



Water Act 1989

1989 CHAPTER 15

PART VI

MISCELLANEOUS AND SUPPLEMENTAL

Directions in the interests of national security etc.

170 Directions in the interests of national security etc

- (1) The Secretary of State may, after consultation with a body to which this section applies, give to that body such directions of a general character as appear to the Secretary of State to be requisite or expedient in the interests of national security or for the purpose of mitigating the effects of any civil emergency which may occur.
- (2) If it appears to the Secretary of State to be requisite or expedient to do so in the interests of national security or for the purpose of mitigating the effects of any civil emergency which has occurred or may occur, he may, after consultation with a body to which this section applies, give to that body a direction requiring it to do, or not to do, a particular thing specified in the direction.
- (3) It shall be the duty of any body to which this section applies, notwithstanding any other duty imposed on it (whether or not by or under this Act), to comply with any direction given to it by the Secretary of State under this section; and the duty of a water undertaker or sewerage undertaker to comply with any such direction shall be enforceable under section 20 above by the Secretary of State.
- (4) The Secretary of State shall lay before each House of Parliament a copy of every direction given under this section unless he is of the opinion that disclosure of the direction is against the interests of national security .
- (5) A person shall not disclose, or be required by virtue of any enactment or otherwise to disclose, anything done by virtue of this section if the Secretary of State has notified him that the Secretary of State is of the opinion that disclosure of that thing is against the interests of national security.

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- (6) Any person who discloses any matter in contravention of subsection (5) above shall be guilty of an offence and liable, on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.
- (7) The Secretary of State may, with the approval of the Treasury, make grants to bodies to which this section applies for the purpose of defraying or contributing towards any losses they may sustain by reason of compliance with directions given under this section in the interests of national security.
- (8) Any sums required by the Secretary of State for making grants under subsection (7) above shall be paid out of money provided by Parliament.
- (9) This section applies to the Authority, to every water undertaker and to every sewerage undertaker; and any reference in this section to a civil emergency is a reference to any natural disaster or other emergency which, in the opinion of the Secretary of State, is or may be likely in relation to any area—
 - (a) so to disrupt water supplies or sewerage services; or
 - (b) to involve such destruction of or damage to life or property in that area, as seriously and adversely to affect all the inhabitants of that area, or a substantial number of them, whether by depriving them of any of the essentials of life or otherwise.

Power to give effect to international obligations

171 Power to give effect to international obligations

- (1) The appropriate Minister may by regulations provide that the provisions to which this section applies shall have effect with such modifications as may be prescribed for the purpose of enabling 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.
- (2) This section applies —
 - (a) to the provisions of Chapter II of Part II of this Act;
 - (b) to the provisions of Chapter I of Part III of this Act; and
 - (c) to the provisions of Chapter IV of Part III of this Act and of any enactment relating to the carrying out by the Authority of such of its functions as relate to fisheries.
- (3) In this section “the appropriate Minister” —
 - (a) in relation to the provisions mentioned in subsection (2)(a) and (b) above, means the Secretary of State; and
 - (b) in relation to the provisions mentioned in subsection (2)(c) above, means the Minister or the Secretary of State.

Indemnities in respect of fluoridation

172 Indemnities in respect of fluoridation

- (1) The Secretary of State may, with the consent of the Treasury, agree to indemnify any statutory water undertaker in respect of such of any of the following as he thinks fit, that is to say—
 - (a) liabilities incurred by the undertaker in connection with anything done by the undertaker for the purpose of increasing the fluoride content of any water supplied by the undertaker;
 - (b) costs or expenses which are incurred by the undertaker, or for which the undertaker is liable, in connection with any proceedings which have been or may be brought by any person with respect to—
 - (i) things done for the purpose of increasing the fluoride content of any water; or
 - (ii) a proposal to increase the fluoride content of any water;
 - (c) expenditure incurred by the undertaker in complying with an order made in any such proceedings;
 - (d) liabilities transferred to the undertaker in accordance with a scheme under Schedule 2 or 5 to this Act which, in relation to the person from whom they were transferred, were liabilities falling within paragraph (a) above or liabilities in respect of costs, expenses or other expenditure mentioned in subparagraph (b) or (c) above.
- (2) In this section “statutory water undertaker” means—
 - (a) any water undertaker or, in relation to any time before the transfer date, any water authority or any statutory water company within the meaning of the 1973 Act; or
 - (b) any water authority within the meaning of the Water (Scotland) Act 1980.

Payments to existing pension fund

173 Payments to existing pension fund

- (1) Subject to subsection (3) below, the Secretary of State may, with the consent of the Treasury, make such payments into any fund maintained for the purposes of any regulations under section 7 of the Superannuation Act 1972, as he may consider appropriate in respect of the actual and prospective liabilities falling from time to time to be met out of that fund to or in respect of persons, or classes of persons, who—
 - (a) have ceased to be officers or employees of a water authority; or
 - (b) have ceased to be officers or employees of any person designated for the purposes of this paragraph by order made by the Secretary of State.
- (2) The Secretary of State shall not make an order designating a person for the purposes of subsection (1)(b) above unless that person appears to him to be a person whose activities at any time before the transfer date consisted in, or were connected with, the carrying out of any function which is transferred by this Act or which corresponds to any such function or to any other function under this Act; and the power to make such an order shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

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- (3) It shall be the duty of the Secretary of State so to exercise the power conferred by subsection (1) above as to ensure that all such liabilities as are mentioned in that subsection are able to be met out of the fund out of which they fall to be met in accordance with any regulations under the said section 7.
- (4) Any amount paid into any fund by the Secretary of State under this section shall be paid out of money provided by Parliament.

Information etc.

