



Water Act 1989

1989 CHAPTER 15

PART II

WATER SUPPLY AND SEWERAGE SERVICES

CHAPTER I

APPOINTMENT AND REGULATION OF WATER AND SEWERAGE UNDERTAKERS

Making and conditions of appointments

12 Restrictions on making replacement appointments

- (1) This section applies—
 - (a) to any appointment of a company to be the water undertaker or sewerage undertaker for any area which is or includes the whole or any part of any one or more existing areas; and
 - (b) to any variation by virtue of which the area for which a company holds an appointment under this Chapter is modified so as to include the whole or any part of one or more existing areas.
- (2) An appointment or variation to which this section applies shall not be made in relation to the whole or any part of an existing area except where—
 - (a) the existing appointee consents to the appointment or variation;
 - (b) the appointment or variation relates only to parts of that area none of the premises in which is served by the existing appointee; or
 - (c) the appointment or variation is made in such circumstances as may be set out for the purposes of this paragraph in the conditions of appointment of the existing appointee.
- (3) In determining whether to make an appointment or variation by virtue of subsection (2) (b) above in relation to any part of an existing area, the Secretary of State or, as the

Status: This is the original version (as it was originally enacted).

case may be, the Director shall have regard, in particular, to any arrangements made or expenditure incurred by the existing appointee for the purpose of enabling premises in that part of that area to be served by the existing appointee.

(4) It shall be the duty of the Secretary of State or, as the case may be, of the Director, in making an appointment or variation to which this section applies and, where he makes such an appointment or variation, in determining what provision is to be made with respect to the fixing by the new appointee of—

- (a) charges in respect of services provided in the course of the carrying out of the functions of a water undertaker or sewerage undertaker; and
- (b) amounts of any other description which such an undertaker is authorised by or under any enactment to require any person to pay,

to ensure, so far as may be consistent with his duties under Part I of this Act, that the interests of the members and creditors of the existing appointee are not unfairly prejudiced as respects the terms on which the new appointee could accept transfers of property, rights and liabilities from the existing appointee.

(5) For the purposes of this section premises in a part of an existing area are served by the existing appointee—

- (a) in relation to an appointment or variation by virtue of which that appointee would be replaced as the water undertaker for that part of that area, if those premises—
 - (i) are supplied with water by means of a connection with a distribution main of the existing appointee; or
 - (ii) consist in a building or part of a building which is situated within thirty metres of such a main;

and

- (b) in relation to an appointment or variation by virtue of which that appointee would be replaced as the sewerage undertaker for that part of that area, if those premises—
 - (i) are drained by means of a relevant sewer; or
 - (ii) consist in a building or part of a building which is situated within thirty metres of such a sewer, not being a storm-water overflow sewer.

(6) In this section—

“distribution main” means a water main that is not a trunk main;

“existing area”, in relation to the appointment of any company to be the water undertaker or sewerage undertaker for any area or the variation of any company’s appointment as a water undertaker or sewerage undertaker, means an area for which, until the appointment or variation comes into force, another company (“the existing appointee”) holds the appointment as water undertaker or, as the case may be, sewerage undertaker;

“new appointee”, in relation to an appointment or variation to which this section applies, means the company which by virtue of the appointment or variation becomes the water undertaker or sewerage undertaker for the whole or any part of an existing area;

“relevant sewer”, in relation to an appointment or variation to which this section applies, means any of the following, that is to say—

- (a) a public sewer vested in the existing appointee;

Status: This is the original version (as it was originally enacted).

- (b) a sewer in relation to which the existing appointee has made, or is treated as having made, a declaration of vesting under section 17 of the Public Health Act 1936 (vesting declarations) which has not yet taken effect;
- (c) a drain or sewer in relation to which the existing appointee has, or is treated as having, entered into an agreement under section 18 of that Act.