Water Resources Act 1991

1991 CHAPTER 57

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 **[**[F1]Agency**]**, give to the **[**[F1]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 **[**[F1]Agency**]**, give to the **[**[F1]Agency**]** a direction requiring it to do, or not to do, a particular thing specified in the direction.

(3) The duty of the **[**[F1]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,

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 [M1]Water Industry Act 1991.

Textual Amendments

F1 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

M1 1991 c. 56.

208 Civil liability of the [[F2]Agency] for escapes of water etc.

(1) Where an escape of water, however caused, from a pipe vested in the **[**[F2]Agency**]** causes loss or damage, the **[**[F2]Agency**]** shall be liable, except as otherwise provided in this section, for the loss or damage.

(2) The **[**[F2]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 **[**[F2]Agency**]** shall not incur any liability under subsection (1) above in respect of any loss or damage for which the **[**[F2]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 [M2]Town and Country Planning Act 1990;

(b) by any public gas supplier within the meaning of Part I of the [M3]Gas Act 1986 or the holder of a licence under section 6(1) of the [M4]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 [M5]New Roads and Street Works Act 1991.

(4) The [M6]Law Reform (Contributory Negligence) Act 1945, the [M7]Fatal Accidents Act 1976 and the [M8]Limitation Act 1980 shall apply in relation to any loss or damage for which the **[**[F2]Agency**]** is liable under this section, but which is not due to the **[**[F2]Agency's**]** fault, as if it were due to its fault.

(5) Nothing in subsection (1) above affects any entitlement which the **[**[F2]Agency**]** may have to recover contribution under the [M9]Civil Liability (Contribution) Act 1978; and for the purposes of that Act, any loss for which the **[**[F2]Agency**]** is liable under that subsection shall be treated as if it were damage.

(6) Where the **[**[F2]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 **[**[F2]Agency**]** shall not incur liability under subsection (1) above in respect of the same loss or damage.

(7) In this section "fault" has the same meaning as in the [M10]Law Reform (Contributory Negligence) Act 1945.

(8) Until the coming into force of section 82 of the [M11]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 [M12]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

F2 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)

C1 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

M2 1990 c. 8.
M3 1986 c. 44.
M4 1989 c. 29.
M5 1991 c. 22.
M6 1945 c. 28.
M7 1976 c. 30.
M8 1980 c. 58.
M9 1978 c. 47.
M10 1945 c. 28.
M11 1991 c. 22.
M12 1950 c. 39.

209 Evidence of samples and abstractions.

[F3](1) . . . . . .

[F3](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,

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.

[F3](4) . . . . . .

Textual Amendments

F3 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 [[F4]Agency].

(1) Schedule 25 to this Act shall have effect for conferring powers on the **[**[F4]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 **[**[F4]Agency**]**, whether by virtue of subsection (1) above or by virtue of any other enactment.

Textual Amendments

F4 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.

(5) Without prejudice to any proceedings by virtue of subsection (1) or (4) above, the **[**[F5]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 **[**[F5]Agency**]** in taking any action under paragraph (a) or (b) above from the person in default.

(6) So much of the [M13]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

F5 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)

C2 S. 211 excluded (1.7.1999) by S.I. 1999/1746, **art. 4(1)**; S.I. 1998/3178, **art. 3**

Marginal Citations

M13 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 **[**[F6]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;

(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 **[**[F6]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

F6 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

[F7]213 . . . . . .

Textual Amendments

F7 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)

[F8]214 . . . . . .

Textual Amendments

F8 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)

[F9]215 . . . . . .

Textual Amendments

F9 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)

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 **[**[F10]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 **[**[F10]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

F10 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)

217 Criminal liabilities of directors and other third parties.

(1) Where a body corporate is guilty of an offence under this Act 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.

Status: *Point in time view as at 01/04/1996.*
Changes to legislation: *There are currently no known outstanding effects for the Water Resources Act 1991, Part IX. (See end of Document for details)*

Judicial disqualification

[F11]218 . . . . . .

Textual Amendments

F11 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) [F12]. . . 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 [M14]Water Industry Act 1991 by the Secretary of State, by the Director or by either of them;

(b) provision, where such a duty or requirement is so enforceable by either of them, for enforcement by the Director 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.

[F13](3) . . . . . .

Textual Amendments

F12 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)

F13 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
M14 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 [M15]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.

(5) This section shall not apply to any document in relation to the service of which provision is made by rules of court.

Status: *Point in time view as at 01/04/1996.*
Changes to legislation: *There are currently no known outstanding effects for the Water Resources Act 1991, Part IX. (See end of Document for details)*

Modifications etc. (not altering text)
C3 S. 220 applied (21.7.1994) by 1994 c. xiii, **s. 29(4)**

Marginal Citations
M15 1978 c. 30.

221 General interpretation.

(1) In this Act, except in so far as the context otherwise requires—

[[F14]"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 telecommunication apparatus (within the meaning of Schedule 2 to the [M16]Telecommunications Act 1984) 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 [M17]Water Industry Act 1991;

[[F15]"the Agency" means the Environment Agency;**]**

"agriculture" has the same meaning as in the [M18]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;

[F16] . . .

"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;

[F17] . . .

