply—

(a) to anything done by a member of a visiting force in his capacity as a member of that force; or

(b) to any land occupied by or for the purposes of a visiting force.

(2) In this section "visiting force" means any such body, contingent or detachment of the forces of any country as is a visiting force for the purposes of any of the provisions of the [M140]Visiting Forces Act 1952.

Marginal Citations

M140 1952 c. 67.

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[F444 224 Application to the Isles of Scilly.

(1) Subject to the provisions of any order under this section, this Act shall not apply in relation to the Isles of Scilly.

(2) The Secretary of State may, after consultation with the Council of the Isles of Scilly, by order provide for the application of any provisions of this Act to the Isles of Scilly; and any such order may provide for the application of those provisions to those Isles with such modifications as may be specified in the order.

(3) An order under this section may—

(a) make different provision for different cases, including different provision in relation to different persons, circumstances or localities; and

(b) contain such supplemental, consequential and transitional provision as the Secretary of State considers appropriate, including provision saving provision repealed by or under any enactment.

(4) The power of the Secretary of State to make an order under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.]

Textual Amendments

F444 S. 224 substituted (1.2.1996 in so far as it confers power to make an order or make provision in relation to the exercise of that power and 1.4.2020 in so far as not already in force) by 1995 c. 25, **ss. 118(5)**, 125(2) (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 2** (with art. 4); S.I. 2020/216, art. 2

225 Short title, commencement and extent.

(1) This Act may be cited as the Water Resources Act 1991.

(2) This Act shall come into force on 1st December 1991.

(3) Subject to subsections (4) to (6) of section 2 and to section 224 above, to the extension of section 166(3) above to Scotland and to the extension, by virtue of any other enactment, of any provision of this Act to the territorial sea, this Act extends to England and Wales only.

(4) Nothing in this Act, so far as it extends to Scotland, shall authorise the [F445 Agency] to acquire any land in Scotland compulsorily.

Textual Amendments

F445 Word in s. 225 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (wth ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

SCHEDULES

[F446]SCHEDULE 1

. . . . . .

Textual Amendments

F446 Sch. 1 repealed (1.4.1996) by 1995 c. 25, s. 120, Sch. 22 para. 178, **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

SCHEDULE 2

Section 2.

ORDERS AND AGREEMENTS FOR TRANFER OF OF NAVIGATION, HARBOUR AND CONSERVANCY FUNCTIONS

Modifications etc. (not altering text)

C148 Sch. 2: Functions transferred (1.4.1996) to the Agency by 1995 c. 25, **s. 2(1)(a)(vii)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Powers to transfer functions or property

1 (1) The **[**[F447]Agency**]** may at any time apply to the Ministers for an order under this Schedule transferring to the **[**[F447]Agency**]** any of the functions or property of a navigation authority, harbour authority or conservancy authority.

(2) The power to make an order under this Schedule shall be exercisable by statutory instrument.

(3) Any transfer of functions or property which could be effected by an order under this Schedule may, with the consent of the Ministers, be effected by agreement between the **[**[F447]Agency**]** and the other body concerned.

(4) Where, in accordance with this paragraph, the **[**[F447]Agency**]** may apply for an order transferring any functions or property of another body, that body may itself apply for such an order.

(5) For the purposes of this Schedule the references in sub-paragraph (1) above to a navigation authority, to a harbour authority and to a conservancy authority shall each include a reference to a body which no longer has any members but which, if it had members, would be such an authority

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F447 Words in Sch. 2 para. 1 substituted (subject to the other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Consultation with affected body

2 (1) Before determining whether to make an order on an application under paragraph 1 above, the Ministers shall—

(a) consult whichever of the following is not the applicant, that is to say, the **[**[F448]Agency**]** and the body from which any functions or property are proposed in the application to be transferred; and

(b) consider any representations made with respect to the application by the **[**[F448]Agency**]** or, as the case may be, by any such body.

(2) Sub-paragraph (1) above shall not require the Ministers to consult, or consider representations from, any body which no longer has any members.

Textual Amendments

F448 Words in Sch. 2 para. 2 substituted (subject to the other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Public consultation

3 (1) If the Ministers propose to make an order on an application under paragraph 1 above, they shall prepare a draft order, and shall cause notice of their intention to make an order—

(a) to be published in the London Gazette and in such other manner as they think best adapted for informing persons affected; and

(b) to be served on—

(i) the **[**[F449]Agency**]**;

(ii) any body (other than one no longer having any members) from which any functions or property are proposed to be transferred; and

(iii) any such navigation authority, harbour authority or conservancy authority not falling within paragraph (ii) above as appears to the Ministers to be affected by the proposals.

(2) A notice under sub-paragraph (1) above shall specify—

(a) the place where copies of the draft order, and of any map to which it refers, may be inspected and obtained; and

(b) the time (not being less than twenty-eight days) within which, and the manner in which, objections to the draft order may be made.

(3) Before making any order on an application under paragraph 1 above, the Ministers—

(a) shall consider any objections which may be duly made to the draft order; and

(b) may, if they think fit, cause a local inquiry to be held with respect to any such objections;

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

and, in making the order, the Ministers may make such modifications in the terms of the draft as appear to them desirable.

Textual Amendments

F449 Word in Sch. 2 para. 3 substituted (subject to the other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Supplemental provisions of order

4 (1) An order under this Schedule may contain such incidental, supplementary, consequential and transitional provisions as the Ministers consider necessary or expedient.

(2) Without prejudice to the generality of sub-paragraph (1) above, the provision that may be included in an order by virtue of that sub-paragraph shall include such provisions as the Ministers consider necessary or expedient with respect to—

(a) the transfer of assets and liabilities, the payment of compensation and other financial adjustments;

(b) the amendment, adaptation or repeal of local enactments; and

(c) the application, subject to such modifications as may be specified in the order, of provisions corresponding to those originally made by or under Part IX of the [M142]Water Resources Act 1963.

Marginal Citations

M142 1963 c. 38.

Objection to final order by affected bodies

5 (1) After making an order under this Schedule, the Ministers, if an objection—

(a) has been duly made by the **[**[F450]Agency**]**or any other body on which notice is required to be served under paragraph 3 above; and

(b) has not been withdrawn,

shall serve notice of the making of the order and of the effect of the order on the **[**[F450]Agency**]** or, as the case may be, that body.

(2) Where a notice is required to be served under sub-paragraph (1) above, the order shall not have effect before the end of a period of twenty-eight days from the date of service of that notice.

(3) If, within the period of twenty-eight days mentioned in sub-paragraph (2) above, any body (including the **[**[F450]Agency**]**) on which notice has been served under sub-paragraph (1) above gives notice to one of the Ministers objecting to the order, and the objection is not withdrawn, the order shall be subject to special parliamentary procedure.

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F450 Words in Sch. 2 para. 5 substituted (subject to the other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Public notice of order

6 (1) After making an order under this Schedule, the Ministers shall publish in the London Gazette, and in such other manner as they think best adapted for informing persons affected, a notice—

(a) stating that the order has been made; and

(b) naming a place where a copy of the order may be seen at all reasonable hours.

(2) In the case of an order to which sub-paragraph (1) of paragraph 5 above applies, a notice under sub-paragraph (1) above—

(a) shall not be published until the end of the period of twenty-eight days mentioned in sub-paragraph (2) of that paragraph; and

(b) shall state whether or not the order is to be subject to special parliamentary procedure.

Challenge of order

7 (1) Subject to sub-paragraph (3) below, if any person aggrieved by an order under this Schedule desires to question its validity on the ground—

(a) that it is not within the powers of this Schedule; or

(b) that any requirement of this Schedule has not been complied with in relation to the order,

he may, within six weeks after the first publication of the notice required by paragraph 6 above, make an application for the purpose to the High Court.

(2) Where an application under sub-paragraph (1) above is duly made to the High Court, that Court, if satisfied—

(a) that the order is not within the powers of this Schedule; or

(b) that the interests of the applicant have been substantially prejudiced by any requirements of this Schedule not having been complied with,

may quash the order either generally or in so far as it affects the applicant.

(3) The preceding provisions of this paragraph—

(a) shall not apply to any order which is confirmed by Act of Parliament under section 6 of the [M143]Statutory Orders (Special Procedure) Act 1945; and

(b) shall have effect in relation to any other order which is subject to special parliamentary procedure by virtue of the provisions of this Schedule as if, for the reference to the first publication of the notice required by paragraph 6 above, there were substituted a reference to the date on which the order becomes operative under that Act of 1945.

(4) Except as provided by this paragraph, the validity of an order under this Schedule shall not, either before or after the order has been made, be questioned in any legal proceedings whatsoever.

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Marginal Citations

M143 1945 c. 18 (9 & 10 Geo 6).

Effect of order or agreement

8 (1) Where, by virtue of an order or agreement under this Schedule, property is transferred to the **[**[F451]Agency**]** on the terms that—

(a) the body from which it is transferred shall continue liable for the repayment of, and payment of interest on, any sum borrowed in connection with the property; and

(b) the **[**[F451]Agency**]** shall make payments to that body in respect of amounts paid by that body by reason of its continuing so liable,

any payment so made by the shall be deemed to be a capital payment or an annual payment, according as the amount in respect of which it is made was paid in or towards repayment of the loan or by way of interest thereon.

(2) Property vested in the **[**[F451]Agency**]** by virtue of an order or agreement under this Schedule shall not be treated as so vested by way of sale for the purpose of section 12 of the [M144]Finance Act 1895 (which provides for charging stamp duty in the case of certain statutory transfers by way of sale).

[[F452](3) A land transaction by which property is vested in the Agency by virtue of an order or agreement under this Schedule is exempt from charge for the purposes of stamp duty land tax.

(4) Relief under sub-paragraph (3) must be claimed in a land transaction return or an amendment of such a return.

(5) In this paragraph—

"land transaction" has the meaning given by section 43(1) of the Finance Act 2003;

"land transaction return" has the meaning given by section 76(1) of that Act.**]**

Textual Amendments

F451 Words in Sch. 2 para. 8 substituted (subject to the other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F452 Sch. 2 para. 8(3)-(5) inserted (1.12.2003) by The Stamp Duty Land Tax (Consequential Amendment of Enactments) Regulations 2003 (S.I. 2003/2867), reg. 1, **Sch. para. 17**

Marginal Citations

M144 1895 c. 16.

Ministers' expenses

9 (1) The costs incurred by the Ministers in connection with the making and notification of an order under this Schedule shall be paid by the applicant for the order; and, if there is more than one, the Ministers may apportion the costs between the applicants.

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) The Ministers may require any applicant for an order under this Schedule to give security for the payment of any costs payable by the applicant under this paragraph.

(3) The reference in sub-paragraph (1) above to any costs incurred in connection with the making and notification of an order under this Schedule includes a reference to any costs incurred in relation to any such order under the Statutory Orders (Special Procedure) Act 1945.

Compensation for officers and staff

10 (1) The Ministers shall by regulations make provision requiring the payment by the **[**[F453]Agency**]**, subject to such exceptions or conditions as may be prescribed, of compensation to or in respect of persons who—

(a) are, or but for any military or other designated service of theirs would be, the holders of any such situation, place or employment as may be prescribed; and

(b) suffer loss of employment, or loss or diminution of emoluments, in consequence of any order or agreement under this Schedule.

(2) Regulations under this paragraph may be so framed as to have effect as from a date earlier than that on which they are made; but so much of any regulations as provides that any provision is to have effect as from a date earlier than that on which they are made shall not place any person other than the **[**[F453]Agency**]** in a worse position than he would have been in if the regulations had been so framed as to have effect only as from the date on which they are made.

(3) Regulations made under this paragraph may include provision as to the manner in which, and the person to whom, any claim for compensation under this paragraph is to be made, and for the determination of all questions arising under the regulations.

(4) In this paragraph "military or other designated service" means any such service in any of Her Majesty's forces or other employment (whether or not in the service of Her Majesty) as may be prescribed by regulations under this paragraph.

Textual Amendments

F453 Words in Sch. 2 para. 10 substituted (subject to the other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Power to amend local enactments

11 (1) If it appears to the Ministers by whom an order is made under this Schedule that any local enactment passed or made before the relevant date—

(a) is inconsistent with any of the provisions of that order; or

(b) requires to be amended or adapted, having regard to any of the provisions of that order,

those Ministers may by order repeal, amend or adapt that enactment to such extent, or in such manner, as they may consider appropriate.

(2) Any order under this paragraph may include such transitional, incidental, supplementary and consequential provisions as the Ministers may consider necessary or expedient.

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) The power to make an order under this paragraph shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

(4) In this paragraph "relevant date" means the date which was the second appointed day for the purposes of section 133 of the [M145]Water Resources Act 1963.

(5) The provisions of this paragraph shall have effect without prejudice to the exercise of any other power to repeal, amend or adapt local enactments which is conferred by any other enactment.

Marginal Citations

M145 1963 c. 38.

Interpretation

12 (1) In this Schedule "local enactment" means—

(a) a local or private Act;

(b) a public general Act relating to London;

(c) an order or scheme made under an Act, confirmed by Parliament or brought into operation in accordance with special parliamentary procedure; or

(d) an enactment in a public general Act amending a local or private Act or any such order or scheme.

(2) References in this Schedule to the Ministers, in a case in which all the functions in question are exercisable in Wales and all the property in question is situated there, shall have effect as references to the Secretary of State.

[F454]SCHEDULE 3

. . . . . .

Textual Amendments

F454 Sch. 3 repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 179, **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

[F455]SCHEDULE 4

. . . . . .

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F455 Sch. 4 repealed (1.4.1996) by 1995 c. 25, s. 120, Sch. 22 para. 179, **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

SCHEDULE 5

Section 21.

PROCEDURE RELATING TO STATEMENTS ON MINIMUM ACCEPTABLE FLOW

Application of Schedule

1 (1) This Schedule applies in the case of any draft statement prepared under section 21 or 22 of this Act.

(2) References in this Schedule, in relation to a statement for amending the provision for determining the minimum acceptable flow of any inland waters, to the inland waters to which the statement relates are references to the inland waters to which the proposed amendment relates.

Notice of proposed statement

2 (1) Before submitting the draft statement to the Secretary of State, the **[**[F456]Agency**]** shall publish a notice—

(a) stating the general effect of the draft statement;

(b) specifying the place where a copy of the draft statement, and of any relevant map or plan, may be inspected by any person free of charge at all reasonable times during the period of twenty-eight days beginning with the date of first publication of the notice; and

(c) stating that any person may within that period, by notice in writing to the Secretary of State, object to the approval of the statement.

(2) A notice under this paragraph shall be published either—

(a) at least once in each of two successive weeks, in one or more newspapers circulating in the locality in which the inland waters to which the draft statement relates are situated; or

(b) in any other manner which, in any particular case, may be certified by the Secretary of State to be expedient in that case.

(3) Not later than the date on which the notice is first published in pursuance of sub-paragraph (2) above, the **[**[F456]Agency**]** shall serve a copy of the notice on—

(a) every local authority or joint planning board whose area comprises any inland waters to which the draft statement relates;

(b) any water undertaker having the right to abstract water from any such inland waters;

(c) any other water undertaker which was consulted in relation to the draft statement in pursuance of section 21(3)(b) of this Act;

(d) the drainage board for any internal drainage district which comprises any such inland waters or from which water is discharged into any such inland waters;

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(e) any navigation authority, harbour authority or conservancy authority having functions in relation to any such waters or any related inland waters;

(f) if any such waters or any related inland waters are tidal waters in relation to which there is no such navigation authority, harbour authority or conservancy authority, **[**[F457]the Secretary of State for Transport**]**;

(g) any person authorised by a licence under Part I of the [M152]Electricity Act 1989 to generate electricity **[**[F458]who has a right to abstract water from any such waters or related inland waters**]**.; and

(h) every person who—

(i) has given notice to the **[**[F456]Agency**]** requesting it to notify him of action taken in connection with the determination of a minimum acceptable flow for any inland waters to which the draft statement relates; and

(ii) if the **[**Agency**]** have required him to pay a reasonable charge for being so notified, has paid that charge.

(4) The **[**[F456]Agency**]** shall also publish a notice in the London Gazette—

(a) stating that the draft statement has been submitted to the Secretary of State;

(b) naming the areas in respect of which a copy of a notice is required to be served under sub-paragraph (3)(a) above;

(c) specifying a place where a copy of the draft statement and of any relevant map or plan may be inspected; and

(d) where the notice required by sub-paragraph (1) above is published in a newspaper, giving the name of the newspaper and the date of an issue containing the notice.

(5) In this paragraph "related inland waters" has the same meaning as for the purposes of subsection (3) of section 21 of this Act is given by subsection (8) of that section.

Textual Amendments

F456 Word in Sch. 5 para. 2 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F457 Words in Sch. 5 para. 2(3)(f) substituted (25.11.2002) by S.I. 2002/2626, art. 20, **Sch. 2 para. 18(3)**

F458 Words in Sch. 5 para. 2(3)(g) added (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 180** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Modifications etc. (not altering text)

C150 SCh. 5 para. 2(3)(a) applied (with modifications) (4.6.1996) by S.I. 1996/1243, art. 18, **Sch. 5 Pt. II para. 6(2)(b)**

Marginal Citations

M152 1989 c. 29.

Duty to provide copy of draft statement

3 The **[**[F459]Agency**]** shall, at the request of any person, furnish him with a copy of the draft statement on payment of such charge as the **[**[F459]Agency**]** thinks reasonable.

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F459 Words in Sch. 5 para. 3 substituted (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Approval of draft statement

4 (1) The Secretary of State may approve the statement either in the form of the draft or in that form as altered in such manner as he thinks fit.

(2) Where the Secretary of State—

(a) proposes to make any alteration of a statement before approving it; and

(b) considers that any persons are likely to be adversely affected by it,

the **[**[F460]Agency**]** shall give and publish such additional notices, in such manner, as the Secretary of State may require.

(3) Sub-paragraph (4) below shall apply if, before the end of—

(a) the period of twenty-eight days referred to in sub-paragraph (1) of paragraph 2 above;

(b) the period of twenty-five days from the publication in the London Gazette of the notice under sub-paragraph (4) of that paragraph; or

(c) any period specified in notices under sub-paragraph (2) above,

notice of an objection is received by the Secretary of State from any person on whom a notice is required by this Schedule to be served, or from any other person appearing to the Secretary of State to be affected by the draft statement, either as prepared in draft or as proposed to be altered.

(4) Where this sub-paragraph applies and the objection in question is not withdrawn, the Secretary of State, before approving the statement, shall either—

(a) cause a local inquiry to be held; or

(b) afford to the objector and to the **[**[F460]Agency**]** an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

(5) Where under this paragraph an objection is received by the Secretary of State from—

(a) the drainage board for any internal drainage district which comprises any inland waters to which the draft statement relates or, as the case may be, from which water is discharged into any such inland waters; or

(b) such an association or person claiming to represent a substantial fishery interest affected by the statement as is certified by the Minister to appear to him to represent such an interest,

sub-paragraphs (1) to (4) above and paragraph 5 below shall have effect as if references to the Secretary of State (except the first reference in sub-paragraph (3) above) were references to the Ministers.

Textual Amendments

F460 Words in SCh. 5 para. 4 substituted (subject to the other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Notice and inspection of approved statement

5 (1) Where a statement is approved under this Schedule, whether in the form of the draft proposed by the **[**[F461]Agency**]** or with alterations, the Secretary of State shall give notice to the **[**[F461]Agency**]**—

(a) stating that the statement has been approved, either without alteration or with alterations specified in the notice; and

(b) specifying the date (not being earlier than twenty-eight days after the date of the notice under this paragraph) on which the statement shall have effect;

and the **[**[F461]Agency**]** shall forthwith publish the notice.

(2) The **[**[F461]Agency**]** shall keep a copy of every statement, as approved under this Schedule, available at its offices for inspection by the public, free of charge, at all reasonable times.

Textual Amendments

F461 Words in Sch. 5 para. 5 substituted (subject to the other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

[[F462]SCHEDULE 6

Sections 27A(4) and 39B(7)

ORDERS RELATING TO ABSTRACTION OF SMALL QUANTITIES AND COMPULSORY REGISTRATION OF PROTECTED RIGHTS

Textual Amendments

F462 Sch. 6 substituted (1.4.2004) by Water Act 2003 (c. 37), s. 105(3), **Sch. 7 para. 14**; S.I. 2004/641, art. 3(y), Sch. 2 (with Sch. 3 para. 7)

Notice of draft order

1 (1) An application to the Secretary of State for an order under section 27A(1) or 39B(3) of this Act (an "order") shall be accompanied by a draft of the proposed order.

(2) Before submitting a draft order to the Secretary of State, the Agency shall publish a notice—

(a) stating the general effect of the draft order;

(b) specifying the place where a copy of the draft order, and of any relevant map or plan, may be inspected by any person free of charge at all reasonable times during the period of twenty-eight days beginning with the date of first publication of the notice; and

(c) stating that any person may within that period, by notice to the Secretary of State, object to the making of the order.

(3) A notice under this paragraph shall be published either—

(a) at least once in each of two successive weeks, in one or more newspapers circulating in the area to which the draft order relates; or

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(b) in any other manner which, in any particular case, may be certified by the Secretary of State to be expedient in that case.

(4) Not later than the date on which the notice is first published in pursuance of sub-paragraph (2) above, the Agency shall serve a copy of the notice on—

(a) every local authority (in its capacity as the local planning authority), joint planning board or National Park authority whose area consists of, includes or is included in the area to which the draft order relates;

(b) any relevant water undertaker;

(c) any internal drainage board—

(i) whose district consists of, includes or is included in the area to which the draft order relates;

(ii) from whose district water is discharged into any relevant source of supply; or

(iii) into whose district water is discharged from any relevant source of supply;

(d) any navigation authority, harbour authority or conservancy authority having functions in relation to—

(i) any relevant source of supply; or

(ii) any related inland waters;

(e) if a relevant source of supply or related inland waters are tidal waters in relation to which there is no such navigation authority, harbour authority or conservancy authority, the Secretary of State for Transport;

(f) any person authorised by a licence under Part 1 of the Electricity Act 1989 to generate electricity who is (in that capacity) the holder of a licence to abstract water under Chapter 2 of Part 2 of this Act from—

(i) any relevant source of supply; or

(ii) any related inland waters;

(g) **[**[F463]Natural England**]**, if the area to which the order relates is or includes England, or part of it;

(h) the Countryside Council for Wales, if the area to which the order relates is or includes Wales, or part of it; and

(i) the Broads Authority (established under the Norfolk and Suffolk Broads Act 1988), if the area to which the order relates is or includes the Broads (as defined in that Act), or part of it.

(5) Where an application for an order is made, the Agency shall also publish a notice in the London Gazette—

(a) stating that the draft order has been submitted to the Secretary of State;

(b) naming the areas of each of the authorities or boards in respect of which a copy of the notice is required to be served under sub-paragraph (4)(a) above;

(c) specifying a place where a copy of the draft order and of any relevant map or plan may be inspected; and

(d) where the notice required by sub-paragraph (2) above is published in a newspaper, giving the name of the newspaper and the date of an issue containing the notice.

(6) In this paragraph—

(a) where a draft order makes provision generally (rather than for a specified geographical area), references to the area to which the order relates are to the

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whole area (whether England, Wales or both of them) in relation to which the order is applied;

(b) references to a National Park authority are to a National Park authority established under Part 3 of the 1995 Act;

(c) a "relevant source of supply", in relation to a draft order, means—

(i) if the draft order relates only to particular sources of supply (or a class of them) in an area, any of those sources of supply (or any source of supply in that class) in that area;

(ii) otherwise, any source of supply in the area to which the draft order relates;

(d) a "relevant water undertaker", in relation to a draft order, means a water undertaker which is the holder of a licence to abstract water under Chapter 2 of Part 2 of this Act from—

(i) a relevant source of supply; or

(ii) a source of supply which is related to a relevant source of supply;

(e) for the purposes of paragraph (d) above, a source of supply (the "related source") is related to a relevant source of supply if it appears to the Agency that, having regard to the extent to which the level or flow of water in the related source depends on the level or flow of the waters in the relevant source of supply, the ability of the water undertaker to abstract water from the related source in accordance with its licence may be substantially affected as a result of the draft order;

(f) "related inland waters" are inland waters the level or flow of which may, in the Agency's opinion, be affected by changes in the level or flow of the waters in a relevant source of supply.

Textual Amendments

F463 Words in Sch. 6 para. 1(4)(g) substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), s. 107, **Sch. 11 para. 133**; S.I. 2006/2541, art. 2 (with Sch.)

Duty to provide copy of draft order

2 Where an application for an order is made, the Agency shall, at the request of any person, furnish him with a copy of the draft order on payment of such charge as the Agency thinks reasonable.

Making of order

3 (1) Where an application for an order is made, the Secretary of State may make the order either in the form of the draft or in that form as altered in such manner as he thinks fit.

(2) Where the Secretary of State—

(a) proposes to make any alteration of an order before making it; and

(b) considers that any persons are likely to be adversely affected by it,

the Agency shall give and publish such additional notices, in such manner, as the Secretary of State may require.

(3) Sub-paragraph (4) below shall apply if before the end of—

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(a) the period of twenty-eight days referred to in sub-paragraph (2)(b) of paragraph 1 above;

(b) the period of twenty-five days from the publication in the London Gazette of the notice under sub-paragraph (5) of that paragraph; or

(c) any period specified in notices under sub-paragraph (2) above,

notice of an objection is received by the Secretary of State from any person on whom a notice is required by this Schedule to be served, from any other person appearing to the Secretary of State to be affected by the order (either as prepared in draft or as proposed to be altered) or, in a case where the Secretary of State directed the Agency to apply for the order, from the Agency.

(4) Where this sub-paragraph applies and the objection in question is not withdrawn, the Secretary of State, before making the order, may take such steps as he sees fit and, in particular, may—

(a) cause a local inquiry to be held; or

(b) afford to the objector and to the Agency an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

(5) Where—

(a) the order (whether as prepared in draft or as proposed to be altered) relates to any tidal water situated in Wales (or in an area of the sea adjoining either the coast of Wales or an area of sea forming part of Wales); and

(b) no navigation authority, harbour authority or conservancy authority has functions in relation to that tidal water,

the Secretary of State shall not make the order except with the approval of the Secretary of State for Transport.

Notice and inspection of final order

4 (1) Where an order is made under section 27A(1) or 39B(3) of this Act, whether in the form of the draft proposed by the Agency or with alterations, the Secretary of State shall give notice to the Agency—

(a) stating that the order has been made, either without alteration or with alterations specified in the notice; and

(b) specifying the date (not being earlier than twenty-eight days after the date of the notice under this paragraph) on which the order shall have effect;

and the Agency shall forthwith publish the notice.

(2) The Agency shall keep a copy of every order made under section 27A(1) or 39B(3) of this Act available at its offices for inspection by the public, free of charge, at all reasonable times.**]**

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SCHEDULE 7

Sections 48, 55, 60, 61 and 65.

LICENCES OF RIGHT

Applications for licences of right under paragraph 30 or 31 of Schedule 26 to the Water Act 1989

1 (1) Paragraphs 30 and 31 of Schedule 26 to the [M153]Water Act 1989 shall continue to apply (notwithstanding the repeals made by the [M154]Water Consolidation (Consequential Provisions) Act 1991 but subject to the following provisions of this Schedule) in relation—

(a) to any application made under either of those paragraphs which is outstanding immediately before the coming into force of this Act; and

(b) to any appeal against a determination made, on an application under either of those paragraphs, either before the coming into force of this Act or, thereafter, by virtue of paragraph (a) above;

but for the purposes of any such application or appeal any reference in those paragraphs to a provision of the [M155]Water Resources Act 1963 which is re-enacted in this Act shall have effect, in relation to a time after the coming into force of this Act, as a reference to the corresponding provision of this Act.

