

SCHEDULES

SCHEDULE 1

Section 1

WATER SUPPLY LICENCES: AUTHORISATIONS

“SCHEDULE 2A

WATER SUPPLY LICENCES: AUTHORISATIONS

Operation of the authorisations in England and Wales

- 1 In the descriptions of the following authorisations, a reference to the supply system of a water undertaker is a reference to the supply system of a water undertaker whose area is wholly or mainly in England—
 - (a) a retail authorisation;
 - (b) a wholesale authorisation.
- 2 In the descriptions of the following authorisations, a reference to the supply system of a water undertaker is a reference to the supply system of a water undertaker whose area is wholly or mainly in Wales—
 - (a) a restricted retail authorisation;
 - (b) a supplementary authorisation.

Retail authorisation

- 3 A retail authorisation given by a water supply licence is an authorisation to the water supply licensee to use the supply system of a water undertaker for the purpose of supplying water to the premises of—
 - (a) the licensee,
 - (b) persons associated with the licensee, or
 - (c) the licensee’s customers.
- 4 None of the premises supplied by a water supply licensee under a retail authorisation may be household premises (as defined in section 17C).

Wholesale authorisation

- 5 A wholesale authorisation given by a water supply licence is an authorisation to the water supply licensee to introduce water into the supply system of a water undertaker—
 - (a) by means of which system any particular supply in accordance with a retail authorisation (whether the licensee’s or another water supply licensee’s) is to take place, and
 - (b) where that introduction is to be made in connection with that intended supply.

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Restricted retail authorisation

- 6 A restricted retail authorisation given by a water supply licence is an authorisation to the water supply licensee to use the supply system of a water undertaker for the purpose of supplying water to the premises of the licensee’s customers.
- 7 The following requirements must be satisfied in relation to each of the premises to be supplied by a water supply licensee under a restricted retail authorisation—
- (a) the requirement that the premises are not household premises (as defined in section 17C);
 - (b) the threshold requirement (construed in accordance with section 17D).

Supplementary authorisation

- 8 A supplementary authorisation given by a water supply licence is an authorisation to the water supply licensee to introduce water into the supply system of a water undertaker—
- (a) by means of which system any particular supply in accordance with the licensee’s restricted retail authorisation is to take place, and
 - (b) where that introduction is to be made in connection with that intended supply.

Enforcement and guidance

- 9 The requirements in paragraphs 4 and 7 are enforceable by the Authority under section 18.
- 10 (1) The Authority may from time to time, with the approval of the Secretary of State, issue guidance as to the factors that are, or are not, to be taken into account in determining the extent of any premises for the purposes of paragraphs 4 and 7.
- (2) Before giving approval under sub-paragraph (1) the Secretary of State must consult the Welsh Ministers.

Interpretation

- 11 For the purposes of this Schedule, a person (A) is associated with a water supply licensee (L) if—
- (a) where A and L are bodies corporate, one of them is a subsidiary of the other or both are subsidiaries of the same body corporate;
 - (b) where A or L is an individual or an unincorporated association and the other is a body corporate, that individual or unincorporated association controls the other or a body corporate of which the other is a subsidiary;
 - (c) A is a partnership of which L is a member.
- 12 In paragraph 11 “subsidiary” has the meaning given by section 1159 of the Companies Act 2006; and sections 450(1) to (4) and 451(1) to (3) of the Corporation Taxes Act 2010 (control of a company) apply for the purposes of paragraph 11 as they apply for the purposes of Part 10 of that Act.””

SCHEDULE 2

Section 1

WATER UNDERTAKERS’ DUTIES AS REGARDS WATER SUPPLY LICENSEES

- 1 For sections 66A to 66C of the Water Industry Act 1991, and the Chapter heading and italic heading preceding section 66A, there is substituted—

“Supply duties etc: water supply licensees

Duties of undertakers to supply water supply licensees etc

66A Use of water undertaker’s supply system

- (1) This section applies where a water supply licensee with a retail authorisation (“L”) requests a water undertaker to permit the use of the undertaker’s supply system for the purpose of supplying water to premises that—
 - (a) L is to supply in accordance with L’s retail authorisation, and
 - (b) are in the area of the undertaker.
- (2) This section also applies where a water supply licensee with a restricted retail authorisation (“R”) requests a water undertaker to permit the use of the undertaker’s supply system for the purpose of supplying water to premises that—
 - (a) R is to supply in accordance with R’s restricted retail authorisation, and
 - (b) are in the area of the undertaker.
- (3) Where this section applies, the undertaker must in accordance with a section 66D agreement take such steps—
 - (a) for the purpose of connecting the premises in question with the undertaker’s supply system, or
 - (b) in respect of that system,as may be provided for in that agreement in order to enable the requested use of the undertaker’s supply system.
- (4) A water undertaker is not required by this section to permit the use of its supply system, or to take any steps to enable its use, if the first or second ground applies.
- (5) The first ground is that—
 - (a) in the case of a request under subsection (1), the water supply licensee has not secured by means of—
 - (i) a request under section 66AA(1) made by the licensee,
 - (ii) a request under section 66B(1) or 66C(1), (2) or (3) made by the licensee or another water supply licensee, or
 - (iii) a combination of such requests,a supply of water, or the introduction of a supply of water, in connection with which the premises in question are to be supplied;
 - (b) in the case of a request under subsection (2), the water supply licensee has not secured by means of—
 - (i) a request under section 66AA(2), 66B(2) or (3) or 66C(4), or

