

1989 No. 1380

**WATER, ENGLAND AND WALES**

**The Water (Local Statutory Provisions) (Consequential  
Amendments) Order 1989**

*Made - - - - 3rd August 1989*

*Laid before Parliament 11th August 1989*

*Coming into force 1st September 1989*

The Secretary of State for the Environment, as respects England, and the Secretary of State for Wales, as respects Wales, being satisfied that it is appropriate to amend the local statutory provisions mentioned in this Order for the purposes of the coming into force of amendments contained in the Water Act 1989(a), in exercise of the powers conferred on them by section 191 of that Act, and of all other powers enabling them in that behalf, hereby make the following Order:

**Citation and commencement**

1. This Order may be cited as the Water (Local Statutory Provisions) (Consequential Amendments) Order 1989 and shall come into force on 1st September 1989.

**Interpretation**

2.—(1) In this Order—

“the Act” means the Water Act 1989;

“relevant instrument” means any other order or any regulations or scheme made (whether before or after this Order) under the Act which amends any local statutory provision and which comes into force on or before the transfer date or, where the instrument is made after that date, contains any provision which is treated as if it came into force on that date.

(2) The provisions of this Order are subject to any contrary provision made by any relevant instrument.

**General translation of references to water authorities**

3.—(1) Subject to articles 4 and 5, where any local statutory provisions have effect immediately before the transfer date in relation to the whole or any part of any water authority area for purposes connected with functions corresponding to functions which, by virtue of Part II of the Act, are vested in a water undertaker or sewerage undertaker, or in relation to property, rights or liabilities to which such an undertaker becomes entitled or subject in accordance with a scheme under Schedule 2 to the Act—

(a) any reference in those provisions to the water authority for that area or to any other body which, by virtue of any enactment, is to be treated as a reference to that authority, shall have effect, so far as may be necessary for the purposes of,

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(a) 1989 c.15.

or in connection with, the vesting of those functions, or the transfer of the property, rights or liabilities, as if it were a reference to the water undertaker for so much of that area as is not the subject of an appointment under section 11(4)(a) of the Act (appointment of statutory water companies as water undertakers) or, as the case may be, to the sewerage undertaker for that area; and

- (b) everything done by or in relation to that water authority, or treated as done by or in relation to that authority, under any such provision shall have effect, so far as may be so necessary, as if it had been done by or in relation to that undertaker.

(2) Subject to articles 4 and 5, where any local statutory provisions have effect as mentioned in paragraph (1) for purposes connected with functions assigned or transferred to the National Rivers Authority under the Act, or in relation to property, rights or liabilities to which the Authority becomes entitled or subject in accordance with a scheme under Schedule 2 to the Act—

- (a) any reference in those provisions to a water authority or to any other body which, by virtue of any enactment, is to be treated as a reference to such an authority, shall have effect, so far as may be necessary for the purposes of, or in connection with, those functions, or the transfer of the property, rights or liabilities, as if it were a reference to the Authority; and
- (b) everything done by or in relation to that water authority, or treated as done by or in relation to that authority, under any such provision shall have effect, so far as may be so necessary, as if it had been done by or in relation to the Authority.

#### **Amendment of the Norfolk and Suffolk Broads Act 1988**

4. The Norfolk and Suffolk Broads Act 1988(a) is amended—

- (a) in section 1(3)(b), by the substitution for the words “the Anglian Water Authority” of the words “the National Rivers Authority”;
- (b) by the substitution in the definition of “statutory undertaker” in section 25 for the words “and (c)” of the words—
  - “(c) any water undertaker or sewerage undertaker whose area includes any part of the Broads; and
  - (d) ”;
- (c) by the substitution for head (d) of paragraph 33(1) of Schedule 3 of the following head—
  - “(d) The National Rivers Authority;”;
- (d) by the substitution for paragraph 34(2) of Schedule 3 of the following sub-paragraph—
  - “(2) Before any exercise of its powers under sub-paragraph (1) above, the Authority shall consult—
    - (a) the National Rivers Authority; and
    - (b) any water undertaker whose area includes any part of the Broads and with whom consultation appears to it to be appropriate.”;
- (e) in paragraph 35 of Schedule 3, by the substitution for the words “the Anglian Water Authority or (as the case may be) the East Anglian Water Company” of the words “the National Rivers Authority or a water undertaker”;
- (f) by the substitution for paragraph 36 of Schedule 3 of the following paragraph—
  - “36. The Authority shall be treated as a local authority for the purposes of paragraph 1(3)(c) of Schedule 12 to the Water Act 1989 (right of local authority to receive copy of application to the National Rivers Authority for consent to discharge effluent etc.).”; and
- (g) in paragraphs 10(8) and 13(7) of Schedule 5, by the substitution for the words “the Anglian Water Authority” of the words “the National Rivers Authority”.

