Water Act 2014

2014 CHAPTER 21

U.K.

An Act to make provision about the water industry; about compensation for modification of licences to abstract water; about main river maps; about records of waterworks; for the regulation of the water environment; about the provision of flood insurance for household premises; about internal drainage boards; about Regional Flood and Coastal Committees; and for connected purposes. [14th May 2014]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART 1 E+W

WATER INDUSTRY

CHAPTER 1 E+W

WATER SUPPLY LICENCES AND SEWERAGE LICENCES

Expansion of water supply licensing

1 Types of water supply licence and arrangements with water undertakers E+W

(1) For section 17A of the Water Industry Act 1991 there is substituted—

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Water Act 2014 is up to date with all changes known to be in force on or before 20 June 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) View outstanding changes*

"**17A Water supply licences**

(1) The Authority may grant to a person a licence in respect of the use of the supply system of a water undertaker (a "water supply licence").

(2) A water supply licence may give the holder of the licence one or more of the following authorisations and combination of authorisations—
  (a) a retail authorisation;
  (b) a wholesale authorisation;
  (c) a restricted retail authorisation;
  (d) a restricted retail authorisation and a supplementary authorisation.

(3) Schedule 2A makes provision as to the authorisations (including their operation in England and Wales).

(4) In the case of each of the authorisations, an authorisation to do a thing is an authorisation to do it in accordance with Chapter 2A of Part 3.

(5) The Authority may exercise the power to grant a water supply licence only in accordance with a general authorisation given by the Secretary of State.

(6) Before giving a general authorisation as regards the Authority, the Secretary of State must consult the Welsh Ministers.

(7) References in this Act to a water supply licensee are references to a person that is the holder for the time being of a water supply licence.

17AA Water supply licences: restrictions on grants

(1) Before the Authority grants a water supply licence giving a wholesale authorisation, it must consult—
  (a) the Secretary of State;
  (b) the Chief Inspector of Drinking Water;
  (c) the Environment Agency;
  (d) the NRBW.

(2) Before the Authority grants a water supply licence giving a supplementary authorisation, it must consult—
  (a) the Secretary of State;
  (b) the Chief Inspector of Drinking Water;
  (c) the Environment Agency;
  (d) the Welsh Ministers;
  (e) the Chief Inspector of Drinking Water for Wales if there is one;
  (f) the NRBW.

(3) A water supply licence may not be granted to a water undertaker.

(4) A water supply licence may not be granted to a person unless that person is a limited company.

(5) The restriction in subsection (4) does not apply if the water supply licence gives only—

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(a) a retail authorisation,
(b) a restricted retail authorisation, or
(c) a retail authorisation and a restricted retail authorisation."

(2) After Schedule 2 to the Water Industry Act 1991 there is inserted the Schedule set out in Schedule 1.

(3) Schedule 2 (which amends Chapter 2A of Part 3 of the Water Industry Act 1991 which relates to water undertakers' duties to enable operations of water supply licensees) has effect.

Commencement Information

I1 S. 1(1) in force at 1.1.2016 for specified purposes by S.I. 2015/1938, **art. 3(a)(i)** (with art. 4)
I2 S. 1(1) in force at 1.4.2016 for specified purposes by S.I. 2016/465, **art. 2(a)(i)** (with Sch. 2)
I3 S. 1(1) in force at 1.11.2016 in so far as not already in force by S.I. 2016/1007, **art. 2(a)** (with arts. 3, 4)
I4 S. 1(2) in force at 1.1.2016 by S.I. 2015/1938, **art. 3(a)(ii)**
I5 S. 1(3) in force at 1.9.2015 for specified purposes by S.I. 2015/1469, **art. 3(a)**
I6 S. 1(3) in force at 1.9.2015 for specified purposes by S.I. 2015/773, **art. 3(a)** (with art. 5)
I7 S. 1(3) in force at 1.4.2016 for specified purposes by S.I. 2016/465, **art. 2(a)(ii)** (with Sch. 2)
I8 S. 1(3) in force at 1.9.2016 for specified purposes by S.I. 2016/465, **art. 3(a)** (with Sch. 2)
I9 S. 1(3) in force at 30.3.2017 for specified purposes by S.I. 2017/462, **art. 2(a)**
I10 S. 1(3) in force at 1.4.2017 for specified purposes by S.I. 2017/462, **art. 3(a)**

2 The supply system of a water undertaker E+W

(1) Section 17B of the Water Industry Act 1991 (guidance and interpretation) is amended as follows.

(2) After subsection (4) there is inserted—

"(4A) In this Chapter, references to the supply system of a water undertaker are, in the case of an undertaker whose area is wholly or mainly in England, references to the system comprising the following—
(a) any reservoirs and other places of storage and any treatment works developed or maintained by the water undertaker for the purpose of complying with its duty under section 37, and
(b) any water mains and other pipes which it is the water undertaker's duty to develop and maintain by virtue of section 37."

(3) In subsection (5) (interpretation of references to the supply system of a water undertaker), after "undertaker are" there is inserted " , in the case of an undertaker whose area is wholly or mainly in Wales, ".

Commencement Information

I11 S. 2 in force at 1.4.2017 by S.I. 2017/462, **art. 3(b)**

Status: *This version of this Act contains provisions that are prospective.*
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3 The threshold requirement E+W

(1) The Secretary of State may by order made by statutory instrument repeal section 17A(3)(b) of the Water Industry Act 1991 (the threshold requirement affecting premises in England and Wales), so far as it relates to premises supplied using the supply system of a water undertaker whose area is wholly or mainly in England.

(2) The Welsh Ministers may by order made by statutory instrument repeal section 17A(3)(b) of the Water Industry Act 1991, so far as it relates to premises supplied using the supply system of a water undertaker whose area is wholly or mainly in Wales.

(3) The references in subsections (1) and (2) to section 17A of the Water Industry Act 1991 are to the section 17A that is to be repealed (by substitution) by section 1 of this Act.

(4) The Welsh Ministers may by order made by statutory instrument repeal paragraph 7(b) of Schedule 2A to the Water Industry Act 1991 (inserted by Schedule 1 to this Act).

(5) An order under subsection (1), (2) or (4) may make such amendments of the Water Industry Act 1991 and this Act as are necessary or appropriate in consequence of the repeal made by the order.

(6) A statutory instrument containing an order to be made by the Secretary of State under subsection (1) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

(7) A statutory instrument containing an order to be made by the Welsh Ministers under subsection (2) or (4) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.

Introduction of sewerage licences

4 Types of sewerage licence and arrangements with sewerage undertakers E+W

(1) After section 17B of the Water Industry Act 1991 there is inserted—

"**17BA Sewerage licences**

(1) The Authority may grant to a person a licence in respect of the use of the sewerage system of a sewerage undertaker whose area is wholly or mainly in England (a "sewerage licence").

(2) A sewerage licence may give the holder of the licence one or more of the following—
  (a) a retail authorisation;
  (b) a wholesale authorisation;
  (c) a disposal authorisation.

(3) Schedule 2B makes provision as to the authorisations.

(4) In the case of each of the authorisations, an authorisation to do a thing is an authorisation to do it in accordance with Chapter 2A of Part 4.

(5) The Authority may exercise the power to grant a sewerage licence only in accordance with a general authorisation given by the Secretary of State.

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(6) References in this Act to a sewerage licensee are references to a person that is the holder for the time being of a sewerage licence.

(7) References in this Chapter to the sewerage system of a sewerage undertaker are references to the system comprising—

(a) the system of public sewers, the facilities for emptying public sewers and the sewage disposal works and other facilities for dealing effectually with the contents of public sewers that the undertaker is required to provide by section 94, and

(b) the lateral drains that the undertaker is required to maintain by section 94.

17BB Sewerage licences: restrictions on grants

(1) The Authority must consult the Secretary of State, the Environment Agency and the NRBW before granting a licence that gives—

(a) a wholesale authorisation, or

(b) a disposal authorisation.

(2) A sewerage licence granted to a sewerage undertaker may not give the holder—

(a) a retail authorisation, or

(b) a wholesale authorisation.

(3) A sewerage licence may not be granted to a person unless that person is a limited company.

(4) The restriction in subsection (3) does not apply if the sewerage licence gives only a retail authorisation."

(2) After Schedule 2A to the Water Industry Act 1991 (inserted by section 1) there is inserted the Schedule set out in Schedule 3.

(3) Schedule 4 (which amends Part 4 of the Water Industry Act 1991 to add a Chapter 2A relating to arrangements between sewerage undertakers and sewerage licensees) has effect.

Commencement Information

I12 S. 4(1) in force at 1.1.2016 for specified purposes by S.I. 2015/1938, **art. 3(b)(i)**
I13 S. 4(1) in force at 1.4.2016 for specified purposes by S.I. 2016/465, **art. 2(b)(i)** (with Sch. 2)
I14 S. 4(2) in force at 1.1.2016 by S.I. 2015/1938, **art.**
I15 S. 4(3) in force at 1.9.2015 for specified purposes by S.I. 2015/773, **art. 3(b)** (with art. 5)
I16 S. 4(3) in force at 1.9.2015 for specified purposes by S.I. 2015/1469, **art. 3(b)**
I17 S. 4(3) in force at 1.4.2016 for specified purposes by S.I. 2016/465, **art. 2(b)(ii)** (with Sch. 2)
I18 S. 4(3) in force at 1.9.2016 for specified purposes by S.I. 2016/465, **art. 3(b)** (with Sch. 2)
I19 S. 4(3) in force at 30.3.2017 for specified purposes by S.I. 2017/462, **art. 2(b)**
I20 S. 4(3) in force at 1.4.2017 for specified purposes by S.I. 2017/462, **art. 3(c)**

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PROSPECTIVE

Application as regards Wales

5 Water supply and sewerage licensing changes applied as regards Wales E+W

Schedule 5 (which contains amendments in connection with applying licensing changes to relation to relevant undertakers whose areas are wholly or mainly in Wales) has effect.

Licensing arrangements between England and Wales and Scotland

6 Arrangements with the Water Industry Commission for Scotland E+W

(1) The Water Industry Act 1991 is amended as follows.

(2) After section 17F (procedure for granting and varying licences) there is inserted—

"**17FA Applications forwarded by the Water Industry Commission for Scotland**

(1) The Secretary of State may by regulations make provision about—

(a) treating a 2005 Act application for the grant of a water services licence under section 6 of the 2005 Act as being also an application under section 17F for the grant of a water supply licence giving only a retail authorisation or a restricted retail authorisation or both;

(b) treating a 2005 Act application for the grant of a sewerage services licence under section 6 of the 2005 Act as being also an application under section 17F for the grant of a sewerage licence giving only a retail authorisation.

(2) The regulations may in particular make provision about—

(a) the circumstances in which, and the conditions subject to which, a 2005 Act application is to be treated as an application under section 17F for a water supply or sewerage licence giving a particular authorisation or particular authorisations;

(b) the time at which an application is to be treated as having been made;

(c) the processing of an application by the Authority.

(3) Provision under subsection (2)(a) may require a 2005 Act application that is forwarded to the Authority—

(a) to contain, or to be accompanied by, such information or information of such description as is specified by the regulations;

(b) to be accompanied by such documents or documents of such descriptions as are specified by the regulations;

(c) to be accompanied by a fee, or a fee of a description, specified by the regulations.

(4) In this section and section 17FB—

"the 2005 Act" means the Water Services etc. (Scotland) Act 2005;

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"2005 Act application" means an application under paragraph 1 of Schedule 2 to the 2005 Act.

17FB Applications forwarded to the Water Industry Commission for Scotland

(1) If the conditions in subsection (2) are satisfied, the Authority must—

(a) forward to the Commission a copy of an application under section 17F for the grant of a water supply licence or sewerage licence, and

(b) send to the Commission such information and such fee as appear to the Authority to be required in order that the application may be treated by the Commission as a 2005 Act application for the grant of—

(i) a water services licence under section 6 of the 2005 Act, or

(ii) a sewerage services licence under section 6 of the 2005 Act, as the case may be.

(2) The conditions are that—

(a) the Authority is requested to do so by the applicant;

(b) the application under section 17F appears to the Authority to be an application that would be treated by the Commission as a 2005 Act application for the grant of—

(i) a water services licence under section 6 of the 2005 Act, or

(ii) a sewerage services licence under section 6 of the 2005 Act, as the case may be;

(c) the applicant has given the Authority—

(i) such information as is mentioned in subsection (1)(b), and

(ii) a means of sending to the Commission such fee as is mentioned in subsection (1)(b).

(3) The Authority must—

(a) forward a copy of the application, and

(b) send such information and fee as are mentioned in subsection (1)(b),

before the end of the agreed period for an application of that description.

(4) In this section—

"the agreed period", in relation to an application under section 17F of a particular description, means the period agreed between the Authority and the Commission as the period applying to an application of that description for the purposes of subsection (3);

"the Commission" means the Water Industry Commission for Scotland."

Commencement Information

I21 S. 6 in force at 1.4.2016 in so far as not already in force by S.I. 2016/465, **art. 2(c)** (with Sch. 2)

I22 S. 6(1) in force at 18.12.2015 for specified purposes by S.I. 2015/1938, **art. 2(a)(i)**

I23 S. 6(2) in force at 18.12.2015 for specified purposes by S.I. 2015/1938, **art. 2(a)(ii)**

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7 Arrangements with the Water Services Regulation Authority E+W

(1) The Water Services etc. (Scotland) Act 2005 is amended as follows.

(2) In Schedule 2 (procedure for granting licences), after paragraph 1 there is inserted—

"**Applications forwarded by the Water Services Regulation Authority**

1A (1) The Scottish Ministers may by order make provision about—

(a) treating an application under section 17F of the 1991 Act for the grant of a water supply licence giving a retail authorisation or a restricted retail authorisation as being also an application under paragraph 1 for the grant of a water services licence;

(b) treating an application under section 17F of the 1991 Act for the grant of a sewerage licence giving a retail authorisation as being also an application under paragraph 1 for the grant of a sewerage services licence.

(2) The order may in particular make provision about—

(a) the circumstances in which, and the conditions subject to which, an application under section 17F of the 1991 Act is to be treated as an application under paragraph 1 for a water services licence or a sewerage services licence;

(b) the time at which an application is to be treated as having been made;

(c) the processing of an application by the Commission.

(3) Provision under sub-paragraph (2)(a) may require an application under section 17F of the 1991 Act that is forwarded to the Commission—

(a) to include, or be accompanied by, information prescribed by the order;

(b) to be accompanied by a fee, or a fee of a description, prescribed by the order.

(4) In this paragraph and paragraph 1B "the 1991 Act" means the Water Industry Act 1991.

Applications forwarded to the Water Services Regulation Authority

1B (1) If the conditions in sub-paragraph (2) are satisfied, the Commission must—

(a) forward to the Authority a copy of an application under paragraph 1 for the grant of a water services licence or sewerage services licence;

(b) send to the Authority such information, documents and fee as appear to the Commission to be required in order that the application may be treated by the Authority as an application under section 17F of the 1991 Act for the grant of—

(i) a water supply licence giving a retail authorisation or a restricted retail authorisation or both, or

(ii) a sewerage licence giving a retail authorisation,

as the case may be.

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(2) The conditions are that—

(a) the Commission is requested to do so by the applicant;

(b) the application under paragraph 1 appears to the Commission to be an application that would be treated by the Authority as an application under section 17F of the 1991 Act for the grant of—

(i) a water supply licence giving a retail authorisation or a restricted retail authorisation or both, or

(ii) a sewerage licence giving a retail authorisation,

as the case may be;

(c) the applicant has given the Commission—

(i) such information and documents as are mentioned in sub-paragraph (1)(b), and

(ii) a means of sending to the Authority such fee as is mentioned in sub-paragraph (1)(b).

(3) The Commission must—

(a) forward a copy of the application, and

(b) send such information, documents and fee as are mentioned in sub-paragraph (1)(b),

before the end of the agreed period for an application of that description.

(4) In this paragraph—

"the agreed period", in relation to an application under paragraph 1 of a particular description, means the period agreed between the Commission and the Authority as the period applying to an application of that description for the purposes of sub-paragraph (3);

"the Authority" means the Water Services Regulation Authority."

(3) In section 6 (grant of water services and sewerage services licences)—

(a) in subsection (1), for "paragraphs 1 and 2" there is substituted " paragraphs 1, 1A and 2 ";

(b) in subsection (3), for "paragraphs 1 and 2" there is substituted " paragraphs 1, 1A and 2 ".

(4) In section 34 (orders and regulations), in subsection (3)(c), after "or (4)" there is inserted " , 1A(1) ".

Commencement Information

I24 S. 7(1)(2) in force at 20.11.2015 for specified purposes by S.S.I. 2015/360, **art. 2(a)**

I25 S. 7(1)(2) in force at 1.4.2016 in so far as not already in force by S.S.I. 2016/48, **art. 2**

I26 S. 7(3)(4) in force at 20.11.2015 by S.S.I. 2015/360, **art. 2(b)**

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CHAPTER 2 E+W

WATER AND SEWERAGE UNDERTAKERS

Arrangements between relevant undertakers

8 Bulk supply of water by water undertakers E+W

(1) For sections 40 and 40A of the Water Industry Act 1991 (agreements for the bulk supply of water etc) there is substituted—

"**40 Bulk supplies**

(1) This section applies where—

(a) a qualifying person requests a water undertaker to provide a supply of water in bulk to the qualifying person, or

(b) a water undertaker proposes such an arrangement;

and references in this section to the supplier are references to the water undertaker who is to provide the supply of water.

(2) In this section "qualifying person" means—

(a) a water undertaker;

(b) a person who has made an application for an appointment or variation under section 8 which has not been determined.

(3) On the application of the qualifying person or the supplier, the Authority may—

(a) if it appears to the Authority that it is necessary or expedient for the purposes of securing the efficient use of water resources, or the efficient supply of water, that the supplier should give a supply of water in bulk to the qualifying person, and

(b) if the Authority is satisfied that the supplier and qualifying person cannot reach agreement within a reasonable time,

by order require the supplier to give and the qualifying person to take a supply of water in bulk for such period and on such terms and conditions as may be specified in the order.

(4) Before making an order under subsection (3), the Authority must consult the appropriate agency, in particular about whether the proposed supply of water would secure an efficient use of water resources, taking into account the effect on the environment of the proposed supply.

(5) Subject to subsection (6), an order under subsection (3) has effect as an agreement between the supplier and the qualifying person.

(6) If the Authority makes an order under subsection (3) that affects a person who is a qualifying person by virtue of subsection (2)(b), the Authority must frame the order so that it does not have effect until—

(a) the person becomes a water undertaker for the area specified in the order, or

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(b) the person becomes a water undertaker for an area that includes the area specified in the order (in the case of a water undertaker applying for a variation).

(7) Neither the CMA nor the Authority may exercise, in respect of an agreement for the supply of water in bulk by a water undertaker to a qualifying person, the powers conferred by—

(a) section 32 of the Competition Act 1998 (directions in relation to agreements);

(b) section 35(2) of that Act (interim directions).

(8) Subsection (7)(b) does not apply to the exercise of powers in respect of conduct—

(a) which is connected with an agreement for the supply of water in bulk by a water undertaker to a qualifying person, and

(b) in respect of which section 35(1) of the Competition Act 1998 applies because of an investigation under section 25 of that Act relating to a suspected infringement of the Chapter 2 prohibition imposed by section 18(1) of that Act.

(9) In exercising its functions under this section, the Authority must have regard to the desirability of—

(a) facilitating effective competition within the water supply industry;

(b) the supplier's recovering the expenses of complying with its obligations by virtue of this section and securing a reasonable return on its capital;

(c) the supplier's being able to meet its existing obligations, and likely future obligations, to supply water without having to incur unreasonable expenditure in carrying out works;

(d) not putting at risk the ability of the supplier to meet its existing obligations, or likely future obligations, to supply water.

(10) In this section and section 40A "the appropriate agency", in relation to a determination whether to make an order under subsection (3) or section 40A(1) which would result in, or which would vary or terminate, a bulk supply agreement, means—

(a) the Environment Agency, in a case where all parties to the bulk supply agreement are or would be—

(i) a water undertaker whose area is wholly in England, or

(ii) a person who would, if the person's application for an appointment or variation is determined in accordance with the application, be such a water undertaker;

(b) the NRBW, in a case where all parties to the bulk supply agreement are or would be—

(i) a water undertaker whose area is wholly in Wales, or

(ii) a person who would, if the person's application for an appointment or variation is determined in accordance with the application, be such a water undertaker;

(c) both the Environment Agency and the NRBW, in any other case.

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(11) In this section and sections 40A to 40J "bulk supply agreement" means an agreement with one or more water undertakers for the supply of water in bulk and includes—

(a) an order under subsection (3) which is deemed to be an agreement by virtue of subsection (5), and

(b) any agreement which has been varied by order under section 40A(1).

40A Variation and termination of bulk supply agreements

(1) On the application of any party to a bulk supply agreement, the Authority may—

(a) if it appears to the Authority that it is necessary or expedient for the purpose of securing the efficient use of water resources, or the efficient supply of water, that the bulk supply agreement should be varied or terminated, and

(b) if the Authority is satisfied that variation or termination cannot be achieved by agreement within a reasonable time,

by order vary or terminate the bulk supply agreement.

(2) Before making an order under subsection (1), the Authority must consult the appropriate agency, in particular about whether the proposed variation or termination of the bulk supply agreement would secure an efficient use of water resources, taking into account the effect on the environment of what is proposed.

(3) If an order under subsection (1) is made in relation to a bulk supply agreement, the agreement—

(a) has effect subject to the provision made by the order, or

(b) ceases to have effect (as the case may be).

(4) An order under subsection (1) may require any party to the agreement to pay compensation to any other party.

(5) Neither the CMA nor the Authority may exercise, in respect of an agreement to vary or terminate a bulk supply agreement, the powers conferred by—

(a) section 32 of the Competition Act 1998 (directions in relation to agreements);

(b) section 35(2) of that Act (interim directions).

(6) Subsection (5)(b) does not apply to the exercise of powers in respect of conduct—

(a) which is connected with an agreement to vary or terminate a bulk supply agreement, and

(b) in respect of which section 35(1) of the Competition Act 1998 applies because of an investigation under section 25 of that Act relating to a suspected infringement of the Chapter 2 prohibition imposed by section 18(1) of that Act.

(7) In exercising its functions under this section, the Authority must have regard to the expenses incurred by the supplier in complying with its obligations under the bulk supply agreement in question and to the desirability of—

(a) facilitating effective competition within the water supply industry;

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(b) the supplier's recovering the expenses of complying with its obligations by virtue of this section and securing a reasonable return on its capital;

(c) the supplier's being able to meet its existing obligations, and likely future obligations, to supply water without having to incur unreasonable expenditure in carrying out works;

(d) not putting at risk the ability of the supplier to meet its existing obligations, or likely future obligations, to supply water.

(8) In this section and sections 40B to 40J—

"qualifying person" has the meaning given by section 40;

"supplier", in relation to a bulk supply agreement, means any water undertaker which is required by the agreement to provide a bulk supply of water.

40B Codes in respect of bulk supply agreements

(1) The Authority may issue one or more codes in respect of bulk supply agreements.

(2) A code may make provision about—

(a) procedures in connection with making a bulk supply agreement;

(b) procedures in connection with varying or terminating a bulk supply agreement;

(c) procedures to be followed by the Authority in determining whether to make an order under section 40(3) or 40A(1);

(d) the terms and conditions of a bulk supply agreement, including terms as to the duration of such an agreement;

(e) principles for determining the terms and conditions that should or should not be incorporated into a bulk supply agreement;

(f) the steps to be taken by the Authority in determining whether a person is complying with a code.

(3) A code must include provision requiring persons proposing to make, vary or terminate a bulk supply agreement to consult the appropriate agency.

(4) If the Authority considers that a water undertaker is not acting as required by a code, the Authority may give the undertaker a direction to do, or not to do, a particular thing specified in the direction.

(5) The Authority may not give a direction under subsection (4) requiring a person to enter into, vary or terminate an agreement.

(6) It is the duty of a water undertaker to comply with a direction under subsection (4), and this duty is enforceable by the Authority under section 18.

(7) A code may make different provision for different persons or different descriptions of person.

(8) The Authority may from time to time revise a code issued under this section and issue a revised code.

(9) A revised code may include provision for applying any of its revisions to bulk supply agreements made before the revised code comes into force.

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Changes to legislation: *Water Act 2014 is up to date with all changes known to be in force on or before 20 June 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) View outstanding changes*

(10) In this section "the appropriate agency", in relation to a bulk supply agreement or proposed bulk supply agreement, means the body that would be consulted by the Authority under section 40(4) or 40A(2) if an order under section 40(3) or 40A(1) were being considered in relation to the agreement or proposed agreement.

40C Codes under section 40B: procedure

(1) Before issuing a code under section 40B, the Authority must—
- (a) prepare a draft of the proposed code under section 40B;
- (b) consult the appropriate agency;
- (c) consult such other persons about the proposed code as it considers appropriate.

(2) The Authority must specify the period ("the consultation period") within which persons may make representations about the proposed code.

(3) Before a code under section 40B prepared by the Authority is issued, the Minister may direct the Authority—
- (a) not to issue the code, or
- (b) to issue the code with specified modifications.

(4) Subsection (3) is subject to subsections (6) and (7).

(5) In subsection (3) "the Minister" means—
- (a) the Secretary of State, so far as a code prepared by the Authority relates to bulk supply agreements to which all parties are—
  - (i) a water undertaker whose area is wholly or mainly in England, or
  - (ii) a person who would, if the person's application for an appointment or variation is determined in accordance with the application, be such a water undertaker;
- (b) the Welsh Ministers, so far as a code prepared by the Authority relates to bulk supply agreements to which all parties are—
  - (i) a water undertaker whose area is wholly or mainly in Wales, or
  - (ii) a person who would, if the person's application for an appointment or variation is determined in accordance with the application, be such a water undertaker;
- (c) the Secretary of State and the Welsh Ministers acting jointly, so far as a code prepared by the Authority relates to bulk supply agreements to which—
  - (i) a person falling within paragraph (a)(i) or (ii) is party, and
  - (ii) a person falling within paragraph (b)(i) or (ii) is party.

(6) If the power under subsection (3) is exercised to give a direction in respect of such bulk supply agreements as are referred to in paragraph (a), (b) or (c) of subsection (5), it may not be exercised again in respect of such bulk supply agreements as are referred to in that paragraph.

(7) If the power under subsection (3) to give a direction in respect of such bulk supply agreements as are referred to in paragraph (a), (b) or (c) of

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subsection (5) is not exercised on the first occasion on which it may be so exercised, it may not be exercised in respect of such bulk supply agreements as are referred to in that paragraph on a later occasion.

(8) A direction under subsection (3) must be given within the period of 28 days beginning with the day after the end of the consultation period, and a code prepared by the Authority in relation to which a direction may be given may not be issued before that period of 28 days has expired.

(9) In this section "the appropriate agency" means—
- (a) the Environment Agency, so far as a proposed code relates to bulk supply agreements to which all parties are persons mentioned in section 40(10)(a)(i) or (ii);
- (b) the NRBW, so far as a proposed code relates to bulk supply agreements to which all parties are persons mentioned in section 40(10)(b)(i) or (ii);
- (c) both the Environment Agency and the NRBW, in any other case.

(10) This section is subject to section 40D.

40D Codes under section 40B: minor or urgent revisions

(1) This section applies if the Authority proposes to issue a revised code under section 40B and, in the view of the Authority, the revision or each of the revisions proposed to be made is—
- (a) a revision for which consultation is unnecessary, or
- (b) a revision that it is necessary or desirable to make without delay.

(2) Section 40C does not apply to the proposed revised code.

(3) Once the Authority has issued the revised code, it must give notice as soon as reasonably practicable of—
- (a) the issuing of the revised code, and
- (b) as regards each revision contained in it, whether in the view of the Authority the revision falls within paragraph (a) or (b) of subsection (1).

(4) Notice under subsection (3) is to be given to such persons as the Authority considers appropriate.

(5) Unless the Authority gives notice that a revision in a revised code is in the view of the Authority a revision falling within subsection (1)(a), the revision ceases to have effect at the end of the period of six months beginning with the day after that on which the revised code is issued.

40E Rules about charges for the supply of water in bulk

(1) The Authority may issue rules about charges that may be imposed by a water undertaker under a bulk supply agreement.

(2) The rules may in particular make provision about—
- (a) what types of charge may be imposed;
- (b) the amount or the maximum amount, or a method for determining the amount or maximum amount, of any type of charge;

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(c) principles for determining what types of charge may or may not be imposed;

(d) principles for determining the amount of any charge that may be imposed;

(e) publication of the charges that may be imposed.

(3) If the Authority considers that a water undertaker is not acting as required by rules under this section, the Authority may give the undertaker a direction to do, or not to do, a particular thing specified in the direction.

(4) It is the duty of a water undertaker to comply with a direction under subsection (3), and this duty is enforceable by the Authority under section 18.

(5) The rules may—

(a) make different provision for different water undertakers or different descriptions of water undertaker;

(b) make different provision for different purposes;

(c) make provision subject to exceptions.

(6) The Authority may from time to time revise rules issued under this section and issue revised rules.

(7) The Authority must issue revised rules if—

(a) guidance is issued under section 40I, and

(b) the Authority, having regard to that guidance, considers that it is appropriate to revise the rules.

(8) Revised rules may include provision for applying any of their revisions to bulk supply agreements made before the revised rules come into effect.

40F Rules under section 40E: provision about the reduction of charges

(1) Rules under section 40E may provide for the reduction of charges payable for a supply of water under a bulk supply agreement where conditions specified by the rules are satisfied.

(2) Rules made by virtue of subsection (1) may in particular—

(a) specify conditions that affect any party to a bulk supply agreement;

(b) require that steps be taken for the purpose of reducing or managing water consumption;

(c) specify conditions about reducing charges payable by a person who—

(i) is not party to the agreement, and

(ii) takes or proposes to take such steps as satisfy or would satisfy a condition falling within paragraph (b).

(3) The rules may provide that, where a charge falls to be reduced in accordance with rules made by virtue of subsection (1), the water undertaker to which the charges are payable must give notice of that reduction to the Authority.

(4) Rules made by virtue of subsection (3) may—

(a) make provision as to the content of the notice;

(b) specify the period within which an undertaker is to give notice to the Authority.

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(5) Provision under subsection (4)(a) may in particular require the notice to specify—
  (a) the provision of the rules that brings about the reduction in the charge;
  (b) the amount of the charge, with and without the reduction;
  (c) the period for which the reduction has effect.

40G Rules under section 40E: procedure

(1) Before issuing rules under section 40E, the Authority must—
  (a) prepare a draft of the proposed rules, and
  (b) consult such persons about the proposed rules as it thinks appropriate.

(2) The Authority must specify the period ("the consultation period") within which persons may make representations about the proposed rules.

(3) The Authority must have regard to guidance issued under section 40I in making rules under section 40E.

(4) Before rules under section 40E prepared by the Authority are issued, the Minister may direct the Authority not to issue the rules.

(5) In subsection (4) "the Minister" means—
  (a) the Secretary of State, so far as rules prepared by the Authority relate to bulk supply agreements to which all parties are—
    (i) a water undertaker whose area is wholly or mainly in England, or
    (ii) a person who would, if the person's application for an appointment or variation is determined in accordance with the application, be such a water undertaker;
  (b) the Welsh Ministers, so far as rules prepared by the Authority relate to bulk supply agreements to which all parties are—
    (i) a water undertaker whose area is wholly or mainly in Wales, or
    (ii) a person who would, if the person's application for an appointment or variation is determined in accordance with the application, be such a water undertaker;
  (c) the Secretary of State and the Welsh Ministers acting jointly, so far as rules prepared by the Authority relate to bulk supply agreements to which—
    (i) a person falling within paragraph (a)(i) or (ii) is party, and
    (ii) a person falling within paragraph (b)(i) or (ii) is party.

(6) A direction under subsection (4) must be given within the period of 28 days beginning with the day after the end of the consultation period, and rules may not be issued before that period of 28 days has expired.

(7) This section is subject to section 40H.

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40H Rules under section 40E: minor or urgent revisions

(1) This section applies if the Authority proposes to issue revised rules under section 40E and, in the view of the Authority, the revision or each of the revisions proposed to be made is—

(a) a revision for which consultation is unnecessary, or

(b) a revision that it is necessary or desirable to make without delay.

(2) Section 40G does not apply to the proposed revised rules.

(3) Before issuing the revised rules, the Authority must give notice to the Minister of its intention to issue revised rules.

(4) Before the revised rules are issued, the Minister may direct the Authority not to issue the revised rules.

(5) A direction under subsection (4) must be given within the period of 14 days beginning with the day after the day on which notice is given under subsection (3), and the Authority may not issue the revised rules in question before—

(a) that period of 14 days expires, or

(b) the Minister notifies the Authority that no direction under subsection (4) will be given in relation to the revised rules,

whichever is the sooner.

(6) Once the Authority has issued the revised rules, it must give notice as soon as reasonably practicable of—

(a) the issuing of the revised rules, and

(b) as regards each revision contained in them, whether in the view of the Authority the revision falls within paragraph (a) or (b) of subsection (1).

(7) Notice under subsection (6) is to be given to such persons as the Authority considers appropriate.

(8) Unless the Authority gives notice that a revision in revised rules is in the view of the Authority a revision falling within subsection (1)(a), the revision ceases to have effect at the end of the period of six months beginning with the day after that on which the revised rules are issued.

(9) In this section "the Minister" has the meaning given by section 40G.

40I Rules under section 40E: guidance

(1) The Minister may issue guidance as to the content of rules under section 40E.

(2) Before issuing the guidance, the Minister must—

(a) prepare a draft of the proposed guidance;

(b) consult the relevant persons about the draft.

(3) The relevant persons are—

(a) the Secretary of State;

(b) the Welsh Ministers;

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(c) such other persons as the Minister thinks appropriate.

(4) The Minister may from time to time revise the guidance and issue revised guidance.

(5) Subsections (2) and (3) apply to revised guidance as they apply to the original guidance.

(6) The Minister must arrange for the publication of guidance issued under this section.

(7) In this section "the Minister" means—

(a) the Secretary of State, in relation to bulk supply agreements to which all parties are—

(i) a water undertaker whose area is wholly or mainly in England, or

(ii) a person who would, if the person's application for an appointment or variation is determined in accordance with the application, be such a water undertaker;

(b) the Welsh Ministers, in relation to bulk supply agreements to which all parties are—

(i) a water undertaker whose area is wholly or mainly in Wales, or

(ii) a person who would, if the person's application for an appointment or variation is determined in accordance with the application, be such a water undertaker;

(c) the Secretary of State and the Welsh Ministers acting jointly, in relation to bulk supply agreements to which—

(i) a person falling within paragraph (a)(i) or (ii) is party, and

(ii) a person falling within paragraph (b)(i) or (ii) is party.

40J Duty to provide information about bulk supplies

(1) A supplier under a bulk supply agreement must provide such information as the appropriate agency may request in relation to water supplied under the agreement.

(2) The requirement in subsection (1) is enforceable by the Authority under section 18.

(3) In subsection (1) "the appropriate agency" means the body that would be consulted by the Authority under section 40A(2) if the agreement were to be varied or terminated by an order under section 40A(1)."

(2) In sections 40A to 40J of the Water Industry Act 1991 (as substituted by subsection (1)) —

(a) a reference to a bulk supply agreement includes a reference to an old bulk supply agreement, and

(b) a reference to a supplier, in relation to a bulk supply agreement, is to be construed accordingly.

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For these purposes, an old bulk supply agreement is a bulk supply agreement within the meaning of section 40A, as that section had effect before being substituted under subsection (1).

Commencement Information

I27 S. 8 in force at 1.4.2019 for W. in so far as not already in force by S.I. 2017/1288, **art. 3(a)**
I28 S. 8(1) in force at 6.4.2015 for specified purposes by S.I. 2015/773, **art. 2(1)(a)(i)** (with art. 4)
I29 S. 8(1) in force at 1.11.2016 for specified purposes by S.I. 2016/1007, **art. 2(b)**
I30 S. 8(1)(2) in force at 1.4.2018 for specified purposes for E. by S.I. 2018/397, **art. 2(a)**
I31 S. 8(2) in force at 6.4.2015 for specified purposes by S.I. 2015/773, **art. 2(1)(a)(ii)** (with art. 4)

9 Main connections into sewerage systems E+W

(1) For section 110A of the Water Industry Act 1991 (new connections with public sewers) there is substituted—

"**110A Main connections**

(1) This section applies where—
  (a) a qualifying person requests a sewerage undertaker to permit a main connection into the established undertaker's sewerage system for the benefit of the qualifying person, or
  (b) a sewerage undertaker proposes such an arrangement;

and references in this section to the established undertaker are references to the sewerage undertaker who is to permit the main connection.

(2) In this section "qualifying person" means—
  (a) a sewerage undertaker, or
  (b) a person who has made an application for an appointment or variation under section 8 which has not been determined.

(3) On the application of the qualifying person or the established undertaker, the Authority may—
  (a) if it appears to the Authority that it is necessary or expedient for the purposes of this Part that the established undertaker should permit a main connection into its sewerage system, and
  (b) if the Authority is satisfied that the established undertaker and qualifying person cannot reach agreement,

by order require the established undertaker to permit the connection for such period and on such terms and conditions as may be specified in the order.

(4) Before making an order under subsection (3), the Authority must consult the appropriate agency.

(5) Subject to subsection (6), an order under subsection (3) has effect as an agreement between the established undertaker and the qualifying person.

(6) If the Authority makes an order under subsection (3) on the application of a person who is a qualifying person by virtue of subsection (2)(b), the Authority must frame the order so that it does not have effect until—

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(a) the person becomes a sewerage undertaker for the area specified in the order, or

(b) the person becomes a sewerage undertaker for an area that includes the area specified in the order (in the case of a sewerage undertaker applying for a variation).

(7) Neither the CMA nor the Authority may exercise, in respect of an agreement with a sewerage undertaker for it to permit a main connection into its sewerage system for the benefit of a qualifying person, the powers conferred by—

(a) section 32 of the Competition Act 1998 (directions in relation to agreements);

(b) section 35(2) of that Act (interim directions).

(8) Subsection (7)(b) does not apply to the exercise of powers in respect of conduct—

(a) which is connected with such agreement as is mentioned in subsection (7), and

(b) in respect of which section 35(1) of the Competition Act 1998 applies because of an investigation under section 25 of that Act relating to a suspected infringement of the Chapter 2 prohibition imposed by section 18(1) of that Act.

(9) In exercising its functions under this section, the Authority must have regard to the desirability of—

(a) facilitating effective competition within the sewerage services industry;

(b) the established undertaker's recovering the expenses of complying with its obligations by virtue of this section and securing a reasonable return on its capital;

(c) the established undertaker's being able to meet its existing obligations, and likely future obligations, to provide sewerage services without having to incur unreasonable expenditure in carrying out works;

(d) not putting at risk the ability of the established undertaker to meet its existing obligations, or likely future obligations, to provide such services.

(10) In this section and section 110B "the appropriate agency", in relation to a determination whether to make an order under subsection (3) or section 110B(1) which would result in, or which would vary or terminate, a main connection agreement, means—

(a) the Environment Agency, in a case where all parties to the main connection agreement are or would be—

(i) a sewerage undertaker whose area is wholly in England, or

(ii) a person who would, if the person's application for an appointment or variation is determined in accordance with the application, be such a sewerage undertaker;

(b) the NRBW, in a case where all parties to the main connection agreement are or would be—

(i) a sewerage undertaker whose area is wholly in Wales, or

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(ii) a person who would, if the person's application for an appointment or variation is determined in accordance with the application, be such a sewerage undertaker;

(c) both the Environment Agency and the NRBW, in any other case.

(11) In this section and sections 110B to 110J—

"main connection" means—

(a) a connection between a sewer or disposal main and a sewer or disposal main, or

(b) a connection which allows a sewer or disposal main to discharge directly into a sewage disposal works;

"main connection agreement" means an agreement with one or more sewerage undertakers for that undertaker or each of them to permit a main connection into its sewerage system and includes—

(a) an order under subsection (3) which is deemed to be an agreement by virtue of subsection (5), and

(b) any agreement which has been varied by order under section 110B(1).

110B Variation and termination of main connection agreements

(1) On the application of any party to a main connection agreement, the Authority may—

(a) if it appears to the Authority that it is necessary or expedient for the purpose of this Part that the main connection agreement should be varied or terminated, and

(b) if the Authority is satisfied that variation or termination cannot be achieved by agreement,

by order vary or terminate the main connection agreement.

(2) Before making an order under subsection (1), the Authority must consult the appropriate agency.

(3) If an order under subsection (1) is made in relation to a main connection agreement, the agreement—

(a) has effect subject to the provision made by the order, or

(b) ceases to have effect (as the case may be).

(4) An order under subsection (1) may require any party to the agreement to pay compensation to any other party.

(5) Neither the CMA nor the Authority may exercise, in respect of an agreement to vary or terminate a main connection agreement, the powers conferred by—

(a) section 32 of the Competition Act 1998 (directions in relation to agreements);

(b) section 35(2) of that Act (interim directions).

(6) Subsection (5)(b) does not apply to the exercise of powers in respect of conduct—

(a) which is connected with an agreement to vary or terminate a main connection agreement, and

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(b) in respect of which section 35(1) of the Competition Act 1998 applies because of an investigation under section 25 of that Act relating to a suspected infringement of the Chapter 2 prohibition imposed by section 18(1) of that Act.

(7) In exercising its functions under this section, the Authority must have regard to the expenses incurred by the established undertaker in complying with its obligations under the main connection agreement in question and to the desirability of—

(a) facilitating effective competition within the sewerage services industry;

(b) the established undertaker's recovering the expenses of complying with its obligations by virtue of this section and securing a reasonable return on its capital;

(c) the established undertaker's being able to meet its existing obligations, and likely future obligations, to provide sewerage services without having to incur unreasonable expenditure in carrying out works;

(d) not putting at risk the ability of the established undertaker to meet its existing obligations, or likely future obligations, to provide such services.

(8) In this section and sections 110C to 110J "established undertaker", in relation to a sewerage agreement, means the sewerage undertaker which is required by the agreement to permit a main connection into its sewerage system.

110C Codes in respect of main connection agreements

(1) The Authority may issue one or more codes in respect of main connection agreements.

(2) A code may make provision about—

(a) procedures in connection with making an agreement to permit a main connection into a sewerage undertaker's sewerage system;

(b) procedures in connection with varying or terminating a main connection agreement;

(c) procedures to be followed by the Authority in determining whether to make an order under section 110A(3) or 110B(1);

(d) the terms and conditions of a main connection agreement, including terms as to the duration of such an agreement;

(e) principles for determining the terms and conditions that should or should not be incorporated into a main connection agreement;

(f) the steps to be taken by the Authority in determining whether a person is complying with the code.

(3) If the Authority considers that a sewerage undertaker is not acting as required by a code, the Authority may give the undertaker a direction to do, or not to do, a particular thing specified in the direction.

(4) The Authority may not give a direction under subsection (3) requiring a person to enter into, vary or terminate an agreement.

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(5) It is the duty of a sewerage undertaker to comply with a direction under subsection (3), and this duty is enforceable by the Authority under section 18.

(6) A code may make different provision for different persons or different descriptions of person.

(7) The Authority may from time to time revise a code issued under this section and issue a revised code.

(8) A revised code may include provision for applying any of its revisions to main connection agreements made before the revised code comes into force.

110D Codes under section 110C: procedure

(1) Before issuing a code under section 110C, the Authority must—
  (a) prepare a draft of the proposed code under section 110C, and
  (b) consult such persons about the proposed code as it considers appropriate.

(2) The Authority must specify the period ("the consultation period") within which a person may make representations about the proposed code.

(3) Before a code under section 110C prepared by the Authority is issued, the Minister may direct the Authority—
  (a) not to issue the code, or
  (b) to issue the code with specified modifications.

(4) Subsection (3) is subject to subsections (6) and (7).

(5) In subsection (3) "the Minister" means—
  (a) the Secretary of State, so far as a code prepared by the Authority relates to main connection agreements under which—
    (i) the main connection into a sewerage system, or
    (ii) each such connection,

    is or would be a main connection into the sewerage system of a sewerage undertaker whose area is wholly or mainly in England for the benefit of another such undertaker;
  (b) the Welsh Ministers, so far as a code prepared by the Authority relates to main connection agreements under which—
    (i) the main connection into a sewerage system, or
    (ii) each such connection,

    is or would be a main connection into the sewerage system of a sewerage undertaker whose area is wholly or mainly in Wales for the benefit of another such undertaker;
  (c) the Secretary of State and the Welsh Ministers acting jointly, so far as a code prepared by the Authority relates to main connection agreements under which one main connection into a sewerage system is or would be—
    (i) a main connection into the sewerage system of a sewerage undertaker whose area is wholly or mainly in England for the benefit of a sewerage undertaker whose area is wholly or mainly in Wales, or

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(ii) a main connection into the sewerage system of a sewerage undertaker whose area is wholly or mainly in Wales for the benefit of a sewerage undertaker whose area is wholly or mainly in England.

(6) If the power under subsection (3) is exercised to give a direction in respect of such main connection agreements as are referred to in paragraph (a), (b) or (c) of subsection (5), it may not be exercised again in respect of such main connection agreements as are referred to in that paragraph.

(7) If the power under subsection (3) to give a direction in respect of such main connection agreements as are referred to in paragraph (a), (b) or (c) of subsection (5) is not exercised on the first occasion on which it may be so exercised, it may not be exercised in respect of such main connection agreements as are referred to in that paragraph on a later occasion.

(8) A direction under subsection (3) must be given within the period of 28 days beginning with the day after the end of the consultation period, and a code in relation to which a direction may be given may not be issued before that period of 28 days has expired.

110E Codes under section 110C: minor or urgent revisions

(1) This section applies if the Authority propose to issue a revised code under section 110C and, in the view of the Authority, the revision or each of the revisions proposed to be made is—
   (a) a revision for which consultation is unnecessary, or
   (b) a revision that it is necessary or desirable to make without delay.

(2) Section 110D does not apply to the revised code.

(3) Once the Authority has issued the revised code, it must give notice as soon as reasonably practicable of—
   (a) the issuing of the revised code, and
   (b) as regards each revision contained in it, whether in the view of the Authority the revision falls within paragraph (a) or (b) of subsection (1).

(4) Notice under subsection (3) is to be given to such persons as the Authority considers appropriate.

(5) Unless the Authority gives notice that a revision in a revised code is in the view of the Authority a revision falling within subsection (1)(a), the revision ceases to have effect at the end of the period of six months beginning with the day after that on which the revised code is issued.

110F Rules about charges for permitting main connections

(1) The Authority may issue rules about charges that may be imposed by a sewerage undertaker under a main connection agreement.

(2) The rules may in particular make provision about—
   (a) what types of charge may be imposed;

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(b) the amount or the maximum amount, or a method for determining the amount or maximum amount, of any type of charge;

(c) principles for determining what types of charge may or may not be imposed;

(d) principles for determining the amount of any charge that may be imposed;

(e) publication of the charges that may be imposed.

(3) If the Authority considers that a sewerage undertaker is not acting as required by rules under this section, the Authority may give the undertaker a direction to do, or not to do, a particular thing specified in the direction.

(4) It is the duty of a sewerage undertaker to comply with a direction under subsection (3), and this duty is enforceable by the Authority under section 18.

(5) The rules may—

(a) make different provision for different sewerage undertakers or different descriptions of sewerage undertaker;

(b) make different provision for different purposes;

(c) make provision subject to exceptions.

(6) The Authority may from time to time revise rules issued under this section and issue revised rules.

(7) The Authority must issue revised rules if—

(a) guidance is issued under section 110J, and

(b) the Authority, having regard to that guidance, considers that it is appropriate to revise the rules.

(8) Revised rules may include provision for applying any of the revisions to main connection agreements made before the revised rules come into effect.

110G Rules under section 110F: provision about the reduction of charges

(1) Rules under section 110F may provide for the reduction of charges payable under a main connection agreement where conditions specified by the rules are satisfied.

(2) Rules made by virtue of subsection (1) may in particular—

(a) specify conditions by reference to any party to a main connection agreement;

(b) require that steps be taken for the purpose of reducing the cost to a sewerage undertaker of permitting a main connection into its sewerage system;

(c) specify conditions about reducing charges payable by a person who—

(i) is not party to the agreement, and

(ii) takes or proposes to take such steps as satisfy or would satisfy a condition falling within paragraph (b).

(3) The rules may provide that, where a charge falls to be reduced in accordance with rules made by virtue of subsection (1), the sewerage undertaker to which the charges are payable must give notice of that reduction to the Authority.

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(4) Rules made by virtue of subsection (3) may—
- (a) make provision as to the content of the notice;
- (b) specify the period within which an undertaker is to give notice to the Authority.

(5) Provision under subsection (4)(a) may in particular require the notice to specify—
- (a) the provision of the rules that brings about the reduction in the charge;
- (b) the amount of the charge, with and without the reduction;
- (c) the period for which the reduction has effect.

110H Rules under section 110F: procedure

(1) Before issuing rules under section 110F, the Authority must—
- (a) prepare a draft of the proposed rules, and
- (b) consult such persons about the proposed rules as it thinks appropriate.

(2) The Authority must specify the period ("the consultation period") within which persons may make representations about the proposed rules.

(3) The Authority must have regard to guidance issued under section 110J in making rules under section 110F.

(4) Before rules under section 110F prepared by the Authority are issued, the Minister may direct the Authority not to issue the rules.

(5) In subsection (4) "the Minister" means—
- (a) the Secretary of State, so far as rules prepared by the Authority relate to main connection agreements under which—
  - (i) the main connection into a sewerage system, or
  - (ii) each such connection,

  is or would be a main connection into the sewerage system of a sewerage undertaker whose area is wholly or mainly in England for the benefit of another such undertaker;
- (b) the Welsh Ministers, so far as rules prepared by the Authority relate to main connection agreements under which—
  - (i) the main connection into a sewerage system, or
  - (ii) each such connection,

  is or would be a main connection into the sewerage system of a sewerage undertaker whose area is wholly or mainly in Wales for the benefit of another such undertaker;
- (c) the Secretary of State and the Welsh Ministers acting jointly, so far as rules prepared by the Authority relate to main connection agreements under which one main connection into a sewerage system is or would be—
  - (i) a main connection into the sewerage system of a sewerage undertaker whose area is wholly or mainly in England for the benefit of a sewerage undertaker whose area is wholly or mainly in Wales, or

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(ii) a main connection into the sewerage system of a sewerage undertaker whose area is wholly or mainly in Wales for the benefit of a sewerage undertaker whose area is wholly or mainly in England.

(6) A direction under subsection (4) must be given within the period of 28 days beginning with the day after the end of the consultation period, and rules may not be issued before that period of 28 days has expired.

(7) This section is subject to section 110I.

110I Rules under section 110F: minor or urgent revisions

(1) This section applies if the Authority proposes to issue revised rules under section 110F and, in the view of the Authority, the revision or each of the revisions proposed to be made is—

(a) a revision for which consultation is unnecessary, or

(b) a revision that it is necessary or desirable to make without delay.

(2) Section 110H does not apply to the proposed revised rules.

(3) Before issuing the revised rules, the Authority must give notice to the Minister of its intention to issue revised rules.

(4) Before the revised rules are issued, the Minister may direct the Authority not to issue the revised rules.

(5) A direction under subsection (4) must be given within the period of 14 days beginning with the day after the day on which notice is given under subsection (3), and the Authority may not issue the revised rules in question before—

(a) that period of 14 days expires, or

(b) the Minister notifies the Authority that no direction under subsection (4) will be given in relation to the revised rules,

whichever is the sooner.

(6) Once the Authority has issued the revised rules, it must give notice as soon as reasonably practicable of—

(a) the issuing of the revised rules, and

(b) as regards each revision contained in them, whether in the view of the Authority the revision falls within paragraph (a) or (b) of subsection (1).

(7) Notice under subsection (6) is to be given to such persons as the Authority considers appropriate.

(8) Unless the Authority gives notice that a revision in revised rules is in the view of the Authority a revision falling within subsection (1)(a), the revision ceases to have effect at the end of the period of six months beginning with the day after that on which the revised rules are issued.

(9) In this section “the Minister” has the meaning given by section 110H.

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110J Rules under section 110F: guidance

(1) The Minister may issue guidance as to the content of rules under section 110F.

(2) Before issuing the guidance, the Minister must—
- (a) prepare a draft of the proposed guidance;
- (b) consult the relevant persons about the draft.

(3) The relevant persons are—
- (a) the Welsh Ministers;
- (b) the Secretary of State;
- (c) such other persons as the Minister thinks appropriate.

(4) The Minister may from time to time revise the guidance and issue revised guidance.

(5) Subsections (2) and (3) apply to revised guidance as they apply to the original guidance.

(6) The Minister must arrange for the publication of guidance issued under this section.

(7) In this section "the Minister" means—
- (a) the Secretary of State, in relation to main connection agreements under which—
  - (i) any main connection into a sewerage system, or
  - (ii) each such connection,

  is or would be a main connection into the sewerage system of a sewerage undertaker whose area is wholly or mainly in England for the benefit of another such undertaker;
- (b) the Welsh Ministers, in relation to main connection agreements under which—
  - (i) any main connection into a sewerage system, or
  - (ii) each such connection,

  is or would be a main connection into the sewerage system of a sewerage undertaker whose area is wholly or mainly in Wales for the benefit of another such undertaker;
- (c) the Secretary of State and the Welsh Ministers acting jointly, in relation to main connection agreements under which one main connection into a sewerage system is or would be—
  - (i) a main connection into the sewerage system of a sewerage undertaker whose area is wholly or mainly in England for the benefit of a sewerage undertaker whose area is wholly or mainly in Wales, or
  - (ii) a main connection into the sewerage system of a sewerage undertaker whose area is wholly or mainly in Wales for the benefit of a sewerage undertaker whose area is wholly or mainly in England."

(2) In sections 110B to 110J of the Water Industry Act 1991 (as substituted by subsection (1))—

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(a) a reference to a main connection agreement includes a reference to an old main connection agreement, and

(b) a reference to an established undertaker, in relation to a main connection agreement, is to be construed accordingly.

(3) For the purposes of subsection (2)—

(a) "old main connection agreement" means an agreement made before the coming into force of subsection (1) that is an agreement with one or more sewerage undertakers for that undertaker or each of them to permit a main connection into its sewerage system, and includes an order under old section 110A which is deemed to be an agreement by virtue of old section 110A(5);

(b) references to old section 110A are references to section 110A, as that section had effect before being substituted under subsection (1).

Commencement Information

I32 S. 9 in force at 1.4.2019 for W. in so far as not already in force by S.I. 2017/1288, **art. 3(b)**

I33 S. 9(1) in force at 1.11.2016 for specified purposes by S.I. 2016/1007, **art. 2(c)(i)**

I34 S. 9 in force at 1.4.2018 for specified purposes for E. by S.I. 2018/397, **art. 2(b)**

I35 S. 9(2)(3) in force at 1.11.2016 for specified purposes by S.I. 2016/1007, **art. 2(c)(ii)**

Agreements to adopt infrastructure

10 Agreements by water undertakers to adopt infrastructure E+W

(1) The Water Industry Act 1991 is amended as follows.

(2) In section 51A (agreements to adopt a water main or service pipe at a future date)—

(a) in subsection (3) (application to make an agreement under section 51A), for the words from "make an application" to the end there is substituted " request a water undertaker to make an agreement under this section. ";

(b) subsections (4) to (8) are repealed;

(c) after subsection (9) there is inserted—

"(9A) The reference in subsection (9) to an agreement made under this section includes a reference to—

(a) an order under section 51B which is deemed to be an agreement by virtue of section 51B(5), and

(b) an agreement which has been varied by order under section 51C(1)."

(3) For section 51B (appeals with respect to adoption) and section 51C (financial conditions of compliance) there is substituted—

"**51B Adoption at a future date: orders by Authority**

(1) This section applies where a person constructing or proposing to construct a water main or service pipe makes a request to a water undertaker under section 51A(3).

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(2) The person or the water undertaker may apply to the Authority for an order under subsection (4) if the person and the water undertaker have not made such agreement as was requested by the person.

(3) The Authority may, on the application of the person or the water undertaker, make an order under subsection (4) if the Authority is satisfied that—
  (a) it is appropriate for work proposed to be done by a person other than the water undertaker to be so done, and
  (b) the person and the water undertaker cannot reach agreement within a reasonable time.

(4) The Authority may by order—
  (a) require the water undertaker to give such undertakings as to the vesting of the water main or service pipe in the undertaker as the Authority may specify, and
  (b) impose such terms and conditions as regards taking the benefit of the undertakings as the Authority may specify.

(5) An order under subsection (4) has effect as an agreement under section 51A between the person and the water undertaker.

(6) The Authority may not, by order under subsection (4), require a water undertaker to vest in itself a water main or service pipe as regards which there is a contravention of any of the requirements of section 74 that are prescribed for the purposes of this subsection.

(7) The Authority may not make an order under subsection (4) with respect to a water main or service pipe that is situated within the area of another water undertaker, until either—
  (a) that other undertaker has consented in writing to the making of the order, or
  (b) the Minister, on an application made to the Minister, has disapplied paragraph (a), either unconditionally or subject to such conditions as the Minister thinks fit.

(8) "The Minister" means—
  (a) the Secretary of State, as regards the consent of a water undertaker whose area is wholly or mainly in England;
  (b) the Welsh Ministers, as regards the consent of a water undertaker whose area is wholly or mainly in Wales.

(9) Neither the CMA nor the Authority may exercise, in respect of an agreement for the vesting of a water main or service pipe in a water undertaker at a future date, the powers conferred by—
  (a) section 32 of the Competition Act 1998 (directions in relation to agreements);
  (b) section 35(2) of that Act (interim directions).

(10) Subsection (9)(b) does not apply to the exercise of powers in respect of conduct—
  (a) which is connected with an agreement for the vesting of a water main or service pipe at a future date, and

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(b) in respect of which section 35(1) of the Competition Act 1998 applies because of an investigation under section 25 of that Act relating to a suspected infringement of the Chapter 2 prohibition imposed by section 18(1) of that Act.

(11) In exercising its functions under this section, the Authority must have regard to the desirability of—

(a) facilitating effective competition within the water supply industry;

(b) the recovery by the water undertaker of the expenses of complying with its obligations by virtue of this section and securing a reasonable return on its capital;

(c) the ability of the water undertaker to meet its existing obligations, and likely future obligations, to supply water without having to incur unreasonable expenditure in carrying out works;

(d) not putting at risk the ability of the water undertaker to meet its existing obligations, or likely future obligations, to supply water.

51C Variation and termination of section 51A agreements

(1) On the application of a party to a section 51A agreement to vary (or terminate) the agreement, the Authority may—

(a) if it appears to the Authority that it is necessary or expedient that the section 51A agreement should be varied (or terminated),

(b) if the Authority is satisfied, in the case of an application to vary the agreement, that it is appropriate for work proposed to be done by a person other than the water undertaker to be so done, and

(c) if the Authority is satisfied that variation (or termination) cannot be achieved by agreement within a reasonable time,

by order vary (or terminate) the section 51A agreement.

(2) If an order under subsection (1) is made in relation to a section 51A agreement, the agreement—

(a) has effect subject to the provision made by the order, or

(b) ceases to have effect, as the case may be.

(3) An order under subsection (1) may require any party to the agreement to pay compensation to any other party.

(4) Neither the CMA nor the Authority may exercise, in respect of an agreement to vary or terminate a section 51A agreement, the powers conferred by—

(a) section 32 of the Competition Act 1998 (directions in relation to agreements);

(b) section 35(2) of that Act (interim directions).

(5) Subsection (4)(b) does not apply to the exercise of powers in respect of conduct—

(a) which is connected with an agreement to vary or terminate a section 51A agreement, and

(b) in respect of which section 35(1) of the Competition Act 1998 applies because of an investigation under section 25 of that Act relating to a suspected infringement of the Chapter 2 prohibition imposed by section 18(1) of that Act.

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(6) In exercising its functions under this section, the Authority must have regard to the expenses incurred by the water undertaker in complying with its obligations under the section 51A agreement in question and to the desirability of—
  (a) facilitating effective competition within the water supply industry;
  (b) the recovery by the water undertaker of the expenses of complying with its obligations by virtue of this section and securing a reasonable return on its capital;
  (c) the ability of the water undertaker to meet its existing obligations, and likely future obligations, to supply water without having to incur unreasonable expenditure in carrying out works;
  (d) not putting at risk the ability of the water undertaker to meet its existing obligations, or likely future obligations, to supply water.

(7) In this section and sections 51CA to 51CG "section 51A agreement" means an agreement with a water undertaker for the vesting of a water main or service pipe in a water undertaker at a future date and includes—
  (a) an order under section 51B which is deemed to be an agreement by virtue of section 51B(5), and
  (b) any agreement which has been varied by order under subsection (1).

51CA Codes in respect of section 51A agreements

(1) The Authority must issue a code in respect of section 51A agreements.

(2) The code may make provision about—
  (a) procedures in connection with making an agreement under section 51A;
  (b) procedures in connection with varying or terminating a section 51A agreement;
  (c) procedures to be followed by the Authority in determining whether to make an order under section 51B(4) or 51C(1);
  (d) the circumstances in which it is, or is not, appropriate for work to be done by a person other than a water undertaker;
  (e) the terms and conditions of a section 51A agreement;
  (f) principles for determining the terms and conditions that should or should not be incorporated into a section 51A agreement;
  (g) the steps to be taken by the Authority in determining whether a person is complying with the code.

(3) Provision under subsection (2)(c) may in particular require the Authority to consult—
  (a) the Chief Inspector of Drinking Water;
  (b) the Chief Inspector of Drinking Water for Wales if there is one.

(4) Provision under subsection (2)(d) may include in particular provision about circumstances relating to—
  (a) the nature of the work;
  (b) the kind of premises supplied or to be supplied.

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(5) Provision under subsection (2)(e) may include in particular provision about terms and conditions as regards—
  (a) constructing associated infrastructure;
  (b) vesting associated infrastructure in a water undertaker;
  (c) constructing water mains so as to meet additional supply requirements;
  (d) connecting new water mains or service pipes to the existing supply system of a water undertaker;
  (e) complying with requirements of the kind referred to in section 47(2);
  (f) the duration of a section 51A agreement.

(6) If the Authority considers that a water undertaker is not acting as required by the code, the Authority may give the undertaker a direction to do, or not to do, a particular thing specified in the direction.

(7) The Authority may not give a direction under subsection (6) requiring a person to enter into, vary or terminate an agreement.

(8) It is the duty of a water undertaker to comply with a direction under subsection (6), and this duty is enforceable by the Authority under section 18.

(9) The code may make different provision for different persons or descriptions of person.

(10) The Authority must from time to time review the code and, if appropriate, issue a revised code.

(11) A revised code may include provision for applying any of its revisions to section 51A agreements made before the revised code comes into force.

51CB Codes under section 51CA: procedure

(1) Before issuing a code under section 51CA, the Authority must—
  (a) prepare a draft of the proposed code under section 51CA, and
  (b) consult the relevant persons about the proposed code.

(2) The relevant persons are—
  (a) the Chief Inspector of Drinking Water;
  (b) the Chief Inspector of Drinking Water for Wales if there is one;
  (c) such other persons as the Authority considers appropriate.

(3) The Authority must specify the period ("the consultation period") within which a person may make representations about the proposed code.

(4) Before a code under section 51CA prepared by the Authority is issued, the Minister may direct the Authority—
  (a) not to issue the code, or
  (b) to issue the code with specified modifications.

(5) Subsection (4) is subject to subsections (7) and (8).

(6) In subsection (4) "the Minister" means—

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(a) the Secretary of State, so far as the code relates to section 51A agreements for the vesting of water mains or service pipes in water undertakers whose areas are wholly or mainly in England;

(b) the Welsh Ministers, so far as the code relates to section 51A agreements for the vesting of water mains or service pipes in water undertakers whose areas are wholly or mainly in Wales.

(7) The power under subsection (4) may not be exercised more than once by the Secretary of State or the Welsh Ministers.

(8) If the power under subsection (4) is not exercised by the Secretary of State or the Welsh Ministers on the first occasion on which it may be exercised by the Secretary of State or (as the case may be) the Welsh Ministers, it may not be exercised by the Secretary of State or (as the case may be) the Welsh Ministers on a later occasion.

(9) A direction under subsection (4) must be given within the period of 28 days beginning with the day after the end of the consultation period, and a code in relation to which a direction may be given may not be issued before that period of 28 days has expired.

(10) This section is subject to section 51CC.

