



Water Act 1989

1989 CHAPTER 15

PART III

THE PROTECTION AND MANAGEMENT OF RIVERS AND OTHER WATERS

CHAPTER I

CONTROL OF POLLUTION

General provisions

103 Waters to which Chapter I applies

- (1) This Chapter applies to any waters (in this Chapter referred to as “controlled waters”) of any of the following classes—
- (a) relevant territorial waters, that is to say, subject to subsection (5) below, the waters which extend seaward for three miles from the baselines from which the breadth of the territorial sea adjacent to England and Wales is measured;
 - (b) coastal waters, that is to say, any waters which are within the area which extends landward from those baselines as far as the limit of the highest tide or, in the case of the waters of any relevant river or watercourse, as far as the fresh-water limit of the river or watercourse, together with the waters of any enclosed dock which adjoins waters within that area;
 - (c) inland waters, that is to say, the waters of any relevant lake or pond or of so much of any relevant river or watercourse as is above the fresh-water limit;
 - (d) ground waters, that is to say, any waters contained in underground strata, or in—
 - (i) a well, borehole or similar work sunk into underground strata, including any adit or passage constructed in connection with the well, borehole or work for facilitating the collection of water in the well, borehole or work; or

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- (ii) any excavation into underground strata where the level of water in the excavation depends wholly or mainly on water entering it from the strata.

(2) The Secretary of State—

- (a) shall deposit maps with the Authority showing what appear to him to be the fresh-water limits of every relevant river or watercourse; and
- (b) may from time to time, if he considers it appropriate to do so by reason of any change of what appears to him to be the fresh-water limit of any river or watercourse, deposit a map showing a revised limit for that river or watercourse;

and in subsection (1) above “fresh-water limit”, in relation to any river or watercourse, means the place for the time being shown as the fresh-water limit of that river or watercourse in the latest map deposited for that river or watercourse under this subsection.

- (3) It shall be the duty of the Authority to keep any maps deposited with it under subsection (2) above available, at all reasonable times, for inspection by the public free of charge.

(4) In this section—

“miles” means international nautical miles of 1,852 metres;

“lake or pond” includes a reservoir of any description;

“relevant lake or pond” means (subject to subsection (5) below) any lake or pond which (whether it is natural or artificial or above or below ground) discharges into a relevant river or watercourse or into another lake or pond which is itself a relevant lake or pond;

“relevant river or watercourse” means (subject to subsection (5) below) any river or watercourse (including an underground river or watercourse and an artificial river or watercourse) which is neither a public sewer nor a sewer or drain which drains into a public sewer.

(5) The Secretary of State may by order provide—

- (a) that any area of the territorial sea adjacent to England and Wales is to be treated as if it were an area of relevant territorial waters for the purposes of this Chapter;
- (b) that any lake or pond which does not discharge into a relevant river or watercourse or into a relevant lake or pond is to be treated for those purposes as a relevant lake or pond;
- (c) that a lake or pond which does so discharge and is of a description specified in the order is to be treated for those purposes as if it were not a relevant lake or pond;
- (d) that a watercourse of a description so specified is to be treated for those purposes as if it were not a relevant river or watercourse.

- (6) The power of the Secretary of State to make an order under subsection (5) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament; and such an order may—

- (a) contain such supplemental, consequential and transitional provision as the Secretary of State considers appropriate; and
- (b) make different provision for different cases, including different provision in relation to different persons, circumstances or localities.

104 Classification of quality of waters

- (1) The Secretary of State may, in relation to any description of controlled waters (being a description applying to some or all of the waters of a particular class or of two or more different classes), by regulations prescribe a system of classifying the quality of those waters according to criteria specified in the regulations.
- (2) The criteria specified in regulations under this section in relation to any classification shall consist of one or more of the following, that is to say—
 - (a) general requirements as to the purposes for which the waters to which the classification is applied are to be suitable;
 - (b) specific requirements as to the substances that are to be present in or absent from the water and as to the concentrations of substances which are or are required to be present in the water;
 - (c) specific requirements as to other characteristics of those waters;and for the purposes of any such classification regulations under this section may provide that the question whether prescribed requirements are satisfied may be determined by reference to such samples as may be prescribed.

105 Water quality objectives

- (1) For the purpose of maintaining and improving the quality of controlled waters the Secretary of State may, by serving a notice on the Authority specifying—
 - (a) one or more of the classifications for the time being prescribed under section 104 above; and
 - (b) in relation to each specified classification, a date,establish the water quality objectives for any waters which are, or are included in, waters of a description prescribed for the purposes of that section.
- (2) The water quality objectives for any waters to which a notice under this section relates shall be the satisfaction by those waters, on and at all times after each date specified in the notice, of the requirements which at the time of the notice were the requirements for the classification in relation to which that date is so specified.
- (3) Where the Secretary of State has established water quality objectives under this section for any waters he may review objectives for those waters if—
 - (a) five years or more have elapsed since the service of the last notice under subsection (1) or (6) of this section to be served in respect of those waters; or
 - (b) the Authority, after consultation with such water undertakers and other persons as it considers appropriate, requests a review;and the Secretary of State shall not exercise his power to establish objectives for any waters by varying the existing objectives for those waters except in consequence of such a review.
- (4) Where the Secretary of State proposes to exercise his power under this section to establish or vary the objectives for any waters he shall—
 - (a) give notice setting out his proposal and specifying the period (not being less than three months from the date of publication of the notice) within which representations or objections with respect to the proposal may be made; and
 - (b) consider any representations or objections which are duly made and not withdrawn;

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and, if he decides, after considering any such representations or objections, to exercise his power to establish or vary those objectives, he may do so either in accordance with the proposal contained in the notice or in accordance with that proposal as modified in such manner as he considers appropriate.

- (5) A notice under subsection (4) above shall be given—
- (a) by publishing the notice in such manner as the Secretary of State considers appropriate for bringing it to the attention of persons likely to be affected by it; and
 - (b) by serving a copy of the notice on the Authority.
- (6) If, on a review under this section or in consequence of any representations or objections made following such a review for the purposes of subsection (4) above, the Secretary of State decides that the water quality objectives for any waters should remain unchanged, he shall serve notice of that decision on the Authority.

106 General duties to achieve and maintain objectives etc

- (1) It shall be the duty of the Secretary of State and of the Authority to exercise the powers conferred on him or it by or under the following provisions of this Chapter in such manner as ensures, so far as it is practicable by the exercise of those powers to do so, that the water quality objectives specified for any waters in a notice under section 105 above, or in a notice under section 30C of the Control of Pollution Act 1974, are achieved at all times.
- (2) It shall be the duty of the Authority, for the purposes of the carrying out of its functions under this Chapter, to monitor the extent of pollution in controlled waters and to consult, in such cases as it may consider appropriate, with river purification authorities in Scotland.

Controlling and remedying pollution

107 Offences of polluting controlled waters etc

- (1) Subject to section 108 below, a person contravenes this section if he causes or knowingly permits—
- (a) any poisonous, noxious or polluting matter or any solid waste matter to enter any controlled waters; or
 - (b) any matter, other than trade effluent or sewage effluent, to enter controlled waters by being discharged from a drain or sewer in contravention of a relevant prohibition; or
 - (c) any trade effluent or sewage effluent to be discharged—
 - (i) into any controlled waters; or
 - (ii) from land in England and Wales, through a pipe, into the sea outside the seaward limits of controlled waters;
- or
- (d) any trade effluent or sewage effluent to be discharged, in contravention of any relevant prohibition, from a building or from any fixed plant on to or into any land or into any waters of a lake or pond which are not inland waters; or
 - (e) any matter whatever to enter any inland waters so as to tend (either directly or in combination with other matter which he or another person causes or permits

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to enter those waters) to impede the proper flow of the waters in a manner leading or likely to lead to a substantial aggravation of—

- (i) pollution due to other causes; or
- (ii) the consequences of such pollution.

(2) For the purposes of this section a discharge of any effluent or other matter is, in relation to any person, in contravention of a relevant prohibition if—

- (a) the Authority has given that person notice prohibiting him from making or, as the case may be, continuing the discharge;
- (b) the Authority has given that person notice prohibiting him from making or, as the case may be, continuing the discharge unless specified conditions are observed, and those conditions are not observed; or
- (c) the effluent or matter discharged contains a prescribed substance or a prescribed concentration of such a substance or derives from a prescribed process or from a process involving the use of prescribed substances or the use of such substances in quantities which exceed the prescribed amounts;

but nothing in this subsection shall authorise the giving of such a notice in respect of discharges from a vessel and nothing in any regulations made by virtue of paragraph (c) above shall require any discharge from a vessel to be treated as a discharge in contravention of a relevant prohibition.

(3) A notice given for the purposes of subsection (2)(a) or (b) above shall expire at such time as may be specified in the notice; and that time shall not be before the end of the period of three months beginning with the day on which the notice is given except in a case where the Authority is satisfied that there is an emergency which requires the relevant prohibition in question to come into force at such time before the end of that period as may be so specified.

(4) Where, in the case of such a notice for the purposes of subsection (2)(a) or (b) above as (but for this subsection) would expire at a time which is or is after the end of the said period of three months, an application is made before that time for a consent under this Chapter in respect of the discharge to which the notice relates, that notice shall be deemed not to expire until the result of the application becomes final—

- (a) on the grant or withdrawal of the application;
- (b) on the expiration, without the bringing of an appeal with respect to the decision on the application, of any period prescribed as the period within which any such appeal must be brought; or
- (c) on the withdrawal or determination of any such appeal.

(5) For the purposes of this section where—

- (a) any sewage effluent is discharged as mentioned in subsection (1)(c) or (d) above from any sewer or works vested in a sewerage undertaker; and
- (b) the undertaker did not cause or knowingly permit the discharge but was bound (either unconditionally or subject to conditions which were observed) to receive into the sewer or works matter included in the discharge,

the undertaker shall be deemed to have caused the discharge.

