



Water Act 1989

1989 CHAPTER 15

PART II

WATER SUPPLY AND SEWERAGE SERVICES

CHAPTER II

WATER SUPPLY

General duties of water undertakers

37 General duty with respect to water supply

- (1) It shall be the duty of every water undertaker to develop and maintain an efficient and economical system of water supply within its area and to ensure that all such arrangements have been made—
- (a) for providing supplies of water to premises in that area and for making such supplies available to persons who demand them; and
 - (b) for maintaining, improving and extending the water undertaker's water mains and other pipes,
- as are necessary for securing that the undertaker is and continues to be able to meet its obligations under this Chapter.
- (2) The duty of water undertaker under this section shall be enforceable under section 20 above by the Secretary of State or, with the consent of or in accordance with a general authorisation given by the Secretary of State, by the Director.

38 Standards of performance in connection with water supply

- (1) For the purpose—

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- (a) of facilitating the determination of the extent to which breaches of the obligations imposed by the following provisions of this Chapter are to amount to breaches of the duty imposed by section 37 above; or
 - (b) of supplementing that duty by establishing overall standards of performance in relation to that duty,
- the Secretary of State may by regulations provide for contraventions of such requirements as may be prescribed to be treated for the purposes of this Act as breaches of that duty.
- (2) The Secretary of State may by regulations prescribe such standards of performance in connection with the provision of supplies of water as, in his opinion, ought to be achieved in individual cases; and such regulations may provide that if a water undertaker fails to meet a prescribed standard it shall pay such amount as may be prescribed to any person who is affected by the failure and is of a prescribed description.
- (3) Without prejudice to the generality of the power conferred by subsection (2) above, regulations under that subsection may—
- (a) include in a standard of performance a requirement for a water undertaker, in prescribed circumstances, to inform a person of his rights by virtue of any such regulations;
 - (b) provide for any dispute under the regulations to be referred by either party to the dispute to the Director;
 - (c) make provision for the procedure to be followed in connection with any such reference and for the Director’s determination on such a reference to be enforceable in such manner as may be prescribed;
 - (d) prescribe circumstances in which a water undertaker is to be exempted from requirements of the regulations.
- (4) Subject to subsection (5) below, the Secretary of State shall not make any regulations under subsection (1) or (2) above unless—
- (a) the Director has made a written application to the Secretary of State which—
 - (i) sets out draft provisions proposed by the Director for inclusion in such regulations;
 - (ii) specifies the water undertaker or undertakers in relation to which it is proposed those provisions should apply; and
 - (iii) summaries the Director’s reasons for his proposals;
 - (b) the Secretary of State is satisfied that a copy of the application has been served by the Director on every water undertaker specified in the application;
 - (c) the regulations contain only the provisions proposed by the Director or those provisions with such modifications as the Secretary of State considers appropriate;
 - (d) the only modifications of the Director’s proposals to which effect is given by the regulations are modifications the proposal to make which has been notified to the Director and to any water undertaker appearing to the Secretary of State to be likely to be affected by the modifications;
 - (e) such period as the Secretary of State considers appropriate has been allocated for the making by the Director and by any affected water undertaker of representations or objections with respect to the Director’s proposals and any modifications proposed by the Secretary of State; and

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- (f) the Secretary of State has considered both the Director’s reasons for his proposals and every representation or objection which has been duly made with respect to those proposals, or any proposed modifications of those proposals, and has not been withdrawn.
- (5) Subsection (4) above shall not apply in relation to any regulations made under subsection (2) above before the transfer date.
- (6) The obligations imposed on a water undertaker by the following provisions of this Chapter and the remedies available in respect of contraventions of those obligations shall be in addition to any duty imposed or remedy available by virtue of any provision of this section or section 37 above and shall not be in any way qualified by any such provision.