Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

Water Act 2003

2003 CHAPTER 37

An Act to amend the Water Resources Act 1991 and the Water Industry Act 1991; to make provision with respect to compensation under section 61 of the Water Resources Act 1991; to provide for the establishment and functions of the Water Services Regulation Authority and the Consumer Council for Water, and for the abolition of the office of Director General of Water Services; to make provision in connection with land drainage and flood defence; to amend the Reservoirs Act 1975; to make provision about contaminated land so far as it relates to the pollution of controlled waters; to confer on the Coal Authority functions in relation to the discharge of water from coal mines; to extend the functions of the Environment Agency in relation to the Rivers Esk, Sark and Tweed and their tributaries so far as they are in England; to repeal section 1 of the Metropolis Water Act 1852; and for connected purposes. [20th November 2003]

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:—

PART 1

ABSTRACTION AND IMPOUNDING

Restrictions on abstraction and impounding

VALID FROM 01/04/2006

1 Licences to abstract water

(1) After section 24 of the Water Resources Act 1991 (c. 57) (in this Act referred to as the "WRA") there is inserted—

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

"**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");

(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."

(2) In section 72 of the WRA (interpretation of Chapter 2), in subsection (1), in the appropriate places there is inserted—

""full licence" has the meaning given in section 24A above;",

""temporary licence" and "transfer licence" have the meanings given in section 24A above."

VALID FROM 01/04/2006

2 Restrictions on impounding

(1) Section 25 of the WRA (restrictions on impounding) is amended as provided in subsections (2) to (5).

(2) For subsection (1) there is substituted—

"(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—

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) 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."

(3) In subsection (2), the words ", in circumstances not constituting such a contravention," are omitted.

(4) In subsection (5), for "shall not apply to the construction or alteration of any impounding works" there is substituted " shall not apply in respect of any impounding works ".

(5) After subsection (8) there is added—

"(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."

(6) A licence which—

(a) has been granted in respect of particular impounding works, for the purposes of section 25 of the WRA, before the coming into force of subsection (2), and

(b) is in force,

is to be taken to satisfy the condition referred to in section 25(1A)(a) of that Act, as inserted by subsection (2), in respect of those impounding works.

(7) In section 64 of the WRA (abstraction and impounding by the Agency), for subsection (1)(b) there is substituted—

"(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,".

(8) In section 67 of the WRA (ecclesiastical property), in the definition of "the relevant land" in subsection (8), in paragraph (b)(i), after "impounding works" there is inserted " is, or ".

(9) In section 72 of the WRA (interpretation of Chapter 2), in subsection (1), in the definition of "the restriction on impounding works", for "25(1)" there is substituted " 25(1)(a) and (b) ".

(10) Subject to section 3 of this Act, the amendments of the WRA made by this section apply (as regards any act or omission after this section comes into force) with respect to impounding works whenever constructed.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

VALID FROM 01/04/2006

3 Existing impounding works

(1) Except as provided in subsection (3), the restriction in section 25(1)(b) of the WRA (as substituted by section 2 of this Act) does not apply in respect of any existing unlicensed impounding works.

(2) With respect to any existing unlicensed impounding works to which, but for subsection (1), that restriction would apply, the Environment Agency may serve a notice on any relevant person requiring him to apply for a licence.

(3) If that person fails to apply for such a licence within—

(a) the period of 28 days beginning with—

(i) the date of service of the notice, or

(ii) if an appeal is brought under subsection (4) and the appeal is dismissed, the date when the decision of the appropriate authority is notified to that person, or

(b) such extended period as may be agreed in writing between the Agency and that person,

the restriction in section 25(1)(b) of the WRA applies in respect of the impounding works from the expiry of that period.

(4) If the relevant person on whom a notice is served under subsection (2) is aggrieved by the service of that notice, he may by notice appeal to the appropriate authority.

(5) The appropriate authority may by regulations make provision with respect to—

(a) the manner in which notices of appeal under subsection (4) shall be served,

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

(c) the procedure on any such appeal.

(6) Where an appeal is brought under subsection (4)—

(a) the appropriate authority may 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) the decision of the appropriate authority shall be final.

(7) Subsections (4) to (6) are subject to section 114 of the Environment Act 1995 (c. 25) (delegation or reference of appeals).

(8) On an application for a licence in respect of any existing unlicensed impounding works, section 39(1) of the WRA applies only to the extent that the obstruction or impeding of the flow of inland waters which would, if the licence were granted, be authorised by that licence is to differ in any material respect from that which was taking place at the time the application was made.

(9) If a licence granted in respect of existing unlicensed impounding works is revoked or varied in the circumstances mentioned in section 61 of the WRA (compensation where licence modified on direction of the Secretary of State), subsection (3) of that section shall apply as if that licence had been granted when construction of the impounding works began and had remained in force since then.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

(10) Subsection (9) does not apply to a licence granted in respect of existing unlicensed impounding works if, before the effective date, there had occurred any contravention of section 25(1) of the WRA in respect of those impounding works.

(11) Nothing in the preceding subsections affects the application of section 25(1)(a) of the WRA (as substituted by section 2 of this Act) to the alteration, after the effective date, of any existing unlicensed impounding works.

(12) In this section—

"the appropriate authority" means—

(a) in relation to Wales, the Assembly, and

(b) in relation to England, the Secretary of State,

"the effective date" means the date when section 2 of this Act comes into force,

"existing unlicensed impounding works" means unlicensed impounding works, the construction of which was begun before the effective date,

"licence" means a licence of the kind referred to in section 25 of the WRA,

"relevant person" means any person who appears to the Environment Agency to have responsibility in respect of the impounding works in question, and

"unlicensed impounding works" means impounding works (as defined in section 25(8) of the WRA) in respect of which—

(a) no licence or authorisation of the kind referred to in section 25 of that Act was in force immediately before the effective date, and

(b) no such licence has been granted since that date.

(13) In section 114 of the Environment Act 1995 (power of Secretary of State to delegate or refer in connection with appeals), in subsection (2)(a), after paragraph (viii) there is inserted—

"(ix) section 3 of the Water Act 2003,".

VALID FROM 01/04/2006

4 Existing impounding works: works notices

(1) Without prejudice to the Environment Agency's power under subsection (2) of section 3, where it appears to the Agency to be necessary for—

(a) the protection of the environment, or

(b) the performance of its functions in connection with the management of water resources,

the Agency may serve a works notice on any relevant person with respect to any existing unlicensed impounding works of the kind mentioned in subsection (2) of that section.

(2) For the purposes of subsection (1), a works notice is a notice requiring the person on whom it is served to carry out such works or operations in relation to the impounding works as—

(a) appear to the Environment Agency to be required for the purposes mentioned in subsection (1)(a) or (b), and

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) are specified in the notice.

(3) The following provisions of the WRA apply in relation to works notices under this section as they apply in relation to notices referred to in those provisions—

(a) subsections (5) to (9) of section 25A (as inserted by section 30 of this Act), and

(b) sections 161B and 161C,

including any power to make regulations or give directions, but references in those provisions to the Secretary of State shall be treated as references to the appropriate authority.

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

(5) A person who commits an offence under subsection (4) shall be liable—

(a) on summary conviction, to a fine not exceeding £20,000,

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

(6) If a person on whom a works notice has been served under this section 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.

(7) If the Agency is of the opinion that proceedings for an offence under subsection (4) 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.

(8) In this section, "the appropriate authority", "existing unlicensed impounding works" and "relevant person" have the meanings given in section 3.

VALID FROM 01/01/2018

5 Rights of navigation, harbour and conservancy authorities

For section 26 of the WRA (rights of navigation, harbour and conservancy authorities) there is substituted—

"**26 Rights of navigation, harbour and conservancy authorities**

(1) Subject to subsection (2) below, the restriction on abstraction shall not apply to any transfer, without intervening use, of water from inland waters described in the first column of the Table below to inland waters described in the corresponding entry in the second column, if the transfer is in the course of, or results 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.

Transfer from	*Transfer to*
A water system of the authority's.	The same water system.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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 water system of the authority's.	Inland waters not forming part of that water system.
A supply reservoir of the authority's.	A water system of the authority's with which that reservoir is connected.

(2) Subsection (1) above shall not apply to a transfer of water from a water system to any inland waters outside that water system in order to—
  (a) empty a dry dock; or
  (b) introduce into those inland waters all or part of a quantity of water to be abstracted from any connected inland waters in pursuance of a licence to do so granted under this Chapter.

(3) The restriction on impounding works shall not apply to—
  (a) the construction or alteration of impounding works; or
  (b) the obstruction or impeding of inland waters by means 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, unless the construction, alteration, obstruction or impeding affects any inland waters in relation to which the authority does not have functions.

(4) In this section, references to—
  (a) an authority's water system are to a water system in relation to which the authority has functions;
  (b) an authority's supply reservoir are to a reservoir—
    (i) belonging to a navigation authority;
    (ii) used for the purposes of supplying that navigation authority's water system; and
    (iii) which does not discharge to any inland waters other than that water system.

(5) For the purposes of this section, "water system" means the canals, the harbours, or the canals and harbours constituting the system in question—
  (a) together with the locks, docks, balancing reservoirs, weirs and other works associated with the system (other than any supply reservoir as described in subsection (4)(b) above); but
  (b) excluding any part of the system which consists of a navigable river or part of one."

6 Rights to abstract small quantities

(1) For section 27 of the WRA (rights to abstract small quantities) there is substituted—

"**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.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) 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,

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.

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—

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) 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—

(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."

(2) Section 28 of the WRA shall cease to have effect.

Commencement Information

I1 S. 6(1) in force at 1.4.2004 for specified purposes by S.I. 2004/641, **art. 3(a)** (with Sch. 3 para. 17)

I2 S. 6(1) in force at 1.4.2005 in so far as not already in force by S.I. 2005/968, **art. 2(a)**

I3 S. 6(2) in force at 1.4.2005 by S.I. 2005/968, **art. 2(a)**

VALID FROM 01/01/2018

7 Rights to abstract for drainage purposes, etc

(1) Section 29 of the WRA (rights to abstract for drainage purposes etc) is amended as follows.

(2) After subsection (1) there is inserted—

"(1A) The restriction on abstraction shall not apply to any abstraction of water from inland waters within the district of an internal drainage board if—

(a) the abstraction is carried out by or on behalf of that board in connection with its functions;

(b) the water abstracted is transferred to another area of inland waters within the board's district without intervening use; and

(c) the sole or main purpose of the transfer is to augment that other area of inland waters."

(3) For subsection (2) there is substituted—

"(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) or (1A) above) is an emergency abstraction and the person abstracting the water complies with subsection (2B) below.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

(2A) An abstraction of water is an emergency abstraction if, in the opinion of the abstractor, an emergency has arisen which makes the abstraction necessary to prevent immediate danger of interference with any mining, quarrying, engineering, building or other operations (whether underground or on the surface) or, in relation to such operations, to prevent an immediate risk—

(a) to a human being of death, personal injury or harm to health;

(b) of serious damage to works resulting from any such operations; or

(c) of serious damage to the environment.

(2B) In the case of any emergency abstraction, the person abstracting the water shall before the end of the period of five days beginning with the date on which the abstraction started give notice to the **[**[F1]appropriate agency**]** of—

(a) the abstraction and of the source of supply in question; and

(b) the reasons for the abstractor's opinion that an emergency had arisen and that the abstraction was necessary.

(2C) The **[**[F1]appropriate agency**]** may give notice to the person referred to in subsection (2B) above that in the **[**[F2]appropriate agency's**]** opinion an emergency had not arisen, or that the abstraction is not, or is no longer, necessary for any of the reasons set out in subsection (2A) above; and, if the **[**[F1]appropriate agency**]** does so, the restriction on abstraction shall apply to the abstraction from the time when the notice is served (and, if applicable, the restriction imposed by section 24(2) above shall apply accordingly)."

(4) Subsection (3) is omitted.

(5) For subsection (5) there is substituted—

"(5) In this section, "land drainage"—

(a) includes the protection of land against erosion or encroachment by water, whether from inland waters or from the sea; but

(b) does not include warping, irrigation (including spray irrigation), or transferring water from one source of supply to another (whether with or without intervening use) solely or mainly in order to augment the latter."

Textual Amendments

F1 Words in s. 7(3) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 417(2)(a)** (with Sch. 7)

F2 Words in s. 7(3) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 417(2)(b)** (with Sch. 7)

VALID FROM 01/04/2006

8 Amendments relating to section 7

(1) Subsections (2) to (6) make amendments to the WRA consequential on the amendments made by section 7.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) In section 21 (minimum acceptable flows)—

(a) in subsection (9), the words from "and in that subsection" to the end are omitted,

(b) after subsection (9) there is added—

"(10) In subsection (5) above, the reference to land drainage includes—

(a) defence against water (including sea water), irrigation (other than spray irrigation), warping and the carrying on, for any purpose, of any other practice which involves management of the level of water in a watercourse; and

(b) the provision of flood warning systems."

(3) Sections 30 (notices with respect to borings not requiring licences) and 31 (appeals against notices under section 30) shall cease to have effect.

(4) In section 70 (civil liability under Chapter 2), for "24, 25 and 30" there is substituted " 24 and 25 ".

(5) In section 199 (notice of mining operations which may affect water conservation)—

(a) for subsections (2) and (3) there is substituted—

"(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.",

(b) in subsection (4), for "conservation notice given by virtue of" there is substituted " notice under ".

(6) After section 199 there is inserted—

"**199A Appeals 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.

(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.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) 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).”

(7) In section 114 of the Environment Act 1995 (c. 25) (power of Secretary of State to delegate or refer in connection with appeals), in subsection (2)(a)(v), for “or 191B(5)” there is substituted “ , 191B(5) or 199A ”.

9 Power to provide for further exemptions

After section 33 of the WRA there is inserted—

“**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;

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) 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).

(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."

Commencement Information

I4 S. 9 in force at 1.4.2004 by S.I. 2004/641, **art. 3(b)** (with Sch. 3 para. 17)

10 Orders under section 33 of the WRA, etc

(1) The appropriate authority may by order revoke—

(a) any order made under section 33 of the WRA (power to provide for further rights to abstract),

(b) any order made under any local or private Act which provides for any exception from—

(i) the restriction on abstraction (within the meaning of Chapter 2 of Part 2 of the WRA), or

(ii) that restriction and the one imposed by section 24(2) of the WRA,

or for an exception which has the effect of such an exception.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) An order of a kind referred to in paragraph (a) or (b) of subsection (1) is referred to below in this section as an "exception order".

(3) In this section, "the appropriate authority" means—

(a) in relation to the revocation of an exception order which relates to inland waters or underground strata which are wholly in England, the Secretary of State,

(b) in relation to the revocation of an exception order which relates to inland waters or underground strata which are wholly in Wales, the Assembly,

(c) in relation to the revocation of an exception order which relates to inland waters or underground strata which are partly in England and partly in Wales—

(i) the Secretary of State, in relation to the English part,

(ii) the Assembly, in relation to the Welsh part,

and references in this section (however expressed) to the revocation of an exception order are to be construed accordingly.

(4) Subject to subsection (3)(c), an order under this section may revoke the exception order either wholly, or only in relation to—

(a) any one or more areas of inland waters specified in the order under this section or any class of inland waters so specified, or

(b) any underground strata described in the order under this section in any way mentioned in section 33(2)(b) of the WRA or any other way.

(5) An order under this section may make provision, subject to any conditions or limitations specified in the order—

(a) for the restriction on abstraction (and, in the case of abstractions from underground strata, the other restrictions in section 24 of the WRA) to continue not to apply to an abstraction despite the revocation of the exception order,

(b) for a person to continue to be taken to have a right to abstract water, for the purposes of Chapter 2 of Part 2 of the WRA, to the same extent he was taken to do so under the exception order,

(c) for the payment by the Agency of compensation, in cases specified in the order, to any person who suffers loss or damage as a result of the revocation of the exception order.

(6) If an order under this section provides as mentioned in subsection (5)(a), the order must also say whether or not the exemption so provided for is to be counted cumulatively with any other exemption which a person has by virtue of section 27 or 33A of the WRA.

(7) If an order made under subsection (1)(b) revokes the exception order wholly, or wholly so far as it is not already revoked, the order under subsection (1)(b) may also repeal so much of the local or private Act as constitutes the power to make the exception order.

(8) The procedure provided for by section 33 of and Schedule 6 to the WRA, or (as the case may be) any corresponding procedure provided for by the local or private Act in question, does not apply in relation to an order under this section.

(9) The power of the Assembly to make an order by virtue of subsection (3)(b) or (c)(ii) of this section is to be treated as if it were a relevant transferred environmental function

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

for the purposes of paragraph 6 of Schedule 3 to the Government of Wales Act 1998 (c. 38) (intervention in case of functions relating to water).

(10) No order may be made under this section before the coming into force of section 6 of this Act.

(11) Section 33 of the WRA shall cease to have effect; but (subject to the provisions of this section) any order under section 33 of the WRA which was in force immediately before its repeal shall continue in force despite the repeal.

(12) In this section, "inland waters" and "underground strata" have the meanings given in section 221(1) of the WRA.

Commencement Information

I5 S. 10(1)-(10)(12) in force at 1.4.2005 by S.I. 2005/968, **art. 2(b)**

I6 S. 10(11) in force at 1.4.2004 by S.I. 2004/641, **art. 3(c)** (with Sch. 3 para. 7)

VALID FROM 01/04/2006

Applications for a licence

11 Who may apply for a licence

(1) Section 35 of the WRA (restrictions upon who may apply for abstraction licences) is amended as follows.

(2) For subsections (2) and (3) there is substituted—

"(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."

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) In subsection (4)—

(a) for "is the occupier of" there is substituted " will have a right of access to ", and

(b) in paragraph (a), for "occupy" there is substituted " a right of access to ".

12 Abolition of combined licences

Section 36 of the WRA (combined abstraction and impounding licences) shall cease to have effect.

13 Applications: types of abstraction licence

(1) After section 36 of the WRA there is inserted—

"**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);

(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.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) 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)."

(2) In section 41 of the WRA (Secretary of State's power to call in applications), after subsection (2) there is added—

"(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."

(3) In section 45 of the WRA (regulations with respect to appeals)—

(a) in subsection (1), after "against decisions" there is inserted " of the Agency under section 36A above or ",

(b) after subsection (2) there is inserted—

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

(4) In section 114 of the Environment Act 1995 (c. 25) (power of Secretary of State to delegate or refer in connection with appeals), in subsection (2)(a)(v), after "section" there is inserted " 36A, ".

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

14 Publication of application for licence

(1) For section 37 of the WRA (publication of application for licence) there is substituted—

"**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.

(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

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

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."

(2) After section 37 of the WRA there is inserted—

"**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."

(3) The WRA is further amended as follows—

(a) in section 38 (general consideration of applications)—

(i) in subsection (1), for "for the purposes of the application in accordance with section 37(5)" there is substituted " in the notice referred to in section 37(4)(b) ",

(ii) after subsection (3) there is added—

"(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.",

(b) in section 42 (consideration of called-in applications), in subsection (3)(a), for "37(4)(b) and (6)(a)" there is substituted " 37 ",

(c) in section 43 (appeals to Secretary of State), in subsection (5), for "for the purposes of the application in accordance with section 37(5)" there is substituted " in any such notice as is referred to in section 37(4)(b) ",

(d) in section 66 (inland waters owned or managed by British Waterways Board), in sub-paragraph (ii) of subsection (2)(c), for the words from "subsection (1)" to the end of that sub-paragraph there is substituted " paragraphs (b) and (c), and the succeeding words, of subsection (3) of that section were omitted. "

Consideration of licence applications

15 General consideration of licence applications

(1) Section 38 of the WRA (general consideration of licence applications) is amended as follows.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) After subsection (1) there is inserted—

"(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."

(3) In subsection (3), after "regard to" there is inserted " 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 ".

Commencement Information

I7 S. 15 in force at 1.4.2004 by S.I. 2004/641, **art. 3(d)** (with Sch. 3 para. 27)

16 Protection from derogation

(1) Section 39 of the WRA (obligation to have regard to existing rights and privileges) is amended as provided in subsections (2) to (5).

(2) In subsection (1), at the beginning there is inserted " Subject to subsection (1A) below, ".

(3) After subsection (1) there is inserted—

"(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."

(4) Subsection (3) is omitted.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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 subsection (4), for "section 27(6) above or, as the case may be, section 48(1) below" there is substituted " (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 ".

(6) In section 42 of the WRA (consideration of called-in applications)—

(a) in subsection (4), at the beginning there is inserted " Subject to subsection (4A) below, ", and

(b) after subsection (4) there is inserted—

"(4A) Subsection (1A) of section 39 above applies in relation to subsection (4) above as it applies in relation to section 39(1) above."

(7) In section 44 of the WRA (determination of appeals)—

(a) in subsection (4), at the beginning there is inserted " Subject to subsection (4A) below, ", and

(b) after subsection (4) there is inserted—

"(4A) Subsection (1A) of section 39 above applies in relation to subsection (4) above as it applies in relation to section 39(1) above."

Commencement Information

I8 S. 16(1)-(3)(6)(7) in force at 1.4.2004 by S.I. 2004/641, **art. 3(e)** (with Sch. 3 para. 7)

I9 S. 16(1) in force at 1.4.2005 in so far as not already in force by S.I. 2005/968, **art. 2(c)**

I10 S. 16(4)(5) in force at 1.4.2005 by S.I. 2005/968, **art. 2(c)**

17 Protected rights

(1) After section 39 of the WRA there is inserted—

"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—

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) 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;

(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

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) 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 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."

(2) In section 72 of the WRA (interpretation of Chapter 2), in the entry for "protected right" in subsection (1), for "section 39(3)" there is substituted " section 39A ".

Commencement Information

I11 S. 17 in force at 1.4.2005 by S.I. 2005/968, **art. 2(d)** (with Sch. 1 para. 2)

18 Register of certain protected rights

After section 39A of the WRA (inserted by section 17) there is inserted—

"**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;

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) 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.

(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.”

Commencement Information

I12 S. 18 in force at 1.4.2004 by S.I. 2004/641, **art. 3(f)** (with Sch. 3 para. 37)

Form, contents and effect of licences

19 Form, contents and effect of licences

(1) Section 46 of the WRA (form and contents of licences) is amended as provided in subsections (2) to (5).

(2) In subsection (2), for the words before paragraph (a) there is substituted “ Every full licence under this Chapter shall, and any other licence under this Chapter to abstract water may, make— ”.

(3) After subsection (2) there is inserted—

“(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

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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 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."

(4) For subsections (4) and (5) there is substituted—

"(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."

(5) In subsection (7), for "or by different means" there is substituted " , by different means or for different purposes ".

(6) In section 47 of the WRA (holders of licence), in subsection (1), the words "to abstract water" are omitted.

Commencement Information

I13 S. 19(4) in force at 1.4.2004 by S.I. 2004/641, **art. 3(g)** (with Sch. 3 para. 7)

20 Limited extension of abstraction licence validity

After section 46 of the WRA there is inserted—

"**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—

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) 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."

Commencement Information

I14 S. 20 in force at 1.4.2004 by S.I. 2004/641, **art. 3(g)** (with Sch. 3 para. 27)

VALID FROM 01/04/2006

Modification of licences

21 Modification of licences

(1) Section 51 of the WRA (modification of licence on application of licence holder) is amended as follows.

(2) In subsection (1), after "Chapter" there is inserted "to abstract water".

(3) After subsection (1) there is inserted—

"(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

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) 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).”

(4) In section 114 of the Environment Act 1995 (c. 25) (power of Secretary of State to delegate or refer in connection with appeals), in subsection (2)(a)(v), after “43,” there is inserted “ 51, ”.

(5) The amendments made by this section apply (as regards any act or omission after this section comes into force) in respect of impounding licences, regardless of when the impounding works were constructed.

22 Proposals for modification at instance of Agency or Secretary of State

(1) Section 52 of the WRA (proposals for modification of licences at the instance of the Agency or the Secretary of State) is amended as follows.

(2) After subsection (1) there is inserted—

“(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.”

(3) In subsection (4), for paragraph (b) there is substituted—

“(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.”

(4) In subsection (5), for “otherwise than in the London Gazette” there is substituted “ as mentioned in subsection (4)(b) above ”.

(5) For subsection (6) there is substituted—

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

(a) include any prescribed matters; and

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) 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."

(6) For subsection (7) there is substituted—

"(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

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

(7) Subsection (8) is omitted.

VALID FROM 01/04/2006

Transfer and apportionment of licences

23 Transfer and apportionment of licences

(1) After section 59 of the WRA there is inserted—

"Transfer and apportionment of licences

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

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

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)).

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—

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) 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;

(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.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) 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 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.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

(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.

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."

(2) In section 47 of the WRA (holders of licence)—

(a) for subsection (2) there is substituted—

"(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.",

(b) subsection (3) is omitted.

(3) In section 189 of the WRA (register of abstraction and impounding licences), in subsection (1)(b), for the words from "section 49" to the end there is substituted " section 59A, 59B or 59C above ".

(4) Sections 49 and 50 of the WRA (which relate to the succession to licences to abstract water) shall cease to have effect.

(5) Subsection (4) does not affect the succession to a licence to abstract water where the death or other act or event referred to in section 49(2)(a) or 50(1)(a) or (b) of the WRA occurred before the coming into force of that subsection, and section 49 of the WRA or (as applicable) any regulations under section 50 of the WRA which were in force immediately before the coming into force of subsection (4) are to continue to have effect in relation to such a case despite the repeal of the applicable section.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

Claims and compensation

24 Claims arising out of water abstraction

(1) After section 48 of the WRA there is inserted—

"**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."

(2) In section 48 of the WRA (general effect of licence), in subsection (2), after "supply" there is inserted " (other than an abstraction in respect of which a claim could be brought under section 48A below, in which case that section shall apply) ".

(3) In relation to loss or damage suffered before the coming into force of this section—

(a) section 48A of the WRA inserted by subsection (1) of this section does not apply, and

(b) section 48 of, and paragraphs 1(2) and 2 of Schedule 7 to, the WRA continue to have effect as if subsection (2) of this section were not in force.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

Commencement Information

I15 S. 24 in force at 1.4.2005 by S.I. 2004/641, **art. 5** (with Sch. 3 para. 47)

25 Compensation for modification of licence on direction of Secretary of State

(1) Section 61 of the WRA (compensation where licence modified on direction of the Secretary of State) is amended in accordance with subsections (2) and (3).

(2) In subsection (4), for "seven" there is substituted " four ".

(3) After subsection (4) there is inserted—

"(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."

(4) The amendment made by subsection (2) has effect in relation to the revocation or variation of a licence only if the period referred to in section 61(4) of the WRA during which no water was abstracted in pursuance of the licence began after the coming into force of that subsection.

Commencement Information

I16 S. 25(1) in force at 1.4.2004 for specified purposes by S.I. 2004/641, **art. 3(h)** (with Sch. 3 para. 7)

I17 S. 25(2)(4) in force at 1.4.2004 by S.I. 2004/641, **art. 3(h)** (with Sch. 3 para. 7)

26 Recovery of compensation from new licence-holder

After section 61 of the WRA there is inserted—

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

"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;
  (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."

Commencement Information
I18 S. 26 in force at 1.10.2004 by S.I. 2004/2528, **art. 2(a)** (with Sch. para. 18)

27 Withdrawal of compensation for certain revocations and variations

(1) This section applies where—
  (a) a licence to abstract water is revoked or varied on or after 15th July 2012 in pursuance of a direction under section 54 or 56 of the WRA (which provide for the Secretary of State to direct the Environment Agency to revoke or vary a licence in certain circumstances);
  (b) the licence was granted before the coming into force of section 19 of this Act;
  (c) the licence is one which is expressed to remain in force until revoked; and
  (d) the ground for revoking or varying the licence is that the Secretary of State is satisfied that the revocation or variation is necessary in order to protect from serious damage—
    (i) any inland waters,
    (ii) any water contained in underground strata,
    (iii) any underground strata themselves,

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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 any flora or fauna dependent on any of them.

(2) Where this section applies, no compensation is payable under section 61 of the WRA in respect of the revocation or variation of the licence.

(3) Expressions used in sub-paragraphs (i), (ii) and (iii) of subsection (1)(d) are to be construed in accordance with section 221 of the WRA; and "waters", in relation to a lake, pond, river or watercourse which is for the time being dry, includes its bottom, channel or bed.

Commencement Information

I19 S. 27 in force at 1.4.2004 by S.I. 2004/641, **art. 3(i)** (with Sch. 3 para. 7)

Water resources management schemes

28 Water resources management schemes: other abstractors

After section 20 of the WRA there is inserted—

"**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."

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

Commencement Information
I20 S. 28 in force at 1.10.2004 by S.I. 2004/2528, **art. 2(b)** (with Sch. para. 8)

29 Water resources management schemes: referral to Secretary of State

(1) After section 20A of the WRA (inserted by section 28) there is inserted—

"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."

Commencement Information
I21 S. 29 in force at 1.10.2004 by S.I. 2004/2528, **art. 2(b)** (with Sch. para. 8)

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

VALID FROM 01/04/2006

Enforcement

30 Enforcement notices, and related procedures and offences

After section 25 of the WRA there is inserted—

"**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—

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) 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).

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.

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

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

Agency may take proceedings in the High Court for the purpose of securing compliance with the notice."

Miscellaneous

31 Bulk supplies

(1) After section 20B of the WRA (inserted by section 29 of this Act) there is inserted—

"**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."

(2) In section 38 of the WRA (general consideration of applications), in subsection (3), after paragraph (b) there is inserted— " 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. ".

Commencement Information

I22 S. 31 in force at 1.10.2004 by S.I. 2004/2528, **art. 2(c)** (with Sch. para. 8)

VALID FROM 01/01/2018

32 Visiting forces

Section 223 of the WRA (exemption of visiting forces from restrictions on abstraction etc) shall cease to have effect.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

VALID FROM 01/04/2006

33 Application of certain water resources provisions to this Act

(1) The relevant WRA provisions apply to (or in relation to) the following sections of this Act (the "applicable sections") as they apply to (or in relation to) Part 2 or, as the case may be, Chapter 2 of Part 2 of the WRA—

(a) section 3 (existing impounding works),

(b) section 4 (existing impounding works: works notices), and

(c) section 10 (orders under section 33 of the WRA, etc).

(2) Accordingly, in the relevant WRA provisions—

(a) references to Part 2 of, or to Chapter 2 of Part 2 of, the WRA are to be read as if the applicable sections were included in that Part or that Chapter,

(b) references to the related water resources provisions are to be read as if those provisions meant, in relation to the applicable sections, the relevant WRA provisions other than section 222 of the WRA, and

(c) references to the Secretary of State are to be read as references to the appropriate authority (as defined, in each case, in the applicable section in question).

(3) The "relevant WRA provisions" are the following provisions of the WRA—

(a) section 120 (contributions between the Agency and certain other authorities),

(b) section 158 (works agreements for water resources purposes),

(c) section 201 (power to require information in respect of water resources functions), as substituted by section 70 of this Act,

(d) section 216 (enforcement: powers and duties),

(e) section 222 (Crown application), as in force immediately before the substitution made by paragraph 2(4) of Schedule 21 to the Environment Act 1995 (c. 25) and for so long as the substituted section 222 does not apply to Part 2 of the WRA.

(4) Section 220 of the WRA (provisions relating to service of documents) applies to documents required or authorised by virtue of any of the applicable sections to be served on any person as it applies to documents required or authorised to be served by virtue of the WRA.

(5) References in the WRA to the functions (generally) of the Environment Agency are to be read as including the Agency's functions under the applicable sections.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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 2

NEW REGULATORY ARRANGEMENTS, ETC

Establishment, etc of new bodies

VALID FROM 01/04/2006

34 Water Services Regulation Authority

(1) After section 1 of the Water Industry Act 1991 (c. 56) (in this Act referred to as the "WIA") there is inserted—

"**1A Water Services Regulation Authority**

(1) There shall be a body corporate to be known as the Water Services Regulation Authority (in this Act referred to as "the Authority") for the purpose of carrying out the functions conferred on or transferred to it by this Act or under or by virtue of any other enactment.

(2) The functions of the Authority are performed on behalf of the Crown.

(3) Schedule 1A to this Act shall have effect with respect to the Authority.

(4) In Welsh the Authority may be known as "Awdurdod Rheoleiddio Gwasanaethau Dŵr"."

(2) Schedule 1 (which inserts the new Schedule 1A into the WIA) is to have effect.

(3) The office of Director General of Water Services is abolished.

(4) Section 1 of, and Schedule 1 to, the WIA (which make provision in relation to the Director General of Water Services) shall cease to have effect.

35 Consumer Council for Water

(1) After section 27 of the WIA there is inserted—

"The Consumer Council for Water

27A Establishment of the Council and committees

(1) There shall be a body corporate to be known as the Consumer Council for Water (in this Act referred to as "the Council") for the purpose of carrying out the functions of the Council under this Act.

(2) In Welsh the Council may be known as "Cyngor Defnyddwyr Dŵr".

(3) The Council shall not be regarded as a servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown.

(4) The Council shall establish such committees of the Council—

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) as the Assembly may direct, for relevant undertakers whose areas are wholly or mainly in Wales; and
(b) as the Secretary of State may direct, for other relevant undertakers.

(5) A direction under subsection (4) above may provide for the allocation of each relevant undertaker to a committee specified in the direction.

(6) The power to give a direction under subsection (4) above may not be exercised after the end of the period of six months beginning with the commencement of section 35 of the Water Act 2003.

(7) After the end of the period mentioned in subsection (6) above the Council may (subject to paragraph 11 of Schedule 3A to this Act)—
(a) establish such committees for relevant undertakers as it considers appropriate; or
(b) alter the allocation of a relevant undertaker to a committee established under this section.

(8) The Council shall ensure that each relevant undertaker is allocated to a committee established under this section.

(9) A committee established under this section is referred to in this Act as a "regional committee".

(10) The purposes of a regional committee shall be—
(a) the provision of advice and information to the Council on consumer matters affecting the areas of the relevant undertakers allocated to that committee;
(b) such other purposes as the Council may determine.

(11) The provisions of Schedule 3A to this Act (which makes further provision about the Council and regional committees) shall have effect.

(12) The Council shall exercise and perform its powers and duties in the manner which it considers is best calculated to contribute to the achievement of sustainable development.

(13) In this Chapter—

"consumers" includes both existing and future consumers;

"the interests of consumers" means the interests of consumers in relation to—
(a) the supply of water by means of a water undertaker's supply system to premises either by water undertakers or by licensed water suppliers acting in their capacity as such; and
(b) the provision of sewerage services by sewerage undertakers; and

"consumer matter" means any matter connected with the interests of consumers.

27B Co-operation between Council and other authorities

(1) This section imposes duties on—
(a) the Authority and the Council;
(b) the Council and the Secretary of State; and

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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 Council and the Assembly.

(2) It shall be the duty of the bodies mentioned in each paragraph of subsection (1) above to make arrangements with a view to securing—

(a) co-operation and the exchange of information between them; and

(b) the consistent treatment of matters which affect both of them.

(3) As soon as practicable after agreement is reached on any arrangements required by this section, the parties shall prepare a memorandum setting them out.

(4) Arrangements under this section shall be kept under review by the parties.

(5) As soon as practicable after agreement is reached on any changes to arrangements under this section, the parties shall revise their memorandum.

(6) Parties to arrangements required by this section shall send a copy of their memorandum, and any revised memorandum, to each other person mentioned in subsection (1) above who is not a party to the arrangements set out in the memorandum (or revised memorandum).

(7) The Secretary of State shall lay a copy of every memorandum or revised memorandum under this section before each House of Parliament."

(2) Schedule 2 (which inserts the new Schedule 3A into the WIA) is to have effect.

(3) The customer service committees established under section 28(1) of the WIA are abolished.

(4) Section 28 of, and Schedule 4 to, the WIA shall cease to have effect.

Commencement Information

I23 S. 35(1) in force at 1.8.2005 for specified purposes by S.I. 2005/968, **art. 3(a)**

36 Transfer to Authority and Council of functions, property etc

(1) The functions of the Director General of Water Services are transferred to the Water Services Regulation Authority.

(2) Subject to any express amendment made by this Act, each reference to the Director General of Water Services (or to him as the Director) in the WIA (however the reference is expressed) is to have effect as a reference to the Water Services Regulation Authority (or, as the case may be, the Authority), and accordingly in the WIA "he", "him" and cognate expressions, in relation to the Director General of Water Services, are to have effect as "it" (or the appropriate equivalent) in relation to the Water Services Regulation Authority.

(3) The Secretary of State may make one or more schemes ("transfer schemes") for the transfer of the property, rights and liabilities of the Director General of Water Services to the Water Services Regulation Authority (referred to below in this Part as "the Authority") or to the Consumer Council for Water (referred to below in this Part as "the Council").

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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 transfer scheme may provide for the transfer to the Council of rights and liabilities relating to persons employed in the civil service of the state.

(5) On the day appointed by a transfer scheme, the property, rights and liabilities which are the subject of the scheme shall, by virtue of this subsection, be transferred in accordance with the provisions of the scheme.

(6) Schedule 3 is to have effect in relation to transfer schemes and transfers under this section.

Commencement Information
I24 S. 36(3)-(6) in force at 1.4.2005 by S.I. 2005/968, **art. 2(e)**

37 Conditions relating to costs of water regulation

(1) In this section "payment conditions" means conditions included in an appointment under Chapter 1 of Part 2 of the WIA by virtue of section 11(1)(c) of that Act.

(2) The payment conditions of such an appointment may (without prejudice to the generality of section 11(1)(c)) require the payment by the company holding the appointment of sums relating to any of the expenses mentioned in subsection (3).

(3) Those expenses are—
   (a) the expenses of the Council, and
   (b) the expenses of the Authority, the Secretary of State or the Assembly in relation to the establishment of the Council.

(4) The Authority may, in accordance with this section, modify any payment conditions where it considers it necessary or expedient to do so in consequence of, or of preparations for—
   (a) the establishment of the Council, or
   (b) the abolition of the customer service committees established under section 28(1) of the WIA.

(5) Where the Authority modifies under subsection (4) any payment conditions of an appointment it may make such incidental or consequential modifications as it considers necessary or expedient of the other conditions included in the appointment.

(6) Before modifying under subsection (4) or (5) the conditions included in such an appointment, the Authority shall consult the company holding the appointment.

(7) The powers of the Authority under subsections (4) and (5) may not be exercised after the end of the period of two years beginning with the commencement of this section.

(8) The Secretary of State may, after consulting the Assembly, give directions to the Authority for the purpose of securing that sums relating to any of the expenses mentioned in subsection (3) are included in the sums payable by virtue of payment conditions; and the Authority shall comply with any such direction.

(9) If this section comes into force before the coming fully into force of section 36(1), references in this section to the Authority are to be read as including references to the Director General of Water Services.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

Commencement Information

I25 S. 37 in force at 1.4.2004 by S.I. 2004/641, **art. 3(j)**

38 Forward work programmes and annual reports

(1) Before section 193 of the WIA there is inserted—

"192A **Forward work programmes**

(1) The Authority and the Council shall, before each financial year, each publish a document (the "forward work programme") containing a general description of the projects, other than those comprising routine activities in the exercise of its functions, which it plans to undertake during the year.

(2) That description must include the objectives of each project.

(3) The forward work programme for any year shall also include an estimate of the overall expenditure which the Authority or the Council expects to incur during the year in the exercise of its functions.

(4) Before publishing the forward work programme for any year, the Authority or the Council shall give notice—

(a) containing a draft of the forward work programme; and

(b) specifying the time within which representations or objections to the proposals contained in it may be made,

and shall consider any representations or objections which are duly made and not withdrawn.

(5) The notice under subsection (4) above must be published by the Authority or the Council in such manner as it considers appropriate for the purpose of bringing the matters contained in it to the attention of persons likely to be affected by them.

(6) The Authority must send a copy of any notice given by it under subsection (4) above to the Council, the Secretary of State and the Assembly.

(7) The Council must send a copy of any notice given by it under subsection (4) above to the Authority, the Secretary of State and the Assembly.

192B **Annual and other reports**

(1) The Authority shall, as soon as practicable after the end of each financial year, make to the Secretary of State a report (the "annual report" for that year) on—

(a) its activities during that year; and

(b) the activities of the Competition Commission during that year in respect of any references made by it.

(2) The annual report for each year shall include—

(a) a general survey of developments in respect of matters falling within the scope of the Authority's functions;

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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 report on the progress of the projects described in the forward work programme for that year;

(c) a summary of final and provisional orders made and penalties imposed by the Authority during the year;

(d) a report on such matters relating to any relevant undertaker whose area is wholly or mainly in Wales as the Assembly may from time to time require; and

(e) a report on such other matters as the Secretary of State may from time to time require.

(3) The annual report for each year shall set out any general directions given by the Secretary of State under section 27(3) above.

(4) The Secretary of State or (as the case may be) the Assembly shall consult the Authority before exercising the power under subsection (2)(d) or (e) above in relation to any matter.

(5) The Secretary of State shall—

(a) lay a copy of each annual report before each House of Parliament; and

(b) arrange for the report to be published in such manner as he considers appropriate.

(6) The Authority may also prepare other reports with respect to any matter falling within the scope of its functions and may arrange for any such report to be published in such manner as it considers appropriate.

(7) The Authority shall send a copy of each annual or other report under this section to the Assembly, the Council and the Chief Inspector of Drinking Water.

(8) In making or preparing any report under this section the Authority shall have regard to the need for excluding, so far as that is practicable, any matter which relates to the affairs of a particular individual or body of persons (corporate or unincorporate), where publication of that matter would or might, in the opinion of the Authority, seriously and prejudicially affect the interests of that individual or body."

(2) Sections 193 and 194 of the WIA (which make provision about annual and other reports by the Director General of Water Services and customer service committees) shall cease to have effect.

Commencement Information

I26 S. 38(1) in force at 1.10.2004 by S.I. 2004/2528, **art. 2(d)** (with Sch. para. 238)

I27 S. 38(2) in force at 1.10.2004 for specified purposes by S.I. 2004/2528, **art. 2(d)** (with Sch. para. 8)

Objectives of regulation of water industry

39 Objectives and duties under WIA

(1) Section 2 of the WIA (general duties with respect to water industry) is amended as follows.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) In paragraph (a) of subsection (1), after "relevant undertakers" there is inserted " and of licensed water suppliers ".

(3) For subsection (2) there is substituted—

"(2A) The Secretary of State or, as the case may be, the Authority shall exercise and perform the powers and duties mentioned in subsection (1) above in the manner which he or it considers is best calculated—

(a) to further the consumer objective;

(b) to secure that the functions of a water undertaker and of a sewerage undertaker are properly carried out as respects every area of England and Wales;

(c) to secure that companies holding appointments under Chapter 1 of Part 2 of this Act as relevant undertakers are able (in particular, by securing reasonable returns on their capital) to finance the proper carrying out of those functions; and

(d) to secure that the activities authorised by the licence of a licensed water supplier and any statutory functions imposed on it in consequence of the licence are properly carried out.

(2B) The consumer objective mentioned in subsection (2A)(a) above is to protect the interests of consumers, wherever appropriate by promoting effective competition between persons engaged in, or in commercial activities connected with, the provision of water and sewerage services.

(2C) For the purposes of subsection (2A)(a) above the Secretary of State or, as the case may be, the Authority shall have regard to the interests of—

(a) individuals who are disabled or chronically sick;

(b) individuals of pensionable age;

(c) individuals with low incomes;

(d) individuals residing in rural areas; and

(e) customers, of companies holding an appointment under Chapter 1 of Part 2 of this Act, whose premises are not eligible to be supplied by a licensed water supplier,

but that is not to be taken as implying that regard may not be had to the interests of other descriptions of consumer.

(2D) For the purposes of subsection (2C) above, premises are not eligible to be supplied by a licensed water supplier if—

(a) they are household premises (as defined in section 17C below); or

(b) the total quantity of water estimated to be supplied to the premises annually for the purposes of subsection (2) of section 17D below is less than the quantity specified in that subsection.

(2E) The Secretary of State and the Authority may, in exercising any of the powers and performing any of the duties mentioned in subsection (1) above, have regard to—

(a) any interests of consumers in relation to electricity conveyed by distribution systems (within the meaning of the Electricity Act 1989);

(b) any interests of consumers in relation to gas conveyed through pipes (within the meaning of the Gas Act 1986);

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) any interests of consumers in relation to communications services and electronic communications apparatus (within the meaning of the Communications Act 2003),

which are affected by the exercise of that power or the performance of that duty."

(4) For subsections (3) and (4) there is substituted—

"(3) Subject to subsection (2A) above, the Secretary of State or, as the case may be, the Authority shall exercise and perform the powers and duties mentioned in subsection (1) above in the manner which he or it considers is best calculated—

(a) to promote economy and efficiency on the part of companies holding an appointment under Chapter 1 of Part 2 of this Act in the carrying out of the functions of a relevant undertaker;

(b) to secure that no undue preference is shown, and that there is no undue discrimination in the fixing by such companies of water and drainage charges;

(c) to secure that consumers are protected as respects benefits that could be secured for them by the application in a particular manner of any of the proceeds of any disposal (whenever made) of any of such a company's protected land or of an interest or right in or over any of that land;

(d) to ensure that consumers are also protected as respects any activities of such a company which are not attributable to the exercise of functions of a relevant undertaker, or as respects any activities of any person appearing to the Secretary of State or (as the case may be) the Authority to be connected with the company, and in particular by ensuring—

(i) that any transactions are carried out at arm's length;

(ii) that the company, in relation to the exercise of its functions as a relevant undertaker, maintains and presents accounts in a suitable form and manner;

(iii) that, if the person is a licensed water supplier, its licence does not authorise it to carry on any activities in the area of the company;

(e) to contribute to the achievement of sustainable development.

(4) In exercising any of the powers or performing any of the duties mentioned in subsection (1) above in accordance with the preceding provisions of this section, the Secretary of State and the Authority shall have regard to the principles of best regulatory practice (including the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed)."

(5) After subsection (5) there is inserted—

"(5A) In this section—

"consumers" includes both existing and future consumers; and

"the interests of consumers" means the interests of consumers in relation to—

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) the supply of water by means of a water undertaker's supply system to premises either by water undertakers or by licensed water suppliers acting in their capacity as such; and

(b) the provision of sewerage services by sewerage undertakers."

(6) In subsection (6), for paragraphs (a) and (b) there is substituted—

"(a) subject to subsection (6A) below, the reference in subsection (1) above to the provisions of this Act relating to the regulation of relevant undertakers and of licensed water suppliers is a reference to the provisions contained in Part 2 of this Act (except section 27A, and Schedule 3A), or in any of sections 37A to 38, 39, 39B, 39C, 66B, 66D, 66F to 66H, 66K, 66L, 95, 96, 153, 181, 182, 192A, 192B, 195, 195A and 201 to 203 below;

(b) the reference in that subsection to the provisions relating to the financial conditions of requisitions is a reference to the provisions contained in sections 42, 43, 43A, 48, 51C, 99, 100 and 100A below; and".

(7) In subsection (6A), for "Subsections (2) to (4) above" there is substituted " Subsections (2A) to (4) above and section 2A below ".

(8) In subsection (6B), for "subsections (2) to (4) above" there is substituted " subsections (2A) to (4) above and section 2A below ".

(9) After subsection (6B) there is added—

"(7) The duties imposed by subsections (2A) to (4) above and section 2A below do not affect the obligation of the Authority or, as the case may be, the Secretary of State to perform or comply with any other duty or requirement (whether arising under this Act or another enactment, by virtue of any Community obligation or otherwise)."

Commencement Information

I28 S. 39 in force at 1.4.2005 by S.I. 2005/968, **art. 2(f)**

40 Guidance to Authority on social and environmental matters

After section 2 of the WIA there is inserted—

"2A Guidance on social and environmental matters

(1) Guidance may be issued from time to time—

(a) by the Assembly, with respect to appointment areas which are wholly or mainly in Wales; and

(b) by the Secretary of State, with respect to other appointment areas,

about the making by the Authority of a contribution towards the attainment of any social or environmental policies set out or referred to in the guidance.

(2) In formulating guidance, the Secretary of State and the Assembly shall, where practicable, have regard to the costs and benefits which may be expected to result from the guidance.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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 Authority shall, in exercising and performing the powers and duties mentioned in section 2(1) above (subject to section 2(6) above), have regard to any guidance issued under this section.

(4) Before issuing guidance under this section the Secretary of State and the Assembly shall consult—
- (a) the Authority;
- (b) the Council;
- (c) in the case of the Secretary of State, the Assembly and *vice versa*;
- (d) relevant undertakers;
- (e) licensed water suppliers; and
- (f) such other persons as the Secretary of State or the Assembly considers it appropriate to consult in relation to the guidance.

(5) A draft of any guidance proposed to be issued by the Secretary of State under this section shall be laid before each House of Parliament.

(6) Guidance shall not be issued by the Secretary of State under this section until after the period of forty days beginning with—
- (a) the day on which the draft is laid before each House of Parliament; or
- (b) if the draft is laid before the House of Lords on one day and the House of Commons on another, the later of those two days.

(7) If, before the end of that period, either House resolves that the guidance should not be issued, the Secretary of State must not issue it.

(8) In reckoning any period of forty days for the purposes of subsection (6) or (7) above, no account shall be taken of any time during which—
- (a) Parliament is dissolved or prorogued; or
- (b) both Houses are adjourned for more than four days.

(9) The Secretary of State and the Assembly shall arrange for any guidance issued by him or it under this section to be published in such manner as he or it considers appropriate.

(10) In this section, an "appointment area" is an area for which an appointment is held under Chapter 1 of Part 2 of this Act."

Commencement Information
I29 S. 40 in force at 1.4.2005 by S.I. 2005/968, **art. 2(g)**

41 Standards of performance in relation to water supply

(1) Section 39 of the WIA (procedure for making regulations relating to performance standards in connection with water supply) is amended as follows.

(2) Before subsection (1) there is inserted—

"(A1) The Secretary of State may make regulations under section 38 above—
- (a) on an application by the Authority, in accordance with subsections (1) to (3) below; or

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) otherwise than on such an application, in accordance with subsections (4) to (8) below."

