



# Competition and Service (Utilities) Act 1992

## 1992 CHAPTER 43

An Act to make provision with respect to standards of performance and service to customers in relation to the telecommunications, gas supply, electricity supply, water supply and sewerage service industries; to make provision with respect to complaints by, and disputes with, customers in those industries; to make provision with respect to the powers of the regulators of those industries and with respect to related matters; to make provision with respect to the payment of deposits by customers of certain telecommunications operators; to make further provision for facilitating effective competition in certain of those industries; to make provision with respect to mergers of water or sewerage undertakers; to make provision with respect to compliance orders against public gas suppliers; to make a minor correction in section 98 of the Water Industry Act 1991; and for connected purposes. [16th March 1992]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### PART I

#### STANDARDS OF PERFORMANCE AND SERVICE TO CUSTOMERS

##### *Telecommunications*

#### **1 Standards of performance**

The following sections shall be inserted in the Telecommunications Act 1984, after section 27—

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*“Standards of performance*

**27A Standards of performance in individual cases**

- (1) The Director may make regulations prescribing, for any designated operator, such standards of performance in connection with the provision of relevant services by that operator as, in his opinion, ought to be achieved in individual cases.
- (2) Regulations under subsection (1) above may only be made—
  - (a) with the consent of the Secretary of State;
  - (b) after consulting—
    - (i) the designated operator; and
    - (ii) persons or bodies appearing to the Director to be representative of persons likely to be affected by the regulations; and
  - (c) after arranging for such research as the Director considers appropriate with a view to discovering the views of a representative sample of persons likely to be so affected and considering the results.
- (3) Regulations under this section may—
  - (a) prescribe circumstances in which the designated operator is to inform persons of their rights under this section;
  - (b) prescribe such standards of performance in relation to any duty arising under paragraph (a) above as, in the Director’s opinion, ought to be achieved in all cases;
  - (c) prescribe circumstances in which the designated operator is to be exempted from any requirements of the regulations or this section.
- (4) If the designated operator fails to meet a prescribed standard, he shall make to any person who is affected by the failure such compensation as may be determined by or under the regulations.
- (5) The making of compensation under this section in respect of any failure to meet a prescribed standard shall not prejudice any other remedy which may be available in respect of the act or omission which constituted that failure.
- (6) Any dispute arising under this section or regulations made under this section—
  - (a) may be referred to the Director by either party; and
  - (b) on such a reference, shall be determined by order made—
    - (i) by the Director; or
    - (ii) by such other person as may be prescribed.
- (7) Any person making an order under subsection (6) above shall include in the order his reasons for reaching his decision with respect to the dispute.
- (8) The practice and procedure to be followed in connection with any such determination shall be such as may be prescribed.
- (9) An order under subsection (6) above shall be final and shall be enforceable—
  - (a) in England and Wales and in Northern Ireland, as if it were a judgment of a county court; and

- (b) in Scotland, as if it were an extract registered decree arbitral bearing a warrant for execution issued by the sheriff.

(10) In this section “prescribed” means prescribed by regulations under this section.

### **27B Overall standards of performance**

- (1) The Director may from time to time—
  - (a) determine such standards of overall performance in connection with the provision of relevant services by the designated operator as, in his opinion, ought to be achieved by that operator; and
  - (b) arrange for the publication, in such form and in such manner as he considers appropriate, of the standards so determined.
- (2) The Director may only make a determination under subsection (1)(a) above after—
  - (a) consulting the designated operator concerned and persons or bodies appearing to the Director to be representative of persons likely to be affected; and
  - (b) arranging for such research as the Director considers appropriate with a view to discovering the views of a representative sample of persons likely to be affected and considering the results.”

## **2 Information with respect to levels of performance**

The following section shall be inserted in the Telecommunications Act 1984, after section 27B—

### **“27C Information with respect to levels of performance**

- (1) The Director shall from time to time collect information with respect to—
  - (a) the compensation made by designated operators under section 27A above; and
  - (b) the levels of overall performance achieved by designated operators in connection with the provision of relevant services.
- (2) At such times as the Director may direct, each designated operator shall give the following information to the Director—
  - (a) as respects each standard prescribed by regulations under section 27A above, the number of cases in which compensation was made and the aggregate amount or value of that compensation; and
  - (b) as respects each standard determined under section 27B above, such information with respect to the level of performance achieved by the operator as may be so specified.
- (3) A designated operator who, without reasonable excuse, fails to do anything required of him by subsection (2) above shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (4) The Director shall, at least once in every year, arrange for the publication, in such form and in such manner as he considers appropriate, of such of the information collected by or furnished to him under this section as it may appear

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to him expedient to give to users or potential users of any relevant services provided by designated operators.

- (5) In arranging for the publication of any such information the Director shall have regard to the need for excluding, so far as practicable—
- (a) any matter which relates to the affairs of an individual, where publication of that matter would or might, in the opinion of the Director, seriously and prejudicially affect the interests of that individual; and
  - (b) any matter which relates specifically to the affairs of a particular body of persons, whether corporate or unincorporate, where publication of that matter would or might, in the opinion of the Director, seriously and prejudicially affect the interests of that body.”

### **3 Information to be given to customers about overall performance**

The following section shall be inserted in the Telecommunications Act 1984, after section 27C—

#### **“27D Information to be given to customers about overall performance**

- (1) Each designated operator shall, in such form and manner and with such frequency as the Director may direct, take steps to inform those of his customers to whom he supplies relevant services of—
- (a) the standards of overall performance determined under section 27B above which are applicable to that operator; and
  - (b) that operator’s level of performance as respects each of those standards.
- (2) In giving any such direction, the Director shall not specify a frequency of less than once in every period of twelve months.”

### **4 Procedures for dealing with complaints**

The following section shall be inserted in the Telecommunications Act 1984, after section 27D—

#### **“27E Procedures for dealing with complaints**

- (1) Each designated operator shall establish a procedure for dealing with complaints made by his customers or potential customers in connection with the provision by the designated operator of relevant services.
- (2) No such procedure shall be established, and no modification of such a procedure shall be made, unless—
- (a) the designated operator has consulted persons or bodies appearing to him to be representative of customers for whom he provides relevant services; and
  - (b) the proposed procedure or modification has been approved by the Director.
- (3) The designated operator shall—
- (a) publicise the procedure in such manner as may be approved by the Director; and

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- (b) send a description of the procedure, free of charge, to any person who asks for one.
- (4) The Director may give a direction to a designated operator requiring the operator to review his procedure or the manner in which it operates.
- (5) A direction under subsection (4) above—
  - (a) may specify the manner in which the review is to be conducted; and
  - (b) shall require a written report of the review to be made to the Director.
- (6) Where the Director receives a report under subsection (5)(b) above, he may, after consulting the designated operator, direct him to make such modifications of—
  - (a) the procedure; or
  - (b) the manner in which the procedure operates,as may be specified in the direction.
- (7) Subsection (2) above does not apply to any modification made in compliance with a direction under subsection (6) above.”

## **5 Disputes about discrimination etc. in fixing charges**

- (1) The following section shall be inserted in the Telecommunications Act 1984, after section 27E—

### **“27F Disputes about discrimination etc. in fixing charges**

- (1) Any dispute, of a kind to which this section applies, between—
  - (a) a person ("the customer") who is, or wishes to be, provided with any relevant service by a designated operator, and
  - (b) that designated operator,may be referred to the Director by either party.
- (2) This section applies to any dispute as to whether the designated operator—
  - (a) has exercised undue discrimination against the customer in respect of charges applied, or to be applied, in connection with the provision of the service in question;
  - (b) has shown undue preference to any other person in respect of such charges, to the detriment of the customer; or
  - (c) has applied, or proposes to apply, any charge in connection with the provision of the service in question to the customer which is neither specified in, nor determined in accordance with a method specified in, a notice required by a condition of a kind mentioned in section 8(1) (e) above.
- (3) Where a dispute is referred to him under this section, the Director, or an arbitrator (or in Scotland an arbiter) appointed by him, shall determine whether the customer’s allegation is well founded and, if it is, make such order as he considers appropriate.
- (4) Any person making an order under subsection (3) above shall include in the order his reasons for reaching his decision with respect to the dispute.

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- (5) No act or omission of a designated operator which is permitted by any condition—
  - (a) relating to any of the matters referred to in section 8(1)(d) above, and
  - (b) included in the licence granted to him under section 7 above,
 shall be taken to constitute undue discrimination or undue preference for the purposes of this section.
- (6) The practice and procedure to be followed in connection with a reference under this section shall be determined by the Director.
- (7) An order under this section—
  - (a) may include such incidental, supplemental and consequential provision (including provision requiring either party to pay a sum in respect of the costs or expenses incurred by the person making the order) as that person considers appropriate; and
  - (b) shall be final and—
    - (i) in England and Wales and in Northern Ireland enforceable, in so far as it includes such provision as to costs or expenses, as if it were a judgment of a county court; and
    - (ii) in Scotland, enforceable as if it were an extract registered decree arbitral bearing a warrant for execution issued by the sheriff.
- (8) In including in an order under this section any such provision as to costs or expenses, the person making the order shall have regard to the conduct and means of the parties and any other relevant circumstances.”
- (2) In section 53 of the Act of 1984 (power to require information), in the definition of “relevant purpose” in subsection (6), after “offence;” there shall be inserted—
  - “(aa) the determination of any dispute referred to the Director under section 27F above;”.

## 6 **Billing disputes**

- (1) The following section shall be inserted in the Telecommunications Act 1984, after section 27F—

### “27G **Billing disputes**

- (1) The Secretary of State may by regulations make provision for billing disputes to be referred to the Director for determination in accordance with the regulations.
- (2) In this section “billing dispute” means a dispute between a designated operator and a customer concerning the amount of the charge which the operator is entitled to recover from the customer in connection with the provision of any relevant service.
- (3) Regulations under this section may only be made after consulting—
  - (a) the Director; and
  - (b) persons or bodies appearing to the Secretary of State to be representative of persons likely to be affected by the regulations.

