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Water Act 2003

2003 CHAPTER 37

PART 2

NEW REGULATORY ARRANGEMENTS, ETC

Establishment, etc of new bodies

VALID FROM 01/04/2006

34 Water Services Regulation Authority

- (1) After section 1 of the Water Industry Act 1991 (c. 56) (in this Act referred to as the “WIA”) there is inserted—

“1A Water Services Regulation Authority

- (1) There shall be a body corporate to be known as the Water Services Regulation Authority (in this Act referred to as “the Authority”) for the purpose of carrying out the functions conferred on or transferred to it by this Act or under or by virtue of any other enactment.
- (2) The functions of the Authority are performed on behalf of the Crown.
- (3) Schedule 1A to this Act shall have effect with respect to the Authority.
- (4) In Welsh the Authority may be known as “Awdurdod Rheoleiddio Gwasanaethau Dŵr”.
- (2) Schedule 1 (which inserts the new Schedule 1A into the WIA) is to have effect.
- (3) The office of Director General of Water Services is abolished.
- (4) Section 1 of, and Schedule 1 to, the WIA (which make provision in relation to the Director General of Water Services) shall cease to have effect.

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35 Consumer Council for Water

(1) After section 27 of the WIA there is inserted—

“The Consumer Council for Water

27A Establishment of the Council and committees

- (1) There shall be a body corporate to be known as the Consumer Council for Water (in this Act referred to as “the Council”) for the purpose of carrying out the functions of the Council under this Act.
- (2) In Welsh the Council may be known as “Cyngor Defnyddwyr Dŵr”.
- (3) The Council shall not be regarded as a servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown.
- (4) The Council shall establish such committees of the Council—
 - (a) as the Assembly may direct, for relevant undertakers whose areas are wholly or mainly in Wales; and
 - (b) as the Secretary of State may direct, for other relevant undertakers.
- (5) A direction under subsection (4) above may provide for the allocation of each relevant undertaker to a committee specified in the direction.
- (6) The power to give a direction under subsection (4) above may not be exercised after the end of the period of six months beginning with the commencement of section 35 of the Water Act 2003.
- (7) After the end of the period mentioned in subsection (6) above the Council may (subject to paragraph 11 of Schedule 3A to this Act)—
 - (a) establish such committees for relevant undertakers as it considers appropriate; or
 - (b) alter the allocation of a relevant undertaker to a committee established under this section.
- (8) The Council shall ensure that each relevant undertaker is allocated to a committee established under this section.
- (9) A committee established under this section is referred to in this Act as a “regional committee”.
- (10) The purposes of a regional committee shall be—
 - (a) the provision of advice and information to the Council on consumer matters affecting the areas of the relevant undertakers allocated to that committee;
 - (b) such other purposes as the Council may determine.
- (11) The provisions of Schedule 3A to this Act (which makes further provision about the Council and regional committees) shall have effect.
- (12) The Council shall exercise and perform its powers and duties in the manner which it considers is best calculated to contribute to the achievement of sustainable development.

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(13) In this Chapter—

“consumers” includes both existing and future consumers;

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

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

(b) the provision of sewerage services by sewerage undertakers; and

“consumer matter” means any matter connected with the interests of consumers.

27B Co-operation between Council and other authorities

(1) This section imposes duties on—

- (a) the Authority and the Council;
- (b) the Council and the Secretary of State; and
- (c) the Council and the Assembly.

(2) It shall be the duty of the bodies mentioned in each paragraph of subsection (1) above to make arrangements with a view to securing—

- (a) co-operation and the exchange of information between them; and
- (b) the consistent treatment of matters which affect both of them.

(3) As soon as practicable after agreement is reached on any arrangements required by this section, the parties shall prepare a memorandum setting them out.

(4) Arrangements under this section shall be kept under review by the parties.

(5) As soon as practicable after agreement is reached on any changes to arrangements under this section, the parties shall revise their memorandum.