51CC Codes under section 51CA: minor or urgent revisions

(1) This section applies if the Authority proposes to issue a revised code under section 51CA and, in the view of the Authority, the revision or each of the revisions proposed to be made is—

(a) a revision for which consultation is unnecessary, or

(b) a revision that it is necessary or desirable to make without delay.

(2) Section 51CB does not apply to the proposed revised code.

(3) Once the Authority has issued the revised code, it must give notice as soon as reasonably practicable of—

(a) the issuing of the revised code, and

(b) as regards each revision contained in it, whether in the view of the Authority the revision falls within paragraph (a) or (b) of subsection (1).

(4) Notice under subsection (3) is to be given to such persons as the Authority considers appropriate.

(5) Unless the Authority gives notice that a revision in a revised code is in the view of the Authority a revision falling within subsection (1)(a), the revision ceases to have effect at the end of the period of six months beginning with the day after that on which the revised code is issued.

51CD Rules about charges in connection with a section 51A agreement

(1) The Authority may issue rules about charges that may be imposed by a water undertaker under a section 51A agreement.

(2) The rules may in particular make provision about—

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(a) what types of charge may be imposed;
(b) the amount or the maximum amount, or a method for determining the amount or maximum amount, of any type of charge;
(c) principles for determining what types of charge may or may not be imposed;
(d) principles for determining the amount of any charge that may be imposed;
(e) publication of the charges that may be imposed.

(3) The rules may require a water undertaker, upon declaring a water main or service pipe to be vested in the undertaker in accordance with a section 51A agreement, to pay to the other party to the agreement an amount (which may be nil) determined in accordance with the rules.

(4) Rules made by virtue of subsection (3) may, in particular, provide for the determination to take into account—
(a) revenue that might be derived from the water main or service pipe in question;
(b) costs that might have been incurred in providing such a water main or service pipe.

(5) The rules may also make provision as to—
(a) the amount of security that may be required by a water undertaker for the purposes of any charges imposed by the water undertaker under a section 51A agreement;
(b) the type of security that may be required;
(c) the payment of interest on a sum deposited with a water undertaker by way of security.

(6) If the Authority considers that a water undertaker is not acting as required by rules under this section, the Authority may give the undertaker a direction to do, or not to do, a particular thing specified in the direction.

(7) It is the duty of a water undertaker to comply with a direction under subsection (6), and this duty is enforceable by the Authority under section 18.

(8) The rules may make different provision for different water undertakers or descriptions of undertaker.

(9) The Authority may from time to time revise rules issued under this section and issue revised rules.

(10) The Authority must issue revised rules if—
(a) guidance is issued under section 51CG, and
(b) the Authority, having regard to that guidance, considers that it is appropriate to revise the rules.

(11) Revised rules may include provision for applying any of their revisions to section 51A agreements made before the revised rules come into effect.

51CE Rules under section 51CD: procedure

(1) Before issuing rules under section 51CD, the Authority must—

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(a) prepare a draft of the proposed rules, and
(b) consult the relevant persons about the draft.

(2) The relevant persons are—
(a) the Secretary of State;
(b) the Welsh Ministers;
(c) the Council;
(d) any water undertakers or other persons likely to be affected by the rules;
(e) such other persons as the Authority thinks appropriate.

(3) The Authority must specify the period ("the consultation period") within which the relevant persons may make representations about the proposed rules.

(4) The Authority must have regard to guidance issued under section 51CG in making rules under section 51CD.

(5) Before rules under section 51CD prepared by the Authority are issued, the Minister may direct the Authority not to issue the rules.

(6) In subsection (5) "the Minister" means—
(a) the Secretary of State, so far as the rules relate to section 51A agreements for the vesting of water mains or service pipes in water undertakers whose areas are wholly or mainly in England;
(b) the Welsh Ministers, so far as the rules relate to section 51A agreements for the vesting of water mains or service pipes in water undertakers whose areas are wholly or mainly in Wales.

(7) A direction under subsection (5) must be given within the period of 28 days beginning with the day after the end of the consultation period, and rules may not be issued before that period of 28 days has expired.

(8) This section is subject to section 51CF.

51CF Rules under section 51CD: minor or urgent revisions

(1) This section applies if the Authority proposes to issue revised rules under section 51CD and, in the view of the Authority, the revision or each of the revisions proposed to be made is—
(a) a revision for which consultation is unnecessary, or
(b) a revision that it is necessary or desirable to make without delay.

(2) Section 51CE does not apply to the proposed revised rules.

(3) Before issuing the revised rules, the Authority must give notice to the Minister of its intention to issue revised rules.

(4) Before the revised rules are issued, the Minister may direct the Authority not to issue the revised rules.

(5) A direction under subsection (4) must be given within the period of 14 days beginning with the day after the day on which notice is given under

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subsection (3), and the Authority may not issue the revised rules in question before—

(a) that period of 14 days expires, or

(b) the Minister notifies the Authority that no direction under subsection (4) will be given in relation to the revised rules,

whichever is the sooner.

(6) Once the Authority has issued the revised rules, it must give notice as soon as reasonably practicable of—

(a) the issuing of the revised rules, and

(b) as regards each revision contained in them, whether in the view of the Authority the revision falls within paragraph (a) or (b) of subsection (1).

(7) Notice under subsection (6) is to be given to such persons as the Authority considers appropriate.

(8) Unless the Authority gives notice that a revision in revised rules is in the view of the Authority a revision falling within subsection (1)(a), the revision ceases to have effect at the end of the period of six months beginning with the day after that on which the revised rules are issued.

(9) In this section "the Minister" has the meaning given by section 51CE.

51CG Rules under section 51CD: guidance

(1) The Minister may issue guidance as to the content of rules under section 51CD.

(2) Before issuing the guidance, the Minister must—

(a) prepare a draft of the proposed guidance;

(b) consult the relevant persons about the draft.

(3) The relevant persons are—

(a) the Secretary of State;

(b) the Welsh Ministers;

(c) such other persons as the Minister thinks appropriate.

(4) The Minister may from time to time revise the guidance and issue revised guidance.

(5) Subsections (2) and (3) apply to revised guidance as they apply to the original guidance.

(6) The Minister must arrange for the publication of guidance issued under this section.

(7) In this section "the Minister" means—

(a) the Secretary of State, so far as the guidance is as to the content of rules relating to section 51A agreements for the vesting of water mains or service pipes in water undertakers whose areas are wholly or mainly in England;

(b) the Welsh Ministers, so far as the guidance is as to the content of rules relating to section 51A agreements for the vesting of water mains or

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service pipes in water undertakers whose areas are wholly or mainly in Wales."

(4) In section 51E (sections 51A to 51D: supplementary), in subsection (2), for "In sections 51A to 51C above" there is substituted " In section 51A ".

Commencement Information

I36 S. 10(1) in force at 18.12.2015 for specified purposes by S.I. 2015/1938, **art. 2(b)(i)**
I37 S. 10(1) in force at 1.4.2017 for E. for specified purposes by S.I. 2017/462, **art. 3(d)(i)**
I38 S. 10(1)(3) in force at 1.10.2017 for E. in so far as not already in force by S.I. 2017/462, **art. 4(a)** (with art. 15)
I39 S. 10(2)(4) in force at 1.10.2017 for E. by S.I. 2017/462, **art. 4(a)**
I40 S. 10(3) in force at 18.12.2015 for specified purposes by S.I. 2015/1938, **art. 2(b)(ii)**
I41 S. 10(3) in force at 1.4.2017 for E. for specified purposes by S.I. 2017/462, **art. 3(d)(ii)**

11 Agreements by sewerage undertakers to adopt infrastructure E+W

(1) The Water Industry Act 1991 is amended as follows.

(2) In section 104 (agreements to adopt a sewer, drain or sewage disposal works at a future date)—

(a) in subsection (2) (application to make an agreement under section 104), for the words from "make an application" to the end there is substituted " request a sewerage undertaker to make an agreement under this section. ";

(b) subsections (3), (4) and (6A) are repealed;

(c) after subsection (5) there is inserted—

"(5A) The reference in subsection (5) to an agreement made under this section includes a reference to—

(a) an order under section 105ZA which is deemed to be an agreement by virtue of section 105ZA(5), and

(b) any agreement which has been varied by order under section 105ZB(1)."

(3) After section 105 there is inserted—

"**105ZA Adoption at a future date: orders by Authority**

(1) This section applies where a person mentioned in section 104(1)(a) or (b) makes a request to a sewerage undertaker under section 104(2).

(2) The person or the sewerage undertaker may apply to the Authority for an order under subsection (4) if the person and the sewerage undertaker have not made such agreement as was requested by the person.

(3) The Authority may, on the application of the person or the sewerage undertaker, make an order under subsection (4) if the Authority is satisfied that—

(a) where the person is such person as is mentioned in section 104(1)(a), it is appropriate for work proposed to be done by a person other than the sewerage undertaker to be so done, and

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(b) the person and the sewerage undertaker cannot reach agreement within a reasonable time.

(4) The Authority may by order—

(a) require the sewerage undertaker to give such undertakings as to the vesting of the sewer, such part of the drain as constitutes the lateral drain or the works in the undertaker as the Authority may specify, and

(b) impose such terms and conditions as regards taking the benefit of the undertakings as the Authority may specify.

(5) An order under subsection (4) has effect as an agreement under section 104 between the person and the sewerage undertaker.

(6) The Authority may not make an order under subsection (4) with respect to—

(a) a sewer, drain or sewage disposal works situated in the area of another undertaker, or

(b) a drain which is intended to communicate with a sewer which—

(i) is so situated, or

(ii) is vested in another sewerage undertaker,

until one of the conditions mentioned in subsection (7) is satisfied.

(7) The conditions are that—

(a) the other sewerage undertaker has consented in writing to the making of the order, or

(b) the Minister, on an application made to the Minister, has disapplied paragraph (a), either unconditionally or subject to such conditions as the Minister thinks fit.

(8) "The Minister" means—

(a) the Secretary of State, as regards the consent of a sewerage undertaker whose area is wholly or mainly in England;

(b) the Welsh Ministers, as regards the consent of a sewerage undertaker whose area is wholly or mainly in Wales.

(9) Neither the CMA nor the Authority may exercise, in respect of an agreement for the vesting of a sewer, drain or sewage disposal works in a sewerage undertaker at a future date or on a future event, the powers conferred by—

(a) section 32 of the Competition Act 1998 (directions in relation to agreements);

(b) section 35(2) of that Act (interim directions).

(10) Subsection (9)(b) does not apply to the exercise of powers in respect of conduct—

(a) which is connected with an agreement for the vesting of a sewer, drain or sewage disposal works in a sewerage undertaker at a future date or on a future event, and

(b) in respect of which section 35(1) of the Competition Act 1998 applies because of an investigation under section 25 of that Act relating to a suspected infringement of the Chapter 2 prohibition imposed by section 18(1) of that Act.

(11) In exercising its functions under this section, the Authority must have regard to the desirability of—

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(a) facilitating effective competition within the sewerage services industry;

(b) the recovery by the sewerage undertaker of the expenses of complying with its obligations by virtue of this section and securing a reasonable return on its capital;

(c) the ability of the sewerage undertaker to meet its existing obligations, and likely future obligations, to provide sewerage services without having to incur unreasonable expenditure in carrying out works;

(d) not putting at risk the ability of the sewerage undertaker to meet its existing obligations, or likely future obligations, to provide sewerage services.

105ZB Variation and termination of section 104 agreements

(1) On the application of a party to a section 104 agreement to vary (or terminate) the agreement, the Authority may—

(a) if it appears to the Authority that it is necessary or expedient that the section 104 agreement should be varied (or terminated),

(b) if the Authority is satisfied, in the case of an application to vary the agreement involving such person as is mentioned in section 104(1)(a), that it is appropriate for work proposed to be done by a person other than the sewerage undertaker to be so done, and

(c) if the Authority is satisfied that variation (or termination) cannot be achieved by agreement within a reasonable time,

by order vary (or terminate) the section 104 agreement.

(2) If an order under subsection (1) is made in relation to a section 104 agreement, the agreement—

(a) has effect subject to the provision made by the order, or

(b) ceases to have effect, as the case may be.

(3) An order under subsection (1) may require any party to the agreement to pay compensation to any other party.

(4) Neither the CMA nor the Authority may exercise, in respect of an agreement to vary or terminate a section 104 agreement, the powers conferred by—

(a) section 32 of the Competition Act 1998 (directions in relation to agreements);

(b) section 35(2) of that Act (interim directions).

(5) Subsection (4)(b) does not apply to the exercise of powers in respect of conduct—

(a) which is connected with an agreement to vary or terminate a section 104 agreement, and

(b) in respect of which section 35(1) of the Competition Act 1998 applies because of an investigation under section 25 of that Act relating to a suspected infringement of the Chapter 2 prohibition imposed by section 18(1) of that Act.

(6) In exercising its functions under this section, the Authority must have regard to the expenses incurred by the sewerage undertaker in complying with its

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obligations under the section 104 agreement in question and to the desirability of—

(a) facilitating effective competition within the sewerage services industry;

(b) the recovery by the sewerage undertaker of the expenses of complying with its obligations by virtue of this section and securing a reasonable return on its capital;

(c) the ability of the sewerage undertaker to meet its existing obligations, and likely future obligations, to provide sewerage services without having to incur unreasonable expenditure in carrying out works;

(d) not putting at risk the ability of the sewerage undertaker to meet its existing obligations, or likely future obligations, to provide sewerage services.

(7) In this section and sections 105ZC to 105ZI "section 104 agreement" means an agreement with a sewerage undertaker for the vesting of a sewer, drain or sewage disposal works in a sewerage undertaker at a future date or on a future event and includes—

(a) an order under section 105ZA which is deemed to be an agreement by virtue of section 105ZA(5), and

(b) any agreement which has been varied by order under subsection (1).

105ZC Codes in respect of section 104 agreements

(1) The Authority must issue a code in respect of section 104 agreements.

(2) The code may make provision about—

(a) procedures in connection with making an agreement under section 104;

(b) procedures in connection with varying or terminating a section 104 agreement;

(c) procedures to be followed by the Authority in determining whether to make an order under section 105ZA(4) or 105ZB(1);

(d) the circumstances in which it is, or is not, appropriate for work to be done by a person other than a sewerage undertaker;

(e) the terms and conditions of a section 104 agreement;

(f) principles for determining the terms and conditions that should or should not be incorporated into a section 104 agreement;

(g) the steps to be taken by the Authority in determining whether a person is complying with the code.

(3) Provision under subsection (2)(d) may include in particular provision about circumstances relating to—

(a) the nature of the work;

(b) the kind of premises supplied or to be supplied.

(4) Provision under subsection (2)(e) may include in particular provision about terms and conditions as regards—

(a) constructing associated infrastructure;

(b) vesting associated infrastructure in a sewerage undertaker;

(c) making a communication with public sewers.

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(5) If the Authority considers that a sewerage undertaker is not acting as required by the code, the Authority may give the undertaker a direction to do, or not to do, a particular thing specified in the direction.

(6) The Authority may not give a direction under subsection (5) requiring a person to enter into, vary or terminate an agreement.

(7) It is the duty of a sewerage undertaker to comply with a direction under subsection (5), and this duty is enforceable by the Authority under section 18.

(8) The code may make different provision for different persons or descriptions of person.

(9) The Authority must from time to time review the code and, if appropriate, issue a revised code.

(10) A revised code may include provision for applying any of its revisions to section 104 agreements made before the revised code comes into force.

105ZD Codes under section 105ZC: procedure

(1) Before issuing a code under section 105ZC, the Authority must—
  (a) prepare a draft of the proposed code under section 105ZC, and
  (b) consult such persons about the proposed code as it considers appropriate.

(2) The Authority must specify the period ("the consultation period") within which a person may make representations about the proposed code.

(3) Before a code under section 105ZC prepared by the Authority is issued, the Minister may direct the Authority—
  (a) not to issue the code, or
  (b) to issue the code with specified modifications.

(4) Subsection (3) is subject to subsections (6) and (7).

(5) In this section "the Minister" means—
  (a) the Secretary of State, so far as the code relates to section 104 agreements for the vesting of sewers, drains or sewage disposal works in sewerage undertakers whose areas are wholly or mainly in England;
  (b) the Welsh Ministers, so far as the code relates to section 104 agreements for the vesting of sewers, drains or sewage disposal works in sewerage undertakers whose areas are wholly or mainly in Wales.

(6) The power under subsection (3) may not be exercised more than once by the Secretary of State or the Welsh Ministers.

(7) If the power under subsection (3) is not exercised by the Secretary of State or the Welsh Ministers on the first occasion on which it may be exercised by the Secretary of State or (as the case may be) the Welsh Ministers, it may not be exercised by the Secretary of State or (as the case may be) the Welsh Ministers on a later occasion.

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(8) A direction under subsection (3) must be given within the period of 28 days beginning with the day after the end of the consultation period, and a code in relation to which a direction may be given may not be issued before that period of 28 days has expired.

(9) This section is subject to section 105ZE.

105ZE Codes under section 105ZC: minor or urgent revisions

(1) This section applies if the Authority proposes to issue a revised code under section 105ZC and, in the view of the Authority, the revision or each of the revisions proposed to be made is—
  (a) a revision for which consultation is unnecessary, or
  (b) a revision that it is necessary or desirable to make without delay.

(2) Section 105ZD does not apply to the proposed revised code.

(3) Once the Authority has issued the revised code, it must give notice as soon as reasonably practicable of—
  (a) the issuing of the revised code, and
  (b) as regards each revision contained in it, whether in the view of the Authority the revision falls within paragraph (a) or (b) of subsection (1).

(4) Notice under subsection (3) is to be given to such persons as the Authority considers appropriate.

(5) Unless the Authority gives notice that a revision in a revised code is in the view of the Authority a revision falling within subsection (1)(a), the revision ceases to have effect at the end of the period of six months beginning with the day after that on which the revised code is issued.

105ZF Rules about charges in connection with a section 104 agreement

(1) The Authority may issue rules about charges that may be imposed by a sewerage undertaker under a section 104 agreement.

(2) The rules may in particular make provision about—
  (a) what types of charge may be imposed;
  (b) the amount or the maximum amount, or a method for determining the amount or maximum amount, of any type of charge;
  (c) principles for determining what types of charge may or may not be imposed;
  (d) principles for determining the amount of any charge that may be imposed;
  (e) publication of the charges that may be imposed.

(3) The rules may require a sewerage undertaker, upon declaring a sewer, drain or sewage disposal works to be vested in the undertaker in accordance with a section 104 agreement, to pay to the other party to the agreement an amount (which may be nil) determined in accordance with the rules.

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(4) Rules made by virtue of subsection (3) may, in particular, provide for the determination to take into account—
  (a) revenue that might be derived from the sewer, drain or sewage disposal works in question;
  (b) costs that might have been incurred in providing such a sewer, drain or sewage disposal works.

(5) The rules may also make provision as to—
  (a) the amount of security that may be required by a sewerage undertaker for the purposes of any charges imposed by the sewerage undertaker under a section 104 agreement;
  (b) the type of security that may be required;
  (c) the payment of interest on a sum deposited with a sewerage undertaker by way of security.

(6) If the Authority considers that a sewerage undertaker is not acting as required by rules under this section, the Authority may give the undertaker a direction to do, or not to do, a particular thing specified in the direction.

(7) It is the duty of a sewerage undertaker to comply with a direction under subsection (6), and this duty is enforceable by the Authority under section 18.

(8) The rules may make different provision for different sewerage undertakers or descriptions of undertaker.

(9) The Authority may from time to time revise rules issued under this section and issue revised rules.

(10) The Authority must issue revised rules if—
  (a) guidance is issued under section 105ZI, and
  (b) the Authority, having regard to that guidance, considers that it is appropriate to revise the rules.

(11) Revised rules may include provision for applying any of their revisions to section 104 agreements made before the revised rules come into effect.

105ZG Rules under section 105ZF: procedure

(1) Before issuing rules under section 105ZF, the Authority must—
  (a) prepare a draft of the proposed rules, and
  (b) consult the relevant persons about the draft.

(2) The relevant persons are—
  (a) the Secretary of State;
  (b) the Welsh Ministers;
  (c) the Council;
  (d) any sewerage undertakers or other persons likely to be affected by the rules;
  (e) such other persons as the Authority thinks appropriate.

(3) The Authority must specify the period ("the consultation period") within which the relevant persons may make representations about the proposed rules.

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(4) The Authority must have regard to guidance issued under section 105ZI in making rules under section 105ZF.

(5) Before rules under section 105ZF prepared by the Authority are issued, the Minister may direct the Authority not to issue the rules.

(6) In subsection (5) "the Minister" means—

(a) the Secretary of State, so far as the rules relate to section 104 agreements for the vesting of sewers, drains or sewage disposal works in sewerage undertakers whose areas are wholly or mainly in England;

(b) the Welsh Ministers, so far as the rules relate to section 104 agreements for the vesting of sewers, drains or sewage disposal works in sewerage undertakers whose areas are wholly or mainly in Wales.

(7) A direction under subsection (5) must be given within the period of 28 days beginning with the day after the end of the consultation period, and rules may not be issued before that period of 28 days has expired.

(8) This section is subject to section 105ZH.

105ZH Rules under section 105ZF: minor or urgent revisions

(1) This section applies if the Authority proposes to issue revised rules under section 105ZF and, in the view of the Authority, the revision or each of the revisions proposed to be made is—

(a) a revision for which consultation is unnecessary, or

(b) a revision that it is necessary or desirable to make without delay.

(2) Section 105ZG does not apply to the proposed revised rules.

(3) Before issuing the revised rules, the Authority must give notice to the Minister of its intention to issue revised rules.

(4) Before the revised rules are issued, the Minister may direct the Authority not to issue the revised rules.

(5) A direction under subsection (4) must be given within the period of 14 days beginning with the day after the day on which notice is given under subsection (3), and the Authority may not issue the revised rules in question before—

(a) that period of 14 days expires, or

(b) the Minister notifies the Authority that no direction under subsection (4) will be given in relation to the revised rules,

whichever is the sooner.

(6) Once the Authority has issued the revised rules, it must give notice as soon as reasonably practicable of—

(a) the issuing of the revised rules, and

(b) as regards each revision contained in them, whether in the view of the Authority the revision falls within paragraph (a) or (b) of subsection (1).

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(7) Notice under subsection (6) is to be given to such persons as the Authority considers appropriate.

(8) Unless the Authority gives notice that a revision in revised rules is in the view of the Authority a revision falling within subsection (1)(a), the revision ceases to have effect at the end of the period of six months beginning with the day after that on which the revised rules are issued.

(9) In this section "the Minister" has the meaning given by section 105ZG.

105ZI Rules under section 105ZF: guidance

(1) The Minister may issue guidance as to the content of rules under section 105ZF.

(2) Before issuing the guidance, the Minister must—
  (a) prepare a draft of the proposed guidance;
  (b) consult the relevant persons about the draft.

(3) The relevant persons are—
  (a) the Secretary of State;
  (b) the Welsh Ministers;
  (c) such other persons as the Minister thinks appropriate.

(4) The Minister may from time to time revise the guidance and issue revised guidance.

(5) Subsections (2) and (3) apply to revised guidance as they apply to the original guidance.

(6) The Minister must arrange for the publication of guidance issued under this section.

(7) In this section "the Minister" means—
  (a) the Secretary of State, so far as the guidance is as to the content of rules relating to section 104 agreements for the vesting of sewers, drains or sewage disposal works in sewerage undertakers whose areas are wholly or mainly in England;
  (b) the Welsh Ministers, so far as the guidance is as to the content of rules relating to section 104 agreements for the vesting of sewers, drains or sewage disposal works in sewerage undertakers whose areas are wholly or mainly in Wales."

(4) In section 107 (right of sewerage undertaker to undertake the making of communications with public sewers), after subsection (1) there is inserted—

"(1A) A sewerage undertaker may not give notice to a person under subsection (1) if—
  (a) the undertaker and the person entered into an agreement under section 104, and
  (b) the agreement provides for the communication to which the person's proposal relates to be made by the person."

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(5) In section 108 (communication works by person entitled to communication), in subsection (1), after "section 106 above" there is inserted " or may not make such an election because of section 107(1A) ".

Commencement Information

I42 S. 11(1) in force at 18.12.2015 for specified purposes by S.I. 2015/1938, **art. 2(c)(i)**
I43 S. 11(1) in force at 1.4.2017 for E. for specified purposes by S.I. 2017/462, **art. 3(e)(i)**
I44 S. 11(1)(3) in force at 1.10.2017 for E. in so far as not already in force by S.I. 2017/462, **art. 4(b)**
I45 S. 11(2)(4) in force at 1.10.2017 for E. by S.I. 2017/462, **art. 4(b)**
I46 S. 11(3) in force at 18.12.2015 for specified purposes by S.I. 2015/1938, **art. 2(c)(ii)**
I47 S. 11(3) in force at 1.4.2017 for E. for specified purposes by S.I. 2017/462, **art. 3(e)(ii)**

PROSPECTIVE

Arrangements for water undertakers to take water

12 Arrangements for water undertakers to take water from other persons E+W

In Part 3 of the Water Industry Act 1991, after Chapter 2A there is inserted—

"**CHAPTER 2B** E+W

ADDITIONAL SOURCES OF WATER

66M **Arrangements for water undertakers to take water from other persons**

(1) The Minister may by regulations make provision about the supply of water to a water undertaker by a person other than a water undertaker.

(2) Regulations under this section may, in particular—
- (a) confer functions on the Authority, the Secretary of State and the Welsh Ministers;
- (b) make provision preventing the CMA or the Authority from exercising powers under the Competition Act 1998 in respect of a water supply agreement;
- (c) include provision described in sections 66N and 66O;
- (d) make provision excepting water supply agreements of such description as the regulations may specify from the effect of—
  - (i) any provision of the regulations, or
  - (ii) any provision of the codes or rules made under the regulations.

(3) In this Chapter—

"the Minister" means—
- (a) the Secretary of State, in relation to the supply of water to a water undertaker whose area is wholly or mainly in England, and

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(b) the Welsh Ministers, in relation to the supply of water to a water undertaker whose area is wholly or mainly in Wales;

"relevant person" means a person other than a water undertaker;

"water supply agreement" means an agreement for the supply of water to a water undertaker by a relevant person.

(4) Nothing in provision made under this Chapter affects a water supply agreement made before any regulations under this section first come into force.

66N Orders in respect of supplies by relevant persons

(1) Regulations under section 66M may, in particular, make provision for the Authority by order—

(a) to require a water undertaker to take a supply of water from a relevant person, and

(b) to vary or terminate a water supply agreement.

(2) Provision made under subsection (1)(a) must provide that—

(a) the Authority may make an order only on an application by the water undertaker or the relevant person, and

(b) before making an order the Authority must be satisfied that the water undertaker and the relevant person cannot reach agreement.

(3) Provision made under subsection (1)(b) must provide that the Authority may make an order only on an application by a party to the agreement.

(4) The provision that may be made under subsection (1) includes—

(a) provision about the circumstances in which the Authority may make an order;

(b) provision requiring the Authority to consult the Environment Agency, the NRBW or both of them before making an order;

(c) provision requiring the Authority to have regard to whether a person has complied with a code or rules described in section 66O;

(d) provision enabling the Authority to specify the times at which, the period during which and the terms and conditions on which the supply of water must be taken;

(e) provision for an order made by the Authority requiring a supply of water to be taken to have effect as an agreement between the water undertaker and the relevant person (or those persons and other persons);

(f) provision requiring a party to a water supply agreement to pay compensation to another party on the variation or termination of the agreement.

66O Codes and rules in respect of water supply agreements

(1) Regulations under section 66M may, in particular, make provision for the Authority to issue one or more codes in respect of water supply agreements, including—

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(a) provision for a code to include provision about procedures in connection with making, varying or terminating a water supply agreement;

(b) provision for a code to include provision about the terms and conditions of water supply agreements;

(c) provision for a code to include provision about procedures to be followed by the Authority in determining whether to make an order described in section 66N;

(d) provision for the Authority to direct water undertakers to comply with a code;

(e) provision for such directions to be enforceable by the Authority under section 18;

(f) provision for the Minister to require a code to be revised or to prevent a code being issued or revised (but see subsections (3) and (4)).

(2) Regulations under section 66M may, in particular, make provision for the Authority to issue and enforce rules about charges that may be imposed under water supply agreements, including—

(a) provision for the making of rules about the amount or maximum amount of a charge;

(b) provision for the Authority to direct water undertakers to comply with the rules;

(c) provision for such directions to be enforceable by the Authority under section 18;

(d) provision for the Minister to issue guidance as to the content of the rules (but see subsection (4));

(e) provision for the Minister to prevent rules being issued (but see subsection (4)).

(3) Regulations conferring a power on the Minister as described in subsection (1)(f) must provide that—

(a) if the power is exercised to impose a requirement in respect of agreements for such supplies of water as are referred to in paragraph (a) or (b) of the definition of "the Minister" in section 66M(3), it may not be exercised again in respect of such supplies of water as are referred to in that paragraph, and

(b) if the power to impose a requirement in respect of agreements for such supplies of water as are referred to in paragraph (a) or (b) of the definition of "the Minister" in section 66M(3) is not exercised on the first occasion on which it may be so exercised, it may not be exercised in respect of such agreements as are referred to in that paragraph on a later occasion.

(4) Functions conferred by provision described in subsection (1)(f) or (2)(d) or (e) must be conferred on the Secretary of State and the Welsh Ministers acting jointly so far as the code, guidance or rules relate to—

(a) a supply of water to a water undertaker whose area is wholly or mainly in England by means of the supply system of a water undertaker whose area is wholly or mainly in Wales;

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Changes to legislation: *Water Act 2014 is up to date with all changes known to be in force on or before 20 June 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) View outstanding changes*

(b) a supply of water to a water undertaker whose area is wholly or mainly in Wales by means of the supply system of a water undertaker whose area is wholly or mainly in England.

(5) References in this section to a water undertaker's supply system are to be construed in accordance with section 17B.

66P **Procedure etc**

(1) A statutory instrument containing regulations under section 66M may not be made unless a draft of the instrument has been laid before and approved by a resolution of—
  (a) each House of Parliament, in the case of regulations made by the Secretary of State, or
  (b) the Assembly, in the case of regulations made by the Welsh Ministers.

(2) Before laying a draft of an instrument in accordance with subsection (1), the Minister must consult—
  (a) the Authority,
  (b) water undertakers,
  (c) water supply licensees,
  (d) the Chief Inspector of Drinking Water,
  (e) the Chief Inspector of Drinking Water for Wales if there is one,
  (f) the Environment Agency,
  (g) the NRBW,
  (h) the Council, and
  (i) such other persons as the Minister considers appropriate.

(3) The supplemental and consequential provision that regulations under section 66M may include by virtue of section 213(2)(f) includes provision amending, repealing or revoking provision made by or under an enactment.

(4) Section 213(2) to (2B) applies to regulations made by the Welsh Ministers under section 66M as it applies to regulations made by the Secretary of State.

(5) If a draft of an instrument containing regulations under section 66M would, apart from this subsection, be treated for the purposes of the Standing Orders of either House of Parliament as a hybrid instrument, it is to proceed in that House as if it were not a hybrid instrument.

(6) In this section "enactment" includes a Measure or Act of the Assembly."

Appointments and variations

13 Procedure with respect to appointments and variations E+W

(1) Section 8 of the Water Industry Act 1991 (procedure with respect to appointments and variations replacing relevant undertakers) is amended as follows.

(2) In subsection (2)(a) (the Water Services Regulation Authority to serve notice of application), for "on the existing appointee the NRA and on every" there is substituted "on—

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(i) the existing appointee,

(ii) if the application relates to the replacement of a water undertaker whose area is wholly or mainly in England, the Chief Inspector of Drinking Water,

(iii) if the application relates to the replacement of a water undertaker whose area is wholly or mainly in Wales, the Chief Inspector of Drinking Water for Wales if there is one, or the Chief Inspector of Drinking Water if section 86(1B)(b) applies,

(iv) the appropriate agency, and

(v) every".

(3) In subsection (4)(b) (the Secretary of State or the Water Services Regulation Authority to serve notice of proposed appointment or variation), for "on the existing appointee the NRA and on every" there is substituted "on—

(i) the existing appointee,

(ii) if the proposed appointment or variation would replace a water undertaker whose area is wholly or mainly in England, the Chief Inspector of Drinking Water,

(iii) if the proposed appointment or variation would replace a water undertaker whose area is wholly or mainly in Wales, the Chief Inspector of Drinking Water for Wales if there is one, or the Chief Inspector of Drinking Water if section 86(1B)(b) applies,

(iv) the appropriate agency, and

(v) every".

(4) In subsection (5)(b) (the Secretary of State or the Water Services Regulation Authority to serve notice of the making of an appointment or variation), for "on the NRA and on every" there is substituted "on—

(i) if the appointment or variation replaces a water undertaker whose area is wholly or mainly in England, the Chief Inspector of Drinking Water,

(ii) if the appointment or variation replaces a water undertaker whose area is wholly or mainly in Wales, the Chief Inspector of Drinking Water for Wales if there is one, or the Chief Inspector of Drinking Water if section 86(1B)(b) applies,

(iii) the appropriate agency, and

(iv) every".

(5) After subsection (6) insert—

"(6A) In this section "the appropriate agency", in relation to the replacement of a relevant undertaker, means—

(a) the Environment Agency, if the undertaker's area is wholly in England;

(b) the NRBW, if the undertaker's area is wholly in Wales;

(c) both the Environment Agency and the NRBW, if the undertaker's area is partly in England and partly in Wales."

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Duty of CMA to refer mergers of relevant undertakers

14 Exceptions to duty and undertakings in lieu of merger references E+W

(1) In section 32 of the Water Industry Act 1991 (duty to refer merger of water or sewerage undertaking), for "Subject to section 33 below," there is substituted " Subject to sections 33 and 33A below, ".

(2) After section 33 (exclusion of small mergers) there is inserted—

"**33A Exceptions to duty to make reference**

(1) The CMA may decide not to make a merger reference under section 32 as regards a case falling within section 32(a) if it believes that—
   (a) the arrangements concerned are not sufficiently far advanced, or are not sufficiently likely to proceed, to justify the making of a merger reference;
   (b) the prospective merger is not likely to prejudice the ability of the Authority, in carrying out its functions by virtue of this Act, to make comparisons between water enterprises; or
   (c) the prospective merger is likely to prejudice that ability, but the prejudice in question is outweighed by relevant customer benefits relating to the merger.

(2) The CMA may decide not to make a merger reference under section 32 as regards a case falling within section 32(b) if it believes that—
   (a) the merger has not prejudiced and is not likely to prejudice the ability of the Authority, in carrying out its functions by virtue of this Act, to make comparisons between water enterprises; or
   (b) the merger has prejudiced or is likely to prejudice that ability, but the prejudice in question is outweighed by relevant customer benefits relating to the merger.

(3) Before forming a view as to the matters in subsection (1)(b) or (c) or (2)(a) or (b), the CMA must—
   (a) request the Authority to give an opinion under section 33B, and
   (b) consider that opinion.

(4) The CMA may not make a merger reference under section 32 if—
   (a) it is considering whether to accept an undertaking under section 33D instead of making such a reference; or
   (b) it is prevented by section 74 of the Enterprise Act 2002 (effect of accepting an undertaking in lieu), in a case where that section as applied by paragraph 1 of Schedule 4ZA may have effect to prevent such a merger reference.

(5) In this section "relevant customer benefit" has the meaning given by paragraph 7 of Schedule 4ZA.

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33B Opinion of the Authority

(1) Where the CMA makes a request under section 33A(3), the Authority must give its opinion on—

(a) whether and to what extent the actual or prospective merger has prejudiced or is likely to prejudice the Authority's ability, in carrying out its functions by virtue of this Act, to make comparisons between water enterprises, and

(b) where it forms the view that the actual or prospective merger has prejudiced or is likely to prejudice that ability, whether the prejudice in question is outweighed by any relevant customer benefits relating to the merger.

(2) In forming an opinion on the matters in subsection (1), the Authority must apply the methods set out in the statement under section 33C that has effect when the request under section 33A(3) is made.

(3) In this section "relevant customer benefit" has the meaning given by paragraph 7 of Schedule 4ZA, except that references in paragraph 7 to what the CMA believes are to be read for the purposes of this section as references to what the Authority believes.

33C Statement of methods

(1) The Authority must prepare and keep under review a statement of the methods to be applied in forming an opinion on the matters in section 33B(1).

(2) The statement must in particular set out—

(a) the criteria to be used for assessing the effect of any particular water enterprise ceasing to be a distinct enterprise on the Authority's ability, in carrying out its functions by virtue of this Act, to make comparisons between water enterprises;

(b) the relative weight to be given to the criteria.

(3) Before preparing or altering the statement, the Authority must consult—

(a) the Secretary of State,

(b) the Welsh Ministers,

(c) the CMA, and

(d) relevant undertakers.

(4) The Authority must from time to time publish the statement as it has effect for the time being."

(3) After section 33C (inserted by subsection (2)) there is inserted—

"**33D Undertakings in lieu of a merger reference**

(1) If the CMA considers that it is under a duty to make a merger reference under section 32, it may instead of making such a reference accept undertakings to take such action as it thinks appropriate from such of the parties concerned in the actual or prospective merger as it considers appropriate.

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(2) The power under subsection (1) is to be exercised for the purpose of remedying, mitigating or preventing the prejudicial effect on the Authority's ability, in carrying out its functions by virtue of this Act, to make comparisons between water enterprises that the actual or prospective merger has had, may have had or may be likely to have.

(3) In forming a view for the purposes of subsection (1) as to whether it is under a duty to make a merger reference under section 32, the CMA—
   (a) is to disregard the effect of section 33A(4)(a), but
   (b) is to take into account the powers under section 33A(1) and (2) to decide not to make a merger reference.

(4) In proceeding under subsection (1), the CMA must, in particular, have regard to the need to achieve as comprehensive a solution as is reasonable and practicable to the prejudicial effect on the Authority's ability, in carrying out its functions by virtue of this Act, to make comparisons between water enterprises.

(5) In proceeding under subsection (1), the CMA may, in particular, have regard to the effect of any action on any relevant customer benefits in relation to the actual or prospective merger.

(6) Before deciding whether or not to accept an undertaking under this section, the CMA must—
   (a) request the Authority to give its opinion on the effect of the undertakings offered, and
   (b) consider the Authority's opinion.

(7) Where the CMA makes a request under subsection (6), the Authority must give its opinion on the effect of the undertakings offered.

(8) An undertaking under this section—
   (a) comes into force when accepted;
   (b) may be varied or superseded by another undertaking under this section;
   (c) may be released by the CMA.

(9) An undertaking under this section ceases to be in force if an order under section 75 or 76 of the Enterprise Act 2002 (powers to make an order where an undertaking is not fulfilled) is made, in a case where that provision of the Enterprise Act 2002 as applied by paragraph 1 of Schedule 4ZA may have effect in relation to such an undertaking.

(10) The CMA must consider any representations received by it in relation to varying or releasing an undertaking under this section as soon as reasonably practicable.

(11) In this section "relevant customer benefit" has the meaning given by paragraph 7 of Schedule 4ZA, except that references in paragraph 7 to what the CMA believes are to be read for the purposes of subsection (7) as references to what the Authority believes."

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Commencement Information

I48 S. 14(1)(3) in force at 18.12.2015 by S.I. 2015/1938, **art. 2(d)**

I49 S. 14(2) in force at 6.4.2015 for specified purposes by S.I. 2015/773, **art. 2(2)(a)**

I50 S. 14(2) in force at 18.12.2015 in so far as not already in force by S.I. 2015/1938, **art. 2(d)**

15 Exclusion of small mergers: advice of CMA on threshold E+W

In section 33 of the Water Industry Act 1991 (exclusion of small mergers from the duty to make a merger reference under section 32), after subsection (6) there is inserted—

"(6A) The CMA must—

(a) keep under review the conditions set out in subsection (1)(a) and (b), and

(b) from time to time advise the Secretary of State as to whether the conditions in subsection (1)(a) and (b), and the sums mentioned in those paragraphs, are still appropriate."

Relevant undertakers' charges

16 Charges schemes E+W

(1) In section 143 of the Water Industry Act 1991 (charges schemes), for subsections (6) to (9) (charges scheme not to take effect until approved by the Water Services Regulation Authority, etc), there is substituted—

"(6) If the Authority considers that a relevant undertaker's charges scheme does not comply with—

(a) subsection (2), (3) or (5),

(b) regulations under section 143A,

(c) rules under section 143B, or

(d) section 144A(9), (10) or (11)(a),

the Authority may give the undertaker a direction to do, or not to do, a thing specified in the direction.

(6A) The Authority must issue rules (and, if it revises rules it has issued, must issue revised rules) about consulting the Council about proposed charges schemes.

(6B) The rules must require a relevant undertaker that proposes to make a charges scheme to consult the Council about its proposed scheme.

(6C) If the Authority considers that a relevant undertaker has not complied with those rules, it may give the undertaker a direction to do, or not to do, a thing specified in the direction.

(6D) It is the duty of a relevant undertaker to comply with a direction under subsection (6) or (6C), and this duty is enforceable by the Authority under section 18."

(2) After section 143A there is inserted—

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"**143B Rules about charges schemes**

(1) The Authority may issue rules about charges schemes under section 143.

(2) Rules under this section may in particular—
- (a) make provision about the types of charges that may be imposed;
- (b) make provision about the amount or maximum amount, or the methods for determining the amount or maximum amount, of any type of charge;
- (c) make provision about the principles for determining what types of charges may or may not be imposed;
- (d) make provision about principles for determining the amount of any charge that may be imposed;
- (e) require particular schemes of charges to be available in specified cases;
- (f) make provision about the timing of payment of charges;
- (g) require charges schemes to be published;
- (h) make provision about how charges schemes are to be published.

(3) The rules may provide for the reduction of charges under a charges scheme where conditions specified by the rules are satisfied.

(4) Rules made by virtue of subsection (3) may in particular specify conditions about—
- (a) taking steps for the purpose of reducing or managing water consumption;
- (b) taking steps for the purpose of reducing or managing the discharge of matter from premises;
- (c) taking steps for the purpose of reducing the volume of surface water entering public sewers or the rate at which it does so.

(5) The provisions of charges schemes must comply with rules issued under this section.

(6) The rules may make different provision for different cases, including different provision in relation to different, or different descriptions of, persons, circumstances or localities.

(7) The power to make rules under this section may not be exercised for the purpose of limiting the total revenues of relevant undertakers from charges fixed by or in accordance with charges schemes.

(8) The Authority may from time to time revise rules issued under this section and issue revised rules.

(9) The Authority must issue revised rules if—
- (a) guidance is issued under section 143E, and
- (b) the Authority, having regard to that guidance, considers that it is appropriate to revise the rules.

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(10) Revised rules may include provision for applying any of their revisions to charges schemes under section 143 made before the revised rules come into effect.

143C Rules under section 143B: procedure

(1) The Authority must have regard to guidance issued under section 143E in making rules under section 143B (as well as to any guidance issued under section 43 or 44 of the Flood and Water Management Act 2010).

(2) Before issuing rules under section 143B, the Authority must—
  (a) prepare a draft of the proposed rules, and
  (b) consult the relevant persons about the draft.

(3) The relevant persons are—
  (a) the Secretary of State;
  (b) the Welsh Ministers;
  (c) the Council;
  (d) any relevant undertakers likely to be affected by the rules;
  (e) such other persons as the Authority thinks appropriate.

(4) The Authority must specify the period ("the consultation period") within which a person may make representations about the proposed rules.

(5) Before rules under section 143B prepared by the Authority are issued, the Minister may direct the Authority not to issue the rules.

(6) In subsection (5) "the Minister" means—
  (a) the Secretary of State, so far as the rules in question affect relevant undertakers whose areas are wholly or mainly in England;
  (b) the Welsh Ministers, so far as the rules in question affect relevant undertakers whose areas are wholly or mainly in Wales.

(7) A direction under subsection (5) must be given within the period of 28 days beginning with the day after the end of the consultation period, and rules prepared by the Authority may not be issued before that period of 28 days has expired.

(8) This section is subject to section 143D.

143D Rules under section 143B: minor or urgent revisions

(1) This section applies if the Authority proposes to issue revised rules under section 143B and, in the view of the Authority, the revision or each of the revisions proposed to be made is—
  (a) a revision for which consultation is unnecessary, or
  (b) a revision that it is necessary or desirable to make without delay.

(2) Section 143C does not apply to the proposed revised rules.

(3) Before issuing the revised rules, the Authority must give notice to the Minister of its intention to issue revised rules.

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(4) Before the revised rules are issued, the Minister may direct the Authority not to issue the revised rules.

(5) A direction under subsection (4) must be given within the period of 14 days beginning with the day after the day on which notice is given under subsection (3), and the Authority may not issue the revised rules in question before—
  (a) that period of 14 days expires, or
  (b) the Minister notifies the Authority that no direction under subsection (4) will be given in relation to the revised rules,

  whichever is the sooner.

(6) Once the Authority has issued the revised rules, it must give notice as soon as reasonably practicable of—
  (a) the issuing of the revised rules, and
  (b) as regards each revision contained in them, whether in the view of the Authority the revision falls within paragraph (a) or (b) of subsection (1).

(7) Notice under subsection (6) is to be given to such persons as the Authority considers appropriate.

(8) Unless the Authority gives notice that a revision in revised rules is in the view of the Authority a revision falling within subsection (1)(a), the revision ceases to have effect at the end of the period of six months beginning with the day after that on which the revised rules are issued.

(9) In this section "the Minister" has the meaning given by section 143C.

143E Rules under section 143B: guidance

(1) The Minister may issue guidance as to the content of rules under section 143B.

(2) Before issuing the guidance, the Minister must—
  (a) prepare a draft of the proposed guidance;
  (b) consult the relevant persons about the draft.

(3) The relevant persons are—
  (a) the Secretary of State;
  (b) the Welsh Ministers;
  (c) such other persons as the Minister thinks appropriate.

(4) The Minister may from time to time revise the guidance and issue revised guidance.

(5) Subsections (2) and (3) apply to revised guidance as they apply to the original guidance.

(6) The Minister must arrange for the publication of guidance issued under this section.

(7) In this section "the Minister" means—
  (a) the Secretary of State, in relation to relevant undertakers whose areas are wholly or mainly in England;

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(b) the Welsh Ministers, in relation to relevant undertakers whose areas are wholly or mainly in Wales."

Commencement Information

I51 S. 16(1) in force at 1.11.2015 by S.I. 2015/1469, **art. 4(a)** (with s. 5(4)(5))

I52 S. 16(2) in force at 15.7.2015 for specified purposes by S.I. 2015/1469, **art. 2(a)** (with art. 5(4)(5))

I53 S. 16(2) in force at 1.11.2015 in so far as not already in force by S.I. 2015/1469, **art. 4(a)** (with s. 5(4)(5))

17 Rules about charges for connections etc E+W

After section 144 of the Water Industry Act 1991 there is inserted—

"Rules about undertakers' charges

144ZA Rules about charges for connections etc

(1) The Authority may issue rules about charges that may be imposed by a relevant undertaker under—

(a) section 42(2)(a) (provision of new water main);

(b) section 45(6) (connections with water main);

(c) section 46(7)(b) (ancillary works for domestic connection);

(d) section 99(2)(a) or (2A)(a) (provision of public sewer or lateral drain);

(e) section 101B(3) (lateral drains);

(f) section 107(3)(b)(i) (communications with public sewers);

(g) section 185(5) (moving of pipes etc).

(2) Rules under this section may in particular—

(a) make provision about the types of charges that may be imposed;

(b) make provision about the amount or maximum amount, or the methods for determining the amount or maximum amount, of any type of charge;

(c) make provision about the principles for determining what types of charges may or may not be imposed;

(d) make provision about the principles for determining the amount of any charge that may be imposed;

(e) provide for charges to be payable over a period;

(f) make provision about publication of the charges that may be imposed.

(3) The charges that may be imposed by a water undertaker under section 42(2)(a) for the provision of a new water main may include charges for—

(a) providing such other infrastructure, including other water mains, as it is necessary to provide in consequence of the provision of the new water main;

(b) doing works to increase the capacity of an existing water main, or procuring the doing of such works, where the use of that increased capacity is a consequence of the provision of the new water main.

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(4) The charges that may be imposed by a sewerage undertaker under section 99(2)(a) for the provision of a new public sewer may include charges for—
  (a) providing such other infrastructure, including other public sewers, as it is necessary to provide in consequence of the provision of the new public sewer;
  (b) doing works to increase the capacity of an existing public sewer, where the use of that increased capacity is a consequence of the provision of the new public sewer.

(5) The rules may make provision as to—
  (a) the amount of security that may be required by a relevant undertaker under section 42(1)(b), 47(2)(a), 99(1)(b), 101B(3A), 107(3)(b)(ii) or 185(4);
  (b) the type of security that may be required;
  (c) the payment of interest on a sum deposited with a relevant undertaker by way of security.

(6) If the Authority considers that a relevant undertaker is not acting as required by rules under this section, the Authority may give the undertaker a direction to do, or not to do, a thing specified in the direction.

(7) It is the duty of a relevant undertaker to comply with a direction under subsection (6), and this duty is enforceable by the Authority under section 18.

(8) The rules may make—
  (a) different provision for different persons or different descriptions of person;
  (b) different provision for different powers to impose charges or different descriptions of such powers.

(9) The Authority may from time to time revise rules issued under this section and issue revised rules.

(10) The Authority must issue revised rules if—
  (a) guidance is issued under section 144ZD, and
  (b) the Authority, having regard to that guidance, considers that it is appropriate to revise the rules.

144ZB Rules under section 144ZA: procedure

(1) The Authority must have regard to guidance issued under section 144ZD in making rules under section 144ZA.

(2) Before issuing rules under section 144ZA, the Authority must—
  (a) prepare a draft of the proposed rules, and
  (b) consult the relevant persons about the draft.

(3) The relevant persons are—
  (a) the Secretary of State;
  (b) the Welsh Ministers;
  (c) the Council;
  (d) any relevant undertakers likely to be affected by the rules;

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(e) any water supply or sewerage licensees likely to be affected by the rules;

(f) such other persons as the Authority thinks appropriate.

(4) The Authority must specify the period ("the consultation period") within which a person may make representations about the proposed rules.

(5) Before rules under section 144ZA prepared by the Authority are issued, the Minister may direct the Authority not to issue the rules.

(6) In subsection (5) "the Minister" means—

(a) the Secretary of State, so far as the rules in question affect relevant undertakers whose areas are wholly or mainly in England;

(b) the Welsh Ministers, so far as the rules in question affect relevant undertakers whose areas are wholly or mainly in Wales.

(7) A direction under subsection (5) must be given within the period of 28 days beginning with the day after the end of the consultation period, and rules prepared by the Authority may not be issued before that period of 28 days has expired.

(8) This section is subject to section 144ZC.

144ZC Rules under section 144ZA: minor or urgent revisions

(1) This section applies if the Authority proposes to issue revised rules under section 144ZA and, in the view of the Authority, the revision or each of the revisions proposed to be made is—

(a) a revision for which consultation is unnecessary, or

(b) a revision that it is necessary or desirable to make without delay.

(2) Section 144ZB does not apply to the proposed revised rules.

(3) Before issuing the revised rules, the Authority must give notice to the Minister of its intention to issue revised rules.

(4) Before the revised rules are issued, the Minister may direct the Authority not to issue the revised rules.

(5) A direction under subsection (4) must be given within the period of 14 days beginning with the day after the day on which notice is given under subsection (3), and the Authority may not issue the revised rules in question before—

(a) that period of 14 days expires, or

(b) the Minister notifies the Authority that no direction under subsection (4) will be given in relation to the revised rules,

whichever is the sooner.

(6) Once the Authority has issued the revised rules, it must give notice as soon as reasonably practicable of—

(a) the issuing of the revised rules, and

(b) as regards each revision contained in them, whether in the view of the Authority the revision falls within paragraph (a) or (b) of subsection (1).

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Water Act 2014 is up to date with all changes known to be in force on or before 20 June 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) View outstanding changes*

(7) Notice under subsection (6) is to be given to such persons as the Authority considers appropriate.

(8) Unless the Authority gives notice that a revision in revised rules is in the view of the Authority a revision falling within subsection (1)(a), the revision ceases to have effect at the end of the period of six months beginning with the day after that on which the revised rules are issued.

(9) In this section "the Minister" has the meaning given by section 144ZB.

144ZD Rules under section 144ZA: guidance

(1) The Minister must issue guidance as to the content of rules under section 144ZA.

(2) Before issuing the guidance, the Minister must—
- (a) prepare a draft of the proposed guidance;
- (b) consult the relevant persons about the draft.

(3) The relevant persons are—
- (a) the Secretary of State;
- (b) the Welsh Ministers;
- (c) such other persons as the Minister thinks appropriate.

(4) The Minister may from time to time revise the guidance and issue revised guidance.

(5) Subsections (2) and (3) apply to revised guidance as they apply to the original guidance.

(6) The Minister must arrange for the publication of guidance issued under this section.

(7) In this section "the Minister" means—
- (a) the Secretary of State, in relation to relevant undertakers whose areas are wholly or mainly in England;
- (b) the Welsh Ministers, in relation to relevant undertakers whose areas are wholly or mainly in Wales."

Commencement Information

I54 S. 17 in force at 6.4.2015 for specified purposes by S.I. 2015/773, **art. 2(1)(b)**

I55 S. 17 in force at 15.7.2015 for specified purposes by S.I. 2015/1469, **art. 2(b)** (with art. 5(1)(5))

I56 S. 17 in force at 1.4.2016 for E. in so far as not already in force by S.I. 2016/465, **art. 2(d)** (with Sch. 2)

I57 S. 17 in force at 15.12.2017 for W. in so far as not already in force by S.I. 2017/1288, **art. 2(a)**

18 Charges for providing a water main etc E+W

(1) The Water Industry Act 1991 is amended as follows.

(2) In section 42 (financial conditions for compliance with the duty in section 41 to provide a water main)—

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Changes to legislation: *Water Act 2014 is up to date with all changes known to be in force on or before 20 June 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) View outstanding changes*

(a) in subsection (1)(b) (condition as to providing security), for the words from "such security" to "reasonably required" there is substituted " such security as charging rules allow and the undertaker may have required ";

(b) in subsection (2) (undertaking to pay), for paragraph (a) there is substituted—

"(a) bind the person or persons mentioned in that subsection to pay to the undertaker such charges as the undertaker may impose in accordance with charging rules, and";

(c) subsections (4) and (5) (interest on sums deposited by way of security) are repealed;

(d) in subsection (6) (reference of disputes to Water Services Regulation Authority), in paragraph (b), after "the amount" there is inserted " or amounts by way of charges ".

(3) In section 45 (duty to make domestic connections to a water main)—

(a) in subsection (2) (the nature of the duty), the words ", at the expense of the person serving the notice," are repealed;

(b) for subsection (6) there is substituted—

"(6) Where a water undertaker carries out any works which it is its duty under this section to carry out, the person serving the notice is liable to pay to the undertaker such charges as the undertaker may impose in accordance with charging rules.";

(c) in subsection (6A) (reference of disputes to Authority), for "as to whether the expenses were incurred reasonably" there is substituted " as to the payments required to be made ".

(4) In section 46 (duty to carry out ancillary works for the purpose of making a domestic connection under section 45)—

(a) in subsection (1) (the nature of the duty), the words ", at the expense of the person serving the notice," are repealed;

(b) in subsection (7), in paragraph (b), for "under this section at another person's expense" there is substituted " as its duty under this section ";

(c) in subsection (7), in the words after paragraph (b), for "under that section at another person's expense" there is substituted " as its duty under that section ";

(d) in subsection (9) (consequences of exercising power under section 46(8) to lay a water main rather than a service pipe), paragraph (b) (maximum expenses recoverable) and the "but" preceding it are repealed.

(5) In section 47 (conditions of connection with water main)—

(a) in subsection (2)(a) (requirement to give security for amounts to be paid), for the words from "such security" to "reasonably require" there is substituted " such security as charging rules allow and the undertaker requires ";

(b) in subsection (3B) (reference of disputes to Authority), in the opening words, "whether" is repealed;

(c) in subsection (3B), for paragraph (a) there is substituted—

"(a) the security required to be provided by a condition imposed under subsection (2)(a),";

(d) in subsection (3B)(b), at the beginning there is inserted "whether";

(e) in subsection (3B)(c), after "particular case," there is inserted " whether ".

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Commencement Information

I58 S. 18 in force at 1.4.2018 by S.I. 2017/462, **art. 5(a)** (with art. 14)

19 Charges for providing a public sewer etc E+W

(1) The Water Industry Act 1991 is amended as follows.

(2) In section 99 (financial conditions for compliance with the duty in section 98 to provide a public sewer or lateral drain)—

(a) in subsection (1)(b) (condition as to providing security), for the words from "such security" to "reasonably required" there is substituted " such security as charging rules allow and the undertaker may have required ";

(b) in subsection (2) (undertaking to pay in respect of public sewer), for paragraph (a) there is substituted—

"(a) bind the person or persons mentioned in that subsection to pay to the undertaker such charges as the undertaker may impose in accordance with charging rules, and";

(c) in subsection (2A) (undertaking to pay in respect of lateral drain), for paragraph (a) there is substituted—

"(a) bind the person or persons mentioned in that subsection to pay to the undertaker such charges as the undertaker may impose in accordance with charging rules, and";

(d) subsections (4) and (5) (interest on sums deposited by way of security) are repealed;

(e) in subsection (6) (reference of disputes to the Water Services Regulation Authority), in paragraph (b), after "the amount" there is inserted " or amounts by way of charges ".

(3) In section 101B (power to provide lateral drain following provision of public sewer)—

(a) in subsection (3) (obligation to pay for drain requested), for "the costs reasonably incurred in or in connection with providing that drain" there is substituted " such charges as the undertaker may impose in accordance with charging rules ";

(b) after subsection (3) there is inserted—

"(3A) The sewerage undertaker may require the person making a request under this section to provide such security for the payment of the charges as charging rules allow.";

(c) in subsection (4) (reference of disputes to Authority), for paragraph (b) there is substituted—

"(b) the amount of any charge imposed,";

(d) in subsection (4), after paragraph (b) there is inserted "or

(c) the security required to be provided,".

(4) In section 107 (right of a sewerage undertaker to undertake the making of a communication with a public sewer)—

(a) in subsection (3)(b)(i) (no obligation for undertaker to act until paid an estimated cost of the work in advance), for "the cost of the work" there is

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substituted " the amount by way of charges that the undertaker may impose in accordance with charging rules for making the connection ";

(b) in subsection (3)(b)(ii) (no obligation for undertaker to act until given security for payment), for "such security" to the end there is substituted " such security for the payment of that amount as charging rules allow and it may have required. ";

(c) for subsection (4), there is substituted—

"(4) If a payment to a sewerage undertaker under subsection (3) exceeds the charges that may, in the event, be imposed in accordance with charging rules for making the connection in question, the excess is to be repaid by the undertaker; and, if and so far as those charges are not covered by a payment under subsection (3), those charges are to be paid by the person for whom the work was undertaken.";

(d) in subsection (4A) (reference to disputes to Authority), in paragraph (a), for "of the cost of works" there is substituted " of the amount of charges ";

(e) in subsection (4A), for paragraph (b) (and the "or" following it) there is substituted—

"(b) the security required by the undertaker, or";

(f) in subsection (4A), for paragraph (c) there is substituted—

"(c) whether any excess is repayable, or any charges are payable, under subsection (4), or the amount of any such excess or charges,".

(5) In section 146 (connection charges etc, and charges for highway drainage), in subsection (5)(a), after "expenses incurred by it in" there is inserted " , or charges imposed by it for, ".

Commencement Information

I59 S. 19 in force at 1.4.2018 by S.I. 2017/462, **art. 5(b)** (with art. 14)

20 Charges for moving pipes E+W

In section 185 of the Water Industry Act 1991 (duty to move pipes etc in certain cases), in subsection (5) (recovery of undertaker's expenses), for the words from "the undertaker" to the end there is substituted " the person serving the notice is liable to pay to the undertaker such charges as the undertaker may impose in accordance with charging rules ".

Commencement Information

I60 S. 20 in force at 1.4.2018 by S.I. 2017/462, **art. 5(c)** (with art. 14)

Sustainable drainage

21 Drainage systems relieving public sewers E+W

(1) After section 114 of the Water Industry Act 1991 there is inserted—

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"Sustainable drainage

114A Drainage systems relieving public sewers

(1) Sewerage undertakers may construct, on their own or on another's land, drainage systems for the purpose of reducing the volume of surface water entering public sewers or the rate at which it does so.

(2) A sewerage undertaker may maintain and operate a drainage system constructed by it under subsection (1).

(3) In this section—

"drainage system" means a structure designed to receive rainwater and other surface water, other than a natural watercourse;

"natural watercourse" means a river or stream;

"rainwater" includes snow and other precipitation;

"structure" includes—

(a) any part of an existing or proposed structure, and

(b) any feature or aspect of a design that is intended to receive or facilitate the receipt of rainwater or other surface water.

(4) The powers conferred by subsections (1) and (2) are not to be regarded as functions of a sewerage undertaker for the purposes of section 155 (compulsory purchase of land required for the purposes of carrying out functions of relevant undertakers)."

(2) In section 158 of that Act (powers to lay pipes in streets), in subsection (7) (meaning of reference to a relevant pipe), in paragraph (b)—

(a) omit the "or" at the end of both sub-paragraphs (i) and (ii);

(b) after sub-paragraph (iii) there is inserted "or

(iv) any pipe forming part of, or required in connection with, a drainage system constructed under section 114A."

(3) In Schedule 3 to the Flood and Water Management Act 2010 (sustainable drainage), after paragraph 19 there is inserted—

"**Exception 3: systems under section 114A Water Industry Act 1991**

19A The adoption duty does not apply to a drainage system constructed under section 114A of the Water Industry Act 1991 (drainage systems relieving public sewers)."

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Water Act 2014 is up to date with all changes known to be in force on or before 20 June 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) View outstanding changes*

CHAPTER 3 E+W

REGULATION OF THE WATER INDUSTRY

General duties of the Water Services Regulation Authority

22 Primary duty to secure resilience E+W

(1) Section 2 of the Water Industry Act 1991 (general duties with respect to water industry) is amended as follows.

(2) In subsection (2A)—

(a) omit the "and" at the end of paragraph (c);

(b) after paragraph (d) insert "; and

(e) to further the resilience objective."

(3) After subsection (2D) insert—

"(2DA) The resilience objective mentioned in subsection (2A)(e) is—

(a) to secure the long-term resilience of water undertakers' supply systems and sewerage undertakers' sewerage systems as regards environmental pressures, population growth and changes in consumer behaviour, and

(b) to secure that undertakers take steps for the purpose of enabling them to meet, in the long term, the need for the supply of water and the provision of sewerage services to consumers,

including by promoting—

(i) appropriate long-term planning and investment by relevant undertakers, and

(ii) the taking by them of a range of measures to manage water resources in sustainable ways, and to increase efficiency in the use of water and reduce demand for water so as to reduce pressure on water resources.

(2DB) For the purposes of subsection (2DA)—

(a) the reference to water undertakers' supply systems is to be construed in accordance with section 17B;

(b) the reference to sewerage undertakers' sewerage systems is a reference to the systems comprising—

(i) the systems of public sewers, the facilities for emptying public sewers and the sewage disposal works and other facilities for dealing effectually with the contents of public sewers that undertakers are required to provide by section 94, and

(ii) the lateral drains that undertakers are required to maintain by section 94."

Commencement Information

I61 S. 22 not in force at Royal Assent; s. 22 in force for specified purposes at 14.7.2014, see s. 94(2)(e)

I62 S. 22 in force at 18.12.2015 in so far as not already in force by S.I. 2015/1938, **art. 2(e)**

Status: *This version of this Act contains provisions that are prospective.*
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23 General duty as regards undue preference in the provision of services E+W

In section 2 of the Water Industry Act 1991 (general duties of the Secretary of State and the Water Services Regulation Authority with respect to the water industry), in subsection (3) (general considerations in exercising powers and duties), after paragraph (b) there is inserted—

"(ba) to secure that no undue preference (including for itself) is shown, and that there is no undue discrimination, in the doing by such a company of—

(i) such things as relate to the provision of services by itself or another such company, or

(ii) such things as relate to the provision of services by a water supply licensee or a sewerage licensee;".

Commencement Information

I63 S. 23 in force at 1.1.2015 for specified purposes by S.I. 2014/3320, **art. 2(1)(a)** (with art. 3)

I64 S. 23 in force at 6.4.2015 for W. for specified purposes by S.I. 2015/773, **art. 2(3)(a)** (with art. 6)

I65 S. 23 in force at 1.4.2016 for E. in so far as not already in force by S.I. 2016/465, **art. 2(e)** (with Sch. 2)

24 Strategic priorities and objectives E+W

(1) For section 2A of the Water Industry Act 1991 there is substituted—

"**2A Strategic priorities and objectives: England**

(1) The Secretary of State may from time to time publish a statement setting out strategic priorities and objectives for the Authority in carrying out relevant functions relating wholly or mainly to England.