(2) Where an application for the grant of a licence by virtue of paragraph 30 or 31 of Schedule 26 to the Water Act 1989 has been made before the end of the period within which such an application was required to be made under that paragraph, then—

(a) sections 24 and 48 of this Act and Part II of the [M156]Gas Act 1965 shall have effect, until the application is disposed of, as if the licence had been granted on the date of the application and the provisions of the licence had been in accordance with the proposals contained in the application; and

(b) for the purposes of those sections and Part II of the said Act of 1965 any licence granted on the application shall be treated as not having effect until the application has been disposed of.

(3) For the purposes of this paragraph an application for the grant of a licence by virtue of paragraph 30 or 31 of Schedule 26 to the Water Act 1989 above shall be taken to be disposed of on (but not before) the occurrence of whichever of the following events last occurs, that is to say—

(a) the grant, on the determination of the application by the **[**[F464]Agency**]**, of a licence the provisions of which are in accordance with the proposals contained in the application;

(b) the expiration, without a notice of appeal having been given, of the period (if any) within which the applicant is entitled to give notice of appeal against the decision on the application;

(c) the determination or withdrawal of an appeal against that decision;

(d) the grant, variation or revocation, in compliance with a direction given by the Secretary of State in consequence of such an appeal, of any licence;

and in this sub-paragraph any reference to a decision includes a reference to a decision which is to be treated as having been made by virtue of any failure of the **[**[F464]Agency**]** to make a decision within a specified time.

(4) Subject to the other provisions of this Schedule, any licence granted by virtue of this paragraph shall have effect as a licence under Chapter II of Part II of this Act; and,

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so far as necessary for the purposes of this paragraph, anything done under or for the purposes of a provision of the [M157]Water Resources Act 1963 applied by paragraph 30 or 31 of Schedule 26 to the 1989 Act, shall have effect as if that paragraph applied the corresponding provision of this Act and that thing had been done under or for the purposes of that corresponding provision.

Textual Amendments

F464 Words in Sch. 7 para. 1 substituted (subject to the other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Marginal Citations

M153 1989 c. 15.
M154 1991 c. 60.
M155 1963 c. 38.
M156 1965 c. 36.
M157 1963 c. 38.

Section 48 of this Act

2 Subsection (2) of section 48 of this Act shall not afford any defence to an action brought before 1st September 1992 if the licence referred to in that subsection is a 1989 Act licence of right; and there shall be no defence afforded to such an action by that subsection as applied by paragraph 1(2) above.

Section 55 of this Act

3 No application shall be made under section 55 of this Act (variation of licence on application of owner of fishing rights) in respect of any 1989 Act licence of right.

Section 60 of this Act

4 (1) Where the plaintiff in any action brought against the **[**[F465]Agency**]** in pursuance of section 60 of this Act (liability of the **[**[F465]Agency**]** for derogation from protected right) is entitled to a protected right for the purposes of Chapter II of Part II of this Act by reason only that he is the holder of, or has applied for, a licence of right, it shall be a defence for the **[**[F465]Agency**]** to prove—

(a) that the plaintiff could have carried out permissible alterations in the means whereby he abstracted water from the source of supply in question; and

(b) that, if he had carried out such alterations, the abstraction or, as the case may be, the obstruction or impeding of the flow of the inland waters authorised by the licence to which the action relates would not have derogated from his protected right for the purposes of that Chapter;

and subsection (3) of that section (liability of **[**[F465]Agency**]** for compliance with direction requiring derogation from protected rights) shall not apply to a direction given in consequence of an appeal against the decision of the **[**[F465]Agency**]** on an application for the grant of a 1989 Act licence of right.

(2) In this paragraph "permissible alterations"—

(a) in relation to a person who is the holder of a licence of right, means any alteration of works, or modification of machinery or apparatus, which would

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fulfil the requirements of the licence as to the means whereby water is authorised to be abstracted;

(b) in relation to a person who is not the holder of a licence of right, but to whose application for such a licence paragraph 1 above applies, means any alteration of works, or modification of machinery or apparatus, by means of which he abstracted water from the source of supply in question during the period of five years ending with 1st September 1989, being an alteration or modification which would be within the scope of the licence if granted in accordance with the application.

Textual Amendments

F465 Words in Sch. 7 para. 4 substituted (subject to the other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Section 61 of this Act

5 (1) No compensation shall be payable under section 61 of this Act (compensation for revocation or variation of a licence) in respect of the revocation or variation of a 1989 Act licence of right if the revocation or variation is for giving effect to the decision of the court in an action in respect of which paragraph 2 above has effect or in any proceedings in consequence of such an action.

(2) Nothing in section 61(3) of this Act (compensation not payable in respect of works etc. carried out before the grant of a licence) shall apply in relation to any licence of right.

Licences of right

6 (1) In this Schedule references to a licence of right are references to—

(a) any 1989 Act licence of right, that is to say, a licence granted (whether or not by virtue of paragraph 1 above) under paragraph 30 or 31 of Schedule 26 to the [M158]Water Act 1989; or

(b) any licence which, having been granted in pursuance of an application under section 33 of the [M159]Water Resources Act 1963 (or in pursuance of an appeal consequential on such an application), has effect after the coming into force of this Act by virtue of sub-paragraph (2) below.

(2) The repeal by the [M160]Water Consolidation (Consequential Provisions) Act 1991 of paragraph 29(4) of Schedule 26 to the Water Act 1989 shall not prevent any licence granted as mentioned in paragraph (b) of sub-paragraph (1) above from continuing (in accordance with paragraph 1 of Schedule 2 to that Act of 1991 and subject to the preceding provisions of this Schedule) to have effect after the coming into force of this Act as a licence under Chapter II of Part II of this Act.

Marginal Citations

M158 1989 c. 15.
M159 1963 c. 38.
M160 1991 c. 60.

Status: *Point in time view as at 01/10/2006.*
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SCHEDULE 8

Section 73.

PROCEEDINGS ON APPLICATIONS FOR DROUGHT ORDERS

1 (1) The applicant for a drought order shall—

(a) cause notice of the application to be served on the persons specified in the Table set out in sub-paragraph (2) below;

(b) cause a notice of the application to be published in one or more local newspapers circulating within the area affected by the order; and

(c) cause a notice of the application to be published in the London Gazette.

(2) The said Table is as follows—

TABLE

All orders	(a) The **[**[F466]Agency**]** (where it is not the applicant).(b) Every local authority (not being **[**[F467]an English county**]** council) and water undertaker (not being the applicant) whose area would be affected by the order.
Orders which suspend or modify any enactment or any order or scheme made or confirmed under any enactment.	Such persons (if any) as are specified by name in the enactment, order or scheme as being persons for whose protection it was enacted or made.
Orders concerning the taking of water from a source or the discharge of water or effluent to a place.	(a) Every local authority (not being **[**[F467]an English county**]** council) in whose area the source, or the place at which water or effluent is to be discharged, is situated.(b) Every drainage board for an internal district in which the source, or the place at which water or effluent is to be discharged, is situated.(c) Every navigation authority exercising functions over any watercourse affected by the order.(d) If the order concerns any consent relating to the discharge of sewage effluent or trade effluent, the person to whom the consent was given.
Orders which authorise the carrying out of any works.	(a) Every local authority (not being **[**[F467]an English county**]** council) within whose area the works are situated.(b) If the order authorises the carrying out of works in, under or over a watercourse, every drainage board for an internal drainage district within which the works, or any part of the works, are situated.

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Orders which authorise the occupation and use of land.	Every owner, lessee and occupier of the land.
Orders which prohibit or limit the taking of water.	Every named person to whom the prohibition or limitation applies.

(3) A notice for the purposes of this paragraph of an application for a drought order—

(a) shall state the general effect of the application;

(b) shall specify a place within the area affected by the order where a copy of any relevant map or plan may be inspected by any person free of charge at all reasonable times within a period of seven days from the date on which it is served or, as the case may be, published;

(c) shall state that objections to the application may be made to the Secretary of State within seven days from the date on which it is served or, as the case may be, published; and

(d) in the case of an application for an order authorising the occupation and use of land, shall specify the land to which the application relates.

(4) A notice sent in a letter in pursuance of section 220 of this Act to an address to which it may be sent in pursuance of that section shall not be treated as having been properly served for the purposes of this paragraph unless the sender takes such steps as are for the time being required to secure that the letter is transmitted in priority to letters of other descriptions.

Textual Amendments

F466 Word in Sch. 8 para. 1(2) Table substituted (subject to the other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F467 Words in Sch. 8 para. 1(2) Table substituted (1.4.1996) by 1994 c. 19, s. 22(5), **Sch. 11 Pt. I para. 3(7)** (with ss. 54(4)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**

Objections to and making of orders

2 (1) If any objection is duly made with respect to an application for a drought order and is not withdrawn, then, subject to the provisions of this paragraph, the Secretary of State shall, before making the order, either—

(a) cause a local inquiry to be held; or

(b) afford an opportunity—

(i) to the objector; and

(ii) if the objector avails himself of the opportunity, to the applicant and to any other persons to whom it appears to the Secretary of State expedient to afford the opportunity,

of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

(2) Subject to sub-paragraph (3) below, where, on an application for a drought order, it appears to the Secretary of State that a drought order is required to be made urgently if it is to enable the deficiency of supplies of water to be effectively met, he may direct that the requirements of sub-paragraph (1) above shall be dispensed with in relation to the application.

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(3) Nothing in sub-paragraph (2) above shall authorise the Secretary of State to fail to consider any objection to a proposed drought order which has been duly made and not withdrawn.

(4) Notwithstanding anything in sub-paragraph (1) above, the Secretary of State may—

(a) require any person who has made an objection to a proposed drought order to state in writing the grounds of his objection; and

(b) disregard the objection for the purposes of this paragraph if the Secretary of State is satisfied—

(i) that the objection relates exclusively to matters which can be dealt with on a reference under Schedule 9 to this Act or by any person by whom compensation is to be assessed; or

(ii) in a case where the order is one confined to the extension of a period specified in a previous order, that the objection is one that has in substance been made with respect to the application for that previous order.

(5) Subject to the requirements of this paragraph, the Secretary of State, upon being satisfied that the proper notices have been published and served, may, if he thinks fit, make the order in respect of which the application is made with or without modifications.

(6) The Secretary of State may hold a local inquiry on any application for a drought order notwithstanding that he is not required to do so by this paragraph.

[[F468](7) For the purposes of subsection (2) of section 53 of the 1995 Act (which applies subsections (2) to (5) of section 250 of the Local Government Act 1972 to inquiries in connection with functions of or in relation to the Agency), a local inquiry held under this paragraph with respect to an application by a water undertaker for a drought order, if it would not otherwise fall within paragraph (a) or (b) of that subsection, is to be treated as one which falls within paragraph (b).**]**

Textual Amendments

F468 Sch. 8 para. 2(7) added (1.4.2004) by Water Act 2003 (c. 37), **ss. 65**, 105(3); S.I. 2004/641, art. 3(p) (with Sch. 3 para. 7)

Notice after making of order

3 After a drought order has been made, the person on whose application it was made shall cause to be published (in the manner in which notice of the application was required under paragraph 1 above to be published) a notice—

(a) stating that the order has been made; and

(b) naming a place where a copy of it may be inspected.

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SCHEDULE 9

Section 79.

COMPENSATION IN RESPECT OF DROUGHT ORDERS

Compensation to be made in the case of all drought orders

1 Where a drought order has been made, compensation in respect of the entry upon or occupation or use of land shall be made by the applicant for the order to—

(a) the owners and occupiers of the land; and

(b) all other persons interested in the land or injuriously affected by the entry upon, occupation or use of the land,

for loss or damage sustained by reason of the entry upon, occupation or use of the land.

Compensation to be made in the case of ordinary orders only

2 (1) This paragraph shall apply for determining the compensation to be made, in addition to any made under paragraph 1 above, where an ordinary drought order has been made.

(2) Compensation in respect of the taking of water from a source or its taking from a source otherwise than in accordance with a restriction or obligation which has been suspended or modified shall be made by the applicant for the order to—

(a) the owners of the source of water; and

(b) all other persons interested in the source of water or injuriously affected by the taking of the water,

for loss or damage sustained by reason of the taking of the water.

(3) Compensation in respect of water's being discharged or not discharged to any place or its being discharged otherwise than in accordance with a restriction or obligation (whether relating to the treatment or discharge of the water) which has been suspended or modified shall be made by the applicant for the order to—

(a) the owners of the place of discharge; and

(b) all other persons interested in the place of discharge or injuriously affected by the discharge or lack of discharge,

for loss or damage sustained by reason of the water being discharged or not discharged or being discharged otherwise than in accordance with the restriction or obligation.

(4) Compensation in respect of the imposition of a prohibition or limitation on the taking of water from a source shall be made by the applicant for the order, to any persons to whom the prohibition or limitation applies, for loss or damage sustained by reason of the prohibition or limitation.

(5) Compensation in respect of a power to make discharges of sewage effluent or trade effluent in pursuance of any consent shall be made by the applicant for the order, to any person who has been exercising that power, for loss or damage sustained by reason of the suspension or variation of the consent or the attachment of conditions to the consent.

Status: *Point in time view as at 01/10/2006.*
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Claims for compensation: general

3 (1) A claim for compensation under this Schedule shall be made by serving upon the applicant a notice stating the grounds of the claim and the amount claimed.

(2) Any question as to the right of a claimant to recover compensation, or as to the amount of compensation recoverable, shall, in default of agreement, be referred to, and determined by, the Lands Tribunal.

Claims for compensation under paragraph 2

4 (1) A claim for compensation under paragraph 2 above may be made at any time not later than six months after the end of the period for which the order authorises, as the case may be—

(a) the taking or discharge of water;

(b) the imposition of a prohibition or limitation on the taking of water;

(c) the suspension or modification of any restriction or obligation; or

(d) the suspension or variation of, or attachment of conditions to, any consent relating to the discharge of sewage effluent or trade effluent.

(2) Where a claim for compensation under paragraph 2 above is made during the continuance of the ordinary drought order, the Lands Tribunal may, if it thinks fit, award a sum representing the loss or damage which is likely to be sustained by the claimant in respect of each day on which, as the case may be—

(a) water is taken or discharged;

(b) water is not discharged or is discharged otherwise than in accordance with an obligation or restriction; or

(c) sewage effluent or trade effluent is discharged otherwise than in accordance with a consent originally given.

(3) In assessing the compensation to be made under paragraph 2(2) above the Lands Tribunal may, if it thinks fit, have regard to the amount of water which, on an equitable apportionment of the water available from the source between the claimant, the applicant and other persons taking water from the source, may fairly be apportioned to the claimant.

(4) In assessing the compensation to be made under paragraph 2(3) above in respect of the lack of discharge of compensation water, the Lands Tribunal may, if it thinks fit, have regard to the amount of water which, under the conditions existing by reason of the shortage of rain, would have been available to the claimant during the period during which the deficiency of supplies of water is continued, if the applicant in relation to whom the obligation was imposed had never carried on its undertaking.

(5) In sub-paragraph (4) above "compensation water" has the same meaning as in section 77 of this Act.

Status: *Point in time view as at 01/10/2006.*
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[F469SCHEDULE 10]

DISCHARGE CONSENTS

Textual Amendments

F469 Sch. 10 subtituted (21.11.1996 for certain purposes otherwise 31.12.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 183** (with ss. 7(6), 115, 117); S.I. 1996/2909, **arts. 2**, 3 (with art. 4)

[F470 Application for consent

Textual Amendments

F470 Sch. 10 substituted (21.11.1996 for certain purposes otherwise 31.12.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 183** (with ss. 7(6), 115, 117); S.I. 1996/2909, **arts. 2**, 3 (with art. 4)

F471 1 (1) An application for a consent, for the purposes of section 88(1)(a) of this Act, for any discharges—

(a) shall be made to the Agency on a form provided for the purpose by the Agency; and

(b) must be advertised by or on behalf of the applicant in such manner as may be required by regulations made by the Secretary of State.

(2) Regulations made by the Secretary of State may make provision for enabling the Agency to direct or determine that any such advertising of an application as is required under sub-paragraph (1)(b) above may, in any case, be dispensed with if, in that case, it appears to the Agency to be appropriate for that advertising to be dispensed with.

(3) The applicant for such a consent must provide to the Agency, either on, or together with, the form mentioned in sub-paragraph (1) above—

(a) such information as the Agency may reasonably require; and

(b) such information as may be prescribed for the purpose by the Secretary of State;

but, subject to paragraph 3(3) below and without prejudice to the effect (if any) of any other contravention of the requirements of this Schedule in relation to an application under this paragraph, a failure to provide information in pursuance of this sub-paragraph shall not invalidate an application.

(4) The Agency may give the applicant notice requiring him to provide it with such further information of any description specified in the notice as it may require for the purpose of determining the application.

(5) An application made in accordance with this paragraph which relates to proposed discharges at two or more places may be treated by the Agency as separate applications for consents for discharges at each of those places.**]**

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F471 Sch. 10 substituted (21.11.1996 for certain purposes otherwise 31.12.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 183** (with ss. 7(6), 115, 117); S.I. 1996/2909, **arts. 2**, 3 (with art. 4)

[F472]*Consultation in connection with applications*

Textual Amendments

F472 Sch. 10 substituted (21.11.1996 for certain purposes otherwise 31.12.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 183** (with ss. 7(6), 115, 117); S.I. 1996/2909, **arts. 2**, 3 (with art. 4)

[F473]2 (1) Subject to sub-paragraph (2) below, the Agency shall give notice of any application under paragraph 1 above, together with a copy of the application, to the persons who are prescribed or directed to be consulted under this paragraph and shall do so within the specified period for notification.

(2) The Secretary of State may, by regulations, exempt any class of application from the requirements of this paragraph or exclude any class of information contained in applications from those requirements, in all cases or as respects specified classes only of persons to be consulted.

(3) Any representations made by the persons so consulted within the period allowed shall be considered by the Agency in determining the application.

(4) For the purposes of sub-paragraph (1) above—

(a) persons are prescribed to be consulted on any description of application if they are persons specified for the purposes of applications of that description in regulations made by the Secretary of State;

(b) persons are directed to be consulted on any particular application if the Secretary of State specifies them in a direction given to the Agency;

and the "specified period for notification" is the period specified in the regulations or in the direction.

(5) Any representations made by any other persons within the period allowed shall also be considered by the Agency in determining the application.

(6) Subject to sub-paragraph (7) below, the period allowed for making representations is—

(a) in the case of persons prescribed or directed to be consulted, the period of six weeks beginning with the date on which notice of the application was given under sub-paragraph (1) above, and

(b) in the case of other persons, the period of six weeks beginning with the date on which the making of the application was advertised in pursuance of paragraph 1(1)(b) above.

(7) The Secretary of State may, by regulations, substitute for any period for the time being specified in sub-paragraph (6)(a) or (b) above, such other period as he considers appropriate.

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F473 Sch. 10 substituted (21.11.1996 for certain purposes otherwise 31.12.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 183** (with ss. 7(6), 115, 117); S.I. 1996/2909, **arts. 2**, 3 (with art. 4)

[F474]*Consideration and determination of applications*

Textual Amendments

F474 Sch. 10 substituted (21.11.1996 for certain purposes otherwise 31.12.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 183** (with ss. 7(6), 115, 117); S.I. 1996/2909, **arts. 2**, 3 (with art. 4)

[F475]3 (1) On an application under paragraph 1 above the Agency shall be under a duty, if the requirements—

(a) of that paragraph, and

(b) of any regulations made under paragraph 1 or 2 above or of any directions under paragraph 2 above,

are complied with, to consider whether to give the consent applied for, either unconditionally or subject to conditions, or to refuse it.

(2) Subject to the following provisions of this Schedule, on an application made in accordance with paragraph 1 above, the applicant may treat the consent applied for as having been refused if it is not given within the period of four months beginning with the day on which the application is received or within such longer period as may be agreed in writing between the Agency and the applicant.

(3) Where any person, having made an application to the Agency for a consent, has failed to comply with his obligation under paragraph 1(3) or (4) above to provide information to the Agency, the Agency may refuse to proceed with the application, or refuse to proceed with it until the information is provided.

(4) The conditions subject to which a consent may be given under this paragraph shall be such conditions as the Agency may think fit and, in particular, may include conditions—

(a) as to the places at which the discharges to which the consent relates may be made and as to the design and construction of any outlets for the discharges;

(b) as to the nature, origin, composition, temperature, volume and rate of the discharges and as to the periods during which the discharges may be made;

(c) as to the steps to be taken, in relation to the discharges or by way of subjecting any substance likely to affect the description of matter discharged to treatment or any other process, for minimising the polluting effects of the discharges on any controlled waters;

(d) as to the provision of facilities for taking samples of the matter discharged and, in particular, as to the provision, maintenance and use of manholes, inspection chambers, observation wells and boreholes in connection with the discharges;

(e) as to the provision, maintenance and testing of meters for measuring or recording the volume and rate of the discharges and apparatus for determining the nature, composition and temperature of the discharges;

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(f) as to the keeping of records of the nature, origin, composition, temperature, volume and rate of the discharges and, in particular, of records of readings of meters and other recording apparatus provided in accordance with any other condition attached to the consent; and

(g) as to the making of returns and the giving of other information to the Authority about the nature, origin, composition, temperature, volume and rate of the discharges;

and it is hereby declared that a consent may be given under this paragraph subject to different conditions in respect of different periods.

(5) The Secretary of State may, by regulations, substitute for any period for the time being specified in sub-paragraph (2) above, such other period as he considers appropriate.

Textual Amendments

F475 Sch. 10 substituted (21.11.1996 for certain purposes otherwise 31.12.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 183** (with ss. 7(6), 115, 117); S.I. 1996/2909, **arts. 2**, 3 (with art. 4)

F476 4 The Secretary of State may give the Agency a direction with respect to any particular application, or any description of applications, for consent under paragraph 1 above requiring the Agency not to determine or not to proceed with the application or applications of that description until the expiry of any such period as may be specified in the direction, or until directed by the Secretary of State that it may do so, as the case may be.

Textual Amendments

F476 Sch. 10 substituted (21.11.1996 for certain purposes otherwise 31.12.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 183** (with ss. 7(6), 115, 117); S.I. 1996/2909, **arts. 2**, 3 (with art. 4)

F477 Reference to Secretary of State of certain applications for consent

Textual Amendments

F477 Sch. 10 substituted (21.11.1996 for certain purposes otherwise 31.12.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 183** (with ss. 7(6), 115, 117); S.I. 1996/2909, **arts. 2**, 3 (with art. 4)

F478 5 (1) The Secretary of State may, either in consequence of representations or objections made to him or otherwise, direct the Agency to transmit to him for determination such applications for consent under paragraph 1 above as are specified in the direction or are of a description so specified.

(2) Where a direction is given to the Agency under this paragraph, the Agency shall comply with the direction and inform every applicant to whose application the direction relates of the transmission of his application to the Secretary of State.

(3) Paragraphs 1(1) and 2 above shall have effect in relation to an application transmitted to the Secretary of State under this paragraph with such modifications as may be prescribed.

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(4) Where an application is transmitted to the Secretary of State under this paragraph, the Secretary of State may at any time after the application is transmitted and before it is granted or refused—

(a) cause a local inquiry to be held with respect to the application; or

(b) afford the applicant and the Agency an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

(5) The Secretary of State shall exercise his power under sub-paragraph (4) above in any case where a request to be heard with respect to the application is made to him in the prescribed manner by the applicant or by the Agency.

(6) It shall be the duty of the Secretary of State, if the requirements of this paragraph and of any regulations made under it are complied with, to determine an application for consent transmitted to him by the Agency under this paragraph by directing the Agency to refuse its consent or to give its consent under paragraph 3 above (either unconditionally or subject to such conditions as are specified in the direction).

(7) Without prejudice to any of the preceding provisions of this paragraph, the Secretary of State may by regulations make provision for the purposes of, and in connection with, the consideration and disposal by him of applications transmitted to him under this paragraph.

Textual Amendments

F478 Sch. 10 substituted (21.11.1996 for certain purposes otherwise 31.12.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 183** (with ss. 7(6), 115, 117); S.I. 1996/2909, **arts. 2**, 3 (with art. 4)

[F479]*Consents without applications*

Textual Amendments

F479 Sch. 10 substituted (21.11.1996 for certain purposes otherwise 31.12.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 183** (with ss. 7(6), 115, 117); S.I. 1996/2909, **arts. 2**, 3 (with art. 4)

[F480]6 (1) If it appears to the Agency—

(a) that a person has caused or permitted effluent or other matter to be discharged in contravention—

(i) of the obligation imposed by virtue of section 85(3) of this Act; or

(ii) of any prohibition imposed under section 86 of this Act; and

(b) that a similar contravention by that person is likely,

the Agency may, if it thinks fit, serve on him an instrument in writing giving its consent, subject to any conditions specified in the instrument, for discharges of a description so specified.

(2) A consent given under this paragraph shall not relate to any discharge which occurred before the instrument containing the consent was served on the recipient of the instrument.

(3) Sub-paragraph (4) of paragraph 3 above shall have effect in relation to a consent given under this paragraph as it has effect in relation to a consent given under that paragraph.

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(4) Where a consent has been given under this paragraph, the Agency shall publish notice of the consent in such manner as may be prescribed by the Secretary of State and send copies of the instrument containing the consent to such bodies or persons as may be so prescribed.

(5) It shall be the duty of the Agency to consider any representations or objections with respect to a consent under this paragraph as are made to it in such manner, and within such period, as may be prescribed by the Secretary of State and have not been withdrawn.

(6) Where notice of a consent is published by the Agency under sub-paragraph (4) above, the Agency shall be entitled to recover the expenses of publication from the person on whom the instrument containing the consent was served.

Textual Amendments

F480 Sch. 10 substituted (21.11.1996 for certain purposes otherwise 31.12.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 183** (with ss. 7(6), 115, 117); S.I. 1996/2909, **arts. 2**, 3 (with art. 4)

[F481]Revocation of consents and alteration and imposition of conditions

Textual Amendments

F481 Sch. 10 substituted (21.11.1996 for certain purposes otherwise 31.12.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 183** (with ss. 7(6), 115, 117); S.I. 1996/2909, **arts. 2**, 3 (with art. 4)

[F482]7 (1) The Agency may from time to time review any consent given under paragraph 3 or 6 above and the conditions (if any) to which the consent is subject.

(2) Subject to such restrictions on the exercise of the power conferred by this sub-paragraph as are imposed under paragraph 8 below, where the Agency has reviewed a consent under this paragraph, it may by a notice served on the person making a discharge in pursuance of the consent—

(a) revoke the consent;

(b) make modifications of the conditions of the consent; or

(c) in the case of an unconditional consent, provide that it shall be subject to such conditions as may be specified in the notice.

(3) If on a review under sub-paragraph (1) above it appears to the Agency that no discharge has been made in pursuance of the consent to which the review relates at any time during the preceding twelve months, the Agency may revoke the consent by a notice served on the holder of the consent.

(4) If it appears to the Secretary of State appropriate to do so—

(a) for the purpose of enabling Her Majesty's Government in the United Kingdom to give effect to any Community obligation or to any international agreement to which the United Kingdom is for the time being a party;

(b) for the protection of public health or of flora and fauna dependent on an aquatic environment; or

(c) in consequence of any representations or objections made to him or otherwise,

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Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

he may, subject to such restrictions on the exercise of the power conferred by virtue of paragraph (c) above as are imposed under paragraph 8 below, at any time direct the Agency, in relation to a consent given under paragraph 3 or 6 above, to do anything mentioned in sub-paragraph (2)(a) to (c) above.

(5) The Agency shall be liable to pay compensation to any person in respect of any loss or damage sustained by that person as a result of the Agency's compliance with a direction given in relation to any consent by virtue of sub-paragraph (4)(b) above if—

(a) in complying with that direction the Agency does anything which, apart from that direction, it would be precluded from doing by a restriction imposed under paragraph 8 below; and

(b) the direction is not shown to have been given in consequence of—

(i) a change of circumstances which could not reasonably have been foreseen at the beginning of the period to which the restriction relates; or

(ii) consideration by the Secretary of State of material information which was not reasonably available to the Agency at the beginning of that period.

