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Changes to legislation: Water Act 2003, SCHEDULE 8 is up to date with all changes known to be in force on or before 06 May 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

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.
- (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

- I1** 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)
- I2** 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

- I3** 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)
- I4** 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)

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- 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.”

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- 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—
- (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 ”.

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(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 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), ”.

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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

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(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) ”.

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In section 22 (effect of enforcement order), in subsection (3), after “section 68(1)(a)” there is inserted “ or (1A)(a) ”.

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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—

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“(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.”

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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—

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- (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.”

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- 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
 - (b) in paragraph (b), after “appointment” there is inserted “ or a qualifying licensed water supplier ”.

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- 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 ”.

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- 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.”

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- 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.”
- (4) In subsection (3), after “undertaker” there is inserted “ or licensed water supplier”.

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- 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

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(ii) are reasonably attributable to the use of that main for the purpose of the supplier supplying water to those premises.”

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- 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
- (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.”

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- 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 ”.

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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.
- (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

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- (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.
- (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.”

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- 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—
- (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

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(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)—
- (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)—

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- (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,
 - (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.”

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Commencement Information

I5 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)—

- (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

I6 Sch. 8 para. 20 in force at 1.10.2004 by S.I. 2004/2528, art. 2(t)(iv) (with Sch. para. 8)

Status: Point in time view as at 01/10/2004. This version of this schedule contains provisions that are not valid for this point in time.

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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
(c) in paragraph (d), after “undertaker” there is inserted “ or licensed water supplier ”.

Commencement Information

I7 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,

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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.”

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—

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- (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 ”.

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)—

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- (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 ”.

(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;”.

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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 ”.

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—

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“(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)—

- (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;

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- (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—

- (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;

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- (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.
- (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—

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“(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 ”.
- (3) In subsection (2), at the end there is inserted “ or a licence under Chapter 1A of that Part ”.

Commencement Information

18 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

19 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.

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(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—
 - (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.

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- (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, ”.

Commencement Information

- I10** 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)
- I11** 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

- I12** 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

- I13** 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)
- I14** 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) ”,

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- (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.”

Commencement Information

- I15** 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)
- I16** 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

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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
 - (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

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(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.”

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)

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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—
- “(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

I17 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)

I18 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)

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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 ”.

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Enterprise Act 2002 (c. 40)

- 55 (1) The Enterprise Act 2002 is amended as follows.

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- (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);”.
- (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);”.

Status:

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Changes to legislation:

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