



# Water Industry Act 1991

## 1991 CHAPTER 56

### PART III

#### WATER SUPPLY

#### [<sup>F1</sup>CHAPTER 2A

#### SUPPLY DUTIES ETC: LICENSED WATER SUPPLIERS

##### Textual Amendments

- F1** Pt. 3 Ch. 2A inserted (1.4.2004 for specified provisions and purposes and 1.12.2005 otherwise) by [Water Act 2003 \(c. 37\)](#), ss. 56, 105(3), [Sch. 4 para. 3](#); S.I. 2004/641, [art. 3\(I\)](#), Sch. 1 (with art. 6, Sch. 3); S.I. 2005/2714, [art. 3\(a\)](#) (with Sch. 2 para. 8)

##### Modifications etc. (not altering text)

- C1** Pt. 3 Ch. 2A applied (3.10.2016) by [The Water and Sewerage Undertakers \(Exit from Non-household Retail Market\) Regulations 2016 \(S.I. 2016/744\)](#), regs. 1(2), [38](#)

#### *Duty of undertaker to supply licensed water supplier etc*

#### **66A Wholesale water supply by primary water undertaker**

- (1) This section applies where—
- a licensed water supplier requests its primary water undertaker to provide it with a supply of water for the purpose of supplying water to the premises of its customers in accordance with the retail authorisation; and
  - the premises are in the area of the undertaker.
- (2) Where this section applies, it shall be the duty of the primary water undertaker, in accordance with an agreement or determination for such period and containing such terms and conditions as may be provided for under section 66D(2) below—

*Status: Point in time view as at 30/03/2017.*

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- (a) to take any such steps—
    - (i) for the purpose of connecting the premises in question with the undertaker’s supply system; or
    - (ii) in respect of that system,
 as may be so provided for in order to enable the undertaker to provide the requested supply; and
  - (b) having taken any such steps, to provide that supply.
- (3) A primary water undertaker shall not be required by virtue of this section to provide a supply of water to a licensed water supplier, or to take any steps to enable it to provide such a supply, if—
- (a) both of the first and second conditions are satisfied; or
  - (b) the third condition is satisfied.
- (4) The first condition is that—
- (a) the premises to be supplied by the supplier do not consist in the whole or any part of a building; or
  - (b) the supply to be made by it to those premises is for purposes other than domestic purposes.
- (5) The second condition is that the provision of the supply by the undertaker would—
- (a) require the undertaker, in order to meet all its existing obligations to supply water for domestic or other purposes, together with its probable future obligations to supply buildings and parts of buildings with water for domestic purposes, to incur unreasonable expenditure in carrying out works; or
  - (b) otherwise put at risk its ability to meet any of the existing or probable future obligations mentioned in paragraph (a) above.
- (6) The third condition is that there is a contravention in relation to the water fittings used or to be used in connection with—
- (a) the supply of water to the premises to be supplied by the supplier; or
  - (b) the use of water in those premises,
- of such of the requirements of regulations under section 74 below as are prescribed for the purposes of this subsection.
- (7) Where—
- (a) a request has been made by a licensed water supplier to its primary water undertaker for the purposes of subsection (1) above; and
  - (b) the steps which the undertaker is required to take by virtue of that request include steps for the purpose of obtaining any necessary authority for, or agreement to, any exercise by it of any of its powers or the carrying out by it of any works,
- the failure of the undertaker to acquire the necessary authority or agreement shall not affect any liability of the licensed water supplier, under any term or condition in accordance with which those steps are taken, to reimburse the undertaker in respect of some or all of the expenses incurred by it in taking those steps.
- (8) A water undertaker is the primary water undertaker of a licensed water supplier for the purposes of this section and section 66C below if the undertaker’s supply system is to be used for the purpose of making the supply to premises mentioned in those sections.
- (9) In this section and sections 66B and 66C below—

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- (a) any reference to the supply system of a water undertaker shall be construed in accordance with section 17B(5) above; and
- (b) any reference to the retail authorisation shall be construed in accordance with section 17A(2) above.

## **66B Introduction of water into water undertaker's supply system**

- (1) This section applies where—
  - (a) a qualifying licensed water supplier requests a water undertaker to permit it to introduce water into the undertaker's supply system, by means of which any particular supply of water to any premises in accordance with the retail authorisation is to take place, in connection with that supply; and
  - (b) the premises are in the area of the undertaker.
- (2) This section also applies where—
  - (a) a water undertaker agrees to permit a qualifying licensed water supplier to introduce water into the undertaker's treatment works;
  - (b) in connection with that introduction, the supplier requests the undertaker to permit it to introduce water into the undertaker's supply system, by means of which any particular supply of water to any premises in accordance with the retail authorisation is to take place, in connection with that supply; and
  - (c) the premises are in the area of the undertaker.
- (3) Where this section applies, it shall be the duty of the water undertaker, in accordance with an agreement or determination for such period and containing such terms and conditions as may be provided for under section 66D(2) below—
  - (a) to take any such steps—
    - (i) for the purpose of connecting the premises in question with the undertaker's supply system;
    - (ii) for the purpose of connecting the treatment works of the qualifying licensed water supplier with that system (in a case falling within subsection (1) above);
    - (iii) for the purpose of connecting with that system any source used by the qualifying licensed water supplier for the purpose of supplying water other than for domestic or food production purposes (in a case falling within subsection (1) above); or
    - (iv) in respect of that system,
 

as may be so provided for in order to enable the supplier to make the requested introduction of the water into that system; and
  - (b) having taken any such steps, to permit the requested introduction of the water into that system.
- (4) A water undertaker shall not be required by virtue of this section to permit the introduction of water into its supply system, or to take any steps to enable a qualifying water supplier to make such an introduction, if the first or second condition is satisfied.
- (5) The first condition is that permitting the introduction of the water into the water undertaker's supply system would—
  - (a) require the undertaker, in order to meet all its existing obligations to supply water for domestic or other purposes, together with its probable future