"contravention" includes a failure to comply, and cognate expressions shall be construed accordingly;

"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 [M19]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;

[[F18]"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;

[[F19]"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 [M20]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 [M21]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;**]**

[[F20]"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;

(ii) sections 133 to 141 (including Schedule 15), 143, 147 to 149, 155, 165 to 167, 180, 193, 194 and paragraph 5 of Schedule 25;

Status: *Point in time view as at 01/04/1996.*
Changes to legislation: *There are currently no known outstanding effects for the Water Resources Act 1991, Part IX. (See end of Document for details)*

(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;**]**

(a) Part IV;
(b) sections 133 to 141 (including Schedule 15), 143, 147 to 149, 155, 165 to 167, 180, 193, 194, 214, Schedule 4 and paragraph 5 of Schedule 25; and
(c) any other provision 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 **[**[F21]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 **[**[F22]section 313 of the Merchant Shipping Act 1995**]**) means a person who is a harbour authority **[**[F22]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 [M22]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 [M23]Town and Country Planning Act 1990;

"local authority" means the council of any county, **[**[F23]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;

"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 **[**[F24]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 [M24]Water Act 1989, section 179 of or Schedule 2 to the [M25]Water Industry Act 1991 or otherwise;

"records" includes computer records and any other records kept otherwise than in a document;

[[F25]"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;

"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 [M26]New Roads and Street Works 1991;

"subordinate legislation" has the same meaning as in the [M27]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 [M28]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 **[**[F24]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 **[**[F26]to 161D**]**, 190, 202, **[**[F27]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.

[[F28]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

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 [M29]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 [M30]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 [M31]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 [M32]Water Industry Act 1991 or the [M33]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 [M34]Water Act 1989 or in the [M35]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.

Textual Amendments

F14 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)

F15 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)

F16 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)

F17 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)

F18 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)

F19 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)

F20 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)

F21 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))

F22 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))

F23 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**

F24 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)

F25 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)

F26 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)

F27 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)

F28 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)

C4 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

M16 1984 c. 12.
M17 1991 c. 56.
M18 1947 c. 48.
M19 1991 c. 56.
M20 1991 c. 59.
M21 1989 c. 15.
M22 1980 c. 66.
M23 1990 c. 8.
M24 1989 c. 15.
M25 1991 c. 56.
M26 1991 c. 22.
M27 1978 c. 30.
M28 1968 c. 59.
M29 1991 c. 22.

M30 1950 c. 39.
M31 1991 c. 60.
M32 1991 c. 56.
M33 1991 c. 59.
M34 1989 c. 15.
M35 1991 c. 60.

Other supplemental provisions

222 Crown application.

(1) Subject to the following provisions of this section, the provisions of this Act shall have effect in relation to land in which there is a Crown or Duchy interest as they have effect in relation to land in which there is no such interest.

(2) Chapter II of Part II of this Act and the related water resources provisions shall not apply—
  (a) to anything done by or on behalf of the Crown; or
  (b) to any land which is in the occupation of a government department or any other land in which there is a Crown or Duchy interest and which is occupied in right of that interest.

(3) Nothing in this Act, as read with the other provisions of this section, shall be construed—
  (a) as conferring any power of levying drainage charges in respect of lands below the high-water mark of ordinary spring tides; or
  (b) as authorising the **[**[F29]Agency**]** to require the Crown to make any payment to the **[**[F29]Agency**]** in respect of any premises.

(4) Subject to subsection (2) and (3) above and to subsection (5) below, where a power is conferred in relation to land by or under any provision of this Act other than one of the flood defence provisions—
  (a) that power shall be exercisable in relation to any land in which there is a Crown or Duchy interest only with the consent of the appropriate authority; and
  (b) a consent for the purposes of this subsection may be given on such financial and other conditions as the appropriate authority giving the consent may consider appropriate.

(5) Subsection (4) above shall not require any consent to be given—
  (a) for the exercise of any power in relation to any land in which there is a Crown or Duchy interest to the extent that that power would be so exercisable apart from subsection (1) above; or
  (b) for the purposes of any provision having effect by virtue of so much of section 168 above and Schedule 19 to this Act as relates to the granting of authority for discharges of water.

(6) Section 74 of the [M36]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 **[**[F29]Agency's**]** functions under those provisions and of other functions of the **[**[F29]Agency**]**.

(7) In this section—

"the appropriate authority" has the same meaning as in section 293 of the [M37]Town and Country Planning Act 1990; and

"Crown or Duchy interest" means an interest belonging 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.

(8) The provisions of subsection (3) of section 293 of the 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.

(9) Nothing in this section shall be construed as requiring any provision of this Act having effect otherwise than in relation to land to be construed as imposing any liability on the Crown to which the Crown would not be subject apart from this section.

Textual Amendments

F29 Words in s. 222 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)

C5 S. 222 applied (01.12.1991) by Land Drainage Act 1991 (c. 59, SIF 73:1), **ss. 74(5)**, 76(2).

Marginal Citations

M36 1991 c. 59.

M37 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 [M38]Visiting Forces Act 1952.

Marginal Citations

M38 1952 c. 67.

[[F30]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

F30 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 **[**[F31]Agency**]** to acquire any land in Scotland compulsorily.

Textual Amendments

F31 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 01/04/1996.

Changes to legislation:
There are currently no known outstanding effects for the Water Resources Act 1991, Part IX.