(6) Parties to arrangements required by this section shall send a copy of their memorandum, and any revised memorandum, to each other person mentioned in subsection (1) above who is not a party to the arrangements set out in the memorandum (or revised memorandum).

(7) The Secretary of State shall lay a copy of every memorandum or revised memorandum under this section before each House of Parliament.”

(2) Schedule 2 (which inserts the new Schedule 3A into the WIA) is to have effect.

(3) The customer service committees established under section 28(1) of the WIA are abolished.

(4) Section 28 of, and Schedule 4 to, the WIA shall cease to have effect.

Commencement Information

I1 S. 35(1) in force at 1.8.2005 for specified purposes by S.I. 2005/968, art. 3(a)

I2 S. 35(1) in force at 1.10.2005 for specified purposes by S.I. 2005/2714, art. 2(a)(i) (with Sch. para. 8)

I3 S. 35(2)(3)(4) in force at 1.10.2005 by S.I. 2005/2714, art. 2(a)(ii) (with Sch. para. 48)

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36 Transfer to Authority and Council of functions, property etc

- (1) The functions of the Director General of Water Services are transferred to the Water Services Regulation Authority.
- (2) Subject to any express amendment made by this Act, each reference to the Director General of Water Services (or to him as the Director) in the WIA (however the reference is expressed) is to have effect as a reference to the Water Services Regulation Authority (or, as the case may be, the Authority), and accordingly in the WIA “he”, “him” and cognate expressions, in relation to the Director General of Water Services, are to have effect as “it” (or the appropriate equivalent) in relation to the Water Services Regulation Authority.
- (3) The Secretary of State may make one or more schemes (“transfer schemes”) for the transfer of the property, rights and liabilities of the Director General of Water Services to the Water Services Regulation Authority (referred to below in this Part as “the Authority”) or to the Consumer Council for Water (referred to below in this Part as “the Council”).
- (4) A transfer scheme may provide for the transfer to the Council of rights and liabilities relating to persons employed in the civil service of the state.
- (5) On the day appointed by a transfer scheme, the property, rights and liabilities which are the subject of the scheme shall, by virtue of this subsection, be transferred in accordance with the provisions of the scheme.
- (6) Schedule 3 is to have effect in relation to transfer schemes and transfers under this section.

Commencement Information

I4 S. 36(3)-(6) in force at 1.4.2005 by S.I. 2005/968, art. 2(e)

37 Conditions relating to costs of water regulation

- (1) In this section “payment conditions” means conditions included in an appointment under Chapter 1 of Part 2 of the WIA by virtue of section 11(1)(c) of that Act.
- (2) The payment conditions of such an appointment may (without prejudice to the generality of section 11(1)(c)) require the payment by the company holding the appointment of sums relating to any of the expenses mentioned in subsection (3).
- (3) Those expenses are—
 - (a) the expenses of the Council, and
 - (b) the expenses of the Authority, the Secretary of State or the Assembly in relation to the establishment of the Council.
- (4) The Authority may, in accordance with this section, modify any payment conditions where it considers it necessary or expedient to do so in consequence of, or of preparations for—
 - (a) the establishment of the Council, or
 - (b) the abolition of the customer service committees established under section 28(1) of the WIA.

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- (5) Where the Authority modifies under subsection (4) any payment conditions of an appointment it may make such incidental or consequential modifications as it considers necessary or expedient of the other conditions included in the appointment.
- (6) Before modifying under subsection (4) or (5) the conditions included in such an appointment, the Authority shall consult the company holding the appointment.
- (7) The powers of the Authority under subsections (4) and (5) may not be exercised after the end of the period of two years beginning with the commencement of this section.
- (8) The Secretary of State may, after consulting the Assembly, give directions to the Authority for the purpose of securing that sums relating to any of the expenses mentioned in subsection (3) are included in the sums payable by virtue of payment conditions; and the Authority shall comply with any such direction.
- (9) If this section comes into force before the coming fully into force of section 36(1), references in this section to the Authority are to be read as including references to the Director General of Water Services.