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- obligations to supply buildings and parts of buildings with water for domestic purposes, to incur unreasonable expenditure in carrying out works; or
- (b) otherwise put at risk its ability to meet any of the existing or probable future obligations mentioned in paragraph (a) above.
- (6) The second condition is that there is a contravention in relation to the water fittings used or to be used in connection with—
- (a) the supply of water to the premises to be supplied by the supplier; or
- (b) the use of water in those premises,
- of such of the requirements of regulations under section 74 below as are prescribed for the purposes of section 66A(6) above.
- (7) Where—
- (a) a request has been made by a qualifying licensed water supplier to a water undertaker for the purposes of subsection (1) or (2) above; and
- (b) the steps which the undertaker is required to take by virtue of that request include steps for the purpose of obtaining any necessary authority for, or agreement to, any exercise by it of any of its powers or the carrying out by it of any works,
- the failure of the undertaker to acquire the necessary authority or agreement shall not affect any liability of the supplier, under any term or condition in accordance with which those steps are taken, to reimburse the undertaker in respect of some or all of the expenses incurred by it in taking those steps.
- (8) In this section “treatment works”—
- (a) in relation to a water undertaker, means the works designated as treatment works by the Secretary of State for the purposes of section 17B(6) above;
- (b) in relation to a qualifying licensed water supplier, means the works designated from time to time by the Secretary of State as treatment works for the purposes of this paragraph.
- (9) Before designating any works for the purposes of subsection (8)(b) above, the Secretary of State shall consult the Assembly.
- (10) A list of any works designated for the purposes of subsection (8)(b) above shall be published from time to time by the Secretary of State in such manner as he considers appropriate for the purpose of bringing the designations to the attention of persons likely to be affected by them.
- (11) Any pipe laid in pursuance of subsection (3)(a)(ii) or (iii) above shall be regarded as a water main for the purposes of this Act, subject to any provision to the contrary.
- (12) In this section and section 66C below, references to a qualifying licensed water supplier are references to a licensed water supplier which is the holder of a combined licence (within the meaning of Chapter 1A of Part 2 of this Act).

## **66C Wholesale water supply by secondary water undertaker**

- (1) This section applies where—
- (a) a qualifying licensed water supplier—
- (i) requests a water undertaker other than its primary water undertaker (the “secondary water undertaker”) to provide a supply of water for the purpose of the supplier supplying water, using the primary

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- water undertaker's supply system, to the premises of the supplier's customers in accordance with the retail authorisation; and
- (ii) requests its primary water undertaker to permit it to introduce that water into its supply system; and
- (b) the premises are in the area of the primary water undertaker.
- (2) Where this section applies—
- (a) it shall be the duty of the secondary water undertaker, in accordance with an agreement or determination for such period and containing such terms and conditions as may be provided for under section 66D(2) below—
- (i) to take any such steps in respect of its supply system as may be so provided for in order to enable it to provide the requested supply; and
- (ii) having taken any such steps, to provide that supply; and
- (b) it shall be the duty of the primary water undertaker, in accordance with an agreement or determination for such period and containing such terms and conditions as may be provided for under section 66D(2) below—
- (i) to take any such steps specified in subsection (3) below as may be so provided for in order to enable the licensed water supplier to make the introduction of the requested supply of water into the primary water undertaker's supply system; and
- (ii) having taken any such steps, to permit the introduction of that supply of water into that supply system.
- (3) The steps mentioned in subsection (2)(b)(i) above are steps—
- (a) for the purpose of connecting the premises in question with the primary water undertaker's supply system;
- (b) for the purpose of connecting that system with the secondary water undertaker's supply system; or
- (c) in respect of the primary water undertaker's supply system.
- (4) If the first or second condition is satisfied—
- (a) a secondary water undertaker shall not be required by virtue of this section to provide a supply of water to a licensed water supplier; and
- (b) a primary water undertaker shall not be required by virtue of this section to permit the introduction of water into its supply system, or to take any steps to enable the licensed water supplier to make such an introduction.
- (5) The first condition is that the provision of the supply or permitting the introduction would—
- (a) require the undertaker in question, in order to meet all its existing obligations to supply water for domestic or other purposes, together with its probable future obligations to supply buildings and parts of buildings with water for domestic purposes, to incur unreasonable expenditure in carrying out works; or
- (b) otherwise put at risk its ability to meet any of the existing or probable future obligations mentioned in paragraph (a) above.
- (6) This second condition is that there is a contravention in relation to the water fittings used or to be used in connection with—
- (a) the supply of water to the premises to be supplied by the supplier; or
- (b) the use of water in those premises,

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of such of the requirements of regulations under section 74 below as are prescribed for the purposes of section 66A(6) above.

(7) Where—

- (a) requests have been made by a licensed water supplier to its primary water undertaker and secondary water undertaker for the purposes of subsection (1) above; and
- (b) the steps which either of those undertakers is required to take by virtue of the request made to it include steps for the purpose of obtaining any necessary authority for, or agreement to, any exercise by it of any of its powers or the carrying out by it of any works,

the undertaker's failure to acquire the necessary authority or agreement shall not affect any liability of the licensed water supplier, under any term or condition in accordance with which those steps are taken, to reimburse the undertaker in respect of some or all of the expenses incurred by it in taking those steps.

- (8) Any pipe laid in pursuance of subsection (2)(b)(i) above by virtue of subsection (3)(b) above shall be regarded as a water main for the purposes of this Act, subject to any provision to the contrary.

#### **66D Sections 66A to 66C: determinations and agreements**

- (1) The Authority may determine, in a case referred to it by a licensed water supplier, whether any condition specified in section 66A(4) to (6), 66B(5) or (6) or 66C(5) or (6) above is satisfied (subject to section 66F below).
- (2) The period for which and terms and conditions on which a water undertaker is to perform any duty under sections 66A to 66C above are—
  - (a) those which are—
    - (i) in a case falling within section 66A(2) or 66B(3) above, agreed between the water undertaker and the licensed water supplier in question; and
    - (ii) in a case falling within section 66C(2) above, agreed between the water undertakers and the licensed water supplier in question; or
  - (b) in default of such agreement, those which are determined by the Authority, in a case referred to it by the licensed water supplier in question, if they are acceptable to the supplier,

(subject to the following provisions of this section and sections 66E and 66F below).
- (3) The charges payable by a licensed water supplier to a water undertaker under an agreement under paragraph (a)(i) or (ii) of subsection (2) above or a determination under paragraph (b) of that subsection shall be fixed in accordance with the costs principle set out in section 66E below.
- (4) The Authority shall issue guidance in accordance with which the terms and conditions of an agreement under paragraph (a)(i) or (ii) of subsection (2) above shall be made.
- (5) Before issuing guidance under subsection (4) above, the Authority shall consult such persons as it considers appropriate.
- (6) The guidance issued under subsection (4) above shall include guidance with respect to the fixing of charges in accordance with subsection (3) above.