(3) In subsection (1)—

(a) for the words preceding paragraph (a), and paragraph (a), there is substituted " Where the Authority has made to the Secretary of State a written application complying with subsection (2) below, the Secretary of State may make regulations under section 38 above if— ",

(b) in paragraph (b), the "and" at the end of sub-paragraph (i) is omitted, and after sub-paragraph (ii) there is inserted—

"(iii) on the Council; and

(iv) on such other persons or bodies as the Secretary of State may consider appropriate;",

(c) in paragraph (c)(ii), for "(b)(ii)" there is substituted " (b) ".

(4) In subsection (2)—

(a) in paragraph (a), for "draft provisions proposed by the Director for inclusion in" there is substituted " the Authority's proposals for the making of ",

(b) in paragraph (b), for "those provisions" there is substituted " the regulations ".

(5) In subsection (3)—

(a) for "under section 38 above" there is substituted " on an application by the Authority under this section ",

(b) in paragraph (a), for "the provisions proposed by the Director in his application or those provisions" there is substituted " those which in the opinion of the Secretary of State give effect to the proposals set out in the Authority's application or to those proposals ",

(c) in paragraph (b), the "and" at the end of sub-paragraph (i) is omitted, and after sub-paragraph (ii) there is inserted "and

(iii) to any person or body on whom a copy of the Authority's application was served under subsection (1)(b) above."

(6) After subsection (3) there is added—

"(4) Where no such application as is mentioned in subsection (1) above has been made, the Secretary of State may make regulations under section 38 above only if he considers—

(a) that the regulations will contribute towards the attainment of policies relating to public health or the environment; or

(b) (if he does not consider that they will so contribute) that there are exceptional reasons why it is otherwise in the public interest that the regulations should be made.

(5) Before making regulations under section 38 above by virtue of subsection (4) above, the Secretary of State shall—

(a) give notice of his proposals;

(b) consider the results of the research carried out in accordance with subsection (7) below; and

(c) consider every representation or objection with respect to the proposals which has been duly made and not withdrawn.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) A notice under subsection (5)(a) above must—
- (a) summarise the Secretary of State's reasons for his proposals;
- (b) specify the water undertaker or undertakers in relation to which it is proposed the regulations should apply; and
- (c) specify the period within which objections or representations with respect to the proposals may be made.

(7) Before giving notice under subsection (5)(a) above the Secretary of State shall arrange for such research as he considers appropriate with a view to discovering the views of a representative sample of persons likely to be affected.

(8) A notice under subsection (5)(a) above shall be given by serving a copy on—
- (a) the Authority;
- (b) the Council;
- (c) every water undertaker to which the regulations will apply;
- (d) persons or bodies appearing to the Secretary of State to be representative of persons likely to be affected by the regulations; and
- (e) such other persons or bodies as the Secretary of State may consider appropriate."

Commencement Information
I30 S. 41 in force at 1.4.2005 by S.I. 2005/968, **art. 2(h)**

42 Standards of performance in relation to sewerage services

(1) Section 96 of the WIA (procedure for making regulations relating to performance standards in connection with sewerage services) is amended as follows.

(2) Before subsection (1) there is inserted—

"(A1) The Secretary of State may make regulations under section 95 above—
- (a) on an application by the Authority, in accordance with subsections (1) to (3) below; or
- (b) otherwise than on such an application, in accordance with subsections (4) to (8) below."

(3) In subsection (1)—
- (a) for the words preceding paragraph (a), and paragraph (a), there is substituted " Where the Authority has made to the Secretary of State a written application complying with subsection (2) below, the Secretary of State may make regulations under section 95 above if— ",
- (b) in paragraph (b), the "and" at the end of sub-paragraph (i) is omitted, and after sub-paragraph (ii) there is inserted—

  "(iii) on the Council; and

  (iv) on such other persons or bodies as the Secretary of State may consider appropriate;",
- (c) in paragraph (c)(ii), for "(b)(ii)" there is substituted " (b) ".

(4) In subsection (2)—

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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 paragraph (a), for "draft provisions proposed by the Director for inclusion in" there is substituted " the Authority's proposals for the making of ",

(b) in paragraph (b), for "those provisions" there is substituted " the regulations ".

(5) In subsection (3)—

(a) for "under section 95 above" there is substituted " on an application by the Authority under this section ",

(b) in paragraph (a), for "the provisions proposed by the Director in his application or those provisions" there is substituted " those which in the opinion of the Secretary of State give effect to the proposals set out in the Authority's application or to those proposals ",

(c) in paragraph (b), the "and" at the end of sub-paragraph (i) is omitted, and after sub-paragraph (ii) there is inserted "and

(iii) to any person or body on whom a copy of the Authority's application was served under subsection (1)(b) above."

(6) After subsection (3) there is added—

"(4) Where no such application as is mentioned in subsection (1) above has been made, the Secretary of State may make regulations under section 95 above only if he considers—

(a) that the regulations will contribute towards the attainment of policies relating to public health or the environment; or

(b) (if he does not consider that they will so contribute) that there are exceptional reasons why it is otherwise in the public interest that the regulations should be made.

(5) Before making regulations under section 95 above by virtue of subsection (4) above, the Secretary of State shall—

(a) give notice of his proposals;

(b) consider the results of the research carried out in accordance with subsection (7) below; and

(c) consider every representation or objection with respect to the proposals which has been duly made and not withdrawn.

(6) A notice under subsection (5)(a) above must—

(a) summarise the Secretary of State's reasons for his proposals;

(b) specify the sewerage undertaker or undertakers in relation to which it is proposed the regulations should apply; and

(c) specify the period within which objections or representations with respect to the proposals may be made.

(7) Before giving notice under subsection (5)(a) above the Secretary of State shall arrange for such research as he considers appropriate with a view to discovering the views of a representative sample of persons likely to be affected.

(8) A notice under subsection (5)(a) above shall be given by serving a copy on—

(a) the Authority;

(b) the Council;

(c) every sewerage undertaker to which the regulations will apply;

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) persons or bodies appearing to the Secretary of State to be representative of persons likely to be affected by the regulations; and

(e) such other persons or bodies as the Secretary of State may consider appropriate."

Commencement Information

I31 S. 42 in force at 1.4.2005 by S.I. 2005/968, **art. 2(h)**

VALID FROM 01/10/2005

Functions of the Council

43 General functions of the Council

(1) After section 27B of the WIA (which is inserted by section 35) there is inserted—

"General functions of the Council

27C The interests of consumers

(1) In considering the interests of consumers, the Council shall have regard to the interests of—

(a) individuals who are disabled or chronically sick;

(b) individuals of pensionable age;

(c) individuals with low incomes;

(d) individuals residing in rural areas; and

(e) customers, of companies holding an appointment under Chapter 1 of Part 2 of this Act, whose premises are not eligible to be supplied by a licensed water supplier,

but that is not to be taken as implying that regard may not be had to the interests of other descriptions of consumer.

(2) For the purposes of subsection (1) above, premises are not eligible to be supplied by a licensed water supplier if—

(a) they are household premises (as defined in section 17C above); or

(b) the total quantity of water estimated to be supplied to the premises annually for the purposes of subsection (2) of section 17D above is less than the quantity specified in that subsection.

27D Acquisition and review of information

The Council shall have the function of obtaining and keeping under review—

(a) information about consumer matters (including matters affecting consumers in different areas); and

(b) information about the views of consumers on such matters (including the views of consumers in different areas).

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

27E Provision of advice and information to public authorities

(1) The Council shall have the function of—

(a) making proposals, or providing advice and information, about consumer matters (including matters affecting consumers in different areas); and

(b) representing the views of consumers on such matters (including the views of consumers in different areas),

to public authorities, companies holding an appointment under Chapter 1 of this Part, licensed water suppliers and other persons whose activities may affect the interests of consumers.

(2) Subject to subsection (7) below, information which relates to the affairs of any particular individual or body of persons (corporate or unincorporate) shall not be disclosed in the exercise of the Council's function under this section unless one or more of paragraphs (a) to (c) of subsection (3) below applies to the information.

(3) Information relating to a particular individual or body may be disclosed if—

(a) the individual or body has consented to the disclosure;

(b) it is information that is available to the public from some other source; or

(c) it is not information the disclosure of which would or might, in the opinion of the Council, seriously and prejudicially affect the interests of the individual or body.

(4) Before deciding to disclose any information relating to a particular individual or body in pursuance of subsection (3)(c) above, the Council shall—

(a) consult that individual or body; and

(b) have regard to any opinion expressed by the Authority as to the application of subsection (3)(c) above to the information or as to the desirability or otherwise of its disclosure;

and paragraph (b) applies whether the opinion is given in relation to the information itself or to information of a description which applies to that information.

(5) Subject to subsection (7) below, the Council shall not in the exercise of its function under this section disclose any information which it considers relates to any matter which is, or is likely to be, the subject of criminal proceedings.

(6) In considering whether information relates to any matter as mentioned in subsection (5) above, the Council shall have regard to any opinion expressed (whether in relation to the information itself or to information of a description which applies to that information) by the Secretary of State, the Assembly or the Director of Public Prosecutions.

(7) Subsections (2) to (5) above do not apply to a disclosure of information which is made to the Authority, the Secretary of State, the Assembly, the Competition Commission or any other public authority.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

(8) The disclosure by the Council of information in the exercise of its function under this section does not contravene section 206 below (restriction on disclosure of information).

27F Provision of information to consumers

(1) The Council has the function of providing information to consumers about consumer matters in such form as appears to the Council to be most useful to the recipients.

(2) That function may be exercised by—
  (a) publishing information in any manner the Council thinks appropriate for the purpose of bringing it to the attention of those likely to be interested; or
  (b) furnishing information to any consumer (whether in response to a request or otherwise).

(3) Information may only be disclosed in the exercise of that function if it is information that is available to members of the public from some other source.

(4) The Council shall maintain at least one office in each of England and Wales at which consumers may apply for information.

27G Power to publish information and advice about consumer matters

(1) If it appears to the Council that the publication of any advice and information about consumer matters (including information about the views of consumers on such matters) would promote the interests of consumers, the Council may publish that advice or information in such manner as it thinks fit.

(2) Information which relates to the affairs of any particular individual or body of persons (corporate or unincorporate) shall not be published in the exercise of the Council's function under this section unless one or more of paragraphs (a) to (c) of subsection (3) below applies to the information.

(3) Information relating to a particular individual or body may be published if—
  (a) the individual or body has consented to the publication;
  (b) it is information that is available to the public from some other source; or
  (c) it is not information the publication of which would or might, in the opinion of the Council, seriously and prejudicially affect the interests of the individual or body.

(4) Before deciding to publish any information relating to a particular individual or body in pursuance of subsection (3)(c) above, the Council shall—
  (a) consult that individual or body; and
  (b) have regard to any opinion expressed by the Authority as to the application of subsection (3)(c) above to the information or as to the desirability or otherwise of its publication;

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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 paragraph (b) applies whether the opinion is given in relation to the information itself or to information of a description which applies to that information.

(5) The Council shall not in the exercise of its function under this section publish any information which it considers relates to any matter which is, or is likely to be, the subject of criminal proceedings.

(6) In considering whether information relates to any matter as mentioned in subsection (5) above, the Council shall have regard to any opinion expressed (whether in relation to the information itself or to information of a description which applies to that information) by the Secretary of State, the Assembly or the Director of Public Prosecutions.

(7) The publication of information under this section does not contravene section 206 below (restriction on disclosure of information)."

(2) Before section 30A of the WIA there is inserted—

"Further functions of Authority

30ZA **Duty to consult Council**

(1) It shall be the duty of the Authority to consult the Council in relation to the exercise of each of its functions, except where—
  (a) the Council has indicated to the Authority (whether specifically or generally) that it does not wish to be consulted; or
  (b) the Authority considers that it would be clearly inappropriate to consult the Council.

(2) That duty is in addition to any duty on the Authority to consult the Council which is provided for elsewhere.

30ZB **Copies of notices**

Where the Authority is required by any provision of this Act to publish a notice or any other document, it shall send a copy of the document to the Council."

44 Provision of information to the Council

After section 27G of the WIA (which is inserted by section 43) there is inserted—

"**27H Provision of information to the Council**

(1) The Council may direct—
  (a) the Authority;
  (b) a company holding an appointment under Chapter 1 of this Part; or
  (c) a licensed water supplier,

to supply to it, in such form as it may reasonably specify, such information specified or described in the direction as it may require for the purpose of exercising its functions.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) A body to whom a direction under this section is given shall, if the information specified or described in the direction is in its possession, comply with the direction as soon as reasonably practicable.

(3) Before giving a direction under this section and in specifying the form in which any information is to be supplied, the Council shall have regard to the desirability of minimising the costs, or any other detriment, to the body to whom the direction is given.

(4) If a body to whom a direction under this section is given fails to comply with the direction it shall, if so required by the Council, give notice to the Council of the reasons for its failure.

27I Publication of notice of reasons

(1) Subject to the following provisions of this section, the Council may publish a notice given to it under section 27H(4) above.

(2) Information which relates to the affairs of any particular individual or body of persons (corporate or unincorporate) shall not be published under subsection (1) above unless one or more of paragraphs (a) to (c) of subsection (3) below applies to the information.

(3) Information relating to a particular individual or body may be published if—
   (a) that individual or body has consented to the publication;
   (b) it is information that is available to the public from some other source; or
   (c) it is not information the publication of which would or might, in the opinion of the Council, seriously and prejudicially affect the interests of the individual or body.

(4) Before deciding to publish any information relating to a particular individual or body in pursuance of subsection (3)(c) above, the Council shall—
   (a) consult that individual or body; and
   (b) have regard to any opinion expressed by the Authority as to the application of subsection (3)(c) above to the information or as to the desirability or otherwise of its publication;

   and paragraph (b) applies whether the opinion is given in relation to the information itself or to information of a description which applies to that information.

(5) The Council shall not in the exercise of its function under this section publish any information which it considers relates to any matter which is, or is likely to be, the subject of criminal proceedings.

(6) In considering whether information relates to any matter as mentioned in subsection (5) above, the Council shall have regard to any opinion expressed (whether in relation to the information itself or to information of a description which applies to that information) by the Secretary of State, the Assembly or the Director of Public Prosecutions.

(7) The publication by the Council of information under this section does not contravene section 206 below (restriction on disclosure of information).

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

27J Provision of information by the Council

(1) Any of—
  (a) the Authority;
  (b) the Secretary of State; or
  (c) the Assembly,

may direct the Council to supply to him or it, in such form as he or it may reasonably specify, such information specified or described in the direction as he or it may require for the purpose of exercising his or its functions.

(2) The Council shall, if the information specified or described in the direction is in its possession, comply with a direction under this section as soon as reasonably practicable.

(3) Where the Council fails to comply with a direction given under subsection (1) above it must give to the person who gave the direction notice of its reason for the failure, and that person may publish that notice in such manner as he considers appropriate.

(4) A person publishing a notice under this section shall have regard to the need for excluding, so far as that is practicable, any matter which relates to the affairs of a particular individual or body of persons (corporate or unincorporate), where he considers that publication of that matter would or might seriously and prejudicially affect the interests of that individual or body.

27K Sections 27H to 27J: supplementary

(1) The Secretary of State may make regulations prescribing—
  (a) descriptions of information which a person to whom a direction is given under section 27H or 27J above may refuse to supply; or
  (b) circumstances in which such a person may refuse to comply with a direction given under either of those sections.

(2) The Council may, if no person is prescribed for the purpose under subsection (3) below, refer a failure by a company holding an appointment or a licensed water supplier to comply with a direction under section 27H above to the Authority.

(3) The Secretary of State may make regulations for the purpose of enabling a failure to comply with a direction under section 27H or 27J above to be referred by the person who gave the direction to such person (other than the Authority) as may be prescribed by the regulations.

(4) A person to whom such a failure is referred (whether under subsection (2) above or regulations under subsection (3) above) shall—
  (a) consider any representations made by either party;
  (b) determine whether the person failing to comply with the direction is entitled to refuse to do so, and, if not, order him to comply with the direction; and
  (c) give notice of his determination and any order under paragraph (b), with reasons, to both parties.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) The duty of a company holding an appointment and a licensed water supplier to comply with an order under this section shall be enforceable by the Authority under section 18 above.

(6) A notice under subsection (4) above may be published by either party to the reference.

(7) Subsections (2) to (7) of section 27I above apply to the publication of a notice under this section as they apply to the publication of a notice given to the Council under section 27H(4) above."

45 Provision of statistical information to consumers etc

(1) After section 38A of the WIA there is inserted—

"**38B Publication of statistical information about complaints**

(1) It shall be the duty of the Council to publish, in such form and manner and with such frequency as it thinks appropriate, such statistical information as it considers appropriate relating to complaints made by consumers about any matter relating to the activities of water undertakers or licensed water suppliers and the handling of such complaints.

(2) In subsection (1) above, "complaints" includes complaints made directly to water undertakers or licensed water suppliers (or anyone carrying on activities on their behalf) and complaints to the Authority, the Council, the Assembly or the Secretary of State."

(2) After section 95A of the WIA there is inserted—

"**95B Publication of statistical information about complaints**

(1) It shall be the duty of the Council to publish, in such form and manner and with such frequency as it thinks appropriate, such statistical information as it considers appropriate relating to complaints made by consumers about any matter relating to the activities of sewerage undertakers and the handling of such complaints.

(2) In subsection (1) above, "complaints" includes complaints made directly to sewerage undertakers (or anyone carrying on activities on their behalf) and complaints to the Authority, the Council, the Assembly or the Secretary of State."

46 Consumer complaints

(1) For section 29 of the WIA (duties of customer service committees) there is substituted—

"**29 Consumer complaints**

(1) This section applies to a complaint which any person ("the complainant") has against a relevant undertaker or a licensed water supplier in relation to

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

any matter connected with the functions of that undertaker or the services provided by that licensed water supplier.

(2) Where a complaint to which this section applies (other than one appearing to the Council to be frivolous or vexatious) is referred to the Council by or on behalf of the complainant, the Council shall (subject to subsections (3) and (8) below) investigate the complaint for the purpose of determining whether it is appropriate to take any action under subsection (9) below.

(3) Where it appears to the Council that the complaint is one the Authority would be required to investigate under section 181 below, the Council shall, instead of investigating the matter to which it relates, refer the complaint to the Authority.

(4) Where it appears to the Council that the complaint relates to a matter in respect of which a function under section 18 or 22A above is or may be exercisable by any person, the Council shall (unless it considers that that person already has notice of the matter) refer the matter to that person.

(5) Where it appears to the Council that the complaint relates to a matter which constitutes or might constitute an offence, the Council shall refer the matter—

(a) to the Assembly, if the matter relates to a relevant undertaker whose area is wholly or mainly in Wales or to services provided by a licensed water supplier using the supply system of a water undertaker whose area is wholly or mainly in Wales; or

(b) to the Secretary of State, in any other case.

(6) Where it appears to the Council that the complaint relates to a matter which constitutes a dispute of a kind which can be referred to the Authority for determination under any provision of this Act, the Council shall, if the complainant consents, refer the matter to the Authority.

(7) A referral under subsection (6) above shall have effect for the purposes of section 30A below as if it were a referral by the complainant of a dispute for determination by the Authority.

(8) The Council is not required to investigate any matter if it appears to the Council that—

(a) it is unlikely that the complaint could be resolved by action taken by the relevant undertaker or the licensed water supplier;

(b) the relevant undertaker or the licensed water supplier has not been given a reasonable opportunity to deal with the complaint; or

(c) in a case mentioned in subsection (4) or (5) above or (where the complainant does not consent to the matter being referred to the Authority) subsection (6) above, it is inappropriate to do so.

(9) Where it appears to the Council to be appropriate to do so with a view to assisting in reaching a satisfactory resolution of a complaint referred to it under this section, the Council shall make representations on behalf of the complainant to the relevant undertaker or the licensed water supplier about anything to which the complaint relates.

(10) After investigating a complaint the Council may make a report to the Authority, the Secretary of State or the Assembly.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

(11) A report under subsection (10) above may include information about—

(a) any representations made by the Council under subsection (9) above; and

(b) the response of the relevant undertaker or the licensed water supplier to the complaint or any such representations.

(12) No report under subsection (10) above or information about a complaint referred to the Council under this section, from which the complainant may be identified, shall be published or disclosed by the Council, the Authority, the Secretary of State or the Assembly in the exercise of any power under this Act without the consent of the complainant.

(13) Where a representation made to the Authority, the Secretary of State or the Assembly about any matter (other than a representation appearing to the person to whom it is made to be frivolous or vexatious) appears to that person—

(a) to be about a matter which is or amounts to a complaint to which this section applies (other than one which, in the case of the Authority, it is its duty to investigate under section 181 below); and

(b) to have been made by or on behalf of the complainant,

that person shall refer the matter to the Council."

(2) Section 30 of the WIA (duties of Director with respect to complaints) shall cease to have effect.

47 Investigations by the Council

After section 29 of the WIA there is inserted—

"**29A Power of Council to investigate other matters**

(1) The Council may investigate any matter (not being a matter which it is its duty to investigate under this Part) which appears to it to be a matter relating to the interests of consumers.

(2) Before undertaking an investigation under this section the Council shall consult the Authority, the Secretary of State and the Assembly.

(3) Where the Council has investigated a matter under this section it may make a report on that matter to the Authority, the Secretary of State, the OFT, the Assembly or any other public authority whose functions appear to the Council to be exercisable in relation to that matter.

(4) Subject to subsection (5) below, the Council may—

(a) send a report on any matter investigated under this section to any person who appears to the Council to have an interest in that matter; and

(b) publish any such report in such manner as the Council thinks appropriate.

(5) Information which relates to the affairs of any particular individual or body of persons (corporate or unincorporate)—

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) shall not be included in a report which is to be sent to any person under subsection (4)(a) above, unless one or more of paragraphs (a) to (c) of subsection (6) below applies; and

(b) shall be excluded from any such report which is to be published under subsection (4)(b) above, unless one or more of paragraphs (a) to (c) of subsection (7) below applies.

(6) Information relating to a particular individual or body may be included in a report to be sent under subsection (4)(a) above if—

(a) that individual or body has consented to the disclosure;

(b) it is information that is available to the public from some other source; or

(c) it is not information the disclosure of which would or might, in the opinion of the Council, seriously and prejudicially affect the interests of that individual or body.

(7) Information relating to a particular individual or body may be included in a report to be published under subsection (4)(b) above if—

(a) that individual or body has consented to the publication;

(b) it is information that is available to the public from some other source; or

(c) it is not information the publication of which would or might, in the opinion of the Council, seriously and prejudicially affect the interests of that individual or body.

(8) Before deciding to include in such a report any information relating to a particular individual or body in pursuance of subsection (6)(c) or (7)(c) above, the Council shall—

(a) consult that individual or body; and

(b) have regard to any opinion expressed by the Authority as to the application of subsection (6)(c) or (7)(c) above to the information or as to the desirability or otherwise of its inclusion in the report;

and paragraph (b) applies whether the opinion is given in relation to the information itself or to information of a description which applies to that information.

(9) The Council shall not include in any report to be sent under subsection (4)(a) above or published under subsection (4)(b) above any information which it considers relates to any matter which is, or is likely to be, the subject of criminal proceedings.

(10) In considering whether information relates to any matter as mentioned in subsection (9) above, the Council shall have regard to any opinion expressed (whether in relation to the information itself or to information of a description which applies to that information) by the Secretary of State, the Assembly or the Director of Public Prosecutions.”

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

Enforcement of obligations

48 Financial penalties

(1) After section 22 of the WIA there is inserted—

"Financial penalties

22A Penalties

(1) Where the Authority is satisfied—

(a) in the case of any company holding an appointment under Chapter 1 of this Part, that the company—

(i) has contravened or is contravening any condition of the appointment;

(ii) has caused or contributed to, or is causing or contributing to, a contravention by a company holding a licence under Chapter 1A of this Part of any condition of the licence; or

(iii) has failed or is failing to achieve any standard of performance prescribed under section 38(2) or 95(2) below; or

(b) in the case of any company holding a licence under Chapter 1A of this Part, that the company—

(i) has contravened or is contravening any condition of the licence; or

(ii) has caused or contributed to, or is causing or contributing to, a contravention by a company holding an appointment under Chapter 1 of this Part of any condition of the appointment,

the Authority may, subject to section 22C below, impose on the company a penalty of such amount as is reasonable in all the circumstances of the case.

(2) Where the Authority, the Secretary of State or the Assembly is satisfied—

(a) in the case of any company holding an appointment under Chapter 1 of this Part, that the company—

(i) has contravened or is contravening any statutory or other requirement which is enforceable under section 18 above and in relation to which he or it is the enforcement authority; or

(ii) has caused or contributed to, or is causing or contributing to, a contravention by a company holding a licence under Chapter 1A of this Part of any such requirement; or

(b) in the case of any company holding a licence under Chapter 1A of this Part, that the company—

(i) has contravened or is contravening any statutory or other requirement which is enforceable under section 18 above and in relation to which he or it is the enforcement authority; or

(ii) has caused or contributed to, or is causing or contributing to, a contravention by a company holding an appointment under Chapter 1 of this Part of any such requirement,

he or it may, subject to section 22C below, impose on the company a penalty of such amount as is reasonable in all the circumstances of the case.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) In a case in which—

(a) subsection (1) above applies by virtue of paragraph (a)(ii) or (b)(ii) of that subsection, or

(b) subsection (2) above applies by virtue of paragraph (a)(ii) or (b)(ii) of that subsection,

references in the following provisions of this section and sections 22B and 22C below to a contravention include references to causing or contributing to a contravention.

(4) Before imposing a penalty on a company under subsection (1) or (2) above the Authority, the Secretary of State or the Assembly (the "enforcement authority") shall give notice—

(a) stating that it proposes to impose a penalty and the amount of the penalty proposed to be imposed;

(b) setting out the condition, requirement or standard of performance in question;

(c) specifying the acts or omissions which, in the opinion of the enforcement authority, constitute the contravention or failure in question and the other facts which, in the opinion of the enforcement authority, justify the imposition of a penalty and the amount of the penalty proposed; and

(d) specifying the period (not being less than twenty-one days from the date of publication of the notice) within which representations or objections with respect to the proposed penalty may be made,

and shall consider any representations or objections which are duly made and not withdrawn.

(5) Before varying any proposal stated in a notice under subsection (4)(a) above the enforcement authority shall give notice—

(a) setting out the proposed variation and the reasons for it; and

(b) specifying the period (not being less than twenty-one days from the date of publication of the notice) within which representations or objections with respect to the proposed variation may be made,

and shall consider any representations or objections which are duly made and not withdrawn.

(6) As soon as practicable after imposing a penalty, the enforcement authority shall give notice—

(a) stating that he or it has imposed a penalty on the company and its amount;

(b) setting out the condition, requirement or standard of performance in question;

(c) specifying the acts or omissions which, in the opinion of the enforcement authority, constitute the contravention or failure in question and the other facts which, in the opinion of the enforcement authority, justify the imposition of the penalty and its amount; and

(d) specifying a date, no earlier than the end of the period of forty-two days from the date of service of the notice on the company, by which the penalty is required to be paid.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) The company may, within twenty-one days of the date of service on it of a notice under subsection (6) above, make an application to the enforcement authority for him or it to specify different dates by which different portions of the penalty are to be paid.

(8) Any notice required to be given under this section shall be given—
- (a) by publishing the notice in such manner as the enforcement authority considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by them;
- (b) by serving a copy of the notice on the company;
- (c) by serving a copy of the notice on the Council; and
- (d) where the notice is given by the Secretary of State or the Assembly, by serving a copy of the notice on the Authority.

(9) Any sums received by the enforcement authority by way of penalty under this section shall be paid into the Consolidated Fund.

(10) The power of the enforcement authority to impose a penalty under this section is not exercisable in respect of any contravention or failure before the commencement of this section.

(11) No penalty imposed by an enforcement authority under this section may exceed 10% of the turnover of the company (determined in accordance with provisions specified in an order made, after consulting the Assembly, by the Secretary of State).

(12) The power of the Secretary of State to make an order under subsection (11) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

(13) An enforcement authority shall not impose a penalty under this section where it is satisfied that the most appropriate way of proceeding is under the Competition Act 1998.

22B Statement of policy with respect to penalties

(1) Each enforcement authority shall prepare and publish a statement of policy with respect to the imposition of penalties and the determination of their amount.

(2) In deciding whether to impose a penalty, and in determining the amount of any penalty, in respect of a contravention or failure an enforcement authority shall have regard to his or its statement of policy most recently published at the time when the contravention or failure occurred.

(3) An enforcement authority may revise his or its statement of policy and where he or it does so shall publish the revised statement.

(4) Publication under this section shall be in such manner as the enforcement authority considers appropriate for the purpose of bringing the matters contained in the statement of policy to the attention of persons likely to be affected by them.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) An enforcement authority shall undertake such consultation as he or it considers appropriate when preparing or revising his or its statement of policy.

22C Time limits on the imposition of financial penalties

(1) Where no final or provisional order has been made in relation to a contravention or failure, an enforcement authority may not impose a penalty in respect of the contravention or failure later than the end of the period of twelve months from the time of the contravention or failure, unless before the end of that period—
  (a) the notice under section 22A(4) above relating to the penalty is served on the company under section 22A(8) above; or
  (b) a notice relating to the contravention or failure is served on the company under section 203(2) below.

(2) Where a final or provisional order has been made in relation to a contravention or failure, an enforcement authority may not impose a penalty in respect of the contravention or failure unless the notice relating to the penalty under section 22A(4) above was served on the company under section 22A(8) above—
  (a) within three months from the confirmation of the provisional order or the making of the final order; or
  (b) where the provisional order is not confirmed, within six months from the making of the provisional order.

22D Interest and payment of instalments

(1) If the whole or any part of a penalty is not paid by the date by which it is required to be paid, the unpaid balance from time to time shall carry interest at the rate for the time being specified in section 17 of the Judgments Act 1838.

(2) If an application is made under subsection (7) of section 22A above in relation to a penalty, the penalty is not required to be paid until the application has been determined.

(3) If the enforcement authority grants an application under that subsection in relation to a penalty but any portion of the penalty is not paid by the date specified in relation to it by the enforcement authority under that subsection, the enforcement authority may where he or it considers it appropriate require so much of the penalty as has not already been paid to be paid immediately.

22E Appeals

(1) If the company on which a penalty is imposed is aggrieved by—
  (a) the imposition of the penalty;
  (b) the amount of the penalty; or
  (c) the date by which the penalty is required to be paid, or the different dates by which different portions of the penalty are required to be paid,

  the company may make an application to the court under this section.

(2) An application under subsection (1) above must be made—

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) within forty-two days from the date of service on the company of a notice under section 22A(6) above; or

(b) where the application relates to a decision of an enforcement authority on an application by the company under section 22A(7) above, within forty-two days from the date the company is notified of the decision.

(3) On any such application, where the court considers it appropriate to do so in all the circumstances of the case and is satisfied of one or more of the grounds falling within subsection (4) below, the court—

(a) may quash the penalty;

(b) may substitute a penalty of such lesser amount as the court considers appropriate in all the circumstances of the case; or

(c) in the case of an application under subsection (1)(c) above, may substitute for the date or dates imposed by the enforcement authority an alternative date or dates.

(4) The grounds falling within this subsection are—

(a) that the imposition of the penalty was not within the power of the enforcement authority under section 22A above;

(b) that any of the requirements of subsections (4) to (6) or (8) of section 22A above have not been complied with in relation to the imposition of the penalty and the interests of the company have been substantially prejudiced by the non-compliance; or

(c) that it was unreasonable of the enforcement authority to require the penalty imposed, or any portion of it, to be paid by the date or dates by which it was required to be paid.

(5) If an application is made under this section in relation to a penalty, the penalty is not required to be paid until the application has been determined.

(6) Where the court substitutes a penalty of a lesser amount it may require the payment of interest on the substituted penalty at such rate, and from such date, as it considers just and equitable.

(7) Where the court specifies as a date by which the penalty, or a portion of the penalty, is to be paid a date before the determination of the application under this section it may require the payment of interest on the penalty, or portion, from that date at such rate as it considers just and equitable.

(8) Except as provided by this section, the validity of a penalty shall not be questioned by any legal proceedings whatever.

(9) In this section "the court" means the High Court.

22F Recovery of penalties

Where a penalty imposed under section 22A(1) or (2) above, or any portion of it, has not been paid by the date on which it is required to be paid and—

(a) no application relating to the penalty has been made under section 22E above during the period within which such an application can be made; or

(b) an application has been made under that section and determined,

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

the enforcement authority may recover from the company, as a civil debt due to him or it, any of the penalty and any interest which has not been paid."

(2) In section 195 of the WIA (keeping of a register), in subsection (2), the "and" at the end of paragraph (d) is omitted, and after paragraph (e) there is inserted—

"(f) every penalty imposed under section 22A(1) or (2) above and every notice under section 22A(6) above;".

Commencement Information

I32 S. 48(1) in force at 1.10.2004 for specified purposes by S.I. 2004/2528, **art. 2(e)** (with Sch. para. 8)

I33 S. 48(1) in force at 1.4.2005 in so far as not already in force by S.I. 2005/968, **art. 2(i)**

I34 S. 48(2) in force at 1.4.2005 by S.I. 2005/968, **art. 2(i)**

49 Enforcement of certain provisions

(1) The WIA is amended as follows.

(2) In section 18 (orders for securing compliance with certain provisions)—

(a) in subsection (1)(b), for "has contravened any such condition or requirement and is likely to do so again" there is substituted " is likely to contravene any such condition or requirement ",

(b) for subsection (4)(a)(ii) there is substituted—

"(ii) is likely to contravene any such condition or requirement;".

(3) In section 20 (procedure for orders made under section 18), in subsections (1)(c) and (4)(b), for "twenty-eight" there is substituted " twenty-one ".

(4) Subsection (3) does not have effect in relation to—

(a) a provisional order which has been made before the commencement of that subsection, or

(b) a final order in respect of which notice has been given under section 20(1) of the WIA before the commencement of that subsection.

Commencement Information

I35 S. 49 in force at 1.10.2004 by S.I. 2004/2528, **art. 2(f)** (with Sch. para. 8)

Remuneration and standards of performance

50 Links between directors' pay and standards of performance

After section 35 of the WIA there is inserted—

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

"Disclosure of arrangements for remuneration

35A Remuneration and standards of performance

(1) This section applies to any company holding an appointment under Chapter 1 of this Part.

(2) As soon as reasonably practicable after the end of each financial year of the company it must make a statement to the Authority—
   (a) disclosing whether or not remuneration has been paid or become due during that financial year to the directors of the company as a result of arrangements falling within subsection (3) below; and
   (b) where such remuneration has been paid or become due, describing the arrangements and the remuneration.

(3) Arrangements fall within this subsection if they are arrangements for linking the remuneration of the directors of the company to standards of performance in connection with the carrying out by the company of the functions of a relevant undertaker.

(4) A description under subsection (2)(b) above must include in particular—
   (a) a statement of when the arrangements were made;
   (b) a description of the standards of performance in question;
   (c) an explanation of the means by which the standards of performance are assessed; and
   (d) an explanation of how the remuneration was calculated.

(5) The statement required by subsection (2) above must also state—
   (a) whether or not there are in force in respect of the financial year during which the statement is made arrangements falling within subsection (3) above; or
   (b) if not, whether the company intends that such arrangements will be in force at some time during that financial year,

   and if there are, or it is intended that there will be, such arrangements in force the statement must describe those arrangements.

(6) A description under subsection (5) above must—
   (a) include in particular the matters listed in subsection (4)(a), (b) and (c) above; and
   (b) where the arrangements described are different from any arrangements described under subsection (2)(b) above, state the likely effect of those differences on the remuneration of each director of the company.

(7) The statement required by subsection (2) above must be made to the Authority in such manner as may be required by the Authority.

(8) The statement required by subsection (2) above—
   (a) must be published by the company making the statement in such manner as it reasonably considers will secure adequate publicity for it; and

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) may be published by the Authority in such manner as it may consider appropriate.

(9) The duty of a company under this section applies in respect of any person who has at any time been a director of the company.

(10) In this section—

"remuneration" in relation to a director of a company—

(a) means any form of payment, consideration or other benefit (including pension benefit), paid or due to or in respect of the director; and

(b) includes remuneration in respect of any of his services while a director of the company;

"standards of performance", in relation to any company, include any standards which are—

(a) set by or under any conditions of the company's appointment under Chapter 1 of this Part;

(b) contained in or prescribed by regulations made under section 38(1)(b) or (2) or section 95(1)(b) or (2) below; or

(c) set or agreed to by the company.

(11) Any requirement imposed by this section shall be treated as a statutory requirement enforceable under section 18 above by the Authority."

Commencement Information

I36 S. 50 in force at 1.10.2004 by S.I. 2004/2528, **art. 2(g)** (with Sch. para. 48)

Miscellaneous

51 Reasons for decisions

After section 195 of the WIA there is inserted—

"**195A Reasons for decisions**

(1) This section applies to the following decisions of the Authority, the Secretary of State or the Assembly, namely—

(a) the modification of the conditions of an appointment under Chapter 1 of Part 2 of this Act or the variation of the area to which an appointment relates;

(b) the modification of the conditions of a licence under Chapter 1A of that Part;

(c) the termination of such an appointment or the revocation of such a licence;

(d) the giving of any directions or consent in pursuance of a condition included in such an appointment by virtue of section 12(1) above or in such a licence by virtue of section 17G(3)(a) or (b) above;

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) the determination of a question referred in pursuance of a condition included in such an appointment by virtue of section 12(2) above or in such a licence by virtue of section 17G(3)(c) above;

(f) the making of a determination under section 17E or 66D(1) above; and

(g) the making of a final enforcement order, the making or confirmation of a provisional enforcement order or the revocation of a final order or of a provisional order which has been confirmed.

(2) As soon as reasonably practicable after making such a decision the Authority, the Secretary of State or the Assembly shall publish a notice stating the reasons for the decision in such manner as it considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be interested.

(3) A person publishing a notice under subsection (2) above shall serve a copy on the company holding the appointment or licence to which the decision relates.

(4) A person preparing a notice under subsection (2) above shall have regard to the need for excluding, so far as that is practicable, any matter which relates to the affairs of a particular individual or body of persons (corporate or unincorporate), where he considers that publication of that matter would or might seriously and prejudicially affect the interests of that individual or body.

(5) This section does not apply in relation to a decision of the Authority resulting in any provision which the Authority was directed under section 195(3) above not to enter in the register required to be kept under that section."

Commencement Information

I37 S. 51 in force at 1.4.2005 by S.I. 2005/968, **art. 2(j)** (with Sch. 2 para. 1)

VALID FROM 01/04/2006

52 Co-operation between water regulators

(1) This section imposes duties on each of the following—

(a) the Secretary of State,

(b) the Assembly,

(c) the Environment Agency, and

(d) the Water Services Regulation Authority.

(2) It is the duty of each of those mentioned in subsection (1) to make arrangements with each of the others with a view to promoting, in the case of each pair of them—

(a) co-operation and the exchange of information between them, and

(b) consistency of treatment of matters which affect both of them.

(3) That duty relates only—

(a) in the case of the Water Services Regulation Authority, to its functions under the WIA relating to the regulation of water and sewerage undertakers and licensed water suppliers,

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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 the case of the Secretary of State and the Assembly, to their functions of the description referred to in paragraph (a), and to their functions under the WIA relating to the quality of water supplied by water undertakers and licensed water suppliers,

(c) in the case of the Environment Agency, to its functions concerning water resources and water pollution so far as they relate to water and sewerage undertakers and licensed water suppliers.

(4) As soon as practicable after agreement is reached on any arrangements required by this section, the parties must prepare a memorandum setting them out.

(5) The parties to any such arrangements must keep them under review.

(6) As soon as practicable after agreement is reached on any changes to arrangements under this section, the parties must revise their memorandum.

(7) Parties to arrangements required by this section must send a copy of their memorandum (and any revised memorandum) to each person mentioned in subsection (1) who is not a party to the arrangements set out in it.

(8) The Secretary of State must lay before each House of Parliament a copy of every memorandum (and revised memorandum) under this section.

The Competition Commission

53 Specialist members of the Competition Commission

(1) In section 104(1) of the Utilities Act 2000 (c. 27) (appointment of members of the Competition Commission)—

(a) the "or" at the end of paragraph (a) is omitted, and

(b) after paragraph (b) there is inserted "; or

(c) section 12, 14, 16A, 17K or 17P of the Water Industry Act 1991.".

(2) The persons who are, immediately before the commencement of subsection (1), members of the Competition Commission by virtue of appointments made under section 14(8) of the WIA shall continue as members of the Commission and their appointments shall be treated as having been made under section 104 of the Utilities Act 2000.

(3) Section 14(8) and (8A) of the WIA (which are superseded by this section) shall cease to have effect.

(4) The provision made by this section does not affect any group which has been selected, before the commencement of subsection (1), to perform functions of the Commission in relation to any reference under or by virtue of section 14 of the WIA.

Commencement Information

I38 S. 53 in force at 1.4.2004 by S.I. 2004/641, **art. 3(k)** (with Sch. 3 para. 7)

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

54 Determination references under section 12 of the WIA

(1) Section 12 of the WIA (determinations under conditions of appointment) is amended as follows.

(2) After subsection (3) there is inserted—

"(3A) For the purposes of subsection (3) above, where—

(a) the question or matter referred to the Commission concerns the review of a price control imposed on the company holding the appointment; and

(b) the Commission is to decide to what extent it is reasonable to take into account in its determination costs incurred or borne by the company in connection with the reference,

the Commission shall also have regard to the extent to which, in its view, its determination is likely to support the company's (rather than the Authority's) claims in relation to the question or matter referred to it.

(3B) Subsections (4) and (5) of section 14, and sections 16A and 16B, below apply to references to the Competition Commission under this section as they apply to references under section 14.

(3C) A report of the Competition Commission on a reference under this section—

(a) shall be made to the Authority; and

(b) shall include definite conclusions on the questions or other matters comprised in the reference, together with such an account of their reasons for those conclusions as, in the opinion of the Competition Commission, is expedient for facilitating a proper understanding of those questions or other matters and of their conclusions,

and subsections (5) and (6) of section 15 below apply to such a report as they apply to a report on a reference under section 14."

(3) Subsections (3)(b)(i), (4) and (5) shall cease to have effect.

Commencement Information

I39 S. 54 in force at 1.10.2004 by S.I. 2004/2528, **art. 2(h)** (with Sch. para. 58) (which transitional provisions in Sch. para. 5 are revoked (1.10.2005) by S.I. 2007/1021, art. 3(1)(a)(2))

55 Conditions of appointments under the WIA

(1) The WIA is amended as follows.

(2) In section 14(5) (modification references to the Competition Commission)—

(a) after "this section" there is inserted " or in carrying out functions under section 16A below ",

(b) after "the investigation" there is inserted " or the carrying out of those functions ", and

(c) after "such investigation" there is inserted " or such functions ".

(3) In section 16 (modification of conditions of appointment following report of Competition Commission), after subsection (4) there is inserted—

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

"(4A) After considering any representations or objections made in response to proposals set out in a notice under subsection (3) above, the Authority shall give notice to the Competition Commission—

(a) setting out the modifications it proposes to make to remedy or prevent the adverse effects specified in the report; and

(b) stating the reasons for making the modifications.

(4B) The Authority shall include with the notice under subsection (4A) above a copy of any representations or objections received in relation to the notice under subsection (3) above.

(4C) If the period of four weeks from the date on which the notice under subsection (4A) above is given elapses without a direction under section 16A(1)(a) below having been given to it, the Authority shall—

(a) make the modifications set out in the notice; or

(b) if a direction under section 16A(1)(b) below has been given, make the modifications which are not specified in the direction."

(4) After section 16 there is inserted—

"**16A Commission's power of veto following report**

(1) The Competition Commission (in this section referred to as "the Commission") may, within the period of four weeks after the date on which it is given a notice under section 16(4A) above, direct the Authority—

(a) not to make the modifications set out in that notice; or

(b) not to make such of the modifications as may be specified in the direction;

and the Authority shall comply with any such direction.

(2) The Secretary of State may, within the period of four weeks after the date on which the Commission is given a notice under section 16(4A) above and on the application of the Commission, direct that the period for giving a direction under subsection (1) above (and, accordingly, the period mentioned in section 16(4C) above) shall be extended by fourteen days.

(3) The power to give a direction under subsection (1) above may only be exercised in respect of such of the modifications set out in the notice under section 16(4A)(a) above as appear to the Commission not to be the modifications which are requisite for the purpose of remedying or preventing all or any of the adverse effects specified in the report as effects which could be remedied or prevented by modifications.

(4) If the Commission gives a direction under subsection (1) above, it—

(a) shall give notice setting out the modifications proposed by the Authority, the terms of the direction and the reasons for giving it; and

(b) shall itself make such modifications as appear to it to be requisite for the purpose of remedying or preventing—

(i) if the direction was given under subsection (1)(a) above, the adverse effects specified in the report as effects which could be remedied or prevented by modifications;

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

(ii) if the direction was given under subsection (1)(b) above, such of those adverse effects as are not remedied or prevented by the modifications made by the Authority under section 16(4C)(b) above.

(5) In exercising its power under subsection (4)(b) above, the Commission shall have regard to the matters to which the Authority is required to have regard when determining the conditions of a company's appointment.

(6) Before making modifications under subsection (4)(b) above the Commission shall give notice—

(a) stating that it proposes to make the modifications and setting them out;

(b) stating the reason why it proposes to make them;

(c) specifying the period (not being less than twenty-eight days from the date of publication of the notice) within which representations or objections with respect to the proposed modifications may be made,

and shall consider any representations or objections which are duly made and not withdrawn.

(7) A notice under subsection (4)(a) or (6) above shall be given—

(a) by publishing the notice in such manner as the Commission considers appropriate for the purpose of bringing it to the attention of persons likely to be affected by the making of the modifications; and

(b) by serving a copy on the Authority and the company whose conditions of appointment it is proposed should be modified.

(8) The Commission may not make any modification under this section which the Authority could not make under section 16 above.

(9) After making modifications under this section the Commission shall publish a notice stating that the modifications have been made and setting them out, with the reasons for making them.

(10) This section does not apply to the modification of the conditions of a company's appointment following a report of the Commission made before the commencement of section 55 of the Water Act 2003.

16B Commission's power of veto following report: supplementary

(1) For the purposes of the law relating to defamation, absolute privilege attaches to any notice under subsection (4)(a), (6) or (9) of section 16A above.

(2) In giving any notice under subsection (4)(a) or (6) of section 16A above, or publishing any notice under subsection (9) of that section, the Commission must have regard to the following considerations before disclosing any information.

(3) The first consideration is the need to exclude from disclosure (so far as practicable) any information whose disclosure the Commission thinks is contrary to the public interest.

(4) The second consideration is the need to exclude from disclosure (so far as practicable)—

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) commercial information whose disclosure the Commission thinks might significantly harm the legitimate business interests of the undertaking to which it relates; or

(b) information relating to the private affairs of an individual whose disclosure the Commission thinks might significantly harm the individual's interests.

(5) The third consideration is the extent to which the disclosure of the information mentioned in subsection (4)(a) or (b) above is necessary for the purposes of the notice.

(6) The following sections of Part 3 of the Enterprise Act 2002 shall apply, with the modifications mentioned in subsections (7) and (8) below, for the purposes of any investigation by the Commission for the purposes of the exercise of its functions under section 16A above, as they apply for the purposes of any investigations on references under that Part—

(a) section 109 (attendance of witnesses and production of documents etc);

(b) section 110 (enforcement of powers under section 109: general);

(c) section 111 (penalties);

(d) section 112 (penalties: main procedural requirements);

(e) section 113 (payments and interest by instalments);

(f) section 114 (appeals in relation to penalties);

(g) section 115 (recovery of penalties); and

(h) section 116 (statement of policy).

(7) Section 110 shall, in its application by virtue of subsection (6) above, have effect as if—

(a) subsection (2) were omitted;

(b) in subsection (4), for the words "the publication of the report of the Commission on the reference concerned" there were substituted " the publication by the Commission of a notice under section 16A(9) of the Water Industry Act 1991 in connection with the reference concerned or, if no direction has been given by the Commission under section 16A(1) of that Act in connection with the reference concerned and within the period permitted for that purpose, the latest day on which it was possible to give such a direction within the permitted period "; and

(c) in subsection (9) the words from "or section" to "section 65(3))" were omitted.

(8) Section 111(5)(b) shall, in its application by virtue of subsection (6) above, have effect as if for sub-paragraph (ii) there were substituted—

"(ii) if earlier, the day on which a notice is published by the Commission under section 16A(9) of the Water Industry Act 1991 in connection with the reference concerned or, if no direction is given by the Commission under section 16A(1) of that Act in connection with the reference concerned and within the period permitted for that purpose, the latest day on which such a direction may be given within the permitted period."

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) Provisions of Part 3 of the Enterprise Act 2002 which have effect for the purposes of sections 109 to 116 of that Act (including, in particular, provisions relating to offences and the making of orders) shall, for the purposes of the application of those sections by virtue of subsection (6) above, have effect in relation to those sections as applied by virtue of that subsection.

(10) Accordingly, corresponding provisions of this Act shall not have effect in relation to those sections as applied by virtue of that subsection."

Commencement Information

I40 S. 55 in force at 1.10.2004 by S.I. 2004/2528, **art. 2(h)** (with Sch. para. 58) (which transitional provisions in Sch. para. 5 are revoked (1.10.2005) by S.I. 2007/1021, art. 3(1)(a)(2))

Licensing of water suppliers

56 Licensing of other water suppliers

Schedule 4, which contains amendments to the WIA to provide for the licensing of suppliers of water other than water undertakers, is to have effect.

Commencement Information

I41 S. 56 in force at 1.4.2004 for specified purposes by S.I. 2004/641, art. 3(l), **Sch. 1** (with Sch. 3 para. 7)

I42 S. 56 in force at 1.8.2005 for specified purposes by S.I. 2005/968, **art. 3(b)**

PART 3

MISCELLANEOUS

The Drinking Water Inspectorate

57 The Chief Inspector of Drinking Water and the Drinking Water Inspectorate

(1) Section 86 of the WIA (which provides for the appointment of technical assessors for the enforcement of water quality) is amended as provided in subsections (2) to (8).