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- (4) Regulations under this section may provide that, where a billing dispute is referred to the Director, he may either—
  - (a) determine the dispute, or
  - (b) appoint an arbitrator (or in Scotland an arbiter) to determine it.
- (5) Any person determining any billing dispute in accordance with regulations under this section shall, in such manner as may be specified in the regulations, give his reasons for reaching his decision with respect to the dispute.
- (6) Regulations under this section may provide—
  - (a) that disputes may be referred to the Director under this section only by prescribed persons; and
  - (b) for any determination to be final and enforceable—
    - (i) in England and Wales and in Northern Ireland, as if it were a judgment of a county court; and
    - (ii) in Scotland, as if it were an extract registered decree arbitral bearing a warrant for execution issued by the sheriff.
- (7) Except in such circumstances (if any) as may be prescribed by regulations under this section—
  - (a) the Director or an arbitrator (or in Scotland an arbiter) appointed by him shall not determine any billing dispute which is the subject of proceedings before, or with respect to which judgment has been given by, any court; and
  - (b) neither party to any billing dispute which has been referred to the Director for determination in accordance with regulations under this section shall commence proceedings before any court in respect of that dispute pending its determination in accordance with the regulations.
- (8) No designated operator may commence proceedings before any court in respect of any charge in connection with the provision by him of any relevant service unless, not less than 28 days before doing so, the customer concerned was informed by him, in such form and manner as may be prescribed by regulations under this section, of—
  - (a) his intention to commence proceedings;
  - (b) the customer's rights by virtue of this section; and
  - (c) such other matters (if any) as may be so prescribed."
- (2) In section 53 of the Act of 1984 (power to require information), in the definition of "relevant purpose" in subsection (6), after "section 27F above;" there shall be inserted—
  - "(ab) the determination of any dispute referred to the Director in accordance with regulations made under section 27G above;"

## 7 Deposits

The following sections shall be inserted in the Telecommunications Act 1984, after section 27G—

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### **“27H Deposits**

- (1) Each designated operator shall, with the agreement of the Director, settle criteria by reference to which the operator will determine—
  - (a) whether a customer is required to pay a deposit before being provided with any relevant service; and
  - (b) if so, the amount which he is required to pay.
- (2) The criteria may be varied by the designated operator with the consent of the Director.
- (3) Before settling, or varying, the criteria the designated operator shall consult persons or bodies appearing to him to be representative of persons likely to be affected.
- (4) Except in such circumstances as may be specified in the criteria, no person who is disabled (as defined by the criteria) shall be required to pay a deposit before being provided with any relevant service by the designated operator.
- (5) The designated operator shall—
  - (a) prepare a summary of the criteria, with the agreement of the Director;
  - (b) publicise it in such manner as may be approved by the Director; and
  - (c) send a copy of it, free of charge, to any person who asks for one.
- (6) The Director may, after consulting the designated operator, direct him to vary the criteria as specified in the direction.
- (7) Subsection (3) above does not apply to any variation made in compliance with a direction under subsection (6) above.

### **27I Complaints about deposits**

- (1) Any person who is aggrieved by—
  - (a) the decision of a designated operator to require him to pay a deposit before he is provided with a relevant service, or
  - (b) by the amount which he is so required to pay,may refer the matter to the Director.
- (2) On any such reference the Director, or an arbitrator (or in Scotland an arbiter) appointed by him, shall consider whether the criteria settled under section 27H above—
  - (a) have been applied correctly, or
  - (b) are inappropriate in the particular case.
- (3) If the Director or arbitrator (or arbiter) considers that the criteria have not been correctly applied, or that they are inappropriate in the particular case, he shall, unless the complaint has been withdrawn or it is otherwise inappropriate to proceed, determine—
  - (a) whether the person concerned is to be required to pay a deposit, and
  - (b) if so, the amount which he is to be required to pay,and give the appropriate direction to the designated operator.



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- (4) Any person giving a direction under subsection (3) above shall include in the direction his reasons for reaching his decision with respect to the complaint.
- (5) The practice and procedure to be followed in connection with a complaint under subsection (1) above shall be determined by the Director.
- (6) A direction under this section—
  - (a) may include such incidental, supplemental and consequential provision (including provision requiring either party to pay a sum in respect of the costs or expenses incurred by the person giving the direction) as that person considers appropriate; and
  - (b) shall be final and—
    - (i) in England and Wales and in Northern Ireland enforceable, in so far as it includes such provision as to costs or expenses, as if it were a judgment of a county court; and
    - (ii) in Scotland, enforceable as if it were an extract registered decree arbitral bearing a warrant for execution issued by the sheriff.
- (7) In including in a direction under this section any such provision as to costs or expenses, the person giving the direction shall have regard to the conduct and means of the parties and any other relevant circumstances.”

## **8 Disconnections**

The following section shall be inserted in the Telecommunications Act 1984, after section 27I—

### **“27J Disconnections**

Where any person has failed to pay any charges in connection with the provision of any relevant service by a designated operator, no power of that designated operator to discontinue the provision of that service shall be exercised against him as respects any amount which is genuinely in dispute.”

## **9 Enforcement of standards of performance, etc**

The following section shall be inserted in the Telecommunications Act 1984, after section 27J—

### **“27K Enforcement of standards of performance, etc**

- (1) Sections 16 to 18 above shall apply in relation to a designated operator as if it were a condition of the licence granted to him under section 7 above that he shall—
  - (a) achieve the standards of overall performance determined in relation to him under section 27B above;
  - (b) take steps to inform those of his customers to whom he supplies relevant services about—
    - (i) those standards, and

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- (ii) the levels of performance which he has achieved as respects those standards,
  - in accordance with section 27D above;
  - (c) comply with—
    - (i) the requirements of section 27E above, and
    - (ii) any direction given by the Director under subsection (4) or (6) of that section;
  - (d) comply with any order made under section 27F(3) above;
  - (e) comply with any direction given by the Director under section 27H(6) above;
  - (f) comply with any direction given under section 27I(3) above; and
  - (g) comply with the requirements of section 27J above.
- (2) For the purposes of the application by this section of sections 16 to 18 above, any term of a licence granted under section 7 above which has or which might have the effect—
- (a) of excepting a designated operator from liability for a contravention of a condition of that licence, or
  - (b) otherwise restricting any such liability,
- shall not apply in relation to any contravention of the condition mentioned in subsection (1) above.”

## 10 Interpretation

The following section shall be inserted in the Telecommunications Act 1984, after section 27K—

### **“27L Definitions for sections 27A to 27K**

- (1) For the purposes of sections 27A to 27K above—
- “designated operator” means any public telecommunications operator designated for the purposes of those sections by order made by the Secretary of State; and
  - “relevant services” means—
    - (a) any voice telephony service, telephone rental service, directory service, directory information service or facsimile transmission service provided for occupiers of residential or single line premises; and
    - (b) any public call box service.
- (2) The Secretary of State shall not exercise his power under subsection (1) above to designate a telecommunications operator unless he is satisfied that the operator provides at least 25 per cent. of the voice telephony services supplied within the area in relation to which he is a public telecommunications operator.
- (3) For the purposes of this section—
- “public call box service” means a service which is provided by a designated operator and which consists of the provision of telecommunication apparatus which—
    - (a) is owned and operated by the designated operator;

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(b) gives access to a voice telephony service; and

(c) is intended for use by members of the public generally;

“directory service” means a service which consists of the preparation and provision of a list (which may be made available in separate parts and through different media) of customers of a designated operator which is not arranged by reference to a description of the trades, professions or businesses carried on by those customers;

“directory information service” has the same meaning as in section 4(3) above;

“facsimile transmission service” means a telecommunication service for the transmission of electronic signals by a designated operator, over exchange lines provided by him, for the purposes of making a facsimile of a document;

“hard wired telephone” means a telephone of a kind which can only be connected to a public telecommunication system by means other than—

(a) the insertion of a plug into a socket; or

(b) wireless telegraphy;

“single line premises” means premises which are not residential premises but which are served by a single exchange line provided by the designated operator;

“telephone rental service” means a service consisting in the hiring out of any hard wired telephone which is capable of emitting or receiving signals which have been, or are to be, conveyed by means of a public telecommunication system run by a designated operator;

“voice telephony service” means a telecommunication service for the conveyance of speech over exchange lines provided by the designated operator.”

### *Gas supply*

## **11 Standards of performance**

The following sections shall be inserted in the Gas Act 1986, after section 33—

### *“Standards of performance*

#### **33A Standards of performance in individual cases**

- (1) The Director may make regulations prescribing such standards of performance in connection with the provision of gas supply services by public gas suppliers to tariff customers as, in his opinion, ought to be achieved in individual cases.
- (2) Regulations under subsection (1) above may only be made—
  - (a) with the consent of the Secretary of State;
  - (b) after consulting—
    - (i) the public gas suppliers; and
    - (ii) persons or bodies appearing to the Director to be representative of persons likely to be affected by the regulations; and

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- (c) after arranging for such research as the Director considers appropriate with a view to discovering the views of a representative sample of persons likely to be so affected and considering the results.
- (3) Regulations under this section may—
  - (a) prescribe circumstances in which public gas suppliers are to inform tariff customers of their rights under this section;
  - (b) prescribe such standards of performance in relation to any duty arising under paragraph (a) above as, in the Director’s opinion, ought to be achieved in all cases;
  - (c) prescribe circumstances in which public gas suppliers are to be exempted from any requirements of the regulations or this section; and
  - (d) make different provision with respect to different public gas suppliers.
- (4) If a public gas supplier fails to meet a prescribed standard, he shall make to any tariff customer who is affected by the failure such compensation as may be determined by or under the regulations.
- (5) The making of compensation under this section in respect of any failure to meet a prescribed standard shall not prejudice any other remedy which may be available in respect of the act or omission which constituted that failure.
- (6) Any dispute arising under this section or regulations made under this section—
  - (a) may be referred to the Director by either party or, with the agreement of either party, by the Council; and
  - (b) on such a reference, shall be determined by order made—
    - (i) by the Director; or
    - (ii) by such other person as may be prescribed.
- (7) Any person making an order under subsection (6) above shall include in the order his reasons for reaching his decision with respect to the dispute.
- (8) The practice and procedure to be followed in connection with any such determination shall be such as may be prescribed.
- (9) An order under subsection (6) above shall be final and shall be enforceable—
  - (a) in England and Wales, as if it were a judgment of a county court; and
  - (b) in Scotland, as if it were an extract registered decree arbitral bearing a warrant for execution issued by the sheriff.
- (10) In this section “prescribed” means prescribed by regulations under this section.
- (11) The power of the Director under this section to make regulations shall be exercisable by statutory instrument.

### **33B Overall standards of performance**

- (1) The Director may from time to time—
  - (a) determine such standards of overall performance in connection with the provision of gas supply services by public gas suppliers as, in his opinion, ought to be achieved by them; and
  - (b) arrange for the publication, in such form and in such manner as he considers appropriate, of the standards so determined.

- (2) The Director may only make a determination under subsection (1)(a) above after—
  - (a) consulting the public gas suppliers and persons or bodies appearing to the Director to be representative of persons likely to be affected; and
  - (b) arranging for such research as the Director considers appropriate with a view to discovering the views of a representative sample of persons likely to be affected and considering the results.
- (3) Different standards may be determined for different public gas suppliers.
- (4) It shall be the duty of every public gas supplier to conduct his business in such a way as can reasonably be expected to lead to his achieving the standards set under this section.”

## 12 Information with respect to levels of performance

The following section shall be inserted in the Gas Act 1986, after section 33B—

### “33C Information with respect to levels of performance

- (1) The Director shall from time to time collect information with respect to—
  - (a) the compensation made by public gas suppliers under section 33A above;
  - (b) the levels of overall performance achieved by public gas suppliers in connection with the provision of gas supply services; and
  - (c) the levels of performance achieved by public gas suppliers in connection with the promotion of the efficient use of gas by consumers.
- (2) At such times as the Director may direct, each public gas supplier shall give the following information to the Director—
  - (a) as respects each standard prescribed by regulations under section 33A above, the number of cases in which compensation was made and the aggregate amount or value of that compensation; and
  - (b) as respects each standard determined under section 15B or 33B above, such information with respect to the level of performance achieved by the supplier as may be so specified.
- (3) A public gas supplier who without reasonable excuse fails to do anything required of him by subsection (2) above shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (4) The Director shall, at least once in every year, arrange for the publication, in such form and in such manner as he considers appropriate, of such of the information collected by or given to him under this section as appears to him expedient to give to customers, or potential customers, of public gas suppliers.
- (5) In arranging for the publication of any such information, the Director shall have regard to the need for excluding, so far as practicable—
  - (a) any matter which relates to the affairs of an individual, where publication of that matter would or might, in the opinion of the Director, seriously and prejudicially affect the interests of that individual; and

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- (b) any matter which relates specifically to the affairs of a particular body of persons, whether corporate or unincorporate, where publication of that matter would or might, in the opinion of the Director, seriously and prejudicially affect the interests of that body.”

