



Water Act 1989

1989 CHAPTER 15

PART III

THE PROTECTION AND MANAGEMENT OF RIVERS AND OTHER WATERS

CHAPTER II

WATER RESOURCES

General provisions

125 General functions in relation to water resources

- (1) It shall be the duty of the Authority to take all such action as it may from time to time consider, in accordance (if any have been given for the purposes of this section) with the directions of the Secretary of State, to be necessary or expedient for the purpose—
 - (a) of conserving, redistributing or otherwise augmenting water resources in England and Wales; and
 - (b) of securing the proper use of water resources in England and Wales.
- (2) Nothing in this section shall be construed as relieving any water undertaker of the obligation to develop water resources for the purpose of performing any duty imposed on it by virtue of section 37 above.

126 Water resources management schemes

- (1) It shall be the duty of the Authority so far as reasonably practicable to enter into and maintain such arrangements with water undertakers for securing the proper management or operation of—
 - (a) the waters which are available to be used by water undertakers for the purposes of, or in connection with, the carrying out of their functions; and

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- (b) any reservoirs, apparatus or other works which belong to, are operated by or are otherwise under the control of water undertakers for the purposes of, or in connection with, the carrying out of their functions,
as the Authority from time to time considers appropriate for the purpose of carrying out its functions under section 125(1) above.
- (2) Without prejudice to the power of the Authority and any water undertaker to include any such provision as may be agreed between them in arrangements under this section, such arrangements may—
 - (a) make provision by virtue of subsection (1)(a) above with respect to the construction or installation of any reservoirs, apparatus or other works which will be used by the undertaker in the carrying out of its functions;
 - (b) contain provision requiring payments to be made by the Authority to the undertaker; and
 - (c) require the reference to and determination by the Secretary of State or the Director of questions arising under the arrangements.
- (3) The Authority shall send a copy of any arrangements entered into by it under this section to the Secretary of State; and the obligations of a water undertaker by virtue of any such arrangements shall be enforceable under section 20 above by the Secretary of State.

127 Minimum acceptable river flows

- (1) Section 19 of the Water Resources Act 1963 (minimum acceptable flows) shall be amended as follows.
- (2) For subsections (1) and (3) (duty to determine minimum acceptable flows as soon as practicable) there shall be substituted the following subsections—
 - “(1) The National Rivers Authority may, if it thinks it appropriate to do so, submit a draft statement to the Secretary of State containing, in relation to any inland water (other than one falling within section 2(3) of this Act)—
 - (a) provision for determining the minimum acceptable flow for that inland water; or
 - (b) where any provision for determining such a flow is for the time being in force in relation to that inland water, provision for amending that provision or for replacing it with different provision for determining the minimum acceptable flow for that water.
 - (2) If the National Rivers Authority is directed by the Secretary of State to consider whether the minimum acceptable flow for any particular inland water ought to be determined or reviewed, that Authority shall consider that matter as soon as reasonably practicable after being directed to do so and, after considering it, shall submit to the Secretary of State with respect to that water either—
 - (a) such a draft statement as is mentioned in subsection (1) of this section; or
 - (b) a draft statement that no such flow ought to be determined for that water or, as the case may require, that the minimum acceptable flow for that inland water does not need to be changed.

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- (3) The provision contained in any statement for determining the minimum acceptable flow for any inland water shall, in relation to the inland water to which it relates, set out—
- (a) the control points at which the flow in the water is to be measured and the method of measurement which is to be used at each control point; and
 - (b) the flow which is to be the minimum acceptable flow at each control point or, where appropriate, the flows which are to be the minimum acceptable flows at each such point for the different times or periods specified in the statement.”
- (3) In subsections (4) and (5) (procedure in relation to draft statements)—
- (a) for any reference to a water authority there shall be substituted a reference to the Authority;
 - (b) for any reference to statutory water undertakers there shall be substituted a reference to a water undertaker.
- (4) In subsection (5), for the words from “to the character” to “to time” there shall be substituted the words —
- “(a) to the flow of water in the inland water from time to time;
 - (b) in the light of the duties of the National Rivers Authority under sections 8 and 9 of the Water Act 1989 (general environmental duties), to the character of the inland water and its surroundings; and
 - (c) to any water quality objectives established under Chapter I of Part III of that Act in relation to the inland water or any other inland water which may be affected by the flow in the inland water in question”.
- (5) In subsection (6) (application of provisions in Schedule 7 to draft statements), at the end there shall be inserted the words “; and, without prejudice to the generality of paragraph 7 of that Schedule, the power of the Secretary of State under that paragraph to alter a draft statement under this section before approving it shall include power to substitute a statement containing or amending any such provision as is mentioned in subsection (3) of this section for such a draft statement as is mentioned in subsection (2)(b) of this section.”
- (6) After subsection (6) there shall be inserted the following subsection—
- “(7) The approval under Schedule 7 to this Act of a draft statement under this section shall bring into force, on the date specified in that approval, so much of that statement, as approved, as contains provision for determining, amending or replacing the minimum acceptable flow for any inland water; and in the following provisions of this Act any reference to the minimum acceptable flow, in relation to any inland water, is a reference to the minimum acceptable flow as for the time being contained in provisions which are in force under this subsection in relation to that water.”

128 Modifications of the Water Resources Act 1963

Schedule 13 to this Act shall have effect for transferring the functions of water authorities under the provisions of the Water Resources Act 1963 (other than section 19) to the Authority and for making amendments of that Act, including amendments consequential on section 127 above.