(6) A person who contravenes this section or the conditions of any consent given under this Chapter for the purposes of this section shall be guilty of an offence and liable—

- (a) on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding the statutory maximum or to both;

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- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

108 Authority for discharges and other defences for the purposes of section 107

- (1) A person shall not be guilty of an offence under section 107 above in respect of the entry of any matter into any waters or any discharge if the entry occurs or the discharge is made under and in accordance with, or as a result of any act or omission under and in accordance with—
 - (a) a consent given under this Chapter or under Part II of the Control of Pollution Act 1974;
 - (b) a disposal licence;
 - (c) a licence granted under Part II of the Food and Environment Protection Act 1985;
 - (d) any local statutory provision or statutory order which expressly confers power to discharge effluent into water; or
 - (e) any prescribed enactment;
 but nothing in any disposal licence shall be treated for the purposes of this subsection as authorising any such entry or discharge as is mentioned in paragraphs (b) to (d) of section 107(1) above or as authorising any act or omission so far as it results in any such entry or discharge.
- (2) A person shall not be guilty of an offence under section 107 above in respect of the entry of any matter into any waters or any discharge if—
 - (a) the entry is caused or permitted, or the discharge is made, in an emergency in order to avoid danger to life or health;
 - (b) that person takes all such steps as are reasonably practicable in the circumstances for minimising the extent of the entry or discharge and of its polluting effects; and
 - (c) particulars of the entry or discharge are furnished to the Authority as soon as reasonably practicable after it occurs.
- (3) A person shall not be guilty of an offence under section 107 above by reason of his causing or permitting any discharge of trade or sewage effluent from a vessel.
- (4) A person shall not be guilty of an offence under section 107 above by reason only of his permitting water from an abandoned mine to enter controlled waters.
- (5) A person shall not, otherwise than in respect of the entry of any poisonous, noxious or polluting matter into any controlled waters, be guilty of an offence under section 107 above by reason of his depositing the solid refuse of a mine or quarry on any land so that it falls or is carried into inland waters if—
 - (a) he deposits the refuse on the land with the consent of the Authority;
 - (b) no other site for the deposit is reasonably practicable; and
 - (c) he takes all reasonably practicable steps to prevent the refuse from entering those inland waters.
- (6) A highway authority or other person entitled to keep open a drain by virtue of section 100 of the Highways Act 1980 shall not be guilty of an offence under section 107 above by reason of his causing or permitting any discharge to be made from a drain kept open by virtue of that section unless the discharge is made in contravention of a relevant prohibition under section 107 above.

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- (7) A sewerage undertaker shall not be guilty of an offence under section 107 above by reason only of the fact that a discharge from a sewer or works vested in the undertaker contravenes conditions of a consent relating to the discharge if—
- (a) the contravention is attributable to a discharge which another person caused or permitted to be made into the sewer or works;
 - (b) the undertaker either was not bound to receive the discharge into the sewer or works or was bound to receive it there subject to conditions which were not observed; and
 - (c) the undertaker could not reasonably have been expected to prevent the discharge into the sewer or works.
- (8) A person shall not be guilty of an offence under section 107 above in respect of a discharge which he caused or permitted to be made into a sewer or works vested in a sewerage undertaker if the undertaker was bound to receive the discharge there either unconditionally or subject to conditions which were observed.
- (9) In this section—
- “disposal licence” has the same meaning as in Part I of the Control of Pollution Act 1974; and
- “statutory order” means an order under section 155 below or any order, byelaw, scheme or award made under any other enactment, including an order or scheme confirmed by Parliament or brought into operation in accordance with special parliamentary procedure.

109 Deposits and vegetation in rivers etc

- (1) A person shall be guilty of an offence under this section if, without the consent of the Authority, he—
- (a) removes from any part of the bottom, channel or bed of any inland waters a deposit accumulated by reason of any dam, weir or sluice holding back the waters; and
 - (b) does so by causing the deposit to be carried away in suspension in the waters.
- (2) A person shall be guilty of an offence under this section if, without the consent of the Authority, he—
- (a) causes or permits a substantial amount of vegetation to be cut or uprooted in any inland waters, or to be cut or uprooted so near to any such waters that it falls into them; and
 - (b) fails to take all reasonable steps to remove the vegetation from those waters.
- (3) A person guilty of an offence under this section shall be liable, on summary conviction, to a fine not exceeding level 4 on the standard scale.
- (4) Nothing in subsection (1) above applies to anything done in the exercise of any power conferred by or under any enactment relating to land drainage, flood prevention or navigation.
- (5) In giving a consent for the purposes of this section the Authority may make the consent subject to such conditions as it considers appropriate.
- (6) The Secretary of State may by regulations provide that any reference to inland waters in subsection (1) or (2) above shall be construed as including a reference to such coastal waters as may be prescribed.

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110 Requirements to take precautions against pollution

- (1) The Secretary of State may by regulations make provision—
 - (a) for prohibiting a person from having custody or control of any poisonous, noxious or polluting matter unless prescribed works and prescribed precautions and other steps have been carried out or taken for the purpose of preventing or controlling the entry of the matter into any controlled waters;
 - (b) for requiring a person who already has custody or control of, or makes use of, any such matter to carry out such works for that purpose and to take such precautions and other steps for that purpose as may be prescribed.
- (2) Without prejudice to the generality of the power conferred by subsection (1) above, regulations under that subsection may—
 - (a) confer power on the Authority—
 - (i) to determine for the purposes of the regulations the circumstances in which a person is required to carry out works or take any precautions or other steps; and
 - (ii) by notice to that person, to impose the requirement and to specify or describe the works, precautions or other steps which that person is required to carry out or take;
 - (b) provide for appeals to the Secretary of State against notices served by the Authority in pursuance of provision made by virtue of paragraph (a) above; and
 - (c) provide that a contravention of the regulations shall be an offence the maximum penalties for which shall not exceed the penalties specified in subsection (6) of section 107 above.

111 Water protection zones

- (1) Where the Secretary of State, after consultation (in the case of an area wholly or partly in England) with the Minister, considers that it is appropriate, with a view to preventing or controlling the entry of any poisonous, noxious or polluting matter into controlled waters, to prohibit or restrict the carrying on in a particular area of activities which he considers are likely to result in the pollution of any such waters, he may by order make provision—
 - (a) designating that area as a water protection zone; and
 - (b) prohibiting or restricting the carrying on in the designated area of such activities as may be specified or described in the order.
- (2) Without prejudice to the generality of the power conferred by virtue of subsection (1) above, an order under this section may—
 - (a) confer power on the Authority to determine for the purposes of the order the circumstances in which the carrying on of any activities is prohibited or restricted and to determine the activities to which any such prohibition or restriction applies;
 - (b) apply a prohibition or restriction in respect of any activities to cases where the activities are carried on without the consent of the Authority or in contravention of any conditions subject to which any such consent is given;
 - (c) provide that a contravention of a prohibition or restriction contained in the order or of a condition of a consent given for the purposes of any such prohibition or restriction shall be an offence the maximum penalties for which shall not exceed the penalties specified in subsection (6) of section 107 above;

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- (d) provide (subject to any regulations under subsection (4) below) for anything falling to be determined under the order by the Authority to be determined in accordance with such procedure and by reference to such matters and to the opinion of such persons as may be specified in the order;
 - (e) make different provision for different cases, including different provision in relation to different persons, circumstances or localities; and
 - (f) contain such supplemental, consequential and transitional provision as the Secretary of State considers appropriate.
- (3) The power of the Secretary of State to make an order under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament; but the Secretary of State shall not make such an order except—
- (a) in accordance with Schedule 7 to this Act; and
 - (b) on an application made in accordance with that Schedule by the Authority.
- (4) The Secretary of State may, for the purposes of any orders under this section which require the consent of the Authority to the carrying on of any activities, by regulations make provision with respect to—
- (a) applications for any such consent;
 - (b) the conditions of any such consent;
 - (c) the revocation or variation of any such consent;
 - (d) appeals against determinations on any such application;
 - (e) the exercise by the Secretary of State of any power conferred on the Authority by the orders;
 - (f) the imposition of charges where such an application has been made, such a consent has been given or anything has been done in pursuance of any such consent; and
 - (g) the registration of any such application or consent;
- and, without prejudice to the generality of that power, regulations under this subsection may apply (with or without modifications) any enactment having effect in relation to consents under this Chapter.
- (5) The reference in subsection (1) above to the entry of poisonous, noxious or polluting matter into controlled waters shall not include a reference to the entry of nitrate into controlled waters as a result of, or of anything done in connection with, the use of any land for agricultural purposes.

112 Nitrate sensitive areas

- (1) Where the relevant Minister considers that it is appropriate to do so with a view to achieving the following purpose, that is to say, preventing or controlling the entry of nitrate into controlled waters as a result of, or of anything done in connection with, the use of any land for agricultural purposes, he may by order make provision designating that land, together with any other land to which he considers it appropriate to apply the designation, as a nitrate sensitive area.
- (2) Where any area has been designated as a nitrate sensitive area by an order under this section and the relevant Minister considers that it is appropriate to do so with a view to achieving the purpose mentioned in subsection (1) above, he may, subject to such restrictions (if any) as may be set out in the order, enter into an agreement under which, in consideration of payments to be made by the relevant Minister—

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- (a) the owner of the freehold interest in any agricultural land in that area; or
 - (b) where the owner of the freehold interest in any such land has given his written consent to the agreement being entered into by any person having another interest in that land, that other person,
- accepts such obligations with respect to the management of that land or otherwise as may be imposed by the agreement.
- (3) An agreement such as is mentioned in subsection (2) above between the relevant Minister and a person having an interest in any land shall bind all persons deriving title from or under that person to the extent that the agreement is expressed to bind that land in relation to those persons.
- (4) Where it appears to the relevant Minister in relation to any area which is or is to be designated by an order under this section as a nitrate sensitive area that it is appropriate for provision for the imposition of requirements, prohibitions or restrictions to be contained in an order under this section (as well as for him to be able to enter into such agreements as are mentioned in subsection (2) above), he may, by a subsequent order under this section or, as the case may be, by the order designating that area—
- (a) with a view to achieving the purpose mentioned in subsection (1) above, require, prohibit or restrict the carrying on on or in relation to any agricultural land in that area of such activities as may be specified or described in the order; and
 - (b) provide for such amounts (if any) as may be specified in or determined under the order to be paid by the Minister or the Secretary of State, to such persons as may be so specified or determined, in respect of the obligations imposed in relation to that area on those persons by virtue of paragraph (a) above.
- (5) Without prejudice to the generality of subsection (4) above, provision contained in an order under this section by virtue of that subsection may—
- (a) confer power on the Minister or the Secretary of State to determine for the purposes of the order the circumstances in which the carrying on of any activities is required, prohibited or restricted and to determine the activities to which any such requirement, prohibition or restriction applies;
 - (b) provide for any requirement to carry on any activity not to apply in cases where the Minister or the Secretary of State has consented to a failure to carry on that activity and any conditions on which the consent has been given are complied with;
 - (c) apply a prohibition or restriction in respect of any activities to cases where the activities are carried on without the consent of the Minister or the Secretary of State or in contravention of any conditions subject to which any such consent is given;
 - (d) provide that a contravention of a requirement, prohibition or restriction contained in the order or in a condition of a consent given in relation to or for the purposes of any such requirement, prohibition or restriction shall be an offence the maximum penalties for which shall not exceed the penalties specified in subsection (6) of section 107 above;
 - (e) provide for amounts paid in pursuance of any provision contained in the order to be repaid at such times and in such circumstances, and with such interest, as may be specified in or determined under the order; and
 - (f) provide (subject to any regulations under subsection (8) below) for anything falling to be determined under the order by any person to be determined in

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accordance with such procedure and by reference to such matters and to the opinion of such persons as may be specified in the order.