Commencement Information

I5 S. 37 in force at 1.4.2004 by S.I. 2004/641, art. 3(j)

38 Forward work programmes and annual reports

- (1) Before section 193 of the WIA there is inserted—

“192A Forward work programmes

- (1) The Authority and the Council shall, before each financial year, each publish a document (the “forward work programme”) containing a general description of the projects, other than those comprising routine activities in the exercise of its functions, which it plans to undertake during the year.
- (2) That description must include the objectives of each project.
- (3) The forward work programme for any year shall also include an estimate of the overall expenditure which the Authority or the Council expects to incur during the year in the exercise of its functions.
- (4) Before publishing the forward work programme for any year, the Authority or the Council shall give notice—
 - (a) containing a draft of the forward work programme; and
 - (b) specifying the time within which representations or objections to the proposals contained in it may be made,and shall consider any representations or objections which are duly made and not withdrawn.
- (5) The notice under subsection (4) above must be published by the Authority or the Council in such manner as it considers appropriate for the purpose of bringing the matters contained in it to the attention of persons likely to be affected by them.

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- (6) The Authority must send a copy of any notice given by it under subsection (4) above to the Council, the Secretary of State and the Assembly.
- (7) The Council must send a copy of any notice given by it under subsection (4) above to the Authority, the Secretary of State and the Assembly.

192B Annual and other reports

- (1) The Authority shall, as soon as practicable after the end of each financial year, make to the Secretary of State a report (the “annual report” for that year) on—
 - (a) its activities during that year; and
 - (b) the activities of the Competition Commission during that year in respect of any references made by it.
- (2) The annual report for each year shall include—
 - (a) a general survey of developments in respect of matters falling within the scope of the Authority’s functions;
 - (b) a report on the progress of the projects described in the forward work programme for that year;
 - (c) a summary of final and provisional orders made and penalties imposed by the Authority during the year;
 - (d) a report on such matters relating to any relevant undertaker whose area is wholly or mainly in Wales as the Assembly may from time to time require; and
 - (e) a report on such other matters as the Secretary of State may from time to time require.
- (3) The annual report for each year shall set out any general directions given by the Secretary of State under section 27(3) above.
- (4) The Secretary of State or (as the case may be) the Assembly shall consult the Authority before exercising the power under subsection (2)(d) or (e) above in relation to any matter.
- (5) The Secretary of State shall—
 - (a) lay a copy of each annual report before each House of Parliament; and
 - (b) arrange for the report to be published in such manner as he considers appropriate.
- (6) The Authority may also prepare other reports with respect to any matter falling within the scope of its functions and may arrange for any such report to be published in such manner as it considers appropriate.
- (7) The Authority shall send a copy of each annual or other report under this section to the Assembly, the Council and the Chief Inspector of Drinking Water.
- (8) In making or preparing any report under this section the Authority shall have regard to the need for excluding, so far as that is practicable, any matter which relates to the affairs of a particular individual or body of persons (corporate or unincorporate), where publication of that matter would or might, in the opinion of the Authority, seriously and prejudicially affect the interests of that individual or body.”

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- (2) Sections 193 and 194 of the WIA (which make provision about annual and other reports by the Director General of Water Services and customer service committees) shall cease to have effect.

Commencement Information

- I6** S. 38(1) in force at 1.10.2004 by S.I. 2004/2528, **art. 2(d)** (with Sch. para. 238)
I7 S. 38(2) in force at 1.10.2004 for specified purposes by S.I. 2004/2528, **art. 2(d)** (with Sch. para. 8)
I8 S. 38(2) in force at 1.10.2005 in so far as not already in force by S.I. 2005/2714, **art. 2(b)** (with Sch. para. 8)

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