174 General restrictions on disclosure of information

- (1) Subject to the following provisions of this section, no information with respect to any particular business which—
- (a) has been obtained by virtue of any of the provisions of this Act; and
 - (b) relates to the affairs of any individual or to any particular business,
- shall, during the lifetime of that individual or so long as that business continues to be carried on, be disclosed without the consent of that individual or the person for the time being carrying on that business.
- (2) Subsection (1) above does not apply to any disclosure of information which is made—
- (a) for the purpose of facilitating the carrying out by the Secretary of State, the Minister, the Authority, the Director, the Monopolies Commission or a local authority of any of his, its or, as the case may be, their functions by virtue of this Act;
 - (b) for the purpose of facilitating the performance by a water undertaker or a sewerage undertaker of any of the duties imposed on it by or under this Act;
 - (c) in pursuance of any arrangements made by the Director under section 27(4) above or of any duty imposed by section 119(1) or (2) or 130(1)(a) or (2) above;
 - (d) for the purpose of facilitating the carrying out by—
 - (i) any Minister of the Crown;
 - (ii) the Director General of Fair Trading;
 - (iii) the Monopolies Commission;
 - (iv) the Director General of Telecommunications;
 - (v) the Civil Aviation Authority;
 - (vi) the Director General of Gas Supply;
 - (vii) the Director General of Electricity Supply; or
 - (viii) a local weights and measures authority in England and Wales,
 of any of his, its or, as the case may be, their functions under any of the enactments or instruments specified in subsection (3) below;
 - (e) for the purpose of enabling or assisting the Secretary of State to exercise any powers conferred on him by the Financial Services Act 1986 or by the enactments relating to companies, insurance companies or insolvency or for the purpose of enabling or assisting any inspector appointed by him under the enactments relating to companies to carry out his functions;
 - (f) for the purpose of enabling an official receiver to carry out his functions under the enactments relating to insolvency or for the purpose of enabling or

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- assisting a recognised professional body for the purposes of section 391 of the Insolvency Act 1986 to carry out its functions as such;
- (g) for the purpose of facilitating the carrying out by the Health and Safety Commission or the Health and Safety Executive of any of its functions under any enactment or of facilitating the carrying out by any enforcing authority, within the meaning of Part I of the Health and Safety at Work etc. Act 1974, of any functions under a relevant statutory provision, within the meaning of that Act;
 - (h) for the purpose of facilitating the carrying out by the Comptroller and Auditor General of any of his functions under any enactment;
 - (i) in connection with the investigation of any criminal offence or for the purposes of any criminal proceedings;
 - (j) for the purposes of any civil proceedings brought under or by virtue of this Act or any of the enactments or instruments specified in subsection (3) below or of any arbitration under this Act; or
 - (k) in pursuance of a Community obligation.
- (3) The enactments and instruments referred to in subsection (2) above are—
- (a) the Trade Descriptions Act 1968;
 - (b) the Fair Trading Act 1973;
 - (c) the Consumer Credit Act 1974;
 - (d) the Restrictive Trade Practices Act 1976;
 - (e) the Resale Prices Act 1976;
 - (f) the Estate Agents Act 1979;
 - (g) the Competition Act 1980;
 - (h) the Telecommunications Act 1984;
 - (i) the Airports Act 1986;
 - (j) the Gas Act 1986;
 - (k) the Consumer Protection Act 1987;
 - (l) the Electricity Act 1989;
 - (m) any subordinate legislation made for the purpose of securing compliance with the Directive of the Council of the European Communities dated 10th September 1984 (No. [84/450/EEC](#)) on the approximation of the laws, regulations and administrative provisions of the member States concerning misleading advertising.
- (4) Nothing in subsection (1) above shall be construed—
- (a) as limiting the matters which may be published under section 34 above or may be included in, or made public as part of, a report of the Authority, the Director, a customer service committee or the Monopolies Commission under any provision of this Act; or
 - (b) as applying to any information which has been so published or has been made public as part of such a report or to any information exclusively of a statistical nature.
- (5) Any person who discloses any information in contravention of this section shall be guilty of an offence and liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

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- (6) Subject to subsection (7) below, nothing in this section shall preclude the disclosure of information—
- (a) if the disclosure is of information relating to a matter connected with the carrying out of the functions of a water undertaker or sewerage undertaker and is made by one Minister of the Crown or Government department to another; or
 - (b) if the disclosure is for the purpose of enabling or assisting any public or other authority for the time being designated for the purposes of this section by an order made by the Secretary of State to discharge any functions which are specified in the order.
- (7) The power to make an order under subsection (6) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament; and where such an order designates an authority for the purposes of paragraph (b) of that subsection, the order may—
- (a) impose conditions subject to which the disclosure of information is permitted by virtue of that paragraph; and
 - (b) otherwise restrict the circumstances in which disclosure is so permitted.

175 Making of false statements etc

- (1) If any person, in furnishing any information or making any application under or for the purposes of any provision of this Act, makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular, he shall be guilty of an offence and liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to a fine.
- (2) Proceedings for an offence under subsection (1) above shall not be instituted except by or with the consent of the Secretary of State, the Minister or the Director of Public Prosecutions.

176 Provision of supplementary information

Where by virtue of this Act—

- (a) any application or notice under any enactment is required to be supplemented by such information as the person to whom the application is made or on whom the notice is served may require; and
- (b) that person is required to do anything within a specified period after the application or notice is made or served,

the failure to provide the information shall not invalidate the application or notice but, if the requirement to provide the information was made at such a time before the end of the period as gave the applicant or the person serving the notice a reasonable opportunity to provide it within the period, the person who required the information shall be entitled to delay doing that thing until a reasonable time after the required information is provided.

Offences

177 Offences by bodies corporate

- (1) Where a body corporate is guilty of an offence under this Act and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by its members, subsection (1) above shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

Powers of entry etc.

