



# Water Industry Act 1991

## 1991 CHAPTER 56

### PART I

#### PRELIMINARY

##### *General duties*

## 2 General duties with respect to water industry.

- (1) This section shall have effect for imposing duties on the Secretary of State and on the Director as to when and how they should exercise and perform [<sup>F1</sup>the following powers and duties, that is to say—
- (b) in the case of the Director, the powers and duties conferred or imposed on him by virtue of any of those provisions, by the provisions relating to the financial conditions of requisitions or by the provisions relating to the movement of certain pipes.][<sup>F1</sup>the powers and duties conferred or imposed on the Secretary of State or the Authority by virtue of any of the relevant provisions.]

[<sup>F3</sup>(2A) The Secretary of State or, as the case may be, the Authority shall exercise and perform the powers and duties mentioned in subsection (1) above in the manner which he or it considers is best calculated—

- (a) to further the consumer objective;
- (b) to secure that the functions of a water undertaker and of a sewerage undertaker are properly carried out as respects every area of England and Wales;
- (c) to secure that companies holding appointments under Chapter 1 of Part 2 of this Act as relevant undertakers are able (in particular, by securing reasonable returns on their capital) to finance the proper carrying out of those functions;  
<sup>F4</sup> ...
- (d) to secure that the activities authorised by the licence of a licensed water supplier and any statutory functions imposed on it in consequence of the licence are properly carried out[<sup>F5</sup>; and
- (e) to further the resilience objective.]

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(2B) The consumer objective mentioned in subsection (2A)(a) above is to protect the interests of consumers, wherever appropriate by promoting effective competition between persons engaged in, or in commercial activities connected with, the provision of water and sewerage services.

(2C) For the purposes of subsection (2A)(a) above the Secretary of State or, as the case may be, the Authority shall have regard to the interests of—

- (a) individuals who are disabled or chronically sick;
- (b) individuals of pensionable age;
- (c) individuals with low incomes;
- (d) individuals residing in rural areas; and
- (e) customers, of companies holding an appointment under Chapter 1 of Part 2 of this Act, whose premises are not eligible to be supplied by a licensed water supplier,

but that is not to be taken as implying that regard may not be had to the interests of other descriptions of consumer.

(2D) For the purposes of subsection (2C) above, premises are not eligible to be supplied by a licensed water supplier if—

- (a) they are household premises (as defined in section 17C below); or
- (b) the total quantity of water estimated to be supplied to the premises annually for the purposes of subsection (2) of section 17D below is less than the quantity specified in that subsection.

[<sup>F6</sup>(2DA) The resilience objective mentioned in subsection (2A)(e) is—

- (a) to secure the long-term resilience of water undertakers' supply systems and sewerage undertakers' sewerage systems as regards environmental pressures, population growth and changes in consumer behaviour, and
- (b) to secure that undertakers take steps for the purpose of enabling them to meet, in the long term, the need for the supply of water and the provision of sewerage services to consumers,

including by promoting—

- (i) appropriate long-term planning and investment by relevant undertakers, and
- (ii) the taking by them of a range of measures to manage water resources in sustainable ways, and to increase efficiency in the use of water and reduce demand for water so as to reduce pressure on water resources.

(2DB) For the purposes of subsection (2DA)—

- (a) the reference to water undertakers' supply systems is to be construed in accordance with section 17B;
- (b) the reference to sewerage undertakers' sewerage systems is a reference to the systems comprising—
  - (i) the systems of public sewers, the facilities for emptying public sewers and the sewage disposal works and other facilities for dealing effectually with the contents of public sewers that undertakers are required to provide by section 94, and
  - (ii) the lateral drains that undertakers are required to maintain by section 94.]

(2E) The Secretary of State and the Authority may, in exercising any of the powers and performing any of the duties mentioned in subsection (1) above, have regard to—

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- (a) any interests of consumers in relation to electricity conveyed by distribution systems (within the meaning of the Electricity Act 1989);
- (b) any interests of consumers in relation to gas conveyed through pipes (within the meaning of the Gas Act 1986);
- (c) any interests of consumers in relation to communications services and electronic communications apparatus (within the meaning of the Communications Act 2003),

which are affected by the exercise of that power or the performance of that duty.]