(2) The Authority must carry out those functions in accordance with any statement published under this section.

(3) In formulating a statement under this section, the Secretary of State—

(a) must have regard to the duties imposed on the Authority under section 2,

(b) must have regard to social and environmental matters, and

(c) may have regard to such other matters as the Secretary of State thinks fit.

(4) Before publishing a statement under this section, the Secretary of State must consult—

(a) the Authority,

(b) the Council,

(c) relevant undertakers,

(d) licensed water suppliers,

(e) the Environment Agency,

(f) the Welsh Ministers,

(g) the NRBW, and

(h) anyone else the Secretary of State thinks appropriate.

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(5) Before publishing a statement under this section the Secretary of State must—
  (a) lay a draft of the statement before Parliament, and
  (b) then wait until the end of the 40-day period.

(6) The Secretary of State may not publish the statement under this section if, within the 40-day period, either House of Parliament resolves not to approve it.

(7) "The 40-day period" means the period of 40 days beginning with the day on which the draft is laid before Parliament (or, if it is not laid before each House on the same day, the later of the days on which it is laid).

(8) When calculating the 40-day period, ignore any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than 4 days.

(9) In this section "relevant functions relating wholly or mainly to England" means the functions mentioned in section 2(1)(b) so far as they relate to appointment areas wholly or mainly in England.

(10) In subsection (9) "appointment area" means an area for which an appointment is held under Chapter 1 of Part 2.

2B Strategic priorities and objectives: Wales

(1) The Welsh Ministers may from time to time publish a statement setting out strategic priorities and objectives for the Authority in carrying out relevant functions relating wholly or mainly to Wales.

(2) The Authority must carry out those functions in accordance with any statement published under this section.

(3) In formulating a statement under this section the Welsh Ministers—
  (a) must have regard to the duties imposed on the Authority under section 2,
  (b) must have regard to social and environmental matters, and
  (c) may have regard to such other matters as the Welsh Ministers think fit.

(4) Before publishing a statement under this section, the Welsh Ministers must consult—
  (a) the Authority,
  (b) the Council,
  (c) relevant undertakers,
  (d) licensed water suppliers,
  (e) the NRBW,
  (f) the Secretary of State,
  (g) the Environment Agency, and
  (h) anyone else the Welsh Ministers think appropriate.

(5) Before publishing a statement under this section the Welsh Ministers must—
  (a) lay a draft of the statement before the Assembly, and
  (b) then wait until the end of the 40-day period.

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(6) The Welsh Ministers may not publish the statement under this section if, within the 40-day period, the Assembly resolves not to approve it.

(7) "The 40-day period" means the period of 40 days beginning with the day on which the draft is laid before the Assembly.

(8) When calculating the 40-day period, ignore any period during which the Assembly is dissolved or is in recess for more than 4 days.

(9) In this section "relevant functions relating wholly or mainly to Wales" means the functions mentioned in section 2(1)(b) so far as they relate to appointment areas wholly or mainly in Wales.

(10) In subsection (9) "appointment area" means an area for which an appointment is held under Chapter 1 of Part 2."

(2) In section 2(6A), (6B) and (7) of that Act (general duties with respect to water industry), for "section 2A" there is substituted " sections 2A and 2B ".

(3) In section 192A of that Act (forward work programme), after subsection (3) there is inserted—

"(3A) The forward work programme for any year must also include an explanation of how the projects described in it reflect any strategic priorities or objectives published under section 2A or 2B."

Commencement Information

I66 S. 24 in force at 6.4.2015 by S.I. 2015/773, **art. 2(1)(c)** (with art. 4)

Regulation of relevant undertakers, water supply licensees and sewerage licensees

25 Procedure for granting water supply and sewerage licences E+W

(1) Section 17F of the Water Industry Act 1991 (procedure for granting water supply licences) is amended as follows.

(2) For subsection (1) (application to be made as set out in regulations) there is substituted—

"(1) The Authority must determine for each type of relevant application that may be made—

(a) the form and manner in which an application is to be made;

(b) the information it is to contain;

(c) the documents that are to accompany it;

(d) the fee that is to accompany it.

(1A) The fees may be different in different circumstances.

(1B) The Authority may make a new determination as to a matter referred to in subsection (1).

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(1C) The Authority must publish a notice of what it has determined under subsection (1) or (1B) in such manner as it thinks appropriate for bringing the determination to the attention of those affected by the determination.

(1D) For the purposes of subsection (1) a relevant application is an application for—

(a) the grant of a water supply or sewerage licence giving a particular authorisation or combination of authorisations;

(b) the variation of a water supply or sewerage licence so that it gives—

(i) a particular authorisation only, or

(ii) a particular combination of authorisations.

(1E) A person making a relevant application must comply with such provisions of a notice published under subsection (1C) as relate to the application."

(3) Subsections (2), (3) and (5) (requirement for applicant to publish notice of an application made) are repealed.

(4) In subsection (4) (procedure where the Secretary of State or the Authority proposes to refuse an application), for "the application", in the first place it occurs, there is substituted " a relevant application ".

Commencement Information

I67 S. 25 not in force at Royal Assent; s. 25(3) in force at 14.7.2014, see s. 94(2)(f)

I68 S. 25(1)(2)(4) in force at 1.4.2016 by S.I. 2016/465, **art. 2(f)** (with Sch. 2)

26 Extension of time limit for imposing financial penalties E+W

(1) In section 22C of the Water Industry Act 1991 (time limits on the imposition of financial penalties), in subsection (1), for "twelve months" there is substituted " five years ".

(2) But subsection (1) does not apply in relation to a contravention or failure which—

(a) occurred before the date on which this section comes into force, and

(b) is not continuing on that date.

27 Water resources management plans for England: resilience E+W

(1) Chapter 1 of Part 3 of the Water Industry Act 1991 (water supply) is amended as follows.

(2) In section 37A(3) (water resources management plans: preparation and review), at the end insert—

"(and see also section 37AA)."

(3) After that section insert—

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"**37AA Water resources management plans for England: resilience**

(1) The Secretary of State may give a direction about the basis on which a water resources management plan for England is to be prepared.

(2) A direction under this section may be given only where the Secretary of State considers it appropriate to do so with a view to securing that a water undertaker is able to meet the need for the supply of water to consumers in particular circumstances.

(3) A direction under this section may, in particular, require a plan to be prepared on the basis of a specified assumption, including—

(a) an assumption as to whether, and how often, specified circumstances are likely to arise;

(b) an assumption that a specified power would or would not be exercised by the water undertaker or another person in specified circumstances.

(4) Before giving a direction under this section, the Secretary of State must consult—

(a) the Authority,

(b) the Welsh Ministers,

(c) each water undertaker to which the direction would apply,

(d) the Environment Agency,

(e) the NRBW, and

(f) such other persons as the Secretary of State considers appropriate.

(5) In this section—

"specified" means specified in a direction under this section;

"water resources management plan for England" means a water resources management plan prepared by a water undertaker whose area is wholly or mainly in England."

(4) In section 37D(1) (water resources management plans: directions), after "37A" insert " , 37AA ".

28 Frequency of water resources management and drought plans **E+W**

(1) The Water Industry Act 1991 is amended as follows.

(2) In section 37A (water resources management plans: preparation and review)—

(a) in subsection (1), after "prepare" there is inserted " , publish ";

(b) in subsection (4), after "preparing" there is inserted " and publishing ";

(c) in subsection (6), in the opening words, after "prepare" there is inserted " and publish ".

(3) In section 37D (water resources management plans: supplementary), after subsection (3) there is inserted—

"(4) The Minister may by order made by statutory instrument amend the period for the time being specified in section 37A(6)(c).

(5) In subsection (4), "the Minister" means—

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(a) the Secretary of State, in relation to an order applying to water undertakers whose areas are wholly or mainly in England, and

(b) the Welsh Ministers, in relation to an order applying to water undertakers whose areas are wholly or mainly in Wales.

(6) A statutory instrument containing an order made by the Secretary of State under subsection (4) is subject to annulment in pursuance of a resolution of either House of Parliament.

(7) A statutory instrument containing an order made by the Welsh Ministers under subsection (4) is subject to annulment in pursuance of a resolution of the Assembly.

(8) Subsection (9) applies in relation to a statutory instrument containing both—

(a) an order made by the Secretary of State under subsection (4), and

(b) an order made by the Welsh Ministers under subsection (4).

(9) If in accordance with subsection (6) or (7) (negative resolution procedure)—

(a) either House of Parliament resolves that an address be presented to Her Majesty praying that an instrument containing an order made by the Secretary of State be annulled, or

(b) the Assembly resolves that an instrument containing an order made by the Welsh Ministers be annulled,

the instrument is to have no further effect and Her Majesty may by Order in Council revoke the instrument."

(4) In section 39B (drought plans: preparation and review)—

(a) in subsection (1), after "prepare" there is inserted " , publish ";

(b) in subsection (6)—

(i) in the opening words, after "prepare" there is inserted " and publish ";

(ii) in paragraph (c) (long-stop date) for "three years" there is substituted " five years ".

(5) After section 39C (drought plans: provision of information) there is inserted—

"**39D Drought plans: supplementary**

(1) The Minister may by order made by statutory instrument amend the period for the time being specified in section 39B(6)(c).

(2) In subsection (1), "the Minister" means—

(a) the Secretary of State, in relation to an order applying to water undertakers whose areas are wholly or mainly in England, and

(b) the Welsh Ministers, in relation to an order applying to water undertakers whose areas are wholly or mainly in Wales.

(3) A statutory instrument containing an order made by the Secretary of State under subsection (1) is subject to annulment in pursuance of a resolution of either House of Parliament.

(4) A statutory instrument containing an order made by the Welsh Ministers under subsection (1) is subject to annulment in pursuance of a resolution of the Assembly.

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(5) Subsection (6) applies in relation to a statutory instrument containing both—
(a) an order made by the Secretary of State under subsection (1), and
(b) an order made by the Welsh Ministers under subsection (1).

(6) If in accordance with subsection (3) or (4) (negative resolution procedure)—
(a) either House of Parliament resolves that an address be presented to Her Majesty praying that an instrument containing an order made by the Secretary of State be annulled, or
(b) the Assembly resolves that an instrument containing an order made by the Welsh Ministers be annulled,

the instrument is to have no further effect and Her Majesty may by Order in Council revoke the instrument."

29 Standards of performance: water supply E+W

(1) After section 38 of the Water Industry Act 1991 there is inserted—

"**38ZA Standards of performance in connection with the supply of water: water supply licensees**

(1) For the purpose of establishing overall standards of performance in connection with the supply of water by water supply licensees in accordance with their retail authorisations or restricted retail authorisations, the Minister may, in accordance with section 39ZA, by regulations—
(a) impose requirements in connection with such supplies of water;
(b) provide for a requirement so imposed to be enforceable under section 18 by—
(i) the Minister, or
(ii) the Authority, with the consent of or in accordance with a general authorisation given by the Secretary of State.

(2) The Minister may, in accordance with section 39ZA, by regulations prescribe such standards of performance in connection with the provision of supplies of water as, in the Minister's opinion, ought to be achieved in individual cases.

(3) Regulations under subsection (2) may provide that if a water supply licensee fails to meet a prescribed standard the licensee must pay such amount as may be prescribed to any person who—
(a) is affected by the failure, and
(b) is of a prescribed description.

(4) Without prejudice to the generality of the power conferred by subsection (2), regulations under subsection (2) may—
(a) include in a standard of performance a requirement for a water supply licensee, in prescribed circumstances, to inform a person of that person's rights by virtue of any such regulations;
(b) provide for a dispute under the regulations to be referred by either party to the dispute to the Authority;
(c) make provision for the procedure to be followed in connection with any such reference and for the Authority's determination on such a reference to be enforceable in such manner as may be prescribed;

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(d) prescribe circumstances in which a water supply licensee is to be exempted from requirements of the regulations.

(5) Where the Authority determines any dispute in accordance with regulations under this section it must, in such manner as may be specified in the regulations, give its reasons for reaching its decision with respect to the dispute.

(6) In this section—

"the Minister" means—

(a) the Secretary of State, in relation to supplies of water made in accordance with a retail authorisation;

(b) the Welsh Ministers, in relation to supplies of water made in accordance with a restricted retail authorisation;

"prescribed" means prescribed by regulations made by the Minister."

(2) Section 38A of that Act (information as to levels of performance of water undertakers) is amended in accordance with subsections (3) to (6).

(3) In subsection (1) (duty of Water Services Regulation Authority to collect information)—

(a) the "and" following paragraph (a) is repealed;

(b) after paragraph (a) there is inserted—

"(aa) the compensation paid by water supply licensees under regulations under section 38ZA(2); and";

(c) in paragraph (b), after "water undertakers" there is inserted " or water supply licensees ".

(4) After subsection (2) there is inserted—

"(2A) At such times as the Authority may direct, each water supply licensee is to give the following information to the Authority—

(a) as respects each standard established by regulations under section 38ZA(1), such information with respect to the level of performance achieved by the licensee as may be specified in the direction;

(b) as respects each standard prescribed by regulations under section 38ZA(2), the number of cases in which compensation was paid and the aggregate amount or value of that compensation."

(5) For subsection (3) (offence of failing to comply with subsection (2)) there is substituted—

"(3) The requirements in subsections (2) and (2A) are enforceable by the Authority under section 18."

(6) In subsection (4) (publication of information collected), after "water undertakers" there is inserted " or water supply licensees ".

(7) After section 39 there is inserted—

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"**39ZA Procedure for regulations under section 38ZA**

(1) Section 39 applies for the purposes of making regulations under section 38ZA as it applies for the purposes of making regulations under section 38.

(2) In the application of section 39 by virtue of subsection (1)—
  (a) a reference to a water undertaker is to be treated as a reference to a water supply licensee, and
  (b) a reference to the Secretary of State is to be treated as a reference to the Minister (as defined in section 38ZA(6)).

(3) Regulations under section 38ZA are to be made by statutory instrument.

(4) A statutory instrument containing regulations under section 38ZA is subject to annulment in pursuance of a resolution of—
  (a) either House of Parliament, in the case of regulations made by the Secretary of State;
  (b) the Assembly, in the case of regulations made by the Welsh Ministers.

(5) Section 213(2) to (2B) applies to regulations made by the Welsh Ministers under section 38ZA as it applies to regulations made by the Secretary of State."

Commencement Information

I69 S. 29(1)(3)(4)(6) in force at 1.11.2016 by S.I. 2016/1007, **art. 2(d)**
I70 S. 29(2)(5) in force at 1.1.2015 for specified purposes by S.I. 2014/3320, **art. 2(2)(a)**
I71 S. 29(2)(5) in force at 1.11.2016 in so far as not already in force by S.I. 2016/1007, **art. 2(d)**
I72 S. 29(7) in force at 15.7.2015 by S.I. 2015/1469, **art. 2(c)**

30 Standards of performance: sewerage E+W

(1) After section 95 of the Water Industry Act 1991 there is inserted—

"**95ZA Standards of performance in connection with provision of sewerage services: sewerage licensees**

(1) For the purpose of establishing overall standards of performance in connection with the provision of sewerage services by sewerage licensees in accordance with their retail authorisations, the Secretary of State may, in accordance with section 96ZA, by regulations—
  (a) impose requirements in connection with the provision of sewerage services;
  (b) provide for a requirement so imposed to be enforceable under section 18 by—
    (i) the Secretary of State, or
    (ii) the Authority, with the consent of or in accordance with a general authorisation given by the Secretary of State.

(2) The Secretary of State may, in accordance with section 96ZA, by regulations prescribe such standards of performance in connection with the provision of

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sewerage services as, in the Secretary of State's opinion, ought to be achieved in individual cases.

(3) Regulations under subsection (2) may provide that if a sewerage licensee fails to meet a prescribed standard the licensee must pay such amount as may be prescribed to any person who—

(a) is affected by the failure, and

(b) is of a prescribed description.

(4) Without prejudice to the generality of the power conferred by subsection (2), regulations under subsection (2) may—

(a) include in a standard of performance a requirement for a sewerage licensee, in prescribed circumstances, to inform a person of that person's rights by virtue of any such regulations;

(b) provide for a dispute under the regulations to be referred by either party to the dispute to the Authority;

(c) make provision for the procedure to be followed in connection with any such reference and for the Authority's determination on such a reference to be enforceable in such manner as may be prescribed;

(d) prescribe circumstances in which a sewerage licensee is to be exempted from requirements of the regulations.

(5) Where the Authority determines any dispute in accordance with regulations under this section it must, in such manner as may be specified in the regulations, give its reasons for reaching its decision with respect to the dispute."

(2) Section 95A of that Act (information as to levels of performance of sewerage undertakers) is amended in accordance with subsections (3) to (6).

(3) In subsection (1) (duty of Water Services Regulation Authority to collect information) —

(a) the "and" following paragraph (a) is repealed;

(b) after paragraph (a) there is inserted—

"(aa) the compensation paid by sewerage licensees under regulations under section 95ZA(2); and";

(c) in paragraph (b), after "sewerage undertakers" there is inserted " or sewerage licensees ".

(4) After subsection (2) there is inserted—

"(2A) At such times as the Authority may direct, each sewerage licensee is to give the following information to the Authority—

(a) as respects each standard established by regulations under section 95ZA(1), such information with respect to the level of performance achieved by the licensee as may be specified in the direction;

(b) as respects each standard prescribed by regulations under section 95ZA(2), the number of cases in which compensation was paid and the aggregate amount or value of that compensation."

(5) For subsection (3) (offence of failing to comply with subsection (2)) there is substituted—

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"(3) The requirements in subsections (2) and (2A) are enforceable by the Authority under section 18."

(6) In subsection (4) (publication of information collected), after "sewerage undertakers" there is inserted " or sewerage licensees ".

(7) After section 96 there is inserted—

"**96ZA Procedure for regulations under section 95ZA**

(1) Section 96 applies for the purposes of making regulations under section 95ZA as it applies for the purposes of making regulations under section 95.

(2) In the application of section 96 by virtue of subsection (1), a reference to a sewerage undertaker is to be treated as a reference to a sewerage licensee."

Commencement Information

I73 S. 30(1)(3)(4)(6) in force at 1.11.2016 by S.I. 2016/1007, **art. 2(e)**
I74 S. 30(2)(5) in force at 1.1.2015 for specified purposes by S.I. 2014/3320, **art. 2(2)(b)**
I75 S. 30(2)(5) in force at 1.11.2016 in so far as not already in force by S.I. 2016/1007, **art. 2(e)**
I76 S. 30(7) in force at 15.7.2015 by S.I. 2015/1469, **art. 2(d)**

31 Interim duty: water supply E+W

For section 63AC of the Water Industry Act 1991 (interim duty of water undertaker: domestic and non-domestic supply) there is substituted—

"**63AC Interim duty: domestic and non-domestic supply**

(1) This section applies where—
  (a) a water supply licensee ("the previous licensee") ceases to supply any premises with water, and
  (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) It is to be the duty of the water undertaker to continue the supply of water to the premises which was made by the previous licensee.

(3) But the Authority may give a direction to an eligible water supply licensee (an "interim licensee") providing that it is to be the duty of that licensee to continue the supply instead.

(4) An "eligible water supply licensee" is a water supply licensee with a retail authorisation or a restricted retail authorisation who has elected to be an eligible water supply licensee for the purposes of this section in accordance with the code issued under section 63AF.

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(5) If the Authority proposes to give a direction under subsection (3) to an eligible water supply licensee—

(a) the Authority must give notice of the proposed direction to the licensee, and

(b) the licensee may, in accordance with the code issued under section 63AF, temporarily suspend the election made by the licensee as mentioned in subsection (4), so that the proposed direction cannot be given to the licensee.

(6) Where a supply is made by an undertaker under subsection (2)—

(a) the charges payable in respect of the supply are to be fixed from time to time by a charges scheme under section 143, and

(b) subject to subsection (12), the supply is to be made until—

(i) a supply is made by an interim licensee by virtue of a direction under subsection (3),

(ii) a supply is made by a water supply licensee following the service of a notice under section 63AA or 63AB;

(iii) a supply is made under section 52 or 55, or

(iv) 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 (8)),

whichever is the earlier.

(7) Where a supply is made by an interim licensee by virtue of a direction given under subsection (3)—

(a) the supply by the interim licensee is to be treated as having begun on the date on which the previous licensee ceased to supply the premises,

(b) the terms and conditions in accordance with which the supply is to be made are to be—

(i) those provided for by a scheme made under section 63AE, or

(ii) such other terms and conditions as may be agreed between the interim licensee and the owner or occupier of the premises, and

(c) subject to subsection (12), the supply is to be made until it is discontinued in accordance with the terms and conditions mentioned in paragraph (b).

(8) A notice under subsection (6)(b)(iv) may not be served before the end of the period of three months beginning with the day on which the supply by the previous licensee ceased.

(9) Subsections (10) and (11) apply if, within a period of three months beginning with the date on which the previous licensee ceased to supply the premises with water, the owner or occupier of the premises serves notice—

(a) under section 63AA or 63AB, on the water undertaker continuing the supply under subsection (2), or

(b) in accordance with the terms and conditions mentioned in subsection (7)(b), on the interim licensee continuing the supply by virtue of a direction given under subsection (3),

that instead another water supply licensee ("the new licensee") is to continue the supply of water to the premises which was made by the previous licensee.

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(10) The notice must—

(a) specify the time from which the new licensee is to continue the supply in question, and

(b) be served in accordance with the code issued under section 63AF.

(11) In the case of a notice served as mentioned in subsection (9)(a), the supply by the new licensee is to be treated as having begun on the date on which the previous licensee ceased to supply the premises.

(12) Supplies of water under this section are subject to sections 60 to 63.

63AD Interim duty: supplementary

(1) A water undertaker is not required by virtue of section 63AC 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).

(2) The Authority may determine, in a case referred to it by the owner or occupier of the premises in question, whether the condition in subsection (1) is satisfied in relation to a water undertaker.

(3) Before the Authority determines whether that condition is satisfied, it must consult—

(a) the Secretary of State, in the case of a water undertaker whose area is wholly or mainly in England;

(b) the Welsh Ministers, in the case of a water undertaker whose area is wholly or mainly in Wales.

(4) The supply of water to any premises by a water undertaker under section 63AC does not prevent a proposed supply to those premises by that undertaker under section 55 from being regarded as a new supply for the purposes of that section.

(5) Where a duty is imposed by section 63AC(2), or by virtue of a direction given under section 63AC(3), in respect of any premises, any breach of the duty which causes the owner or occupier of the premises to sustain loss or damage is actionable at the suit of that owner or occupier.

(6) But in any proceedings brought against a water undertaker or water supply licensee in pursuance of subsection (5), it is a defence for the undertaker or licensee to show that the undertaker or, as the case may be, the licensee took all reasonable steps and exercised all due diligence to avoid the breach.

(7) For the purposes of section 63AC, premises which are outside a water undertaker's area are to be treated as being within that area if they are supplied with water using the undertaker's supply system.

(8) In subsection (7), the reference to the undertaker's supply system is to be construed in accordance with section 17B.

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63AE Interim licensees: schemes for terms and conditions

(1) A person who is an eligible water supply licensee for the purposes of section 63AC must make, and from time to time revise, a scheme containing the terms and conditions which, in the absence of agreed terms and conditions, are to apply to a supply of water made by the licensee by virtue of a direction given under section 63AC(3).

(2) A scheme under this section may make different provision for different purposes, or for different areas.

(3) As soon as practicable after a water supply licensee makes or revises a scheme under this section the licensee is to—
  (a) publish the scheme, or revised scheme, on the licensee's website, and
  (b) send a copy of the scheme, or revised scheme, to the Authority.

(4) The Authority may give a direction that terms and conditions applying to a supply of water in accordance with a scheme under this section must be modified as specified in the direction.

(5) A direction under subsection (4) may apply—
  (a) generally to terms and conditions applying in accordance with a scheme under this section, or
  (b) to terms and conditions so applying in any particular case.

(6) It is the duty of a water supply licensee to comply with a direction under subsection (4), and this duty is enforceable under section 18.

63AF Interim duty: code

(1) The Authority must issue a code in relation to—
  (a) supplies of water under section 63AC, and
  (b) its power of direction under section 63AC(3) (power to direct that eligible water supply licensee makes interim supply).

(2) The code may, in particular, make provision about—
  (a) the procedure for electing to be an eligible water supply licensee for the purposes of section 63AC;
  (b) the procedure for temporarily suspending such an election under section 63AC(5)(b);
  (c) the circumstances in which the Authority's power of direction under section 63AC(3) or 63AE(4) may or may not be exercised;
  (d) how the Authority will determine the date on which a water supply licensee ceased to supply premises with water for the purposes of section 63AC;
  (e) terms and conditions contained in schemes made under section 63AE;
  (f) eligible water supply licensees informing owners or occupiers of premises of their schemes for terms and conditions made under section 63AE, before agreeing any terms and conditions as mentioned in section 63AC(7)(b)(ii);

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(g) the giving of notices as mentioned in section 63AC(9) (that a new licensee is to continue the supply of water made by the previous licensee) including, in particular, provision about—

(i) the earliest time that a notice may specify as the time from which a new licensee is to continue the supply of water made by a previous licensee;

(ii) the procedure for serving a notice.

(3) If the Authority considers that a water supply licensee is not acting as required by provision contained in the code as mentioned in subsection (2)(e) or (f), the Authority may give the licensee a direction to do, or not to do, a particular thing specified in the direction.

(4) It is the duty of a water supply licensee to comply with a direction under subsection (3), and this duty is enforceable under section 18.

(5) The Authority must from time to time review the code and, if appropriate, issue a revised code.

(6) References in section 63AC to the code issued under this section are to the code issued under this section that has effect at the time in question."

Commencement Information

I77 S. 31 in force at 1.4.2017 by S.I. 2017/462, **art. 3(f)**

32 Interim duty: sewerage services E+W

After section 110J of the Water Industry Act 1991 (as inserted by section 9) there is inserted—

"Provision of sewerage services by sewerage licensees etc

110K Provision by sewerage licensee

(1) The owner or occupier of any premises may serve a notice on a sewerage undertaker—

(a) informing the undertaker that sewerage services to the premises are to be provided by a sewerage licensee, and

(b) specifying the time after which the undertaker will no longer be required to provide sewerage services to the premises.

(2) Where the charges for the sewerage services provided 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 is to fall at least two working days after the notice is served.

(3) In this section a reference to two working days is a reference to a period of 48 hours calculated after disregarding any time falling on—

(a) a Saturday or Sunday, or

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(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.

110L Interim duty: sewerage undertakers and sewerage licensees

(1) This section applies where—

(a) a sewerage licensee ("the previous licensee") ceases to provide sewerage services to any premises, and

(b) the owner or occupier of the premises has not notified the sewerage undertaker in whose area the premises are that—

(i) he has made arrangements for the continuation of the provision of sewerage services to the premises, or

(ii) he intends any provision of sewerage services to the premises to cease.

(2) It is to be the duty of the sewerage undertaker to continue to provide the sewerage services to the premises which were provided by the previous licensee.

(3) But the Authority may give a direction to an eligible sewerage licensee (an "interim licensee") providing that it is to be the duty of that licensee to provide the sewerage services instead.

(4) An "eligible sewerage licensee" is a sewerage licensee with a retail authorisation who has elected to be an eligible sewerage licensee for the purposes of this section in accordance with the code issued under section 110O.

(5) If the Authority proposes to give a direction under subsection (3) to an eligible sewerage licensee—

(a) the Authority must give notice of the proposed direction to the licensee, and

(b) the licensee may, in accordance with the code issued under section 110O, temporarily suspend the election made by the licensee as mentioned in subsection (4), so that the proposed direction cannot be given to the licensee.

(6) Where sewerage services are provided by an undertaker under subsection (2)—

(a) the charges payable in respect of the provision of the services are to be fixed from time to time by a charges scheme under section 143, and

(b) the services are to be provided until—

(i) services are provided by an interim licensee by virtue of a direction under subsection (3),

(ii) services are provided by a sewerage licensee following the service of a notice under section 110K, or

(iii) services are provided to the premises by another sewerage undertaker following the service of a notice by the owner or occupier of the premises on the undertaker providing services under subsection (2) specifying the time after which the undertaker will no longer be required to provide sewerage services to the premises (see section 110M(5)),

whichever is the earlier.

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(7) Where sewerage services are provided by an interim licensee by virtue of a direction given under subsection (3)—
  (a) the provision of services by the interim licensee is to be treated as having begun on the date on which the previous licensee ceased to provide services to the premises,
  (b) the terms and conditions in accordance with which the services are to be provided are to be—
    (i) those provided for by a scheme made under section 110N, or
    (ii) such other terms and conditions as may be agreed between the interim licensee and the owner or occupier of the premises, and
  (c) the services are to be provided until they are discontinued in accordance with the terms and conditions mentioned in paragraph (b).

(8) Subsections (9) and (10) apply if, within a period of three months beginning with the date on which the previous licensee ceased to provide sewerage services to the premises, the owner or occupier of the premises serves notice—
  (a) under section 110K, on the sewerage undertaker continuing the provision of services under subsection (2), or
  (b) in accordance with the terms and conditions mentioned in subsection (7)(b), on the interim licensee continuing the provision of services by virtue of a direction given under subsection (3),

that instead another sewerage licensee ("the new licensee") is to continue the provision of the services to the premises which were provided by the previous licensee.

(9) The notice must—
  (a) specify the time from which the new licensee is to continue the provision of the services in question, and
  (b) be served in accordance with the code issued under section 110O.

(10) In the case of a notice served as mentioned in subsection (8)(a), the provision of services by the new licensee is to be treated as having begun on the date on which the previous licensee ceased to provide services to the premises.

110M Interim duty: supplementary

(1) Where a duty is imposed by section 110L(2), or by virtue of a direction given under section 110L(3), in respect of any premises, any breach of the duty which causes the owner or occupier of the premises to sustain loss or damage is actionable at the suit of that owner or occupier.

(2) But in any proceedings brought against a sewerage undertaker or sewerage licensee in pursuance of subsection (1), it is a defence for the undertaker or licensee to show that the undertaker or, as the case may be, the licensee took all reasonable steps and exercised all due diligence to avoid the breach.

(3) For the purposes of section 110L, premises which are outside a sewerage undertaker's area are to be treated as being within that area if they are provided with sewerage services using the undertaker's sewerage system.

(4) In subsection (3), the reference to the undertaker's sewerage system is to be construed in accordance with section 17BA(7).

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Water Act 2014 is up to date with all changes known to be in force on or before 20 June 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) View outstanding changes*

(5) Section 110K(2) and (3) apply to a notice served under section 110L(6)(b)(iii) as they apply to a notice served under section 110K.

110N Interim licensees: schemes for terms and conditions

(1) A person who is an eligible sewerage licensee for the purposes of section 110L must make, and from time to time revise, a scheme containing the terms and conditions which, in the absence of agreed terms and conditions, are to apply to the provision of sewerage services by the licensee by virtue of a direction given under section 110L(3).

(2) A scheme under this section may make different provision for different purposes, or for different areas.

(3) As soon as practicable after a sewerage licensee makes or revises a scheme under this section the licensee is to—
   (a) publish the scheme, or revised scheme, on the licensee's website, and
   (b) send a copy of the scheme, or revised scheme, to the Authority.

(4) The Authority may give a direction that terms and conditions applying to the provision of sewerage services in accordance with a scheme under this section must be modified as specified in the direction.

(5) A direction under subsection (4) may apply—
   (a) generally to terms and conditions applying in accordance with a scheme under this section, or
   (b) to terms and conditions so applying in any particular case.

(6) It is the duty of a sewerage licensee to comply with a direction under subsection (4), and this duty is enforceable under section 18.

110O Interim duty: code

(1) The Authority must issue a code in relation to—
   (a) the provision of sewerage services under section 110L, and
   (b) its power of direction under section 110L(3) (power to direct that eligible sewerage licensee provides interim sewerage services).

(2) The code may, in particular, make provision about—
   (a) the procedure for electing to be an eligible sewerage licensee for the purposes of section 110L;
   (b) the procedure for temporarily suspending such an election under section 110L(5)(b);
   (c) the circumstances in which the Authority's power of direction under section 110L(3) or 110N(4) may or may not be exercised;
   (d) how the Authority will determine the date on which a sewerage licensee ceased to provide sewerage services to premises for the purposes of section 110L;
   (e) terms and conditions contained in schemes made under section 110N;
   (f) eligible sewerage licensees informing owners or occupiers of premises of their schemes for terms and conditions made under

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Water Act 2014 is up to date with all changes known to be in force on or before 20 June 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) View outstanding changes*

section 110N, before agreeing any terms and conditions as mentioned in section 110L(7)(b)(ii);

(g) the giving of notices as mentioned in section 110L(8) (that a new licensee is to continue the provision of the sewerage services provided by the previous licensee) including, in particular, provision about—

(i) the earliest time that a notice may specify as the time from which a new licensee is to continue the provision of the sewerage services provided by a previous licensee;

(ii) the procedure for serving a notice.

(3) If the Authority considers that a sewerage licensee is not acting as required by provision contained in the code as mentioned in subsection (2)(e) or (f), the Authority may give the licensee a direction to do, or not to do, a particular thing specified in the direction.

(4) It is the duty of a sewerage licensee to comply with a direction under subsection (3), and this duty is enforceable under section 18.

(5) The Authority must from time to time review the code and, if appropriate, issue a revised code.

(6) References in section 110L to the code issued under this section are to the code issued under this section that has effect at the time in question."

Commencement Information

I78 S. 32 in force at 6.3.2017 for specified purposes by S.I. 2017/58, **art. 2(a)** (with art. 3(2))

I79 S. 32 in force at 1.4.2017 in so far as not already in force by S.I. 2017/462, **art. 3(g)**

33 Notice of agreements within section 142(2)(b) E+W

(1) The Water Industry Act 1991 is amended as follows.

(2) In section 142 (powers of undertakers to charge), after subsection (6) there is inserted—

"(6A) If an undertaker makes an agreement that falls within subsection (2)(b), it must notify the Authority of the provisions of the agreement.

(6B) The requirement in subsection (6A) is enforceable by the Authority under section 18."

(3) In section 195 (the Water Services Regulation Authority's register relating to relevant undertakers and licensees)—

(a) in subsection (3) (power to direct that provisions of an undertaker's appointment etc are not entered in the register), after "any provision" there is inserted " or, in the case of information that falls to be entered under subsection (3B), any information ";

(b) in subsection (3), after "that provision" there is inserted " or that information ";

(c) after subsection (3A) there is inserted—

"(3B) Subject to any direction given under subsection (3), the Authority must cause to be entered on the register such information about an agreement falling within section 142(2)(b) as the Authority thinks fit.

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(3C) Subsection (3B) has effect in relation to agreements made after the coming into force of section 33 of the Water Act 2014."

34 Register relating to undertakers and licensees E+W

(1) Section 195 of the Water Industry Act 1991 (the Water Services Regulation Authority's register relating to undertakers and licensees) is amended as follows.

(2) In subsection (1) (register to be maintained in a certain place, in a certain form and for certain purposes), the words from "for the purposes" to the end are repealed.

(3) After subsection (3C) (inserted by section 33) there is inserted—

"(3D) Subject to any direction given under subsection (3), the Authority must cause to be entered on the register the provisions of—

(a) a notice under section 40F(3) (reduction in charges payable under a bulk supply agreement);

(b) a notice under section 66EA(3) (reduction in charges payable under a section 66D agreement);

(c) a notice under section 110G(3) (reduction in charges payable under a main connection agreement);

(d) a notice under section 117J(3) (reduction in charges payable under a section 117E agreement)."

Commencement Information

I80 S. 34 not in force at Royal Assent; s. 34(1)(2) in force at 14.7.2014, see s. 94(2)(i)

I81 S. 34(1) in force at 1.9.2016 for specified purposes by S.I. 2016/465, **art. 3(c)(ii)** (with Sch. 2)

I82 S. 34(3) in force at 1.9.2016 for specified purposes by S.I. 2016/465, **art. 3(c)(i)** (with Sch. 2)

35 Operation of register E+W

In section 195 of the Water Industry Act 1991, for subsections (4) to (6) (inspection of the register and fees for certified copies or extracts) there is substituted—

"(4) The Authority must publish a notice setting out—

(a) the times at which the contents of the register are for the time being available for inspection by the public;

(b) the fees that must be paid for, or in connection with, an inspection of the contents of the register;

(c) the fees that must be paid for, or in connection with, the supply by the Authority of—

(i) a copy of the contents of the register, certified by the Authority as being a true copy, or

(ii) an extract from the contents of the register, certified by the Authority as being a true extract.

(4A) The Authority must publish the notice in such manner as the Authority thinks appropriate for bringing it to the attention of the persons who, in the Authority's opinion, are likely to be affected by it.

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(4B) The Authority must make the contents of the register available for inspection by the public—

(a) during such hours, and

(b) on payment of such fees,

as are set out in the notice under subsection (4) that is for the time being in force."

36 Obtaining information for enforcement purposes E+W

(1) Section 203 of the Water Industry Act 1991 (power to acquire information for enforcement purposes) is amended as follows.

(2) For subsection (1) there is substituted—

"(1) The Minister or the Authority may serve a notice under subsection (2) in respect of—

(a) a company that holds an appointment as a relevant undertaker, if of the opinion that Condition 1 is satisfied, or

(b) a person who holds a licence under Chapter 1A of Part 2, if of the opinion that Condition 2 is satisfied.

(1A) Condition 1 is that the company—

(a) may be contravening, or may have contravened, a condition of the appointment or a statutory or other requirement enforceable under section 18,

(b) may be causing or contributing to, or may have caused or contributed to, a contravention by another company holding an appointment as a relevant undertaker of a condition of the appointment or a statutory or other requirement enforceable under section 18,

(c) may be causing or contributing to, or may have caused or contributed to, a contravention by a person holding a licence under Chapter 1A of Part 2 of a condition of the licence or a statutory or other requirement enforceable under section 18,

(d) has not met the standards prescribed under section 38(2) in connection with the provision of supplies of water, or

(e) has not met the standards prescribed under section 95(2) in connection with the provision of sewerage services.

(1B) Condition 2 is that the person—

(a) may be contravening, or may have contravened, a condition of the licence or a statutory or other requirement enforceable under section 18,

(b) 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 a condition of the appointment or a statutory or other requirement enforceable under section 18,

(c) may be causing or contributing to, or may have caused or contributed to, a contravention by another person holding a licence under Chapter 1A of Part 2 of a condition of the licence or a statutory or other requirement enforceable under section 18,

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(d) has not met the standards prescribed under section 38ZA(2) in connection with the provision of water supplies, or

(e) has not met the standards prescribed under section 95ZA(2) in connection with the provision of sewerage services.

(1C) The notice may be served—

(a) on any person;

(b) for any purpose connected with powers under Chapter 2 of Part 2."

(3) In subsections (2) and (6), for "Secretary of State", in each place where those words occur, there is substituted " Minister ".

(4) In subsection (7), for "or licence" there is substituted " or a person holding such a licence ".

(5) After subsection (7) there is inserted—

"(8) The Minister" means—

(a) the Secretary of State, in respect of—

(i) any relevant undertaker whose area is wholly or mainly in England;

(ii) any water supply licensee or sewerage licensee carrying out licensed activities using the supply system or sewerage system of any such undertaker;

(b) the Welsh Ministers, in respect of—

(i) any relevant undertaker whose area is wholly or mainly in Wales;

(ii) any water supply licensee or sewerage licensee carrying out licensed activities using the supply system or sewerage system of any such undertaker.

(9) In this section—

(a) references to the supply system of a water undertaker are to be construed in accordance with section 17B;

(b) references to the sewerage system of a sewerage undertaker are to be construed in accordance with section 17BA(7)."

Appeals relating to codes

37 Appeals relating to revisions of codes **E+W**

(1) The Water Industry Act 1991 is amended as follows.

(2) After section 207 there is inserted—

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"PART 7A E+W

FURTHER PROVISION ABOUT REGULATION

Appeals relating to revisions of codes

207A Appeals to the CMA

(1) The Secretary of State may by regulations provide for an appeal to lie to the CMA from—
  (a) a decision by the Authority to make a revision to a designated code;
  (b) a decision by the Authority, following consultation under this Act about a proposed revision to a designated code, not to make the proposed revision.

(2) For the purposes of this section a designated code is a code, or a part of a code, issued by the Authority under or by virtue of this Act that is designated for the purposes of this section by regulations under this section.

(3) The regulations may specify descriptions of revisions by reference to which an appeal under the regulations may not be brought.

(4) Regulations made under subsection (3) may provide—
  (a) for the exclusion of certain descriptions of revisions to operate only in such cases as may be determined in accordance with the regulations;
  (b) for a determination in accordance with the regulations to be made—
    (i) by such persons,
    (ii) in accordance with such procedures, and
    (iii) by reference to such matters and the opinions of such persons (including the Authority),
  as may be provided for in the regulations.

(5) The regulations may—
  (a) specify the persons or descriptions of persons eligible to bring an appeal;
  (b) specify conditions to be satisfied by a person wishing to bring an appeal.

(6) Regulations made under subsection (5) may—
  (a) make different provision in relation to different codes or different parts of a code;
  (b) provide for a representative body or association to bring an appeal.

(7) The regulations must—
  (a) provide for appeals to be brought only where the CMA grants permission for an appeal;
  (b) provide for the grounds on which the CMA may refuse permission.

(8) Before making regulations under this section the Secretary of State must consult—

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(a) the Welsh Ministers;
(b) the Authority;
(c) such other persons as the Secretary of State considers appropriate.

207B Procedure on appeals

(1) Except where otherwise provided, the functions of the CMA with respect to appeals under section 207A are to be carried out on behalf of the CMA by a group constituted for the purpose by the chair of the CMA under Schedule 4 to the Enterprise and Regulatory Reform Act 2013.

(2) Schedule 16 (provision as to procedure on appeals) has effect.

207C Determination of appeals

(1) The Secretary of State may by regulations provide for the determination by the CMA of an appeal under section 207A.

(2) The regulations must require the CMA in determining the appeal to have regard, to the same extent as is required of the Authority, to the matters to which the Authority must have regard in exercising or performing the powers and duties mentioned in section 2(1).

(3) The regulations must provide that the CMA in determining the appeal—
(a) may have regard to any matter to which the Authority was not able to have regard in the case of the decision appealed against, but
(b) must not, in the exercise of that power, have regard to any matter to which the Authority would not have been entitled to have regard in that case had it had the opportunity of doing so.

(4) The regulations may specify the grounds on which an appeal may be allowed.

(5) The grounds specified by the regulations may include the following—
(a) that the Authority failed properly to have regard to the matters mentioned in subsection (2);
(b) that the Authority failed properly to have regard to the purposes for which the code in question is issued;
(c) that the Authority failed to give the appropriate weight to one or more of those matters or purposes.

(6) The regulations may make provision for the steps that the CMA is to take—
(a) if it allows the appeal;
(b) if it does not allow the appeal.

(7) Provision under subsection (6)(a) may include remitting a matter to the Authority for reconsideration and redetermination in accordance with directions given by the CMA.

(8) The regulations may make provision as to the decision of the CMA on the appeal, including in particular provision for the decision—
(a) to be contained in an order made by the CMA;
(b) to set out the reasons for the decision;
(c) to take effect—

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(i) at the time specified in the order, or

(ii) at the time determined in accordance with provision set out in the order;

(d) to be notified to the persons who were parties to the appeal (see paragraph 2 of Schedule 16); and

(e) to be published.

(9) Provision under subsection (8)(e) may allow the CMA to exclude from publication any information which it is satisfied is—

(a) commercial information the disclosure of which would, or might, significantly harm the legitimate business interests of an undertaking to which it relates;

(b) information relating to the private affairs of an individual the disclosure of which would, or might, in its opinion, significantly harm his interests."

(3) In section 213 (powers to make regulations), in subsection (1A) (affirmative resolution procedure to apply on first exercise of power), for "each of sections 89 and 90 above, the instrument" there is substituted "—

(a) each of sections 89 and 90, and

(b) each of sections 207A and 207C and Schedule 16;

the instrument".

(4) After Schedule 15 there is inserted the Schedule set out in Schedule 6 to this Act.

Commencement Information

I83 S. 37 in force at 1.4.2016 by S.I. 2016/465, **art. 2(g)** (with Sch. 2)

Guidance relating to rules about charges

38 Guidance relating to rules about charges E+W

In the Water Industry Act 1991, after section 144ZD there is inserted—

"General guidance on charges

144ZE General guidance on charges

(1) The Minister must issue guidance about the principles to be applied by the Authority in determining the provisions of—

(a) rules under section 66E;

(b) rules under section 117I;

(c) rules under section 143B.

(2) The Minister may issue guidance about the principles to be applied by the Authority in determining the provisions of—

(a) rules under section 40E;

(b) rules under section 51CD;

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(c) rules issued in accordance with regulations under section 66M;
(d) rules under section 105ZF;
(e) rules under section 110F;
(f) rules under section 144ZA.

(3) Guidance under subsection (1) or (2) may include other guidance about the provisions of any of the rules mentioned in subsection (1) or (2).

(4) The Minister may issue guidance about the principles to be applied by the Authority in determining the contents of other documents produced by the Authority about charges that may be imposed by relevant undertakers or water supply or sewerage licensees.

(5) Guidance under subsection (4) may include other guidance about the contents of the documents mentioned in subsection (4).

(6) The Authority must have regard to guidance issued under this section when making rules to which the guidance relates (as well as to any guidance relating to those rules issued under another provision of this Act).

(7) If—
(a) the Minister issues guidance under this section in respect of rules made under a particular provision, and
(b) the Authority, having regard to that guidance, considers that it is appropriate to revise rules made by it under that provision,

the Authority must issue revised rules under that provision.

(8) Before issuing guidance under this section, the Minister must—
(a) prepare a draft of the proposed guidance;
(b) consult the relevant persons about the draft;
(c) comply with the requirements of section 144ZF.

(9) The relevant persons are—
(a) the Secretary of State;
(b) the Welsh Ministers;
(c) the Council;
(d) any relevant undertakers likely to be affected by the proposed guidance;
(e) any water supply licensees or sewerage licensees likely to be affected by the proposed guidance;
(f) such other persons as the Minister thinks appropriate.

(10) The Minister may from time to time revise guidance issued under this section and issue revised guidance.

(11) Subsections (8) and (9) apply to revised guidance as they apply to the original guidance.

(12) The Minister must arrange for the publication of guidance issued under this section.

(13) In this section “the Minister” means—
(a) the Secretary of State, in relation to relevant undertakers whose areas are wholly or mainly in England;

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(b) the Welsh Ministers, in relation to relevant undertakers whose areas are wholly or mainly in Wales.

144ZF Guidance under section 144ZE: procedure

(1) Before issuing guidance under section 144ZE, the Secretary of State must lay a draft of the proposed guidance before both Houses of Parliament.

(2) The Secretary of State must not issue the guidance until after the period of 40 days beginning with—
  (a) the day on which the draft is laid before both Houses of Parliament, or
  (b) if the draft is laid before the House of Lords on one day and the House of Commons on another, the later of those two days.

(3) If before the end of that period either House resolves that the guidance should not be issued, the Secretary of State may not issue it.

(4) In reckoning any period of 40 days for the purposes of subsection (2), no account is to be taken of any time during which—
  (a) Parliament is dissolved or prorogued, or
  (b) both Houses are adjourned for more than four days.

(5) Before issuing guidance under section 144ZE, the Welsh Ministers must lay a draft of the proposed guidance before the Assembly.

(6) The Welsh Ministers must not issue the guidance until after the period of 40 days beginning with the day on which the draft is laid before the Assembly.

(7) If before the end of that period the Assembly resolves that the guidance should not be issued, the Welsh Ministers may not issue it.

(8) In reckoning any period of 40 days for the purposes of subsection (6), no account is to be taken of any time during which the Assembly is dissolved or is in recess for more than four days.

(9) Nothing in this section prevents the Secretary of State and the Welsh Ministers issuing a single document containing guidance under section 144ZE, and preparing draft guidance accordingly."

Commencement Information

I84 S. 38 in force at 1.1.2015 for specified purposes by S.I. 2014/3320, **art. 2(1)(b)** (with art. 3)

I85 S. 38 in force at 6.4.2015 for W. for specified purposes by S.I. 2015/773, **art. 2(3)(b)** (with art. 6)

I86 S. 38 in force at 1.4.2016 for E. in so far as not already in force by S.I. 2016/465, **art. 2(h)** (with Sch. 2)

I87 S. 38 in force at 15.12.2017 for W. in so far as not already in force by S.I. 2017/1288, **art. 2(b)**

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PROSPECTIVE

Adjudication functions

39 Exercise of adjudication functions by other persons E+W

After section 207C of the Water Industry Act 1991 (inserted by section 37) there is inserted—

"Adjudication

207D Exercise of adjudication functions by other persons

(1) The Minister may by order made by statutory instrument provide that any of the Authority's adjudication functions (see subsection (4)) is to be exercised—
- (a) on the Authority's behalf, by such person as may be specified in the order, or
- (b) either by the Authority or, on the Authority's behalf, by such person as may be specified in the order, at the option of the Authority in any particular case.

(2) An order under subsection (1) may—
- (a) provide for requirements applying to the exercise of a function by the Authority to apply to the exercise of the function by another person;
- (b) require the Authority to produce guidance as to the exercise by another person of one of the Authority's adjudication functions and to keep such guidance up to date;
- (c) require a person exercising one of the Authority's adjudication functions to have regard to—
  - (i) any guidance to which the Authority would have regard in exercising that function;
  - (ii) any guidance produced by the Authority as to the exercise of that function.

(3) An order under subsection (1) may—
- (a) make different provision for different purposes;
- (b) apply any primary or secondary legislation with or without modifications;
- (c) make supplemental, consequential and transitional provision.

(4) For the purposes of this section, the Authority's adjudication functions are—
- (a) the determination of any matter referred to it for determination under section 30A;
- (b) the Authority's functions under any of the following—

  regulations made by virtue of section 38(4) (power to prescribe by regulations standards of performance for water undertakers as regards water supply in individual cases: provision for disputes etc);

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regulations made by virtue of section 38ZA(4) (power to prescribe by regulations standards of performance for water supply licensees as regards water supply in individual cases: provision for disputes etc);

regulations made by virtue of section 95(4) (power to prescribe by regulations standards of performance for sewerage undertakers as regards sewerage services in individual cases: provision for disputes etc);

regulations made by virtue of section 95ZA(4) (power to prescribe by regulations standards of performance for sewerage licensees as regards sewerage services in individual cases: provision for disputes etc);

section 105 (appeals with respect to adoption of sewer etc);

section 105B (appeals relating to schemes for the adoption of sewers etc);

section 110 (determination of disputes with respect to cross boundary sewers);

section 112(2) and (3) (appeal against requirement that proposed drain or sewer be constructed so as to form part of general system);

section 122 (appeals relating to applications to discharge trade effluent);

section 126 (appeals with respect to variations of consent to discharge trade effluent);

section 128 (application for variation of time for discharge of trade effluent);

section 181 (investigation of complaints with respect to the exercise of works powers on private land);

but do not include any functions as to enforcement under section 18.

(5) In this section—

"the Minister", in relation to an adjudication function of the Authority, means—

(a) the Secretary of State, to the extent that the function is to be exercised—

(i) in relation to a relevant undertaker whose area is wholly or mainly in England,

(ii) in relation to a water supply licensee using the supply system of such an undertaker (see section 17B), or

(iii) in relation to a sewerage licensee using the sewerage system of such an undertaker (see section 17BA);

(b) the Welsh Ministers, to the extent that the function is to be exercised—

(i) in relation to a relevant undertaker whose area is wholly or mainly in Wales, or

(ii) in relation to a water supply licensee using the supply system of such an undertaker (see section 17B);

"primary legislation" means an Act or an Act or Measure of the Assembly;

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"secondary legislation" means an instrument made under primary legislation.

(6) A statutory instrument containing an order made by the Secretary of State under this section may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

(7) A statutory instrument containing an order made by the Welsh Ministers under this section may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the Assembly."

Drinking water inspectorate

40 Charging of fees by assessors for the enforcement of water quality E+W

(1) After section 86 of the Water Industry Act 1991 there is inserted—

"**86ZA Charging of fees**

(1) The Secretary of State may by order made by statutory instrument confer power on the Chief Inspector of Drinking Water to charge fees for the exercise of a function by an inspector appointed by the Secretary of State under section 86 (and to determine their amount).

(2) The Welsh Ministers may by order made by statutory instrument confer power on the designated person to charge fees for the exercise of a function by an inspector appointed by the Welsh Ministers under section 86 (and to determine their amount).

(3) In subsection (2) "the designated person" means—
(a) the Chief Inspector of Drinking Water for Wales, or
(b) if the same person is designated under section 86(1A) and (1B), the Chief Inspector of Drinking Water in that person's capacity as a person designated by the Welsh Ministers under section 86(1B).

(4) An order under this section may include consequential, supplementary, incidental or transitional provision, or savings.

(5) A statutory instrument containing an order made by the Secretary of State under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

(6) A statutory instrument containing an order made by the Welsh Ministers under this section is subject to annulment in pursuance of a resolution of the Assembly.

(7) Subsection (8) applies in relation to a statutory instrument containing both—
(a) an order under this section made by the Secretary of State, and
(b) an order under this section made by the Welsh Ministers.

(8) If in accordance with subsection (5) or (6)—

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(a) either House of Parliament resolves that an address be presented to Her Majesty praying that an instrument containing an order made by the Secretary of State be annulled, or

(b) the Assembly resolves that an instrument containing an order made by the Welsh Ministers be annulled,

nothing further is to be done under the instrument after the date of the resolution and Her Majesty may by Order in Council revoke the instrument."

(2) In the Public Bodies Act 2011—

(a) subsections (3) and (4) of section 14 (power of the Welsh Ministers to modify by order the funding arrangements of inspectors appointed under section 86 of the Water Industry Act 1991) are repealed;

(b) in Schedule 4 (bodies and offices where power to modify funding arrangements), the entry relating to inspectors appointed by the Secretary of State under section 86 of the Water Industry Act 1991 is repealed.

Commencement Information

I88 S. 40(1) in force at 14.7.2014 by S.I. 2014/1823, **art. 2(a)**

I89 S. 40(2)(b) in force at 1.11.2016 by S.I. 2016/1007, **art. 2(f)**

Provision of public sewers: premises in Wales

41 Disputes about the provision of public sewers: premises in Wales E+W

(1) Section 101A of the Water Industry Act 1991 (further duty to provide sewers) is amended as follows.

(2) In subsection (7)—

(a) for "Any dispute" there is substituted " Subsections (7A) and (7B) apply where there is a dispute ";

(b) the words following paragraph (c) are repealed.

(3) After subsection (7) there is inserted—

"(7A) The dispute is to be determined by the appropriate person and may be referred to the appropriate person for determination by either of the parties to the dispute.

(7B) If the dispute is between a sewerage undertaker and an owner or occupier of premises in Wales, the NRBW must provide advice in relation to any of the matters mentioned in subsection (7)(a) to (c) if so requested by—

(a) either of the parties to the dispute, or

(b) the appropriate person.

(7C) Any advice provided by the NRBW under subsection (7B) must be provided to both parties to the dispute and to the appropriate person."

(4) In subsections (8)(a) and (9), for "subsection (7)" there is substituted " subsection (7A) ".

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(5) In subsections (8), (9), (10) and (11), for "appropriate agency", in each place those words occur, there is substituted " appropriate person ".

(6) In subsection (11), in paragraph (b)—

(a) for "the NRBW" there is substituted " the Welsh Ministers ";

(b) at the end there is inserted ", or such person as the Welsh Ministers may from time to time appoint as the appropriate person in relation to such disputes."

(7) After subsection (11) there is inserted—

"(12) A person may be appointed as the appropriate person under subsection (11)(b) only if the person is independent of the NRBW.

(13) A person is independent of the NRBW for the purposes of subsection (12) if the person is—

(a) an individual who is not a member of the NRBW or the NRBW's staff, or

(b) a body none of whose members is a member of the NRBW or the NRBW's staff."

Commencement Information

I90 S. 41 in force at 1.11.2015 by S.I. 2015/1786, **art. 2** (with art. 3)

CHAPTER 4 E+W

RETAIL EXIT: NON-HOUSEHOLD PREMISES

42 Retail exit: non-household premises E+W

(1) The Secretary of State may by regulations ("exit regulations")—

(a) make provision for a relevant undertaker whose area is wholly or mainly in England to apply to withdraw from the non-household retail market in relation to that area,

(b) make provision about the determination of an application under paragraph (a) (an "exit application"),

(c) make provision for and in connection with the transfer of so much of a relevant undertaker's undertaking as relates to the non-household retail market to an eligible licensee or licensees, and

(d) make provision about the operation of the water industry in relation to an area in respect of which an exit application has been granted (a "retail exit area").

(2) Provision under subsection (1)(a) may require a company that is a water undertaker and a sewerage undertaker to make an exit application that relates both to its functions as a water undertaker and to its functions as a sewerage undertaker, subject to such exceptions as exit regulations may specify.

(3) Exit regulations may include provision for protecting customers affected by a relevant undertaker's withdrawal from the non-household retail market.

(4) For the purposes of this Chapter—

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(a) a reference to a water undertaker withdrawing from the non-household retail market in relation to an area is a reference to a water undertaker ceasing, in relation to that area, to exercise such functions relating to the supply of water to non-household premises as are specified in exit regulations, and

(b) a reference to a sewerage undertaker withdrawing from the non-household retail market in relation to an area is a reference to a sewerage undertaker ceasing, in relation to that area, to exercise such functions relating to the provision of sewerage services in respect of non-household premises (including trade effluent functions) as are specified in exit regulations;

and a reference to the non-household retail market is to be construed accordingly.

(5) Exit regulations may—

(a) prohibit a water undertaker from exercising, in relation to a retail exit area, such functions relating to the supply of water to non-household premises as are specified in the regulations;

(b) prohibit a sewerage undertaker from exercising, in relation to a retail exit area, such functions relating to the provision of sewerage services in respect of non-household premises (including trade effluent functions) as are specified in the regulations.

Commencement Information

I91 S. 42 in force at 6.4.2015 by S.I. 2015/773, **art. 2(2)(b)(i)** (with art. 5)

43 Application for retail exit E+W

(1) Exit regulations about exit applications must make provision requiring a relevant undertaker to apply to the Secretary of State, and may include—

(a) provision requiring a relevant undertaker to take such steps as the regulations may specify before making an application;

(b) provision as to the form and manner in which an application is to be made and as to the contents of an application;

(c) provision about payment to the Secretary of State of a fee of an amount specified in or determined under the regulations;

(d) provision about the information that is to accompany an application;

(e) provision for the Secretary of State to require a relevant undertaker to provide such further information as the Secretary of State may require in order to make a determination;

(f) provision as to the grounds on which an application may be refused;

(g) provision for the Secretary of State to grant an application subject to conditions.

(2) Provision under subsection (1)(a) may require a relevant undertaker—

(a) to consult—

(i) its non-household customers and its other customers,

(ii) the WSRA,

(iii) the Chief Inspector of Drinking Water,

(iv) the Consumer Council for Water, and

(v) any other person specified in the regulations;

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(b) to prepare and publish a report assessing the effect on non-household customers and other customers if the undertaker withdraws from the non-household retail market;

(c) to publish notice of its proposed exit application in such manner as the regulations may specify.

(3) The grounds that may be specified under subsection (1)(f) include—

(a) grounds relating to the public interest or to the interests of a section of the public;

(b) grounds relating to the interests of non-household customers or other customers;

(c) grounds relating to costs associated with a transfer of part of the relevant undertaker's undertaking;

(d) grounds relating to the eligible licensee or licensees to which a transfer of part of the relevant undertaker's undertaking is proposed to be made.

(4) The conditions that may be imposed under subsection (1)(g) include—

(a) conditions as to the persons who are to pay the costs associated with a transfer of a part of the relevant undertaker's undertaking;

(b) conditions as to the application of money received by the relevant undertaker in connection with a transfer of a part of its undertaking;

(c) conditions about the relevant undertaker giving consent to modifications of the undertaker's conditions of appointment;

(d) conditions about an eligible licensee to which a transfer of part of the relevant undertaker's undertaking is proposed to be made giving consent to modifications of the conditions of its water supply licence or sewerage licence;

(e) conditions about the treatment of non-household customers affected by the transfer of part of the relevant undertaker's undertaking.

(5) Exit regulations may make provision about how particular descriptions of customers and premises are affected by a relevant undertaker's withdrawal from the non-household retail market, including in particular any of the following—

(a) premises to which the supply of water has been disconnected,

(b) premises that are to be demolished,

(c) premises that are temporarily unoccupied,

(d) premises in relation to which the owner or occupier has served notice under section 63AA of the Water Industry Act 1991 (supply by water supply licensee: domestic supply),

(e) premises in relation to which the owner or occupier has served notice under section 63AB of the Water Industry Act 1991 (supply by water supply licensee: non-domestic supply), and

(f) premises in relation to which the owner or occupier has served notice under section 110K of the Water Industry Act 1991 (provision by sewerage licensee).

(6) Provision under subsection (5) may include provision about how exit applications deal with particular descriptions of customers and premises.

(7) Exit regulations may make provision about the disclosure by a relevant undertaker of such information as the regulations may specify about—

(a) its non-household customers, and

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(b) the charges payable by them (whether payable under a charges scheme under section 143 of the Water Industry Act 1991 or under an agreement).

(8) Exit regulations may specify—

(a) the persons to whom the information may be disclosed;

(b) the purposes for which it may be disclosed.

Commencement Information

I92 S. 43 in force at 6.4.2015 by S.I. 2015/773, **art. 2(2)(b)(ii)** (with art. 5)

44 Eligible licensees E+W

(1) Exit regulations may—

(a) make provision for a relevant undertaker to specify in its exit application the eligible licensee or licensees to which it proposes to transfer a part of its undertaking;

(b) make provision for the WSRA to direct one or more eligible licensees to accept the transfer of a part of the relevant undertaker's undertaking.

(2) In this Chapter an "eligible licensee" is a company—

(a) that has a water supply licence with a retail authorisation or a sewerage licence with a retail authorisation, or both, and

(b) that has elected to be an eligible licensee for the purposes of this Chapter.

(3) Exit regulations may—

(a) provide for an eligible licensee to be specified in an exit application only if the licensee agrees to be so specified;

(b) provide for the WSRA to give notice before giving a direction under subsection (1)(b);

(c) provide for an eligible licensee to temporarily suspend an election under subsection (2)(b) so that it may not be given a direction under subsection (1)(b).

(4) Exit regulations may make provision about electing to be an eligible licensee, and may in particular—

(a) provide for a company to satisfy such criteria as are set out in a code published by the WSRA before the company may elect to be an eligible licensee;

(b) provide for the WSRA to assess whether a company satisfies those criteria;

(c) provide for the WSRA to publish a code setting out—

(i) the criteria mentioned in paragraph (a), and

(ii) how it conducts such assessments;

(d) provide for the WSRA to comply with the code in making such assessments.

(5) Exit regulations may—

(a) allow an eligible licensee, to which a transfer of a part of a relevant undertaker's undertaking is proposed to be made, to be a company associated with the undertaker,

(b) require the eligible licensee to which such a transfer is made to be such a company, or

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(c) prohibit such a transfer being made to such a company.

(6) For the purposes of this section, a relevant undertaker is associated with an eligible licensee if one of them is a subsidiary of the other or both are subsidiaries of the same body corporate.

Commencement Information
I93 S. 44 in force at 6.4.2015 by S.I. 2015/773, **art. 2(2)(b)(iii)** (with art. 5)

45 Transfer of undertaking E+W

(1) Exit regulations about the transfer of a part of a relevant undertaker's undertaking may include provision for the making of a scheme to transfer property, rights and liabilities where an exit application has been granted.

(2) Exit regulations about the transfer of a part of a relevant undertaker's undertaking may include provision about arrangements under Chapter 1 of Part 5 of the Water Industry Act 1991 for fixing, demanding and recovering charges.

(3) Provision under subsection (2) may include—
(a) provision for and in connection with treating such arrangements as if they were agreements between the undertaker and the person liable to pay such charges;
(b) provision about the terms and conditions of such agreements.

(4) Exit regulations may make provision for a scheme under subsection (1) to contain—
(a) provision identifying the property, rights and liabilities to be transferred (which may include property, rights and liabilities that would not otherwise be capable of being transferred);
(b) provision for the division of property, rights and liabilities, including—
(i) provision creating an interest in or right over property;
(ii) provision creating new rights and liabilities;
(iii) incidental provision as to the property, rights and liabilities of other persons;
(c) provision about the consideration to be provided (and about the enforcement of such provision).

