



Health and Social Care Act 2012

2012 CHAPTER 7

PART 1

THE HEALTH SERVICE IN ENGLAND

Functions relating to fluoridation of water

35 Fluoridation of water supplies

- (1) Chapter 4 of Part 3 of the Water Industry Act 1991 (fluoridation), as amended by the Water Act 2003, is amended as follows.
- (2) In section 87 (fluoridation of water supplies at request of relevant authorities), in subsection (3)(a) for sub-paragraph (i) substitute—

“(i) in relation to areas in England, are to the Secretary of State;”.
- (3) After subsection (3) of that section insert—

“(3A) The Secretary of State may make a request under subsection (1) only if the Secretary of State is required to do so by section 88G(2) (following the making of a fluoridation proposal in accordance with section 88B).”
- (4) In subsection (4) of that section, for paragraph (a) substitute—

“(a) in relation to England, such area as the Secretary of State considers appropriate for the purpose of complying with section 88G(2);”.
- (5) After subsection (7) of that section insert—

“(7A) The Secretary of State must, in relation to the terms to be included in any arrangements under this section, consult any local authority whose area includes, coincides with or is wholly or partly within the specified area.

“(7B) In this section and the following provisions of this Chapter “local authority” means—

 - (a) a county council in England;

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- (b) a district council in England, other than a council for a district in a county for which there is a county council;
 - (c) a London borough council;
 - (d) the Common Council of the City of London.”
- (6) After subsection (7B) of that section (as inserted by subsection (5) above) insert—
 - “(7C) If the Secretary of State and the Welsh Ministers request a particular water undertaker to enter into arrangements in respect of adjoining areas—
 - (a) they must co-operate with each other so as to secure that the arrangements (taken together) are operable and efficient; and
 - (b) if suitable terms are not agreed for all the arrangements, a combined reference may be made by them under section 87B below to enable the terms of each set of arrangements to be determined so that they are consistent.
 - (7D) If the Secretary of State requests a water undertaker to vary arrangements for an area which adjoins an area in respect of which the Welsh Ministers have made arrangements with the same water undertaker, the Secretary of State must co-operate with the Welsh Ministers so as to secure that following the variation the arrangements (taken together) will be operable and efficient.
 - (7E) If the Welsh Ministers request a water undertaker to vary arrangements for an area which adjoins an area in respect of which the Secretary of State has made arrangements with the same water undertaker, the Welsh Ministers must co-operate with the Secretary of State so as to secure that following the variation the arrangements (taken together) will be operable and efficient.
 - (7F) If suitable terms are not agreed for a variation to which subsection (7D) or (7E) applies, a combined reference may be made by the Secretary of State and the Welsh Ministers under section 87B below so that (following the variation) both sets of arrangements are consistent.”
- (7) Omit subsections (8) to (10) of that section.
- (8) In subsection (11) of that section for “a relevant authority” substitute “the Welsh Ministers”.
- (9) In section 87A (target concentration of fluoridation), after subsection (3) insert—
 - “(3A) If the Secretary of State proposes to—
 - (a) make arrangements which provide for the concentration in the specified area (or any part of it) to be lower than the general target concentration, or
 - (b) vary existing arrangements so that they so provide,
 the Secretary of State shall consult any local authority whose area includes, coincides with or is wholly or partly within the specified area.”
- (10) In section 87B (fluoridation arrangements: determination of terms), in subsection (2) —
 - (a) for paragraph (a) substitute—
 - “(a) the Secretary of State may—
 - (i) determine the terms of the arrangements as the Secretary of State sees fit; or

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- (ii) refer the matter for determination by such other person as the Secretary of State considers appropriate; and”, and”
- (b) omit paragraph (b).
- (11) In that section, in subsection (4) for the words from the beginning to “section 87(8)(b) or (10)” substitute “Where a combined reference is made under section 87(7C)(b) or 87(7F)”.
- (12) In section 87C (fluoridation arrangements: compliance), omit subsection (8).
- (13) In section 89—
 - (a) in the heading, after “Consultation” insert “:Wales”,
 - (b) in subsections (1) and (4) for “a relevant authority” substitute “the Welsh Ministers”,
 - (c) in subsection (1) for “the appropriate authority” (in each place where it occurs) substitute “the Welsh Ministers”,
 - (d) in subsection (3), in paragraph (a) for “relevant authorities” substitute “the Welsh Ministers”,
 - (e) in subsection (4) for “the appropriate authority so directs” substitute “the Welsh Ministers so direct”, and
 - (f) omit subsection (5).
- (14) In section 90A (review of fluoridation) after subsection (5) insert—
 - “(5A) The relevant authority must, in exercising its functions under subsection (1)—
 - (a) consult any local authority affected by the arrangements at such times as the relevant authority considers appropriate, and
 - (b) in particular, consult any such local authority before it publishes a report under paragraph (b) of that subsection.”