(2) In subsection (1), the words "as technical assessors" are omitted.

(3) After subsection (1) there is inserted—

"(1A) Subject to subsection (1B) below, the Secretary of State shall designate one such person as the Chief Inspector of Drinking Water.

(1B) If the function of the Secretary of State under subsection (1) above is transferred to any extent to the Assembly—

(a) subject to paragraph (b) below, the Assembly may designate one such person appointed by it as the Chief Inspector of Drinking Water for Wales; but

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) if the person designated by the Assembly is the same as the person designated by the Secretary of State as the Chief Inspector of Drinking Water, he shall be known as such in both capacities."

(4) In subsection (2), for "A person" there is substituted " An inspector ".

(5) In subsection (3)(a) and (b), for "a person" there is substituted " an inspector ".

(6) In subsection (4), for "person", wherever it appears, there is substituted " inspector ".

(7) In subsection (6), for the words from "on summary conviction" to the end there is substituted—

"(a) on summary conviction, to a fine not exceeding £20,000;

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

(8) After subsection (6) there is added—

"(7) Proceedings by the Secretary of State for an offence under this section or in relation to the quality and sufficiency of water supplied using a water undertaker's supply system may be instituted and carried on in the name of the Chief Inspector of Drinking Water.

(8) Any such proceedings by the Assembly may be instituted and carried on in the name of the Chief Inspector of Drinking Water for Wales, if there is one (or, if subsection (1B)(b) above applies, in the name of the Chief Inspector of Drinking Water).

(9) In this section "inspector" means the Chief Inspector of Drinking Water or any other person appointed under subsection (1) above."

(9) In section 219 of the WIA (general interpretation), after subsection (9) there is added—

"(10) If the Assembly designates a person as Chief Inspector of Drinking Water for Wales under section 86(1B) above, references in this Act to the Chief Inspector of Drinking Water, as respects anything to be done in relation to him, shall be taken as references to the person designated as the Chief Inspector of Drinking Water by the Secretary of State and also the person designated by the Assembly as the Chief Inspector of Drinking Water for Wales."

(10) Subsection (7) does not have effect in relation to any offence committed before the commencement of that subsection.

Commencement Information

I43 S. 57 in force at 1.4.2004 by S.I. 2004/641, **art. 3(m)** (with Sch. 3 para. 57)

Water fluoridation

58 Fluoridation of water supplies

(1) The WIA is amended as follows.

(2) For section 87 (fluoridation of water supplies at request of health authorities) there is substituted—

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

"87 Fluoridation of water supplies at request of relevant authorities

(1) If requested in writing to do so by a relevant authority, a water undertaker shall enter into arrangements with the relevant authority to increase the fluoride content of the water supplied by that undertaker to premises within the area specified in the arrangements.

(2) But a water undertaker shall not be required by subsection (1) above to enter into any such arrangements until an indemnity with respect to the arrangements has been given by virtue of section 90 below—
- (a) to the water undertaker; and
- (b) to any licensed water supplier which is entitled to one.

(3) In this section and the following provisions of this Chapter—
- (a) references to a relevant authority—
  - (i) in relation to areas in England, are to a Strategic Health Authority established under section 8 of the National Health Service Act 1977;
  - (ii) in relation to areas in Wales, are to the Assembly; and
- (b) references to water supplied by a water undertaker are to water supplied (whether by a water undertaker or a licensed water supplier) to premises using the supply system of that undertaker.

(4) The area specified in arrangements under this section may be—
- (a) in relation to England, the whole or any part of the area of the Strategic Health Authority in question;
- (b) in relation to Wales, such area comprising the whole or any part of Wales as the Assembly may determine.

(5) The arrangements shall be on such terms as may be agreed between the relevant authority and the water undertaker or, in the absence of agreement, determined in accordance with section 87B below.

(6) Those terms shall include provision—
- (a) requiring the relevant authority to meet the reasonable capital and operating costs incurred by the water undertaker in giving effect to the arrangements;
- (b) specifying circumstances in which the requirement to increase the fluoride content may be temporarily suspended; and
- (c) for the variation of the arrangements at the request of the relevant authority.

(7) The relevant authority shall consult the Authority in relation to the terms to be included in any arrangements under this section (in particular, terms which affect the operation of the water undertaker's supply system).

(8) If two or more relevant authorities request a particular water undertaker to enter into arrangements in respect of adjoining areas—
- (a) the authorities shall co-operate with each other so as to secure that the arrangements (taken together) are operable and efficient; and
- (b) if suitable terms are not agreed for all the arrangements, a combined reference may be made by the relevant authorities under section 87B

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

below to enable the terms of each set of arrangements to be determined so that they are consistent.

(9) If a relevant authority requests a water undertaker to vary arrangements, the authority shall co-operate with any relevant authority for an adjoining area which has entered into arrangements with the same water undertaker so as to secure that following the variation the arrangements (taken together) will be operable and efficient.

(10) If suitable terms are not agreed for a variation mentioned in subsection (9), a combined reference may be made by the relevant authorities under section 87B below to enable the terms of the variation to be determined so that (following the variation) both sets of arrangements are consistent.

(11) Before carrying out the consultation required by subsection (1) of section 89 below in relation to a step mentioned in paragraph (a), (b) or (c) of subsection (2) of that section, a relevant authority shall consult the water undertaker in question as to whether the arrangements which would result from taking that step would be operable and efficient (or, where it is proposed to terminate the arrangements, as to whether it would be reasonably practicable to do so).

87A Target concentration of fluoride

(1) Arrangements under section 87(1) above shall include provision for securing that, so far as reasonably practicable, the concentration of fluoride in the water supplied to premises in the specified area is maintained at the general target concentration of one milligram per litre.

(2) But the arrangements may provide for the concentration in the specified area (or any part of it) to be lower than that if the relevant authority considers that it is not reasonably practicable to achieve the general target concentration in the specified area (or that part of it).

(3) Any such lower concentration must still be as high as is reasonably practicable in the circumstances.

(4) If, in relation to any area ("area A"), an order under section 88A(1) below specifies a general target concentration lower than that for which any arrangements effective there provide (or, by the previous operation of this subsection, are taken to provide), the arrangements shall have effect from the coming into force of the order as if they provided for the general target concentration specified in the order (subject to the operation again of subsections (2) and (3) above).

(5) If the result of the operation of subsection (4) above in relation to arrangements in area A is that in an area adjoining area A ("area B") it is not reasonably practicable to maintain the concentration of fluoride in the water supplied by virtue of arrangements made in area B with the same water undertaker, the order shall be taken to extend also to area B so far as those arrangements are concerned, and subsection (4) above shall apply accordingly.

(6) An order under section 88A(1) below which in relation to any area specifies a general target concentration higher than that for which any arrangements

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

effective there provide (or are taken to provide by virtue of subsection (4) or (5) above) does not have effect to increase the concentration for which the arrangements provide (or are taken to provide).

(7) In this section, "specified area" means the area specified in arrangements under section 87(1) above.

87B Fluoridation arrangements: determination of terms

(1) This section applies if a relevant authority and a water undertaker fail to agree—
  (a) the terms of arrangements requested by the relevant authority pursuant to subsection (1) of section 87 above; or
  (b) a variation in the terms of those arrangements following a request by the relevant authority pursuant to subsection (6)(c) of that section.

(2) In relation to areas in England (except where subsection (4) below applies)—
  (a) the relevant authority may refer the matter to the Secretary of State for determination;
  (b) following such a reference, the Secretary of State may—
    (i) determine the terms of the arrangements as he sees fit; or
    (ii) refer the matter for determination by such other person as he considers appropriate; and
  (c) the determination of the Secretary of State or, as the case may be, the other person shall be final.

(3) In relation to areas in Wales (except where subsection (4) below applies)—
  (a) the Assembly may—
    (i) determine the terms of the arrangements itself as it sees fit; or
    (ii) refer the matter for determination by such other person as it considers appropriate; and
  (b) the determination of the Assembly or, as the case may be, the other person shall be final.

(4) Where the Assembly is one of the relevant authorities which has made a combined reference under section 87(8)(b) or (10) above—
  (a) the terms of the arrangements shall be determined by a person appointed by the Secretary of State and the Assembly acting jointly; and
  (b) the determination of that person shall be final.

(5) Following determination under this section of the terms to be included in any arrangements—
  (a) the relevant authority shall give notice of the determination to the water undertaker in question; and
  (b) the undertaker shall be deemed to have entered into the arrangements under section 87(1) above on the terms determined under this section with effect from the day after the date of the notice.

(6) References in this Chapter to arrangements entered into under section 87(1) above shall include arrangements deemed to have been entered into under that section by virtue of subsection (5)(b) above.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

87C Fluoridation arrangements: compliance

(1) It shall be the duty of each water undertaker to comply with any arrangements entered into by it under section 87(1) above.

(2) Where, pursuant to any such arrangements, the fluoride content of any water is increased, the increase may be effected only by the addition of one or more of the following compounds of fluorine—

hexafluorosilicic acid (H_2SiF_6)

disodium hexafluorosilicate (Na_2SiF_6).

(3) Subject to subsection (4) below, water to which fluoride has been added pursuant to any such arrangements entered into by a water undertaker (with a view to its supply in an area) may be supplied by that or any other undertaker to premises in any other area (whether or not that other area is the subject of arrangements under section 87(1) above).

(4) Subsection (3) above applies if (and only if) the undertaker or undertakers concerned consider that it is necessary for the water to be supplied in the other area—

(a) for the purpose of dealing with any serious deficiency in supply; or

(b) in connection with the carrying out of any works (including cleaning and maintenance) by the undertaker concerned or, as the case may be, by the undertakers concerned, or by a licensed water supplier supplying water using its or their supply system.

(5) In this section—

(a) the reference, in subsection (3) above, to water to which fluoride has been added pursuant to arrangements includes a reference to water to which fluoride has been added by Scottish Water in exercise of the power conferred by section 1 of the Water (Fluoridation) Act 1985; and

(b) in relation to a supply of such water by a water undertaker, the reference, in subsection (4) above, to the water undertakers concerned shall have effect as references to the water undertaker and Scottish Water.

(6) In subsection (4) above, "serious deficiency in supply" means any existing or threatened serious deficiency in the supply of water (whether in quantity or quality) caused by an exceptional lack of rain or by any accident or unforeseen circumstances.

(7) Arrangements entered into under section 87(1) above shall remain in force until the relevant authority, after giving reasonable notice to the water undertaker, terminates them.

(8) But (except where it is reasonably practicable to terminate the arrangements separately), arrangements to which section 87(8)(a) or (b) applied may only be terminated by the relevant authorities acting jointly."

(3) In section 88 (power to vary permitted fluoridation agents), in subsection (1), for "87(4)" there is substituted " 87C(2) ".

(4) After section 88 there is inserted—

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

"**88A Power to vary target concentration of fluoride**

(1) The appropriate authority may by order made by statutory instrument provide that section 87A(1) above is to have effect as if for "one milligram per litre" there were substituted a lower concentration specified in the order.

(2) An order under subsection (1) above may make different provision for different geographical areas, or for some such areas and not others.

(3) A statutory instrument containing an order under subsection (1) above shall not be made by the Secretary of State (or by the Secretary of State and the Assembly acting jointly) unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

(4) In subsection (1) above "appropriate authority"—

(a) in relation to an area which is partly in England and partly in Wales, means the Secretary of State and the Assembly acting jointly;

(b) in relation to an area which is wholly in England, means the Secretary of State; and

(c) in relation to an area which is wholly in Wales, means the Assembly.

(5) An order amending or revoking an order under subsection (1) above made by virtue of subsection (4)(a) above must also be made by the Secretary of State and the Assembly acting jointly."

(5) For section 89 there is substituted—

"**89 Consultation**

(1) Before taking any step mentioned in subsection (2) below, a relevant authority shall—

(a) consult and ascertain opinion in accordance with regulations made by the appropriate authority; and

(b) comply with the requirements set out in regulations made by the appropriate authority.

(2) The steps are—

(a) requesting a water undertaker to enter into arrangements under section 87(1) above;

(b) requesting a water undertaker to vary any such arrangements in, or except in, prescribed circumstances or cases;

(c) giving notice to a water undertaker under section 87C(7) above to terminate any such arrangements;

(d) maintaining any such arrangements in prescribed circumstances.

(3) Regulations—

(a) under paragraph (a) of subsection (1) above shall include provision about the process which relevant authorities are to follow for the purposes of that paragraph;

(b) under paragraph (b) of that subsection shall include provision about the requirements which must be satisfied (with respect to the outcome

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

of that process or otherwise) before a step mentioned in subsection (2) above may be taken.

(4) Subsection (1) above shall not apply in relation to a proposal by a relevant authority to take the step mentioned in subsection (2)(c) above if the appropriate authority so directs by an instrument in writing (and such a direction may apply either generally or in relation to a particular proposal).

(5) In this section "appropriate authority"—

(a) in a case where two or more relevant authorities (one of which is the Assembly) propose to request a particular water undertaker to take a step mentioned in subsection (2)(a), (b) or (c) in respect of arrangements in adjoining areas, means the Secretary of State and the Assembly acting jointly;

(b) in relation to England (except in a case to which paragraph (a) applies), means the Secretary of State; and

(c) in relation to Wales (except in a case to which paragraph (a) applies), means the Assembly."

(6) For section 90 (indemnities in respect of fluoridation) there is substituted—

"**90 Indemnities in respect of fluoridation**

(1) The Secretary of State may, with the consent of the Treasury, agree to indemnify any water undertaker in respect of liabilities which it may incur in complying with arrangements entered into by it pursuant to section 87(1) above.

(2) The Secretary of State may also, with the consent of the Treasury, agree to indemnify any licensed water supplier in respect of liabilities which it may incur—

(a) in supplying water to which fluoride has been added by a water undertaker by virtue of any such arrangements;

(b) (if the licensee is introducing water into the water undertaker's supply system) in complying with any obligation imposed on it by the undertaker in consequence of the arrangements.

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

(a) the matters in respect of which an indemnity may be given under subsection (1) or (2) above;

(b) the form and terms of any such indemnity; and

(c) such ancillary matters as he sees fit.

90A Review of fluoridation

(1) A relevant authority which has entered into arrangements under section 87(1) above shall—

(a) monitor the effects of the arrangements on the health of persons living in the area specified in the arrangements; and

(b) in accordance with subsections (3) to (5) below publish reports containing an analysis of those effects.

(2) The relevant authority shall make available—

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) any information collected by it for the purposes of subsection (1) above; or

(b) summaries of that information.

(3) The relevant authority shall publish a report under subsection (1)(b) above within the period of four years beginning with the date on which the arrangements come into force (unless section 91(1) below applies in relation to the arrangements).

(4) Where section 91(1) below applies in relation to the arrangements, the relevant authority shall publish a report under subsection (1)(b) above within the period of four years beginning with the date on which section 58 of the Water Act 2003 came into force.

(5) The relevant authority shall publish a further report under subsection (1)(b) above within each period of four years beginning with the date on which their last such report was published.

(6) This section ceases to apply in relation to any arrangements under section 87(1) above if those arrangements are terminated."

(7) For section 91 (pre-1985 fluoridation schemes) there is substituted—

"**91 Pre-1985 fluoridation schemes**

(1) With effect from the appointed day, relevant pre-1985 arrangements shall be treated for the purposes of this Chapter as if they were arrangements entered into by the water undertaker in question with the relevant authority under section 87(1) above.

(2) The relevant authority may request such modifications to the arrangements as it considers necessary in order to give effect to subsection (1) above, for example to insert the terms mentioned in section 87(6) above.

(3) If the relevant authority and the water undertaker fail to agree the modifications requested by the authority—

(a) subsection (2), (3) or, as the case may be, (4) of section 87B above shall apply as if the parties had failed to agree the terms of arrangements requested under section 87(1) above; and

(b) following determination of the modifications—

(i) the relevant authority shall give notice of the determination to the water undertaker; and

(ii) the arrangements shall be deemed to have been modified as so determined with effect from the day after the date of the notice.

(4) Sections 87(11) and 89(1) above (which relate to consultation) shall not apply to the deemed entry into, and modification of, arrangements by virtue of this section.

(5) References in this Chapter to arrangements entered into under section 87(1) above shall include arrangements treated as entered into by a water undertaker by virtue of subsection (1) above.

(6) In this section—

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

"the appointed day" means the day on which section 58 of the Water Act 2003 comes into force; and

"relevant pre-1985 arrangements" means arrangements in pursuance of which a scheme for increasing the fluoride content of water was being operated by a water undertaker by virtue of paragraph 1 of Schedule 7 to this Act immediately before the appointed day."

(8) In section 213 (powers to make regulations), after subsection (1) there is inserted—

"(1A) But on the occasion of the first exercise by the Secretary of State of the power to make regulations under each of sections 89 and 90 above, the instrument containing the regulations shall not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

(1B) The power of the Assembly to make regulations under section 89 above shall be exercisable by statutory instrument."

(9) Schedule 7 (pre-1985 fluoridation schemes) shall cease to have effect.

(10) In section 1(7) of the Water (Fluoridation) Act 1985 (c. 63) (water fluoridated outwith Scotland), for the words from "by a water undertaker" to the end there is substituted "pursuant to arrangements—

(a) entered into under section 87(1) of the Water Industry Act 1991; or

(b) treated, for the purposes of Chapter 4 of Part 3 of that Act, as if entered into under that section.".

(11) With effect from the commencement day, any relevant application shall have effect for the purposes of subsection (1) of section 87 of the WIA as a request made by a relevant authority under that subsection.

(12) Any other application made before the commencement day ceases to have effect on that day.

(13) In subsections (11) and (12)—

"commencement day" means the day when this section comes into force, and

"relevant application" means an application which—

(a) was made before the passing of this Act,

(b) has not been withdrawn, and

(c) has not been rejected in writing by the water undertaker to which it was made.

(14) In subsections (12) and (13) "application" means an application made under section 87 of the WIA as it was in force at the time when the application was made (and includes an application made under section 1 of the Water (Fluoridation) Act 1985 and having effect as if made under section 87 of the WIA).

Commencement Information

I44 S. 58(1) in force at 18.2.2005 for specified purposes for E. by S.I. 2005/344, **art. 2**

I45 S. 58(5)(6)(8) in force at 18.2.2005 for specified purposes for E. by S.I. 2005/344, **art. 2**

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

Water resale

59 Charges for services provided with the help of an undertaker

(1) Section 150 of the WIA (fixing maximum charges for services provided with the help of undertakers' services) is amended as follows.

(2) After subsection (2) there is inserted—

"(2A) An order under this section may require the person providing the supplies or services to furnish the person who is provided with them with such information as may be specified or described in the order.

(2B) An order containing such a requirement may also provide that, in the event of the failure of the person providing the supplies or services to furnish that information, the maximum charges he is entitled to recover from the person provided with them in respect of those supplies or services shall be such as may be fixed by the order."

(3) In subsection (5), for the words from "the amount of the excess" to the end there is substituted—

"(a) the amount of the excess; and

(b) if the order so provides, interest on that amount at a rate specified or described in the order,

shall be recoverable by that person from the person to whom he paid the charge. "

Commencement Information

I46 S. 59 in force at 1.10.2004 by S.I. 2004/2528, **art. 2(i)** (with Sch. para. 8)

Penalties

60 Abstraction and impounding offences

(1) In each of sections 24(5)(a) and 25(3)(a) of the WRA (which deal with the penalty on summary conviction for offences relating to abstraction and impounding of water respectively), for "the statutory maximum" there is substituted " £20,000 ".

(2) Subsection (1) does not have effect in relation to any offence committed before the commencement of this section.

Commencement Information

I47 S. 60 in force at 1.4.2004 by S.I. 2004/641, **art. 3(n)** (with Sch. 3 para. 7)

61 Supplying water unfit for human consumption

(1) In section 70(1)(a) of the WIA (which provides for the penalty on summary conviction for the offence of supplying water unfit for human consumption), for "the statutory maximum" there is substituted " £20,000 ".

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) Subsection (1) does not have effect in relation to any offence committed before the commencement of this section.

Commencement Information

I48 S. 61 in force at 1.4.2004 by S.I. 2004/641, **art. 3(n)** (with Sch. 3 para. 7)

Water resources management plans

62 Water resources management plans

After section 37 of the WIA there is inserted—

"37A Water resources management plans: preparation and review

(1) It shall be the duty of each water undertaker to prepare and maintain a water resources management plan.

(2) A water resources management plan is a plan for how the water undertaker will manage and develop water resources so as to be able, and continue to be able, to meet its obligations under this Part.

(3) A water resources management plan shall address in particular—

(a) the water undertaker's estimate of the quantities of water required to meet those obligations;

(b) the measures which the water undertaker intends to take or continue for the purpose set out in subsection (2) above (also taking into account for that purpose the introduction of water into the undertaker's supply system by or on behalf of licensed water suppliers);

(c) the likely sequence and timing for implementing those measures; and

(d) such other matters as the Secretary of State may specify in directions.

(4) The procedure for preparing a water resources management plan (including a revised plan) is set out in section 37B below.

(5) Before each anniversary of the date when its plan (or revised plan) was last published, the water undertaker shall —

(a) review its plan; and

(b) send a statement of the conclusions of its review to the Secretary of State.

(6) The water undertaker shall prepare a revised plan in each of the following cases—

(a) following conclusion of its annual review, if the review indicated a material change of circumstances;

(b) if directed to do so by the Secretary of State;

(c) in any event, not later than the end of the period of five years beginning with the date when the plan (or revised plan) was last published,

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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 shall follow the procedure in section 37B below (whether or not the revised plan prepared by the undertaker includes any proposed alterations to the previous plan).

(7) The Secretary of State may give directions specifying—
- (a) the form which a water resources management plan must take;
- (b) the planning period to which a water resources management plan must relate.

(8) Before preparing its water resources management plan (including a revised plan), the water undertaker shall consult—
- (a) the Environment Agency;
- (b) the Authority;
- (c) the Secretary of State; and
- (d) any licensed water supplier which supplies water to premises in the undertaker's area via the undertaker's supply system.

(9) The Secretary of State shall consult the Environment Agency before giving a direction under subsection (6)(b) above.

(10) In this section, in relation to a water resources management plan, "published" means published in accordance with section 37B(8)(a) below.

37B Water resources management plans: publication and representations

(1) A water undertaker shall—
- (a) send a draft water resources management plan to the Secretary of State;
- (b) state whether it appears to the undertaker that any information contained in that plan is or might be commercially confidential (as regards itself or another person); and
- (c) give the Secretary of State the name of each such other person and his address for service of a notice under subsection (2)(a) below.

(2) If the water undertaker states that it so appears in relation to any such information, the Secretary of State shall—
- (a) if the person to whom or to whose business the information relates is not the water undertaker, give that person notice that the information is included in a draft water resources management plan and, unless subsection (10) below applies, is required to be published under this section; and
- (b) give each person (including the water undertaker) to whom any such information relates a reasonable opportunity—
  - (i) of objecting to the publication of the information relating to him on the ground that it is commercially confidential; and
  - (ii) of making representations to the Secretary of State for the purpose of justifying any such objection,

and shall determine, taking any objections and representations under paragraph (b) into account, whether the information is or is not commercially confidential.

(3) A water undertaker shall—

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) (subject to subsection (10) below) publish the draft water resources management plan 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 by it;

(b) publish with it a statement—

(i) whether any information has been excluded from the published draft plan by virtue of subsection (10) below and, if it has, the general nature of that information; and

(ii) that any person may make representations in writing about the plan to the Secretary of State before the end of a period specified in the statement; and

(c) send a copy of the published draft plan and accompanying statement to such persons (if any) as may be prescribed.

(4) The Secretary of State shall send to the water undertaker a copy of any representations he receives following publication of the draft plan under subsection (3) above and shall give it a reasonable period of time within which to comment on the representations.

(5) The Secretary of State may in regulations prescribe how such representations and any comments by the water undertaker on them are to be dealt with.

(6) Regulations under subsection (5) above—

(a) may provide for the Secretary of State to cause an inquiry or other hearing to be held in connection with the draft water resources management plan; and

(b) if they do so provide, may provide for subsections (2) to (5) of section 250 of the Local Government Act 1972 (local inquiries: evidence and costs) to apply with prescribed modifications to such an inquiry or hearing as they apply to inquiries under that section.

(7) The Secretary of State may direct a water undertaker that its water resources management plan must differ from the draft sent to him under subsection (1) above in ways specified in his direction, and (subject to subsection (9) below) it shall be the duty of the water undertaker to comply with the direction.

(8) The water undertaker shall—

(a) (subject to subsection (10) below) publish the water resources management plan 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 by it; and

(b) publish with it a statement whether any information has been excluded from the published plan by virtue of subsection (10) below and, if it has, the general nature of that information.

(9) If the water undertaker considers that publishing a water resources management plan complying with a direction under subsection (7) above would mean including in the published plan any information (other than any information in relation to which the Secretary of State has already made a determination under subsection (2) above) which might be commercially confidential (as regards itself or another person)—

(a) the water undertaker shall send the Secretary of State a notice saying so, and giving the Secretary of State the name of any such other person

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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 his address for service of a notice under subsection (2)(a) above as applied by paragraph (b) below; and

(b) subsection (2) above shall apply in relation to that information as it applies in relation to the information referred to there;

and the Secretary of State may either confirm his direction under subsection (7) above (which is to be treated as a new direction under subsection (7)) or revoke the previous such direction (or the previous one so treated) and give a new one.

(10) The published version of a draft water resources management plan published under subsection (3)(a) above, and a water resources management plan published under subsection (8)(a) above, shall exclude any information which the Secretary of State—

(a) has determined under subsection (2) above (or that subsection as applied by subsection (9) above) is commercially confidential; or

(b) directs the water undertaker to exclude on the ground that it appears to him that its publication would be contrary to the interests of national security.

(11) Any steps to be taken by a water undertaker under this section shall be completed by such time or within such period as the Secretary of State may direct.

37C Water resources management plans: provision of information

(1) It shall be the duty of each licensed water supplier to provide the water undertaker with such information as the water undertaker may reasonably request for the purposes of preparing or revising its water resources management plan.

(2) In the event of any dispute between a water undertaker and a licensed water supplier as to the reasonableness of the water undertaker's request under subsection (1) above, either party may refer the matter for determination by the Secretary of State, and any such determination shall be final.

(3) For the purposes of paragraph (b) of section 37B(1) above, the water undertaker shall identify in its statement under that paragraph any information—

(a) provided by a licensed water supplier pursuant to subsection (1) above; and

(b) contained in the water undertaker's draft water resources management plan,

which the licensed water supplier has (at the time of providing it to the water undertaker) specifically identified as being, in the licensed water supplier's opinion, commercially confidential.

(4) The water undertaker shall not use any unpublished information save for the purpose of facilitating the performance by it of any of the duties imposed on it by or under this Act, any of the other consolidation Acts or the Water Act 1989.

(5) In subsection (4) above—

(a) "unpublished information" means confidential information which—

(i) is provided to the water undertaker by a licensed water supplier under this section;

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

(ii) relates to the affairs of any individual or to any particular business; and

(iii) by virtue of section 37B above, is not published;

(b) "the other consolidation Acts" has the same meaning as in section 206 below.

37D Water resources management plans: supplementary

(1) Directions given under section 37A or 37B above may be—

(a) general directions applying to all water undertakers; or

(b) directions applying only to one or more water undertakers specified in the directions,

and shall be given by an instrument in writing.

(2) It shall be the duty of each water undertaker to whom directions apply to comply with the directions.

(3) The duties of—

(a) a water undertaker under sections 37A to 37C above and under this section; and

(b) a licensed water supplier under section 37C above,

shall be enforceable by the Secretary of State under section 18 above."

Commencement Information

I49 S. 62 in force at 1.10.2004 for specified purposes by S.I. 2004/2528, **art. 2(j)** (with Sch. para. 8)

Drought

63 Drought plans

After section 39A of the WIA there is inserted—

"**39B Drought plans: preparation and review**

(1) It shall be the duty of each water undertaker to prepare and maintain a drought plan.

(2) A drought plan is a plan for how the water undertaker will continue, during a period of drought, to discharge its duties to supply adequate quantities of wholesome water, with as little recourse as reasonably possible to drought orders or drought permits under Chapter 3 of Part 2 of the Water Resources Act 1991.

(3) The duties referred to in subsection (2) above include in particular those imposed under or by virtue of—

(a) section 37 above;

(b) sections 67 to 69 below.

(4) A drought plan shall address, in particular, the following matters—

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) what measures the water undertaker might need to take to restrain the demand for water within its area;

(b) what measures the water undertaker might need to take to obtain extra water from other sources (also taking into account for that purpose the introduction of water into the undertaker's supply system by or on behalf of licensed water suppliers);

(c) how the water undertaker will monitor the effects of the drought and of the measures taken under the drought plan;

(d) such other matters as the Secretary of State may specify in directions.

(5) Section 37B above (water resources management plans: publication and representations), including any power in that section to make regulations or give directions, applies in relation to drought plans (including revised plans) as it applies in relation to water resources management plans.

(6) Each water undertaker shall review (or further review) its drought plan and prepare a revised plan in each of the following cases—

(a) if there is a material change of circumstances;

(b) if directed to do so by the Secretary of State;

(c) in any event, not later than the end of the period of three years beginning with the date when the plan (or revised plan) was last published in accordance with section 37B(8)(a) above as applied by subsection (5) above,

and shall follow the procedure in section 37B above as applied by subsection (5) above (whether or not the revised plan prepared by the undertaker includes any proposed alterations to the previous plan).

(7) Before preparing its drought plan (including a revised plan), the water undertaker shall consult—

(a) the Environment Agency;

(b) the Authority;

(c) the Secretary of State; and

(d) any licensed water supplier which supplies water to premises in the undertaker's area via the undertaker's supply system.

(8) The Secretary of State may give directions specifying the form which a drought plan must take.

(9) Directions given under this section (including directions given under section 37B above as applied by subsection (5) above) may be—

(a) general directions applying to all water undertakers; or

(b) directions applying only to one or more water undertakers specified in the directions,

and shall be given by an instrument in writing.

(10) It shall be the duty of each water undertaker to whom directions apply to comply with the directions.

(11) The Secretary of State shall consult the Environment Agency before giving a direction under subsection (6)(b) above.

(12) The duty of a water undertaker under this section shall be enforceable by the Secretary of State under section 18 above.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

39C Drought plans: provision of information

(1) It shall be the duty of each licensed water supplier to provide the water undertaker with such information as the water undertaker may reasonably request for the purposes of preparing or revising its drought plan.

(2) In the event of any dispute between a water undertaker and a licensed water supplier as to the reasonableness of the water undertaker's request under subsection (1) above, either party may refer the matter for determination by the Secretary of State, and any such determination shall be final.

(3) For the purposes of paragraph (b) of section 37B(1) above as applied by section 39B(5) above, the water undertaker shall identify in its statement under that paragraph any information—

(a) provided by a licensed water supplier pursuant to subsection (1) above; and

(b) contained in the water undertaker's draft drought plan,

which the licensed water supplier has (at the time of providing it to the water undertaker) specifically identified as being, in the licensed water supplier's opinion, commercially confidential.

(4) The water undertaker shall not use any unpublished information save for the purpose of facilitating the performance by it of any of the duties imposed on it by or under this Act, any of the other consolidation Acts or the Water Act 1989.

(5) In subsection (4) above—

(a) "unpublished information" means confidential information which—

(i) is provided to the water undertaker by a licensed water supplier under this section;

(ii) relates to the affairs of any individual or to any particular business; and

(iii) by virtue of section 37B above as applied by section 39B(5) above, is not published;

(b) "the other consolidation Acts" has the same meaning as in section 206 below.

(6) The duties of a licensed water supplier and a water undertaker under this section shall be enforceable by the Secretary of State under section 18 above."

Commencement Information

I50 S. 63 in force at 1.10.2004 for specified purposes by S.I. 2004/2528, **art. 2(j)** (with Sch. para. 8)

64 Drought orders and drought permits: charges

(1) In section 77 of the WRA (provisions of drought order with respect to abstractions and discharges), subsection (4) is omitted.

(2) In section 79 of the WRA (compensation and charges where drought order made), after subsection (3) there is added—

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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 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."

(3) In section 79A of the WRA (drought permits)—

(a) subsection (8) is omitted, and

(b) after subsection (8) there is inserted—

"(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."

Commencement Information

I51 S. 64 in force at 1.4.2004 by S.I. 2004/641, **art. 3(o)** (with Sch. 3 para. 7)

65 Procedure at local inquiries

In Schedule 8 to the WRA (proceedings on applications for drought orders), in paragraph 2, after sub-paragraph (6) there is added—

"(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)."

Commencement Information

I52 S. 65 in force at 1.4.2004 by S.I. 2004/641, **art. 3(p)** (with Sch. 3 para. 7)

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

Land drainage and flood defence

66 Revocation of local flood defence schemes

(1) The Environment Act 1995 (c. 25) is amended as follows.

(2) After section 18 there is inserted—

"**18A Power to revoke local flood defence schemes**

(1) The Secretary of State may by order made by statutory instrument revoke any local flood defence scheme.

(2) The power to make an order under this section shall include power to make such supplemental, consequential and transitional provision as the Secretary of State considers appropriate.

(3) The provision which may be made under subsection (2) above includes provision altering—

(a) the total number of members of the regional flood defence committee in whose area the local flood defence district created by the scheme was situated; and

(b) the total number of such members to be appointed by the constituent councils of that committee,

and subsections (7) and (8) of section 16 of this Act shall apply in relation to so much of an order under this section as is made by virtue of this subsection as they apply in relation to an order under subsection (5) of that section.

(4) Paragraphs 2 to 6 of Schedule 4 to this Act, apart from paragraph 3(3), apply in relation to an order under this section as they apply in relation to an order under that Schedule, reading references there to the relevant Minister as references to the Secretary of State."

(3) In section 17 (local flood defence schemes, etc), in subsection (3), for "section 18" there is substituted " sections 18 and 18A ".

Commencement Information

I53 S. 66 in force at 1.4.2004 by S.I. 2004/641, **art. 3(q)** (with Sch. 3 para. 7)

67 Membership of regional flood defence committees in Wales

After section 16 of the Environment Act 1995 there is inserted—

"**16A Power to alter composition of regional flood defence committees in Wales**

(1) This section applies in relation to any regional flood defence committee which satisfies (or, upon the coming into force of an order made under Schedule 4 to this Act, will satisfy) both of the conditions in subsection (2) below (a "Welsh committee").

(2) The conditions are—

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) the whole or the greater part of the committee's area is in Wales; and
(b) no local flood defence scheme is in force in relation to the area of the committee.

(3) The National Assembly for Wales may by order made by statutory instrument make provision determining—
(a) the total number of members of a Welsh committee; and
(b) the method of selection and appointment of the chairman and other members of the committee (including who is to appoint them).

(4) An order under subsection (3) above may—
(a) apply either to Welsh committees generally or to a particular Welsh committee;
(b) include such supplemental, consequential and transitional provision as the National Assembly for Wales considers appropriate.

(5) In relation to a Welsh committee whose area is not wholly in Wales—
(a) the power to make an order under subsection (3) above may be exercised only with the agreement of the Secretary of State; and
(b) a statutory instrument containing an order under that subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(6) An order under subsection (3) above shall not be considered local in nature for the purposes of section 58(6) of the Government of Wales Act 1998 (definition of "Assembly general subordinate legislation").

(7) Section 15 above (or, where the order is being made in conjunction with an order under Schedule 4 to this Act, that Schedule) shall not apply for the purposes of making an order under subsection (3) above.

16B Effect of order under section 16A

(1) Sections 15 and 16 above and section 18A(3) below shall not apply to a regional flood defence committee in respect of which an order under section 16A above is in force.

(2) In relation to any such committee, section 18 below shall have effect as if—
(a) paragraph (b) of subsection (4) read "other members appointed in accordance with and subject to the terms of the local flood defence scheme"; and
(b) paragraph (c) of subsection (4), and subsection (5), were omitted.

(3) In relation to any such committee whose membership does not include any member appointed by or on behalf of a constituent council, Schedule 5 to this Act shall have effect as if—
(a) in paragraph 1(1), the words "other than those appointed by or on behalf of one or more constituent councils" were omitted;
(b) sub-paragraphs (2), (3) and (4) of paragraph 1 were omitted; and
(c) paragraphs 2 and 9 were omitted."

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

Commencement Information
I54 S. 67 in force at 1.4.2004 by S.I. 2004/910, **art. 2(1)(a)**

68 Regional flood defence committees

(1) Paragraph 1 of Schedule 4 to the Environment Act 1995 (c. 25) (which confers power to alter the areas of regional flood defence committees) is amended as follows.

(2) In sub-paragraph (1)—
- (a) the "or" at the end of paragraph (a) is omitted, and
- (b) after paragraph (b) there is inserted—
  - "(c) establish a new regional flood defence committee for such area as may be specified in the order (other than by providing for the amalgamation of the area of any two or more such committees); or
  - (d) abolish a regional flood defence committee."

(3) In sub-paragraph (4)—
- (a) after "committees" there is inserted " or otherwise establishing a new regional flood defence committee ",
- (b) in paragraph (a), after "amalgamated" there is inserted " or new ".

(4) In sub-paragraph (5), the "and" at the end of paragraph (b) is omitted, and after that paragraph there is inserted—
- "(ba) in relation to the establishment or abolition of a regional flood defence committee for an area the whole of which is in Wales, the National Assembly for Wales;
- (bb) in relation to the establishment or abolition of a regional flood defence committee for an area any part (but not the whole) of which is in Wales, the Secretary of State and the National Assembly for Wales acting jointly; and".

Commencement Information
I55 S. 68 in force at 1.4.2004 by S.I. 2004/641, **art. 3(q)** (with Sch. 3 para. 7)

69 Grants for drainage works and flood warning systems

(1) Sections 147 to 149 of the WRA (which relate to grants for drainage works and flood warning systems) shall cease to have effect.

(2) For subsection (4) of section 165 of the WRA (general powers to carry out flood defence and drainage works) there is substituted—

"(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

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

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."

(3) For subsection (4) of section 166 of the WRA (power to carry out works for purpose of providing flood warning system) there is substituted—

"(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."

(4) In the definition of "flood defence provisions" in subsection (1) of section 221 of the WRA (general interpretation), in paragraph (a)(ii), the words "147 to 149," are omitted.

Commencement Information

I56 S. 69 in force at 17.3.2004 for E. by S.I. 2004/641, **art. 2(a)** (with Sch. 3 para. 7)

I57 S. 69 in force at 1.4.2004 for W. by S.I. 2004/910, **art. 2(1)(b)**

Information

70 Information

For section 201 of the WRA (power to require information with respect to abstraction) there is substituted—

"**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.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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 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.”

Commencement Information

I58 S. 70 in force at 1.4.2005 by S.I. 2005/968, **art. 2(k)**

Powers of entry

71 Extension of Environment Agency’s powers of entry

In section 169 of the WRA (powers of entry for enforcement purposes), for subsection (2) there is substituted—

“(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.”

Commencement Information

I59 S. 71 in force at 1.4.2004 by S.I. 2004/641, **art. 3(r)** (with Sch. 3 para. 67)

Environment Agency’s general water resources duty

72 Efficient use of water resources

In section 6 of the Environment Act 1995 (c. 25) (general provisions with respect to water), in subsection (2)(b), after “Wales” there is inserted “ (including the efficient use of those resources) ”.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

Commencement Information

I60 S. 72 in force at 1.4.2004 by S.I. 2004/641, **art. 3(s)** (with Sch. 3 para. 7)

VALID FROM 01/01/2018

Border rivers

73 Border rivers

In section 6 of the Environment Act 1995 (general provisions with respect to water), in subsection (3), after paragraph (c) there is inserted " except so much of those inland waters as are in England. ".

Reservoirs

74 Environment Agency to be enforcement authority under the Reservoirs Act 1975

(1) The Reservoirs Act 1975 (c. 23) is amended as follows—

(a) in subsection (1) of section 2 (registration of certain reservoirs and enforcement of Act, etc), for the words from "The local authorities" to "county boroughs" there is substituted " The relevant authorities for purposes of this Act shall be, in England and Wales, the Environment Agency ",

(b) in the following provisions of the Act, for "local authority", in each place where it appears, there is substituted " relevant authority "

sections 2 and 3,
section 13,
sections 20 and 21,
sections 24 and 25,
section 27,

(c) in section 1 (ambit of Act, and interpretation), after subsection (4) there is inserted—

"(4A) The "area" of the Environment Agency, in its capacity as a relevant authority for purposes of this Act, is the whole of England and Wales.",

(d) in section 22(6) (institution of proceedings for an offence under the Act), for the words from "by any local authority" to "except by" there is substituted " only by the Environment Agency or ",

(e) in Schedule 1 (index of definitions), at the appropriate places there are inserted the following entries—

"Area (in relation to the Environment Agency).....	Section 1(4A)"

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

"Relevant authority.....	Section 2(1)".

(2) Each body which immediately before the date of commencement of subsection (1) (referred to in this section as the "commencement date") is a local authority in England or Wales for the purposes of the Reservoirs Act 1975 (c. 23) shall, as soon as practicable after that date, give to the Environment Agency—

(a) the register maintained by the body under section 2(2) of that Act, and

(b) any other documents, records or other information in its possession which relate to the exercise of the body's functions as an enforcement authority within the meaning of section 2(6) of that Act (referred to in this section as its "enforcement functions").

(3) It shall be the duty of a body falling within subsection (2) to give to the Environment Agency all such assistance as the Environment Agency may reasonably require for the purposes of facilitating the taking over by the Environment Agency of the body's enforcement functions.

(4) Nothing in this section affects the validity of anything done by or in relation to such a body in the exercise of its enforcement functions before the commencement date.

(5) There may be continued by or in relation to the Environment Agency anything (including legal proceedings) which relates to any of such a body's enforcement functions and is in the process of being done by or in relation to the body immediately before the commencement date.

(6) Anything which was done by such a body for the purpose of or in connection with any of its enforcement functions and is in effect immediately before the commencement date shall have effect as if done by the Environment Agency.

Commencement Information

I61 S. 74 in force at 1.10.2004 by S.I. 2004/2528, **art. 2(k)** (with Sch. para. 8)

75 Extension of enforcement authority's reserve powers

(1) The Reservoirs Act 1975 is amended as follows.

(2) In section 8 (powers of enforcement authority in event of non-compliance with certain requirements), after subsection (3) there is inserted—

"(3A) Where it appears to the enforcement authority that the report of an engineer acting under this section includes a recommendation as to measures to be taken in the interests of safety that has not been carried into effect as required by this section, the authority may by written notice served on the undertakers require them to carry the recommendation into effect within a time specified in the notice.

(3B) Where an enforcement authority propose to serve such a notice, the authority shall consult as to the time to be specified in the notice a civil engineer, being a qualified civil engineer for the purpose of inspecting and supervising the reservoir under this section."

(3) In section 15 (reserve powers), in subsection (2), after "section" there is inserted " 8, ".

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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 section 17 (powers of entry), in subsection (1)(b), after "section", in both places, there is inserted " 8, ".

Commencement Information

I62 S. 75 in force at 1.4.2004 for E. by S.I. 2004/641, **art. 3(t)** (with Sch. 3 para. 7)

I63 S. 75 in force at 1.4.2004 for W. by S.I. 2004/910, **art. 2(1)(e)**

76 Service of documents

(1) In section 15(4) of the Reservoirs Act 1975 (c. 23) (reserve powers of enforcement authorities) for "section 233 of the Local Government Act 1972" there is substituted " section 123 of the Environment Act 1995 as it is applied by section 22A of this Act ".

(2) After section 22 of that Act there is inserted—

"**22A Service of notices by the Environment Agency**

Section 123 of the Environment Act 1995 (service of documents) applies to any document authorised or required by virtue of any provision of this Act to be served or given by the Environment Agency as if it were authorised or required to be served or given by or under that Act."

Commencement Information

I64 S. 76 in force at 1.10.2004 by S.I. 2004/2528, **art. 2(l)** (with Sch. para. 8)

77 Flood plans: large raised reservoirs

After section 12 of the Reservoirs Act 1975 there is inserted—

"Flooding

12A Flood plans: large raised reservoirs

(1) The Secretary of State may, by written notice served on the undertakers in relation to a large raised reservoir, direct them to prepare a plan (a "flood plan") setting out the action they would take in order to control or mitigate the effects of flooding likely to result from any escape of water from the reservoir.

(2) A direction may in particular—

(a) specify the matters to be included in the flood plan;

(b) require the flood plan to be prepared in accordance with such methods of technical or other analysis as may be specified by the Environment Agency;

(c) require the flood plan, or any information about the matters contained in it, to be given to the Environment Agency at such time or times as may be directed by that Agency or by the Secretary of State;

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) require a copy of the flood plan to be sent to such persons as may be specified in the direction;

(e) require publication of the flood plan, in such manner as may be specified in the direction, for the purpose of bringing the matters contained in the flood plan to the attention of persons likely to be interested.

(3) Before giving a direction under this section the Secretary of State shall consult—

(a) the undertakers concerned;

(b) the Environment Agency;

(c) if the reservoir concerned is in England, the county council, metropolitan district council or London borough council in whose area the reservoir is situated;

(d) if the reservoir concerned is in Wales, the county council or county borough council in whose area the reservoir is situated;

(e) such persons appearing to the Secretary of State to represent the emergency services in the area where the reservoir is situated; and

(f) such other persons (if any) as the Secretary of State considers appropriate.

(4) If—

(a) the functions of the Secretary of State under the preceding provisions of this section are transferred to the National Assembly for Wales so far as exercisable in relation to Wales;

(b) no direction has been given by the Assembly under subsection (1) above in relation to a reservoir in Wales; and

(c) it appears to the Secretary of State that it is necessary or expedient in the interests of public safety in England that such a direction be given,

he may give a direction under that subsection in relation to that reservoir.

(5) This section is subject to section 12B below."

Commencement Information

I65 S. 77 in force at 1.10.2004 for E. by S.I. 2004/2528, **art. 2(m)** (with Sch. para. 8)

I66 S. 77 in force at 11.11.2004 for W. by S.I. 2004/2916, **art. 2(a)**

78 National security

(1) In section 2 of the Reservoirs Act 1975 (c. 23) (registration of reservoirs and enforcement of Act, etc), after subsection (2) there is inserted—

"(2A) If it appears to the Secretary of State that the inclusion of any information in the register maintained under subsection (2) above by the Environment Agency would be contrary to the interests of national security, he may direct the Agency not to include that information in the register."

(2) After section 12A of that Act (which is inserted by section 77 of this Act) there is inserted—

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

"**12B Flood plans and national security**

(1) If it appears to the Secretary of State that in the interests of national security any person or class of persons referred to in any one or more of paragraphs (a) to (e) of section 12A(3) above should not be consulted about a proposed direction, he may treat that subsection as not referring to that person or to that class of person.

(2) In relation to any reservoir (whether a large raised reservoir or not, as the case may be) the Secretary of State may, by written notice served on the undertakers, require them not to publish, or not to publish except as specified in the notice—

(a) a flood plan prepared by them pursuant to a notice given under section 12A above;

(b) any corresponding plan prepared by them other than pursuant to such a notice,

and a notice under this subsection may also require the undertakers to withhold access to any such plan from any person except as specified in the notice."

Commencement Information

I67 S. 78 in force at 1.10.2004 for E. by S.I. 2004/2528, **art. 2(n)** (with Sch. para. 8)

I68 S. 78 in force at 11.11.2004 for W. by S.I. 2004/2916, **art. 2(b)**

79 Offences

(1) Section 22 of the Reservoirs Act 1975 (c. 23) (criminal liability of undertakers and their employees) is amended as follows.

(2) In subsection (1), the word "or" at the end of paragraph (a) is omitted, and at the end of paragraph (b) there is inserted "or

(c) the undertakers fail to comply with a direction under section 12A above;".

(3) After subsection (1) there is inserted—

"(1A) If the undertakers fail without reasonable excuse to comply with a notice under section 12B above, they 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."

Commencement Information

I69 S. 79 in force at 1.10.2004 by S.I. 2004/2528, **art. 2(o)** (with Sch. para. 8)

80 Crown application

After section 27 of the Reservoirs Act 1975 there is inserted—

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

"Crown application

27A 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 Environment 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 power 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 power conferred by section 17 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 Crown Proceedings Act 1947 (interpretation of references to Her Majesty in Her private capacity) were contained in this Act.

(7) In this section—

"the appropriate authority" has the same meaning as it has in Part 13 of the 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.

(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."

Commencement Information

I70 S. 80 in force at 1.10.2004 for E. by S.I. 2004/2528, **art. 2(p)** (with Sch. para. 8)

I71 S. 80 in force at 11.11.2004 for W. by S.I. 2004/2916, **art. 2(c)**

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

Water conservation

81 Duty to encourage water conservation

(1) The relevant authority must, where appropriate, take steps to encourage the conservation of water.

(2) The relevant authority is—
- (a) the Secretary of State, in relation to England,
- (b) the Assembly, in relation to Wales.

(3) After the period of three years beginning with the date on which this section comes into force, and after each succeeding period of three years, the Secretary of State must prepare a report about the steps taken by him under this section, and about any such steps which he proposes to take.

(4) The Assembly may make an order requiring the preparation by it of corresponding reports, and such an order may make provision about when, or in relation to what periods, they are to be prepared.

(5) Each such report must—
- (a) if prepared by the Secretary of State, be laid before Parliament,
- (b) if prepared by the Assembly, be laid before, and published by, the Assembly.

Commencement Information

I72 S. 81 in force at 1.4.2004 for E. by S.I. 2004/641, **art. 3(u)** (with Sch. 3 para. 7)

I73 S. 81 in force at 11.11.2004 for W. by S.I. 2004/2916, **art. 2(d)**

82 Water conservation: requirements on relevant undertakers

In section 3(2)(a) of the WIA (environmental duties in relation to proposals relating to the functions of a relevant undertaker), after "special interest" there is inserted " and, in the case of the exercise of such a power by a company holding an appointment as a relevant undertaker, as to further water conservation ".