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- (7) Subsection (8) below applies if it appears to the Authority that an agreement under paragraph (a)(i) or (ii) of subsection (2) above has not been made in accordance with—
- (a) subsection (3) above; or
  - (b) the guidance issued under subsection (4) above.
- (8) The Authority may require the parties to the agreement to—
- (a) modify the agreement; or
  - (b) terminate the agreement,
- and that requirement shall be enforceable under section 18 above by the Authority.
- (9) Neither the [<sup>F2</sup>CMA] nor the Authority may exercise, in respect of an agreement under paragraph (a)(i) or (ii) of subsection (2) above, the powers conferred by—
- (a) section 32 of the Competition Act 1998 (directions in relation to agreements); and
  - (b) subsection (2) of section 35 of that Act (interim directions).
- (10) Subsection (9)(b) above does not apply to the exercise of powers in respect of conduct—
- (a) which is connected with an agreement under paragraph (a)(i) or (ii) of subsection (2) above; and
  - (b) in respect of which subsection (1)(b) of section 35 of that Act applies.

#### Textual Amendments

- F2** Word in s. 66D(9) substituted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), art. 1(1), [Sch. 1 para. 88](#) (with art. 3)

#### <sup>F3</sup> **66DA** Codes in respect of section 66D agreements

- (1) The Authority may issue one or more codes in respect of section 66D agreements.
- (2) A code may make provision about—
- (a) procedures in connection with making a section 66D agreement;
  - (b) procedures in connection with varying or terminating a section 66D agreement;
  - (c) the terms and conditions of a section 66D agreement, including terms as to the duration of such an agreement;
  - (d) principles for determining the terms and conditions that should or should not be incorporated into a section 66D agreement.
- (3) A code may make provision about the steps to be taken by the Authority in determining for the purposes of section 66D(2) whether a water undertaker is, in the particular case, required to perform a duty under sections 66A to 66C.
- (4) If the Authority considers that a water undertaker or a water supply licensee is not acting as required by a code, the Authority may give the undertaker or the licensee a direction to do, or not to do, a thing specified in the direction.
- (5) The Authority may not give a direction under subsection (4) requiring a person to enter into, vary or terminate an agreement.

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- (6) It is the duty of a water undertaker or a water supply licensee to comply with a direction under subsection (4), and this duty is enforceable by the Authority under section 18.
- (7) A code may make—
  - (a) different provision for different persons or descriptions of person;
  - (b) different provision for different duties under sections 66A to 66C.
- (8) The Authority may from time to time revise a code issued under this section and issue a revised code.
- (9) A revised code may include provision for applying any of its revisions to section 66D agreements made before the revised code comes into effect.

#### Textual Amendments

**F3** Ss. 66DA-66DC inserted (1.9.2015 for the insertion of s. 66DB in part, 1.9.2015 for the insertion of s. 66DB(3), 1.4.2016 for the insertion of s. 66DB(1)(b) so far as not already in force, 30.3.2017 in so far as not already in force) by [Water Act 2014 \(c. 21\), s. 94\(3\), Sch. 2 para. 4](#); [S.I. 2015/773, art. 3\(c\)](#) (with [art. 5](#)); [S.I. 2015/1469, art. 3\(d\)\(i\)](#); [S.I. 2016/465, art. 2\(j\)\(i\)](#) (with [Sch. 2](#)) (as amended (22.3.2017) by [S.I. 2017/462, art. 16](#)); [S.I. 2017/462, art. 2\(c\)](#) (with [art. 10](#))

#### 66DB Codes under section 66DA: procedure

- (1) Before issuing a code under section 66DA, the Authority must—
  - (a) prepare a draft of the proposed code under section 66DA;
  - (b) consult persons in accordance with subsections (2) to (4).
- (2) If the proposed code relates to section 66D agreements made with water undertakers whose areas are wholly or mainly in England, the Authority must consult the following about the proposed code—
  - (a) the Secretary of State;
  - (b) the Chief Inspector of Drinking Water;
  - (c) the appropriate agency;
  - (d) the Council;
  - (e) any relevant undertakers likely to be affected by the proposed code;
  - (f) any water supply licensees likely to be affected by the proposed code;
  - (g) such other persons as the Authority thinks appropriate.
- (3) If the proposed code relates to section 66D agreements made with water undertakers whose areas are wholly or mainly in Wales, the Authority must consult the following about the proposed code—
  - (a) the Welsh Ministers;
  - (b) the Chief Inspector of Drinking Water for Wales if there is one, or the Chief Inspector of Drinking Water if section 86(1B)(b) applies;
  - (c) the appropriate agency;
  - (d) the Council;
  - (e) any relevant undertakers likely to be affected by the proposed code;
  - (f) any water supply licensees likely to be affected by the proposed code;
  - (g) such other persons as the Authority thinks appropriate.



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- (4) The Authority must specify the period (“the consultation period”) within which a person may make representations about the proposed code.
- (5) Before a code under section 66DA prepared by the Authority is issued, the Minister may direct the Authority—
- (a) not to issue the code, or
  - (b) to issue the code with specified modifications.
- (6) Subsection (5) is subject to subsections (8) and (9).
- (7) In subsection (5) “the Minister” means—
- (a) the Secretary of State, so far as a code prepared by the Authority relates to section 66D agreements affecting only the supply systems of water undertakers whose areas are wholly or mainly in England;
  - (b) the Welsh Ministers, so far as a code prepared by the Authority relates to section 66D agreements affecting only the supply systems of water undertakers whose areas are wholly or mainly in Wales;
  - (c) the Secretary of State and the Welsh Ministers acting jointly, so far as a code prepared by the Authority relates to section 66D agreements not falling within paragraph (a) or (b).
- (8) If the power under subsection (5) is exercised to give a direction in respect of such section 66D agreements as are referred to in paragraph (a), (b) or (c) of subsection (7), it may not be exercised again in respect of such section 66D agreements as are referred to in that paragraph.
- (9) If the power under subsection (5) to give a direction in respect of such section 66D agreements as are referred to in paragraph (a), (b) or (c) of subsection (7) is not exercised on the first occasion on which it may be so exercised, it may not be exercised in respect of such section 66D agreements as are referred to in that paragraph on a later occasion.
- (10) A direction under subsection (5) must be given within the period of 28 days beginning with the day after the end of the consultation period, and a code prepared by the Authority in relation to which a direction may be given may not be issued before that period of 28 days has expired.
- (11) In this section “the appropriate agency” means—
- (a) the Environment Agency, in relation to section 66D agreements made with water undertakers whose areas are wholly in England;
  - (b) the NRBW, in relation to section 66D agreements made with water undertakers whose areas are wholly in Wales;
  - (c) both the Environment Agency and the NRBW, in relation to section 66D agreements made with water undertakers whose areas are partly in England and partly in Wales.
- (12) This section is subject to section 66DC.