178 Warrant to exercise power

- (1) This section applies to each of the powers conferred by sections 59(2), 60(4), 62(4), 64(1), 147(1) and 156 above and to each of the powers conferred by paragraph 1 of Schedule 10, paragraph 10 of Schedule 19 and paragraph 5 of Schedule 21 to this Act.
- (2) If it is shown to the satisfaction of a justice of the peace on sworn information in writing—
 - (a) that there are reasonable grounds for the exercise in relation to any premises of a power to which this section applies; and
 - (b) that one or more of the conditions specified in subsection (3) below is satisfied in relation to those premises,the justice may by warrant authorise the relevant authority to designate a person who shall be authorised to exercise the power in relation to those premises in accordance with the warrant and, if need be, by force.
- (3) The conditions mentioned in subsection (2)(b) above are—
 - (a) that the exercise of the power in relation to the premises has been refused;
 - (b) that such a refusal is reasonably apprehended;
 - (c) that the premises are unoccupied;
 - (d) that the occupier is temporarily absent from the premises;
 - (e) that the case is one of urgency; or
 - (f) that an application for admission to the premises would defeat the object of the proposed entry.
- (4) A justice of the peace shall not issue a warrant under this section by virtue only of being satisfied that the exercise of a power in relation to any premises has been refused, or that a refusal is reasonably apprehended, unless he is also satisfied—
 - (a) that notice of the intention to apply for the warrant has been given to the occupier of the premises; or
 - (b) that the giving of such a notice would defeat the object of the proposed entry.
- (5) A justice of the peace shall not issue a warrant under this section in a case to which subsection (4) of section 156 above applies unless he is satisfied that the Secretary

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of State has given his authorisation for the purposes of that subsection in relation to that case.

(6) Every warrant under this section shall continue in force until the purposes for which the warrant was issued have been fulfilled.

(7) In this section—

“premises”, in relation to a power which is conferred in relation to vessels (as well as in relation to premises), includes a vessel; and

“relevant authority”, in relation to a power to which this section applies, means the person who, by virtue of the provision by which the power is conferred, is entitled to designate the person by whom the power may be exercised.

179 Provisions supplementary to powers of entry etc

(1) This section applies to any power to which section 178 above applies and to any power conferred by virtue of that section.

(2) A person designated as the person who may exercise any power to which this section applies shall produce evidence of his designation and other authority before he exercises the power.

(3) A person authorised to enter any premises by virtue of any power to which this section applies shall be entitled, subject in the case of a power exercisable under a warrant to the terms of the warrant, to take with him on to the premises such other persons and such equipment as may be necessary.

(4) A person who enters any premises in the exercise of any power to which this section applies shall leave the premises as effectually secured against trespassers as he found them.

(5) Where any person exercises any power to which this section applies in relation to any premises, it shall be the duty of the relevant authority to make full compensation to any person who has sustained loss or damage by reason of—

(a) the exercise by the designated person of that power or of any power to take any person or equipment with him when entering the premises; or

(b) the performance of, or failure of, the designated person to perform, the duty imposed by subsection (4) above,

not being loss or damage which is attributable to the default of the person who sustained it or loss or damage in respect of which compensation is payable by virtue of any other provision of this Act.

(6) Any dispute as to a person’s entitlement to compensation under subsection (5) above, or as to the amount of any such compensation, shall be referred to the arbitration of a single arbitrator appointed by agreement between the relevant authority and the person who claims to have sustained the loss or damage or, in default of agreement—

(a) by the President of the Lands Tribunal where the relevant authority is the Secretary of State or the Minister; and

(b) by the Secretary of State or the Minister, in any other case;

and any compensation required to be paid by the Secretary of State or the Minister under that subsection shall be paid out of money provided by Parliament.

- (7) For the purposes of subsections (4) and (5) above a person enters any premises by virtue of a power to which this section applies notwithstanding that he has failed (whether by virtue of the waiver of the requirement by the occupier of the premises or otherwise) to comply with the requirement imposed by subsection (2) above or with any requirement to enter those premises at a reasonable time or after giving notice of his intended entry.
- (8) A person who intentionally obstructs another person acting in the exercise of any power to which this section applies shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.
- (9) In this section—
- “premises”, in relation to a power which is conferred in relation to vessels (as well as in relation to premises), includes a vessel; and
 - “relevant authority”, in relation to a power to which this section applies, means the person who, by virtue of the provision by which the power is conferred or, as the case may be, the warrant, is entitled to designate the person by whom the power may be exercised.

180 Impersonation of persons exercising powers of entry

- (1) A person who, without having been designated or authorised for the purpose by a relevant authority, purports to be entitled to enter any premises or vessel in exercise of a power exercisable in pursuance of any such designation or authorisation shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 4 on the standard scale.
- (2) For the purposes of this section it shall be immaterial, where a person purports to be entitled to enter any premises or vessel, that the power which that person purports to be entitled to exercise does not exist or would not be exercisable even if that person had been designated or authorised by a relevant authority.
- (3) In this section “relevant authority” means the Authority or any water undertaker or sewerage undertaker.

Local inquiries

181 Local inquiries

- (1) Subject to subsection (2) below, subsections (2) to (5) of section 250 of the Local Government Act 1972 (which contain supplementary provisions with respect to local inquiries held in pursuance of that section) shall apply to local inquiries under this Act as they apply to inquiries under that section.
- (2) Subsection (4) of the said section 250 shall apply in accordance with subsection (1) above in relation to such local inquiries under this Act as are held with respect to any matter affecting the carrying out of any function of the Authority as if the reference to a local authority in that subsection included a reference to the Authority.

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Judicial disqualification

182 Judicial disqualification

No judge of any court or justice of the peace shall be disqualified from acting in relation to any proceedings to which the Authority or a water undertaker or sewerage undertaker is a party by reason only that he is or may become liable to pay a charge to the Authority or that undertaker in respect of any service that is not the subject-matter of the proceedings.