(5) Subsection (4) is not exhaustive of what a scheme may contain.

Commencement Information
I94 S. 45 in force at 6.4.2015 by S.I. 2015/773, **art. 2(2)(b)(iv)** (with art. 5)

46 Operation of retail market E+W

(1) Exit regulations about the operation of the water industry in relation to a retail exit area may include such provision as is described in the following subsections.

(2) Exit regulations may make provision for and in connection with requiring a relevant undertaker to impose on an eligible licensee only such charges under a section 66D

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agreement or a section 117E agreement as would enable the licensee to fulfil its obligations under agreements (including deemed agreements) transferred to the licensee from the undertaker under the regulations.

(3) Exit regulations may make provision for and in connection with requiring a water supply or sewerage licensee, where the licensee is providing services under the licensee's licence in relation to a retail exit area, to provide such services under that licence in relation to that area as the regulations may specify.

(4) Exit regulations may make provision for and in connection with such arrangements between a water supply or sewerage licensee and a relevant undertaker as would enable the licensee to comply with requirements imposed on it under subsection (3).

(5) Exit regulations may make provision as to the functions of a relevant undertaker in relation to a retail exit area and may, in particular, modify or disapply a duty imposed on a relevant undertaker by—
  (a) section 63AC(2) (interim duty to supply water), or
  (b) section 110L(2) (interim duty to provide sewerage services).

(6) Exit regulations may provide for a water supply or sewerage licensee that—
  (a) is a company,
  (b) is providing services under its licence in relation to a retail exit area, and
  (c) satisfies such criteria as may be specified by the regulations (which may include criteria as to market share),

to be subject to provision for special administration (see section 23 of, and Schedule 2 to, the Water Industry Act 1991) in such circumstances as the regulations may specify.

(7) Exit regulations may include provision—
  (a) requiring relevant undertakers, water supply licensees and sewerage licensees to provide such information as the regulations may specify to customers;
  (b) requiring relevant undertakers, water supply licensees and sewerage licensees to provide such information as the regulations may specify to the WSRA or the Secretary of State;
  (c) requiring the WSRA to record such information as the regulations may specify in the register it maintains under section 195 of the Water Industry Act 1991.

(8) Provision under subsection (7)(b) may in particular specify information about customers and the arrangements under which they receive services.

Commencement Information
I95 S. 46 in force at 6.4.2015 by S.I. 2015/773, **art. 2(2)(b)(v)** (with art. 5)

47 Operation of retail market: charges etc E+W

(1) Exit regulations may make provision for water supply licensees and sewerage licensees, that are providing or proposing to provide services under their water supply or sewerage licences in relation to a retail exit area, to make, and from time to time revise, a scheme containing the terms and conditions which, in the absence of agreed terms and conditions, are to apply to such services.

(2) Provision under subsection (1) may include—

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(a) provision for a scheme to make different provision for different purposes, or different areas;

(b) provision about the publication of a scheme or revised scheme;

(c) provision about sending a copy of a scheme or revised scheme to the WSRA;

(d) provision enabling the WSRA to direct that terms or conditions be modified generally or in a particular case;

(e) provision requiring a licensee to comply with a direction under paragraph (d), including provision for enforcing such a duty under section 18 of the Water Industry Act 1991.

(3) Provision under subsection (1) may also include—

(a) provision requiring the WSRA to issue a code about providing services to which a scheme under subsection (1) relates;

(b) provision for the code to include, in particular, provision about—

(i) the terms and conditions contained in such schemes;

(ii) licensees informing owners or occupiers of premises about their schemes before agreeing any terms and conditions for the provision of services;

(c) provision for the WSRA, if it considers that a licensee is not acting as required by such provision as is described in paragraph (b), to give the licensee a direction to do, or not to do, a particular thing specified in the direction;

(d) provision requiring a licensee to comply with a direction under paragraph (c), including provision for enforcing such a duty under section 18 of the Water Industry Act 1991;

(e) provision requiring the WSRA from time to time to review the code and, if appropriate, to issue a revised code.

(4) Exit regulations may make provision for the WSRA to issue and enforce—

(a) rules about charges for services that may be imposed by water supply or sewerage licensees in relation to a retail exit area;

(b) if exit regulations make provision for licensees to make schemes about such charges, rules about such schemes.

(5) Provision under subsection (4) may include—

(a) provision for the rules to make different provision for different cases;

(b) provision for the WSRA to direct a licensee to comply with the rules;

(c) provision for such directions to be enforceable by the WSRA under section 18;

(d) provision for the Secretary of State to issue guidance as to the content of the rules;

(e) provision for the Secretary of State to prevent rules being issued.

Commencement Information

I96 S. 47 in force at 6.4.2015 by S.I. 2015/773, **art. 2(2)(b)(vi)** (with art. 5)

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PROSPECTIVE

48 Exit applications: further provision E+W

(1) Exit regulations may make provision about the provision relating to exit applications that may be included in a relevant undertaker's conditions of appointment.

(2) Exit regulations may in particular prohibit the inclusion of provision requiring a relevant undertaker to make an exit application.

(3) Exit regulations may make provision for requiring the WSRA or the CMA to obtain the consent of the Secretary of State—

(a) before exercising a function so as to require a relevant undertaker to make an exit application, or

(b) before exercising a function in a way that is likely to result in a relevant undertaker making an exit application.

49 Modification of appointment and licence conditions E+W

(1) Exit regulations may provide for the WSRA to modify the conditions of appointment of a relevant undertaker where it considers it necessary or expedient to do so in consequence of the transfer of part of the relevant undertaker's undertaking under the regulations.

(2) Exit regulations may provide for the WSRA to modify the conditions of a licence under Chapter 1A of Part 2 of the Water Industry Act 1991 where it considers it necessary or expedient to do so in consequence of the transfer to the holder of that licence of part of a relevant undertaker's undertaking under the regulations.

(3) Exit regulations may provide for the WSRA, where it modifies conditions under subsection (1) or (2), to make such incidental or consequential modifications of other conditions of the appointment or, as the case may be, other conditions of the licence as it considers necessary or expedient.

(4) Provision made by exit regulations as regards the modification of conditions under this section may include—

(a) provision for the Secretary of State to give consent to a modification proposed by the WSRA;

(b) provision as to the period during which a modification may be made.

(5) Provision under subsection (4)(b) may not allow a modification to be made after the end of the period of one year beginning with the day on which the transfer in question takes place.

Commencement Information

I97 S. 49 in force at 6.4.2015 by S.I. 2015/773, **art. 2(2)(b)(vii)** (with art. 5)

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PROSPECTIVE

50 General directions E+W

(1) Exit regulations may make provision for the Secretary of State to publish, from time to time, a statement setting out general directions for the WSRA and the CMA as regards the carrying out of their relevant functions in circumstances where the WSRA or the CMA, in carrying out those functions, might be able—

(a) to require or bring about an exit application, or

(b) to have an effect as regards the making of an exit application.

(2) Exit regulations may require the WSRA and the CMA to carry out their relevant functions in accordance with any statement published under the regulations.

(3) Exit regulations may make provision about formulating a statement to be published under the regulations, and may in particular—

(a) require the Secretary of State to have regard to—

(i) the duties of the WSRA mentioned in section 2(1)(b) of the Water Industry Act 1991,

(ii) the duties of the CMA under the Competition Act 1998 or the Enterprise Act 2002, and

(iii) the protection of the interests of consumers (within the meaning of section 2 of the Water Industry Act 1991), and

(b) enable the Secretary of State to have regard to such other matters as the Secretary of State thinks fit.

(4) Exit regulations may make provision for the Secretary of State, before publishing a statement under the regulations, to consult—

(a) the WSRA,

(b) the CMA,

(c) the Consumer Council for Water,

(d) relevant undertakers,

(e) water supply licensees and sewerage licensees,

(f) the Welsh Ministers, and

(g) anyone else the Secretary of State thinks appropriate.

(5) Exit regulations may—

(a) require the Secretary of State to lay a draft of a statement before Parliament before publishing it;

(b) require the Secretary of State to wait for a period specified in or determined under the regulations after laying the draft statement under paragraph (a);

(c) prohibit the Secretary of State from publishing it if, within that period, either House of Parliament resolves not to approve it.

(6) In this section "relevant function" means—

(a) in relation to the WSRA, a function mentioned in section 2(1)(b) of the Water Industry Act 1991;

(b) in relation to the CMA, a function of the CMA under the Competition Act 1998 or the Enterprise Act 2002.

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51 Exit regulations: general E+W

(1) Exit regulations may make such provision as the Secretary of State considers appropriate—
- (a) for modifying a person's duties and powers, and
- (b) for imposing new duties and conferring new powers on a person.

(2) The persons in relation to whom provision under subsection (1) may be made include—
- (a) the Secretary of State;
- (b) the Chief Inspector of Drinking Water;
- (c) the Welsh Ministers;
- (d) the Chief Inspector of Drinking Water for Wales if there is one, or the Chief Inspector of Drinking Water if section 86(1B)(b) of the Water Industry Act 1991 applies;
- (e) the WSRA;
- (f) the CMA;
- (g) the Environment Agency;
- (h) the NRBW;
- (i) the Consumer Council for Water;
- (j) relevant undertakers;
- (k) water supply licensees and sewerage licensees.

(3) Exit regulations may—
- (a) apply enactments, with or without such modifications as the Secretary of State thinks fit;
- (b) amend, repeal or revoke enactments.

(4) The provision that may be made by exit regulations includes provision conferring power to make subordinate legislation.

(5) Exit regulations may—
- (a) contain such consequential, incidental, supplementary, transitional or saving provisions (including provisions amending, repealing or revoking enactments) as the Secretary of State considers appropriate, and
- (b) make different provision for different cases, including different provision in relation to different persons, circumstances or areas.

(6) In this section "enactment"—
- (a) includes an Act or Measure of the National Assembly for Wales;
- (b) includes an enactment contained in this Act, other than this Chapter.

Commencement Information

I98 S. 51 in force at 6.4.2015 by S.I. 2015/773, **art. 2(2)(b)(viii)** (with art. 5)

52 Interpretation E+W

(1) In this Chapter—

"the CMA" means the Competition and Markets Authority;

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"eligible licensee" has the meaning given by section 44;

"exit application" means an application under section 42(1)(a);

"the NRBW" means the Natural Resources Body for Wales;

"non-household customer" means a person who is the customer as regards a service provided in respect of non-household premises;

"non-household premises" means premises other than household premises as defined in section 17C of the Water Industry Act 1991;

"retail exit area" has the meaning given by section 42;

"the WSRA" means the Water Services Regulation Authority.

(2) Except in so far as the context otherwise requires, terms used in this Chapter have the same meaning as in the Water Industry Act 1991.

Commencement Information

I99 S. 52 in force at 6.4.2015 by S.I. 2015/773, **art. 2(2)(b)(ix)** (with art. 5)

53 Procedure E+W

(1) Before making exit regulations, the Secretary of State is to consult—

(a) the Welsh Ministers;

(b) the WSRA;

(c) the CMA;

(d) the Consumer Council for Water;

(e) relevant undertakers whose areas are wholly or mainly in England;

(f) water supply licensees and sewerage licensees;

(g) persons whom the Secretary of State considers to represent the interests of investors in the water industry.

(2) The power to make exit regulations is to be exercised by statutory instrument.

(3) A statutory instrument containing exit regulations made by the Secretary of State may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

Commencement Information

I100 S. 53(1)(a)-(e) (g) (2) (3) in force at 6.4.2015 by S.I. 2015/773, **art. 2(2)(b)(x)** (with art. 5)

I101 S. 53(1)(f) in force at 6.4.2015 for specified purposes by S.I. 2015/773, **art. 2(2)(b)(x)** (with art. 5)

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CHAPTER 5 E+W

MISCELLANEOUS

PROSPECTIVE

54 Consumer redress E+W

(1) The Water Services Regulation Authority may modify the conditions of—
  (a) a pre-commencement appointment of a water or sewerage undertaker, or
  (b) a pre-commencement water supply licence,
so as to include conditions relating to the provision of a consumer redress scheme.

(2) In subsection (1)—
  (a) "pre-commencement appointment of a water or sewerage undertaker" means an appointment of a company under Chapter 1 of Part 2 of the Water Industry Act 1991 to be a water or sewerage undertaker which is made before the day on which this section comes into force, and
  (b) "pre-commencement water supply licence" means a licence under Chapter 1A of Part 2 of the Water Industry Act 1991 granted before that day.

(3) In this section, "consumer redress scheme" means a scheme or other arrangements for unresolved complaints to be investigated and determined by an independent person.

(4) The conditions that may under subsection (1) be included in an appointment or licence include in particular conditions requiring the company holding the appointment or the person holding the licence—
  (a) to secure the provision of a consumer redress scheme, or
  (b) to secure the provision of a consumer redress scheme which is of a description specified in the conditions or which meets requirements so specified.

(5) Where under subsection (1) the Authority modifies conditions of an appointment or licence, it may make such incidental or consequential modifications of other conditions of the appointment or, as the case may be, other conditions of the licence as it considers necessary or expedient.

(6) The power of the Authority under subsection (1) to modify the conditions of an appointment or licence may not be exercised after the end of the period of two years beginning with the day on which this section comes into force.

(7) Before making a modification under this section the Authority must consult—
  (a) the company holding the appointment or the person holding the licence;
  (b) the Secretary of State;
  (c) the Welsh Ministers;
  (d) the Consumer Council for Water;
  (e) such other persons as the Authority thinks it appropriate to consult.

(8) The Minister may direct the Authority not to make a modification that it proposes to make under this section; and the Authority must comply with such a direction.

(9) In subsection (8) "the Minister" means—
  (a) the Secretary of State, in relation to—

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(i) a water or sewerage undertaker whose area is wholly or mainly in England;

(ii) a person who holds a licence under Chapter 1A of Part 2 of the Water Industry Act 1991;

(b) the Welsh Ministers, in relation to a water or sewerage undertaker whose area is wholly or mainly in Wales.

55 Modification of appointment and licence conditions E+W

(1) The Water Services Regulation Authority may modify the conditions of appointment of a company appointed under Chapter 1 of Part 2 of the Water Industry Act 1991 to be a water or sewerage undertaker where it considers it necessary or expedient to do so in consequence of provision made by or under this Part.

(2) The Authority may modify the conditions of a licence under Chapter 1A of Part 2 of the Water Industry Act 1991 where it considers it necessary or expedient to do so in consequence of provision made by or under this Part.

(3) Where the Authority modifies—

(a) conditions of appointment under subsection (1), or

(b) conditions of a licence under subsection (2),

it may make such incidental or consequential modifications of other conditions of the appointment or, as the case may be, other conditions of the licence as it considers necessary or expedient.

(4) Before making a modification under this section, the Authority must consult—

(a) the company holding the appointment or, as the case may be, the person holding the licence;

(b) the Secretary of State;

(c) the Welsh Ministers;

(d) such other persons as the Authority thinks it appropriate to consult.

(5) The power of the Authority to modify—

(a) the conditions of a company's appointment under subsection (1), or

(b) the conditions of a person's licence under subsection (2),

may not be exercised after the end of the period of two years beginning with the day on which the provision in question comes into force.

(6) References in subsections (1) to (5) to provision made by or under this Part are to be treated, where particular provision made by or under this Part comes into force on a particular day for a particular purpose, as references to so much of such provision as comes into force on a particular day.

(7) References in this section to provision made by or under this Part include references to provision made under section 90 or 91 in connection with this Part.

(8) The Minister may give directions to the Authority for the purpose of securing that—

(a) the conditions of appointment of a water or sewerage undertaker are modified under this section;

(b) the conditions of a licence under Chapter 1A of Part 2 of the Water Industry Act 1991 are modified under this section.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Water Act 2014 is up to date with all changes known to be in force on or before 20 June 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) View outstanding changes*

(9) The Minister may direct the Authority not to make a modification that it proposes to make under this section.

(10) The Authority must comply with a direction under subsection (8) or (9).

(11) In this section "the Minister" means—

(a) the Secretary of State, in relation to—

(i) a water or sewerage undertaker whose area is wholly or mainly in England;

(ii) a person who holds a licence under Chapter 1A of Part 2 of the Water Industry Act 1991;

(b) the Welsh Ministers, in relation to a water or sewerage undertaker whose area is wholly or mainly in Wales.

Commencement Information

I102 S. 55 in force at 1.1.2015 by S.I. 2014/3320, **art. 2(2)(c)**

56 Further amendments E+W

Schedule 7 (which contains further amendments) has effect.

Commencement Information

I103 S. 56 not in force at Royal Assent; s. 56 in force for specified purposes at 14.7.2014, see s. 94(2)(s)(t)
I104 S. 56 in force at 1.1.2015 for specified purposes by S.I. 2014/3320, **art. 2(2)(d)**
I105 S. 56 in force at 15.7.2015 for specified purposes by S.I. 2015/1469, **art. 2(e)**
I106 S. 56 in force at 1.9.2015 for specified purposes by S.I. 2015/1469, **art. 3(c)**
I107 S. 56 in force at 1.11.2015 for specified purposes by S.I. 2015/1469, **art. 4(b)**
I108 S. 56 in force at 18.12.2015 for specified purposes by S.I. 2015/1938, **art. 2(f)**
I109 S. 56 in force at 1.1.2016 for specified purposes by S.I. 2015/1938, **art. 3(c)**
I110 S. 56 in force at 1.4.2016 for specified purposes by S.I. 2016/465, **art. 2(i)** (with Sch. 2)
I111 S. 56 in force at 1.9.2016 for specified purposes by S.I. 2016/465, **art. 3(d)** (with Sch. 2)
I112 S. 56 in force at 1.11.2016 for specified purposes by S.I. 2016/1007, **art. 2(g)**
I113 S. 56 in force at 6.3.2017 for specified purposes by S.I. 2017/58, **art. 2(b)**
I114 S. 56 in force at 1.4.2017 for specified purposes by S.I. 2017/462, **art. 3(h)**
I115 S. 56 in force at 1.10.2017 for specified purposes by S.I. 2017/462, **art. 4(c)**
I116 S. 56 in force at 1.4.2018 for specified purposes by S.I. 2017/462, **art. 5(d)**

PART 2 E+W

WATER RESOURCES

57 Report on water abstraction reform E+W

(1) The Secretary of State must prepare a report setting out progress made in reforming the arrangements for managing water abstraction in England.

(2) The Secretary of State must lay before Parliament a copy of the report.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Water Act 2014 is up to date with all changes known to be in force on or before 20 June 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) View outstanding changes*

(3) The report must be prepared and laid before the end of the period of five years beginning with the day on which this Act is passed.

58 Withdrawal of compensation for undertakers E+W

(1) The Water Resources Act 1991 is amended as follows.

(2) In section 61 (compensation where licence modified on direction of the Secretary of State or Welsh Ministers), in subsection (1), after "Where a licence" there is inserted " held by a person other than a water undertaker or sewerage undertaker ".

(3) Section 61A (recovery of compensation from new licence-holder) is repealed.

59 Main rivers in England and Wales E+W

(1) The Water Resources Act 1991 is amended as follows.

(2) For sections 193 and 194 (maintenance, inspection and amendment of main river maps for areas in England and Wales) there is substituted—

"Main river map for England

193 The main river map for England

(1) The Agency must keep the main river map for England.

(2) For the purposes of this Act the main river map for England is a record of areas in England which—
  (a) shows the extent to which any watercourse or part of a watercourse is to be treated as a main river or as part of a main river for the purposes of this Act, and
  (b) indicates which (if any) of those watercourses are watercourses designated in a scheme made under section 137.

(3) The map is conclusive as to the extent to which a watercourse in England is to be treated as a main river or as part of a main river for the purposes of this Act.

(4) The map must specify the date on which it takes effect.

(5) The Agency must keep the map in electronic form.

(6) In this section and sections 193A to 193E "watercourse" has the same meaning as in Part 4 of this Act.

193A Inspection and copies

(1) The Agency must provide reasonable facilities for inspecting the main river map for England in electronic form.

(2) The Agency must on request provide any person with—
  (a) a hard copy of all or part of the map, or
  (b) data comprising all or part of the map in electronic form.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Water Act 2014 is up to date with all changes known to be in force on or before 20 June 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) View outstanding changes*

(3) The Agency may charge a fee for providing a copy or data under subsection (2), but the fee—
  (a) must, in the case of a person appearing to the Agency to have requested a copy or data for commercial purposes, represent a reasonable usage fee, and
  (b) in any other case, may not exceed the reasonable costs of providing the copy or data.

(4) The Agency must on request provide a body mentioned in the first column of the following table with a hard copy of, or data comprising, such part of the main river map for England as is described in the second column of the entry for that body.

A local authority in England	The part that relates to the local authority's area
An internal drainage board for an internal drainage district that is wholly or partly in England	The part that relates to its district, so far as that district is in England
A water company that exercises functions in relation to an area in England	The part that relates to that area
A highway authority that exercises functions in relation to highways in England	The part that relates to the area in England in relation to which it exercises functions
A navigation authority that exercises functions in relation to an area in England	The part that relates to that area

(5) The Documentary Evidence Act 1868 has effect as if—
  (a) the Agency were mentioned in the first column of the Schedule to that Act;
  (b) any member of the staff of the Agency authorised to act on behalf of the Agency were specified in the second column of the Schedule to that Act in connection with the Agency;
  (c) the regulation referred to in that Act included the main river map for England kept by the Agency;
  (d) references to a copy included references to a print-out of information kept in electronic form.

193B Replacing the main river map for England

(1) The Agency may at any time replace the existing main river map for England for the purpose of including—
  (a) a change which, pursuant to section 193(2)(b), is required by the making, amendment or revocation of a scheme under section 137,
  (b) a change to give effect to a determination under section 193C, or
  (c) a change directed by the Secretary of State under section 193D(5) (following an appeal against a determination).

(2) A replacement map may not include other changes.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Water Act 2014 is up to date with all changes known to be in force on or before 20 June 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) View outstanding changes*

(3) A replacement map must specify the date on which it takes effect.

193C Determinations as to main rivers

(1) Subject to the following provisions of this section, the Agency may determine that—
  (a) such watercourse or part of a watercourse in England as is specified in the determination is to be treated for the purposes of this Act as a main river or part of a main river;
  (b) such watercourse or part of a watercourse in England as is specified in the determination (not being a watercourse designated in a scheme made under section 137) is no longer to be treated for the purposes of this Act as a main river or part of a main river.

(2) Before making a determination under subsection (1) as regards a watercourse, the Agency must—
  (a) publish (in such manner as it considers appropriate) the determination it proposes to make, and
  (b) consider representations made within the time and in the manner specified by the Agency when publishing the determination.

(3) The Agency must consult the NRBW before making a determination under subsection (1)—
  (a) which affects a watercourse part of which is in England and part of which is in Wales, and
  (b) in which it seems to the Agency that the NRBW has an interest.

(4) Having taken such steps as are required by subsections (2) and (3), the Agency may—
  (a) decide not to make a determination, or
  (b) decide to make a determination in accordance with what was proposed under subsection (2)(a) or otherwise.

(5) The Agency must publish (in such manner as it considers appropriate)—
  (a) that decision;
  (b) the terms of any determination made;
  (c) if a determination is made, the date on which a replacement map will give effect to the determination.

(6) The date specified under subsection (5)(c) may not be before the end of a period of six weeks beginning with the day on which the matters specified in subsection (5) are published.

(7) The Agency must also inform those persons affected by the proposal who made representations in accordance with subsection (2)(b) containing an objection to the proposal as to the matters referred to in subsection (5).

193D Appeals

(1) A person aggrieved by a determination under section 193C may appeal to the Secretary of State.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Water Act 2014 is up to date with all changes known to be in force on or before 20 June 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) View outstanding changes*

(2) An appeal must be made before the end of a period of six weeks beginning with the day on which the matters referred to in section 193C(5) are published.

(3) Where an appeal is made against a determination, a replacement map under section 193B may not include a change to give effect to the determination except as specified in this section.

(4) The Secretary of State may appoint a person to make a report to assist the Secretary of State in determining the appeal.

(5) If the Secretary of State allows the appeal in whole or in part, the Secretary of State may by direction to the Agency—
   (a) specify a change to be included in a replacement map under section 193B, and
   (b) specify the date on which that change is to take effect.

(6) If the Secretary of State dismisses the appeal, the Agency may include a change to give effect to its determination in a replacement map, the replacement map to have effect on such date as the Secretary of State may direct.

(7) The Secretary of State may direct the Agency to publish the Secretary of State's decision in such manner as the direction may specify.

193E Guidance

(1) The Secretary of State may from time to time issue guidance to the Agency about the exercise of its functions under sections 193 to 193D.

(2) The guidance may in particular include guidance as to—
   (a) determining whether or not a watercourse or part of a watercourse is suitable to become or to remain a main river or a part of a main river;
   (b) what kind of publication is appropriate under section 193C(2) and (5).

(3) The Agency must have regard to the guidance in carrying out its functions under sections 193 to 193D.

Main river map for Wales

194 The main river map for Wales

(1) The NRBW must keep the main river map for Wales.

(2) For the purposes of this Act the main river map for Wales is a record of areas in Wales which—
   (a) shows the extent to which any watercourse or part of a watercourse is to be treated as a main river or as part of a main river for the purposes of this Act, and
   (b) indicates which (if any) of those watercourses are watercourses designated in a scheme made under section 137.

(3) The map is conclusive as to the extent to which a watercourse in Wales is to be treated as a main river or as part of a main river for the purposes of this Act.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Water Act 2014 is up to date with all changes known to be in force on or before 20 June 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) View outstanding changes*

(4) The map must specify the date on which it takes effect.

(5) The NRBW must keep the map in electronic form.

(6) In this section and sections 194A to 194E "watercourse" has the same meaning as in Part 4 of this Act.

194A Inspection and copies

(1) The NRBW must provide reasonable facilities for inspecting the main river map for Wales in electronic form.

(2) The NRBW must on request provide any person with—
  (a) a hard copy of all or part of the map, or
  (b) data comprising all or part of the map in electronic form.

(3) The NRBW may charge a fee for providing a copy or data under subsection (2), but the fee—
  (a) must, in the case of a person appearing to the NRBW to have requested a copy or data for commercial purposes, represent a reasonable usage fee, and
  (b) in any other case, may not exceed the reasonable costs of providing the copy or data.

(4) The NRBW must on request provide a body mentioned in the first column of the following table with a hard copy of, or data comprising, such part of the main river map for Wales as is described in the second column of the entry for that body.

A local authority in Wales	The part that relates to the local authority's area
An internal drainage board for an internal drainage district that is wholly or partly in Wales	The part that relates to its district, so far as that district is in Wales
A water company that exercises functions in relation to an area in Wales	The part that relates to that area
A highway authority that exercises functions in relation to highways in Wales	The part that relates to the area in Wales in relation to which it exercises functions
A navigation authority that exercises functions in relation to an area in Wales	The part that relates to that area

(5) The Documentary Evidence Act 1868 has effect as if—
  (a) the NRBW were mentioned in the first column of the Schedule to that Act;
  (b) any member of the staff of the NRBW authorised to act on behalf of the NRBW were specified in the second column of the Schedule to that Act in connection with the NRBW;
  (c) the regulation referred to in that Act included the main river map for Wales kept by the NRBW;

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Water Act 2014 is up to date with all changes known to be in force on or before 20 June 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) View outstanding changes*

(d) references to a copy included references to a print-out of information kept in electronic form.

194B Replacing the main river map for Wales

(1) The NRBW may at any time replace the existing main river map for Wales for the purpose of including—

(a) a change which, pursuant to section 194(2)(b), is required by the making, amendment or revocation of a scheme under section 137,

(b) a change to give effect to a determination under section 194C, or

(c) a change directed by the Welsh Ministers under section 194D(5) (following an appeal against a determination).

(2) A replacement map may not include other changes.

(3) A replacement map must specify the date on which it takes effect.

194C Determinations as to main rivers

(1) Subject to the following provisions of this section, the NRBW may determine that—

(a) such watercourse or part of a watercourse in Wales as is specified in the determination is to be treated for the purposes of this Act as a main river or part of a main river;

(b) such watercourse or part of a watercourse in Wales as is specified in the determination (not being a watercourse designated in a scheme made under section 137) is no longer to be treated for the purposes of this Act as a main river or part of a main river.

(2) Before making a determination under subsection (1) as regards a watercourse, the NRBW must—

(a) publish (in such manner as it considers appropriate) the determination it proposes to make, and

(b) consider representations made within the time and in the manner specified by the NRBW when publishing the determination.

(3) The NRBW must consult the Agency before making a determination under subsection (1)—

(a) which affects a watercourse part of which is in Wales and part of which is in England, and

(b) in which it seems to the NRBW that the Agency has an interest.

(4) Having taken such steps as are required by subsections (2) and (3), the NRBW may—

(a) decide not to make a determination, or

(b) decide to make a determination in accordance with what was proposed under subsection (2)(a) or otherwise.

(5) The NRBW must publish (in such manner as it considers appropriate)—

(a) that decision;

(b) the terms of any determination made;

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(c) if a determination is made, the date on which a replacement map will give effect to the determination.

(6) The date specified under subsection (5)(c) may not be before the end of a period of six weeks beginning with the day on which the matters specified in subsection (5) are published.

(7) The NRBW must also inform those persons affected by the proposal who made representations in accordance with subsection (2)(b) containing an objection to the proposal as to the matters referred to in subsection (5).

194D Appeals

(1) A person aggrieved by a determination under section 194C may appeal to the Welsh Ministers.

(2) An appeal must be made before the end of a period of six weeks beginning with the day on which the matters referred to in section 194C(5) are published.

(3) Where an appeal is made against a determination, a replacement map under section 194B may not include a change to give effect to the determination except as specified in this section.

(4) The Welsh Ministers may appoint a person to make a report to assist them in determining the appeal.

(5) If the Welsh Ministers allow the appeal in whole or in part, they may by direction to the NRBW—

(a) specify a change to be included in a replacement map under section 194B, and

(b) specify the date on which that change is to take effect.

(6) If the Welsh Ministers dismiss the appeal, the NRBW may include a change to give effect to its determination in a replacement map, the replacement map to have effect on such date as the Welsh Ministers may direct.

(7) The Welsh Ministers may direct the NRBW to publish their decision in such manner as the direction may specify.

194E Guidance

(1) The Welsh Ministers may from time to time issue guidance to the NRBW about the exercise of its functions under sections 194 to 194D.

(2) The guidance may in particular include guidance as to—

(a) determining whether or not a watercourse or part of a watercourse is suitable to become or to remain a main river or a part of a main river;

(b) what kind of publication is appropriate under section 194C(2) and (5).

(3) The NRBW must have regard to the guidance in carrying out its functions under sections 194 to 194D.”

(3) In section 113 (interpretation of Part 4), in subsection (1), in the definition of “main river”, for “a main river map” there is substituted “ the main river map for England or the main river map for Wales ”.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Water Act 2014 is up to date with all changes known to be in force on or before 20 June 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) View outstanding changes*

(4) In section 221 (interpretation of the Act), in subsection (1)—

(a) for the definition of "main river map" there is substituted—

""the main river map for England" has the meaning given by section 193(2);

"the main river map for Wales" has the meaning given by section 194(2);";

(b) in the definition of "watercourse", for "and 113(1)" there is substituted " 113(1), 193(6) and 194(6) ".

Commencement Information

I117 S. 59 in force at 1.10.2014 by S.I. 2014/1823, **art. 3**

60 Maps of waterworks E+W

(1) Section 195 of the Water Resources Act 1991 (duty of appropriate agency to keep records of location of waterworks) is repealed.

(2) In Schedule 23 to that Act (mineral rights), in paragraph 7(2) (structures and underground works which comprise appropriate agency's undertaking), for paragraph (b) there is substituted—

"(b) any resource mains, discharge pipes or other underground works which are for the time being vested in the appropriate agency."

PART 3 E+W+S

ENVIRONMENTAL REGULATION

61 Regulation of the water environment E+W+S

(1) The Minister may by regulations make provision for any of the purposes listed in Part 1 of Schedule 8; and Part 2 of that Schedule has effect for supplementing Part 1.

(2) Except as provided in Schedule 8, any provision so made is to be provision for or in connection with—

(a) regulating the use of water resources,

(b) securing the drainage of land or the management of flood risk, or

(c) safeguarding the movement of fish through regulated waters.

(3) In making regulations under this section, the Minister is to have regard to the desirability of reducing burdens by ensuring that so far as is reasonably practicable any system established by regulations under this section is combined with, or is consistent with, systems for regulating activities or other matters that cause pollution.

(4) Regulations under this section may—

(a) contain such consequential, incidental, supplementary, transitional or saving provisions (including provisions amending, repealing or revoking enactments) as the Minister considers appropriate, and

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(b) make different provision for different cases, including different provision in relation to different persons, circumstances, areas or localities.

(5) Before making any regulations under this section, the Minister is to consult—

(a) the Environment Agency;

(b) the Natural Resources Body for Wales;

(c) such bodies or persons appearing to the Minister to be representative of the interests of local government, industry, agriculture and small businesses respectively as the Minister may consider appropriate;

(d) such other bodies or persons as the Minister may consider appropriate.

(6) It is immaterial for the purposes of subsection (5) whether consultation is carried out before or after the coming into force of this section.

(7) The Secretary of State's power to make regulations under this section is subject to the consent of the Scottish Ministers so far as the regulations apply as mentioned in subsection (11)(b),

(8) In this section and Schedule 8 a reference to the use of water resources—

(a) includes a reference to taking, diverting or impounding water from any inland waters, or taking water contained in underground strata, and applying it to any purpose, and

(b) includes a reference to wasting water whether by action or omission, but

(c) does not include a reference to the use, by a person other than a water undertaker, of water drawn from a water mains or pipe forming part of a system used by a water undertaker in carrying out a duty under section 37 of the Water Industry Act 1991.

(9) In this section and Schedule 8—

"enactment" includes—

(a) an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978;

(b) an enactment contained in, or an instrument made under, an Act of the Scottish Parliament;

(c) an enactment contained in, or in an instrument made under, an Act or Measure of the National Assembly for Wales;

"fish" means freshwater fish and migratory fish;

"flood" has the meaning given in section 1 of the Flood and Water Management Act 2010;

"flood risk" has the meaning given in section 2 of that Act;

"freshwater fish" means any fish habitually living in fresh water;

"inland waters" has the meaning given by section 221(1) of the Water Resources Act 1991;

"migratory fish" means fish of a kind which migrates from fresh to salt water, or from salt to fresh water, in order to spawn;

"the Minister" means—

(a) the Secretary of State, in relation to England and in relation to so much of the River Esk and its banks and tributary streams as is mentioned in subsection (11)(b), and

(b) the Welsh Ministers, in relation to Wales;

"regulated waters" means—

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Changes to legislation: *Water Act 2014 is up to date with all changes known to be in force on or before 20 June 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) View outstanding changes*

(a) inland waters in England and Wales,

(b) the waters of so much of the River Esk and its tributary streams up to their source as is mentioned in subsection (11)(b), and

(c) waters adjoining the coast of England and Wales to a distance of six nautical miles measured from the baselines from which the breadth of the territorial sea is measured;

"Wales" has the meaning given in section 158(1) of the Government of Wales Act 2006.

(10) The reference in subsection (8)(a) to water contained in underground strata is to be read in accordance with section 221(3) of the Water Resources Act 1991, as if this section formed part of that Act.

(11) Regulations made in reliance on subsection (2)(c)—

(a) are not to apply in relation to the Tweed district (as defined in article 2(1) of the Scotland Act 1998 (River Tweed) Order 2006 (S.I. 2006/2913)), but

(b) may apply in relation to so much of the River Esk, with its banks and tributary streams up to their source, as is situated in Scotland.

(12) Regulations under this section may make provision applying in relation to (and to places above and below) the territorial waters adjacent to any part of England and Wales.

62 Environmental regulation: procedure E+W+S

(1) The power to make regulations under section 61 is to be exercised by statutory instrument.

(2) A statutory instrument containing regulations made by the Secretary of State under section 61 is subject to annulment in pursuance of a resolution of either House of Parliament, subject as follows.

(3) A statutory instrument containing regulations made by the Welsh Ministers under section 61 is subject to annulment in pursuance of a resolution of the National Assembly for Wales, subject as follows.

(4) A statutory instrument containing any of the following regulations (whether alone or with other regulations) is subject to the affirmative resolution procedure—

(a) the first regulations to be made by the Secretary of State under section 61;

(b) the first regulations to be made by the Welsh Ministers under section 61;

(c) regulations under section 61 which create an offence or increase a penalty for an existing offence;

(d) regulations under section 61 which amend or repeal any provision of an Act, or an Act or Measure of the National Assembly for Wales.

(5) A statutory instrument containing regulations made by the Secretary of State under both section 61 above and section 2 of the Pollution Prevention and Control Act 1999 is subject to the affirmative resolution procedure if an instrument containing only—

(a) the regulations made by the Secretary of State under section 61 above, or

(b) the regulations made by the Secretary of State under section 2 of the Pollution Prevention and Control Act 1999,

would be subject to the affirmative resolution procedure.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Water Act 2014 is up to date with all changes known to be in force on or before 20 June 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) View outstanding changes*

(6) A statutory instrument containing regulations made by the Welsh Ministers under both section 61 above and section 2 of the Pollution Prevention and Control Act 1999 is subject to the affirmative resolution procedure if an instrument containing only—

(a) the regulations made by the Welsh Ministers under section 61 above, or

(b) the regulations made by the Welsh Ministers under section 2 of the Pollution Prevention and Control Act 1999,

would be subject to the affirmative resolution procedure.

(7) A statutory instrument containing regulations made by the Secretary of State that is subject to the affirmative resolution procedure may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

(8) A statutory instrument containing regulations made by the Welsh Ministers that is subject to the affirmative resolution procedure may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.

(9) Subsections (11) and (12) apply in relation to a statutory instrument containing both—

(a) regulations under section 61 made or to be made by the Secretary of State, and

(b) regulations under section 61 made or to be made by the Welsh Ministers.

(10) Subsections (11) and (12) also apply in relation to a statutory instrument containing—

(a) regulations under section 61 made or to be made by the Secretary of State,

(b) regulations under section 61 made or to be made by the Welsh Ministers, and

(c) regulations made under section 2 of the Pollution Prevention and Control Act 1999 (whether by the Secretary of State or the Welsh Ministers or both).

(11) If in accordance with subsection (2) or (3) (negative resolution procedure)—

(a) either House of Parliament resolves that an address be presented to Her Majesty praying that an instrument containing regulations made by the Secretary of State be annulled, or

(b) the National Assembly for Wales resolves that an instrument containing regulations made by the Welsh Ministers be annulled,

nothing further is to be done under the instrument after the date of the resolution and Her Majesty may by Order in Council revoke the instrument.

(12) If the statutory instrument contains any regulations which, on their own, would make the instrument subject to the affirmative resolution procedure, the instrument is subject to that procedure.

(13) In section 2 of the Pollution Prevention and Control Act 1999, after subsection (9) there is inserted—

"(10) See section 62 of the Water Act 2014 for further provision about the procedure applying to statutory instruments containing both regulations made under this section and regulations made under section 61 of that Act."

63 Repeal of certain provisions about culverts E+W

The following provisions of the Public Health Act 1936 are repealed—

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Water Act 2014 is up to date with all changes known to be in force on or before 20 June 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) View outstanding changes*

(a) section 262 (power of local authority to require culverting of watercourses and ditches where building operations in prospect);

(b) section 263 (watercourses in urban districts not to be culverted except in accordance with approved plans).

PART 4 U.K.

FLOOD INSURANCE

The Flood Reinsurance Scheme

64 The Flood Reinsurance Scheme U.K.

(1) For the purposes of this Part, the Flood Reinsurance Scheme is a scheme which—

(a) is established for the purpose mentioned in subsection (2), and

(b) is designated for the purposes of this Part by regulations made by the Secretary of State.

(2) The purpose referred to in subsection (1)(a) is the purpose of providing reinsurance to relevant insurers in respect of such risks arising from a flood as are identified by the scheme, in such a way as to—

(a) promote the availability and affordability of flood insurance for household premises while minimising the costs of doing so, and

(b) manage, over the period of operation of the scheme, the transition to risk-reflective pricing of flood insurance for household premises.

(3) The Secretary of State may by regulations make provision as to levels of reinsurance premiums payable by relevant insurers under the FR Scheme, and may make different provision for different purposes.

(4) Regulations under subsection (3) may, in particular, make different provision for different purposes by reference to the value of the household premises insured.

(5) In this section "flood insurance" means insurance in respect of risks arising from a flood.

(6) In this Part, the Flood Reinsurance Scheme is called "the FR Scheme".

Commencement Information

I118 S. 64 in force at 1.1.2015 by S.I. 2014/3320, **art. 4(a)**

65 Scheme administrator U.K.

(1) The FR Scheme is to be administered by a body designated by regulations made by the Secretary of State.

(2) The Secretary of State may under subsection (1) designate a company registered under the Companies Act 2006 or a body of another kind.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Water Act 2014 is up to date with all changes known to be in force on or before 20 June 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) View outstanding changes*

(3) In this Part, the body designated under subsection (1) is called "the FR Scheme administrator".

Commencement Information
I119 S. 65 in force at 1.1.2015 by S.I. 2014/3320, **art. 4(b)**

66 Scheme funding U.K.

(1) The Secretary of State may, with the consent of the Treasury, make regulations requiring relevant insurers to pay to the FR Scheme administrator—
  (a) a levy, the amount and timing of which is to be determined in accordance with the regulations;
  (b) such further amounts, by way of levy or contribution, as may be requested by the FR Scheme administrator from time to time in accordance with the FR Scheme.

(2) Regulations under subsection (1) may make provision as to—
  (a) the circumstances in which a request under subsection (1)(b) may be made;
  (b) the amounts that may be requested under subsection (1)(b).

(3) The Secretary of State may by regulations make provision for amounts payable under subsection (1) to be recoverable summarily (or in Scotland recoverable) as a civil debt.

(4) The Secretary of State may by regulations make provision as to the application of any amounts paid under subsection (1).

(5) The Secretary of State may by regulations provide that, where such conditions as are specified in the regulations as regards the reserves of the FR Scheme are satisfied, the FR Scheme administrator must pay to the Secretary of State an amount of the reserves to be determined in accordance with the regulations.

(6) Regulations under subsection (5) may—
  (a) define "reserves";
  (b) make provision about determining the amount of the reserves of the FR Scheme.

(7) Before making regulations under subsection (5), the Secretary of State must obtain the consent of the FR Scheme administrator, which is not to be unreasonably withheld.

Commencement Information
I120 S. 66 in force at 1.1.2015 by S.I. 2014/3320, **art. 4(c)**

67 Scheme administration U.K.

(1) The Secretary of State may by regulations make provision in connection with the administration of the FR Scheme.

(2) Regulations under subsection (1) may require the FR Scheme administrator to have regard to the following in discharging its functions—

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Water Act 2014 is up to date with all changes known to be in force on or before 20 June 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) View outstanding changes*

(a) the need to ensure economy, efficiency and effectiveness in the discharge of those functions,

(b) the need to act in the public interest,

(c) the need to ensure propriety and regularity in the operation of the FR Scheme, and

(d) the need to manage, over the period of operation of the FR Scheme, the transition to risk-reflective pricing of flood insurance for household premises.

(3) Regulations under subsection (1) may require the FR Scheme administrator to produce and publish, in accordance with the regulations, a plan for achieving the transition mentioned in subsection (2)(d).

(4) Regulations under subsection (1) may require the FR Scheme administrator to provide the following information to relevant insurers who have issued insurance policies that are reinsured under the FR Scheme, so that those insurers may supply the information to holders of those policies—

(a) information about how to find out about the levels of flood risk to which an area in which household premises are situated is subject and how any flood risk may be managed;

(b) information about the FR Scheme, including information about the effect of section 64(2)(b) (transition to risk-reflective pricing of flood insurance for household premises).

(5) Regulations under subsection (1) may—

(a) limit, to any extent, the power of the FR Scheme administrator to borrow money or otherwise incur debt;

(b) make provision about the reserves of the FR Scheme, including limitations on draw downs and transfers;

(c) require the FR Scheme administrator to take steps to limit the overall net losses that may be incurred by the FR Scheme in any year to an amount specified in or determined in accordance with the regulations;

(d) provide for the form and contents of the FR Scheme's accounts;

(e) provide for a copy of the audited FR Scheme's accounts and a copy of the auditor's report on those accounts to be laid before Parliament;

(f) provide for the Comptroller and Auditor General to examine—

(i) the economy, efficiency and effectiveness with which the FR Scheme administrator has used resources in discharging its functions, and

(ii) the propriety and regularity in the operation of the FR Scheme,

and for a report on any such examination to be laid before Parliament;

(g) provide that for the purposes of an examination under paragraph (f)—

(i) the Comptroller and Auditor General is to have a right of access at all reasonable times to any of the documents relating to the FR Scheme, and

(ii) a person who holds or has control of any of those documents is to give the Comptroller and Auditor General any assistance, information or explanation which the Comptroller and Auditor General requires in relation to any of those documents.

(6) Regulations under subsection (1) may—

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(a) require the FR Scheme administrator to designate an individual of a description specified in the regulations as the responsible officer of the FR Scheme;

(b) provide for the responsible officer to have such responsibilities in respect of—

(i) the FR Scheme's finances,

(ii) the FR Scheme's accounts,

(iii) accountability to Parliament for the economy, efficiency and effectiveness with which the FR Scheme uses resources in discharging its functions,

(iv) accountability to Parliament for propriety and regularity in the operation of the FR Scheme, and

(v) examinations and reports under subsection (5)(f),

as are specified in the regulations.

(7) Regulations under subsection (1) may make provision about the disclosure of information required for the purposes of the FR Scheme and may, in particular, require relevant insurers to supply to the FR Scheme administrator such information as it may request in relation to insurance policies issued by them.

(8) Regulations under subsection (1) may provide for the supply by the FR Scheme administrator of information held by it in connection with the FR Scheme to—

(a) the Environment Agency,

(b) the Scottish Environment Protection Agency,

(c) the Natural Resources Body for Wales,

(d) the Department of Agriculture and Rural Development in Northern Ireland, or

(e) such other body as may be specified in the regulations.

(9) Regulations under subsection (1) may provide for the supply by the FR Scheme administrator of information held by it in connection with the FR Scheme to the Secretary of State for purposes relating to government accounting.

(10) Subsections (2) to (9) are not exhaustive of what may be done under subsection (1).

(11) In this section—

"flood insurance" has the meaning given in section 64;

"the FR Scheme's accounts" means the accounts for a financial year of the FR Scheme prepared by the FR Scheme administrator in respect of the FR Scheme.

Commencement Information

I121 S. 67 in force at 1.1.2015 by S.I. 2014/3320, **art. 4(d)**

68 Replacement of the scheme or administrator U.K.

(1) Where regulations under section 64 replace the FR Scheme by revoking a designation and making a new designation, the regulations may make such provision as the Secretary of State thinks fit in connection with the replacement of the old FR scheme with the new FR scheme.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Water Act 2014 is up to date with all changes known to be in force on or before 20 June 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) View outstanding changes*

(2) Where regulations under section 65 replace the FR Scheme administrator by revoking a designation and making a new designation, the regulations may make provision for the transfer of property, rights and liabilities (whether or not otherwise capable of being transferred, and including pension liabilities in respect of staff) relating to the FR Scheme from the old administrator to the new administrator.

Commencement Information

I122 S. 68 in force at 1.1.2015 by S.I. 2014/3320, **art. 4(e)**

69 Disclosure of HMRC council tax information U.K.

(1) The Commissioners for Her Majesty's Revenue and Customs may disclose relevant HMRC council tax information to any person who requires that information for either of the following descriptions of purposes—

(a) purposes connected with such scheme as may be established and designated in accordance with section 64 (in any case arising before any scheme is so designated);

(b) purposes connected with the FR Scheme (in any case arising after the designation of a scheme in accordance with section 64).

(2) A person to whom information is disclosed under subsection (1)(a) or (b)—

(a) may use the information only for the purposes mentioned in subsection (1)(a) or (b), as the case may be;

(b) may not further disclose the information except with the consent of the Commissioners.

(3) In this section—

"HMRC council tax information" means information which is held for council tax purposes by the Valuation Office of Her Majesty's Revenue and Customs;

"relevant HMRC council tax information" means HMRC council tax information relating to premises which are household premises and consisting of any of the following—

(a) the address (including the postcode) of the premises;

(b) the council tax valuation band in which the premises fall;

(c) information about when the premises were constructed;

(d) the National [F1Address] Gazetteer unique property reference number for the premises;

(e) the unique address reference number allocated to the premises by the Valuation Office of Her Majesty's Revenue and Customs.

(4) The Secretary of State may by regulations amend the definition of "relevant HMRC council tax information" in subsection (3).

(5) If the Secretary of State by regulations under subsection (4) amends the definition of "relevant HMRC council tax information" to add further descriptions of information, those regulations may include the provision described in subsection (6).

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Water Act 2014 is up to date with all changes known to be in force on or before 20 June 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) View outstanding changes*

(6) The regulations may provide that if a person discloses, in contravention of subsection (2)(b), information which is relevant HMRC council tax information by virtue of the regulations and which relates to a person whose identity—

(a) is specified in the disclosure, or

(b) can be deduced from it,

section 19 of the Commissioners for Revenue and Customs Act 2005 (wrongful disclosure) applies in relation to that disclosure as it applies in relation to a disclosure, in contravention of section 20(9) of that Act, of revenue and customs information relating to a person whose identity is specified in the disclosure or can be deduced from it.

(7) The Secretary of State must consult the Commissioners for Her Majesty's Revenue and Customs before making regulations under subsection (4).

Textual Amendments

F1 Word in s. 69(3)(d) substituted (11.11.2015) by The Flood Reinsurance (Scheme Funding and Administration) Regulations 2015 (S.I. 2015/1902), regs. 1(b), **29**

Commencement Information

I123 S. 69 in force at 1.1.2015 in so far as not already in force by S.I. 2014/3320, **art. 4(f)**

PROSPECTIVE

Flood insurance obligations

70 Flood insurance obligations **U.K.**

(1) The Secretary of State may by regulations require a relevant insurer to issue in a prescribed period insurance policies that provide cover against a prescribed description of risk for a prescribed number of registered premises.

(2) The regulations may prescribe different numbers of registered premises for different descriptions of risk.

(3) The descriptions of risks that may be prescribed are those arising from a flood.

(4) The regulations may provide for a prescribed number relating to a relevant insurer to be determined by reference to factors that include in particular—

(a) a target number (see section 71);

(b) the relevant insurer's share of insurance business of a prescribed description.

(5) The regulations may—

(a) make provision about determining the size of a relevant insurer's share of insurance business of a prescribed description;

(b) provide for a relevant insurer to be exempt from the obligation described in subsection (1) in prescribed circumstances, whether wholly or so far as regards a particular description of risk, including circumstances relating to the amount of insurance business done by the relevant insurer;

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(c) make provision about the circumstances in which a relevant insurer ceases to be subject to the obligation described in subsection (1), whether wholly or so far as regards a particular description of risk;

(d) make provision about the cases in which issuing an insurance policy is not to count towards discharging an obligation imposed on a relevant insurer by the regulations, including cases in which an insurance policy is not to count because of the content of its terms;

(e) make provision for allowing an insurance policy issued by another insurer to count towards the discharge of an obligation to issue a number of insurance policies imposed on a relevant insurer by the regulations;

(f) make provision about determining the number of registered premises for which a relevant insurer has issued insurance policies, including provision for varying, by reference to the risk band applicable to the particular registered premises, the extent to which insuring those premises counts in determining that number.

(6) Provision under subsection (5)(a) may require an insurer, in determining the insurer's share of insurance business of a prescribed description, to use information about that insurance business held by—

(a) the Secretary of State,

(b) a person acting on behalf of the Secretary of State, or

(c) the FCA.

(7) Subsection (5)(e) is not to be taken as requiring a change in the person who is the insurer in relation to an insurance policy.

(8) Regulations under this section may include provision in respect of cases where an insurer has not provided such information as is required by regulations under section 72 including—

(a) provision for determining whether the insurer is a relevant insurer,

(b) provision for determining whether an exemption applies, and

(c) provision for determining what share of insurance business of a prescribed description the insurer is to be treated as having.

(9) Before making regulations under this section, the Secretary of State must consult such persons as the Secretary of State considers appropriate.

(10) In this section "prescribed" means specified in or determined in accordance with regulations under this section.

71 Target number U.K.

(1) The Secretary of State may, from time to time, by regulations prescribe a number to be a target number for the purposes of regulations under section 70.

(2) A target number is the number of registered premises to be covered against a prescribed description of risk by insurance policies issued in a prescribed period by those relevant insurers upon whom obligations are imposed by regulations under section 70.

(3) The regulations may prescribe different target numbers for different descriptions of risk.

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Changes to legislation: *Water Act 2014 is up to date with all changes known to be in force on or before 20 June 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) View outstanding changes*

(4) The regulations may in particular provide for a target number to be expressed as a percentage of the number of registered premises.

(5) The regulations may, at any one time, prescribe target numbers for two or more consecutive prescribed periods.

(6) In this section "prescribed" means specified in or determined in accordance with regulations under this section.

72 Information **U.K.**

(1) The Secretary of State may by regulations make provision about—
  (a) the provision of information, and
  (b) the production of documents,
by insurers for the purposes of regulations under section 70.

(2) The regulations may in particular require an insurer to provide information of a prescribed description or produce documents of a prescribed description for the purpose of showing, in relation to a prescribed period—
  (a) whether or not an insurer is a relevant insurer;
  (b) whether or not an exemption applies (see section 70(5)(b)).

(3) The regulations may in particular require an insurer to provide information or produce documents about—
  (a) the insurance policies issued by it in a prescribed period that provide cover against prescribed descriptions of risk;
  (b) the value of the insurance policies so issued;
  (c) insurance policies so issued that do not remain in force to the end of the period of cover;
  (d) the value of such insurance policies.

(4) The regulations may provide for information to be provided or documents to be produced to the Secretary of State or a person acting on behalf of the Secretary of State.

(5) The regulations may make provision—
  (a) about the time within which information must be provided or documents produced;
  (b) about the form in which information is to be provided;
  (c) about the place where documents are to be produced;
  (d) requiring information to be verified in a prescribed manner;
  (e) requiring documents to be authenticated in a prescribed manner.

(6) The regulations may make provision about—
  (a) the persons to whom, and the purposes for which, information supplied by an insurer may be disclosed;
  (b) the publication of information by the Secretary of State about the amount of insurance business of a prescribed description done by insurers, taken together.

(7) In this section "prescribed" means specified in or determined in accordance with regulations under this section.

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Changes to legislation: *Water Act 2014 is up to date with all changes known to be in force on or before 20 June 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) View outstanding changes*

73 Section 72: further provision U.K.

(1) The Secretary of State may by regulations make provision for and in connection with enforcing compliance with obligations imposed by regulations under section 72.

(2) The regulations may in particular include—
- (a) provision about the sanctions, including civil penalties, that may be imposed by the Secretary of State or a person acting on behalf of the Secretary of State for non-compliance with the obligations;
- (b) provision about the procedure to be followed when imposing a sanction;
- (c) provision about the recovery of costs incurred in connection with imposing a sanction up to the time of its imposition;
- (d) provision enabling an appeal to the First-tier Tribunal against the imposition of a sanction or a requirement to pay costs.

(3) Provision under subsection (2)(a) may in particular include—
- (a) provision for civil penalties of a fixed amount;
- (b) provision for further amounts to be payable by way of civil penalty where an insurer continues to fail to comply with the obligation in question;
- (c) provision about how a civil penalty or an amount of costs may be recovered.

(4) Provision under subsection (2)(d) may include provision as to the grounds on which an appeal may be made.

74 Register of premises subject to greater flood risk U.K.

(1) The Secretary of State may by regulations provide for the creation and maintenance of a register of household premises in the United Kingdom that are subject to greater flood risk for the purposes of regulations under section 70.

(2) The regulations may provide for the levels of flood risk to which premises are subject to be divided into two or more bands ("risk bands"), and may prescribe the upper and lower limits of each band.

(3) The regulations may provide for the register to specify the level of flood risk to which particular household premises are subject by specifying the risk band applicable to the premises.

(4) The regulations may provide for premises of a description specified in the regulations to be excluded from the register, and the premises excluded may include in particular premises where construction is completed on or after a date specified in the regulations.

(5) The regulations may—
- (a) specify the information to be contained in the register;
- (b) make provision about access to the information contained in the register;
- (c) provide for the publication of the register in whole or in part;
- (d) provide for the disclosure of information contained in the register;
- (e) provide for notification if premises are entered in, or omitted from, the register.

(6) Regulations made under subsection (5)(d) may provide for—
- (a) the persons to whom information or any description of information contained in the register may be disclosed;

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(b) the imposition of conditions on persons to whom information contained in the register is disclosed, including conditions limiting further disclosure;

(c) penalties for non-compliance with conditions imposed under paragraph (b).

(7) The regulations may require applications for premises to be entered in the register to be made by or on behalf of a person who has the qualifying interest in the premises.

(8) The regulations may provide for premises to be omitted from the register at the request of a person who has the qualifying interest in the premises.

(9) Before making regulations under this section the Secretary of State must consult—

(a) the Welsh Ministers;

(b) the Scottish Ministers;

(c) the Department of Agriculture and Rural Development in Northern Ireland.

75 Functions of relevant bodies U.K.

(1) Regulations under section 74 may provide for a relevant body to carry out functions in connection with—

(a) the creation and maintenance of the register;

(b) giving access to information contained in the register;

(c) publication of the register;

(d) disclosure of information contained in the register;

(e) notification when premises are entered in, or omitted from, the register.

(2) The following are relevant bodies for the purposes of this Part—

(a) the Environment Agency;

(b) the Scottish Environment Protection Agency, in relation to Scotland;

(c) the Natural Resources Body for Wales, in relation to Wales;

(d) the Department of Agriculture and Rural Development in Northern Ireland, in relation to Northern Ireland.

(3) The regulations may provide for the Environment Agency—

(a) to coordinate the carrying out of functions conferred or imposed under subsection (1);

(b) to promote consistency in the carrying out of those functions.

(4) The regulations may—

(a) require the relevant bodies to cooperate with each other as regards the functions conferred or imposed on any of them under subsection (1);

(b) require the relevant bodies (other than the Environment Agency) to cooperate with the Environment Agency as regards the carrying out of functions conferred or imposed on the Environment Agency under subsection (3).

(5) Regulations under section 74 may provide for the Commissioners for Her Majesty's Revenue and Customs, or a person authorised by them, to disclose information held for council tax purposes by the Valuation Office to—

(a) the Environment Agency, or

(b) the Natural Resources Body for Wales,

for use in identifying premises to be excluded from the register by reference to the date of completion of construction (see section 74(4)).

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Changes to legislation: *Water Act 2014 is up to date with all changes known to be in force on or before 20 June 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) View outstanding changes*

(6) The regulations may include provision restricting the use or further disclosure of information disclosed under subsection (5).

76 Reviews and appeals U.K.

(1) Regulations under section 74 may make provision for a person with the qualifying interest in particular premises—
  (a) to request a review of a decision by a relevant body that the premises are not eligible to be entered in the register;
  (b) to appeal against a decision by a relevant body that the premises are not eligible to be entered in the register to—
    (i) the sheriff, in relation to Scotland,
    (ii) the Water Appeals Commission for Northern Ireland, in relation to Northern Ireland, or
    (iii) the First-tier Tribunal, in any other case.

(2) For "relevant body", see section 75(2).

77 Expenses of relevant bodies U.K.

(1) The Secretary of State may, with the consent of the Treasury, by regulations provide for a levy to be payable to the Secretary of State by insurers of a description specified in the regulations.

(2) The regulations may—
  (a) specify the rate of the levy or the method by which it is to be calculated;
  (b) make provision as to the times when, and the manner in which, payments are to be made in respect of the levy.

(3) The regulations may in particular make provision for determining the amount of the levy by reference to the qualifying expenses of the relevant bodies and the Secretary of State.

(4) The regulations may make provision for amounts payable by way of levy under the regulations to be recoverable summarily (or in Scotland recoverable) as a civil debt.

(5) Before making regulations under this section the Secretary of State must consult—
  (a) the Welsh Ministers;
  (b) the Scottish Ministers;
  (c) the Department of Agriculture and Rural Development in Northern Ireland.

(6) In this section "qualifying expenses" means—
  (a) in relation to a relevant body, such proportion of the expenses of the relevant body as the Secretary of State considers reasonable having regard to the functions exercisable by that body under regulations under section 74;
  (b) in relation to the Secretary of State, the expenses of the Secretary of State attributable to the exercise of functions conferred by or under this section.

(7) For "relevant body", see section 75(2).

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78 Compliance reports U.K.

(1) The Secretary of State may by regulations make provision about reporting compliance with obligations imposed by regulations under section 70.

(2) The regulations may require a relevant insurer to make a report—
  (a) stating the extent to which it has complied with obligations imposed on it by regulations under section 70 in relation to a prescribed period;
  (b) providing prescribed details about the basis on which it considers that it has complied with those obligations to that extent.

(3) The regulations may provide for reports to be given to the FCA.

(4) In this section "prescribed" means specified in or determined in accordance with regulations under this section.

79 Functions of the FCA U.K.

(1) The Treasury may by regulations provide for the FCA to take action for monitoring and enforcing compliance with—
  (a) such of the obligations imposed on relevant insurers by regulations under section 70 or 78 as may be specified in the regulations;
  (b) such description of those obligations as may be specified in the regulations.

(2) The regulations may provide for the FCA to take action for enforcing compliance with—
  (a) such of the obligations imposed on insurers by regulations under section 72 as may be specified in the regulations;
  (b) such description of those obligations as may be specified in the regulations.

(3) Regulations under subsection (2) may only provide for the FCA to take action as regards cases where—
  (a) the failure to comply, if proved, would consist in or involve providing information that is not true or producing a document that is not correct, or
  (b) measures available under section 73 have been taken without securing compliance.

(4) The regulations may apply, or make provision corresponding to, any of the provisions of the Financial Services and Markets Act 2000 or the Financial Services Act 2012, with or without modification.

(5) The provisions of the Financial Services and Markets Act 2000 and the Financial Services Act 2012 referred to in subsection (4) include in particular—
  (a) provisions about gathering information and investigating, including provisions as to powers of entry and search;
  (b) provisions as to criminal offences and disciplinary measures;
  (c) provisions for the grant of an injunction in relation to a contravention or anticipated contravention;
  (d) provisions giving the Treasury or the FCA powers to make subordinate legislation;
  (e) provisions for the FCA to charge fees;
  (f) provisions restricting liability in damages in relation to the discharge of functions of the FCA.

Status: *This version of this Act contains provisions that are prospective.*
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(6) The regulations may make provision enabling the FCA, to such extent as the regulations may prescribe, to make arrangements for the performance of functions on its behalf.

80 Reports by the FCA U.K.

(1) The Treasury may by regulations provide for the FCA to prepare reports on its discharge of the functions conferred on it under section 79.

(2) The regulations may—
- (a) make provision about the contents of the reports;
- (b) make provision about the timing of the reports;
- (c) provide for copies of the report to be given to the Secretary of State and such other persons as the regulations may specify;
- (d) provide for publication of the reports.

81 Intervention by the FCA or the PRA U.K.

(1) The Treasury may by regulations confer on a regulator the power to disapply or modify, in relation to a relevant insurer, an obligation imposed by regulations under—
- (a) section 70 (flood insurance obligations),
- (b) section 72 (information), or
- (c) section 78 (compliance reports).

(2) In this section "the intervention power" means the power conferred by regulations under subsection (1).

(3) The regulations may specify which obligations, or which descriptions of obligations, a regulator may disapply or modify under the intervention power.

(4) The regulations may specify what modifications, or what descriptions of modifications, may be made by a regulator under the intervention power.

(5) The regulations may specify the circumstances in which, and the conditions subject to which, a regulator may exercise the intervention power.

(6) Provision under subsection (5) may in particular provide for a regulator to exercise the intervention power in relation to a relevant insurer—
- (a) where the relevant insurer is failing, or is likely to fail, to satisfy the threshold conditions for which the regulator is responsible,
- (b) in connection with advancing—
  - (i) if the regulator is the FCA, one or more of the FCA's operational objectives, or
  - (ii) if the regulator is the PRA, one or more of the PRA's objectives,
- (c) in conjunction with the exercise by the regulator, in respect of the relevant insurer, of a power that is conferred on the regulator by or under an enactment and is specified in the regulations, or
- (d) at the request of, or for the purpose of assisting, an overseas regulator of a kind specified in the regulations.

