



# Water Act 2003

## 2003 CHAPTER 37

### PART 3

#### MISCELLANEOUS

#### *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—
  - (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);

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- (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.

### **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."

#### **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—
  - (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."

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(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.”

## **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).”