#### Textual Amendments

- F3** Ss. 66DA-66DC inserted (1.9.2015 for the insertion of s. 66DB in part, 1.9.2015 for the insertion of s. 66DB(3), 1.4.2016 for the insertion of s. 66DB(1)(b) so far as not already in force, 30.3.2017 in so far as not already in force) by [Water Act 2014 \(c. 21\)](#), [s. 94\(3\)](#), [Sch. 2 para. 4](#); [S.I. 2015/773](#), art.

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3(c) (with art. 5); S.I. 2015/1469, art. 3(d)(i); S.I. 2016/465, art. 2(j)(i) (with Sch. 2) (as amended (22.3.2017) by S.I. 2017/462, art. 16); S.I. 2017/462, art. 2(c) (with art. 10)

### 66DC Codes under section 66DA: minor or urgent revisions

- (1) This section applies if the Authority proposes to issue a revised code and, in the view of the Authority, the revision or each of the revisions proposed to be made is—
  - (a) a revision for which consultation is unnecessary, or
  - (b) a revision that it is necessary or desirable to make without delay.
- (2) Section 66DB does not apply to the proposed revised code.
- (3) Once the Authority has issued the revised code, it must give notice as soon as reasonably practicable of—
  - (a) the issuing of the revised code, and
  - (b) as regards each revision contained in it, whether in the view of the Authority the revision falls within paragraph (a) or (b) of subsection (1).
- (4) Notice under subsection (3) is to be given to such persons as the Authority considers appropriate.
- (5) Unless the Authority gives notice that a revision in a revised code is in the view of the Authority a revision falling within subsection (1)(a), the revision ceases to have effect at the end of the period of six months beginning with the day after that on which the revised code is issued.]

#### Textual Amendments

**F3** Ss. 66DA-66DC inserted (1.9.2015 for the insertion of s. 66DB in part, 1.9.2015 for the insertion of s. 66DB(3), 1.4.2016 for the insertion of s. 66DB(1)(b) so far as not already in force, 30.3.2017 in so far as not already in force) by [Water Act 2014 \(c. 21\)](#), s. 94(3), [Sch. 2 para. 4](#); [S.I. 2015/773](#), art. 3(c) (with art. 5); [S.I. 2015/1469](#), art. 3(d)(i); [S.I. 2016/465](#), art. 2(j)(i) (with Sch. 2) (as amended (22.3.2017) by [S.I. 2017/462](#), art. 16); [S.I. 2017/462](#), art. 2(c) (with art. 10)

### [<sup>F4</sup>66E Rules about charges

- (1) The Authority must issue rules about charges that may be imposed by a water undertaker under a section 66D agreement.
- (2) The rules may in particular make provision about—
  - (a) the types of charges that may be imposed;
  - (b) the amount or the maximum amount, or methods for determining the amount or maximum amount, of any type of charge;
  - (c) principles for determining what types of charges may or may not be imposed;
  - (d) principles for determining the amount of any charge that may be imposed;
  - (e) publication of the charges that may be imposed.
- (3) The rules must include provision for and in connection with requiring a water undertaker to impose on a water supply licensee only such charges as would enable the licensee, where the services it provides to a person under its retail authorisation or restricted retail authorisation are services to which a section 142(2)(b) agreement would apply if the undertaker had continued to provide the services, to charge for

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- those services at the same rate or rates as would have applied if the section 142(2)(b) agreement had applied.
- (4) In subsection (3) “section 142(2)(b) agreement” means an agreement to which section 142(2)(b) applies.
- (5) If the Authority considers that a water undertaker is not acting as required by rules under this section, the Authority may—
- (a) give the undertaker a direction to do, or not to do, a thing specified in the direction, or
  - (b) in a case where a section 66D agreement to which the undertaker is party requires modification in order to conform to the rules, give a direction to the undertaker and the water supply licensee in question to modify the agreement.
- (6) It is the duty of a water undertaker or a water supply licensee to comply with a direction under subsection (5), and this duty is enforceable by the Authority under section 18.
- (7) The rules may—
- (a) make different provision for different persons or descriptions of person;
  - (b) make different provision for different purposes;
  - (c) make provision subject to exceptions.
- (8) The Authority may from time to time revise rules issued under this section and issue revised rules.
- (9) The Authority must issue revised rules if—
- (a) guidance is issued under section 66ED, and
  - (b) the Authority, having regard to that guidance, considers that it is appropriate to revise the rules.
- (10) Revised rules may include provision for applying any of their revisions to section 66D agreements made before the revised rules come into effect.]

#### Textual Amendments

- F4** *Ss. 66E-66ED* substituted (1.9.2015 for the substitution of s. 66EB(1)-(7), 1.9.2016 for the substitution of ss. 66E for specified purposes, 66EA, 66EB(8), 66EC, 66ED) by [Water Act 2014 \(c. 21\)](#), s. 94(3), [Sch. 2 para. 5](#); [S.I. 2015/1469](#), art. 3(d)(ii); [S.I. 2016/465](#), art. 3(e) (with [Sch. 2](#)) (as amended (22.3.2017) by [S.I. 2017/462](#), art. 16)

#### **Rules about charges: provision about the reduction of charges**

**F4** *66EA*

- (1) Rules under section 66E may make provision about the reduction of charges payable under a section 66D agreement where—
- (a) a water supply licensee that has a retail authorisation or a restricted retail authorisation is party to the section 66D agreement, and
  - (b) other conditions specified by the rules are satisfied.
- (2) Rules made by virtue of subsection (1) may in particular—
- (a) specify conditions relating to any party to the section 66D agreement;
  - (b) specify conditions about persons taking steps for the purpose of reducing or managing water consumption;

*Status: Point in time view as at 30/03/2017.*

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- (c) specify conditions about the premises by reference to which such steps are to be taken;
- (d) specify conditions about reducing charges payable by a person who—
  - (i) is not party to the section 66D agreement, and
  - (ii) takes or proposes to take such steps as satisfy or would satisfy a condition specified under paragraph (b).
- (3) The rules may provide that, where a charge falls to be reduced in accordance with rules made by virtue of subsection (1), the water undertaker to which the charges are payable must give notice of that reduction to the Authority.
- (4) Rules made by virtue of subsection (3) may—
  - (a) make provision as to the content of the notice;
  - (b) specify the period within which an undertaker is to give notice to the Authority.
- (5) Provision under subsection (4)(a) may in particular require the notice to specify—
  - (a) the amount of the charge, with and without the reduction;
  - (b) the period for which the reduction has effect.