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- (ii) a combination of such requests,
a supply of water, or the introduction of a supply of water, in connection with which the premises in question are to be supplied.
- (6) The second ground is that there is, in relation to the water fittings used or to be used in connection with—
 - (a) the supply of water to the premises in question, or
 - (b) the use of water in those premises,
a contravention of such of the requirements of regulations under section 74 as are prescribed for the purposes of this subsection.
- (7) Where—
 - (a) a request has been made by a water supply licensee for the purposes of subsection (1) or (2), and
 - (b) the steps which the undertaker is required to take by virtue of that request include steps for the purpose of obtaining any necessary authority for, or agreement to, any exercise by it of any of its powers or the carrying out by it of any works,
the failure of the undertaker to acquire the necessary authority or agreement does not affect the liability of the licensee to reimburse the undertaker in respect of some or all of the expenses incurred by it in taking those steps, if the section 66D agreement provides for such liability as regards those steps.
- (8) For the purposes of this section and sections 66AA to 66C—
 - (a) premises which are outside a water undertaker’s area are to be treated as being within that area if they are supplied with water using the undertaker’s supply system, and
 - (b) any pipes of the water undertaker which are used for the purpose of supplying premises as mentioned in paragraph (a) are to be treated as being part of the undertaker’s supply system (if they would not otherwise be part of it).
- (9) In this section and sections 66AA to 66C—
 - (a) “prescribed” means, in relation to a water undertaker whose area is wholly or mainly in Wales, prescribed by regulations made by the Welsh Ministers by statutory instrument, which is subject to annulment in pursuance of a resolution of the Assembly;
 - (b) a reference to the supply system of a water undertaker is to be construed in accordance with section 17B;
 - (c) references to a retail authorisation or a restricted retail authorisation are to be construed in accordance with Schedule 2A.

66AA Water supply from water undertaker

- (1) This section applies where a water supply licensee with a retail authorisation (“L”) requests a water undertaker to provide L with a supply of water for the purpose of supplying water to premises that—
 - (a) L is to supply in accordance with L’s retail authorisation, and
 - (b) are in the area of the undertaker.

- (2) This section also applies where a water supply licensee with a restricted retail authorisation (“R”) requests a water undertaker to provide R with a supply of water for the purpose of supplying water to premises that—
- (a) R is to supply in accordance with R’s restricted retail authorisation, and
 - (b) are in the area of the undertaker.
- (3) Where this section applies, the undertaker must in accordance with a section 66D agreement—
- (a) take such steps in respect of the undertaker’s supply system as may be provided for in that agreement in order to enable the use of the undertaker’s supply system for the purpose in subsection (1) or, as the case may be, subsection (2), and
 - (b) having taken such steps, provide the requested supply of water.
- (4) A water undertaker is not required by this section to provide a supply of water if both of the first and second grounds apply.
- (5) The first ground is that—
- (a) the premises to be supplied by L or, as the case may be, R do not consist in the whole or any part of a building, or
 - (b) the supply to be made by L or, as the case may be, R to those premises is for purposes other than domestic purposes.
- (6) The second ground is that provision of a supply of water by the water undertaker would—
- (a) require the undertaker, in order to meet all its existing obligations to supply water for domestic or other purposes, together with its probable future obligations to supply buildings and parts of buildings with water for domestic purposes, to incur unreasonable expenditure in carrying out works, or
 - (b) otherwise put at risk its ability to meet any of the existing or probable future obligations mentioned in paragraph (a).
- (7) Where—
- (a) a request has been made by a water supply licensee for the purposes of subsection (1) or (2), and
 - (b) the steps which the undertaker is required to take by virtue of that request include steps for the purpose of obtaining any necessary authority for, or agreement to, any exercise by it of any of its powers or the carrying out by it of any works,

the failure of the undertaker to acquire the necessary authority or agreement does not affect the liability of the licensee to reimburse the undertaker in respect of some or all of the expenses incurred by it in taking those steps, if the section 66D agreement provides for such liability as regards those steps.