Financial provisions

183 General financial provisions

There shall be paid out of money provided by Parliament—

- (a) any administrative expenses or charges incurred by any Minister of the Crown or Government department in consequence of the provisions of this Act; and
- (b) any increase attributable to this Act in the sums payable out of money so provided under any other Act.

184 Government guarantees

- (1) This section applies in relation to any guarantee given by the Secretary of State under section 25(2) or 84(2) above or by the Secretary of State or the Minister under paragraph 20 of Schedule 1 to this Act.
- (2) Immediately after a guarantee to which this section applies is given, the guarantor shall lay a statement of the guarantee before each House of Parliament; and where any sum is paid out for fulfilling such a guarantee the guarantor shall, as soon as possible after the end of each financial year (beginning with that in which the sum is paid out and ending with that in which all liability in respect of the principal of the sum and in respect of the interest thereon is finally discharged), lay before each House of Parliament a statement relating to that sum.
- (3) Any sums required by the Secretary of State or the Minister for fulfilling a guarantee to which this section applies shall be paid out of money provided by Parliament.
- (4) Without prejudice, in the case of a guarantee given under section 25(2) above, to any provision applied in relation to the relevant person by Schedule 6 to this Act, if any sums are paid out in fulfilment of a guarantee to which this section applies, the relevant person shall make to the guarantor, at such times and in such manner as the guarantor may from time to time direct—
 - (a) payments of such amounts as the guarantor may so direct in or towards repayment of the sums so paid out; and
 - (b) payments of interest, at such rate as the guarantor may so direct, on what is outstanding for the time being in respect of sums so paid out;and the consent of the Treasury shall be required for the giving of a direction under this subsection.
- (5) Any sums received by the Secretary of State or the Minister under subsection (4) above shall be paid into the Consolidated Fund.

- (6) In subsection (4) above “the relevant person”, in relation to a guarantee, means the person who borrowed the sums in respect of which the guarantee was given.

Subordinate legislation

185 Powers to make regulations

- (1) The powers of the Secretary of State, and those of the Minister, to make regulations under this Act shall be exercisable by statutory instrument subject (except in the case of regulations under section 13(1) above) to annulment in pursuance of a resolution of either House of Parliament.
- (2) The provisions of any regulations made by the Secretary of State or the Minister under this Act may include—
- (a) provision for any duty or other requirement imposed by the regulations on a water undertaker or sewerage undertaker to be enforceable under section 20 above by the Secretary of State, by the Director or by either of them and, where such a duty or requirement is enforceable by either of them, for enforcement by the Director to be subject to such consent or authorisation as may be prescribed;
 - (b) provision which, in relation to the furnishing of any information or the making of any application under the regulations, makes provision corresponding to section 175 above;
 - (c) provision for anything falling to be determined under the regulations to be determined by such persons, in accordance with such procedure and by reference to such matters and to the opinion of such persons as may be prescribed;
 - (d) different provision for different cases, including different provision in relation to different persons, circumstances or localities; and
 - (e) such supplemental, consequential and transitional provision as the Secretary of State or the Minister considers appropriate.

186 Byelaws

Schedule 24 to this Act shall have effect with respect to any byelaws made by the Authority under any power conferred on it by virtue of this Act or any other enactment and with respect to any byelaws made under section 158 above by any water undertaker or sewerage undertaker.

Interpretation provisions

187 Interpretation of references to the service of documents

- (1) Any document required or authorised by virtue of this Act to be served on any person may be served—
- (a) by delivering it to him or by leaving it at his proper address or by sending it by post to him at that address; or
 - (b) if the person is a body corporate, by serving it in accordance with paragraph (a) above on the secretary or clerk of that body; or

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- (c) if the person is a partnership, by serving it in accordance with paragraph (a) above on a partner or a person having the control or management of the partnership business.
- (2) For the purposes of this section and section 7 of the Interpretation Act 1978 (which relates to the service of documents by post) in its application to this section, the proper address of any person on whom a document is to be served shall be his last known address, except that—
- (a) in the case of service on a body corporate or its secretary or clerk, it shall be the address of the registered or principal office of the body;
 - (b) in the case of service on a partnership or a partner or a person having the control or management of a partnership business, it shall be the address of the principal office of the partnership;
- and for the purposes of this subsection the principal office of a company registered outside the United Kingdom or of a partnership carrying on business outside the United Kingdom is its principal office within the United Kingdom.
- (3) If a person to be served by virtue of this Act with any document by another has specified to that other an address within the United Kingdom other than his proper address (as determined in pursuance of subsection (2) above) as the one at which he or someone on his behalf will accept documents of the same description as that document, that address shall also be treated as his proper address for the purposes of this section and for the purposes of the said section 7 in its application to this section.
- (4) Where under any provision of this Act any document is required to be served on the owner or on the occupier of any premises then—
- (a) if the name or address of the owner or, as the case may be, of the occupier of the premises cannot after reasonable inquiry be ascertained; or
 - (b) in the case of service on the occupier, if the premises appear to be or are unoccupied,
- that document may be served either by leaving it in the hands of a person who is or appears to be resident or employed on the land or by leaving it conspicuously affixed to some building or object on the land.
- (5) This section shall not apply to any document in relation to the service of which provision is made by rules of court.

188 Interpretation of certain references to functions

- (1) The purposes to which this section applies shall be the construction of any enactment which, by reference to the functions of the Authority or of a water undertaker or sewerage undertaker, confers any power on or in relation to the Authority or, as the case may be, that undertaker.
- (2) For the purposes to which this section applies the functions of the Authority, of every water undertaker and of every sewerage undertaker shall be taken to include—
- (a) joining with one or more other relevant bodies; or
 - (b) acting on behalf of any other relevant body,
- for the purpose of carrying out any works or acquiring any land which at least one of those other bodies or, as the case may be, that other body is authorised to carry out or acquire for the purposes of its functions under any enactment or of any function which is taken to be one of its functions for the purposes to which this section applies; and

the Authority, every water undertaker and every sewerage undertaker shall be relevant bodies for the purposes of this subsection.

