



Water Industry Act 1991

1991 CHAPTER 56

PART I

PRELIMINARY

General duties

3 General environmental and recreational duties.

(1) It shall be the duty of each of the following, that is to say—

- (a) the Secretary of State;
- (b) ^{F1}
- (c) the Director; and
- (d) every company holding an appointment as a relevant undertaker,

in formulating or considering any proposals relating to any functions of a relevant undertaker (including, in the case of such a company, any functions which, by virtue of that appointment, are functions of the company itself) to comply with the requirements imposed in relation to the proposals by subsections (2) and (3) below.

(2) The requirements imposed by this subsection in relation to any such proposals as are mentioned in subsection (1) above are—

- (a) a requirement, so far as may be consistent—
 - (i) with the purposes of any enactment relating to the functions of the undertaker; and
 - (ii) in the case of the Secretary of State and the Director, with their duties under section 2 above,

so to exercise any power conferred with respect to the proposals on the person subject to the requirement as to further the conservation and enhancement of natural beauty and the conservation of flora, fauna and geological or physiographical features of special interest [^{F2}and, in the case of the exercise of such a power by a company holding an appointment as a relevant undertaker, as to further water conservation] ;

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- (b) a requirement to have regard to the desirability of protecting and conserving buildings, sites and objects of archaeological, architectural or historic interest; and
 - (c) a requirement to take into account any effect which the proposals would have on the beauty or amenity of any rural or urban area or on any such flora, fauna, features, buildings, sites or objects.
- (3) The requirements imposed by this subsection in relation to any such proposals as are mentioned in subsection (1) above are, subject to the requirements imposed by subsection (2) above—
- (a) a requirement to have regard to the desirability of preserving for the public any freedom of access to areas of woodland, mountains, moor, heath, down, cliff or foreshore and other places of natural beauty;
 - (b) a requirement to have regard to the desirability of maintaining the availability to the public of any facility for visiting or inspecting any building, site or object of archaeological, architectural or historic interest; and
 - (c) a requirement to take into account any effect which the proposals would have on any such freedom of access or on the availability of any such facility.
- (4) Subsections (1) to (3) above shall apply so as to impose duties on the Director and any company holding an appointment as a relevant undertaker in relation to any proposal relating to—
- (a) the functions of [^{F3}the Environment Agency]; ^{F4} ...
 - ^{F5}(aa) the functions of the NRBW; or]
 - (b) the functions of an internal drainage board,
- as they apply in relation to any proposals relating to the functions of such an undertaker; and for the purposes of this subsection the reference in subsection (2)(a) above to the functions of the undertaker shall have effect as a reference to the functions of [^{F6}the Environment Agency][^{F7}, the NRBW,] or, as the case may be, of the internal drainage board in question.
- (5) Subject to obtaining the consent of any navigation authority, harbour authority or conservancy authority before doing anything which causes navigation which is subject to the control of that authority to be obstructed or otherwise interfered with, it shall be the duty of every company holding an appointment as a relevant undertaker to take such steps as are—
- (a) reasonably practicable; and
 - (b) consistent with the purposes of the enactments relating to the functions of the undertaker in question,
- for securing, so long as that company has rights to the use of water or land associated with water, that those rights are exercised so as to ensure that the water or land is made available for recreational purposes and is so made available in the best manner.
- (6) It shall be the duty of a company holding an appointment as a relevant undertaker, in determining what steps to take in performance of any duty imposed by virtue of subsection (5) above, to take into account the needs of persons who are chronically sick or disabled.
- (7) The obligations under this section of a company holding an appointment as a relevant undertaker shall be enforceable under section 18 below by the Secretary of State.
- (8) Nothing in this section or the following provisions of this Act shall require recreational facilities made available by a relevant undertaker to be made available free of charge.

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- (9) References in this section to the functions of a relevant undertaker shall be construed, without prejudice to section 156(7) below, as if those functions included the management, by a company holding an appointment as such an undertaker, of any land for the time being held by that company for any purpose whatever (whether or not connected with the carrying out of the functions of a relevant undertaker).
- (10) In this section “building” includes structure.

Textual Amendments

- F1** S. 3(1)(b) repealed (27.3.2002) by The Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002; S.I. 2002/794, art. 5(2), 6, **Sch. 2**
- F2** Words in s. 3(2)(a) inserted (1.4.2004) by Water Act 2003 (c. 37), **ss. 82, 105(3)**; S.I. 2004/641, **art. 3(u)** (with art. 6, Sch. 3)
- F3** Words in s. 3(4) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 97** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F4** Word in s. 3(4)(a) omitted (1.4.2013) by virtue of The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), **Sch. 2 para. 224(2)** (with Sch. 7)
- F5** S. 3(4)(aa) inserted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), **Sch. 2 para. 224(3)** (with Sch. 7)
- F6** Words in s. 3(4) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 97** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F7** Words in s. 3(4) inserted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), **Sch. 2 para. 224(4)** (with Sch. 7)

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