(7) The regulations may—

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(a) make provision about the procedure to be followed when exercising the intervention power, including provision about consulting such persons as may be specified in the regulations about a proposed exercise of the power;

(b) make provision requiring a regulator to give a relevant insurer notice in writing specifying how the intervention power has been exercised in relation to that relevant insurer;

(c) make provision about when an exercise of the intervention power takes effect;

(d) make provision about the period for which a provision of regulations may be disapplied or modified under the intervention power, including—

(i) provision enabling a regulator to specify the period for which a provision of regulations is disapplied or modified;

(ii) provision for disapplying or modifying a provision of regulations until a regulator provides for it to apply again or to apply again without modification;

(e) make provision requiring a regulator—

(i) to send copies of a notice under paragraph (b) to the Secretary of State and such other persons as may be specified in the regulations;

(ii) to notify such persons as may be specified in the regulations of the exercise of the intervention power;

(f) make provision requiring a regulator to publish such details about the exercise of the intervention power as may be specified in the regulations;

(g) make provision requiring a regulator to keep under review each case in which a provision of regulations is disapplied or modified;

(h) make provision about the matters to which a regulator is to have regard in exercising its functions under the regulations.

(8) Provision under subsection (7)(e) or (f) may allow for the omission of information publication of which would in the opinion of the regulator be against the public interest.

(9) The intervention power may be exercised in respect of an obligation imposed by regulations under section 70(1) only so as to disapply the obligation (and not so as to modify it).

(10) The regulations may apply, or make provision corresponding to, any of the provisions of the Financial Services and Markets Act 2000 or the Financial Services Act 2012, with or without modification.

(11) The provisions of the Financial Services and Markets Act 2000 or the Financial Services Act 2012 referred to in subsection (10) include in particular—

(a) provisions about gathering information and investigating, including provisions as to powers of entry and search;

(b) provisions as to criminal offences and disciplinary measures;

(c) provisions for the grant of an injunction in relation to a contravention or anticipated contravention;

(d) provisions giving the Treasury, the FCA or the PRA powers to make subordinate legislation;

(e) provisions for the FCA or the PRA to charge fees;

(f) provisions restricting liability in damages in relation to the discharge of functions of the FCA or the PRA.

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(12) In this section "regulator" means the FCA or the PRA.

(13) For—

"objective of the PRA", see section 2F of the Financial Services and Markets Act 2000;

"operational objective of the FCA", see section 1B(3) of that Act;

"overseas regulator", see section 55Q of that Act;

"threshold condition", see section 55B of that Act.

General

82 Interpretation **U.K.**

(1) In this Part "insurer" means—

(a) a person who—

(i) is authorised for the purposes of the Financial Services and Markets Act 2000 (see section 31 of that Act), and

(ii) has permission to carry on the activities specified in Article 10 of the Financial Services and Markets (Regulated Activities) Order 2001 (S.I. 2001/544), or

(b) a member of the Society (within the meaning of the Lloyd's Act 1982).

(2) The Secretary of State may by regulations amend the definition of "insurer" in subsection (1).

(3) The Secretary of State may by regulations define "relevant insurer" for the purposes of this Part.

(4) Before making regulations under subsection (3) as to the meaning of "relevant insurer", the Secretary of State must consult such persons as the Secretary of State thinks appropriate.

(5) The Secretary of State may by regulations define for the purposes of sections 64 to 69—

"flood";

"flood risk";

"household premises".

(6) The Secretary of State may by regulations define for the purposes of sections 70 to 81—

"flood";

"flood risk";

"greater flood risk";

"household premises";

"insurance policy";

"issue", in relation to an insurance policy;

"the qualifying interest", in relation to household premises.

(7) Regulations under subsection (5) or (6) as to the meaning of "flood" may specify descriptions of water that are, or are not, to be taken into account.

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(8) In sections 70 to 81—

"the FCA" means the Financial Conduct Authority;

"the PRA" means the Prudential Regulation Authority;

"registered premises" means premises registered in the register maintained under section 74;

"risk band" has the meaning given by section 74(2).

Commencement Information

I124 S. 82(1)-(5) in force at 1.1.2015 by S.I. 2014/3320, **art. 4(g)(i)**

I125 S. 82(7) in force at 1.1.2015 for specified purposes by S.I. 2014/3320, **art. 4(g)(ii)**

83 Period of operation U.K.

(1) Sections 64 to 81 are repealed at the end of the period of 25 years beginning with the day on which this Act is passed.

(2) The Secretary of State may by order amend subsection (1) so as to bring forward the day on which—

(a) sections 64 to 69 are repealed;

(b) sections 70 to 78 are repealed.

(3) The Secretary of State may by order make provision in connection with—

(a) the repeal of—

(i) sections 64 to 69, or

(ii) sections 70 to 78, or

(b) the revocation of a scheme's designation under section 64(1)(b) without a new designation being made under that provision, at any time before sections 64 to 69 are repealed,

including provision amending or repealing an enactment.

(4) Provision made in an order by virtue of subsection (3) may, in particular, include—

(a) such provision for the transfer of property, rights and liabilities (whether or not otherwise capable of being transferred, and including pension liabilities in respect of staff) relating to the FR Scheme as the Secretary of State thinks fit;

(b) provision about legal proceedings relating to anything done in connection with the FR Scheme;

(c) provision about the accounts of the FR Scheme;

(d) provision about information held by the FR Scheme administrator.

(5) Before making an order under subsection (3)(a)(i) or (b) which includes provision for the transfer of an amount of the reserves of the FR Scheme, the Secretary of State must consult the FR Scheme administrator about the amount to be transferred.

(6) The Secretary of State may by regulations define "reserves" for the purposes of subsection (5).

(7) The Treasury may by order amend subsection (1) so as to bring forward the day on which sections 79 to 81 are repealed.

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(8) The Treasury may by order make provision in consequence of the repeal of sections 79 to 81, including provision amending or repealing an enactment.

Commencement Information

I126 S. 83 in force at 1.1.2015 by S.I. 2014/3320, **art. 4(h)**

84 Regulations and orders U.K.

(1) A power to make regulations or an order under this Part is exercisable by statutory instrument.

(2) Subsection (1) does not apply in relation to an order under section 83(3) if the only provision made by the order is provision for, or in connection with, the transfer of property, rights and liabilities.

(3) A power to make regulations or an order under this Part includes power to make different provision for different purposes and different areas.

(4) A power to make regulations or an order under this Part includes power to make incidental, supplementary, consequential, transitional or transitory provision or savings.

(5) Subject to subsection (6), a statutory instrument containing regulations or an order made under this Part is subject to annulment in pursuance of a resolution of either House of Parliament.

(6) A statutory instrument containing—

(a) regulations under section 64 (the Flood Reinsurance Scheme),
(b) regulations under section 65 (scheme administrator),
(c) regulations under section 66 (scheme funding),
(d) regulations under section 67 (scheme administration),
(e) regulations under section 69 (disclosure of HMRC council tax information),
(f) regulations under section 70 (flood insurance obligations),
(g) the first regulations to be made under section 71 (target number),
(h) regulations under section 72 or 73 (information),
(i) the first regulations to be made under section 74 (register of premises subject to greater flood risk),
(j) regulations under section 77 (expenses of relevant bodies),
(k) regulations under section 78 (compliance reports),
(l) regulations under section 79 (functions of FCA),
(m) regulations under section 81 (intervention by FCA or PRA),
(n) regulations under section 82 (interpretation), or
(o) an order under section 83 (period of operation),

may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

(7) If a draft of an instrument containing an order under section 83(3) would, apart from this subsection, be treated for the purposes of the Standing Orders of either House of

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Parliament as a hybrid instrument, it is to proceed in that House as if it were not a hybrid instrument.

Commencement Information

I127 S. 84 in force at 1.1.2015 by S.I. 2014/3320, **art. 4(i)**

PART 5 E+W

MISCELLANEOUS

85 Internal drainage boards: procedure for orders confirming reorganisation E+W

(1) Schedule 3 to the Land Drainage Act 1991 (procedure for certain orders) is amended as follows.

(2) In paragraph 4 (publication of order after it is made and availability of special parliamentary procedure), after sub-paragraph (1) there is inserted—

"(1A) But this paragraph does not apply to an order confirming a scheme under section 3 of this Act."

(3) In paragraph 5 (orders subject to special parliamentary procedure)—

(a) in sub-paragraph (1), for "this Schedule" there is substituted " paragraph 4 ";

(b) after sub-paragraph (3) there is inserted—

"(3A) But sub-paragraph (3) does not apply to an order confirming a scheme under section 3 of this Act."

86 Internal drainage boards in England: alternative procedure for byelaws E+W

(1) The Land Drainage Act 1991 is amended as follows.

(2) In section 65 (land drainage regulations), at the beginning of subsection (2) there is inserted "Subject to section 66A(4),".

(3) In section 66 (powers of internal drainage boards and local authorities to make byelaws), after subsection (5) (procedure) there is inserted—

"(5A) Subsection (5) is subject to section 66A(1)."

(4) After section 66 there is inserted—

"**66A Alternative procedure for byelaws made by internal drainage boards**

(1) The Secretary of State may by regulations —

(a) provide that section 66(5) and Schedule 5 do not apply to byelaws made under section 66 by internal drainage boards for internal drainage districts which are neither wholly nor partly in Wales, and

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(b) make provision about the procedure for the making and coming into force of such byelaws.

(2) The regulations may, in particular, include provision about—
(a) consultation to be undertaken before a byelaw is made;
(b) publicising a byelaw after it is made.

(3) The regulations may make such incidental, consequential, transitional or supplemental provision (including provision amending or repealing any provision of this Act) as the Secretary of State considers appropriate.

(4) Regulations may not be made under subsection (1) unless a draft of the instrument containing the regulations has been laid before, and approved by a resolution of, each House of Parliament."

87 Publication requirements under the Land Drainage Act 1991 E+W

Schedule 9 (amendments of the Land Drainage Act 1991 to remove certain restrictions on the way in which documents have to be published) has effect.

PROSPECTIVE

88 Sustainable drainage systems: non-performance bonds E+W

In Schedule 3 to the Flood and Water Management Act 2010 (sustainable drainage), in paragraph 12 (non-performance bonds), in sub-paragraph (4)(c)—
(a) after "sums received" there is inserted " from a person ";
(b) for "the developer" there is substituted " that person ".

PROSPECTIVE

89 Amendments relating to Regional Flood and Coastal Committees E+W

Schedule 10 (amendments relating to Regional Flood and Coastal Committees) has effect.

PART 6 U.K.

GENERAL AND FINAL

90 Power to make consequential provision U.K.

(1) The Secretary of State may by order made by statutory instrument make such provision as the Secretary of State considers appropriate in consequence of this Act.

(2) The power conferred by subsection (1) includes power—
(a) to make transitional, transitory or saving provision;

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(b) to amend, repeal, revoke or otherwise modify any provision made by or under an enactment (whenever passed or made).

(3) A statutory instrument containing (whether alone or with other provision) an order under this section which amends or repeals any provision of an Act of Parliament, or of an Act or Measure of the National Assembly for Wales, is not to be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

(4) A statutory instrument containing any other order under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

91 Transitional, transitory or saving provision U.K.

(1) The Secretary of State may by order made by statutory instrument make such transitional, transitory or saving provision as the Secretary of State considers appropriate in connection with the coming into force of any provision of this Act.

(2) Subsection (1) does not apply if or to the extent that subsection (3) or (4) applies.

(3) If a provision of this Act is brought into force to any extent by the Welsh Ministers acting alone under section 94(3), the Welsh Ministers may by order made by statutory instrument make such transitional, transitory or saving provision as the Welsh Ministers consider appropriate in connection with the coming into force of so much of that provision as is so brought into force.

(4) If a provision of this Act is brought into force to any extent by the Secretary of State and the Welsh Ministers acting jointly under section 94(3), the Secretary of State and the Welsh Ministers may, acting jointly, by order made by statutory instrument make such transitional, transitory or saving provision as they, together, consider appropriate in connection with the coming into force of so much of that provision as is so brought into force.

(5) Schedule 11 (further provision about orders under this section) has effect.

92 Financial provisions U.K.

There shall be paid out of money provided by Parliament—

(a) expenditure incurred under or by virtue of this Act by the Secretary of State;

(b) any increase attributable to this Act in the sums payable under any other Act out of money so provided.

93 Extent U.K.

(1) This Act extends to England and Wales only, subject as follows.

(2) Sections 61 and 62 and Schedule 8 extend also to Scotland, but only so far as required for the purposes of regulations applying as mentioned in section 61(11)(b).

(3) Part 4 and this Part extend to England and Wales, Scotland and Northern Ireland.

(4) An amendment or repeal made by this Act has the same extent as the enactment to which it relates.

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94 Commencement U.K.

(1) The following provisions of this Act come into force on the day on which it is passed—
- (a) section 69, so far as relating to the power to disclose information under section 69(1)(a);
- (b) section 90;
- (c) section 91 and Schedule 11;
- (d) sections 92 and 93;
- (e) this section and Schedule 12;
- (f) section 95.

(2) The following provisions of this Act come into force at the end of the period of two months beginning with the day on which it is passed—
- (a) section 3;
- (b) section 13;
- (c) section 15;
- (d) section 21;
- (e) section 22, so far as relating to water or sewerage undertakers whose areas are wholly or mainly in England;
- (f) section 25(3);
- (g) sections 26 to 28;
- (h) section 33;
- (i) section 34(1) and (2);
- (j) sections 35 and 36;
- (k) section 57;
- (l) section 58;
- (m) section 60;
- (n) sections 61 and 62 and Schedule 8;
- (o) section 63;
- (p) sections 85 to 87;
- (q) section 88;
- (r) section 89 and Schedule 10;
- (s) paragraph 8 of Schedule 7 (and section 56 so far as relating to paragraph 8);
- (t) paragraph 107 of Schedule 7 (and section 56 so far as relating to paragraph 107).

(3) The remaining provisions of this Act come into force on such day as the appropriate authority may by order appoint.

(4) The power of the Secretary of State or the Welsh Ministers to make an order under subsection (3) is to be exercisable by statutory instrument.

(5) Different days may be appointed for different purposes.

(6) Except as stated in the table in Schedule 12, the appropriate authority for the purposes of subsection (3) is the Secretary of State.

95 Short title U.K.

This Act may be cited as the Water Act 2014.

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SCHEDULES

SCHEDULE 1 E+W

Section 1

WATER SUPPLY LICENCES: AUTHORISATIONS

Commencement Information
I128 Sch. 1 in force at 1.1.2016 by S.I. 2015/1938, **art. 3(d)**

"SCHEDULE 2A E+W

WATER SUPPLY LICENCES: AUTHORISATIONS

Operation of the authorisations in England and Wales

1 In the descriptions of the following authorisations, a reference to the supply system of a water undertaker is a reference to the supply system of a water undertaker whose area is wholly or mainly in England—
(a) a retail authorisation;
(b) a wholesale authorisation.

2 In the descriptions of the following authorisations, a reference to the supply system of a water undertaker is a reference to the supply system of a water undertaker whose area is wholly or mainly in Wales—
(a) a restricted retail authorisation;
(b) a supplementary authorisation.

Retail authorisation

3 A retail authorisation given by a water supply licence is an authorisation to the water supply licensee to use the supply system of a water undertaker for the purpose of supplying water to the premises of—
(a) the licensee,
(b) persons associated with the licensee, or
(c) the licensee's customers.

4 None of the premises supplied by a water supply licensee under a retail authorisation may be household premises (as defined in section 17C).

Wholesale authorisation

5 A wholesale authorisation given by a water supply licence is an authorisation to the water supply licensee to introduce water into the supply system of a water undertaker—
(a) by means of which system any particular supply in accordance with a retail authorisation (whether the licensee's or another water supply licensee's) is to take place, and

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(b) where that introduction is to be made in connection with that intended supply.

Restricted retail authorisation

6 A restricted retail authorisation given by a water supply licence is an authorisation to the water supply licensee to use the supply system of a water undertaker for the purpose of supplying water to the premises of the licensee's customers.

7 The following requirements must be satisfied in relation to each of the premises to be supplied by a water supply licensee under a restricted retail authorisation—

(a) the requirement that the premises are not household premises (as defined in section 17C);

(b) the threshold requirement (construed in accordance with section 17D).

Supplementary authorisation

8 A supplementary authorisation given by a water supply licence is an authorisation to the water supply licensee to introduce water into the supply system of a water undertaker—

(a) by means of which system any particular supply in accordance with the licensee's restricted retail authorisation is to take place, and

(b) where that introduction is to be made in connection with that intended supply.

Enforcement and guidance

9 The requirements in paragraphs 4 and 7 are enforceable by the Authority under section 18.

10 (1) The Authority may from time to time, with the approval of the Secretary of State, issue guidance as to the factors that are, or are not, to be taken into account in determining the extent of any premises for the purposes of paragraphs 4 and 7.

(2) Before giving approval under sub-paragraph (1) the Secretary of State must consult the Welsh Ministers.

Interpretation

11 For the purposes of this Schedule, a person (A) is associated with a water supply licensee (L) if—

(a) where A and L are bodies corporate, one of them is a subsidiary of the other or both are subsidiaries of the same body corporate;

(b) where A or L is an individual or an unincorporated association and the other is a body corporate, that individual or unincorporated association controls the other or a body corporate of which the other is a subsidiary;

(c) A is a partnership of which L is a member.

12 In paragraph 11 “subsidiary” has the meaning given by section 1159 of the Companies Act 2006; and sections 450(1) to (4) and 451(1) to (3) of the Corporation Taxes Act 2010 (control of a company) apply for the purposes of paragraph 11 as they apply for the purposes of Part 10 of that Act.””

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SCHEDULE 2 E+W

Section 1

WATER UNDERTAKERS' DUTIES AS REGARDS WATER SUPPLY LICENSEES

1 For sections 66A to 66C of the Water Industry Act 1991, and the Chapter heading and italic heading preceding section 66A, there is substituted—

"Supply duties etc: water supply licensees

Duties of undertakers to supply water supply licensees etc

66A Use of water undertaker's supply system

(1) This section applies where a water supply licensee with a retail authorisation ("L") requests a water undertaker to permit the use of the undertaker's supply system for the purpose of supplying water to premises that—
  (a) L is to supply in accordance with L's retail authorisation, and
  (b) are in the area of the undertaker.

(2) This section also applies where a water supply licensee with a restricted retail authorisation ("R") requests a water undertaker to permit the use of the undertaker's supply system for the purpose of supplying water to premises that—
  (a) R is to supply in accordance with R's restricted retail authorisation, and
  (b) are in the area of the undertaker.

(3) Where this section applies, the undertaker must in accordance with a section 66D agreement take such steps—
  (a) for the purpose of connecting the premises in question with the undertaker's supply system, or
  (b) in respect of that system,

  as may be provided for in that agreement in order to enable the requested use of the undertaker's supply system.

(4) A water undertaker is not required by this section to permit the use of its supply system, or to take any steps to enable its use, if the first or second ground applies.

(5) The first ground is that—
  (a) in the case of a request under subsection (1), the water supply licensee has not secured by means of—
    (i) a request under section 66AA(1) made by the licensee,
    (ii) a request under section 66B(1) or 66C(1), (2) or (3) made by the licensee or another water supply licensee, or
    (iii) a combination of such requests,

    a supply of water, or the introduction of a supply of water, in connection with which the premises in question are to be supplied;
  (b) in the case of a request under subsection (2), the water supply licensee has not secured by means of—
    (i) a request under section 66AA(2), 66B(2) or (3) or 66C(4), or

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(ii) a combination of such requests,

a supply of water, or the introduction of a supply of water, in connection with which the premises in question are to be supplied.

(6) The second ground is that there is, in relation to the water fittings used or to be used in connection with—

(a) the supply of water to the premises in question, or

(b) the use of water in those premises,

a contravention of such of the requirements of regulations under section 74 as are prescribed for the purposes of this subsection.

(7) Where—

(a) a request has been made by a water supply licensee for the purposes of subsection (1) or (2), and

(b) the steps which the undertaker is required to take by virtue of that request include steps for the purpose of obtaining any necessary authority for, or agreement to, any exercise by it of any of its powers or the carrying out by it of any works,

the failure of the undertaker to acquire the necessary authority or agreement does not affect the liability of the licensee to reimburse the undertaker in respect of some or all of the expenses incurred by it in taking those steps, if the section 66D agreement provides for such liability as regards those steps.

(8) For the purposes of this section and sections 66AA to 66C—

(a) premises which are outside a water undertaker's area are to be treated as being within that area if they are supplied with water using the undertaker's supply system, and

(b) any pipes of the water undertaker which are used for the purpose of supplying premises as mentioned in paragraph (a) are to be treated as being part of the undertaker's supply system (if they would not otherwise be part of it).

(9) In this section and sections 66AA to 66C—

(a) "prescribed" means, in relation to a water undertaker whose area is wholly or mainly in Wales, prescribed by regulations made by the Welsh Ministers by statutory instrument, which is subject to annulment in pursuance of a resolution of the Assembly;

(b) a reference to the supply system of a water undertaker is to be construed in accordance with section 17B;

(c) references to a retail authorisation or a restricted retail authorisation are to be construed in accordance with Schedule 2A.

66AA Water supply from water undertaker

(1) This section applies where a water supply licensee with a retail authorisation ("L") requests a water undertaker to provide L with a supply of water for the purpose of supplying water to premises that—

(a) L is to supply in accordance with L's retail authorisation, and

(b) are in the area of the undertaker.

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(2) This section also applies where a water supply licensee with a restricted retail authorisation ("R") requests a water undertaker to provide R with a supply of water for the purpose of supplying water to premises that—
  (a) R is to supply in accordance with R's restricted retail authorisation, and
  (b) are in the area of the undertaker.

(3) Where this section applies, the undertaker must in accordance with a section 66D agreement—
  (a) take such steps in respect of the undertaker's supply system as may be provided for in that agreement in order to enable the use of the undertaker's supply system for the purpose in subsection (1) or, as the case may be, subsection (2), and
  (b) having taken such steps, provide the requested supply of water.

(4) A water undertaker is not required by this section to provide a supply of water if both of the first and second grounds apply.

(5) The first ground is that—
  (a) the premises to be supplied by L or, as the case may be, R do not consist in the whole or any part of a building, or
  (b) the supply to be made by L or, as the case may be, R to those premises is for purposes other than domestic purposes.

(6) The second ground is that provision of a supply of water by the water undertaker 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).

(7) Where—
  (a) a request has been made by a water supply licensee for the purposes of subsection (1) or (2), and
  (b) the steps which the undertaker is required to take by virtue of that request include steps for the purpose of obtaining any necessary authority for, or agreement to, any exercise by it of any of its powers or the carrying out by it of any works,

  the failure of the undertaker to acquire the necessary authority or agreement does not affect the liability of the licensee to reimburse the undertaker in respect of some or all of the expenses incurred by it in taking those steps, if the section 66D agreement provides for such liability as regards those steps.

66B Introduction of water into water undertaker's supply system

(1) This section applies where—
  (a) a water supply licensee with a wholesale authorisation ("L") requests a water undertaker to permit L to introduce water into the undertaker's supply system, with a view to the use of that

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system, in connection with that introduction of water, to supply water to particular premises in accordance with a retail authorisation (whether L's or another's), and

(b) the premises in issue are in the area of the undertaker.

(2) This section also applies where—

(a) a water supply licensee with a supplementary authorisation ("R1") requests a water undertaker to permit R1 to introduce water into the undertaker's supply system, with a view to the use of that system, in connection with that introduction of water, to supply water to particular premises in accordance with R1's restricted retail authorisation, and

(b) the premises in issue are in the area of the undertaker.

(3) This section also applies where—

(a) a water undertaker agrees to permit a water supply licensee with a supplementary authorisation ("R2") to introduce water into the undertaker's treatment works,

(b) in connection with that introduction, R2 requests the undertaker to permit R2 to introduce water into the undertaker's supply system, with a view to the use of that system to supply water to particular premises in accordance with R2's restricted retail authorisation, and

(c) the premises in issue are in the area of the undertaker.

(4) Where this section applies, the undertaker must in accordance with a section 66D agreement—

(a) in a case falling within subsection (1), take such steps—

(i) for the purpose of connecting L's source of water with the undertaker's supply system, or

(ii) in respect of the undertaker's supply system,

as may be provided for in that agreement in order to enable L to make the requested introduction of water into the supply system;

(b) in a case falling within subsection (2), take such steps—

(i) for the purpose of connecting R1's treatment works with the undertaker's supply system,

(ii) for the purpose of connecting with the undertaker's supply system any source used by R1 for the purpose of supplying water other than for domestic or food purposes, or

(iii) in respect of the undertaker's supply system,

as may be provided for in that agreement in order to enable R1 to make the requested introduction of water into the supply system;

(c) in a case falling within subsection (3), take such steps in respect of the undertaker's supply system as may be provided for in that agreement in order to enable R2 to make the requested introduction of water into the supply system;

(d) having taken steps under paragraph (a), (b) or (c) (as the case may be), permit the requested introduction of water into that supply system.

(5) A water undertaker is not required by this section to permit the introduction of water into its supply system, or to take any steps to enable such an

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introduction of water, if permitting the introduction of water into the undertaker's supply system 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).

(6) Where—

(a) a request has been made by a water supply licensee for the purposes of subsection (1), (2) or (3), and

(b) the steps which the undertaker is required to take by virtue of that request include steps for the purpose of obtaining any necessary authority for, or agreement to, any exercise by it of any of its powers or the carrying out by it of any works,

the failure of the undertaker to acquire the necessary authority or agreement does not affect the liability of the licensee to reimburse the undertaker in respect of some or all of the expenses incurred by it in taking those steps, if the section 66D agreement provides for such liability as regards those steps.

(7) In this section "treatment works" means—

(a) in relation to a water undertaker whose area is wholly or mainly in Wales, the works designated as treatment works by the Secretary of State for the purposes of section 17B(6);

(b) in relation to a water supply licensee, the works designated from time to time by the Welsh Ministers as treatment works for the purposes of this paragraph.

(8) A list of any works designated for the purposes of subsection (7)(b) must be published from time to time by the Welsh Ministers in such manner as the Welsh Ministers consider appropriate for the purpose of bringing the designations to the attention of persons likely to be affected by them.

(9) A pipe laid because of subsection (4)(a)(i) or (b)(i) or (ii) is to be regarded as a water main for the purposes of this Act, subject to any provision to the contrary.

(10) In this section and section 66C—

(a) a reference to a wholesale authorisation is to be construed in accordance with Schedule 2A;

(b) a reference to a supplementary authorisation is to be construed in accordance with Schedule 2A.

66C Introduction of water provided by secondary water undertaker

(1) This section applies where a water supply licensee with a wholesale authorisation ("L1")—

(a) requests a water undertaker other than L1's primary water undertaker (the "secondary water undertaker") to provide a supply of water so that water may be supplied to particular premises, using the primary

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water undertaker's supply system and in accordance with a retail authorisation (whether L1's or another's), and

(b) requests L1's primary water undertaker to permit L1 to introduce that water into the primary water undertaker's supply system,

and the premises in issue are in the area of the primary water undertaker.

A request under paragraph (a) may only be made to a water undertaker whose area is wholly or mainly in England.

(2) This section also applies where a water supply licensee with a wholesale authorisation ("L2")—

(a) requests a water undertaker whose area is wholly or mainly in Wales and which is not L2's primary water undertaker (the "secondary water undertaker") to provide a supply of water so that L2 may supply water to particular premises, using the primary water undertaker's supply system and in accordance with L2's retail authorisation so far as that authorisation relates to L2's customers, and

(b) requests L2's primary water undertaker to permit L2 to introduce that water into the primary water undertaker's supply system,

and the premises in issue are in the area of the primary water undertaker.

(3) This section also applies where a water supply licensee with a wholesale authorisation ("L3")—

(a) agrees with a water undertaker whose area is wholly or mainly in Wales and which is not L3's primary undertaker (the "secondary water undertaker") for the secondary water undertaker to provide a supply of water so that water may be supplied to particular premises, using the primary water undertaker's supply system and in accordance with—

(i) L3's retail authorisation except so far as that authorisation relates to L3's customers, or

(ii) a retail authorisation other than L3's, and

(b) requests L3's primary water undertaker to permit L3 to introduce that water into the primary water undertaker's supply system,

and the premises in issue are in the area of the primary water undertaker.

(4) This section also applies where a water supply licensee with a supplementary authorisation ("R")—

(a) requests a water undertaker other than R's primary water undertaker (the "secondary water undertaker") to provide a supply of water so that R may supply water to particular premises, using the primary water undertaker's supply system and in accordance with R's restricted retail authorisation, and

(b) requests R's primary water undertaker to permit R to introduce that water into the primary water undertaker's supply system,

and the premises in issue are in the area of the primary water undertaker.

A request under paragraph (a) may be made to a water undertaker whose area is wholly or mainly in England or Wales.

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(5) Where this section applies by virtue of subsection (1), (2) or (4), the secondary water undertaker must in accordance with a section 66D agreement—

(a) take such steps in respect of its supply system as may be provided for in that agreement in order to enable it to provide the requested supply, and

(b) having taken such steps, provide that supply.

(6) Where this section applies, the primary water undertaker must in accordance with a section 66D agreement—

(a) take such steps—

(i) for the purpose of connecting the secondary water undertaker's supply system with the primary water undertaker's supply system, or

(ii) in respect of its supply system,

as may be provided for in that agreement in order to enable L1, L2, L3 or R to make the requested introduction of water into the primary undertaker's supply system, and

(b) having taken such steps, permit the requested introduction.

(7) A secondary water undertaker is not required by this section to provide a supply of water to L1, L2 or R if providing the supply of water would—

(a) require the secondary 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).

(8) A primary water undertaker is not required by this section to permit the introduction of water into its supply system, or to take any steps to enable such an introduction of water, if permitting the introduction of a supply of water would—

(a) require the primary 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).

(9) Where—

(a) a request has been made by a water supply licensee to a water undertaker for the purposes of subsection (1), (2), (3) or (4), and

(b) the steps which the undertaker is required to take by virtue of that request include steps for the purpose of obtaining any necessary authority for, or agreement to, any exercise by it of any of its powers or the carrying out by it of any works,

the failure of the undertaker to acquire the necessary authority or agreement does not affect the liability of the licensee to reimburse the undertaker in

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respect of some or all of the expenses incurred by it in taking those steps, if the section 66D agreement provides for such liability as regards those steps.

(10) A pipe laid because of subsection (6)(a)(i) is to be regarded as a water main for the purposes of this Act, subject to any provision to the contrary.

(11) For the purposes of this section, a water undertaker is the primary water undertaker of a water supply licensee if the undertaker's supply system is to be used for the purpose of making the supply to the premises mentioned in subsection (1), (2), (3) or (4).”

Commencement Information

I129 Sch. 2 para. 1 in force at 1.4.2017 for specified purposes by S.I. 2017/462, **art. 3(i)(i)** (with arts. 6-9, 12)

2 After section 66C (substituted by paragraph 1) there is inserted—

“**66CA Determinations by Authority**

(1) The Authority may determine, in a case referred to it by a water supply licensee, whether any condition specified in the following provisions is satisfied—
  (a) section 66A(5) and (6);
  (b) section 66AA(5) and (6);
  (c) section 66B(5);
  (d) section 66C(7) and (8).

(2) Before the Authority determines whether a condition specified in section 66B(5) is satisfied, it must consult the Secretary of State.

(3) If a determination as to a condition specified in section 66B(5) relates to the introduction of water into the supply system of a water undertaker whose area is wholly or mainly in Wales, the Authority must consult the Welsh Ministers, not the Secretary of State.

(4) Before the Authority determines whether a condition specified in section 66C(7) or (8) is satisfied, it must consult the Secretary of State and the appropriate agency.

(5) If the case in which a determination as to a condition specified in section 66C(7) or (8) is made relates to—
  (a) the supply of water by a water undertaker whose area is wholly or mainly in Wales, and
  (b) the introduction of water into the supply system of a water undertaker whose area is wholly or mainly in Wales,

  the Authority must consult the Welsh Ministers, not the Secretary of State.

(6) If the case in which a determination as to a condition specified in section 66C(7) or (8) is made relates to the supply of water by one water undertaker, and the introduction of water into the supply system of another water undertaker, and only one of those undertakers has an area wholly or mainly in Wales, the Authority must consult the Welsh Ministers as well as the Secretary of State.

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(7) In subsection (4), "the appropriate agency", in relation to a determination as to a condition specified in section 66C(7) or (8) relating to the supply of water by one water undertaker, and the introduction of water into the supply system of another water undertaker means—
(a) the Environment Agency, in a case where the areas of both undertakers are wholly in England;
(b) the NRBW, in a case where the areas of both undertakers are wholly in Wales;
(c) both the Environment Agency and the NRBW, in any other case."

Commencement Information
I130 Sch. 2 para. 2 in force at 1.4.2017 for specified purposes by S.I. 2017/462, **art. 3(i)(ii)**

3 For section 66D of the Water Industry Act 1991 (determinations and agreements) there is substituted—

"**66D Agreements as to duties under sections 66A to 66C**

(1) On the application of—
(a) a water supply licensee that has made a request under sections 66A to 66C, or
(b) a water undertaker to which such a request has been made,
the Authority may by order require a water undertaker to perform the duty in question under sections 66A to 66C, for such period and on such terms and conditions as may be specified in the order.

(2) The Authority may make an order under subsection (1) only if—
(a) in the case of an application relating to a duty under section 66A, 66AA, 66B or 66C, it appears to the Authority that the water undertaker is required to perform that duty under that section, or
(b) in the case of an application relating to duties under section 66C, it appears to the Authority that both water undertakers in question are required to perform duties under that section,
and it is satisfied that the parties cannot reach agreement within a reasonable time.

(3) An order under subsection (1) has effect as an agreement between—
(a) the water supply licensee, and
(b) the water undertaker required to perform the duty in question.

(4) On the application of a party to a section 66D agreement, and if the Authority is satisfied that the parties cannot reach agreement on the variation or termination of the agreement within a reasonable time, the Authority may by order vary or terminate the agreement.

(5) If an order under subsection (4) is made in relation to a section 66D agreement, the agreement—
(a) has effect subject to the provision made by the order, or
(b) ceases to have effect, as the case may be.

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(6) An order under subsection (4) may require one party to the agreement to pay compensation to the other.

(7) Neither the CMA nor the Authority may exercise, in respect of an agreement for the performance of a duty under sections 66A to 66C by a water undertaker, the powers conferred by—
  (a) section 32 of the Competition Act 1998 (directions in relation to agreements);
  (b) section 35(2) of that Act (interim directions).

(8) Subsection (7)(b) does not apply to the exercise of powers in respect of conduct—
  (a) which is connected with an agreement for the performance of a duty under sections 66A to 66C by a water undertaker, and
  (b) in respect of which section 35(1) of the Competition Act 1998 applies because of an investigation under section 25 of that Act relating to a suspected infringement of the Chapter 2 prohibition imposed by section 18(1) of that Act.

(9) In this Chapter a reference to a section 66D agreement is a reference to—
  (a) an agreement for the performance of a duty under sections 66A to 66C by a water undertaker, or
  (b) an order deemed to be such an agreement under subsection (3), or
  (c) an agreement varied by order under subsection (4).”

Commencement Information
I131 Sch. 2 para. 3 in force at 1.4.2017 by S.I. 2017/462, **art. 3(i)(iii)** (with arts. 6-9)

4 After section 66D of the Water Industry Act 1991 (as substituted by paragraph 3) there is inserted—

“**66DA Codes in respect of section 66D agreements**

(1) The Authority may issue one or more codes in respect of section 66D agreements.

(2) A code may make provision about—
  (a) procedures in connection with making a section 66D agreement;
  (b) procedures in connection with varying or terminating a section 66D agreement;
  (c) the terms and conditions of a section 66D agreement, including terms as to the duration of such an agreement;
  (d) principles for determining the terms and conditions that should or should not be incorporated into a section 66D agreement.

(3) A code may make provision about the steps to be taken by the Authority in determining for the purposes of section 66D(2) whether a water undertaker is, in the particular case, required to perform a duty under sections 66A to 66C.

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(4) If the Authority considers that a water undertaker or a water supply licensee is not acting as required by a code, the Authority may give the undertaker or the licensee a direction to do, or not to do, a thing specified in the direction.

(5) The Authority may not give a direction under subsection (4) requiring a person to enter into, vary or terminate an agreement.

(6) It is the duty of a water undertaker or a water supply licensee to comply with a direction under subsection (4), and this duty is enforceable by the Authority under section 18.

(7) A code may make—
- (a) different provision for different persons or descriptions of person;
- (b) different provision for different duties under sections 66A to 66C.

(8) The Authority may from time to time revise a code issued under this section and issue a revised code.

(9) A revised code may include provision for applying any of its revisions to section 66D agreements made before the revised code comes into effect.

66DB Codes under section 66DA: procedure

(1) Before issuing a code under section 66DA, the Authority must—
- (a) prepare a draft of the proposed code under section 66DA;
- (b) consult persons in accordance with subsections (2) to (4).

(2) If the proposed code relates to section 66D agreements made with water undertakers whose areas are wholly or mainly in England, the Authority must consult the following about the proposed code—
- (a) the Secretary of State;
- (b) the Chief Inspector of Drinking Water;
- (c) the appropriate agency;
- (d) the Council;
- (e) any relevant undertakers likely to be affected by the proposed code;
- (f) any water supply licensees likely to be affected by the proposed code;
- (g) such other persons as the Authority thinks appropriate.

(3) If the proposed code relates to section 66D agreements made with water undertakers whose areas are wholly or mainly in Wales, the Authority must consult the following about the proposed code—
- (a) the Welsh Ministers;
- (b) the Chief Inspector of Drinking Water for Wales if there is one, or the Chief Inspector of Drinking Water if section 86(1B)(b) applies;
- (c) the appropriate agency;
- (d) the Council;
- (e) any relevant undertakers likely to be affected by the proposed code;
- (f) any water supply licensees likely to be affected by the proposed code;
- (g) such other persons as the Authority thinks appropriate.

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(4) The Authority must specify the period ("the consultation period") within which a person may make representations about the proposed code.

(5) Before a code under section 66DA prepared by the Authority is issued, the Minister may direct the Authority—
  (a) not to issue the code, or
  (b) to issue the code with specified modifications.

(6) Subsection (5) is subject to subsections (8) and (9).

(7) In subsection (5) "the Minister" means—
  (a) the Secretary of State, so far as a code prepared by the Authority relates to section 66D agreements affecting only the supply systems of water undertakers whose areas are wholly or mainly in England;
  (b) the Welsh Ministers, so far as a code prepared by the Authority relates to section 66D agreements affecting only the supply systems of water undertakers whose areas are wholly or mainly in Wales;
  (c) the Secretary of State and the Welsh Ministers acting jointly, so far as a code prepared by the Authority relates to section 66D agreements not falling within paragraph (a) or (b).

(8) If the power under subsection (5) is exercised to give a direction in respect of such section 66D agreements as are referred to in paragraph (a), (b) or (c) of subsection (7), it may not be exercised again in respect of such section 66D agreements as are referred to in that paragraph.

(9) If the power under subsection (5) to give a direction in respect of such section 66D agreements as are referred to in paragraph (a), (b) or (c) of subsection (7) is not exercised on the first occasion on which it may be so exercised, it may not be exercised in respect of such section 66D agreements as are referred to in that paragraph on a later occasion.

(10) A direction under subsection (5) must be given within the period of 28 days beginning with the day after the end of the consultation period, and a code prepared by the Authority in relation to which a direction may be given may not be issued before that period of 28 days has expired.

(11) In this section "the appropriate agency" means—
  (a) the Environment Agency, in relation to section 66D agreements made with water undertakers whose areas are wholly in England;
  (b) the NRBW, in relation to section 66D agreements made with water undertakers whose areas are wholly in Wales;
  (c) both the Environment Agency and the NRBW, in relation to section 66D agreements made with water undertakers whose areas are partly in England and partly in Wales.

(12) This section is subject to section 66DC.

66DC Codes under section 66DA: minor or urgent revisions

(1) This section applies if the Authority proposes to issue a revised code and, in the view of the Authority, the revision or each of the revisions proposed to be made is—

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(a) a revision for which consultation is unnecessary, or
(b) a revision that it is necessary or desirable to make without delay.

(2) Section 66DB does not apply to the proposed revised code.

(3) Once the Authority has issued the revised code, it must give notice as soon as reasonably practicable of—
(a) the issuing of the revised code, and
(b) as regards each revision contained in it, whether in the view of the Authority the revision falls within paragraph (a) or (b) of subsection (1).

(4) Notice under subsection (3) is to be given to such persons as the Authority considers appropriate.

(5) Unless the Authority gives notice that a revision in a revised code is in the view of the Authority a revision falling within subsection (1)(a), the revision ceases to have effect at the end of the period of six months beginning with the day after that on which the revised code is issued."

Commencement Information

I132 Sch. 2 para. 4 in force at 1.9.2015 for specified purposes by S.I. 2015/773, **art. 3(c)** (with art. 5)
I133 Sch. 2 para. 4 in force at 1.9.2015 for specified purposes by S.I. 2015/1469, **art. 3(d)(i)** (with art. 5(1)(3)(5))
I134 Sch. 2 para. 4 in force at 1.4.2016 for specified purposes by S.I. 2016/465, **art. 2(j)(i)** (with Sch. 2)
I135 Sch. 2 para. 4 in force at 30.3.2017 in so far as not already in force by S.I. 2017/462, **art. 2(c)** (with art. 10)

5 For section 66E of that Act there is substituted—

"**66E Rules about charges**

(1) The Authority must issue rules about charges that may be imposed by a water undertaker under a section 66D agreement.

(2) The rules may in particular make provision about—
(a) the types of charges that may be imposed;
(b) the amount or the maximum amount, or methods for determining the amount or maximum amount, of any type of charge;
(c) principles for determining what types of charges may or may not be imposed;
(d) principles for determining the amount of any charge that may be imposed;
(e) publication of the charges that may be imposed.

(3) The rules must include provision for and in connection with requiring a water undertaker to impose on a water supply licensee only such charges as would enable the licensee, where the services it provides to a person under its retail authorisation or restricted retail authorisation are services to which a section 142(2)(b) agreement would apply if the undertaker had continued to provide the services, to charge for those services at the same rate or rates as would have applied if the section 142(2)(b) agreement had applied.

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(4) In subsection (3) "section 142(2)(b) agreement" means an agreement to which section 142(2)(b) applies.

(5) If the Authority considers that a water undertaker is not acting as required by rules under this section, the Authority may—
  (a) give the undertaker a direction to do, or not to do, a thing specified in the direction, or
  (b) in a case where a section 66D agreement to which the undertaker is party requires modification in order to conform to the rules, give a direction to the undertaker and the water supply licensee in question to modify the agreement.

(6) It is the duty of a water undertaker or a water supply licensee to comply with a direction under subsection (5), and this duty is enforceable by the Authority under section 18.

(7) The rules may—
  (a) make different provision for different persons or descriptions of person;
  (b) make different provision for different purposes;
  (c) make provision subject to exceptions.

(8) The Authority may from time to time revise rules issued under this section and issue revised rules.

(9) The Authority must issue revised rules if—
  (a) guidance is issued under section 66ED, and
  (b) the Authority, having regard to that guidance, considers that it is appropriate to revise the rules.

(10) Revised rules may include provision for applying any of their revisions to section 66D agreements made before the revised rules come into effect.

66EA Rules about charges: provision about the reduction of charges

(1) Rules under section 66E may make provision about the reduction of charges payable under a section 66D agreement where—
  (a) a water supply licensee that has a retail authorisation or a restricted retail authorisation is party to the section 66D agreement, and
  (b) other conditions specified by the rules are satisfied.

(2) Rules made by virtue of subsection (1) may in particular—
  (a) specify conditions relating to any party to the section 66D agreement;
  (b) specify conditions about persons taking steps for the purpose of reducing or managing water consumption;
  (c) specify conditions about the premises by reference to which such steps are to be taken;
  (d) specify conditions about reducing charges payable by a person who—
    (i) is not party to the section 66D agreement, and

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(ii) takes or proposes to take such steps as satisfy or would satisfy a condition specified under paragraph (b).

(3) The rules may provide that, where a charge falls to be reduced in accordance with rules made by virtue of subsection (1), the water undertaker to which the charges are payable must give notice of that reduction to the Authority.

(4) Rules made by virtue of subsection (3) may—
- (a) make provision as to the content of the notice;
- (b) specify the period within which an undertaker is to give notice to the Authority.

(5) Provision under subsection (4)(a) may in particular require the notice to specify—
- (a) the amount of the charge, with and without the reduction;
- (b) the period for which the reduction has effect.

66EB Rules under section 66E: procedure

(1) Before issuing rules under section 66E, the Authority must—
- (a) prepare a draft of the proposed rules, and
- (b) consult the relevant persons about the draft.

(2) The relevant persons are—
- (a) the Secretary of State;
- (b) the Welsh Ministers;
- (c) the Council;
- (d) any water undertakers likely to be affected by the rules;
- (e) any water supply licensees likely to be affected by the rules;
- (f) such other persons as the Authority thinks appropriate.

(3) The Authority must specify the period ("the consultation period") within which persons may make representations about the proposed rules.

(4) The Authority must have regard to guidance issued under section 66ED in preparing rules under section 66E.

(5) Before rules under section 66E prepared by the Authority are issued, the Minister may direct the Authority not to issue the rules.

(6) In subsection (5) "the Minister" means—
- (a) the Secretary of State, so far as rules prepared by the Authority relate to section 66D agreements affecting only the supply systems of water undertakers whose areas are wholly or mainly in England;
- (b) the Welsh Ministers, so far as rules prepared by the Authority relate to section 66D agreements affecting only the supply systems of water undertakers whose areas are wholly or mainly in Wales;
- (c) the Secretary of State and the Welsh Ministers acting jointly, so far as rules prepared by the Authority relate to section 66D agreements not falling within paragraph (a) or (b).

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(7) A direction under subsection (5) must be given within the period of 28 days beginning with the day after the end of the consultation period, and rules may not be issued before that period of 28 days has expired.

(8) This section is subject to section 66EC.

66EC Rules under section 66E: minor or urgent revisions

(1) This section applies if the Authority proposes to issue revised rules under section 66E and, in the view of the Authority, the revision or each of the revisions proposed to be made is—
  (a) a revision for which consultation is unnecessary, or
  (b) a revision that it is necessary or desirable to make without delay.

(2) Section 66EB does not apply to the proposed revised rules.

(3) Before issuing the revised rules, the Authority must give notice to the Minister of its intention to issue revised rules.

(4) Before the revised rules are issued, the Minister may direct the Authority not to issue the revised rules.

(5) A direction under subsection (4) must be given within the period of 14 days beginning with the day after the day on which notice is given under subsection (3), and the Authority may not issue the revised rules in question before—
  (a) that period of 14 days expires, or
  (b) the Minister notifies the Authority that no direction under subsection (4) will be given in relation to the revised rules,

  whichever is the sooner.

(6) Once the Authority has issued the revised rules, it must give notice as soon as reasonably practicable of—
  (a) the issuing of the revised rules, and
  (b) as regards each revision contained in them, whether in the view of the Authority the revision falls within paragraph (a) or (b) of subsection (1).

(7) Notice under subsection (6) is to be given to such persons as the Authority considers appropriate.

(8) Unless the Authority gives notice that a revision in revised rules is in the view of the Authority a revision falling within subsection (1)(a), the revision ceases to have effect at the end of the period of six months beginning with the day after that on which the revised rules are issued.

(9) In this section "the Minister" has the meaning given by section 66EB.

66ED Rules under section 66E: guidance

(1) The Minister may issue guidance as to the content of rules under section 66E.

(2) Before issuing the guidance, the Minister must—
  (a) prepare a draft of any proposed guidance;

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(b) consult the relevant persons about the draft.

(3) The relevant persons are—
(a) the Secretary of State;
(b) the Welsh Ministers;
(c) such other persons as the Minister thinks appropriate.

(4) The Minister may from time to time revise guidance issued under this section and issue revised guidance.

(5) Subsections (2) and (3) apply to revised guidance as they apply to the original guidance.

(6) The Minister must arrange for the publication of guidance issued under this section.

(7) In this section "the Minister" means—
(a) the Secretary of State, in relation to section 66D agreements affecting only the supply systems of water undertakers whose areas are wholly or mainly in England;
(b) the Welsh Ministers, in relation to section 66D agreements affecting only the supply systems of water undertakers whose areas are wholly or mainly in Wales;
(c) the Secretary of State and the Welsh Ministers acting jointly, in relation to section 66D agreements not falling within paragraph (a) or (b)."

Commencement Information
I136 Sch. 2 para. 5 in force at 1.9.2015 for specified purposes by S.I. 2015/1469, **art. 3(d)(ii)** (with art. 5(1)(3)(5))
I137 Sch. 2 para. 5 in force at 1.9.2016 for specified purposes by S.I. 2016/465, **art. 3(e)** (with Sch. 2)
I138 Sch. 2 para. 5 in force at 1.4.2017 in so far as not already in force by S.I. 2017/462, **art. 3(i)(iv)** (with arts. 6-9)

6 Section 66F (section 66D: supplementary) is repealed.

Commencement Information
I139 Sch. 2 para. 6 in force at 1.4.2017 by S.I. 2017/462, **art. 3(i)(v)** (with arts. 6-9)

7 (1) Section 66G (designation of strategic supply) is amended as follows.

(2) In subsection (1), for "an agreement under section 66D above" there is substituted " a section 66D agreement ".

(3) In subsection (4)(d), for "the agreement under section 66D above" there is substituted " the section 66D agreement ".

(4) In subsection (10)—
(a) for "section 66A" there is substituted " section 66AA ";
(b) for "customers of the licensed water supplier in question" there is substituted " relevant customers of a water supply licensee ".

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(5) After subsection (10) there is inserted—

"(11) A person is a relevant customer of a water supply licensee if the introduction of water in question is made by reference to the supply of water to that person's premises in accordance with—

(a) a retail authorisation (whether that retail authorisation is an authorisation of the licensee requesting the introduction of water or another water supply licensee's authorisation), or

(b) a restricted retail authorisation of the licensee requesting the introduction of water."

Commencement Information

I140 Sch. 2 para. 7 in force at 1.4.2017 by S.I. 2017/462, **art. 3(i)(v)**

8 (1) Section 66H (designation of collective strategic supply) is amended as follows.

(2) In subsection (1)(b), for "agreements under section 66D above" there is substituted " section 66D agreements ".

(3) In subsection (4)(d), for "the agreements under section 66D above" there is substituted " the section 66D agreements ".

(4) In subsection (10)—

(a) for "section 66A" there is substituted " section 66AA ";

(b) for "customers of the licensed water supplier in question" there is substituted " relevant customers of a water supply licensee ".

(5) After subsection (10) there is inserted—

"(11) A person is a relevant customer of a water supply licensee if an introduction of water is made by reference to the supply of water to that person's premises in accordance with—

(a) a retail authorisation (whether that retail authorisation is an authorisation of the licensee requesting the introduction of water or another water supply licensee's authorisation), or

(b) a restricted retail authorisation of the licensee requesting the introduction of water."

Commencement Information

I141 Sch. 2 para. 8 in force at 1.4.2017 by S.I. 2017/462, **art. 3(i)(v)**

9 (1) Section 66I (prohibition on unauthorised use of supply system) is amended as follows.

(2) In subsection (1), for "of a customer" there is substituted "of—

(a) a customer,

(b) the person so using that system, or

(c) a person associated with that person".

(3) In subsection (2)(b)—

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(a) for "licensed water supplier" there is substituted " water supply licensee ";
(b) for "its licence" there is substituted " the licensee's licence ".

(4) After subsection (8), there is inserted—

"(8A) For the purposes of this section, a person (A) is associated with another person (B) if they would be associated with each other for the purposes of Schedule 2A if A were a water supply licensee."

(5) In subsection (9), for "section 17B(5) above" there is substituted " section 17B ".

Commencement Information

I142 Sch. 2 para. 9(1) in force at 1.4.2016 for specified purposes by S.I. 2016/465, **art. 2(j)(iii)** (with Sch. 2)
I143 Sch. 2 para. 9(1) in force at 1.4.2017 in so far as not already in force by S.I. 2017/462, **art. 3(i)(vi)**
I144 Sch. 2 para. 9(2)(3) in force at 1.4.2016 by S.I. 2016/465, **art. 2(j)(ii)** (with Sch. 2)
I145 Sch. 2 para. 9(4)(5) in force at 1.4.2017 by S.I. 2017/462, **art. 3(i)(vi)**

SCHEDULE 3 E+W

Section 4

SEWERAGE LICENCES: AUTHORISATIONS

Commencement Information

I146 Sch. 3 in force at 1.1.2016 by S.I. 2015/1938, **art. 3(e)**

"SCHEDULE 2B E+W

SEWERAGE LICENCES: AUTHORISATIONS

Retail authorisation

1 A retail authorisation given by a sewerage licence is an authorisation to the sewerage licensee to use the sewerage system of a sewerage undertaker for the purpose of enabling the licensee to provide sewerage services in respect of the premises of—
(a) the licensee,
(b) persons associated with the licensee, or
(c) the licensee's customers.

2 None of the premises served by a sewerage licensee under a retail authorisation may be household premises (as defined in section 17C).

3 The requirement in paragraph 2 is enforceable by the Authority under section 18.

4 The Authority may from time to time, with the approval of the Secretary of State, issue guidance as to the factors which are, or are not, to be taken into account in determining the extent of any premises for the purposes of paragraph 2.

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Wholesale authorisation

5 A wholesale authorisation given by a sewerage licence is an authorisation to the sewerage licensee to remove matter from the sewerage system of a sewerage undertaker where—

(a) the sewerage system is being used to enable a sewerage licensee (whether the licensee or another sewerage licensee) to provide sewerage services in respect of premises in accordance with a retail authorisation, and

(b) the removing of matter from the sewerage system is done in connection with sewerage services so provided.

Disposal authorisation

6 A disposal authorisation given by a sewerage licence is an authorisation to the sewerage licensee to remove matter from the sewerage system of a sewerage undertaker.

7 If a sewerage licensee with a disposal authorisation has, or a person associated with the licensee has, a retail authorisation—

(a) the licensee or the person associated with it, or both of them, must obtain a wholesale authorisation, and

(b) neither the licensee nor the person associated with it (if that person has a disposal authorisation) may remove matter from a sewerage system in accordance with the disposal authorisation (or either disposal authorisation, if both have such an authorisation) while matter may be removed in accordance with the wholesale authorisation (or either wholesale authorisation, if both have such an authorisation).

Interpretation

8 For the purposes of this Schedule, a person (A) is associated with a sewerage licensee (L) if—

(a) where A and L are bodies corporate, one of them is a subsidiary of the other or both are subsidiaries of the same body corporate;

(b) where A or L is an individual or an unincorporated association and the other is a body corporate, that individual or unincorporated association controls the other or a body corporate of which the other is a subsidiary;

(c) A is a partnership of which L is a member.

9 In paragraph 8 "subsidiary" has the meaning given by section 1159 of the Companies Act 2006; and sections 450(1) to (4) and 451(1) to (3) of the Corporation Taxes Act 2010 (control of a company) apply for the purposes of paragraph 8 as they apply for the purposes of Part 10 of that Act."

SCHEDULE 4 E+W

Section 4

SEWERAGE UNDERTAKERS' DUTIES AS REGARDS SEWERAGE LICENSEES

Commencement Information

I147 Sch. 4 in force at 1.9.2015 for specified purposes by S.I. 2015/773, **art. 3(d)** (with art. 5)

I148 Sch. 4 in force at 1.9.2015 for specified purposes by S.I. 2015/1469, **art. 3(e)**

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I149 Sch. 4 in force at 1.4.2016 for specified purposes by S.I. 2016/465, **art. 2(k)** (with Sch. 2)
I150 Sch. 4 in force at 1.9.2016 for specified purposes by S.I. 2016/465, **art. 3(f)** (with Sch. 2)
I151 Sch. 4 in force at 30.3.2017 for specified purposes by S.I. 2017/462, **art. 2(d)**
I152 Sch. 4 in force at 1.4.2017 for specified purposes by S.I. 2017/462, **art. 3(j)**

After Chapter 2 of Part 4 of the Water Industry Act 1991 there is inserted—

"CHAPTER 2A E+W

DUTIES RELATING TO SEWERAGE SERVICES: SEWERAGE LICENSEES

Duties of sewerage undertakers as regards enabling the provision of sewerage services

Use of undertaker's sewerage system

117A(1) This section applies where a sewerage licensee with a retail authorisation ("L") requests a sewerage undertaker to permit the use of the undertaker's sewerage system for the purpose of enabling L to provide sewerage services in respect of premises that—

(a) L is to serve in accordance with L's retail authorisation, and

(b) are in the area of the sewerage undertaker.

(2) Where this section applies, the undertaker must in accordance with a section 117E agreement take such steps—

(a) for the purpose of connecting the drains or sewers of the premises in question to the undertaker's sewerage system, or

(b) in respect of that system,

as may be provided for in that agreement in order to enable the requested use of that system.

(3) A sewerage undertaker is not required by this section to permit the use of its sewerage system, or to take any steps to enable its use, if the sewerage licensee making a request has not secured by means of—

(a) a request under section 117B made by the licensee, or

(b) a request under section 117C made by the licensee or another sewerage licensee,

that there is to be provision for dealing with or removing matter from the sewerage system in quantities determined by reference to the extent of sewerage services provided in respect of the premises in question.

(4) Where—

(a) a request has been made by a sewerage licensee for the purposes of subsection (1), and

(b) the steps which the undertaker is required to take by virtue of that request include steps for the purpose of obtaining any necessary authority for, or agreement to, any exercise by it of any of its powers or the carrying out by it of any works,

the failure of the undertaker to acquire the necessary authority or agreement does not affect the liability of the licensee to reimburse the undertaker in respect of some or all of the expenses incurred by it in taking those steps, if the section 117E agreement provides for such liability as regards those steps.

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(5) For the purposes of this section and sections 117B and 117C—

(a) premises which are outside a sewerage undertaker's area are to be treated as being within that area if they are provided with sewerage services using the undertaker's sewerage system, and

(b) any sewers or drains of the sewerage undertaker which are used for the purpose of serving premises as mentioned in paragraph (a) are to be treated as being part of the undertaker's sewerage system (if they would not otherwise be part of it).

(6) In this section and sections 117B to 117D—

(a) references to the sewerage system of a sewerage undertaker are to be construed in accordance with section 17BA(7);

(b) references to the retail authorisation of a sewerage licensee are to be construed in accordance with Schedule 2B.

Matter dealt with by sewerage undertaker

117B(1) This section applies where a sewerage licensee with a retail authorisation ("L") requests a sewerage undertaker to deal effectually with certain quantities of matter in its sewerage system in circumstances where—

(a) sewerage services are to be provided in accordance with L's retail authorisation in respect of particular premises in the area of the undertaker, and

(b) the quantities to be dealt with are to be determined by reference to the extent of sewerage services provided in respect of those premises.

(2) Where this section applies, the sewerage undertaker must in accordance with a section 117E agreement—

(a) take such steps in respect of the undertaker's sewerage system as may be provided for in that agreement in order to enable the use of that system for the purpose in subsection (1), and

(b) having taken those steps, deal with matter as requested.

(3) Where—

(a) a request has been made by a sewerage licensee for the purposes of subsection (1), and

(b) the steps which the undertaker is required to take by virtue of that request include steps for the purpose of obtaining any necessary authority for, or agreement to, any exercise by it of any of its powers or the carrying out by it of any works,

the failure of the undertaker to acquire the necessary authority or agreement does not affect the liability of the licensee to reimburse the undertaker in respect of some or all of the expenses incurred by it in taking those steps, if the section 117E agreement provides for such liability as regards those steps.

Removal of matter from sewerage system by a sewerage licensee

117C(1) This section applies where a sewerage licensee with a wholesale authorisation ("L") requests a sewerage undertaker to permit L to remove certain quantities of matter from the undertaker's sewerage system in circumstances where—

(a) sewerage services are to be provided in accordance with a retail authorisation (whether L's or another's) in respect of particular premises in the area of the undertaker, and

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(b) the quantities to be removed are to be determined by reference to the extent of sewerage services provided in respect of those premises.

(2) Where this section applies, the sewerage undertaker must in accordance with a section 117E agreement—

(a) take such steps, including steps in respect of the undertaker's sewerage system, as may be provided for in that agreement in order to enable L to remove matter from the undertaker's sewerage system as requested, and

(b) having taken those steps, permit that requested removal of matter from that sewerage system.

(3) Where—

(a) a request has been made by a sewerage licensee for the purposes of subsection (1), and

(b) the steps which the undertaker is required to take by virtue of that request include steps for the purpose of obtaining any necessary authority for, or agreement to, any exercise by it of any of its powers or the carrying out by it of any works,

the failure of the undertaker to acquire the necessary authority or agreement does not affect the liability of the licensee to reimburse the undertaker in respect of some or all of the expenses incurred by it in taking those steps, if the section 117E agreement provides for such liability as regards those steps.

(4) A pipe connecting a sewerage undertaker's sewerage system to a sewage disposal works that is laid because of subsection (2)(a) is to be regarded as a disposal main for the purposes of this Act, subject to any provision to the contrary.

(5) In this section, a reference to a wholesale authorisation is to be construed in accordance with Schedule 2B.

Connections for the purposes of a disposal authorisation

117D(1) This section applies where a sewerage licensee with a disposal authorisation ("L") requests a sewerage undertaker to permit L to remove matter from the undertaker's sewerage system.

(2) Where this section applies, the sewerage undertaker must in accordance with a section 117E agreement—

(a) take such steps, including steps in respect of the undertaker's sewerage system, as may be provided for in that agreement in order to enable L to remove matter from the undertaker's sewerage system as requested, and

(b) having taken those steps, permit that requested removal of matter from that sewerage system.

(3) Where—

(a) a request has been made by a sewerage licensee for the purposes of subsection (1), and

(b) the steps which the undertaker is required to take by virtue of that request include steps for the purpose of obtaining any necessary authority for, or agreement to, any exercise by it of any of its powers or the carrying out by it of any works,

the failure of the undertaker to acquire the necessary authority or agreement does not affect the liability of the licensee to reimburse the undertaker in respect of some or all of

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the expenses incurred by it in taking those steps, if the section 117E agreement provides for such liability as regards those steps.

(4) A pipe connecting a sewerage undertaker's sewerage system to a sewage disposal works that is laid because of subsection (2)(a) is to be regarded as a disposal main for the purposes of this Act, subject to any provision to the contrary.

(5) In this section, a reference to a disposal authorisation is to be construed in accordance with Schedule 2B.

Agreements as to duties under sections 117A to 117D

117E(1) On the application of—

(a) a sewerage licensee that has made a request under sections 117A to 117D, or

(b) a sewerage undertaker to which such a request has been made,

the Authority may by order require a sewerage undertaker to perform the duty in question under sections 117A to 117D, for such period and on such terms and conditions as may be specified in the order.

(2) The Authority may make an order under subsection (1) only if—

(a) it appears to the Authority that the sewerage undertaker is required to perform the duty in question, and

(b) it is satisfied that the parties cannot reach agreement within a reasonable time.

(3) An order under subsection (1) has effect as an agreement between—

(a) the sewerage licensee, and

(b) the sewerage undertaker required to perform the duty in question.

(4) On the application of a party to a section 117E agreement, the Authority may, if it is satisfied that the parties cannot reach agreement on the variation or termination of the agreement, by order vary or terminate the agreement.

(5) If an order under subsection (4) is made in relation to a section 117E agreement, the agreement—

(a) has effect subject to the provision made by the order, or

(b) ceases to have effect, as the case may be.

(6) An order under subsection (4) may require one party to the agreement to pay compensation to the other.

(7) Neither the CMA nor the Authority may exercise, in respect of an agreement for the performance of a duty under sections 117A to 117D by a sewerage undertaker, the powers conferred by—

(a) section 32 of the Competition Act 1998 (directions in relation to agreements);

(b) section 35(2) of that Act (interim directions).

(8) Subsection (7)(b) does not apply to the exercise of powers in respect of conduct—

(a) which is connected with an agreement for the performance of a duty under sections 117A to 117D by a sewerage undertaker, and

(b) in respect of which section 35(1) of the Competition Act 1998 applies because of an investigation under section 25 of that Act relating to a suspected infringement of the Chapter 2 prohibition imposed by section 18(1) of that Act.

(9) In this Chapter a reference to a section 117E agreement is a reference to—

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(a) an agreement for the performance of a duty under sections 117A to 117D by a sewerage undertaker, or
(b) an order deemed to be such an agreement under subsection (3), or
(c) an agreement varied by order under subsection (4).

Codes in respect of section 117E agreements

117F (1) The Authority may issue one or more codes in respect of section 117E agreements.