- (3) For the purposes to which this section applies the functions of the Authority, of every water undertaker and of every sewerage undertaker shall be taken to include the protection against pollution—
 - (a) of any waters, whether on the surface or underground, which belong to the Authority or any water undertaker or from which the Authority or any water undertaker is authorised to take water;
 - (b) without prejudice to paragraph (a) above, of any reservoir which belongs to or is operated by the Authority or any water undertaker or which the Authority or any water undertaker is proposing to acquire or construct for the purpose of being so operated; and
 - (c) of any underground strata from which the Authority or any water undertaker is for the time being authorised to abstract water in pursuance of a licence under the Water Resources Act 1963.
- (4) For the purposes to which this section applies the functions of the Authority, of every water undertaker and of every sewerage undertaker shall be taken to include the furtherance of research into matters in respect of which functions are conferred by or under this Act on the Authority, on water undertakers or on sewerage undertakers.
- (5) For the purposes to which this section applies the functions of the Authority, of every water undertaker and of every sewerage undertaker shall be taken to include the provision of houses and other buildings for the use of persons employed by the Authority or, as the case may be, that undertaker and the provision of recreation grounds for persons so employed.
- (6) For the purposes to which this section applies the functions of the Authority and of every water undertaker shall be taken to include the provision of supplies of water in bulk, whether or not such supplies are provided for the purposes of, or in connection with, the carrying out of any other function of the Authority or undertaker.
- (7) For the purposes to which this section applies the functions of every water undertaker shall be taken to include the doing of anything in pursuance of any arrangements under section 126 above between that undertaker and the Authority.

189 General interpretation

- (1) In this Act, except in so far as the context otherwise requires—
 - “the 1945 Act” means the Water Act 1945;
 - “the 1973 Act” means the Water Act 1973;
 - “accessories”, in relation to a water main, sewer or other pipe, includes any manholes, ventilating shafts, inspection chambers, settling tanks, wash-out pipes, pumps, ferrules or stopcocks for the main, sewer or other pipe, or any machinery or other apparatus which is designed or adapted for use in connection with the use or maintenance of the main, sewer or other pipe or of another accessory for it, but does not include any telecommunication apparatus (within the meaning of Schedule 2 to the Telecommunications Act 1984) unless it—
 - (a) is or is to be situated inside or in the close vicinity of the main, sewer or other pipe or inside or in the close vicinity of another accessory for it; and

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(b) is intended to be used only in connection with the use or maintenance of the main, sewer or other pipe or of another accessory for it;

“analyse”, in relation to any sample of land, water or effluent, includes subjecting the sample to a test of any description, and cognate expressions shall be construed accordingly;

“the Authority” means the National Rivers Authority;

“conservancy authority” means any person who has a duty or power by or under any enactment to conserve, maintain or improve the navigation of a tidal water, and is not a harbour authority or navigation authority;

“contravention” includes a failure to comply, and cognate expressions shall be construed accordingly;

“customer or potential customer”, in relation to a company holding an appointment under Chapter I of Part II of this Act, means—

(a) any person for or to whom that company provides any services in the course of carrying out the functions of a water undertaker or sewerage undertaker; or

(b) any person who might become such a person on making an application for the purpose to the company;

“damage”, in relation to individuals, includes personal injury and death;

“the Director” means the Director General of Water Services;

“disposal”—

(a) in relation to land or any interest or right in or over land, includes the creation of such an interest or right and a disposal effected by means of the surrender or other termination of any such interest or right; and

(b) in relation to sewage, includes treatment;

and cognate expressions shall be construed accordingly;

“domestic purposes”, except in relation to sewers, shall be construed in accordance with subsections (2) and (3) below;

“drain” has, subject to subsection (4) below, the same meaning as in the Public Health Act 1936;

“effluent” means any liquid, including particles of matter and other substances in suspension in the liquid;

“enactment” includes an enactment contained in this Act or in any Act passed after this Act;

“engineering or building operations”, without prejudice to the generality of that expression, includes—

(a) the construction, alteration, improvement, maintenance or demolition of any building or structure or of any reservoir, watercourse, dam, weir, well, borehole or other works; and

(b) the installation, modification or removal of any machinery or apparatus;

“financial year” means the twelve months ending with 31st March;

“functions”, in relation to the Authority or a water undertaker or sewerage undertaker, means the functions of the Authority or, as the case may be, of such an undertaker under or by virtue of any enactment and shall be construed subject to section 188 above;

“harbour authority” means a person who is a harbour authority within the meaning of the Prevention of Oil Pollution Act 1971 and is not a navigation authority;

“highway” has the same meaning as in the Highways Act 1980;

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“holding company” has the same meaning as in the Companies Act 1985;

“house” means any building or part of a building which is occupied as a dwelling-house, whether or not a private dwelling-house, or which, if unoccupied, is likely to be so occupied;

“information” includes anything contained in any records, accounts, estimates or returns;

“inland waters”, except in Chapter I of Part III of this Act, has the same meaning as in the Water Resources Act 1963;

“limited company” means a company within the meaning of the Companies Act 1985 which is limited by shares;

“local authority” means the council of a district or of a London borough or the Common Council of the City of London;

“local statutory provision” means—

- (a) a provision of a local Act (including an Act confirming a provisional order);
- (b) a provision of so much of any public general Act as has effect with respect to a particular area, with respect to particular persons or works or with respect to particular provisions falling within any paragraph of this definition;
- (c) a provision of an instrument made under any provision falling within paragraph (a) or (b) above; or
- (d) a provision of any other instrument which is in the nature of a local enactment;