Commencement Information

I74 S. 82 in force at 1.4.2004 by S.I. 2004/641, **art. 3(u)** (with Sch. 3 para. 7)

83 Water conservation by public authorities

(1) In exercising its functions and conducting its affairs, each public authority shall take into account, where relevant, the desirability of conserving water supplied or to be supplied to premises.

(2) In subsection (1), "public authority" means any of the following—
- (a) a Minister of the Crown (within the meaning of the Ministers of the Crown Act 1975 (c. 26)),
- (b) a Government department,
- (c) the Assembly,

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) a local authority (within the meaning of section 270(1) of the Local Government Act 1972 (c. 70)),

(e) a person holding an office—

(i) under the Crown,

(ii) created or continued in existence by a public general Act, or

(iii) the remuneration in respect of which is paid out of money provided by Parliament,

(f) a statutory undertaker (being any person who, by virtue of section 262 of the Town and Country Planning Act 1990 (c. 8) is or is deemed to be a statutory undertaker for any purpose), and

(g) any other public body of any description.

Commencement Information

I75 S. 83 in force at 1.4.2004 by S.I. 2004/641, **art. 3(u)** (with Sch. 3 para. 7)

Fire hydrants

84 Fire hydrants

(1) After subsection (4) of section 57 of the WIA (duty to supply water etc for fire-fighting) there is inserted—

"(4A) Where a fire-hydrant is removed (other than at the request of the fire authority concerned) by a water undertaker in the course of carrying out works in relation to any of its water mains or other pipes, the cost of replacing the fire-hydrant shall be borne by the undertaker."

(2) After subsection (4) of section 58 of the WIA (specially requested fire-hydrants) there is inserted—

"(4A) Where a specially requested fire-hydrant is removed (other than at the request of the owner or occupier of the factory or place of business in question) by a water undertaker in the course of carrying out works in relation to any of its water mains or other pipes, the cost of replacing the fire-hydrant shall be borne by the undertaker."

Commencement Information

I76 S. 84 in force at 1.4.2004 by S.I. 2004/641, **art. 3(v)** (with Sch. 3 para. 7)

Coal mine water pollution

85 Control of water from coal mines

(1) After section 4 of the Coal Industry Act 1994 (c. 21) there is inserted—

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

"4A Power of the Authority with respect to coal mine water discharge

(1) The Authority may take such action as it considers appropriate (if any) for the purpose of preventing, or mitigating the effect of, the discharge of water from a coal mine into or on to any land or into any controlled waters.

(2) In this section and sections 4B and 4C below—
- (a) "controlled waters" has the meaning given by section 104 of the Water Resources Act 1991; and
- (b) references to coal mines are to coal mines vested in the Authority.

4B Coal mine water discharge: powers of entry

(1) If the Authority is of the opinion that a discharge of water from a coal mine into or on to any land or into any controlled waters has caused, is causing or is likely to cause—
- (a) serious pollution of the environment; or
- (b) danger to life or health,

the Authority may, for any purpose specified in subsection (2) below, in writing authorise a person to exercise, in accordance with the terms of the authorisation, any of the powers specified in subsection (3) below.

(2) The purposes are—
- (a) to determine the extent of the pollution or of the danger, or the likelihood of serious pollution or such danger;
- (b) to determine whether, and, if so, how, the Authority should exercise its power under section 4A above;
- (c) to take action under that section.

(3) The powers are—
- (a) to enter at any reasonable time (or, in an emergency, at any time and, if need be, using reasonable force) any premises which the authorised person has reason to believe it is necessary for him to enter;
- (b) to use a vehicle or a boat to do so;
- (c) on entering any premises by virtue of paragraph (a) above, to take with him—
  - (i) any other person authorised by the Authority and, if the authorised person reasonably believes he is likely to be obstructed, a constable; and
  - (ii) any equipment or materials needed for any purpose for which the power of entry is being exercised;
- (d) to make such examination and investigation as may in any circumstances be necessary;
- (e) to take such measurements and photographs and make such recordings as he considers necessary for the purpose of any examination or investigation under paragraph (d) above;
- (f) to take samples, or cause samples to be taken, of any articles or substances found in or on any premises which he has power to enter, and of the air or water or land in, on, or in the vicinity of, the premises;

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

(g) to require any person to give him such facilities and assistance with respect to any matters or things within that person's control or in relation to which that person has responsibilities as are necessary to enable the authorised person to exercise any of the powers conferred on him by this section.

(4) The powers which are conferred in relation to any land by this section include power, for the purposes mentioned in subsection (2) above—

(a) to carry out experimental borings or other works on those premises; and

(b) to install, keep or maintain monitoring and other apparatus there.

(5) Except in an emergency, in any case where it is proposed to enter any premises used for residential purposes, or to take heavy equipment on to any premises which are to be entered, any entry by virtue of this section shall only be effected—

(a) after the expiration of at least seven days' notice of the proposed entry given to a person who appears to the authorised person in question to be in occupation of the premises in question; and

(b) either—

(i) with the consent of a person who is in occupation of those premises; or

(ii) under the authority of a warrant by virtue of Schedule 1A to this Act.

(6) Except in an emergency, where an authorised person proposes to enter any premises and—

(a) entry has been refused and he reasonably believes that the use of force may be necessary to effect entry; or

(b) he reasonably believes that entry is likely to be refused and that the use of force may be necessary to effect entry,

any entry on to those premises by virtue of this section shall be effected only under the authority of a warrant by virtue of Schedule 1A to this Act.

(7) In relation to any premises belonging to or used for the purposes of the United Kingdom Atomic Energy Authority, subsections (1) to (3) above shall have effect subject to section 6(3) of the Atomic Energy Authority Act 1954 (which restricts entry to such premises where they have been declared to be prohibited places for the purposes of the Official Secrets Act 1911).

(8) Schedule 1A to this Act shall have effect with respect to the powers of entry and related powers which are conferred by this section.

(9) In this section, "premises" includes any land, vehicle or vessel, and any plant which is designed to move or be moved (whether or not on roads).

4C Coal mine water discharge: compulsory purchase of land

(1) The Authority may be authorised by the Secretary of State to purchase compulsorily any land anywhere in England and Wales where he is of the opinion that—

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) the purchase is required by the Authority for the purpose of preventing, or mitigating the effect of, a discharge of water from a coal mine; and

(b) the discharge has caused, is causing or is likely to cause significant pollution of controlled waters or serious harm to human health.

(2) The power of the Secretary of State 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 Authority of any rights over land which is to be or has been acquired by the Authority, to provide for the extinguishment of those rights.

(3) Without prejudice to the generality of subsection (1) above, the land which the Authority 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 Acquisition of Land Act 1981 is or forms part of a common, open space or a fuel or field garden allotment.

(4) The Acquisition of Land Act 1981 shall apply to any compulsory purchase under subsection (1) above of any land by the Authority; and Schedule 3 to that Act shall apply to the compulsory acquisition under that subsection of rights by the creation of new rights.

(5) Schedule 1B to this Act shall have effect for the purpose of modifying enactments relating to compensation and the provisions of the 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."

(2) Schedules 5 and 6 (which respectively insert Schedules 1A and 1B into the Coal Industry Act 1994 (c. 21)) are to have effect.

(3) In subsection (7) of section 68 of the Coal Industry Act 1994 (extent, etc), before paragraph (a) there is inserted—

"(za) sections 4A to 4C and Schedules 1A and 1B;".

Commencement Information

I77 S. 85 in force at 1.4.2004 by S.I. 2004/641, **art. 3(w)** (with Sch. 3 para. 7)

Contaminated land

86 Contaminated land: pollution of controlled waters

(1) The Environmental Protection Act 1990 (c. 43) is amended as follows.

(2) In section 78A (which contains provisions for the interpretation of Part 2A of the 1990 Act, relating to contaminated land)—

(a) for subsection (2)(b) there is substituted—

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) significant pollution of controlled waters is being caused or there is a significant possibility of such pollution being caused;",

(b) in subsection (5)—

(i) in paragraph (a), after "harm" there is inserted " or pollution of controlled waters ",

(ii) in paragraph (b), after "harm" there is inserted " or of significant pollution of controlled waters ", and

(iii) paragraph (c) is omitted,

(c) in subsection (6)—

(i) in paragraph (a), after "systems" there is inserted " , or of poisonous, noxious or polluting matter or solid waste matter ",

(ii) in paragraph (b), after "places" there is inserted " or controlled waters, or different degrees of pollution ", and

(iii) after "significant harm" there is inserted " or of significant pollution ",

(d) in subsection (7)(b)(i), before "pollution" there is inserted " significant ",

(e) in subsection (8), for the words from "pollution" to the end there is substituted " significant pollution of those waters is being caused or there is a significant possibility of such pollution being caused ", and

(f) in subsection (9), in paragraph (a) of the definition of "controlled waters", after "1991" there is inserted " except that "ground waters" does not include waters contained in underground strata but above the saturation zone ".

(3) In section 78C (identification and designation of special sites), in subsection (10)—

(a) in paragraph (a)(ii), for "be, or would be likely to be, caused" there is substituted " or might be caused ", and

(b) in paragraph (b), before "pollution" there is inserted " significant ".

(4) In section 78E (duty of enforcing authority to require remediation of contaminated land), in subsection (4)(b), after "or" there is inserted " of the ".

(5) In section 78K (liability in respect of contaminating substances which escape to other land), in each of subsections (3) and (4), for the words from "is being caused" to "likely to be caused" there is substituted " , or significant pollution of controlled waters, is being caused, or there is a significant possibility of such harm or pollution being caused ".

(6) In section 78X (supplementary provisions relating to contaminated land)—

(a) in subsection (1)—

(i) for paragraph (b) there is substituted—

"(b) significant pollution of controlled waters is being caused or there is a significant possibility of such pollution being caused,", and

(ii) for the words from "is being caused, or" to "likely to be caused" there is substituted " , or significant pollution of controlled waters, is being caused, or there is a significant possibility of such harm or pollution being caused ", and

(b) in subsection (2), for the words from "is being caused" to "likely to be, caused" there is substituted " , or significant pollution of controlled waters, is being caused, or there is a significant possibility of such harm or pollution being caused ".

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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 section 78YB (interaction of Part 2A of the Environmental Protection Act 1990 (c. 43) with other enactments), in each of subsections (1)(b) and (2), before "pollution" there is inserted " significant ".

Commencement Information

I78 S. 86(1) in force at 1.10.2004 for specified purposes for E. by S.I. 2004/2528, **art. 2(q)(ii)** (with Sch. para. 8)

I79 S. 86(1) in force at 11.11.2004 for specified purposes for W. by S.I. 2004/2916, **art. 2(e)**

I80 S. 86(2)(f) in force at 1.10.2004 for E. by S.I. 2004/2528, **art. 2(q)(i)** (with Sch. para. 8)

I81 S. 86(2)(f) in force at 11.11.2004 for W. by S.I. 2004/2916, **art. 2(e)**

Discharge consents

87 Transfer of discharge consents

(1) Paragraph 11 of Schedule 10 to the WRA (transfer of discharge consents) is amended as follows.

(2) In sub-paragraph (2), the words ", subject to sub-paragraph (4) below," are omitted.

(3) In sub-paragraph (3), the words ", subject to sub-paragraph (4) below," are omitted.

(4) Sub-paragraph (4) is omitted.

(5) For sub-paragraph (6) there is substituted—

"(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

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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 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."

(6) In sub-paragraph (9), the words "(6) or" are omitted.

Commencement Information

I82 S. 87 in force at 1.10.2004 by S.I. 2004/2528, **art. 2(r)** (with Sch. para. 68)

PROSPECTIVE

Trade effluent consents

88 Trade effluent consents

(1) For section 139 of the WIA (power to apply Chapter 3 of Part 4 of the WIA to other effluents) there is substituted—

"**139 Power to apply Chapter 3 to specified activities**

(1) The Secretary of State may by order provide, in relation to discharge into public sewers—

(a) that a liquid or other matter of a description specified in the order shall be treated as if it were trade effluent for the purposes of this Chapter; or

(b) that—

(i) the discharge restrictions shall not apply to a liquid or other matter of a description specified in the order; and

(ii) (in the case of a liquid) the liquid shall be deemed not to be trade effluent for the purposes of this Chapter.

(2) An order under subsection (1) above may so provide whether or not the liquid or other matter specified would otherwise have fallen within (or, as the case may be, outside) a proper construction of "trade effluent" as defined in section 141(1) below.

(3) An order under subsection (1) above may so provide, in relation to the liquid or other matter specified, either generally or in particular cases or classes of case or for particular purposes or as otherwise specified in the order.

(4) In this section, references to the discharge restrictions are references to—

(a) the restrictions imposed by paragraphs (a) and (b) of section 106(2) above; and

(b) the restrictions imposed by section 111 above so far as it relates to anything falling within paragraph (a) or (b) of subsection (1) of that section.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) Where any provisions of this Chapter are to apply to a liquid or other matter by virtue of an order under subsection (1)(a) above, the order may provide for them so to apply subject to such modifications as may be specified in the order and, in particular, subject to any such modification of the meaning for the purposes of this Chapter of the expression "trade premises" as may be so specified.

(6) The Secretary of State may include in an order under subsection (1) above such provisions as appear to him expedient for modifying any enactment as that enactment applies in relation to the discharge into sewers of any liquid or other matter specified in the order.

(7) Where the discharge restrictions do not apply to a liquid by virtue of an order under subsection (1)(b) above, subsections (3) to (8) of section 106 above and sections 108 and 109 above shall have effect in relation to communication with a sewer for the purpose of making any discharge of that liquid as they apply in relation to any other discharges which are authorised by subsection (1) of section 106 above.

(8) The Secretary of State may include in an order under this section such other supplemental, incidental or transitional provision as appears to him to be expedient.

(9) The power to make an order under this section shall be exercisable by statutory instrument, but such an instrument shall not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

(10) In this section, references to a liquid are to a liquid either with or without particles of matter in suspension in the liquid."

(2) In section 94 of the WIA (general duty to provide sewerage system), in subsection (5), at the end there is added " ; and, accordingly, section 139 below shall have effect for the purposes of this section as it has effect for the purposes of Chapter 3 of this Part. ".

(3) In section 138 of the WIA (meaning of "special category effluent"), subsection (5) is omitted.

(4) In section 141 of the WIA (interpretation of Chapter 3), in subsection (1), after "requires" there is inserted " and subject to section 139 above ".

(5) In section 171 of the WIA (entry for sewerage purposes), in subsection (3), after "trade effluent" there is inserted " or any other liquid or substance ".

89 Trade effluent consents: conditions of consent

(1) In section 119 of the WIA (application for consent)—

(a) after paragraph (a) of subsection (2) there is inserted—

"(ab) the steps proposed to be taken, in relation to the discharge or by way of subjecting any substance likely to affect the description of matter discharged to treatment or any other process, for minimising—

(i) the polluting effects of the discharge on any controlled waters; and

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

(ii) the impact of the discharge on sewerage services;",

(b) after subsection (2) there is inserted—

"(3) In this section "controlled waters" has the meaning given by section 104 of the Water Resources Act 1991."

(2) In section 121 of the WIA (conditions of consent)—

(a) after paragraph (b) of subsection (1) there is inserted—

"(ba) the steps to be taken, in relation to the discharge or by way of subjecting any substance likely to affect the description of the matter discharged to treatment or any other process, for minimising—

(i) the polluting effects of the discharge on any controlled waters; and

(ii) the impact of the discharge on sewerage services;",

(b) in subsection (6), at the end there is inserted " and "controlled waters" has the meaning given by section 104 of the Water Resources Act 1991 ".

Water mains, etc

90 Water main requisitions: financial conditions

(1) Section 42 of the WIA (financial conditions of compliance with water main requisition) is amended as follows.

(2) In subsection (2), for paragraph (a) there is substituted—

"(a) bind the person or persons mentioned in that subsection to pay to the undertaker either (at the election of such person or persons)—

(i) in respect of each of the twelve years following the provision of the main, an amount not exceeding the relevant deficit (if any) for that year on that main; or

(ii) following provision of the main, a single amount not exceeding the discounted aggregate deficit on that main; and".

(3) In subsection (6), for the words from "shall be referred" to the end there is substituted " may be referred to the Authority for determination under section 30A above by either party to the dispute. ".

(4) For subsection (7) there is substituted—

"(7) In this section "relevant deficit" and "discounted aggregate deficit" have the meanings given by sections 43 and 43A below, respectively."

(5) The amendments made by subsections (2) to (4) of this section do not apply in respect of water main requisitions (as defined in section 43(9) of the WIA) for which notice has been served under section 41(1) of that Act before the commencement of the subsection in question.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

Commencement Information

I83 S. 90 in force at 28.5.2004 by S.I. 2004/641, **art. 4(a)** (with Sch. 3 para. 7)

91 Water main requisitions: calculation of payments

(1) In section 43 of the WIA (calculation of "relevant deficit" for the purposes of section 42)—

(a) in paragraph (b) of subsection (4), after "providing" there is inserted " or procuring the provision of ",

(b) for subsection (5) there is substituted—

"(5) In subsection (4) above the reference to an earlier main, in relation to the new main, is a reference to any water main which—

(a) has been provided in pursuance of a water main requisition; or

(b) has been vested (by virtue of a declaration made under this Chapter) in the water undertaker,

in the period of twelve years immediately before the provision of the new main.",

(c) in subsection (8), in paragraph (b), for "that has already been provided" there is substituted " in respect of which the conditions referred to in section 42(1) above have already been satisfied. "

(2) After section 43 of the WIA there is inserted—

"**43A Calculation of "discounted aggregate deficit" for the purposes of section 42**

(1) For the purposes of section 42 above the discounted aggregate deficit on a water main is the amount equal to the sum of the estimated relevant deficits for each of the twelve years following the provision of the main, in each case discounted in accordance with subsection (6) below.

(2) The estimated relevant deficit for any year is the amount (if any) by which the estimated revenue in respect of the water main for that year would be exceeded by the annual borrowing costs of a loan of the amount required for the provision of that main.

(3) Subsections (2) to (6), (8) and (9) of section 43 above (which relate to the annual borrowing costs of a loan of the amount required for the provision of a water main) shall apply for the purposes of this section as they apply for the purposes of that.

(4) Any reference in this section to the estimated revenue in respect of a water main for any year—

(a) in relation to premises expected to be connected with the main and supplied with water by a water undertaker, is a reference to so much of the aggregate of any charges expected to be payable to the undertaker for the provision of services in the course of that year as would represent charges—

(i) imposed by the undertaker in relation to those premises, and

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

(ii) reasonably attributable to the provision of a supply of water (whether or not for domestic purposes) to those premises by means of that main; and

(b) in relation to premises expected to be connected with the main and supplied with water by a licensed water supplier, is a reference to so much of the aggregate of any charges expected to be made during the course of that year as would be—

(i) payable by the supplier to the undertaker in respect of the duty under section 66A(2)(b), 66B(3)(b) or 66C(2)(b)(ii) below; and

(ii) reasonably attributable to the use of that main for the purpose of the supplier's supplying water to those premises.

(5) For the purpose of calculating estimated revenue under subsection (4) above, a thing is expected to be the case if, at the time the calculation is made, it is reasonably likely to occur.

(6) The estimated relevant deficit for a year mentioned in subsection (1) above shall be discounted in order to determine its net present value by applying such factor, and in accordance with such other provision, as may be determined by the Authority.

(7) A determination made by the Authority for the purposes of subsection (6) above—

(a) may be made in relation to the provision of a particular water main or in relation to the provision of water mains generally; and

(b) may be revoked at any time except in relation to a water main in respect of which the conditions referred to in section 42(1) above have already been satisfied."

(3) Section 44 of the WIA (determination of completion date and route for requisitioned main) is amended as follows—

(a) in subsection (1), for paragraph (b) there is substituted—

"(b) the water undertaker has not, before the end of that period, so laid the water main to be provided as to enable (as the case may be)—

(i) service pipes to premises in that locality; or

(ii) a water main which is the subject of an agreement under section 51A below ("the self-laid main"),

to connect with the main at the place or places determined under subsection (3) below.",

(b) in paragraph (b) of subsection (2), for "an arbitrator" there is substituted " the Authority ",

(c) in paragraph (b) of subsection (3)—

(i) for "an arbitrator" there is substituted " the Authority ",

(ii) after "in question" there is inserted " , or (as the case may be) the self-laid main, ",

(d) for subsection (4) there is substituted—

"(4) A reference for the purposes of subsection (2) or (3) above may be made to the Authority for determination under section 30A above by either party to the dispute.",

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) in subsection (5)—

(i) the words "for any locality" are omitted,

(ii) for paragraph (b) there is substituted—

"(b) the day on which the place or places where (as the case may be)—

(i) service pipes to premises in the locality in question; or

(ii) the self-laid main,

will connect with the main are determined under subsection (3) above."

(4) The amendments made by subsections (1) to (3) of this section do not apply in respect of water main requisitions (as defined in section 43(9) of the WIA) for which notice has been served under section 41(1) of that Act before commencement of the subsection in question.

Commencement Information

I84 S. 91 in force at 28.5.2004 by S.I. 2004/641, **art. 4(a)** (with Sch. 3 para. 7)

92 Self-lay and adoption of water mains and service pipes

(1) After section 51 of the WIA there is inserted—

"Adoption of water mains and service pipes

51A Agreements to adopt water main or service pipe at future date

(1) Subject to subsections (2) and (10) below, a water undertaker may agree with any person constructing or proposing to construct—

(a) any water main; or

(b) any service pipe,

that, if the water main or service pipe is constructed in accordance with the terms of the agreement, the undertaker will, upon completion of the work, at some specified date or on the happening of some future event, declare the water main or (as the case may be) so much of the service pipe as the undertaker could otherwise, by virtue of sections 45 to 51 above, be required to lay, to be vested in that undertaker.

(2) Subsection (1) above shall not apply in the case of water mains or service pipes which are to be used (in whole or in part) for the purpose of supplying water other than for domestic purposes, but—

(a) nothing in this section shall prevent a water undertaker from agreeing apart from this section to declare any such water main or service pipe (or a part of it, as specified in the agreement) to be vested in the undertaker; and

(b) such a declaration shall take effect as a declaration made under this Chapter.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) A person constructing or proposing to construct a water main or a service pipe to which subsection (1) above applies may make an application in writing to a water undertaker requesting the undertaker to make an agreement under this section.

(4) An application under subsection (3) above shall be accompanied and supplemented by all such information as the undertaker may reasonably require; but subject to subsection (5) 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.

(5) Where—

(a) a person who has made an application to a water undertaker under subsection (3) above has failed to comply with his obligation under this section to supplement that application with information required by the undertaker; and

(b) that requirement was made by the undertaker at such a time before the end of the period within which the undertaker is required, by virtue of section 51B below, to respond to the application as gave that person a reasonable opportunity to provide the required information within that period,

the undertaker may delay its response to the application until a reasonable time after the required information is provided.

(6) In deciding whether or on what terms to grant an application under subsection (3) above, a water undertaker shall have regard in particular to any effect or potential effect on the quality of water supplies and to any increased danger to life or health which it considers may result.

(7) The terms of an agreement under subsection (1) above relating to a water main may, in particular, include terms—

(a) for the provision (at the expense of the person constructing or proposing to construct the water main) by—

(i) that person; or

(ii) the water undertaker,

of such associated infrastructure at or downstream of the point of connection with the undertaker's supply system as it is necessary to provide in consequence of incorporating the new water main into that system;

(b) providing that, if the water main and the associated infrastructure are constructed in accordance with the terms of the agreement, the undertaker will, in addition to declaring the water main to be vested in it, declare the associated infrastructure to be so vested;

(c) where the undertaker considers that the proposed main is, or is likely to be, needed for the provision of water supply services in addition to those for which the person is proposing to construct the main—

(i) requiring that person to construct the main in a manner differing, as regards material or size of pipes, depth or otherwise, from the manner in which that person proposes, or

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

could otherwise be required by the undertaker, to construct it; and

(ii) providing for the repayment by the undertaker of any extra expense reasonably incurred by that person in complying with that requirement;

(d) for the connection of the new water main to the undertaker's existing supply system at the point or points specified in the agreement;

(e) for any service pipes which the person constructing or proposing to construct the new water main proposes to connect to that main to be constructed in accordance with the terms of the agreement and, subject to that, to be vested in the undertaker at the same time as the main.

(8) The terms of an agreement under subsection (1) above relating to a service pipe may, in particular, include terms—

(a) for the connection of the new service pipe to the undertaker's existing supply system at the point or points specified in the agreement;

(b) for such requirements of the kind referred to in section 47(2) above as may be applicable to be complied with before connection takes place.

(9) An agreement made under this section by a water undertaker shall be enforceable against the undertaker by the owner or occupier for the time being of any premises connected or to be connected with the water main or service pipe to which it relates.

(10) A water undertaker shall not make an agreement under this section with respect to a water main or a service pipe situated within the area of another water undertaker, until either—

(a) that other undertaker has consented in writing to the making of the agreement; or

(b) the Secretary of State, on an application made to him, has dispensed with the necessity for such consent, either unconditionally or subject to such conditions as he may think fit to impose.

51B Appeals with respect to adoption

(1) Subject to section 51A(5) above, a person constructing or proposing to construct a water main or service pipe may appeal to the Authority where the water undertaker—

(a) has refused an application under section 51A above;

(b) has offered to grant such an application on terms to which that person objects; or

(c) has failed, before the end of two months from the making of such an application, either to refuse the application or to give notice to the applicant of the terms on which it is prepared to grant the application.

(2) On the hearing of an appeal under this section, the Authority may—

(a) uphold the refusal of the undertaker to grant the application or to modify the terms offered; or

(b) on behalf of the undertaker, refuse the application or enter into any agreement into which the undertaker might have entered on the application.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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 the Authority makes an agreement under subsection (2)(b) above on behalf of a water undertaker, it may do so on such terms as it considers reasonable or, as the case may be, on the terms offered by the undertaker subject to such modifications as it considers appropriate for ensuring that the terms of the agreement are reasonable.

(4) An agreement entered into on behalf of a water undertaker under subsection (2)(b) above shall be deemed, for the purposes of this Act, to have been entered into under section 51A above.

(5) In deciding on an appeal under this section, the Authority may include such incidental, supplemental and consequential provision (including provision requiring either party to pay a sum in respect of the costs or expenses incurred by the Authority) as it thinks fit, and any such provision as to costs or expenses shall be enforceable as if it were a judgment of a county court.

51C Financial conditions of compliance

(1) This section applies where an agreement is, or is to be, entered into under section 51A above in relation to a water main ("the adopted main") by, or on behalf of, a water undertaker and a person constructing or proposing to construct that water main.

(2) Where this section applies, the water undertaker may, as a condition of the undertaker's compliance with the agreement, require that person to pay to it the costs mentioned in subsection (3) below.

(3) The costs are those reasonably incurred by the undertaker in connection with the adopted main equivalent to the costs referred to in section 43(4)(a) and (b) above, as if references there (and in section 43(5)) to the provision of the new main were references to the incorporation of the adopted main into the undertaker's supply system.

(4) For the purposes of any payment required to be made by virtue of subsection (2) above, the water undertaker may require the person to provide such security as it may reasonably request, and the provisions of subsections (4) and (5) of section 42 above shall apply to any security so required as they apply to security required under that section.

(5) Where this section applies, the water undertaker shall pay to the person referred to in subsection (1) above, upon declaring the water main to be vested in the undertaker, a sum equal to the discounted offset amount.

(6) For the purposes of subsection (5) above, the discounted offset amount is the sum of the estimated offsets for each of the twelve years following the vesting in the undertaker of the water main, in each case discounted in accordance with subsection (9) below.

(7) The estimated offset for any year is the lesser of—
   (a) the estimated revenue (if any) in respect of the adopted main for that year; and
   (b) the annual borrowing costs of a loan of the amount required for the provision of that main.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

(8) The amounts referred to in paragraphs (a) and (b) of subsection (7) above shall be calculated in accordance with the provisions of subsections (3) to (5) of section 43A above as if the adopted main had been provided in pursuance of a water main requisition (as defined in section 43 above).

(9) The estimated offset for a year shall be discounted in order to determine its net present value by applying such factor, and in accordance with such other provision, as may be determined by the Authority.

(10) A determination made by the Authority for the purposes of subsection (9) above—

(a) may be made in relation to a particular water main or in relation to water mains generally; and

(b) may be revoked at any time except in relation to an adopted main in respect of which the agreement referred to in subsection (1) above has already been made.

(11) Any dispute between the water undertaker and the other person as to the payments required to be made or the security required to be provided by virtue of this section may be referred to the Authority for determination under section 30A above by either party to the dispute.

51D Prohibition on connection without adoption

(1) Where a person (other than a water undertaker) constructs a water main or service pipe which is to be used, in whole or in part, for supplying water for domestic or food production purposes, no water undertaker may permit that water main or service pipe to become connected with its supply system unless it vests (to the relevant extent) in a water undertaker.

(2) In subsection (1) above, "the relevant extent" means the extent specified in the agreement for the vesting in the undertaker of the water main or service pipe in question.

(3) The prohibition imposed on a water undertaker by subsection (1) above shall be enforceable under section 18 above by the Authority.

51E Sections 51A to 51D: supplementary

(1) For the purposes of sections 51A to 51D above, the definition of "water main" in section 219(1) below shall be treated as if the words "not being a pipe for the time being vested in a person other than the undertaker" were omitted.

(2) In sections 51A to 51C above, references to so much of the service pipe as the undertaker could otherwise, by virtue of sections 45 to 51 above, be required to lay shall be construed disregarding section 46(8) above.

(3) In this Act, references to vesting or the making of a declaration of vesting with respect to a service pipe refer to so much of the service pipe as is specified for those purposes in the relevant vesting agreement."

(2) In section 45 of the WIA (duty to make connections with main), after subsection (1) there is inserted—

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

"(1A) In relation to service pipes which do not belong to or fall to be laid by the undertaker—

(a) subsection (1) above is subject to section 51D(1) below; and

(b) any such service pipe which is to vest in the undertaker by virtue of an agreement under section 51A below shall be connected to one of the undertaker's water mains subject to and in accordance with the terms of that agreement."

(3) In section 47 of the WIA (conditions of connection with water main), in subsection (2), for sub-paragraph (i) of paragraph (d) there is substituted—

"(i) subject to section 51D(1) below, so much of the service pipe to the relevant premises as does not belong to, vest in or fall to be laid by the undertaker; and".

(4) After subsection (2) of section 179 of the WIA (vesting of works in undertaker) there is inserted—

"(2A) In addition to the water mains and service pipes which vest in a water undertaker by virtue of subsection (1) above, every water main and so much of each service pipe with respect to which a declaration of vesting made by a water undertaker under Chapter 2 of Part 3 of this Act takes effect shall also vest in that undertaker."

(5) After subsection (1) of section 198 of the WIA (maps of waterworks) there is inserted—

"(1A) Subject to subsection (4) below, it shall also be the duty of every water undertaker to keep records of the location and (in the case of a water main) other relevant particulars of—

(a) every water main in relation to which a declaration of vesting has been made by the undertaker under Chapter 2 of Part 3 of this Act but has not taken effect; and

(b) every water main which is the subject of any agreement to make such a declaration which has been entered into by (or on behalf of) the undertaker.

(1B) For the purposes of this section the other relevant particulars of a water main are (in addition to its location) particulars of whether it is a water main in relation to which a declaration has been made under Chapter 2 of Part 3 of this Act or a water main which is the subject of an agreement to make such a declaration.";

and, in subsection (4) of that section, after "subsection (1)" there is inserted " or (1A) ".

(6) In section 219 of the WIA (general interpretation), in subsection (1), in the definition of "service pipe", after "below" there is inserted " and to section 51E(3) above ".

(7) The amendments of the WIA made by this section do not apply in respect of any water main or service pipe the construction of which was begun before the coming into force of this section.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

Commencement Information
I85 S. 92 in force at 28.5.2004 by S.I. 2004/641, **art. 4(a)** (with Sch. 3 para. 7)

Sewers and drains

93 Requisition and adoption of sewers

(1) In section 99 of the WIA (financial conditions of compliance with sewer requisition)—

(a) in subsection (2), for paragraph (a) there is substituted—

"(a) bind the person or persons mentioned in that subsection to pay to the undertaker either (at the election of such person or persons)—

(i) in respect of each of the twelve years following the provision of the sewer, an amount not exceeding the relevant deficit (if any) for that year on that sewer; or

(ii) following provision of the sewer, a single amount not exceeding the discounted aggregate deficit on that sewer; and",

(b) in subsection (6), for the words from "shall be referred" to the end there is substituted " may be referred to the Authority for determination under section 30A above by either party to the dispute. ",

(c) for subsection (7) there is substituted—

"(7) In this section "relevant deficit" and "discounted aggregate deficit" have the meanings given by sections 100 and 100A below, respectively."

(2) In section 100 of the WIA (calculation of "relevant deficit" for the purposes of section 99), in subsection (8), in paragraph (b), for "that has already been provided" there is substituted " in respect of which the conditions referred to in section 99(1) above have already been satisfied. ".

(3) After section 100 of the WIA there is inserted—

"**100A Calculation of "discounted aggregate deficit" for the purposes of section 99**

(1) For the purposes of section 99 above the discounted aggregate deficit on a public sewer is the amount equal to the sum of the estimated relevant deficits for each of the twelve years following the provision of the sewer, in each case discounted in accordance with subsection (6) below.

(2) The estimated relevant deficit for any year is the amount (if any) by which the estimated drainage charges payable for the use during that year of that sewer would be exceeded by the annual borrowing costs of a loan of the amount required for the provision of that sewer.

(3) Subsections (2) to (6), (8) and (9) of section 100 above (which relate to the annual borrowing costs of a loan of the amount required for the provision of

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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 public sewer) shall apply for the purposes of this section as they apply for the purposes of that section.

(4) Any reference in this section to the estimated drainage charges payable for the use during any year of any sewer is a reference to so much of the aggregate of any charges expected to be payable to the sewerage undertaker for the provision of services in the course of that year as would represent charges—

(a) imposed by the undertaker in relation to such of the premises with which the sewer is expected to be connected as are premises where there are buildings; and

(b) reasonably attributable to the use of that sewer for the drainage for domestic sewerage purposes of those premises or to the disposal of effluent drained for any such purposes from those premises.

(5) For the purposes of subsection (4) above, a thing is expected to be the case if, at the time the relevant calculation is made, it is reasonably likely to occur.

(6) The estimated relevant deficit for a year mentioned in subsection (1) above shall be discounted in order to determine its net present value by applying such factor, and in accordance with such other provision, as may be determined by the Authority.

(7) A determination made by the Authority for the purposes of subsection (6) above—

(a) may be made in relation to the provision of a particular public sewer or in relation to the provision of public sewers generally; and

(b) may be revoked at any time except in relation to a public sewer in respect of which the conditions referred to in section 99(1) above have already been satisfied."

(4) The amendments made by subsections (1) to (3) of this section do not apply in respect of public sewer requisitions (as defined in section 100(9) of the WIA) for which notice has been served under section 98(1) of that Act before commencement of the subsection in question.

Commencement Information

I86 S. 93 in force at 28.5.2004 by S.I. 2004/641, **art. 4(b)** (with Sch. 3 para. 7)

94 Provision of public sewers otherwise than by requisition

In section 101A of the WIA (which imposes a duty on sewerage undertakers to provide sewers for certain premises whose drainage gives rise to adverse environmental effects), in subsection (2)—

(a) in paragraph (a), the words from "each of which" to the end of the paragraph are omitted, and

(b) in paragraph (c), "in respect of which the condition specified in paragraph (a) above is satisfied" is omitted.

Commencement Information

I87 S. 94 in force at 28.5.2004 by S.I. 2004/641, **art. 4(b)** (with Sch. 3 para. 7)

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

95 Requisition of lateral drains

(1) Section 98 of the WIA (duty to comply with sewer requisition) is amended as provided in subsections (2) to (5).

(2) After subsection (1) there is inserted—

"(1A) It shall be the duty of a sewerage undertaker (in accordance with section 101 below) to provide a lateral drain to communicate with a public sewer and to be used for the drainage for domestic purposes of premises in its area if—

(a) the undertaker is required to provide the lateral drain by a notice served on the undertaker by one or more of the persons who under subsection (2A) below are entitled to require the provision of the lateral drain;

(b) the premises the drainage of which would be by means of that lateral drain are—

(i) premises on which there are buildings; or

(ii) premises on which there will be buildings when proposals made by any person for the erection of any buildings are carried out; and

(c) the conditions specified in section 99 below are satisfied in relation to that requirement."

(3) After subsection (2) there is inserted—

"(2A) Each of the following persons shall be entitled to require the provision of a lateral drain, that is to say—

(a) the owner of the premises the drainage of which would be by means of that lateral drain;

(b) the occupier of those premises;

(c) any local authority within whose area those premises are situated;

(d) where those premises are situated in a new town, within the meaning of the New Towns Act 1981—

(i) the Commission for the New Towns; and

(ii) the development corporation for the new town; and

(e) where those premises are situated within an area designated as an urban development area under Part 16 of the Local Government, Planning and Land Act 1980, the urban development corporation."

(4) In subsection (3)—

(a) after "public sewer" there is inserted " or, as the case may be, a lateral drain ",

(b) after "of the sewer" there is inserted " or lateral drain ".

(5) In subsection (5)—

(a) the words "in a particular locality" are omitted,

(b) in paragraph (a), for "premises in that locality" there is substituted " those premises ",

(c) in paragraph (b), for "premises in the locality" there is substituted " those premises ".

(6) In section 99 of the WIA (financial conditions of compliance)—

(a) in subsection (1)—

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) after "98(1)(c)" there is inserted " or 98(1A)(c) ",

(ii) after "sewer", in both places, there is inserted " or (as the case may be) lateral drain ",

(iii) in paragraph (a), after "subsection (2)" there is inserted " or, as the case may be, subsection (2A) ",

(b) after subsection (2) there is inserted—

"(2A) The undertakings which a sewerage undertaker may require for the purposes of subsection (1) above in respect of any lateral drain are undertakings which—

(a) bind the person or persons mentioned in that subsection to pay to the undertaker, following provision of the lateral drain, on such terms as may be specified in the undertaking, an amount not exceeding the costs reasonably incurred in or in connection with the provision of the lateral drain; and

(b) in the case of undertakings binding two or more persons, bind them either jointly and severally or with liability apportioned in such manner as they may agree.",

(c) for subsection (3) there is substituted—

"(3) For the purposes of subsection (1)(b) above a person may be required to secure his undertakings in relation to the provision of a public sewer or, as the case may be, a lateral drain if—

(a) it was by virtue of section 98(2)(a) or (b) or (as the case may be) section 98(2A)(a) or (b) above that he required, or joined in requiring, the provision of the sewer or drain; and

(b) he is not a public authority.",

(d) for paragraph (a) of subsection (5) there is substituted—

"(a) may be given or made in relation to the provision of a particular public sewer or (as the case may be) lateral drain, in relation to the provision of sewers or lateral drains of a particular description or in relation to the provision of public sewers or lateral drains generally; and".

(7) For section 101 of the WIA (determination of completion date and route for requisitioned sewer) there is substituted—

"**101 Determination of completion date and route for requisitioned sewer or lateral drain**

(1) A sewerage undertaker shall not be in breach of a duty imposed by section 98 above in relation to any locality or (in the case of a lateral drain) in relation to any premises unless—

(a) the period of six months beginning with the relevant day has expired; and

(b) the sewerage undertaker has not, before the end of that period, so laid (as the case may be)—

(i) the public sewer to be provided as to enable drains and private sewers to be used for the drainage of premises in the locality to communicate with the public sewer; or

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

(ii) the lateral drain to be provided as to enable the drain to be used for the drainage of premises to communicate with a public sewer vested in that undertaker,

at the place or places determined under subsection (3) below.

(2) The period mentioned in subsection (1)(a) above may be extended—

(a) by agreement between the undertaker and the person or persons who required the provision of the public sewer or, as the case may be, lateral drain; or

(b) where there is a dispute as to whether the period should be extended, by the Authority on a reference under subsection (4) below.

(3) The places mentioned in subsection (1)(b) above shall be—

(a) such place or places as are determined by agreement between the sewerage undertaker and the person or persons who required the provision of the public sewer or, as the case may be, lateral drain; or

(b) in default of agreement, such place or places as are determined by the Authority on a reference under subsection (4) below to be the place or places at which it is reasonable, in all the circumstances—

(i) in relation to the provision of a public sewer, for drains or private sewers to be used for the drainage of premises in the locality in question to communicate with the public sewer; or

(ii) in relation to the provision of a lateral drain—

(a) for the lateral drain to communicate with a public sewer vested in the undertaker; and

(b) for the remainder of the drain of which the lateral drain forms part to connect with the lateral drain.

(4) A reference for the purposes of subsection (2) or (3) above may be made to the Authority for determination under section 30A above by either party to the dispute.

(5) In this section "relevant day", in relation to a requirement to provide a public sewer for any locality or, as the case may be, a lateral drain, means the day after whichever is the later of the following—

(a) the day on which the conditions specified in section 99 above are satisfied in relation to the requirement; and

(b) the day on which the place or places where (as the case may be)—

(i) drains or private sewers to be used for the drainage of premises in that locality will communicate with the public sewer; or

(ii) the lateral drain will communicate with a public sewer and the remainder of the drain will connect with the lateral drain,

are determined under subsection (3) above."

(8) The substitution, by subsection (7), of section 101 of the WIA does not apply in respect of requirements notified under section 98 of the WIA before subsection (7) comes into force.

(9) After section 101A of the WIA there is inserted—

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

"101B Power to construct lateral drains following provision of public sewer

(1) Where a sewerage undertaker provides a public sewer pursuant to a duty to do so imposed on it by section 98 or section 101A above, the undertaker may, at the request of the person mentioned in subsection (2) below, also provide at the same time one or more lateral drains to be used for the drainage for domestic purposes of premises in its area and to communicate with that sewer.

(2) A request under subsection (1) above may be made—

(a) in the case of a public sewer to be provided under section 98 above, by the person who requires the provision of the sewer under that section; and

(b) in the case of a public sewer to be provided under section 101A above, by the owner or occupier of any premises in respect of which the duty to provide the sewer arises under that section (but any request may only be for the provision of a lateral drain to his premises).

(3) The person making a request under this section shall pay to the water undertaker, following provision of the lateral drain, the costs reasonably incurred in or in connection with providing that drain.

(4) Any dispute between the sewerage undertaker and the person making a request under this section as to—

(a) whether a lateral drain should be provided pursuant to the request; or

(b) the costs reasonably incurred in the provision of a lateral drain,

may be referred to the Authority for determination under section 30A above by either party to the dispute.

(5) Any lateral drain provided pursuant to a request made to a sewerage undertaker under this section shall belong to the undertaker."

(10) Section 101B of the WIA (as inserted by subsection (9)) does not apply in respect of a public sewer to be provided pursuant to—

(a) a requirement notified under section 98 of that Act before the coming into force of subsection (9), or

(b) a duty under section 101A of that Act which the sewerage undertaker had accepted, or the Environment Agency had determined, it was under before the coming into force of subsection (9).

Commencement Information

I88 S. 95 in force at 28.5.2004 by S.I. 2004/641, **art. 4(b)** (with Sch. 3 para. 7)

96 Adoption of lateral drains

(1) In section 102 of the WIA (adoption of sewers and disposal works)—

(a) in subsection (1), the word "or" at the end of paragraph (a) is omitted and after that paragraph there is inserted—

"(aa) any lateral drain which communicates or is to communicate with a public sewer which—

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) is so situated or serves the whole or any part of that area; and

(ii) is vested in that undertaker; or",

(b) in subsection (2), after "sewer" in both places there is inserted " , lateral drain ",

(c) in subsection (4), in paragraph (a), after "sewer" there is inserted " , lateral drain ",

(d) in subsection (5)—

(i) in paragraph (b), after "sewer" there is inserted " or lateral drain ",

(ii) in paragraph (c), after "sewer" there is inserted " or lateral drain ",

(iii) in paragraph (d), after "sewer" there is inserted " , lateral drain ",

(e) in subsection (6), after "sewer" in both places there is inserted " or lateral drain ".

(2) In section 103 of the WIA (adoption of cross-border sewers etc)—

(a) in subsection (1), the word "or" at the end of paragraph (a) is omitted and after that paragraph there is inserted—

"(aa) any lateral drain which is situated within the area of another sewerage undertaker or which, though situated within its own area, communicates or is to communicate with a public sewer which is situated within or serves the whole or any part of the area of another sewerage undertaker; or",

(b) for subsection (3) there is substituted—

"(3) Where—

(a) a sewer (or part of a sewer) or a lateral drain is vested, or any sewage disposal works are vested, in a relevant body; and

(b) in the case of a sewer, part of a sewer, lateral drain or works vested in railway undertakers or dock undertakers, the sewer, part or lateral drain in question is, or the works are, situated in or on land belonging to those undertakers and held or used by them for the purposes of their undertaking,

a sewerage undertaker shall not make a declaration under section 102 above with respect to (as the case may be) the sewer, or part of it, or the lateral drain or the works, except on the application of the relevant body concerned.",

(c) in subsection (4), in paragraph (a), after "sewer" there is inserted " or lateral drain ".

(3) Sections 102 and 103 of the WIA (adoption of sewers etc), as amended by subsections (1) and (2) above, do not apply to any lateral drains (as mentioned in those sections) the construction of which was completed before the coming into force of subsections (1) and (2) above.

(4) Section 104 of the WIA (agreements to adopt sewer etc at future date) is amended as follows—

(a) for subsection (1) there is substituted—

"(1) Subject to subsection (7) and section 146(3) below, a sewerage undertaker may agree with—

(a) any person constructing or proposing to construct—

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) any sewer;

(ii) any drain which is intended to communicate with a public sewer vested in that undertaker; or

(iii) any sewage disposal works; or

(b) any person at whose expense the undertaker is, by virtue of an agreement under section 160 below, to carry out work in connection with the construction of such a drain or sewer,

that, if the sewer, drain or sewage disposal works is or are constructed in accordance with the terms of the agreement, the undertaker will, upon completion of the work, at some specified date or on the happening of some future event, declare the sewer or such part of the drain as constitutes the lateral drain or the works (as the case may be) to be vested in that undertaker.”,

(b) in subsection (2), for “constructing or proposing to construct a sewer” there is substituted “ mentioned in paragraph (a) or (b) of subsection (1) above ”,

(c) in subsection (5), after “sewer” there is inserted “ , lateral drain ”,

(d) subsection (6) is omitted,

(e) after subsection (6) there is inserted—

“(6A) Without limiting the terms which may be included in an agreement under this section, the terms of an agreement which relates to a drain may include in particular—

(a) identification of that part of the drain which constitutes the lateral drain for the purposes of the agreement and, in particular, the point or points of connection between that part and the remainder of the drain;

(b) a requirement for the installation of an inspection chamber, at the expense of the person with whom the sewerage undertaker is to make the agreement, at a place specified in the agreement;

(c) provision, if the inspection chamber is constructed in accordance with the terms of the agreement, for the undertaker to declare that the inspection chamber be vested in the undertaker at the same time as the lateral drain; and

(d) provision for the lateral drain, once vested in the undertaker, to communicate with a public sewer at the place or places specified in the agreement.”,

(f) for subsection (7) there is substituted—

“(7) A sewerage undertaker shall not make an agreement under this section with respect to—

(a) a sewer, drain or sewage disposal works situated within the area of another sewerage undertaker; or

(b) a drain which is intended to communicate with a sewer which—

(i) is so situated; or

(ii) is vested in another sewerage undertaker,

until one of the conditions mentioned in subsection (8) below is satisfied.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

(8) The conditions are—

(a) that other undertaker has consented to the making of the agreement; or

(b) the Secretary of State, on an application made to him, has dispensed with the necessity for such consent, either unconditionally or subject to such conditions as he may think fit to impose."

(5) In section 105 of the WIA (appeals with respect to adoption)—

(a) in subsection (1), after "sewer" there is inserted " , lateral drain ",

(b) in subsection (3), after "sewer" there is inserted " , lateral drain ".

Commencement Information

I89 S. 96 in force at 28.5.2004 by S.I. 2004/641, **art. 4(b)** (with Sch. 3 para. 7)

97 Requisitioning and adoption of lateral drains: supplementary

(1) The WIA is amended as follows.

(2) In section 36 (interpretation of Part 2 of the WIA)—

(a) in subsection (3)(b)(i), after "sewer" there is inserted " or drain ",

(b) for the definition of "relevant sewer" in subsection (4) there is substituted—

""relevant sewer or drain", in relation to any appointment or variation which would replace a company as a sewerage undertaker, means any of the following, that is to say—

(a) a public sewer or lateral drain vested in that company;

(b) a sewer or lateral drain in relation to which that company has made a declaration of vesting under section 102 below which has not yet taken effect;

(c) a sewer or lateral drain in relation to which that company has entered into an agreement under section 104 below."

(3) In section 94 (general duty to provide sewerage system), in paragraph (a) of subsection (1), after "those sewers" there is inserted " and any lateral drains which belong to or vest in the undertaker ".

(4) In section 158 (powers to lay pipes in streets), for paragraph (b) of subsection (7) there is substituted—

"(b) in relation to a sewerage undertaker, as references to—

(i) any sewer or disposal main; or

(ii) in relation to the exercise of a power to lay a pipe under paragraph (a) of subsection (1) above or a power related to that power under paragraph (c) of that subsection, any lateral drain which the undertaker is to lay by virtue of section 98 or 101B above; or

(iii) in relation to the exercise of any other power under subsection (1) above, any lateral drain which belongs to or is vested for the time being in the undertaker."

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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 section 159 (power to lay pipes in other land), in subsection (7), at the end there is added " (reading references there to subsection (1) as references to subsection (1) of this section). ".

(6) In section 171 (entry for sewerage purposes), in subsection (3), for "a private drain or sewer" there is substituted " a drain or private sewer ".