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129 Charges in respect of the carrying out of functions under the 1963 Act

- (1) Where—
- (a) an application is made for any licence under the Water Resources Act 1963 or for the variation of, or of the conditions of, any such licence;
 - (b) a licence under that Act to abstract water is granted to any person or there is a variation of any such licence or of the conditions of any such licence; or
 - (c) a licence under that Act to abstract water is for the time being in force,
- the Authority may require the payment to it of such charges as may be specified in or determined under a scheme made by it under this section.
- (2) The persons who shall be liable to pay charges which are required to be paid by virtue of a scheme under this section shall be—
- (a) in the case of a charge by virtue of subsection (1)(a) above, the person who makes the application; and
 - (b) in the case of a charge by virtue of subsection (1)(b) or (c) above, the person to whom the licence is granted or, as the case may be, the person holding the licence which is varied or is in force;
- and provision made by a scheme for the purposes of subsection (1)(c) above may impose a single charge in respect of the whole period for which a licence is in force or separate charges in respect of different parts of that period or both such a single charge and such separate charges.
- (3) Except in the case of a scheme made before the end of the period of two years beginning with the transfer date, the Authority shall not make a scheme under this section unless its provisions have been approved by the Secretary of State; and the consent of the Treasury shall be required for the giving of such an approval.
- (4) Before submitting a scheme under this section to the Secretary of State for his approval the Authority shall, in such manner as it considers appropriate for bringing it to the attention of persons likely to be affected by it, publish a notice setting out its proposals and specifying the period within which representations or objections with respect to the proposals may be made to the Secretary of State.
- (5) Where any proposed scheme has been submitted to the Secretary of State for his approval, it shall be the duty of the Secretary of State, in determining whether or not to approve the scheme or to approve it subject to modifications—
- (a) to consider any representations or objections duly made to him and not withdrawn;
 - (b) to have regard to the desirability of ensuring that the amounts recovered by the Authority by way of charges fixed by or under schemes under this section are the amounts which, taking one year with another, are required by the Authority for recovering such amounts as the Secretary of State may consider it appropriate to attribute to the expenses incurred by the Authority in carrying out the functions of the Authority which are its water resources functions, within the meaning of the Water Resources Act 1963; and
 - (c) to have regard to the need to ensure that no undue preference is shown, and that there is no undue discrimination, in the fixing of charges by or under any scheme under this section.
- (6) For the purposes of subsection (5)(b) above the Secretary of State shall take into account any directions given under paragraph 15 of Schedule 1 to this Act in determining the amounts which he considers it appropriate to attribute to the expenses

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incurred by the Authority in carrying out its water resources functions; and those amounts may include amounts in respect of the depreciation of, and the provision of a return on, such of the Authority's assets as are held by it for purposes connected with the carrying out of those functions.

- (7) A scheme under this section may—
- (a) make provision with respect to the times and methods of payment of the charges which are required to be paid by virtue of the scheme;
 - (b) make different provision for different cases, including different provision in relation to different circumstances or localities; and
 - (c) contain supplemental, consequential and transitional provision for the purposes of the scheme;
- and such a scheme may revoke or amend a previous scheme under this section.
- (8) It shall be the duty of the Authority to take such steps as it considers appropriate for bringing the provisions of any scheme under this section which is for the time being in force to the attention of persons likely to be affected by them.
- (9) A scheme under this section shall have effect subject to any provision made by or under section 60, 63 or 64 of the said Act of 1963 (supplemental provision with respect to charging).

130 Provision of information about water flow etc

- (1) It shall be the duty of the Authority—
- (a) to provide a water undertaker with all such information to which this section applies as is in the possession of the Authority and is reasonably requested by the undertaker for purposes connected with the carrying out of its functions;
 - (b) to provide reasonable facilities to all persons—
 - (i) for the inspection of the contents of any records kept by the Authority and containing information to which this section applies; and
 - (ii) for the taking of copies of, or of extracts from, any such records;and information provided to a water undertaker under this subsection shall be provided in such form and in such manner and at such times as the undertaker may reasonably require.
- (2) It shall be the duty of every water undertaker to provide the Authority with all such information to which this section applies as is in the possession of the undertaker and is reasonably requested by the Authority for purposes connected with the carrying out of any of its functions; and information provided to the Authority under this subsection shall be provided in such form and in such manner and at such times as the Authority may reasonably require.
- (3) Where records of the flow, level or volume of any inland water, other than one falling within section 2(3) of the Water Resources Act 1963, are kept by a person other than a water undertaker, the Authority shall have the right at all reasonable times—
- (a) to inspect the contents of any of those records; and
 - (b) to take copies of, or of extracts from, the contents of any of those records;
- and any person who, without reasonable excuse, refuses or fails to permit the Authority to exercise its right under this subsection shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 1 on the standard scale.

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- (4) The duties of the Authority under subsection (1) above shall extend to information provided to or obtained by the Authority under subsection (2) or (3) above.
- (5) Information or facilities provided under subsection (1) or (2) above to the Authority, to a water undertaker, to a local authority, county council or joint planning board or to an internal drainage board shall be provided free of charge; and facilities provided under subsection (1) above to other persons may be provided on terms requiring the payment by persons making use of the facilities of such reasonable charges as the Authority may determine.
- (6) The duties of a water undertaker under subsection (2) above shall be enforceable under section 20 above by the Secretary of State.
- (7) This section applies to information about the flow, level or volume of any inland water or any water contained in underground strata, about rainfall or any fall of snow, hail or sleet or about the evaporation of any water.
- (8) In this section “joint planning board” has the same meaning as in the Town and Country Planning Act 1971; and subsection (2) of section 124 above shall apply to the reference in subsection (7) above to water contained in underground strata as it applies to any reference to such water in Chapter I of this Part.