“micro-organism” includes any microscopic biological entity which is capable of replication;

“the Minister” means the Minister of Agriculture, Fisheries and Food;

“modifications” includes additions, alterations and omissions, and cognate expressions shall be construed accordingly;

“the Monopolies Commission” means the Monopolies and Mergers Commission;

“navigation authority” means any person who has powers under any enactment to work, maintain, conserve, improve or control any canal or other inland navigation, navigable river, estuary, harbour or dock;

“notice” means notice in writing;

“owner”, in relation to any premises, means the person who—

- (a) is for the time being receiving the rack-rent of the premises, whether on his own account or as agent or trustee for another person; or
- (b) would receive the rack-rent if the premises were let at a rack-rent,

and cognate expressions shall be construed accordingly;

“prescribed” means prescribed by or determined under regulations made by the Secretary of State or, in relation to regulations made by the Minister, those regulations;

“protected land”, in relation to a company holding an appointment under Chapter I of Part II of this Act, means any land which, or any interest or right in or over which—

- (a) was transferred to that company in accordance with a scheme under Schedule 2 to this Act or, where that company is a statutory water company, is or was held by that company at any time during the financial year current on the transfer date;

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- (b) is or has at any time on or after the transfer date been held by that company for purposes connected with the carrying out of its functions as a water undertaker or sewerage undertaker (including any functions which for the purposes for which section 188 above has effect are taken to be such functions by virtue of subsection (6) or (7) of that section); or
- (c) has been transferred to that company in accordance with a scheme under Schedule 5 to this Act from another company in relation to which that land was protected land when the other company held an appointment under that Chapter;

“public authority” means any Minister of the Crown or government department, the Authority, any local authority or county council or any person certified by the Secretary of State to be a public authority for the purposes of this Act;

“public sewer” means a sewer for the time being vested in a sewerage undertaker in its capacity as such, whether vested in that undertaker by virtue of a scheme under Schedule 2 or 5 to this Act or under section 153 above or otherwise, and “private sewer” shall be construed accordingly;

“records” includes computer records and any other records kept otherwise than in a document;

“service pipe” means, subject to subsection (4) below, so much of a pipe which is, or is to be, connected with a water main for supplying water from that main to any premises—

- (a) as is or is to be subject to water pressure from that main; or
- (b) as would be so subject but for the closing of some valve,

and includes part of any service pipe;

“services” includes facilities;

“sewer” has, subject to subsection (4) below, the same meaning as in the Public Health Act 1936;

“sewerage services” includes the disposal of sewage and any other services which are required to be provided by a sewerage undertaker for the purpose of carrying out its functions;

“sewerage undertaker” shall be construed in accordance with section 11 above;

“statutory water company” means any company which is a statutory water company for the purposes of the 1973 Act immediately before the transfer date;

“stopcock” includes any box or pit in which a stopcock is enclosed and the cover to any such box or pit;

“street” has, subject to subsection (5) below, the same meaning as in the Public Utilities Street Works Act 1950;

“subordinate legislation” has the same meaning as in the Interpretation Act 1978;

“subsidiary” has the same meaning as in the Companies Act 1985;

“substance” includes micro-organisms and any natural or artificial substance or other matter, whether it is in solid or liquid form or in the form of a gas or vapour;

“successor company” means a company nominated in accordance with section 4 above as the successor company of a water authority and, in relation

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to any water authority, means the company so nominated in relation to that authority;

“supply of water in bulk” means a supply of water for distribution by a water undertaker taking the supply;

“surface water” includes water from roofs;

“transfer date” means the day appointed as the transfer date in accordance with section 4 above;

“trunk main” means a water main which is or is to be used by a water undertaker for the purpose of—

- (a) conveying water from a source of supply to a filter or reservoir or from one filter or reservoir to another filter or reservoir; or
- (b) conveying water in bulk, whether in the course of taking a supply of water in bulk or otherwise, between different places outside the area of the undertaker, from such a place to any part of that area or from one part of that area to another part of that area;

“underground strata” means strata subjacent to the surface of any land;

“vessel” includes a hovercraft within the meaning of the Hovercraft Act 1968;

“water authority” means an authority established in accordance with section 2 of the 1973 Act;

“water main” means, subject to subsection (4) below, any pipe, not being a pipe for the time being vested in a person other than the undertaker, which is used or to be used by a water undertaker for the purpose of making a general supply of water available to customers or potential customers of the undertaker, as distinct from for the purpose of providing a supply to particular customers;

“water undertaker” shall be construed in accordance with section 11 above;

“watercourse” includes all rivers, streams, ditches, drains, cuts, culverts, dykes, sluices, sewers and passages through which water flows except mains and other pipes which belong to the Authority or a water undertaker or are used by a water undertaker or any other person for the purpose only of providing a supply of water to any premises.

(2) Subject to subsection (3) below, in this Act references to domestic purposes, in relation to a supply of water to any premises or in relation to any cognate expression, are references to the drinking, washing, cooking, central heating and sanitary purposes for which water supplied to those premises may be used; and, where the whole or any part of the premises are or are to be occupied as a house, those purposes shall be taken to include—

- (a) the purposes of a profession carried on in that house or, where that house and another part of the premises are occupied together and the house comprises the greater part of what is so occupied, in that other part; and
- (b) such purposes outside the house (including the washing of vehicles and the watering of gardens) as are connected with the occupation of the house and may be satisfied by a supply of water drawn from a tap inside the house and without the use of a hosepipe or similar apparatus.