(7) In section 179 (vesting of works in undertaker)—

(a) in paragraph (a) of subsection (2), after "sewer" there is inserted " , lateral drain ",

(b) in subsection (7), in paragraph (b) of the definition of "relevant pipe", after "sewer" there is inserted " , lateral drain ".

(8) In section 199 (sewer maps), in subsection (1)—

(a) in paragraph (a), after "sewer" there is inserted " , lateral drain ",

(b) in paragraph (b), after "sewer" there is inserted " or lateral drain ".

(9) In section 219 (general interpretation)—

(a) in subsection (1), after the definition of "inland waters" there is inserted—

""lateral drain" means—

(a) that part of a drain which runs from the curtilage of a building (or buildings or yards within the same curtilage) to the sewer with which the drain communicates or is to communicate; or

(b) (if different and the context so requires) the part of a drain identified in a declaration of vesting made under section 102 above or in an agreement made under section 104 above;",

(b) in subsection (3), after "sewer," there is inserted " lateral drain, ".

(10) In Schedule 12 (compensation etc in respect of pipe-laying and other works powers), in sub-paragraph (5) of paragraph 4, after "sewer" there is inserted " , lateral drain ".

Commencement Information

I90 S. 97 in force at 28.5.2004 by S.I. 2004/641, **art. 4(b)** (with Sch. 3 para. 7)

VALID FROM 01/04/2007

98 Schemes for the adoption of sewers, lateral drains and sewage disposal works

After section 105 of the WIA there is inserted—

"**105A Schemes for the adoption of sewers, lateral drains and sewage disposal works**

(1) The Secretary of State may by regulations provide for him to make schemes for the adoption by sewerage undertakers of sewers, lateral drains and sewage disposal works of the descriptions set out in paragraphs (a), (aa) and (b) of section 102(1) above.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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 regulations may require sewerage undertakers to prepare draft schemes and to submit them to the Secretary of State.

(3) Each scheme shall relate to—
- (a) the area of a sewerage undertaker, or part or parts of it; or
- (b) the areas of more than one sewerage undertaker, or part or parts of them.

(4) It shall be the duty of a sewerage undertaker, in specified circumstances, to exercise its powers under section 102 above with a view to making the declaration referred to in subsection (1) of that section in relation to sewers, lateral drains or sewage disposal works which—
- (a) fall within the area to which a scheme relates; and
- (b) satisfy specified criteria.

(5) The circumstances and the criteria shall each be—
- (a) specified in the regulations; or
- (b) determined in accordance with the regulations and specified in the scheme.

(6) In relation to the exercise of those powers pursuant to that duty—
- (a) section 102 above shall have effect—
  - (i) with the omission of subsections (2), (5) and (7);
  - (ii) as if in subsection (1) the words “sections 103, 105 and 146(3) below” read “section 105B below”;
  - (iii) with the omission of the words “or application” in subsection (3);
  - (iv) as if for subsection (4)(a) there were substituted—
    - “(a) shall give notice of its proposal to the owner or owners of the sewer, lateral drain or works in question unless, after diligent enquiry, he or they cannot be traced;
    - (aa) shall publish notice of its proposal in the prescribed manner; and”;
  - (v) as if in subsection (4)(b) “two months” read “two months or, if longer, the period specified by virtue of section 105B(5) below” and “section 105 below” read “section 105B(4) or (5) below, or”; and
  - (vi) as if section 96(3) of the Water Act 2003 did not apply;
- (b) sections 103 and 105 above shall not apply; and
- (c) if the regulations so provide, section 146(3) below shall not apply in circumstances or cases specified in the regulations.

(7) A duty imposed on a sewerage undertaker under subsection (4) above shall be enforceable by the Secretary of State under section 18 above.

(8) A statutory instrument containing regulations under subsection (1) above shall not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

105B Adoption schemes: appeals

(1) Any person falling within subsection (2) below may appeal to the Authority if he is aggrieved by—

(a) the proposal of a sewerage undertaker to make a declaration under section 102 above in relation to a sewer, lateral drain or sewage disposal works, pursuant to the undertaker's duty to do so under section 105A(4) above (the "relevant duty"); or

(b) the failure of a sewerage undertaker to make such a proposal pursuant to that duty.

(2) The persons referred to are—

(a) an owner of a sewer, lateral drain or sewage disposal works;

(b) any other person affected by the proposal, or the failure, in question.

(3) The grounds upon which a person may appeal are—

(a) in a subsection (1)(a) case, that the relevant duty is not owed in relation to the sewer, lateral drain or sewage disposal works, or that the making of the proposed declaration would be seriously detrimental to him;

(b) in a subsection (1)(b) case, that the relevant duty is owed in relation to the sewer, lateral drain or sewage disposal works; or

(c) any other prescribed ground.

(4) An appeal under subsection (1)(a) above shall be made within two months after notice of the proposal is—

(a) served on the owner of the sewer, lateral drain or sewage disposal works; or

(b) published in accordance with section 102(4) above as modified by section 105A(6) above,

(or, if both occur, within two months after whichever is the later).

(5) An appeal under subsection (1)(b) above shall be made within such period as is specified in the scheme (not being less than two months).

(6) On the hearing of an appeal under subsection (1) above, the Authority may—

(a) in a subsection (1)(a) case, allow or disallow the proposal of the sewerage undertaker; or

(b) in a subsection (1)(b) case, determine that the undertaker was not under the relevant duty in relation to the sewer, lateral drain or sewage disposal works in question,

or, in either case, make any declaration that the sewerage undertaker might have made, unless the proposal is disallowed.

(7) If, in a subsection (1)(a) case, the Authority finds that the making of the proposed declaration would be seriously detrimental to the appellant, it shall disregard any duty on the part of the sewerage undertaker to make the proposal for the purpose of determining whether to allow or disallow the proposal.

(8) If, in a subsection (1)(a) case, the Authority disallows the proposal of the sewerage undertaker, the scheme pursuant to which it was made shall have

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

effect as if there were no duty under section 105A(4) above on the sewerage undertaker in relation to the sewer, lateral drain or sewage disposal works in question.

(9) Where the Authority makes a declaration under subsection (6) above, it may, if it thinks fit—
  (a) specify conditions, including conditions as to the payment of compensation by the sewerage undertaker; and
  (b) direct that its declaration shall not take effect unless any conditions so specified are accepted.

(10) A declaration made under subsection (6) above shall have the same effect as if it had been made by the undertaker.

(11) The Secretary of State may by regulations make further provision in connection with appeals under this section.

(12) The regulations may, in particular, require the Authority to have regard to prescribed matters when determining an appeal under this section.

105C Adoption schemes: supplementary

(1) The Secretary of State may vary any scheme, or revoke it.

(2) Before making regulations or any scheme under section 105A above, and before amending or revoking the regulations or varying or revoking a scheme, the Secretary of State shall consult—
  (a) each sewerage undertaker which would be affected;
  (b) the Authority;
  (c) the Council;
  (d) such other persons as the Secretary of State considers appropriate.

(3) The Secretary of State shall publish each scheme he makes, and any such scheme as varied, in the way he considers best for the purpose of bringing it to the attention of those likely to be affected by it."

99 Communication with public sewers

(1) Section 106 of the WIA (right to communicate with public sewers) is amended as follows.

(2) After subsection (1) there is inserted—

"(1A) In this section, and in sections 107 to 109, 111, 113 to 116, 118, 119, 124, 127, 139 and 146 below—
  (a) references (however expressed) to a public sewer include a public lateral drain which satisfies sewer standards; and
  (b) for the purposes of paragraph (a) above—
    (i) a "public lateral drain" is a lateral drain which either belongs to the sewerage undertaker or is vested in the sewerage undertaker by virtue of a declaration made under section 102 above or under an agreement made under section 104 above; and

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

(ii) "sewer standards" means such standards of construction and repair as the undertaker would require if the public lateral drain or part of it were to become a public sewer."

(3) In subsection (4), for "is such that the making of the communication would be prejudicial to the undertaker's sewerage system" there is substituted—

"(a) does not satisfy the standards reasonably required by the undertaker; or

(b) is such that the making of the communication would be prejudicial to the undertaker's sewerage system."

(4) After subsection (5) there is inserted—

"(5A) Where the sewer or drain satisfies the standards reasonably required by it, a sewerage undertaker may, as a condition of permitting the communication to be made, require that the sewer or that part of the drain forming the lateral drain be vested in it by virtue of a declaration under section 102 above."

(5) In subsection (6)—

(a) for "(3) to (5)" there is substituted " (3) to (5A) ",

(b) in paragraph (b), after "(5)" there is inserted " or (5A) ",

(c) at the end there is added " (and, accordingly, section 105 above shall not apply to any requirement under subsection (5A) above). "

(6) In section 219 of the WIA (general interpretation), in the definition of "public sewer", after "means" there is inserted " (subject to section 106(1A) above) ".

Commencement Information

I91 S. 99 in force at 28.5.2004 by S.I. 2004/641, **art. 4(b)** (with Sch. 3 para. 7)

PART 4

SUPPLEMENTARY

100 Devolution: Wales

(1) In the entry relating to the Reservoirs Act 1975 (c. 23) in Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 (SI 1999/672) (referred to in this section as "the Order"), at the end there is inserted " except section 12A(4). ".

(2) The entry relating to the WIA in Schedule 1 to the Order is amended as follows—

(a) in the list of sections conferring on the Secretary of State functions which are not transferred by the Order—

(i) after "sections 1," there is inserted " 2A, ",

(ii) for "17" there is substituted " 16A, 17 to 17D, 17F to 17K, 17N to 17P, 17R, 22A to 22F, ",

(iii) after "27(3)," there is inserted " 27A, 27B, 27E, 27G, 27I to 27K, 29, 29A, ",

(iv) after "35," there is inserted " 38B, 66B, 66F to 66L, 86(1A), 87B, 88A, 89, ",

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

(v) after "92," there is inserted " 95B, ",
(vi) after "152(2)," there is inserted " 192A, 192B, ",
(vii) before "206(3)(e)" there is inserted " 195A, ",
(viii) after "Schedules 1" there is inserted " , 1A, 3A, ",
(ix) at the end there is inserted " and except functions under such other sections or Schedules as are expressly stated in the succeeding paragraphs to be so excepted (but only to the extent stated). ",

(b) in the paragraph relating to functions under sections 2, 5 (etc)—
(i) the reference to section 2 is omitted,
(ii) the reference to sections 18 to 22 is omitted,
(iii) for "37 to 39" there is substituted " 37, 38, 39, 51A ",
(iv) the reference to sections 68 to 70 is omitted,
(v) the reference to section 93A is omitted,
(vi) for "94 to 96," there is substituted " 94, 95, 96, ",
(vii) after "104," there is inserted " 105A to 105C, ",
(viii) for "198 to 203" there is substituted " 198 to 200 ",
(ix) the reference to section 205 is omitted,
(x) at the end there is inserted " (but not in relation to any licensed water suppliers). ",

(c) the paragraph relating to section 28(4) is omitted,

(d) before the paragraph relating to functions under section 67 there is inserted—

"Functions under sections 2, 18 to 22, 68 to 70, 93A and 201 to 203 are transferred to the Assembly in relation to—
(a) any water or sewerage undertaker whose area is wholly or mainly in Wales;
(b) any licensed water supplier so far as relating to licensed activities using the supply system of any such water undertaker; and
(c) in the case of functions under section 70, any other person who is a relevant person (as defined in that section) in relation to any such undertaker or licensed water supplier.",

(e) in the paragraph relating to functions under section 67, for paragraphs (a) and (b) there is substituted—
"(a) for the making of regulations concerning water supplied using the supply system of a water undertaker, the function is transferred in relation to the supply system of any water undertaker whose area is wholly or mainly in Wales;
(b) for the making of regulations concerning water supplied other than using the supply system of a water undertaker, the function is transferred in relation to Wales.",

(f) in the paragraph relating to functions under sections 3, 86 (etc), for "86" there is substituted " 86 (except subsection (1A)) ",

(g) after that paragraph there is inserted—

"In respect of the functions under sections 37A to 37D, 39B and 39C it is provided as follows—

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) functions under those provisions so far as relating to matters concerning the construction or enlargement of reservoirs are transferred to the Assembly in relation to Wales;

(b) functions under those provisions so far as relating to matters other than the construction or enlargement of reservoirs are transferred to the Assembly in relation to any water undertaker whose area is wholly or mainly in Wales; and

(c) the functions of the Assembly referred to in paragraph (b) above so far as they are exercisable in relation to England shall be exercisable only after consultation with the Secretary of State.”,

(h) in the paragraph relating to section 152(1), after “Wales” there is inserted “ or (so far as relating to licensed activities using the supply system of any such water undertaker) any licensed water supplier ”,

(i) for the paragraph relating to section 208 there is substituted—

“In respect of the functions under section 208 it is provided as follows—

(a) the functions under that section of giving directions for the purpose of mitigating the effects of any civil emergency and the function (in the case of sub-paragraphs (i) and (ii) below) of enforcing such directions are transferred to the Assembly—

(i) in relation to any water or sewerage undertaker whose area is wholly or mainly in Wales;

(ii) in relation to any licensed water supplier so far as relating to licensed activities using the supply system of any such water undertaker; and

(iii) in relation to the Consumer Council for Water so far as relating to its functions in connection with any such water undertaker; and

(b) it is directed that the other functions under that section shall be exercisable by the Assembly concurrently with the Secretary of State in relation to the bodies and so far as mentioned in paragraph (a)(i) to (iii) above.”,

(j) in the paragraph relating to Article 2(c), at the end there is inserted “ or any licensed water supplier using the supply system of any such water undertaker. ”.

(3) In Schedule 2 to the Order, after the entry relating to the Environmental Protection Act 1990 there is inserted a new entry as follows—

Water Industry Act 1991 c 56

The functions of the Secretary of State under sections 37A to 37D, 39B and 39C so far as relating to matters other than the construction or enlargement of reservoirs shall be exercisable only after consultation with the Assembly.”

(4) The entry relating to the WRA in Schedule 1 to the Order is amended as follows—

(a) in the paragraph referring to the functions of a Minister of the Crown under sections 20(3) and 75(5)(c), after “20(3)” there is inserted “ , 20B(3) ”, and

(b) in the list of provisions under which there are transferred functions of the Secretary of State to which paragraph 6 of Schedule 3 to the Government of Wales Act 1998 (c. 38) is applied, in the appropriate places there is inserted—

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) "section 27A and (so far as it relates to section 27A) Schedule 6,"

(ii) "section 33A,"

(iii) "section 51(1C) to 51(1F),",

and in the entry in that list relating to section 161C, after "regulations)" there is inserted " , but not including section 161C as applied by section 25B. ".

(5) The entry relating to the Environment Act 1995 (c. 25) in Schedule 1 to the Order is amended as follows—

(a) after paragraph (e) in the list of sections conferring functions which are not transferred by the Order there is inserted—

"(f) functions exercisable by the Secretary of State in pursuance of sub-paragraph (bb) of the definition of "the relevant Minister" in paragraph 1(5) of Schedule 4;

(g) the function of the Secretary of State under section 16A(5)(a);",

(b) after paragraph (e) of the list of functions which are transferred not in relation to Wales but in the manner specified there is inserted—

"(ea) functions under section 18A are transferred to the Assembly in relation to the local flood defence scheme for a district which is in the area of a regional flood defence committee the whole or the greater part of which is in Wales;".

(6) Subject to subsections (1) to (5), the references in Schedule 1 to the Order to—

(a) the WIA generally and to specific sections of or Schedules to the WIA,

(b) the WRA generally and to specific sections of or Schedules to the WRA,

(c) the Reservoirs Act 1975 (c. 23), the Environmental Protection Act 1990 (c. 43), the Land Drainage Act 1991 (c. 59) and the Environment Act 1995 (c. 25) generally and (where applicable) to specific sections of or Schedules to those Acts, and

(d) any other Act generally and (where applicable) to specific sections of or Schedules to those Acts,

are to be treated as referring to those Acts (or those sections or Schedules) as amended by this Act.

(7) Subsection (6), and the amendments made by subsections (1) to (5), do not affect the power to make further Orders varying or omitting the references mentioned in subsection (6) or the provisions amended by subsections (1) to (5).

Commencement Information

I92 S. 100(1) in force at 1.10.2004 by S.I. 2004/2528, **art. 2(s)(i)** (with Sch. para. 8)

I93 S. 100(2)(a)(i)(ii)(vii)(ix)(b)(i)(vi)(x)(d) in force at 1.4.2005 for specified purposes by S.I. 2005/968, **art. 2(l)(i)**

I94 S. 100(2)(a)(ii)(iv)(ix)(b)(iv)(viii)(x)(d)(e)(f)(i)(j) in force at 1.4.2004 for specified purposes by S.I. 2004/641, **art. 3(x)(i)** (with Sch. 3 para. 7)

I95 S. 100(2)(a)(ii)(vi)(ix)(b)(ii)(iv)(x)(d)(g) in force at 1.10.2004 for specified purposes by S.I. 2004/2528, **art. 2(s)(ii)** (with Sch. para. 8)

I96 S. 100(2)(a)(ii)(iii)(ix)(j) in force at 1.8.2005 for specified purposes by S.I. 2005/968, **art. 3(c)(i)**

I97 S. 100(2)(b)(iii) in force at 28.5.2004 by S.I. 2004/641, **art. 4(c)(i)** (with Sch. 3 para. 7)

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

I98 S. 100(2)(b)(iii) in force at 1.4.2005 for specified purposes by S.I. 2005/968, **art. 2(l)(i)(ii)** [Editorial note: s. 100(2)(b)(iii) is already expressed to be wholly in force at at 28.5.2004 by S.I. 2004/641, art. 4(c)(i)]
I99 S. 100(3) in force at 1.10.2004 for specified purposes by S.I. 2004/2528, **art. 2(s)(iii)** (with Sch. para. 8)
I100 S. 100(4)(a) in force at 1.10.2004 by S.I. 2004/2528, **art. 2(s)(iv)** (with Sch. para. 8)
I101 S. 100(4)(b)(i)(ii) in force at 1.4.2004 by S.I. 2004/641, **art. 3(x)(ii)** (with Sch. 3 para. 7)
I102 S. 100(5) in force at 1.4.2004 by S.I. 2004/641, **art. 3(x)(iii)** (with Sch. 3 para. 7)
I103 S. 100(6) in force at 17.3.2004 for specified purposes by S.I. 2004/641, **art. 2(b)(i)** (with Sch. 3 para. 7)
I104 S. 100(6) in force at 1.4.2004 for specified purposes by S.I. 2004/641, **art. 3(x)(iv)** (with Sch. 3 para. 7)
I105 S. 100(6)(7) in force at 28.5.2004 for specified purposes by S.I. 2004/641, **art. 4(c)(ii)** (with Sch. 3 para. 7)
I106 S. 100(6) in force at 1.10.2004 for specified purposes by S.I. 2004/2528, **art. 2(s)(v)** (with Sch. para. 78) (which transitional provisions in Sch. para. 7 are revoked (1.4.2005) by S.I. 2005/968, art. 4)
I107 S. 100(6) in force at 1.4.2005 for specified purposes by S.I. 2005/968, **art. 2(l)(iii)** (with Sch. 2 para. 2) (which transitional provisions in Sch. 2 para. 2 are revoked (1.10.2005) by S.I. 2005/2714, art. 5(2)(3))
I108 S. 100(6) in force at 1.8.2005 for specified purposes by S.I. 2005/968, **art. 3(c)(ii)**
I109 S. 100(7) in force at 17.3.2004 for specified purposes by S.I. 2004/641, **art. 2(b)(ii)** (with Sch. 3 para. 7)
I110 S. 100(7) in force at 1.4.2004 for specified purposes by S.I. 2004/641, **art. 3(x)(v)** (with Sch. 3 para. 7)
I111 S. 100(7) in force at 1.10.2004 for specified purposes by S.I. 2004/2528, **art. 2(s)(vi)** (with Sch. para. 8)
I112 S. 100(7) in force at 1.4.2005 for specified purposes by S.I. 2005/968, **art. 2(l)(iv)**
I113 S. 100(7) in force at 1.8.2005 for specified purposes by S.I. 2005/968, **art. 3(c)(iii)**

101 Minor and consequential amendments and repeals

(1) Schedules 7 and 8, which make minor amendments (including the repeal of certain spent enactments) and amendments consequential on the provisions of this Act, have effect.

(2) The enactments and instrument mentioned in Schedule 9 are repealed or revoked to the extent specified.

Commencement Information

I114 S. 101(1) in force at 17.3.2004 for specified purposes for E. by S.I. 2004/641, **art. 2(c)** (with Sch. 3 para. 7)
I115 S. 101(1) in force at 1.4.2004 for specified purposes by S.I. 2004/641, **art. 3(y)** (with Sch. 3 para. 7)
I116 S. 101(1) in force at 1.4.2004 for specified purposes for W. by S.I. 2004/910, **art. 2(1)(c)**
I117 S. 101(1) in force at 1.10.2004 for specified purposes by S.I. 2004/2528, **art. 2(t)** (with Sch. para. 8)
I118 S. 101(1) in force at 11.11.2004 for specified purposes for W. by S.I. 2004/2916, **art. 2(f)**
I119 S. 101(1) in force at 29.12.2004 for specified purposes by S.I. 2004/2528, **art. 3** (with Sch. para. 8)
I120 S. 101(1) in force at 1.4.2005 for specified purposes by S.I. 2005/968, **art. 2(m)**
I121 S. 101(1) in force at 1.8.2005 for specified purposes by S.I. 2005/968, **art. 3(d)**
I122 S. 101(2) in force at 17.3.2004 for specified purposes for E. by S.I. 2004/641, **art. 2(d)** (with Sch. 3 para. 7)
I123 S. 101(2) in force at 1.4.2004 for specified purposes by S.I. 2004/641, **art. 3(z)** (with Sch. 3 para. 7)
I124 S. 101(2) in force at 28.5.2004 for specified purposes by S.I. 2004/641, **art. 4(d)** (with Sch. 3 para. 7)

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

I125 S. 101(2) in force at 1.10.2004 for specified purposes by S.I. 2004/2528, **art. 2(u)** (with Sch. para. 8)
I126 S. 101(2) in force at 11.11.2004 for specified purposes for W. by S.I. 2004/2916, **art. 2(g)**
I127 S. 101(2) in force at 1.4.2005 for specified purposes by S.I. 2005/968, **art. 2(n)**

102 Specific transitional and transitory provisions

(1) Subject to subsection (2), each licence to abstract water under Chapter 2 of Part 2 of the WRA which is in force immediately before the coming into force of section 1 of this Act shall, after the coming into force of that section, be treated as a full licence within the meaning of that Act.

(2) If—
- (a) immediately before the coming into force of section 6 of this Act, a person is the holder of a licence under Chapter 2 of Part 2 of the WRA to abstract water, and
- (b) upon the coming into force of that section an abstraction authorised by the licence becomes an abstraction to which the restriction on abstraction does not apply,

the licence shall cease to have effect (so far as it applies to that abstraction) upon the coming into force of that section.

(3) Subject to subsection (4), the person who was the holder of a full licence which ceases (or ceases in part) to have effect by virtue of subsection (2), and who had been 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) of the WRA, shall continue to be taken to have that right for the purposes of Chapter 2 of Part 2 of the WRA.

(4) A person shall cease to continue to be taken to have the right mentioned in subsection (3), for the purposes mentioned there, if during a period of—
- (a) four years, or
- (b) if the abstractions authorised under the licence (or relevant part of the 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,

he does not carry out any such abstraction as would have been authorised by the licence (or relevant part of the licence) if it had still been in force.

(5) Where, immediately after the coming into force of any provision of this Act, an abstraction of water to which the restriction on abstraction did not apply becomes one to which the restriction on abstraction does apply, nothing in—
- (a) section 39(1), 42(4) or 44(4) of the WRA (which relate to protected rights), or
- (b) any other enactment specified in regulations made by the Secretary of State,

prevents the Agency from granting a licence under Chapter 2 of Part 2 of the WRA in respect of that abstraction, or the Secretary of State from giving the Agency a direction to do so.

(6) In subsections (2)(b) and (5), "the restriction on abstraction" has the meaning given by section 72(1) of the WRA.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)

C1 S. 102(3) modified (temp.) (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. 2(2)Sch. 1 para. 3Sch. 1 para. 6**Sch. 1 para. 7**

103 Powers to make further supplementary, consequential and transitional provision, etc

(1) The Secretary of State may by regulations make—

(a) such supplementary, incidental or consequential provision, or

(b) such transitory, transitional or saving provision,

as he considers necessary or expedient for the purposes of, in consequence of, or for giving full effect to any provision of this Act.

(2) The provision which may be made under subsection (1) includes provision—

(a) amending or repealing any enactment, instrument or document (including in particular any instrument appointing a company to be a water or sewerage undertaker),

(b) conferring functions, powers or duties on any person.

(3) The provision which may be made under subsection (1) also includes, in particular, provision for or in relation to the payment by the Environment Agency of compensation to any person who—

(a) before the coming into force of any provision of this Act was not required by or by virtue of the WRA to have a licence under Chapter 2 of Part 2 of the WRA in respect of any abstraction,

(b) following the coming into force of any provision of this Act does require such a licence in respect of that abstraction, and

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

(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 that of the abstraction he was carrying out before the coming into force of the provision in question,

or who is a person who falls within subsection (4).

(4) A person falls within this subsection if he satisfies the Environment Agency of the following—

(a) that the nature of his operations, or proposed operations, requires him to make plans about the abstraction of water,

(b) that before the coming into force of any provision of this Act he would not have required a licence under Chapter 2 of Part 2 of the WRA in respect of any such abstraction for which he had reasonably planned (or, if there has already been such an abstraction, he did not require such a licence in respect of it),

(c) that following the coming into force of any such provision he does require such a licence in respect of it, and

(d) that he has suffered loss or damage as a result of his having been—

(i) refused a licence under Chapter 2 of Part 2 of the WRA in respect of that abstraction, or

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

(ii) granted such a licence, but in respect of an abstraction of more limited extent than he had reasonably applied for,

and he applies for compensation before any deadline provided for in the regulations under subsection (1).

(5) The provision which may be made under subsection (1) also includes, in particular, provision for or in relation to the payment by the Water Services Regulation Authority of compensation to any person who—

(a) before 31st July 2002 was carrying on any activities in respect of the supply of water,

(b) following the coming into force of any provision of this Act—

(i) is unable to continue to carry on those activities as a result of their having been prohibited,

(ii) is unable to continue to carry on those activities as a result of a licence under Chapter 1A of Part 2 of the WIA having been required in respect of them and his not having applied for, or his having been refused, a licence, or

(iii) is unable to continue to carry on those activities in the same manner as a result of his having been granted a licence the effect of which is to restrict the carrying on of the activities, and

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

(i) those activities having been prohibited,

(ii) a licence not having been granted, or

(iii) those activities having been restricted.

(6) Where regulations made under subsection (1) include provision for the discharge by the Director General of Water Services instead of the Water Services Regulation Authority of any functions conferred on the Authority by or by virtue of any provision of this Act, then, for the purposes of Schedule 3, any such function shall be treated as if it had been the subject of a transfer under section 36 when the provision in the regulations ceased to apply.

(7) The power to make regulations under this section is also exercisable by the Assembly, in relation to provision dealing with matters with respect to which functions are exercisable by the Assembly.

(8) Nothing in this Act shall be read as affecting the generality of subsection (1).

104 Regulations and orders

(1) Any power under this Act to make any order or regulations is exercisable by statutory instrument.

(2) A statutory instrument containing an order or regulations—

(a) made by the Secretary of State under any provision of this Act except section 10 (but including section 105), and

(b) which contains (or contain) provision amending or repealing any enactment,

shall not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) Otherwise, a statutory instrument containing any order or regulations made by the Secretary of State under this Act, other than an order under section 105, shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(4) Any power under this Act to make any order or regulations may be exercised—

(a) either in relation to all cases to which the power extends, or in relation to those cases subject to specified exceptions, or in relation to any specified cases or classes of case,

(b) so as to make, as respects the cases in relation to which it is exercised—

(i) the full provision to which the power extends or any less provision (whether by way of exception or otherwise),

(ii) the same provision for all cases in relation to which the power is exercised, or different provision for different cases or different classes of case or different provision as respects the same case or class of case for different purposes of this Act,

(iii) any such provision either unconditionally or subject to any specified condition.

(5) Where any such power is expressed to be exercisable for alternative purposes it may be exercised in relation to the same case for all or any of those purposes.

(6) Any such power includes power—

(a) to make such incidental, supplementary, consequential, saving or transitional provision (including provision amending, repealing or revoking enactments or provisions of subordinate legislation) as the authority making the order or regulations considers to be expedient, and

(b) to provide for a person to exercise a discretion in dealing with any matter.

(7) In subsection (6)(a), "subordinate legislation" has the meaning given by the Interpretation Act 1978 (c. 30).

(8) Nothing in this Act shall be read as affecting the generality of subsection (6).

105 Interpretation, commencement, short title, and extent

(1) This Act may be cited as the Water Act 2003.

(2) In this Act—

(a) the "WIA" means the Water Industry Act 1991 (c. 56),

(b) the "WRA" means the Water Resources Act 1991 (c. 57),

(c) "the Assembly" means the National Assembly for Wales.

(3) Apart from this section and sections 102 to 104, this Act comes into force on such day as the appropriate authority may by order appoint.

(4) Different days may be appointed for different provisions and for different purposes.

(5) Except as stated in subsection (6), the appropriate authority for the purposes of subsection (3) is the Secretary of State after consulting the Assembly.

(6) In relation to the sections and Schedules listed in the first column of this table, the appropriate authority is as listed in the second column—

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

Section or Schedule	***Appropriate authority***
Section 73	The Secretary of State.
Section 67	The Assembly after consulting the Secretary of State.
Sections 58, 69, 75, 77, 78, 80, 81 and 86	The Secretary of State, in relation to England; the Assembly, in relation to Wales.
Section 101 and Schedules 7, 8 and 9	As respects any amendment or repeal consequential on a provision referred to above in this table, the same appropriate authority as listed in respect of the provision in question; otherwise, the Secretary of State after consulting the Assembly.

(7) Subject to the following provisions of this section, this Act extends to England and Wales only.

(8) Section 36 and Schedule 3 extend also to Scotland and Northern Ireland.

(9) The following provisions extend also to Scotland—
- (a) section 53(1) and (2),
- (b) sections 66 and 68,
- (c) section 73,
- (d) section 74(1),
- (e) section 76,
- (f) section 85(3),
- (g) section 103(1), (2), (7) and (8),
- (h) section 104.

(10) Section 58(10) extends to Scotland only.

(11) Any amendment or repeal of a provision of the WRA made by this Act has the same extent as the provision being amended or repealed.

(12) Sections 3, 4, 10 and 27 have the same extent as they would have if they were contained in the WRA, and section 224 of the WRA (application to Isles of Scilly) applies in relation to those sections as it applies to the WRA.

(13) Any amendment or repeal made by Schedule 7 or 8 has the same extent as the enactment being amended or repealed.

(14) Any repeal contained in Schedule 9 has the same extent as the provision elsewhere in this Act which provides for the repeal.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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

VALID FROM 01/04/2006

SCHEDULE 1

Section 34(2)

THE WATER SERVICES REGULATION AUTHORITY

. . . . . .

VALID FROM 01/10/2005

SCHEDULE 2

Section 35(2)

THE CONSUMER COUNCIL FOR WATER

PROSPECTIVE

After Schedule 3 to the WIA there is inserted—

"SCHEDULE 3A

Section 27A(11)

THE CONSUMER COUNCIL FOR WATER

Membership of Council

1 (1) The Council shall consist of—
(a) a chairman appointed by the Secretary of State;
(b) one other member appointed by the Assembly; and
(c) such other members as may be appointed by the Secretary of State.

(2) The Secretary of State shall consult the Assembly before appointing the chairman.

(3) The Secretary of State and the Assembly shall consult the chairman before appointing any other member.

(4) An appointment under this paragraph shall be for a term not exceeding five years.

(5) In appointing persons under this paragraph the Secretary of State and the Assembly shall have regard to the desirability of including among the members one or more persons who—
(a) have experience of work among, and the special needs of, disabled persons; or
(b) have or have had a disability.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

Membership of Council

2 (1) A person holding office as chairman or other member may resign that office by giving notice to the Secretary of State (in the case of a member appointed by him), or to the Assembly (in the case of a member appointed by the Assembly).

(2) The Secretary of State may remove any person appointed by him from office as chairman or other member on the ground of incapacity or misbehaviour.

(3) The Secretary of State shall consult the Assembly before removing any person appointed by him as chairman.

(4) The Assembly may remove any person appointed by it from office as member on the ground of incapacity or misbehaviour.

(5) Otherwise, the chairman and other members shall hold and vacate office as such in accordance with the terms of their respective appointments.

(6) A previous appointment as chairman or other member does not affect a person's eligibility for appointment to either office.

Terms of appointment, remuneration, pensions etc

3 The Council shall pay to the chairman and other members of the Council such remuneration, and such travelling and other allowances, as the Secretary of State may determine.

Terms of appointment, remuneration, pensions etc

4 (1) If the Secretary of State so determines in the case of any holder of the office of chairman or other member, the Council shall pay—

(a) such pension, allowance or gratuity to or in respect of him, or

(b) such contributions or payments towards provision for such a pension, allowance or gratuity,

as the Secretary of State may determine.

(2) If, when any person ceases to hold office as chairman or other member, the Secretary of State determines that there are special circumstances which make it right that he should receive compensation, the Council shall pay to him a sum by way of compensation of such amount as may be determined by the Secretary of State.

Members appointed by Assembly

5 In relation to any member of the Council appointed by the Assembly, the matters mentioned in paragraphs 3 and 4 above shall be determined by the Assembly instead of by the Secretary of State.

Staff

6 (1) The Council shall, with the approval of the Secretary of State, appoint a principal officer on such terms of employment as it may, with that approval, determine.

(2) The Council may, with the approval of the Secretary of State as to numbers and terms of employment, appoint such other employees as it may determine.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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 persons to whom section 1 of the Superannuation Act 1972 (persons to or in respect of whom benefits may be provided by schemes under that section) applies shall include employees of the Council.

(4) The Council shall pay to the Minister for the Civil Service, at such times as he may direct, such sums as he may determine in respect of any increase attributable to sub-paragraph (3) above in the sums payable out of money provided by Parliament under the Superannuation Act 1972.

Annual reports

7 (1) As soon as practicable after the end of each financial year the Council shall report to the Secretary of State on its activities during the year.

(2) The annual report for each year shall include a report on the progress of the projects described in the Council's forward work programme for that year.

(3) In making any report under this paragraph the Council shall not include any information which relates to the affairs of a particular individual or body of persons (corporate or unincorporate) unless one or more of paragraphs (a) to (c) of sub-paragraph (4) below applies to the information.

(4) Information relating to a particular individual or body may be included in the report if—

(a) that individual or body has consented to its inclusion;

(b) it is information that is available to the public from some other source; or

(c) it is not information the publication of which would or might, in the opinion of the Council, seriously and prejudicially affect the interests of that individual or body.

(5) Before deciding to include any information relating to a particular individual or body in pursuance of sub-paragraph (4)(c) above, the Council shall—

(a) consult that person or body; and

(b) have regard to any opinion expressed by the Authority as to the application of sub-paragraph (4)(c) above to the information or as to the desirability or otherwise of its publication,

and paragraph (b) applies whether the opinion is given in relation to information itself or to information of a description which applies to that information.

(6) In making any report under this paragraph the Council shall not include any information which it considers relates to any matter which is, or is likely to be, the subject of criminal proceedings.

(7) In considering whether information relates to any matter as mentioned in sub-paragraph (6) above, the Council shall have regard to any opinion expressed (whether in relation to the information itself or to information of a description which applies to that information) by the Secretary of State, the Assembly or the Director of Public Prosecutions.

(8) The Secretary of State shall lay a copy of each annual report of the Council before each House of Parliament.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) The Council shall send a copy of each annual report to the Authority and the Assembly and shall arrange for the report to be published in such further manner as it considers appropriate.

Financial provisions and accounts

8 (1) It shall be the duty of the Council to comply with any notice given by the Secretary of State requiring it to perform duties of a financial nature specified in the notice.

(2) The Secretary of State shall consult the Assembly before giving any notice to the Council under sub-paragraph (1) above.

Financial provisions and accounts

9 (1) The Council shall prepare, in respect of each financial year, a statement of accounts giving a true and fair view of the state of affairs and the income and expenditure of the Council.

(2) The statement of accounts shall comply with any requirement which the Secretary of State has notified to the Council.

(3) The Council shall, within such period after the end of the financial year to which it relates as the Secretary of State may specify by notice given to the Council, send copies of each statement of accounts of the Council to—

(a) the Secretary of State and the Assembly; and

(b) the Comptroller and Auditor General.

(4) The Comptroller and Auditor General shall—

(a) examine, certify and report on every statement sent to him under sub-paragraph (3) above; and

(b) lay a copy of the statement and of his report before each House of Parliament.

Financial provisions and accounts

10 The Secretary of State and the Assembly shall pay to the Council such sums as he or it thinks fit to enable it to meet its expenses.

Regional committees

11 (1) The Council shall not establish or abolish a regional committee, or alter the allocation of a relevant undertaker to a regional committee, without the approval of the appropriate authority.

(2) If the Council proposes to do anything mentioned in sub-paragraph (1) above it shall, after consulting the appropriate authority, give notice—

(a) describing its proposals; and

(b) specifying the time from the date of the notice (not being less than two months) within which representations may be made with respect to the proposals;

and shall consider any representations that are duly made and not withdrawn.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) A notice under sub-paragraph (2) above shall be given by publishing it in such manner as the Council considers appropriate for bringing the proposals to the attention of those likely to be affected.

(4) An appropriate authority shall not give its approval under sub-paragraph (1) above until after the time specified in the notice under sub-paragraph (2) above.

Regional committees

12 (1) A regional committee of the Council shall consist of—
(a) a chairman appointed by the appropriate authority;
(b) such other members as the Council may appoint.

(2) Any regional committee may establish sub-committees.

(3) The members of a regional committee of the Council may include persons who are not members of the Council (and the members of a sub-committee of the committee may include persons who are not members of the committee or the Council).

(4) In appointing members of a regional committee the Council shall take account of any guidance given to them by the appropriate authority.

(5) The Council may pay to the chairman and other members of a regional committee, or a sub-committee, such remuneration, and such travelling and other allowances, as the appropriate authority may determine.

Regional committees

13 (1) If the appropriate authority so determines in the case of any holder of the office of chairman or other member of a regional committee, or of any sub-committee of a regional committee, the Council shall pay—
(a) such pension, allowance or gratuity to or in respect of him; or
(b) such contributions or payments towards provision for such a pension, allowance or gratuity,
as the appropriate authority may determine.

(2) If, when any person ceases to hold office as chairman or other member of a regional committee, the appropriate authority determines that there are special circumstances which make it right that he should receive compensation, the Council shall pay to him a sum by way of compensation of such amount as may be determined by the appropriate authority.

Regional committees

14 In paragraphs 11 to 13 above the "appropriate authority" means—
(a) the Assembly, in relation to committees established (or proposed to be established) for relevant undertakers whose areas are wholly or mainly in Wales, to sub-committees of those committees, and to any relevant undertaker whose area is wholly or mainly in Wales;
(b) the Secretary of State, in relation to committees established (or proposed to be established) for other relevant undertakers, to sub-committees of those committees, and to any other relevant undertaker.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

Other committees

15 (1) The Council may establish committees other than regional committees and any such committee may establish sub-committees.

(2) The members of any such committee may include persons who are not members of the Council (and the members of a sub-committee may include persons who are not members of the relevant committee or the Council).

(3) The Council may pay to the chairman and other members of any such committee, or of a sub-committee, such remuneration, and such travelling and other allowances, as the Secretary of State may determine.

Other committees

16 (1) If the Secretary of State so determines in the case of any holder of the office of chairman or other member of any such committee, or of any sub-committee of such a committee, the Council shall pay—

(a) such pension, allowance or gratuity to or in respect of him; or

(b) such contributions or payments towards provision for such a pension, allowance or gratuity,

as the Secretary of State may determine.

(2) If, when any person ceases to hold office as chairman or other member of any such committee, or of any sub-committee of such a committee, the Secretary of State determines that there are special circumstances which make it right that he should receive compensation, the Council shall pay to him a sum by way of compensation of such amount as may be determined by the Secretary of State.

Performance of functions of the Council

17 Anything authorised or required to be done by the Council may be done by any member or employee of the Council who, or any regional or other committee of the Council which, is authorised for the purpose by the Council (whether generally or specially).

Performance of functions of the Council

18 The validity of anything done by the Council is not affected by a vacancy among its members or by a defect in the appointment of a member.

Supplementary powers

19 (1) The Council shall have power to do anything which is calculated to facilitate, or is incidental or conducive to, the performance of any of its functions.

(2) That power includes, among other things, power to enter into agreements and to acquire and dispose of property.

(3) The Council may make charges for facilities or services provided by it at the request of any person.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

First financial year of the Council

20 (1) If the period beginning with the day on which the Council is established and ending with the next 31st March is six months or more, the first financial year of the Council is that period.

(2) If the period mentioned in sub-paragraph (1) above is less than six months, the first financial year of the Council is the period beginning with the day on which the body is established and ending with 31st March in the following year.

Compensation for members of customer service committees

21 The Authority may pay to any person who immediately before the abolition by the Water Act 2003 of a customer service committee established under section 28(1) of this Act is the chairman of that body such sums by way of compensation for loss of office, or loss or diminution of pension rights, as the Secretary of State may determine."

SCHEDULE 3

Section 36(6)

FURTHER PROVISIONS ABOUT TRANSFERS OF FUNCTIONS, PROPERTY ETC

Preliminary

1 In this Schedule—

"transfer" means—

(a) a transfer of functions under section 36 to the Authority, or

(b) a transfer of property, rights and liabilities to the Authority or to the Council under section 36, and

"transfer scheme" means a transfer scheme under section 36.

Commencement Information

I128 Sch. 3 para. 1 in force at 1.4.2005 by S.I. 2005/968, **art. 2(e)**

Contents of transfer schemes

2 (1) The property, rights and liabilities which may be transferred by a transfer scheme include property, rights and liabilities that would not otherwise be capable of being transferred or assigned.

(2) The transfers authorised by sub-paragraph (1) include transfers which are to take effect as if there were no such contravention, liability or interference with any interest or right as there would otherwise be by reason of any provision having effect (whether under any enactment or agreement or otherwise) in relation to the terms on which the transferor is entitled to the property or right, or subject to the liability, in question.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

Commencement Information
I129 Sch. 3 para. 2 in force at 1.4.2005 by S.I. 2005/968, **art. 2(e)**

3 A transfer scheme may define the property, rights and liabilities to be transferred by specifying them or describing them or by referring to all (or all except anything specified or described) of the property, rights and liabilities comprised in a specified part of the undertaking of the transferor (or partly in one way and partly in the other).

Commencement Information
I130 Sch. 3 para. 3 in force at 1.4.2005 by S.I. 2005/968, **art. 2(e)**

4 A transfer scheme may include such supplementary, incidental, transitional and consequential provision as the Secretary of State considers appropriate.

Commencement Information
I131 Sch. 3 para. 4 in force at 1.4.2005 by S.I. 2005/968, **art. 2(e)**

Modification of transfer scheme after appointed day

5 (1) If, after the day appointed by a transfer scheme, the transferor and transferee so agree in writing, the scheme shall for all purposes be deemed to have come into force on that day with such modifications as may be agreed.

(2) An agreement under this paragraph may, in connection with giving effect to modifications to the scheme, include incidental, supplemental, consequential and transitional provision.

(3) In this paragraph, "modifications" includes additions, alterations and omissions.

Commencement Information
I132 Sch. 3 para. 5 in force at 1.4.2005 by S.I. 2005/968, **art. 2(e)**

Effect of transfers

6 (1) Anything done by the transferor for the purpose of or in connection with anything transferred which is in effect immediately before it is transferred shall be treated as if done by the transferee.

(2) A transfer does not affect the validity of anything done by or in relation to the transferor before the transfer takes effect.

Commencement Information
I133 Sch. 3 para. 6 in force at 1.4.2005 by S.I. 2005/968, **art. 2(e)**

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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 There may be continued by or in relation to the transferee anything (including legal proceedings) relating to anything transferred which is in the process of being done by or in relation to the transferor immediately before it is transferred.

Commencement Information

I134 Sch. 3 para. 7 in force at 1.4.2005 by S.I. 2005/968, **art. 2(e)**

8 The transferee shall be substituted for the transferor in any document relating to anything transferred.

Commencement Information

I135 Sch. 3 para. 8 in force at 1.4.2005 by S.I. 2005/968, **art. 2(e)**

Continuity of employment, etc of transferred employees

9 Where a person employed in the civil service of the state becomes an employee of the Council under a transfer scheme, his period of employment in that service counts as a period of employment with the Council for the purposes of the Employment Rights Act 1996 (c. 18) (and the change of employer does not break the continuity of the period of employment for those purposes).

Commencement Information

I136 Sch. 3 para. 9 in force at 1.4.2005 by S.I. 2005/968, **art. 2(e)**

SCHEDULE 4

Section 56

LICENSING OF WATER SUPPLIERS

1 The WIA is amended as follows.

Commencement Information

I137 Sch. 4 para. 1 in force at 1.4.2004 for specified purposes by S.I. 2004/641, art. 3(l)(ii), **Sch. 1** (with Sch. 3 para. 7)

I138 Sch. 4 para. 1 in force at 1.8.2005 for specified purposes by S.I. 2005/968, **art. 3(b)(ii)**

2 After Chapter 1 of Part 2 of the WIA there is inserted—

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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 1A

LICENSING OF WATER SUPPLIERS

Granting of licences

Licensing of water suppliers

17A (1) Subject to the following provisions of this Chapter—

(a) the Secretary of State; or

(b) with the consent of or in accordance with a general authorisation given by the Secretary of State (after consulting the Assembly), the Authority,

may grant to a company a licence (a "water supply licence") giving it the retail authorisation referred to in subsection (2) below, or both that and the supplementary authorisation referred to in subsection (5) below.

(2) The retail authorisation is an authorisation to the company to use a water undertaker's supply system for the purpose of supplying water to the premises of customers of the company (subject to subsection (3) below) in accordance with Chapter 2A of Part 3 of this Act.

(3) The following requirements must be satisfied in relation to each of the premises supplied by the company—

(a) the requirement that the premises are not household premises (as defined in section 17C below);

(b) the threshold requirement (construed in accordance with section 17D below); and

(c) the requirement that the premises are not being supplied with water by another company pursuant to a water supply licence,

and those requirements shall be enforceable under section 18 below by the Authority.

(4) A water supply licence which gives a company only the retail authorisation is referred to in this Chapter as a "retail licence".

(5) The supplementary authorisation is an authorisation to the company to introduce water into a water undertaker's supply system, by means of which any particular supply of water in accordance with the retail authorisation is to take place, in connection with that supply and in accordance with Chapter 2A of Part 3 of this Act.

(6) A water supply licence which gives a company also the supplementary authorisation is referred to in this Chapter as a "combined licence".

(7) Before granting a combined licence—

(a) the Secretary of State shall consult the Assembly; and

(b) the Authority shall consult the Secretary of State and the Assembly.

(8) A water supply licence shall not be granted to a company unless—

(a) it is a limited company; and

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) it is not a relevant undertaker.

(9) The Authority may, with the approval of the Secretary of State, issue guidance as to the factors which are, or are not, to be taken into account in determining the extent of any premises for the purposes of subsection (3) above.

(10) Before giving his approval to any guidance issued under subsection (9) above, the Secretary of State shall consult the Assembly.

Section 17A: supplementary

17B (1) The Authority shall publish guidance issued under section 17A(9) above in such manner as the Authority considers appropriate for the purpose of bringing it to the attention of persons likely to be affected by it.

(2) The Authority may, with the approval of the Secretary of State, revise the guidance so issued.

(3) Before giving his approval to guidance revised under subsection (2) above, the Secretary of State shall consult the Assembly.

(4) Subsection (1) above applies to guidance revised under subsection (2) above as it applies to guidance issued under section 17A(9) above.

(5) In this Chapter, references to the supply system of a water undertaker are to the system comprising the following—

(a) any water mains and other pipes which it is the water undertaker's duty to develop and maintain by virtue of section 37 below and which are used for the purpose of conveying water from the undertaker's treatment works to the premises of customers; and

(b) any water mains and other pipes which—

(i) are used by the undertaker for the purpose of conveying non-domestic water from any of its sources to the premises of customers; and

(ii) are not connected to any water mains or pipes falling within paragraph (a) above or to any water mains or other pipes connected to the treatment works mentioned in that paragraph (whether directly or indirectly),

and in sub-paragraph (i) above the reference to non-domestic water is to water supplied other than for domestic or food production purposes.

(6) In subsection (5)(a) above, the reference to treatment works is a reference to the works designated from time to time by the Secretary of State as treatment works for the purposes of this subsection.

(7) Before designating any works for the purposes of subsection (6) above, the Secretary of State shall consult the Assembly.

(8) A list of any works designated for the purposes of subsection (6) above shall be published from time to time by the Secretary of State in such manner as he considers appropriate for the purpose of bringing the designations to the attention of persons likely to be affected by them.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) References in this Act to a licensed water supplier are references to a company which is the holder for the time being of a water supply licence.

Meaning of household premises

17C (1) For the purposes of section 17A(3)(a) above, "household premises" means premises in which, or in any part of which, a person has his home.

(2) The fact that a person has his home in, or in part of, any premises does not mean that the premises are household premises unless the principal use of the premises is as a home.

(3) The Secretary of State may by regulations make provision as to—

(a) the circumstances in which a person is or is not to be treated as having his home in, or in part of, any premises for the purposes of this section; and

(b) the factors which are, or are not, to be taken into account in determining the principal use of any premises for those purposes.

(4) The power to make regulations under subsection (3) above is exercisable by the Assembly (and not by the Secretary of State) in relation to premises supplied with water using the supply system of a water undertaker whose area is wholly or mainly in Wales.