### **13 Information to be given to customers about overall performance**

The following section shall be inserted in the Gas Act 1986, after section 33C—

#### **“33D Information to be given to customers about overall performance**

- (1) Each public gas supplier shall, in such form and manner and with such frequency as the Director may direct, take steps to inform his customers of—
  - (a) the standards of overall performance determined under section 33B above which are applicable to that supplier; and
  - (b) that supplier’s level of performance as respects each of those standards.
- (2) In giving any such direction, the Director shall not specify a frequency of less than once in every period of twelve months.”

### **14 Procedures for dealing with complaints**

The following section shall be inserted in the Gas Act 1986, after section 33D—

#### **“33E Procedures for dealing with complaints**

- (1) Each public gas supplier shall establish a procedure for dealing with complaints made by his tariff customers or potential tariff customers in connection with the provision of gas supply services.
- (2) No such procedure shall be established, and no modification of such a procedure shall be made, unless—
  - (a) the public gas supplier has consulted the Council; and
  - (b) the proposed procedure or modification has been approved by the Director.
- (3) The public gas supplier shall—
  - (a) publicise the procedure in such manner as may be approved by the Director; and
  - (b) send a description of the procedure, free of charge, to any person who asks for one.
- (4) The Director may give a direction to a public gas supplier requiring the supplier to review his procedure or the manner in which it operates.
- (5) A direction under subsection (4) above—
  - (a) may specify the manner in which the review is to be conducted; and
  - (b) shall require a written report of the review to be made to the Director.
- (6) Where the Director receives a report under subsection (5)(b) above, he may, after consulting the public gas supplier, direct him to make such modifications of—

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- (a) the procedure; or
  - (b) the manner in which the procedure operates,
- as may be specified in the direction.

(7) Subsection (2) above does not apply to any modification made in compliance with a direction under subsection (6) above.”

## **15 Promotion of efficient use of gas**

The following section shall be inserted in the Gas Act 1986 after section 15A (which is inserted by section 17)—

### **“15B Promotion of efficient use of gas**

- (1) The Director may, after consulting the public gas suppliers and persons or bodies appearing to him to be representative of persons likely to be affected, from time to time—
  - (a) determine such standards of performance in connection with the promotion of the efficient use of gas by consumers as, in his opinion, ought to be achieved by public gas suppliers; and
  - (b) arrange for the publication, in such form and in such manner as he considers appropriate, of the standards so determined.
- (2) Different standards may be determined for different public gas suppliers.
- (3) Each public gas supplier shall, in such form and manner and with such frequency as the Director may direct, take steps to inform his customers of—
  - (a) the standards determined under this section which are applicable to that supplier; and
  - (b) that supplier’s level of performance as respects those standards.”

## **16 Determination of disputes**

The following section shall be inserted in the Gas Act 1986, after section 14—

### **“14A Determination of disputes**

- (1) Any dispute arising under section 9(1)(b), 10, 11 or 14 above, or any provision of paragraphs 1 to 4 of Schedule 5 to this Act (“the relevant provisions”), between a public gas supplier and a person who is, or wishes to become, a tariff customer of that supplier—
  - (a) may be referred to the Director by either party, or with the agreement of either party, by the Council; and
  - (b) on such a reference, shall be determined by order made either by the Director, or if he thinks fit by an arbitrator (or in Scotland arbiter), appointed by him.
- (2) Any person making an order under subsection (1) above shall include in the order his reasons for reaching his decision with respect to the dispute.
- (3) The practice and procedure to be followed in connection with any such determination shall be such as the Director may consider appropriate.

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- (4) Where any dispute between a public gas supplier and a person requiring a supply of gas falls to be determined under this section, the Director may give directions as to the circumstances in which, and the terms on which, the supplier is to give or (as the case may be) to continue to give the supply pending the determination of the dispute.
- (5) Where any dispute arising under section 11(1) above falls to be determined under this section, the Director may give directions as to the security (if any) to be given pending the determination of the dispute.
- (6) Any direction under subsection (4) or (5) above may be expressed to apply either in relation to a particular case or in relation to a class of case.
- (7) An order under this section—
  - (a) may include such incidental, supplemental and consequential provision (including provision requiring either party to pay a sum in respect of the costs or expenses incurred by the person making the order) as that person considers appropriate; and
  - (b) shall be final and—
    - (i) in England and Wales enforceable, in so far as it includes such provision as to costs or expenses, as if it were a judgment of a county court; and
    - (ii) in Scotland, enforceable as if it were an extract registered decree arbitral bearing a warrant for execution issued by the sheriff.
- (8) In including in an order under this section any such provision as to costs or expenses, the person making the order shall have regard to the conduct and means of the parties and any other relevant circumstances.”

## 17 **Billing disputes**

The following section shall be inserted in the Gas Act 1986, after section 15—

### “15A **Billing disputes**

- (1) The Secretary of State may by regulations make provision for billing disputes to be referred to the Director for determination in accordance with the regulations.
- (2) In this section “billing dispute” means a dispute between a public gas supplier and a tariff customer of his concerning the amount of the charge which the supplier is entitled to recover from the customer in connection with the provision of gas supply services.
- (3) Regulations under this section may only be made after consulting—
  - (a) the Director; and
  - (b) persons or bodies appearing to the Secretary of State to be representative of persons likely to be affected by the regulations.
- (4) Regulations under this section may provide that, where a billing dispute is referred to the Director, he may either—
  - (a) determine the dispute, or
  - (b) appoint an arbitrator (or in Scotland an arbiter) to determine it.



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- (5) Any person determining any billing dispute in accordance with regulations under this section shall, in such manner as may be specified in the regulations, give his reasons for reaching his decision with respect to the dispute.
- (6) Regulations under this section may provide—
- (a) that disputes may be referred to the Director under this section only by prescribed persons; and
  - (b) for any determination to be final and enforceable—
    - (i) in England and Wales, as if it were a judgment of a county court; and
    - (ii) in Scotland, as if it were an extract registered decree arbitral bearing a warrant for execution issued by the sheriff.
- (7) Except in such circumstances (if any) as may be prescribed—
- (a) the Director or an arbitrator (or in Scotland an arbiter) appointed by him shall not determine any billing dispute which is the subject of proceedings before, or with respect to which judgment has been given by, any court; and
  - (b) neither party to any billing dispute which has been referred to the Director for determination in accordance with regulations under this section shall commence proceedings before any court in respect of that dispute pending its determination in accordance with the regulations.
- (8) No public gas supplier may commence proceedings before any court in respect of any charge in connection with the provision by him of gas supply services unless, not less than 28 days before doing so, the tariff customer concerned was informed by him, in such form and manner as may be prescribed, of—
- (a) his intention to commence proceedings;
  - (b) the customer's rights by virtue of this section; and
  - (c) such other matters (if any) as may be prescribed.
- (9) The powers of the Director under section 38 below shall also be exercisable for any purpose connected with the determination of any dispute referred to him in accordance with regulations made under this section.”

## **18 Preliminary investigation of disputes by Gas Consumers' Council**

The following section shall be inserted in the Gas Act 1986, after section 32—

### **“32A Preliminary investigation by Council of certain disputes**

- (1) This section applies where—
- (a) representations are made to the Council by or on behalf of a person who appears to the Council to have an interest in the matter to which the representations relate; and
  - (b) that matter appears to the Council to constitute a dispute of a kind which may be referred to the Director under section 14A above or 33A below, or under regulations made under section 15A above.
- (2) It shall be the duty of the Council—

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- (a) to inform the person by or on whose behalf the representations are made that he may have the right to refer his dispute to the Director; and
  - (b) to make such investigations with respect to the matter to which the representations relate as may be specified in a direction given by the Director.
- (3) Any such direction may be given so as to apply generally or to a specified class of matter or particular matter and may, in particular, specify in relation to any investigation which the Council is required to make under this section—
- (a) the practice and procedure which it is to follow in conducting its investigation; and
  - (b) the information which it is to give to the Director with respect to the matter investigated.”

## 19 Disconnections

The following sub-paragraph shall be inserted in paragraph 7 of Schedule 5 to the Gas Act 1986 (public gas supply code: recovery of charges from tariff customers), after sub-paragraph (5)—

“(5A) The powers conferred by sub-paragraph (5) above shall not be exercisable as respects any amount which is genuinely in dispute.”

### *Electricity supply*

## 20 Research concerning views of customers

- (1) In section 39(1) of the Electricity Act 1989 (electricity supply: performance in individual cases) there shall be inserted, after paragraph (b),

“; and (c) after arranging for such research as the Director considers appropriate with a view to discovering the views of a representative sample of persons likely to be affected and considering the results,”.

- (2) In section 40 of the Act of 1989 (electricity supply: overall performance), the words from “after” to “affected” shall be omitted from subsection (1) and the following subsection shall be inserted after that subsection—

“(1A) The Director may only make a determination under subsection (1)(a) above after—

- (a) consultation with public electricity suppliers and with persons or bodies appearing to him to be representative of persons likely to be affected; and
- (b) arranging for such research as the Director considers appropriate with a view to discovering the views of a representative sample of persons likely to be affected and considering the results.”

## 21 Information to be given to customers about overall performance

The following section shall be inserted in the Electricity Act 1989, after section 42—

**“42A Information to be given to customers about overall performance**

- (1) Each public electricity supplier shall, in such form and manner and with such frequency as the Director may direct, take steps to inform his customers of—
  - (a) the standards of overall performance determined under section 40 above which are applicable to that supplier; and
  - (b) that supplier’s level of performance as respects each of those standards.
- (2) In giving any such direction, the Director shall not specify a frequency of less than once in every period of twelve months.”

**22 Procedures for dealing with complaints**

The following section shall be inserted in the Electricity Act 1989, after section 42A—

**“42B Procedures for dealing with complaints**

- (1) Each public electricity supplier shall establish a procedure for dealing with complaints made by his customers or potential customers in connection with the provision of electricity supply services.
- (2) No such procedure shall be established, and no modification of such a procedure shall be made, unless—
  - (a) the supplier has consulted the consumers' committee to which he has been allocated; and
  - (b) the proposed procedure or modification has been approved by the Director.
- (3) The supplier shall—
  - (a) publicise the procedure in such manner as may be approved by the Director; and
  - (b) send a description of the procedure, free of charge, to any person who asks for one.
- (4) The Director may give a direction to any public electricity supplier requiring the supplier to review his procedure or the manner in which it operates.
- (5) A direction under subsection (4) above—
  - (a) may specify the manner in which the review is to be conducted; and
  - (b) shall require a written report of the review to be made to the Director.
- (6) Where the Director receives a report under subsection (5)(b) above, he may, after consulting the supplier, direct him to make such modifications of—
  - (a) the procedure; or
  - (b) the manner in which the procedure operates,as may be specified in the direction.
- (7) Subsection (2) above does not apply to any modification made in compliance with a direction under subsection (6) above.”