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(a) 1988 c.4.

### **Amendment of the Clywedog Reservoir Joint Authority Act 1963**

5.—(1) Section 46(2) of the Clywedog Reservoir Joint Authority Act 1963 (a) shall have effect on and after the transfer date as if the reference to the Severn-Trent Water Authority (b) were—

- (a) in relation to paragraph (a) of that subsection, a reference to the successor company to that Authority; and
- (b) in relation to paragraph (b) of that subsection, a reference to the National Rivers Authority.

(2) References in section 47 of that Act to the Severn-Trent Water Authority (b) shall be construed in relation to any such failure as is mentioned in subsection (1)(b) of that section which occurs on or after the transfer date as a reference to the company referred to in paragraph (1)(a) above or the National Rivers Authority, as appropriate.

Signed by authority of the Secretary of State

*Colin Moynihan*  
Parliamentary Under Secretary of State,  
Department of the Environment

2nd August 1989

Signed by authority of the Secretary of State

*Ian Grist*  
Parliamentary Under Secretary of State,  
Welsh Office

3rd August 1989

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### **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order is consequential upon the Water Act 1989. It substitutes for references in local statutory provisions to water authorities, references to the relevant water undertaker or sewerage undertaker, as the case may be, where the provision in question relates to functions, property, rights or liabilities which are transferred to the undertaker by or under the 1989 Act (article 3(1)). Where functions, property, rights or liabilities are transferred to the National Rivers Authority, references in local statutory provisions to water authorities are replaced by references to that Authority (article 3(2)).

Article 4 of the Order amends the Norfolk and Suffolk Broads Act 1988 by substituting for references to the Anglian Water Authority and the East Anglian Water Company references to the National Rivers Authority and to those water undertakers whose area includes part of the Broads (the successor company to the Anglian Water Authority and the East Anglian Water Company). Article 4(b) extends the definition of "statutory undertaker" in section 25 of the 1988 Act to those water undertakers and to the sewerage undertakers whose areas include part of the Broads.

As a consequence of article 4—

- (a) the National Rivers Authority is able to appoint one member to the Broads Authority;
- (b) the Broads Authority is required to consult the National Rivers Authority before preparing a code of practice for the construction, alteration, renewal, maintenance or extension of drainage works within the Broads; and also before issuing a revised code;

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(a) 1963 c.xxxi.

(b) References to the Severn-Trent Water Authority were substituted by virtue of paragraph 13 of Schedule 6 to the Water Act 1973 (c.37) with effect from 1st April 1974.

- (c) the Broads Authority is required to consult the National Rivers Authority and such of the water undertakers with whom consultation appears appropriate before exercising its powers to carry out works or make grants or loans for the purpose of improving the quality of the water in any inland waters partly or wholly within the Broads;
- (d) the National Rivers Authority and the water undertakers are required to consult the Broads Authority before implementing any proposal which is likely to affect the quality of water in the inland waters referred to above;
- (e) the National Rivers Authority is required to send to the Broads Authority a copy of every application made to it for consent to discharge effluent and other substances;
- (f) the Broads Authority is required to send to the National Rivers Authority a copy of the notice which it is required to publish when it proposes temporarily to regulate, restrict or prohibit the use of any waterway within the navigation area (the area referred to in section 8(1) of the 1988 Act); and
- (g) the Broads Authority is required to send to the National Rivers Authority a copy of the notice which it is required to publish when it proposes to close to navigation any area at the edge of any waterway within the navigation area or to restrict navigation in any such area to specified classes of vessel.

Article 5 amends the Clywedog Reservoir Joint Authority Act 1963. The effect of the amendment is to impose on the successor company to the Severn-Trent Water Authority the duty to make a daily discharge of not less than four million gallons into the afon (river) Clywedog; and to impose on the National Rivers Authority the duty to make such additional discharges as are necessary to ensure that the rate of flow in the river at Bewdley gauge is not less than 160 million gallons per day. The effect of the amendment is also to impose on the successor company and on the National Rivers Authority criminal liability for breaches of their respective duties.

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