The threshold requirement

17D (1) This section applies for the purpose of construing the reference to the threshold requirement in section 17A(3)(b) above in relation to the supply of water to any premises.

(2) The requirement is that, at the time when the licensed water supplier first enters into an undertaking with a customer to give the supply, the total quantity of water estimated to be supplied to the premises annually pursuant to the undertaking is not less than 50 megalitres.

(3) Any estimate of the quantity of water to be supplied to any premises for the purposes of subsection (2) above shall be made in accordance with guidance issued by the Authority with the approval of the Secretary of State.

(4) Any guidance issued under subsection (3) above may, in particular—

(a) specify—

(i) the factors to be, and not to be, taken into account;

(ii) the assumptions to be made; and

(iii) the method of calculation to be employed,

in making estimates; and

(b) make provision as to the commencement of the annual periods by reference to which estimates are to be made.

(5) Before giving his approval to any guidance issued under that subsection, the Secretary of State shall consult the Assembly.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) Subsections (1) to (4) of section 17B above apply to guidance issued under subsection (3) above as they apply to guidance issued under section 17A(9) above.

(7) The Secretary of State may make provision by regulations as to the circumstances in which a licensed water supplier is not, for the purposes of subsection (2) above, to be treated as entering into an undertaking with a new customer to give a supply of water to any premises (subject to subsection (12) below).

(8) The Secretary of State may by regulations amend subsection (2) above by substituting, for the quantity of water for the time being specified there, a different quantity of water (subject to subsection (12) below).

(9) Regulations under subsection (8) above—
  (a) shall include provision for the amendment made by the regulations not to apply in relation to any undertaking entered into before the date on which the regulations come into force; and
  (b) may include provision for that amendment not to apply in relation to any undertaking which is proposed, but not entered into, before that date.

(10) A statutory instrument containing regulations under subsection (8) above shall not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

(11) Before making regulations under subsection (8) above, the Secretary of State shall consult—
  (a) the Authority; and
  (b) such other persons (if any) as the Secretary of State thinks it appropriate to consult.

(12) The powers to make regulations under subsections (7) and (8) above are exercisable by the Assembly (and not by the Secretary of State) in relation to premises supplied with water using the supply system of a water undertaker whose area is wholly or mainly in Wales.

(13) Subsections (9) and (11) above apply in relation to regulations made by the Assembly under subsection (8) above by virtue of subsection (12) above as they apply in relation to regulations made by the Secretary of State under subsection (8) above.

Determinations by the Authority

17E (1) The Authority may determine, in a case referred to it by a licensed water supplier or a potential customer of a licensed water supplier, whether a proposed supply of water by the supplier to the customer would be in accordance with the retail authorisation given to the supplier in the licence.

(2) The matters which the Authority may determine include the following matters—
  (a) the extent of the premises to be supplied for the purposes of section 17A(3) above;

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) whether the premises to be supplied are household premises (as defined in section 17C above); and

(c) whether the threshold requirement is satisfied in relation to the premises to be supplied (construed in accordance with section 17D above),

and also include any other matter the determination of which is relevant to those matters.

Procedure for granting water supply licences

17F (1) An application for—

(a) a water supply licence;

(b) the variation of a retail licence so that it gives also the supplementary authorisation; or

(c) the variation of a combined licence so that it gives only the retail authorisation,

shall be made in such form and manner, and shall contain, or be accompanied by, such information and documents and such fee (if any), as may be prescribed.

(2) Within the prescribed period after the making of such an application, the applicant shall publish in the prescribed manner a notice of the application containing such particulars as may be prescribed.

(3) The particulars which may be prescribed by virtue of subsection (2) above include the time within which, and the address at which, representations or objections with respect to the application may be made.

(4) If the Secretary of State or the Authority proposes to refuse the application, he or it shall give to the applicant a notice—

(a) stating that he or it proposes to refuse the application;

(b) stating the reasons why he or it proposes to refuse the application; and

(c) specifying the time within which representations or objections with respect to the proposed refusal may be made,

and shall consider any representations or objections which are duly made and not withdrawn.

(5) The Secretary of State may make provision by regulations disapplying subsections (2) and (3) above in relation to an application under subsection (1) above in such circumstances as may be prescribed.

(6) A licence shall be in writing and, unless revoked or suspended in accordance with any condition contained in it, shall continue in force for such period as may be specified in or determined by or under the licence.

(7) As soon as practicable after granting a licence or variation of a licence, the Secretary of State or the Authority shall serve a copy of the licence or licence as varied—

(a) on the licence holder;

(b) on the Assembly;

(c) on the Chief Inspector of Drinking Water;

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) on the Environment Agency;
(e) on the Council;
(f) on each relevant undertaker;
(g) on each licensed water supplier (other than the holder of the licence in question);
(h) if the licence or variation is granted by the Secretary of State, on the Authority;
(i) if the licence or variation is granted by the Authority, on the Secretary of State.

(8) Any sums received by the Secretary of State or by the Authority by virtue of this section shall be paid into the Consolidated Fund.

Water supply licence conditions

17G (1) A water supply licence may include—
(a) such conditions as appear to the Secretary of State or, as the case may be, the Authority to be requisite or expedient having regard to the duties imposed on him or it by Part 1 of this Act;
(b) conditions requiring the rendering to the Secretary of State of a payment on the grant of a water supply licence, or payments while such a licence is in force, or both, of such amount or amounts as may be determined by or under the conditions.

(2) Conditions may be included by virtue of subsection (1)(a) above in a water supply licence whether or not they are connected with the supply of water or the introduction of water into a water undertaker's supply system.

(3) Conditions included in a water supply licence may—
(a) require the holder of the licence to comply with any direction given by a specified relevant person as to specified matters or matters which are of a specified description;
(b) require the holder of the licence to do or not to do specified things or things which are of a specified description, except in so far as a specified relevant person consents to the holder's not doing or doing them; and
(c) provide for the reference to and determination by a specified relevant person of specified questions, or questions which are of a specified description, which arise under or in connection with the licence.

(4) For the purposes of subsection (3) above—
(a) the following are relevant persons—
(i) the Secretary of State;
(ii) the Authority;
(iii) the Assembly;
(iv) the Environment Agency; and
(b) "specified" means specified in the licence in question.

(5) Conditions included in a water supply licence may contain provision for the conditions to have effect, cease to have effect or be modified at such times, in

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

such manner and in such circumstances as may be specified in or determined in accordance with the conditions.

(6) Any such condition as is referred to in subsection (5) above shall have effect in addition to the provision made by this Chapter with respect to the modification of the conditions of a licence.

(7) Any sums received by the Secretary of State by virtue of this section shall be paid into the Consolidated Fund.

Standard conditions of water supply licences

17H (1) Such conditions as may be—

(a) determined by the Secretary of State (after consulting the Assembly); and

(b) published by him in such manner as he considers appropriate,

shall be standard conditions of water supply licences granted by the Secretary of State or the Authority.

(2) The standard conditions which may be determined may be different for—

(a) retail licences; and

(b) combined licences,

and standard conditions relating to the retail authorisation may be different depending on whether they are to relate to retail licences or combined licences.

(3) The power to determine standard conditions in relation to retail licences and combined licences may be exercised only before the grant of (respectively) the first retail licence and the first combined licence (but this is without prejudice to the power to modify standard conditions in accordance with the provisions of this Chapter).

(4) The standard conditions for the purposes of water supply licences of either description may contain provision—

(a) for any standard condition included in a licence of that description not to have effect until brought into operation in such manner and in such circumstances as may be specified in or determined under the standard conditions;

(b) for the effect of any standard condition included in such a licence to be suspended in such manner, and in such circumstances, as may be so specified or determined; and

(c) for any standard condition included in such a licence which is for the time being suspended to be brought back into operation in such manner and in such circumstances as may be so specified or determined.

(5) Subject to subsection (6) below, each condition which is a standard condition shall be incorporated by reference in each water supply licence (or in each such licence to which the standard condition applies).

(6) Subject to the following provisions of this section, the Secretary of State or the Authority may, in granting a licence, exclude or modify any of the

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

standard conditions to such extent as he or it considers requisite to meet the circumstances of a particular case.

(7) Before excluding any standard conditions or making any modifications under subsection (6) above, the Secretary of State or the Authority shall give notice—

(a) stating that he or it proposes to exclude the conditions or make the modifications and setting out the effect of so doing;

(b) stating the reasons why he or it proposes to exclude the conditions or make the modifications; and

(c) specifying the time (not being less than twenty-eight days from the date of publication of the notice) within which representations or objections with respect to the proposed exclusions or modifications may be made,

and shall consider any representations or objections which are duly made and not withdrawn.

(8) A notice under subsection (7) above shall be given—

(a) by publishing the notice in such manner as the Secretary of State or (as the case may be) the Authority considers appropriate for the purpose of bringing the notice to the attention of persons likely to be affected by the making of the exclusions or modifications; and

(b) by serving a copy of the notice—

(i) on the Assembly;

(ii) on the Chief Inspector of Drinking Water;

(iii) if the notice is published by the Secretary of State, on the Authority;

(iv) if the notice is published by the Authority, on the Secretary of State.

(9) If, within the time specified in the notice under subsection (7) above, the Secretary of State (after consulting the Assembly) directs the Authority not to exclude or modify any standard condition, the Authority shall comply with the direction.

(10) The Secretary of State or the Authority shall not exclude any conditions, or make any modifications, under subsection (6) above unless he or it is of the opinion that the exclusions or modifications are such that—

(a) the licence holder would not be unduly disadvantaged in competing with other holders of water supply licences; and

(b) no other holder of a water supply licence would be unduly disadvantaged in competing with other holders of such licences (including the holder of the licence).

(11) The modification under subsection (6) above of part of a standard condition shall not prevent any other part of the condition from continuing to be treated as a standard condition for the purposes of this Chapter.

Modification of water supply licences by agreement

17I (1) Subject to the following provisions of this section, the Authority may modify the conditions of a particular water supply licence.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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 Authority may not make any modifications under this section unless the licence holder has consented to the modifications and, in the case of standard conditions of the licence, the Authority is of the opinion that the modifications—

(a) are requisite to meet the circumstances of the particular case; and

(b) are such that—

(i) the licence holder would not be unduly disadvantaged in competing with other holders of water supply licences; and

(ii) no other holder of a water supply licence would be unduly disadvantaged in competing with other holders of such licences (including the holder of the licence being modified).

(3) Before making modifications under this section, the Authority shall give notice—

(a) stating that it proposes to make the modifications and setting out their effect;

(b) stating the reasons why it proposes to make the modifications; and

(c) specifying the period (not being less than twenty-eight days from the date of publication of the notice) within which representations or objections with respect to the proposed modifications may be made,

and shall consider any representations or objections which are duly made and not withdrawn.

(4) A notice under subsection (3) above shall be given—

(a) by publishing the notice in such manner as the Authority considers appropriate for the purpose of bringing the notice to the attention of persons likely to be affected by the making of the modifications; and

(b) by serving a copy of the notice on—

(i) the licence holder;

(ii) the Council;

(iii) the Secretary of State;

(iv) the Assembly; and

(v) the Chief Inspector of Drinking Water.

(5) If, within the period specified in the notice under subsection (3) above, the Secretary of State (after consulting the Assembly) directs the Authority not to make any modification, the Authority shall comply with the direction.

(6) The modification under this section of part of a standard condition of a licence shall not prevent any other part of the condition from continuing to be regarded as a standard condition for the purposes of this Chapter.

Modification of standard conditions of water supply licences

17J (1) Subject to the following provisions of this section, the Authority may modify the standard conditions of retail licences or combined licences.

(2) Where at any time the Authority modifies the standard conditions of retail licences or combined licences under this section the Authority may make

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

such incidental or consequential modifications as it considers necessary or expedient of any conditions of any licence of that description.

(3) Before making any modifications under this section, the Authority shall give notice—

(a) stating that it proposes to make the modifications and setting out their effect;

(b) stating the reasons why it proposes to make the modifications; and

(c) specifying the time (not being less than twenty-eight days from the date of publication of the notice) within which representations or objections with respect to the proposed modifications may be made,

and shall consider any representations or objections which are duly made and not withdrawn.

(4) A notice under subsection (3) above shall be given—

(a) by publishing the notice in such manner as the Authority considers appropriate for the purpose of bringing the notice to the attention of persons likely to be affected by the making of the modifications; and

(b) by serving a copy of the notice on—

(i) each relevant licence holder;

(ii) the Council;

(iii) the Secretary of State;

(iv) the Assembly; and

(v) the Chief Inspector of Drinking Water.

(5) If, within the time specified in the notice under subsection (3) above, the Secretary of State (after consulting the Assembly) directs the Authority not to make any modification, the Authority shall comply with the direction.

(6) The Authority may not under this section make any modifications of the standard conditions of retail licences or combined licences unless—

(a) no notice of objection to those modifications is given by any relevant licence holder to the Authority within the time specified in the notice under subsection (3) above;

(b) if one or more relevant licence holders give notice of objection to the Authority within that time—

(i) the proportion (expressed as a percentage) of the relevant licence holders who have given notice of objection is less than such percentage as may be specified in an order made by statutory instrument by the Secretary of State; and

(ii) the percentage given by subsection (7) below is less than such percentage as may be so specified; or

(c) subsection (8) below applies to the case.

(7) The percentage given by this subsection is the proportion (expressed as a percentage) of the relevant licence holders who have given notice of objection, weighted according to their market share at such time and in such manner as may be specified in an order under subsection (6) above.

(8) This subsection applies where the Authority is satisfied that—

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) the effect of the standard conditions is such as to impose a burden affecting relevant licence holders in the carrying on of activities to which the modifications relate;

(b) the modifications would remove or reduce the burden without removing any necessary protection; and

(c) the modifications are such that no holder of a water supply licence would be unduly disadvantaged in competing with other holders of such licences.

(9) An order under subsection (6) above may include such supplemental, consequential and transitional provision as the Secretary of State considers appropriate.

(10) Before making an order under subsection (6) above, the Secretary of State shall consult the Assembly.

(11) A statutory instrument containing an order under subsection (6) above shall not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

(12) Where the Authority modifies the standard conditions of retail licences or combined licences, the Authority shall—

(a) also make (as nearly as may be) the same modifications of those conditions for the purposes of their incorporation in licences of that description granted after that time; and

(b) publish the modifications in such manner as it considers appropriate.

(13) In this section "relevant licence holder", in relation to proposed modifications of standard conditions of retail licences or combined licences, means the holder of a licence of that description—

(a) which is to be modified under the proposals by the inclusion of any new standard condition; or

(b) which includes any standard conditions to which the proposals relate, other than standard conditions which are not in effect (by virtue of anything done under section 17H(4) above) at the time specified in the notice under subsection (3) above.

Water supply licences: modification references to Competition Commission

17K (1) The Authority may make to the Competition Commission (in this section and the following provisions of this Chapter referred to as "the Commission") a reference which is so framed as to require the Commission to investigate and report on the questions—

(a) whether any matters which—

(i) relate to the carrying on of activities authorised or regulated by a particular licence; and

(ii) are specified in the reference,

operate, or may be expected to operate, against the public interest; and

(b) if so, whether the effects adverse to the public interest which those matters have, or may be expected to have, could be remedied or prevented by modifications of the conditions of the licence.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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 Authority may make to the Commission a reference which is so framed as to require the Commission to investigate and report on the questions—

(a) whether any matters which—

(i) relate to the carrying on of activities authorised or regulated by retail licences or combined licences; and

(ii) are specified in the reference,

operate, or may be expected to operate, against the public interest; and

(b) if so, whether the effects adverse to the public interest which those matters have, or may be expected to have, could be remedied or prevented by modifications of the standard conditions of licences of that description.

(3) The Authority may, at any time, by notice given to the Commission vary a reference under this section by—

(a) adding to the matters specified in the reference; or

(b) excluding from the reference some of the matters so specified,

and on receipt of any such notice the Commission shall give effect to the variation.

(4) The Authority may specify in a reference under this section, or a variation of such a reference, for the purpose of assisting the Commission in carrying out the investigation on the reference—

(a) any effects adverse to the public interest which, in its opinion, the matters specified in the reference or variation have or may be expected to have; and

(b) any modifications of the relevant conditions by which, in its opinion, those effects could be remedied or prevented.

(5) As soon as practicable after making a reference under this section or a variation of such a reference, the Authority shall—

(a) publish particulars of the reference or variation in such manner as it considers appropriate for the purpose of bringing the reference or variation to the attention of persons likely to be affected by it; and

(b) serve a copy of the reference or variation on—

(i) the licence holder or, as the case may be, the relevant licence holders;

(ii) the Council;

(iii) the Secretary of State;

(iv) the Assembly; and

(v) the Chief Inspector of Drinking Water.

(6) If, before the end of the period of twenty-eight days beginning with the day on which the Secretary of State receives the copy of the reference or variation, the Secretary of State directs the Commission—

(a) not to proceed with the reference; or

(b) not to give effect to the variation,

the Commission shall comply with the direction.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) It shall be the duty of the Authority, for the purpose of assisting the Commission in carrying out an investigation on a reference under this section or in carrying out functions under section 17P below, to give to the Commission—

(a) any information in the Authority's possession which relates to matters falling within the scope of the investigation or the carrying out of those functions and which is either—

(i) requested by the Commission for that purpose; or

(ii) information which, in the Authority's opinion, it would be appropriate for that purpose to give to the Commission without any such request; and

(b) any other assistance which the Commission may require, and which it is within the Authority's power to give, in relation to any such matters,

and the Commission, for the purpose of carrying out any such investigation or such functions, shall take account of any information given to it for that purpose under this subsection.

(8) In this section and the following provisions of this Chapter—

"relevant conditions"—

(a) in relation to a reference under subsection (1) above, means the conditions of the licence to which the reference relates; and

(b) in relation to a reference under subsection (2) above, means the standard conditions of the licences to which the reference relates; and

"relevant licence holder" means the holder of a licence to which a reference under subsection (2) above relates.

(9) In determining for the purposes of this section whether any particular matter operates, or may be expected to operate, against the public interest, the Commission shall have regard to the matters as respects which duties are imposed on the Secretary of State and the Authority by Part 1 of this Act.

References under section 17K: time limits

17L (1) Every reference under section 17K above shall specify a period (not longer than six months beginning with the date of the reference) within which a report on the reference is to be made.

(2) A report of the Commission on a reference under section 17K above shall not have effect (and no action shall be taken in relation to it under section 17O below) unless the report is made before the end of the period specified in the reference or such further period (if any) as may be allowed by the Authority under subsection (3) below.

(3) The Authority may, if it has received representations on the subject from the Commission and is satisfied that there are special reasons why the report cannot be made within the period specified in the reference, extend that period by no more than six months.

(4) No more than one extension is possible under subsection (3) above in relation to the same reference.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) The Authority shall, in the case of an extension made by it under subsection (3) above—
  (a) publish that extension in such manner as the Authority considers appropriate for the purpose of bringing it to the attention of persons likely to be affected by it; and
  (b) send a copy of what has been published by it under paragraph (a) above to the holder of the licence or, as the case may be, the relevant licence holders.

References under section 17K: powers of investigation

17M(1) The following sections of Part 3 of the Enterprise Act 2002 shall apply, with the modifications mentioned in subsections (2) and (3) below, for the purposes of references under section 17K above as they apply for the purposes of references under that Part—
  (a) section 109 (attendance of witnesses and production of documents etc);
  (b) section 110 (enforcement of powers under section 109: general);
  (c) section 111 (penalties);
  (d) section 112 (penalties: main procedural requirements);
  (e) section 113 (payments and interest by instalments);
  (f) section 114 (appeals in relation to penalties);
  (g) section 115 (recovery of penalties); and
  (h) section 116 (statement of policy).

(2) Section 110 shall, in its application by virtue of subsection (1) above, have effect as if—
  (a) subsection (2) were omitted; and
  (b) in subsection (9) the words from “or section” to “section 65(3))” were omitted.

(3) Section 111(5)(b)(ii) shall, in its application by virtue of subsection (1) above, have effect as if—
  (a) for the words “published (or, in the case of a report under section 50 or 65, given)” there were substituted “ made ”;
  (b) for the words “published (or given)”, in both places where they appear, there were substituted “ made ”; and
  (c) the words “by this Part” were omitted.

(4) Provisions of Part 3 of the Enterprise Act 2002 which have effect for the purposes of sections 109 to 116 of that Act (including, in particular, provisions relating to offences and the making of orders) shall, for the purposes of the application of those sections by virtue of subsection (1) above, have effect in relation to those sections as applied by virtue of that subsection.

(5) Accordingly, corresponding provisions of this Act shall not have effect in relation to those sections as applied by virtue of that subsection.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

Water supply licences: reports on modification references

17N (1) In making a report on a reference under section 17K above, the Commission—

(a) shall include in the report definite conclusions on the questions comprised in the reference together with such an account of its reasons for those conclusions as in its opinion is expedient for facilitating a proper understanding of those questions and of its conclusions;

(b) where it concludes that any of the matters specified in the reference operate, or may be expected to operate, against the public interest, shall specify in the report the effects adverse to the public interest which those matters have or may be expected to have; and

(c) where it concludes that any adverse effects so specified could be remedied or prevented by modifications of the relevant conditions, shall specify in the report modifications by which those effects could be remedied or prevented.

(2) For the purposes of section 17O below, a conclusion contained in a report of the Commission is to be disregarded if the conclusion is not that of at least two-thirds of the members of the group constituted in connection with the reference concerned in pursuance of paragraph 15 of Schedule 7 to the Competition Act 1998.

(3) If a member of a group so constituted disagrees with any conclusions contained in a report made on a reference under section 17K above as the conclusions of the Commission, the report shall, if the member so wishes, include a statement of his disagreement and of his reasons for disagreeing.

(4) For the purposes of the law relating to defamation, absolute privilege attaches to any report made by the Commission on a reference under section 17K above.

(5) In making any report on a reference under section 17K above the Commission must have regard to the following considerations before disclosing any information.

(6) The first consideration is the need to exclude from disclosure (so far as practicable) any information whose disclosure the Commission thinks is contrary to the public interest.

(7) The second consideration is the need to exclude from disclosure (so far as practicable)—

(a) commercial information whose disclosure the Commission thinks might significantly harm the legitimate business interests of the undertaking to which it relates; or

(b) information relating to the private affairs of an individual whose disclosure the Commission thinks might significantly harm the individual's interests.

(8) The third consideration is the extent to which the disclosure of the information mentioned in subsection (7)(a) or (b) above is necessary for the purposes of the report.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) A report of the Commission on a reference under section 17K above shall be made to the Authority.

(10) Subject to subsection (13) below, the Authority shall—

(a) on receiving a report on a reference under section 17K(1) above, serve a copy of it on—

(i) the licence holder;

(ii) the Council;

(iii) the Secretary of State; and

(iv) the Assembly; and

(b) not earlier than the relevant time, publish another copy of the report in such manner as it considers appropriate for bringing the report to the attention of persons likely to be affected by it.

(11) Subject to subsection (13) below, the Authority shall—

(a) on receiving a report on a reference under section 17K(2) above, serve a copy of it on—

(i) the Secretary of State; and

(ii) the Assembly; and

(b) not earlier than the relevant time—

(i) serve another copy on each relevant licence holder; and

(ii) not less than twenty-four hours after complying with sub-paragraph (i) above, publish another copy of the report in such manner as it considers appropriate for bringing the report to the attention of persons likely to be affected by it.

(12) For the purposes of subsections (10) and (11) above, the "relevant time" means—

(a) fourteen days after the copy of the report in question is received by the Secretary of State and the Assembly, or

(b) if copies are received by them on different days, fourteen days after the later day.

(13) Subsection (14) below applies if it appears to the Secretary of State that the publication of any matter in a report on a reference under section 17K(1) or (2) above would be against—

(a) the public interest; or

(b) the commercial interests of any person.

(14) The Secretary of State may, not later than the relevant time for the purposes of subsection (10) or (11) above, direct the Authority to exclude that matter from the copy of the report, or (as the case may be) each copy of the report, to be served and published as mentioned in paragraph (b) of that subsection; and the Authority shall comply with any such direction.

Water supply licences: modification following report

17O (1) Where a report of the Commission on a reference under section 17K above—

(a) includes conclusions to the effect that any of the matters specified in the reference operate, or may be expected to operate, against the public interest;

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) specifies effects adverse to the public interest which those matters have or may be expected to have;

(c) includes conclusions to the effect that those effects could be remedied or prevented by modifications of the relevant conditions; and

(d) specifies modifications by which those effects could be remedied or prevented,

the Authority shall, subject to the following provisions of this section, make such modifications of the relevant conditions as appear to it requisite for the purpose of remedying or preventing the adverse effects specified in the report.

(2) Where at any time it modifies under subsection (1) above the standard conditions of retail licences or combined licences in consequence of a reference under section 17K(2) above, the Authority may make such incidental or consequential modifications as it considers necessary or expedient of any conditions of licences of that description.

(3) Before making modifications under this section, the Authority shall have regard to the modifications specified in the report.

(4) Before making modifications under this section, the Authority shall give notice—

(a) stating that it proposes to make the modifications and setting out their effect;

(b) stating the reasons why it proposes to make the modifications; and

(c) specifying the period (not being less than twenty-eight days from the date of publication of the notice) within which representations or objections with respect to the proposed modifications may be made,

and shall consider any representations or objections which are duly made and not withdrawn.

(5) A notice under subsection (4) above shall be given—

(a) by publishing the notice in such manner as the Authority considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by the making of the modifications;

(b) by serving a copy of the notice on the holder of the licence in question or, as the case may be, the relevant licence holders; and

(c) by serving a copy of the notice on—

(i) the Council;

(ii) the Secretary of State;

(iii) the Assembly; and

(iv) the Chief Inspector of Drinking Water.

(6) After considering any representations or objections made in response to proposals set out in a notice under subsection (4) above, the Authority shall give notice to the Commission—

(a) setting out the modifications it proposes to make to remedy or prevent the adverse effects specified in the report; and

(b) stating the reasons for making the modifications.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) The Authority shall include with the notice under subsection (6) above a copy of any representations or objections received in relation to the notice under subsection (4) above.

(8) If the period of four weeks from the date on which the notice under subsection (6) above is given elapses without a direction under section 17P(1)(a) below having been given to it, the Authority shall—
  (a) make the modifications set out in the notice; or
  (b) if a direction under section 17P(1)(b) below has been given, make the modifications which are not specified in the direction.

(9) The modification under subsection (1) above of part of a standard condition of a particular licence in consequence of a reference under section 17K(1) above shall not prevent any other part of the condition from continuing to be regarded as a standard condition for the purposes of this Chapter.

(10) Where at any time it modifies under subsection (1) above the standard conditions of retail licences or combined licences in consequence of a reference under section 17K(2) above, the Authority shall—
  (a) also make (as nearly as may be) the same modifications of those conditions for the purposes of their incorporation in licences of that description granted after that time; and
  (b) publish the modifications made for those purposes in such manner as it considers appropriate.

Water supply licences: Commission's power of veto following report

17P (1) The Commission may, within the period of four weeks after the date on which it is given a notice under section 17O(6) above, direct the Authority—
  (a) not to make the modifications set out in that notice; or
  (b) not to make such of the modifications as may be specified in the direction;

and the Authority shall comply with any such direction.

(2) The Secretary of State may—
  (a) within the period of four weeks after the date on which the Commission is given a notice under section 17O(6) above; and
  (b) on the application of the Commission,

direct that the period for giving a direction under subsection (1) above (and, accordingly, the period mentioned in section 17O(8) above) shall be extended by fourteen days.

(3) The power to give a direction under subsection (1) above may only be exercised in respect of such of the modifications set out in the notice under section 17O(6)(a) above as appear to the Commission not to be the modifications which are requisite for the purpose of remedying or preventing all or any of the adverse effects specified in the report as effects which could be remedied or prevented by modifications.

(4) If the Commission gives a direction under subsection (1) above, it shall—
  (a) give notice setting out the modifications proposed by the Authority, the terms of the direction and the reasons for giving it; and

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) make such modifications itself of the relevant conditions as appear to it to be requisite for the purpose of remedying or preventing—

(i) if the direction was given under subsection (1)(a) above, the adverse effects specified in the report as effects which could be remedied or prevented by modifications;

(ii) if the direction was given under subsection (1)(b) above, such of those adverse effects as are not remedied or prevented by the modifications made by the Authority under section 17O(8)(b) above.

(5) In exercising its power under subsection (4)(b) above the Commission shall have regard to the matters as respects which duties are imposed on the Authority by Part 1 of this Act.

(6) Before making modifications under subsection (4)(b) above the Commission shall give notice—

(a) stating that it proposes to make the modifications and setting them out;

(b) stating the reason why it proposes to make them;

(c) specifying the period (not being less than twenty-eight days from the date of publication of the notice) within which representations or objections with respect to the proposed modifications may be made,

and shall consider any representations or objections which are duly made and not withdrawn.

(7) A notice under subsection (4)(a) or (6) above shall be given—

(a) by publishing the notice in such manner as the Commission considers appropriate for the purpose of bringing it to the attention of persons likely to be affected by the making of the modifications;

(b) by serving a copy of the notice on—

(i) the Authority;

(ii) the holder of the licence in question or, as the case may be, the relevant licence holders;

(iii) the Council;

(iv) the Secretary of State;

(v) the Assembly; and

(vi) the Chief Inspector of Drinking Water.

(8) After making modifications under this section the Commission shall publish a notice stating that the modifications have been made and setting them out, with the reasons for making them.

(9) The modification under this section of part of a standard condition of a particular licence in consequence of a reference under section 17K(1) above shall not prevent any other part of the condition from continuing to be regarded as a standard condition for the purposes of this Chapter.

(10) Where, in consequence of a reference under section 17K(2) above, the Commission modifies under subsection (4)(b) above the standard conditions of retail licences or combined licences, the Authority may make such incidental or consequential modifications as it considers necessary or expedient of any conditions of licences of that description.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

(11) Where, in consequence of a reference under section 17K(2) above, the Commission modifies under subsection (4)(b) above the standard conditions of retail licences or combined licences, the Authority shall—
  (a) make (as nearly as may be) the same modifications of those conditions for the purposes of their incorporation in licences of that description granted after that time, and
  (b) publish the modifications made for those purposes in such manner as it considers appropriate.

Section 17P: supplementary

17Q(1) For the purposes of the law relating to defamation, absolute privilege attaches to any notice under subsection (4)(a), (6) or (8) of section 17P above.

(2) In giving any notice under subsection (4)(a) or (6) of section 17P above, or publishing any notice under subsection (8) of that section, the Commission must have regard to the following considerations before disclosing any information.

(3) The first consideration is the need to exclude from disclosure (so far as practicable) any information whose disclosure the Commission thinks is contrary to the public interest.

(4) The second consideration is the need to exclude from disclosure (so far as practicable)—
  (a) commercial information whose disclosure the Commission thinks might significantly harm the legitimate business interests of the undertaking to which it relates; or
  (b) information relating to the private affairs of an individual whose disclosure the Commission thinks might significantly harm the individual's interests.

(5) The third consideration is the extent to which the disclosure of the information mentioned in subsection (4)(a) or (b) above is necessary for the purposes of the notice.

(6) The following sections of Part 3 of the Enterprise Act 2002 shall apply, with the modifications mentioned in subsections (7) and (8) below, for the purposes of any investigation by the Commission for the purposes of the exercise of its functions under section 17P above, as they apply for the purposes of any investigation on references under that Part—
  (a) section 109 (attendance of witnesses and production of documents etc);
  (b) section 110 (enforcement of powers under section 109: general);
  (c) section 111 (penalties);
  (d) section 112 (penalties: main procedural requirements);
  (e) section 113 (payments and interest by instalments);
  (f) section 114 (appeals in relation to penalties);
  (g) section 115 (recovery of penalties); and
  (h) section 116 (statement of policy).

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) Section 110 shall, in its application by virtue of subsection (6) above, have effect as if—

(a) subsection (2) were omitted,

(b) in subsection (4), for the words "the publication of the report of the Commission on the reference concerned" there were substituted " the publication by the Commission of a notice under section 17P(8) of the Water Industry Act 1991 in connection with the reference concerned or, if no direction has been given by the Commission under section 17P(1) of that Act in connection with the reference concerned and within the period permitted for that purpose, the latest day on which it was possible to give such a direction within the permitted period "; and

(c) in subsection (9) the words from "or section" to "section 65(3))" were omitted.

(8) Section 111(5)(b) shall, in its application by virtue of subsection (6), have effect as if for sub-paragraph (ii) there were substituted—

"(ii) if earlier, the day on which a notice is published by the Commission under section 17P(8) of the Water Industry Act 1991 in connection with the reference concerned or, if no direction is given by the Commission under section 17P(1) of that Act in connection with the reference concerned and within the period permitted for that purpose, the latest day on which such a direction may be given within the permitted period."

(9) Provisions of Part 3 of the Enterprise Act 2002 which have effect for the purposes of sections 109 to 116 of that Act (including, in particular, provisions relating to offences and the making of orders) shall, for the purposes of the application of those sections by virtue of subsection (6) above, have effect in relation to those sections as applied by virtue of that subsection.

(10) Accordingly, corresponding provisions of this Act shall not have effect in relation to those sections as applied by virtue of that subsection.

Water supply licences: modification by order under other enactments

17R (1) Where the OFT, the Commission or the Secretary of State (the "relevant authority") makes a relevant order, the order may also provide for the modification of—

(a) the conditions of a particular retail licence or combined licence; or

(b) the standard conditions of retail licences or combined licences,

to such extent as may appear to the relevant authority to be requisite or expedient for the purpose of giving effect to, or taking account of, any provision made by the order.

(2) In subsection (1) above "relevant order" means—

(a) an order under section 75, 83 or 84 of, or paragraph 5, 10 or 11 of Schedule 7 to, the Enterprise Act 2002 where—

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) one or more than one of the enterprises which have, or may have, ceased to be distinct enterprises was engaged in the carrying on of activities authorised or regulated by a retail licence or combined licence; or

(ii) one or more than one of the enterprises which will or may cease to be distinct enterprises is engaged in the carrying on of activities authorised or regulated by a retail licence or combined licence; or

(b) an order under section 160 or 161 of that Act where the feature, or combination of features, of the market in the United Kingdom for goods or services which prevents, restricts or distorts competition relates to activities authorised or regulated by a retail licence or combined licence.

(3) The modification under subsection (1)(a) above of part of a standard condition of a particular licence shall not prevent any other part of the condition from continuing to be regarded as a standard condition for the purposes of this Chapter.

(4) Where at any time the relevant authority modifies under subsection (1)(b) above the standard conditions of retail licences or combined licences, the relevant authority—

(a) shall also make (as nearly as may be) the same modifications of those conditions for the purposes of their incorporation in licences of that description granted after that time; and

(b) may, after consultation with the Authority, make such incidental or consequential modifications as the relevant authority considers necessary or expedient of any conditions of licences of that description granted before that time.

(5) Where at any time the relevant authority modifies standard conditions of retail licences or combined licences under subsection (4)(a) above for the purposes of their incorporation in licences, the relevant authority shall publish those modifications in such manner as the relevant authority considers appropriate.

(6) Expressions used in subsection (2) above and in Part 3 or 4 of the Enterprise Act 2002 have the same meaning in that subsection as in that Part.”

Commencement Information

I139 Sch. 4 para. 2 in force at 1.4.2004 for specified purposes by S.I. 2004/641, art. 3(l)(i), **Sch. 1** (with Sch. 3 para. 7)

I140 Sch. 4 para. 2 in force at 1.8.2005 for specified purposes by S.I. 2005/968, **art. 3(b)(i)**

3 After Chapter 2 of Part 3 of the WIA there is inserted—

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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 2A

SUPPLY DUTIES ETC: LICENSED WATER SUPPLIERS

Duty of undertaker to supply licensed water supplier etc

Wholesale water supply by primary water undertaker

66A (1) This section applies where—

(a) a licensed water supplier requests its primary water undertaker to provide it with a supply of water for the purpose of supplying water to the premises of its customers in accordance with the retail authorisation; and

(b) the premises are in the area of the undertaker.

(2) Where this section applies, it shall be the duty of the primary water undertaker, in accordance with an agreement or determination for such period and containing such terms and conditions as may be provided for under section 66D(2) below—

(a) to take any such steps—

(i) for the purpose of connecting the premises in question with the undertaker's supply system; or

(ii) in respect of that system,

as may be so provided for in order to enable the undertaker to provide the requested supply; and

(b) having taken any such steps, to provide that supply.

(3) A primary water undertaker shall not be required by virtue of this section to provide a supply of water to a licensed water supplier, or to take any steps to enable it to provide such a supply, if—

(a) both of the first and second conditions are satisfied; or

(b) the third condition is satisfied.

(4) The first condition is that—

(a) the premises to be supplied by the supplier do not consist in the whole or any part of a building; or

(b) the supply to be made by it to those premises is for purposes other than domestic purposes.

(5) The second condition is that the provision of the supply by the undertaker would—

(a) require the undertaker, in order to meet all its existing obligations to supply water for domestic or other purposes, together with its probable future obligations to supply buildings and parts of buildings with water for domestic purposes, to incur unreasonable expenditure in carrying out works; or

(b) otherwise put at risk its ability to meet any of the existing or probable future obligations mentioned in paragraph (a) above.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) The third condition is that there is a contravention in relation to the water fittings used or to be used in connection with—

(a) the supply of water to the premises to be supplied by the supplier; or

(b) the use of water in those premises,

of such of the requirements of regulations under section 74 below as are prescribed for the purposes of this subsection.

(7) Where—

(a) a request has been made by a licensed water supplier to its primary water undertaker for the purposes of subsection (1) above; and

(b) the steps which the undertaker is required to take by virtue of that request include steps for the purpose of obtaining any necessary authority for, or agreement to, any exercise by it of any of its powers or the carrying out by it of any works,

the failure of the undertaker to acquire the necessary authority or agreement shall not affect any liability of the licensed water supplier, under any term or condition in accordance with which those steps are taken, to reimburse the undertaker in respect of some or all of the expenses incurred by it in taking those steps.

(8) A water undertaker is the primary water undertaker of a licensed water supplier for the purposes of this section and section 66C below if the undertaker's supply system is to be used for the purpose of making the supply to premises mentioned in those sections.

(9) In this section and sections 66B and 66C below—

(a) any reference to the supply system of a water undertaker shall be construed in accordance with section 17B(5) above; and

(b) any reference to the retail authorisation shall be construed in accordance with section 17A(2) above.

Introduction of water into water undertaker's supply system

66B (1) This section applies where—

(a) a qualifying licensed water supplier requests a water undertaker to permit it to introduce water into the undertaker's supply system, by means of which any particular supply of water to any premises in accordance with the retail authorisation is to take place, in connection with that supply; and

(b) the premises are in the area of the undertaker.

(2) This section also applies where—

(a) a water undertaker agrees to permit a qualifying licensed water supplier to introduce water into the undertaker's treatment works;

(b) in connection with that introduction, the supplier requests the undertaker to permit it to introduce water into the undertaker's supply system, by means of which any particular supply of water to any premises in accordance with the retail authorisation is to take place, in connection with that supply; and

(c) the premises are in the area of the undertaker.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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 this section applies, it shall be the duty of the water undertaker, in accordance with an agreement or determination for such period and containing such terms and conditions as may be provided for under section 66D(2) below—

(a) to take any such steps—

(i) for the purpose of connecting the premises in question with the undertaker's supply system;

(ii) for the purpose of connecting the treatment works of the qualifying licensed water supplier with that system (in a case falling within subsection (1) above);

(iii) for the purpose of connecting with that system any source used by the qualifying licensed water supplier for the purpose of supplying water other than for domestic or food production purposes (in a case falling within subsection (1) above); or

(iv) in respect of that system,

as may be so provided for in order to enable the supplier to make the requested introduction of the water into that system; and

(b) having taken any such steps, to permit the requested introduction of the water into that system.

(4) A water undertaker shall not be required by virtue of this section to permit the introduction of water into its supply system, or to take any steps to enable a qualifying water supplier to make such an introduction, if the first or second condition is satisfied.

(5) The first condition is that permitting the introduction of the water into the water undertaker's supply system would—

(a) require the undertaker, in order to meet all its existing obligations to supply water for domestic or other purposes, together with its probable future obligations to supply buildings and parts of buildings with water for domestic purposes, to incur unreasonable expenditure in carrying out works; or

(b) otherwise put at risk its ability to meet any of the existing or probable future obligations mentioned in paragraph (a) above.

(6) The second condition is that there is a contravention in relation to the water fittings used or to be used in connection with—

(a) the supply of water to the premises to be supplied by the supplier; or

(b) the use of water in those premises,

of such of the requirements of regulations under section 74 below as are prescribed for the purposes of section 66A(6) above.

(7) Where—

(a) a request has been made by a qualifying licensed water supplier to a water undertaker for the purposes of subsection (1) or (2) above; and

(b) the steps which the undertaker is required to take by virtue of that request include steps for the purpose of obtaining any necessary authority for, or agreement to, any exercise by it of any of its powers or the carrying out by it of any works,

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

the failure of the undertaker to acquire the necessary authority or agreement shall not affect any liability of the supplier, under any term or condition in accordance with which those steps are taken, to reimburse the undertaker in respect of some or all of the expenses incurred by it in taking those steps.

(8) In this section "treatment works"—

(a) in relation to a water undertaker, means the works designated as treatment works by the Secretary of State for the purposes of section 17B(6) above;

(b) in relation to a qualifying licensed water supplier, means the works designated from time to time by the Secretary of State as treatment works for the purposes of this paragraph.

(9) Before designating any works for the purposes of subsection (8)(b) above, the Secretary of State shall consult the Assembly.

(10) A list of any works designated for the purposes of subsection (8)(b) above shall be published from time to time by the Secretary of State in such manner as he considers appropriate for the purpose of bringing the designations to the attention of persons likely to be affected by them.

(11) Any pipe laid in pursuance of subsection (3)(a)(ii) or (iii) above shall be regarded as a water main for the purposes of this Act, subject to any provision to the contrary.

(12) In this section and section 66C below, references to a qualifying licensed water supplier are references to a licensed water supplier which is the holder of a combined licence (within the meaning of Chapter 1A of Part 2 of this Act).

Wholesale water supply by secondary water undertaker

66C (1) This section applies where—

(a) a qualifying licensed water supplier—

(i) requests a water undertaker other than its primary water undertaker (the "secondary water undertaker") to provide a supply of water for the purpose of the supplier supplying water, using the primary water undertaker's supply system, to the premises of the supplier's customers in accordance with the retail authorisation; and

(ii) requests its primary water undertaker to permit it to introduce that water into its supply system; and

(b) the premises are in the area of the primary water undertaker.

(2) Where this section applies—

(a) it shall be the duty of the secondary water undertaker, in accordance with an agreement or determination for such period and containing such terms and conditions as may be provided for under section 66D(2) below—

(i) to take any such steps in respect of its supply system as may be so provided for in order to enable it to provide the requested supply; and

(ii) having taken any such steps, to provide that supply; and

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) it shall be the duty of the primary water undertaker, in accordance with an agreement or determination for such period and containing such terms and conditions as may be provided for under section 66D(2) below—

(i) to take any such steps specified in subsection (3) below as may be so provided for in order to enable the licensed water supplier to make the introduction of the requested supply of water into the primary water undertaker's supply system; and

(ii) having taken any such steps, to permit the introduction of that supply of water into that supply system.

(3) The steps mentioned in subsection (2)(b)(i) above are steps—

(a) for the purpose of connecting the premises in question with the primary water undertaker's supply system;

(b) for the purpose of connecting that system with the secondary water undertaker's supply system; or

(c) in respect of the primary water undertaker's supply system.

(4) If the first or second condition is satisfied—

(a) a secondary water undertaker shall not be required by virtue of this section to provide a supply of water to a licensed water supplier; and

(b) a primary water undertaker shall not be required by virtue of this section to permit the introduction of water into its supply system, or to take any steps to enable the licensed water supplier to make such an introduction.

(5) The first condition is that the provision of the supply or permitting the introduction would—

(a) require the undertaker in question, in order to meet all its existing obligations to supply water for domestic or other purposes, together with its probable future obligations to supply buildings and parts of buildings with water for domestic purposes, to incur unreasonable expenditure in carrying out works; or

(b) otherwise put at risk its ability to meet any of the existing or probable future obligations mentioned in paragraph (a) above.

(6) This second condition is that there is a contravention in relation to the water fittings used or to be used in connection with—

(a) the supply of water to the premises to be supplied by the supplier; or

(b) the use of water in those premises,

of such of the requirements of regulations under section 74 below as are prescribed for the purposes of section 66A(6) above.

(7) Where—

(a) requests have been made by a licensed water supplier to its primary water undertaker and secondary water undertaker for the purposes of subsection (1) above; and

(b) the steps which either of those undertakers is required to take by virtue of the request made to it include steps for the purpose of obtaining any necessary authority for, or agreement to, any exercise by it of any of its powers or the carrying out by it of any works,

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

the undertaker's failure to acquire the necessary authority or agreement shall not affect any liability of the licensed water supplier, under any term or condition in accordance with which those steps are taken, to reimburse the undertaker in respect of some or all of the expenses incurred by it in taking those steps.

(8) Any pipe laid in pursuance of subsection (2)(b)(i) above by virtue of subsection (3)(b) above shall be regarded as a water main for the purposes of this Act, subject to any provision to the contrary.

Sections 66A to 66C: determinations and agreements

66D (1) The Authority may determine, in a case referred to it by a licensed water supplier, whether any condition specified in section 66A(4) to (6), 66B(5) or (6) or 66C(5) or (6) above is satisfied (subject to section 66F below).

(2) The period for which and terms and conditions on which a water undertaker is to perform any duty under sections 66A to 66C above are—

(a) those which are—

(i) in a case falling within section 66A(2) or 66B(3) above, agreed between the water undertaker and the licensed water supplier in question; and

(ii) in a case falling within section 66C(2) above, agreed between the water undertakers and the licensed water supplier in question; or

(b) in default of such agreement, those which are determined by the Authority, in a case referred to it by the licensed water supplier in question, if they are acceptable to the supplier,

(subject to the following provisions of this section and sections 66E and 66F below).

(3) The charges payable by a licensed water supplier to a water undertaker under an agreement under paragraph (a)(i) or (ii) of subsection (2) above or a determination under paragraph (b) of that subsection shall be fixed in accordance with the costs principle set out in section 66E below.

(4) The Authority shall issue guidance in accordance with which the terms and conditions of an agreement under paragraph (a)(i) or (ii) of subsection (2) above shall be made.

(5) Before issuing guidance under subsection (4) above, the Authority shall consult such persons as it considers appropriate.

(6) The guidance issued under subsection (4) above shall include guidance with respect to the fixing of charges in accordance with subsection (3) above.

(7) Subsection (8) below applies if it appears to the Authority that an agreement under paragraph (a)(i) or (ii) of subsection (2) above has not been made in accordance with—

(a) subsection (3) above; or

(b) the guidance issued under subsection (4) above.

(8) The Authority may require the parties to the agreement to—

(a) modify the agreement; or

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) terminate the agreement,

and that requirement shall be enforceable under section 18 above by the Authority.

(9) Neither the OFT nor the Authority may exercise, in respect of an agreement under paragraph (a)(i) or (ii) of subsection (2) above, the powers conferred by—

(a) section 32 of the Competition Act 1998 (directions in relation to agreements); and

(b) subsection (2) of section 35 of that Act (interim directions).

(10) Subsection (9)(b) above does not apply to the exercise of powers in respect of conduct—

(a) which is connected with an agreement under paragraph (a)(i) or (ii) of subsection (2) above; and

(b) in respect of which subsection (1)(b) of section 35 of that Act applies.

Section 66D: costs principle

66E (1) The costs principle referred to in subsection (3) of section 66D above is that the charges payable by a licensed water supplier to a water undertaker, under the agreement or determination mentioned in that subsection, shall enable the undertaker to recover from the supplier—

(a) any expenses reasonably incurred in performing any duty under sections 66A to 66C above in accordance with that agreement or determination, and

(b) the appropriate amount in respect of qualifying expenses and a reasonable return on that amount,

to the extent that those sums exceed any financial benefits which the undertaker receives as a result of the supplier supplying water to the premises of relevant customers.

(2) In subsection (1) above "qualifying expenses" means expenses (whether of a capital nature or otherwise) that the water undertaker has reasonably incurred or will reasonably incur in carrying out its functions.

(3) For the purposes of subsection (1)(b) above, the appropriate amount is the amount which the water undertaker—

(a) reasonably expected to recover from relevant customers; but

(b) is unable to recover from those customers as a result of their premises being supplied with water by the licensed water supplier.

(4) Nothing in subsection (3) above shall enable a water undertaker to recover any amount—

(a) to the extent that any expenses can be reduced or avoided; or

(b) to the extent that any amount is recoverable in some other way (other than from other customers of the undertaker).

(5) In this section "relevant customers" means customers to whose premises the licensed water supplier is to make any supply of water in connection with

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

which the agreement or determination mentioned in subsection (1) above is made.

Section 66D: supplementary

66F (1) Before the Authority makes—

(a) a determination for the purposes of subsection (1) of section 66D above as to whether any condition specified in section 66B(5) or (6) above is satisfied; or

(b) a determination for the purposes of subsection (2)(b) of section 66D above as to the period for which and terms and conditions on which a water undertaker is to perform any duty under section 66B above,

it shall consult the Secretary of State (subject to subsection (3) below).

(2) Before the Authority makes—

(a) a determination for the purposes of subsection (1) of section 66D above as to whether any condition specified in section 66C(5) or (6) is satisfied; or

(b) a determination for the purposes of subsection (2)(b) of section 66D above as to the period for which and terms and conditions on which the water undertakers are to perform any duty under section 66C above,

it shall consult the Secretary of State (subject to subsections (3) and (4) below) and the Environment Agency.

(3) If—

(a) a determination mentioned in subsection (1) or (2) above is in relation to premises supplied with water using the supply system of a water undertaker whose area is wholly or mainly in Wales; and

(b) in the case of a determination mentioned in subsection (2) above, the area of the secondary water undertaker in question is wholly or mainly in Wales,

the Authority shall consult the Assembly (and not the Secretary of State).