- (6) An order under this section may—
- (a) make different provision for different cases, including different provision in relation to different persons, circumstances or localities; and
 - (b) contain such supplemental, consequential and transitional provision as the relevant Minister considers appropriate.
- (7) The power of the relevant Minister to make an order under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament; but the relevant Minister shall not make such an order except in accordance with any applicable provisions of Schedule 11 to this Act.
- (8) The Secretary of State and the Minister, acting jointly, may, for the purposes of any orders under this section which require the consent of either of those Ministers to the carrying on of any activities or to any failure to carry on any activity, by regulations make provision with respect to—
- (a) applications for any such consent;
 - (b) the conditions of any such consent;
 - (c) the revocation or variation of any such consent;
 - (d) the reference to arbitration of disputes about determinations on any such application;
 - (e) the imposition of charges where such an application has been made, such a consent has been given or there has been any act or omission in pursuance of any such consent; and
 - (f) the registration of any such application or consent.
- (9) In this section and in Schedule 11 to this Act “the relevant Minister”—
- (a) in relation—
 - (i) to the making of an order in relation to an area which is wholly in Wales; or
 - (ii) to an agreement with respect to land which is wholly in Wales, means the Secretary of State;
 - (b) in relation to the making of an order in relation to an area which is wholly in England or which is partly in England and partly in Wales, means the Minister and the Secretary of State, acting jointly;
 - (c) in relation to an agreement with respect to land which is wholly in England, means the Minister; and
 - (d) in relation to an agreement with respect to land which is partly in England and partly in Wales, means the Secretary of State or the Minister.

113 Consents under Chapter I and application to the Authority

- (1) Schedule 12 to this Act (which makes provision with respect to the making of applications for consents under this Chapter, the giving of such consents and appeals) shall have effect.
- (2) The Secretary of State may by regulations—
- (a) make provision modifying the provisions of this Chapter in relation to cases in which consents under this Chapter are required by the Authority; and

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- (b) for the purposes of the application of the provisions of this Chapter in relation to discharges by the Authority, make such other modifications of those provisions as may be prescribed.
- (3) Without prejudice to the generality of subsection (2) above, regulations under that subsection may provide for such consents as are mentioned in paragraph (a) of that subsection to be required to be given by the Secretary of State (instead of by the Authority) and, in prescribed cases, to be deemed to have been so given.
- (4) A person shall not be guilty of an offence under section 4 of the Salmon and Freshwater Fisheries Act 1975 or section 68 of the Public Health Act 1875 (offences of causing pollution of certain waters) in respect of any entry of matter into any controlled waters which occurs—
 - (a) under and in accordance with a consent under this Chapter or under Part II of the Control of Pollution Act 1974; or
 - (b) as a result of any act or omission under and in accordance with such a consent.

114 Byelaws for preventing pollution of controlled waters

- (1) The Authority may by byelaws make such provision as the Authority considers appropriate—
 - (a) for prohibiting or regulating the washing or cleaning in any controlled waters of things of a description specified in the byelaws;
 - (b) for prohibiting or regulating the keeping or use on any controlled waters of vessels of a description specified in the byelaws which are provided with water closets or other sanitary appliances.
- (2) A person who contravenes any byelaws made by virtue of this section shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 4 on the standard scale or such smaller sum as may be specified in the byelaws.
- (3) In this section “sanitary appliance”, in relation to a vessel, means any appliance which, not being a sink, bath or shower bath, is designed to permit polluting matter to pass into the water where the vessel is situated and which is prescribed for the purposes of this section.

115 Anti-pollution works and operations

- (1) Subject to subsection (2) below, where it appears to the Authority that any poisonous, noxious or polluting matter or any solid waste matter is likely to enter, or to be or to have been present in, any controlled waters, the Authority shall be entitled to carry out the following works and operations, that is to say—
 - (a) in a case where the matter appears likely to enter any controlled waters, works and operations for the purpose of preventing it from doing so; or
 - (b) in a case where the matter appears to be or to have been present in any controlled waters, works and operations for the purpose—
 - (i) of removing or disposing of the matter;
 - (ii) of remedying or mitigating any pollution caused by its presence in the waters; or
 - (iii) so far as it is reasonably practicable to do so, of restoring the waters, including any flora and fauna dependent on the aquatic environment

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of the waters, to their state immediately before the matter became present in the waters.

- (2) Nothing in subsection (1) above shall entitle the Authority to impede or prevent the making of any discharge in pursuance of a consent given under this Chapter.
- (3) Where the Authority carries out any such works or operations as are mentioned in subsection (1) above, it shall, subject to subsection (4) below, be entitled to recover the expenses reasonably incurred in doing so from any person who, as the case may be—
 - (a) caused or knowingly permitted the matter in question to be present at the place from which it was likely, in the opinion of the Authority, to enter any controlled waters; or
 - (b) caused or knowingly permitted the matter in question to be present in any controlled waters.
- (4) No such expenses shall be recoverable from a person for any works or operations in respect of water from an abandoned mine which that person permitted to reach such a place as is mentioned in subsection (3) above or to enter any controlled waters.

116 Codes of good agricultural practice

- (1) The Secretary of State and the Minister, acting jointly, may by order made by statutory instrument approve any code of practice issued (whether by those Ministers or by another person) for the purpose of—
 - (a) giving practical guidance to persons engaged in agriculture with respect to activities that may affect controlled waters; and
 - (b) promoting what appear to them to be desirable practices by such persons for avoiding or minimising the pollution of any such waters,and may at any time by such an order approve a modification of such a code or withdraw their approval of such a code or modification.
- (2) A contravention of a code of practice as for the time being approved under this section shall not of itself give rise to any criminal or civil liability, but the Authority shall take into account whether there has been or is likely to be any such contravention in determining when and how it should exercise—
 - (a) its power, by giving a notice under section 107(2)(a) or (b) above, to impose a relevant prohibition; and
 - (b) any powers conferred on the Authority by regulations under section 110 above.
- (3) The Secretary of State and the Minister shall not make an order under this section unless they have first consulted the Authority.

Registers

117 Registers for the purposes of Chapter I

- (1) It shall be the duty of the Authority to maintain, in accordance with regulations made by the Secretary of State, registers containing prescribed particulars of—
 - (a) any notices of water quality objectives or other notices served under section 105 above;
 - (b) applications made for consents under this Chapter;

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- (c) consents given under this Chapter and the conditions to which the consents are subject;
 - (d) certificates issued under paragraph 1(7) of Schedule 12 to this Act; and
 - (e) the following, that is to say—
 - (i) samples of water or effluent taken for the purposes of this Chapter by the Authority and information produced by analyses of those samples;
 - (ii) such information with respect to samples of water or effluent taken by any other person and the analyses of those samples as is acquired by the Authority from any person under arrangements made by the Authority for the purposes of this Chapter; and
 - (iii) the steps taken in consequence of any such information as is mentioned in sub-paragraph (i) or (ii) above.
- (2) It shall be the duty of the Authority—
- (a) to secure that the contents of registers maintained by the Authority under this section are available, at all reasonable times, for inspection by the public free of charge; and
 - (b) to afford members of the public reasonable facilities for obtaining from the Authority, on payment of reasonable charges, copies of entries in any of the registers.

Provision and acquisition of information etc.

118 Information and assistance

- (1) It shall be the duty of the Authority, if and so far as it is requested to do so by the Secretary of State or the Minister, to give him all such advice and assistance as appears to it to be appropriate for facilitating the carrying out by the Secretary of State or the Minister of his functions under this Chapter.
- (2) Subject to subsection (3) below, the Secretary of State, the Minister or the Authority may serve on any person a notice requiring him to furnish the Secretary of State, the Minister or, as the case may be, the Authority, within a period or at times specified in the notice and in a form and manner so specified, with such information as is reasonably required by the Secretary of State or the Minister or by the Authority for the purpose of carrying out any of his or, as the case may be, its functions under this Chapter.
- (3) The Secretary of State or the Minister may by regulations make provision for restricting the information which may be required under subsection (2) above and for determining the form in which the information is to be so required.
- (4) A person who fails without reasonable excuse to comply with the requirements of a notice served on him under this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

119 Exchange of information with respect to pollution incidents etc

- (1) It shall be the duty of the Authority to provide a water undertaker with all such information to which this section applies as is in the possession of the Authority and is reasonably requested by the undertaker for purposes connected with the carrying out of its functions; and information provided to a water undertaker under this subsection

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shall be provided in such form and in such manner and at such times as the undertaker may reasonably require.

- (2) It shall be the duty of every water undertaker to provide the Authority with all such information to which this section applies as is in the possession of the undertaker and is reasonably requested by the Authority for purposes connected with the carrying out of any of its functions; and information provided to the Authority under this subsection shall be provided in such form and in such manner and at such times as the Authority may reasonably require.
- (3) Information provided under subsection (1) or (2) above to a water undertaker or to the Authority shall be provided free of charge.
- (4) The duties of a water undertaker under subsection (2) above shall be enforceable under section 20 above by the Secretary of State.
- (5) This section applies to information about the quality of any controlled waters or of any other waters or about any incident in which any poisonous, noxious or polluting matter or any solid waste matter has entered any controlled waters or other waters.

120 Local inquiries for the purposes of Chapter I

The Secretary of State may cause a local inquiry to be held in any case in which he considers it appropriate for such an inquiry to be held—

- (a) for the purposes of the establishment or review under section 105 above of any water quality objectives or otherwise in connection with any provision of this Chapter;
- (b) with a view to preventing or dealing with pollution of any controlled waters; or
- (c) in relation to any other matter relevant to the quality of any such waters.

Criminal and civil liability

121 Offences under Chapter I

- (1) Without prejudice to section 177 below, where the commission by any person of an offence under this Chapter is due to the act or default of some other person, that other person may be charged with and convicted of the offence whether or not proceedings for the offence are taken against the first-mentioned person.
- (2) Notwithstanding anything in section 127 of the Magistrates' Courts Act 1980 (time limit for summary proceedings), a magistrates' court may try any summary offence under this Chapter, or under any subordinate legislation made under this Chapter, if the information is laid not more than twelve months after the commission of the offence.