66B Introduction of water into water undertaker’s supply system

- (1) This section applies where—
- (a) a water supply licensee with a wholesale authorisation (“L”) requests a water undertaker to permit L to introduce water into the undertaker’s supply system, with a view to the use of that

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- system, in connection with that introduction of water, to supply water to particular premises in accordance with a retail authorisation (whether L’s or another’s), and
- (b) the premises in issue are in the area of the undertaker.
- (2) This section also applies where—
- (a) a water supply licensee with a supplementary authorisation (“R1”) requests a water undertaker to permit R1 to introduce water into the undertaker’s supply system, with a view to the use of that system, in connection with that introduction of water, to supply water to particular premises in accordance with R1’s restricted retail authorisation, and
- (b) the premises in issue are in the area of the undertaker.
- (3) This section also applies where—
- (a) a water undertaker agrees to permit a water supply licensee with a supplementary authorisation (“R2”) to introduce water into the undertaker’s treatment works,
- (b) in connection with that introduction, R2 requests the undertaker to permit R2 to introduce water into the undertaker’s supply system, with a view to the use of that system to supply water to particular premises in accordance with R2’s restricted retail authorisation, and
- (c) the premises in issue are in the area of the undertaker.
- (4) Where this section applies, the undertaker must in accordance with a section 66D agreement—
- (a) in a case falling within subsection (1), take such steps—
- (i) for the purpose of connecting L’s source of water with the undertaker’s supply system, or
- (ii) in respect of the undertaker’s supply system,
- as may be provided for in that agreement in order to enable L to make the requested introduction of water into the supply system;
- (b) in a case falling within subsection (2), take such steps—
- (i) for the purpose of connecting R1’s treatment works with the undertaker’s supply system,
- (ii) for the purpose of connecting with the undertaker’s supply system any source used by R1 for the purpose of supplying water other than for domestic or food purposes, or
- (iii) in respect of the undertaker’s supply system,
- as may be provided for in that agreement in order to enable R1 to make the requested introduction of water into the supply system;
- (c) in a case falling within subsection (3), take such steps in respect of the undertaker’s supply system as may be provided for in that agreement in order to enable R2 to make the requested introduction of water into the supply system;
- (d) having taken steps under paragraph (a), (b) or (c) (as the case may be), permit the requested introduction of water into that supply system.
- (5) A water undertaker is not required by this section to permit the introduction of water into its supply system, or to take any steps to enable such an

introduction of water, if permitting the introduction of water into the undertaker's supply system would—

- (a) require the undertaker, in order to meet all its existing obligations to supply water for domestic or other purposes, together with its probable future obligations to supply buildings and parts of buildings with water for domestic purposes, to incur unreasonable expenditure in carrying out works, or
- (b) otherwise put at risk its ability to meet any of the existing or probable future obligations mentioned in paragraph (a).

(6) Where—

- (a) a request has been made by a water supply licensee for the purposes of subsection (1), (2) or (3), and
- (b) the steps which the undertaker is required to take by virtue of that request include steps for the purpose of obtaining any necessary authority for, or agreement to, any exercise by it of any of its powers or the carrying out by it of any works,

the failure of the undertaker to acquire the necessary authority or agreement does not affect the liability of the licensee to reimburse the undertaker in respect of some or all of the expenses incurred by it in taking those steps, if the section 66D agreement provides for such liability as regards those steps.

(7) In this section “treatment works” means—

- (a) in relation to a water undertaker whose area is wholly or mainly in Wales, the works designated as treatment works by the Secretary of State for the purposes of section 17B(6);
- (b) in relation to a water supply licensee, the works designated from time to time by the Welsh Ministers as treatment works for the purposes of this paragraph.

(8) A list of any works designated for the purposes of subsection (7)(b) must be published from time to time by the Welsh Ministers in such manner as the Welsh Ministers consider appropriate for the purpose of bringing the designations to the attention of persons likely to be affected by them.

(9) A pipe laid because of subsection (4)(a)(i) or (b)(i) or (ii) is to be regarded as a water main for the purposes of this Act, subject to any provision to the contrary.

(10) In this section and section 66C—

- (a) a reference to a wholesale authorisation is to be construed in accordance with Schedule 2A;
- (b) a reference to a supplementary authorisation is to be construed in accordance with Schedule 2A.

66C Introduction of water provided by secondary water undertaker

(1) This section applies where a water supply licensee with a wholesale authorisation (“L1”)—

- (a) requests a water undertaker other than L1's primary water undertaker (the “secondary water undertaker”) to provide a supply of water so that water may be supplied to particular premises, using

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the primary water undertaker’s supply system and in accordance with a retail authorisation (whether L1’s or another’s), and

- (b) requests L1’s primary water undertaker to permit L1 to introduce that water into the primary water undertaker’s supply system, and the premises in issue are in the area of the primary water undertaker.

A request under paragraph (a) may only be made to a water undertaker whose area is wholly or mainly in England.