(6) For the purposes of sub-paragraph (5) above information is material, in relation to a consent, if it relates to any discharge made or to be made by virtue of the consent, to the interaction of any such discharge with any other discharge or to the combined effect of the matter discharged and any other matter.

Textual Amendments

F482 Sch. 10 substituted (21.11.1996 for certain purposes otherwise 31.12.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 183** (with ss. 7(6), 115, 117); S.I. 1996/2909, **arts. 2**, 3 (with art. 4)

[F483]Restriction on variation and revocation of consent and previous variation

Textual Amendments

F483 Sch. 10 substituted (21.11.1996 for certain purposes otherwise 31.12.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 183** (with ss. 7(6), 115, 117); S.I. 1996/2909, **arts. 2**, 3 (with art. 4)

[F484]8 (1) Each instrument signifying the consent of the Agency under paragraph 3 or 6 above shall specify a period during which no notice by virtue of paragraph 7(2) or (4)(c) above shall be served in respect of the consent except, in the case of a notice doing anything mentioned in paragraph 7(2)(b) or (c), with the agreement of the holder of the consent.

(2) Each notice served by the Agency by virtue of paragraph 7(2) or (4)(c) above (except a notice which only revokes a consent) shall specify a period during which a subsequent such notice which alters the effect of the first-mentioned notice shall not be served except, in the case of a notice doing anything mentioned in paragraph 7(2)(b) or (c) above, with the agreement of the holder of the consent.

(3) The period specified under sub-paragraph (1) or (2) above in relation to any consent shall not, unless the person who proposes to make or makes discharges in pursuance of the consent otherwise agrees, be less than the period of four years beginning—

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) in the case of a period specified under sub-paragraph (1) above, with the day on which the consent takes effect; and

(b) in the case of a period specified under sub-paragraph (2) above, with the day on which the notice specifying that period is served.

(4) A restriction imposed under sub-paragraph (1) or (2) above shall not prevent the service by the Agency of a notice by virtue of paragraph 7(2) or (4)(c) above in respect of a consent given under paragraph 6 above if—

(a) the notice is served not more than three months after the beginning of the period prescribed under paragraph 6(5) above for the making of representations and objections with respect to the consent; and

(b) the Agency or, as the case may be, the Secretary of State considers, in consequence of any representations or objections received by it or him within that period, that it is appropriate for the notice to be served.

(5) A restriction imposed under sub-paragraph (1) or (2) above shall not prevent the service by the Agency of a notice by virtue of paragraph 7(2)(b) or (c) or (4)(c) above in respect of a consent given under paragraph 6 above if the holder has applied for a variation under paragraph 10 below.

Textual Amendments

F484 Sch. 10 substituted (21.11.1996 for certain purposes otherwise 31.12.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 183** (with ss. 7(6), 115, 117); S.I. 1996/2909, **arts. 2**, 3 (with art. 4)

[F485]*General review of consents*

Textual Amendments

F485 Sch. 10 substituted (21.11.1996 for certain purposes otherwise 31.12.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 183** (with ss. 7(6), 115, 117); S.I. 1996/2909, **arts. 2**, 3 (with art. 4)

[F486]9 (1) If it appears appropriate to the Secretary of State to do so he may at any time direct the Agency to review—

(a) the consents given under paragraph 3 or 6 above, or

(b) any description of such consents,

and the conditions (if any) to which those consents are subject.

(2) A direction given by virtue of sub-paragraph (1) above—

(a) shall specify the purpose for which, and

(b) may specify the manner in which,

the review is to be conducted.

(3) After carrying out a review pursuant to a direction given by virtue of sub-paragraph (1) above, the Agency shall submit to the Secretary of State its proposals (if any) for—

(a) the modification of the conditions of any consent reviewed pursuant to the direction, or

(b) in the case of any unconditional consent reviewed pursuant to the direction, subjecting the consent to conditions.

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(4) Where the Secretary of State has received any proposals from the Agency under sub-paragraph (3) above in relation to any consent he may, if it appears appropriate to him to do so, direct the Agency to do, in relation to that consent, anything mentioned in paragraph 7(2)(b) or (c) above.

(5) A direction given by virtue of sub-paragraph (4) above may only direct the Agency to do, in relation to any consent,—

(a) any such thing as the Agency has proposed should be done in relation to that consent, or

(b) any such thing with such modifications as appear to the Secretary of State to be appropriate.

Textual Amendments

F486 Sch. 10 substituted (21.11.1996 for certain purposes otherwise 31.12.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 183** (with ss. 7(6), 115, 117); S.I. 1996/2909, **arts. 2**, 3 (with art. 4)

[F487] *Applications for variation*

Textual Amendments

F487 Sch. 10 substituted (21.11.1996 for certain purposes otherwise 31.12.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 183** (with ss. 7(6), 115, 117); S.I. 1996/2909, **arts. 2**, 3 (with art. 4)

[F488] 10 (1) The holder of a consent under paragraph 3 or 6 above may apply to the Agency, on a form provided for the purpose by the Agency, for the variation of the consent.

(2) The provisions of paragraphs 1 to 5 above shall apply (with the necessary modifications) to applications under sub-paragraph (1) above, and to the variation of consents in pursuance of such applications, as they apply to applications for, and the grant of, consents.

Textual Amendments

F488 Sch. 10 substituted (21.11.1996 for certain purposes otherwise 31.12.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 183** (with ss. 7(6), 115, 117); S.I. 1996/2909, **arts. 2**, 3 (with art. 4)

[F489] *Transfer of consents*

Textual Amendments

F489 Sch. 10 substituted (21.11.1996 for certain purposes otherwise 31.12.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 183** (with ss. 7(6), 115, 117); S.I. 1996/2909, **arts. 2**, 3 (with art. 4)

[F490] 11 (1) A consent under paragraph 3 or 6 above may be transferred by the holder to a person who proposes to carry on the discharges in place of the holder.

(2) On the death of the holder of a consent under paragraph 3 or 6 above, the consent shall[F491]...be regarded as property forming part of the deceased's personal estate,

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

whether or not it would be so regarded apart from this sub-paragraph, and shall accordingly vest in his personal representatives.

(3) If a bankruptcy order is made against the holder of a consent under paragraph 3 or 6 above, the consent shall[F492]... be regarded for the purposes of any of the Second Group of Parts of the [M161]Insolvency Act 1986 (insolvency of individuals; bankruptcy), as property forming part of the bankrupt's estate, whether or not it would be so regarded apart from this sub-paragraph, and shall accordingly vest as such in the trustee in bankruptcy.

[F493](4) . . . . . .

(5) A consent under paragraph 3 or 6 above which is transferred to, or which vests in, a person under this section shall have effect on and after the date of the transfer or vesting as if it had been granted to that person under paragraph 3 or 6 above, subject to the same conditions as were attached to it immediately before that date.

[[F494](6) Where a consent under paragraph 3 or 6 above is to be transferred under sub-paragraph (1) above—

(a) the person from whom and the person to whom the consent is to be transferred shall give joint notice to the Agency of the proposed transfer;

(b) the notice may specify the date on which it is proposed that the transfer should take effect;

(c) within twenty-one days beginning with the date of receipt of the notice duly given in accordance with sub-paragraph (6A) below, the Agency shall—

(i) arrange to amend the consent by substituting the name of the transferee as holder of the consent; and

(ii) serve notice on the transferor and the transferee that the amendment has been made; and

(d) the transfer shall take effect from the later of—

(i) the date on which the Agency amends the consent; and

(ii) the date (if any) specified in the joint notice under paragraph (a) above.

(6A) A joint notice under sub-paragraph (6)(a) above shall include such information as may be prescribed.

(6B) If the person from whom the consent is to be transferred is a person in whom the consent has vested by virtue of sub-paragraph (2) or (3) above, a joint notice given under sub-paragraph (6)(a) above shall be of no effect unless the notice required by sub-paragraph (7) below has been given.

(6C) A notice or other instrument given by or on behalf of the Agency pursuant to sub-paragraph (6) above shall not constitute an instrument signifying the consent of the Agency for the purposes of paragraph 8 above.**]**

(7) Where a consent under paragraph 3 or 6 above vests in any person as mentioned in sub-paragraph (2) or (3) above, that person shall give notice of that fact to the Agency not later than the end of the period of fifteen months beginning with the date of the vesting.

(8) If—

(a) a consent under paragraph 3 or 6 above vests in any person as mentioned in sub-paragraph (2) or (3) above, but

Status: *Point in time view as at 01/10/2006.*
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(b) that person fails to give the notice required by sub-paragraph (7) above within the period there mentioned,

the consent, to the extent that it permits the making of any discharges, shall cease to have effect.

(9) A person who fails to give a notice which he is required by sub-paragraph [F495]... (7) above to give shall be guilty of an offence and liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum;

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or to both.

Textual Amendments

F490 Sch. 10 substituted (21.11.1996 for certain purposes otherwise 31.12.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 183** (with ss. 7(6), 115, 117); S.I. 1996/2909, **arts. 2**, 3 (with art. 4)

F491 Words in Sch. 10 para. 11(2) repealed (1.10.2004) by Water Act 2003 (c. 37), **ss. 87(2)**, 105(3); S.I. 2004/2528, art. 2(r)(u) (with Sch. paras. 6, 8)

F492 Words in Sch. 10 para. 11(3) repealed (1.10.2004) by Water Act 2003 (c. 37), **ss. 87(3)**, 105(3); S.I. 2004/2528, art. 2(r)(u) (with Sch. paras. 6, 8)

F493 Sch. 10 para. 11(4) repealed (1.10.2004) by Water Act 2003 (c. 37), ss. 87(4), 105(3), **Sch. 9 Pt. 3**; S.I. 2004/2528, art. 2(r)(u) (with Sch. paras. 6, 8)

F494 Sch. 10 para. 11(6)-(6C) substituted for Sch. 10 para. 11(6) (1.10.2004) by Water Act 2003 (c. 37), **ss. 87(5)**, 105(3); S.I. 2004/2528, art. 2(r) (with Sch. paras. 6, 8)

F495 Words in Sch. 10 para. 11(9) repealed (1.10.2004) by Water Act 2003 (c. 37), ss. 87(6), 105(3), **Sch. 9 Pt. 3**; S.I. 2004/2528, art. 2(r)(u) (with Sch. paras. 6, 8)

Modifications etc. (not altering text)

C151 Sch. 10 para. 11 applied (with modifications) (1.1.1999 for certain purposes otherwise 1.4.1999) by S.I. 1998/2746, **reg. 14(4)**

Marginal Citations

M161 1986 c. 45.

SCHEDULE 11

Section 93.

WATER PROTECTION ZONE ORDERS

Application for consent

1 (1) Where the **[**[F496]Agency**]** applies to the Secretary of State for an order under section 93 of this Act, it shall—

(a) submit to the Secretary of State a draft of the order applied for;

(b) publish a notice with respect to the application, at least once in each of two successive weeks, in one or more newspapers circulating in the locality proposed to be designated as a water protection zone by the order;

(c) not later than the date on which that notice is first published serve a copy of the notice on every local authority and water undertaker whose area includes the whole or any part of that locality; and

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(d) publish a notice in the London Gazette which-

(i) states that the draft order has been submitted to the Secretary of State;

(ii) names every local authority on whom a notice is required to be served under this paragraph;

(iii) specifies a place where a copy of the draft order and of any relevant map or plan may be inspected; and

(iv) gives the name of every newspaper in which the notice required by virtue of paragraph (b) above was published and the date of an issue containing the notice.

(2) The notice required by virtue of sub-paragraph (1)(b) above to be published with respect to an application for an order shall—

(a) state the general effect of the order applied for;

(b) specify a place where a copy of the draft order and of any relevant map or plan may be inspected by any person free of charge at all reasonable times during the period of twenty-eight days beginning with the date of the first publication of the notice; and

(c) state that any person may, within that period, by notice to the Secretary of State object to the making of the order.

Textual Amendments

F496 Word in Sch. 11 para. 1 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Supply of copies of draft orders

2 Where the **[**[F497]Agency**]** has applied for an order under section 93 of this Act, it shall, at the request of any person and on payment by that person of such charge (if any) as the **[**[F497]Agency**]** may reasonably require, furnish that person with a copy of the draft order submitted to the Secretary of State under paragraph 1 above.

Textual Amendments

F497 Words in Sch. 11 para. 2 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Modifications of proposals

3 (1) On an application for an order under section 93 of this Act, the Secretary of State may make the order either in the terms of the draft order submitted to him or, subject to sub-paragraph (2) below, in those terms as modified in such manner as he thinks fit, or may refuse to make an order.

(2) The Secretary of State shall not make such a modification of a draft order submitted to him as he considers is likely adversely to affect any persons unless he is satisfied that the **[**[F498]Agency**]** has given and published such additional notices, in such manner, as the Secretary of State may have required.

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) Subject to sub-paragraph (2) above and to the service of notices of the proposed modification on such local authorities as appear to him to be likely to be interested in it, the modifications that may be made by the Secretary of State of any draft order include any modification of the area designated by the draft order as a water protection zone.

Textual Amendments

F498 Word in Sch. 11 para. 3 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Consideration of objections etc.

4 Without prejudice to **[**[F499]section 53 of the 1995 Act (inquiries and other hearings)**]**, where an application for an order under section 93 of this Act has been made, the Secretary of State may, if he considers it appropriate to do so, hold a local inquiry before making any order on the application.

Textual Amendments

F499 Words in Sch. 11 para. 4 substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 184** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

SCHEDULE 12

Section 94.

NITRATE SENSITIVE AREA ORDERS

PART I

APPLICATIONS BY THE **[**[F500]AGENCY**]** FOR DESIGNATIONS ORDERS

Textual Amendments

F500 Word in Sch. 12 Pt. I substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Orders made only on application

1 (1) Subject to sub-paragraphs (2) and (3) below, the relevant Minister shall not make an order under section 94 of this Act by virtue of which any land is designated as land comprised in a nitrate sensitive area, except with the consent of the Treasury and on an application which—

(a) has been made by the **[**[F501]Agency**]** in accordance with paragraph 2 below; and

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) in identifying controlled waters by virtue of sub-paragraph (2)(a) of that paragraph, identified the controlled waters with respect to which that land is so comprised by the order.

(2) This paragraph shall not apply to an order which reproduces or amends an existing order without adding any land appearing to the relevant Minister to constitute a significant area to the land already comprised in the areas for the time being designated as nitrate sensitive areas.

Textual Amendments

F501 Word in Sch. 12 para. 1 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Procedure for applications

2 (1) The **[**[F502]Agency**]** shall not for the purposes of paragraph 1 above apply for the making of any order under section 94 of this Act by which any land would be comprised in the areas for the time being designated as nitrate sensitive areas unless it appears to the **[**[F502]Agency**]**—

(a) that pollution is or is likely to be caused by the entry of nitrate into controlled waters as a result of, or of anything done in connection with, the use of particular land in England and Wales for agricultural purposes; and

(b) that the provisions for the time being in force in relation to those waters and that land are not sufficient, in the opinion of the **[**[F502]Agency**]**, for preventing or controlling such an entry of nitrate into those waters.

(2) An application under this paragraph shall identify—

(a) the controlled waters appearing to the **[**[F502]Agency**]** to be the waters which the nitrate is or is likely to enter; and

(b) the land appearing to the **[**[F502]Agency**]** to be the land the use of which for agricultural purposes, or the doing of anything in connection with whose use for agricultural purposes, is resulting or is likely to result in the entry of nitrate into those waters.

(3) An application under this paragraph shall be made—

(a) where the land identified in the application is wholly in Wales, by serving a notice containing the application on the Secretary of State; and

(b) in any other case, by serving such a notice on each of the Ministers.

Textual Amendments

F502 Words in Sch. 12 para. 2 substituted (subject to other provisions of the amending Act (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

PART II

ORDERS CONTAINING MANDATORY PROVISIONS

Publication of proposal for order containing mandatory provisions

3 (1) This paragraph applies where the relevant Minister proposes to make an order under section 94 of this Act which—

(a) makes or modifies any such provision as is authorised by subsection (3)(a) of that section; and

(b) in doing so, contains provision which is not of one of the following descriptions, that is to say—

(i) provision reproducing existing provisions without modification and in relation to substantially the same area; and

(ii) provision modifying any existing provisions so as to make them less onerous.

(2) The relevant Minister shall, before making any such order as is mentioned in sub-paragraph (1) above—

(a) publish a notice with respect to the proposed order, at least once in each of two successive weeks, in one or more newspapers circulating in the locality in relation to which the proposed order will have effect;

(b) not later than the date on which that notice is first published, serve a copy of the notice on—

(i) the **[**[F503]Agency**]**.;

(ii) every local authority and water undertaker whose area includes the whole or any part of that locality; and

(iii) in the case of an order containing any such provision as is authorised by section 94(3)(b) of this Act, such owners and occupiers of agricultural land in that locality as appear to the relevant Minister to be likely to be affected by the obligations in respect of which payments are to be made under that provision;

and

(c) publish a notice in the London Gazette which-

(i) names every local authority on whom a notice is required to be served under this paragraph;

(ii) specifies a place where a copy of the proposed order and of any relevant map or plan may be inspected; and

(iii) gives the name of every newspaper in which the notice required by virtue of paragraph (a) above was published and the date of an issue containing the notice.

(3) The notice required by virtue of sub-paragraph (2)(a) above to be published with respect to any proposed order shall—

(a) state the general effect of the proposed order;

(b) specify a place where a copy of the proposed order, and of any relevant map or plan, may be inspected by any person free of charge at all reasonable times during the period of forty-two days beginning with the date of the first publication of the notice; and

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(c) state that any person may, within that period, by notice to the Secretary of State or, as the case may be, to one of the Ministers object to the making of the order.

Textual Amendments

F503 Word in Sch. 12 para. 3 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Supply of copies of proposed orders

4 The Secretary of State and, in a case where he is proposing to join in making the order, the Minister shall, at the request of any person and on payment by that person of such charge (if any) as the Secretary of State or the Minister may reasonably require, furnish that person with a copy of any proposed order of which notice has been published under paragraph 3 above.

Modifications of proposals

5 (1) Where notices with respect to any proposed order have been published and served in accordance with paragraph 3 above and the period of forty-two days mentioned in sub-paragraph (3)(b) of that paragraph has expired, the relevant Minister may—

(a) make the order either in the proposed terms or, subject to sub-paragraph (2) below (but without any further compliance with paragraph 3 above), in those terms as modified in such manner as he thinks fit; or

(b) decide not to make any order.

(2) The relevant Minister shall not make such a modification of a proposed order of which notice has been so published and served as he considers is likely adversely to affect any persons unless he has given such notices as he considers appropriate for enabling those persons to object to the modification.

(3) Subject to sub-paragraph (2) above and to the service of notices of the proposed modification on such local authorities as appear to him to be likely to be interested in it, the modifications that may be made by the relevant Minister include any modification of any area designated by the proposed order as a nitrate sensitive area.

(4) For the purposes of this Schedule it shall be immaterial, in a case in which a modification such as is mentioned in sub-paragraph (3) above incorporates land in England in an area which (but for the modification) would have been wholly in Wales, that any requirements of paragraph 3 above in relation to the proposed order have been complied with by the Secretary of State, rather than by the Ministers.

Consideration of objections etc.

6 Without prejudice to **[**[F504]section 53 of the 1995 Act (inquiries and other hearings)**]**, where notices with respect to any proposed order have been published and served in accordance with paragraph 3 above, the Secretary of State or, as the case may be, the Ministers may, if he or they consider it appropriate to do so, hold a local inquiry before deciding whether or not to make the proposed order or to make it with modifications.

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F504 Words in Sch. 12 para. 6 substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 185** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Consent of Treasury for payment provisions

7 The consent of the Treasury shall be required for the making of any order under section 94 of this Act the making of which does not require the consent of the Treasury by virtue of paragraph 1 above but which contains any such provision as is authorised by subsection (3)(b) of that section.

SCHEDULE 13

Section 103.

TRANSITIONAL WATER POLLUTION PROVISIONS

Transitional power to transfer power of determination with respect to water pollution matters to the ***[****F505****Agency]***

Textual Amendments

F505 Cross-heading to Sch. 13 para. 1 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

1 Where by virtue of the provisions of Schedule 2 to the [M162]Water Consolidation (Consequential Provisions) Act 1991 in relation to anything having effect under paragraph 21 of Schedule 26 to the [M163]Water Act 1989 any matter falls to be determined by the Secretary of State in accordance with any of the provisions of Part III of this Act (other than section 91), that matter shall, if the Secretary of State refers the matter to the **[**[F506]Agency**]** for determination, be determined by the **[**[F506]Agency**]** instead.

Textual Amendments

F506 Words in Sch. 13 para. 1 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Marginal Citations

M162 1991 c. 60.
M163 1989 c. 15.

Order under section 32(3) of the 1974 Act

2 (1) Except in so far as the Secretary of State by order otherwise provides, section 85 of this Act shall not apply to any discharges which are of a kind or in any area specified in an order which was made under subsection (3) of section 32 of the [M164]Control of Pollution Act 1974 (preservation of existing exemptions) and is in force for the

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Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

purposes of paragraph 22(1) of Schedule 26 to the [M165]Water Act 1989 immediately before the coming into force of this Act.

(2) The Secretary of State may by order require the **[**[F507]Agency**]** to publish in a manner specified in the order such information about the operation of any provision made by or under this paragraph as may be so specified.

(3) The power to make an order under this paragraph shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

Textual Amendments

F507 Word in Sch. 13 para. 2 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Marginal Citations

M164 1974 c. 40.
M165 1989 c. 15

Pre-1989 transitional provisions

3 (1) A consent which has effect, in accordance with paragraph 24(2) of Schedule 26 to the Water Act 1989 and paragraph 1 of Schedule 2 to the [M166]Water Consolidation (Consequential Provisions) Act 1991, as a consent given for the purposes of Chapter II of Part III of this Act in respect of an application which itself has effect, by virtue of paragraph 21 of that Schedule 26 and that paragraph 1, as an application made under Schedule 10 to this Act shall cease to have effect on the disposal of that application by—

(a) the giving of an unconditional consent on that application;

(b) the expiration, without an appeal under section 91 of this Act being brought, of the period of three months beginning with the date on which notice is served on the applicant that the consent applied for is refused or is given subject to conditions; or

(c) the withdrawal or determination of any such appeal.

(2) Particulars of consents to which sub-paragraph (1) above applies shall not be required to be contained in any register maintained under section 190 of this Act.

Marginal Citations

M166 1991 c. 60.

Discharge consents on application of undertakers etc.

4 (1) The repeal by the Water Consolidation (Consequential Provisions) Act 1991 of sub-paragraphs (2) and (6) of paragraph 25 of Schedule 26 to the Water Act 1989 shall not affect any provision made under section 113(2) of that Act for the purposes of either of those sub-paragraphs; and, accordingly any such provision shall have effect in accordance with Schedule 2 to that Act of 1991 as if made in exercise of a power conferred by section 99 of this Act.

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) If the Secretary of State determines that this sub-paragraph is to apply in relation to any application which is deemed by virtue of paragraph 25(2)(a) of Schedule 26 to the Water Act 1989 and Schedule 2 to the Water Consolidation (Consequential Provisions) Act 1991 to have been made to the **[**[F508]Agency**]** by the successor company of a water authority—

(a) that application shall be treated as having been transmitted to the Secretary of State in accordance with a direction under paragraph 4 of Schedule 10 to this Act; but

(b) the **[**[F508]Agency**]** shall not be required, by virtue of sub-paragraph (2) of that paragraph 4, to inform that company that the application is to be so treated.

(3) Where an application is deemed to have been so made by the successor company of a water authority, then, whether or not it is treated under sub-paragraph (2) above as having been transmitted to the Secretary of State, the following provisions shall apply in relation to the application and, except in so far as the Secretary of State otherwise directs, shall so apply instead of paragraphs 1(4) to (6) and 2(1) or, as the case may be, paragraph 4(3) of Schedule 10 to this Act, that is to say—

(a) the application shall not be considered by the Secretary of State or the **[**[F508]Agency**]** unless the company has complied with such directions (if any) as may be given by the Secretary of State with respect to the publicity to be given to the application;

(b) the Secretary of State or, as the case may be, the **[**[F508]Agency**]** shall be under a duty to consider only such representations and objections with respect to the application as have been made in writing to the Secretary of State or the **[**[F508]Agency**]** before the end of such period as he may determine and as are not withdrawn; and

(c) the Secretary of State shall have power to direct the **[**[F508]Agency**]** (pending compliance with any direction under paragraph (a) above or pending his or, as the case may be, its consideration of the application, representations and objections) to give such a temporary consent under Chapter II of Part III of this Act, or to make such temporary modifications of the conditions of any existing consent, as may be specified in the direction.

(4) The power of the Secretary of State to make a determination or give a direction under sub-paragraph (2) or (3) above shall be exercisable generally in relation to applications of any such description as he may consider appropriate (as well as in relation to a particular application) and, in the case of a direction to give a temporary consent or to make a temporary modification, shall include-

(a) power to require a temporary consent to be given either unconditionally or subject to such conditions falling within paragraph 2(5) of Schedule 10 to this Act as may be specified in the direction;

(b) power, where the direction relates to a description of applications, to require the temporary consent given in pursuance of the direction to be a general consent relating to cases of such a description as may be so specified; and

(c) power, where the direction is in respect of an application falling to be considered by the **[**[F508]Agency**]**, to require the consent or modification to be given or made so as to continue to have effect until the **[**[F508]Agency's**]** determination on the application becomes final—

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(i) on the expiration, without the bringing of an appeal against the determination, of the prescribed period for the bringing of such an appeal; or

(ii) on the withdrawal or determination of any such appeal.

(5) Without prejudice to the provisions of Schedule 2 to the [M167]Water Consolidation (Consequential Provisions) Act 1991, a consent to which sub-paragraph (7) of paragraph 25 of the [M168]Water Act 1989 applies immediately before the coming into force of this Act by virtue of its conditions including a condition that is contravened where there is a failure by more than a specified number of samples to satisfy specified requirements, shall continue to have effect as if the only samples falling to be taken into account for the purposes of that condition were samples taken on behalf of the **[**[F508]Agency**]** in exercise, at a time after 31st August 1989, of a power conferred by the Water Act 1989 or a corresponding provision of this Act.

(6) References in this paragraph to the successor company of a water authority shall be construed in accordance with the Water Act 1989.

Textual Amendments

F508 Words in Sch. 13 para. 4 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Marginal Citations

M167 1991 c. 60.
M168 1989 c. 15.

SCHEDULE 14

Section 108.

ORDERS TRANSFERRING MAIN RIVER FUNCTIONS TO THE AUTHORITY

Procedure on application for order

1 As soon as any scheme under section 108 of this Act has been submitted to one of the Ministers, the **[**[F509]Agency**]** shall—

(a) send copies of the scheme to every internal drainage board, local authority, navigation authority, harbour authority and conservancy authority affected by it; and

(b) publish, in one or more newspapers circulating in the area affected by the scheme, a notice stating—

(i) that the scheme has been submitted to that Minister;

(ii) that a copy of it is open to inspection at a specified place; and

(iii) that representations with respect to the scheme may be made to that Minister at any time within one month after the publication of the notice.

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F509 Word in Sch. 14 para. 1 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Order making procedure etc.

2 (1) Before either of the Ministers makes an order under section 108 of this Act, he shall cause notice of—

(a) the intention to make it;

(b) the place where copies of the draft order may be inspected and obtained; and

(c) the period within which, and the manner in which, objections to the draft order may be made,

to be published in the London Gazette and in such other manner as he thinks best adapted for informing persons affected and to be sent to the persons specified in sub-paragraph (2) below.