#### Textual Amendments

- F4** Ss. 66E-66ED substituted (1.9.2015 for the substitution of s. 66EB(1)-(7), 1.9.2016 for the substitution of ss. 66E for specified purposes, 66EA, 66EB(8), 66EC, 66ED) by [Water Act 2014 \(c. 21\)](#), s. 94(3), [Sch. 2 para. 5](#); S.I. 2015/1469, art. 3(d)(ii); S.I. 2016/465, art. 3(e) (with [Sch. 2](#)) (as amended (22.3.2017) by S.I. 2017/462, art. 16)

#### 66EB Rules under section 66E: procedure

- (1) Before issuing rules under section 66E, the Authority must—
  - (a) prepare a draft of the proposed rules, and
  - (b) consult the relevant persons about the draft.
- (2) The relevant persons are—
  - (a) the Secretary of State;
  - (b) the Welsh Ministers;
  - (c) the Council;
  - (d) any water undertakers likely to be affected by the rules;
  - (e) any water supply licensees likely to be affected by the rules;
  - (f) such other persons as the Authority thinks appropriate.
- (3) The Authority must specify the period (“the consultation period”) within which persons may make representations about the proposed rules.
- (4) The Authority must have regard to guidance issued under section 66ED in preparing rules under section 66E.
- (5) Before rules under section 66E prepared by the Authority are issued, the Minister may direct the Authority not to issue the rules.
- (6) In subsection (5) “the Minister” means—

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- (a) the Secretary of State, so far as rules prepared by the Authority relate to section 66D agreements affecting only the supply systems of water undertakers whose areas are wholly or mainly in England;
  - (b) the Welsh Ministers, so far as rules prepared by the Authority relate to section 66D agreements affecting only the supply systems of water undertakers whose areas are wholly or mainly in Wales;
  - (c) the Secretary of State and the Welsh Ministers acting jointly, so far as rules prepared by the Authority relate to section 66D agreements not falling within paragraph (a) or (b).
- (7) A direction under subsection (5) must be given within the period of 28 days beginning with the day after the end of the consultation period, and rules may not be issued before that period of 28 days has expired.
- (8) This section is subject to section 66EC.

#### Textual Amendments

- F4** Ss. 66E-66ED substituted (1.9.2015 for the substitution of s. 66EB(1)-(7), 1.9.2016 for the substitution of ss. 66E for specified purposes, 66EA, 66EB(8), 66EC, 66ED) by [Water Act 2014 \(c. 21\)](#), s. 94(3), [Sch. 2 para. 5](#); [S.I. 2015/1469](#), art. 3(d)(ii); [S.I. 2016/465](#), art. 3(e) (with [Sch. 2](#)) (as amended (22.3.2017) by [S.I. 2017/462](#), art. 16)

#### 66EC Rules under section 66E: minor or urgent revisions

- (1) This section applies if the Authority proposes to issue revised rules under section 66E and, in the view of the Authority, the revision or each of the revisions proposed to be made is—
  - (a) a revision for which consultation is unnecessary, or
  - (b) a revision that it is necessary or desirable to make without delay.
- (2) Section 66EB does not apply to the proposed revised rules.
- (3) Before issuing the revised rules, the Authority must give notice to the Minister of its intention to issue revised rules.
- (4) Before the revised rules are issued, the Minister may direct the Authority not to issue the revised rules.
- (5) A direction under subsection (4) must be given within the period of 14 days beginning with the day after the day on which notice is given under subsection (3), and the Authority may not issue the revised rules in question before—
  - (a) that period of 14 days expires, or
  - (b) the Minister notifies the Authority that no direction under subsection (4) will be given in relation to the revised rules,whichever is the sooner.
- (6) Once the Authority has issued the revised rules, it must give notice as soon as reasonably practicable of—
  - (a) the issuing of the revised rules, and
  - (b) as regards each revision contained in them, whether in the view of the Authority the revision falls within paragraph (a) or (b) of subsection (1).

*Status: Point in time view as at 30/03/2017.*

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- (7) Notice under subsection (6) is to be given to such persons as the Authority considers appropriate.
- (8) Unless the Authority gives notice that a revision in revised rules is in the view of the Authority a revision falling within subsection (1)(a), the revision ceases to have effect at the end of the period of six months beginning with the day after that on which the revised rules are issued.
- (9) In this section “the Minister” has the meaning given by section 66EB.

#### Textual Amendments

- F4** Ss. 66E-66ED substituted (1.9.2015 for the substitution of s. 66EB(1)-(7), 1.9.2016 for the substitution of ss. 66E for specified purposes, 66EA, 66EB(8), 66EC, 66ED) by [Water Act 2014 \(c. 21\)](#), s. 94(3), [Sch. 2 para. 5](#); [S.I. 2015/1469](#), art. 3(d)(ii); [S.I. 2016/465](#), art. 3(e) (with [Sch. 2](#)) (as amended (22.3.2017) by [S.I. 2017/462](#), art. 16)

#### **66ED Rules under section 66E: guidance**

- (1) The Minister may issue guidance as to the content of rules under section 66E.
- (2) Before issuing the guidance, the Minister must—
- (a) prepare a draft of any proposed guidance;
  - (b) consult the relevant persons about the draft.
- (3) The relevant persons are—
- (a) the Secretary of State;
  - (b) the Welsh Ministers;
  - (c) such other persons as the Minister thinks appropriate.
- (4) The Minister may from time to time revise guidance issued under this section and issue revised guidance.
- (5) Subsections (2) and (3) apply to revised guidance as they apply to the original guidance.
- (6) The Minister must arrange for the publication of guidance issued under this section.
- (7) In this section “the Minister” means—
- (a) the Secretary of State, in relation to section 66D agreements affecting only the supply systems of water undertakers whose areas are wholly or mainly in England;
  - (b) the Welsh Ministers, in relation to section 66D agreements affecting only the supply systems of water undertakers whose areas are wholly or mainly in Wales;
  - (c) the Secretary of State and the Welsh Ministers acting jointly, in relation to section 66D agreements not falling within paragraph (a) or (b).]