(2) A code may make provision about—
(a) procedures in connection with making a section 117E agreement;
(b) procedures in connection with varying or terminating a section 117E agreement;
(c) the terms and conditions of a section 117E agreement, including terms as to the duration of such an agreement;
(d) principles for determining the terms and conditions that should or should not be incorporated into a section 117E agreement.

(3) A code may make provision about the steps to be taken by the Authority in determining for the purposes of section 117E(2) whether a sewerage undertaker is, in the particular case, required to perform a duty under sections 117A to 117D.

(4) If the Authority considers that a sewerage undertaker or a sewerage licensee is not acting as required by a code, the Authority may give the undertaker or the licensee a direction to do, or not to do, a thing specified in the direction.

(5) The Authority may not give a direction under subsection (4) requiring a person to enter into, vary or terminate an agreement.

(6) It is the duty of a sewerage undertaker or a sewerage licensee to comply with a direction under subsection (4), and this duty is enforceable by the Authority under section 18.

(7) A code may make—
(a) different provision for different persons or descriptions of person;
(b) different provision for different duties under sections 117A to 117D.

(8) The Authority may from time to time revise a code issued under this section and issue a revised code.

(9) A revised code may include provision for applying any of its revisions to section 117E agreements made before the revised code comes into effect.

Codes under section 117F: procedure

117G (1) Before issuing a code under section 117F, the Authority must—
(a) prepare a draft of the proposed code under section 117F, and
(b) consult persons in accordance with subsections (2) and (3).

(2) The relevant persons are—
(a) the Secretary of State;
(b) the appropriate agency;
(c) the Council;
(d) any sewerage undertakers likely to be affected by the proposed code;

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(e) any sewerage licensees likely to be affected by the proposed code;
(f) such other persons as the Authority thinks appropriate.

(3) The Authority must specify the period ("the consultation period") within which a person may make representations about the proposed code.

(4) Before a code under section 117F prepared by the Authority is issued for the first time, the Secretary of State may direct the Authority—
(a) not to issue the code, or
(b) to issue the code with specified modifications.

(5) A direction under subsection (4) must be given within the period of 28 days beginning with the day after the end of the consultation period, and a code in relation to which a direction may be given may not be issued before that period of 28 days has expired.

(6) In this section "the appropriate agency" means—
(a) the Environment Agency, in relation to section 117E agreements made with sewerage undertakers whose areas are wholly in England;
(b) both the Environment Agency and the NRBW, in relation to section 117E agreements made with sewerage undertakers whose areas are partly in England and partly in Wales.

(7) This section is subject to section 117H.

Codes under section 117F: minor or urgent revisions

117H (1) This section applies if the Authority proposes to issue a revised code under section 117F and, in the view of the Authority, the revision or each of the revisions proposed to be made is—
(a) a revision for which consultation is unnecessary, or
(b) a revision that it is necessary or desirable to make without delay.

(2) Section 117G does not apply to the proposed revised code.

(3) Once the Authority has issued the revised code, it must give notice as soon as reasonably practicable of—
(a) the issuing of the revised code, and
(b) as regards each revision contained in it, whether in the view of the Authority the revision falls within paragraph (a) or (b) of subsection (1).

(4) Notice under subsection (3) is to be given to such persons as the Authority considers appropriate.

(5) Unless the Authority gives notice that a revision in a revised code is in the view of the Authority a revision falling within subsection (1)(a), the revision ceases to have effect at the end of the period of six months beginning with the day after that on which the revised code is issued.

Rules about charges

117I (1) The Authority must issue rules about charges that may be imposed by sewerage undertakers under a section 117E agreement.

(2) The rules may in particular make provision about—

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(a) the types of charges that may be imposed;
(b) the amount or the maximum amount, or methods for determining the amount or maximum amount, of any type of charge;
(c) principles for determining what types of charges may or may not be imposed;
(d) principles for determining the amount of any charge that may be imposed;
(e) publication of the charges that may be imposed.

(3) The rules must include provision for and in connection with requiring a sewerage undertaker to impose on a sewerage licensee only such charges as would enable the licensee, where the services it provides to a person under its retail authorisation are services to which a section 142(2)(b) agreement would apply if the undertaker had continued to provide the services, to charge for those services at the same rate or rates as would have applied if the section 142(2)(b) agreement had applied.

(4) In subsection (3) "section 142(2)(b) agreement" means an agreement to which section 142(2)(b) applies.

(5) If the Authority considers that a sewerage undertaker is not acting as required by rules under this section, the Authority may—
(a) give the undertaker a direction to do, or not to do, a thing specified in the direction, or
(b) in a case where a section 117E agreement to which the undertaker is party requires modification in order to conform to the rules, give a direction to the undertaker and the sewerage licensee in question to modify the agreement.

(6) It is the duty of a sewerage undertaker or a sewerage licensee to comply with a direction under subsection (5), and this duty is enforceable by the Authority under section 18.

(7) The rules may—
(a) make different provision for different persons or descriptions of person;
(b) make different provision for different purposes;
(c) make provision subject to exceptions.

(8) The Authority may from time to time revise rules issued under this section and issue revised rules.

(9) The Authority must issue revised rules if—
(a) guidance is issued under section 117M, and
(b) the Authority, having regard to that guidance, considers that it is appropriate to revise the rules.

(10) Revised rules may include provision for applying any of the revisions to section 117E agreements made before the revised rules come into effect.

Rules about charges: provision about the reduction of charges

117J (1) Rules under section 117I may provide for the reduction of charges payable under a section 117E agreement where—
(a) a sewerage licensee that has a retail authorisation is party to the section 117E agreement, and
(b) other conditions specified by the rules are satisfied.

(2) Rules made by virtue of subsection (1) may in particular—

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(a) specify conditions relating to any party to the section 117E agreement;
(b) specify conditions about persons taking steps for the purpose of reducing or managing demand for sewerage services;
(c) specify conditions about the premises by reference to which such steps are to be taken;
(d) specify conditions about reducing charges payable by a person who—
(i) is not party to the section 117E agreement, and
(ii) takes or proposes to take such steps as satisfy or would satisfy a condition specified under paragraph (b).

(3) The rules may provide that, where a charge falls to be reduced in accordance with rules made by virtue of subsection (1), the sewerage undertaker to which the charges are payable must give notice of that reduction to the Authority.

(4) Rules made by virtue of subsection (3) may—
(a) make provision as to the content of the notice;
(b) specify the period within which an undertaker is to give notice to the Authority.

(5) Provision under subsection (4)(a) may in particular require the notice to specify—
(a) the amount of the charge, with and without the reduction;
(b) the period for which the reduction has effect.

Rules under section 117I: procedure

117K (1) Before issuing rules under section 117I, the Authority must—
(a) prepare a draft of the proposed rules, and
(b) consult the relevant persons about the draft.

(2) The relevant persons are—
(a) the Secretary of State;
(b) the appropriate agency;
(c) the Council;
(d) any sewerage undertakers likely to be affected by the proposed rules;
(e) any sewerage licensees likely to be affected by the proposed rules;
(f) such other persons as the Authority thinks appropriate.

(3) The Authority must specify the period ("the consultation period") within which persons may make representations about the proposed rules.

(4) The Authority must have regard to guidance issued under section 117M in making rules under section 117I.

(5) Before rules under section 117I prepared by the Authority are issued, the Secretary of State may direct the Authority not to issue the rules.

(6) A direction under subsection (5) must be given within the period of 28 days beginning with the day after the end of the consultation period, and rules may not be issued before that period of 28 days has expired.

(7) In this section "the appropriate agency" means—
(a) the Environment Agency, in relation to section 117E agreements made with sewerage undertakers whose areas are wholly in England;

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(b) both the Environment Agency and the NRBW, in relation to section 117E agreements made with sewerage undertakers whose areas are partly in England and partly in Wales.

(8) This section is subject to section 117L.

Rules under section 117I: minor or urgent revisions

117J (1) This section applies if the Authority proposes to issue revised rules under section 117I and, in the view of the Authority, the revision or each of the revisions proposed to be made is—

(a) a revision for which consultation is unnecessary, or

(b) a revision that it is necessary or desirable to make without delay.

(2) Section 117K does not apply to the proposed revised rules.

(3) Before issuing the revised rules, the Authority must give notice to the Secretary of State of its intention to issue revised rules.

(4) Before the revised rules are issued, the Secretary of State may direct the Authority not to issue the revised rules.

(5) A direction under subsection (4) must be given within the period of 14 days beginning with the day after the day on which notice is given under subsection (3), and the Authority may not issue the revised rules in question before—

(a) that period of 14 days expires, or

(b) the Secretary of State notifies the Authority that no direction under subsection (4) will be given in relation to the revised rules,

whichever is the sooner.

(6) Once the Authority has issued the revised rules, it must give notice as soon as reasonably practicable of—

(a) the issuing of the revised rules, and

(b) as regards each revision contained in them, whether in the view of the Authority the revision falls within paragraph (a) or (b) of subsection (1).

(7) Notice under subsection (6) is to be given to such persons as the Authority considers appropriate.

(8) Unless the Authority gives notice that a revision in revised rules is in the view of the Authority a revision falling within subsection (1)(a), the revision ceases to have effect at the end of the period of six months beginning with the day after that on which the revised rules are issued.

Rules under section 117I: guidance

117M (1) The Minister may issue guidance as to the content of rules under section 117I.

(2) Before issuing the guidance, the Minister must—

(a) prepare a draft of the proposed guidance;

(b) consult the relevant persons about the draft.

(3) The relevant persons are such persons as the Minister thinks appropriate.

(4) The Minister may from time to time revise the guidance and issue revised guidance.

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(5) Subsections (2) and (3) apply to revised guidance as they apply to the original guidance.

(6) The Minister must arrange for the publication of guidance issued under this section.

(7) In this section "the Minister" means the Secretary of State.

Designation of strategic sewerage provision

117N (1) Subsection (2) applies if at any time the Authority determines that the removal of matter from a sewerage undertaker's sewerage system that the undertaker is required to permit under section 117C or 117D in accordance with a section 117E agreement constitutes strategic sewerage provision.

(2) The Authority must designate the removal of matter as strategic sewerage provision.

(3) Subsection (4) applies if—

(a) a sewerage undertaker requests the Authority to make a determination that a particular removal of matter constitutes strategic sewerage provision for the purposes of subsection (1), or

(b) the Authority otherwise proposes to make a determination that a particular removal of matter constitutes strategic sewerage provision for the purposes of subsection (1).

(4) The Authority must give notice of the request or proposed determination to—

(a) the Secretary of State;

(b) the appropriate agency;

(c) the other party or parties, or the parties, to the section 117E agreement; and

(d) such other persons (if any) as the Authority thinks it appropriate to notify.

(5) A notice under subsection (4) must specify the time within which representations or objections with respect to the request or proposed determination may be made.

The time specified may not be less than 28 days from the date on which the notice was given.

(6) The Authority must consider any representations or objections which are duly made and not withdrawn.

(7) If the Authority determines that a particular removal of matter designated under this section as strategic sewerage provision no longer constitutes such provision, it must cancel its designation.

(8) If the Authority proposes to make a determination under subsection (7) that a particular removal of matter no longer constitutes strategic sewerage provision, it must give notice of the proposed determination to—

(a) the Secretary of State;

(b) the appropriate agency; and

(c) the parties to the section 117E agreements in question.

(9) Subsection (5) applies to a notice under subsection (8) as it applies to a notice under subsection (4), and subsection (6) applies accordingly.

(10) For the purposes of this section, a removal of matter from a sewerage system is strategic sewerage provision if, without that removal of matter, there is a substantial risk that the sewerage undertaker would be unable—

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(a) to maintain its services to its own customers, and
(b) to fulfil its obligations under section 117B to deal with matter in its sewerage system.

(11) In this section and section 117O "the appropriate agency", in relation to a determination in respect of the removal of matter from a sewerage undertaker's system, means—
(a) the Environment Agency, in a case where the undertaker's area is wholly in England;
(b) both the Environment Agency and the NRBW, in a case where the undertaker's area is partly in England and partly in Wales.

Designation of collective strategic sewerage provision

117O (1) Subsection (2) applies if at any time the Authority determines that two or more cases of the removal of matter from a sewerage system—
(a) each of which is a removal by a sewerage licensee, and
(b) each of which is a removal that a sewerage undertaker is required to permit under section 117C or 117D in accordance with a section 117E agreement,

constitute collective strategic sewerage provision.

(2) The Authority must designate the cases of the removal of matter as collective strategic sewerage provision.

(3) Subsection (4) applies if—
(a) a sewerage undertaker requests the Authority to make a determination that two or more cases of the removal of matter from a sewerage system constitute collective strategic sewerage provision for the purposes of subsection (1), or
(b) the Authority otherwise proposes to make a determination that two or more cases of the removal of matter from a sewerage system constitute collective strategic sewerage provision for the purposes of subsection (1).

(4) The Authority must give notice of the request or proposed determination to—
(a) the Secretary of State;
(b) the appropriate agency;
(c) the other party or parties, or the parties, to the section 117E agreements in question; and
(d) such other persons (if any) as the Authority thinks it appropriate to notify.

(5) A notice under subsection (4) must specify the time within which representations or objections with respect to the request or proposed determination may be made.

The time specified may not be less than 28 days from the date on which the notice was given.

(6) The Authority must consider any representations or objections which are duly made and not withdrawn.

(7) If the Authority determines that the cases of the removal of matter from a sewerage system designated under this section as collective strategic sewerage provision no longer constitute such provision, it must cancel their designation.

(8) If the Authority proposes to make a determination under subsection (7) that the cases of the removal of matter from a sewerage system no longer constitute collective strategic sewerage provision, it must give notice of the proposed determination to—

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(a) the Secretary of State;
(b) the appropriate agency; and
(c) the parties to the section 117E agreements in question.

(9) Subsection (5) applies to a notice under subsection (8) as it applies to a notice under subsection (4), and subsection (6) applies accordingly.

(10) For the purposes of this section, two or more cases of the removal of matter from a sewerage system are collective strategic sewerage provision if, without those cases of the removal of matter, there is a substantial risk that the sewerage undertaker would be unable—
(a) to maintain its services to its own customers, and
(b) to fulfil its obligations under section 117B to deal with matter in its sewerage system.

Offences

Prohibition on unauthorised use of sewerage system

117P(1) No person may use the sewerage system of a sewerage undertaker whose area is wholly or mainly in England for the purpose of providing sewerage services to premises of—
(a) a customer,
(b) the person so using that system, or
(c) a person associated with that person.

(2) Subsection (1) is subject to subsections (3) and (4) and section 117R.

(3) Subsection (1) does not apply where that use of the system is made by—
(a) the sewerage undertaker, or
(b) a sewerage licensee in pursuance of its sewerage licence.

(4) The Secretary of State may by regulations specify further circumstances in which subsection (1) does not apply.

(5) A person who contravenes subsection (1) is guilty of an offence.

(6) An undertaking entered into which involves a contravention of subsection (1) is unenforceable.

(7) A person guilty of an offence under this section is liable—
(a) on summary conviction, to a fine not exceeding the statutory maximum;
(b) on conviction on indictment, to a fine.

(8) Proceedings for an offence under this section may not be instituted except by—
(a) the Secretary of State, or
(b) the Authority.

(9) For the purposes of this section, a person (A) is associated with another person (B) if they would be associated with each other for the purposes of Schedule 2B if A were a sewerage licensee.

(10) In this section and sections 117Q and 117R, references to the sewerage system of a sewerage undertaker are to be construed in accordance with section 17BA(7).

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Prohibition on unauthorised removal of matter from sewerage system

117Q(1) No person other than the undertaker may remove matter from the sewerage system of a sewerage undertaker whose area is wholly or mainly in England.

(2) Subsection (1) is subject to subsections (3) and (4) and section 117R.

(3) Subsection (1) does not apply where —
- (a) matter is removed by a sewerage licensee in pursuance of its sewerage licence, or
- (b) matter is removed by another sewerage undertaker under a main connection agreement (within the meaning of section 110A).

(4) The Secretary of State may by regulations specify further circumstances in which subsection (1) does not apply.

(5) An undertaking entered into which involves a contravention of subsection (1) is unenforceable.

(6) A person who contravenes subsection (1) is guilty of an offence.

(7) A person guilty of an offence under this section is liable—
- (a) on summary conviction, to a fine not exceeding £20,000;
- (b) on conviction on indictment, to a fine.

(8) For the purposes of section 210, the penalty on conviction on indictment of an offence under this section is to be deemed to include imprisonment for a term not exceeding two years (in addition to or instead of a fine).

(9) Proceedings for an offence under this section may not be instituted except by—
- (a) the Secretary of State, or
- (b) the Authority.

Sections 117P and 117Q: exemptions

117R(1) The Secretary of State may by order made by statutory instrument grant exemption from section 117P(1) or 117Q(1) to—
- (a) a person or persons of a class;
- (b) generally or to such extent as may be specified in the order;
- (c) unconditionally or subject to such conditions as may be specified in the order.

(2) Before making an order under subsection (1), the Secretary of State must give notice—
- (a) stating that the Secretary of State proposes to make such an order and setting out the terms of the proposed order;
- (b) stating the reasons why the Secretary of State proposes to make the order in the terms proposed; and
- (c) specifying the time (not being less than 28 days from the date of publication of the notice) within which representations or objections with respect to the proposals may be made,

and must consider any representations or objections which are duly made and not withdrawn.

(3) The notice required by subsection (2) is to be given—
- (a) by serving a copy of it on the Authority, and

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(b) by publishing it in such manner as the Secretary of State considers appropriate for bringing it to the attention of those likely to be affected by the proposed order.

(4) Notice of an exemption granted to a particular person is to be given—
(a) by serving a copy of the exemption on the person, and
(b) by publishing the exemption in such manner as the Secretary of State considers appropriate for bringing it to the attention of other persons who may be affected by it.

(5) Notice of an exemption granted to persons of a particular class is to be given by publishing the exemption in such manner as the Secretary of State considers appropriate for bringing it to the attention of—
(a) persons of that class, and
(b) other persons who may be affected by it.

(6) An exemption may be granted—
(a) indefinitely, or
(b) for a period specified in, or determined by or under, the exemption.

(7) The conditions that may be specified may, in particular, require any person carrying on any activity allowed by the exemption—
(a) to comply with any direction given by the Secretary of State or the Authority as to such matters as are specified in the exemption or are of a description so specified;
(b) except in so far as the Secretary of State or the Authority consents to the person's doing or not doing them, not to do or to do such things as are specified in the exemption or are of a description so specified;
(c) to refer for determination by the Secretary of State or the Authority such questions arising under the exemption as are specified in the exemption or are of a description so specified.

Section 117R: supplementary

117S(1) The Secretary of State may by order made by statutory instrument revoke an order by which an exemption was granted to a particular person under section 117R(1) or vary an order by which more than one exemption was so granted so as to terminate any of the exemptions—
(a) at the person's request,
(b) in accordance with any provision of the order by which the exemption was granted, or
(c) if it appears to the Secretary of State inappropriate that the exemption should continue to have effect.

(2) The Secretary of State may by order made by statutory instrument revoke an order by which an exemption was granted to persons of a particular class under section 117R(1) or vary an order by which more than one exemption was so granted so as to terminate any of the exemptions—
(a) in accordance with any provision of the order by which the exemption was granted, or
(b) if it appears to the Secretary of State inappropriate that the exemption should continue to have effect.

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(3) The Secretary of State may by direction withdraw an exemption granted to persons of a particular class under section 117R(1) from any person of that class—
- (a) at the person's request,
- (b) in accordance with any provision of the order by which the exemption was granted, or
- (c) if it appears to the Secretary of State inappropriate that the exemption should continue to have effect in the case of the person.

(4) Before making an order under subsection (1)(b) or (c) or (2) or giving a direction under subsection (3)(b) or (c), the Secretary of State must—
- (a) consult the Authority, and
- (b) give notice—
  - (i) stating that the Secretary of State proposes to make such an order or give such a direction,
  - (ii) stating the reasons why the Secretary of State proposes to make such an order or give such a direction, and
  - (iii) specifying the time (not being less than 28 days from the date of publication of the notice) within which representations or objections with respect to the proposals may be made,

and must consider any representations or objections which are duly made and not withdrawn.

(5) The notice required by subsection (4)(b) is to be given—
- (a) where the Secretary of State is proposing to make an order under subsection (1)(b) or (c), by serving a copy of it on the person to whom the exemption was granted;
- (b) where the Secretary of State is proposing to make an order under subsection (2), by publishing it in such manner as the Secretary of State considers appropriate for bringing it to the attention of persons of the class of persons to whom the exemption was granted;
- (c) where the Secretary of State is proposing to give a direction under subsection (3)(b) or (c), by serving a copy of it on the person from whom the Secretary of State proposes to withdraw the exemption.

(6) A statutory instrument containing—
- (a) an order under subsection (1) or (2), or
- (b) an order under section 117R(1),

is subject to annulment in pursuance of a resolution of either House of Parliament."

PROSPECTIVE

SCHEDULE 5 E+W

Section 5

EXTENSION OF LICENSING PROVISIONS IN RELATION TO WALES

1 The Water Industry Act 1991 is amended as follows.

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2 In section 2 (general duties with respect to water industry) (as amended by Schedule 7)—

(a) in subsection (2C)—

(i) after paragraph (d) there is inserted "and";

(ii) paragraph (f) and the "and" preceding it are repealed;

(b) subsection (2D) is repealed.

3 In section 2B (strategic priorities and objectives: Wales) (as inserted by section 24 and amended by Schedule 7), in subsection (4)(d), after "water supply licensees" there is inserted " and sewerage licensees ".

4 (1) Section 17A (water supply licences) (as substituted by section 1) is amended as follows.

(2) In subsection (2)—

(a) the words from "one or more" to "combination of authorisations" are repealed;

(b) after paragraph (b) there is inserted "or

(ba) a retail authorisation and a wholesale authorisation.";

(c) paragraphs (c) and (d) are repealed.

(3) In subsection (3), the words "(including their operation in England and Wales)" are repealed.

5 (1) Section 17AA (water supply licences: restrictions on grants) (as substituted by section 1) is amended as follows.

(2) In subsection (1), after paragraph (b) there is inserted—

"(ba) the Welsh Ministers;

(bb) the Chief Inspector of Drinking Water for Wales if there is one;".

(3) Subsection (2) is repealed.

(4) In subsection (5), paragraphs (b) and (c) are repealed.

6 In section 17B (guidance and interpretation) (as amended by section 2)—

(a) in subsection (4A), the words ", in the case of an undertaker whose area is wholly or mainly in England," are repealed;

(b) subsections (5) to (8) are repealed.

7 (1) Section 17BA (sewerage licences) (inserted by section 4) is amended as follows.

(2) In subsection (1), the words "whose area is wholly or mainly in England" are repealed.

(3) After subsection (5) there is inserted—

"(5A) Before giving a general authorisation, the Secretary of State must consult the Welsh Ministers."

8 In section 17BB (sewerage licences: restrictions on grants) (inserted by section 4), in subsection (1), after "of State" there is inserted " , the Welsh Ministers ".

9 In section 17C (meaning of household premises) (as amended by Schedule 7), in subsection (1), for "paragraphs 4 and 7(a)" there is substituted " paragraph 4 ".

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10 Section 17D (the threshold requirement) is repealed (if not previously repealed by an order under section 3).

11 In section 17DA (guidance) (inserted by Schedule 7), paragraph (a) is repealed.

12 In section 17E (determinations by the Authority) (as amended by Schedule 7), in subsection (2)—

(a) in paragraph (a), the words "or 7(a) or (b)" are repealed;

(b) paragraph (c) is repealed.

13 (1) Section 17FA (arrangements with the Water Industry Commission for Scotland) (inserted by section 6) is amended as follows.

(2) In subsection (1)(a), the words "or a restricted retail authorisation or both" are repealed.

(3) In subsection (2)(a), the words "or particular authorisations" are repealed.

14 In section 17G (water supply licence conditions) (as amended by Schedule 7), in subsection (4)(a)(iii), the words "so far as subsection (3) applies to water supply licences," are repealed.

15 (1) Section 17H (standard conditions of water supply licences) (as amended by Schedule 7) is amended as follows.

(2) Subsection (1A) is repealed.

(3) In subsection (2), for the words from "the different" to the end there is substituted " whether the conditions are to relate to a retail authorisation or a wholesale authorisation or both types of authorisation. "

(4) In subsection (3)—

(a) for "giving a particular authorisation or a particular combination of authorisations" there is substituted " giving a retail authorisation or a wholesale authorisation or both authorisations ";

(b) for "that particular combination of authorisations" there is substituted " those authorisations ".

(5) In subsection (4), for "any particular authorisation or combination of authorisations" there is substituted " one or other or both authorisations ".

(6) In subsection (8)(b)(i), the words from "if the" to "supplementary authorisation," are repealed.

(7) In subsection (9), the words from "in a case" to "subsection (8)(b)(i)" are repealed.

16 (1) Section 17HA (standard conditions of sewerage licences) (inserted by Schedule 7) is amended as follows.

(2) In subsection (9)(b), after sub-paragraph (i) there is inserted—

"(ia) on the Welsh Ministers."

(3) In subsection (10), after "of State" there is inserted " (after consulting the Welsh Ministers) ".

17 In section 17I (modifications of water supply licences by agreement) (as amended by Schedule 7)—

(a) in subsection (4)(b)(iv), the words from the beginning to "supply licence," are repealed;

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(b) in subsection (5A), the words "in relation to a water supply licence" are repealed.

18 (1) Section 17J (modification of standard conditions of water supply licences) (as amended by Schedule 7) is amended as follows.

(2) In subsection (4)(b)(iv), the words from the beginning to "licence," are repealed.

(3) In subsection (5A), the words "in relation to a water supply licence" are repealed.

(4) In subsection (10), the words "in relation to the standard conditions of water supply licences" are repealed.

19 In section 17K (water supply licences: modification references to Competition Commission) (as amended by Schedule 7), in subsection (5)(b)(iv), the words from the beginning to "licences," are repealed.

20 (1) Section 17N (water supply licences: reports on modification references) (as amended by Schedule 7) is amended as follows.

(2) In subsection (10)(a)(iv), the words from the beginning to "licence," are repealed.

(3) In subsection (11)(a)(ii), the words from the beginning to "licences," are repealed.

(4) In subsection (12), the words ", if the report relates to water supply licences," are repealed.

21 In section 17O (modification of licences following report) (as amended by Schedule 7), in subsection (5)(c)(iii), the words from the beginning to "or licences," are repealed.

22 In section 17P (water supply licences: Commission's power of veto following report) (as amended by Schedule 7), in subsection (7)(b)(v), the words from the beginning to "licences," are repealed.

23 In section 23 (meaning and effect of special administration order) (as amended by Schedule 7), in subsection (6)(a), the words "or supplementary" are repealed.

24 In section 24 (special administration orders made on special petitions) (as amended by Schedule 7), in subsection (1B), the words from "in relation to" to "supplementary authorisation," are repealed.

25 In section 27C (the interests of consumers) (as amended by Schedule 7)—

(a) in subsection (1)—

(i) after paragraph (d) there is inserted "and";

(ii) paragraph (f) and the "and" preceding it are repealed;

(b) subsection (2) is repealed.

26 (1) Section 38ZA (standards of performance in connection with the supply of water: water supply licensees) (inserted by section 29) is amended as follows.

(2) In subsection (1), the words "or restricted retail authorisations" are repealed.

(3) In subsection (6), for the definition of "the Minister" there is substituted—

""the Minister" means—

(a) the Secretary of State, in respect of the supply of water by a water supply licensee in accordance with the licensee's retail authorisation

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using the supply system of a water undertaker whose area is wholly or mainly in England;

(b) the Welsh Ministers, in respect of the supply of water by a water supply licensee in accordance with the licensee's retail authorisation using the supply system of a water undertaker whose area is wholly or mainly in Wales;".

27 In section 52 (the domestic supply duty) (as amended by Schedule 7), in subsection (4A)—

(a) after paragraph (a) there is inserted "and";

(b) paragraph (c) and the "and" preceding it are repealed.

28 In section 55 (supplies for non-domestic purposes) (as amended by Schedule 7), in subsection (1A)(b), the words from "or, in the case" to "that subsection" are repealed.

29 In section 63AC(4) (as substituted by section 31), the words " or a restricted retail authorisation " are repealed.

30 (1) Section 66A (use of water undertaker's supply system) (inserted by Schedule 2) is amended as follows.

(2) Subsection (2) is repealed.

(3) In subsection (5)—

(a) in paragraph (a), the words "in the case of a request under subsection (1)," are repealed;

(b) paragraph (b) is repealed.

(4) In subsection (7)(a), the words "or (2)" are repealed.

(5) In subsection (9)(c), the words "or a restricted retail authorisation" are repealed.

31 (1) Section 66AA (water supply from water undertaker) (inserted by Schedule 2) is amended as follows.

(2) Subsection (2) is repealed.

(3) In subsection (3)(a), the words "or, as the case may be, subsection (2)" are repealed.

(4) In subsection (5)—

(a) in paragraph (a), the words "or, as the case may be, R" are repealed;

(b) in paragraph (b), the words "or, as the case may be, R" are repealed.

(5) In subsection (7)(a), the words "or (2)" are repealed.

32 (1) Section 66B (introduction of water into water undertaker's supply system) (inserted by Schedule 2) is amended as follows.

(2) Subsections (2) and (3) are repealed.

(3) In subsection (4)—

(a) in paragraph (a), the words "in a case falling within subsection (1)," are repealed;

(b) paragraphs (b) and (c) are repealed;

(c) in paragraph (d), for "steps under paragraphs (a), (b) or (c) (as the case may be)" there is substituted " such steps ".

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(4) In subsection (6)(a), the words “, (2) or (3)” are repealed.

(5) Subsections (7) and (8) are repealed.

(6) In subsection (9), the words “or (b)(i) or (ii)” are repealed.

(7) Subsection (10)(b) is repealed.

33 (1) Section 66C (introduction of water provided by secondary undertaker) (inserted by Schedule 2) is amended as follows.

(2) In subsection (1), the words from “A request under paragraph (a)” to the end are repealed.

(3) Subsections (2) to (4) are repealed.

(4) In subsection (5), the words “by virtue of subsection (1), (2) or (4)” are repealed.

(5) In subsection (6)(a), the words “, L2, L3 or R” are repealed.

(6) In subsection (7), the words “, L2 or R” are repealed.

(7) In subsection (9)(a), the words “, (2), (3) or (4)” are repealed.

(8) In subsection (11), the words “, (2), (3) or (4)” are repealed.

34 In section 66E (rules about charges) (inserted by Schedule 2), in subsection (3), the words “or restricted retail authorisation” are repealed.

35 In section 66EA (rules about charges: provision about reduction in charges) (inserted by Schedule 2), in subsection (1)(a), the words “or a restricted retail authorisation” are repealed.

36 In section 66G (designation of strategic supply) (as amended by Schedule 2), in subsection (11), paragraph (b) and the “or” preceding it are repealed.

37 In section 66H (designation of collective strategic supply) (as amended by Schedule 2), in subsection (11), paragraph (b) and the “or” preceding it are repealed.

38 (1) Section 68 (duties of water undertakers and licensed water suppliers with respect to water quality) (as amended by Schedule 7) is amended as follows.

(2) In subsection (1A)—

(a) in paragraph (a), the words “or restricted retail authorisation” are repealed;

(b) in paragraph (b), the words “or restricted retail authorisation” are repealed.

(3) In subsection (6), the words “or a restricted retail authorisation” are repealed.

39 (1) Section 95ZA (standards of performance in connection with provision of sewerage services: sewerage licensees) (inserted by section 30) is amended as follows.

(2) In the following places—

(a) the opening words of subsection (1),

(b) subsection (1)(b)(i), and

(c) subsection (2),

for “Secretary of State” there is substituted “ Minister ”.

(3) In subsection (2), for “Secretary of State's” there is substituted “Minister's”.

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(4) After subsection (5) there is inserted—

"(6) In this section—

"the Minister" means—

(a) the Secretary of State, in respect of the provision of services by a sewerage licensee in accordance with the licensee's retail authorisation using the sewerage system of a sewerage undertaker whose area is wholly or mainly in England;

(b) the Welsh Ministers, in respect of the provision of services by a sewerage licensee in accordance with the licensee's retail authorisation using the sewerage system of a sewerage undertaker whose area is wholly or mainly in Wales;

"prescribed" means prescribed by regulations made by the Minister."

40 In section 96ZA (procedure for regulations under section 95ZA) (inserted by section 30), for subsection (2) there is substituted—

"(2) In the application of section 96 by virtue of subsection (1)—

(a) a reference to a sewerage undertaker is to be treated as a reference to a sewerage licensee, and

(b) a reference to the Secretary of State is to be treated as a reference to the Minister (as defined in section 95ZA(6)).

(3) Regulations under section 95ZA are to be made by statutory instrument.

(4) A statutory instrument containing regulations under section 95ZA is subject to annulment in pursuance of a resolution of—

(a) either House of Parliament, in the case of regulations made by the Secretary of State;

(b) the Assembly, in the case of regulations made by the Welsh Ministers.

(5) Section 213(2) to (2B) applies to regulations made by the Welsh Ministers under section 95ZA as it applies to regulations made by the Secretary of State."

41 (1) Section 117G (codes under section 117F: procedure) (inserted by Schedule 4) is amended as follows.

(2) In subsection (2), after paragraph (a) there is inserted—

"(aa) the Welsh Ministers;".

(3) For subsection (4) there is substituted—

"(4) Before a code under section 117F prepared by the Authority is issued, the Minister may direct the Authority—

(a) not to issue the code, or

(b) to issue the code with specified modifications.

(4A) Subsection (4) is subject to subsections (4C) and (4D).

(4B) In subsection (4) "the Minister" means—

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(a) the Secretary of State, so far as a code prepared by the Authority relates to section 117E agreements made with sewerage undertakers whose areas are wholly or mainly in England;

(b) the Welsh Ministers, so far as a code prepared by the Authority relates to section 117E agreements made with sewerage undertakers whose areas are wholly or mainly in Wales.

(4C) The power under subsection (4) may not be exercised more than once by the Secretary of State or the Welsh Ministers.

(4D) If the power under subsection (4) is not exercised by the Secretary of State or the Welsh Ministers on the first occasion on which it may be exercised by the Secretary of State or (as the case may be) the Welsh Ministers, it may not be exercised by the Secretary of State or (as the case may be) the Welsh Ministers on a later occasion."

(4) In subsection (6), after paragraph (a) there is inserted—

"(aa) the NRBW, in relation to section 117E agreements made with sewerage undertakers whose areas are wholly in Wales;".

(5) The power to give a direction under section 117G(4) of the Water Industry Act 1991 (as substituted by this paragraph) may not be exercised by the Secretary of State if, before the coming into force of this paragraph—

(a) the Secretary of State exercised the power to give a direction under section 117G(4) of the Water Industry Act 1991 (inserted by Schedule 4), or

(b) the Secretary of State omitted to exercise that power to give a direction.

42 (1) Section 117K (rules under section 117I: procedure) (inserted by Schedule 4) is amended as follows.

(2) In subsection (2), after paragraph (a) there is inserted—

"(aa) the Welsh Ministers;".

(3) For subsection (5) there is substituted—

"(5) Before rules under section 117I prepared by the Authority are issued, the Minister may direct the Authority not to issue the rules.

(5A) In subsection (5) "the Minister" means—

(a) the Secretary of State, so far as rules prepared by the Authority relate to section 117E agreements made with sewerage undertakers whose areas are wholly or mainly in England;

(b) the Welsh Ministers, so far as rules prepared by the Authority relate to section 117E agreements made with sewerage undertakers whose areas are wholly or mainly in Wales."

(4) In subsection (7), after paragraph (a) there is inserted—

"(aa) the NRBW, in relation to section 117E agreements made with sewerage undertakers whose areas are wholly in Wales;".

43 (1) Section 117L (rules under section 117I: minor or urgent revisions) (inserted by Schedule 4) is amended as follows.

(2) In subsections (3), (4) and (5)(b), for "the Secretary of State" there is substituted " the Minister ".

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(3) After subsection (8) there is inserted—

"(9) In this section "the Minister" has the meaning given by section 117K."

44 (1) Section 117M (rules under section 117I: guidance) (inserted by Schedule 4) is amended as follows.

(2) In subsection (3), for the words from "are such" to the end there is substituted "are—

(a) the Secretary of State;

(b) the Welsh Ministers;

(c) such other persons as the Minister thinks appropriate."

(3) In subsection (7), for "means the Secretary of State." there is substituted "means—

(a) the Secretary of State, in relation to sewerage undertakers whose areas are wholly or mainly in England;

(b) the Welsh Ministers, in relation to sewerage undertakers whose areas are wholly or mainly in Wales."

45 (1) Section 117N (designation of strategic sewerage provision) (inserted by Schedule 4) is amended as follows.

(2) In subsection (4), after paragraph (a) there is inserted—

"(aa) the Welsh Ministers;".

(3) In subsection (8), after paragraph (a) there is inserted—

"(aa) the Welsh Ministers;".

(4) In subsection (11), after paragraph (a) there is inserted—

"(aa) the NRBW, in a case where the undertaker's area is wholly in Wales;".

46 (1) Section 117O (designation of collective strategic sewerage provision) (inserted by Schedule 4) is amended as follows.

(2) In subsection (4), after paragraph (a) there is inserted—

"(aa) the Welsh Ministers;".

(3) In subsection (8), after paragraph (a) there is inserted—

"(aa) the Welsh Ministers;".

47 In section 117P (prohibition on unauthorised use of sewerage system) (inserted by Schedule 4), in subsection (1), the words "whose area is wholly or mainly in England" are repealed.

48 In section 117Q (prohibition on unauthorised removal of matter from sewerage system) (inserted by Schedule 4), in subsection (1), the words "whose area is wholly or mainly in England" are repealed.

49 In section 117S (section 117R: supplementary) (inserted by Schedule 4), at the end there is inserted—

"(7) The power to—

(a) make an order under subsection (1) or (2) or section 117R(1), or

(b) give a direction under subsection (3),

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is exercisable by the Welsh Ministers (and not by the Secretary of State) in relation to any supply system of a sewerage undertaker whose area is wholly or mainly in Wales.

(8) Accordingly, subsections (1) to (5) and section 117R apply in relation to an order made or a direction given by the Welsh Ministers by virtue of subsection (7) as they apply in relation to an order made or direction given by the Secretary of State.

(9) A statutory instrument containing an order made by the Welsh Ministers by virtue of subsection (7) is subject to annulment in pursuance of a resolution of the Assembly."

50 In section 158 (powers to lay pipes in streets), in subsection (7)(a), the following words are repealed—

(a) "or (b)(i)";

(b) "or laid in pursuance of section 66B(4)(b)(ii)".

51 In section 195(3AA) (the Authority's register: consultation as regards water supply licensees) (as amended by Schedule 7), after "water supply licensee" there is inserted " or a sewerage licensee ".

52 In section 207D (exercise of adjudication functions by other persons) (inserted by section 39), in subsection (5), in paragraph (b) of the definition of "the Minister"—

(a) the "or" following sub-paragraph (i) is repealed;

(b) after sub-paragraph (ii) there is inserted ", or

(iii) in relation to a sewerage licensee using the sewerage system of such an undertaker (see section 17BA);".

53 In section 213 (powers to make regulations), subsection (1ZA) (inserted by Schedule 7) is repealed (if not previously repealed by an order under section 3).

54 (1) Schedule 2A (water supply licences: authorisations) (inserted by Schedule 1) is amended as follows.

(2) Paragraphs 1 and 2 are repealed.

(3) Paragraphs 6 to 8 are repealed.

(4) In paragraph 9, for "requirements in paragraphs 4 and 7 are" there is substituted " requirement in paragraph 4 is ".

(5) In paragraph 10, for "paragraphs 4 and 7" there is substituted " paragraph 4 ".

SCHEDULE 6 E+W

Section 37

PROCEDURE ON APPEALS UNDER SECTION 207A OF THE WATER INDUSTRY ACT 1991

Commencement Information

I153 Sch. 6 in force at 1.4.2016 by S.I. 2016/465, **art. 2(l)** (with Sch. 2)

Status: *This version of this Act contains provisions that are prospective.*
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"SCHEDULE 16 E+W

PROCEDURE ON APPEALS UNDER SECTION 207A

Regulations as to procedure

1 The Secretary of State may by regulations make provision about the procedure applying to appeals under section 207A.

Particular provision

2 Regulations under this Schedule may in particular make provision about—

(a) making an application for permission to bring an appeal;

(b) imposing conditions on the granting of permission to appeal (including conditions requiring an appeal to be considered together with other appeals, whether relating to the same revision or the same code or not);

(c) the persons who may be party to an appeal;

(d) making an application for permission to be made party to an appeal;

(e) imposing conditions on the granting of permission to become party to an appeal;

(f) enabling a member of the CMA to make decisions as to the matters referred to in paragraphs (a), (b), (d) and (e);

(g) enabling a member of the CMA to direct, pending the determination of the appeal, that the code in question—

(i) is to have effect without the revision, or

(ii) is to have effect with the revision but with modifications specified by the direction;

(h) the number of persons in a group constituted to hear an appeal;

(i) the making of a decision by the group;

(j) the participation of the Authority in the appeal (including provision as to the making of representations and observations by the Authority otherwise than in connection with the consideration of the appeal);

(k) the imposing of time limits (including provision for time limits to be waived in certain cases by a member of the CMA);

(l) orders for costs;

(m) the recovery of the CMA's costs.

Consideration and determination of appeals

3 (1) Regulations under this Schedule may make provision about—

(a) the consideration and determination of the appeal;

(b) giving effect to the determination.

(2) Provision under sub-paragraph (1)(a) may include in particular—

(a) provision for disregarding, when determining an appeal, matters not raised as required by the regulations;

(b) provision as to the time within which an appeal is to be determined.

Evidence

4 (1) Regulations under this Schedule may make provision about—

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(a) requiring the production of documents;
(b) requiring persons to attend an oral hearing;
(c) requiring persons attending an oral hearing—
(i) to give evidence at the hearing;
(ii) to make representations and observations;
(d) requiring persons—
(i) to produce a written statement;
(ii) to verify the statement by a statement of truth.

(2) No person is to be compelled under the regulations—
(a) to produce a document that the person could not be compelled to produce in civil proceedings in the High Court;
(b) to give evidence which the person could not be compelled to give in civil proceedings in the High Court;
(c) to produce a written statement with respect to a matter about which the person could not be compelled to give evidence in civil proceedings in the High Court.

(3) The regulations may provide for a notice requiring the production of documents, attendance of a person, or the production of a written statement to be issued by any member of the CMA.

5 (1) Regulations under this Schedule may provide for penalties to be imposed where—
(a) a person fails without reasonable excuse to comply with a requirement imposed in accordance with regulations under paragraph 4;
(b) having been required to produce a document in accordance with paragraph 4, a person wilfully alters, suppresses or destroys the document;
(c) having been required to produce a written statement in accordance with paragraph 4, a person makes without reasonable excuse a false statement in the written statement produced;
(d) having been required by appeal rules to verify information with a statement of truth, a person provides without reasonable excuse information that is false in a material particular.

(2) The regulations may provide for conduct falling within sub-paragraph (1)(a), (c) or (d) to be punished by the High Court as if the person had been guilty of contempt.

(3) The regulations may provide that, where a body corporate may be punished for contempt of court, the High Court has power to punish for contempt of court any director or other officer of the body (instead of or as well as the body).

(4) The regulations may provide for conduct falling within sub-paragraph (1)(b) to be an offence triable either summarily or on indictment.

(5) The regulations may provide for such an offence to be punishable—
(a) on summary conviction, by a fine not exceeding the statutory maximum;
(b) on conviction on indictment, by imprisonment for a term not exceeding two years or by a fine, or by both.

Appeal rules

6 (1) The CMA may make rules regulating the conduct and disposal of appeals.

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(2) The rules may include provision supplementing regulations made under this Schedule; and that provision may, in particular, impose time limits or other restrictions on—
  (a) the taking of evidence at an oral hearing;
  (b) the making of representations or observations at such a hearing.

(3) The CMA must publish rules made under this paragraph in such manner as it considers appropriate for the purpose of bringing them to the attention of those likely to be affected by them.

(4) Before making rules under this paragraph, the CMA must consult such persons as it considers appropriate.

(5) Rules under this paragraph may make different provision for different cases.

Interpretation

7 In this Schedule—

"appeal" means an appeal under section 207A;

"appeal rules" means rules under paragraph 6;

"statement of truth" means a statement that the person producing the document believes the facts stated in the document to be true."

SCHEDULE 7 E+W

Section 56

FURTHER AMENDMENTS

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 subsection (2)(b)—
  (a) for "company" there is substituted " person ";
  (b) for "on it" there is substituted " on the undertaker or, as the case may be, the person ".

(3) In subsection (6)(a)—
  (a) for "company" there is substituted " person ";
  (b) for "its licence" there is substituted " the person's licence ".

Commencement Information
I154 Sch. 7 para. 1 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(a)** (with Sch. 2)

Water Industry Act 1991 (c. 56)

2 The Water Industry Act 1991 is amended as follows.

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Commencement Information

I155 Sch. 7 para. 2 in force at 1.1.2015 for specified purposes by S.I. 2014/3320, **art. 2(2)(e)(i)**
I156 Sch. 7 para. 2 in force at 15.7.2015 for specified purposes by S.I. 2015/1469, **art. 2(f)(ii)**
I157 Sch. 7 para. 2 in force at 1.9.2015 for specified purposes by S.I. 2015/1469, **art. 3(f)(ii)**
I158 Sch. 7 para. 2 in force at 1.11.2015 for specified purposes by S.I. 2015/1469, **art. 4(c)(ii)**
I159 Sch. 7 para. 2 in force at 18.12.2015 for specified purposes by S.I. 2015/1938, **art. 2(g)(ii)**
I160 Sch. 7 para. 2 in force at 1.1.2016 for specified purposes by S.I. 2015/1938, **art. 3(f)(viii)**
I161 Sch. 7 para. 2 in force at 1.4.2016 for specified purposes by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(b)** (with Sch. 2)
I162 Sch. 7 para. 2 in force at 1.9.2016 for specified purposes by S.I. 2016/465, **art. 3(g)(ii)** (with Sch. 2)
I163 Sch. 7 para. 2 in force at 1.11.2016 for specified purposes by S.I. 2016/1007, **art. 2(h)(i)**
I164 Sch. 7 para. 2 in force at 1.4.2017 for specified purposes by S.I. 2017/462, **art. 3(k)(i)**
I165 Sch. 7 para. 2 in force at 1.10.2017 for specified purposes by S.I. 2017/462, **art. 4(d)(i)**
I166 Sch. 7 para. 2 in force at 1.4.2018 for specified purposes by S.I. 2017/462, **art. 5(e)(i)** (as amended by S.I. 2017/926, art. 2(3))

3 (1) Section 2 (general duties with respect to water industry) is amended as follows.

(2) In subsection (1), for the words from "the following" to the end there is substituted " the powers and duties conferred or imposed on the Secretary of State or the Authority by virtue of any of the relevant provisions. "

(3) In subsection (2A)(d), for "of a licensed water supplier" there is substituted " of a water supply licensee or sewerage licensee ".

(4) In subsection (2C)—

(a) the "and" after paragraph (d) is repealed;

(b) in paragraph (e), for the words from "not eligible" to the end there is substituted " household premises (as defined in section 17C) ";

(c) after paragraph (e) there is inserted "; and

(f) customers, of companies holding an appointment under Chapter 1 of Part 2 of this Act, whose premises are below the consumption threshold and in the area of a relevant undertaker whose area is wholly or mainly in Wales,".

(5) In subsection (2D), for the words from "not eligible" to "the total quantity" there is substituted " below the consumption threshold if the total quantity ".

(6) In subsection (2DB) (inserted by section 22), in paragraph (b) (meaning of sewerage systems), for the words from "a reference to the system comprising" to the end there is substituted " to be construed in accordance with section 17BA(7). "

(7) In subsection (5A), in the definition of "the interests of consumers"—

(a) in paragraph (a), for "licensed water suppliers" there is substituted " water supply licensees ";

(b) in paragraph (b), for "by sewerage undertakers" there is substituted " either by sewerage undertakers or by sewerage licensees acting in their capacity as such ".

(8) In subsection (6)—

(a) in paragraph (a), for the words from "the provisions of" to "water suppliers" there is substituted " the relevant provisions ";

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Water Act 2014 is up to date with all changes known to be in force on or before 20 June 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) View outstanding changes*

(b) in paragraph (a), for the words from "contained in" to the end, there is substituted "contained in—

(i) Part 2 of this Act (except section 27A and Schedule 3A),

(ii) any of sections 37A to 38, 38ZA, 39, 39ZA, 39B to 39D, 40E to 40J, 42, 51CD to 51CG, 63AC to 63AF, 66B, 66CA to 66H, 66K, 66L, 66O(2), 95, 95ZA, 96, 96ZA, 99, 105ZF to 105ZI, 110F to 110J, 110L to 110O, 117E to 117O, 117R, 117S, 143B to 143E, 144ZA to 144ZF, 153, 181, 182, 185, 192A, 192B, 195, 195A and 201 to 203 below, and

(iii) any of sections 42 to 54 of the Water Act 2014.";

(c) paragraphs (b) and (c) are repealed.

Commencement Information

I167 Sch. 7 para. 3(1)(2)(8)(a)(c) in force at 15.7.2015 for specified purposes by S.I. 2015/1469, **art. 2(f)(ii)**

I168 Sch. 7 para. 3(1)(2)(8)(a)(c) in force at 1.9.2015 for specified purposes by S.I. 2015/1469, **art. 3(f)(ii)**

I169 Sch. 7 para. 3(1)(2)(8)(a)(c) in force at 1.11.2015 for specified purposes by S.I. 2015/1469, **art. 4(c)(ii)**

I170 Sch. 7 para. 3(1)(2)(8)(a)(c) in force at 18.12.2015 for specified purposes by S.I. 2015/1938, **art. 2(g)(ii)**

I171 Sch. 7 para. 3(1) in force at 1.4.2016 for specified purposes by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(c)(i)** (with Sch. 2)

I172 Sch. 7 para. 3(1)(2)(8)(a)(c) in force at 1.9.2016 for specified purposes by S.I. 2016/465, **art. 3(g)(ii)** (with Sch. 2)

I173 Sch. 7 para. 3(1)(2)(8)(a)(c) in force at 1.11.2016 for specified purposes by S.I. 2016/1007, art. 2(h)(aa)**(ii)**

I174 Sch. 7 para. 3(1)(2)(8)(a)(c) in force at 1.4.2017 in so far as not already in force by S.I. 2017/462, **art. 3(k)(ii)**

I175 Sch. 7 para. 3(2)(8)(a)(c) in force at 1.4.2016 for specified purposes by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(c)(iv)** (with Sch. 2)

I176 Sch. 7 para. 3(3)(6)(7) in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(c)(ii)** (with Sch. 2)

I177 Sch. 7 para. 3(4)(5) in force at 1.4.2017 by S.I. 2017/462, **art. 3(k)(ii)**

I178 Sch. 7 para. 3(8)(b) in force at 15.7.2015 for specified purposes by S.I. 2015/1469, **art. 2(f)(i)**

I179 Sch. 7 para. 3(8)(b) in force at 1.9.2015 for specified purposes by S.I. 2015/1469, **art. 3(f)(i)**

I180 Sch. 7 para. 3(8)(b) in force at 1.11.2015 for specified purposes by S.I. 2015/1469, **art. 4(c)(i)**

I181 Sch. 7 para. 3(8)(b) in force at 18.12.2015 for specified purposes by S.I. 2015/1938, **art. 2(g)(i)**

I182 Sch. 7 para. 3(8)(b) in force at 1.4.2016 for specified purposes by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(c)(iii)** (with Sch. 2)

I183 Sch. 7 para. 3(8)(b) in force at 1.9.2016 for specified purposes by S.I. 2016/465, **art. 3(g)(i)** (with Sch. 2)

I184 Sch. 7 para. 3(8)(b) in force at 1.11.2016 for specified purposes by S.I. 2016/1007, art. 2(h)(bb)**(ii)**

I185 Sch. 7 para. 3(8)(b) in force at 1.4.2017 in so far as not already in force by S.I. 2017/462, **art. 3(k)(ii)**

4 In section 2A (strategic priorities and objectives: England) (inserted by section 24), in subsection (4)(d), for "licensed water suppliers" there is substituted " water supply licensees and sewerage licensees ".

Commencement Information

I186 Sch. 7 para. 4 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(d)** (with Sch. 2)

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Water Act 2014 is up to date with all changes known to be in force on or before 20 June 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) View outstanding changes*

5 In section 2B (strategic priorities and objectives: Wales) (inserted by section 24), in subsection (4)(d), for "licensed water suppliers" there is substituted " water supply licensees ".

Commencement Information
I187 Sch. 7 para. 5 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(d)** (with Sch. 2)

6 In section 6 (appointment of relevant undertakers), in subsection (5A), for "a licensed water supplier" there is substituted " a water supply licensee or sewerage licensee ".

Commencement Information
I188 Sch. 7 para. 6 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(d)** (with Sch. 2)

7 (1) Section 10 (transitional provision with respect to replacement appointments) is amended as follows.

(2) In subsection (2), for "and (4)" there is substituted " to (4) ".

(3) After subsection (3) there is inserted—

"(3A) To the extent that charging rules issued under section 144ZA relate to charges imposed or security required by a relevant undertaker under section 185, those rules are to apply in relation to the new undertaker as if the appointment or variation had come into force."

Commencement Information
I189 Sch. 7 para. 7 in force at 1.11.2016 by S.I. 2016/1007, **art. 2(h)(iii)**

8 In section 12 (determinations under conditions of appointment)—

(a) in subsection (3B) (application of certain provisions to references to competition authority under section 12) for "sections 16A and 16B" there is substituted " sections 14A and 14B ";

(b) in subsection (3D), for "16B" there is substituted " 14B ".

9 For the heading of Chapter 1A of Part 2 there is substituted— " Water supply licences and sewerage licences ".

Commencement Information
I190 Sch. 7 para. 9 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(e)** (with Sch. 2)

10 (1) Section 17B (provision supplementary to section 17A) is amended as follows.

(2) For the title there is substituted " Meaning of supply system ".

(3) Subsections (1) to (4) (provision as to guidance on extent of premises) are repealed.

(4) Subsection (9) (references to a licensed water supplier) is repealed.

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Changes to legislation: *Water Act 2014 is up to date with all changes known to be in force on or before 20 June 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) View outstanding changes*

Commencement Information

I191 Sch. 7 para. 10(1) in force at 1.4.2016 for specified purposes by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(f)** (with Sch. 2)

I192 Sch. 7 para. 10(1) in force at 1.4.2017 in so far as not already in force by S.I. 2017/462, **art. 3(k)(iii)**

I193 Sch. 7 para. 10(2)(3) in force at 1.4.2017 by S.I. 2017/462, **art. 3(k)(iii)**

I194 Sch. 7 para. 10(4) in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(f)** (with Sch. 2)

11 In section 17C (meaning of "household premises"), in subsection (1), for "section 17A(3)(a) above" there is substituted " paragraphs 4 and 7(a) of Schedule 2A and paragraph 2 of Schedule 2B ".

Commencement Information

I195 Sch. 7 para. 11 in force at 1.1.2016 by S.I. 2015/1938, **art. 3(f)(i)**

12 (1) Section 17D (the threshold requirement) is amended as follows.

(2) In subsection (1) (purpose of section 17D)—

(a) for "section 17A(3)(b) above" there is substituted " paragraph 7(b) of Schedule 2A ";

(b) after "the supply of water to any premises" there is inserted " in accordance with a restricted retail authorisation ".

(3) In subsection (2) (description of the requirement), for "licensed water supplier" there is substituted " water supply licensee ".

(4) In subsection (3) (guidance on making estimate)—

(a) after "guidance issued" there is inserted " from time to time ";

(b) for "the Secretary of State" there is substituted " the Welsh Ministers ".

(5) Subsection (5) (duty of Secretary of State to consult the National Assembly for Wales before issuing guidance) is repealed.

(6) Subsection (6) (application of guidance provision to threshold requirement) is repealed.

(7) In subsection (7) (regulations as to entering into an undertaking to supply water)—

(a) for "The Secretary of State" there is substituted " The Welsh Ministers ";

(b) for "licensed water supplier" there is substituted " water supply licensee ";

(c) the words "(subject to subsection (12) below)" are repealed.

(8) In subsection (8) (regulations to alter the threshold)—

(a) for "The Secretary of State" there is substituted " The Welsh Ministers ";

(b) the words "(subject to subsection (12) below)" are repealed.

(9) In subsection (10) (procedure), for "each House of Parliament" there is substituted " the Assembly ".

(10) In subsection (11) (consultation before making regulations)—

(a) for "the Secretary of State", in the first place where those words occur, there is substituted " the Welsh Ministers ";

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(b) for "the Secretary of State thinks" there is substituted " the Welsh Ministers think ".

(11) Subsections (12) and (13) (exercise of powers by Welsh Ministers) are repealed.

Commencement Information

I196 Sch. 7 para. 12(1) in force at 1.1.2016 for specified purposes by S.I. 2015/1938, **art. 3(f)(iii)**

I197 Sch. 7 para. 12(1) in force at 1.4.2016 for specified purposes by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(g)** (with Sch. 2)

I198 Sch. 7 para. 12(1) in force at 1.4.2017 in so far as not already in force by S.I. 2017/462, **art. 3(k)(iv)**

I199 Sch. 7 para. 12(2) in force at 1.1.2016 by S.I. 2015/1938, **art. 3(f)(ii)** (with art. 4)

I200 Sch. 7 para. 12(3) in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(g)** (with Sch. 2)

I201 Sch. 7 para. 12(4)-(11) in force at 1.4.2017 by S.I. 2017/462, **art. 3(k)(iv)** (with art. 11)

13 After section 17D there is inserted—

"**17DA Guidance**

The Authority must publish guidance issued from time to time under—

(a) section 17D(3),

(b) paragraph 10 of Schedule 2A, or

(c) paragraph 4 of Schedule 2B,

in such manner as the Authority considers appropriate for the purpose of bringing it to the attention of persons likely to be affected by it."

Commencement Information

I202 Sch. 7 para. 13 in force at 1.1.2016 by S.I. 2015/1938, **art. 3(f)(iv)**

14 (1) Section 17E (determinations by the Authority) is amended as follows.

(2) For subsection (1) there is substituted—

"(1) The Authority may determine, in a case referred to it by—

(a) a water supply licensee or a potential customer of a water supply licensee, or

(b) a sewerage licensee or a potential customer of a sewerage licensee,

whether a proposed supply of water to, or proposed sewerage services for, the customer would be in accordance with what is authorised by the licensee's licence."

(3) In subsection (2)—

(a) in paragraph (a), for "section 17A(3) above" there is substituted " paragraph 4 or 7(a) or (b) of Schedule 2A ";

(b) after paragraph (a) there is inserted—

"(aa) the extent of the premises to be served for the purposes of paragraph 2 of Schedule 2B;";

(c) in paragraph (b), after "to be supplied" there is inserted " or served ".

Status: *This version of this Act contains provisions that are prospective.*
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Commencement Information

I203 Sch. 7 para. 14 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(h)** (with Sch. 2)

15 (1) Section 17F (procedure for granting water supply licences) is amended as follows.

(2) In the title, after "water supply" there is inserted " and sewerage ".

(3) In subsection (4)—

(a) the words "the Secretary of State or" are repealed;

(b) the words "he or", in each place they occur, are repealed.

(4) In subsection (7)—

(a) the words "the Secretary of State or" are repealed;

(b) for paragraph (g) there is substituted—

"(g) on each water supply licensee and sewerage licensee (other than the holder of the licence in question);";

(c) paragraph (h) is repealed;

(d) in paragraph (i), the words "if the licence or variation is granted by the Authority," are repealed.

(5) In subsection (8), the words "by the Secretary of State or" are repealed.

Commencement Information

I204 Sch. 7 para. 15(1) in force at 1.1.2016 for specified purposes by S.I. 2015/1938, **art. 3(f)(vi)**

I205 Sch. 7 para. 15(1) in force at 1.4.2016 for specified purposes by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(i)** (with Sch. 2)

I206 Sch. 7 para. 15(2)(4)(b) in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(i)** (with Sch. 2)

I207 Sch. 7 para. 15(3)(4)(a)(c)(d)(5) in force at 1.1.2016 by S.I. 2015/1938, **art. 3(f)(v)**

16 (1) Section 17G (water supply licence conditions) is amended as follows.

(2) For the title there is substituted " Licence conditions ".

(3) In subsection (1) (conditions to be included)—

(a) for "A water supply licence" there is substituted " A licence under this Chapter ";

(b) in paragraph (a), the words "the Secretary of State or, as the case may be," are repealed;

(c) in paragraph (a), the words "him or" are repealed;

(d) in paragraph (b), for "the Secretary of State" there is substituted " the Authority ";

(e) in paragraph (b), for "water supply licence" there is substituted " licence under this Chapter ".

(4) After subsection (2) there is inserted—

"(2A) Conditions may be included by virtue of subsection (1)(a) in a sewerage licence whether or not they are connected with—

(a) effectual dealing with the contents of sewers, or

(b) the use of the sewerage system of a sewerage undertaker."

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(5) In subsection (3) (directions and determinations), for "water supply licence" there is substituted " licence under this Chapter ".

(6) In subsection (4) (persons who may give directions etc), in paragraph (a)(iii), at the beginning there is inserted "so far as subsection (3) applies to water supply licences,".

(7) In subsection (5) (duration and modification of conditions), for "water supply licence" there is substituted " licence under this Chapter ".

(8) In subsection (7) (payments received by Secretary of State paid into the Consolidated Fund), for "the Secretary of State" there is substituted " the Authority ".

Commencement Information

I208 Sch. 7 para. 16 in force at 1.1.2016 by S.I. 2015/1938, **art. 3(f)(vii)**

17 (1) Section 17H (standard conditions of water supply licences) is amended as follows.

(2) For subsections (1) to (3) there is substituted—

"(1) The Secretary of State may determine the conditions that are to be the standard conditions of water supply licences granted by the Authority.

(1A) Before determining the standard conditions, the Secretary of State must consult the Welsh Ministers as regards conditions relating to a restricted retail authorisation or a supplementary authorisation.

(1B) The Secretary of State is to publish the standard conditions in such manner as the Secretary of State considers appropriate.

(2) The standard conditions may be different depending on the different authorisations or combinations of authorisations to which the conditions are to relate.

(3) The power to determine standard conditions in relation to water supply licences giving a particular authorisation or a particular combination of authorisations may be exercised only before the grant of the first licence to give that authorisation or that particular combination of authorisations (but this is without prejudice to the power to modify standard conditions in accordance with the provisions of this Chapter)."

(3) In subsection (4) (general provision about standard conditions), for "of either description" there is substituted " giving any particular authorisation or combination of authorisations ".

(4) In subsection (6) (power to exclude or modify standard conditions in a particular case)—

(a) the words "the Secretary of State or" are repealed;

(b) the words "he or" are repealed.

(5) In subsection (7) (steps before exercising power in subsection (6))—

(a) the words "the Secretary of State or" are repealed;

(b) in paragraph (a), the words "he or" are repealed;

(c) in paragraph (b), the words "he or" are repealed.

Status: *This version of this Act contains provisions that are prospective.*
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(6) In subsection (8) (publication of notice of intention to modify standard conditions)—

(a) in paragraph (a), the words "the Secretary of State or (as the case may be)" are repealed;

(b) for paragraph (b)(i) there is substituted—

"(i) if the notice relates to a water supply licence giving a restricted retail authorisation or a restricted retail authorisation and a supplementary authorisation, on the Welsh Ministers;";

(c) paragraph (b)(iii) is repealed;

(d) in paragraph (b)(iv), the words "if the notice is published by the Authority," are repealed;

(e) after paragraph (b)(iv) there is inserted—

"(v) on the Water Industry Commission for Scotland."

(7) In subsection (9) (direction not to exclude or modify a standard condition), for "the Assembly" there is substituted " the Welsh Ministers in a case where notice was served on them under subsection (8)(b)(i) ".

(8) In subsection (10) (power under subsection (6) not to be exercised in certain circumstances)—

(a) the words "Secretary of State or the" are repealed;

(b) the words "he or" are repealed.

Commencement Information

I209 Sch. 7 para. 17 in force at 1.1.2016 by S.I. 2015/1938, **art. 3(f)(vii)**

18 After section 17H there is inserted—

"**17HA Standard conditions of sewerage licences**

(1) The Secretary of State may determine the conditions that are to be the standard conditions of sewerage licences granted by the Authority.

(2) The Secretary of State is to publish the standard conditions in such manner as the Secretary of State considers appropriate.