## 23 Billing disputes

The following section shall be inserted in the Electricity Act 1989, after section 44—

### “44A Billing disputes

- (1) The Secretary of State may by regulations make provision for billing disputes to be referred to the Director for determination in accordance with the regulations.
- (2) In this section “billing dispute” means a dispute between a public electricity supplier and a tariff customer concerning the amount of the charge which the supplier is entitled to recover from the customer in connection with the provision of electricity supply services.
- (3) Regulations under this section may only be made after consulting—
  - (a) the Director; and
  - (b) persons or bodies appearing to the Secretary of State to be representative of persons likely to be affected by the regulations.
- (4) Regulations under this section may provide that, where a billing dispute is referred to the Director, he may either—
  - (a) determine the dispute, or
  - (b) appoint an arbitrator (or in Scotland an arbiter) to determine it.
- (5) Any person determining any billing dispute in accordance with regulations under this section shall, in such manner as may be specified in the regulations, give his reasons for reaching his decision with respect to the dispute.
- (6) Regulations under this section may provide—
  - (a) that disputes may be referred to the Director under this section only by prescribed persons; and
  - (b) for any determination to be final and enforceable—
    - (i) in England and Wales, as if it were a judgment of a county court; and
    - (ii) in Scotland, as if it were an extract registered decree arbitral bearing a warrant for execution issued by the sheriff.
- (7) Except in such circumstances (if any) as may be prescribed—
  - (a) the Director or an arbitrator (or in Scotland an arbiter) appointed by him shall not determine any billing dispute which is the subject of proceedings before, or with respect to which judgment has been given by, any court; and
  - (b) neither party to any billing dispute which has been referred to the Director for determination in accordance with regulations under this section shall commence proceedings before any court in respect of that dispute pending its determination in accordance with the regulations.
- (8) No public electricity supplier may commence proceedings before any court in respect of any charge in connection with the provision by him of electricity supply services unless, not less than 28 days before doing so, the tariff customer concerned was informed by him, in such form and manner as may be prescribed, of—
  - (a) his intention to commence proceedings;

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- (b) the customer’s rights by virtue of this section; and
- (c) such other matters (if any) as may be prescribed.

(9) The powers of the Director under section 28 above shall also be exercisable for any purpose connected with the determination of any dispute referred to him in accordance with regulations made under this section.”

## **24 Compliance with standards of overall performance**

In section 40 of the Electricity Act 1989 (electricity supply: overall performance), the following subsection shall be added at the end—

“(3) It shall be the duty of every public electricity supplier to conduct his business in such a way as can reasonably be expected to lead to his achieving the standards set under this section.”

## **25 Determination of disputes by Director: interim directions**

- (1) The power of the Director General of Electricity Supply, under section 23(2) of the Electricity Act 1989, to require a public electricity supplier to continue a supply of electricity pending the Director’s determination of a dispute shall be extended to enable the Director to require the giving of a supply of electricity pending such a determination.
- (2) Accordingly, in section 23(2) of that Act, the words “to continue” shall be omitted, in both places where they occur.

### *Water supply*

## **26 Research concerning views of customers**

- (1) Section 39 of the Water Industry Act 1991 (procedure for making regulations under section 38 relating to standards of performance in the supply of water) shall be amended as follows.
- (2) In subsection (1)(d), for “both” there shall be substituted “the summary mentioned in subsection (2)(bb) below,”.
- (3) The following subsection shall be inserted after subsection (1)—

“(1A) Before making an application to the Secretary of State under this section the Director shall arrange for such research as he considers appropriate with a view to discovering the views of a representative sample of persons likely to be affected and consider the results.”
- (4) In subsection (2), the following paragraph shall be inserted after “apply” in paragraph (b)—

“(bb) is accompanied by a written summary of the results of the research carried out in accordance with subsection (1A) above;”.

## 27 Information with respect to levels of performance

The following section shall be inserted in the Water Industry Act 1991, after section 38—

### “38A Information with respect to levels of performance

- (1) The Director shall from time to time collect information with respect to—
  - (a) the compensation paid by water undertakers under regulations under section 38(2) above; and
  - (b) the levels of overall performance achieved by water undertakers in connection with the provision of water supplies.
- (2) At such times as the Director may direct, each water undertaker shall give the following information to the Director—
  - (a) as respects each standard prescribed by regulations under section 38(2) above, the number of cases in which compensation was paid and the aggregate amount or value of that compensation; and
  - (b) as respects each standard established by regulations under section 38(1) (b) above, such information with respect to the level of performance achieved by the undertaker as may be so specified.
- (3) A water undertaker who without reasonable excuse fails to do anything required of him by subsection (2) above shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (4) The Director shall, at least once in every year, arrange for the publication, in such form and in such manner as he considers appropriate, of such of the information collected by or given to him under this section as it may appear to him expedient to give to customers or potential customers of water undertakers.
- (5) In arranging for the publication of any such information the Director shall have regard to the need for excluding, so far as practicable—
  - (a) any matter which relates to the affairs of an individual, where publication of that matter would or might, in the opinion of the Director, seriously and prejudicially affect the interests of that individual; and
  - (b) any matter which relates specifically to the affairs of a particular body of persons, whether corporate or unincorporate, where publication of that matter would or might, in the opinion of the Director, seriously and prejudicially affect the interests of that body.”

## 28 Information to be given to customers about overall performance

The following section shall be inserted in the Water Industry Act 1991, after section 39—

### “39A Information to be given to customers about overall performance

- (1) Each water undertaker shall, in such form and manner and with such frequency as the Director may direct, take steps to inform its customers of—
  - (a) the standards of overall performance established under section 38(1) (b) above which are applicable to that undertaker; and

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- (b) that undertaker's level of performance as respects each of those standards.
- (2) In giving any such direction, the Director shall not specify a frequency of less than once in every period of twelve months.
- (3) The duty of a water undertaker to comply with this section shall be enforceable by the Director under section 18 above."

## **29 Procedures for dealing with complaints**

The following section shall be inserted in the Water Industry Act 1991, after section 86—

### *“Complaints*

#### **86A Procedure for dealing with complaints**

- (1) Each water undertaker shall establish a procedure for dealing with complaints made by its customers or potential customers in connection with the supply of water.
- (2) No such procedure shall be established, and no modification of such a procedure shall be made, unless—
  - (a) the water undertaker has consulted the customer service committee to which it has been allocated; and
  - (b) the proposed procedure or modification has been approved by the Director.
- (3) The water undertaker shall—
  - (a) publicise the procedure in such manner as may be approved by the Director; and
  - (b) send a description of the procedure, free of charge, to any person who asks for one.
- (4) The Director may give a direction to a water undertaker requiring the undertaker to review its procedure or the manner in which the procedure operates.
- (5) A direction under subsection (4) above—
  - (a) may specify the manner in which the review is to be conducted; and
  - (b) shall require a written report of the review to be made to the Director.
- (6) Where the Director receives a report under subsection (5)(b) above, he may, after consulting the water undertaker, direct the undertaker to make such modifications of—
  - (a) the procedure; or
  - (b) the manner in which the procedure operates,as may be specified in the direction.
- (7) Subsection (2) above does not apply to any modification made in compliance with a direction under subsection (6) above.

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- (8) The duty of a water undertaker to comply with subsection (1) above and with any direction given to it under subsection (4) or (6) above shall be enforceable by the Director under section 18 above.
- (9) Where the Director is considering whether to exercise his powers under subsection (4) or (6) above in relation to a water undertaker, it shall be the duty of that undertaker to give him such information as he may reasonably require for the purpose of assisting him in coming to a decision.
- (10) Section 202 below shall have effect, with the necessary modifications, in relation to information which the Director requires for that purpose as it has effect in relation to information which the Secretary of State requires for purposes mentioned in subsection (1) of that section.”

### *Sewerage services*

## **30 Research concerning views of customers**

- (1) Section 96 of the Water Industry Act 1991 (procedure for regulations under section 95 relating to standards of performance in the provision of sewerage services) shall be amended as follows.
- (2) In subsection (1)(d), for “both” there shall be substituted “the summary mentioned in subsection (2)(bb) below,”.
- (3) The following subsection shall be inserted after subsection (1)—
  - “(1A) Before making an application to the Secretary of State under this section the Director shall arrange for such research as he considers appropriate with a view to discovering the views of a representative sample of persons likely to be affected and consider the results.”
- (4) In subsection (2), the following paragraph shall be inserted after “apply” in paragraph (b)—
  - “(bb) is accompanied by a written summary of the results of the research carried out in accordance with subsection (1A) above;”.

## **31 Information with respect to levels of performance**

The following section shall be inserted in the Water Industry Act 1991, after section 95—

### **“95A Information with respect to levels of performance**

- (1) The Director shall from time to time collect information with respect to—
  - (a) the compensation paid by sewerage undertakers under regulations under section 95(2) above; and
  - (b) the levels of overall performance achieved by sewerage undertakers in connection with the provision of sewerage services.
- (2) At such times as the Director may direct, each sewerage undertaker shall give the following information to the Director—



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- (a) as respects each standard prescribed by regulations under section 95(2) above, the number of cases in which compensation was paid and the aggregate amount or value of that compensation; and
  - (b) as respects each standard established by regulations under section 95(1) (b) above, such information with respect to the level of performance achieved by the undertaker as may be so specified.
- (3) A sewerage undertaker who without reasonable excuse fails to do anything required of him by subsection (2) above shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (4) The Director shall, at least once in every year, arrange for the publication, in such form and in such manner as he considers appropriate, of such of the information collected by or given to him under this section as it may appear to him expedient to give to customers or potential customers of sewerage undertakers.
- (5) In arranging for the publication of any such information the Director shall have regard to the need for excluding, so far as practicable—
- (a) any matter which relates to the affairs of an individual, where publication of that matter would or might, in the opinion of the Director, seriously and prejudicially affect the interests of that individual; and
  - (b) any matter which relates specifically to the affairs of a particular body of persons, whether corporate or unincorporate, where publication of that matter would or might, in the opinion of the Director, seriously and prejudicially affect the interests of that body.”

### **32 Information to be given to customers about overall performance**

The following section shall be inserted in the Water Industry Act 1991, after section 96—

#### **“96A Information to be given to customers about overall performance**

- (1) Each sewerage undertaker shall, in such form and manner and with such frequency as the Director may direct, take steps to inform its customers of—
- (a) the standards of overall performance established under section 95(1) (b) above which are applicable to that undertaker; and
  - (b) that undertaker’s level of performance as respects each of those standards.
- (2) In giving any such direction, the Director shall not specify a frequency of less than once in every period of twelve months.
- (3) The duty of a sewerage undertaker to comply with this section shall be enforceable by the Director under section 18 above.”