[<sup>F7</sup>(3) Subject to subsection (2A) above, the Secretary of State or, as the case may be, the Authority shall exercise and perform the powers and duties mentioned in subsection (1) above in the manner which he or it considers is best calculated—

- (a) to promote economy and efficiency on the part of companies holding an appointment under Chapter 1 of Part 2 of this Act in the carrying out of the functions of a relevant undertaker;
- (b) to secure that no undue preference is shown, and that there is no undue discrimination in the fixing by such companies of water and drainage charges;

[<sup>F8</sup>(ba) to secure that no undue preference (including for itself) is shown, and that there is no undue discrimination, in the doing by such a company of—

- (i) such things as relate to the provision of services by itself or another such company, or
- (ii) such things as relate to the provision of services by a water supply licensee or a sewerage licensee;]

(c) to secure that consumers are protected as respects benefits that could be secured for them by the application in a particular manner of any of the proceeds of any disposal (whenever made) of any of such a company's protected land or of an interest or right in or over any of that land;

(d) to ensure that consumers are also protected as respects any activities of such a company which are not attributable to the exercise of functions of a relevant undertaker, or as respects any activities of any person appearing to the Secretary of State or (as the case may be) the Authority to be connected with the company, and in particular by ensuring—

- (i) that any transactions are carried out at arm's length;
- (ii) that the company, in relation to the exercise of its functions as a relevant undertaker, maintains and presents accounts in a suitable form and manner;

<sup>F9</sup>(iii) . . . . .

(e) to contribute to the achievement of sustainable development.

(4) In exercising any of the powers or performing any of the duties mentioned in subsection (1) above in accordance with the preceding provisions of this section, the Secretary of State and the Authority shall have regard to the principles of best regulatory practice (including the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed).]

(5) In this section the references to water and drainage charges are references to—

- (a) any charges in respect of any services provided in the course of the carrying out of the functions of a relevant undertaker; and

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- (b) amounts of any other description which such an undertaker is authorised by or under any enactment to require any of its customers or potential customers to pay.

[<sup>F10</sup>(5A) In this section—

“consumers” includes both existing and future consumers; and

“the interests of consumers” means the interests of consumers in relation to—

- (a) the supply of water by means of a water undertaker’s supply system to premises either by water undertakers or by licensed water suppliers acting in their capacity as such; and
- (b) the provision of sewerage services by sewerage undertakers.]

(6) For the purposes of this section—

[<sup>F11</sup>(a) subject to subsection (6A) below, the reference in subsection (1) above to [<sup>F12</sup>the provisions of this Act relating to the regulation of relevant undertakers and of licensed water suppliers][<sup>F12</sup>the relevant provisions] is a reference to the provisions [<sup>F13</sup>contained in Part 2 of this Act (except section 27A, and Schedule 3A), or in any of sections 37A to 38, 39, 39B, 39C, 66B, 66D, 66F to 66H, 66K, 66L, 95, 96, 153, 181, 182, 192A, 192B, 195, 195A and 201 to 203 below;][<sup>F13</sup>contained in—

(i) Part 2 of this Act (except section 27A and Schedule 3A),

(ii) any of sections 37A to 38, 38ZA, 39, 39ZA, 39B to 39D, 40E to 40J, 42, 51CD to 51CG, 63AC to 63AF, 66B, 66CA to 66H, 66K, 66L, 66O(2), 95, 95ZA, 96, 96ZA, 99, 105ZF to 105ZI, 110F to 110J, 110L to 110O, 117E to 117O, 117R, 117S, 143B to 143E, 144ZA to 144ZF, 153, 181, 182, 185, 192A, 192B, 195, 195A and 201 to 203 below, and

(iii) any of sections 42 to 54 of the Water Act 2014.]

(b) [<sup>F14</sup>the reference in that subsection to the provisions relating to the financial conditions of requisitions is a reference to the provisions contained in sections 42, 43, 43A, 48, 51C, 99, 100 and 100A below; and]

(c) [<sup>F15</sup>the reference in that subsection to the provisions relating to the movement of certain pipes is a reference to the provisions of section 185 below.]

<sup>F16</sup>[(6A) [<sup>F17</sup>Subsections (2A) to (4) above and [<sup>F18</sup>sections 2A and 2B] below] do not apply in relation to anything done by the Director in the exercise of functions assigned to him by section 31(3) below (“Competition Act functions”).

