



# Water Industry Act 1991

## 1991 CHAPTER 56

### PART II

#### APPOINTMENT AND REGULATION OF UNDERTAKERS

#### CHAPTER I

#### APPOINTMENTS

#### *Conditions of appointments*

#### **11 Power to impose conditions**

- (1) An appointment under this Chapter may include—
  - (a) such conditions as appear to the Secretary of State or, as the case may be, the Director to be requisite or expedient having regard to the duties imposed on him by Part I of this Act;
  - (b) conditions for the purposes of section 7(4)(c) above; and
  - (c) conditions requiring the rendering to the Secretary of State of a payment on the making of an appointment, or payments while such an appointment is in force, or both, of such amount or amounts as may be determined by or under the conditions.
- (2) Conditions may be included by virtue of subsection (1)(a) above in an appointment under this Chapter whether or not they are connected with the supply of water, the provision of sewerage services or the exercise or performance of any power or duty conferred or imposed by or under any enactment on water undertakers or sewerage undertakers.
- (3) Conditions included in an appointment under this Chapter may contain provision for the conditions to cease to have effect or be modified at such times, in such manner and in such circumstances as may be specified in or determined by or under the conditions.

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*Status: This is the original version (as it was originally enacted).*

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- (4) Any provision included by virtue of subsection (3) above in an appointment under this Chapter shall have effect in addition to the provision made by this Chapter with respect to the modification of the conditions of an appointment.
- (5) For the purposes of this Act where the same instrument contains an appointment of the same company to be both a water undertaker and a sewerage undertaker (whether or not for the same area), all the conditions included in that instrument by virtue of this section shall have effect, irrespective of their subject-matter, as conditions of both appointments.
- (6) Where an instrument of appointment has been served under subsection (3) of section 6 above on any company, the coming into force of the appointment for the purposes specified in subsection (2) of that section shall not be affected by any contravention of the requirements of this Act with respect to the provision contained by way of conditions of appointment in that instrument.
- (7) If the Secretary of State considers it appropriate to do so in consequence of any legal proceedings with respect to any such provision as is mentioned in subsection (6) above, he may by order made by statutory instrument direct that such conditions as may be specified in the order are to be treated as included in the appointment in question until there is an opportunity for the provision to which the proceedings relate to be replaced by virtue of any of the other provisions of this Chapter.
- (8) Any sums received by the Secretary of State in consequence of the provisions of any condition of an appointment under this Chapter shall be paid into the Consolidated Fund.

## **12 Determinations under conditions of appointment**

- (1) Without prejudice to the generality of paragraph (a) of section 11(1) above, conditions included in an appointment by virtue of that paragraph may—
  - (a) require the appointed company to comply with any direction given by the Director as to such matters as are specified in the appointment or are of a description so specified; and
  - (b) require the appointed company, except in so far as the Director consents to the company's doing or not doing them, not to do or to do such things as are specified in the appointment or are of a description so specified.
- (2) Without prejudice as aforesaid, such conditions may provide for the reference to and determination by—
  - (a) the Secretary of State or the Director; or
  - (b) on a reference by the Director, the Monopolies and Mergers Commission (in this Act referred to as “the Monopolies Commission”),
 of such questions arising under the appointment and of such other matters, including (in the case of references to the Commission) disputes as to determinations by the Director, as are specified in the appointment or are of a description so specified.
- (3) Where any question or other matter falls to be determined by the Monopolies Commission in pursuance of a provision contained in an appointment under this Chapter—
  - (a) it shall be the duty of the Director, on being required to do so by the company holding that appointment, to refer that question or matter to that Commission; and

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- (b) it shall be the duty of that Commission to determine any question or other matter referred by virtue of paragraph (a) above in accordance with—
  - (i) any regulations under subsection (4) below; and
  - (ii) the principles which apply, by virtue of Part I of this Act, in relation to determinations under this Chapter by the Director.
- (4) The Secretary of State may by regulations make such provision as he considers appropriate for regulating the procedure to be followed with respect to the reference of any question or other matter to the Monopolies Commission in pursuance of provision contained in an appointment under this Chapter.
- (5) Without prejudice to the generality of the power conferred by subsection (4) above, regulations under that subsection may, in relation to any such reference as is mentioned in that subsection, apply (with or without modifications) the provisions of any enactment relating to references to the Monopolies Commission under the following provisions of this Act, the 1973 Act or the 1980 Act.