#### Textual Amendments

- F4** Ss. 66E-66ED substituted (1.9.2015 for the substitution of s. 66EB(1)-(7), 1.9.2016 for the substitution of ss. 66E for specified purposes, 66EA, 66EB(8), 66EC, 66ED) by [Water Act 2014 \(c. 21\)](#), s.

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94(3), Sch. 2 para. 5; S.I. 2015/1469, art. 3(d)(ii); S.I. 2016/465, art. 3(e) (with Sch. 2) (as amended (22.3.2017) by S.I. 2017/462, art. 16)

## 66F Section 66D: supplementary

- (1) Before the Authority makes—
  - (a) a determination for the purposes of subsection (1) of section 66D above as to whether any condition specified in section 66B(5) or (6) above is satisfied; or
  - (b) a determination for the purposes of subsection (2)(b) of section 66D above as to the period for which and terms and conditions on which a water undertaker is to perform any duty under section 66B above,it shall consult the Secretary of State (subject to subsection (3) below).
- (2) Before the Authority makes—
  - (a) a determination for the purposes of subsection (1) of section 66D above as to whether any condition specified in section 66C(5) or (6) is satisfied; or
  - (b) a determination for the purposes of subsection (2)(b) of section 66D above as to the period for which and terms and conditions on which the water undertakers are to perform any duty under section 66C above,it shall consult [<sup>F5</sup>the persons specified in subsection (2A)].  
[ The persons specified for the purposes of subsection (2) are—
  - <sup>F6</sup>(2A) (a) the Secretary of State (subject to subsections (3) and (4) below);
  - (b) the Environment Agency, if the determination is in relation to a supply of water that would affect water resources in England;
  - (c) the NRBW, if the determination is in relation to a supply of water that would affect water resources in Wales.]
- (3) If—
  - (a) a determination mentioned in subsection (1) or (2) above is in relation to premises supplied with water using the supply system of a water undertaker whose area is wholly or mainly in Wales; and
  - (b) in the case of a determination mentioned in subsection (2) above, the area of the secondary water undertaker in question is wholly or mainly in Wales,the Authority shall consult the Assembly (and not the Secretary of State).
- (4) If a determination mentioned in subsection (2) above—
  - (a) is in relation to premises supplied with water using the supply system of a water undertaker whose area is wholly or mainly in—
    - (i) England; or
    - (ii) Wales;
  - (b) but the area of the secondary water undertaker in question is (respectively) wholly or mainly in—
    - (i) Wales; or
    - (ii) England,the Authority shall consult the Assembly (as well as the Secretary of State).
- (5) The Authority shall publish guidance issued under section 66D(4) above in such manner as the Authority considers appropriate for the purpose of bringing it to the attention of persons likely to be affected by it.

*Status: Point in time view as at 30/03/2017.*

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- (6) The Authority may from time to time revise the guidance so issued.
- (7) Before revising any guidance under subsection (6) above, the Authority shall consult such persons as it considers appropriate.
- (8) Subsection (5) above applies to guidance revised under subsection (6) above as it applies to guidance issued under section 66D(4) above.
- (9) In this section, references to the supply system of a water undertaker shall be construed in accordance with section 17B(5) above.
- (10) Where the period for which and terms and conditions on which a water undertaker is to perform any duty under sections 66A to 66C above are determined in accordance with subsection (2)(b) of section 66D above, they shall have effect as if they had been agreed between the parties in question (and references in the following provisions of this Act to an agreement under that section shall be construed accordingly).

#### Textual Amendments

- F5** Words in s. 66F(2) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 233(2)** (with Sch. 7)
- F6** S. 66F(2A) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 233(3)** (with Sch. 7)

### 66G Designation of strategic supply

- (1) Subsection (2) below applies if at any time the Authority determines that an introduction of water which a water undertaker is required to permit under section 66B or 66C above in accordance with an agreement under section 66D above constitutes a strategic supply of water.
- (2) The Authority shall designate the introduction as a strategic supply.
- (3) Subsection (4) below applies if—
  - (a) a water undertaker requests the Authority to make a determination that an introduction of water constitutes a strategic supply for the purposes of subsection (1) above, or
  - (b) the Authority otherwise proposes to make a determination that an introduction of water constitutes a strategic supply for the purposes of that subsection.
- (4) The Authority shall give notice of the request or proposed determination to—
  - (a) the Secretary of State;
  - (b) the Assembly;
  - (c) the Environment Agency<sup>F7</sup>, if the request or proposed determination relates to an introduction of water to the supply system of a water undertaker for the purpose of supplying water to premises in England];
  - <sup>F8</sup>(ca) [ the NRBW, if the request or proposed determination relates to an introduction of water to the supply system of a water undertaker for the purpose of supplying water to premises in Wales;]
  - (d) the other party or parties, or the parties, to the agreement under section 66D above; and
  - (e) such other persons (if any) as the Authority thinks it appropriate to notify.



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- (5) Any such notice shall specify the time (not being less than twenty-eight days from the date on which the notice was given) within which representations or objections with respect to the request or proposed determination may be made.
- (6) The Authority shall consider any representations or objections which are duly made and not withdrawn.
- (7) If the Authority determines that an introduction designated under this section as a strategic supply no longer constitutes such a supply, it shall cancel its designation.
- (8) If the Authority proposes to make a determination under subsection (7) above that an introduction no longer constitutes a strategic supply, it shall give notice of the proposed determination to the persons specified in paragraphs (a) to (d) of subsection (4) above.
- (9) Subsection (5) above applies to a notice under subsection (8) above as it applies to a notice under subsection (4) above (and subsection (6) above applies accordingly).
- (10) For the purposes of this section, an introduction of water is a strategic supply if, without that introduction being made, there is a substantial risk that the water undertaker would be unable to maintain supplies to its own customers<sup>[F9]</sup>, and supplies which it is obliged to make under section 66A or 66C,] as well as supplying customers of the licensed water supplier in question with water for domestic purposes.