(2) The persons referred to in sub-paragraph (1) above are—

(a) every county council **[**[F510], county borough council**]** or London borough council in whose area any part of the area proposed to be affected by the order is situated and, if any part of that area is situated in the City of London, the Common Council of the City of London;

(b) the **[**[F511]Agency**]** and every drainage body, navigation authority, harbour authority or conservancy authority that is known to the Minister in question to be exercising jurisdiction within the area proposed to be affected by the order.

(3) In sub-paragraph (2) above "drainage body" has the same meaning as in section 108 of this Act.

Textual Amendments

F510 Words in Sch. 14 para. 2(2)(a) inserted (1.4.1996) by 1994 c. 19, s. 22(5), **Sch. 11 Pt. I para. 3(8)** (with ss. 54(4)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**

F511 Word in Sch. 14 para. 2 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Determination of whether to make order

3 (1) Before either of the Ministers makes an order under section 108 of this Act he—

(a) shall consider any objections duly made to the draft order; and

(b) may, in any case, cause a public local inquiry to be held with respect to any objections to the draft order.

(2) Each of the Ministers may, in making an order under section 108 of this Act, make such modifications in the terms of the draft as appear to him to be desirable and may confirm the scheme to which the order relates either with or without modifications.

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Notice of orders

4 As soon as may be after an order under section 108 of this Act has effect one of the Ministers shall publish in the London Gazette, and in such other manner as he thinks best adapted for informing persons affected, a notice—

(a) stating that the order has come into force; and

(b) naming a place where a copy of it may be seen at all reasonable hours.

Challenge to orders

5 (1) If any person aggrieved by an order under section 108 of this Act desires to question its validity on the ground—

(a) that it is not within the powers of this Act; or

(b) that any requirement of this Act has not been complied with,

he may, within six weeks of the date of the publication of the notice mentioned in paragraph 4 above, make an application for the purpose to the High Court.

(2) Where an application is duly made to the High Court under this paragraph, the High Court, if satisfied—

(a) that the order is not within the powers of this Act; or

(b) that the interests of the applicant have been substantially prejudiced by any requirements of this Act not having been complied with,

may quash the order either generally or in so far as it affects the applicant.

(3) Except by leave of the Court of Appeal, no appeal shall lie to the House of Lords from a decision of the Court of Appeal in proceedings under this paragraph.

(4) Subject to the preceding provisions of this paragraph an order under section 108 of this Act shall not at any time be questioned in any legal proceedings whatsoever.

Power to make regulations for purposes of Schedule etc.

6 The Ministers may make regulations in relation to—

(a) the publication of notices under paragraph 2 or 4 above;

(b) the holding of public local inquiries under this Schedule and procedure at those inquiries; and

(c) any other matters of procedure respecting the making of orders under section 108 of this Act.

SCHEDULE 15

Sections 135 and 138.

SUPPLEMENTAL PROVISIONS WITH RESPECT TO DRAINAGE CHARGES

Raising of drainage charge

1 (1) A drainage charge—

(a) shall be raised by the **[**[F512]Agency**]** in writing under the common seal of the **[**[F512]Agency**]**; and

(b) shall be deemed to be raised on the date on which a resolution is passed by the **[**[F512]Agency**]** authorising their seal to be affixed to the charge.

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) Every drainage charge shall be raised for a year ending on 31st March and shall be raised before or during the year for which it is raised.

(3) Without prejudice to their powers by virtue of section 112 of this Act, the Ministers shall each have power by regulations to prescribe the forms of drainage charges and of demands for drainage charges.

Textual Amendments

F512 Words in Sch. 15 para. 1 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Publication of drainage charge

2 (1) A drainage charge shall not be valid unless notice of the charge is given by the **[**[F513]Agency**]** in accordance with sub-paragraph (2) below within ten days of the date on which it is raised.

(2) The notice must—

(a) state the amount of the charge and the date on which it was raised; and

(b) be published in one or more newspapers circulating in the area in respect of which the charge was raised.

Textual Amendments

F513 Word in Sch. 15 para. 2 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Occupiers liable for drainage charge

3 (1) Subject to paragraphs 4 and 5 below—

(a) drainage charges shall be levied on the occupiers of chargeable land in the local flood defence district or, as the case may be, the designated area; and

(b) sub-paragraphs (2) to (4) below shall have effect with respect to the assessment of persons to a drainage charge with respect to any land (“the relevant land") and their liability in regard to the charge.

(2) A drainage charge shall be assessed on the person who at the date of the raising of the charge is the occupier of the relevant land.

(3) The full amount of a drainage charge may be recovered by the **[**[F514]Agency**]** from any person who is the occupier of the relevant land at any time during the period for which the charge is raised; but a person who is in occupation of the relevant land for part only of the period for which the charge is raised shall be liable, by virtue of sub-paragraph (4) below, to bear a proportionate part only of the charge.

(4) If a person who is in occupation of the relevant land for part only of a period for which a drainage charge is raised is required under sub-paragraph (3) above to pay the full amount of the charge, he may (subject to any agreement to the contrary) recover, from any other person who has been in occupation of the land for part of that period, the amount which that other person is liable to bear.

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F514 Word in Sch. 15 para. 3 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Cases where identity of occupiers in doubt

4 (1) The **[**[F515]Agency**]** may serve on the owner of any land a notice requiring him to state in writing the name and address of any person known to him as being an occupier of that land.

(2) The owner of any land shall be guilty of an offence if—

(a) he fails without reasonable excuse to comply with a notice under sub-paragraph (1) above;

(b) he makes any statement in respect of the information required by such a notice which he knows to be false in a material particular; or

(c) he recklessly makes any statement in respect of the information required by such a notice which is false in a material particular.

(3) A person guilty of an offence under sub-paragraph (2) above shall be liable, on summary conviction, to a fine not exceeding level 4 on the standard scale; and a person convicted by virtue of paragraph (a) of that sub-paragraph shall be liable to a further conviction by virtue of that paragraph if, after conviction, he continues without reasonable excuse **[**[F516]to fail**]** to comply with the notice in question.

(4) Where the name of any person liable to be assessed to any drainage charge is not known to the **[**[F515]Agency**]**, it shall be sufficient to assess him to the charge by the description of the "occupier" of the premises (naming them) in respect of which the assessment is made, without further name or description.

(5) For the purposes of this Schedule the owner of any land shall be deemed to be its occupier during any period during which it is unoccupied.

(6) Sub-paragraphs (1) to (3) above shall be without prejudice to the provisions of Part VIII of this Act.

Textual Amendments

F515 Words in Sch. 15 para. 4 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F516 Words in Sch. 15 para. 4(3) inserted (21.9.1995) by 1995 c. 25, s. 120(1), **Sch. 22 para. 187(1)** (with ss. 7(6), 115, 117); S.I. 1995/1983, **art. 3**

Arrangements for owner of land to pay drainage charge

5 (1) Subject to paragraph 6 below, the **[**[F517]Agency**]** may make arrangements with the owner of any chargeable land for any drainage charges which may be raised by the **[**[F517]Agency**]** for any period in respect of the land to be levied on the owner, instead of on the occupier of the land.

(2) Where arrangements under this paragraph are made—

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(a) the charges in question shall be levied on the owner, instead of on the occupier; and

(b) any reference to an occupier in the provisions of this Schedule (except in this paragraph and paragraph 6 below) shall be construed accordingly.

(3) Subject to sub-paragraph (4) below, where in pursuance of any arrangements under this paragraph the owner of any land pays drainage charges in respect of the land to the **[**[F517]Agency**]** either—

(a) before the end of the period of two months beginning with the date of the service on him of the demand for the charges; or

(b) before the end of one-half of the period for which the charges are raised,

the **[**[F517]Agency**]** shall make to him an allowance equal to ten per cent. of the full amount of the charges.

(4) No allowance shall be made under sub-paragraph (3) above in respect of charges which, apart from this paragraph, are payable for any period by the owner in pursuance of paragraph 4(5) above.

(5) Where arrangements are made under this paragraph, it shall be the duty of the **[**[F517]Agency**]** to give notice of the arrangements, forthwith after they are made, to the occupier of the land affected by them.

(6) The owner of any land who is a party to any arrangements under this paragraph in respect of the land may recover from the occupier of the land a sum equal to the amount of any drainage charges in respect of the land which, apart from the arrangements, would be payable by the occupier.

Textual Amendments

F517 Words in Sch. 15 para. 5 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Power of occupier to prevent arrangements under paragraph 5

6 (1) The occupier of any chargeable land may, by notice given to the **[**[F518]Agency**]**, determine—

(a) that no arrangements under paragraph 5 above shall be made in respect of the land; and

(b) that any such arrangements previously made shall cease to have effect so far as they relate to the land and any drainage charge to be raised for a period beginning after the date on which the notice takes effect;

and may, by a notice so given, revoke any determination under this sub-paragraph so far as it prohibits the making of any such arrangements in respect of the land.

(2) A notice under sub-paragraph (1) above shall take effect on the day following that on which it is given to the **[**[F518]Agency**]**.

(3) Where notice is given to the **[**[F518]Agency**]** under sub-paragraph (1) above, it shall be the duty of the **[**[F518]Agency**]** to send a copy of the notice to the owner of the land to which it relates.

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Textual Amendments

F518 Words in Sch. 15 para. 6 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Assessment of chargeable land to drainage charge

7 (1) Where land is chargeable land during part only of the year for which a drainage charge is raised, a proportionate part only of the charge shall be payable in respect of that land; and any amount overpaid shall be repaid.

(2) Where the area of chargeable land in respect of which, apart from this sub-paragraph, a sum is payable by any person by way of a drainage charge consists of or includes a fraction of a hectare, then for the purpose of calculating that sum the fraction shall be disregarded if it is less than one-half and treated as one hectare in any other case.

Partial exemption of commercial woodlands

8 (1) The sum payable by way of a drainage charge in respect of chargeable land consisting of commercial woodlands shall be calculated as if the area of the land were one-fifth of its actual area.

(2) In the application of paragraph 7(2) above to chargeable land to which sub-paragraph (1) above applies the area ascertained in pursuance of sub-paragraph (1) above (and not the area of which it is one-fifth) shall be treated as the area in relation to which paragraph 7(2) above has effect.

Returns with respect to land

9 (1) The **[**[F519]Agency**]** may serve on any person appearing to it to be the occupier of any land a notice requiring him to furnish a return under sub-paragraph (2) below to the **[**[F519]Agency**]** within twenty-eight days beginning with the date of service of the notice on him.

(2) The return required of a person by a notice under sub-paragraph (1) above is a return, in writing and in such form as may be specified in the notice, containing such particulars as may reasonably be required for the purpose of enabling the **[**[F519]Agency**]** to determine—

(a) how much (if any) of the land occupied by that person is chargeable land; and

(b) how much (if any) consists of commercial woodlands.

(3) If any person on whom notice has been served under sub-paragraph (1) above—

(a) fails without reasonable excuse to comply with the notice;

(b) in a return made in pursuance of such a notice, makes any statement which he knows to be false in a material particular; or

(c) in any such return recklessly makes any statement which is false in a material particular,

he shall be guilty of an offence

(4) A person guilty of an offence under sub-paragraph (3) above shall be liable, on summary conviction, to a fine not exceeding level 4 on the standard scale; and a person convicted by virtue of paragraph (a) of that sub-paragraph shall be liable to

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a further conviction by virtue of that paragraph if, after conviction, he continues without reasonable excuse **[**[F520]to fail**]** to comply with the notice in question.

(5) This paragraph shall be without prejudice to the provisions of Part VIII of this Act.

Textual Amendments

F519 Words in Sch. 15 para. 9 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F520 Words in Sch. 15 para. 9(4) inserted (21.9.1995) by 1995 c. 25, s. 120(1), **Sch. 22 para. 187(1)** (with ss. 7(6), 115, 117); S.I. 1995/1983, **art. 3**

Power to correct erroneous assessments etc.

10 (1) The **[**[F521]Agency**]** may, as respects any drainage charge raised by it for the current or the preceding year, make such amendments in any demands or other documents relating to the charge as appear to the **[**[F521]Agency**]** necessary in order to make the raising, levying and collection of the charge conform with this Act.

(2) In particular, the **[**[F521]Agency**]** may—

(a) correct any clerical or arithmetical error;

(b) correct any erroneous insertions or omissions or any misdescriptions;

(c) make such additions or corrections as appear to the **[**[F521]Agency**]** to be necessary by reason of any change in the occupation of any chargeable land or any property ceasing to be chargeable land.

(3) The **[**[F521]Agency**]** shall serve a notice of any amendment made by the **[**[F521]Agency**]** in pursuance of this paragraph on the occupier of all land affected thereby.

(4) Where an amendment is made in pursuance of this paragraph—

(a) any amount overpaid shall be repaid or allowed; and

(b) any amount underpaid may be recovered as if it were arrears of the charge.

Textual Amendments

F521 Words in Sch. 15 para. 10 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Appeals against demands for drainage charges

11 (1) If any person is aggrieved by—

(a) a demand for a drainage charge made on him as the occupier of chargeable land; or

(b) an amendment of such a demand,

he may appeal to the county court for the area in which the land or any part of it is situated.

(2) Notice of appeal under this paragraph, specifying the grounds of appeal, must be given within the required period—

(a) to the court to which the appeal is made;

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(b) to the **[**[F522]Agency**]**; and

(c) if the appeal relates to land not in the occupation of the appellant, to the occupier of the land.

(3) For the purposes of sub-paragraph (2) above the required period is twenty-eight days after the date on which the demand is made or, as the case may be, notice of the amendment is served on the appellant.

(4) On an appeal under this paragraph the court shall, as it thinks just, either confirm the demand or annul or modify it.

Textual Amendments

F522 Words in Sch. 15 para. 11 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Recovery of drainage charges

12 (1) Arrears of any drainage charge may be recovered by the **[**[F523]Agency**]** in the same manner in which arrears of a non-domestic rate may be recovered under the [M169]Local Government Finance Act 1988 by a **[**[F524]billing authority**]** within the meaning of that Act.

(2) Without prejudice to its powers by virtue of **[**[F525]section 37 of, and paragraph 6 of Schedule 1 to, the 1995 Act**]**, the **[**[F523]Agency**]** may by resolution authorise any member or officer of the **[**[F523]Agency**]**, either generally or in respect of particular proceedings—

(a) to institute or defend on its behalf any proceedings in relation to a drainage charge; or

(b) notwithstanding that he is not qualified to act as a solicitor, to appear on the **[**[F523]Agency's**]** behalf in any proceedings before a magistrates' court for the issue of a warrant of distress for failure to pay a drainage charge.

(3) In proceedings for the recovery of arrears of a drainage charge the defendant shall not be entitled to raise by way of defence any matter which might have been raised on an appeal under paragraph 11 above.

(4) The **[**[F523]Agency**]** shall not be required to demand or enforce payment of a drainage charge in any case where the amount of the charge is insufficient to justify the expense of collection.

Textual Amendments

F523 Words in Sch. 15 para. 12 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F524 Words in Sch. 15 para. 12(1) substituted (1.8.1992 subject to savings in S.I. 1992/1755, **art. 2(2)**) by Local Government Finance Act 1992 (c. 14), s. 117(1), **Sch. 13 para. 98** (with s. 118(1)(2)(4); S.I. 1992/1755, **art. 2(1)**

F525 Words in Sch. 15 para. 12(2) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 187(2)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Marginal Citations

M169 1988 c. 41.

Use of certain authorities as agents for assessment, collection etc. of drainage charges

13 (1) The **[**[F526]Agency**]** and any relevant authority may enter into agreements for—

(a) the doing by the relevant authority, as agents of the **[**[F526]Agency**]**, of anything required for the purpose of the assessment to and recovery of a drainage charge in respect of any relevant land; and

(b) the making by the **[**[F526]Agency**]** to the relevant authority of payments in respect of anything so done.

(2) The **[**[F526]Agency**]** may make arrangements with either of the Ministers for the exercise by him on behalf of the **[**[F526]Agency**]**, in such cases as may be determined in pursuance of the arrangements, of the powers conferred on the **[**[F526]Agency**]** by paragraph 9 above.

(3) Any arrangements under sub-paragraph (2) above shall contain provision for the reimbursement by the **[**[F526]Agency**]** of any expenses incurred by the Minister in question in pursuance of the arrangements.

(4) In this paragraph—

"relevant authority" means the council of any district or London borough **[**[F527]or Welsh county or county borough**]**or any internal drainage board; and

"relevant land", in relation to an agreement with any relevant authority, means—

(a) where the relevant authority is a district or London borough **[**[F527]or Welsh county or county borough**]**council, the chargeable land within the council's area; and

(b) where the relevant authority is an internal drainage board, such land as may be specified in the agreement.

Textual Amendments

F526 Words in Sch. 15 para. 13 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F527 Words in Sch. 15 para. 13(4) inserted (1.4.1996) by 1994 c. 19, s. 22(5), **Sch. 11 Pt. I para. 3(9)** (with ss. 54(4)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**

Status: *Point in time view as at 01/10/2006.*
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SCHEDULE 16

Section 137.

SCHEMES IMPOSING SPECIAL DRAINAGE CHARGES

Submission of scheme

1 (1) Before submitting a special charges scheme to either of the Ministers, the **[**[F528]Agency**]** shall consult organisations appearing to it to represent the interests of persons engaged in agriculture in the area designated in the scheme.

(2) As soon as any special charges scheme has been submitted to either of the Ministers, the **[**[F528]Agency**]** shall—

(a) send copies of the scheme to—

(i) the council of any county, **[**[F529]county borough**]**district or London borough wholly or partly within the relevant area;

(ii) the drainage board for any internal drainage district within the relevant area; and

(iii) every organisation appearing to the **[**[F528]Agency**]** to represent the interests of persons engaged in agriculture in the relevant area;

and

(b) publish, in one or more newspapers circulating in the area affected by the scheme, a notice stating—

(i) that the scheme has been submitted to that Minister;

(ii) that a copy of it is open to inspection at a specified place; and

(iii) that representations with respect to the scheme may be made to that Minister at any time within one month after the publication of the notice.

(3) Where the **[**[F528]Agency**]** submit a special charges scheme which designates any watercourse wholly or partly within an internal drainage district, then (unless the **[**[F528]Agency**]** is the drainage board for that district) the scheme must be accompanied either—

(a) by a statement of the drainage board for that district that they have consented to the designation; or

(b) by a statement that they have not consented thereto and a further statement setting out the reasons why the watercourse should nevertheless be designated for the purposes of section 137 of this Act.

(4) For the purposes of sub-paragraph (2) above "the relevant area" is the area designated in the scheme.

Textual Amendments

F528 Words in Sch. 16 para. 1 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F529 Words in Sch. 16 para. 1(2)(a)(i) inserted (1.4.1996) by 1994 c. 19, s. 22(5), **Sch. 11 Pt. I para. 3(10)(a)** (with ss. 54(4)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**

Status: *Point in time view as at 01/10/2006.*
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Confirmation of scheme

2 (1) Subject to the following provisions of this Schedule the Minister to whom a special charges scheme has been submitted may by order made by statutory instrument confirm the scheme either with or without modifications.

(2) Neither of the Ministers shall confirm a special charges scheme unless he is satisfied that the scheme is reasonable and financially sound, having regard to all the circumstances, and in particular to any contributions from local authorities and internal drainage boards which, if the scheme is confirmed, are likely to be available to the **[**[F530]Agency**]** in addition to the special drainage charge authorised by the scheme.

(3) An order confirming a special charges scheme may contain provisions with respect to the persons by whom all or any of the expenses incurred by either of the Ministers or by other persons in connection with the making or confirmation of the order, or the making of the scheme, are to be borne.

Textual Amendments

F530 Word in Sch. 16 para. 2 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Notice of proposed order

3 (1) Before either of the Ministers makes an order confirming a special charges scheme he shall cause notice of—

(a) the intention to make it;

(b) the place where copies of the draft order may be inspected and obtained; and

(c) the period within which, and the manner in which, objections to the draft order may be made,

to be published in the London Gazette and in such other manner as he thinks best adapted for informing persons affected and to be sent to the persons specified in sub-paragraph (2) below.

(2) The persons referred to in sub-paragraph (1) above are—

(a) every county council **[**[F531], county borough council**]** or London borough council in whose area any part of the area proposed to be affected by the order is situated and, if any part of that area is situated in the City of London, the Common Council of the City of London; and

(b) the **[**[F532]Agency**]** and every drainage body, navigation authority, harbour authority or conservancy authority that is known to the Minister in question to be exercising jurisdiction within the area proposed to be affected by the order.

(3) In sub-paragraph (2) above "drainage body" has the same meaning as in section 108 of this Act.

Textual Amendments

F531 Words in Sch. 16 para. 3(2)(a) inserted (1.4.1996) by 1994 c. 19, s. 22(5), **Sch. 11 Pt. I para. 3(10)(b)** (with ss. 54(4)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**

Status: *Point in time view as at 01/10/2006.*
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F532 Word in Sch. 16 para. 3 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Determination of whether to make order

4 (1) Before either of the Ministers makes an order confirming a special charges scheme, he—

(a) shall consider any objections duly made to the draft order; and

(b) may, in any case, cause a public local inquiry to be held with respect to any objections to the draft order.

(2) Each of the Ministers shall have power, in making an order confirming a special charges scheme, to make such modifications in the terms of the draft as appear to him to be desirable.

Procedure and other matters after the making of an order

5 (1) After either of the Ministers has made an order confirming a special charges scheme, the order (together with a notice under sub-paragraph (2) below) shall be published in such manner as he thinks best adapted for informing the persons affected.

(2) A notice under this sub-paragraph is a notice—

(a) that the Minister in question has made the order; and

(b) that the order will become final and have effect unless, within such period of not less than thirty days as may be specified in the notice, a memorial praying that the order shall be subject to special parliamentary procedure is presented to that Minister, by a person who is affected by the order and has such interest as may be prescribed by regulations made by one of the Ministers as being sufficient for the purpose.

Orders subject to special parliamentary procedure

6 (1) If—

(a) no such memorial as is mentioned in paragraph 5(2) above has been presented within the period so mentioned in respect of any order confirming a special charges scheme; or

(b) every such memorial has been withdrawn,

the Minister who made the order shall confirm the order and it shall thereupon have effect.

(2) If such a memorial has been presented in respect of such an order and has not been withdrawn, the order shall be subject to special parliamentary procedure.

(3) An order confirming a special charges scheme shall in any event be subject to special parliamentary procedure if the Minister who makes the order so directs.

(4) The Minister who makes an order confirming a special charges scheme may, at any time before it has been laid before Parliament, revoke, either wholly or partially, any order that is subject to special parliamentary procedure.

Status: *Point in time view as at 01/10/2006.*
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Notice of unconfirmed orders

7 As soon as may be after an unconfirmed order has effect, the Minister who made the order shall publish in the London Gazette, and in such other manner as he thinks best adapted for informing persons affected, a notice—

(a) stating that the order has come into force; and

(b) naming a place where a copy of it may be seen at all reasonable hours.

Challenge to unconfirmed orders

8 (1) If any person aggrieved by an unconfirmed order desires to question its validity on the ground—

(a) that it is not within the powers of this Act; or

(b) that any requirement of this Act has not been complied with,

he may, within six weeks of the relevant date, make an application for the purpose to the High Court.

(2) Where an application is duly made to the High Court under this paragraph, the High Court, if satisfied—

(a) that the order is not within the powers of this Act; or

(b) that the interests of the applicant have been substantially prejudiced by any requirements of this Act not having been complied with,

may quash the order either generally or in so far as it affects the applicant.

(3) Except by leave of the Court of Appeal, no appeal shall lie to the House of Lords from a decision of the Court of Appeal in proceedings under this paragraph.

(4) Subject to the preceding provisions of this paragraph an unconfirmed order shall not at any time be questioned in any legal proceedings whatsoever.

(5) In this paragraph "the relevant date", in relation to an order, means—

(a) where the order is subject to special parliamentary procedure, the date on which the order becomes operative under the [M170]Statutory Orders (Special Procedure) Act 1945;

(b) where the order is not subject to special parliamentary procedure, the date of the publication of the notice mentioned in paragraph 7 above.

Marginal Citations

M170 1945 c. 18 (9 & 10 Geo 6).

Power to make regulations for purposes of Schedule

9 The Ministers may make regulations in relation to—

(a) the publication of notices under this Schedule;

(b) the holding of public local inquiries under this Schedule and procedure at those inquiries; and

(c) any other matters of procedure respecting the making of orders confirming a special charges scheme.

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Interpretation

10 (1) In this Schedule—

"special charges scheme" means a scheme under section 137 of this Act; and

"unconfirmed order" means an order confirming a special charges scheme, other than one which is itself confirmed under section 6 of the Statutory Orders (Special Procedure) Act 1945.

(2) Section 113 of this Act shall apply for the interpretation of this Schedule as it applies for the interpretation of Part IV of this Act.

SCHEDULE 17

Section 143.

ORDERS WITH RESPECT TO NAVIGATION TOLLS

Orders to be made by statutory instrument

1 The power to make an order under section 143 of this Act shall be exercisable by statutory instrument.

Inquiries

2 (1) The Secretary of State may hold inquiries for the purposes of section 143 of this Act as if those purposes were purposes of the [M171]Ministry of Transport Act 1919; and section 20 of that Act (power to hold inquiries) shall have effect accordingly.

(2) The Secretary of State may make such order as to the payment of costs incurred by him in connection with any such inquiry as he may think just.

Marginal Citations
M171 1919 c. 50.

Notice of order

3 (1) After the Secretary of State has made an order under section 143 of this Act, the order, together with a notice under sub-paragraph (2) below, shall be published in such manner as he thinks best adapted for informing the persons affected.

(2) A notice under this sub-paragraph is a notice—

(a) that the Secretary of State has made the order; and

(b) that the order will become final and have effect unless, within such period of not less than thirty days as may be specified in the notice, a memorial praying that the order shall be subject to special parliamentary procedure is presented to the Secretary of State, by a person who is affected by the order and has such an interest as may be prescribed as being sufficient for the purpose.

Orders subject to special parliamentary procedure

4 (1) If—

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) no such memorial as is mentioned in paragraph 3(2) above has been presented within the period so mentioned in respect of any order under section 143 of this Act; or

(b) every such memorial has been withdrawn,

the Secretary of State shall confirm the order and it shall thereupon have effect.

(2) If such a memorial has been presented in respect of such an order and has not been withdrawn, the order shall be subject to special parliamentary procedure.

(3) An order under section 143 of this Act shall, in any event, be subject to special parliamentary procedure if the Secretary of State so directs.

(4) The Secretary of State may, at any time before it has been laid before Parliament, revoke, either wholly or partially, any order under section 143 of this Act that is subject to special parliamentary procedure.

SCHEDULE 18

Section 154.

MODIFICATION OF COMPENSATION PROVISION ETC IN RELATION TO THE CREATION OF NEW RIGHTS

Compensation enactments

1 Subject to the following provisions of this Schedule, the enactments for the time being in force with respect to compensation for the compulsory purchase of land shall apply with the necessary modifications as respects compensation in the case of a compulsory acquisition under section 154 of this Act of a right by the creation of a new right as they apply as respects compensation on the compulsory purchase of land and interests in land.

Adaptation of the Compulsory Purchase Act 1965

2 (1) The Compulsory Purchase Act 1965 (in the following provisions of this Schedule referred to as "the 1965 Act") shall have effect with the modifications necessary to make it apply to the compulsory acquisition under section 154 of this Act of a right by the creation of a new right as it applies to the compulsory acquisition under that section of land, so that, in appropriate contexts, references in that Act to land are to be read (according to the requirements of the particular context) as referring to, or as including references to—

(a) the right acquired or to be acquired; or

(b) the land over which the right is or is to be exercisable.

(2) Without prejudice to the generality of sub-paragraph (1) above, Part I of the 1965 Act shall apply in relation to the compulsory acquisition under section 154 of this Act of a right by the creation of a new right with the modifications specified in the following provisions of this Schedule.

Section 7 of the 1965 Act

3 For section 7 of the 1965 Act (measure of compensation) there shall be substituted the following section—

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"**7** In assessing the compensation to be paid by the acquiring authority under this Act regard shall be had not only to the extent (if any) to which the value of the land over which the right is to be acquired is depreciated by the acquisition of the right but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of his, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act."