(6B) The Director may nevertheless, when exercising any Competition Act function, have regard to any matter in respect of which a duty is imposed by any of [<sup>F19</sup>subsections (2A) to (4) above and [<sup>F20</sup>sections 2A and 2B] below] , if it is a matter to which [<sup>F21</sup>the CMA] could have regard when exercising that function.]

[<sup>F22</sup>(7) The duties imposed by subsections (2A) to (4) above and [<sup>F23</sup>sections 2A and 2B] below do not affect the obligation of the Authority or, as the case may be, the Secretary of State to perform or comply with any other duty or requirement (whether arising under this Act or another enactment, by virtue of any [<sup>F24</sup>EU] obligation or otherwise).]

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## Textual Amendments

- F1** Words in s. 2(1) substituted (15.7.2015 for specified purposes, 1.9.2015 for specified purposes, 1.11.2015 for specified purposes, 18.12.2015 for specified purposes) by [Water Act 2014 \(c. 21\)](#), s. 94(3), [Sch. 7 para. 3\(2\)](#); S.I. 2015/1469, arts. 2(f)(ii), 3(f)(ii), 4(c)(ii); S.I. 2015/1938, art. 2(g)(ii)
- F2** Words in s. 2(1)(a) inserted (1.4.2005) by [Water Act 2003 \(c. 37\)](#), [ss. 39\(2\)](#), 105(3); S.I. 2005/968, [art. 2\(f\)](#) (with savings in [art. 4](#), [Schs. 1, 2](#))
- F3** S. 2(2A)-(2E) substituted (1.4.2005) for s. 2(2) by [Water Act 2003 \(c. 37\)](#), [ss. 39\(3\)](#), 105(3); S.I. 2005/968, [art. 2\(f\)](#) (with savings in [art. 4](#), [Schs. 1, 2](#))
- F4** Word in s. 2(2A)(c) omitted (14.7.2014 for specified purposes, 18.12.2015 in so far as not already in force) by virtue of [Water Act 2014 \(c. 21\)](#), [ss. 22\(2\)\(a\)](#), 94(2)(e); S.I. 2015/1938, [art. 2\(e\)](#)
- F5** S. 2(2A)(e) and word inserted (14.7.2014 for specified purposes, 18.12.2015 in so far as not already in force) by [Water Act 2014 \(c. 21\)](#), [ss. 22\(2\)\(b\)](#), 94(2)(e); S.I. 2015/1938, [art. 2\(e\)](#)
- F6** S. 2(2DA)(2DB) inserted (14.7.2014 for specified purposes, 18.12.2015 in so far as not already in force) by [Water Act 2014 \(c. 21\)](#), [ss. 22\(3\)](#), 94(2)(e); S.I. 2015/1938, [art. 2\(e\)](#)
- F7** S. 2(3)(4) substituted (1.4.2005) by [Water Act 2003 \(c. 37\)](#), [ss. 39\(4\)](#), 105(3); S.I. 2005/968, [art. 2\(f\)](#) (with savings in [art. 4](#), [Schs. 1, 2](#))
- F8** S. 2(3)(ba) inserted (1.1.2015 for W. for specified purposes, 6.4.2015 for W. for specified purposes) by [Water Act 2014 \(c. 21\)](#), [ss. 23](#), 94(3); S.I. 2014/3320, [art. 2\(1\)\(a\)](#) (with [art. 3](#)); S.I. 2015/773, [art. 2\(3\)\(a\)](#) (with [art. 6](#))
- F9** S. 2(3)(d)(iii) omitted (25.6.2013) by virtue of [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(2), [Sch. 21 para. 4](#)
- F10** S. 2(5A) inserted (1.4.2005) by [Water Act 2003 \(c. 37\)](#), [ss. 39\(5\)](#), 105(3); S.I. 2005/968, [art. 2\(f\)](#) (with savings in [art. 4](#), [Schs. 1, 2](#))
- F11** S. 2(6)(a)(b) substituted (1.4.2005) by [Water Act 2003 \(c. 37\)](#), [ss. 39\(6\)](#), 105(3); S.I. 2005/968, [art. 2\(f\)](#) (with savings in [art. 4](#), [Schs. 1, 2](#))
