



# Water Act 2003

## 2003 CHAPTER 37

### PART 4

#### SUPPLEMENTARY

#### 100 Devolution: Wales

- (1) In the entry relating to the Reservoirs Act 1975 (c. 23) in Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 (SI 1999/672) (referred to in this section as “the Order”), at the end there is inserted “ except section 12A(4). ”.
- (2) The entry relating to the WIA in Schedule 1 to the Order is amended as follows—
  - (a) in the list of sections conferring on the Secretary of State functions which are not transferred by the Order—
    - (i) after “sections 1,” there is inserted “ 2A, ”,
    - (ii) for “17” there is substituted “ 16A, 17 to 17D, 17F to 17K, 17N to 17P, 17R, 22A to 22F, ”,
    - (iii) after “27(3),” there is inserted “ 27A, 27B, 27E, 27G, 27I to 27K, 29, 29A, ”,
    - (iv) after “35,” there is inserted “ 38B, 66B, 66F to 66L, 86(1A), 87B, 88A, 89, ”,
    - (v) after “92,” there is inserted “ 95B, ”,
    - (vi) after “152(2),” there is inserted “ 192A, 192B, ”,
    - (vii) before “206(3)(e)” there is inserted “ 195A, ”,
    - (viii) after “Schedules 1” there is inserted “ , 1A, 3A, ”,
    - (ix) at the end there is inserted “ and except functions under such other sections or Schedules as are expressly stated in the succeeding paragraphs to be so excepted (but only to the extent stated). ”,
  - (b) in the paragraph relating to functions under sections 2, 5 (etc)—
    - (i) the reference to section 2 is omitted,
    - (ii) the reference to sections 18 to 22 is omitted,
    - (iii) for “37 to 39” there is substituted “ 37, 38, 39, 51A ”,

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*Status: Point in time view as at 01/04/2004. This version of this provision has been superseded.*

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- (iv) the reference to sections 68 to 70 is omitted,
  - (v) the reference to section 93A is omitted,
  - (vi) for “94 to 96,” there is substituted “ 94, 95, 96, ”,
  - (vii) after “104,” there is inserted “ 105A to 105C, ”,
  - (viii) for “198 to 203” there is substituted “ 198 to 200 ”,
  - (ix) the reference to section 205 is omitted,
  - (x) at the end there is inserted “ (but not in relation to any licensed water suppliers). ”,
- (c) the paragraph relating to section 28(4) is omitted,
- (d) before the paragraph relating to functions under section 67 there is inserted—
- “Functions under sections 2, 18 to 22, 68 to 70, 93A and 201 to 203 are transferred to the Assembly in relation to—
- (a) any water or sewerage undertaker whose area is wholly or mainly in Wales;
  - (b) any licensed water supplier so far as relating to licensed activities using the supply system of any such water undertaker; and
  - (c) in the case of functions under section 70, any other person who is a relevant person (as defined in that section) in relation to any such undertaker or licensed water supplier.”,
- (e) in the paragraph relating to functions under section 67, for paragraphs (a) and (b) there is substituted—
- “(a) for the making of regulations concerning water supplied using the supply system of a water undertaker, the function is transferred in relation to the supply system of any water undertaker whose area is wholly or mainly in Wales;
  - (b) for the making of regulations concerning water supplied other than using the supply system of a water undertaker, the function is transferred in relation to Wales.”,
- (f) in the paragraph relating to functions under sections 3, 86 (etc), for “86” there is substituted “ 86 (except subsection (1A)) ”,
- (g) after that paragraph there is inserted—
- “In respect of the functions under sections 37A to 37D, 39B and 39C it is provided as follows—
- (a) functions under those provisions so far as relating to matters concerning the construction or enlargement of reservoirs are transferred to the Assembly in relation to Wales;
  - (b) functions under those provisions so far as relating to matters other than the construction or enlargement of reservoirs are transferred to the Assembly in relation to any water undertaker whose area is wholly or mainly in Wales; and
  - (c) the functions of the Assembly referred to in paragraph (b) above so far as they are exercisable in relation to England shall be exercisable only after consultation with the Secretary of State.”,

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- (h) in the paragraph relating to section 152(1), after “Wales” there is inserted “ or (so far as relating to licensed activities using the supply system of any such water undertaker) any licensed water supplier ”,
- (i) for the paragraph relating to section 208 there is substituted—

“In respect of the functions under section 208 it is provided as follows—

- (a) the functions under that section of giving directions for the purpose of mitigating the effects of any civil emergency and the function (in the case of sub-paragraphs (i) and (ii) below) of enforcing such directions are transferred to the Assembly—

- (i) in relation to any water or sewerage undertaker whose area is wholly or mainly in Wales;
- (ii) in relation to any licensed water supplier so far as relating to licensed activities using the supply system of any such water undertaker; and
- (iii) in relation to the Consumer Council for Water so far as relating to its functions in connection with any such water undertaker; and

- (b) it is directed that the other functions under that section shall be exercisable by the Assembly concurrently with the Secretary of State in relation to the bodies and so far as mentioned in paragraph (a)(i) to (iii) above.”,

- (j) in the paragraph relating to Article 2(c), at the end there is inserted “ or any licensed water supplier using the supply system of any such water undertaker.”