122 Civil liability and savings

Except in so far as this Chapter expressly otherwise provides and subject to the provisions of section 18 of the Interpretation Act 1978 (which relates to offences under two or more laws), nothing in this Chapter —

- (a) confers a right of action in any civil proceedings (other than proceedings for the recovery of a fine) in respect of any contravention of this Chapter or any subordinate legislation, consent or other instrument made, given or issued under this Chapter;

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- (b) derogates from any right of action or other remedy (whether civil or criminal) in proceedings instituted otherwise than under this Chapter; or
- (c) affects any restriction imposed by or under any other enactment, whether public, local or private.

Supplemental provisions of Chapter I

123 Application to radioactive substances

- (1) Except as provided by regulations made by the Secretary of State under this section, nothing in this Chapter shall apply in relation to radioactive waste within the meaning of the Radioactive Substances Act 1960.
- (2) The Secretary of State may by regulations—
 - (a) provide for prescribed provisions of this Chapter to have effect with such modifications as he considers appropriate for dealing with such waste;
 - (b) make such modifications of the said Act of 1960 or, in relation to such waste, of any other Act as he considers appropriate in consequence of the provisions of this Chapter and of any regulations made by virtue of paragraph (a) above.

124 Interpretation of Chapter I

- (1) In this Chapter, except in so far as the context otherwise requires—
 - “agriculture” and “agricultural” have the same meanings as in the Agriculture Act 1947;
 - “coastal waters”, “controlled waters”, “ground waters”, “inland waters” and “relevant territorial waters” have the meanings given by section 103(1) above;
 - “local authority” includes the council of any county;
 - “mine” and “quarry” have the same meanings as in the Mines and Quarries Act 1954;
 - “sewage effluent” includes any effluent from the sewage disposal or sewerage works of a sewerage undertaker but does not include surface water;
 - “trade effluent” includes any effluent which is discharged from premises used for carrying on any trade or industry, other than surface water and domestic sewage.
- (2) In this Chapter—
 - (a) any reference to the waters of any lake or pond or of any river or watercourse includes a reference to the bottom, channel or bed of any lake, pond, river or, as the case may be, watercourse which is for the time being dry; and
 - (b) any reference to water contained in underground strata is a reference to water so contained otherwise than in a sewer, pipe, reservoir, tank or other underground works constructed in any such strata.
- (3) For the purposes of the definition of “trade effluent” in subsection (1) above any premises wholly or mainly used (whether for profit or not) for agricultural purposes or for the purposes of fish farming or for scientific research or experiment shall be deemed to be premises used for carrying on a trade.

CHAPTER II

WATER RESOURCES

General provisions

125 General functions in relation to water resources

- (1) It shall be the duty of the Authority to take all such action as it may from time to time consider, in accordance (if any have been given for the purposes of this section) with the directions of the Secretary of State, to be necessary or expedient for the purpose—
 - (a) of conserving, redistributing or otherwise augmenting water resources in England and Wales; and
 - (b) of securing the proper use of water resources in England and Wales.
- (2) Nothing in this section shall be construed as relieving any water undertaker of the obligation to develop water resources for the purpose of performing any duty imposed on it by virtue of section 37 above.

126 Water resources management schemes

- (1) It shall be the duty of the Authority so far as reasonably practicable to enter into and maintain such arrangements with water undertakers for securing the proper management or operation of—
 - (a) the waters which are available to be used by water undertakers for the purposes of, or in connection with, the carrying out of their functions; and
 - (b) any reservoirs, apparatus or other works which belong to, are operated by or are otherwise under the control of water undertakers for the purposes of, or in connection with, the carrying out of their functions,as the Authority from time to time considers appropriate for the purpose of carrying out its functions under section 125(1) above.
- (2) Without prejudice to the power of the Authority and any water undertaker to include any such provision as may be agreed between them in arrangements under this section, such arrangements may—
 - (a) make provision by virtue of subsection (1)(a) above with respect to the construction or installation of any reservoirs, apparatus or other works which will be used by the undertaker in the carrying out of its functions;
 - (b) contain provision requiring payments to be made by the Authority to the undertaker; and
 - (c) require the reference to and determination by the Secretary of State or the Director of questions arising under the arrangements.
- (3) The Authority shall send a copy of any arrangements entered into by it under this section to the Secretary of State; and the obligations of a water undertaker by virtue of any such arrangements shall be enforceable under section 20 above by the Secretary of State.

127 Minimum acceptable river flows

- (1) Section 19 of the Water Resources Act 1963 (minimum acceptable flows) shall be amended as follows.
- (2) For subsections (1) and (3) (duty to determine minimum acceptable flows as soon as practicable) there shall be substituted the following subsections—
 - “(1) The National Rivers Authority may, if it thinks it appropriate to do so, submit a draft statement to the Secretary of State containing, in relation to any inland water (other than one falling within section 2(3) of this Act)—
 - (a) provision for determining the minimum acceptable flow for that inland water; or
 - (b) where any provision for determining such a flow is for the time being in force in relation to that inland water, provision for amending that provision or for replacing it with different provision for determining the minimum acceptable flow for that water.
 - (2) If the National Rivers Authority is directed by the Secretary of State to consider whether the minimum acceptable flow for any particular inland water ought to be determined or reviewed, that Authority shall consider that matter as soon as reasonably practicable after being directed to do so and, after considering it, shall submit to the Secretary of State with respect to that water either—
 - (a) such a draft statement as is mentioned in subsection (1) of this section; or
 - (b) a draft statement that no such flow ought to be determined for that water or, as the case may require, that the minimum acceptable flow for that inland water does not need to be changed.
 - (3) The provision contained in any statement for determining the minimum acceptable flow for any inland water shall, in relation to the inland water to which it relates, set out—
 - (a) the control points at which the flow in the water is to be measured and the method of measurement which is to be used at each control point; and
 - (b) the flow which is to be the minimum acceptable flow at each control point or, where appropriate, the flows which are to be the minimum acceptable flows at each such point for the different times or periods specified in the statement.”
- (3) In subsections (4) and (5) (procedure in relation to draft statements)—
 - (a) for any reference to a water authority there shall be substituted a reference to the Authority;
 - (b) for any reference to statutory water undertakers there shall be substituted a reference to a water undertaker.
- (4) In subsection (5), for the words from “to the character” to “to time” there shall be substituted the words —
 - “(a) to the flow of water in the inland water from time to time;
 - (b) in the light of the duties of the National Rivers Authority under sections 8 and 9 of the Water Act 1989 (general environmental duties), to the character of the inland water and its surroundings; and

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- (c) to any water quality objectives established under Chapter I of Part III of that Act in relation to the inland water or any other inland water which may be affected by the flow in the inland water in question”.
- (5) In subsection (6) (application of provisions in Schedule 7 to draft statements), at the end there shall be inserted the words “; and, without prejudice to the generality of paragraph 7 of that Schedule, the power of the Secretary of State under that paragraph to alter a draft statement under this section before approving it shall include power to substitute a statement containing or amending any such provision as is mentioned in subsection (3) of this section for such a draft statement as is mentioned in subsection (2)(b) of this section.”
- (6) After subsection (6) there shall be inserted the following subsection—
- “(7) The approval under Schedule 7 to this Act of a draft statement under this section shall bring into force, on the date specified in that approval, so much of that statement, as approved, as contains provision for determining, amending or replacing the minimum acceptable flow for any inland water; and in the following provisions of this Act any reference to the minimum acceptable flow, in relation to any inland water, is a reference to the minimum acceptable flow as for the time being contained in provisions which are in force under this subsection in relation to that water.”

128 Modifications of the Water Resources Act 1963

Schedule 13 to this Act shall have effect for transferring the functions of water authorities under the provisions of the Water Resources Act 1963 (other than section 19) to the Authority and for making amendments of that Act, including amendments consequential on section 127 above.

129 Charges in respect of the carrying out of functions under the 1963 Act

- (1) Where—
- (a) an application is made for any licence under the Water Resources Act 1963 or for the variation of, or of the conditions of, any such licence;
 - (b) a licence under that Act to abstract water is granted to any person or there is a variation of any such licence or of the conditions of any such licence; or
 - (c) a licence under that Act to abstract water is for the time being in force,
- the Authority may require the payment to it of such charges as may be specified in or determined under a scheme made by it under this section.
- (2) The persons who shall be liable to pay charges which are required to be paid by virtue of a scheme under this section shall be—
- (a) in the case of a charge by virtue of subsection (1)(a) above, the person who makes the application; and
 - (b) in the case of a charge by virtue of subsection (1)(b) or (c) above, the person to whom the licence is granted or, as the case may be, the person holding the licence which is varied or is in force;
- and provision made by a scheme for the purposes of subsection (1)(c) above may impose a single charge in respect of the whole period for which a licence is in force or separate charges in respect of different parts of that period or both such a single charge and such separate charges.

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- (3) Except in the case of a scheme made before the end of the period of two years beginning with the transfer date, the Authority shall not make a scheme under this section unless its provisions have been approved by the Secretary of State; and the consent of the Treasury shall be required for the giving of such an approval.
- (4) Before submitting a scheme under this section to the Secretary of State for his approval the Authority shall, in such manner as it considers appropriate for bringing it to the attention of persons likely to be affected by it, publish a notice setting out its proposals and specifying the period within which representations or objections with respect to the proposals may be made to the Secretary of State.
- (5) Where any proposed scheme has been submitted to the Secretary of State for his approval, it shall be the duty of the Secretary of State, in determining whether or not to approve the scheme or to approve it subject to modifications—
 - (a) to consider any representations or objections duly made to him and not withdrawn;
 - (b) to have regard to the desirability of ensuring that the amounts recovered by the Authority by way of charges fixed by or under schemes under this section are the amounts which, taking one year with another, are required by the Authority for recovering such amounts as the Secretary of State may consider it appropriate to attribute to the expenses incurred by the Authority in carrying out the functions of the Authority which are its water resources functions, within the meaning of the Water Resources Act 1963; and
 - (c) to have regard to the need to ensure that no undue preference is shown, and that there is no undue discrimination, in the fixing of charges by or under any scheme under this section.
- (6) For the purposes of subsection (5)(b) above the Secretary of State shall take into account any directions given under paragraph 15 of Schedule 1 to this Act in determining the amounts which he considers it appropriate to attribute to the expenses incurred by the Authority in carrying out its water resources functions; and those amounts may include amounts in respect of the depreciation of, and the provision of a return on, such of the Authority's assets as are held by it for purposes connected with the carrying out of those functions.
- (7) A scheme under this section may—
 - (a) make provision with respect to the times and methods of payment of the charges which are required to be paid by virtue of the scheme;
 - (b) make different provision for different cases, including different provision in relation to different circumstances or localities; and
 - (c) contain supplemental, consequential and transitional provision for the purposes of the scheme;and such a scheme may revoke or amend a previous scheme under this section.
- (8) It shall be the duty of the Authority to take such steps as it considers appropriate for bringing the provisions of any scheme under this section which is for the time being in force to the attention of persons likely to be affected by them.
- (9) A scheme under this section shall have effect subject to any provision made by or under section 60, 63 or 64 of the said Act of 1963 (supplemental provision with respect to charging).