Section 8 of the 1965 Act

4 For subsection (1) of section 8 of the 1965 Act (protection for vendor against severance of house, garden, etc.) there shall be substituted the following subsections—

"(1) No person shall be required to grant any right over part only—

(a) of any house, building or manufactory; or

(b) of a park or garden belonging to a house,

if he is willing to sell the whole of the house, building, manufactory, park or garden, unless the Lands Tribunal determine that—

(i) in the case of a house, building or manufactory, the part over which the right is proposed to be acquired can be made subject to that right without material detriment to the house, building or manufactory; or

(ii) in the case of a park or garden, the part over which the right is proposed to be acquired can be made subject to that right without seriously affecting the amenity or convenience of the house;

and, if the Lands Tribunal so determine, the Tribunal shall award compensation in respect of any loss due to the acquisition of the right, in addition to its value; and thereupon the party interested shall be required to grant to the acquiring authority that right over the part of the house, building, manufactory, park or garden.

(1A) In considering the extent of any material detriment to a house, building or manufactory, or any extent to which the amenity or convenience of a house is affected, the Lands Tribunal shall have regard not only to the right which is to be acquired over the land, but also to any adjoining or adjacent land belonging to the same owner and subject to compulsory purchase."

Effect of deed poll

5 The following provisions of the 1965 Act (being provisions stating the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), that is to say—

(a) section 9(4) (refusal by owners to convey);

(b) paragraph 10(3) of Schedule 1 (owners under incapacity);

(c) paragraph 2(3) of Schedule 2 (absent and untraced owners); and

(d) paragraphs 2(3) and 7(2) of Schedule 4 (common land),

shall be so modified as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired is vested absolutely in the acquiring authority.

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Section 11 of the 1965 Act

6 Section 11 of the 1965 Act (powers of entry) shall be so modified as to secure that, as from the date on which the acquiring authority have served notice to treat in respect of any right, they have power, exercisable in the like circumstances and subject to the like conditions, to enter for the purpose of exercising that right (which shall be deemed for this purpose to have been created on the date of service of the notice); and sections 12 (penalty for unauthorised entry) and 13 (entry on warrant in the event of obstruction) shall be modified correspondingly.

Section 20 of the 1965 Act

7 Section 20 of the 1965 Act (protection for interests of tenants at will etc.) shall apply with the modifications necessary to secure that persons with such interests as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition under section 154 of this Act of that land, but taking into account only the extent (if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right in question.

Section 22 of the 1965 Act

8 Section 22 of the 1965 Act (protection of acquiring authority's possession where by inadvertence an estate, right or interest has not been got in) shall be so modified as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue entitled to exercise the right acquired, subject to compliance with that section as respects compensation.

SCHEDULE 19

Section 168.

ORDERS CONFERRING COMPULSORY WORKS POWERS

Modifications etc. (not altering text)

C152 Sch. 19 applied (2.5.2006 for E. and 11.5.2006 for W.) by The Restricted Byways (Application and Consequential Amendment of Provisions) Regulations 2006 (S.I. 2006/1177), regs. 1(2)(4), 2(1), **Sch. Pt. 1**; S.I. 2006/1172, **art. 2(a)-(d)** (with art. 3); S.I. 2006/1279, **art. 2(a)-(d)** (with art. 3)

C153 Sch. 19 applied (2.5.2006 for E., 11.5.2006 for W.) by Restricted Byways (Application and Consequential Amendment of Provisions) Regulations 2006 (S.I. 2006/1177), regs. 1(2)(4), 2(1), **Sch. Pt. I**; S.I. 2006/1172, **art. 2(a)-(d)** (with art. 3); S.I. 2006/1279, **art. 2(a)-(d)** (with art. 3)

Applications for orders

1 (1) Where the **[**[F533]Agency**]** applies to either of the Ministers for a compulsory works order, it shall—

(a) submit to that Minister a draft of the order applied for;

(b) publish a notice with respect to the application, at least once in each of two successive weeks, in one or more newspapers circulating in each relevant locality;

(c) not later than the date on which that notice is first published—

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(i) serve a copy of the notice on each of the persons specified in relation to the application in sub-paragraph (3) below; and

(ii) in the case of a draft order which would authorise the stopping-up or diversion of a footpath**[**[F534], bridleway or restricted byway**]**, cause such a copy, together with a plan showing the general effect of the draft order so far as it relates to the footpath**[**[F534], bridleway or restricted byway**]**, to be displayed in a prominent position at the ends of the part of the path or way to be stopped up or diverted;

and

(d) publish a notice in the London Gazette which-

(i) states that the draft order has been submitted to that Minister;

(ii) names every local authority on whom a notice is required to be served under this paragraph;

(iii) specifies a place where a copy of the draft order and of any relevant map or plan may be inspected; and

(iv) gives the name of every newspaper in which the notice required by virtue of paragraph (b) above was published and the date of an issue containing the notice.

(2) The notice required by virtue of sub-paragraph (1)(b) above to be published with respect to an application for an order by the **[**[F533]Agency**]** shall—

(a) state the general effect of the order applied for;

(b) in the case of an application made wholly or partly for the purpose of enabling any discharges of water to be made—

(i) contain particulars of the proposed discharges, stating the purposes of the discharges and specifying each place of discharge;

(ii) specify the places at which the water to be comprised in the proposed discharges is to be taken and the treatment (if any) which the draft order proposes to require the water, or any of it, to receive before being discharged under the order; and

(iii) state the effect which, in the opinion of the **[**[F533]Agency**]**, the proposed discharges would have on the flow, level and quality of water in any inland waters or underground strata;

(c) specify a place where a copy of the draft order and of any relevant map or plan may be inspected by any person free of charge at all reasonable times during the period of twenty-eight days beginning with the date of the first publication of the notice; and

(d) state that any person may within that period, by notice to the Minister applied to, object to the making of the order.

(3) The persons mentioned in sub-paragraph (1)(c) above in relation to an application for a compulsory works order a draft of which has been submitted to either of the Ministers are—

(a) every local authority whose area is or includes the whole or any part of a relevant locality and which is not **[**[F535]an English county**]** council;

(b) every water undertaker whose area is or includes the whole or any part of such a locality;

(c) every navigation authority, harbour authority and conservancy authority which would be affected by, or has functions in relation to any inland waters which would be affected by, any provision proposed to be made by the order;

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(d) every owner, lessee or occupier (except tenants for a month or for any period of less than a month) of any land in relation to which compulsory powers would become exercisable if the order were made in the terms of the draft order;

(e) every person who has given notice to the **[**[F533]Agency**]** requiring it to notify him of applications for compulsory works orders and has paid such reasonable charge as the **[**[F533]Agency**]** may have required him to pay for being notified by virtue of this paragraph;

(f) such other persons as may be prescribed.

(4) In this paragraph "relevant locality", in relation to an application for an order, means—

(a) any locality which would be affected by any provision proposed to be made by the order for the purpose of enabling any engineering or building operations to be carried out; and

(b) where provision is proposed to be made by the order for the purpose of enabling discharges of water to be made, each locality in which the place of any of the proposed discharges is situated or in which there appears to the **[**[F533]Agency**]** to be any inland waters or underground strata the flow, level or quality of water in which may be affected by any of the proposed discharges.

Textual Amendments

F533 Words in Sch. 19 para. 1 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F534 Words in Sch. 19 para. 1(1)(c)(ii) substituted (2.5.2006 for E., 11.5.2006 for W.) by Restricted Byways (Application and Consequential Amendment of Provisions) Regulations 2006 (S.I. 2006/1177), reg. 1(2)(4), **Sch. Pt. I**; S.I. 2006/1172, **art. 2(a)-(d)** (with art. 3); S.I. 2006/1279, **art. 2(a)-(d)** (with art. 3)

F535 Words in Sch. 19 para. 1(3)(a) substituted (1.4.1996) by 1994 c. 19, s. 22(5), **Sch. 11 Pt. I para. 3(11)** (with ss. 54(4)(7), 55(5), Sch. 17 paras. 22(1) 23(2)); S.I. 1996/396, art. 3, **Sch. 1**

Supply of copies of draft orders

2 Where the **[**[F536]Agency**]** is applying for a compulsory works order, it shall, at the request of any person and on payment by that person of such charge (if any) as the **[**[F536]Agency**]** may reasonably require, furnish that person with a copy of any draft order submitted to either of the Ministers under paragraph 1 above and of any relevant map or plan.

Textual Amendments

F536 Words in Sch. 19 para. 2 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Powers on an application

3 (1) On an application for a compulsory works order, the Minister or the Secretary of State may make the order either in the terms of the draft order submitted or, subject to sub-paragraphs (2) and (3) below, in those terms as modified in such manner as he thinks fit, or may refuse to make an order.

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) Neither of the Ministers shall make such a modification of a draft order as he considers is likely adversely to affect any persons unless he is satisfied that the **[**[F537]Agency**]** has given and published such additional notices, in such manner, as he may have required.

(3) Neither of the Ministers shall, unless all interested parties consent, make a compulsory works order so as to confer in relation to any land any powers of compulsory acquisition which would not have been conferred in relation to that land if the order were made in the terms of the draft order submitted under paragraph 1 above.

(4) Where one of the Ministers refuses, on an application for a compulsory works order, to make an order, the **[**[F537]Agency**]** shall, as soon as practicable after the refusal, notify the refusal to every person on whom it was, by virtue of paragraph 1(1)(c)(i) above, required to serve a copy of the notice with respect to the application.

Textual Amendments

F537 Words in Sch. 19 para. 3 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Consideration of objections etc.

4 (1) If, where an application for a compulsory works order has been made, either of the Ministers receives any notice of an objection to it, before the end of the relevant period, from—

(a) any person on whom a notice under paragraph 1 or 3 above is required to be served; or

(b) from any other person appearing to that Minister to be affected by the order as submitted or as proposed to be modified under paragraph 3 above,

then, unless the objection is withdrawn, the Minister or the Secretary of State shall, before making the order, either cause a local inquiry to be held or afford to the objector and to the **[**[F538]Agency**]** an opportunity of appearing before, and being heard by, a person appointed by him for the purpose.

(2) Where any objection received by one of the Ministers as mentioned in sub-paragraph (1) above relates to any powers of compulsory acquisition, the Minister or the Secretary of State—

(a) may require the objector to state in writing the grounds of his objection; and

(b) if he is satisfied that the objection relates exclusively to matters that can be dealt with in the assessment of compensation, may disregard the objection for the purposes of that sub-paragraph.

(3) In this paragraph "the relevant period", in relation to an application for any order, means the period ending with whichever is the later of—

(a) the end of the period of twenty-eight days beginning with the date of the first publication of the notice published with respect to the application for the purposes of paragraph 1(1)(b) above; and

(b) the end of the period of twenty-five days beginning with the date of the publication in the London Gazette of the notice published for the purposes of the application by virtue of paragraph 1(1)(d) above,

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together, in the case of an application for an order modifications to which have been proposed by the Minister considering the application, with any further periods specified with respect to the modifications in notices under paragraph 3(2) above.

Textual Amendments

F538 Word in Sch. 19 para. 4 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Notice after making of order

5 (1) As soon as practicable after a compulsory works order has been made, the **[**[F539]Agency**]** shall—

(a) publish a notice of the making of the order, at least once in each of two successive weeks, in one or more newspapers circulating in each relevant locality; and

(b) not later than the date on which that notice is first published—

(i) serve a copy of the notice on every person on whom the **[**[F539]Agency**]** was, by virtue of paragraph 1(1)(c)(i) above, required to serve a copy of the notice with respect to the application for the order; and

(ii) in the case of an order authorising the stopping-up or diversion of a footpath**[**[F540], bridleway or restricted byway**]**, cause such a copy, together with a plan showing the general effect of the order so far as it relates to the footpath **[**[F540], bridleway or restricted byway**]**, to be displayed in a prominent position at the ends of the appropriate part of the path or way.

(2) The notice required by virtue of sub-paragraph (1)(a) above to be published with respect to a compulsory works order shall—

(a) state the general effect of the order;

(b) in the case of an order made wholly or partly for the purpose of enabling any discharges of water to be made—

(i) contain particulars of the discharges, stating the purposes of the discharges and specifying each place of discharge;

(ii) specify the places at which the water to be comprised in the discharges is to be taken and the treatment (if any) which the order requires the water, or any of it, to receive before being discharged under the order; and

(iii) state the effect which, in the opinion of the applicant, the discharges would have on the flow, level and quality of water in any inland waters or underground strata; and

(c) specify a place where a copy of the order and of any relevant map or plan may be inspected by any person free of charge at all reasonable times.

(3) Where a compulsory works order has been made, the **[**[F539]Agency**]** shall, at the request of any person and on payment by that person of such charge (if any) as the **[**[F539]Agency**]** may reasonably require, furnish that person with a copy of the order and of any relevant map or plan.

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(4) In this paragraph "relevant locality", in relation to any compulsory works order, means—

(a) any locality which is affected by any provision made by the order for the purpose of enabling any engineering or building operations to be carried out; and

(b) where provision is made by the order for the purpose of enabling discharges of water to be made, each locality in which the place of any of the discharges is situated or in which there appears to the **[**[F539]Agency**]** to be any inland waters or underground strata the flow, level or quality of water in which may be affected by any of the discharges.

Textual Amendments

F539 Words in Sch. 19 para. 5 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F540 Words in Sch. 19 para. 5(1)(b)(ii) substituted (2.5.2006 for E., 11.5.2006 for W.) by Restricted Byways (Application and Consequential Amendment of Provisions) Regulations 2006 (S.I. 2006/1177), reg. 1(2)(4), Sch. Pt. I; S.I. 2006/1172, art. 2(a)-(d) (with art. 3); S.I. 2006/1279, art. 2(a)-(d) (with art. 3)

Compulsory acquisition provisions

6 (1) Without prejudice to the provisions of Schedule 23 to this Act—

(a) Part I of the [M172]Compulsory Purchase Act 1965;

(b) section 4 and Part III of, and Schedule 3 to, the [M173]Acquisition of Land Act 1981; and

(c) the enactments for the time being in force with respect to compensation for the compulsory purchase of land,

shall apply in relation to so much of a compulsory works order as confers powers of compulsory acquisition as they apply in relation to a compulsory purchase order made by virtue of section 154 of this Act and, accordingly, shall so apply, where the case so requires, with the modifications made by Schedule 18 to this Act.

(2) Subject to the provisions of sub-paragraph (6) below, if any person aggrieved by a compulsory works order containing powers of compulsory acquisition, or by a certificate given under the special land provisions in connection with such an order, desires—

(a) to question the validity of the order, or of any provision of the order, on the grounds that any powers of compulsory acquisition conferred by the order are not authorised by this Act to be so conferred, or that any of the relevant requirements have not been complied with in relation to the order; or

(b) to question the validity of the certificate on the grounds that any of the relevant requirements have not been complied with in relation to the certificate,

he may make an application for the purpose to the High Court at any time before the end of the period of six weeks beginning with the date on which notice of the making of the order is first published in accordance with paragraph 5 above or, as the case may be, notice of the giving of the certificate is first published in accordance with the special land provisions.

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) On any application under sub-paragraph (2) above with respect to any order or certificate, the High Court—

(a) may by interim order suspend the operation of the order, or any provision of the order, or of the certificate (either generally or in so far as it affects any property of the applicant to the High Court) until the final determination of the proceedings; and

(b) if satisfied—

(i) that any powers of compulsory acquisition conferred by the order are not authorised by this Act to be so conferred; or

(ii) that the interests of that applicant have been substantially prejudiced by a failure to comply with any of the relevant requirements in relation to the order or the certificate,

may quash the order, or any provision of the order, or the certificate (either generally or in so far as it affects any property of that applicant).

(4) Except as provided by sub-paragraph (2) above, the validity of any such order or certificate as is mentioned in that sub-paragraph shall not, either before or after the order or certificate has been made or given, be questioned in any legal proceedings whatsoever.

(5) Subject to any order of the High Court under sub-paragraph (3) above, any such order or certificate as is mentioned in sub-paragraph (2) above shall become operative (except, in the case of an order, where it is subject by virtue of the special land provisions to special parliamentary procedure) on the date on which notice of the making or giving of the order or certificate is published as mentioned in the said sub-paragraph (2).

(6) Where an order such as is mentioned in sub-paragraph (2) above is subject to special parliamentary procedure, sub-paragraphs (2) to (4) of this paragraph—

(a) shall not apply to the order if it is confirmed by Act of Parliament under section 6 of the [M174]Statutory Orders (Special Procedure) Act 1945; and

(b) in any other case, shall have effect as if the reference in sub-paragraph (2) of this paragraph to the date on which notice of the making of the order is first published in accordance with paragraph 5 above were a reference to the date on which the order becomes operative under the said Act of 1945.

(7) In this paragraph—

"the special land provisions" means the provisions, as applied by virtue of sub-paragraph (1) above, of Part III of the [M175]Acquisition of Land Act 1981 or, as the case may require, of Part II of Schedule 3 to that Act; and

"the relevant requirements", in relation to an order or certificate, means the requirements of this Schedule and such requirements of the special land provisions or of any other enactment as are applicable to that order or certificate by virtue of this paragraph.

Marginal Citations

M172 1965 c. 56.
M173 1981 c. 67.
M174 1945 c. 18 (9 & 10 Geo. 6).
M175 1981 c. 67.

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Compensation in certain cases of compulsory acquisition

7 Where—

(a) in connection with any engineering or building operations to which a compulsory works order relates, a licence under Chapter II of Part II of this Act is granted, or is deemed to be granted, to the **[**[F541]Agency**]**; and

(b) that licence is a licence to abstract water or to obstruct or impede the flow of any inland waters,

no compensation shall be payable by virtue of sub-paragraph (1) of paragraph 6 above in respect of any land or interest injuriously affected by the carrying out of those operations, in so far as that land or interest is injuriously affected by the abstraction of water, or the obstruction or impeding of the flow, in accordance with the provisions of the licence.

Textual Amendments

F541 Word in Sch. 19 para. 7 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Compensation in respect of powers other than acquisition powers

8 (1) If the value of any interest in any relevant land is depreciated by the coming into force of so much of any compulsory works order as—

(a) confers compulsory powers, other than powers of compulsory acquisition, for the purpose of enabling any engineering or building operations to be carried out; and

(b) grants authority for the carrying out of the operations,

the person entitled to that interest shall be entitled to compensation from the **[**[F542]Agency**]** of an amount equal to the amount of the depreciation.

(2) Where the person entitled to an interest in any relevant land sustains loss or damage which—

(a) is attributable to so much of any compulsory works order as—

(i) confers compulsory powers, other than powers of compulsory acquisition, for the purpose of enabling any engineering or building operations to be carried out; and

(ii) grants authority for the carrying out of the operations;

(b) does not consist in depreciation of the value of that interest; and

(c) is loss or damage for which he would have been entitled to compensation by way of compensation for disturbance, if his interest in that land had been compulsorily acquired under section 154 of this Act in pursuance of a notice to treat served on the date on which the order comes into force,

he shall be entitled to compensation from the **[**[F542]Agency**]** in respect of that loss or damage, in addition to compensation under sub-paragraph (1) above.

(3) Where any damage to, or injurious affection of, any land which is not relevant land is attributable to so much of any compulsory works order as—

(a) confers compulsory powers, other than powers of compulsory acquisition, for the purpose of enabling any engineering or building operations to be carried out; and

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) grants authority for the carrying out of the operations,

the **[**[F542]Agency**]** shall pay compensation in respect of that damage or injurious affection to every person entitled to an interest in that land.

(4) A person who sustains any loss or damage which is attributable to any discharge of water made by the **[**[F542]Agency**]** in pursuance of a compulsory works order shall be entitled to recover compensation from the **[**[F542]Agency**]** in respect of the loss or damage.

(5) For the purposes of sub-paragraph (4) above any extra expenditure—

(a) which it becomes reasonably necessary for any water undertaker or public authority (other than the **[**[F542]Agency**]**) to incur for the purpose of properly carrying out any statutory functions; and

(b) which is attributable to any such discharge of water as is mentioned in that sub-paragraph,

shall be deemed to be a loss sustained by the undertaker or public authority and to be so attributable.

(6) Any question of disputed compensation under this paragraph, shall be referred to and determined by the Lands Tribunal; and in relation to the determination of any such compensation the provisions of sections 2 and 4 of the [M176]Land Compensation Act 1961 shall apply, subject to any necessary modifications.

(7) For the purpose of assessing any compensation under this paragraph, so far as that compensation is in respect of loss or damage consisting in depreciation of the value of an interest in land, the rules set out in section 5 of the Land Compensation Act 1961 shall, so far as applicable and subject to any necessary modifications, have effect as they have effect for the purpose of assessing compensation for the compulsory acquisition of an interest in land.

(8) Where the interest in land in respect of which any compensation falls to be assessed in accordance with sub-paragraph (7) above is subject to a mortgage—

(a) the compensation shall be assessed as if the interest were not subject to the mortgage;

(b) a claim for compensation may be made by any mortgagee of the interest, but without prejudice to the making of a claim by the person entitled to the interest;

(c) no such compensation shall be payable in respect of the interest of the mortgagee (as distinct from the interest which is subject to the mortgage); and

(d) any such compensation which is payable in respect of the interest which is subject to the mortgage shall be paid to the mortgagee, or, if there is more than one mortgagee, to the first mortgagee, and shall in either case be applied by him as if it were proceeds of sale.

(9) In this paragraph "relevant land", in relation to a compulsory works order, means any land which is not land in relation to which powers of compulsory acquisition are conferred by the order but is—

(a) land where any operations for which authority is granted by the order are to be carried out;

(b) land in relation to which compulsory powers are conferred by the order; or

(c) land held with any land falling within paragraph (a) or (b) above.

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F542 Words in Sch. 19 para. 8 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Marginal Citations

M176 1961 c. 33.

Protection of public undertakings

9 The provisions of section 179 and paragraphs 1, 2 and 5 of Schedule 22 to this Act shall apply, as they apply in relation to the carrying out of works in exercise of the powers specified in those provisions, in relation to the carrying out of works by virtue of an authority granted by so much of any compulsory works order as makes provision other than provision conferring powers of compulsory acquisition.

Interpretation

10 In this Schedule—

"bridleway" and "footpath" have the same meanings as in the [M177]Highways Act 1980;

"compulsory works order" means an order under section 168 of this Act;

"powers of compulsory acquisition" means any such powers as are mentioned in subsection (4)(a) of section 168 of this Act;

[[F543]"restricted byway" has the same meaning as in Part 2 of the Countryside and Rights of Way Act 2000;**]**

and references to a tenant for a month or for any period of less than a month include references to a statutory tenant, within the meaning of the [M178]Landlord and Tenant Act 1985, and to a licensee under an assured agricultural occupancy, within the meaning of Part I of the [M179]Housing Act 1988.

Textual Amendments

F543 Words in Sch. 19 para. 10 inserted (2.5.2006 for E., 11.5.2006 for W.) by Restricted Byways (Application and Consequential Amendment of Provisions) Regulations 2006 (S.I. 2006/1177), reg. 1(2)(4), **Sch. Pt. I**; S.I. 2006/1172, **art. 2(a)-(d)** (with art. 3); S.I. 2006/1279, **art. 2(a)-(d)** (with art. 3)

Marginal Citations

M177 1980 c. 66.
M178 1985 c. 70.
M179 1988 c. 50.

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

SCHEDULE 20

Section 173.207.

SUPPLEMENTAL PROVISIONS WITH RESPECT TO POWERS OF ENTRY

Notice of entry

1 (1) Without prejudice to any power exercisable by virtue of a warrant under this Schedule, no person shall make an entry into any premises or vessel by virtue of any power conferred by sections 169 to 172 of this Act except—

(a) in an emergency; or

(b) at a reasonable time and after the required notice of the intended entry has been given to the occupier of the premises or vessel.

(2) For the purposes of this paragraph the required notice is seven days' notice; but such notice shall not be required in the case of an exercise of a power conferred by section 169 or 172 above, except where the premises in question are residential premises, the vessel in question is used for residential purposes or the entry in question is to be with heavy equipment.

(3) For the purposes of the application of this paragraph to the power conferred by section 170 of this Act the reference in sub-paragraph (1) above to an emergency—

(a) in relation to any entry to premises for the purposes of, or for purposes connected with, the exercise or proposed exercise of any power in relation to a street, includes a reference to any circumstances requiring the carrying out of emergency works within the meaning of Part III of the [M180]New Roads and Street Works Act 1991; and

(b) in relation to any other entry to premises, includes a reference to any danger to property and to any interruption of a supply of water provided to any premises by any person and to any interruption of the provision of sewerage services to any premises.

(4) Until the coming into force of section 52 of the New Roads and Street Works Act 1991, sub-paragraph (3) above shall have effect as if the reference to Part III of that Act were a reference to the [M181]Public Utilities Street Works Act 1950; but nothing in this sub-paragraph shall be taken to prejudice the power of the Secretary of State under that Act of 1991 to make an order bringing that section 52 into force on different days for different purposes (including the purposes of this paragraph).

Marginal Citations

M180 1991 c. 22.

M181 1950 c. 39.

Warrant to exercise power

2 (1) If it is shown to the satisfaction of a justice of the peace on sworn information in writing—

(a) that there are reasonable grounds for the exercise in relation to any premises or vessel of a power conferred by sections 169 to 172 of this Act; and

(b) that one or more of the conditions specified in sub-paragraph (2) below is fulfilled in relation to those premises or that vessel,

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the justice may by warrant authorise the relevant authority to designate a person who shall be authorised to exercise the power in relation to those premises, or that vessel, in accordance with the warrant and, if need be, by force.

(2) The conditions mentioned in sub-paragraph (1)(b) above are—
- (a) that the exercise of the power in relation to the premises or vessel has been refused;
- (b) that such a refusal is reasonably apprehended;
- (c) that the premises are unoccupied or the vessel is unoccupied;
- (d) that the occupier is temporarily absent from the premises or vessel;
- (e) that the case is one of urgency; or
- (f) that an application for admission to the premises or vessel would defeat the object of the proposed entry.

(3) A justice of the peace shall not issue a warrant under this Schedule by virtue only of being satisfied that the exercise of a power in relation to any premises or vessel has been refused, or that a refusal is reasonably apprehended, unless he is also satisfied—
- (a) that notice of the intention to apply for the warrant has been given to the occupier of the premises or vessel; or
- (b) that the giving of such a notice would defeat the object of the proposed entry.

(4) For the purposes of the application of this Schedule to the powers conferred by section 171 of this Act in a case to which subsection (4) of that section applies, a justice of the peace shall not issue a warrant under this Schedule unless he is satisfied that the Secretary of State has given his authorisation for the purposes of that subsection in relation to that case.

(5) Every warrant under this Schedule shall continue in force until the purposes for which the warrant was issued have been fulfilled.

Manner of exercise of powers

3 A person designated as the person who may exercise any power to which this Schedule applies shall produce evidence of his designation and other authority before he exercises the power.

Supplementary powers of person making entry etc.

4 A person authorised to enter any premises or vessel by virtue of any power to which this Schedule applies shall be entitled, subject in the case of a power exercisable under a warrant to the terms of the warrant, to take with him on to the premises or vessel such other persons and such equipment as may be necessary.

Duty to secure premises

5 A person who enters any premises or vessel in the exercise of any power to which this Schedule applies shall leave the premises or vessel as effectually secured against trespassers as he found them.

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Compensation

6 (1) Where any person exercises any power to which this Schedule applies, it shall be the duty of the relevant authority to make full compensation to any person who has sustained loss or damage by reason of—

(a) the exercise by the designated person of that power or of any power to take any person or equipment with him when entering the premises or vessel in relation to which the power is exercised; or

(b) the performance of, or failure of the designated person to perform, the duty imposed by paragraph 5 above.