### **33 Procedures for dealing with complaints**

The following section shall be inserted in the Water Industry Act 1991, after section 116—

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### *“Complaints*

#### **116A Procedures for dealing with complaints**

- (1) Each sewerage undertaker shall establish a procedure for dealing with complaints made by its customers or potential customers in connection with the provision of sewerage services.
- (2) No such procedure shall be established, and no modification of such a procedure shall be made, unless—
  - (a) the sewerage undertaker has consulted the customer service committee to which it has been allocated; and
  - (b) the proposed procedure or modification has been approved by the Director.
- (3) The sewerage undertaker shall—
  - (a) publicise the procedure in such manner as may be approved by the Director; and
  - (b) send a description of the procedure, free of charge, to any person who asks for one.
- (4) The Director may give a direction to a sewerage undertaker requiring the undertaker to review its procedure or the manner in which the procedure operates.
- (5) A direction under subsection (4) above—
  - (a) may specify the manner in which the review is to be conducted; and
  - (b) shall require a written report of the review to be made to the Director.
- (6) Where the Director receives a report under subsection (5)(b) above, he may, after consulting the sewerage undertaker, direct the undertaker to make such modifications of—
  - (a) the procedure; or
  - (b) the manner in which the procedure operates,as may be specified in the direction.
- (7) Subsection (2) above does not apply to any modification made in compliance with a direction under subsection (6) above.
- (8) The duty of a sewerage undertaker to comply with subsection (1) above and with any direction given to it under subsection (4) or (6) above shall be enforceable by the Director under section 18 above.
- (9) Where the Director is considering whether to exercise his powers under subsection (4) or (6) above in relation to a sewerage undertaker, it shall be the duty of that undertaker to give him such information as he may reasonably require for the purpose of assisting him in coming to a decision.
- (10) Section 202 below shall have effect, with the necessary modifications, in relation to information which the Director requires for that purpose as it has effect in relation to information which the Secretary of State requires for purposes mentioned in subsection (1) of that section.”

*Water supply and sewerage services*

**34 Determination of disputes by the Director**

The following section shall be inserted after section 30 of the Water Industry Act 1991—

**“30A Determination of disputes by the Director**

- (1) In this section “relevant dispute” means a dispute which, by virtue of any provision of this Act, may be referred to the Director for determination under this section.
- (2) The practice and procedure to be followed in connection with the reference to the Director of any relevant dispute shall be such as he considers appropriate.
- (3) Where the Director determines any dispute under this section he shall give his reasons for reaching his decision with respect to the dispute.
- (4) On making a determination under this section the Director may include such incidental, supplemental and consequential provision (including provision requiring either party to pay a sum in respect of the costs or expenses incurred by the Director) as he considers appropriate.
- (5) A determination under this section—
  - (a) shall be final; and
  - (b) shall be enforceable as if it were a judgment of a county court, in so far as it includes such provision as to costs or expenses as is mentioned in subsection (4) above.
- (6) The Director shall not determine any relevant dispute which is the subject of proceedings before, or with respect to which judgment has been given by, any court.
- (7) In including in any determination under this section any provision as to costs or expenses, the Director shall have regard to the conduct and means of the parties and any other relevant circumstances.”

**35 Reference of certain disputes to the Director**

- (1) The Water Industry Act 1991 shall be amended as follows.
- (2) In section 45 (duty to make connections with mains), the following subsection shall be inserted after subsection (6)—

“(6A) Any dispute between a water undertaker and any other person as to whether the expenses were incurred reasonably may be referred to the Director for determination under section 30A above by either party to the dispute.”
- (3) In section 46 (duty to carry out ancillary works for the purpose of making domestic connection), in subsection (7), for “(6)” there shall be substituted “(6A)”.
- (4) In section 49 (supplemental provisions with respect to metering conditions), the following shall be substituted for subsection (3)—

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- “(3) Any dispute between a water undertaker and any other person as to the terms of any condition imposed under section 47 above for the purposes of metering shall be referred—
- (a) to the arbitration of a single arbitrator appointed by agreement between the undertaker and that person; or
  - (b) if no agreement is reached, for determination by the Director under section 30A above.”
- (5) In section 53 (conditions of compliance with domestic supply duty), the following subsection shall be inserted after subsection (2)—
- “(2A) Any dispute between a water undertaker and any other person as to whether any requirement of a kind mentioned in subsection (2)(a) or (b) above has been complied with may be referred to the Director for determination under section 30A above by either party to the dispute.”
- (6) In section 64 (supply by means of separate service pipes), the following subsection shall be inserted after subsection (2)—
- “(2A) Any dispute between a water undertaker and any other person as to whether any condition of a kind mentioned in subsection (2) above has been complied with may be referred to the Director for determination under section 30A above by either party to the dispute.”
- (7) In section 105 (appeals with respect to adoption of sewers etc.), for “Secretary of State”, wherever it appears, there shall be substituted “Director”.
- (8) In section 106 (right to communicate with public sewers)—
- (a) in subsection (6), for “a magistrates' court” there shall be substituted “the Director under section 30A above”;
  - (b) subsection (7) shall cease to have effect; and
  - (c) in subsection (8)(b), for “a magistrates' court” there shall be substituted “the Director”.
- (9) In section 107 (right of sewerage undertaker to undertake the making of communications with public sewers), in subsection (1)(b), for “a magistrates' court” there shall be substituted “the Director” and after subsection (4) there shall be inserted the following subsection—
- “(4A) Any dispute between a sewerage undertaker and any other person as to—
- (a) whether the undertaker’s estimate of the cost of works given under subsection (3)(b)(i) above is reasonable,
  - (b) whether any requirement of security for the payment of the cost of works was reasonably made by the undertaker, or
  - (c) whether any excess is repayable, or any expenses are recoverable, by the undertaker under subsection (4) above, or the amount of any such excess or expenses,
- may be referred to the Director for determination under section 30A above by either party to the dispute.”
- (10) In section 112 (requirement that proposed drain or sewer be constructed so as to form part of general system), in subsections (2) and (3), for “Secretary of State” there shall be substituted “Director”.

- (11) In section 113 (power to alter drainage system of premises)—
- (a) in subsection (4), for “appeal to a magistrates' court” there shall be substituted “refer the matter to the Director for determination under section 30A above”; and
  - (b) subsection (5) shall cease to have effect.
- (12) In section 116 (power to close or restrict use of public sewer), the following subsection shall be inserted after subsection (3)—
- “(4) Any dispute arising under subsection (3)(a) above between a sewerage undertaker and any other person as to the effectiveness of any sewer provided by the undertaker for that person’s use may be referred to the Director for determination under section 30A above by either party to the dispute.”

### **36 Billing disputes**

The following section shall be inserted in the Water Industry Act 1991, after section 150—

#### **“150A Billing disputes**

- (1) The Secretary of State may by regulations make provision for billing disputes to be referred to the Director for determination in accordance with the regulations.
- (2) In this section “billing dispute” means a dispute between a relevant undertaker and a customer concerning the amount of the charge which the undertaker is entitled to recover from the customer in connection with—
  - (a) the supply of water for domestic purposes, in the case of a water undertaker; and
  - (b) the provision of sewerage services other than by the carrying out of trade effluent functions, in the case of a sewerage undertaker.
- (3) Regulations under this section may only be made after consulting—
  - (a) the Director; and
  - (b) persons or bodies appearing to the Secretary of State to be representative of persons likely to be affected by the regulations.
- (4) Regulations under this section may provide that, where a billing dispute is referred to the Director, he may either—
  - (a) determine the dispute, or
  - (b) appoint an arbitrator to determine it.
- (5) Any person determining any billing dispute in accordance with regulations under this section shall, in such manner as may be specified in the regulations, give his reasons for reaching his decision with respect to the dispute.
- (6) Regulations under this section may provide—
  - (a) that disputes may be referred to the Director under this section only by prescribed persons; and
  - (b) for any determination to be final and enforceable as if it were a judgment of a county court.
- (7) Except in such circumstances (if any) as may be prescribed—

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- (a) the Director or an arbitrator appointed by him shall not determine any billing dispute which is the subject of proceedings before, or with respect to which judgment has been given by, any court; and
  - (b) neither party to any billing dispute which has been referred to the Director for determination in accordance with regulations under this section shall commence proceedings before any court in respect of that dispute pending its determination in accordance with the regulations.
- (8) No relevant undertaker may commence proceedings before any court in respect of any charge in connection with the supply of water for domestic purposes or (as the case may be) the provision of sewerage services other than by the carrying out of trade effluent functions unless, not less than 28 days before doing so, the customer concerned was informed by it, in such form and manner as may be prescribed, of—
- (a) its intention to commence proceedings;
  - (b) the customer’s rights by virtue of this section; and
  - (c) such other matters (if any) as may be prescribed.
- (9) Where a dispute is referred to the Director in accordance with regulations made under this section, it shall be the duty of the undertaker concerned to give him such information as he may reasonably require for the purpose of assisting him in determining the dispute.
- (10) Section 202 below shall have effect, with the necessary modifications, in relation to information which the Director requires for that purpose as it has effect in relation to information which the Secretary of State requires for purposes mentioned in subsection (1) of that section.
- (11) For the purposes of this section—
- “charge” means any charge fixed by a scheme made under section 143 above;
  - “customer” means any person to whom the relevant undertaker provides services;
- and references to a sewerage undertaker’s trade effluent functions are references to its functions under Chapter III of Part IV of this Act.”

## PART II

### COMPETITION

#### *Gas supply*

#### 37 **The 25,000 therm limits**

The following section shall be inserted in the Gas Act 1986 after section 8—

##### **“8A Modification or removal of the 25,000 therm limits**

- (1) The Secretary of State may by order amend section 4(2)(d) or 8(5)(b) above or section 10(5) or 14(3) or (4)(b) below by substituting—

- (a) where the limit is for the time being expressed by reference to a number of therms—
    - (i) such lower number of therms as he considers appropriate; or
    - (ii) such lower limit, expressed by reference to a number of kilowatt hours, as he considers appropriate; or
  - (b) where the limit is for the time being expressed by reference to a number of kilowatt hours, such lower number of kilowatt hours as he considers appropriate.
- (2) An order under subsection (1) above may be made so as to provide for the number specified in one provision to differ from that for the time being specified in any of the other provisions.
- (3) If the Secretary of State considers that it is appropriate to remove the limit for the time being specified in sections 4(2)(d) and 8(5)(b) above and section 14(3) and (4)(b) below he may make an order repealing—
- (a) in section 4(2)(d) above, the words from “at rates” to the end;
  - (b) section 8(5) above;
  - (c) in section 14(3) below, the words from “but this subsection” to the end; and
  - (d) in section 14(4) below, the words from “if either” to the end.
- (4) Before making any order under this section, the Secretary of State shall consult the Director.”

