

*These notes refer to the Water Act 2003 (c.37) which  
received Royal Assent on 20th November 2003*

# **WATER ACT 2003**

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## **EXPLANATORY NOTES**

## ANNEX A: SECTIONS AND SCHEDULES THAT AFFECT THE POWERS OF THE NATIONAL ASSEMBLY FOR WALES

The following table lists the sections and Schedules of the Act where the powers of the Assembly are expressly mentioned. Other functions of the Secretary of State in the Act are also devolved and to be exercised by the Assembly by section 100 of the Act amending the National Assembly for Wales (Transfer of Functions) Order 1999. The Act adds various new sections to other Acts or amends existing sections in other Acts. Changes made by the following sections of the Act either contain devolved functions or are included in the devolution provisions: sections 1 to 31, 34, 39, 40 to 42, 45 to 47, 50, 56 to 57, 59 to 66, 68 to 72, 74 to 84, 86 to 99 and 102 to 105 and Schedules 1, 2, 4 and 7.

<i>Provision</i>	<i>Title</i>	<i>Effect</i>
Section 10 (Para54)	Orders under section 33 of the WRA, etc	Assembly can repeal section 33 exemption orders for areas wholly within Wales, and to those parts of a cross border exempt area that lie within Wales
Section 35 (Para101)	Consumer Council for Water	Subsections (4) to (6) in new section 27A gives the Assembly a power to direct the allocation of undertakers operating wholly or mainly in Wales to a Welsh regional committees for a six month period. Thereafter the Council may establish or abolish a regional committee covering Wales, or alter an undertaker's allocation, with the consent of the Assembly.
Section 38 (Para114)	Forward work programme and annual reports	The Authority and the Council must both consult the Assembly on drafts of their forward work programmes. New section 192B requires the Authority to produce, for an annual report on its activities, and those of the Competition Commission in respect of any references made by it, during the previous financial year. The report shall include a general survey of development of matters falling within the scope of its functions, a report on progress of projects described in the forward work programme for that year, a summary of orders and penalties imposed and a report on any matter which it is required to report on as a result of a requirement by the Assembly.
Section 40 (Para127)	Guidance to Authority on social and environmental matters	The section allows the Assembly to issue statutory guidance to the Authority relating to water and sewerage undertakers whose areas are wholly or mainly in Wales. The subject of the guidance is how the Authority might contribute to social and environmental policies in Wales.
Section 44 (Para154)	Provision of information to the Council	New section 27J enables the Assembly to direct the Council to provide reasonable information which it requires for the exercise of its functions. The Assembly will be entitled to reasons from the Council for a refusal to provide the information requested.

<i>Provision</i>	<i>Title</i>	<i>Effect</i>
		The Assembly may publish the reasons, subject to the need to exclude information the publication of which might cause serious and prejudicial effects to persons to whom it relates.
Section 48 (Para166)	Financial penalties	This section confers powers on the Assembly to impose financial penalties on statutory undertakers operating wholly or mainly in Wales and on licensees operating in those areas.
Section 51 (Para184)	Reasons for decisions	This section requires the Assembly to give reasons for key decisions that it takes. The reasons are specified in the new section 195A(1) inserted into the WIA by Section 51. Where the obligation bites, the Assembly must produce, publish and disseminate a notice giving the reasons for its decision.
Section 58 (Para333)	Fluoridation of water supplies	This section gives the Assembly regulation making powers to: <ul style="list-style-type: none"> <li>• alter general concentration</li> <li>• detail consultation procedures; and</li> <li>• specify content of indemnities.</li> </ul> It may also determine (or appoint a third party to determine) issues where there is a failure to agree the terms of arrangements with a water undertaker.
Section 77 (Para377)	Flood plans: large raised reservoirs	This section allows the functions of the Secretary of State to direct undertakers to prepare a flood plan to be transferred to the Assembly in relation to Wales.
Section 100 (Para430)	Devolution: Wales	This section amends Schedules 1 and 2 to the National Assembly for Wales (Transfer of Functions) Order 1999.
Section 103 (Para435)	Powers to make further supplementary, consequential and transitional provision, etc	This section gives the Assembly power to make regulations in relation to its functions under the Act.
Section 104 (Para438)	Interpretation, commencement, short title, and extent	This section details the authority with the power to commence the different provisions of the Act, i.e. the Secretary of State of the Assembly.
Schedule 2 (Para101)	The Consumer Council for Water	See section 35 above.
Schedule 4 (Para193)	Licensing of water suppliers	Competition provisions do restrict existing Assembly powers, but will add powers relating to customer eligibility, exemptions for new customers, and the amendment of the eligibility threshold. Provision is also

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<i>Provision</i>	<i>Title</i>	<i>Effect</i>
		made for the Secretary of State to consult the Assembly when carrying out other functions in the schedule.