- (2) This section also applies where a water supply licensee with a wholesale authorisation (“L2”)—

- (a) requests a water undertaker whose area is wholly or mainly in Wales and which is not L2’s primary water undertaker (the “secondary water undertaker”) to provide a supply of water so that L2 may supply water to particular premises, using the primary water undertaker’s supply system and in accordance with L2’s retail authorisation so far as that authorisation relates to L2’s customers, and
- (b) requests L2’s primary water undertaker to permit L2 to introduce that water into the primary water undertaker’s supply system, and the premises in issue are in the area of the primary water undertaker.

- (3) This section also applies where a water supply licensee with a wholesale authorisation (“L3”)—

- (a) agrees with a water undertaker whose area is wholly or mainly in Wales and which is not L3’s primary undertaker (the “secondary water undertaker”) for the secondary water undertaker to provide a supply of water so that water may be supplied to particular premises, using the primary water undertaker’s supply system and in accordance with—
- (i) L3’s retail authorisation except so far as that authorisation relates to L3’s customers, or
- (ii) a retail authorisation other than L3’s, and
- (b) requests L3’s primary water undertaker to permit L3 to introduce that water into the primary water undertaker’s supply system, and the premises in issue are in the area of the primary water undertaker.

- (4) This section also applies where a water supply licensee with a supplementary authorisation (“R”)—

- (a) requests a water undertaker other than R’s primary water undertaker (the “secondary water undertaker”) to provide a supply of water so that R may supply water to particular premises, using the primary water undertaker’s supply system and in accordance with R’s restricted retail authorisation, and
- (b) requests R’s primary water undertaker to permit R to introduce that water into the primary water undertaker’s supply system, and the premises in issue are in the area of the primary water undertaker.

A request under paragraph (a) may be made to a water undertaker whose area is wholly or mainly in England or Wales.

- (5) Where this section applies by virtue of subsection (1), (2) or (4), the secondary water undertaker must in accordance with a section 66D agreement—
- (a) take such steps in respect of its supply system as may be provided for in that agreement in order to enable it to provide the requested supply, and
 - (b) having taken such steps, provide that supply.
- (6) Where this section applies, the primary water undertaker must in accordance with a section 66D agreement—
- (a) take such steps—
 - (i) for the purpose of connecting the secondary water undertaker's supply system with the primary water undertaker's supply system, or
 - (ii) in respect of its supply system, as may be provided for in that agreement in order to enable L1, L2, L3 or R to make the requested introduction of water into the primary undertaker's supply system, and
 - (b) having taken such steps, permit the requested introduction.
- (7) A secondary water undertaker is not required by this section to provide a supply of water to L1, L2 or R if providing the supply of water would—
- (a) require the secondary undertaker, in order to meet all its existing obligations to supply water for domestic or other purposes, together with its probable future obligations to supply buildings and parts of buildings with water for domestic purposes, to incur unreasonable expenditure in carrying out works, or
 - (b) otherwise put at risk its ability to meet any of the existing or probable future obligations mentioned in paragraph (a).
- (8) A primary water undertaker is not required by this section to permit the introduction of water into its supply system, or to take any steps to enable such an introduction of water, if permitting the introduction of a supply of water would—
- (a) require the primary undertaker, in order to meet all its existing obligations to supply water for domestic or other purposes, together with its probable future obligations to supply buildings and parts of buildings with water for domestic purposes, to incur unreasonable expenditure in carrying out works, or
 - (b) otherwise put at risk its ability to meet any of the existing or probable future obligations mentioned in paragraph (a).
- (9) Where—
- (a) a request has been made by a water supply licensee to a water undertaker for the purposes of subsection (1), (2), (3) or (4), and
 - (b) the steps which the undertaker is required to take by virtue of that request include steps for the purpose of obtaining any necessary authority for, or agreement to, any exercise by it of any of its powers or the carrying out by it of any works,
- the failure of the undertaker to acquire the necessary authority or agreement does not affect the liability of the licensee to reimburse the undertaker in

respect of some or all of the expenses incurred by it in taking those steps, if the section 66D agreement provides for such liability as regards those steps.

- (10) A pipe laid because of subsection (6)(a)(i) is to be regarded as a water main for the purposes of this Act, subject to any provision to the contrary.
- (11) For the purposes of this section, a water undertaker is the primary water undertaker of a water supply licensee if the undertaker’s supply system is to be used for the purpose of making the supply to the premises mentioned in subsection (1), (2), (3) or (4).”