(2) Compensation shall not be payable by virtue of sub-paragraph (1) above in respect of any loss or damage if the loss or damage—

(a) is attributable to the default of the person who sustained it; or

(b) is loss or damage in respect of which compensation is payable by virtue of any other provision of this Act.

(3) Any dispute as to a person's entitlement to compensation under this paragraph, or as to the amount of any such compensation, shall be referred to the arbitration of a single arbitrator appointed by agreement between the relevant authority and the person who claims to have sustained the loss or damage or, in default of agreement—

(a) by the President of the Lands Tribunal where the relevant authority is one of the Ministers; and

(b) by one of the Ministers, where the **[**[F544]Agency**]** is the relevant authority.

Textual Amendments

F544 Word in Sch. 20 para. 6 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Obstruction of person exercising power

7 A person who intentionally obstructs another person acting in the exercise of any power to which this Schedule applies shall be guilty of an offence and **[**[F545]liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum;

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or to both.**]**

Textual Amendments

F545 Sch. 20 para. 7(a)(b) and word substituted (1.4.1996) for words by 1995 c. 25, s. 120(1), **Sch. 22 para. 188** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Interpretation

8 (1) In this Schedule—

"relevant authority", in relation to a power to which this Schedule applies, means one of the Ministers or the **[**[F546]Agency**]**, according to who is entitled, by virtue of the provision by which the power is conferred or, as the case

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may be, the warrant, to designate the person by whom the power may be exercised; and

"sewerage services" has the same meaning as in the [M182]Water Industry Act 1991.

(2) References in this Schedule to a power to which this Schedule applies are references to any power conferred by Chapter II of Part VI of this Act, including a power exercisable by virtue of a warrant under this Schedule.

(3) For the purposes of paragraphs 5 and 6 above a person enters any premises or vessel by virtue of a power to which this Schedule applies notwithstanding that he has failed (whether by virtue of the waiver of the requirement by the occupier of the premises or otherwise) to comply with-

(a) any requirement to enter those premises at a reasonable time or after giving notice of his intended entry; or

(b) the requirement imposed by paragraph 3 above.

Textual Amendments

F546 Word the definition of "relevant authority" in Sch. 20 para. 8 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Marginal Citations

M182 1991 c. 56.

SCHEDULE 21

Section 177.

CCOMPENSATION ETC. IN RESPECT OF CERTAIN WORKS POWER

Compensation in respect of street works powers

1 (1) This paragraph applies, in relation to the **[**[F547]Agen cy**]**, to the powers conferred on it in relation to streets by sections 159 and 162 of this Act.

(2) It shall be the duty of the **[**[F547]Agency**]**—

(a) to do as little damage as possible in the exercise of the powers to which this paragraph applies; and

(b) to pay compensation for any loss caused or damage done in the exercise of those powers.

(3) Any dispute as to whether compensation should be paid under sub-paragraph (2) above, or as to the amount of any such compensation, shall be referred to the arbitration of a single arbitrator appointed by agreement between the parties to the dispute or, in default of agreement, by the Secretary of State.

(4) Until the coming into force of Part III of the [M183]New Roads and Street Works Act 1991, a payment of compensation under this paragraph shall be treated for the purposes of section 32 of the [M184]Public Utilities Street Works Act 1950 (provisions against duplication of compensation) as made under an enactment passed before that

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Act of 1950; but nothing in this sub-paragraph shall be taken to prejudice the power of the Secretary of State under that Act of 1991 to make an order bringing Part III of that Act into force on different days for different purposes (including the purposes of this paragraph).

Textual Amendments

F547 Words in Sch. 21 para. 1 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Marginal Citations

M183 1991 c. 22.
M184 1950 c. 39.

Compensation in respect of pipe-laying works on private land

2 (1) If the value of any interest in any relevant land is depreciated by virtue of the exercise by the **[**[F548]Agency**]** of any power to carry out pipe-laying works on private land, the person entitled to that interest shall be entitled to compensation from the **[**[F548]Agency**]** of an amount equal to the amount of the depreciation.

(2) Where the person entitled to an interest in any relevant land sustains loss or damage which—

(a) is attributable to the exercise by the **[**[F548]Agen cy**]** of any power to carry out pipe-laying works on private land;

(b) does not consist in depreciation of the value of that interest; and

(c) is loss or damage for which he would have been entitled to compensation by way of compensation for disturbance, if his interest in that land had been compulsorily acquired under section 154 of this Act,

he shall be entitled to compensation from the **[**[F548]Agency**]** in respect of that loss or damage, in addition to compensation under sub-paragraph (1) above.

(3) Where any damage to, or injurious affection of, any land which is not relevant land is attributable to the exercise by the **[**[F548]Agency**]**, of any power to carry out pipe-laying works on private land, the **[**[F548]Agency**]** shall pay compensation in respect of that damage or injurious affection to every person entitled to an interest in that land.

(4) The Secretary of State may by regulations make provision requiring the **[**[F548]Agency**]**, where it is proposing or has begun, in a prescribed case, to exercise any power to carry out pipe-laying works on private land, to make advance payments on account of compensation that will become payable in respect of the exercise of that power.

(5) In this paragraph "relevant land", in relation to any exercise of a power to carry out pipe-laying works on private land, means the land where the power is exercised or land held with that land.

(6) In this paragraph the references to a power to carry out pipe-laying works on private land are references to any of the powers conferred by virtue of section 160 or 162(3) of this Act.

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F548 Words in Sch. 21 para. 2 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Assessment of compensation under paragraph 2

3 (1) Any question of disputed compensation under paragraph 2 above shall be referred to and determined by the Lands Tribunal; and in relation to the determination of any such compensation the provisions of sections 2 and 4 of the [M185]Land Compensation Act 1961 shall apply, subject to any necessary modifications.

(2) For the purpose of assessing any compensation under paragraph 2 above, so far as that compensation is in respect of loss or damage consisting in depreciation of the value of an interest in land, the rules set out in section 5 of the Land Compensation Act 1961 shall, so far as applicable and subject to any necessary modifications, have effect as they have effect for the purpose of assessing compensation for the compulsory acquisition of an interest in land.

(3) Where the interest in land in respect of which any compensation falls to be assessed in accordance with sub-paragraph (2) above is subject to a mortgage—

(a) the compensation shall be assessed as if the interest were not subject to the mortgage;

(b) a claim for compensation may be made by any mortgagee of the interest, but without prejudice to the making of a claim by the person entitled to the interest;

(c) no such compensation shall be payable in respect of the interest of the mortgagee (as distinct from the interest which is subject to the mortgage); and

(d) any such compensation which is payable in respect of the interest which is subject to the mortgage shall be paid to the mortgagee, or, if there is more than one mortgagee, to the first mortgagee, and shall in either case be applied by him as if it were proceeds of sale.

(4) Where, apart from this sub-paragraph, any person entitled to an interest in any land would be entitled under paragraph 2 above to an amount of compensation in respect of any works, there shall be deducted from that amount an amount equal to the amount by which the carrying out of the works has enhanced the value of any other land which—

(a) is contiguous or adjacent to that land; and

(b) is land to an interest in which that person is entitled in the same capacity.

Marginal Citations

M185 1961 c. 33.

Compensation in respect of discharges for works purposes

4 (1) It shall be the duty of the **[**[F549]Agency**]**—

Status: *Point in time view as at 01/10/2006.*
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(a) to cause as little loss and damage as possible in the exercise of the powers conferred on it by section 163 of this Act; and

(b) to pay compensation for any loss caused or damage done in the exercise of those powers.

(2) For the purposes of sub-paragraph (1) above any extra expenditure—

(a) which it becomes reasonably necessary for any water undertaker, sewerage undertaker or public authority (other than the **[**[F549]Agen cy**]** itself) to incur for the purpose of properly carrying out any statutory functions; and

(b) which is attributable to any discharge of water under section 163 of this Act,

shall be deemed to be a loss sustained by the undertaker or public authority and to have been caused in exercise of the powers conferred by that section.

(3) Any dispute as to whether compensation should be paid under sub-paragraph (1) above, or as to the amount of any such compensation, shall be referred to the arbitration of a single arbitrator appointed by agreement between the parties to the dispute or, in default of agreement, by the President of the Institution of Civil Engineers.

Textual Amendments

F549 Words in Sch. 21 para. 4 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Compensation in respect of flood defence and drainage works

5 (1) Where injury is sustained by any person by reason of the exercise by the **[**[F550]Agen cy**]** of any powers under section 165(1) to (3) of this Act, the **[**[F550]Agency**]** shall be liable to make full compensation to the injured party.

(2) In case of dispute, the amount of any compensation under sub-paragraph (1) above shall be determined by the Lands Tribunal.

(3) Where injury is sustained by any person by reason of the exercise by the **[**[F550]Agen cy**]** of its powers under subsection (1)(b) of section 167 of this Act—

(a) the **[**[F550]Agency**]** may, if it thinks fit, pay to him such compensation as it may determine; and

(b) if the injury could have been avoided if those powers had been exercised with reasonable care, the provisions of sub-paragraphs (1) and (2) above shall apply as if the injury had been sustained by reason of the exercise by the **[**[F550]Agency**]** of its powers under section 165(1) to (3) of this Act.

Textual Amendments

F550 Words in Sch. 21 para. 5 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Modifications etc. (not altering text)

C154 Sch. 21 para. 5(1)(2) applied (16.3.1992) by Avon Weir Act 1992 (c. v), **s. 7(5)** (with s. 61)

Status: *Point in time view as at 01/10/2006.*
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SCHEDULE 22

Section 178.

PROCTECTION FOR PARTICULAR UNDERTAKINGS

Modifications etc. (not altering text)
C155 Sch. 22 applied (1.12.1991) by Land Drainage Act 1991 (c. 59, SIF 73:1), **ss. 67(2)**, 76(2)

General provisions protecting undertakings

1 (1) Nothing in any of the provisions of this Act conferring power on the **[**[F551]Agency**]** to carry out any works shall confer power to do anything, except with the consent of the persons carrying on an undertaking protected by this paragraph, which, whether directly or indirectly, so interferes or will so interfere—

(a) with works or property vested in or under the control of the persons carrying on that undertaking, in their capacity as such; or

(b) with the use of any such works or property,

as to affect injuriously those works or that property or the carrying on of that undertaking.

(2) A consent for the purposes of sub-paragraph (1) above may be given subject to reasonable conditions but shall not be unreasonably withheld.

(3) Subject to the following provisions of this Schedule, any dispute—

(a) as to whether anything done or proposed to be done interferes or will interfere as mentioned in sub-paragraph (1) above;

(b) as to whether any consent for the purposes of this paragraph is being unreasonably withheld; or

(c) as to whether any condition subject to which any such consent has been given was reasonable,

shall be referred to the arbitration of a single arbitrator to be appointed by agreement between the parties to the dispute or, in default of agreement, by the President of the Institution of Civil Engineers.

(4) The following are the undertakings protected by this paragraph, that is to say-

(a) the undertakings of the Civil Aviation Authority, **[**[F552]the Coal Authority**]** and **[**[F553]a universal service provider (so far as it is his undertaking in relation to the provision of a universal postal service)**]**;

(b) the undertaking of any water undertaker or sewerage undertaker;

[[F554](c) any undertaking consisting in the provision of an electronic communications network;**]**

(d) any airport to which Part V of the [M186]Airports Act 1986 applies;

(e) the undertaking of any public gas supplier within the meaning of Part I of the [M187]Gas Act 1986;

(f) the undertaking of any person authorised by a licence under Part I of the [M188]Electricity Act 1989 to generate, **[**[F555]supply or participate in the transmission of**]** electricity;

(g) the undertaking of any navigation authority, harbour authority or conservancy authority or of any internal drainage board;

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(h) the undertaking of any railway company;

(i) any public utility undertaking carried on by a local authority under any Act or under any order having the force of an Act.

[F556(j) the undertaking of any licensed operator, within the meaning of the Coal Industry Act 1994;]

[F557(k) the undertaking of a person who holds a licence under Chapter I of Part I of the Transport Act 2000 (air traffic services) to the extent that it is the person's undertaking as licence holder.]

[F558(4A) In sub-paragraph (4)(a) above "universal service provider" has the same meaning as in the Postal Services Act 2000; and the reference to the provision of a universal postal service shall be construed in accordance with that Act.]

(5) For the purposes of this paragraph any reference in this paragraph, in relation to any such airport as is mentioned in sub-paragraph (4)(d) above, to the persons carrying on the undertaking is a reference to the airport operator.

(6) The reference in sub-paragraph (1) above to the provisions of this Act conferring power to carry out works includes (without prejudice to the extent of that reference apart from this sub-paragraph) a reference to any provisions of any order under section 108 of this Act by virtue of which any such power is conferred.

Textual Amendments

F551 Words in Sch. 22 para. 1 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F552 Words in Sch. 22 para. 1(4)(a) substituted (31.10.1994) by 1994 c. 21, s. 67, **Sch. 9 para. 43(1)(a)** (with s. 40(7)); S.I. 1994/2553, **art. 2**

F553 Words in Sch. 22 para. 1(4)(a) substituted (26.3.2001) by S.I. 2001/1149, art. 3(1), **Sch. 1 para. 89(2)**

F554 Sch. 22 para. 1(4)(c) substituted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by Communications Act 2003 (c. 21), s. 411(2), **Sch. 17 para. 114(2)** (with Sch. 18); S.I. 2003/1900, arts. 1(2), 2(1), Sch. 1 (with art. 3) (as amended by S.I. 2003/3142, art. 1(3)); S.I. 2003/3142, art. 3(2) (with art. 11)

F555 Words in Sch. 22 para. 1(4)(f) substituted (1.9.2004) by Energy Act 2004 (c. 20), s. 198(2), **Sch. 19 para. 18**; S.I. 2004/2184, art. 2(2), Sch. 2

F556 Sch. 22 para. 1(4)(j) inserted (31.10.1994) by 1994 c. 21, s. 67, **Sch. 9 para. 43(1)(b)** (with s. 40(7)); S.I. 1994/2553, **art. 2**

F557 Sch. 22 para. 1(4)(k) inserted (1.4.2001) by 2000 c. 38, s. 37, **Sch. 5 para. 15** (with s. 106); S.I. 2001/869, **art. 2**

F558 Sch. 22 para. 1(4A) inserted (26.3.2001) by S.I. 2001/1149, art. 3(1), **Sch. 1 para. 89(3)**

Modifications etc. (not altering text)

C156 Sch. 22 para. 1(4)(e) amended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(2)(n)**; S.I. 1996/218, **art. 2**

Marginal Citations

M186 1986 c. 31.

M187 1986 c. 44.

M188 1989 c. 29.

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Protection for statutory powers and jurisdiction

2 (1) Subject to sub-paragraph (2) below, nothing in—

(a) any provision of this Act conferring power on the **[**[F559]Agency**]** to carry out any works; or

(b) any of the flood defence provisions of this Act,

shall confer power to do anything which prejudices the exercise of any statutory power, authority or jurisdiction from time to time vested in or exercisable by any persons carrying on an undertaking protected by paragraph 1 above.

(2) Nothing in this paragraph shall be taken to exclude the application of section 109 of this Act to any work executed by persons carrying on an undertaking protected by paragraph 1 above.

(3) Sub-paragraph (6) of paragraph 1 above shall apply for the purposes of sub-paragraph (1) above as it applies for the purposes of sub-paragraph (1) of that paragraph.

(4) This paragraph shall be without prejudice to any power under this Act to transfer the functions of any authority.

Textual Amendments

F559 Word in Sch. 22 para. 2 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Special protection for certain undertakings in respect of street works

3 (1) Subject to the following provisions of this paragraph and without prejudice to the other provisions of this Schedule, the powers under the street works provisions to break up or open a street shall not be exercisable where the street, not being a highway maintainable at public expense (within the meaning of the [M189]Highways Act 1980)—

(a) is under the control or management of, or is maintainable by, a railway company or a navigation authority; or

(b) forms part of a level crossing belonging to such a company or authority or to any other person,

except with the consent of the company or authority or, as the case may be, of the person to whom the level crossing belongs.

(2) Sub-paragraph (1) above shall not apply to any exercise of the powers conferred by the street works provisions for the carrying out of emergency works, within the meaning of Part III of the [M190]New Roads and Street Works Act 1991.

(3) A consent given for the purposes of sub-paragraph (1) above may be made subject to such reasonable conditions as may be specified by the person giving it but shall not be unreasonably withheld.

(4) Any dispute—

(a) as to whether a consent for the purposes of sub-paragraph (1) above should be given or withheld; or

(b) as to whether the conditions to which any such consent is made subject are reasonable,

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

shall be referred to the arbitration of a single arbitrator appointed by agreement between the parties to the dispute or, in default of agreement, by the President of the Institution of Civil Engineers.

(5) If the **[**[F560]Agency**]** contravenes, without reasonable excuse, the requirements of sub-paragraph (1) above, it shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

(6) The restrictions contained in paragraphs (1) to (5) of section 32 of the [M191]Tramways Act 1870 (protection of tramways) shall apply in relation to any exercise of a power conferred by the street works provision s—

(a) as they apply in relation to the powers mentioned in that section; and

(b) as if references in that section to a tramway included references to a trolley vehicle system.

(7) In this paragraph "the street works provisions" means sections 159 and 162(2) of this Act.

(8) Until the coming into force of section 52 of the New Roads and Street Works Act 1991, sub-paragraph (2) above shall have effect as if the reference to Part III of that Act were a reference to the [M192]Public Utilities Street Works Act 1950; but nothing in this sub-paragraph shall be taken to prejudice the power of the Secretary of State under that Act of 1991 to make an order bringing that section 52 into force on different days for different purposes (including the purposes of this paragraph).

Textual Amendments

F560 Word in Sch. 22 para. 3 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Marginal Citations

M189 1980 c. 66.
M190 1991 c. 22.
M191 1870 c. 78.
M192 1950 c. 39.

Protection for railways in connection with carrying out of flood defence functions

4 (1) Without prejudice to the preceding provisions of this Schedule, nothing in the flood defence provisions of this Act shall authorise any person, except with the consent of the railway company in question, to interfere with—

(a) any railway bridge or any other work connected with a railway; or

(b) the structure, use or maintenance of a railway or the traffic on it.

(2) A consent for the purposes of sub-paragraph (1) above may be given subject to reasonable conditions but shall not be unreasonably withheld.

(3) Subject to the following provisions of this Schedule, any dispute—

(a) as to whether anything interferes, or will interfere, as mentioned in sub-paragraph (1) above;

(b) as to whether any consent for the purposes of this paragraph is being unreasonably withheld; or

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(c) as to whether any condition subject to which any such consent has been given was reasonable,

shall be referred to the arbitration of a single arbitrator to be appointed by agreement between the parties to the dispute or, in default of agreement, by the President of the Institution of Civil Engineers.

Protection for telecommunication systems

5 Paragraph 23 of Schedule 2 to the [M193]Telecommunications Act 1984 (which provides a procedure for certain cases where works involve the alteration of **[**[F561]electronic communications apparatus**]**) shall apply to the **[**[F562]Agency**]** for the purposes of any works carried out by the **[**[F562]Agency**]** in exercise of any of the powers conferred by any enactment (including **[**[F563]section 37 of the 1995 Act)**]**.

Textual Amendments

F561 Words in Sch. 22 para. 5 substituted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by Communications Act 2003 (c. 21), s. 411(2), **Sch. 17 para. 114(3)** (with Sch. 18); S.I. 2003/1900, arts. 1(2), 2(1), Sch. 1 (with art. 3) (as amended by S.I. 2003/3142, art. 1(3)); S.I. 2003/3142, art. 3(2) (with art. 11)

F562 Word in Sch. 22 para. 5 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F563 Words in Sch. 22 para. 5 substituted (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 189** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Marginal Citations

M193 1984 c. 12.

Interpretation

6 In this Schedule "railway company" means the British Railways Board, **[**[F564]Transport for London or any subsidiary (within the meaning of the Greater London Authority Act 1999) of Transport for London,**]** or any other person authorised by any enactment, or by any order, rule or regulation made under any enactment, to construct, work or carry on a railway.

Textual Amendments

F564 Words in Sch. 22 para. 6 substituted (15.7.2003) by The Transport for London (Consequential Provisions) Order 2003 (S.I. 2003/1615), art. 1(1), **Sch. 1 para. 16(3)**

SCHEDULE 23

Section 182.

MINERAL RIGHTS

Acquisition of mineral rights

1 (1) This paragraph applies in each of the following cases, that is to say—

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) where the **[**[F565]Agency**]** acquires any land (whether compulsorily in exercise of any power conferred by or under this Act or otherwise); and

(b) where the **[**[F565]Agency**]** carries out any works in relation to any land for the purposes of, or in connection with, the carrying out of any of its functions.

(2) Subject to sub-paragraph (3) below, the **[**[F565]Agency**]** shall not, by virtue only of its acquisition of the land or the carrying out of the works, become entitled to any mines or minerals lying under the land; and, accordingly, any such mines or minerals shall be deemed to be excepted from any instrument by virtue of which the land vests in the **[**[F565]Agency**]** unless express provision to the contrary is contained—

(a) where the land vests in the **[**[F565]Agency**]** by virtue of a conveyance, in the conveyance; or

(b) where the land is acquired by the **[**[F565]Agency**]** in pursuance of any power of compulsory acquisition conferred by or under this Act, in the order authorising the acquisition.

(3) The **[**[F565]Agency**]** shall be entitled to such parts of any mines or minerals that lie under the land as it may be necessary for it to dig, carry away or use in carrying out any works for the purpose of constructing, making, erecting or laying any part of its undertaking.

Textual Amendments

F565 Words in Sch. 23 para. 1 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Notice required for the working of underlying mines

2 (1) If the owner of any mines or minerals underlying any part of the **[**[F566]Agency's**]** undertaking proposes to work them, he shall, not less than thirty days before the commencement of working, serve notice of his intention to do so on the **[**[F566]Agency**]**.

(2) On receipt of a notice under sub-paragraph (1) above the **[**[F566]Agency**]** may cause the mines or minerals to be inspected by a person designated by it for the purpose.

(3) Subject to sub-paragraph (5) and paragraph 3 below, if, where notice has been served under this paragraph, the **[**[F566]Agency**]**—

(a) considers that the working of the underlying mines or minerals is likely to damage any part of its undertaking;

(b) is willing to compensate the owner of the mines or minerals for the restriction imposed by virtue of this sub-paragraph; and

(c) serves notice to that effect on the owner of the mines or minerals before the end of the period of thirty days mentioned in sub-paragraph (1) above,

the owner shall not work the mines or minerals except to such extent as may be determined by the **[**[F566]Agency**]**, and the **[**[F566]Agency**]** shall so compensate the owner.

(4) Any dispute as to the amount of any compensation payable by virtue of sub-paragraph (3) above shall be referred to and determined by the Lands Tribunal.

(5) If before the end of the period of thirty days mentioned in sub-paragraph (1) above, no notice has been served under sub-paragraph (3)(c) above by the **[**[F566]Agency**]**,

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the entitlement of the owner of the mines and minerals to work them shall be an entitlement to work them by proper methods and in the usual manner of working such mines or minerals in the district in question.

(6) If any damage to the undertaking of the **[**[F566]Agency**]** is caused by the working otherwise than as authorised by this paragraph of any mines or minerals underlying any part of its undertaking—

(a) the owner of the mines or minerals shall, at his own expense, forthwith repair the damage; and

(b) the **[**[F566]Agency**]** may, without waiting for the owner to perform his duty, repair the damage and may recover the expenses reasonably incurred by it in doing so from the owner.

Textual Amendments

F566 Words in Sch. 23 para. 2 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Mining communications

3 (1) If the working of any mines or minerals is prevented by reason of any of the preceding provisions of this Schedule, the owner of the mines or minerals may cut and make such communication works through the mines or minerals, or the strata in which they are situated, as are required for the ventilation, drainage and working of mines or minerals which are not underlying any part of the undertaking of the **[**[F567]Agency**]**.

(2) Communication works cut or made under this paragraph—

(a) shall not, in a case where—

(i) the part of the undertaking in question was constructed, made, erected or laid in pursuance of an order made under any enactment or is situated on land acquired by the **[**[F567]Agency**]** in pursuance of any powers of compulsory acquisition; and

(ii) the order authorising the works or acquisition designates dimensions or sections for the communication works,

exceed those dimensions or fail to conform to those sections; and

(b) in any other case, shall not be more than 2.44 metres high or more than 2.44 metres wide.

(3) Communication works cut or made under this paragraph shall not be cut or made on the land where the part of the undertaking is situated so as to cause damage to that part of the undertaking.

(4) Where works carried out under this paragraph by the owner of any mines or minerals cause loss or damage to the owner or occupier of land lying over the mines or minerals, the **[**[F567]Agency**]** shall pay full compensation to him for the loss or damage.

(5) Sub-paragraph (4) above shall not apply where the person sustaining the loss or damage is the owner of the mines.

(6) In this paragraph "communication works" means airways, headways, gateways or water levels.

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F567 Words in Sch. 23 para. 3 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Compensation relating to severance

4 (1) Where mines or minerals underlying any part of the **[**[F568]Agency's**]** undertaking are situated so as, on two or more sides of that land, to extend beyond the land on which that part of the undertaking is situated, the **[**[F568]Agency**]** shall from time to time pay to the owner of the mines or minerals (in addition to any compensation under paragraph 2 above) any expenses and losses incurred by him in consequence of—

(a) the severance by the undertaking of the land lying over the mines;

(b) the interruption of continuous working of the mines in consequence of paragraph 2(3) above;

(c) the mines being so worked in accordance with restrictions imposed by virtue of this Act or any order made under this Act,

and shall pay for any minerals not purchased by the **[**[F568]Agency**]** which cannot be got or won by reason of the part of the undertaking in question being situated where it is or by reason of the requirement to avoid damage to any part of the **[**[F568]Agency's**]** undertaking.

(2) Any dispute as to whether any sum should be paid under this paragraph, or as to the amount payable, shall be referred to the arbitration of a single arbitrator appointed by agreement between the **[**[F568]Agency**]** and the owner of the mines or minerals or, in default of agreement, by the Secretary of State.

Textual Amendments

F568 Words in Sch. 23 para. 4 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Powers of entry

5 (1) Any person designated in writing for the purpose by the **[**[F569]Agency**]** may, for any purpose specified in sub-paragraph (2) below—

(a) enter on any land in which the mines or minerals are, or are thought to be, being worked, and which is in or near to the land where any part of the **[**[F569]Agency's**]** undertaking is situated; and

(b) enter the mines and any works connected with the mines.

(2) The purposes mentioned in sub-paragraph (1) above are—

(a) carrying out any inspection under paragraph 2(2) above;

(b) ascertaining whether any mines or minerals have been worked so as to damage the undertaking of the **[**[F569]Agency**]**; and

(c) carrying out any works and taking any other steps which the **[**[F569]Agency**]** in question is authorised to carry out or take under paragraph 2(6) above.

(3) A person authorised to enter any premises under this paragraph may—

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) make use of any equipment belonging to the owner of the mines or minerals in question; and

(b) use all necessary means for discovering the distance from any part of the undertaking of the **[**[F569]Agency**]** to the parts of the mines or the minerals which are, or are about to be, worked.

(4) Schedule 20 to this Act shall apply in relation to the powers conferred by this paragraph as it applies to the powers conferred by sections 169 to 172 of this Act.

Textual Amendments

F569 Words in Sch. 23 para. 5 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

No exemption for injury to mines and minerals

6 Nothing in any provision of this Act or of any order made under this Act shall be construed as exempting the **[**[F570]Agency**]** from any liability to which it would, apart from that provision, have been subject in respect of any damage to any mines or minerals underlying any part of its undertaking or in respect of any loss sustained in relation to any such mines or minerals by a person having an interest therein.

