



# Water Resources Act 1991

## 1991 CHAPTER 57

### PART VI

#### FINANCIAL PROVISIONS IN RELATION TO THE AUTHORITY

### CHAPTER II

#### REVENUE PROVISIONS

#### *Water resources charges*

### 123 Power to make scheme imposing water resources charges

- (1) Where—
  - (a) an application is made for any licence under Chapter II of Part II of this Act or for the variation of, or of the conditions of, any such licence;
  - (b) a licence under that Chapter to abstract water is granted to any person or there is a variation of any such licence or of the conditions of any such licence; or
  - (c) a licence under that Chapter to abstract water is for the time being in force,the Authority may require the payment to it of such charges as may be specified in or determined under a scheme made by it under this section.
- (2) The persons who shall be liable to pay charges which are required to be paid by virtue of a scheme under this section shall be—
  - (a) in the case of a charge by virtue of subsection (1)(a) above, the person who makes the application; and
  - (b) in the case of a charge by virtue of subsection (1)(b) or (c) above, the person to whom the licence is granted or, as the case may be, the person holding the licence which is varied or is in force.
- (3) Provision made by a scheme for the purposes of subsection (1)(c) above may impose a single charge in respect of the whole period for which a licence is in force or separate

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charges in respect of different parts of that period or both such a single charge and such separate charges.

- (4) The Authority shall not make a scheme under this section unless its provisions have been approved by the Secretary of State under section 124 below.
- (5) A scheme under this section may—
  - (a) make provision with respect to the times and methods of payment of the charges which are required to be paid by virtue of the scheme;
  - (b) make different provision for different cases, including different provision in relation to different circumstances or localities; and
  - (c) contain supplemental, consequential and transitional provision for the purposes of the scheme;and such a scheme may revoke or amend a previous scheme under this section.
- (6) It shall be the duty of the Authority to take such steps as it considers appropriate for bringing the provisions of any scheme under this section which is for the time being in force to the attention of persons likely to be affected by them.
- (7) A scheme under this section shall have effect subject to any provision made by or under section 58 above or sections 125 to 130 below.

#### **124 Approval of scheme under section 123**

- (1) Before submitting a scheme under section 123 above to the Secretary of State for his approval the Authority shall, in such manner as it considers appropriate for bringing it to the attention of persons likely to be affected by the scheme, publish a notice—
  - (a) setting out its proposals; and
  - (b) specifying the period within which representations or objections with respect to the proposals may be made to the Secretary of State.
- (2) Where any proposed scheme under section 123 above has been submitted to the Secretary of State for his approval, it shall be the duty of the Secretary of State, in determining whether or not to approve the scheme or to approve it subject to modifications—
  - (a) to consider any representations or objections duly made to him and not withdrawn; and
  - (b) to have regard to the matters specified in subsection (3) below.
- (3) The matters mentioned in subsection (2) above are—
  - (a) the desirability of ensuring that the amounts recovered by the Authority by way of charges fixed by or under schemes under section 123 above are the amounts which, taking one year with another, are required by the Authority for recovering such amounts as the Secretary of State may consider it appropriate to attribute to the expenses incurred by the Authority in carrying out its functions under Part II of this Act; and
  - (b) the need to ensure that no undue preference is shown, and that there is no undue discrimination, in the fixing of charges by or under any scheme under that section.
- (4) For the purposes of subsection (3)(a) above—
  - (a) the Secretary of State shall take into account any determinations under section 117 above in determining the amounts which he considers it

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appropriate to attribute to the expenses incurred by the Authority in carrying out its functions under Part II of this Act; and

- (b) those amounts may include amounts in respect of the depreciation of, and the provision of a return on, such of the Authority's assets as are held by it for purposes connected with the carrying out of those functions.
- (5) The consent of the Treasury shall be required for the giving of an approval to a scheme under section 123 above.

## **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 Authority 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.
- (2) No charges shall be levied in respect of water authorised by a licence to be abstracted from underground strata, in so far as—
- (a) the water is authorised to be abstracted for use for agricultural purposes other than spray irrigation; and
  - (b) the quantity of water authorised to be abstracted from the strata in any period of twenty-four hours does not exceed twenty cubic metres in aggregate.

## **126 Agreements containing exemptions from charges**

- (1) The Authority may, on the application of any person who is liable to pay charges to the Authority 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 Authority 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 Authority 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 Authority 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 Authority 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 Authority 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 Authority and that objection is not withdrawn,

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the applicant or the Authority 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 Authority was required to have regard in relation to the applicant; and
  - (b) may give directions to the Authority requiring it to make an agreement with the applicant in accordance with his decision.
- (6) Section 68 above shall have effect for the purposes of so much of this section as relates to a reference to the Secretary of State as if references in that section to Chapter II of Part II of this Act included references to this section.
- (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.

## **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 Authority 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 Authority 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 Authority 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 Authority 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.

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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.

## **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.
- (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;

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- (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 Authority to terminate the agreement.
- (4) If, on an application for the termination of an agreement under section 127 above, the Authority 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 Authority and the applicant may agree.

**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 Authority 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 Authority refuses to make or terminate an agreement under section 127 above; or
  - (b) the applicant objects to the proposals of the Authority—
    - (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 Authority 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 Authority would be required to have regard in relation to the applicant on an application under that section; and
  - (b) may give directions to the Authority requiring it to make an agreement with the applicant in accordance with his decision.
- (4) Section 68 above shall have effect for the purposes of so much of this section as relates to a reference to the Secretary of State as if references in that section to Chapter II of Part II of this Act included references to this section.
- (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.

**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—

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(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 Authority 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 Authority shall pay to the Board such proportion of those charges, subject to such conditions, as the Board and the Authority may agree, or, in default of such agreement, the Secretary of State may determine.