(4) If a determination mentioned in subsection (2) above—

(a) is in relation to premises supplied with water using the supply system of a water undertaker whose area is wholly or mainly in—

(i) England; or

(ii) Wales;

(b) but the area of the secondary water undertaker in question is (respectively) wholly or mainly in—

(i) Wales; or

(ii) England,

the Authority shall consult the Assembly (as well as the Secretary of State).

(5) The Authority shall publish guidance issued under section 66D(4) above in such manner as the Authority considers appropriate for the purpose of bringing it to the attention of persons likely to be affected by it.

(6) The Authority may from time to time revise the guidance so issued.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) Before revising any guidance under subsection (6) above, the Authority shall consult such persons as it considers appropriate.

(8) Subsection (5) above applies to guidance revised under subsection (6) above as it applies to guidance issued under section 66D(4) above.

(9) In this section, references to the supply system of a water undertaker shall be construed in accordance with section 17B(5) above.

(10) Where the period for which and terms and conditions on which a water undertaker is to perform any duty under sections 66A to 66C above are determined in accordance with subsection (2)(b) of section 66D above, they shall have effect as if they had been agreed between the parties in question (and references in the following provisions of this Act to an agreement under that section shall be construed accordingly).

Designation of strategic supply

66G (1) Subsection (2) below applies if at any time the Authority determines that an introduction of water which a water undertaker is required to permit under section 66B or 66C above in accordance with an agreement under section 66D above constitutes a strategic supply of water.

(2) The Authority shall designate the introduction as a strategic supply.

(3) Subsection (4) below applies if—

(a) a water undertaker requests the Authority to make a determination that an introduction of water constitutes a strategic supply for the purposes of subsection (1) above, or

(b) the Authority otherwise proposes to make a determination that an introduction of water constitutes a strategic supply for the purposes of that subsection.

(4) The Authority shall give notice of the request or proposed determination to—

(a) the Secretary of State;

(b) the Assembly;

(c) the Environment Agency;

(d) the other party or parties, or the parties, to the agreement under section 66D above; and

(e) such other persons (if any) as the Authority thinks it appropriate to notify.

(5) Any such notice shall specify the time (not being less than twenty-eight days from the date on which the notice was given) within which representations or objections with respect to the request or proposed determination may be made.

(6) The Authority shall consider any representations or objections which are duly made and not withdrawn.

(7) If the Authority determines that an introduction designated under this section as a strategic supply no longer constitutes such a supply, it shall cancel its designation.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

(8) If the Authority proposes to make a determination under subsection (7) above that an introduction no longer constitutes a strategic supply, it shall give notice of the proposed determination to the persons specified in paragraphs (a) to (d) of subsection (4) above.

(9) Subsection (5) above applies to a notice under subsection (8) above as it applies to a notice under subsection (4) above (and subsection (6) above applies accordingly).

(10) For the purposes of this section, an introduction of water is a strategic supply if, without that introduction being made, there is a substantial risk that the water undertaker would be unable to maintain supplies to its own customers as well as supplying customers of the licensed water supplier in question with water for domestic purposes.

Designation of collective strategic supply

66H(1) Subsection (2) below applies if at any time the Authority determines that two or more introductions of water—

(a) which are made by a licensed water supplier; and

(b) which a water undertaker is required to permit under section 66B or 66C above in accordance with agreements under section 66D above,

constitute a collective strategic supply of water.

(2) The Authority shall designate the introductions as a collective strategic supply.

(3) Subsection (4) below applies if—

(a) a water undertaker requests the Authority to make a determination that two or more introductions of water constitute a collective strategic supply for the purposes of subsection (1) above, or

(b) the Authority otherwise proposes to make a determination that two or more introductions of water constitute a collective strategic supply for the purposes of that subsection.

(4) The Authority shall give notice of the request or proposed determination to—

(a) the Secretary of State;

(b) the Assembly;

(c) the Environment Agency;

(d) the other party or parties, or the parties, to the agreements under section 66D above; and

(e) such other persons (if any) as the Authority thinks it appropriate to notify.

(5) Any such notice shall specify the time (not being less than twenty-eight days from the date on which the notice was given) within which representations or objections with respect to the request or proposed determination may be made.

(6) The Authority shall consider any representations or objections which are duly made and not withdrawn.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) If the Authority determines that introductions designated under this section as a collective strategic supply no longer constitute such a supply, it shall cancel their designation.

(8) If the Authority proposes to make a determination under subsection (7) above that introductions no longer constitute a collective strategic supply, it shall give notice of the proposed determination to the persons specified in paragraphs (a) to (d) of subsection (4) above.

(9) Subsection (5) above applies to a notice under subsection (8) above as it applies to a notice under subsection (4) above (and subsection (6) above applies accordingly).

(10) For the purposes of this section, introductions of water are a collective strategic supply if, without those introductions being made, there is a substantial risk that the water undertaker would be unable to maintain supplies to its own customers as well as supplying the customers of the licensed water supplier in question with water for domestic purposes.

Offences

Prohibition on unauthorised use of supply system

66I (1) Subject to subsections (2) and (3) and section 66K below, no person shall use a water undertaker's supply system for the purpose of supplying water to any premises of a customer.

(2) Subsection (1) above shall not apply where the supply is made—
(a) by the water undertaker, or
(b) by a licensed water supplier in pursuance of its licence.

(3) The Secretary of State may by regulations specify further circumstances in which subsection (1) above shall not apply.

(4) A person who contravenes subsection (1) above shall be guilty of an offence.

(5) Any undertaking entered into which involves a contravention of subsection (1) above shall be unenforceable.

(6) A person guilty of an offence under this section shall be liable—
(a) on summary conviction, to a fine not exceeding the statutory maximum, and
(b) on conviction on indictment, to a fine.

(7) No proceedings for an offence under this section shall be instituted except by—
(a) the Secretary of State, or
(b) the Authority.

(8) The functions of—
(a) making regulations under subsection (3) above; and
(b) instituting proceedings under subsection (7)(a) above,

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

are exercisable by the Assembly (and not by the Secretary of State) in relation to any supply system of a water undertaker whose area is wholly or mainly in Wales.

(9) In this section and sections 66J and 66L below, references to the supply system of a water undertaker shall be construed in accordance with section 17B(5) above.

Prohibition on unauthorised introduction of water

66J (1) Subject to subsections (2) and (3) and section 66K below, no person shall introduce water into a water undertaker's supply system (other than the undertaker itself).

(2) Subsection (1) above shall not apply where the water is introduced—
(a) by a licensed water supplier in pursuance of its licence, or
(b) by another water undertaker under an agreement for a supply of water in bulk.

(3) The Secretary of State may by regulations specify further circumstances in which subsection (1) above shall not apply.

(4) A person who contravenes subsection (1) above shall be guilty of an offence.

(5) Any undertaking entered into which involves a contravention of subsection (1) above shall be unenforceable.

(6) A person guilty of an offence under this section shall be liable—
(a) on summary conviction, to a fine not exceeding £20,000, and
(b) on conviction on indictment, to a fine.

(7) For the purposes of section 210 below, the penalty on conviction on indictment of an offence under this section shall be deemed to include imprisonment (in addition to or instead of a fine) for a term not exceeding two years.

(8) No proceedings for an offence under this section shall be instituted except by—
(a) the Secretary of State; or
(b) the Authority.

(9) The functions of—
(a) making regulations under subsection (3) above; and
(b) instituting proceedings under subsection (8)(a) above,

are exercisable by the Assembly (and not by the Secretary of State) in relation to any supply system of a water undertaker whose area is wholly or mainly in Wales.

Sections 66I and 66J: exemptions

66K (1) The Secretary of State may by order made by statutory instrument grant exemption from section 66I(1) or 66J(1) above to—
(a) a person or persons of a class;
(b) generally or to such extent as may be specified in the order; and

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) unconditionally or subject to such conditions as may be so specified.

(2) Before making an order under subsection (1) above the Secretary of State shall give notice—

(a) stating that he proposes to make such an order and setting out the terms of the proposed order;

(b) stating the reasons why he proposes to make the order in the terms proposed; and

(c) specifying the time (not being less than twenty-eight days from the date of publication of the notice) within which representations or objections with respect to the proposals may be made,

and shall consider any representations or objections which are duly made and not withdrawn.

(3) The notice required by subsection (2) above shall be given—

(a) by serving a copy of it on the Authority; and

(b) by publishing it in such manner as the Secretary of State considers appropriate for bringing it to the attention of those likely to be affected by the proposed order.

(4) Notice of an exemption granted to a person shall be given—

(a) by serving a copy of the exemption on him; and

(b) by publishing the exemption in such manner as the Secretary of State considers appropriate for bringing it to the attention of other persons who may be affected by it.

(5) Notice of an exemption granted to persons of a class shall be given by publishing the exemption in such manner as the Secretary of State considers appropriate for bringing it to the attention of—

(a) persons of that class; and

(b) other persons who may be affected by it.

(6) An exemption may be granted—

(a) indefinitely; or

(b) for a period specified in, or determined by or under, the exemption.

(7) Conditions included in an exemption by virtue of subsection (1)(c) above may, in particular, require any person carrying on any activity in pursuance of the exemption—

(a) to comply with any direction given by the Secretary of State or the Authority as to such matters as are specified in the exemption or are of a description so specified;

(b) except in so far as the Secretary of State or the Authority consents to his doing or not doing them, not to do or to do such things as are specified in the exemption or are of a description so specified; and

(c) to refer for determination by the Secretary of State or the Authority such questions arising under the exemption as are specified in the exemption or are of a description so specified.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

Section 66K: supplementary

66L (1) The Secretary of State may by order made by statutory instrument revoke an order by which an exemption was granted to a person under section 66K(1) above or vary an order by which more than one exemption was so granted so as to terminate any of the exemptions—

(a) at the person's request;

(b) in accordance with any provision of the order by which the exemption was granted; or

(c) if it appears to the Secretary of State inappropriate that the exemption should continue to have effect.

(2) The Secretary of State may by order made by statutory instrument revoke an order by which an exemption was granted to persons of a class under section 66K(1) above or vary an order by which more than one exemption was so granted so as to terminate any of the exemptions—

(a) in accordance with any provision of the order by which the exemption was granted; or

(b) if it appears to the Secretary of State inappropriate that the exemption should continue to have effect.

(3) The Secretary of State may by direction withdraw an exemption granted to persons of a class under section 66K(1) above from any person of that class—

(a) at the person's request;

(b) in accordance with any provision of the order by which the exemption was granted; or

(c) if it appears to the Secretary of State inappropriate that the exemption should continue to have effect in the case of the person.

(4) Before making an order under subsection (1)(b) or (c) or (2) above or giving a direction under subsection (3)(b) or (c) above, the Secretary of State shall—

(a) consult the Authority; and

(b) give notice—

(i) stating that he proposes to make such an order or give such a direction;

(ii) stating the reasons why he proposes to make such an order or give such a direction; and

(iii) specifying the time (not being less than twenty-eight days from the date of publication of the notice) within which representations or objections with respect to the proposals may be made,

and shall consider any representations or objections which are duly made and not withdrawn.

(5) The notice under subsection (4) above shall be given—

(a) where the Secretary of State is proposing to make an order under subsection (1)(b) or (c) above, by serving a copy of it on the person to whom the exemption was granted;

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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 he is proposing to make an order under subsection (2) above, by publishing it in such manner as the Secretary of State considers appropriate for bringing it to the attention of persons of the class of persons to whom the exemption was granted; and

(c) where he is proposing to give a direction under subsection (3)(b) or (c) above, by serving a copy of it on the person from whom he proposes to withdraw the exemption.

(6) A statutory instrument containing an order under subsection (1) or (2) above or subsection (1) of section 66K above shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(7) The power to—

(a) make an order under subsection (1) or (2) above or subsection (1) of section 66K above; or

(b) give a direction under subsection (3) above,

is exercisable by the Assembly (and not by the Secretary of State) in relation to any supply system of a water undertaker whose area is wholly or mainly in Wales.

(8) Accordingly, subsections (1) to (5) above and section 66K above apply in relation to an order made or a direction given by the Assembly by virtue of subsection (7) above as they apply in relation to an order made or direction given by the Secretary of State."

Commencement Information

I141 Sch. 4 para. 3 in force at 1.4.2004 for specified purposes by S.I. 2004/641, art. 3(l)(i), **Sch. 1** (with Sch. 3 para. 7)

VALID FROM 01/12/2005

4 (1) The Water Services Regulation Authority ("the Authority") may, in accordance with this paragraph, modify the conditions of appointment of a company appointed under Chapter 1 of Part 2 of the WIA to be a water undertaker where it considers it necessary or expedient to do so in consequence of the amendments to the WIA made by this Schedule and Schedule 8.

(2) Where the Authority modifies under sub-paragraph (1) any conditions of appointment it may make such incidental or consequential modifications as it considers necessary or expedient of other conditions of the appointment.

(3) Before making any modifications under sub-paragraph (1) or (2), the Authority shall consult—

(a) the company holding the appointment, and

(b) such other persons (if any) as the Authority thinks it appropriate to consult.

(4) The powers of the Authority under sub-paragraphs (1) and (2) may not be exercised after the end of the period of two years beginning with the first day on which all of the provisions of this Schedule and Schedule 8.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) The Secretary of State may give directions to the Authority for the purpose of securing that conditions of appointment are modified in consequence of the amendments to the WIA made by this Schedule and Schedule 8; and the Authority shall comply with any such direction.

SCHEDULE 5

Section 85(2)

POWERS OF ENTRY UNDER THE COAL INDUSTRY ACT 1994

Commencement Information

I142 Sch. 5 in force at 1.4.2004 by S.I. 2004/641, **art. 3(w)** (with Sch. 3 para. 7)

After Schedule 1 to the Coal Industry Act 1994 (c. 21) there is inserted—

"SCHEDULE 1A

Section 4B(8)

SUPPLEMENTAL PROVISIONS WITH RESPECT TO POWERS OF ENTRY

Interpretation

1 (1) In this Schedule—

"designated person" means an authorised person, within the meaning of section 4B of this Act, and includes a person designated by virtue of paragraph 2 below;

"relevant power" means a power conferred by section 4B of this Act, including a power exercisable by virtue of a warrant under this Schedule.

(2) Expressions used in this Schedule and in section 4B of this Act have the same meaning in this Schedule as they have in that section.

Issue of warrants

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 of a relevant power; and

(b) that one or more of the conditions specified in sub-paragraph (2) below is fulfilled in relation to those premises,

the justice may by warrant authorise the Authority to designate a person who shall be authorised to exercise the power in relation to those premises, 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 has been refused;

(b) that such a refusal is reasonably expected;

(c) that the premises are unoccupied; or

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) that the occupier is temporarily absent from the premises and the case is one of urgency.

(3) In a case where subsection (5) of section 4B of this Act applies, a justice of the peace shall not issue a warrant under this Schedule merely because he is satisfied that the exercise of a power in relation to any premises has been refused, or that a refusal is reasonably expected, unless he is also satisfied that the notice required by that subsection has been given and that the period of that notice has expired.

(4) 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 a relevant power shall produce evidence of his designation and other authority before he exercises the power.

Duty to secure premises

4 A person who, in the exercise of a relevant power, enters on any premises which are unoccupied or whose occupier is temporarily absent shall leave the premises as effectually secured against trespassers as he found them.

Compensation

5 (1) Where any person exercises any power conferred by section 4B(3)(a) or (c) or (4) of this Act, it shall be the duty of the 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

(b) the performance of, or failure of the designated person to perform, the duty imposed by paragraph 4 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 is attributable to the default of the person who sustained it.

(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 Authority and the person who claims to have sustained the loss or damage or, in default of agreement, by the Secretary of State.

(4) A designated person shall not be liable in any civil or criminal proceedings for anything done in the purported exercise of any relevant power if the court is satisfied that the act was done in good faith and that there were reasonable grounds for doing it."

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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 6

Section 85(2)

COMPULSORY PURCHASE UNDER THE COAL INDUSTRY ACT 1994

Commencement Information

I143 Sch. 6 in force at 1.4.2004 by S.I. 2004/641, **art. 3(w)** (with Sch. 3 para. 7)

After Schedule 1A to the Coal Industry Act 1994 (c. 21) (which is inserted by Schedule 5) there is inserted—

"SCHEDULE 1B

Section 4C(5)

MODIFICATION OF COMPENSATION PROVISIONS 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 4C 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 4C 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 1 of the 1965 Act shall apply in relation to the compulsory acquisition under section 4C 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—

> 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."

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

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)—

(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.

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.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

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 4C 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 7

Section 101(1)

MINOR AND CONSEQUENTIAL AMENDMENTS

PART 1

ABSTRACTION AND IMPOUNDING

Water Resources Act 1991 (c. 57)

1 The WRA is amended as follows.

Commencement Information

I144 Sch. 7 para. 1 in force at 1.4.2004 for specified purposes by S.I. 2004/641, art. 3(y), **Sch. 2** (with Sch. 3 para. 7)

I145 Sch. 7 para. 1 in force at 1.10.2004 for specified purposes by S.I. 2004/2528, **art. 2(t)(i)** (with Sch. para. 8)

2 In section 34 (regulations with respect to applications under Chapter 2 of Part 2)—

(a) in subsection (1), after "particulars," there is inserted " be accompanied by such reports, ",

(b) in subsection (2), at the end there is added " , and provision for making such applications available for public inspection. ".

Commencement Information

I146 Sch. 7 para. 2 in force at 1.10.2004 by S.I. 2004/2528, **art. 2(t)(i)** (with Sch. para. 8)

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

VALID FROM 01/01/2018

3 In section 40 (obligations to take river flow etc into account), in subsection (4)(b), for "neither discrete waters nor waters comprised in an order under section 33 above" there is substituted " not discrete waters ".

VALID FROM 01/04/2006

4 In section 51 (modification of licence on application of licence holder), after subsection (2) there is inserted—

"(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."

VALID FROM 01/01/2018

5 In section 57 (emergency variation of licences for spray irrigation purposes), in subsection (3), for "neither discrete waters nor inland waters comprised in an order under section 33 above" there is substituted " not discrete waters ".

6 In section 61 (compensation for licence modified on direction of Secretary of State), in subsection (1), for "55" there is substituted " 56 ".

Commencement Information

I147 Sch. 7 para. 6 in force at 1.4.2004 by S.I. 2004/641, art. 3(y), **Sch. 2** (with Sch. 3 para. 7)

VALID FROM 01/04/2006

7 In section 66 (inland waters owned or managed by British Waterways Board), subsection (2)(a) is omitted.

VALID FROM 01/04/2006

8 (1) Section 67 (ecclesiastical property) is amended as follows.

(2) In subsections (1) and (2), after "Where the relevant land belongs to a benefice" there is inserted " 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 ".

(3) In subsection (8), in the definition of "the relevant land", for paragraph (a) there is substituted—

"(a) 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".

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

VALID FROM 01/01/2018

9 In section 71 (modification of local enactments), in subsection (4), "33," is omitted.

VALID FROM 01/04/2006

10 In section 125 (specific exemptions from water resources charges), subsection (2) is omitted.

VALID FROM 01/04/2006

11 In section 206 (making of false statements etc), in subsection (1), after "Act" there is inserted " or of section 3, 4 or 10 of the Water Act 2003 ".

VALID FROM 01/04/2006

12 In section 217 (criminal liabilities of directors and other third parties), in subsection (1), after "this Act" there is inserted " or under section 4 of the Water Act 2003 ".

VALID FROM 01/04/2006

13 In section 222 (Crown application), as substituted by paragraph 2(4) of Schedule 21 to the Environment Act 1995 (c. 25), after subsection (10) there is added—

"(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."

14 For Schedule 6 (which relates to the making of orders providing for exemption from restrictions on abstraction) there is substituted—

"SCHEDULE 6 Sections 27A(4) and 39B(7)

ORDERS RELATING TO ABSTRACTION OF SMALL QUANTITIES AND COMPULSORY REGISTRATION OF PROTECTED RIGHTS

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;

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) 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

(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) English Nature, 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—

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) 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 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.

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.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

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—

(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

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) 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."

Commencement Information

I148 Sch. 7 para. 14 in force at 1.4.2004 by S.I. 2004/641, art. 3(y), **Sch. 2** (with Sch. 3 para. 7)

VALID FROM 01/04/2006

Environment Act 1995 (c. 25)

15 (1) The Environment Act 1995 is amended as follows.

(2) In section 6 (general provisions with respect to water), after subsection (3) there is inserted—

"(3A) Subsection (3) above shall apply to—

(a) sections 3 and 4 of the Water Act 2003; and

(b) such of the related water resources provisions as apply in relation to those sections by virtue of section 33(2) of the Water Act 2003,

as it applies to the provisions referred to in that subsection."

(3) In Schedule 22 (amendment of enactments), paragraph 181 is omitted.

PART 2

NEW REGULATORY ARRANGEMENTS, ETC

VALID FROM 01/10/2005

Public Records Act 1958 (c. 51)

16 In Schedule 1 to the Public Records Act 1958 (definition of public records), at the appropriate place in Part 2 of the Table at the end of paragraph 3 there is inserted— " Consumer Council for Water. "

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

VALID FROM 01/10/2005

Public Bodies (Admission to Meetings) Act 1960 (c. 67)

17 In the Schedule to the Public Bodies (Admission to Meetings) Act 1960 (bodies to which Act applies), for paragraph 1(k) there is substituted—

"(k) regional committees of the Consumer Council for Water established under section 27A of the Water Industry Act 1991."

VALID FROM 01/10/2005

Parliamentary Commissioner Act 1967 (c. 13)

18 In Schedule 2 to the Parliamentary Commissioner Act 1967 (departments and authorities subject to investigation)—

(a) there is inserted at the appropriate places— " Consumer Council for Water. "" Water Services Regulation Authority. ", and

(b) the entry relating to the Office of the Director General of Water Services is omitted.

VALID FROM 01/10/2005

Superannuation Act 1972 (c. 11)

19 In Schedule 1 to the Superannuation Act 1972, in the list of "Other Bodies" there is inserted at the appropriate place— " The Consumer Council for Water. "

VALID FROM 01/10/2005

House of Commons Disqualification Act 1975 (c. 24)

20 (1) Schedule 1 to the House of Commons Disqualification Act 1975 is amended as follows.

(2) In Part 2 (bodies of which all members are disqualified), there is inserted at the appropriate places— " The Consumer Council for Water, and each regional committee of the Council established under section 27A of the Water Industry Act 1991. "" The Water Services Regulation Authority. "

(3) In Part 3 (other disqualifying offices), the entries relating to the following are omitted—

(a) the Chairman of a customer service committee maintained under section 28 of the Water Industry Act 1991, and

(b) the Director General of Water Services.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

VALID FROM 01/10/2005

Northern Ireland Assembly Disqualification Act 1975 (c. 25)

21 (1) Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 is amended as follows.

(2) In Part 2 (bodies of which all members are disqualified), there is inserted at the appropriate places— " The Consumer Council for Water, and each regional committee of the Council established under section 27A of the Water Industry Act 1991. "" The Water Services Regulation Authority. "

(3) In Part 3 (other disqualifying offices), the entries relating to the following are omitted—

(a) the Chairman of a customer service committee maintained under section 28 of the Water Industry Act 1991, and

(b) the Director General of Water Services.

VALID FROM 01/10/2005

Race Relations Act 1976 (c. 74)

22 In Part 2 of Schedule 1A to the Race Relations Act 1976 (bodies and other persons subject to general statutory duty), for the entry relating to a Customer Service Committee maintained under section 28 of the Water Industry Act 1991 there is substituted— " The Consumer Council for Water. "

Telecommunications Act 1984 (c. 12)

23 In the Telecommunications Act 1984, in section 101 (restriction on disclosure of information)—

(a) in subsection (2)(b), for "the Director General of Water Services" there is substituted " the Water Services Regulation Authority ",

(b) in subsection (3)(j), at the end there is inserted " , or the Water Act 2003 ".

Commencement Information

I149 Sch. 7 para. 23(b) in force at 1.4.2004 by S.I. 2004/641, art. 3(y), **Sch. 2** (with Sch. 3 para. 7)

Airports Act 1986 (c. 31)

24 In the Airports Act 1986, in section 74 (restriction on disclosure of information)—

(a) in subsection (2)(a), for "the Director General of Water Services" there is substituted " the Water Services Regulation Authority ",

(b) in subsection (3)(k), at the end there is inserted " , or the Water Act 2003 ".

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

Commencement Information

I150 Sch. 7 para. 24(b) in force at 1.4.2004 by S.I. 2004/641, art. 3(y), **Sch. 2** (with Sch. 3 para. 7)

VALID FROM 01/04/2006

Company Directors Disqualification Act 1986 (c. 46)

25 In section 9E of the Company Directors Disqualification Act 1986 (interpretation for the purposes of sections 9A to 9D of that Act), in subsection (2), for paragraph (c) there is substituted—

"(c) the Water Services Regulation Authority;".

Water Act 1989 (c. 15)

26 (1) The Water Act 1989 is amended as follows.

(2) In section 174 (general restrictions on disclosure of information)—

(a) in subsection (2)—

(i) in paragraph (a)—

(a) for "the Director" there is substituted " the Water Services Regulation Authority, the Consumer Council for Water ",

(b) for "or the Environment Act 1995" there is substituted " , the Environment Act 1995 or the Water Act 2003 ",

(ii) in paragraph (c), for "or of any arrangements" to the end there is substituted " or section 27H of the Water Industry Act 1991 ",

(iii) in paragraph (j), after "1995" there is inserted " , the Water Act 2003 ",

(b) in subsection (4)(a)—

(i) for "the Director" there is substituted " the Water Services Regulation Authority ",

(ii) for "a customer service committee" there is substituted " the Consumer Council for Water (or any regional committee of that Council established under section 27A of the Water Industry Act 1991) ".

(3) In section 185 (powers to make regulations), in subsection (2), paragraph (a) is omitted.

(4) In Schedule 3 (Director General of Water Services), paragraphs 6 and 7 are omitted.

(5) In Schedule 4 (customer service committees), paragraph 6 is omitted.

(6) In Schedule 25 (amendment of enactments), paragraphs 68(2)(a) and 76(a) are omitted.

Commencement Information

I151 Sch. 7 para. 26(1) in force at 1.4.2004 for specified purposes by S.I. 2004/641, art. 3(y), **Sch. 2** (with Sch. 3 para. 7)

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

I152 Sch. 7 para. 26(2)(a)(i)(b) in force at 1.4.2004 by S.I. 2004/641, art. 3(y), **Sch. 2** (with Sch. 3 para. 7)
I153 Sch. 7 para. 26(2)(a)(iii) in force at 1.4.2004 by S.I. 2004/641, art. 3(y), **Sch. 2** (with Sch. 3 para. 7)

Water Industry Act 1991 (c. 56)

27 (1) The WIA is amended as follows.

(2) In section 35 (construction of merger provisions), whose insertion into the WIA is provided for by section 70(1) of the Enterprise Act 2002 (c. 40), in subsection (1), in the definition of "water enterprise", for "water undertaker" there is substituted " relevant undertaker ".

(3) In section 86A(2)(a) and 116A(2)(a) (procedures for dealing with complaints), for "customer service committee" there is substituted " regional committee ".

(4) In section 181 (complaints with respect to the exercise of works powers on private land), in subsection (2)(c), for "the appropriate customer service committee" there is substituted " the Council ".

(5) In section 206 (restrictions on disclosure of information)—

(a) in subsection (3)—

(i) in paragraph (a), before ", the Competition Commission" there is inserted " , the Council ",

(ii) in that paragraph, for "or regulations under section 2 of the Pollution Prevention and Control Act 1999" there is substituted " , regulations under section 2 of the Pollution Prevention and Control Act 1999, or the Water Act 2003 ",

(iii) in paragraph (b), for "or the Water Act 1989" there is substituted " , the Water Act 1989 or the Water Act 2003 ",

(iv) in paragraph (c), for "of any arrangements made by the Director under section 29(6) above or of any duty imposed by" there is substituted " of any duty imposed by section 27H above or ",

(v) in paragraph (j)—

(a) after "the Water Act 1989" there is inserted " , the Water Act 2003 ",

(b) for "or that Act of 1989" there is substituted " , the Water Act 1989 or the Water Act 2003 ",

(b) in subsection (4)(a)—

(i) for "a customer service committee" there is substituted " the Council (or any regional committee) ",

(ii) for "or regulations under section 2 of the Pollution Prevention and Control Act 1999" there is substituted " , regulations under section 2 of the Pollution Prevention and Control Act 1999, or the Water Act 2003 ".

(6) In section 208 (directions in the interests of national security), after subsection (3) there is inserted—

"(3A) The Secretary of State may, after consultation with the Council, give to the Council such directions of a general character as appear to the Secretary of State to be requisite or expedient—

(a) in the interests of national security; or

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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 connection with any civil emergency which may occur.

(3B) If it appears to the Secretary of State to be requisite or expedient to do so—

(a) in the interests of national security; or

(b) in connection with any civil emergency which has occurred or may occur,

he may, after consultation with the Council, give to the Council a direction requiring it to do, or not to do, a particular thing specified in the direction.

(3C) The Council shall comply with any direction given to it by the Secretary of State under this section."

(7) In section 219(1) (interpretation)—

(a) after the definition of "analyse" there is inserted—

""the Assembly" means the National Assembly for Wales;",

""the Authority" means the Water Services Regulation Authority;",

(b) after the definition of "contravention" there is inserted—

""the Council" means the Consumer Council for Water;",

(c) the definition of "the Director" is omitted,

(d) after the definition of "records" there is inserted—

""regional committee" means a regional committee of the Council established under section 27A above;".

Commencement Information

I154 Sch. 7 para. 27(1) in force at 1.4.2004 for specified purposes by S.I. 2004/641, art. 3(y), **Sch. 2** (with Sch. 3 para. 7)

I155 Sch. 7 para. 27(1) in force at 1.8.2005 for specified purposes by S.I. 2005/968, **art. 3(d)**

I156 Sch. 7 para. 27(2) in force at 29.12.2004 by S.I. 2004/2528, **art. 3** (with Sch. para. 8)

I157 Sch. 7 para. 27(5)(a)(ii)(iii)(v)(b)(ii)(7)(a) in force at 1.4.2004 by S.I. 2004/641, art. 3(y), **Sch. 2** (with Sch. 3 para. 7)

I158 Sch. 7 para. 27(7)(b) in force at 1.8.2005 by S.I. 2005/968, **art. 3(d)**

Water Resources Act 1991 (c. 57)

28 (1) The WRA is amended as follows.

(2) In section 20 (water resources management schemes), in subsection (2)(c), for "Director General of Water Services" there is substituted " Water Services Regulation Authority ".

(3) In section 204 (restriction on disclosure of information)—

(a) in subsection (2)—

(i) in paragraph (a), for "the Director General of Water Services" there is substituted " the Water Services Regulation Authority, the Consumer Council for Water ",

(ii) in that paragraph, for "or regulations under section 2 of the Pollution Prevention and Control Act 1999" there is substituted " , regulations

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

under section 2 of the Pollution Prevention and Control Act 1999, or the Water Act 2003 ",

(iii) in paragraph (b), for "or the Water Act 1989" there is substituted " , the Water Act 1989 or the Water Act 2003 ",

(iv) in paragraph (c), for "of any arrangements made by the Director General of Water Services under section 29(6)" there is substituted " of any duty imposed by section 27H ",

(v) in paragraph (j)—

(a) after "the Water Act 1989" there is inserted " , the Water Act 2003 ",

(b) for "or that Act of 1989" there is substituted " , the Water Act 1989 or the Water Act 2003 ",

(b) in subsection (3), in paragraph (a)—

(i) for sub-paragraph (ii) there is substituted—

"(ii) the Water Services Regulation Authority;",

(ii) for sub-paragraph (iii) there is substituted—

"(iii) the Consumer Council for Water (or any regional committee of that Council established under section 27A of the Water Industry Act 1991); or",

(iii) for "or regulations under section 2 of the Pollution Prevention and Control Act 1999" there is substituted " , regulations under section 2 of the Pollution Prevention and Control Act 1999, or the Water Act 2003 ".

(4) In section 219 (powers to make regulations), in each of paragraphs (a) and (b) of subsection (2), for "the Director" there is substituted " the Water Services Regulation Authority ".

Commencement Information

I159 Sch. 7 para. 28(1) in force at 1.4.2004 for specified purposes by S.I. 2004/641, art. 3(y), **Sch. 2** (with Sch. 3 para. 7)

I160 Sch. 7 para. 28(3)(a)(ii)(iii)(v)(b)(iii) in force at 1.4.2004 by S.I. 2004/641, art. 3(y), **Sch. 2** (with Sch. 3 para. 7)

VALID FROM 01/10/2005

Water Consolidation (Consequential Provisions) Act 1991 (c. 60)

29 (1) The Water Consolidation (Consequential Provisions) Act 1991 is amended as follows.

(2) In Schedule 1 (amendment of enactments), paragraphs 10, 28(a) and 29(a) are omitted.

(3) In Schedule 2 (transitional and transitory provisions and savings)—

(a) in paragraph 8, for "Director General of Water Services" there is substituted " Water Services Regulation Authority ",

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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 paragraph 10, for "Director General of Water Services" there is substituted " Water Services Regulation Authority ".

Competition and Service (Utilities) Act 1992 (c. 43)

30 Section 50 of the Competition and Service (Utilities) Act 1992 (which amends section 2 of the WIA) shall cease to have effect.

Commencement Information

I161 Sch. 7 para. 30 in force at 1.4.2005 by S.I. 2005/968, **art. 2(m)(i)**

Coal Industry Act 1994 (c. 21)

31 In section 59 (information to be kept confidential by the Authority), in subsection (4), after paragraph (o) there is inserted—

"(p) the Water Act 2003."

Commencement Information

I162 Sch. 7 para. 31 in force at 1.4.2004 by S.I. 2004/641, art. 3(y), **Sch. 2** (with Sch. 3 para. 7)

Competition Act 1998 (c. 41)

32 (1) The Competition Act 1998 is amended as follows.

(2) In section 54 (regulators), in subsection (1), for paragraph (d) there is substituted—

"(d) the Water Services Regulation Authority;".

(3) In Schedule 7 (the Competition Commission), in paragraph 2(1)(d), sub-paragraph (i) is omitted.

(4) In Schedule 10 (regulators), the following are omitted—

(a) paragraph 5(3),

(b) paragraph 13(2) and (3).

(5) In Schedule 13 (transitional provisions and savings), in paragraph 35(2)(e), for "Director General of Water Services" there is substituted " Water Services Regulation Authority ".

Commencement Information

I163 Sch. 7 para. 32(1) in force at 1.4.2004 for specified purposes by S.I. 2004/641, art. 3(y), **Sch. 2** (with Sch. 3 para. 7)

I164 Sch. 7 para. 32(1) in force at 1.10.2004 for specified purposes by S.I. 2004/2528, **art. 2(t)(ii)** (with Sch. para. 8)

I165 Sch. 7 para. 32(1) in force at 1.4.2005 for specified purposes by S.I. 2005/968, **art. 2(m)(ii)**

I166 Sch. 7 para. 32(3) in force at 1.4.2004 by S.I. 2004/641, art. 3(y), **Sch. 2** (with Sch. 3 para. 7)

I167 Sch. 7 para. 32(4)(a) in force at 1.4.2005 by S.I. 2005/968, **art. 2(m)(ii)**

I168 Sch. 7 para. 32(4)(b) in force at 1.4.2004 for specified purposes by S.I. 2004/641, art. 3(y), **Sch. 2** (with Sch. 3 para. 7)

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

I169 Sch. 7 para. 32(4)(b) in force at 1.10.2004 in so far as not already in force by S.I. 2004/2528, **art. 2(t)(ii)** (with Sch. para. 8)

Postal Services Act 2000 (c. 26)

33 In Schedule 7 to the Postal Services Act 2000 (disclosure of information), in paragraph 3—

(a) in sub-paragraph (2), for paragraph (j) there is substituted—

"(j) the Water Services Regulation Authority,",

(b) in sub-paragraph (3), after paragraph (gh) there is inserted—

"(gi) the Water Act 2003,".

Commencement Information

I170 Sch. 7 para. 33(b) in force at 1.4.2004 by S.I. 2004/641, art. 3(y), **Sch. 2** (with Sch. 3 para. 7)

Utilities Act 2000 (c. 27)

34 In section 105 of the Utilities Act 2000 (general restrictions on disclosure of information)—

(a) in subsection (5), for paragraph (e) there is substituted—

"(e) the Water Services Regulation Authority;",

(b) in subsection (6)(l), at the end there is inserted " or the Water Act 2003 ".

Commencement Information

I171 Sch. 7 para. 34(b) in force at 1.4.2004 by S.I. 2004/641, art. 3(y), **Sch. 2** (with Sch. 3 para. 7)

Transport Act 2000 (c. 38)

35 In Schedule 9 to the Transport Act 2000 (air traffic: information), in paragraph 3—

(a) in sub-paragraph (2), for paragraph (g) there is substituted—

"(g) the Water Services Regulation Authority;",

(b) in sub-paragraph (3), after paragraph (ra) there is inserted—

"(rb) the Water Act 2003;".

Commencement Information

I172 Sch. 7 para. 35(b) in force at 1.4.2004 by S.I. 2004/641, art. 3(y), **Sch. 2** (with Sch. 3 para. 7)

Enterprise Act 2002 (c. 40)

36 (1) The Enterprise Act 2002 is amended as follows.

(2) In section 136 (investigations and reports on market investigation references), in each of subsections (7)(c) and (8), for "the Director General of Water Services" there is substituted " the Water Services Regulation Authority ".

(3) In section 168 (regulated markets)—

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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 subsection (4)(f), for "the Director General of Water Services" there is substituted " the Water Services Regulation Authority ",

(b) in subsection (5), for paragraph (e) there is substituted—

"(e) the Water Services Regulation Authority;".

(4) In Schedule 15 (enactments conferring functions in relation to which a public authority may disclose information), at the end there is inserted the following entry — " Water Act 2003 (c. 37). "

Commencement Information

I173 Sch. 7 para. 36(1) in force at 1.4.2004 for specified purposes by S.I. 2004/641, art. 3(y), **Sch. 2** (with Sch. 3 para. 7)

I174 Sch. 7 para. 36(4) in force at 1.4.2004 by S.I. 2004/641, art. 3(y), **Sch. 2** (with Sch. 3 para. 7)

PART 3

MISCELLANEOUS

Metropolis Water Act 1852 (c. 84)

37 Section 1 of the Metropolis Water Act 1852 (restriction on sources of supply of water to London) shall cease to have effect.

Commencement Information

I175 Sch. 7 para. 37 in force at 1.4.2004 by S.I. 2004/641, art. 3(y), **Sch. 2** (with Sch. 3 para. 7)

Reservoirs Act 1975 (c. 23)

38 In Schedule 1 to the Reservoirs Act 1975 (index of general definitions), the entry for "Local authority" is omitted.

Commencement Information

I176 Sch. 7 para. 38 in force at 1.10.2004 by S.I. 2004/2528, **art. 2(t)(iii)** (with Sch. para. 8)

I177 Sch. 7 para. 38 in force at 11.11.2004 for W. by S.I. 2004/2916, **art. 2(f)**

VALID FROM 01/04/2007

Water Industry Act 1991 (c. 56)

39 (1) The WIA is amended as follows.

(2) In section 111 (restrictions on use of public sewers)—

(a) in paragraph (b) of subsection (1), for "one hundred and ten degrees Fahrenheit" there is substituted " forty-three degrees Celsius ",

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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 subsection (5), for "seventy-three degrees Fahrenheit" there is substituted " twenty-three degrees Celsius ".

(3) In section 213(1) (powers to make regulations), after "or 17D(8)" (which is inserted by paragraph 49(2) of Schedule 8) there is inserted " or 105A ".

Land Drainage Act 1991 (c. 59)

40 (1) The Land Drainage Act 1991 is amended as follows.

(2) In section 16 (which provides for the exercise of certain local authority powers by the Environment Agency), in subsection (2), for "under subsection (3) above" there is substituted " in exercising those powers ".

(3) In section 55 (powers of internal drainage boards to borrow), in subsection (1)(a), for "in the execution of this Act" there is substituted " in the exercise or performance of any power or duty under this Act or the Water Resources Act 1991 ".

Commencement Information

I178 Sch. 7 para. 40 in force at 1.4.2004 by S.I. 2004/641, art. 3(y), **Sch. 2** (with Sch. 3 para. 7)

VALID FROM 01/08/2008

Health Authorities Act 1995 (c. 17)

41 In Schedule 1 to the Health Authorities Act 1995 (amendment of enactments), paragraph 120 is omitted.

Environment Act 1995 (c. 25)

42 In section 101 of the Environment Act 1995 (grants in connection with drainage works), subsection (1) is omitted.

Commencement Information

I179 Sch. 7 para. 42 in force at 17.3.2004 for E. by S.I. 2004/641, **art. 2(c)** (with Sch. 3 para. 7)

I180 Sch. 7 para. 42 in force at 1.4.2004 for W. by S.I. 2004/910, **art. 2(1)(c)**

SCHEDULE 8

Section 101(1)

MINOR AND CONSEQUENTIAL AMENDMENTS: LICENSING OF WATER SUPPLIERS ETC

Water Act 1989 (c. 15)

1 (1) Section 174 of the Water Act 1989 (general restrictions on disclosure of information) is amended as follows.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) In paragraph (b) of subsection (2), for "or a sewerage undertaker" there is substituted " , sewerage undertaker or company holding a licence under Chapter 1A of Part 2 of the Water Industry Act 1991 ".

(3) In paragraph (c) of that subsection, for "203(1) or (2)" there is substituted " 203(1), (1A), (2) or (2A) ".

(4) In subsection (6)(a), after "sewerage undertaker" there is inserted " , 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, ".

Commencement Information

I181 Sch. 8 para. 1(1) in force at 1.4.2004 for specified purposes by S.I. 2004/641, art. 3(y), **Sch. 2** (with Sch. 3 para. 7)

I182 Sch. 8 para. 1(4) in force at 1.4.2004 by S.I. 2004/641, art. 3(y), **Sch. 2** (with Sch. 3 para. 7)

Water Industry Act 1991 (c. 56)

2 The WIA is amended as follows.

Commencement Information

I183 Sch. 8 para. 2 in force at 1.4.2004 for specified purposes by S.I. 2004/641, art. 3(y), **Sch. 2** (with Sch. 3 para. 7)

I184 Sch. 8 para. 2 in force at 1.10.2004 for specified purposes by S.I. 2004/2528, **art. 2(t)(iv)(v)** (with Sch. para. 8)

VALID FROM 01/12/2005

3 In section 6 (appointment of relevant undertakers), after subsection (5) there is inserted—

"(5A) A company shall not be appointed to be a relevant undertaker if it is a licensed water supplier."

VALID FROM 01/12/2005

4 (1) Section 18 (orders for securing compliance) is amended as follows.

(2) In subsection (1)—

(a) after "this Part" there is inserted " or a licence under Chapter 1A of this Part "; and

(b) in paragraph (a), after "appointment" there is inserted " or licence ".

(3) After that subsection there is inserted—

"(1A) Subject to subsection (2) and sections 19 and 20 below, where—

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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 any company holding an appointment under Chapter 1 of this Part, the Secretary of State or the Authority is satisfied that the company—

(i) is causing or contributing to a contravention of a condition or requirement such as is referred to in paragraph (a)(i) or (ii) of subsection (1) above by a company holding a licence under Chapter 1A of this Part; or

(ii) is likely to cause or contribute to any such contravention; or

(b) in the case of any company holding a licence under Chapter 1A of this Part, the Secretary of State or the Authority is satisfied that the company—

(i) is causing or contributing to a contravention of a condition or requirement such as is referred to in paragraph (a)(i) or (ii) of subsection (1) above by a company holding an appointment under Chapter 1 of this Part; or

(ii) is likely to cause or contribute to any such contravention,

he or it shall by a final enforcement order make such provision as is requisite for the purpose of securing compliance with that condition or requirement.”

(4) In subsection (2)—

(a) after “this Part” there is inserted “ or a licence under Chapter 1A of this Part ”; and

(b) in paragraph (a), after “subsection (1)” there is inserted “ or (1A) ”.

(5) In subsection (4), after paragraph (a)(ii) there is inserted “or

(iii) is causing or contributing to a contravention of any such condition or requirement; or

(iv) is likely to cause or contribute to any such contravention;”.

(6) In subsection (6)—

(a) in paragraph (a)—

(i) after “this Part” there is inserted “ or a licence under Chapter 1A of this Part ”; and

(ii) in sub-paragraph (i), after “appointment” there is inserted “ or licence ”; and

(b) in paragraph (b), after “this Part” there is inserted “ or of a licence under Chapter 1A of this Part ”.

(7) For subsection (8) there is substituted—

“(8) Where any act or omission—

(a) constitutes a contravention of a condition of an appointment under Chapter 1 of this Part or of a condition of a licence under Chapter 1A of this Part or of a statutory or other requirement enforceable under this section; or

(b) causes or contributes to a contravention of any such condition or requirement,

the only remedies for, or for causing or contributing to, that contravention (apart from those available by virtue of this section) shall be those for which

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

express provision is made by or under any enactment and those that are available in respect of that act or omission otherwise than by virtue of its constituting, or causing or contributing to, such a contravention."

VALID FROM 01/12/2005

5 (1) Section 19 (exceptions to duty to enforce) is amended as follows.

(2) In subsection (1), after paragraph (a) there is inserted—

"(aa) that the extent to which the company caused or contributed to, or was likely to cause or contribute to, a contravention was trivial;".

(3) In subsection (3), after "paragraph (a)," there is inserted " (aa), ".

VALID FROM 01/12/2005

6 (1) Section 20 (procedure for enforcement orders) is amended as follows.

(2) In subsection (1)—

(a) after "final enforcement order" there is inserted " under section 18(1) above "; and

(b) after "provisional enforcement order" there is inserted " in a case in which section 18(4)(a)(i) or (ii) above applies ".

(3) After that subsection there is inserted—

"(1A) Before making a final enforcement order under section 18(1A) above or confirming a provisional enforcement order in a case in which section 18(4)(a)(iii) or (iv) above applies, the Secretary of State or the Authority shall give notice—

(a) stating that he or it proposes to make or confirm the order and setting out the effect of the order;

(b) setting out—

(i) the condition or requirement for the purposes of securing compliance with which the order is to be made or confirmed;

(ii) the acts or omissions which, in his or its opinion, cause or contribute to or would cause or contribute to the contravention of that condition or requirement; and

(iii) the other facts which, in his or its opinion, justify the making or confirmation of the order; and

(c) specifying the period (not being less than twenty-one days from the date of publication of the notice) within which representations or objections to the proposed order or proposed confirmation may be made,

and shall consider any representations or objections which are duly made and not withdrawn."

(4) In subsection (2), after "subsection (1)" there is inserted " or (1A) ".

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

VALID FROM 01/12/2005

7 In section 22 (effect of enforcement order), in subsection (3), after "section 68(1)(a)" there is inserted " or (1A)(a) ".

VALID FROM 01/12/2005

8 (1) Section 23 (meaning and effect of special administration order) is amended as follows.

(2) In subsection (1), after "this Part" there is inserted " or which is a qualifying licensed water supplier ".

(3) In subsection (2), after "in relation to any company" there is inserted " holding an appointment under Chapter 1 of this Part ".

(4) After that subsection, there is inserted—

"(2A) The purposes of a special administration order made in relation to any company which is a qualifying licensed water supplier shall be—

(a) the transfer to another company or companies, as a going concern, of so much of the company's undertaking as it is necessary to transfer in order to ensure that activities relating to the introduction or introductions of water mentioned in subsection (6)(b) below may be properly carried on; and

(b) the carrying on of those activities pending the making of the transfer."

(5) In subsection (4), for the words from "a company" to the end there is substituted—

"(a) a company is replaced by another as a relevant undertaker without an appointment or variation under Chapter 1 of this Part; or

(b) a company carries on activities relating to the introduction or introductions of water mentioned in subsection (6)(b) below formerly carried on by another company,

in pursuance of a special administration order. "

(6) After subsection (5), there is inserted—

"(6) For the purposes of this section, sections 24 to 26 below and Schedule 2 to this Act, a licensed water supplier is a qualifying licensed water supplier if—

(a) it is the holder of a combined licence (within the meaning of Chapter 1A of this Part); and

(b) the introduction of water by it which is permitted under section 66B or 66C below is designated as a strategic supply under section 66G below or the introductions of water by it which are so permitted are designated as a collective strategic supply under section 66H below."

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

VALID FROM 01/12/2005

9 (1) Section 24 (special administration orders made on special petitions) is amended as follows.

(2) After subsection (1), there is inserted—

"(1A) If on an application made to the High Court by petition presented—

(a) by the Secretary of State (after consulting the Assembly); or

(b) with the consent of the Secretary of State (after consulting the Assembly), the Authority,

the Court is satisfied in relation to any company which is a qualifying licensed water supplier that any one or more of the grounds specified in subsection (2) below is satisfied in relation to that company, that Court may make a special administration order in relation to that company."

(3) In subsection (2)—

(a) for "subsection (1)" there is substituted " subsections (1) and (1A) ",

(b) in paragraphs (a) and (b), after "appointment" there is inserted " or licence ",

(c) after paragraph (b) there is inserted—

"(bb) in the case of a company which is a qualifying licensed water supplier, that—

(i) action taken by the company has caused a contravention by a water undertaker of any principal duty; and

(ii) that action is serious enough to make it inappropriate for the company to continue to hold its licence;",

(d) in paragraph (d), after "this Part" there is inserted " or was not a qualifying licensed water supplier ", and

(e) in paragraph (e), at the beginning there is inserted " in the case of a company holding an appointment under Chapter 1 of this Part, ".

(4) For subsection (7) there is substituted—

"(7) In this section "principal duty" means—

(a) in relation to a company holding an appointment under Chapter 1 of this Part, a requirement imposed on the company by section 37 or 94 below;

(b) in relation to a company which is a qualifying licensed water supplier, any condition of its licence or any statutory requirement imposed on it in consequence of its licence."