(3) The standard conditions may be different depending on the different authorisations or combinations of authorisations to which the conditions are to relate.

(4) The power to determine standard conditions in relation to sewerage licences giving a particular authorisation or a particular combination of authorisations may be exercised only before the grant of the first licence to give that authorisation or that particular combination of authorisations (but this is without prejudice to the power to modify standard conditions in accordance with the provisions of this Chapter).

(5) The standard conditions for the purposes of sewerage licences giving any particular authorisation or combination of authorisations may contain provision—

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(a) for any standard condition included in a licence of that description not to have effect until brought into operation in such manner and in such circumstances as may be specified in or determined under the standard conditions;

(b) for the effect of any standard condition included in such a licence to be suspended in such manner, and in such circumstances, as may be so specified or determined; and

(c) for any standard condition included in such a licence which is for the time being suspended to be brought back into operation in such manner and in such circumstances as may be so specified or determined.

(6) Subject to subsection (7), each condition which is a standard condition is to be incorporated by reference in each sewerage licence (or in each such licence to which the standard condition applies).

(7) Subject to the following provisions of this section, the Authority may, in granting a licence, exclude or modify any of the standard conditions to such extent as the Authority considers requisite to meet the circumstances of a particular case.

(8) Before excluding any standard conditions or making any modifications under subsection (7), the Authority must give notice—

(a) stating that the Authority proposes to exclude the conditions or make the modifications and setting out the effect of so doing;

(b) stating the reasons why the Authority proposes to exclude the conditions or make the modifications; and

(c) specifying the time (not being less than 28 days from the date of publication of the notice) within which representations or objections with respect to the proposed exclusions or modifications may be made,

and the Authority must consider any representations or objections which are duly made and not withdrawn.

(9) A notice under subsection (8) must be given—

(a) by publishing the notice in such manner as the Authority considers appropriate for the purpose of bringing the notice to the attention of persons likely to be affected by the making of the exclusions or modifications; and

(b) by serving a copy of the notice—

(i) on the Secretary of State;

(ii) on the Environment Agency;

(iii) on the NRBW;

(iv) on the Water Industry Commission for Scotland.

(10) If, within the time specified in the notice under subsection (8), the Secretary of State directs the Authority not to exclude or modify any standard condition, the Authority must comply with the direction.

(11) The Authority may not exclude any conditions, or make any modifications, under subsection (7) unless the Authority is of the opinion that the exclusions or modifications are such that—

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(a) the licence holder would not be unduly disadvantaged in competing with other holders of sewerage licences; and

(b) no other holder of a sewerage licence would be unduly disadvantaged in competing with other holders of such licences (including the holder of the licence being granted).

(12) The modification under subsection (7) of part of a standard condition is not to prevent any other part of the condition from continuing to be treated as a standard condition for the purposes of this Chapter."

Commencement Information

I210 Sch. 7 para. 18 in force at 1.1.2016 by S.I. 2015/1938, **art. 3(f)(vii)**

19 (1) Section 17I (modification of licences by agreement) is amended as follows.

(2) For the title there is substituted " Modification of licences by agreement ".

(3) In subsection (1) (power of Authority to modify licence), for the words from "conditions of" to the end there is substituted "conditions of—

(a) a particular water supply licence, or

(b) a particular sewerage licence."

(4) In subsection (2)(b) (modification not to cause undue disadvantage)—

(a) in sub-paragraph (i), after "water supply licences" there is inserted " or, as the case may be, sewerage licences ";

(b) in sub-paragraph (ii), after "a water supply licence" there is inserted " or, as the case may be, a sewerage licence ".

(5) In subsection (4)(b) (persons to be served with notice of proposed modifications), in sub-paragraph (iv), at the beginning there is inserted "if the notice relates to a water supply licence,".

(6) In subsection (5) (direction not to modify a condition), the words "(after consulting the Assembly)" are repealed.

(7) After subsection (5) there is inserted—

"(5A) The Secretary of State is to consult the Welsh Ministers before giving a direction under subsection (5) in relation to a water supply licence."

Commencement Information

I211 Sch. 7 para. 19 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(j)** (with Sch. 2)

20 (1) Section 17J (general modification of standard conditions) is amended as follows.

(2) For the title there is substituted " Modification of standard conditions ".

(3) In subsection (1) (power of Authority to modify standard conditions), for the words from "may modify" to the end there is substituted "may modify—

(a) the standard conditions of water supply licences, or

(b) the standard conditions of sewerage licences."

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(4) After subsection (1) there is inserted—

"(1A) Modifications may relate to—

(a) standard conditions contained in all water supply licences or sewerage licences, or

(b) standard conditions contained in those water supply licences or sewerage licences that grant a particular authorisation or combination of authorisations."

(5) In subsection (2) (power to make incidental and consequential modifications)—

(a) for "retail licences or combined licences" there is substituted " water supply licences or sewerage licences ";

(b) for "any licence of that description" there is substituted " any licence so affected ".

(6) In subsection (4)(b) (persons to be served with notice of proposed modifications), in sub-paragraph (iv), at the beginning there is inserted "if the notice relates to a water supply licence,".

(7) In subsection (5) (direction not to modify a standard condition), the words "(after consulting the Assembly)" are repealed.

(8) After subsection (5) there is inserted—

"(5A) The Secretary of State is to consult the Welsh Ministers before giving a direction under subsection (5) in relation to a water supply licence."

(9) In subsection (6) (modification conditional on views of relevant licence holders), for "retail licences or combined licences" there is substituted " water supply licences or sewerage licences ".

(10) In subsection (8) (preconditions for modification of standard condition), in paragraph (c), after "a water supply licence" there is inserted " or, as the case may be, a sewerage licence ".

(11) In subsection (10) (consultation with Welsh Ministers), after "subsection (6) above" there is inserted " in relation to the standard conditions of water supply licences ".

(12) In subsection (12) (changed standard conditions to be used in new licences)—

(a) for "retail licences or combined licences" there is substituted " water supply licences or sewerage licences ";

(b) in paragraph (a), for "licences of that description" there is substituted " water supply licences or, as the case may be, sewerage licences ";

(c) after paragraph (b) there is inserted—

"Where the Authority modifies the standard conditions of water supply licences or sewerage licences that grant particular authorisations or combinations of authorisations, paragraph (a) has effect only as regards licences granting the same authorisations or combinations of authorisations."

(13) In subsection (13) (meaning of "relevant licence holder"), for "retail licences or combined licences" there is substituted " water supply licences or sewerage licences or of such of those licences as grant a particular authorisation or combination of authorisations ".

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Changes to legislation: *Water Act 2014 is up to date with all changes known to be in force on or before 20 June 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) View outstanding changes*

Commencement Information
I212 Sch. 7 para. 20 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(j)** (with Sch. 2)

21 (1) Section 17K (references to competition authority in relation to the modification of licences) is amended as follows.

(2) For the title there is substituted " Modification references to competition authority ".

(3) In subsection (1) (reference of a particular licence), in paragraph (a)(i), for "a particular licence" there is substituted " a particular water supply or sewerage licence ".

(4) In subsection (2) (general matters that may be referred), in paragraph (a)(i), for "retail licences or combined licences" there is substituted " water supply licences or sewerage licences that grant a particular authorisation or combination of authorisations ".

(5) In subsection (5)(b) (persons to be served with copy of reference or variation), in sub-paragraph (iv), at the beginning there is inserted "in a case relating to a water supply licence or licences,".

Commencement Information
I213 Sch. 7 para. 21 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(j)** (with Sch. 2)

22 (1) Section 17N (reports on modification references) is amended as follows.

(2) For the title there is substituted " Reports on modification references ".

(3) In subsection (10)(a) (persons to be served with report relating to a particular licence), in sub-paragraph (iv), at the beginning there is inserted "if the report relates to a water supply licence,".

(4) In subsection (11)(a) (persons to be served with report relating to a standard condition), in sub-paragraph (ii), at the beginning there is inserted "if the report relates to water supply licences,".

(5) In subsection (12) (meaning of "relevant time"), in paragraph (a), after "Secretary of State and" there is inserted " , if the report relates to water supply licences, ".

Commencement Information
I214 Sch. 7 para. 22 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(j)** (with Sch. 2)

23 (1) Section 17O (modification of licences following report) is amended as follows.

(2) For the title there is substituted " Modification of licences following report ".

(3) In subsection (2) (power to make incidental and consequential modifications), for "the standard conditions of retail licences or combined licences" there is substituted "—

(a) the standard conditions of water supply licences or sewerage licences, or

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(b) the standard conditions of water supply licences or sewerage licences that grant a particular authorisation or combination of authorisations,".

(4) In subsection (5)(c)(iii), at the beginning there is inserted "in a case relating to a water supply licence or licences,".

(5) In subsection (10) (changed standard conditions to be used in new licences)—

(a) for "retail licences or combined licences" there is substituted " water supply licences or sewerage licences ";

(b) in paragraph (a), for "licences of that description" there is substituted " water supply licences or, as the case may be, sewerage licences ";

(c) after paragraph (b) there is inserted—

"Where the Authority modifies the standard conditions of water supply licences or sewerage licences that grant particular authorisations or combinations of authorisations, paragraph (a) has effect only as regards licences granting the same authorisations or combinations of authorisations."

Commencement Information

I215 Sch. 7 para. 23 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(j)** (with Sch. 2)

24 (1) Section 17P (competition authority's power of veto following report) is amended as follows.

(2) For the title there is substituted " Power of veto following report ".

(3) In subsection (7)(b) (persons to be served with notice of modifications proposed), in sub-paragraph (v), at the beginning there is inserted "if the reference relates to water supply licences,".

(4) In subsection (10) (power to make incidental and consequential modifications), for "the standard conditions of retail licences or combined licences" there is substituted "—

(a) the standard conditions of water supply licences or sewerage licences, or

(b) the standard conditions of water supply licences or sewerage licences that grant a particular authorisation or combination of authorisations,".

(5) In subsection (11) (changed standard conditions to be used in new licences)—

(a) for "retail licences or combined licences" there is substituted " water supply licences or sewerage licences ";

(b) in paragraph (a), for "licences of that description" there is substituted " water supply licences or, as the case may be, sewerage licences ";

(c) after paragraph (b) there is inserted—

"Where the Authority modifies the standard conditions of water supply licences or sewerage licences that grant particular authorisations or combinations of authorisations, paragraph (a) has effect only as regards licences granting the same authorisations or combinations of authorisations."

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Commencement Information

I216 Sch. 7 para. 24 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(j)** (with Sch. 2)

25 (1) Section 17R (modification of licences by order under other enactments) is amended as follows.

(2) For the title there is substituted " Modification by order under other enactments ".

(3) In subsection (1) (power for the competition authorities and the Secretary of State to modify standard conditions in order to give effect to orders under the Enterprise Act 2002), for paragraphs (a) and (b) there is substituted—

"(a) the conditions of a particular water supply or sewerage licence,

(b) the standard conditions of water supply licences or sewerage licences, or

(c) the standard conditions of water supply licences or sewerage licences that grant a particular authorisation or combination of authorisations,".

(4) In subsection (2) (identification of orders under the Enterprise Act 2002)—

(a) in paragraph (a)(i), for "a retail licence or combined licence" there is substituted " a water supply licence or sewerage licence ";

(b) in paragraph (a)(ii), for "a retail licence or combined licence" there is substituted " a water supply licence or sewerage licence ";

(c) in paragraph (b), for "a retail licence or combined licence" there is substituted " a water supply licence or sewerage licence ".

(5) In subsection (4) (changed standard conditions to be included in new licences and power to make incidental and consequential modifications of existing licences)—

(a) for "subsection (1)(b)" there is substituted " subsection (1)(b) or (c) ";

(b) for "the standard conditions of retail licences or combined licences" there is substituted " the standard conditions of water supply licences or sewerage licences or of water supply licences or sewerage licences that grant a particular authorisation or combination of authorisations ".

(6) In subsection (5) (publication of modifications), for "retail licences or combined licences" there is substituted " water supply licences or sewerage licences ".

Commencement Information

I217 Sch. 7 para. 25 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(j)** (with Sch. 2)

26 (1) Section 18 (orders for securing compliance with certain provisions) is amended as follows.

(2) In subsection (1)—

(a) after "Part or" there is inserted " any person holding ";

(b) in paragraph (a), after "that company" there is inserted " or that person ";

(c) in paragraph (a)(i), after "appointment or" there is inserted "the person's";

(d) in paragraph (b), after "that company" there is inserted " or that person ".

(3) In subsection (1A)—

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(a) in paragraph (a)(i), for "a company" there is substituted " a person ";
(b) in paragraph (b), for "any company" there is substituted " any person ";
(c) in that paragraph, for "the company" there is substituted " the person ".

(4) In subsection (2), after "Part or" there is inserted " any person holding ".

(5) In subsection (6)(a), after "Part or" there is inserted " a person holding ".

Commencement Information
I218 Sch. 7 para. 26 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(j)** (with Sch. 2)

27 In section 19 (exceptions to the duty to enforce), for "company", in each place, there is substituted " person ".

Commencement Information
I219 Sch. 7 para. 27 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(j)** (with Sch. 2)

28 In section 20 (procedure for enforcement orders), for "company to which", in each place, there is substituted " person to whom ".

Commencement Information
I220 Sch. 7 para. 28 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(j)** (with Sch. 2)

29 (1) Section 21 (validity of enforcement orders) is amended as follows.

(2) In subsection (1)—
(a) for "company to which" there is substituted " person to whom ";
(b) for "company", in the second place it occurs, there is substituted " person ".

(3) In subsection (2), for "company" there is substituted " person ".

Commencement Information
I221 Sch. 7 para. 29 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(j)** (with Sch. 2)

30 In section 22 (effect of enforcement order), in subsection (3)—
(a) for "company", in each place, there is substituted " person ";
(b) for "it" there is substituted " the person ".

Commencement Information
I222 Sch. 7 para. 30 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(j)** (with Sch. 2)

31 (1) Section 22A (penalties) is amended as follows.

(2) In subsection (1)—
(a) in paragraph (a)(ii), for "company" there is substituted " person ";

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(b) in paragraph (b), in the opening words, for "company", in both places, there is substituted " person ";

(c) in the closing words, for "the company" there is substituted " that company or that person ".

(3) In subsection (2)—

(a) in paragraph (a)(ii), for "company" there is substituted " person ";

(b) in paragraph (b), in the opening words, for "company", in both places, there is substituted " person ";

(c) in the closing words, for "the company" there is substituted " that company or that person ".

(4) In subsection (4), in the opening words, for "company" there is substituted " person ".

(5) In subsection (6)—

(a) in the opening words, after "penalty" there is inserted " on a person ";

(b) in paragraph (a), for "company", there is substituted " person ";

(c) in paragraph (d), for "company", there is substituted " person ".

(6) In subsection (7)—

(a) for "company", there is substituted " person on whom the penalty has been imposed ";

(b) the words "on it" are repealed.

(7) In subsection (8)(b), for "company", there is substituted " person on whom the penalty is to be or has been imposed ".

(8) In subsection (11), for the words from "10%" to "(determined" there is substituted "—

(a) 10% of the turnover of the company, or

(b) in a case where the person on whom the penalty is imposed is not a company, 10% of the turnover of the business of the person,

(determined".

Commencement Information

I223 Sch. 7 para. 31 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(j)** (with Sch. 2)

32 (1) Section 22C (time limits on the imposition of financial penalties) is amended as follows.

(2) In subsection (1)—

(a) in the opening words, after "penalty" there is inserted " on a person ";

(b) in paragraph (a), for "company" there is substituted " person ";

(c) in paragraph (b), for "company" there is substituted " person ".

(3) In subsection (2), in the opening words—

(a) after the first "penalty" there is inserted " on a person ";

(b) for "company" there is substituted " person ".

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Commencement Information
I224 Sch. 7 para. 32 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(j)** (with Sch. 2)

33 (1) Section 22E (appeals) is amended as follows.

(2) In subsection (1), for "company on which" there is substituted " person on whom ".

(3) In subsections (2)(a) and (b) (in both places) and (4)(b), for "company" there is substituted " person ".

Commencement Information
I225 Sch. 7 para. 33 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(j)** (with Sch. 2)

34 In section 22F (recovery of penalties), for "company" there is substituted " person ".

Commencement Information
I226 Sch. 7 para. 34 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(j)** (with Sch. 2)

35 (1) Section 23 (meaning and effect of special administration orders) is amended as follows.

(2) In subsection (1), for "a qualifying licensed water supplier" there is substituted " a qualifying water supply licensee or a qualifying sewerage licensee ".

(3) In subsection (2A)—

(a) for "a qualifying licensed water supplier" there is substituted " a qualifying water supply licensee ";

(b) for "subsection (6)(b)" there is substituted " subsection (7) ".

(4) After subsection (2A) there is inserted—

"(2AA) The purposes of a special administration order made in relation to a company which is a qualifying sewerage licensee must 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 secure that the activities relating to the removal or removals of matter mentioned in subsection (9) may be properly carried on, and

(b) the carrying on of those activities pending the making of the transfer."

(5) In subsection (2B)(b)—

(a) in the opening words, for "or (2A)(a)" there is substituted " , (2A)(a) or (2AA)(a) ";

(b) in sub-paragraph (ii), for "or (2A)(a)" there is substituted " , (2A)(a) or (2AA)(a) ".

(6) In subsection (2C), for "and (2A)(b)" there is substituted " , (2A)(b) and (2AA)(b) ".

(7) In subsection (4), for paragraph (b) there is substituted—

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"(b) a company carries on activities relating to—

(i) the introduction or introductions of water mentioned in subsection (7) formerly carried on by another company; or

(ii) the removal or removals of matter mentioned in subsection (9) formerly carried on by another company,".

(8) In subsection (6)—

(a) for "licensed water supplier" there is substituted " water supply licensee ";

(b) for "qualifying licensed water supplier" there is substituted " qualifying water supply licensee ";

(c) for paragraphs (a) and (b) there is substituted—

"(a) it is the holder of a water supply licence giving it a wholesale or supplementary authorisation (within the meaning of Chapter 1A of this Part), and

(b) the condition in subsection (7) is satisfied in relation to it."

(9) After subsection (6) there is inserted—

"(7) The condition in this subsection is that—

(a) the introduction of water by the licence holder which is permitted under section 66B or 66C is designated as a strategic supply under section 66G, or

(b) the introductions of water by the licence holder which are permitted under section 66B or 66C are designated as a collective strategic supply under section 66H."

(10) After subsection (7) (inserted by sub-paragraph (9)) there is inserted—

"(8) For the purposes of this section, sections 24 to 26 and Schedule 2, a sewerage licensee is a qualifying sewerage licensee if—

(a) it is the holder of a sewerage licence giving it a wholesale or disposal authorisation (within the meaning of Chapter 1A of this Part), and

(b) the condition in subsection (9) is satisfied in relation to it.

(9) The condition in this subsection is that—

(a) the removal of matter by the licence holder which is permitted under section 117C or 117D is designated as strategic sewerage provision under section 117N, or

(b) the removals of matter by the licence holder which are permitted under section 117C or 117D are designated as collective strategic sewerage provision under section 117O."

Commencement Information

I227 Sch. 7 para. 35(1) in force at 1.4.2017 for specified purposes by S.I. 2017/462, art. 3(k)(aa)**(v)**

I228 Sch. 7 para. 35(2) in force at 1.4.2017 for specified purposes by S.I. 2017/462, art. 3(k)(bb)**(v)**

I229 Sch. 7 para. 35(3) in force at 1.4.2017 by S.I. 2017/462, art. 3(k)(cc)**(v)**

I230 Sch. 7 para. 35(7) in force at 1.4.2017 for specified purposes by S.I. 2017/462, art. 3(k)(dd)**(v)**

I231 Sch. 7 para. 35(8)(9) in force at 1.4.2017 by S.I. 2017/462, art. 3(k)(ee)**(v)**

36 (1) Section 24 (special administration orders made on special petitions) is amended as follows.

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(2) In subsection (1A)—

(a) in paragraphs (a) and (b), the words "(after consulting the Assembly)" are repealed;

(b) in paragraph (b), before "the Authority" there is inserted "by";

(c) in the words following paragraph (b), for "qualifying licensed water supplier" there is substituted " qualifying water supply licensee or qualifying sewerage licensee ".

(3) After subsection (1A) there is inserted—

"(1B) Before presenting a petition under subsection (1A) in relation to a qualifying water supply licensee whose licence gives it a supplementary authorisation, the Secretary of State or the Authority (as the case may be) must consult the Welsh Ministers."

(4) In subsection (2)—

(a) in paragraph (bb), for "qualifying licensed water supplier" there is substituted " qualifying water supply licensee ";

(b) after paragraph (bb) there is inserted—

"(bc) in the case of a company which is a qualifying sewerage licensee, that—

(i) action taken by the company has caused a contravention by a sewerage 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;";

(c) in paragraph (d), for "qualifying licensed water supplier" there is substituted " qualifying water supply licensee or a qualifying sewerage licensee ".

(5) In subsection (7)(b), for "qualifying licensed water supplier" there is substituted " qualifying water supply licensee or a qualifying sewerage licensee ".

Commencement Information

I232 Sch. 7 para. 36 in force at 1.4.2017 for specified purposes by S.I. 2017/462, **art. 3(k)(vi)**

37 In section 25 (power to make special administration order on winding-up petition) for "qualifying licensed water supplier", in both places, there is substituted " qualifying water supply licensee or a qualifying sewerage licensee ".

Commencement Information

I233 Sch. 7 para. 37 in force at 1.4.2017 for specified purposes by S.I. 2017/462, **art. 3(k)(vi)**

38 In section 26 (restrictions on voluntary winding up and insolvency proceedings), in subsection (1), for "qualifying licensed water supplier" there is substituted " qualifying water supply licensee or a qualifying sewerage licensee ".

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Commencement Information
I234 Sch. 7 para. 38 in force at 1.4.2017 for specified purposes by S.I. 2017/462, **art. 3(k)(vi)**

39 (1) Section 27 (general duty of Authority to keep matters under review) is amended as follows.

(2) In subsection (1)(b), for "licensed water suppliers" there is substituted " water supply licensees or sewerage licensees ".

(3) In subsection (2)—
(a) in paragraph (aa), for "companies" there is substituted " persons ";
(b) in paragraph (b), after "company" there is inserted " or person ".

(4) In subsection (4)—
(a) in paragraph (c), for the words from "retail" to "Part)" there is substituted " the authorisations or combinations of authorisations given by licences under Chapter 1A of this Part (see sections 17A and 17BA) ";
(b) in paragraph (d), for "company" there is substituted " person ".

Commencement Information
I235 Sch. 7 para. 39 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(k)** (with Sch. 2)

40 In section 27A (establishment of the Council and committees), in subsection (13), in the definition of "the interests of consumers"—
(a) in paragraph (a), for "licensed water suppliers" there is substituted " water supply licensees ";
(b) in paragraph (b), for "by sewerage undertakers" there is substituted " either by sewerage undertakers or by sewerage licensees acting in their capacity as such ".

Commencement Information
I236 Sch. 7 para. 40 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(k)** (with Sch. 2)

41 (1) Section 27C (the interests of consumers) is amended as follows.

(2) In subsection (1)—
(a) the "and" after paragraph (d) is repealed;
(b) in paragraph (e), for the words from "not eligible" to the end there is substituted " household premises (as defined in section 17C) ";
(c) after paragraph (e) there is inserted "; and
(f) customers, of companies holding an appointment under Chapter 1 of Part 2 of this Act, whose premises are below the consumption threshold and in the area of a relevant undertaker whose area is wholly or mainly in Wales,".

(3) In subsection (2), for the words from "not eligible" to "the total quantity" there is substituted " below the consumption threshold if the total quantity ".

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Commencement Information
I237 Sch. 7 para. 41 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(k)** (with Sch. 2)

42 In section 27E (provision of advice and information to public authorities), in subsection (1), for "licensed water suppliers" there is substituted " water supply licensees, sewerage licensees ".

Commencement Information
I238 Sch. 7 para. 42 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(k)** (with Sch. 2)

43 (1) Section 27H (provision of information to the Council) is amended as follows.

(2) In subsection (1)—

(a) the "or" at the end of paragraph (b) is repealed;

(b) in paragraph (c), for "a licensed water supplier" there is substituted " a water supply licensee, or ";

(c) after paragraph (c) there is inserted—

"(d) a sewerage licensee,".

(3) In subsections (2), (3) and (4), after "body", in each place, there is inserted " or person ".

(4) In subsection (4)—

(a) for "it" there is substituted " the body or person ";

(b) for "its" there is substituted " the ".

Commencement Information
I239 Sch. 7 para. 43 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(k)** (with Sch. 2)

44 (1) Section 27K (sections 27H to 27J: supplementary) is amended as follows.

(2) In subsection (2), for "or a licensed water supplier" there is substituted " , a water supply licensee or a sewerage licensee ".

(3) In subsection (5), for "and a licensed water supplier" there is substituted " , a water supply licensee and a sewerage licensee ".

Commencement Information
I240 Sch. 7 para. 44 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(k)** (with Sch. 2)

45 (1) Section 29 (consumer complaints) is amended as follows.

(2) In subsection (1)—

(a) for "or a licensed water supplier" there is substituted " , a water supply licensee or a sewerage licensee ";

(b) for "by that licensed water supplier" there is substituted " by that water supply licensee or that sewerage licensee ".

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(3) In subsection (5)(a), for the words from "by a licensed water supplier" to "Wales" there is substituted "—

(i) by a water supply licensee using the supply system of a water undertaker whose area is wholly or mainly in Wales, or

(ii) by a sewerage licensee using the supply system of a sewerage undertaker whose area is wholly or mainly in Wales".

(4) In subsections (8)(a) and (b) and (9), for "or the licensed water supplier" there is substituted " , the water supply licensee or the sewerage licensee ".

Commencement Information

I241 Sch. 7 para. 45 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(k)** (with Sch. 2)

46 In the heading to Chapter 1 of Part 3 (general duties of water undertakers) at the end there is inserted "etc".

Commencement Information

I242 Sch. 7 para. 46 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(k)** (with Sch. 2)

47 In section 37A (water resources management plans: preparation and review)—

(a) in subsection (3)(b), for "licensed water suppliers" there is substituted " water supply licensees ";

(b) in subsection (8)(d) for "licensed water supplier" there is substituted " water supply licensee ".

Commencement Information

I243 Sch. 7 para. 47 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(k)** (with Sch. 2)

48 In section 37C (water resources management plans: provision of information)—

(a) for "licensed water supplier", in each place, there is substituted " water supply licensee ";

(b) in the closing words to subsection (3), for "licensed water supplier's" there is substituted "water supply licensee's".

Commencement Information

I244 Sch. 7 para. 48 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(k)** (with Sch. 2)

49 In section 37D (water resources management plans: supplementary), in subsection (3)(b), for "licensed water supplier" there is substituted " water supply licensee ".

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Changes to legislation: *Water Act 2014 is up to date with all changes known to be in force on or before 20 June 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) View outstanding changes*

Commencement Information
I245 Sch. 7 para. 49 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(k)** (with Sch. 2)

50 In section 38B (publication of statistical information about complaints)—

(a) in subsection (1), for "licensed water suppliers" there is substituted " water supply licensees ";

(b) in subsection (2), for "licensed water suppliers" there is substituted " water supply licensees ".

Commencement Information
I246 Sch. 7 para. 50 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(k)** (with Sch. 2)

51 (1) Section 39A (information to be given to customers about performance) is amended as follows.

(2) In subsections (1) and (2A), for "licensed water suppliers", in both places, there is substituted " water supply licensees ".

(3) After subsection (1) there is inserted—

"(1A) Each water supply licensee must, in such form and manner and with such frequency as the Authority may direct, take steps to inform the licensee's customers of—

(a) the standards of overall performance established under section 38ZA(1) which are applicable to that licensee;

(b) that licensee's level of performance as regards those standards.

(1B) The Authority may direct that the requirement in subsection (1A) is not to apply to such water supply licensees as may be specified in the direction."

(4) In subsection (2), for "any such direction" there is substituted " a direction under subsection (1) or (1A) ".

(5) In subsection (2B), for "section 17B(5)" there is substituted " section 17B ".

(6) In subsection (3), for "licensed water supplier" there is substituted " water supply licensee ".

Commencement Information
I247 Sch. 7 para. 51 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(k)** (with Sch. 2)

52 In section 39B (drought plans: preparation and review)—

(a) in subsection (4)(b), for "licensed water suppliers" there is substituted " water supply licensees ";

(b) in subsection (7)(d), for "licensed water supplier" there is substituted " water supply licensee ".

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Commencement Information

I248 Sch. 7 para. 52 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(k)** (with Sch. 2)

53 In section 39C (drought plans: provision of information)—

(a) for "licensed water supplier", in each place, there is substituted " water supply licensee ";

(b) in the closing words to subsection (3), for "licensed water supplier's" there is substituted "water supply licensee's".

Commencement Information

I249 Sch. 7 para. 53 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(k)** (with Sch. 2)

54 In section 42 (financial conditions for compliance with the duty in section 41), subsection (7) (terms defined in sections 43 and 43A) is repealed.

Commencement Information

I250 Sch. 7 para. 54 in force at 1.4.2018 for specified purposes by S.I. 2017/462, **art. 5(e)(ii)** (with art. 14) (as amended by S.I. 2017/926, art. 2(3))

55 Sections 43 and 43A (calculations for the purpose of section 42) are repealed.

Commencement Information

I251 Sch. 7 para. 55 in force at 1.4.2018 for specified purposes by S.I. 2017/462, **art. 5(e)(ii)** (with art. 14) (as amended by S.I. 2017/926, art. 2(3))

56 In section 47 (conditions of connection with water main), in subsection (1), for "sections 48 to" there is substituted " sections 49 and ".

Commencement Information

I252 Sch. 7 para. 56 in force at 1.4.2018 for specified purposes by S.I. 2017/462, **art. 5(e)(ii)** (with art. 14) (as amended by S.I. 2017/926, art. 2(3))

57 Section 48 (interest on sums provided by way of security) is repealed.

Commencement Information

I253 Sch. 7 para. 57 in force at 1.4.2018 for specified purposes by S.I. 2017/462, **art. 5(e)(ii)** (with art. 14) (as amended by S.I. 2017/926, art. 2(3))

58 (1) Section 52 (domestic supply duty) is amended as follows.

(2) In subsection (4A) (exclusion of certain premises), in paragraph (c), at the beginning, there is inserted "in the case of premises to be supplied using the supply system of a water undertaker whose area is wholly or mainly in Wales,".

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Commencement Information
I254 Sch. 7 para. 58 in force at 1.4.2017 by S.I. 2017/462, **art. 3(k)(vii)**

59 In section 55 (supplies for non-domestic purposes), in subsection (1A)(b), after "17C above) or" there is inserted " , in the case of premises to be supplied using the supply system of a water undertaker whose area is wholly or mainly in Wales, ".

Commencement Information
I255 Sch. 7 para. 59 in force at 1.4.2017 by S.I. 2017/462, **art. 3(k)(vii)**

60 (1) Section 61 (disconnections for non-payment of charges) is amended as follows.

(2) In subsection (1)—

(a) for "the following provisions of this section" there is substituted " subsections (1A) to (6) ";

(b) after "cut off a supply of water to any premises," there is inserted "if subsection (1ZA) or (1ZB) applies.

"(1ZA) This subsection applies".

(3) After the subsection (1ZA) so formed there is inserted—

"(1ZB) This subsection applies if a water supply licensee requests the undertaker to disconnect the service pipe or otherwise cut off the supply of water to the premises.

(1ZC) A water supply licensee may make a request under subsection (1ZB) only if—

(a) the occupier of the premises is liable under an agreement with the licensee to pay charges to the licensee in respect of the supply of water to the premises,

(b) the licensee has served notice on the occupier requiring payment of charges due,

(c) the occupier has failed to pay the charges before the end of the period of seven days beginning with the day after the notice was served, and

(d) that period has expired."

(4) In subsection (2)—

(a) in paragraph (a), for "subsection (1)" there is substituted " subsection (1ZA) ";

(b) in the words following paragraph (b), for "that subsection" there is substituted " subsection (1) ".

(5) After subsection (2) there is inserted—

"(2A) Where—

(a) a water supply licensee has served a notice for the purposes of subsection (1ZC)(b) on a person, and

(b) within the period of seven days mentioned in subsection (1ZC)(c), the person serves a counter-notice on the licensee stating that he disputes his liability to pay the charges in question,

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the licensee may not make a request under subsection (1ZB) in relation to the premises except at a time when that person is the occupier of the premises and those charges are enforceable against that person in a manner specified in subsection (3).”

(6) In subsection (3)—

(a) after “subsection (2)” there is inserted “ or (2A) ”;

(b) in paragraph (a), after “the undertaker” there is inserted “ or, as the case may be, the licensee ”;

(c) in paragraph (b), after “the undertaker” there is inserted “ or, as the case may be, the licensee ”.

(7) In subsection (4)—

(a) the words “, from the person in respect of whose liability the power is exercised,” are repealed;

(b) at the end there is inserted “—

(a) from the person in respect of whose liability the power is exercised, in a case where the power is exercised in the circumstances mentioned in subsection (1ZA);

(b) from the water supply licensee who made the request, in a case where the power is exercised in the circumstances mentioned in subsection (1ZB).”

(8) In subsection (5)—

(a) in paragraph (b)—

(i) after “those premises” there is inserted “ (“the primary premises”) ”;

(ii) after “other premises” there is inserted “ (“the secondary premises”) ”;

(b) in the words after paragraph (b)—

(i) for “those other premises” there is substituted “ the secondary premises ”;

(ii) for “the premises in relation to which the charges are due” there is substituted “ the primary premises ”;

(iii) for “the other premises” there is substituted “ the secondary premises ”.

(9) After subsection (5) there is inserted—

“(6) The undertaker may not cut off the supply to the secondary premises in reliance on subsection (5) if—

(a) in a case where the undertaker is exercising the power in subsection (1) because charges are due to it, the secondary premises are supplied by a person other than the undertaker;

(b) in a case where the undertaker is exercising the power in subsection (1) because of a request for disconnection under subsection (1ZB), the secondary premises are supplied by a person other than the licensee which made that request.”

Commencement Information

I256 Sch. 7 para. 60 in force at 1.4.2017 by S.I. 2017/462, **art. 3(k)(vii)**

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61 In section 63 (general duties of undertakers with respect to disconnections), after subsection (3) there is inserted—

"(3A) A water undertaker is not guilty of an offence under subsection (3) where it disconnects a service pipe or otherwise cuts off a supply of water under section 61 in the circumstances mentioned in section 61(1ZB) (request from water supply licensee)."

Commencement Information
I257 Sch. 7 para. 61 in force at 1.4.2017 by S.I. 2017/462, **art. 3(k)(vii)**

62 In the italic heading preceding section 63AA, for "licensed water supplier" there is substituted " water supply licensee ".

Commencement Information
I258 Sch. 7 para. 62 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(l)** (with Sch. 2)

63 (1) Section 63AA (supply by licensed water supplier: domestic supply duty) is amended as follows.

(2) In the title, for "licensed water supplier" there is substituted " water supply licensee ".

(3) In subsection (1)(a), for "licensed water supplier" there is substituted " water supply licensee ".

Commencement Information
I259 Sch. 7 para. 63 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(l)** (with Sch. 2)

64 (1) Section 63AB (supply by licensed water supplier: non-domestic supply) is amended as follows.

(2) In the title, for "licensed water supplier" there is substituted " water supply licensee ".

(3) In subsection (1), in the opening words, after "above" there is inserted " or section 63AC(2) ".

(4) In subsection (1)(a), for "licensed water supplier" there is substituted " water supply licensee ".

Commencement Information
I260 Sch. 7 para. 64 in force at 6.3.2017 by S.I. 2017/58, **art. 2(c)** (with art. 3(1))

65 (1) Section 63AC (interim duty of water undertaker: domestic and non-domestic supply) is amended as follows.

(2) In subsections (1)(a) and (2), for "licensed water supplier" there is substituted " water supply licensee ".

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Commencement Information
I261 Sch. 7 para. 65 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(m)** (with Sch. 2)

66 In the italic heading preceding section 68, for "licensed water suppliers" there is substituted " water supply licensees ".

Commencement Information
I262 Sch. 7 para. 66 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(m)** (with Sch. 2)

67 (1) Section 68 (duties with respect to water quality) is amended as follows.

(2) In the title, for "licensed water suppliers" there is substituted " water supply licensees ".

(3) In subsection (1A)—

(a) for "licensed water supplier" there is substituted " water supply licensee ";

(b) in paragraph (a), for "its retail authorisation" there is substituted " the licensee's retail authorisation or restricted retail authorisation ";

(c) in paragraph (b), for "that supplier" there is substituted " that licensee ";

(d) in paragraph (b), for "its retail authorisation" there is substituted " the licensee's retail authorisation or restricted retail authorisation ";

(e) the words following paragraph (b) are repealed.

(4) In subsection (3A)—

(a) for "licensed water supplier" there is substituted " water supply licensee ";

(b) in paragraph (b), for "the supplier" there is substituted " the licensee ".

(5) In subsection (3B), for "licensed water supplier" there is substituted " water supply licensee ".

(6) In subsection (5), for "licensed water supplier" there is substituted " water supply licensee ".

(7) After subsection (5) there is inserted—

"(6) References in this section to a retail authorisation or a restricted retail authorisation are to be construed in accordance with Schedule 2A.

(7) In this section "prescribed" means—

(a) in relation to a water undertaker whose area is wholly or mainly in Wales, and

(b) in relation to a water supply licensee so far as relating to licensed activities using the supply system of such a water undertaker,

prescribed by regulations made by the Welsh Ministers by statutory instrument, which is subject to annulment in pursuance of a resolution of the Assembly."

Commencement Information
I263 Sch. 7 para. 67 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(m)** (with Sch. 2)

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68 (1) Section 69 (regulations for preserving water quality) is amended as follows.

(2) In subsections (1), (2), (5)(aa), (6)(b) and (c) and (7)(a)(ii) and (b), for "licensed water supplier", in each place, there is substituted " water supply licensee ".

(3) In subsections (3) and (4)(a) and (b), for "licensed water suppliers", in each place, there is substituted " water supply licensees ".

(4) In subsection (5)(aa), for "that supplier" there is substituted " that licensee ".

(5) In subsections (5)(b) and (6)(b), for "or supplier", in both places, there is substituted " or licensee ".

Commencement Information
I264 Sch. 7 para. 68 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(m)** (with Sch. 2)

69 In section 72 (contamination of water sources), in subsection (5)(c) for "licensed water supplier" there is substituted " water supply licensee ".

Commencement Information
I265 Sch. 7 para. 69 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(m)** (with Sch. 2)

70 In section 73 (offences of contaminating, wasting and misusing water etc), in subsection (1)—

(a) for "licensed water supplier" there is substituted " water supply licensee ";

(b) in paragraph (b), for "supplier" there is substituted " licensee ".

Commencement Information
I266 Sch. 7 para. 70 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(m)** (with Sch. 2)

71 (1) Section 74 (regulations for preventing contamination, waste etc and with respect to water fittings) is amended as follows.

(2) In subsection (1)(b) and (d), for "licensed water supplier", in each place, there is substituted " water supply licensee ".

(3) In subsection (1)(c), for "a licensed water supplier" there is substituted " that or another water supply licensee ".

Commencement Information
I267 Sch. 7 para. 71 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(m)** (with Sch. 2)

72 (1) Section 75 (power to prevent damage and to take steps to prevent contamination, waste etc) is amended as follows.

(2) In subsection (1A), for "licensed water supplier" there is substituted " water supply licensee ".

(3) In subsection (11)(b), for "licensed water supplier" there is substituted " water supply licensee ".

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(4) In subsection (12), for "section 17B(5)" there is substituted " section 17B ".

Commencement Information

I268 Sch. 7 para. 72 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(m)** (with Sch. 2)

73 In section 76 (temporary bans on use)—

(a) in subsection (1), for "by it" there is substituted " by means of its supply system ";

(b) after subsection (7) there is inserted—

"(8) The reference in subsection (1) to the supply system of a water undertaker is to be construed in accordance with section 17B."

Commencement Information

I269 Sch. 7 para. 73 in force at 1.4.2017 by S.I. 2017/462, **art. 3(k)(viii)**

74 (1) Section 78 (local authority functions in relation to undertakers' supplies) is amended as follows.

(2) In subsection (1)(a), for "licensed water supplier" there is substituted " water supply licensee ".

(3) In subsection (3), for "section 17B(5)" there is substituted " section 17B ".

Commencement Information

I270 Sch. 7 para. 74(1) in force at 1.4.2016 for specified purposes by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(n)** (with Sch. 2)

I271 Sch. 7 para. 74(1) in force at 1.4.2017 in so far as not already in force by S.I. 2017/462, **art. 3(k)(ix)**

I272 Sch. 7 para. 74(2) in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(n)** (with Sch. 2)

I273 Sch. 7 para. 74(3) in force at 1.4.2017 by S.I. 2017/462, **art. 3(k)(ix)**

75 (1) Section 86 (assessors for the enforcement of water quality) is amended as follows.

(2) In subsections (2)(a)(i), (3), (4)(c)(i) and (6), for "licensed water supplier", in each place, there is substituted " water supply licensee ".

(3) In subsection (4)(c)(i), for "or supplier" there is substituted " or licensee ".

(4) In subsection (6), for "it" there is substituted " that person ".

Commencement Information

I274 Sch. 7 para. 75 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(o)** (with Sch. 2)

76 In section 87 (fluoridation of water supplies at request of relevant authorities), in subsections (2)(b) and (3)(b), for "licensed water supplier" there is substituted " water supply licensee ".

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Commencement Information
I275 Sch. 7 para. 76 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(o)** (with Sch. 2)

77 In section 87C (fluoridation arrangements: compliance), in subsection (4)(b), for "licensed water supplier" there is substituted " water supply licensee ".

Commencement Information
I276 Sch. 7 para. 77 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(o)** (with Sch. 2)

78 In section 90 (indemnities in respect of fluoridation), in subsection (2)—
(a) for "licensed water supplier" there is substituted " water supply licensee ";
(b) for "it", in both places, there is substituted " the licensee ".

Commencement Information
I277 Sch. 7 para. 78 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(o)** (with Sch. 2)

79 In section 93 (interpretation of Part 3), in subsection (1), in the definition of "private supply", for "licensed water supplier" there is substituted " water supply licensee ".

Commencement Information
I278 Sch. 7 para. 79 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(o)** (with Sch. 2)

80 (1) In section 93A (duty to promote the efficient use of water)—
(a) in subsections (1), (2) and (3), for "licensed water supplier", in each place, there is substituted " water supply licensee ";
(b) in subsections (1) and (3), for "its customers" there is substituted " that person's customers ".

Commencement Information
I279 Sch. 7 para. 80 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(o)** (with Sch. 2)

81 (1) Section 93B (power of Authority to impose requirements on water undertakers) is amended as follows.

(2) In subsections (1), (2), (3), (4), (5) and (6), for "licensed water supplier", in each place, there is substituted " water supply licensee ".

(3) In subsection (1), for "its performance of its duty" there is substituted " the performance of that undertaker's or licensee's duty ".

(4) In subsections (2), (4), (5) and (6), for "or supplier", in each place, there is substituted " or licensee ".

(5) In subsection (2), for "its duty" there is substituted " the undertaker's or licensee's duty ".

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(6) In subsections (3) and (6), for "its customers", in each place, there is substituted " that person's customers ".

Commencement Information
I280 Sch. 7 para. 81 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(o)** (with Sch. 2)

82 (1) Section 93C (publicity of requirements imposed under section 93B) is amended as follows.

(2) In subsection (1)—

(a) for "licensed water supplier" there is substituted " water supply licensee ";

(b) for "or supplier's" there is substituted "or licensee's".

(3) In subsection (2)(b), for "or supplier" there is substituted " or licensee ".

Commencement Information
I281 Sch. 7 para. 82 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(o)** (with Sch. 2)

83 (1) Section 93D (information as to compliance with requirements under section 93B) is amended as follows.

(2) In subsections (1), (3) and (4), for "licensed water supplier", in each place, there is substituted " water supply licensee ".

(3) In subsections (1), (2)(b) and (3), for "or supplier", in each place, there is substituted " or licensee ".

(4) In subsection (3), for "or supplier's" there is substituted "or licensee's".

Commencement Information
I282 Sch. 7 para. 83 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(o)** (with Sch. 2)

84 In the heading to Chapter 1 of Part 4 (general functions of sewerage undertakers), at the end there is inserted "etc".

Commencement Information
I283 Sch. 7 para. 84 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(o)** (with Sch. 2)

85 In section 95B (publication of statistical information about complaints)—

(a) in subsection (1), after "undertakers" there is inserted " or sewerage licensees ";

(b) in subsection (2), after "undertakers" there is inserted " or sewerage licensees ".

Commencement Information
I284 Sch. 7 para. 85 in force at 1.4.2017 by S.I. 2017/462, **art. 3(k)(x)**

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86 (1) Section 96A (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, sewerage licensees using the undertaker's sewerage system for the purpose of providing sewerage services to the premises of customers, ".

(3) After subsection (1) there is inserted—

"(1A) Each sewerage licensee must, in such form and manner and with such frequency as the Authority may direct, take steps to inform the licensee's customers of—

(a) the standards of overall performance established under section 95ZA(1) which are applicable to that licensee;

(b) that licensee's level of performance as regards those standards.

(1B) The Authority may direct that the requirement in subsection (1A) is not to apply to such sewerage licensees as may be specified in the direction."

(4) In subsection (2), for "any such direction" there is substituted " a direction under subsection (1) or (1A) ".

(5) After subsection (2) there is inserted—

"(2A) The sewerage licensees referred to in subsection (1) shall, if the Authority so directs, pass on the information about the matters mentioned in that subsection to their customers.

(2B) In subsection (1), the reference to the sewerage undertaker's sewerage system is to be construed in accordance with section 17BA(7)."

(6) In subsection (3), after "undertaker" there is inserted " or sewerage licensee ".

Commencement Information

I285 Sch. 7 para. 86 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(p)** (with Sch. 2)

87 In section 99 (financial conditions for compliance with the duty in section 98), subsection (7) (terms defined in sections 100 and 100A) is repealed.

Commencement Information

I286 Sch. 7 para. 87 in force at 1.4.2018 for specified purposes by S.I. 2017/462, **art. 5(e)(iii)** (with art. 14) (as amended by S.I. 2017/926, art. 2(3))

88 Sections 100 and 100A (calculations for the purposes of section 99) are repealed.

Commencement Information

I287 Sch. 7 para. 88 in force at 1.4.2018 for specified purposes by S.I. 2017/462, **art. 5(e)(iii)** (with art. 14) (as amended by S.I. 2017/926, art. 2(3))

89 In section 101B (power to provide lateral drain following provision of public sewer) (as amended by section 19)—

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(a) in subsection (3), for "water" there is substituted " sewerage ";
(b) in subsection (4), the "or" following paragraph (a) is repealed.

Commencement Information

I288 Sch. 7 para. 89(a) in force at 1.4.2018 by S.I. 2017/462, art. 5(e)(iv)(aa) (with art. 14) (as amended by S.I. 2017/926, art. 2(3))

I289 Sch. 7 para. 89(b) in force at 1.4.2018 for specified purposes by S.I. 2017/462, art. 5(e)(iv)(bb) (with art. 14) (as amended by S.I. 2017/926, art. 2(3))

90 In section 102 (adoption of sewers and disposal works), in subsection (4) (sewerage undertaker to give notice of proposal), after "under this section—" there is inserted—

"(za) shall give notice of its proposal to any sewerage licensee which uses, or removes matter from, the undertaker's sewerage system in accordance with a retail, wholesale or disposal authorisation;".

Commencement Information

I290 Sch. 7 para. 90 in force at 1.4.2017 for specified purposes by S.I. 2017/462, **art. 3(k)(xi)**

PROSPECTIVE

91 In section 104 (agreements to adopt sewers, etc), subsection (9) (inserted by section 42(3) of the Flood and Water Management Act 2010) is repealed.

92 In section 105 (appeals with respect to adoption)—

(a) subsection (2) is repealed;
(b) in subsection (4), paragraph (b) and the "or" preceding it are repealed;
(c) subsection (6) is repealed;
(d) in subsection (7), the words from "and for" to the end are repealed.

Commencement Information

I291 Sch. 7 para. 92 in force at 1.10.2017 for specified purposes by S.I. 2017/462, **art. 4(d)(ii)** (as substituted by S.I. 2017/926, art. 2(2))

93 In section 105C (adoption schemes: supplementary), in subsection (2), after paragraph (a) insert—

"(aa) any sewerage licensee which uses, or removes matter from, the sewerage system of any such sewerage undertaker in accordance with a retail, wholesale or disposal authorisation;".

Commencement Information

I292 Sch. 7 para. 93 in force at 1.4.2017 for specified purposes by S.I. 2017/462, **art. 3(k)(xii)**

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Water Act 2014 is up to date with all changes known to be in force on or before 20 June 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) View outstanding changes*

PROSPECTIVE

94 In section 106B (requirement to enter into agreement before connection charges etc), after subsection (3) (no charges for vesting declaration) there is inserted—

"(3A) A reference in this section to an agreement entered into under section 104 includes a reference to—

(a) an order under section 105ZA which is deemed to be an agreement by virtue of section 105ZA(5), and

(b) an agreement which has been varied by order under section 105ZB(1)."

95 In section 107 (right of sewerage undertaker to undertake the making of communications with public sewers), after subsection (6) there is inserted—

"(7) A reference in this section to an agreement under section 104 includes a reference to—

(a) an order under section 105ZA which is deemed to be an agreement by virtue of section 105ZA(5), and

(b) an agreement which has been varied by order under section 105ZB(1)."

Commencement Information

I293 Sch. 7 para. 95 in force at 1.10.2017 for specified purposes by S.I. 2017/462, **art. 4(d)(iii)** (as substituted by S.I. 2017/926, art. 2(2))

96 In section 113 (power to alter drainage system of premises in an area), in subsection (3), for the words from "notice of its proposals to" to the end of the subsection there is substituted "notice of its proposals to—

(a) the owner of the premises in question, and

(b) any sewerage licensee providing sewerage services to those premises."

Commencement Information

I294 Sch. 7 para. 96 in force at 1.4.2017 by S.I. 2017/462, **art. 3(k)(xiii)**

97 In section 117 (interpretation of Chapter 2), in subsection (5)(a), after "the Water Resources Act 1991" there is inserted " or the Environmental Permitting (England and Wales) Regulations 2010 (S.I. 2010/675) ".

Commencement Information

I295 Sch. 7 para. 97 in force at 1.1.2015 by S.I. 2014/3320, **art. 2(2)(e)(ii)**

98 (1) Section 146 (connection charges etc) is amended as follows.

(2) After subsection (3) there is inserted—

"(3A) The reference in subsection (3) to an agreement under section 104 includes a reference to—

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Water Act 2014 is up to date with all changes known to be in force on or before 20 June 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) View outstanding changes*

(a) an order under section 105ZA which is deemed to be an agreement by virtue of section 105ZA(5), and

(b) an agreement which has been varied by order under section 105ZB(1).”

(3) In subsection (4)—

(a) after “sewerage undertaker” there is inserted “ or a sewerage licensee ”;

(b) after “to the undertaker” there is inserted “ or the licensee (as the case may be) ”.

(4) In subsection (5), after “certain charges” there is inserted “ by relevant undertakers ”.

Commencement Information

I296 Sch. 7 para. 98(1) in force at 1.4.2017 for specified purposes by S.I. 2017/462, art. 3(k)(aa)**(xiv)**

I297 Sch. 7 para. 98(1) in force at 1.10.2017 for specified purposes by S.I. 2017/462, art. 4(d)(aa)**(iv)** (as substituted by S.I. 2017/926, art. 2(2))

I298 Sch. 7 para. 98(2) in force at 1.10.2017 for specified purposes by S.I. 2017/462, art. 4(d)(bb)**(iv)** (as substituted by S.I. 2017/926, art. 2(2))

I299 Sch. 7 para. 98(3)(4) in force at 1.4.2017 by S.I. 2017/462, art. 3(k)(bb)**(xiv)**

99 In section 147 (charging for use of emergency water), in subsection (1), after “undertaker” there is inserted “ or water supply licensee ”.

Commencement Information

I300 Sch. 7 para. 99 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(q)** (with Sch. 2)

100 In section 148 (restriction on charging for metering works), in subsection (2)(cc), after “section 66D” there is inserted “ or 117E ”.

Commencement Information

I301 Sch. 7 para. 100 in force at 1.4.2017 by S.I. 2017/462, **art. 3(k)(xv)**

101 In section 150 (fixing maximum charges for services provided with the help of undertakers' services), for subsection (1A) there is substituted—

“(1A) This section does not apply to—

(a) water supplies provided by a water supply licensee, or

(b) sewerage services provided by a sewerage licensee,

to premises of customers in accordance with Chapter 1A of Part 2.”

Commencement Information

I302 Sch. 7 para. 101 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(r)** (with Sch. 2)

102 In section 152 (grants for national security purposes), in subsection (1), for “and licensed water suppliers” there is substituted “ , water supply licensees and sewerage licensees ”.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Water Act 2014 is up to date with all changes known to be in force on or before 20 June 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) View outstanding changes*

Commencement Information

I303 Sch. 7 para. 102 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(r)** (with Sch. 2)

103 (1) Section 154A (financial assistance to reduce charges of relevant undertakers and water supply licensees) is amended as follows.

(2) In subsection (1)—

(a) the "or" following paragraph (a) is repealed;

(b) in paragraph (b), for "licensed water supplier" there is substituted " water supply licensee ";

(c) in paragraph (b), for "its" there is substituted "the licensee's";

(d) at the end of paragraph (b) there is inserted ", or

(c) a sewerage licensee that serves premises in accordance with the licensee's retail authorisation using the sewerage system of an English undertaker."

(3) In subsection (6)—

(a) the "or" following paragraph (a) is repealed;

(b) in paragraph (b), for "licensed water supplier" there is substituted " water supply licensee ";

(c) at the end of paragraph (b) there is inserted ", or

(c) to a sewerage licensee by means of an arrangement made by the Secretary of State with an English undertaker that is a sewerage undertaker."

(4) In subsection (7)—

(a) in paragraph (a), for "a licensed water supplier" there is substituted " a water supply licensee or a sewerage licensee ";

(b) the "or" following paragraph (a) is repealed;

(c) in paragraph (b), for "licensed water supplier" there is substituted " water supply licensee ";

(d) in paragraph (b), for "its" there is substituted "the licensee's";

(e) at the end of paragraph (b) there is inserted ", or

(c) a person whose premises are served by a sewerage licensee in accordance with the licensee's retail authorisation using the undertaker's sewerage system."

(5) In subsection (8)—

(a) for "of a licensed water supplier" there is substituted " of a water supply licensee or of a sewerage licensee ";

(b) for "section 17A(2)" there is substituted " Schedule 2A or Schedule 2B, as the case may be, ".

Commencement Information

I304 Sch. 7 para. 103 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(r)** (with Sch. 2)

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Water Act 2014 is up to date with all changes known to be in force on or before 20 June 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) View outstanding changes*

PROSPECTIVE

104 In section 158 (powers to lay pipes in streets), in subsection (7)(a), for the words from "section 66B(3)(a)(ii) above" to "section 66B(3)(a)(iii) above" there is substituted " section 66B(4)(a)(i) or (b)(i) which is used for the purpose of supplying water other than for domestic or food production purposes or laid in pursuance of section 66B(4)(b)(ii) ".

105 (1) Section 162 (works in connection with metering) is amended as follows.

(2) In subsection (1A)—

(a) in paragraph (d), for "licensed water supplier" there is substituted " water supply licensee ";

(b) after paragraph (d) there is inserted ", or

(e) a sewerage licensee provides sewerage services in respect of those premises using the undertaker's sewerage system."

(3) In subsection (1B), for "section 17B(5)" there is substituted " section 17B ".

(4) After subsection (1B) there is inserted—

"(1C) In subsection (1A)(e) above, the reference to the sewerage system of a sewerage undertaker shall be construed in accordance with section 17BA."

Commencement Information

I305 Sch. 7 para. 105(1) in force at 1.4.2016 for specified purposes by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(s)** (with Sch. 2)

I306 Sch. 7 para. 105(1) in force at 1.4.2017 in so far as not already in force by S.I. 2017/462, **art. 3(k)(xvi)**

I307 Sch. 7 para. 105(2)(a) in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(s)** (with Sch. 2)

I308 Sch. 7 para. 105(2)(b)(3)(4) in force at 1.4.2017 by S.I. 2017/462, **art. 3(k)(xvi)**

PROSPECTIVE

106 In section 163 (power to fit stopcocks), in subsection (1), for "a licensed water supplier" there is substituted " a water supply licensee ".

107 In section 164 (agreements for works with respect to water sources), in subsection (2) (notice to be given before agreeing to works entailing a discharge into a watercourse), for the words from "the NRA" to "if the watercourse" there is substituted "—

(a) the Environment Agency, if the proposed works will affect any watercourse in England,

(b) the NRBW, if the proposed works will affect any watercourse in Wales, and

(c) if the watercourse".

108 (1) Section 174 (offences of interference with works etc) is amended as follows.

(2) In subsection (1A)—

(a) in the opening words, for "the licensed water supplier" there is substituted " the water supply licensee ";

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(b) in paragraph (a)(i)—

(i) for "any licensed water supplier" there is substituted " any water supply licensee ";

(ii) for "any such supplier" there is substituted " any such licensee ";

(c) in paragraph (a)(ii)—

(i) for "the supplier" there is substituted " the licensee ";

(ii) for "its licence" there is substituted " the licensee's licence ".

(3) In subsection (2)(b), for "licensed water supplier" there is substituted " water supply licensee ".

(4) In subsection (2A)—

(a) in paragraph (b), in the opening words, for "a licensed water supplier" there is substituted " a water supply licensee ";

(b) in paragraph (b)(i), for "the supplier" there is substituted " the licensee ";

(c) in paragraph (b)(ii), for "the supplier", in both places, there is substituted " the licensee ";

(d) in the words following paragraph (b), for "section 17B(5)" there is substituted " section 17B ".

(5) In subsection (3A)—

(a) in the opening words, for "the licensed water supplier" there is substituted " the water supply licensee ";

(b) in paragraph (a)(i), for "a licensed water supplier" there is substituted " a water supply licensee ";

(c) in paragraph (a)(ii)—

(i) for "the supplier" there is substituted " the licensee ";

(ii) for "its licence" there is substituted " the licensee's licence ";

(d) in paragraph (b), for "a supplier", in both places, there is substituted " a licensee ".

(6) In subsection (5A)—

(a) in paragraph (a), for "a licensed water supplier" there is substituted " a water supply licensee ";

(b) in paragraph (b)—

(i) for "the supplier" there is substituted " the licensee ";

(ii) for "its licence" there is substituted " the licensee's licence ".

(7) In subsection (8A)(b)—

(a) for "a licensed water supplier" there is substituted " a water supply licensee ";

(b) for "the supplier" there is substituted " the licensee ".

Commencement Information

I309 Sch. 7 para. 108(1) in force at 1.4.2016 for specified purposes by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(u)(ii)** (with Sch. 2)

I310 Sch. 7 para. 108(1) in force at 1.4.2017 in so far as not already in force by S.I. 2017/462, **art. 3(k)(xvii)**

I311 Sch. 7 para. 108(2)(3)(4)(a)-(c)(5)-(7) in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(u)(i)** (with Sch. 2)

I312 Sch. 7 para. 108(4)(d) in force at 1.4.2017 by S.I. 2017/462, **art. 3(k)(xvii)**

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Water Act 2014 is up to date with all changes known to be in force on or before 20 June 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) View outstanding changes*

109 (1) Section 175 (offence of tampering with meter) is amended as follows.

(2) In subsection (1) (offence of tampering) for "or licensed water supplier" there is substituted " , water supply licensee or sewerage licensee ".

(3) In subsection (3) (meaning of "appropriate consent")—

(a) for paragraph (b) there is substituted—

"(b) if the meter is used by one water supply licensee, the consent of that licensee;

(ba) if the meter is used by one sewerage licensee, the consent of that licensee;";

(b) in paragraph (c), for sub-paragraph (ii) there is substituted—

"(ii) a water supply licensee;

(iii) a sewerage licensee,".

Commencement Information

I313 Sch. 7 para. 109 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(v)** (with Sch. 2)

110 In section 179 (vesting of works in undertaker), in subsection (1A) (when persons may agree to vest pipes etc in a person other than the undertaker), the words from "but no agreement" to the end are repealed.

Commencement Information

I314 Sch. 7 para. 110 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(v)** (with Sch. 2)

111 (1) Section 195 (the Authority's register) is amended as follows.

(2) In subsection (2)—

(a) in paragraph (bc), for "66D(1)" there is substituted " 66CA(1) ";

(b) in paragraph (g), for "or 66H above" there is substituted " , 66H, 117N or 117O ".

(3) In subsection (3AA), for "licensed water supplier" there is substituted " water supply licensee ".

(4) Subsection (3A) is repealed.

Commencement Information

I315 Sch. 7 para. 111 in force at 1.4.2017 by S.I. 2017/462, **art. 3(k)(xviii)**

112 (1) Section 195A (reasons for decisions) is amended as follows.

(2) In subsection (1)(f), for "66D(1)" there is substituted " 66CA(1) ".

(3) In subsection (3), after "appointment or" there is inserted " the person holding the ".

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Water Act 2014 is up to date with all changes known to be in force on or before 20 June 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) View outstanding changes*

Commencement Information

I316 Sch. 7 para. 112(1) in force at 1.4.2016 for specified purposes by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(w)** (with Sch. 2)

I317 Sch. 7 para. 112(1) in force at 1.4.2017 in so far as not already in force by S.I. 2017/462, **art. 3(k)(xix)**

I318 Sch. 7 para. 112(2) in force at 1.4.2017 by S.I. 2017/462, **art. 3(k)(xix)**

I319 Sch. 7 para. 112(3) in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(w)** (with Sch. 2)

113 (1) Section 201 (publication of certain information and advice) is amended as follows.

(2) In subsection (1)(b), for "company" there is substituted " person ".

(3) In subsection (2), after "Part II of this Act or" there is inserted " a person holding ".

Commencement Information

I320 Sch. 7 para. 113 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(x)** (with Sch. 2)

114 (1) Section 202 (duties of undertakers to furnish the Secretary of State with information) is amended as follows.

(2) In subsection (1A), for "company", in both places, there is substituted " person ".

(3) In subsection (3), for "company", in each place, there is substituted " person ".

(4) In subsection (4)(c)—

(a) after "particular company" there is inserted " or person ";

(b) after "to companies" there is inserted " or persons ";

(c) for "description or" there is substituted " description, ";

(d) after "Part II of this Act or" there is inserted " to all the persons holding ".

(5) In subsection (5), for "or licensed water supplier" there is substituted " , water supply licensee or sewerage licensee ".

Commencement Information

I321 Sch. 7 para. 114 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(x)** (with Sch. 2)

115 In section 205 (exchange of metering information between undertakers), in subsection (4)—

(a) the "and" at the end of paragraph (a) is repealed;

(b) in paragraph (b), for "licensed water supplier" there is substituted " water supply licensee ";

(c) after paragraph (b) there is inserted—

"(c) any sewerage licensee."

Commencement Information

I322 Sch. 7 para. 115(a)(c) in force at 1.4.2017 by S.I. 2017/462, **art. 3(k)(xx)**

I323 Sch. 7 para. 115(b) in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(y)** (with Sch. 2)

116 (1) Section 206 (restriction on disclosure of information) is amended as follows.

Status: *This version of this Act contains provisions that are prospective.*
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(2) In subsection (3)(b), for "a licensed water supplier of any of the duties imposed on it" there is substituted " a water supply licensee or sewerage licensee of any of the duties imposed on the licensee ".

(3) In subsection (5)(a), for "a licensed water supplier of activities under its licence" there is substituted " a water supply licensee or sewerage licensee of activities under the licence held by the licensee ".

Commencement Information
I324 Sch. 7 para. 116 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(z)** (with Sch. 2)

117 (1) Section 208 (directions in the interests of national security) is amended as follows.

(2) In subsection (1)—
(a) for "or licensed water supplier" there is substituted " , water supply licensee or sewerage licensee ";
(b) for "or supplier" there is substituted " or licensee ".

(3) In subsection (2)—
(a) for "or licensed water supplier" there is substituted " , water supply licensee or sewerage licensee ";
(b) for "or supplier" there is substituted " or licensee ";
(c) for "requiring it" there is substituted " requiring that undertaker or licensee ".

(4) In subsection (3)—
(a) for "or licensed water supplier", in both places, there is substituted " , water supply licensee or sewerage licensee ";
(b) for "on it" there is substituted " on that undertaker or licensee ";
(c) for "to it" there is substituted " to that undertaker or licensee ".