2 After section 66C (substituted by paragraph 1) there is inserted—

“66CA Determinations by Authority

- (1) The Authority may determine, in a case referred to it by a water supply licensee, whether any condition specified in the following provisions is satisfied—
 - (a) section 66A(5) and (6);
 - (b) section 66AA(5) and (6);
 - (c) section 66B(5);
 - (d) section 66C(7) and (8).
- (2) Before the Authority determines whether a condition specified in section 66B(5) is satisfied, it must consult the Secretary of State.
- (3) If a determination as to a condition specified in section 66B(5) relates to the introduction of water into the supply system of a water undertaker whose area is wholly or mainly in Wales, the Authority must consult the Welsh Ministers, not the Secretary of State.
- (4) Before the Authority determines whether a condition specified in section 66C(7) or (8) is satisfied, it must consult the Secretary of State and the appropriate agency.
- (5) If the case in which a determination as to a condition specified in section 66C(7) or (8) is made relates to—
 - (a) the supply of water by a water undertaker whose area is wholly or mainly in Wales, and
 - (b) the introduction of water into the supply system of a water undertaker whose area is wholly or mainly in Wales,
 the Authority must consult the Welsh Ministers, not the Secretary of State.
- (6) If the case in which a determination as to a condition specified in section 66C(7) or (8) is made relates to the supply of water by one water undertaker, and the introduction of water into the supply system of another water undertaker, and only one of those undertakers has an area wholly or mainly in Wales, the Authority must consult the Welsh Ministers as well as the Secretary of State.
- (7) In subsection (4), “the appropriate agency”, in relation to a determination as to a condition specified in section 66C(7) or (8) relating to the supply of water by one water undertaker, and the introduction of water into the supply system of another water undertaker means—

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- (a) the Environment Agency, in a case where the areas of both undertakers are wholly in England;
 - (b) the NRBW, in a case where the areas of both undertakers are wholly in Wales;
 - (c) both the Environment Agency and the NRBW, in any other case.”
- 3 For section 66D of the Water Industry Act 1991 (determinations and agreements) there is substituted—

“66D Agreements as to duties under sections 66A to 66C

- (1) On the application of—
 - (a) a water supply licensee that has made a request under sections 66A to 66C, or
 - (b) a water undertaker to which such a request has been made,the Authority may by order require a water undertaker to perform the duty in question under sections 66A to 66C, for such period and on such terms and conditions as may be specified in the order.
- (2) The Authority may make an order under subsection (1) only if—
 - (a) in the case of an application relating to a duty under section 66A, 66AA, 66B or 66C, it appears to the Authority that the water undertaker is required to perform that duty under that section, or
 - (b) in the case of an application relating to duties under section 66C, it appears to the Authority that both water undertakers in question are required to perform duties under that section,and it is satisfied that the parties cannot reach agreement within a reasonable time.
- (3) An order under subsection (1) has effect as an agreement between—
 - (a) the water supply licensee, and
 - (b) the water undertaker required to perform the duty in question.
- (4) On the application of a party to a section 66D agreement, and if the Authority is satisfied that the parties cannot reach agreement on the variation or termination of the agreement within a reasonable time, the Authority may by order vary or terminate the agreement.
- (5) If an order under subsection (4) is made in relation to a section 66D agreement, the agreement—
 - (a) has effect subject to the provision made by the order, or
 - (b) ceases to have effect, as the case may be.
- (6) An order under subsection (4) may require one party to the agreement to pay compensation to the other.
- (7) Neither the CMA nor the Authority may exercise, in respect of an agreement for the performance of a duty under sections 66A to 66C by a water undertaker, the powers conferred by—
 - (a) section 32 of the Competition Act 1998 (directions in relation to agreements);
 - (b) section 35(2) of that Act (interim directions).

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- (8) Subsection (7)(b) does not apply to the exercise of powers in respect of conduct—
- (a) which is connected with an agreement for the performance of a duty under sections 66A to 66C by a water undertaker, and
 - (b) in respect of which section 35(1) of the Competition Act 1998 applies because of an investigation under section 25 of that Act relating to a suspected infringement of the Chapter 2 prohibition imposed by section 18(1) of that Act.
- (9) In this Chapter a reference to a section 66D agreement is a reference to—
- (a) an agreement for the performance of a duty under sections 66A to 66C by a water undertaker, or
 - (b) an order deemed to be such an agreement under subsection (3), or
 - (c) an agreement varied by order under subsection (4).”

4 After section 66D of the Water Industry Act 1991 (as substituted by paragraph 3) there is inserted—

“66DA Codes in respect of section 66D agreements

- (1) The Authority may issue one or more codes in respect of section 66D agreements.
- (2) A code may make provision about—
 - (a) procedures in connection with making a section 66D agreement;
 - (b) procedures in connection with varying or terminating a section 66D agreement;
 - (c) the terms and conditions of a section 66D agreement, including terms as to the duration of such an agreement;
 - (d) principles for determining the terms and conditions that should or should not be incorporated into a section 66D agreement.
- (3) A code may make provision about the steps to be taken by the Authority in determining for the purposes of section 66D(2) whether a water undertaker is, in the particular case, required to perform a duty under sections 66A to 66C.
- (4) If the Authority considers that a water undertaker or a water supply licensee is not acting as required by a code, the Authority may give the undertaker or the licensee a direction to do, or not to do, a thing specified in the direction.
- (5) The Authority may not give a direction under subsection (4) requiring a person to enter into, vary or terminate an agreement.
- (6) It is the duty of a water undertaker or a water supply licensee to comply with a direction under subsection (4), and this duty is enforceable by the Authority under section 18.
- (7) A code may make—
 - (a) different provision for different persons or descriptions of person;
 - (b) different provision for different duties under sections 66A to 66C.