### **38 Conveyance and storage of gas**

- (1) In section 4 of the Gas Act 1986 (general duties of Secretary of State and Director General of Gas Supply), the following subsection shall be inserted after subsection (1)
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- “(1A) In relation to the conveyance and storage of gas the Secretary of State and the Director shall, in addition, each have a duty to exercise the functions assigned to him by this Part in the manner which he considers is best calculated to secure effective competition between persons whose business consists of or includes the supply of gas.”
- (2) In section 7(7)(a) of the Act of 1986 (inclusion of conditions in authorisation of public gas supplier) the words “relating to the supply of gas, or requiring information to be furnished to the Director or published” shall be omitted.
- (3) In section 19 of the Act of 1986 (acquisition of rights to use pipe-lines), subsection (8) shall be omitted.
- (4) In section 24 of the Act of 1986 (modification of authorisation on reference to Monopolies and Mergers Commission), for paragraph (a) of subsection (1) there shall be substituted—
- “(a) whether any matters which relate to—
    - (i) the supply of gas by a public gas supplier to tariff customers, or
    - (ii) the conveyance or storage of gas by any public gas supplier, and which are specified in the reference operate, or may be expected to operate, against the public interest; and”.

- (5) In section 27 of the Act of 1986 (modification of authorisation by order under section 56 of the Fair Trading Act 1973 or section 10 of the Competition Act 1980), after the words “supply of gas through pipes”, in paragraphs (a) and (c), there shall in each case be inserted “or the conveyance or storage of gas by a public gas supplier”.

*Water supply and sewerage services*

**39 Mergers of water undertakers**

- (1) In section 34(3) of the Water Industry Act 1991 (matters to which the Monopolies Commission is to have regard on a reference under section 32 of that Act with respect to a water enterprise) the following shall be substituted for paragraph (a)—
- “(a) shall have regard to the desirability of giving effect to the principle that the Director’s ability, in carrying out his functions by virtue of this Act, to make comparisons between different water enterprises should not be prejudiced; and”.
- (2) Section 35(3) of the Act of 1991 (meaning of reference to the number of water enterprises under independent control) shall cease to have effect.
- (3) This section applies only to references under section 32 of the Act of 1991 made after the commencement of this section.

**40 Inset appointments**

- (1) In section 7 of the Water Industry Act 1991 (continuity of appointments, replacement appointments etc.), in subsection (4), for “company; or”, at the end of paragraph (b) there shall be substituted—
- “company;
- (bb) the appointment or variation relates only to parts of that area and the conditions mentioned in subsection (5) below are satisfied in relation to each of the premises in those parts which are served by that company; or”.
- (2) In section 7 of the Act of 1991 the following subsections shall be added at the end—
- “(5) The conditions are that—
- (a) the premises are, or are likely to be, supplied with not less than 250 megalitres of water in any period of twelve months; and
- (b) the person who is the customer in relation to the premises consents in writing to the appointment or variation.
- (6) The Secretary of State may, after consulting the Director, make regulations amending subsection (5)(a) above by substituting, for the quantity of water for the time being specified there, such smaller quantity as he considers appropriate.”
- (3) In section 8 of the Act of 1991 (procedure with respect to appointments and variations) the following subsection shall be added at the end—
- “(7) The Secretary of State may by regulations impose such additional procedural requirements as he considers appropriate for any case where the conditions



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mentioned in section 7(5) above are required to be satisfied in relation to an application for an appointment or variation replacing a company as a relevant undertaker.”

- (4) In section 9 of the Act of 1991 (duties affecting making of appointments and variations), in subsection (3), after “(4)(b)” insert “or (bb)”.
- (5) In section 36(3) of the Act of 1991, the following paragraphs are hereby repealed—
- (a) paragraph (a)(ii) (premises to be treated as being served by a water undertaker holding an appointment under Chapter I of Part I of that Act if they consist in a building or part of a building which is situated within thirty metres of a distribution main of that company); and
  - (b) paragraph (b)(ii) (premises to be treated as being served by a sewerage undertaker holding an appointment under Chapter I of Part I of that Act if they consist in a building or part of a building which is situated within thirty metres of a relevant sewer which is not a storm-water overflow sewer).
- (6) In section 158 of the Act of 1991 (powers to lay pipes), the following subsections shall be added at the end—
- “(8) Subsections (9) and (11) below apply where—
- (a) an appointment or variation has been made under section 7 above replacing a company as a relevant undertaker,
  - (b) the appointment or variation relates only to parts of the area to which the company’s appointment as relevant undertaker related, and
  - (c) the conditions mentioned in subsection (5) of that section were required to be satisfied in relation to each of the premises in those parts served by that company.
- (9) Where the company which has replaced the relevant undertaker has done so as water undertaker, in the application of this section and section 159 below in relation to that company any pipe supplying, or intended to supply, any of the premises referred to in subsection (8)(c) above with a supply of water which exceeds, or is likely to exceed, 250 megalitres of water in any period of twelve months shall, for the purposes of subsection (7) above, be deemed to be a water main.
- (10) Where the Secretary of State makes regulations under section 7(6) above amending section 7(5)(a) above he shall by regulations make the corresponding amendment in subsection (9) above.
- (11) Where the company which has replaced the relevant undertaker has done so as sewerage undertaker, in the application of this section and section 159 below in relation to that company any pipe draining, or intended to drain, any of those premises shall, for the purposes of subsection (7) above, be deemed to be a sewer.”

#### **41 The domestic supply duty**

In section 52 of the Water Industry Act 1991 (the domestic supply duty), in subsection (2), the words “and which are situated in the area of the undertaker” shall cease to have effect.

**42 Transitional provision with respect to replacement appointments**

The provisions of section 10 of the Water Industry Act 1991 (transitional provision with respect to replacement appointments) shall become subsection (1) of that section and the following subsections shall be added at the end—

- “(2) Subsections (3) and (4) below apply where, by such an appointment or variation, one company (“the new undertaker”) is to replace another company as a relevant undertaker, but the appointment or variation has not come into force.
- (3) The following provisions of this Act shall (except where they are inapplicable to the kind of undertaker in question) apply in relation to the new undertaker as if the appointment or variation had come into force—
- (a) sections 18 to 24 and Schedule 3;
  - (b) sections 32 to 35;
  - (c) section 155 and Schedule 9;
  - (d) sections 156, 158 to 161 and 163 to 167 and Schedule 11;
  - (e) sections 168 to 171, 173, 174, 178 to 180 and Schedule 12;
  - (f) sections 181 to 183 and Schedule 13;
  - (g) sections 184 to 188 and Schedule 14;
  - (h) sections 189 to 192, 197 to 200, 202, 203, 206, 208, 209, 211, 212 and 217.
- (4) Such of the conditions imposed on the new undertaker under section 11 below as the Director may specify in a written notice given by him to the undertaker shall have effect, in relation to the operation of any provision mentioned in subsection (3) above before the appointment or variation comes into force, as if the appointment or variation had come into force.
- (5) The Secretary of State may by regulations amend subsection (3) above by adding to, removing or modifying references to provisions of this Act.”

**43 Connections with water mains and communications with sewers**

- (1) In section 45 of the Water Industry Act 1991 (which imposes on a water undertaker a duty to make a connection with one of its water mains where the premises for which a supply of water is required are in the undertaker’s area), the words “in the undertaker’s area” shall cease to have effect.
- (2) In section 106 of the Act of 1991 (which gives the owner or occupier of any premises in the area of a sewerage undertaker a right to have his drains or sewer communicate with the public sewers of that undertaker), the following subsection shall be substituted for subsection (1)—
- “(1) Subject to the provisions of this section—
- (a) the owner or occupier of any premises, or
  - (b) the owner of any private sewer which drains premises,
- shall be entitled to have his drains or sewer communicate with the public sewer of any sewerage undertaker and thereby to discharge foul water and surface water from those premises or that private sewer.”

#### **44 Bulk supplies of water**

The following sections shall be substituted for section 40 of the Water Industry Act 1991 (bulk supplies of water)—

##### **“40 Bulk supplies**

- (1) Where, on the application of any qualifying person—
  - (a) it appears to the Director that it is necessary or expedient for the purposes of securing the efficient use of water resources, or the efficient supply of water, that the water undertaker specified in the application (“the supplier”) should give a supply of water in bulk to the applicant, and
  - (b) the Director is satisfied that the giving and taking of such a supply cannot be secured by agreement,the Director may by order require the supplier to give and the applicant to take such a supply for such period and on such terms and conditions as may be provided in the order.
- (2) In this section “qualifying person” means—
  - (a) a water undertaker; or
  - (b) a person who has made an application for an appointment or variation under section 8 above which has not been determined.
- (3) Where the application is made by a person who is a qualifying person by virtue of subsection (2)(b) above, an order made under this section in response to that application shall be expressed not to come into force until the applicant becomes a water undertaker for the area specified in the order, or for an area which includes that area.
- (4) Subject to subsection (3) above, an order under this section shall have effect as an agreement between the supplier and the applicant.
- (5) The Director shall not make an order under this section unless he has first consulted the NRA.
- (6) In exercising his functions under this section, the Director shall have regard to the desirability of—
  - (a) facilitating effective competition within the water supply industry;
  - (b) the supplier’s recovering the expenses of complying with its obligations by virtue of this section and securing a reasonable return on its capital;
  - (c) the supplier’s being able to meet its existing obligations, and likely future obligations, to supply water without having to incur unreasonable expenditure in carrying out works;
  - (d) not putting at risk the ability of the supplier to meet its existing obligations, or likely future obligations, to supply water.

##### **40A Variation and termination of bulk supply agreements**

- (1) This section applies where, on the application of any party to a bulk supply agreement—

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- (a) it appears to the Director that it is necessary or expedient for the purpose of securing the efficient use of water resources, or the efficient supply of water, to vary the agreement or to terminate it, and
  - (b) the Director is satisfied that that cannot be achieved by agreement between the parties to the agreement.
- (2) The Director may by order—
  - (a) vary the agreement by—
    - (i) varying the period for which the supply of water is to be given; or
    - (ii) varying any of the terms or conditions on which that supply is to be given; or
  - (b) terminate the agreement.
- (3) Before making any order under this section the Director shall consult the NRA.
- (4) Where an order is made under this section the agreement concerned shall have effect subject to the provision made by the order or (as the case may be) shall cease to have effect.
- (5) An order under this section may require the payment of compensation by any party to the agreement to any other party.
- (6) The obligations of a water undertaker under subsection (5) above shall be enforceable under section 18 above by the Director.
- (7) In exercising his functions under this section, the Director shall have regard to the expenses incurred by the supplier in complying with its obligations under the bulk supply agreement and to the desirability of—
  - (a) facilitating effective competition within the water supply industry;
  - (b) the supplier's recovering the expenses of complying with its obligations by virtue of this section and securing a reasonable return on its capital;
  - (c) the supplier's being able to meet its existing obligations, and likely future obligations, to supply water without having to incur unreasonable expenditure in carrying out works;
  - (d) not putting at risk the ability of the supplier to meet its existing obligations, or likely future obligations, to supply water.
- (8) In this section—
  - “bulk supply agreement” means an agreement between one or more water undertakers for the supply of water in bulk and includes—
    - (a) an order under section 40 above which is deemed to be an agreement by virtue of subsection (4) of that section; and
    - (b) any agreement which has been varied by order under this section; and
  - “supplier”, in relation to a bulk supply agreement, means any water undertaker which is required by the agreement to provide a bulk supply of water.”

