

These notes refer to the Water Act 2003 (c.37) which received Royal Assent on 20th November 2003

WATER ACT 2003

EXPLANATORY NOTES

SUMMARY

9. The four broad aims of the Act are:
 - the sustainable use of water resources;
 - strengthening the voice of consumers;
 - a measured increase in competition; and
 - the promotion of water conservation.
10. The Government's initiative to promote sustainable use of water resources was launched by the Deputy Prime Minister at the Water Summit in May 1997 with a 10 point action plan. That plan included a review of the abstraction licensing system. Following consultation, the Government's decisions on abstraction licensing were published in *Taking Water Responsibly* in March 1999. This Act implements those changes to the current regime for water resources management that require legislative change. The need for the Better Regulation measures was also indicated before publication of the Act in the White Paper *A Fair Deal for Consumers – Modernising the Framework for Utility Regulation*, published in July 1998. The Government announced in March 2001 that it would increase opportunities for competition in water services, and this Act implements changes to achieve that.
11. In November 2000, the Government consulted on the draft Water Bill, publishing its response in July 2002. A three-month consultation was undertaken on the competition aspects of the Bill in summer 2002. Copies of these documents are available on the DEFRA website (www.defra.gov.uk/environment/water/legislation).
12. The main provisions of the Act are set out below.
13. The Act amends the Water Resources Act 1991 to improve long-term water resource management by:
 - creating two new forms of abstraction licence – the transfer licence and the temporary licence;
 - widening the control over impoundments so that licences are required for the whole duration of impoundment works;
 - replacing licensing exemptions based on water use with a new exemption threshold of less than 20 cubic metres of water per day;
 - ending the current exemption for irrigation (other than spray irrigation) and dewatering from the abstraction licensing regime;
 - requiring all new abstraction licences to be time-limited;
 - empowering the Environment Agency to revoke or vary an abstraction licence without compensation if it has not been used for four years; and

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- removing the entitlement to compensation if the Secretary of State (or the Assembly) directs that a licence without a time limit should be curtailed, on or after 15 July 2012, on the grounds of serious environmental damage.
14. It also amends the Water Industry Act 1991 so that water companies:
- are given a duty to prepare and publicise drought plans;
 - are placed under a duty to agree and publicise water resource management plans; and
 - are placed under an enforceable duty to further water conservation.
15. The Act introduces provisions for the better operation and regulation of the water industry by amending the Water Industry Act 1991 to:
- replace the Director General of Water Services with a Regulatory Authority;
 - set up a new independent Consumer Council for Water to replace the Customer Service Committees and the Ofwat National Consumer Council (known as WaterVoice);
 - require the Authority and the Council to consult on and publish forward work programmes and annual reports;
 - give both the Authority and Council a new duty to contribute to sustainable development; and
 - give the Authority a duty to further the consumer objective wherever appropriate, through promoting effective competition.
16. The Act includes provisions which aim to increase the opportunities for competition in the supply of water services, by:
- setting up a system to license new entrants to supply water to large commercial and industrial customers based on a water consumption threshold; and
 - providing the Authority with new regulatory powers to administer the competition framework.
17. The Act also amends the Water Industry Act 1991 to include a new statutory obligation for water companies to accede to requests from Strategic Health Authorities (in relation to England) and the Assembly (in relation to Wales) to enter into arrangements to fluoridate water supplies. This transfers responsibility for the decision to fluoridate from the undertaker to the Strategic Health Authority and the Assembly, in consultation with local communities.
18. To further the principles of sustainable use of water resources, better regulation of the water industry, competition and water conservation, the Act contains a number of miscellaneous provisions.
19. To further water conservation the Act contains new provisions to:
- place a duty on the Secretary of State and the National Assembly of Wales to take appropriate steps to encourage water conservation; and
 - place a duty on public authorities to take into account the desirability of conserving water supplies to premises.
20. The Act amends the Water Industry Act 1991 to:
- give the Secretary of State or the Assembly powers to develop schemes requiring the adoption of private sewers by sewerage undertakers;

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- require Fire Authorities or owners of commercial or industrial premises to pay for replacement fire hydrants removed during water mains renewal or refurbishment work;
 - allow developers to enter into an agreement with water undertakers to lay water mains and communication pipes in accordance with standards set by the undertaker;
 - extend existing provisions to enable undertakers to adopt new lateral drains upon construction; and
 - give the Secretary of State or the Assembly the power to make orders to apply or disapply the trade effluent consenting regime in certain cases.
21. It enhances reservoir safety by amending the Reservoirs Act 1975 to:
- transfer enforcement powers from local authorities to the Environment Agency in England and Wales; and
 - empower the Secretary of State or the Assembly to direct owners of large raised reservoirs to prepare and maintain flood plans.
22. The Act includes various amendments to facilitate streamline arrangements for flood defence organisation and funding by:
- including powers to revoke local flood defence schemes and allow the creation of additional regional flood defence committees;
 - repealing section 147 to 149 of the Water Resources Act to enable Ministers to make block grants to the Environment Agency for flood defence works and flood warning schemes;
 - reinstating the power of the internal drainage boards to borrow to fund contributions to the Environment Agency; and
 - enabling the National Assembly for Wales to make provisions regarding the membership of Welsh regional flood defence committees.
23. The Act provides new powers under the Coal Industry Act 1994 for the Coal Authority to take action to prevent and clean up mine water pollution from abandoned coal mines.