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- (8) The Authority may from time to time revise a code issued under this section and issue a revised code.
- (9) A revised code may include provision for applying any of its revisions to section 66D agreements made before the revised code comes into effect.

66DB Codes under section 66DA: procedure

- (1) Before issuing a code under section 66DA, the Authority must—
 - (a) prepare a draft of the proposed code under section 66DA;
 - (b) consult persons in accordance with subsections (2) to (4).
- (2) If the proposed code relates to section 66D agreements made with water undertakers whose areas are wholly or mainly in England, the Authority must consult the following about the proposed code—
 - (a) the Secretary of State;
 - (b) the Chief Inspector of Drinking Water;
 - (c) the appropriate agency;
 - (d) the Council;
 - (e) any relevant undertakers likely to be affected by the proposed code;
 - (f) any water supply licensees likely to be affected by the proposed code;
 - (g) such other persons as the Authority thinks appropriate.
- (3) If the proposed code relates to section 66D agreements made with water undertakers whose areas are wholly or mainly in Wales, the Authority must consult the following about the proposed code—
 - (a) the Welsh Ministers;
 - (b) the Chief Inspector of Drinking Water for Wales if there is one, or the Chief Inspector of Drinking Water if section 86(1B)(b) applies;
 - (c) the appropriate agency;
 - (d) the Council;
 - (e) any relevant undertakers likely to be affected by the proposed code;
 - (f) any water supply licensees likely to be affected by the proposed code;
 - (g) such other persons as the Authority thinks appropriate.
- (4) The Authority must specify the period (“the consultation period”) within which a person may make representations about the proposed code.
- (5) Before a code under section 66DA prepared by the Authority is issued, the Minister may direct the Authority—
 - (a) not to issue the code, or
 - (b) to issue the code with specified modifications.
- (6) Subsection (5) is subject to subsections (8) and (9).
- (7) In subsection (5) “the Minister” means—
 - (a) the Secretary of State, so far as a code prepared by the Authority relates to section 66D agreements affecting only the supply systems of water undertakers whose areas are wholly or mainly in England;

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- (b) the Welsh Ministers, so far as a code prepared by the Authority relates to section 66D agreements affecting only the supply systems of water undertakers whose areas are wholly or mainly in Wales;
 - (c) the Secretary of State and the Welsh Ministers acting jointly, so far as a code prepared by the Authority relates to section 66D agreements not falling within paragraph (a) or (b).
- (8) If the power under subsection (5) is exercised to give a direction in respect of such section 66D agreements as are referred to in paragraph (a), (b) or (c) of subsection (7), it may not be exercised again in respect of such section 66D agreements as are referred to in that paragraph.
- (9) If the power under subsection (5) to give a direction in respect of such section 66D agreements as are referred to in paragraph (a), (b) or (c) of subsection (7) is not exercised on the first occasion on which it may be so exercised, it may not be exercised in respect of such section 66D agreements as are referred to in that paragraph on a later occasion.
- (10) A direction under subsection (5) must be given within the period of 28 days beginning with the day after the end of the consultation period, and a code prepared by the Authority in relation to which a direction may be given may not be issued before that period of 28 days has expired.
- (11) In this section “the appropriate agency” means—
- (a) the Environment Agency, in relation to section 66D agreements made with water undertakers whose areas are wholly in England;
 - (b) the NRBW, in relation to section 66D agreements made with water undertakers whose areas are wholly in Wales;
 - (c) both the Environment Agency and the NRBW, in relation to section 66D agreements made with water undertakers whose areas are partly in England and partly in Wales.
- (12) This section is subject to section 66DC.

66DC Codes under section 66DA: minor or urgent revisions

- (1) This section applies if the Authority proposes to issue a revised code and, in the view of the Authority, the revision or each of the revisions proposed to be made is—
- (a) a revision for which consultation is unnecessary, or
 - (b) a revision that it is necessary or desirable to make without delay.
- (2) Section 66DB does not apply to the proposed revised code.
- (3) Once the Authority has issued the revised code, it must give notice as soon as reasonably practicable of—
- (a) the issuing of the revised code, and
 - (b) as regards each revision contained in it, whether in the view of the Authority the revision falls within paragraph (a) or (b) of subsection (1).
- (4) Notice under subsection (3) is to be given to such persons as the Authority considers appropriate.