- (3) In Schedule 2 to the Order, after the entry relating to the Environmental Protection Act 1990 there is inserted a new entry as follows—

**Water Industry Act 1991 c 56**

The functions of the Secretary of State under sections 37A to 37D, 39B and 39C so far as relating to matters other than the construction or enlargement of reservoirs shall be exercisable only after consultation with the Assembly.”

- (4) The entry relating to the WRA in Schedule 1 to the Order is amended as follows—

- (a) in the paragraph referring to the functions of a Minister of the Crown under sections 20(3) and 75(5)(c), after “20(3)” there is inserted “ , 20B(3) ”, and
- (b) in the list of provisions under which there are transferred functions of the Secretary of State to which paragraph 6 of Schedule 3 to the Government of Wales Act 1998 (c. 38) is applied, in the appropriate places there is inserted—
  - (i) “section 27A and (so far as it relates to section 27A) Schedule 6,”
  - (ii) “section 33A,”
  - (iii) “section 51(1C) to 51(1F),”

and in the entry in that list relating to section 161C, after “regulations)” there is inserted “ , but not including section 161C as applied by section 25B. ”.

- (5) The entry relating to the Environment Act 1995 (c. 25) in Schedule 1 to the Order is amended as follows—

- (a) after paragraph (e) in the list of sections conferring functions which are not transferred by the Order there is inserted—

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- “(f) functions exercisable by the Secretary of State in pursuance of sub-paragraph (bb) of the definition of “the relevant Minister” in paragraph 1(5) of Schedule 4;
- (g) the function of the Secretary of State under section 16A(5)(a);”;
- (b) after paragraph (e) of the list of functions which are transferred not in relation to Wales but in the manner specified there is inserted—
  - “(ea) functions under section 18A are transferred to the Assembly in relation to the local flood defence scheme for a district which is in the area of a regional flood defence committee the whole or the greater part of which is in Wales;”.
- (6) Subject to subsections (1) to (5), the references in Schedule 1 to the Order to—
  - (a) the WIA generally and to specific sections of or Schedules to the WIA,
  - (b) the WRA generally and to specific sections of or Schedules to the WRA,
  - (c) the Reservoirs Act 1975 (c. 23), the Environmental Protection Act 1990 (c. 43), the Land Drainage Act 1991 (c. 59) and the Environment Act 1995 (c. 25) generally and (where applicable) to specific sections of or Schedules to those Acts, and
  - (d) any other Act generally and (where applicable) to specific sections of or Schedules to those Acts,
 are to be treated as referring to those Acts (or those sections or Schedules) as amended by this Act.
- (7) Subsection (6), and the amendments made by subsections (1) to (5), do not affect the power to make further Orders varying or omitting the references mentioned in subsection (6) or the provisions amended by subsections (1) to (5).

#### Commencement Information

- I1** S. 100(2)(a)(ii)(iv)(ix)(b)(iv)(viii)(x)(d)(e)(f)(i)(j) in force at 1.4.2004 for specified purposes by S.I. 2004/641, **art. 3(x)(i)** (with Sch. 3 para. 7)
- I2** S. 100(4)(b)(i)(ii) in force at 1.4.2004 by S.I. 2004/641, **art. 3(x)(ii)** (with Sch. 3 para. 7)
- I3** S. 100(5) in force at 1.4.2004 by S.I. 2004/641, **art. 3(x)(iii)** (with Sch. 3 para. 7)
- I4** S. 100(6) in force at 17.3.2004 for specified purposes by S.I. 2004/641, **art. 2(b)(i)** (with Sch. 3 para. 7)
- I5** S. 100(6) in force at 1.4.2004 for specified purposes by S.I. 2004/641, **art. 3(x)(iv)** (with Sch. 3 para. 7)
- I6** S. 100(7) in force at 17.3.2004 for specified purposes by S.I. 2004/641, **art. 2(b)(ii)** (with Sch. 3 para. 7)
- I7** S. 100(7) in force at 1.4.2004 for specified purposes by S.I. 2004/641, **art. 3(x)(v)** (with Sch. 3 para. 7)

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