Textual Amendments

F570 Word in Sch. 23 para 6 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Interpretation

7 (1) In this Schedule—

"conveyance" has the same meaning as in the [M194]Law of Property Act 1925;

"designated distance", in relation to any part of the **[**[F571]Agency's**]** undertaking, means, subject to sub-paragraph (6) below, thirty-seven metres;

"mines" means mines of coal, ironstone, slate or other minerals;

"owner", in relation to mines and minerals, includes a lessee or occupier; and

"underlying", in relation to any part of the **[**[F571]Agency's**]**undertaking, means lying under, or within the designated distance from, that part of that undertaking.

(2) For the purposes of this Schedule the **[**[F571]Agency's**]** undertaking shall be taken to consist of so much of any of the following as is for the time being vested in or held by the **[**[F571]Agency**]** for the purposes of, or in connection with, the carrying out of any of its functions, that is to say—

(a) any buildings, reservoirs, wells, boreholes or other structures; and

(b) any pipes or other underground works particulars of which fall or would fall to be incorporated in any records kept under section 195 of this Act.

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) References in this Schedule to the working of any mines or minerals include references to the draining of mines and to the winning or getting of minerals.

(4) For the purposes of this Schedule land shall be treated as acquired by the **[**[F571]Agency**]** in pursuance of powers of compulsory acquisition if it—

(a) was so acquired by a water authority or any predecessor of a water authority; and

(b) is now vested in the **[**[F571]Agency**]** in accordance with a scheme under Schedule 2 to the [M195]Water Act 1989 or otherwise.

(5) In relation to any land treated by virtue of sub-paragraph (4) above as acquired in pursuance of powers of compulsory acquisition, references in this Schedule to the order authorising the acquisition include references to any local statutory provision which immediately before 1st September 1989 had effect in relation to that land for the purposes of any provisions corresponding to the provisions of this Schedule.

(6) For the purposes of this Schedule where—

(a) any part of the **[**[F571]Agency's**]** undertaking was constructed, made, erected or laid in pursuance of an order made under any enactment or is situated on land acquired by the **[**[F571]Agency**]** in pursuance of any powers of compulsory acquisition; and

(b) the order authorising the works or acquisition designates any distance for the purposes of any enactment relating to mines or minerals underlying that part of the undertaking,

then for the purposes of this Schedule that distance (instead of the distance specified in subsection (1) above) shall be the designated distance in relation to that part of the undertaking.

Textual Amendments

F571 Words in Sch. 23 para. 7 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Marginal Citations

M194 1925 c. 20.

M195 1989 c. 15.

SCHEDULE 24

Section 204.

DISCLOSURE OF INFORMATION

PART I

PERSONS IN RESPECT OF WHOSE FUNCTIONS DISCLOSURE MAY BE MADE

Any Minister of the Crown.

[[F572]The Office of Fair Trading.**]**

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F572 Words in Sch. 24 Pt. I substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 26(2)(a)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

[[F573]The Competition Commission**]**.

Textual Amendments

F573 Words in Sch. 24 Pt. 1 substituted (1.4.1999) by S.I. 1999/506, **art. 31(b)** (with art. 3)

[[F574]The Office of Communications**]**

Textual Amendments

F574 Words in Sch. 24 Pt. I substituted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by Communications Act 2003 (c. 21), s. 411(2), **Sch. 17 para. 115(2)** (with Sch. 18); S.I. 2003/1900, arts. 1(2), 2(1), Sch. 1 (with art. 3) (as amended by S.I. 2003/3142, art. 1(3)); S.I. 2003/3142, art. 3(2) (with art. 11)

The Civil Aviation Authority.

The Director General of Gas Supply.

The Director General of Electricity Supply.

[[F575]The Coal Authority.**]**

Textual Amendments

F575 Entry in Sch. 24 Pt. I inserted (31.10.1994) by 1994 c. 21, s. 67, **Sch. 9 para. 43(2)(a)** (with s. 40(7)); S.I. 1994/2553, **art. 2**

[[F576]Office of Rail Regulation**]**

Textual Amendments

F576 Words in Sch. 24 substituted (5.7.2004) by Railways and Transport Safety Act 2003 (c. 20), **Sch. 2 para. 19(m)**; S.I. 2004/827, art. 4(g)

A local weights and measures authority in England and Wales.

PART II

ENACTMENTS ETC. IN RESPECT OF WHICH DISCLOSURE MAY BE MADE

The [M196]Trade Descriptions Act 1968.

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Marginal Citations
M196 1968 c. 29.

The [M197]Fair Trading Act 1973.

Marginal Citations
M197 1973 c. 41.

The [M198]Consumer Credit Act 1974.

Marginal Citations
M198 1974 c. 39.

F577 . . . . . .

Textual Amendments
F577 Entries in Sch. 24 Pt. II repealed (1.3.2000) by 1998 c. 41, ss. 66(5), 74(3), 76(3), Sch. 10 Pt. IV para. 14(a), **Sch. 14 Pt. I** (with s. 73); S.I. 2000/344, art. 3(1), **Sch.**

F577 . . . . . .

The [M199]Estate Agents Act 1979.

Marginal Citations
M199 1979 c. 38.

The [M200]Competition Act 1980.

Marginal Citations
M200 1980 c. 21.

The [M201]Telecommunications Act 1984.

Marginal Citations
M201 1984 c. 12.

The [M202]Airports Act 1986.

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Marginal Citations
M202 1986 c. 31.

The [M203]Gas Act 1986.

Marginal Citations
M203 1986 c. 44.

The [M204]Consumer Protection Act 1987.

Marginal Citations
M204 1987 c. 43.

The [M205]Electricity Act 1989.

Marginal Citations
M205 1989 c. 29.

[[F578]The Railways Act 1993**]**

Textual Amendments
F578 Entry in Sch. 24 Pt. II inserted (6.1.1994) by 1993 c. 43, ss. 150(1)(o), 152(1), **Sch. 12 para. 31**; S.I. 1993/3237, **art. 2(2)**.

[[F579]The Coal Industry Act 1994.**]**

Textual Amendments
F579 Entry in Sch. 24 Pt. II inserted (31.10.1994) by 1994 c. 21, s. 67, **Sch. 9 para. 43(2)(b)** (with s. 40(7)); S.I. 1994/2553, **art. 2**

[[F580]The Competition Act 1998.**]**

Textual Amendments
F580 Entry in Sch. 24 Pt. II inserted (11.1.1999) by 1998 c. 41, s. 66(5), **Sch. 10 Pt. IV para. 14(b)** (with s. 73); S.I. 1998/3166, art. 2, **Sch.**

[[F581]Part I of the Transport Act 2000.**]**

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F581 Entry in Sch. 24 Pt. II inserted (21.12.2001) by S.I. 2001/4050, art. 2, **Sch. Pt. IV para. 22**

[[F582]The Enterprise Act 2002.**]**

Textual Amendments

F582 Words in Sch. 24 Pt. II inserted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 26(2)(b)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)

[[F583]The Communications Act 2003.**]**

Textual Amendments

F583 Words in Sch. 24 Pt. II inserted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by Communications Act 2003 (c. 21), s. 411(2), **Sch. 17 para. 115(3)** (with Sch. 18); S.I. 2003/1900, arts. 1(2), 2(1), Sch. 1 (with art. 3) (as amended by S.I. 2003/3142, art. 1(3)); S.I. 2003/3142, art. 3(2) (with art. 11)

[[F584]The Railways Act 2005.**]**

Textual Amendments

F584 Words in Sch. 24 Pt. II inserted (8.6.2005) by Railways Act 2005 (c. 14), s. 60(2), **Sch. 12 para. 11**; S.I. 2005/1444, art. 2(1), Sch. 1

Any subordinate legislation made for the purpose of securing compliance with the Directive of the Council of the European Communities dated 10th September 1984 (No.84/450/EEC) on the approximation of the laws, regulations and administrative provisions of the member States concerning misleading advertising.

SCHEDULE 25

Section 210.

BYELAW - MAKING POWERS OF THE AUTHORITY

Byelaws for regulating use of inland waters

1 (1) Subject to the following provisions of this paragraph but without prejudice to the powers conferred by the following provisions of this Schedule, where it appears to the **[**[F585]Agency**]** to be necessary or expedient to do so for the purposes of any of the functions specified in **[**[F586]sub-paragraphs (i), (iii) and (v) of section 2(1)(a) of the 1995 Act**]**, the **[**[F585]Agency**]** may make byelaws—

(a) prohibiting such inland waters as may be specified in the byelaws from being used for boating (whether with mechanically propelled boats or otherwise), swimming or other recreational purposes; or

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) regulating the way in which any inland waters so specified may be used for any of those purposes.

(2) Byelaws made by the **[**[F585]Agency**]** under this paragraph shall not apply to—
(a) any tidal waters or any discrete waters;
(b) any inland waters in relation to which functions are exercisable by a navigation authority, harbour authority or conservancy authority other than the **[**[F585]Agency**]**; or
(c) any reservoir belonging to, and operated by, a water undertaker.

(3) Byelaws made in respect of any inland waters by virtue of this paragraph may—
(a) include provision prohibiting the use of the inland waters by boats which are not for the time being registered with the **[**[F585]Agency**]** in such manner as the byelaws may provide; and
(b) authorise the **[**[F585]Agency**]** to make reasonable charges in respect of the registration of boats in pursuance of the byelaws.

Textual Amendments

F585 Words in Sch 25 para. 1 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F586 Words in Sch. 25 para. 1(1) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 190** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Modifications etc. (not altering text)

C157 Sch. 25 para. 1 applied (with modifications) (15.8.2002) by S.I. 2002/1998, **arts. 4**, 32 (with art. 33)

Byelaws for regulating the use of navigable waters etc.

2 (1) The **[**[F587]Agency**]** shall have power to make such byelaws as are mentioned in sub-paragraph (3) below with respect to any inland waters in relation to which—
(a) there is a public right of navigation; and
(b) the condition specified in sub-paragraph (2) below is satisfied,
and with respect to any land associated with such waters.

(2) For the purposes of this paragraph the condition mentioned in sub-paragraph (1) above is satisfied in relation to any waters if navigation in those waters—
(a) is not for the time being subject to the control of any navigation authority, harbour authority or conservancy authority; or
(b) is subject to the control of such a navigation authority, harbour authority or conservancy authority as is prescribed for the purposes of this paragraph by reason of its appearing to the Secretary of State to be unable for the time being to carry out its functions.

(3) The byelaws referred to in sub-paragraph (1) above in relation to any inland waters or to any land associated with any such waters are byelaws for any of the following purposes, that is to say—
(a) the preservation of order in or on any such waters or land;
(b) the prevention of damage to anything in or on any such waters or land or to any such land;

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(c) securing that persons resorting to any such waters or land so behave as to avoid undue interference with the enjoyment of the waters or land by others.

(4) Without prejudice to the generality of any of the paragraphs of sub-paragraph (3) above or to the power conferred on the **[**[F587]Agency**]** by virtue of paragraph 4 below, the byelaws mentioned in that sub-paragraph include byelaws—

(a) regulating sailing, boating, bathing and fishing and other forms of recreation;

(b) prohibiting the use of the inland waters in question by boats which are not for the time being registered, in such manner as may be required by the byelaws, with the **[**[F587]Agency**]**;

(c) requiring the provision of such sanitary appliances as may be necessary for the purpose of preventing pollution; and

(d) authorising the making of reasonable charges in respect of the registration of boats for the purposes of the byelaws.

(5) In this paragraph "boat" includes a vessel of any description, and "boating" shall be construed accordingly.

Textual Amendments

F587 Words in Sch. 25 para. 2 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

*Byelaws for regulating the use of the **[**[F588]Agency's**]** waterways etc.*

Textual Amendments

F588 Word in the cross-heading to Sch. 25 para. 3 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

3 (1) The **[**[F589]Agency**]** shall have power to make such byelaws as are mentioned in sub-paragraph (2) below with respect to any waterway owned or managed by the **[**[F589]Agency**]** and with respect to any land held or managed with the waterway.

(2) The byelaws referred to in sub-paragraph (1) above in relation to any waterway or to any land held or managed with any such waterway are byelaws for any of the following purposes, that is to say—

(a) the preservation of order on or in any such waterway or land;

(b) the prevention of damage to anything on or in any such waterway or land or to any such land;

(c) securing that persons resorting to any such waterway or land so behave as to avoid undue interference with the enjoyment of the waterway or land by others.

(3) Without prejudice to the generality of any of the paragraphs of sub-paragraph (2) above or to the power conferred on the **[**[F589]Agency**]** by virtue of paragraph 4 below, the byelaws mentioned in that sub-paragraph include byelaws—

(a) regulating sailing, boating, bathing and fishing and other forms of recreation;

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Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) prohibiting the use of the waterway in question by boats which are not for the time being registered, in such manner as may be required by the byelaws, with the **[**[F589]Agency**]**;

(c) requiring the provision of such sanitary appliances as may be necessary for the purpose of preventing pollution; and

(d) authorising the making of reasonable charges in respect of the registration of boats for the purposes of the byelaws.

(4) In this paragraph—

"boat" and "boating" have the same meanings as in paragraph 2 above; and

"waterway" has the same meaning as in the National Parks and Access to the [M206]Countryside Act 1949.

Textual Amendments

F589 Words in Sch. 25 para. 3 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Marginal Citations

M206 1949 c. 97.

Byelaws for controlling certain forms of pollution

4 (1) The **[**[F590]Agency**]** may by byelaws make such provision as the **[**[F590]Agency**]** considers appropriate—

(a) for prohibiting or regulating the washing or cleaning in any controlled waters of things of a description specified in the byelaws;

(b) for prohibiting or regulating the keeping or use on any controlled waters of vessels of a description specified in the byelaws which are provided with water closets or other sanitary appliances.

(2) In this paragraph—

"controlled waters" has the same meaning as in Part III of this Act; and

"sanitary appliance", in relation to a vessel, means any appliance which—

(a) not being a sink, bath or shower bath, is designed to permit polluting matter to pass into the water where the vessel is situated; and

(b) is prescribed for the purposes of this paragraph.

Textual Amendments

F590 Words in Sch. 25 para. 4 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Byelaws for flood defence and drainage purposes

5 (1) The **[**[F591]Agency**]** may make such byelaws in relation to any particular locality or localities as it considers **[**[F592]necessary—

(a) for securing the efficient working of any drainage system, or

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(b) for regulating the effects of any drainage system on the environment.**]**

(2) Without prejudice to the generality of sub-paragraph (1) above and subject to sub-paragraph (3) below, the **[**[F591]Agency**]** may, in particular, make byelaws for any of the following purposes, that is to say—

(a) regulating the use and preventing the improper use of any watercourses, banks or works vested in the **[**[F591]Agency**]** or under its control or for preserving any such watercourses, banks or works from damage or destruction;

(b) regulating the opening of sluices and flood gates in connection with any such works as are mentioned in paragraph (a) above;

(c) preventing the obstruction of any watercourse vested in the **[**[F591]Agency**]** or under its control by the discharge into it of any liquid or solid matter or by reason of any such matter being allowed to flow or fall into it;

(d) compelling the persons having control of any watercourse vested in the **[**[F591]Agency**]** or under its control, or of any watercourse flowing into any such watercourse, to cut the vegetable growths in or on the bank of the watercourse and, when cut, to remove them.

(3) No byelaw for any purpose specified in sub-paragraph (2)(a) above shall be valid if it would prevent reasonable facilities being afforded for enabling a watercourse to be used by stock for drinking purposes.

(4) Notwithstanding anything in this Act, no byelaw made by the **[**[F591]Agency**]** under this paragraph shall conflict with or interfere with the operation of any byelaw made by a navigation authority, harbour authority or conservancy authority.

(5) In this paragraph "banks"**[**[F593], "drainage"**]** and "watercourse" have the same meanings as in Part IV of this Act.

Textual Amendments

F591 Words in Sch. 25 para. 5 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F592 Words in Sch. 25 para. 5(1) substituted (30.3.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), **ss. 100(1)**, 107(7) (see also S.I. 2006/2541, art. 2)

F593 Word in Sch. 25 para. 5(5) inserted (30.3.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), **ss. 100(2)**, 107(7) (see also S.I. 2006/2541, art. 2)

Byelaws for purposes of fisheries functions

6 (1) The **[**[F594]Agency**]** shall have power, **[**[F595]in relation to the whole or any part or parts**]** of the area in relation to which it carries out its functions relating to fisheries under Part V of this Act, to make byelaws generally for the purposes of—

(a) the better execution of the [M207]Salmon and Freshwater Fisheries Act 1975; and

(b) the better protection, preservation and improvement of any salmon fisheries, trout fisheries, freshwater fisheries and eel fisheries.

Status: *Point in time view as at 01/10/2006.*
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(2) Subject to paragraph 7(1) below, the **[**[F594]Agency**]** shall have power, **[**[F595]in relation to the whole or any part or parts**]** of the area mentioned in sub-paragraph (1) above, to make byelaws for any of the following purposes, that is to say—

(a) prohibiting the taking or removal from any water, without lawful authority, of any fish, whether alive or dead;

(b) prohibiting or regulating—

(i) the taking of trout or any freshwater fish of a size less than such as may be prescribed by the byelaw; or

(ii) the taking of fish by any means within such distance as is specified in the byelaw above or below any dam or any other obstruction, whether artificial or natural;

(c) prohibiting the use for taking salmon, trout, or freshwater fish of any instrument (not being a fixed engine) in such waters and at such times as may be prescribed by the byelaws;

(d) specifying the nets and other instruments (not being fixed engines) which may be used for taking salmon, trout, freshwater fish and eels, imposing requirements as to the use of such nets and other instruments and regulating the use, in connection with fishing with rod and line, of any lure or bait specified in the byelaw;

(e) authorising the placing and use of fixed engines at such places, at such times and in such manner as may be prescribed by the byelaws;

(f) imposing requirements as to the construction, design, material and dimensions of any such nets, instruments or engines as are mentioned in paragraphs (d) and (e) above, including in the case of nets the size of mesh;

(g) requiring and regulating the attachment to licensed nets and instruments of marks, labels or numbers, or the painting of marks or numbers or the affixing of labels or numbers to boats, coracles or other vessels used in fishing;

(h) prohibiting the carrying in any boat or vessel whilst being used in fishing for salmon or trout of any net which is not licensed, or which is without the mark, label or number prescribed by the byelaws; and

(i) prohibiting or regulating the carrying in a boat or vessel during the annual close season for salmon of a net capable of taking salmon, other than a net commonly used in the area to which the byelaw applies for sea fishing and carried in a boat or vessel commonly used for that purpose.

(3) Subject to the provisions of Schedule 1 to the Salmon and Freshwater Fisheries Act 1975 (duty to make byelaws about close season), the **[**[F594]Agency**]** shall have power, **[**[F595]in relation to the whole or any part or parts**]** of the area mentioned in sub-paragraph (1) above, to make byelaws for any of the following purposes, that is to say—

(a) fixing or altering any such close season or close time as is mentioned in paragraph 3 of that Schedule;

(b) dispensing with a close season for freshwater fish or rainbow trout;

(c) determining for the purposes of the Salmon and Freshwater Fisheries Act 1975 the period of the year during which **[**[F596]screens**]** need not be maintained;

(d) prohibiting or regulating fishing with rod and line between the end of the first hour after sunset on any day and the beginning of the last hour before sunrise on the following morning;

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Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(e) determining the time during which it shall be lawful to use a gaff in connection with fishing with rod and line for salmon or migratory trout;

(f) authorising fishing with rod and line for eels during the annual close season for freshwater fish.

(4) Subject to paragraph 7(2) below, the **[**[F594]Agency**]** shall have power, **[**[F595]in relation to the whole or any part or parts**]** of the area mentioned in sub-paragraph (1) above, to make byelaws for the purpose of regulating the deposit or discharge in any waters containing fish of any liquid or solid matter specified in the byelaw which is detrimental to salmon, trout or freshwater fish, or the spawn or food of fish.

(5) The **[**[F594]Agency**]** shall have power, **[**[F595]in relation to the whole or any part or parts**]** of the area mentioned in sub-paragraph (1) above, to make byelaws for the purpose of requiring persons to send to the **[**[F594]Agency**]** returns, in such form, giving such particulars and at such times as may be specified in the byelaws—

(a) of the period or periods during which they have fished for salmon, trout, freshwater fish or eels,

(b) of whether they have taken any; and

(c) if they have, of what they have taken.

(6) Byelaws made under this paragraph may be made to apply to the whole or any part or parts of the year.

(7) Expressions used in this paragraph and in the [M208]Salmon and Freshwater Fisheries Act 1975 have the same meanings in this paragraph as in that Act.

Textual Amendments

F594 Words in Sch. 25 para. 6 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F595 Words in Sch. 25 para. 6(1) to (5) substituted (21.9.1995) by 1995 c. 25, s. 105, **Sch. 15 para. 26(1)** (with ss. 7(6), 115, 117); S.I. 1995/1983, **art. 3**

F596 Word in Sch. 25 para. 6(3)(c) substituted (1.1.1999) by 1995 c. 25, s. 105, **Sch. 15**, para. 26(2) (with ss. 7(6), 115, 117); S.I. 1995/1983, **art. 4**

Modifications etc. (not altering text)

C158 Sch. 25 para. 6 amended (27.8.1993) by 1993 c. 12, ss. 40, 51(2), **Sch. 3 Pt. I para. 9** (with s. 46).
Sch. 25 para. 6 excluded by S.I. 1999/1746, **arts. 1(1)**, 4(1) (with art. 2) (the exclusion coming into force immediately before the principal appointed day (1.7.1999 appointed by S.I. 1998/3178, **art. 3**))

Marginal Citations

M207 1975 c. 51.

M208 1975 c. 51.

[**[F597] Fisheries byelaws for marine or aquatic environmental purposes**]

Textual Amendments

F597 Sch. 25 para. 6A inserted (21.9.1995) by 1995 c. 25, **s. 103(3)** (with ss. 7(6), 115, 117); S.I. 1995/1983, **art. 3**

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[F598 6A (1) Any power to make byelaws conferred by paragraph 6 above may be exercised for marine or aquatic environmental purposes.

(2) The power to make byelaws under paragraph 6 above by virtue of this paragraph is in addition to, and not in derogation from, the power to make byelaws under that paragraph otherwise than by virtue of this paragraph.

(3) In this paragraph "marine or aquatic environmental purposes" means—

(a) the conservation or enhancement of the natural beauty or amenity of marine or coastal, or aquatic or waterside, areas (including their geological or physiographical features) or of any features of archaeological or historic interest in such areas; or

(b) the conservation of flora or fauna which are dependent on, or associated with, a marine or coastal, or aquatic or waterside, environment.]

Textual Amendments

F598 Sch. 25 para. 6A inserted (21.9.1995) by 1995 c. 25, **s. 103(3)** (with ss. 7(6), 115, 117); S.I. 1995/1983, **art. 3**

Restrictions on powers to make byelaws for fisheries purposes

7 (1) The [F599 Agency] shall not make any byelaws by virtue of paragraph 6(2)(e) above in relation to any place within the sea fisheries district of a local fisheries committee except with the consent of that committee.

(2) The [F599 Agency] shall not make byelaws by virtue of paragraph 6(4) above so as to prejudice any powers of a sewerage undertaker to discharge sewage in pursuance of any power given by a public general Act, a local Act or a provisional order confirmed by Parliament.

Textual Amendments

F599 Words in Sch. 25 para. 7 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

SCHEDULE 26

Section 210.

PROCEDURE RELATING TO BYELAWS MADE BY THE [F600 AGENCY]

Textual Amendments

F600 Word in the heading to Sch. 26 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Modifications etc. (not altering text)

C159 Sch. 26 applied (with modifications) by S.I. 1999/1746, **arts. 1(1)**, 4(3) (with art. 2) (the exclusion coming into force immediately before the principal appointed day (1.7.1999 appointed by S.I. 1998/3178, **art. 3**))

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

C160 Sch. 26 applied (15.8.2002) by S.I. 2002/1998, **art. 17(14)** (with art. 33)

Confirmation of byelaws

1 (1) No byelaw made by the **[**[F601]Agency**]** shall have effect until confirmed by the relevant Minister under this Schedule.

(2) At least one month before it applies for the confirmation of any byelaw, the **[**[F601]Agency**]** shall—

(a) cause a notice of its intention to make the application to be published in the London Gazette and in such other manner as it considers appropriate for the purpose of bringing the proposed byelaw to the attention of persons likely to be affected by it; and

(b) cause copies of the notice to be served on any persons carrying out functions under any enactment who appear to it to be concerned.

(3) For at least one month before an application is made by the **[**[F601]Agency**]** for the confirmation of any byelaw, a copy of it shall be deposited at one or more of the offices of the **[**[F601]Agency**]**, including (if there is one) at an office in the area to which the byelaw would apply.

(4) The **[**[F601]Agency**]** shall provide reasonable facilities for the inspection free of charge of a byelaw deposited under sub-paragraph (3) above.

(5) Every person shall be entitled, on application to the **[**[F601]Agency**]**, to be furnished free of charge with a printed copy of a byelaw so deposited.

Textual Amendments

F601 Words in Sch. 26 para. 1 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Confirmation with or without modifications

2 (1) Subject to sub-paragraph (3) below, the relevant Minister, with or without a local inquiry, may refuse to confirm any byelaw submitted to him by the **[**[F602]Agency**]** for confirmation under this Schedule, or may confirm the byelaw either without or, if the **[**[F602]Agency**]** consents, with modifications.

(2) The **[**[F602]Agency**]** shall, if so directed by the relevant Minister, cause notice of any proposed modifications to be given in accordance with his directions.

(3) A byelaw made by the **[**[F602]Agency**]** under paragraph 4 of Schedule 25 to this Act shall be confirmed without a local inquiry only if—

(a) no written objection to its confirmation has been received by the relevant Minister;

(b) every objection to its confirmation which has been so received has been withdrawn; or

(c) in the opinion of that Minister the person making the objection has no material interest in the controlled waters to which the byelaw relates;

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

and in relation to any such byelaw sub-paragraph (1) above shall have effect with the substitution for the words "if the **[**[F602]Agency**]** consents" of the words " after consultation with the **[**[F602]Agency**]** " .

Textual Amendments

F602 Words in Sch. 26 para. 2 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Commencement of byelaw

3 (1) The relevant Minister may fix the date on which any byelaw confirmed under this Schedule is to come into force.

(2) If no date is so fixed in relation to a byelaw, it shall come into force at the end of the period of one month beginning with the date of confirmation.

Availability of confirmed byelaws

4 (1) Every byelaw made by the **[**[F603]Agency**]** and confirmed under this Schedule shall be printed and deposited at one or more of the offices of the **[**[F603]Agency**]**, including (if there is one) at an office in the area to which the byelaw applies; and copies of the byelaw shall be available at those offices, at all reasonable times, for inspection by the public free of charge.

(2) Every person shall be entitled, on application to the **[**[F603]Agency**]** and on payment of such reasonable sum as the **[**[F603]Agency**]** may determine, to be furnished with a copy of any byelaw so deposited by the **[**[F603]Agency**]**.

Textual Amendments

F603 Words in Sch. 26 para. 4 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Revocation of byelaws

5 If it appears to the relevant Minister that the revocation of a byelaw is necessary or expedient, he may—

(a) after giving notice to the **[**[F604]Agency**]** and considering any representations or objections made by the **[**[F604]Agency**]**; and

(b) if required by the **[**[F604]Agency**]**, after holding a local inquiry,

revoke that byelaw.

Textual Amendments

F604 Words in Sch. 26 para. 5 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Proof of byelaws

6 The production of a printed copy of a byelaw purporting to be made by the **[**[F605]Agency**]** upon which is indorsed a certificate, purporting to be signed on its behalf, stating—

(a) that the byelaw was made by the **[**[F605]Agency**]**;

(b) that the copy is a true copy of the byelaw;

(c) that on a specified date the byelaw was confirmed under this Schedule; and

(d) the date, if any, fixed under paragraph 3 above for the coming into force of the byelaw,

shall be prima facie evidence of the facts stated in the certificate, and without proof of the handwriting or official position of any person purporting to sign the certificate.