- (5) Unless the Authority gives notice that a revision in a revised code is in the view of the Authority a revision falling within subsection (1)(a), the revision ceases to have effect at the end of the period of six months beginning with the day after that on which the revised code is issued.”

5 For section 66E of that Act there is substituted—

“66E Rules about charges

- (1) The Authority must issue rules about charges that may be imposed by a water undertaker under a section 66D agreement.
- (2) The rules may in particular make provision about—
- (a) the types of charges that may be imposed;
 - (b) the amount or the maximum amount, or methods for determining the amount or maximum amount, of any type of charge;
 - (c) principles for determining what types of charges may or may not be imposed;
 - (d) principles for determining the amount of any charge that may be imposed;
 - (e) publication of the charges that may be imposed.
- (3) The rules must include provision for and in connection with requiring a water undertaker to impose on a water supply licensee only such charges as would enable the licensee, where the services it provides to a person under its retail authorisation or restricted retail authorisation are services to which a section 142(2)(b) agreement would apply if the undertaker had continued to provide the services, to charge for those services at the same rate or rates as would have applied if the section 142(2)(b) agreement had applied.
- (4) In subsection (3) “section 142(2)(b) agreement” means an agreement to which section 142(2)(b) applies.
- (5) If the Authority considers that a water undertaker is not acting as required by rules under this section, the Authority may—
- (a) give the undertaker a direction to do, or not to do, a thing specified in the direction, or
 - (b) in a case where a section 66D agreement to which the undertaker is party requires modification in order to conform to the rules, give a direction to the undertaker and the water supply licensee in question to modify the agreement.
- (6) It is the duty of a water undertaker or a water supply licensee to comply with a direction under subsection (5), and this duty is enforceable by the Authority under section 18.
- (7) The rules may—
- (a) make different provision for different persons or descriptions of person;
 - (b) make different provision for different purposes;
 - (c) make provision subject to exceptions.

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- (8) The Authority may from time to time revise rules issued under this section and issue revised rules.
- (9) The Authority must issue revised rules if—
 - (a) guidance is issued under section 66ED, and
 - (b) the Authority, having regard to that guidance, considers that it is appropriate to revise the rules.
- (10) Revised rules may include provision for applying any of their revisions to section 66D agreements made before the revised rules come into effect.

66EA Rules about charges: provision about the reduction of charges

- (1) Rules under section 66E may make provision about the reduction of charges payable under a section 66D agreement where—
 - (a) a water supply licensee that has a retail authorisation or a restricted retail authorisation is party to the section 66D agreement, and
 - (b) other conditions specified by the rules are satisfied.
- (2) Rules made by virtue of subsection (1) may in particular—
 - (a) specify conditions relating to any party to the section 66D agreement;
 - (b) specify conditions about persons taking steps for the purpose of reducing or managing water consumption;
 - (c) specify conditions about the premises by reference to which such steps are to be taken;
 - (d) specify conditions about reducing charges payable by a person who—
 - (i) is not party to the section 66D agreement, and
 - (ii) takes or proposes to take such steps as satisfy or would satisfy a condition specified under paragraph (b).
- (3) The rules may provide that, where a charge falls to be reduced in accordance with rules made by virtue of subsection (1), the water undertaker to which the charges are payable must give notice of that reduction to the Authority.
- (4) Rules made by virtue of subsection (3) may—
 - (a) make provision as to the content of the notice;
 - (b) specify the period within which an undertaker is to give notice to the Authority.
- (5) Provision under subsection (4)(a) may in particular require the notice to specify—
 - (a) the amount of the charge, with and without the reduction;
 - (b) the period for which the reduction has effect.

66EB Rules under section 66E: procedure

- (1) Before issuing rules under section 66E, the Authority must—
 - (a) prepare a draft of the proposed rules, and
 - (b) consult the relevant persons about the draft.

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- (2) The relevant persons are—
 - (a) the Secretary of State;
 - (b) the Welsh Ministers;
 - (c) the Council;
 - (d) any water undertakers likely to be affected by the rules;
 - (e) any water supply licensees likely to be affected by the rules;
 - (f) such other persons as the Authority thinks appropriate.
- (3) The Authority must specify the period (“the consultation period”) within which persons may make representations about the proposed rules.
- (4) The Authority must have regard to guidance issued under section 66ED in preparing rules under section 66E.
- (5) Before rules under section 66E prepared by the Authority are issued, the Minister may direct the Authority not to issue the rules.
- (6) In subsection (5) “the Minister” means—
 - (a) the Secretary of State, so far as rules prepared by the Authority relate to section 66D agreements affecting only the supply systems of water undertakers whose areas are wholly or mainly in England;
 - (b) the Welsh Ministers, so far as rules prepared by the Authority relate to section 66D agreements affecting only the supply systems of water undertakers whose areas are wholly or mainly in Wales;
 - (c) the Secretary of State and the Welsh Ministers acting jointly, so far as rules prepared by the Authority relate to section 66D agreements not falling within paragraph (a) or (b).
- (7) A direction under subsection (5) must be given within the period of 28 days beginning with the day after the end of the consultation period, and rules may not be issued before that period of 28 days has expired.
- (8) This section is subject to section 66EC.