130 Provision of information about water flow etc

- (1) It shall be the duty of the Authority—
 - (a) to provide a water undertaker with all such information to which this section applies as is in the possession of the Authority and is reasonably requested by the undertaker for purposes connected with the carrying out of its functions;
 - (b) to provide reasonable facilities to all persons—
 - (i) for the inspection of the contents of any records kept by the Authority and containing information to which this section applies; and
 - (ii) for the taking of copies of, or of extracts from, any such records;and information provided to a water undertaker under this subsection shall be provided in such form and in such manner and at such times as the undertaker may reasonably require.
- (2) It shall be the duty of every water undertaker to provide the Authority with all such information to which this section applies as is in the possession of the undertaker and is reasonably requested by the Authority for purposes connected with the carrying out of any of its functions; and information provided to the Authority under this subsection shall be provided in such form and in such manner and at such times as the Authority may reasonably require.
- (3) Where records of the flow, level or volume of any inland water, other than one falling within section 2(3) of the Water Resources Act 1963, are kept by a person other than a water undertaker, the Authority shall have the right at all reasonable times—
 - (a) to inspect the contents of any of those records; and
 - (b) to take copies of, or of extracts from, the contents of any of those records;and any person who, without reasonable excuse, refuses or fails to permit the Authority to exercise its right under this subsection shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 1 on the standard scale.
- (4) The duties of the Authority under subsection (1) above shall extend to information provided to or obtained by the Authority under subsection (2) or (3) above.
- (5) Information or facilities provided under subsection (1) or (2) above to the Authority, to a water undertaker, to a local authority, county council or joint planning board or to an internal drainage board shall be provided free of charge; and facilities provided under subsection (1) above to other persons may be provided on terms requiring the payment by persons making use of the facilities of such reasonable charges as the Authority may determine.
- (6) The duties of a water undertaker under subsection (2) above shall be enforceable under section 20 above by the Secretary of State.
- (7) This section applies to information about the flow, level or volume of any inland water or any water contained in underground strata, about rainfall or any fall of snow, hail or sleet or about the evaporation of any water.
- (8) In this section “joint planning board” has the same meaning as in the Town and Country Planning Act 1971; and subsection (2) of section 124 above shall apply to the reference in subsection (7) above to water contained in underground strata as it applies to any reference to such water in Chapter I of this Part.

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Drought etc.

131 General drought orders

- (1) If the Secretary of State is satisfied that, by reason of an exceptional shortage of rain, a serious deficiency of supplies of water in any area exists or is threatened then, subject to the following provisions of this section and section 133 below, he may by order made by statutory instrument make such provision authorised by this section as appears to him to be expedient with a view to meeting the deficiency.
- (2) Subject to subsection (6) below, the power to make an order under this section in relation to any area shall not be exercisable except where an application is made to the Secretary of State—
 - (a) by the Authority; or
 - (b) by a water undertaker which supplies water to premises in that area.
- (3) An order made under this section on the application of the Authority may contain any of the following provisions, that is to say—
 - (a) provision authorising the Authority (or persons authorised to do so by the Authority) to take water from any source specified in the order subject to any conditions or restrictions so specified;
 - (b) provision authorising the Authority (or persons authorised to do so by the Authority) to discharge water to any place specified in the order subject to any conditions or restrictions so specified;
 - (c) provision authorising the Authority to prohibit or limit the taking by any person (including a water undertaker) of water from a source specified in the order if the Authority is satisfied that the taking of water from that source seriously affects the supplies available to the Authority, any water undertaker or any other person;
 - (d) provision suspending or modifying, subject to any conditions specified in the order, any restriction or obligation to which the Authority, any water undertaker or sewerage undertaker or any other person is subject as respects—
 - (i) the taking of water from any source;
 - (ii) the discharge of water;
 - (iii) the supply of water (whether in point of quantity, pressure, quality, means of supply or otherwise); or
 - (iv) the filtration or other treatment of water;
 - (e) provision authorising the Authority to suspend or vary, or attach conditions to, any consent specified in the order for the discharge of any effluent by any person, including any sewerage undertaker or water undertaker.
- (4) An order made under this section on the application of a water undertaker may contain any of the following provisions, that is to say—
 - (a) provision authorising the water undertaker to take water from any source specified in the order subject to any conditions or restrictions so specified;
 - (b) provision authorising the water undertaker to prohibit or limit the use of water for any purpose specified in the order, being a purpose for the time being set out in a direction given by the Secretary of State to water undertakers generally as a purpose which may be specified by virtue of this paragraph in any order under this section;

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- (c) provision authorising the water undertaker to discharge water to any place specified in the order subject to any conditions or restrictions so specified;
 - (d) provision authorising the Authority to prohibit or limit the taking by any person of water from a source specified in the order if the Authority is satisfied that the taking of water from that source seriously affects the supplies available to the water undertaker;
 - (e) provision prohibiting or limiting the taking by the Authority of water from a source specified in the order if the taking of water from that source is determined, in accordance with provision made by the order, seriously to affect the supplies available to the water undertaker;
 - (f) provision suspending or modifying, subject to any conditions specified in the order, any restriction or obligation to which the water undertaker or any sewerage undertaker or other person is subject as respects—
 - (i) the taking of water from any source;
 - (ii) the discharge of water;
 - (iii) the supply of water (whether in point of quantity, pressure, quality, means of supply or otherwise); or
 - (iv) the filtration or other treatment of water;
 - (g) provision authorising the Authority to suspend or vary, or attach conditions to, any consent specified in the order for the discharge of any effluent by any person, including the company which applied for the order (whether in the capacity in which it made the application, in its capacity as a sewerage undertaker or in any other capacity).
- (5) The following provisions apply where an order under this section contains a provision authorising a water undertaker to prohibit or limit the use of water, that is to say—
- (a) the power may be exercised in relation to consumers generally, a class of consumer or a particular consumer;
 - (b) the water undertaker shall take such steps as it thinks appropriate for bringing the prohibition or limitation to the attention of the persons to whom the prohibition or limitation will apply and, in particular, shall (as the undertaker thinks appropriate)—
 - (i) cause notice of the prohibition or limitation to be published in one or more local newspapers circulating within that part of the water undertaker's area which would be affected by the provision of the order; or
 - (ii) send notice of the prohibition or limitation to the persons to whom the prohibition or limitation will apply;
 - (c) the prohibition or limitation shall not come into operation until the expiration of the period of seventy-two hours beginning with the day on which the notice is published or, as the case may be, sent to the person in question.
- (6) The Secretary of State may revoke or vary any direction given by him for the purposes of subsection (4)(b) above by a further direction for those purposes; but, where any purpose set out in such a direction will cease, by virtue of the variation or revocation, to be one which may be specified in an order under this section, the Secretary of State shall (without an application having been made to him) exercise his power to vary or revoke orders under this section, in so far as any orders in force will be affected by the variation or revocation of the direction, so as to make those orders conform to the variation or reflect the revocation.

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- (7) The revocation or variation of a direction under subsection (6) above shall not affect the validity of anything done in pursuance of an order before the giving of the further direction or any obligation or liability accrued or incurred before the giving of the further direction.
- (8) Schedule 14 to this Act shall have effect with respect to the procedure on an application for an order under this section and with respect to the payment of compensation where such an order has been made.
- (9) The period for which—
- (a) an authorisation given by or under an order under this section;
 - (b) a prohibition or limitation imposed by or under any such order; or
 - (c) a suspension or modification effected by or under any such order,
- has effect shall expire before the end of the period of six months beginning with the day on which the order comes into operation unless that period of six months is extended, in relation to that order, by virtue of the exercise by the Secretary of State of his power to amend the order; and that power shall not be exercised so as to extend that period of six months beyond the end of the period of one year beginning with that day.

132 Emergency drought orders

- (1) If the Secretary of State—
- (a) is satisfied that, by reason of an exceptional shortage of rain, a serious deficiency of supplies of water in any area exists or is threatened; and
 - (b) is further satisfied that the deficiency is such as to be likely to impair the economic or social well-being of persons in the area,
- then, subject to the following provisions of this section and section 133 below, he may by order made by statutory instrument make such provision authorised by this section as appears to him to be expedient with a view to meeting the deficiency.
- (2) The power to make an order under this section in relation to any area shall not be exercisable except where an application is made to the Secretary of State—
- (a) by the Authority; or
 - (b) by a water undertaker which supplies water to premises in that area.
- (3) An order made under this section on the application of the Authority may contain any of the provisions which could be included, by virtue of subsection (3) of section 131 above, in an order under that section.
- (4) An order made under this section on the application of a water undertaker may contain any of the following provisions, that is to say—
- (a) any provision which could be included, by virtue of subsection (4) of section 131 above, in an order under that section, except provision authorised by paragraph (b) of that subsection;
 - (b) provision authorising the water undertaker to prohibit or limit the use of water for such purposes as the water undertaker thinks fit;
 - (c) provision authorising the water undertaker to supply water in its area or in any place within its area by means of stand-pipes or water tanks, and to erect or set up and maintain stand-pipes or water tanks in any street in that area.
- (5) The following provisions apply where an order under this section contains a provision authorising a water undertaker to prohibit or limit the use of water, that is to say—

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- (a) the power may be exercised in relation to consumers generally, a class of consumer or a particular consumer;
 - (b) the water undertaker shall take such steps as it thinks appropriate for bringing the prohibition or limitation to the attention of the persons to whom the prohibition or limitation will apply and, in particular, shall (as the undertaker thinks appropriate)—
 - (i) cause notice of the prohibition or limitation to be published in one or more local newspapers circulating within that part of the water undertaker's area which would be affected by the provision of the order; or
 - (ii) send notice of the prohibition or limitation to the persons to whom the prohibition or limitation will apply;
 - (c) the prohibition or limitation shall not come into operation until the expiration of the period of seventy-two hours beginning with the day on which the notice is published or, as the case may be, sent to the person in question.
- (6) Where powers have been conferred by an order under this section on any person—
- (a) the Secretary of State may give to that person such directions as he considers necessary or expedient as to the manner in which, or the circumstances in which, any of those powers is or is not to be exercised;
 - (b) it shall be the duty of that person to comply with any such direction; and
 - (c) where that person is a water undertaker or sewerage undertaker, the duty to comply with any such direction shall be enforceable under section 20 above by the Secretary of State.
- (7) The giving of a direction under subsection (6) above in relation to any power shall not affect the validity of anything done in the exercise of that power before the giving of the direction or any obligation or liability incurred before the giving of the direction.
- (8) Any works to be carried out under the authority of an order under this section shall be included in the definition of emergency works in section 39(1) of the Public Utilities Street Works Act 1950.
- (9) Schedule 14 to this Act shall have effect with respect to the procedure on an application for an order under this section and with respect to the payment of compensation where such an order has been made.
- (10) The period for which—
- (a) an authorisation given by or under an order under this section;
 - (b) a prohibition or limitation imposed by or under any such order; or
 - (c) a suspension or modification effected by or under any such order,
- has effect shall expire before the end of the period of three months beginning with the day on which the order comes into operation unless that period of three months is extended, in relation to that order, by virtue of the exercise by the Secretary of State of his power to amend the order; and that power shall not be exercised so as to extend that period of three months beyond the end of the period of five months beginning with that day.