#### Textual Amendments

- F7** Words in s. 66G(4)(c) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 234(2)** (with Sch. 7)
- F8** S. 66G(4)(ca) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 234(3)** (with Sch. 7)
- F9** Words in s. 66G(10) inserted (1.4.2011) by [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), **Sch. 5 para. 7(1)** (with s. 49(1)(6)); S.I. 2011/694, art. 3(j)

### 66H Designation of collective strategic supply

- (1) Subsection (2) below applies if at any time the Authority determines that two or more introductions of water—
  - (a) which are made by a licensed water supplier; and
  - (b) which a water undertaker is required to permit under section 66B or 66C above in accordance with agreements under section 66D above,constitute a collective strategic supply of water.
- (2) The Authority shall designate the introductions as a collective strategic supply.
- (3) Subsection (4) below applies if—
  - (a) a water undertaker requests the Authority to make a determination that two or more introductions of water constitute a collective strategic supply for the purposes of subsection (1) above, or
  - (b) the Authority otherwise proposes to make a determination that two or more introductions of water constitute a collective strategic supply for the purposes of that subsection.
- (4) The Authority shall give notice of the request or proposed determination to—
  - (a) the Secretary of State;

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- (b) the Assembly;
  - (c) the Environment Agency<sup>F10</sup>, if the request or proposed determination relates to an introduction of water to the supply system of a water undertaker for the purpose of supplying water to premises in England];
  - <sup>F11</sup>(ca) [ the NRBW, if the request or proposed determination relates to an introduction of water to the supply system of a water undertaker for the purpose of supplying water to premises in Wales;]
  - (d) the other party or parties, or the parties, to the agreements under section 66D above; and
  - (e) such other persons (if any) as the Authority thinks it appropriate to notify.
- (5) Any such notice shall specify the time (not being less than twenty-eight days from the date on which the notice was given) within which representations or objections with respect to the request or proposed determination may be made.
- (6) The Authority shall consider any representations or objections which are duly made and not withdrawn.
- (7) If the Authority determines that introductions designated under this section as a collective strategic supply no longer constitute such a supply, it shall cancel their designation.
- (8) If the Authority proposes to make a determination under subsection (7) above that introductions no longer constitute a collective strategic supply, it shall give notice of the proposed determination to the persons specified in paragraphs (a) to (d) of subsection (4) above.
- (9) Subsection (5) above applies to a notice under subsection (8) above as it applies to a notice under subsection (4) above (and subsection (6) above applies accordingly).
- (10) For the purposes of this section, introductions of water are a collective strategic supply if, without those introductions being made, there is a substantial risk that the water undertaker would be unable to maintain supplies to its own customers<sup>F12</sup>, and supplies which it is obliged to make under section 66A or 66C,] as well as supplying the customers of the licensed water supplier in question with water for domestic purposes.

#### Textual Amendments

- F10** Words in s. 66H(4)(c) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 235(2)** (with Sch. 7)
- F11** S. 66H(4)(ca) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 235(3)** (with Sch. 7)
- F12** Words in s. 66H(10) inserted (1.4.2011) by [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), **Sch. 5 para. 7(2)** (with s. 49(1)(6)); S.I. 2011/694, art. 3(j)

### Offences

#### 66I Prohibition on unauthorised use of supply system

- (1) Subject to subsections (2) and (3) and section 66K below, no person shall use a water undertaker's supply system for the purpose of supplying water to any premises <sup>F13</sup>of—
- (a) a customer,

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- (b) the person so using that system, or
  - (c) a person associated with that person].
- (2) Subsection (1) above shall not apply where the supply is made—
- (a) by the water undertaker, or
  - (b) by a [<sup>F14</sup>water supply licensee] in pursuance of [<sup>F15</sup>the licensee's licence].
- (3) The Secretary of State may by regulations specify further circumstances in which subsection (1) above shall not apply.
- (4) A person who contravenes subsection (1) above shall be guilty of an offence.
- (5) Any undertaking entered into which involves a contravention of subsection (1) above shall be unenforceable.
- (6) A person guilty of an offence under this section shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum, and
  - (b) on conviction on indictment, to a fine.
- (7) No proceedings for an offence under this section shall be instituted except by—
- (a) the Secretary of State, or
  - (b) the Authority.
- (8) The functions of—
- (a) making regulations under subsection (3) above; and
  - (b) instituting proceedings under subsection (7)(a) above,
- are exercisable by the Assembly (and not by the Secretary of State) in relation to any supply system of a water undertaker whose area is wholly or mainly in Wales.
- (9) In this section and sections 66J and 66L below, references to the supply system of a water undertaker shall be construed in accordance with section 17B(5) above.

#### Textual Amendments

- F13** Words in s. 66I(1) substituted (1.4.2016) by [Water Act 2014 \(c. 21\), s. 94\(3\), Sch. 2 para. 9\(2\)](#); [S.I. 2016/465, art. 2\(j\)\(ii\)](#) (with [Sch. 2](#)) (as amended (22.3.2017) by [S.I. 2017/462, art. 16](#))
- F14** Words in s. 66I(2)(b) substituted (1.4.2016) by [Water Act 2014 \(c. 21\), s. 94\(3\), Sch. 2 para. 9\(3\)\(a\)](#); [S.I. 2016/465, art. 2\(j\)\(ii\)](#) (with [Sch. 2](#)) (as amended (22.3.2017) by [S.I. 2017/462, art. 16](#))
- F15** Words in s. 66I(2)(b) substituted (1.4.2016) by [Water Act 2014 \(c. 21\), s. 94\(3\), Sch. 2 para. 9\(3\)\(b\)](#); [S.I. 2016/465, art. 2\(j\)\(ii\)](#) (with [Sch. 2](#)) (as amended (22.3.2017) by [S.I. 2017/462, art. 16](#))

#### Modifications etc. (not altering text)

- C2** S. 66I(1) restricted (1.12.2005) by [The Water Supply \(Exceptions from Supply System Prohibitions\) Regulations 2005 \(S.I. 2005/3075\), reg. 3](#)

### 66J Prohibition on unauthorised introduction of water

- (1) Subject to subsections (2) and (3) and section 66K below, no person shall introduce water into a water undertaker's supply system (other than the undertaker itself).
- (2) Subsection (1) above shall not apply where the water is introduced—
- (a) by a licensed water supplier in pursuance of its licence, or

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- (b) by another water undertaker under an agreement for a supply of water in bulk.
- (3) The Secretary of State may by regulations specify further circumstances in which subsection (1) above shall not apply.
- (4) A person who contravenes subsection (1) above shall be guilty of an offence.
- (5) Any undertaking entered into which involves a contravention of subsection (1) above shall be unenforceable.
- (6) A person guilty of an offence under this section shall be liable [<sup>F16</sup>on summary conviction, or on conviction on indictment, to a fine].
- (7) For the purposes of section 210 below, the penalty on conviction on indictment of an offence under this section shall be deemed to include imprisonment (in addition to or instead of a fine) for a term not exceeding two years.
- (8) No proceedings for an offence under this section shall be instituted except by—
  - (a) the Secretary of State; or
  - (b) the Authority.
- (9) The functions of—
  - (a) making regulations under subsection (3) above; and
  - (b) instituting proceedings under subsection (8)(a) above,
 are exercisable by the Assembly (and not by the Secretary of State) in relation to any supply system of a water undertaker whose area is wholly or mainly in Wales.