- F12** Words in s. 2(6)(a) substituted (15.7.2015 for specified purposes, 1.9.2015 for specified purposes, 1.11.2015 for specified purposes, 18.12.2015 for specified purposes) by [Water Act 2014 \(c. 21\)](#), s. 94(3), [Sch. 7 para. 3\(8\)\(a\)](#); S.I. 2015/1469, arts. 2(f)(ii), 3(f)(ii), 4(c)(ii); S.I. 2015/1938, art. 2(g)(ii)
- F13** Words in s. 2(6)(a) substituted (15.7.2015 for specified purposes, 1.9.2015 for specified purposes, 1.11.2015 for specified purposes, 18.12.2015 for specified purposes) by [Water Act 2014 \(c. 21\)](#), s. 94(3), [Sch. 7 para. 3\(8\)\(b\)](#); S.I. 2015/1469, arts. 2(f)(i), 3(f)(i), 4(c)(i); S.I. 2015/1938, art. 2(g)(i)
- F14** S. 2(6)(b) repealed (15.7.2015 for specified purposes, 1.9.2015 for specified purposes, 1.11.2015 for specified purposes, 18.12.2015 for specified purposes) by [Water Act 2014 \(c. 21\)](#), s. 94(3), [Sch. 7 para. 3\(8\)\(c\)](#); S.I. 2015/1469, arts. 2(f)(ii), 3(f)(ii), 4(c)(ii); S.I. 2015/1938, art. 2(g)(ii)
- F15** S. 2(6)(c) repealed (15.7.2015 for specified purposes, 1.9.2015 for specified purposes, 1.11.2015 for specified purposes, 18.12.2015 for specified purposes) by [Water Act 2014 \(c. 21\)](#), s. 94(3), [Sch. 7 para. 3\(8\)\(c\)](#); S.I. 2015/1469, arts. 2(f)(ii), 3(f)(ii), 4(c)(ii); S.I. 2015/1938, art. 2(g)(ii)
- F16** S. 2(6A)(6B) inserted (26.11.1998 for specified purposes and otherwise 1.3.2000) by 1998 c. 41, s. 54(3), [Sch. 10 Pt. II para. 5\(4\)](#) (with s. 73); S.I. 1998/2750, [art. 2\(1\)](#); S.I. 2000/344, art. 2, [Sch. 54\(3\)](#)
- F17** Words in s. 2(6A) substituted (1.4.2005) by [Water Act 2003 \(c. 37\)](#), [ss. 39\(7\)](#), 105(3); S.I. 2005/968, [art. 2\(f\)](#) (with savings in [art. 4](#), [Schs. 1, 2](#))
- F18** Words in s. 2(6A) substituted (6.4.2015) by [Water Act 2014 \(c. 21\)](#), [ss. 24\(2\)](#), 94(3); S.I. 2015/773, [art. 2\(1\)\(c\)](#) (with [art. 4](#))
- F19** Words in s. 2(6B) substituted (1.4.2005) by [Water Act 2003 \(c. 37\)](#), [ss. 39\(8\)](#), 105(3); S.I. 2005/968, [art. 2\(f\)](#) (with savings in [art. 4](#), [Schs. 1, 2](#))
- F20** Words in s. 2(6B) substituted (6.4.2015) by [Water Act 2014 \(c. 21\)](#), [ss. 24\(2\)](#), 94(3); S.I. 2015/773, [art. 2\(1\)\(c\)](#) (with [art. 4](#))
- F21** Words in s. 2(6B) substituted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), art. 1(1), [Sch. 1 para. 74](#) (with [art. 3](#))

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- F22** S. 2(7) added (1.4.2005) by [Water Act 2003 \(c. 37\)](#), **ss. 39(9)**, 105(3); S.I. 2005/968, **art. 2(f)** (with savings in [art. 4](#), [Schs. 1, 2](#))
- F23** Words in s. 2(7) substituted (6.4.2015) by [Water Act 2014 \(c. 21\)](#), **ss. 24(2)**, 94(3); S.I. 2015/773, [art. 2\(1\)\(c\)](#) (with [art. 4](#))
- F24** Words in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), [arts. 2, 3, 6](#) (with [art. 3\(2\)\(3\)](#), [4\(2\)](#), [6\(4\)\(5\)](#))

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

- C1** S. 2 applied (with modifications) (28.6.2013) by [The Water Industry \(Specified Infrastructure Projects\) \(English Undertakers\) Regulations 2013 \(S.I. 2013/1582\)](#), [regs. 1\(1\)\(b\)](#), **3(3)** (with [regs. 1\(1\)\(c\)](#), [3\(2\)\(5\)](#))

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