133 Provisions supplemental to powers conferred by sections 131 and 132

- (1) Any drought order which—

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- (a) authorises the taking of water from a source from which water is supplied to an inland navigation; or
- (b) suspends or modifies—
 - (i) a restriction as respects the taking of water from a source from which water is supplied to an inland navigation; or
 - (ii) an obligation to discharge compensation water into a canal or into any river or stream which forms part of, or from which water is supplied to, an inland navigation,
 may include provision for prohibiting or imposing limitations on the taking of water from the inland navigation or for the suspension or modification of any obligation to which a navigation authority are subject as respects the discharge of water from the inland navigation.
- (2) A prohibition or limitation by or under a drought order on the taking of water from any source may be imposed so as to have effect in relation to a source from which a person to whom the prohibition or limitation applies has a right to take water whether by virtue of an enactment or instrument, an agreement or the ownership of land.
- (3) Where a drought order made on the application of a water undertaker confers power on the Authority—
 - (a) to prohibit or limit the taking of water from any source; or
 - (b) to suspend or vary, or attach conditions to, any consent for the discharge of any effluent,
 the Authority shall exercise that power in such manner as will ensure, so far as reasonably practicable, that the supplies of water available to the water undertaker are not seriously affected.
- (4) Where—
 - (a) any drought order confers power on the Authority to suspend or vary, or attach conditions to, any consent for the discharge of any effluent; and
 - (b) the Authority exercises that power so as to restrict the discharge of effluent by a sewerage undertaker,
 the sewerage undertaker may so modify any consents or agreements relating to the discharge by other persons of trade effluent as to enable it to comply with any requirements or conditions imposed on it by or under the order with respect to discharges from sewers or works of the undertaker.
- (5) A drought order may authorise the Authority or a water undertaker, subject to any conditions and restrictions specified in the order, to execute any works required for the performance of any duty or the exercise of any power which is imposed or conferred by or under the order and—
 - (a) may authorise the Authority or that undertaker for that purpose to enter upon any land specified in the order and to occupy and use the land to such extent and in such manner as may be requisite for the execution and maintenance of the works; and
 - (b) may apply in relation to the execution of the works such of the provisions of Part IV of this Act as appear to the Secretary of State to be appropriate, subject to such modifications as may be specified in the order.
- (6) The Secretary of State shall include in any drought order authorising the Authority or a water undertaker to enter any land provisions requiring the Authority or that undertaker to give to the occupier of the land and to such other persons concerned

with the land as may be specified in the order not less than twenty-four hours' notice of any intended entry.

- (7) A drought order may—
- (a) make provision corresponding to sections 178 and 179 below in relation to any provisions of the order authorising any person to enter any land;
 - (b) make different provision for different cases, including different provision in relation to different persons, circumstances or localities; and
 - (c) contain such supplemental, consequential and transitional provision as the Secretary of State considers appropriate.
- (8) Nothing in any drought order shall affect the right of the Authority, a water undertaker or a sewerage undertaker, in the event of an interruption or diminution of the supply of water, to recover any fixed or minimum charge which might have been recovered from any person by the Authority or that undertaker if there had been no such interruption or diminution.

134 Offences against drought orders

- (1) If any person—
- (a) takes or uses water in contravention of a prohibition or limitation imposed by or under any drought order or takes or uses water otherwise than in accordance with any condition or restriction so imposed; or
 - (b) discharges water otherwise than in accordance with any condition or restriction imposed by or under such an order,
- he shall be guilty of an offence under this section.
- (2) If any person—
- (a) fails to construct or maintain in good order a gauge, weir or other apparatus for measuring the flow of water which he was required to construct or maintain by any drought order; or
 - (b) fails to allow some person authorised for the purpose by or under any such order to inspect and examine any such apparatus or any records made thereby or kept by that person in connection therewith or to take copies of any such records,
- he shall be guilty of an offence under this section.
- (3) In any proceedings against any person for an offence under this section it shall be a defence for that person to show that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.
- (4) A person who is guilty of an offence under this section shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to a fine.

135 Interpretation of provisions relating to drought orders

- (1) In sections 131 to 134 above and Schedule 14 to this Act—
- “compensation water” means water which a water undertaker or the Authority is under an obligation to discharge—
- (a) in accordance with the provisions of a licence under the Water Resources Act 1963, into a source of supply (within the meaning of that Act); or

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(b) under any local statutory provision, into any river, stream, brook or other running water or into a canal;

“drought order” means an order under section 131 or 132 above;

“inland navigation” includes any canal or navigable river;

“sewage effluent” and “trade effluent” have the same meanings as in Chapter I of this Part.

(2) In sections 131 to 134 above and Schedule 14 to this Act—

(a) references to the taking of water include references to the collection, impounding, diversion or appropriation of water; and

(b) references to an obligation or to a restriction include references to an obligation or, as the case may be, to a restriction which is imposed by or under any enactment or agreement.

CHAPTER III

FLOOD DEFENCE

136 Flood defence functions of the Authority

(1) Subject to subsection (3) below, the Authority shall in relation to England and Wales exercise a general supervision over all matters relating to flood defence and, for the purpose of carrying out its functions in relation to flood defence, shall from time to time carry out surveys of the areas in relation to which it carries out those functions.

(2) Schedule 15 to this Act shall have effect for transferring the functions of water authorities relating to flood defence to the Authority and for making amendments of the Land Drainage Act 1976 (in this Chapter referred to as “the 1976 Act”), including amendments consequential on the following provisions of this Chapter.

(3) Without prejudice to any scheme for the appointment of local flood defence committees and subject to subsection (4) below, the Authority shall arrange for all its functions under the 1976 Act relating to flood defence to be carried out by regional flood defence committees established under section 137 below, so that those functions of the Authority are carried out—

(a) in relation to the area of each regional flood defence committee, by the committee for that area; and

(b) in cases involving the areas of more than one regional flood defence committee, by such committee, or jointly by such committees, as may be determined in accordance with arrangements made by the Authority.

(4) The Authority shall not make arrangements for the carrying out by any other body, or by any committee, of any of its functions with respect to—

(a) the issuing of levies (within the meaning of the Local Government Finance Act 1988); or

(b) the making of drainage charges under the 1976 Act;

and nothing in this section shall enable the Authority to authorise any such other body or any committee to borrow money for purposes connected with the Authority’s functions relating to flood defence.

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- (5) The Authority may give a regional flood defence committee a direction of a general or specific character as to the carrying out of any function relating to flood defence, other than one of their internal drainage functions, so far as the carrying out of that function appears to the Authority likely to affect materially the Authority's management of water for purposes other than flood defence; and a regional flood defence committee shall comply with any direction under this subsection.
- (6) The Authority shall maintain a principal office for the area of each regional flood defence committee.
- (7) The functions of the Authority by virtue of this Chapter extend to the territorial sea adjacent to England and Wales in so far as—
- (a) the area of any regional flood defence committee includes any area of that territorial sea; or
 - (b) section 17(2) or (3) of the 1976 Act (works in the sea and in estuaries) provides for the exercise of any power in the territorial sea;
- and where under the said section 17(2) or (3) any function of the Authority falls to be carried out at a place beyond the seaward boundaries of the area of any regional flood defence committee, that place shall be assumed for the purposes of this Chapter and that Act to be within the area of the regional flood defence committee to whose area the area of sea where that place is situated is adjacent.
- (8) Where the functions of any water authority immediately before the transfer date include, by virtue of any local statutory provision, any functions relating to flood defence—
- (a) those functions shall become functions of the Authority on that date; and
 - (b) subject to the power conferred by section 191 below, the local statutory provisions relating to the functions transferred by this subsection and everything done by or in relation to a water authority under any such provision shall have effect, so far as may be necessary for the purposes of, or in connection with, the transfer of functions under this subsection, as if—
 - (i) any reference in any such provision to a water authority were a reference to the Authority; and
 - (ii) any such thing had been done by or in relation to the Authority.
- (9) In this section—
- “flood defence” means the drainage of land (within the meaning of the 1976 Act) and the provision of flood warning systems;
 - “internal drainage functions” means the functions of the Authority under sections 10 to 16, 68(1) to (4) and (7) to (9), 69(2), (3) and (6), 84 and 86(1) of the 1976 Act.

137 Establishment of regional flood defence committees

- (1) There shall, in accordance with the following provisions of this section and section 138 below, be committees, to be known as regional flood defence committees, for the purpose of carrying out the functions which fall to be carried out by such committees by virtue of this Chapter (being functions corresponding to those which immediately before the transfer date were functions of regional land drainage committees).
- (2) Subject to Schedule 16 to this Act (which makes provision for the alteration of the boundaries of and the amalgamation of the areas of regional flood defence

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committees), there shall be a regional flood defence committee for each of the areas for which there was a regional land drainage committee immediately before the transfer date (being the areas which immediately before that date were the areas of water authorities for land drainage purposes).

- (3) Subject to subsection (4) below, a regional flood defence committee shall consist of the following, none of whom shall be a member of the Authority, that is to say—
- (a) a chairman and a number of other members appointed by the appropriate Minister;
 - (b) two members appointed by the Authority;
 - (c) a number of members appointed by or on behalf of the constituent councils.

- (4) Subject to subsection (5) and section 138(1)(a) below, in the period beginning with the transfer date and ending with such day as the appropriate Minister may by order made by statutory instrument appoint for the purposes of this subsection, the regional flood defence committee for any area shall consist of—

- (a) a chairman, being the person who, by reason of his appointment by the Secretary of State or the Minister, is the chairman of the regional land drainage committee for that area immediately before that date;
- (b) every other person who, by reason of his appointment by the Secretary of State or the Minister, is a member of that regional land drainage committee immediately before that date;
- (c) every person who, by reason of his appointment by or on behalf of any of the constituent councils of that regional land drainage committee, is a member of that committee immediately before that date; and
- (d) two members appointed by the Authority;

and different days may be appointed for the purposes of this subsection in relation to different regional flood defence committees.