(3) No such reference to domestic purposes shall be taken to include a reference—

- (a) to the use of a bath having a capacity, measured to the centre line of overflow or in such other manner as may be prescribed, of more than two hundred and thirty litres;

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- (b) to the purposes of the business of a laundry; or
 - (c) to any purpose of a business of preparing food or drink for consumption otherwise than on the premises.
- (4) References in this Act to a pipe, including references to a main, a drain or a sewer, shall include references to a tunnel or conduit which serves or is to serve as the pipe in question and to any accessories for the pipe; and, accordingly, references to the laying of a pipe shall include references to the construction of such a tunnel or conduit, to the construction or installation of any such accessories and to the making of a connection between one pipe and another.
- (5) It is hereby declared that a reference in this Act to a street includes, where the street is a highway which passes over a bridge or through a tunnel, that bridge or tunnel.
- (6) A company shall be regarded for the purposes of this Act as wholly owned by the Crown at any time when each of the issued shares is held by, or by a nominee of, the Treasury, the Secretary of State or another company which is wholly owned by the Crown.
- (7) For the purposes of any provision of this Act by or under which power is or may be conferred on any person to recover the expenses incurred by that person in doing anything, those expenses shall be assumed to include such sum as may be reasonable in respect of establishment charges or overheads.
- (8) References in this Act to the later or latest of two or more different times or days are, in a case where those times or days coincide, references to the time at which or, as the case may be, the day on which they coincide.
- (9) Where by virtue of any provision of this Act any function of a Minister of the Crown is exercisable concurrently by different Ministers, that function shall also be exercisable jointly by any two or more of those Ministers.
- (10) References in this Act to anything done under or for the purposes of any enactment contained in this Act or to anything done by or in relation to any person shall include references to anything which, by virtue of any provision made by or under this Act, has effect as if done under or for the purposes of that enactment or, as the case may be, by or in relation to that person.

Other supplemental provisions

190 Amendments, transitional provisions, savings and repeals

- (1) The enactments mentioned in Schedule 25 to this Act shall have effect subject to the amendments there specified (being minor amendments or amendments consequential on the preceding provisions of this Act); and, without prejudice to any power conferred by any other provision of this Act, the Secretary of State and the Minister shall each have power by regulations to make such additional consequential amendments—
- (a) of public general enactments not mentioned in that Schedule but passed before, or in the same Session as, this Act; and
 - (b) of subordinate legislation made before the passing of this Act,
- as he considers necessary or expedient by reason of the coming into force of any provision of this Act.

- (2) The transitional provisions and savings contained in Schedule 26 to this Act shall have effect; but those provisions and savings are without prejudice to sections 16 and 17 of the Interpretation Act 1978 (effect of repeals) or to the transfer, in accordance with a scheme under Schedule 2 to this Act, of any rights or liabilities saved by virtue of those sections.
- (3) The enactments mentioned in Schedule 27 to this Act (which include some which are spent or no longer of practical utility) are hereby repealed to the extent specified in the third column of that Schedule.
- (4) Subject to paragraphs 17, 46 and 53 of Schedule 26 to this Act, any reference in that Schedule or in Schedule 27 to this Act to a provision of Schedule 3 to the 1945 Act shall have effect, without prejudice to section 20(2) of the Interpretation Act 1978 (references to enactments to include references to enactments as amended, extended or applied), as including a reference to that provision as applied, with or without modifications, by any local statutory provision.

191 Local statutory provisions: consequential amendments etc

- (1) If it appears to the Secretary of State or the Minister to be appropriate to do so—
 - (a) for the purposes of, or in consequence of, the coming into force of any enactment contained in this Act; or
 - (b) in consequence of the effect or operation at any time after the transfer date of any such enactment or of anything done under any such enactment,he may by order repeal, amend or re-enact (with or without modifications) any local statutory provision, including, in the case of an order by virtue of paragraph (b) above, a provision amended by virtue of paragraph (a) above.
- (2) An order made by the Secretary of State or the Minister under subsection (1) above may—
 - (a) make provision applying generally in relation to local statutory provisions of a description specified in the order;
 - (b) make different provision for different cases, including different provision in relation to different persons, circumstances or localities;
 - (c) contain such supplemental, consequential and transitional provision as the Secretary of State or, as the case may be, the Minister considers appropriate; and
 - (d) in the case of an order made after the transfer date, require provision contained in the order to be treated as if it came into force on that date.
- (3) The power under this section to repeal or amend a local statutory provision shall include power to modify the effect in relation to any local statutory provision of any provision of Schedule 26 to this Act.
- (4) Nothing in any order under this section may abrogate or curtail the effect of so much of any local statutory provision as confers any right of way or confers on or preserves for the public—
 - (a) any right of enjoyment of air, exercise or recreation on land; or
 - (b) any right of access to land for the purposes of exercise or recreation.

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

- (5) The power to make an order under subsection (1) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) Subject to the provisions of Schedule 26 to this Act, nothing in any local statutory provision passed or made before the transfer date shall be construed as relieving any water undertaker or sewerage undertaker from any liability arising by virtue of this Act in respect of any act or omission occurring on or after that date.

192 Application to Crown land etc

- (1) Subject to the following provisions of this section, the provisions of this Act shall have effect in relation to land in which there is a Crown or Duchy interest as they have effect in relation to land in which there is no such interest.
- (2) Subject to subsection (3) below, a power which is conferred by or under this Act in relation to land shall be exercisable in relation to any land in which there is a Crown or Duchy interest only with the consent of the appropriate authority.
- (3) Subsection (2) above shall not require any consent to be given—
 - (a) for the exercise of any power in relation to any land in which there is a Crown or Duchy interest to the extent that that power would be so exercisable apart from subsection (1) above;
 - (b) for the imposition in relation to any premises in which there is a Crown or Duchy interest of any charges for a service provided by a water undertaker or sewerage undertaker in the course of carrying out its functions; or
 - (c) for the purposes of any provision having effect by virtue of so much of section 155 above and Schedule 20 to this Act as relates to the granting of authority for discharges of water;

but nothing in this section shall be construed as authorising the Authority to require the Crown to make any payment to the Authority in respect of any premises.