## 45 New connections with public sewers

The following section shall be inserted in the Water Industry Act 1991 after section 110—

### “110A New connections with public sewers

- (1) Where, on the application of any qualifying person—
  - (a) it appears to the Director that it is necessary or expedient for the purposes of this Part that the sewerage undertaker specified in the application (“the established undertaker”) should permit a main connection into his sewerage system, and
  - (b) the Director is satisfied that the making of such a connection cannot be secured by agreement,the Director may by order require the established undertaker to allow the connection for such period and on such terms and conditions as may be provided in the order.
- (2) In this section “qualifying person” means—
  - (a) a sewerage undertaker; or
  - (b) a person who has made an application for an appointment or variation under section 8 above which has not been determined.
- (3) In subsection (1) above a “main connection” means a connection—
  - (a) between a sewer or disposal main and a sewer or disposal main; or
  - (b) a connection which allows a sewer or disposal main to discharge directly into a sewage disposal works.
- (4) Where the application is made by a person who is not a sewerage undertaker at the time when the application is made, an order made under this section in response to that application shall be expressed not to come into force until the applicant becomes a sewerage undertaker for the area specified in the order, or for an area which includes that area.
- (5) Subject to subsection (4) above, an order under this section shall have effect as an agreement between the established undertaker and the applicant but may be varied or revoked by a subsequent order made by the Director on the application of either party to the agreement, as well as by agreement between the parties.
- (6) The Director shall not make an order under this section unless he has first consulted the NRA.
- (7) In exercising his functions under this section, the Director shall have regard to the desirability of—
  - (a) facilitating effective competition within the sewerage services industry;
  - (b) the existing undertaker’s recovering the expenses of complying with its obligations by virtue of this section and securing a reasonable return on its capital;
  - (c) the existing undertaker’s being able to meet its existing obligations, and likely future obligations, to provide sewerage services without having to incur unreasonable expenditure in carrying out works;

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- (d) not putting at risk the ability of the existing undertaker to meet its existing obligations, or likely future obligations, to provide such services.”

#### **46 Discharges into and from public sewers**

- (1) In section 87 of the Water Resources Act 1991 (discharges into and from public sewers), the following subsections shall be substituted for subsection (1)—

“(1) This section applies for the purpose of determining liability where sewage effluent is discharged as mentioned in subsection (3) or (4) of section 85 above from any sewer or works (“the discharging sewer”) vested in a sewerage undertaker (“the discharging undertaker”).

(1A) If the discharging undertaker did not cause, or knowingly permit, the discharge it shall nevertheless be deemed to have caused the discharge if—

- (a) matter included in the discharge was received by it into the discharging sewer or any other sewer or works vested in it;
- (b) it was bound (either unconditionally or subject to conditions which were observed) to receive that matter into that sewer or works; and
- (c) subsection (1B) below does not apply.

(1B) This subsection applies where the sewage effluent was, before being discharged from the discharging sewer, discharged through a main connection into that sewer or into any other sewer or works vested in the discharging undertaker by another sewerage undertaker (“the sending undertaker”) under an agreement having effect between the discharging undertaker and the sending undertaker under section 110A of the Water Industry Act 1991.

(1C) Where subsection (1B) above applies, the sending undertaker shall be deemed to have caused the discharge if, although it did not cause, or knowingly permit, the sewage effluent to be discharged into the discharging sewer, or into any other sewer or works of the discharging undertaker—

- (a) matter included in the discharge was received by it into a sewer or works vested in it; and
- (b) it was bound (either unconditionally or subject to conditions which were observed) to receive that matter into that sewer or works.”

- (2) The following subsection shall be inserted at the end of section 87 of the Act of 1991—

“(4) In this section “main connection” has the same meaning as in section 110A of the Water Industry Act 1991.”

- (3) This section applies only in relation to discharges occurring after it comes into force.

#### **47 Pipe-laying by water or sewerage undertaker in area of another such undertaker**

In section 192 of the Water Industry Act 1991 (interpretation of Part VI of that Act), the following subsections shall be inserted after subsection (3)—

“(3A) A relevant undertaker proposing to exercise any of its powers under section 158 or 159 above outside its own area shall, if subsection (3B) below applies, give notice of its proposal to the water undertaker or (as the case may be) sewerage

undertaker for the area in question and, if that subsection applies, shall not carry out its proposal—

- (a) without the consent of that other undertaker; or
- (b) where that other undertaker refuses to give its consent, or fails to give its consent before the end of the period of 28 days beginning with the day on which it is notified of the proposal, without the consent of the Director.

(3B) This subsection applies where the proposal is to lay—

- (a) a water main which is not intended to be—
  - (i) a trunk main; or
  - (ii) a water main used solely for the purpose of supplying water otherwise than for domestic purposes; or
- (b) a sewer which is intended to be a public sewer but not a storm-water overflow sewer.”

### PART III

#### MISCELLANEOUS AND SUPPLEMENTAL

#### **48 Compliance orders against public gas suppliers**

- (1) Section 28 of the Gas Act 1986 (orders for securing compliance with certain provisions) shall be amended as follows.
- (2) For the words “has contravened and is likely again”, in each place where they occur in subsections (1), (2) and (4), there shall be substituted “is likely”.
- (3) In subsection (5), after “confirmation of the order” there shall be inserted—
  - “(aa) that the public gas supplier has agreed to take and is taking all such steps as it appears to the Director for the time being to be appropriate for the supplier to take for the purpose of securing or facilitating compliance with the condition or requirement in question;”.

#### **49 Telecommunica- tions: powers to make regulations**

The following section shall be inserted in the Telecommunications Act 1984, after section 46—

##### *“Regulations*

#### **46A Powers to make regulations**

- (1) Any power under this Part of this Act to make regulations shall be exercisable by statutory instrument.
- (2) Any statutory instrument containing regulations made by the Secretary of State under this Part of this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Any such regulations may—

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- (a) provide for the determination of questions of fact or of law which may arise in giving effect to the regulations;
- (b) make provision regulating (otherwise than in relation to any court proceedings) any matters relating to the practice and procedure to be followed in connection with the determination of such questions;
- (c) make provision as to the mode of proof of any matter;
- (d) make provision as to parties and their representation;
- (e) provide for the right to appear before and be heard by the Secretary of State, the Director and other authorities;
- (f) make provision as to awarding costs or expenses of proceedings for the determination of such questions, including the amount of the costs or expenses and the enforcement of the awards;
- (g) provide 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 by the regulations;
- (h) make different provision for different cases, including different provision in relation to different persons, circumstances or localities; and
- (i) make such supplemental, consequential and transitional provision as the Secretary of State or, as the case may be, the Director considers appropriate.

(4) Any such regulations which prescribe a period within which things are to be done may provide for extending the period so prescribed.”

## **50 Protection of interests of customers of water and sewerage undertakers**

In section 2 of the Water Industry Act 1991 (general duties with respect to water industry), in subsection (3), the following paragraph shall be inserted after paragraph (b)—

- “(bb) to ensure that the interests of every such person are also protected as respects any activities of that 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 Director to be connected with that company, and in particular by ensuring—
- (i) that transactions are carried out at arm’s length; and
  - (ii) that that company, in relation to the exercise of its functions as a relevant undertaker, maintains and presents accounts in a suitable form and manner;”.

## **51 Conditions for connections with water mains and for supplies of water**

- (1) Section 47 of the Water Industry Act 1991 (conditions of connection with water main) shall be amended as set out in subsections (2) to (4).
- (2) In subsection (2)(b)(ii), after “expenses” there shall be inserted “reasonably”.
- (3) After subsection (2) there shall be inserted the following subsection—



“(2A) No condition shall be imposed by a water undertaker under subsection (2)(e) above unless it is reasonable to do so in order to ensure that the undertaker will be able to perform its functions, in relation to the supply of water to the relevant premises or any part of those premises, efficiently.”

(4) After subsection (3) there shall be inserted the following subsections—

“(3A) Any dispute as to whether any requirement of a kind mentioned in subsection (2)(a), (b), (e) or (f) above has been complied with may be referred to the Director for determination under section 30A above by either party to the dispute.

(3B) Any dispute between a water undertaker and any other person as to whether—

- (a) any security required by a condition imposed under subsection (2)(a) above was reasonably required,
  - (b) the expenses referred to in subsection (2)(b)(ii) above were incurred reasonably, or
  - (c) in a particular case, subsection (2A) above prevents a water undertaker from imposing a condition under subsection (2)(e) above,
- may be referred to the Director for determination under section 30A above by either party to the dispute.”

(5) In section 53 of the Act of 1991 (conditions of compliance with domestic supply duty), in subsection (2)(a)(ii), after “expenses” there shall be inserted “reasonably” and after subsection (2) there shall be inserted the following subsection—

“(2A) Any dispute between a water undertaker and any other person as to whether the expenses referred to in subsection (2)(a)(ii) above were incurred reasonably may be referred to the Director for determination under section 30A above by either party to the dispute.”

## **52 Water supply and sewerage services: powers to make regulations**

In section 213 of the Water Industry Act 1991 (powers to make regulations), the following subsections shall be inserted after subsection (2)—

“(2A) Such regulations may include provision—

- (a) for the determination of questions of fact or of law which may arise in giving effect to the regulations;
- (b) for regulating (otherwise than in relation to any court proceedings) any matters relating to the practice and procedure to be followed in connection with the determination of such questions;
- (c) as to the mode of proof of any matter;
- (d) as to parties and their representation; and
- (e) for the right to appear before and be heard by the Secretary of State, the Director and other authorities.

(2B) Any such regulations which prescribe a period within which things are to be done may provide for extending the period so prescribed.”

**53 Meters for disabled persons**

- (1) In Schedule 5 to the Gas Act 1986 (the public gas supply code), the following subparagraph shall be added at the end of paragraph 3—

“(4) A public gas supplier who, for the purpose of meeting the needs of a disabled person—

(a) alters the position of any gas meter which has been provided by that supplier, or

(b) replaces such a meter with one which has been specially adapted, shall not make any charge for the alteration or replacement.”

- (2) The following subsection shall be inserted in section 148 of the Water Industry Act 1991 (restriction on charging for metering works), after subsection (1)—

“(1A) References in subsection (1) above to expenses include references to expenses incurred in meeting the needs of a disabled person.”

- (3) The following subsection shall be inserted in section 148 of the Act of 1991, after subsection (4)—

“(4A) Subsection (4) above is subject to any regulations made by virtue of section 149(2)(aa) below.”

- (4) In section 149(2) of the Act of 1991 (regulations about metering etc.), the following paragraph shall be inserted after paragraph (a)—

“(aa) require a relevant undertaker who, for the purpose of meeting the needs of a disabled person—

(i) alters the position of any meter;

(ii) installs an additional meter; or

(iii) does any other work in connection with any meter,

to bear any expenses incurred by the undertaker in doing so;”.

**54 Corresponding provision for Northern Ireland**

- (1) An Order in Council under paragraph 1(1)(b) of Schedule 1 to the Northern Ireland Act 1974 (legislation for Northern Ireland in the interim period) which contains a statement that it is made only for purposes corresponding to purposes of any of the provisions mentioned in subsection (2)—

(a) shall not be subject to paragraph 1(4) and (5) of that Schedule (affirmative resolution of both Houses of Parliament); but

(b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

- (2) The provisions are—

(a) sections 20 to 25;

(b) paragraphs 11 to 16 of Schedule 1; and

(c) the entries in Schedule 2 relating to the Electricity Act 1989.