- (5) A person who is the chairman or a member of a regional flood defence committee by virtue of paragraph (a), (b) or (c) of subsection (4) above shall hold and, subject to subsection (6) below, vacate office on the terms of the appointment mentioned in that paragraph; and where at any time in the period mentioned in subsection (4) above there is a vacancy in the chairmanship or membership of a regional flood defence committee, a person may be appointed to fill the vacancy—

- (a) where the vacancy is in respect of a member appointed by the Authority, by the Authority;
- (b) where the vacancy is in respect of a person who held or would have held office in respect of his appointment by or on behalf of any of the constituent councils of a regional land drainage committee (being either an appointment to that committee or an appointment by virtue of this subsection to the regional flood defence committee), by the council or councils which made that appointment; and
- (c) in any other case, by the appropriate Minister.

- (6) A person who is the chairman or a member of a regional flood defence committee by virtue of paragraph (a), (b) or (c) of subsection (4) above shall not cease to be the chairman or a member of that committee by reason only of the expiration before the end of the period mentioned in that subsection of his term of office under the appointment mentioned in that paragraph; but, without prejudice to his eligibility for re-appointment, every person who on the day with which that period ends is the chairman or a member of a regional flood defence committee by virtue of that

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subsection or subsection (5) above shall cease to be the chairman or, as the case may be, such a member of that committee at the end of that period.

- (7) In appointing a person to be the chairman or a member of a regional flood defence committee under subsection (3)(a) or (c) or (5)(b) or (c) above, the appropriate Minister or, as the case may be, a constituent council shall have regard to the desirability of appointing a person who has experience of, and has shown capacity in, some matter relevant to the functions of the committee.
- (8) Subject to the preceding provisions of this section, Schedule 1 to the 1976 Act (members and proceedings of regional land drainage committees) shall have effect in relation to regional flood defence committees as it had effect immediately before the transfer date in relation to regional land drainage committees.
- (9) In the House of Commons Disqualification Act 1975, in Part III of Schedule 1 (other disqualifying offices), there shall be inserted (at the appropriate place) the following entry—

“Chairman of a regional flood defence committee for any area of England and Wales.”
- (10) For the purposes of this Chapter and the 1976 Act the councils of every county, metropolitan district or London borough any part of which is in the area of a regional flood defence committee shall be the constituent councils for the regional flood defence committee for that area, and the Common Council of the City of London shall be a constituent council for the regional flood defence committee for any area which comprises any part of the City.
- (11) In this section and section 138 below “the appropriate Minister”—
 - (a) in relation to the regional flood defence committee for an area the whole or the greater part of which is in Wales, means the Secretary of State; and
 - (b) in relation to any other regional flood defence committee, means the Minister.

138 Composition of regional flood defence committees

- (1) Subject to the following provisions of this section and to any order under Schedule 16 to this Act amalgamating the areas of any two or more regional flood defence committees, on and after the transfer date—
 - (a) the total number of members of the regional flood defence committee for any area shall be the number which, whether under section 2 of the 1976 Act or by virtue of any determination or order made under that section, was for the purposes of that section the total number of members of the regional land drainage committee for that area immediately before that date; and
 - (b) the number of members to be appointed to a regional flood defence committee for any area by or on behalf of each of the constituent councils or, as the case may be, jointly by or on behalf of more than one of them shall be the number which, whether under section 3 of that Act or by virtue of an order made under that section, was the number to be appointed to the regional land drainage committee for that area by that council or those councils immediately before that date.
- (2) The Authority may, in accordance with the following provisions of this section, from time to time make a determination varying the total number of members of a regional flood defence committee; but that number shall be not less than eleven and,

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except where an order under subsection (4) below otherwise provides, not more than seventeen.

- (3) The Authority shall submit any determination under subsection (2) above to the appropriate Minister; and any determination by the Authority under subsection (2) above that a regional flood defence committee should consist of more than seventeen members shall be provisional and shall take effect only if the appropriate Minister makes an order under subsection (4) below.
- (4) If the Authority submits a provisional determination to the appropriate Minister with respect to any regional flood defence committee and he considers that the committee should consist of more than seventeen members, he may by order made by statutory instrument—
 - (a) confirm it; or
 - (b) substitute for the number of members determined by the Authority some other number not less than seventeen.
- (5) Subject to the following provisions of this section, whenever—
 - (a) the total number of members of a regional flood defence committee is varied under this section; or
 - (b) the appropriate Minister considers it necessary to make an order under this subsection in consequence of—
 - (i) the effect in relation to the whole or any part of the area of any regional flood defence committee of any regulations under section 69(7) of the Local Government Finance Act 1988 (definition of relevant population); or
 - (ii) the alteration of the boundaries of the area of a regional flood defence committee,

the appropriate Minister shall by order made by statutory instrument specify, in relation to times after the coming into force of the variation, regulations or alteration, the number of members to be appointed to the committee by each of the constituent councils.
- (6) An order under subsection (5) above shall be so framed that the total number of members appointed under section 137(3)(a) and (b) above is one less than the number of those appointed by or on behalf of constituent councils.
- (7) For the purpose of determining for the purposes of subsection (5) above the number of persons to be appointed to a regional flood defence committee by or on behalf of each constituent council, the appropriate Minister—
 - (a) shall have regard to the relevant population of any relevant area of that council; and
 - (b) where, having regard to the proportion which that population bears to the aggregate of the relevant populations of the relevant areas of all the constituent councils—
 - (i) he considers it to be inappropriate that that council should appoint a member of the committee; or
 - (ii) he considers that one or more members should be appointed jointly by that council and one or more other constituent councils,

may include provision to that effect in the order.
- (8) Where—

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- (a) the appointment of one or more members of a regional flood defence committee is, by virtue of subsection (1) above or an order under subsection (5) above, to be made jointly by more than one constituent council; and
- (b) the councils by whom that appointment is to be made are unable to agree on an appointment,

the member or members in question shall be appointed by the appropriate Minister on behalf of those councils; and subsection (7) of section 137 above shall apply in relation to an appointment under this subsection as it applies in relation to an appointment under subsection (3)(a) of that section.

(9) In this section—

“member”, in relation to a regional flood defence committee, includes the chairman of the committee;

“relevant area”, in relation to a council which is a constituent council in relation to any regional flood defence committee, means so much of the council’s area as is included in the area of the committee;

“relevant population” has the same meaning as it has for the purposes of section 69 of the Local Government Finance Act 1988 (precepted authorities).

139 Local flood defence schemes and local flood defence committees

(1) A scheme, to be known as a local flood defence scheme, may be made in accordance with section 4 of the 1976 Act—

- (a) for the creation in the area of a regional flood defence committee of one or more districts, to be known as local flood defence districts; and
- (b) for the constitution, membership, functions and procedure of a committee for each such district, to be known as the local flood defence committee for that district.

(2) Any local land drainage scheme which was made or continued in force under section 4 of the 1976 Act and which is in force immediately before the transfer date in relation to an area which becomes the area of a regional flood defence committee under this Chapter shall have effect on and after that date, and may be amended or revoked under that Act, as if it were a local flood defence scheme made in relation to the area of that committee; and, accordingly, subject to any such amendment or revocation—

- (a) any local land drainage district created by that scheme and (however defined) in being immediately before that date shall be treated, on and after that date, as such a local flood defence district of the area of that regional flood defence committee as is defined by reference to the area of that local land drainage district; and
- (b) any local land drainage committee created by that scheme for any such district and in being immediately before that date shall be treated, on and after that date, as the local flood defence committee for that district.

(3) Subject to subsection (4) below, section 5 of the 1976 Act (members and proceedings of local land drainage committees) shall have effect on and after the transfer date in relation to local flood defence committees as it had effect before that date in relation to local land drainage committees.

(4) For the purposes of subsection (3) above, any person who immediately before the transfer date is, by virtue of an appointment by a regional land drainage committee

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or any council, the chairman or a member of a local land drainage committee which becomes a local flood defence committee under this section shall be treated, on and after that date for the remainder of the period for which he would, under the terms of his appointment, have held office in relation to the local land drainage committee—

- (a) as if he had been appointed to the local flood defence committee by the regional flood defence committee, or (as the case may be) by that council, on the same terms; and
 - (b) in the case of the chairman, as if he were a member of the regional flood defence committee.
- (5) Without prejudice to his eligibility for re-appointment if he is a member of the regional flood defence committee, any person who on the day appointed for the purposes of subsection (4) of section 137 above in relation to any regional flood defence committee is, by virtue of subsection (4) above, the chairman of a local flood defence committee for a district in the area of that regional flood defence committee shall cease to be the chairman of that local flood defence committee at the end of that day.
- (6) In the House of Commons Disqualification Act 1975, in Part III of Schedule 1 (other disqualifying offices), there shall be inserted (at the appropriate place) the following entry—

“Chairman of a local flood defence committee for any district in England and Wales.”

140 Internal drainage districts and internal drainage boards

For the purposes of the drainage of land the internal drainage districts within the areas of the water authorities shall continue on and after the transfer date, in accordance with section 6 of the 1976 Act, as internal drainage districts within the areas of the regional flood defence committees; and for each such district there shall continue, in accordance with that section, to be a board known as an internal drainage board, which shall be a body corporate.

CHAPTER IV

SALMON AND FRESHWATER FISHERIES

141 Functions of the Authority in relation to fisheries

- (1) It shall be the duty of the Authority—
- (a) to maintain, improve and develop salmon fisheries, trout fisheries, freshwater fisheries and eel fisheries;
 - (b) to establish and maintain advisory committees of persons who are not members of the Authority but appear to it to be interested in any such fisheries in the different parts of the area mentioned in subsection (4) below; and
 - (c) to consult those committees as to the manner in which the Authority is to perform its duty under paragraph (a) above.
- (2) The duty to establish and maintain advisory committees imposed by paragraph (b) of subsection (1) above is a duty to establish and maintain—

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- (a) a regional advisory committee for each such region of the area mentioned in subsection (4) below as the Authority considers it appropriate for the time being to regard as a region of that area for the purposes of this section; and
 - (b) such local advisory committees as it considers necessary to represent the interests referred to in that paragraph in the different parts of each such region;
- and it shall be the duty of the Authority in determining the regions for which regional advisory committees are established and maintained to ensure that one of those regions consists (apart from territorial waters) wholly or mainly of, or of most of, Wales.
- (3) There shall be paid by the Authority—
- (a) to the chairman of an advisory committee established and maintained under this section such remuneration and such travelling and other allowances; and
 - (b) to any other members of that committee such sums reimbursing them for loss of remuneration, for travelling expenses or for any other out-of-pocket expenses,
- as may, with the consent of the Treasury, be determined by the Minister or the Secretary of State.
- (4) The area in respect of which the Authority shall carry out its functions relating to fisheries shall be the whole of England and Wales, together with—
- (a) such part of the territorial sea adjacent to England and Wales as extends for six miles from the baselines from which the breadth of that sea is measured; and
 - (b) in the case of subsection (1) above, the Salmon and Freshwater Fisheries Act 1975 and the Diseases of Fish Act 1937, so much of the River Esk with its banks and tributary streams up to their source as is situated in Scotland,
- but, in the case of that subsection and those Acts, excluding the River Tweed, that is to say, “the river” within the meaning of the Tweed Fisheries Amendment Act 1859, as amended by byelaws.
- (5) Schedule 17 to this Act shall have effect for transferring the functions of water authorities relating to fisheries to the Authority and for making amendments of the enactments relating to the transferred functions and of corresponding enactments applying to fisheries in Scotland.
- (6) Nothing in the preceding provisions of this section or in the following provisions of this Act shall authorise the Authority to acquire any land in Scotland compulsorily.
- (7) In this section, “miles” means international nautical miles of 1,852 metres.

