



# Water Act 2003

## 2003 CHAPTER 37

### PART 2

#### NEW REGULATORY ARRANGEMENTS, ETC

##### *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.
- (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

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*Status: Point in time view as at 01/04/2005. This version of this provision has been superseded.*  
**Changes to legislation:** *Water Act 2003, Section 39 is up to date with all changes known to be in force on or before 29 April 2023. 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)*

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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);
- (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;

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- (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—
    - (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—

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“(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).”

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**Commencement Information**

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

**Status:**

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