## **55 Expenses**

There shall be paid out of money provided by Parliament any increase attributable to the provisions of this Act in the sums payable out of money so provided under any other Act.

## **56 Short title, commencement and extent, etc**

- (1) This Act may be cited as the Competition and Service (Utilities) Act 1992.
- (2) Section 54 and subsections (1) to (5) of this section shall come into force on the passing of this Act but otherwise this Act shall come into force on such date as may be appointed by order made by the Secretary of State.
- (3) Different dates may be appointed for different provisions of this Act and for different purposes.
- (4) The following provisions of this Act do not extend to Scotland—
  - (a) sections 26 to 36;
  - (b) sections 39 to 47;
  - (c) sections 50 to 52;
  - (d) section 53(2) to (4); and
  - (e) Schedules 1 and 2, so far as they affect any enactment which does not extend to Scotland.
- (5) The following provisions of this Act extend to Northern Ireland—
  - (a) sections 1 to 10, 49 and 54;
  - (b) subsections (1) to (4), this subsection and, so far as is necessary to give effect to paragraph (c), subsection (6); and
  - (c) Schedule 1, so far as it amends any enactment which extends to Northern Ireland.
- (6) The minor and consequential amendments set out in Schedule 1 shall have effect.
- (7) The repeals set out in Schedule 2 shall have effect.

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## SCHEDULES

### SCHEDULE 1

Section 56(6).

#### MINOR AND CONSEQUENTIAL AMENDMENTS

##### *The Telecommunications Act 1984 (c. 12)*

- 1 In section 3 of the Telecommunications Act 1984 (general duties of Secretary of State and Director), the following subsection shall be inserted after subsection (3)—
- “(3A) Subsections (1) and (2) above do not apply in relation to the determination of disputes by the Director under or by virtue of section 27A, 27F, 27G or 27I below.”
- 2 In section 53(6) of the Act of 1984 (power to require information), in paragraph (b) of the definition of “relevant purpose”, after “16” there shall be inserted “27E, 27H, 27I”.
- 3 In section 101 of the Act of 1984 (general restrictions on disclosure of information)
- (a) the following paragraph shall be inserted in subsection (2), after paragraph (b)—
- “(bb) for the purpose of facilitating the carrying out by the Comptroller and Auditor General of any of his functions under any enactment;” and
- (b) in subsection (4)(a), after “section” there shall be inserted “27C or”.
- 4 In section 104(1) of the Act of 1984 (orders under the Act to be made by statutory instrument and, except in the case of orders made under specified sections, to be subject to negative resolution control), after “2” there shall be inserted “27L”.

##### *The Gas Act 1986 (c. 44)*

- 5 In section 4 of the Gas Act 1986 (general duties of Secretary of State and Director), the following subsection shall be inserted after subsection (3)—
- “(4) Subsections (1) and (2) above do not apply in relation to the determination of disputes by the Director under or by virtue of section 14A, 15A or 33A below.”
- 6 In section 28 of the Act of 1986 (orders for securing compliance), in the definition of “relevant requirement” in subsection (8)—
- (a) for “or 14(1) or (3)” there shall be substituted “14(1) or (3), 14A(4) or 15B”; and
- (b) after “above” there shall be inserted “or section 33B, 33D or 33E below”.
- 7 In section 38(1) of the Act of 1986 (power to require information etc.), for “or 31” there shall be substituted “31 or 33E”.
- 8 In section 42 of the Act of 1986 (general restrictions on disclosure of information)—

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- (a) the following paragraph shall be inserted in subsection (2), after paragraph (c)—
    - “(cc) for the purpose of facilitating the carrying out by the Comptroller and Auditor General of any of his functions under any enactment;” and
  - (b) in subsection (4)(a), after “section”, in the first place where it occurs, there shall be inserted “33C or”.
- 9 (1) The amendments set out in sub-paragraphs (2) and (3) shall be made in section 47 of the Act of 1986 (general provisions as to regulations under Part I).
- (2) In subsection (1)—
- (a) in paragraph (c), for “and be heard of” there shall be substituted “before and be heard by”; and
  - (b) in paragraph (d), after “costs” there shall be inserted “or expenses”.
- (3) In subsection (3), the following paragraph shall be inserted before paragraph (a)—
- “(aa) provide 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 by the regulations;”.
- 10 In section 48(1) of the Act of 1986 (interpretation of Part I and savings), in the definition of “prescribed”, after “regulations”, there shall be inserted “(except in section 33A above)”.

*The Electricity Act 1989 (c. 29)*

- 11 In section 23 of the Electricity Act 1989 (determination of disputes), the following subsection shall be inserted after subsection (1)—
- “(1A) Any person making an order under subsection (1) above shall include in the order his reasons for reaching his decision with respect to the dispute.”
- 12 In section 25 of the Act of 1989 (orders for securing compliance), in the definition of “relevant requirement” in subsection (8), after “above” there shall be inserted “or section 40(3), 41(3), 42A or 42B below”.
- 13 In section 28(1) of the Act of 1989 (power to require information) after “above”, insert “or 42B below”.
- 14 In section 39 of the Act of 1989 (electricity supply: performance in individual cases), the following subsection shall be inserted after subsection (5)—
- “(5A) Any person making an order under subsection (5) above shall include in the order his reasons for reaching his decision with respect to the dispute.”
- 15 In section 41 of the Act of 1989 (promotion of efficient use of electricity), the following subsections shall be added at the end—
- “(3) Each public electricity supplier shall, in such form and manner and with such frequency as the Director may direct, take steps to inform his customers of—
    - (a) the standards determined under this section which are applicable to that supplier; and
    - (b) that supplier’s level of performance as respects those standards.”

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- 16 In Schedule 7 to the Act of 1989 (use of electricity meters), the following shall be substituted for paragraph 1(2)—
- “(2) If the electricity supplier agrees, the meter may be provided by the customer; but otherwise it shall be provided by the electricity supplier (whether by way of sale, hire or loan).
  - (2A) A public electricity supplier may refuse to allow one of his customers to provide a meter only if there are reasonable grounds for his refusal.”

*The Water Industry Act 1991 (c. 56)*

- 17 In section 8 of the Water Industry Act 1991 (procedure with respect to appointments and variations)—
- (a) in subsections (2)(a) and (4)(b) “the NRA” shall be inserted after “appointee”; and
  - (b) in subsection (5)(b) “the NRA and on” shall be inserted after “on”.
- 18 In section 38 of the Act of 1991 (standards of performance in connection with water supply) the following subsection shall be added at the end—
- “(5) Where the Director determines any dispute in accordance with regulations under this section he shall, in such manner as may be specified in the regulations, give his reasons for reaching his decision with respect to the dispute.”
- 19 (1) The amendments set out in sub-paragraphs (2) and (3) shall be made in section 39(1) of the Act of 1991 (procedure for regulations about standards of performance in connection with water supply).
- (2) For paragraph (b) there shall be substituted—
- “(b) the Secretary of State is satisfied that a copy of the application has been served by the Director—
  - (i) on every water undertaker specified in the application; and
  - (ii) on persons or bodies appearing to the Secretary of State to be representative of persons likely to be affected by the regulations;”.
- (3) In paragraph (c)(ii), after “undertaker” there shall be inserted “or person or body on whom a copy of the application has been served under paragraph (b)(ii) above”.
- 20 In section 52 of the Act of 1991 (the domestic supply duty), in subsection (3)(a) for “a water main” there shall be substituted “one of the water undertaker’s water mains”.
- 21 In section 64 of the Act of 1991 (supply of water by means of separate service pipes)—
- (a) the words “within its area” shall be omitted from subsection (1); and
  - (b) in subsection (2), for the words “was provided to those houses before 15th April 1981 wholly or partly by the same service pipe and continues to be so provided” there shall be substituted “is provided wholly or partly by the same service pipe”.
- 22 In section 65(9) of the Act of 1991 (duties of undertakers as respects constancy and pressure), for “Secretary of State” there shall be substituted “Director”.

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- 23 In section 79(6) of the Act of 1991 (local authority functions where piped supplies are insufficient or unwholesome), for “Secretary of State” there shall be substituted “Director”.
- 24 In section 95 of the Act of 1991 (standards of performance in connection with provision of sewerage services) the following subsection shall be added at the end—
- “(5) Where the Director determines any dispute in accordance with regulations under this section he shall, in such manner as may be specified in the regulations, give his reasons for reaching his decision with respect to the dispute.”
- 25 (1) The amendments set out in sub-paragraphs (2) and (3) shall be made in section 96(1) of the Act of 1991 (procedure for regulations about standards of performance in connection with provision of sewerage services).
- (2) For paragraph (b) there shall be substituted—
- “(b) the Secretary of State is satisfied that a copy of the application has been served by the Director—
- (i) on every sewerage undertaker specified in the application; and
- (ii) on persons or bodies appearing to the Secretary of State to be representative of persons likely to be affected by the regulations;”.
- (3) In paragraph (c)(ii), after “undertaker” there shall be inserted “or person or body on whom a copy of the application has been served under paragraph (b)(ii) above”.
- 26 In section 98(4) of the Act of 1991 (breach of duty of sewerage undertaker to provide public sewer) for “water” there shall be substituted “sewerage”.
- 27 In section 206(4)(a) of the Act of 1991 (restriction on disclosure of information), after “section” there shall be inserted “38A, 95A or”.
- 28 In section 213(2) of the Act of 1991 (powers to make regulations), the following paragraph shall be inserted after paragraph (d)—
- “(dd) as to awarding costs or expenses of proceedings in any determination under the regulations, including the amount of the costs or expenses and the enforcement of the awards;”.
- 29 In paragraph 1(3) of Schedule 12 to the Act of 1991 (disputes about compensation for street works etc. to go to arbitration) for “Secretary of State” there shall be substituted “Director”.
- 30 In paragraph 4(2) of that Schedule (disputes about compensation for sewerage works etc. to go to arbitration) for “Secretary of State” there shall be substituted “Director”.
- 31 In paragraph 4(3) of that Schedule (compensation claims)—
- (a) for “£50” there shall be substituted “£5,000”; and
- (b) for the words from “on the application of” to the end there shall be substituted “be referred to the Director for determination under section 30A of this Act by either party.”

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## SCHEDULE 2

Section 56(7).

## REPEALS

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1986 c. 44.	The Gas Act 1986.	In section 7(7)(a), the words “relating to the supply of gas, or requiring information to be furnished to the Director or published”.Section 19(8).
1989 c. 29.	The Electricity Act 1989.  In section 39(1), the word “and” immediately before paragraph (b).In section 40(1), the words from “after” to “affected”.	In section 23(2), the words “to continue”, in both places.
1991 c. 56.	The Water Industry Act 1991.	Section 35(3).In section 36(3), paragraphs (a)(ii) and (b)(ii).In section 45(1), the words “in the undertaker’s area”.In section 52(2), the words “and which are situated in the area of the undertaker”.In section 64(1), the words “within its area”.Section 106(7).Section 113(5).In Schedule 12, paragraph 4(4).