Commencement Information
I325 Sch. 7 para. 117 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(z)** (with Sch. 2)

118 In section 211 (limitation on right to prosecute in respect of sewerage offences), in paragraph (b), after "undertaker;" there is inserted—
"(ba) a sewerage licensee;".

Commencement Information
I326 Sch. 7 para. 118 in force at 1.4.2017 by S.I. 2017/462, **art. 3(k)(xxi)**

119 (1) Section 213 (powers to make regulations) is amended as follows.

(2) In subsection (1)—
(a) the words "17D(8)," (inserted by section 35(2) of the Flood and Water Management Act 2010) are repealed;
(b) the words "or 17D(8)" (inserted by paragraph 49 of Schedule 8 to the Water Act 2003) are repealed (if they remain in force to any extent);
(c) before "or 105A" there is inserted ", 66M".

Status: *This version of this Act contains provisions that are prospective.*
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(3) After subsection (1) there is inserted—

"(1ZA) The requirement in subsection (1) does not apply in the case of regulations made by the Welsh Ministers under section 17D(8)."

(4) In subsection (2)(a), for "or sewerage undertaker or licensed water supplier" there is substituted " , sewerage undertaker, water supply licensee or sewerage licensee ".

Commencement Information

I327 Sch. 7 para. 119(1) in force at 1.11.2016 for specified purposes by S.I. 2016/1007, **art. 2(h)(iv)**

I328 Sch. 7 para. 119(4) in force at 1.11.2016 by S.I. 2016/1007, **art. 2(h)(v)**

120 (1) Section 219 (general interpretation) is amended as follows.

(2) In subsection (1)—

(a) in the definition of "customer or potential customer", in paragraph (a), for "licensed water supplier" there is substituted " water supply licensee or sewerage licensee ";

(b) in the definition of "protected land", in paragraph (b), for "section 218" there is substituted " section 217 ";

(c) in the definition of "sewerage services", for "includes" there is substituted "—

(a) in the case of a sewerage undertaker, includes";

(d) in that definition, after the paragraph (a) so formed there is inserted "or

(b) in the case of a sewerage licensee, means the services provided by that person in that person's capacity as a sewerage licensee;";

(e) in the definition of "water main"—

(i) for "licensed water supplier" there is substituted " water supply licensee ";

(ii) for "or supplier" there is substituted " or licensee ";

(f) the following are inserted at the appropriate place—

""charging rules" means rules issued under section 144ZA;";

""sewerage licensee" is to be construed in accordance with section 17BA(6);";

""water supply licensee" is to be construed in accordance with section 17A(7);";

(g) the definition of "licensed water supplier" is repealed.

(3) After subsection (10) there is inserted—

"(11) Subsection (10) does not apply to references to the Chief Inspector of Drinking Water in sections 8, 17AA, 51CA, 51CB, 66DB, 66P and 86ZA."

Commencement Information

I329 Sch. 7 para. 120(1) in force at 1.1.2015 for specified purposes by S.I. 2014/3320, **art. 2(2)(e)(iii)**

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Water Act 2014 is up to date with all changes known to be in force on or before 20 June 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) View outstanding changes*

I330 Sch. 7 para. 120(1) in force at 1.4.2016 for specified purposes by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(aa)** (with Sch. 2)
I331 Sch. 7 para. 120(1) in force at 1.11.2016 for specified purposes by S.I. 2016/1007, **art. 2(h)(vi)**
I332 Sch. 7 para. 120(1) in force at 1.4.2017 for specified purposes by S.I. 2017/462, art. 3(k)(xxii)(aa)
I333 Sch. 7 para. 120(2)(a) (c)-(g) in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(aa)** (with Sch. 2)
I334 Sch. 7 para. 120(2)(b) in force at 1.1.2015 by S.I. 2014/3320, **art. 2(2)(e)(iv)**
I335 Sch. 7 para. 120(3) in force at 1.1.2015 for specified purposes by S.I. 2014/3320, **art. 2(2)(e)(v)**
I336 Sch. 7 para. 120(3) in force at 1.11.2016 for specified purposes by S.I. 2016/1007, **art. 2(h)(vii)**
I337 Sch. 7 para. 120(3) in force at 1.4.2017 for specified purposes by S.I. 2017/462, art. 3(k)(xxii)(bb)

121 In Schedule 1A (the Water Services Regulation Authority), in paragraph 9(3), for paragraph (f) (and the "and" following it) there is substituted—

"(f) water supply licensees;

(fa) sewerage licensees; and".

Commencement Information

I338 Sch. 7 para. 121 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(bb)** (with Sch. 2)

122 (1) Schedule 2 (transitional provision on termination of appointments) is amended as follows.

(2) In paragraph 1—

(a) in sub-paragraph (3A)(a), for "a qualifying licensed water supplier" there is substituted " a qualifying water supply licensee or a qualifying sewerage licensee ";

(b) in sub-paragraph (3A)(b), for "carry on activities" there is substituted "carry on—

(i) activities";

(c) in sub-paragraph (3A)(b), after the sub-paragraph (i) so formed there is inserted "; or

(ii) activities relating to the removal or removals of matter mentioned in section 23(9) of this Act which were carried on by the transferor until that date (as the case may be).";

(d) in sub-paragraph (4), in the definition of "other relevant companies", for "to be holding" there is substituted "to be—

(a) holding";

(e) in sub-paragraph (4), in that definition, after the paragraph (a) so formed there is inserted "or

(b) holding appointments as sewerage undertakers for any area in which, or in part of which, the activities relating to the removal or removals of matter mentioned in section 23(9) of this Act will be carried on by the transferee (as the case may be);".

(3) In paragraph 2(7A)(b), for "licensed water supplier" there is substituted " water supply licensee or sewerage licensee ".

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Water Act 2014 is up to date with all changes known to be in force on or before 20 June 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) View outstanding changes*

Commencement Information
I339 Sch. 7 para. 122 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(bb)** (with Sch. 2)

123 In Schedule 8 (pre-1989 Act transitional authority for trade effluent discharges etc), after paragraph 2(3) there is inserted—

"(3A) If a sewerage undertaker serves a notice under sub-paragraph (2) in relation to premises in respect of which a sewerage licensee provides sewerage services, the sewerage undertaker must send a copy of the notice to the sewerage licensee."

Commencement Information
I340 Sch. 7 para. 123 in force at 1.4.2017 by S.I. 2017/462, **art. 3(k)(xxiii)**

Water Resources Act 1991 (c. 57)

124 The Water Resources Act 1991 is amended as follows.

Commencement Information
I341 Sch. 7 para. 124 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(cc)** (with Sch. 2)

125 (1) Section 203 (exchange of information with respect to pollution incidents etc) is amended as follows.

(2) In subsection (1A)—
(a) for "licensed water supplier" there is substituted " water supply licensee ";
(b) for "supplier" there is substituted " licensee ";
(c) for "its licence" there is substituted " the licensee's licence ".

(3) In subsection (2A)—
(a) for "licensed water supplier" there is substituted " water supply licensee ";
(b) for "supplier" there is substituted " licensee ".

(4) In subsection (3)—
(a) for "licensed water supplier" there is substituted " water supply licensee ";
(b) for "supplier" there is substituted " licensee ".

(5) In subsection (4), for "licensed water supplier" there is substituted " water supply licensee ".

(6) In subsection (5)(b), for "licensed water supplier" there is substituted " water supply licensee ".

(7) In subsection (8)—
(a) for "licensed water supplier" there is substituted " water supply licensee ";
(b) for "a company" there is substituted " a person ".

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Commencement Information
I342 Sch. 7 para. 125 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(cc)** (with Sch. 2)

126 (1) Section 204 (restriction on disclosure of information) is amended as follows.

(2) In subsection (2)(b)—

(a) for "company" there is substituted " person ";

(b) for "on it" there is substituted " on the undertaker or, as the case may be, the person ".

(3) In subsection (4)(a)—

(a) for "a company" there is substituted " a person ";

(b) for "its licence" there is substituted " the person's licence ".

Commencement Information
I343 Sch. 7 para. 126 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(cc)** (with Sch. 2)

The National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672)

127 In Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999, in the entry relating to the Water Industry Act 1991—

(a) for "licensed water suppliers" there is substituted " water supply licensees ";

(b) for "licensed water supplier", in each place those words occur, there is substituted " water supply licensee ".

Commencement Information
I344 Sch. 7 para. 127 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(cc)** (with Sch. 2)

Enterprise Act 2002 (c. 40)

128 The Enterprise Act 2002 is amended as follows.

Commencement Information
I345 Sch. 7 para. 128 in force at 1.4.2017 by S.I. 2017/462, **art. 3(k)(xxiv)**

129 (1) Section 168 (regulated markets) is amended as follows.

(2) In subsection (3)(ff), after "section 66D" there is inserted " or 117E ".

(3) In subsection (4)(ff), after "section 66D", in both places, there is inserted " or 117E ".

Commencement Information
I346 Sch. 7 para. 129 in force at 1.4.2017 by S.I. 2017/462, **art. 3(k)(xxiv)**

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130 In section 249 (special administration regime), in subsection (1)(aa)—

(a) for "licensed water supplier" there is substituted " water supply licensee ";

(b) after "administration order)" there is inserted " or a qualifying sewerage licensee within the meaning of subsection (8) of that section ".

Commencement Information

I347 Sch. 7 para. 130 in force at 1.4.2017 by S.I. 2017/462, **art. 3(k)(xxiv)**

Water Act 2003 (c. 37)

131 The Water Act 2003 is amended as follows.

Commencement Information

I348 Sch. 7 para. 131 in force at 1.4.2016 for specified purposes by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(dd)** (with Sch. 2)

PROSPECTIVE

132 Section 40 (which inserted the section 2A of the Water Industry Act 1991 that is being replaced by section 24 of this Act) is repealed.

133 (1) Section 52 (co-operation between water regulators) is amended as follows.

(2) In subsection (3)—

(a) in paragraph (a), for "and licensed water suppliers" there is substituted " , water supply licensees and sewerage licensees ";

(b) in paragraph (b), for "licensed water suppliers" there is substituted " water supply licensees ";

(c) in paragraph (c), for "and licensed water suppliers" there is substituted " , water supply licensees and sewerage licensees ".

(3) After subsection (8) there is inserted—

"(9) In this section—

"sewerage licensee" means a person holding a sewerage licence under Chapter 1A of Part 2 of the Water Industry Act 1991;

"water supply licensee" means a person holding a water supply licence under Chapter 1A of Part 2 of the Water Industry Act 1991."

Commencement Information

I349 Sch. 7 para. 133 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(dd)** (with Sch. 2)

134 (1) Section 58 (fluoridation of water supplies) is amended as follows, to the extent that it is not in force on the day on which paragraphs 76 to 78 come into force.

(2) In subsection (2)—

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(a) in the inserted section 87 of the Water Industry Act 1991 (fluoridation of water supplies at request of relevant authorities), in subsections (2)(b) and (3)(b), for "licensed water supplier" there is substituted " water supply licensee ";

(b) in the inserted section 87C of the Water Industry Act 1991 (fluoridation arrangements: compliance), in subsection (4)(b), for "licensed water supplier" there is substituted " water supply licensee ".

(3) In subsection (6), in the inserted section 90 of the Water Industry Act 1991 (indemnities in respect of fluoridation), in subsection (2)—

(a) for "licensed water supplier" there is substituted " water supply licensee ";

(b) for "it", in both places, there is substituted " the licensee ".

Commencement Information

I350 Sch. 7 para. 134 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(dd)** (with Sch. 2)

Government of Wales Act 2006 (c. 32)

[F2]135 . . . . . .

Textual Amendments

F2 Sch. 7 para. 135 omitted (1.4.2018) by virtue of Wales Act 2017 (c. 4), s. 71(4), **Sch. 6 para. 98** (with Sch. 7 paras. 1, 6); S.I. 2017/1179, reg. 3(r)

Consumers, Estate Agents and Redress Act 2007 (c. 17)

136 The Consumers, Estate Agents and Redress Act 2007 is amended as follows.

Commencement Information

I351 Sch. 7 para. 136 in force at 1.4.2017 by S.I. 2017/462, **art. 3(k)(xxv)**

137 In section 4 (meaning of "designated consumers"), in subsection (3)—

(a) for "or a licensed water supplier" there is substituted " , a water supply licensee or a sewerage licensee ";

(b) for "its capacity" there is substituted " the undertaker's or licensee's capacity ".

Commencement Information

I352 Sch. 7 para. 137 in force at 1.4.2017 by S.I. 2017/462, **art. 3(k)(xxv)**

138 (1) Section 25 (enforcement by regulator of section 24 notice) is amended as follows.

(2) In subsection (2), for "its capacity" there is substituted " the person's capacity ".

(3) In subsection (3), in the table, for "or licensed water supplier" there is substituted " , water supply licensee or sewerage licensee ".

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(4) In subsection (7), for "or licensed water supplier" there is substituted " , water supply licensee or sewerage licensee ".

Commencement Information
I353 Sch. 7 para. 138 in force at 1.4.2017 by S.I. 2017/462, **art. 3(k)(xxv)**

139 In section 33 (supplementary provision about transfer and abolition orders), in subsection (10)—

(a) for "or a licensed water supplier" there is substituted " , a water supply licensee or a sewerage licensee ";

(b) for "its capacity" there is substituted " the undertaker's or licensee's capacity ".

Commencement Information
I354 Sch. 7 para. 139 in force at 1.4.2017 by S.I. 2017/462, **art. 3(k)(xxv)**

140 In section 41 (interpretation of Part 1), in subsection (1)—

(a) the definition of "licensed water supplier" is repealed;

(b) at the appropriate place there is inserted—

""sewerage licensee" means a person holding a sewerage licence under Chapter 1A of Part 2 of the Water Industry Act 1991;";

""water supply licensee" means a person holding a water supply licence under Chapter 1A of Part 2 of the Water Industry Act 1991."

Commencement Information
I355 Sch. 7 para. 140 in force at 1.4.2017 by S.I. 2017/462, **art. 3(k)(xxv)**

141 (1) Section 42 (interpretation of Part 2) is amended as follows.

(2) In subsection (1), in the table—

(a) in the first column, for "or licensed water supplier" there is substituted " , water supply licensee or sewerage licensee ";

(b) in the second column, for "or licensed water supplier in its capacity" there is substituted " , water supply licensee or sewerage licensee in the undertaker's or licensee's capacity ".

(3) In subsection (2)—

(a) the definition of "licensed water supplier" is repealed;

(b) at the appropriate place there is inserted—

""sewerage licensee" has the same meaning as in Part 1;";

""water supply licensee" has the same meaning as in Part 1."

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Commencement Information

I356 Sch. 7 para. 141 in force at 1.4.2017 by S.I. 2017/462, **art. 3(k)(xxv)**

142 In section 52 (enforcement of requirements imposed under Part 2), in subsection (3), for "or licensed water supplier" there is substituted " , water supply licensee or sewerage licensee ".

Commencement Information

I357 Sch. 7 para. 142 in force at 1.4.2017 by S.I. 2017/462, **art. 3(k)(xxv)**

Flood and Water Management Act 2010 (c. 29)

143 The Flood and Water Management Act 2010 is amended as follows.

Commencement Information

I358 Sch. 7 para. 143 in force at 18.12.2015 for specified purposes by S.I. 2015/1938, **art. 2(g)(iv)**

I359 Sch. 7 para. 143 in force at 1.4.2016 for specified purposes by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(ff)** (with Sch. 2)

144 In section 6 (other Part 1 definitions), in subsection (11) ("water company")—

(a) in the opening words, the words "a company which holds" are repealed;

(b) in paragraph (a), at the beginning there is inserted "a company which holds";

(c) in paragraph (b), at the beginning there is inserted "a person who holds".

Commencement Information

I360 Sch. 7 para. 144 in force at 1.4.2016 by S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(ff)** (with Sch. 2)

PROSPECTIVE

145 In section 35 (provision of infrastructure), in subsection (2), in the words inserted into section 213(1) of the Water Industry Act 1991, the words "17D(8)," are repealed (if section 35(2) remains to be brought into force to any extent).

PROSPECTIVE

146 In section 42 (agreements on new drainage systems)—

(a) subsection (2) (which substitutes section 105(2) of the Water Industry Act 1991) is repealed;

(b) subsection (3) (which inserts section 104(9) of the Water Industry Act 1991) is repealed.

147 In section 44 (social tariffs in charges schemes), in subsection (3), for the words from "in connection with" to "1991 Act)" there is substituted "under the

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Water Industry Act 1991 in connection with undertakers' charges schemes under section 143 of that Act".

Commencement Information

I361 Sch. 7 para. 147 in force at 18.12.2015 by S.I. 2015/1938, **art. 2(g)(iii)**

SCHEDULE 8 E+W+S

Section 61

REGULATION OF THE WATER ENVIRONMENT

PART 1 E+W+S

PURPOSES FOR WHICH PROVISION MAY BE MADE

Interpretation

1 In this Schedule—

"fish regulations" means regulations containing provision which—

(a) satisfies section 61(2)(c), or

(b) is for the purpose mentioned in paragraph 8(2) or 30(3);

"flood regulations" means regulations containing provision which—

(a) satisfies section 61(2)(b), or

(b) is for the purpose mentioned in paragraph 8(2) or 30(2);

"water regulations" means regulations containing provision which—

(a) satisfies section 61(2)(a), or

(b) is for the purpose mentioned in paragraph 8(2) or 30(1).

2 In this Schedule—

"functions" includes powers and duties;

"regulated activity" means—

(a) in relation to water regulations, the use of water resources;

(b) in relation to flood regulations, any activity that affects, or could affect, the drainage of land, flood risk or the management of flood risk;

(c) in relation to fish regulations, any activity that affects, or could affect, the movement of fish through regulated waters;

"regulated field" means—

(a) in relation to water regulations, regulating the use of water resources;

(b) in relation to flood regulations, securing the drainage of land or the management of flood risk;

(c) in relation to fish regulations, safeguarding the movement of fish through regulated waters;

"the regulations" means regulations under section 61;

"specified" means specified in the regulations.

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Preliminary

3 (1) Establishing standards, objectives or requirements in relation to—
(a) regulated activities, and
(b) in the case of fish regulations, structures or obstructions that affect, or could affect, the movement of fish through regulated waters.

(2) In the case of water regulations, authorising the making of plans for—
(a) the setting of overall limits,
(b) the allocation of rights, or
(c) the progressive improvement of standards or objectives,
relating to the use of water resources.

(3) In the case of water regulations, authorising the making of schemes for the trading or other transfer of rights so allocated.

4 (1) Determining the authorities (whether public or local or the Minister) by whom functions conferred by the regulations—
(a) in relation to permits under the regulations, or
(b) otherwise for or in connection with the regulated field,
are to be exercisable (in this Schedule referred to as "regulators").

(2) Specifying any purposes for which any such functions are to be exercisable by regulators.

5 Enabling the Minister to give directions which regulators are to comply with, or guidance which regulators are to have regard to, in exercising functions under the regulations, including—
(a) directions providing for any functions exercisable by one regulator to be instead exercisable by another;
(b) directions given for the purpose of the implementation of any **[**[F3]**[**[F4]assimilated**]** obligations**]** or under any international agreement to which the United Kingdom is a party;
(c) directions relating to the exercise of any function in a particular case or class of case (except functions in relation to the investigation or prosecution, in a particular case, of an offence under the regulations).

Textual Amendments

F3 Words in Sch. 8 para. 5(b) substituted (31.12.2020) by The Floods and Water (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/558), regs. 1(1), **5**; 2020 c. 1, Sch. 5 para. 1(1)

F4 Word in Sch. 8 para. 5(b) substituted (1.1.2024) by The Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendment) Regulations 2023 (S.I. 2023/1424), reg. 1(2), **Sch. para. 83**

Permits

6 Prohibiting persons from carrying on any activities of any specified description, except—
(a) under a permit in force under the regulations, and
(b) in accordance with any conditions to which the permit is subject.

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7 Specifying restrictions or other requirements in connection with the grant of permits (including provisions for restricting the grant of permits to those who are fit and proper persons within the meaning of the regulations); and otherwise regulating the procedure to be followed in connection with the grant of permits.

8 (1) Prescribing the contents of permits.

(2) Authorising permits to be granted subject to conditions imposed by regulators (the nature of any such condition not being restricted by section 61(2)).

(3) Securing that permits have effect subject to—

(a) conditions specified in the regulations; or

(b) rules of general application specified in or made under the regulations.

9 (1) Requiring permits or the conditions to which permits are subject to be reviewed by regulators (whether periodically or in any specified circumstances).

(2) Authorising or requiring the variation of permits or such conditions by regulators (whether on applications made by holders of permits or otherwise).

(3) Regulating the making of changes in the carrying on of the activities.

10 (1) Regulating the transfer or surrender of permits.

(2) Authorising the revocation of permits by regulators.

(3) Authorising the imposition by regulators of requirements with respect to the taking of preventive action (by holders of permits or other persons) in connection with the surrender or revocation of permits.

11 Authorising the Minister to make schemes for the charging by regulators of fees or other charges in respect of, or in respect of an application for—

(a) the grant of a permit,

(b) the variation of a permit or the conditions to which it is subject, or

(c) the transfer or surrender of a permit,

or in respect of the subsistence of a permit.

12 Authorising, or authorising the Minister to make schemes for, the charging by the Minister or public or local authorities of fees or other charges in respect of—

(a) any advice given, or

(b) any testing, assessment or investigation done or other action taken,

in cases where the advice or action is in any way in anticipation of, or otherwise in connection with, the making of applications for the grant of permits or is carried out in pursuance of conditions to which any permit is subject.

Further regulation

13 (1) Requiring persons who propose to carry out activities of a specified description to give notice of their proposals to regulators.

(2) Requiring owners or occupiers of land to give notice to regulators of any obstruction of a specified description occurring on the land.

14 Requiring persons to apply for a permit under the regulations in respect of activities of a specified description.

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15 (1) Authorising a regulator, where a person is carrying on an activity of a specified description—

(a) to serve notice on the person requiring them to cease carrying on the activity or, at their own cost, to take such action in connection with the activity as may be specified in the notice, or

(b) to arrange itself for action to be taken in connection with the activity.

(2) Authorising a regulator to—

(a) to serve notice on persons of a specified description requiring them, at their own cost, to take such action as may be specified in the notice, or

(b) to arrange itself for action to be taken,

in respect of a structure or obstruction of a specified description.

16 Imposing requirements, or authorising regulators to impose requirements, on persons of a specified description in relation to the operation and maintenance of specified structures.

Information, publicity and consultation

17 Enabling persons of any specified description (whether or not they are holders of permits) to be required—

(a) to compile information about—

(i) regulated activities, and

(ii) in the case of fish regulations, structures or obstructions that affect, or could affect, the movement of fish through regulated waters;

(b) to provide such information in such manner as is specified in the regulations.

18 Securing—

(a) that publicity is given to specified matters;

(b) that regulators maintain registers of specified matters (but excepting information which under the regulations is, or is determined to be, commercially confidential and subject to any other exceptions specified in the regulations) which are open to public inspection;

(c) that copies of entries in such registers, or of specified documents, may be obtained by members of the public.

19 Requiring or authorising regulators to carry out consultation in connection with the exercise of any of their functions; and providing for them to take into account representations made to them on consultation.

Enforcement and offences

20 (1) Conferring on regulators functions with respect to the monitoring and inspection of—

(a) the carrying on of regulated activities, or

(b) regulated structures or obstructions.

(2) Authorising regulators to appoint suitable persons to exercise any such functions and conferring on persons so appointed powers such as those specified in—

(a) sections 169 to 174 of the Water Resources Act 1991;

(b) section 108(4) of the Environment Act 1995;

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(c) regulation 26 of the Eels (England and Wales) Regulations 2009 (S.I. 2009/3344);

(d) sections 31 and 32 of the Salmon and Freshwater Fisheries Act 1975.

(3) Functions which may be conferred in reliance on sub-paragraph (1) include—

(a) power to take samples or to make copies of information;

(b) power to arrange for preventive or remedial action to be taken at the expense of holders of permits.

(4) In sub-paragraph (1) "regulated structures or obstructions" means structures or obstructions which—

(a) may be the subject of notices served by regulators under the regulations, or

(b) may be subject to requirements imposed under the regulations.

21 Authorising regulators to serve on holders of permits—

(a) notices requiring them to take remedial action in respect of contraventions, actual or potential, of conditions to which their permits are subject;

(b) notices requiring them to provide such financial security as the regulators serving the notices consider appropriate pending the taking of remedial action in respect of any such contraventions;

(c) notices requiring them to take steps to remove or reduce, or to mitigate the effect of the potential consequences of, the following imminent risks (whether or not arising from any such contraventions)—

(i) an imminent risk of a significant waste of water resources or of significant damage to the environment, in the case of water regulations;

(ii) an imminent risk of a significant impediment to drainage or of a flood, in the case of flood regulations;

(iii) an imminent risk of a significant impediment to the movement of fish through regulated waters, in the case of fish regulations.

22 Authorising regulators to suspend the operation of permits so far as having effect to authorise the carrying on of activities to which they relate.

23 Establishing a procedure for the resolution of disputes in relation to notices served by regulators under the regulations.

24 Providing for the enforcement of notices served by regulators under the regulations by proceedings in—

(a) the High Court, or

(b) in the case of fish regulations applying as mentioned in section 61(11)(b), the Sheriff Court.

25 Where action is required to be taken by a person under the regulations or pursuant to a notice served under the regulations, authorising regulators in specified circumstances to take action instead of that person; and making provision for the liability of that person in respect of reasonable costs incurred by the regulators in taking such action.

26 Creating offences and dealing with matters relating to such offences, including—

(a) the provision of defences, and

(b) evidentiary matters.

27 Enabling, where a person has been convicted of an offence under the regulations—

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(a) a court dealing with that person for the offence to order the taking of remedial action (in addition to or instead of imposing any punishment), or
(b) a regulator to arrange for such action to be taken at that person's expense.

28 Where a person causes damage to any structure constructed, altered or maintained by a regulator under these regulations, authorising the regulator to require the person to pay the expenses of the regulator in repairing the damage and providing for the manner in which such expenses may be recovered.

Appeals

29 Conferring rights of appeal in respect of decisions made, notices served or other things done (or omitted to be done) under the regulations; and making provision for (or for the determination of) matters relating to the making, considering and determination of such appeals (including provision for or in connection with the holding of inquiries or hearings).

Corresponding provision

30 (1) Making provision which, subject to any modifications that the Minister considers appropriate, corresponds or is similar to any provision made by or under, or capable of being made under—
(a) section 71 of the Water Industry Act 1991 (waste from water sources);
(b) Chapter 2 of Part 2 of the Water Resources Act 1991 (abstraction and impounding);
(c) Part 1 of the Water Act 2003 (abstraction and impounding).

(2) Making provision which, subject to any modifications that the Minister considers appropriate, corresponds or is similar to—
(a) any provision made by section 339 of the Highways Act 1980 (saving for works etc of drainage authorities etc);
(b) any provision made by or under, or capable of being made under, sections 109 and 110 of the Water Resources Act 1991 (erecting structures over main rivers etc prohibited without consent);
(c) any provision made by any byelaw, or capable of being made by any byelaw, under paragraph 5 of Schedule 25 to that Act (byelaws for flood defence and drainage purposes).

(3) Making provision which, subject to any modifications that the Minister considers appropriate, corresponds or is similar to—
(a) sections 9 to 15 and 18 of the Salmon and Freshwater Fisheries Act 1975 (obstructions to passage of fish);
(b) Part 4 of the Eels (England and Wales) Regulations 2009 (S.I. 2009/3344) (passage of eels).

[F5](4) . . . . . .

(5) Provision made under this paragraph is not subject to the requirement in section 61(2).

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Textual Amendments

F5 Sch. 8 para. 30(4) omitted (9.1.2022) by virtue of Environment Act 2021 (c. 30), **ss. 88(3)**, 147(2)(k) (with s. 144)

Crown application

31 Making provision about the application of the regulations to the Crown.

PART 2 E+W+S

SUPPLEMENTARY PROVISION

Water regulations trading schemes: penalties

32 (1) The regulations may, if they are water regulations, authorise the inclusion in a trading scheme of—

(a) provision for penalties in respect of contraventions of provisions of the scheme;

(b) provision for the amount of any penalty under the scheme to be such as may be set out in, or calculated in accordance with—

(i) the scheme, or

(ii) the regulations (including regulations made after the scheme starts to operate).

(2) In this paragraph "trading scheme" means a scheme of the kind mentioned in paragraph 3(3).

Determination of matters by regulators

33 The regulations may make provision for anything which, by virtue of paragraphs 7 to 10, could be provided for by the regulations to be determined under the regulations by regulators.

Delegation between regulators

34 The regulations may make provision authorising regulators to arrange for specified functions to be exercised on their behalf by other regulators.

Imposition of conditions

35 In connection with the determination of conditions as mentioned in paragraph 8(3)(a) the regulations may in particular provide—

(a) for such conditions to be determined in the light of any specified general principles and any directions or guidance given under the regulations;

(b) for such guidance to include guidance sanctioning reliance by a regulator on any arrangements referred to in the guidance to operate to secure a particular result as an alternative to imposing a condition.

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Charging schemes

36 The regulations may—

(a) require any such scheme as is mentioned in paragraph 11 or 12 to be so framed that the fees and charges payable under the scheme are sufficient, taking one year with another, to cover such expenditure (whether or not incurred by the regulator or other person to whom they are so payable) as is specified;

(b) authorise any such scheme to make different provision for different cases (and specify particular kinds of such cases).

Offences

37 (1) The regulations may provide for any such offence as is mentioned in paragraph 26 to be triable—

(a) only summarily, or

(b) either summarily or on indictment.

(2) The regulations may provide for any such offence to be punishable on summary conviction with—

(a) imprisonment for a term not exceeding such period as is specified in the regulations (which may not exceed the normal maximum term), or

(b) a fine not exceeding such amount as is so specified (which may not exceed £20,000),

or both.

(3) The "normal maximum term" means—

(a) in relation to England and Wales—

(i) in the case of an offence triable only summarily, 51 weeks, and

(ii) in the case of an offence triable either summarily or on indictment, twelve months;

(b) in relation to Scotland—

(i) in the case of an offence triable only summarily, 6 months, and

(ii) in the case of an offence triable either summarily or on indictment, twelve months.

(4) Regulations that—

(a) are made before the date on which section 281(5) of the Criminal Justice Act 2003 comes into force, and

(b) in relation to England and Wales, make provision for a summary offence to be punishable with a term of imprisonment exceeding six months,

must provide that, where the offence is committed before that date, it is punishable with imprisonment for a term not exceeding six months.

(5) Regulations that—

(a) are made before **[**[F6]2 May 2022**]**, and

(b) in relation to England and Wales, make provision for an offence triable either summarily or on indictment to be punishable on summary conviction with a term of imprisonment exceeding six months,

must provide that, where the offence is committed before that date, it is punishable on summary conviction with imprisonment for a term not exceeding six months.

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(6) The regulations may provide for such an offence to be punishable on indictment with—

(a) imprisonment for a term not exceeding such period as is specified (which may not exceed two years), or

(b) a fine,

or both.

Textual Amendments

F6 Words in Sch. 8 para. 37(5)(a) substituted (28.4.2022) by The Criminal Justice Act 2003 (Commencement No. 33) and Sentencing Act 2020 (Commencement No. 2) Regulations 2022 (S.I. 2022/500), regs. 1(2), 5(1), **Sch. Pt. 1**

Restrictions on Crown application

38 (1) To the extent that the regulations bind the Crown (by virtue of provision made under paragraph 31), they are subject to the following restrictions.

(2) No contravention of any provision of the regulations may make the Crown criminally liable; but the regulations may provide that the High Court may, on the application of a regulator, declare unlawful any act or omission of the Crown which constitutes such a contravention.

(3) Sub-paragraph (2) does not affect the criminal liability of persons in the service of the Crown.

(4) The regulations must provide that if the Secretary of State certifies that it appears to him, as respects any Crown premises and any relevant powers of entry, that it is requisite or expedient that, in the interests of national security, the powers should not be exercisable in relation to those premises, those powers shall not be exercisable in relation to those premises.

(5) Subject to sub-paragraph (6), where a power is conferred in relation to land by any provision of the regulations, the regulations must provide that—

(a) that power is to be exercisable in relation to any land in which there is a Crown or Duchy interest only with the consent of the appropriate authority, and

(b) that a consent for such purposes may be given on such financial and other conditions as the appropriate authority giving the consent may consider appropriate.

(6) But provision contained in the regulations in accordance with sub-paragraph (5) is not to require any consent to be given for the exercise of any power in relation to any land in which there is a Crown or Duchy interest to the extent that that power would be so exercisable apart from provision in the regulations made by virtue of paragraph 31.

(7) In this paragraph—

"the appropriate authority" has the same meaning as in section 293 of the Town and Country Planning Act 1990;

"Crown or Duchy interest" means an interest belonging to Her Majesty in right of the Crown or the Duchy of Lancaster, or to the Duchy of Cornwall,

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or belonging to a government department, or held in trust for Her Majesty for the purposes of a government department;

"Crown premises" means premises held by or on behalf of the Crown;

"relevant powers of entry" means powers of entry that are—

(a) contained in the regulations,

(b) exercisable in relation to the premises in question, and

(c) specified in the Secretary of State's certificate under sub-paragraph (4).

SCHEDULE 9 U.K.

Section 87

PUBLICATION REQUIREMENTS UNDER THE LAND DRAINAGE ACT 1991

1 The Land Drainage Act 1991 is amended as follows.

Commencement Information

I362 Sch. 9 para. 1 in force at 14.7.2014 by S.I. 2014/1823, **art. 2(b)**

2 (1) Section 2 (review of boundaries of internal drainage districts) is amended as follows.

(2) In subsection (2)(b), the words ", in one or more newspapers circulating in the internal drainage district," are repealed.

[F7](3) . . . . . .

Textual Amendments

F7 Sch. 9 para. 2(3) omitted (21.5.2016) by virtue of Environment (Wales) Act 2016 (anaw 3), **ss. 82(2)**, 88(2)(d)

Commencement Information

I363 Sch. 9 para. 2 in force at 14.7.2014 by S.I. 2014/1823, **art. 2(b)**

3 (1) Section 3 (schemes for reorganisation of internal drainage districts etc) is amended as follows.

(2) In subsection (4)(b), the words "in one or more newspapers circulating in the area affected by the scheme" are repealed.

[F8](3) . . . . . .

Textual Amendments

F8 Sch. 9 para. 3(3) omitted (21.5.2016) by virtue of Environment (Wales) Act 2016 (anaw 3), **ss. 82(2)**, 88(2)(d)

Commencement Information

I364 Sch. 9 para. 3 in force at 14.7.2014 by S.I. 2014/1823, **art. 2(b)**

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4 (1) Section 38 (orders subdividing a district for the purposes of raising expenses) is amended as follows.

(2) In subsection (5)(b), the words “, in one or more newspapers circulating in that district,” are repealed.

[F9](3) . . . . . .

Textual Amendments

F9 Sch. 9 para. 4(3) omitted (21.5.2016) by virtue of Environment (Wales) Act 2016 (anaw 3), **ss. 82(2)**, 88(2)(d)

Commencement Information

I365 Sch. 9 para. 4 in force at 14.7.2014 by S.I. 2014/1823, **art. 2(b)**

5 (1) Section 39 (petition for subdivision of internal drainage district) is amended as follows.

(2) In subsection (4)(b), the words “in one or more newspapers circulating in that district” are repealed.

[F10](3) . . . . . .

Textual Amendments

F10 Sch. 9 para. 5(3) omitted (21.5.2016) by virtue of Environment (Wales) Act 2016 (anaw 3), **ss. 82(2)**, 88(2)(d)

Commencement Information

I366 Sch. 9 para. 5 in force at 14.7.2014 by S.I. 2014/1823, **art. 2(b)**

6 (1) Section 48 (procedure for making of rate) is amended as follows.

(2) In subsection (3)(b), for “in one or more newspapers circulating in that district” there is substituted “ in some other way ”.

[F11](3) . . . . . .

Textual Amendments

F11 Sch. 9 para. 6(3) omitted (21.5.2016) by virtue of Environment (Wales) Act 2016 (anaw 3), **ss. 82(2)**, 88(2)(d)

Commencement Information

I367 Sch. 9 para. 6 in force at 14.7.2014 by S.I. 2014/1823, **art. 2(b)**

7 (1) Section 58 (allocation of appropriate agency revenue for its functions as an internal drainage board) is amended as follows.

(2) In subsection (3), the words “in one or more newspapers circulating in the internal drainage district in question” are repealed.

[F12](3) . . . . . .

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Textual Amendments

F12 Sch. 9 para. 7(3) omitted (21.5.2016) by virtue of Environment (Wales) Act 2016 (anaw 3), **ss. 82(2)**, 88(2)(d)

Commencement Information

I368 Sch. 9 para. 7 in force at 14.7.2014 by S.I. 2014/1823, **art. 2(b)**

8 (1) Paragraph 1 of Schedule 5 (byelaws: publicity for application and confirmation) is amended as follows.

(2) In sub-paragraph (1), in paragraph (a), the words from "in the London Gazette" to the end are repealed.

[F13](3) . . . . . .

Textual Amendments

F13 Sch. 9 para. 8(3) omitted (21.5.2016) by virtue of Environment (Wales) Act 2016 (anaw 3), **ss. 82(2)**, 88(2)(d)

Commencement Information

I369 Sch. 9 para. 8 in force at 14.7.2014 by S.I. 2014/1823, **art. 2(b)**

SCHEDULE 10 U.K.

Section 89

AMENDMENTS RELATING TO REGIONAL FLOOD AND COASTAL COMMITTEES

Public Bodies (Admission to Meetings) Act 1960 (c. 67)

1 In the Schedule to the Public Bodies (Admission to Meetings) Act 1960 (bodies to which the Act applies), in paragraph 1(i), for "regional and local flood defence committees" there is substituted " Regional Flood and Coastal Committees ".

Local Government Act 1974 (c. 7)

2 In section 25 of the Local Government Act 1974 (authorities subject to investigation by the Commission for Local Administration in England), in subsection (1)(d), for "any regional flood defence committee" there is substituted " any Regional Flood and Coastal Committee ".

House of Commons Disqualification Act 1975 (c. 24)

3 In Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975 (other disqualifying offices)—

(a) the entry for a chairman of a local flood defence committee for any district in England and Wales is repealed;

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(b) in the entry for a chairman of a regional flood defence committee for any area of England and Wales, for "regional flood defence committee" there is substituted " Regional Flood and Coastal Committee ".

Land Drainage Act 1991 (c. 59)

4 In section 1 of the Land Drainage Act 1991 (internal drainage districts and boards), in subsection (1)(a), for "the areas of the regional flood defence committees" there is substituted " the regions of the Regional Flood and Coastal Committees (within the meaning of section 22 of the Flood and Water Management Act 2010) ".

Water Resources Act 1991 (c. 57)

5 The Water Resources Act 1991 is amended as follows.

6 (1) Section 134 (raising of general drainage charges) is amended as follows.

(2) In subsection (1) (power of Environment Agency and Natural Resources Body for Wales to raise charge per hectare of chargeable land in a local flood defence district), for "a local flood defence district" there is substituted " a flood risk management region ".

(3) In subsection (2) (power under subsection (1) subject to recommendation of the regional flood defence committee)—

(a) for "any local flood defence district" there is substituted " any flood risk management region ";

(b) for "the regional flood defence committee for the area in which that district is situated" there is substituted " the Regional Flood and Coastal Committee for that region ".

(4) Subsection (3) (treatment of the parts of an area of a regional flood defence committee which are not local flood defence districts) is repealed.

7 (1) Section 135 (amount, assessment etc of general drainage charge) is amended as follows.

(2) In subsection (1) (charge to be at a uniform rate per hectare of chargeable land)—

(a) for "a local flood defence district" there is substituted " a flood risk management region ";

(b) for "that district" there is substituted " that region ".

(3) In subsection (3) (calculation), in paragraph (b), for "the local flood defence district" there is substituted " the flood risk management region ".

(4) In subsection (4) (provision that may be made by a single order)—

(a) in paragraph (b), for "one or more local flood defence districts" there is substituted " one or more flood risk management regions ";

(b) in the words following paragraph (b)—

(i) for "more than one local flood defence district" there is substituted " more than one flood risk management region ";

(ii) for "districts" there is substituted " flood risk management regions ".

8 (1) Section 137 (special drainage charges in the interests of agriculture) is amended as follows.

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(2) In subsection (1) (power of Environment Agency and Natural Resources Body for Wales to devise scheme for drainage works in the interests of agriculture), for "the area of any regional flood defence committee" there is substituted " any flood risk management region ".

(3) In subsection (3) (scheme to designate land for special drainage charge), for "the area of the regional flood defence committee" there is substituted " the flood risk management region ".

9 (1) Section 138 (levying and amount of special drainage charge) is amended as follows.

(2) In subsection (3) (regional flood defence committee to determine the uniform amount), for "the regional flood defence committee for the area" there is substituted " the Regional Flood and Coastal Committee for the flood risk management region within which is the area ".

(3) In subsection (5) (provision that may be made by a single order)—

(a) in paragraph (b), for "such areas of regional flood defence committees" there is substituted " areas within such flood risk management regions ";

(b) in the words following paragraph (c)—

(i) for "more than one area of a regional flood defence committee" there is substituted " areas within more than one flood risk management region ";

(ii) for "different areas" there is substituted " different flood risk management regions ".

10 In section 143(1) (power of Environment Agency and Natural Resources Body for Wales to levy navigation tolls in certain navigable waters), in paragraph (b), for "the area of a regional flood defence committee" there is substituted " a flood risk management region ".

11 (1) Section 145 (interpretation of Chapter 2 of Part 6) is amended as follows.

(2) In the definition of "chargeable land", for "the area of a regional flood defence committee" there is substituted " a flood risk management region ".

(3) At the appropriate place there is inserted—

""flood risk management region" means the region of a Regional Flood and Coastal Committee, within the meaning of section 22 of the Flood and Water Management Act 2010;".

12 (1) Section 166 (power of Environment Agency and Natural Resources Body for Wales to carry out works for the purpose of providing a flood warning system) is amended as follows.

(2) In subsection (3) (exercise of powers in Scotland)—

(a) in paragraph (a), for "the areas of the regional flood defence committees whose areas are adjacent to Scotland" there is substituted " the flood risk management regions adjacent to Scotland ";

(b) in paragraph (b), for "the areas of each of those committees" there is substituted " those flood risk management regions ".

(3) In subsection (4) (interpretation), at the appropriate place there is inserted—

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""flood risk management region" means the region of a Regional Flood and Coastal Committee, within the meaning of section 22 of the Flood and Water Management Act 2010;".

13 In section 221(1) (interpretation of terms in the Act), in the definition of "flood defence provisions", in paragraph (b)—

(a) after sub-paragraph (i) there is inserted "and";

(b) sub-paragraph (iii) and the "and" following it are repealed.

14 In Schedule 15 (supplemental provisions with respect to drainage charges), in paragraph 3(1)(a), for "the local flood defence district" there is substituted " the flood risk management region ".

15 In Schedule 26 (procedure relating to bye-laws made by the Environment Agency), in paragraph 7 (meaning of "the relevant Minister")—

(a) in paragraph (a)(ii), for "the area of a regional flood defence committee the whole or the greater part of whose area is in England" there is substituted " a flood risk management region the whole or the greater part of which is in England ";

(b) after paragraph (c) there is inserted—

"For the purposes of this paragraph "flood risk management region" means the region of a Regional Flood and Coastal Committee, within the meaning of section 22 of the Flood and Water Management Act 2010."

Environment Act 1995 (c. 25)

16 In section 6 of the Environment Act 1995 (general provisions with respect to water), in subsection (5) (flood defence functions to extend to the territorial sea), in paragraph (a), for "the area of any regional flood defence committee" there is substituted " the region of any Regional Flood and Coastal Committee ".

Freedom of Information Act 2000 (c. 36)

17 In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (other public bodies and offices: general), for the entry for any regional flood defence committee there is substituted— " Any Regional Flood and Coastal Committee. "

Public Services Ombudsman (Wales) Act 2005 (c. 10)

18 In Schedule 3 to the Public Services Ombudsman (Wales) Act 2005 (authorities entitled to refer matters to ombudsman), in the entry for a regional flood defence committee for an area wholly or partly in Wales, for "regional flood defence committee" there is substituted " Regional Flood and Coastal Committee ".

The National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672)

19 In Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999, in the entry relating to the Local Government Act 1974, in paragraph (c), for "a regional flood defence committee" there is substituted " a Regional Flood and Coastal Committee ".

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SCHEDULE 11 U.K.

Section 91(5)

ORDERS UNDER SECTION 91: FURTHER PROVISION

Introductory

1 (1) The provision that may be made by an order under section 91 ("a section 91 order") includes such provision as is mentioned in this Schedule.

(2) Nothing in this Schedule affects the generality of section 91.

Changes in water supply licensing

2 (1) A section 91 order may make provision in connection with the introduction of new water supply licences.

(2) A section 91 order may in particular—
- (a) make provision for old water supply licences to continue in effect, subject to provision made by a qualifying scheme;
- (b) make provision about the granting of a new water supply licence on application made by the holder of an old water supply licence.

(3) A qualifying scheme is a scheme that—
- (a) is made by the Water Services Regulation Authority, and
- (b) contains such provision as is described in sub-paragraph (4).

(4) The provision mentioned in sub-paragraph (3)(b) is—
- (a) provision for the revocation of all old water supply licences—
  - (i) on the first day on which it would be possible for a new water supply licence to come into effect, or
  - (ii) in accordance with arrangements in the scheme and before a day specified in or determined under the scheme,
- (b) provision for compensation to be paid by the Water Services Regulation Authority in connection with the revocation under the scheme of an old water supply licence,
- (c) provision, in a case where the scheme allows a holder's old water supply licence and new water supply licence to have effect at the same time, for preventing the holder supplying water to premises in reliance on the old water supply licence where—
  - (i) the premises supplied are the premises of a person who was not a customer of the holder immediately before the grant of the new licence, and
  - (ii) the premises could be supplied with water in reliance on the new water supply licence,
- (d) provision for compensation to be paid by the Water Services Regulation Authority in connection with the restriction imposed on an old water supply licence under paragraph (c),
- (e) provision about the determination of—
  - (i) claims for compensation payable under the scheme, and
  - (ii) appeals from the determination of such claims, and

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(f) provision satisfying such other requirements as may be specified in a section 91 order, including requirements about the persons who may claim compensation, the measure of compensation and matters by reference to which compensation may be reduced.

(5) Requirements imposed under sub-paragraph (4)(f) may allow the scheme to make provision by virtue of which the compensation payable in a particular case may be nil.

(6) A qualifying scheme may include provision about—
(a) the making of claims for compensation;
(b) the matters to be proved by a claimant.

(7) Sub-paragraphs (4) to (6) are not exhaustive of what may be included in a qualifying scheme.

(8) A section 91 order may make provision for a relevant person specified in the order, or appointed by the Secretary of State, to determine—
(a) claims for compensation payable under a qualifying scheme;
(b) appeals from the determinations of such claims.

(9) In sub-paragraph (8) "relevant person" means—
(a) the Water Services Regulation Authority, except in relation to appeals from the determination of claims for compensation,
(b) the Competition and Markets Authority, or
(c) any other public authority (within the meaning of section 6 of the Human Rights Act 1998).

(10) A section 91 order may provide for functions of the Competition and Markets Authority ("the CMA") relating to compensation payable under a qualifying scheme to be carried out on behalf of the CMA by a group constituted for the purpose by the chair of the CMA under Schedule 4 to the Enterprise and Regulatory Reform Act 2013.

Modification of conditions of old water supply licences

3 (1) Where a section 91 order makes provision for old water supply licences to continue in effect, that provision may include provision for applying new sections 17I to 17R to old water supply licences, with such modifications as appear to the Secretary of State to be appropriate.

(2) Provision under sub-paragraph (1) may include provision for treating a reference to a new water supply licence as including a reference to an old water supply licence.

(3) Provision under sub-paragraph (1) may include provision for treating—
(a) a reference to a standard condition of a new water supply licence as including a reference to a standard condition of an old water supply licence, if the two conditions are in, or as nearly as may be are in, the same terms;
(b) a reference to a standard condition of a new water supply licence giving the holder a new retail authorisation as including a reference to a standard condition of an old water supply licence giving the holder a retail authorisation, if the two conditions are in, or as nearly as may be are in, the same terms;
(c) a reference to a standard condition of a new water supply licence giving the holder a new restricted retail authorisation as including a reference to a

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standard condition of an old water supply licence giving the holder a retail authorisation, if the two conditions are in, or as nearly as may be are in, the same terms;

(d) a reference to a standard condition of a new water supply licence giving the holder a new wholesale authorisation as including a reference to a standard condition of an old water supply licence giving the holder a supplementary authorisation, if the two conditions are in, or as nearly as may be are in, the same terms.

(e) a reference to a standard condition of a new water supply licence giving the holder a new supplementary authorisation as including a reference to a standard condition of an old water supply licence giving the holder a supplementary authorisation, if the two conditions are in, or as nearly as may be are in, the same terms.

Changes in water supply licensing: Wales

4 (1) A section 91 order may make provision in connection with the extension of new retail authorisations and new wholesale authorisations to the use of supply systems of water undertakers whose areas are wholly or mainly in Wales, where that extension takes place after the introduction of new water supply licences.

(2) A section 91 order may in particular include provision for or in relation to the payment by the Water Services Regulation Authority of compensation to any person holding a new water supply licence who—

(a) following the coming into force of any provision of this Act, is unable to carry on activities that had previously been authorised by a new restricted retail authorisation, or a new restricted retail authorisation and a new supplementary authorisation, given by the licence as a result of—

(i) a new retail authorisation or a new wholesale authorisation or both having been required in respect of them, and

(ii) the person's licence not having been varied to add a new retail authorisation or a new wholesale authorisation or both, because the person did not apply to vary the licence, or did not apply to add the appropriate authorisation or authorisations, or because the person's application to vary the licence was refused or granted only as to one authorisation, and

(b) has suffered loss or damage as a result of not having a licence that enables the person to carry on all those activities.

Introduction of sewerage licensing

5 (1) A section 91 order may make provision in connection with the introduction of sewerage licences.

(2) A section 91 order may in particular include provision for or in relation to the payment by the Water Services Regulation Authority of compensation to any person who—

(a) before 31 March 2014 was carrying on any activities in relation to the sewerage system of a sewerage undertaker,

(b) following the coming into force of any provision of this Act—

(i) is unable to continue to carry on those activities as a result of their having been prohibited,

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(ii) is unable to continue to carry on those activities as a result of a sewerage licence having been required in respect of them, and the person's not having applied for, or the person's having been refused, a sewerage licence, or

(iii) is unable to continue to carry on those activities in the same manner as a result of the person's having been granted a sewerage licence the effect of which is to restrict the carrying on of the activities, and

(c) has suffered loss or damage as a result of—

(i) those activities having been prohibited,

(ii) a sewerage licence not having been granted, or

(iii) those activities having been restricted.

New retail authorisations and the threshold requirement

6 (1) A section 91 order may make provision for the threshold requirement (see section 17D of the Water Industry Act 1991) to have effect for a relevant period in relation to the supply of water to any premises, where the supply to those premises is made in connection with the introduction of water into the supply system of a water undertaker under a new wholesale authorisation.

(2) Provision under sub-paragraph (1) may in particular include such modifications of Schedule 2A to the Water Industry Act 1991 (forms of authorisations given by water supply licences) as appear to the Secretary of State to be appropriate.

Modifications relating to new wholesale authorisations

7 (1) Where a section 91 order makes provision as regards new wholesale authorisations, that provision may include provision for provisions of the Water Industry Act 1991 to have effect for a relevant period with such modifications as appear to the Secretary of State to be appropriate.

(2) Provision under sub-paragraph (1) may include provision for applying old provisions of the Water Industry Act 1991 with such modifications as appear to the Secretary of State to be appropriate.

(3) Provision under sub-paragraph (2) may in particular provide for the application of provision in old section 66D(2) to (8) for the purpose of determining—

(a) the period for which, and

(b) the terms and conditions on which,

a water undertaker's duties under new section 66B or 66C are to be performed.

(4) Provision under sub-paragraph (2) may in particular provide for the application of provision in old section 66E for the purpose of determining charges payable in respect of the performance of a water undertaker's duties under new section 66B or 66C.

(5) Provision under sub-paragraph (1) may in particular make provision about the interpretation of references to a water undertaker's supply system, including in particular provision for such references to be treated as references to the supply system of a water undertaker as it is described in old section 17B.

(6) Provision under sub-paragraph (1) may provide for modifications to have effect for different relevant periods.

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(7) Provision under sub-paragraph (1) may make provision—

(a) in relation to new wholesale authorisations that authorise the introduction of water into the supply system of a water undertaker whose area is wholly or mainly in England,

(b) in relation to new wholesale authorisations that authorise the introduction of water into the supply system of a water undertaker whose area is wholly or mainly in Wales, or

(c) in relation to new wholesale authorisations that authorise the introduction of water into the supply system of any water undertaker.

(8) Before making provision falling within sub-paragraph (7)(b) or (c), the Secretary of State must consult the Welsh Ministers.

Modifications relating to new supplementary authorisations

8 (1) Where a section 91 order makes provision as regards new supplementary authorisations, that provision may include provision for provisions of the Water Industry Act 1991 to have effect for a relevant period with such modifications as appear to the Secretary of State to be appropriate.

(2) Provision under sub-paragraph (1) may include provision for applying old provisions of the Water Industry Act 1991 with such modifications as appear to the Secretary of State to be appropriate.

(3) Provision under sub-paragraph (2) may in particular provide for the application of provision in old section 66D(2) to (8) for the purpose of determining—

(a) the period for which, and

(b) the terms and conditions on which,

a water undertaker's duties under new section 66B or 66C are to be performed.

(4) Provision under sub-paragraph (2) may in particular provide for the application of provision in old section 66E for the purpose of determining charges payable in respect of the performance of a water undertaker's duties under new section 66B or 66C.

(5) Provision under sub-paragraph (1) may provide for modifications to have effect for different relevant periods.

(6) Before making provision under this paragraph, the Secretary of State must consult the Welsh Ministers.

Old section 66D agreements and new water supply licences

9 (1) A section 91 order may include provision for securing that an old section 66D agreement continues to have effect in a case where the person who entered into the agreement as the holder of an old water supply licence is granted a new water supply licence.

(2) Provision under sub-paragraph (1) may provide for the modification of the agreement and may in particular include—

(a) provision for treating a reference in the agreement to the old water supply licence as a reference to the new water supply licence;

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(b) provision for treating a reference in the agreement to an authorisation given under the old licence as a reference to an authorisation or authorisations given under the new licence;

(c) provision for the Water Services Regulation Authority to vary the agreement by order, on application by a party to the agreement.

(3) Before making provision under this paragraph in relation to old section 66D agreements to which a water undertaker whose area is wholly or mainly in Wales is party, the Secretary of State must consult the Welsh Ministers.

New section 66E and old section 66D agreements

10 (1) A section 91 order may provide for new section 66E (rules about charges that may be imposed under a section 66D agreement) to have effect as regards—

(a) charges payable under old section 66D agreements, or

(b) specified descriptions of charges payable under old section 66D agreements.

(2) Provision under sub-paragraph (1) may include provision for making such modifications of—

(a) new sections 66E to 66ED, and

(b) old sections 66A to 66D and 66F,

as appear to the Secretary of State to be appropriate.

(3) Provision under sub-paragraph (1) may provide for the modification of old section 66D agreements and may in particular include provision for the Water Services Regulation Authority to vary the agreement by order, on application by a party to the agreement.

(4) Before making provision under this paragraph in relation to the supply of water using the supply system of a water undertaker whose area is wholly or mainly in Wales, the Secretary of State must consult the Welsh Ministers.

Interpretation

11 (1) In this Schedule—

"new restricted retail authorisation" means a restricted retail authorisation given by a new water supply licence;

"new retail authorisation" means a retail authorisation given by a new water supply licence;

"new supplementary authorisation" means a supplementary authorisation given by a new water supply licence;

"new water supply licence" means a water supply licence granted under new section 17A;

"new wholesale authorisation" means a wholesale authorisation given by a new water supply licence;

"old section 66D agreement" means such agreement or determination as is mentioned in old section 66D(3);

"old water supply licence" means a water supply licence granted under old section 17A;

"sewerage licence" means a sewerage licence granted under section 17BA of the Water Industry Act 1991.

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(2) In this Schedule "relevant period" means—
  (a) a period specified in or determined in accordance with a section 91 order, or
  (b) a period that—
    (i) begins at a time specified in or determined in accordance with a section 91 order, and
    (ii) ends at such time as the Secretary of State may specify by order.

(3) Before making provision under sub-paragraph (2)(a) or (b)(i) or making an order under sub-paragraph (2)(b)(ii) that affects provision to which paragraph 7(8), 8(6) or 10(4) applies, the Secretary of State must consult the Welsh Ministers.

(4) In this Schedule a reference to an old provision is a reference to a provision of the Water Industry Act 1991 as it has effect before the coming into force of an amendment or repeal of that provision made by this Act.

(5) In this Schedule a reference to a new provision is a reference to—
  (a) a provision of the Water Industry Act 1991 after an amendment of that provision made by this Act has come into force, or
  (b) a provision of the Water Industry Act 1991 inserted by this Act.

SCHEDULE 12 U.K.

Section 94(5)

COMMENCEMENT ORDERS: APPROPRIATE AUTHORITY

1 In relation to the sections and Schedules listed in the first column of this table, the appropriate authority for the purposes of section 94(3) is as listed in the second column (see paragraph 3 as regards interpretation of terms used in the table)—

Section or Schedule	*Appropriate authority*
Section 5 and Schedule 5	The Welsh Ministers (but see paragraph 2).
Section 7	The Scottish Ministers.
Section 8	The Minister, as defined in subsection (7) of section 40I of the Water Industry Act 1991 (as inserted by section 8).
Section 9	The Minister, as defined in subsection (7) of section 110J of the Water Industry Act 1991 (as inserted by section 9).
Sections 10 to 12	The Secretary of State, in relation to wholly or mainly English undertakers. The Welsh Ministers, in relation to wholly or mainly Welsh undertakers.
Sections 16 to 20	The Secretary of State, in relation to wholly or mainly English undertakers. The Welsh Ministers, in relation to wholly or mainly Welsh undertakers.

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Section 22	The Welsh Ministers, in relation to wholly or mainly Welsh undertakers (see section 94(2)(e) as regards commencement in relation to wholly or mainly English undertakers).
Section 23	The Secretary of State, in relation to wholly or mainly English undertakers. The Welsh Ministers, in relation to wholly or mainly Welsh undertakers.
Section 24	The Secretary of State, in relation to— (a) the insertion of section 2A of the Water Industry Act 1991 by subsection (1) of section 24, and (b) the amendments made by subsections (2) and (3) of section 24 so far as relating to section 2A. The Welsh Ministers, in relation to— (a) the insertion of section 2B of the Water Industry Act 1991 by subsection (1) of section 24, and (b) the amendments made by subsections (2) and (3) of section 24 so far as relating to section 2B.
Section 29	The Secretary of State, in relation to supplies of water made in accordance with a retail authorisation. The Welsh Ministers, in relation to supplies of water made in accordance with a restricted retail authorisation.
Section 38	The Secretary of State, in relation to wholly or mainly English undertakers. The Welsh Ministers, in relation to wholly or mainly Welsh undertakers.
Section 39	The Secretary of State, in relation to the power to make an order under section 207D of the Water Industry Act 1991 (as inserted by section 39) in respect of adjudication functions exercisable as regards— (a) wholly or mainly English undertakers, or (b) wholly or mainly English licensees. The Welsh Ministers, in relation to the power to make an order under section 207D of the Water Industry

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	Act 1991(as inserted by section 39) in respect of adjudication functions exercisable as regards— (a) wholly or mainly Welsh undertakers, or (b) wholly or mainly Welsh licensees.
Section 40(1)	The Secretary of State, in relation to the power of the Secretary of State to make an order under section 86ZA of the Water Industry Act 1991 (as inserted by section 40). The Welsh Ministers, in relation to the power of the Welsh Ministers to make an order under section 86ZA of the Water Industry Act 1991 (as inserted by section 40).
Section 40(2)(a)	The Welsh Ministers.
Section 41	The Welsh Ministers.
Section 54	The Secretary of State— (a) in relation to wholly or mainly English undertakers, (b) in relation to water supply licensees so far as their licences relate to the use of the supply systems of wholly or mainly English water undertakers, or (c) in relation to sewerage licensees so far as their licences relate to the use of the sewerage systems of wholly or mainly English sewerage undertakers. The Welsh Ministers— (a) in relation to wholly or mainly Welsh undertakers, (b) in relation to water supply licensees so far as their licences relate to the use of the supply systems of wholly or mainly Welsh water undertakers, or (c) in relation to sewerage licensees so far as their licences relate to the use of the sewerage systems of wholly or mainly Welsh sewerage undertakers.
Section 59	The Secretary of State, in relation to the main river map for England. The Welsh Ministers, in relation to the main river map for Wales.

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2 A statutory instrument containing an order to be made by the Welsh Ministers under section 94(3) in relation to section 5 and Schedule 5 may not be made unless a draft has been laid before and approved by a resolution of the National Assembly for Wales.

3 In the table in paragraph 1—

(a) "wholly or mainly English water undertakers" means water undertakers whose areas are wholly or mainly in England;

(b) "wholly or mainly English sewerage undertakers" means sewerage undertakers whose areas are wholly or mainly in England;

(c) "wholly or mainly English undertakers" means undertakers falling within paragraph (a) or (b);

(d) "wholly or mainly English water supply licensees" means water supply licensees using the supply systems of water undertakers whose areas are wholly or mainly in England;

(e) "wholly or mainly English sewerage licensees" means sewerage licensees using the sewerage systems of sewerage undertakers whose areas are wholly or mainly in England;

(f) "wholly or mainly English licensees" means licensees falling within paragraph (d) or (e);

(g) "wholly or mainly Welsh water undertakers" means water undertakers whose areas are wholly or mainly in Wales;

(h) "wholly or mainly Welsh sewerage undertakers" means sewerage undertakers whose areas are wholly or mainly in Wales;

(i) "wholly or mainly Welsh undertakers" means undertakers falling within paragraph (g) or (h);

(j) "wholly or mainly Welsh water supply licensees" means water supply licensees using the supply systems of water undertakers whose areas are wholly or mainly in Wales;

(k) "wholly or mainly Welsh sewerage licensees" means sewerage licensees using the sewerage systems of sewerage undertakers whose areas are wholly or mainly in Wales;

(l) "wholly or mainly Welsh licensees" means licensees falling within paragraph (j) or (k).

4 In this Schedule—

(a) references to water undertakers' supply systems are to be construed in accordance with section 17B of the Water Industry Act 1991;

(b) references to sewerage undertakers' sewerage systems are to be construed in accordance with section 17BA(7) of the Water Industry Act 1991.

Status:
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Changes and effects yet to be applied to :

- s. 10(1)(3) coming into force by S.I. 2017/1288 art. 3(c) (This effect not applied to legislation.gov.uk. Art. 3(c)(d) omitted (26.3.2019) by S.I. 2019/706, art. 2)
- s. 10(2)(4) coming into force by S.I. 2017/1288 art. 3(c) (This effect not applied to legislation.gov.uk. Art. 3(c)(d) omitted (26.3.2019) by S.I. 2019/706, art. 2)
- s. 11(1)(3) coming into force by S.I. 2017/1288 art. 3(d) (This effect not applied to legislation.gov.uk. Art. 3(c)(d) omitted (26.3.2019) by S.I. 2019/706, art. 2)
- s. 11(2)(4)(5) coming into force by S.I. 2017/1288 art. 3(d) (This effect not applied to legislation.gov.uk. Art. 3(c)(d) omitted (26.3.2019) by S.I. 2019/706, art. 2)
- s. 64-81 repealed by 2014 c. 21 s. 83(1)
- Sch. 7 para. 91 coming into force by S.I. 2017/462 art. 4(d)(ii) (This effect not applied to legislation.gov.uk. Art. 4 amended (18.9.2017) by S.I. 2017/926, art. 2(2))
- Sch. 7 para. 94 coming into force by S.I. 2017/462 art. 4(d)(iii) (This effect not applied to legislation.gov.uk. Art. 4 amended (18.9.2017) by S.I. 2017/926, art. 2(2))
- specified provision(s) amendment to earlier commencing S.I. 2017/1288, art. 3(c)(d) by S.I. 2019/706 art. 2
- specified provision(s) amendment to earlier commencing S.I. 2017/462, arts. 4, 5 by S.I. 2017/926 art. 2