Textual Amendments

F605 Words in Sch. 26 para. 6 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Meaning of "the relevant Ministe"r

7 In this Schedule "the relevant Minister"—

(a) in relation to byelaws which—

(i) are made by virtue of paragraph 5 of Schedule 25 to this Act or by virtue of section 136(8) of the [M209]Water Act 1989 as read with the savings in paragraphs 1 and 5 of Schedule 2 to the [M210]Water Consolidation (Consequential Provisions) Act 1991 (transfer of land drainage functions under local statutory provisions); and

(ii) have effect in the area of a regional flood defence committee the whole or the greater part of whose area is in England,

means the Minister;

(b) in relation to byelaws made by virtue of paragraph 6 of that Schedule 25 or by virtue of any provision amended by Schedule 17 to the Water Act 1989 (fisheries functions of the **[**[F606]Agency**]**), means the Secretary of State or the Minister; and

(c) in relation to any other byelaws, means the Secretary of State.

Textual Amendments

F606 Word in Sch. 26 para. 7 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Marginal Citations

M209 1989 c. 15.

M210 1991 c. 60.

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TABLE OF DERIVATIONS

1 Note: The following abbreviations are used in this Table:—

1945 =	The Water Act 1945 (c. 42)
1963 =	The Water Resources Act 1963 (c. 38)
1965 =	The Science and Technology Act 1965 (c. 4)
1973 =	The Water Act 1973 (c. 37)
1975 =	The Salmon and Freshwater Fisheries Act 1975 (c. 51)
1976 =	The Land Drainage Act 1976 (c. 70)
1977 =	The Criminal Law Act 1977 (c. 45)
1980(LG) =	The Local Government, Planning and Land Act 1980 (c. 65)
1981 =	The Water Act 1981 (c. 12)
1982(CJA) =	The Criminal Justice Act 1982 (c. 43)
1983 =	The Water Act 1983 (c. 23)
1984 =	The Telecommunications Act 1984 (c. 12)
1985(LG) =	The Local Government Act 1985 (c. 51)
1986(GA) =	The Gas Act 1986 (c. 44)
1989 =	The Water Act 1989 (c. 15)
1989(EA) =	The Electricity Act 1989 (c. 29)
1990 =	The Environmental Protection Act 1990 (c. 43)
1991(NR) =	The New Roads and Street Works Act 1991 (c. 22)
R: (followed by a number) =	The recommendation so numbered as set out in the Appendix to the Report of the Law Commission (Cm. 1483).

2 Transfer of functions orders (“TFOs"), where applicable in relation to a provision re-enacted in the Bill, are specified at the appropriate place in column 2 of the Table.

3 General provisions contained in section 32 of the Magistrates’ Courts Act 1980 (c. 43) and section 46 of the Criminal Justice Act 1982 (c. 48) provide, respectively, for the maximum fine on summary conviction of an either way offence to be the statutory maximum and for a reference to the amount of the maximum fine to which a person is liable in respect of a summary offence to become a reference to a level on the standard scale. Where the effect of one of these enactments is consolidated it is not referred to separately in column 2 of this Table.

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Provision of Act	Derivation
1	1989 s. 1.
2	1963 s. 126(3) & (4); 1989 s. 1(1), 8(4) & (5), 136(7) & (8), 141(4) & (7), 142(1) & 143(1), 189(1) (definition of “function") & Sch 13 paras 23(3) & 27.
3	1989 s. 188.
4	1989 s. 144 & 145(1)(a) & (b), (2) & (3).
5	1989 s. 146; Sch 12 paras 4(7) & 6(4).
6	1989 s. 3.
7	1989 s. 2.
8	1989 s. 141(1)(b) & (c), (2) & (3).
9	1989 ss. 136(6) & (7) & 137(1)–(2).
10	1989 s. 137(3), (7), (10) & (11) & 138(1) & (8).
11	1989 ss. 137(11) & 138(2)–(7) & (9).
12	1976 s. 4; 1989 s. 139(1) and Sch 15 paras 1 & 2. TFO: SI 1978/272 Sch 3, para 7(2); R: 6.
13	1976 s. 5(1)–(6) & (8); 1985(LG) Sch 7 para 2 & SI 1986/208 Sch 1 Pt II para 2; 1989 Sch 15 paras 1 & 3.
14	1976 s. 5(7); 1989 ss. 137(8) & 139(3) & Sch 15 para 1.
15	1989 s. 7(6) & (7).
16	1989 ss. 8(1)–(3), (5)–(7) & 152(8).
17	1989 s. 9; 1990 Sch 9 para 17(2).
18	1989 s. 10; 1990 Sch 9 para 17(3).
19	1989 s. 125.
20	1989 s. 126.
21	1963 ss. 19(1), (3)–(7) & 135(1)(part) & (5); 1973 Sch 8 para 85; 1989 s. 127; 1989(EA) Sch 16 para 10; TFOs: SI 1965/145 Sch 1; SI 1970/1537 Art 2(1); SI 1970/1681 Sch 3 para 9(1); SI 1974/692 Sch 1 Pt III; SI 1983/1127 Art 2(3).
22	1963 s. 19(2) & (6); 1989 s. 127(2) & (5).

23	1963 s. 22; 1973 s. 9; 1989 Sch 13 paras 1 and 4.
24	1963 ss. 23, 49 & 128(1); 1976 (c. 44) s. 5(8); 1989 Sch 13 paras 1 & 5 & Sch 25 para 2.
25	1963 ss. 36(1)–(3), (5) & (6), 48, 49 & 128(1); 1976 (c. 44) s. 5(8); 1989 Sch 13 paras 1, 12 & 16 & Sch 25 para 2.
26	1963 s. 24(6) & 36(4).
27	1963 s. 24(1)–(3) & (5) & 26(1)(b); 1989 Sch 13 para 6.
28	1963 ss. 24(2)(proviso) & 55; 1973 s. 9; 1989 Sch 13 para 1.
29	1963 s. 24(4), (5) & (10); 1973 Sch 8 para 78.
30	1963 s. 78(1)–(3) & (7); 1973 s. 9; 1989 Sch 13 paras 1 & 20.
31	1963 s. 78(4)–(6).
32	1963 s. 24(7)–(9); 1973 s. 9; 1989 Sch 13 para 1.
33	1963 ss. 25 & 134(4); 1973 s. 9; 1989 Sch 13 paras 1 & 7.
34	1963 s. 54(1)–(3) & (5).
35	1963 s. 27; 1968 (c. 35) s. 1; 1973 s. 9; 1989 Sch 13 para 1.
36	1963 s. 37(3); 1973 s. 9; 1989 Sch 13 para 1.
37	1963 ss. 28 & 37(5); 1973 s. 9; 1989 Sch 13 paras 1 & 8.
38	1963 ss. 28(3) (part), 29(3) & (8) & 37(5); 1973 s. 9; 1989 Sch 13 para 1.
39	1963 ss. 26(1) & (2), 29(2) & (7)(a), 36(6), 37(5) & 135(5); 1973 s. 9; 1989 Sch 13 paras 1 & 9(1).
40	1963 ss. 29(4)–(6) & (7)(b) & 37(5); 1973 s. 9; 1989 Sch 13 paras 1 & 9(2).
41	1963 s. 38(1) & (2); 1973 s. 9 & Sch 8 para 79; 1989 Sch 13 paras 1 & 13.
42	1963 ss. 38(3) & (4) & 41(1)–(4) & (7)–(9); 1973 s. 9; 1989 Sch 13 paras 1 & 14(2).

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43	1963 ss. 39(1), (2) & (4) & 40; 1973 s. 9; 1989 Sch 13 para 1.
44	1963 ss. 39(3)–(6), 40 & 41(1), (5) & (7)–(9); 1989 Sch 13 paras 1 & 14(1).
45	1963 s. 54(2), (3) & (5).
46	1963 s. 30(1)–(3) & (5)–(7) & 54(4); 1973 s. 9; 1989 Sch 13 paras 1 & 10.
47	1963 ss. 30(4), 31(4) & 37(1).
48	1963 ss. 26(1)(a), 31(1) & (3) & 37(2).
49	1963 s. 32(1), (2), (6) & (7); 1973 s. 9; 1989 Sch 13 paras 1 & 11.
50	1963 s. 32(3), (4), (6) & (7); 1973 s. 9; 1989 Sch 13 para 1.
51	1963 s. 42; 1973 s. 9; 1989 Sch 13 para 1.
52	1963 s. 43(1)–(5) & (9); 1973 s. 9; 1989 Sch 13 para 1.
53	1963 s. 43(5)–(8); 1973 s. 9; 1989 Sch 13 para 1.
54	1963 s. 44; 1973 s. 9; 1989 Sch 13 para 1.
55	1963 s. 47(1)–(3) & (11); 1973 s. 9; 1989 Sch 13 para 1.
56	1963 s. 47(3)–(5); 1973 s. 9; 1989 Sch 13 para 1.
57	1963 s. 45; 1973 s. 9; 1989 Sch 13 paras 1 & 15.
58	1963 s. 64; 1989 Sch 13 para 19.
59	1963 s. 54(2) & (5).
60	1963 s. 50; 1973 s. 9; 1989 Sch 13 para 1.
61	1963 ss. 46 & 47(6); 1973 s. 9; 1989 Sch 13 para 1.
62	1963 ss. 47(7)–(10) & 71(3); 1973 s. 9; 1989 Sch 13 para 1.
63	1963 s. 51; 1973 s. 9; 1989 Sch 13 para 1.
64	1963 ss. 43(1) & 52; 1973 s. 9; 1989 Sch 13 para 1.
65	Introduces Sch 7

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66	1963 s. 131(1), (2) & (8) & 134(4); 1989 Sch 13 para 29; TFOs: SI 1965/319; SI 1970/1681.
67	1963 s. 132; 1989 Sch 13 para 30.
68	1963 ss. 116 & 134(4) & (6); TFOs: SI 1965/319 Sch 3 para 2.
69	1963 s. 117; 1973 s. 9; 1989 Sch 13 para 1.
70	1963 s. 135(8); IA s. 17.
71	1963 ss. 133(2)–(4), 134(4) & (6) & 135(1).
72	1963 ss. 105, 134(4) & (6) & 135(1), (3), (6) & (7); 1973 Sch 8 para 86; 1989 Sch 13 para 31(1)(e) & (3).
73	1989 ss. 131(1), (2) & (8) & 132(1), (2) & (9).
74	1989 ss. 131(3)–(4) & (9) & 133(7)(b) & (c).
75	1989 ss. 132(3), (4), (6), (7) & (10) & 133(7)(b) & (c).
76	1989 ss. 131(5)–(7) & 132(5).
77	1963 s. 128(2); 1989 ss. 133(1)–(4) & 135(1) & Sch 13 para 28.
78	1989 ss. 132(8) & 133(5), (6) & (7)(a); 1991(NR) Sch 8 para 116(2).
79	1989 ss. 131(8), 132(9) & 133(8) & Sch 14 para 4.
80	1989 s. 134.
81	1989 s. 135(2).
82	1989 s. 104.
83	1989 s. 105.
84	1989 s. 106.
85	1989 s. 107(1) & (6); 1990 s. 145(1).
86	1989 s. 107(2)–(4).
87	1989 s. 107(5) & 108(7) & (8).
88	1989 s. 108(1) & (9) & 113(1) & Sch 19 para 8(7); 1990 Sch 15 para 29.
89	1989 ss. 108(2)–(6) & 124(1).
90	1989 s. 109.
91	1989 Sch 12 para 8.

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92	1989 s. 110.
93	1989 s. 111(1)–(3) & (5).
94	1989 s. 112(1), (4)–(7) & (9).
95	1989 s. 112(2), (3) & (9).
96	1989 s. 111(4) & 112(8).
97	1989 s. 116.
98	1989 s. 123.
99	1989 s. 113(2) & (3).
100	1989 s. 122.
101	1989 s. 121(2).
102	1989 s. 171.
103	Introduces Sch 13.
104	1989 ss. 103(1), (2) (part) & (4) to (6) & 124.
105	1976 s. 113; 1989 s. 136(1).
106	1989 s. 136(3)–(5) & (9).
107	1976 ss. 8(1), 18, 24(2) & (3), 26; 1989 Sch 15 paras 1 & 9(1).
108	1976 ss. 10(1), (3) & (4), 94, 109(1), (5)(b) & (6) & 116(1); 1989 Sch 15 para 1; SI 1991/983; TFO: SI 1978/272 Sch 3 para 7(5) & (8).
109	1976 s. 29(1), (2), (4), (6) & (7); 1989 Sch 15 para 1.
110	1976 ss. 29(2A), (3), (5) & (9) & 109(1) & (2); 1989 Sch 15 paras 1, 13 & 35; TFO: SI 1978/272 Sch 3 para 7(3).
111	1976 s. 23(2)–(5); 1984 Sch 4 para 66(1); 1989 Sch 15 paras 1 & 8; TFO: SI 1978/272 Sch 3 para 7(4) & (6).
112	1976 s. 95; TFO: SI 1978/272 Sch 3 para 7.
113	1976 s. 8(2) & (3) 114(1) & 116; 1989 Sch 15 para 1; TFO: SI 1978/272 Sch 3 para 7(5).
114	1989 s. 141(1)(a).
115	1975 s. 28(3)–(6) & Sch 3 paras 7–9 & 13; 1989 Sch 17 paras 1 & 7(7)(a) & (14)(a) & (b); TFO: SI 1978/272 Sch 3 para 6.

116	1989 s. 171.
117	1989 Sch 1 para 15(1)–(3) & (5).
118	1989 Sch 1 para 15(4) & 16.
119	1963 s. 88 & 1989 Sch 1 para 15(4) & Sch 13 para 1.
120	1963 s. 91 & 135(1) & (2); 1989 Sch 13 paras 1, 24 & 31; TFOs: SI 1976/1775; SI 1979/571 Art 3(5); SI 1981/238 Arts 2 & 3(4); R: 16.
121	1989 Sch 1 para 21.
122	1989 Sch 1 para 22.
123	1989 s. 129(1)–(3) & (7)–(9).
124	1989 s. 129(3)–(6).
125	1963 s. 60(5A) & (6); 1973 s. 9 & Sch 8 para 80(3); 1989 Sch 13 paras 1 & 18(2) & (3).
126	1963 ss. 60(1)–(5), 116 & 117; 1973 s. 9 & Sch 8 para 80(1); 1989 Sch 13 paras 1 & 18(1); TFOs: SI 1965/319 Sch 3 para 2 & SI 1970/1681.
127	1963 s. 63(1)–(3), (8), (10) & (11); 1973 s. 9; 1989 Sch 13 para 1.
128	1963 s. 63(4)–(6); 1973 s. 9; 1989 Sch 13 para 1.
129	1963 ss. 63(7), 116 & 117.
130	1963 s. 131(6) & (7); 1973 s. 9; 1989 Sch 13 para 1; TFOs: SI 1965/319; SI 1970/1681.
131	1989 Sch 12 para 9(1)–(3), (7) & (8).
132	1989 Sch 12 para 9(3)–(6).
133	1989 Sch 25 para 80(1).
134	1976 ss. 48 & 89(2); SI 1978/319 Sch para 2; 1989 Sch 15 paras 1 & 20; SI 1990/214 reg 2.
135	1976 s. 49 & 109(1) & (2); SI 1978/319 Sch para 3; 1989 Sch 15 paras 1 & 21. SI 1990/214 regs 3 & 4; TFO: SI 1978/272 Sch 3 para 7(5).
136	SI 1990/214 reg 3.
137	1976 ss. 50(1)–(4) & (9) & 116(4); 1989 Sch 15 paras 1 & 22; TFO: SI 1978/272 Sch 3 para 7(5).

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138	1976 ss. 51 & 109(1) & (3); SI 1978/319 Sch para 4; 1989 Sch 15 paras 1 & 23.
139	1976 s. 84(1)–(3) & (5); 1989 Sch 15 para 1; SI 1990/72 reg 3A(1); SI 1991/523 reg 3.
140	1976 s. 84(5)–(8); 1989 Sch 15 para 1; TFO: SI 1978/272 Sch 3 para 7(4).
141	1976 s. 85; 1989 Sch 15 para 1; TFO: SI 1978/272 Sch 3 para 7(4).
142	1975 s. 28(3)(a) & (b); 1989 Sch 17 para 7(7)(a).
143	1976 s. 88(1), (2) & (5); 1989 Sch 15 paras 1 & 29.
144	1989 ss. 145(1)(c) & 189(1).
145	1976 ss. 89(1) & 116(1); SI 1978/319 Sch para 6; 1989 Sch 15 paras 1 & 30.
146	1989 Sch 1 para 17.
147	1976 s. 90(1)–(5); 1989 Sch 15 para 1; TFO: SI 1978/272 Sch 3 para 7(3).
148	1976 ss. 32(5) & 92; 1989 Sch 15 para 1; TFO: SI 1978/272 Sch 3 para 7(3).
149	1976 s. 90(6) & (7); 1989 Sch 15 paras 1 & 31; TFO: SI 1978/272 Sch 3 para 7(3).
150	1989 s. 170(7) & (8).
151	1989 Sch 1 para 18.
152	1989 Sch 1 para 19.
153	1989 s. 184 & Sch 1 para 20.
154	1989 s. 151.
155	1976 ss. 36 & 116; 1989 Sch 15 paras 1 & 16; TFO SI 1978/272 Sch 3 para 7(3).
156	1975 Sch 3 paras 37 and 38; 1989 Sch 17 paras 1 and 7(14)((e) & (f).
157	1989 s. 152.
158	1963 ss. 81 & 135(1); 1972 (c. 61) s. 18(6); 1973 s. 9; 1989 Sch 13 paras 1 & 22.
159	1989 s. 154(1) & (5) & Sch 19 paras 1 & 2(1), (2) & (8).

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160	1989 Sch 19 paras 1 & 4(1), (4) & (5).
161	1989 ss. 115, 122 & 124.
162	1989 s. 154(1), (3) & (4) & Sch 19 paras 1(2), 2(1)(c) & (d) & 4(1)(c) & (d).
163	1989 Sch 19 para 8(1), (5), (6) & (8); R: 17.
164	1989 s. 176 & Sch 19 para 9(1) & (3)–(8) & Sch 26 para 43.
165	1976 ss. 8(2), 17, 22, 23(1), 90(7) & 116(4); 1989 Sch 15 paras 1 & 5.
166	1976 s. 32; 1989 Sch 15 paras 1 & 14.
167	1976 s. 33(1)–(3) & (5); 1989 Sch 15 para 1; 1990 Sch 15 para 18.
168	1975 Sch 3 para 37; 1989 ss. 155 & 157(1) & Sch 17 para 7(4)(e).
169	1989 s. 147(1), (2) & (4).
170	1989 Sch 19 para 10(1)–(3).
171	1989 s. 156(1)–(5).
172	1989 s. 147(1), (2) & (4).
173	Introduces Sch 20.
174	1989 s. 180.
175	1989 s. 153(2) & (6).
176	1989 s. 167.
177	Introduces Sch 21.
178	Introduces Sch 22.
179	1989 s. 160(4)–(7) & (9).
180	1976 s. 106; 1989 Sch 15 para 1.
181	1975 s. 38; 1976 s. 115; 1989 Sch 17 para 1 & Sch 19 para 7.
182	1989 s. 159.
183	1976 s. 111; 1979 (c. 46) Sch 4 para 16; 1989 s. 163; 1990 (c. 11) Sch 2 para 81(2).
184	1989 s. 157(2) & (3).
185	1976 s. 24(1) & 26(12); 1989 Sch 15 para 1.
186	1989 Sch 19 paras 1 & 11.
187	1989 s. 150.

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188	1989 s. 143(2).
189	1963 s. 53; 1973 s. 9; 1989 Sch 13 paras 1 & 17.
190	1989 s. 117 & 121; 1990 Sch 15 para 30.
191	1989 Sch 19 para 9(2) & (8).
192	1989 s. 103(2) & (3).
193	1976 s. 9(1), (7), (8), (10) & (11); 1989 Sch 15 paras 1 & 4 & Sch 26 para 38; TFO: SI 1978/272 Sch 3 para 7(5).
194	1976 s. 9(3), (5) & (6); 1989 Sch 15 paras 1 & 4; TFO: SI 1978/272 Sch 3 para 7(5).
195	1989 s. 165.
196	1989 s. 149.
197	1989 s. 130.
198	1945 s. 7(1)–(5) & (7); 1965 Sch 2; 1977 Sch 1.
199	1963 s. 78(2)–(3) & (7); 1973 s. 9; 1989 Sch 13 paras 1 & 20.
200	1963 s. 17; 1973 s. 9; 1982(CJA) s. 38; 1989 Sch 13 paras 1 & 3.
201	1963 s. 114; 1973 s. 9; 1982(CJA) s. 38; 1989 Sch 13 para 1.
202	1989 ss. 118 & 121.
203	1989 s. 119.
204	1989 s. 174; R: 11.
205	1945 ss. 7(6) & (7) & 48(6); 1949 (c. 11) s. 1(1); 1977 Sch 1; TFOs: SI 1951/142 Sch; SI 1951/1900 art 1; SI 1965/319 Sch 3; SI 1970/1681 Sch 1.
206	1945 s. 45; 1963 s. 115; 1989 s. 175.
207	1989 s. 170(1)–(6) & (9).
208	1981 s. 6; 1986(GA) Sch 7 para 2(6); 1989 Sch 25 para 63; 1989(EA) Sch 16 para 1(5); 1990 (c. 11) Sch 2 para 46; 1991(NR) Sch 8 para 106.
209	1963 s. 31(5); 1989 s. 148.
210	1975 s. 28(6) & (8); 1989 s. 186 & Sch 17 para 7(7)(b).

211	1963 ss. 79(8) & (9) & 135(8); 1975 s. 28(7) & Sch 4 Pt I para 1(2); 1976 s. 34(4) & (5); 1977 Sch 6; 1982(CJA) s. 38; 1989 ss. 114(2), 121, 122 & 158(4)(d).
212	1975 Sch 3 paras 17 & 18; 1989 Sch 17 para 1; TFO: SI 1978/272 Sch 3 para 6.
213	1963 s. 109(1); 1973 s. 9; 1989 s. 120 & Sch 13 para 1; TFOs: SI 1965/319 Sch 3 para 2; SI 1978/272 Sch 3 para 2(7).
214	1976 s. 96; 1982(CJA) s. 38; 1986 (c. 63) s. 42; TFO: SI 1978/272 Sch para 7.
215	1963 s. 109(2); 1989 s. 181 & Sch 13 para 26 & Sch 17 para 7(16).
216	1963 s. 118(1) & (2); 1973 s. 9; 1989 Sch 13 para 1.
217	1963 s. 118(3) & (4); 1989 ss. 121(1) & 177; R: 13.
218	1989 ss. 182 & 189(1) (definition of “services").
219	1963 s. 134; 1989 ss. 185 & 189(1) (definition of “prescribed").
220	1945 s. 56; 1963 s. 120; 1989 s. 187 & Sch 25 para 7(10); R: 14.
221	1945 s. 59(1) (definition of “owner"); 1963(L) Sch 14 para 10; 1963 ss. 2, 19(7), 120(5) & 135; 1976 ss. 32(5) & 116; 1981 s. 6(7)(b); 1985(LG) Sch 7 para 9; 1989 ss. 124, 127(6), 130(8), 135(1), 189 & 191(6) & Sch 13 paras 2 & 31 & Sch 15 para 38; 1990 (c. 11) Sch 2 para 81(1); 1991(NR) Sch 8 para 116(3). R: 6, 15, 16 & 20.
222	1963 s. 123(1) & (5); 1976 s. 115; 1989 s. 192; 1990 (c. 11) Sch 2 para 81(3).
223	1963 s. 123(1) & (5).
224	1989 s. 193.
225	1989 ss. 141(6) & 194.
Sch 1	1963 s. 120(5); 1976 s. 35; 1989 Sch 1, Pt I, paras. 1-10 & 14 & Sch 15 para 1.
Sch 2	1963 ss. 82, 106, 133(2)–(4), 134(4) & 135(1) & (2) & Sch 10; 1973 s. 9 & Sch 8 para 83; 1989 Sch 13 paras 1, 23, 25

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	& 33; TFOs: SI 1976/1775 Sch 3 para 7; SI 1979/571 Art 3(5); SI 1981/238 Arts 2 & 3(4); R: 16.
Sch 3	1989 Sch 16.
Sch 4	1976 Sch 1; 1982 (c. 32) Sch 5 para 7; 1983 Sch 4 paras 5 & 6; 1985 (c. 65) Sch 8, para 29; 1989 Sch 15 paras 1 & 39; TFO: SI 1978/272 Sch 3 para 7(5).
Sch 5	1963 s. 135(1) & Sch 7; 1973 s. 9; 1989 Sch 13 paras 1 and 32; 1989(EA) Sch 16 para 10; TFOs: SI 1970/1681 Sch 3 para 9(1); 1983/1127 Art 2(3).
Sch 6	1963 ss. 25(5)–(8) & 135(1) & Sch 7; 1973 s. 9; 1989 Sch 13 paras 1 and 32; 1989(EA) Sch 16 para 10; TFOs: SI 1965/145 Sch 1; SI 1970/1537 art 2(1); SI 1970/1681 Sch 3 para 9; SI 1974/692 Sch 1 Pt III; SI 1983/1127 Art 2(3); R: 4.
Sch 7	1963 ss. 46(3) & 50(4) & (5); 1989 Sch 26 paras 30–33.
Sch 8	1989 Sch 14 paras. 1–3.
Sch 9	1989 s. 135(1) & Sch 14 paras. 5–8.
Sch 10	1989 s. 176 & Sch 12 paras 1–7.
Sch 11	1989 Sch 7.
Sch 12	1989 Sch 11.
Sch 13	1989 Sch 26 Pt III.
Sch 14	1976 s. 10(2) & (3) & 109(5)(b) and Sch 3 paras 1–4 and 9–14; TFO: SI 1978/272 Sch 3 para 7(12).
Sch 15	1976 ss. 52–61; 1989 Sch 15 paras 1, 24 & 25; SI 1978/319 Sch 5 para 5; SI 1990/214 Reg 5; TFO: SI 1978/272 Sch 3 para 7(5).
Sch 16	1976 ss. 50(4)–(8) & 109(6); 1989 Sch 15 para 1; SI 1991/983; TFO: SI 1978/272 Sch 3 para 7(5).
Sch 17	1976 ss. 88(3) & (4) & 109(1), (4) & (5) & Sch 3 paras 5 to 8.
Sch 18	1989 Sch 18.
Sch 19	1989 Sch 20.
Sch 20	1989 ss. 147(3), 156(6) 178 & 179 & Sch 19 para 10(4) & (5); 1991(NR) Sch 8 para 116(4).

Sch 21	1976 ss. 17(5) & 33(4); 1989 Sch 15 para 1 & Sch 19 paras 2(4)–(6), 6 & 8(2)–(4).
Sch 22	1976 ss. 29(8) & 112; 1984 Sch 4 para 66(2); 1984 (c. 32) Sch 6 para 12; 1986 (c. 31) Sch 2 para 5; 1986 (c. 44) Sch 7 para 25; 1987 (c. 3) Sch 1 para 32; 1989 s. 160(1)–(3), (6) & (8) & Sch 15 para 37 & Sch 19 paras 2(9) & 3; 1989 (c. 29) Sch 16 paras 21 & 37; 1991(NR) Sch 8 para 116(4); R: 17.
Sch 23	1989 Sch 21.
Sch 24	1989 s. 174(2)(d) & (3).
Sch 25	1963 s. 79(3)–(6); 1973 s. 9; 1975 Sch 3 paras 14–16 & 19–36; 1976 s. 34; 1986 (c.62) s. 33(3); 1989 ss. 114, 158, Sch 13 para 21, Sch 15 para 15(1) & Sch 17 para 7(14)(c) & (d); R: 5.
Sch 26	1989 Sch 24.

Status:
Point in time view as at 01/10/2006.

Changes to legislation:
Water Resources Act 1991 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.