CHAPTER V

NAVIGATION, CONSERVANCY AND HARBOUR AUTHORITY FUNCTIONS

142 Navigation, conservancy and harbour authority functions

- (1) Where—
- (a) the functions of a water authority immediately before the transfer date include, by virtue of any local statutory provision, any functions of a navigation authority, conservancy authority or harbour authority; and
 - (b) those functions are not otherwise transferred by this Act,
- those functions shall become functions of the Authority on that date.

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- (2) Subject to the power conferred by section 191 below, on and after the transfer date every local statutory provision relating to a function transferred by this section and everything done by or in relation to a water authority under any such provision shall have effect, so far as may be necessary for the purposes of, or in connection with, the transfer of functions made by subsection (1) above, as if—
- (a) any reference in any such provision to a water authority were a reference to the Authority; and
 - (b) any such thing had been done by or in relation to the Authority.

CHAPTER VI

SUPPLEMENTAL PROVISIONS OF PART III

143 Research etc. duties of the Authority

- (1) It shall be the duty of the Authority to make arrangements for the carrying out of research and related activities (whether by the Authority or others) in respect of matters to which the functions of the Authority relate.
- (2) It shall be the duty of the Authority—
 - (a) to collate and publish information from which assessments can be made of the actual and prospective demand for water, and of actual and prospective water resources, in England and Wales; and
 - (b) so far as it considers it appropriate to do so, to collaborate with others in collating and publishing any such information or any similar information in relation to places outside England and Wales.

144 Overseas activities of the Authority

- (1) Subject to subsection (2) below, the Authority may provide for any person outside the United Kingdom advice or assistance, including training facilities, as respects any matter in which the Authority has skill or experience.
- (2) The power conferred by subsection (1) above shall not be exercised except—
 - (a) with the consent in writing of the Secretary of State; and
 - (b) if the exercise of that power involves capital expenditure by the Authority, or the guaranteeing by the Authority of any liability, with that consent given with the approval of the Treasury.
- (3) Subsections (1) and (2) above are without prejudice to any power of the Authority apart from subsection (1) above to provide advice or assistance of the kind mentioned in that subsection.
- (4) Any consent under this section may be given subject to such conditions as the Secretary of State thinks fit.

145 General powers of the Authority

- (1) The Authority—

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- (a) shall have power to do anything which, in the opinion of the Authority is calculated to facilitate, or is conducive or incidental to, the carrying out of the Authority's functions;
 - (b) without prejudice to the generality of that power, shall have power, for the purposes of, or in connection with, the carrying out of those functions, to institute criminal proceedings, to acquire and dispose of land and other property and to carry out such engineering or building operations at such places as the Authority considers appropriate; and
 - (c) without prejudice as aforesaid and subject to any express provision with respect to charging by the Authority which is contained in any enactment, shall have power to fix and recover charges for services provided in the course of carrying out its functions.
- (2) Without prejudice to subsection (1) above, the powers conferred by section 1 of the Local Authorities (Goods and Services) Act 1970 shall be exercisable by the Authority as if the Authority were a public body within the meaning of that section.
- (3) Nothing in this section with respect to the carrying out of works shall be construed as conferring any power to do anything otherwise than for the purpose of giving the Authority capacity as a corporation to do that thing; and, accordingly, without prejudice to the provisions of Part IV of this Act, this section shall be disregarded for the purpose of determining whether the Authority is liable, on grounds other than an incapacity by virtue of its constitution, for any act or omission in exercise of a power to carry out works conferred by this section.

146 Ministerial directions to the Authority

- (1) Directions of a general or specific character may be given to the Authority—
 - (a) with respect to the carrying out of the Authority's functions by virtue of Chapter I, II or V of this Part (other than its functions in connection with the making of applications for orders under section 112 above), by the Secretary of State;
 - (b) with respect to the making of applications for orders under section 112 above or with respect to the carrying out of its functions by virtue of Chapter III or IV of this Part, by the Minister or the Secretary of State; and
 - (c) with respect to anything not falling within paragraph (a) or (b) above which is connected with the carrying on of the Authority's activities generally, by the Secretary of State and the Minister acting jointly;and it shall be the duty of the Authority to comply with any such direction.
- (2) Without prejudice to the generality of the power conferred by subsection (1) above, directions under that subsection may include such directions as the Secretary of State, the Minister or, as the case may be, both of them consider appropriate in order to enable Her Majesty's Government in the United Kingdom to give effect—
 - (a) to any Community obligations; or
 - (b) to any international agreement to which the United Kingdom is for the time being a party.
- (3) The power to give a direction under this section shall be exercisable, except in an emergency, only after consultation with the Authority.

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- (4) Any power of the Secretary of State or the Minister otherwise than by virtue of this section to give directions to the Authority shall be without prejudice to the power conferred by this section.

147 Powers of entry etc

- (1) Any person designated in writing for the purpose by the Secretary of State, the Minister or the Authority may—
- (a) enter any premises or vessel for the purpose of—
 - (i) ascertaining whether any provision of an enactment to which this section applies, of any subordinate legislation or other instrument made by virtue of any such enactment or of any byelaws made by the Authority is being or has been contravened;
 - (ii) determining whether, and if so in what manner, any power or duty conferred or imposed on the Secretary of State, the Minister or the Authority by virtue of any enactment to which this section applies (including a power of the Secretary of State or the Minister to make subordinate legislation) should be exercised or, as the case may be, performed; or
 - (iii) exercising or performing any power or duty which is so conferred or imposed;

and
 - (b) carry out such inspections, measurements and tests on any premises or vessel entered by that person or of any articles found on any such premises or vessel, and take away such samples of water or effluent or of any land or articles, as the Secretary of State, the Minister or the Authority—
 - (i) considers appropriate for any purpose mentioned in paragraph (a) above; and
 - (ii) has authorised that person to carry out or take away.
- (2) The powers which by virtue of subsection (1) above are conferred in relation to any premises for the purpose of enabling the Secretary of State, the Minister or the Authority to determine—
- (a) whether any provision made by or under Chapter I of this Part is being or has been contravened; or
 - (b) whether or in what manner to exercise or perform any power or duty conferred or imposed on him or it by or under that Chapter,
- shall include power, in order to obtain the information on which that determination may be made, to carry out experimental borings or other works on those premises and to install and keep monitoring and other apparatus there.
- (3) Without prejudice to any power exercisable by virtue of a warrant under section 178 below, no person shall make an entry into any premises or vessel by virtue of this section except—
- (a) in an emergency; or
 - (b) at a reasonable time and, if the premises are residential premises, the vessel is used for residential purposes or the entry is to be with heavy equipment, after seven days' notice of the intended entry has been given to the occupier of the premises or vessel.

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

- (4) This section applies to any enactment contained in this Part, in the Water Resources Act 1963, in the Land Drainage Act 1976 or in any other enactment not contained in this Act under or for the purposes of which the Authority carries out functions.

148 Admissibility of analyses of samples

- (1) Subject to subsection (2) below, the result of the analysis of any sample taken on behalf of the Authority in exercise of any power conferred by this Act shall not be admissible in any legal proceedings in respect of any effluent passing from any land or vessel unless the person who took the sample—
- (a) on taking the sample notified the occupier of the land or the owner or master of the vessel of his intention to have it analysed;
 - (b) there and then divided the sample into three parts and caused each part to be placed in a container which was sealed and marked; and
 - (c) delivered one part to the occupier of the land or the owner or master of the vessel and retained one part, apart from the one he submitted to be analysed, for future comparison.
- (2) If it is not reasonably practicable for a person taking a sample to comply with the requirements of subsection (1) above on taking the sample, those requirements shall be treated as having been complied with if they were complied with as soon as reasonably practicable after the sample was taken.
- (3) In relation to any proceedings in respect of effluent passing from a public sewer or other outfall belonging to a sewerage undertaker into any water, this section shall have effect as if the references to the occupier of the land were references to the sewerage undertaker in which the sewer or outfall is vested.

149 Provision of information to the Ministers

- (1) It shall be the duty of the Authority to furnish the Secretary of State or the Minister with all such information relating to—
- (a) the Authority's property;
 - (b) the carrying out and proposed carrying out of its functions; and
 - (c) its responsibilities generally,
- as he may reasonably require.
- (2) Information required under this section shall be furnished in such form and manner, and be accompanied or supplemented by such explanations, as the Secretary of State or the Minister may reasonably require.
- (3) The information which the Authority may be required to furnish to the Secretary of State or the Minister under this section shall include information which, although it is not in the possession of the Authority or would not otherwise come into the possession of the Authority, is information which it is reasonable to require the Authority to obtain.
- (4) A requirement for the purposes of this section shall be contained in a direction which—
- (a) may describe the information to be furnished in such manner as the Secretary of State or the Minister considers appropriate; and
 - (b) may require the information to be furnished on a particular occasion, in particular circumstances or from time to time.

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

- (5) For the purposes of this section the Authority shall—
- (a) permit any person authorised by the Secretary of State or the Minister for the purpose to inspect and make copies of the contents of any accounts or other records of the Authority; and
 - (b) give such explanation of them as that person or the Secretary of State or the Minister may reasonably require.

150 Annual report of the Authority

- (1) As soon as reasonably practicable after the end of each financial year the Authority shall prepare a report on its activities during that year and shall send a copy of that report to the Secretary of State and to the Minister.
- (2) Every such report shall set out any directions under section 146 above which have been given to the Authority during the year to which the report relates.
- (3) The Secretary of State shall lay a copy of every such report before each House of Parliament and shall arrange for copies of every such report to be published in such manner as he considers appropriate.
- (4) The Authority's annual report shall be in such form and contain such information as may be specified in any direction given to the Authority jointly by the Secretary of State and the Minister.