VALID FROM 01/12/2005

10 In section 25 (power to make special administration order on a winding up)—

(a) after "this Part" there is inserted " or is a qualifying licensed water supplier ", and

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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 paragraph (b), after "appointment" there is inserted " or a qualifying licensed water supplier ".

VALID FROM 01/12/2005

11 In section 26 (restrictions on voluntary winding up and insolvency proceedings), after "this Part" there is inserted " or is a qualifying licensed water supplier ".

VALID FROM 01/12/2005

12 (1) Section 27 (general duty of Authority to keep matters under review) is amended as follows.

(2) In subsection (1), for the words from "water" to the end there is substituted—

"(a) water undertakers or sewerage undertakers carry out functions; and

(b) licensed water suppliers carry on activities authorised by their licences."

(3) In subsection (2)—

(a) after paragraph (a) there is inserted—

"(aa) the carrying on by companies holding licences under Chapter 1A of this Part of the activities authorised by their licences; or", and

(b) in paragraph (b), for "such company" there is substituted " company mentioned in paragraph (a) or (aa) above ".

(4) In subsection (4), at the end of paragraph (b) there is inserted "or

(c) the activities authorised by retail licences or combined licences (within the meanings of Chapter 1A of this Part); or

(d) the carrying on of any such activities by a company holding any such licence."

VALID FROM 01/12/2005

13 (1) Section 39A (information to be given to customers about overall performance) is amended as follows.

(2) In subsection (1), after "customers" there is inserted " , and, if the direction so specifies, licensed water suppliers using the undertaker's supply system for the purpose of supplying water to the premises of customers or those customers, ".

(3) After subsection (2) there is inserted—

"(2A) The licensed water suppliers referred to in subsection (1) above shall, if the Authority so directs, pass on the information about the matters mentioned in that subsection to their customers.

(2B) In subsection (1) above, the reference to the water undertaker's supply system shall be construed in accordance with section 17B(5) above."

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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 subsection (3), after "undertaker" there is inserted " or licensed water supplier ".

VALID FROM 01/12/2005

14 (1) Section 43 (calculation of payments to undertaker in respect of provision of water main) is amended as follows.

(2) In subsection (1), for "water charges payable for the use during that year of that main are" there is substituted " relevant revenue in respect of that main for that year is ".

(3) For subsection (7) there is substituted—

"(7) Any reference in this section to the relevant revenue in respect of a main provided by a water undertaker for any year is—

(a) in relation to premises connected with the main which are supplied with water by the undertaker, is a reference to so much of the aggregate of any charges payable to the undertaker in respect of services provided in the course of that year as represents charges which—

(i) have been imposed by the undertaker in relation to those premises; and

(ii) are reasonably attributable to the provision of a supply of water (whether or not for domestic purposes) to those premises by means of that main;

(b) in relation to premises connected with the main which are supplied with water by a licensed water supplier, is a reference to so much of the aggregate of any charges made during the course of that year which—

(i) are payable by the supplier to the undertaker in respect of the duty under section 66A(2)(b), 66B(3)(b) or 66C(2)(b)(ii) below; and

(ii) are reasonably attributable to the use of that main for the purpose of the supplier supplying water to those premises."

VALID FROM 01/12/2005

15 (1) Section 52 (the domestic supply duty) is amended as follows.

(2) In subsection (3), at the beginning there is inserted " Subject to subsection (4A) below, ".

(3) After subsection (4) there is inserted—

"(4A) This section does not apply to any premises if—

(a) they are not in the area of the water undertaker;

(b) they are not household premises (as defined in section 17C above); and

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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 total quantity of water estimated to be supplied to them annually for the purposes of subsection (2) of section 17D above is not less than the quantity specified in that subsection."

(4) After subsection (6) there is inserted—

"(6A) For the purposes of this section, there is also an interruption of the domestic supply duty owed by a water undertaker in relation to any premises where—

(a) a notice is served in respect of those premises under section 63AA below; and

(b) the time specified in that notice has passed."

VALID FROM 01/12/2005

16 (1) Section 55 (supplies for non-domestic purposes) is amended as follows.

(2) After subsection (1) there is inserted—

"(1A) This section also applies where—

(a) a water undertaker is requested to provide a supply of water to premises which are not in the undertaker's area by the owner or occupier of the premises;

(b) the premises are household premises (as defined in section 17C above) or the total quantity of water estimated to be supplied to the premises annually for the purposes of subsection (2) of section 17D above is less than the quantity specified in that subsection; and

(c) paragraph (a) or (b) of subsection (1) above applies."

(3) In subsection (8), after "63" there is inserted " and 63AB ".

VALID FROM 01/12/2005

17 After section 63 there is inserted—

"Supply by licensed water supplier etc

63AA Supply by licensed water supplier: domestic supply

(1) The owner or occupier of any premises may serve a notice on a water undertaker—

(a) informing the undertaker that the premises are to be supplied by a licensed water supplier; and

(b) specifying the time after which a supply of water to the premises by the undertaker will no longer be required.

(2) Where the charges for the water supplied by the undertaker are, under Chapter 1 of Part 5 of this Act, fixed in relation to the premises by reference to volume, the time specified in the notice shall fall at least two working days after the notice is served.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) In this section and section 63AB below, any reference to two working days is a reference to a period of forty-eight hours calculated after disregarding any time falling on—
  (a) a Saturday or Sunday; or
  (b) Christmas Day, Good Friday or any day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971.

63AB Supply by licensed water supplier: non-domestic supply

(1) The duty of a water undertaker under section 55 above to provide a supply of water to any premises shall cease to apply if—
  (a) a notice specifying the time after which a supply of water to the premises by the undertaker will no longer be required in consequence of the premises being supplied by a licensed water supplier has been served on the undertaker by the owner or occupier of the premises; and
  (b) that time has passed.

(2) Where the charges for the water supplied by the undertaker are, under Chapter 1 of Part 5 of this Act, fixed in relation to the premises by reference to volume, the time specified in the notice shall fall at least two working days after the notice is served.

63AC Interim duty of water undertaker: domestic and non-domestic supply

(1) This section applies where—
  (a) a licensed water supplier ceases to supply any premises with water; and
  (b) the owner or occupier of the premises has not notified the water undertaker in whose area the premises are that—
    (i) he has made arrangements for the continuation of the supply of water to the premises; or
    (ii) he intends any supply of water to the premises to cease.

(2) Where this section applies, it shall be the duty of the water undertaker to continue the supply of water to the premises which was made by the licensed water supplier.

(3) Where a supply is made under subsection (2)—
  (a) the charges payable in respect of the supply shall be fixed from time to time by a charges scheme under section 143 below; and
  (b) subject to subsection (8) below, the supply shall be made until—
    (i) a supply is made under section 52 or 55 above; or
    (ii) a notice is served by the undertaker on the owner or occupier of the premises stating that the supply is to be discontinued (subject to subsection (4) below),

  whichever is earlier.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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 under subsection (3)(b)(ii) above may not be served before the end of the period of three months beginning with the day on which the supply by the supplier ceased.

(5) A water undertaker shall not be required by virtue of this section to provide a supply of water to any premises if the provision of the supply would—

(a) require the undertaker, in order to meet all its existing obligations to supply water for domestic or other purposes, together with its probable future obligations to supply buildings and parts of buildings with water for domestic purposes, to incur unreasonable expenditure in carrying out works; or

(b) otherwise put at risk its ability to meet any of the existing or probable future obligations mentioned in paragraph (a) above.

(6) The supply of water to any premises by a water undertaker under this section shall not prevent a proposed supply to those premises by that undertaker under section 55 above from being regarded as a new supply for the purposes of that section.

(7) Where a duty is imposed by this section in respect of any premises, any breach of the duty which causes the owner or occupier of the premises to sustain loss or damage shall be actionable at the suit of that owner or occupier; but, in any proceedings brought against a water undertaker in pursuance of this subsection, it shall be a defence for the undertaker to show that it took all reasonable steps and exercised all due diligence to avoid the breach.

(8) Sections 60 to 63 above apply as they apply where a supply of water is made under section 52 or 55 above.”

VALID FROM 01/12/2005

18 (1) Section 68 (water quality) is amended as follows.

(2) In subsection (1)—

(a) after “water undertaker” there is inserted “ where its supply system is used for the purpose of supplying water to any premises for domestic or food production purposes ”,

(b) in paragraph (a), for the words from the beginning to “which” there is substituted “ to ensure that any water so supplied ”,

(c) in paragraph (b), for the words from “that undertaker” to “purposes” there is substituted “ water is so supplied ”, and

(d) after that paragraph, there is inserted— “ and this section and section 69 below apply, in relation to the duty of an undertaker, whether or not the water supplied using the undertaker’s supply system is supplied by the undertaker. ”

(3) After that subsection, there is inserted—

“(1A) It shall be the duty of a licensed water supplier—

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) when supplying water to any premises for domestic or food production purposes, in accordance with its retail authorisation, to ensure that the water is wholesome at the time of supply; and

(b) so far as reasonably practicable, to ensure, in relation to each source or combination of sources from which that supplier supplies water to premises for domestic or food production purposes, in accordance with its retail authorisation, that there is, in general, no deterioration in the quality of the water which is supplied from time to time from that source or combination of sources,

and references in this subsection to the retail authorisation shall be construed in accordance with section 17A(2) above."

(4) In subsection (2), for "water supplied by a water undertaker" there is substituted " where a water undertaker's supply system is used for the purpose of supplying water to any premises, any water so supplied ".

(5) In subsection (3)—

(a) for the words from "this section" to "premises" there is substituted " subsection (1) above where a water undertaker's supply system is used for the purpose of supplying water to any premises, and the water so supplied "; and

(b) in paragraph (b), for "supplying the water, to take such steps" there is substituted " the water is supplied, to ensure that such steps are taken ".

(6) After that subsection there is inserted—

"(3A) For the purposes of subsection (1A) above where water supplied by a licensed water supplier to any premises would not otherwise be regarded as unwholesome at the time of supply, that water shall be regarded as unwholesome at that time if—

(a) it has ceased to be wholesome after leaving the relevant pipes but while in a pipe which is subject to water pressure from a water main or which would be so subject but for the closing of some valve; and

(b) it has so ceased in consequence of the failure of the supplier, before supplying the water, to ensure that such steps are taken as may be prescribed for the purpose of securing the elimination, or reduction to a minimum, of any prescribed risk that the water would cease to be wholesome after leaving the relevant pipes.

(3B) In subsection (3A) above "relevant pipes" means the pipes of the water undertaker whose supply system is used for the purpose of the supply made by the licensed water supplier."

(7) In subsection (5), after "undertaker" there is inserted " and licensed water supplier ".

(8) In the sidenote (and the italic heading immediately preceding it), after "undertakers" there is inserted " and licensed water suppliers ".

19 (1) Section 69 (regulations for preserving water quality) is amended as follows.

(2) In subsection (1), for "to take all such steps" there is substituted " or a licensed water supplier to ensure that such steps are taken ".

(3) In subsection (2)—

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) after "water undertaker" there is inserted " or licensed water supplier ",

(b) in paragraph (a)—

(i) for "take all such steps" there is substituted " ensure that all such steps are taken "; and

(ii) for "which that undertaker supplies" there is substituted " used for relevant supplies ",

(c) in paragraph (b)—

(i) for "take all such steps" there is substituted " ensure that all such steps are taken "; and

(ii) for "that undertaker uses or is proposing to use for supplying water" there is substituted " is used or is proposed to be used for making relevant supplies ",

(d) in paragraph (c), for "that undertaker is using or proposing to use for supplying water" there is substituted " is used or proposed to be used for making relevant supplies ",

(e) in paragraph (d)—

(i) for "keep records" there is substituted " ensure that records are kept ";

(ii) for "supplied with water" there is substituted " receiving relevant supplies "; and

(iii) the words "by that undertaker" are omitted, and

(f) in paragraph (e), for "comply with prescribed requirements" there is substituted " ensure that prescribed requirements are complied with ".

(4) In subsection (3), for the words from "with respect" to "functions" there is substituted " imposing obligations on water undertakers or licensed water suppliers with respect to the use for the purposes of or in connection with making relevant supplies ".

(5) In subsection (4)—

(a) in paragraph (a)—

(i) for "forbid the use by water undertakers of" there is substituted " require water undertakers or licensed water suppliers to ensure that ", and

(ii) at the end there is inserted " are not used for the purposes of or in connection with relevant supplies ",

(b) in paragraph (b)—

(i) after "require" there is inserted " water undertakers and licensed water suppliers to ensure that ", and

(ii) for "by water undertakers to" there is substituted " for the purposes of or in connection with relevant supplies ", and

(c) in paragraph (c), for "by water undertakers" there is substituted " for the purposes of or in connection with relevant supplies ".

(6) In subsection (5)—

(a) the words "require a water undertaker" are omitted,

(b) in paragraph (a)—

(i) at the beginning, there is inserted " require a water undertaker ", and

(ii) for "by that undertaker" there is substituted " using that undertaker's supply system ",

(c) the word "and" at the end of paragraph (a) is omitted,

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) after that paragraph, there is inserted—

"(aa) require a licensed water supplier to publish information about the quality of water supplied for domestic or food production purposes to any premises by that supplier", and

(e) in paragraph (b)—

(i) at the beginning, there is inserted " require any such undertaker or supplier ", and

(ii) for "so supplied" there is substituted " supplied as referred to in paragraph (a) or (aa) above (as the case may be) ".

(7) In subsection (6)—

(a) in paragraph (b)—

(i) after "water undertaker"there is inserted " or licensed water supplier ", and

(ii) after "the undertaker" there is inserted " or supplier ", and

(b) in paragraph (c), after "undertaker" there is inserted " or licensed water supplier ".

(8) After that subsection there is inserted—

"(7) In this section, "relevant supplies" means—

(a) in the case of an obligation imposed on a water undertaker, supplies of water—

(i) made by the undertaker in carrying out its functions; or

(ii) made by a licensed water supplier using the undertaker's supply system; and

(b) in the case of an obligation imposed on a licensed water supplier, supplies of water made by that supplier using a water undertaker's supply system."

Commencement Information

I185 Sch. 8 para. 19 in force at 1.4.2004 by S.I. 2004/641, art. 3(y), **Sch. 2** (with Sch. 3 para. 7)

20 (1) Section 70 (offence of supplying water unfit for human consumption) is amended as follows.

(2) In subsection (1)—

(a) for the words from "water undertaker" to "pipes" there is substituted " water undertaker's supply system is used for the purposes of supplying water ", and

(b) for "the undertaker" there is substituted " the relevant persons ".

(3) After that subsection there is inserted—

"(1A) For the purposes of subsection (1) above, the relevant persons are—

(a) the water undertaker whose supply system is used for the purposes of supplying the water (in this section referred to as the "primary water undertaker"); and

(b) any employer of persons, or any self-employed person, who is concerned in the supply of the water."

(4) In subsection (3)—

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) for "water undertaker" there is substituted " relevant person ",
(b) for "that undertaker" there is substituted " that person ", and
(c) in paragraph (b), for "its" there is substituted " the primary water undertaker's ".

(5) After that subsection there is inserted—

"(3A) For the purposes of paragraph (b) of subsection (3) above—
(a) in the case of proceedings against a primary water undertaker, showing that the undertaker took all reasonable steps and exercised all due diligence as mentioned in that paragraph includes (among other things) showing that the relevant arrangements were reasonable in all the circumstances; and
(b) in the case of proceedings against any other relevant person, showing that the person took all reasonable steps and exercised all due diligence as mentioned in that paragraph includes (among other things) showing that it took all reasonable steps and exercised all due diligence for securing that all aspects of the relevant arrangements for which it was responsible were properly carried out.

(3B) In subsection (3A) above, "relevant arrangements" means arrangements made by the primary water undertaker to ensure that all other relevant persons were required to take all reasonable steps and exercise all due diligence for securing that the water was fit for human consumption on leaving the undertaker's pipes or was not used for human consumption."

Commencement Information
I186 Sch. 8 para. 20 in force at 1.10.2004 by S.I. 2004/2528, **art. 2(t)(iv)** (with Sch. para. 8)

VALID FROM 01/12/2005

21 In section 72 (contamination of water sources), in subsection (5), after paragraph (b) there is inserted "; and
(c) any pipe or conduit of a licensed water supplier."

VALID FROM 01/12/2005

22 In section 73 (offences of contaminating water etc), in subsection (1)—
(a) in the opening words, after "undertaker" there is inserted " or licensed water supplier ", and
(b) in paragraph (b), after "undertaker" there is inserted " or supplier ".

23 In section 74 (regulations for preventing contamination etc), in subsection (1)—
(a) in paragraph (b), after "undertaker" there is inserted " or licensed water supplier ",
(b) in paragraph (c), after "that undertaker" there is inserted " or a licensed water supplier ", and

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) in paragraph (d), after "undertaker" there is inserted " or licensed water supplier ".

Commencement Information

I187 Sch. 8 para. 23 in force at 1.4.2004 by S.I. 2004/641, art. 3(y), **Sch. 2** (with Sch. 3 para. 7)

VALID FROM 01/12/2005

24 (1) Section 75 (power to prevent damage etc) is amended as follows.

(2) After subsection (1) there is inserted—

"(1A) Without prejudice to any power conferred on water undertakers by regulations under section 74 above, where a water undertaker whose supply system is used for the purpose of a licensed water supplier making a supply of water to any premises has reason for believing—

(a) that damage to persons or property is being or is likely to be caused by any damage to, or defect in, any water fitting used in connection with the supply of water to those premises which is not a service pipe belonging to the water undertaker;

(b) that water in a water main or other pipe of the undertaker is being or is likely to be contaminated by the return of any substance from those premises to that pipe or main;

(c) that water which is in any pipe connected with any such main or other pipe or which has been supplied by the supplier to those premises is being or is likely to be contaminated before it is used; or

(d) that water which has been or is to be so supplied is being or is likely to be wasted or, having regard to the purposes for which it is supplied, misused or unduly consumed,

the undertaker may exercise the power conferred by subsection (2) below in relation to those premises."

(3) After subsection (10) there is inserted—

"(11) Where the power conferred by subsection (2) above on a water undertaker is exercisable by virtue of subsection (1A) above—

(a) the references to the consumer in subsections (2) and (3), in relation to a supply of water to any premises, shall be taken to be references to the person in respect of whom the supply is made; and

(b) the undertaker shall serve on the licensed water supplier providing the supply a copy of any notice under this section which is served on the person mentioned in paragraph (a) above.

(12) In subsection (1A) above, the reference to the supply system of a water undertaker shall be construed in accordance with section 17B(5) above."

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

VALID FROM 01/12/2005

25 In section 76 (temporary hosepipe bans), in subsection (1), after "supplied by that undertaker" there is inserted " or a licensed water supplier ".

VALID FROM 01/12/2005

26 (1) Section 78 (local authority functions in relation to undertaker's supplies) is amended as follows.

(2) In subsection (1)(a), after "undertaker" there is inserted " , or by a licensed water supplier using that undertaker's supply system, ".

(3) After subsection (2), there is inserted—

"(3) In subsection (1)(a) above, the reference to the water undertaker's supply system shall be construed in accordance with section 17B(5) above."

VALID FROM 01/12/2005

27 (1) Section 86 (enforcement of water quality) is amended as follows.

(2) In subsection (1)(b), for "by a water undertaker" there is substituted " using a water undertaker's supply system ".

(3) In subsection (2)(a)(i), for the words from "by" to "above" there is substituted " or a licensed water supplier by or under any of sections 68, 69 and 79 above or imposed on a relevant person (as defined in subsection (1A) of section 70 above) by or under that section ".

(4) In subsection (3), after "undertaker" there is inserted " , licensed water supplier or other relevant person (as defined in section 70(1A) above) ".

(5) In subsection (4), for paragraph (c) there is substituted—

"(c) at any reasonable time require—

(i) any water undertaker or licensed water supplier to supply him with copies of, or extracts from, the contents of any records kept for the purpose of complying with any duty or other requirement imposed on that undertaker or supplier by or under any of sections 68, 69 and 79 above; or

(ii) any relevant person (as defined in subsection (1A) of section 70 above) to supply him with copies of, or extracts from, the contents of any records kept for the purpose of complying with any duty or other requirement imposed on that person by or under that section."

(6) In subsection (6), after "undertaker" there is inserted " , licensed water supplier or other relevant person ".

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

VALID FROM 01/12/2005

28 In section 93(1) (interpretation of Part 3), in the definition of "private supply", after "undertaker" there is inserted " or by a licensed water supplier in accordance with Chapter 1A of Part 2 of this Act ".

VALID FROM 01/12/2005

29 In section 93A (duty to promote the efficient use of water), in the following provisions—

(a) subsection (1),
(b) subsection (2), and
(c) subsection (3),

after "undertaker" there is inserted " or licensed water supplier ".

VALID FROM 01/12/2005

30 (1) Section 93B (power to impose requirements in connection with section 93A) is amended as follows.

(2) In subsection (1), after "undertaker" there is inserted " or licensed water supplier ".

(3) In subsection (2)—

(a) after "water undertaker" there is inserted " or licensed water supplier ", and
(b) after "the undertaker", in both places where it appears, there is inserted " or supplier ".

(4) In subsection (3), in paragraphs (a) and (b), after "undertaker" there is inserted " or licensed water supplier ".

(5) In subsection (4)—

(a) after "water undertaker" there is inserted " or licensed water supplier ", and
(b) after "that undertaker" there is inserted " or supplier ".

(6) In subsection (5)—

(a) after "water undertaker" there is inserted " or licensed water supplier ", and
(b) after "that undertaker" there is inserted " or supplier ".

(7) In subsection (6)—

(a) after "water undertaker" there is inserted " or licensed water supplier ", and
(b) after "that undertaker" there is inserted " or supplier ".

VALID FROM 01/12/2005

31 (1) Section 93C (publicity) is amended as follows.

(2) In subsection (1)—

(a) after "water undertaker" there is inserted " or licensed water supplier ", and
(b) after "that undertaker's" there is inserted " or supplier's ".

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) In subsection (2), in paragraph (b), after "undertaker" there is inserted " or supplier ".

VALID FROM 01/12/2005

32 (1) Section 93D (information as to compliance) is amended as follows.

(2) In subsection (1)—
(a) after "water undertaker" there is inserted " or licensed water supplier ",
(b) after "that undertaker" there is inserted " or supplier ", and
(c) after "the undertaker" there is inserted " or supplier ".

(3) In subsection (2), in paragraph (b), after "undertaker" there is inserted " or supplier ".

(4) In subsection (3)—
(a) after "water undertaker" there is inserted " or licensed water supplier ",
(b) after "the undertaker's" there is inserted " or supplier's ", and
(c) after "the undertaker" there is inserted " or supplier ".

(5) In subsection (4), after "water undertaker" there is inserted " or licensed water supplier ".

VALID FROM 01/12/2005

33 In section 148 (restriction on charging for metering works), in subsection (2), after paragraph (c) there is inserted—
"(cc) any sums which it is entitled to recover under an agreement under section 66D above;".

VALID FROM 01/12/2005

34 In section 150 (fixing maximum charges for services provided with the help of undertakers' services), after subsection (1) there is inserted—

"(1A) This section does not apply to water supplies provided by a licensed water supplier to premises of customers in accordance with Chapter 1A of Part 2 of this Act."

VALID FROM 01/12/2005

35 In section 152 (grants for national security purposes), in subsection (1), after "relevant undertakers" there is inserted " and licensed water suppliers ".

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

VALID FROM 01/12/2005

36 In section 158 (powers to lay pipes in streets), in subsection (7)(a), after "trunk main" there is inserted " but not including a pipe laid in pursuance of section 66B(3)(a)(ii) above which is used for the purpose of supplying water other than for domestic or food production purposes or laid in pursuance of section 66B(3)(a)(iii) above ".

VALID FROM 01/12/2005

37 (1) Section 162 (works in connection with metering) is amended as follows.

(2) In subsection (1A), in paragraph (a) at the end there is inserted " or ".

(3) In that subsection, after paragraph (c) there is inserted "or

(d) a licensed water supplier supplies water to those premises using the undertaker's supply system."

(4) After that subsection there is inserted—

"(1B) In subsection (1A)(d) above, the reference to the supply system of a water undertaker shall be construed in accordance with section 17B(5) above."

VALID FROM 01/12/2005

38 In section 163 (power to fit stopcocks), in subsection (1), after "by the undertaker" there is inserted " or a licensed water supplier ".

VALID FROM 01/12/2005

39 (1) Section 174 (offences of interference with works) is amended as follows.

(2) After subsection (1) there is inserted—

"(1A) Subject to subsection (2) below, if any person without the consent of the licensed water supplier—

(a) intentionally or recklessly interferes with any pipe or any structure, installation or apparatus which—

(i) is vested in any licensed water supplier (in the case of a pipe) or belongs to any such supplier (in any other case); and

(ii) is used in connection with the carrying on by the supplier of the activities authorised by its licence; or

(b) by any act or omission negligently interferes with any such 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."

(3) In subsection (2)—

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) after "subsection (1)" there is inserted " or (1A) ", and

(b) in paragraph (b)—

(i) after "water undertaker" there is inserted " or licensed water supplier ", and

(ii) in sub-paragraph (ii), for the words from "the stopcock was" to the end there is substituted " subsection (2A) below applies ".

(4) After that subsection there is inserted—

"(2A) This subsection applies—

(a) in the case of a stopcock belonging to a water undertaker, if the stopcock was closed otherwise than by the undertaker;

(b) in the case of a stopcock belonging to a licensed water supplier—

(i) if the stopcock was closed otherwise than by the supplier; or

(ii) if the stopcock was closed by the supplier and the person in question for the purposes of subsection (2) above is the water undertaker whose supply system is used for the purpose of the supply made by the supplier,

and in this subsection the reference to the supply system of a water undertaker shall be construed in accordance with section 17B(5) above."

(5) In subsection (3), in paragraph (c), for "section" there is substituted " subsection ".

(6) After that subsection there is inserted—

"(3A) Any person who, without the consent of the licensed water supplier—

(a) attaches any pipe or apparatus to any pipe which is—

(i) vested in a licensed water supplier; and

(ii) used in connection with the carrying on by the supplier of the activities authorised by its licence;

(b) attaches any pipe or apparatus to any service pipe which does not belong to such a supplier or a water undertaker but which is a pipe by means of which water is supplied by such a supplier to any premises;

(c) makes any alteration in a service pipe by means of which water is so supplied, or in any apparatus attached to any such pipe; or

(d) subject to subsection (4) below, uses any pipe or apparatus which has been attached or altered in contravention of this subsection,

shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale."

(7) In subsection (4)—

(a) after "subsection (3) above" there is inserted " or paragraph (d) of subsection (3A) above ", and

(b) for "that subsection" there is substituted " subsection (3) or (3A) above (as the case may require) ".

(8) After subsection (5) there is inserted—

"(5A) If any person wilfully or negligently injures or suffers to be injured any water fitting which—

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) belongs to a licensed water supplier; and

(b) is used in connection with the carrying on by the supplier of the activities authorised by its licence,

he shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 1 on the standard scale."

(9) After subsection (8) there is inserted—

"(8A) In this section "consumer"—

(a) in relation to a supply of water provided by a water undertaker to any premises, means a person who is for the time being the person on whom liability to pay charges to the undertaker in respect of that supply of water would fall;

(b) in relation to a supply of water provided by a licensed water supplier to any premises, means a person who is for the time being the person on whom liability to pay charges to the supplier in respect of that supply of water would fall."

(10) In subsection (9), for " "consumer" and "water fitting" have the same meanings" there is substituted " "water fitting" has the same meaning ".

VALID FROM 01/12/2005

40 (1) Section 175 (offence of tampering with meter) is amended as follows.

(2) In subsection (1)(a), after "undertaker" there is inserted " or licensed water supplier ".

(3) In subsection (2), for the words from "consent" to the end there is substituted " appropriate consent ".

(4) After that subsection there is inserted—

"(3) In subsection (2) above, the "appropriate consent" means—

(a) if the meter is used by one relevant undertaker, the consent of that undertaker;

(b) if the meter is used by one licensed water supplier, the consent of that supplier;

(c) if the meter is used by two or more of the following persons—

(i) a relevant undertaker;

(ii) a licensed water supplier,

the consent of each of those persons.

(4) In subsection (3) above, references to the consent of a relevant undertaker are references to consent under section 176 below."

VALID FROM 01/12/2005

41 (1) Section 179 (vesting of works in undertaker) is amended as follows.

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) In subsection (1), for the words from "subsection" to "vested" there is substituted " subsections (1A) and (3) below ".

(3) After that subsection there is inserted—

"(1A) Subsection (1) above is subject to any provision to the contrary contained in an agreement between the relevant undertaker and the person in whom an interest in the pipe or works is or is to be vested; but no agreement may be made between a relevant undertaker and any other person for the vesting in that person of any pipe laid in pursuance of section 66B(3)(a)(ii) above or of subsection (2)(b)(i) of section 66C above by virtue of subsection (3)(b) of that section."

VALID FROM 01/12/2005

42 (1) Section 195 (maintenance of register for the purposes of Part 2) is amended as follows.

(2) In subsection (2), after paragraph (a) there is inserted—

"(aa) every licence under Chapter 1A of Part 2 of this Act, every variation or revocation of any such licence and every modification of the conditions of any such licence;".

(3) In that subsection, after paragraph (b) there is inserted—

"(bb) every direction, consent or determination given or made under any such licence by the Secretary of State, the Authority, the Assembly or the Environment Agency;

(bc) every determination made by the Authority under section 17E or 66D(1) above;".

(4) In that subsection, after paragraph (f) (inserted by section 48(2)) there is inserted "and

(g) every designation made by the Authority under section 66G or 66H above."

(5) After subsection (3) there is inserted—

"(3AA) Before giving a direction under subsection (3) above which relates to a licensed water supplier, the Secretary of State shall consult the Assembly."

43 (1) Section 201 (publication of information and advice) is amended as follows.

(2) In subsection (1), for the words from "relating to" to "as it may" there is substituted—

"(a) relating to any matter which is connected with the carrying out by a company holding an appointment under Chapter 1 of Part 2 of this Act of the functions of a relevant undertaker; or

(b) relating to any matter which is connected with the carrying on by a company holding a licence under Chapter 1A of that Part of the activities authorised by the licence,

as it may ".

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) In subsection (2), at the end there is inserted " or a licence under Chapter 1A of that Part ".

Commencement Information
I188 Sch. 8 para. 43 in force at 1.4.2004 by S.I. 2004/641, art. 3(y), **Sch. 2** (with Sch. 3 para. 7)

44 (1) Section 202 (duty to furnish the Secretary of State with information) is amended as follows.

(2) After subsection (1) there is inserted—

"(1A) It shall be the duty of a company holding a licence under Chapter 1A of Part 2 of this Act to furnish the Secretary of State with all such information relating to any matter which—

(a) is connected with, or with any proposals relating to, the carrying on by that company of the activities authorised by the licence; or

(b) is material to the carrying out by the Secretary of State of any of his functions under this Act, any of the other consolidation Acts or the Water Act 1989,

as the Secretary of State may reasonably require."

(3) In subsection (4), in paragraph (c), at the end there is inserted " or licences under Chapter 1A of that Part ".

(4) In subsection (5), after "undertaker" there is inserted " or licensed water supplier ".

Commencement Information
I189 Sch. 8 para. 44 in force at 1.4.2004 by S.I. 2004/641, art. 3(y), **Sch. 2** (with Sch. 3 para. 7)

VALID FROM 01/12/2005

45 (1) Section 203 (power to acquire information for enforcement purposes) is amended as follows.

(2) In subsection (1), for the words from "that a company" to "section 18 above" there is substituted—

"(a) in the case of a company which holds an appointment as a relevant undertaker, that the company—

(i) may be contravening, or may have contravened, any condition of the appointment or any statutory or other requirement enforceable under section 18 above; or

(ii) may be causing or contributing to, or may have caused or contributed to, a contravention by a company holding a licence under Chapter 1A of Part 2 of this Act of any condition of the licence or any statutory or other requirement enforceable under section 18 above; or

(b) in the case of a company which holds a licence under that Chapter, that the company—

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) may be contravening, or may have contravened, any condition of the licence or any statutory or other requirement enforceable under section 18 above; or

(ii) may be causing or contributing to, or may have caused or contributed to, a contravention by a company holding an appointment as a relevant undertaker of any condition of the appointment or any statutory or other requirement enforceable under section 18 above,".

(3) In subsection (7)—

(a) after "this Act" there is inserted " or of a licence under Chapter 1A of that Part ", and

(b) after "such an appointment" there is inserted " or licence ".

VALID FROM 01/12/2005

46 (1) Section 205 (exchange of metering information) is amended as follows.

(2) In subsection (1)—

(a) in paragraph (a), for "relevant undertakers" there is substituted " service providers ",

(b) in paragraphs (b) and (c), for "undertakers" there is substituted " providers ",

(c) in paragraph (d), for "undertaker" there is substituted " provider ", and

(d) in the closing words, for "undertaker", in both places where it appears, there is substituted " provider ".

(3) In subsection (2)—

(a) for "relevant undertaker" there is substituted " service provider ",

(b) for "such undertaker" there is substituted " such provider ", and

(c) for "the undertaker" there is substituted " the provider ".

(4) For subsection (3) there is substituted—

"(3) The duties of a service provider under this section shall be enforceable under section 18 above by the Authority.

(4) For the purposes of this section, the following are service providers—

(a) any relevant undertaker; and

(b) any licensed water supplier."

47 (1) Section 206 (restriction on disclosure of information) is amended as follows.

(2) In subsection (3), at the end of paragraph (b) there is inserted " or by a licensed water supplier of any of the duties imposed on it by or under this Act ".

(3) In that subsection, in paragraph (c), for "203(1) or (2)" there is substituted " 203(1), (1A), (2) or (2A) ".

(4) In subsection (5), in paragraph (a), after "undertaker" there is inserted " , or with the carrying on by a licensed water supplier of activities under its licence, ".

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

Commencement Information

I190 Sch. 8 para. 47(1) in force at 1.4.2004 for specified purposes by S.I. 2004/641, art. 3(y), **Sch. 2** (with Sch. 3 para. 7)

I191 Sch. 8 para. 47(4) in force at 1.4.2004 by S.I. 2004/641, art. 3(y), **Sch. 2** (with Sch. 3 para. 7)

48 (1) Section 208 (directions in the interests of national security) is amended as follows.

(2) In subsections (1) and (2)—

(a) after "relevant undertaker" there is inserted " or licensed water supplier ", and

(b) after "that undertaker" there is inserted " or supplier (as the case may be) ".

(3) In subsection (3), after "relevant undertaker", in both places where it appears, there is inserted " or licensed water supplier ".

Commencement Information

I192 Sch. 8 para. 48 in force at 1.4.2004 by S.I. 2004/641, art. 3(y), **Sch. 2** (with Sch. 3 para. 7)

49 (1) Section 213 (power to make regulations) is amended as follows.

(2) In subsection (1), after "section 8(1) or (2)" there is inserted " or 17D(8) ".

(3) In subsection (2)(a), after "sewerage undertaker" there is inserted " or licensed water supplier ".

Commencement Information

I193 Sch. 8 para. 49(1) in force at 1.4.2004 for specified purposes by S.I. 2004/641, art. 3(y), **Sch. 2** (with Sch. 3 para. 7)

I194 Sch. 8 para. 49(3) in force at 1.4.2004 by S.I. 2004/641, art. 3(y), **Sch. 2** (with Sch. 3 para. 7)

50 (1) Section 219 (general interpretation) is amended as follows.

(2) In subsection (1)—

(a) in paragraph (a) of the definition of "customer or potential customer", at the end there is inserted " (other than a licensed water supplier) ",

(b) in the definition of "water main"—

(i) after "water undertaker" there is inserted " or licensed water supplier ", and

(ii) after "of the undertaker" there is inserted " or supplier ", and

(c) in the appropriate place there is inserted—

""licensed water supplier" shall be construed in accordance with section 17B(9) above;".

(3) After subsection (4) there is inserted—

"(4A) In this Act, unless otherwise stated, references to the supply system of a water undertaker are to the water mains and other pipes which it is the undertaker's duty to develop and maintain by virtue of section 37 above."

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

Commencement Information

I195 Sch. 8 para. 50 in force at 1.4.2004 for specified purposes by S.I. 2004/641, art. 3(y), **Sch. 2** (with Sch. 3 para. 7)

I196 Sch. 8 para. 50(3) in force at 1.10.2004 for specified purposes by S.I. 2004/2528, **art. 2(t)(v)** (with Sch. para. 8)

VALID FROM 01/12/2005

51 (1) Schedule 2 (transitional provision on termination of appointments) is amended as follows.

(2) In paragraph 1, in sub-paragraph (1), for "and (3)" there is substituted " to (3A) ".

(3) In that paragraph, in paragraph (a) of sub-paragraph (3), after "company" there is inserted " holding an appointment under Chapter 1 of this Part ".

(4) In that paragraph, after that sub-paragraph there is inserted—

"(3A) The third case in which this Schedule applies is where—

(a) the High Court has made a special administration order in relation to any company which is a qualifying licensed water supplier ("the transferor"); and

(b) it is proposed that on and after the relevant date another company ("the transferee") should carry on activities relating to the introduction or introductions of water mentioned in section 23(6)(b) of this Act which were carried on by the transferor until that date."

(5) In that paragraph, in sub-paragraph (4)—

(a) in paragraph (b) of the definition of "the relevant date", after "sub-paragraph (3)" there is inserted " or (3A) ", and

(b) there are inserted in the appropriate places—

""other relevant companies" means any companies, other than the transferor and the transferee, which are likely on or at a time after the relevant date to be holding appointments as water undertakers for any area in which, or in part of which, the activities relating to the introduction or introductions of water mentioned in section 23(6)(b) of this Act will be carried on by the transferee;"

""transferor" and "transferee" shall be construed in accordance with sub-paragraph (3A) above;".

(6) In paragraph 2, after sub-paragraph (7) there is inserted—

"(7A) In a case specified in paragraph 1(3A) above—

(a) the preceding provisions of this paragraph shall have effect as if—

(i) any reference to the existing appointee were a reference to the transferor;

(ii) any reference to the new appointee were a reference to the transferee; and

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

(iii) any reference to other appointees were a reference to other relevant companies; and

(b) sub-paragraph (6) above shall have effect as if the reference to functions were, in relation to a company which is a licensed water supplier, a reference to activities authorised by its licence and any statutory functions imposed on it in consequence of its licence."

(7) In paragraph 3, after sub-paragraph (6) there is inserted—

"(7) In a case specified in paragraph 1(3A) above the preceding provisions of this paragraph shall have effect as if—

(a) any reference to the existing appointee were a reference to the transferor;

(b) any reference to the new appointee were a reference to the transferee; and

(c) any reference to other appointees were a reference to other relevant companies."

(8) After paragraph 4 there is inserted—

"Exclusion of transfer of licence

4A Where a scheme under this Schedule is made in the case specified in paragraph 1(3A) above, the scheme may not provide for the transfer to the transferee of the licence under Chapter 1A of Part 2 of this Act which is held by the transferor."

(9) In paragraph 5, after sub-paragraph (2) there is inserted—

"(3) In a case specified in paragraph 1(3A) above—

(a) sub-paragraph (2) above shall have effect as if—

(i) any reference to the existing appointee were a reference to the transferor;

(ii) any reference to the new appointee were a reference to the transferee; and

(iii) any reference to any other appointee or appointees were a reference to any other relevant company or companies; and

(b) paragraph (g) of that sub-paragraph shall have effect as if the reference to two or more such appointees as are mentioned in paragraph (f) of that sub-paragraph were a reference to two or more such persons as are mentioned in that paragraph (as it has effect by virtue of paragraph (a) above)."

(10) In paragraph 6, after sub-paragraph (8) there is inserted—

"(9) In a case specified in paragraph 1(3A) above, the preceding provisions of this paragraph shall have effect as if—

(a) any reference to the existing appointee were a reference to the transferor; and

(b) any reference to the new appointee were a reference to the transferee."

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

VALID FROM 01/12/2005

52 (1) Schedule 3 (special administration orders) is amended as follows.

(2) In paragraph 4—

(a) in paragraph (a), at the end there is inserted " or a licence under Chapter 1A of that Part ", and

(b) in paragraph (b), at the end there is inserted " or licence ".

(3) In paragraph 10(2)—

(a) after "1991" there is inserted " or its licence under Chapter 1A of that Part ", and

(b) after "that appointment" there is inserted " or licence ".

Water Resources Act 1991 (c. 57)

53 (1) The WRA is amended as follows.

(2) In section 203 (exchange of information with respect to pollution incidents etc)—

(a) after subsection (1) there is inserted—

"(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.",

(b) after subsection (2) there is inserted—

"(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.",

(c) for subsection (3) there is substituted—

"(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.",

(d) in subsection (4)—

(i) for "subsection (1) or (2)" there is inserted " subsection (1), (1A), (2) or (2A) ", and

(ii) after "undertaker" there is inserted " , to a licensed water supplier ",

(e) in subsection (5), for "a water undertaker under subsection (2) above shall" there is substituted—

"(a) a water undertaker under subsection (2) above; or

(b) a licensed water supplier under subsection (2A) above,

shall ", and

(f) after subsection (7) there is inserted—

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

"(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."

(3) In section 204 (restriction on disclosure of information)—

(a) in paragraph (b) of subsection (2), for "or sewerage undertaker" there is substituted " , sewerage undertaker or company holding a licence under Chapter 1A of Part 2 of the Water Industry Act 1991 ",

(b) in paragraph (c) of that subsection, for "203(1) or (2)" there is substituted " 203(1), (1A), (2) or (2A) ", and

(c) in subsection (4)(a), after "sewerage undertaker" there is inserted " , 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, ".

Commencement Information

I197 Sch. 8 para. 53(1) in force at 1.4.2004 for specified purposes by S.I. 2004/641, art. 3(y), **Sch. 2** (with Sch. 3 para. 7)

I198 Sch. 8 para. 53(3)(c) in force at 1.4.2004 by S.I. 2004/641, art. 3(y), **Sch. 2** (with Sch. 3 para. 7)

VALID FROM 01/12/2005

Competition Act 1998 (c. 41)

54 In Schedule 7 to the Competition Act 1998, in paragraph 19A(9), in the definition of "special reference group", in paragraph (g), for "or 14" there is substituted " , 14 or 17K ".

VALID FROM 01/12/2005

Enterprise Act 2002 (c. 40)

55 (1) The Enterprise Act 2002 is amended as follows.

(2) In section 168 (regulated markets)—

(a) after subsection (3)(f) there is inserted—

"(ff) modifying the conditions of a licence granted under Chapter 1A of Part 2 of the Act of 1991 or modifying the terms and conditions of an agreement under section 66D of that Act;", and

(b) after subsection (4)(f) there is inserted—

"(ff) in relation to a licence granted under Chapter 1A of Part 2 of the Act of 1991 or an agreement under section 66D of that Act, the duties of the Authority under section 2 of that Act or under that section and section 66D of that Act (as the case may be);".

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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) In section 249 (special administration regimes), in subsection (1), after paragraph (a) there is inserted—

"(aa) a qualifying licensed water supplier within the meaning of subsection (6) of section 23 of the Water Industry Act 1991 (meaning and effect of special administration order),".

SCHEDULE 9

Section 101(2)

REPEALS AND REVOCATION

PART 1

ABSTRACTION AND IMPOUNDING

Commencement Information

I199 Sch. 9 Pt. 1 in force at 1.4.2004 for specified purposes by S.I. 2004/641, **art. 3(z)** (with Sch. 3 para. 7)

I200 Sch. 9 Pt. 1 in force at 1.4.2005 for specified purposes by S.I. 2005/968, **art. 2(n)**

Title and reference	*Extent of repeal*
Water Resources Act 1991 (c. 57)	In section 21(9), the words from "and in that subsection" to the end. In section 25(2), the words ", in circumstances not constituting such a contravention,". Section 28. Section 29(3). Sections 30 and 31. Section 33. Section 36. Section 39(3). In section 47, in subsection (1), the words "to abstract water"; and subsection (3). Sections 49 and 50. Section 52(8). Section 223.

PART 2

NEW REGULATORY ARRANGEMENTS, ETC

Commencement Information

I201 Sch. 9 Pt. 2 in force at 1.4.2004 for specified purposes by S.I. 2004/641, **art. 3(z)** (with Sch. 3 para. 7)

I202 Sch. 9 Pt. 2 in force at 1.10.2004 for specified purposes by S.I. 2004/2528, **art. 2(u)** (with Sch. para. 8)

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

I203 Sch. 9 Pt. 2 in force at 1.4.2005 for specified purposes by S.I. 2005/968, **art. 2(n)**

Title and reference	*Extent of repeal*
Water Industry Act 1991 (c. 56)	Section 1. Section 12(3)(b)(i), (4) and (5). Section 14(8) and (8A). Section 28. Section 30. In section 39, in each of subsections (1)(b) and (3)(b), the word "and" at the end of sub-paragraph (i). In section 96, in each of subsections (1)(b) and (3)(b), the word "and" at the end of sub-paragraph (i). Sections 193 and 194. In section 195(2), the word "and" at the end of paragraph (d). Schedule 1. Schedule 4.
Utilities Act 2000 (c. 27)	In section 104(1), the word "or" at the end of paragraph (a).

PART 3

MISCELLANEOUS AND SUPPLEMENTARY

Commencement Information

I204 Sch. 9 Pt. 3 in force at 17.3.2004 for specified purposes for E. by S.I. 2004/641, **art. 2(d)** (with Sch. 3 para. 7)
I205 Sch. 9 Pt. 3 in force at 1.4.2004 by S.I. 2004/641, **art. 3(z)** (with Sch. 3 para. 7)
I206 Sch. 9 Pt. 3 in force at 1.4.2004 for specified purposes for W. by S.I. 2004/910, **art. 2(1)(d)**
I207 Sch. 9 Pt. 3 in force at 28.5.2004 for specified purposes by S.I. 2004/641, **art. 4(d)(i)** (with Sch. 3 para. 7)
I208 Sch. 9 Pt. 3 in force at 1.10.2004 for specified purposes by S.I. 2004/2528, **art. 2(u)** (with Sch. para. 8)
I209 Sch. 9 Pt. 3 in force at 11.11.2004 for specified purposes for W. by S.I. 2004/2916, **art. 2(g)**
I210 Sch. 9 Pt. 3 in force at 1.4.2005 for specified purposes by S.I. 2005/968, **art. 2(n)**

Title and reference	*Extent of repeal or revocation*
Metropolis Water Act 1852 (c. 84)	Section 1.
Parliamentary Commissioner Act 1967 (c. 13)	In Schedule 2, the entry relating to the Office of the Director General of Water Services.
Reservoirs Act 1975 (c. 23)	In section 22(1), the word "or" at the end of paragraph (a). In Schedule 1, the entry for "Local authority".
House of Commons Disqualification Act 1975 (c. 24)	In Schedule 1, in Part 3, the entry relating to the Chairman of a customer service

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

	committee maintained under section 28 of the Water Industry Act 1991, and the entry relating to the Director General of Water Services.
Northern Ireland Assembly Disqualification Act 1975 (c. 25)	In Schedule 1, in Part 3, the entry relating to the Chairman of a customer service committee maintained under section 28 of the Water Industry Act 1991, and the entry relating to the Director General of Water Services.
Water Act 1989 (c. 15)	Section 185(2)(a). In Schedule 3, paragraphs 6 and 7. In Schedule 4, paragraph 6. In Schedule 25, paragraphs 68(2)(a) and 76(a).
Environmental Protection Act 1990 (c. 43)	Section 78A(5)(c).
Water Industry Act 1991 (c. 56)	In section 44(5), the words “for any locality”. In section 69, in subsection (2)(d), the words “by that undertaker”; and in subsection (5), the words “require a water undertaker”, and the word “and” at the end of paragraph (a). In section 86(1), the words “as technical assessors”. In section 98(5), the words “in a particular locality”. In section 101A(2), in paragraph (a), the words from “each of which” to the end of the paragraph; and in paragraph (c), the words “in respect of which the condition specified in paragraph (a) above is satisfied”. In section 102(1)(a), the word “or” at the end of paragraph (a). In section 103(1)(a), the word “or” at the end of paragraph (a). Section 104(6). Section 138(5). In section 219(1), the definition of “the Director”. Schedule 7.
Water Resources Act 1991 (c. 57)	Section 66(2)(a). In section 71(4), “33,”. Section 77(4). Section 79A(8). Section 125(2). Sections 147 to 149. In section 221(1), in paragraph (a)(ii) of the definition of “flood defence provisions”, the words “147 to 149,”. In Schedule 10, in paragraph 11, in each of sub-paragraphs (2) and (3), the words “,

Status: *Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Water Act 2003 is up to date with all changes known to be in force on or before 03 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)*

	subject to sub-paragraph (4) below,"; sub-paragraph (4); and in sub-paragraph (9), the words "(6) or".
Water Consolidation (Consequential Provisions) Act 1991 (c. 60)	In Schedule 1, paragraphs 10, 28(a) and 29(a).
Competition and Service (Utilities) Act 1992 (c. 43)	Section 50.
Health Authorities Act 1995 (c. 17)	In Schedule 1, paragraph 120.
Environment Act 1995 (c. 25)	Section 101(1). In Schedule 4, in paragraph 1(1), the word "or" at the end of paragraph (a); and in paragraph 1(5), the word "and" at the end of paragraph (b). In Schedule 22, paragraph 181.
Competition Act 1998 (c. 41)	In Schedule 7, paragraph 2(1)(d)(i). In Schedule 10, paragraphs 5(3) and 13(2) and (3).
National Assembly for Wales (Transfer of Functions) Order 1999 (SI 1999/672)	In Schedule 1, in the entry relating to the WIA— (a) in the paragraph relating to functions under sections 2, 5 (etc), the references to section 2, sections 18 to 22, sections 68 to 70, section 93A and section 205, (b) the paragraph relating to section 28(4).

Status:
Point in time view as at 01/08/2005. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation:
Water Act 2003 is up to date with all changes known to be in force on or before 03 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.