#### Textual Amendments

- F16** Words in s. 66J(6) substituted (12.3.2015) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\)](#), reg. 1(1), **Sch. 4 para. 23(2)** (with reg. 5(1))

#### Modifications etc. (not altering text)

- C3** S. 66J modified (temp.) (22.3.2017) by [The Water Act 2014 \(Commencement No. 9 and Transitional Provisions\) Order 2017 \(S.I. 2017/462\)](#), art. 11(5)
- C4** S. 66J(1) restricted (1.12.2005) by [The Water Supply \(Exceptions from Supply System Prohibitions\) Regulations 2005 \(S.I. 2005/3075\)](#), reg. 4

### 66K Sections 66I and 66J: exemptions

- (1) The Secretary of State may by order made by statutory instrument grant exemption from section 66I(1) or 66J(1) above to—
  - (a) a person or persons of a class;
  - (b) generally or to such extent as may be specified in the order; and
  - (c) unconditionally or subject to such conditions as may be so specified.
- (2) Before making an order under subsection (1) above the Secretary of State shall give notice—
  - (a) stating that he proposes to make such an order and setting out the terms of the proposed order;

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- (b) stating the reasons why he proposes to make the order in the terms proposed; and
  - (c) specifying the time (not being less than twenty-eight days from the date of publication of the notice) within which representations or objections with respect to the proposals may be made,
- and shall consider any representations or objections which are duly made and not withdrawn.
- (3) The notice required by subsection (2) above shall be given—
    - (a) by serving a copy of it on the Authority; and
    - (b) by publishing it in such manner as the Secretary of State considers appropriate for bringing it to the attention of those likely to be affected by the proposed order.
  - (4) Notice of an exemption granted to a person shall be given—
    - (a) by serving a copy of the exemption on him; and
    - (b) by publishing the exemption in such manner as the Secretary of State considers appropriate for bringing it to the attention of other persons who may be affected by it.
  - (5) Notice of an exemption granted to persons of a class shall be given by publishing the exemption in such manner as the Secretary of State considers appropriate for bringing it to the attention of—
    - (a) persons of that class; and
    - (b) other persons who may be affected by it.
  - (6) An exemption may be granted—
    - (a) indefinitely; or
    - (b) for a period specified in, or determined by or under, the exemption.
  - (7) Conditions included in an exemption by virtue of subsection (1)(c) above may, in particular, require any person carrying on any activity in pursuance of the exemption—
    - (a) to comply with any direction given by the Secretary of State or the Authority as to such matters as are specified in the exemption or are of a description so specified;
    - (b) except in so far as the Secretary of State or the Authority consents to his doing or not doing them, not to do or to do such things as are specified in the exemption or are of a description so specified; and
    - (c) to refer for determination by the Secretary of State or the Authority such questions arising under the exemption as are specified in the exemption or are of a description so specified.

## **66L Section 66K: supplementary**

- (1) The Secretary of State may by order made by statutory instrument revoke an order by which an exemption was granted to a person under section 66K(1) above or vary an order by which more than one exemption was so granted so as to terminate any of the exemptions—
  - (a) at the person's request;
  - (b) in accordance with any provision of the order by which the exemption was granted; or

*Status: Point in time view as at 30/03/2017.*

*Changes to legislation: Water Industry Act 1991, CHAPTER 2A is up to date with all changes known to be in force on or before 24 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (c) if it appears to the Secretary of State inappropriate that the exemption should continue to have effect.
- (2) The Secretary of State may by order made by statutory instrument revoke an order by which an exemption was granted to persons of a class under section 66K(1) above or vary an order by which more than one exemption was so granted so as to terminate any of the exemptions—
  - (a) in accordance with any provision of the order by which the exemption was granted; or
  - (b) if it appears to the Secretary of State inappropriate that the exemption should continue to have effect.
- (3) The Secretary of State may by direction withdraw an exemption granted to persons of a class under section 66K(1) above from any person of that class—
  - (a) at the person's request;
  - (b) in accordance with any provision of the order by which the exemption was granted; or
  - (c) if it appears to the Secretary of State inappropriate that the exemption should continue to have effect in the case of the person.
- (4) Before making an order under subsection (1)(b) or (c) or (2) above or giving a direction under subsection (3)(b) or (c) above, the Secretary of State shall—
  - (a) consult the Authority; and
  - (b) give notice—
    - (i) stating that he proposes to make such an order or give such a direction;
    - (ii) stating the reasons why he proposes to make such an order or give such a direction; and
    - (iii) specifying the time (not being less than twenty-eight days from the date of publication of the notice) within which representations or objections with respect to the proposals may be made,
 and shall consider any representations or objections which are duly made and not withdrawn.
- (5) The notice under subsection (4) above shall be given—
  - (a) where the Secretary of State is proposing to make an order under subsection (1)(b) or (c) above, by serving a copy of it on the person to whom the exemption was granted;
  - (b) where he is proposing to make an order under subsection (2) above, by publishing it in such manner as the Secretary of State considers appropriate for bringing it to the attention of persons of the class of persons to whom the exemption was granted; and
  - (c) where he is proposing to give a direction under subsection (3)(b) or (c) above, by serving a copy of it on the person from whom he proposes to withdraw the exemption.
- (6) A statutory instrument containing an order under subsection (1) or (2) above or subsection (1) of section 66K above shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) The power to—
  - (a) make an order under subsection (1) or (2) above or subsection (1) of section 66K above; or

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- (b) give a direction under subsection (3) above,  
is exercisable by the Assembly (and not by the Secretary of State) in relation to any supply system of a water undertaker whose area is wholly or mainly in Wales.
- (8) Accordingly, subsections (1) to (5) above and section 66K above apply in relation to an order made or a direction given by the Assembly by virtue of subsection (7) above as they apply in relation to an order made or direction given by the Secretary of State.]

**Status:**

Point in time view as at 30/03/2017.

**Changes to legislation:**

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