



Water Act 2003

2003 CHAPTER 37

PART 2

NEW REGULATORY ARRANGEMENTS, ETC

Objectives of regulation of water industry

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
- (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)—

Changes to legislation: *Water Act 2003, Section 41 is up to date with all changes known to be in force on or before 13 May 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) View outstanding changes*

- (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.

(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;

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- (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

II S. 41 in force at 1.4.2005 by S.I. 2005/968, art. 2(h)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 52(9) inserted by [2014 c. 21 Sch. 7 para. 133\(3\)](#)