- (4) A consent given for the purposes of subsection (2) above may be given on such financial and other conditions as the appropriate authority giving the consent may consider appropriate.
- (5) In this section—

“the appropriate authority” has the same meaning as in section 266 of the Town and Country Planning Act 1971; and

“Crown or Duchy interest” means an interest belonging to Her Majesty in right of the Crown or of the Duchy of Lancaster, or to the Duchy of Cornwall, or belonging to a government department or held in trust for Her Majesty for the purposes of a government department;

and the provisions of subsection (7) of the said section 266 as to the determination of questions shall apply for the purposes of this section.

193 Application to Isles of Scilly

- (1) Subject to the provisions of any order under this section, nothing in this Act shall require or authorise any function, duty or power to be carried out, performed or exercised in relation to the Isles of Scilly by the Authority, a water undertaker or

sewerage undertaker; and references in the preceding provisions of this Act to England and Wales shall not include references to those Isles.

- (2) The Secretary of State may, on the application of the Council of the Isles of Scilly, by order make provision with respect to the carrying out in those Isles of functions falling under this Act to be carried out in relation to other parts of England and Wales by the Authority, by a water undertaker or by a sewerage undertaker; and, without prejudice to the generality of that power, an order under this section may apply any provision of this Act in relation to the Isles of Scilly with or without modifications.
- (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; and such an order 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 Secretary of State considers appropriate, including provision saving provision repealed by or under any enactment.

194 Short title, commencement and extent

- (1) This Act may be cited as the Water Act 1989.
- (2) This section, so much of this Act as confers any power to make subordinate legislation or makes provision with respect to the exercise of any such power and sections 29 and 30 above shall come into force on the passing of this Act.
- (3) The following provisions of this Act, except in so far as they are already in force in accordance with subsection (2) above, shall come into force on the transfer date, namely—
 - (a) sections 15 to 28 (including Schedules 5 and 6), section 31 and sections 33 to 36;
 - (b) Chapters II to V of Part II, except section 79;
 - (c) section 97;
 - (d) Parts III and IV, except so far as relating to the amendment, in Schedule 17, to the Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951;
 - (e) Part V, except so far as relating to sections 33, 47 and 48 of the Control of Pollution Act 1974;
 - (f) Schedule 26 and section 190 so far as relating to that Schedule; and
 - (g) Part I of Schedule 27 and section 190 so far as relating to that Part of that Schedule.
- (4) The provisions of this Act not brought into force on the passing of this Act or on the transfer date by subsection (2) or (3) above shall come into force on such day (whether that date or a day before or after that date) as the Secretary of State may by order made by statutory instrument appoint; and different days may be so appointed for different provisions or for different purposes.
- (5) An order made by the Secretary of State under subsection (4) above may make such transitional provisions and savings in connection with the bringing into force by that order of any provision of this Act as the Secretary of State considers appropriate.

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- (6) This section and the following provisions of this Act shall extend to the whole of the United Kingdom, namely—
- (a) Schedules 2 and 5 and sections 4, 13 and 23 so far as relating to any scheme under either of those Schedules;
 - (b) section 95; and
 - (c) any amendment or repeal by this Act of any provision contained in the Parliamentary Commissioner Act 1967, the Capital Allowances Act 1968, the House of Commons Disqualification Act 1975 or the Northern Ireland Assembly Disqualification Act 1975.
- (7) Subject to any enactment by virtue of which a provision of this Act has effect in relation to any part of the territorial sea adjacent to or to any part of Great Britain, the following provisions of this Act shall extend to Great Britain only, namely—
- (a) section 136 and Schedule 15 so far as they amend section 32 of the Land Drainage Act 1976;
 - (b) subsections (1) to (4), (6) and (7) of section 141 and, so far as they amend the Diseases of Fish Act 1937 or section 39 of the Salmon and Freshwater Fisheries Act 1975 (border rivers), subsection (5) of the said section 141 and Schedule 17;
 - (c) section 172;
 - (d) section 190 and Schedule 25 so far as they relate to the Agriculture Act 1970, the Health and Safety at Work etc. Act 1974 and the Employment Protection (Consolidation) Act 1978; and
 - (e) section 190 and Schedule 27 so far as they relate to the Diseases of Fish Act 1937, the Border Rivers (Prevention of Pollution) Act 1951, section 126 of the Water Resources Act 1963 (border rivers), section 39(4) of the Salmon and Freshwater Fisheries Act 1975 and the Diseases of Fish Act 1983.
- (8) The following provisions of this Act shall extend to Scotland only (subject, in the case of paragraph (a) below, to the application of sections 21 and 22 of the Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951 to any provision of that Act), namely—
- (a) subsection (5) of section 141 above and Schedule 17 to this Act, so far as they amend section 15 of the Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951;
 - (b) Part V;
 - (c) section 190 and Schedule 25 so far as they amend the Public Health (Scotland) Act 1897, the Agricultural Holdings (Scotland) Act 1949, the Rivers (Prevention of Pollution) (Scotland) Act 1951, the Valuation and Rating (Scotland) Act 1956 and the Water (Scotland) Act 1980;
 - (d) section 190 and Part I of Schedule 27 so far as they relate to section 104 of the Control of Pollution Act 1974.
- (9) Subject to subsections (6) to (8) above, to any enactment by virtue of which a provision of this Act has effect in relation to any part of the territorial sea adjacent to England and Wales and to the application of section 39(1) of the Salmon and Freshwater Fisheries Act 1975 (border rivers) to any provision of this Act in so far as it amends or repeals an enactment contained in the said Act of 1975, this Act shall extend to England and Wales only.