66EC Rules under section 66E: minor or urgent revisions

- (1) This section applies if the Authority proposes to issue revised rules under section 66E and, in the view of the Authority, the revision or each of the revisions proposed to be made is—
 - (a) a revision for which consultation is unnecessary, or
 - (b) a revision that it is necessary or desirable to make without delay.
- (2) Section 66EB does not apply to the proposed revised rules.
- (3) Before issuing the revised rules, the Authority must give notice to the Minister of its intention to issue revised rules.
- (4) Before the revised rules are issued, the Minister may direct the Authority not to issue the revised rules.
- (5) A direction under subsection (4) must be given within the period of 14 days beginning with the day after the day on which notice is given under subsection (3), and the Authority may not issue the revised rules in question before—

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- (a) that period of 14 days expires, or
 - (b) the Minister notifies the Authority that no direction under subsection (4) will be given in relation to the revised rules,
- whichever is the sooner.
- (6) Once the Authority has issued the revised rules, it must give notice as soon as reasonably practicable of—
- (a) the issuing of the revised rules, and
 - (b) as regards each revision contained in them, whether in the view of the Authority the revision falls within paragraph (a) or (b) of subsection (1).
- (7) Notice under subsection (6) is to be given to such persons as the Authority considers appropriate.
- (8) Unless the Authority gives notice that a revision in revised rules is in the view of the Authority a revision falling within subsection (1)(a), the revision ceases to have effect at the end of the period of six months beginning with the day after that on which the revised rules are issued.
- (9) In this section “the Minister” has the meaning given by section 66EB.

66ED Rules under section 66E: guidance

- (1) The Minister may issue guidance as to the content of rules under section 66E.
- (2) Before issuing the guidance, the Minister must—
- (a) prepare a draft of any proposed guidance;
 - (b) consult the relevant persons about the draft.
- (3) The relevant persons are—
- (a) the Secretary of State;
 - (b) the Welsh Ministers;
 - (c) such other persons as the Minister thinks appropriate.
- (4) The Minister may from time to time revise guidance issued under this section and issue revised guidance.
- (5) Subsections (2) and (3) apply to revised guidance as they apply to the original guidance.
- (6) The Minister must arrange for the publication of guidance issued under this section.
- (7) In this section “the Minister” means—
- (a) the Secretary of State, in relation to section 66D agreements affecting only the supply systems of water undertakers whose areas are wholly or mainly in England;
 - (b) the Welsh Ministers, in relation to section 66D agreements affecting only the supply systems of water undertakers whose areas are wholly or mainly in Wales;
 - (c) the Secretary of State and the Welsh Ministers acting jointly, in relation to section 66D agreements not falling within paragraph (a) or (b).”

- 6 Section 66F (section 66D: supplementary) is repealed.
- 7 (1) Section 66G (designation of strategic supply) is amended as follows.
- (2) In subsection (1), for “an agreement under section 66D above” there is substituted “a section 66D agreement”.
- (3) In subsection (4)(d), for “the agreement under section 66D above” there is substituted “the section 66D agreement”.
- (4) In subsection (10)—
- (a) for “section 66A” there is substituted “section 66AA”;
- (b) for “customers of the licensed water supplier in question” there is substituted “relevant customers of a water supply licensee”.
- (5) After subsection (10) there is inserted—
- “(11) A person is a relevant customer of a water supply licensee if the introduction of water in question is made by reference to the supply of water to that person’s premises in accordance with—
- (a) a retail authorisation (whether that retail authorisation is an authorisation of the licensee requesting the introduction of water or another water supply licensee’s authorisation), or
- (b) a restricted retail authorisation of the licensee requesting the introduction of water.”
- 8 (1) Section 66H (designation of collective strategic supply) is amended as follows.
- (2) In subsection (1)(b), for “agreements under section 66D above” there is substituted “section 66D agreements”.
- (3) In subsection (4)(d), for “the agreements under section 66D above” there is substituted “the section 66D agreements”.
- (4) In subsection (10)—
- (a) for “section 66A” there is substituted “section 66AA”;
- (b) for “customers of the licensed water supplier in question” there is substituted “relevant customers of a water supply licensee”.
- (5) After subsection (10) there is inserted—
- “(11) A person is a relevant customer of a water supply licensee if an introduction of water is made by reference to the supply of water to that person’s premises in accordance with—
- (a) a retail authorisation (whether that retail authorisation is an authorisation of the licensee requesting the introduction of water or another water supply licensee’s authorisation), or
- (b) a restricted retail authorisation of the licensee requesting the introduction of water.”
- 9 (1) Section 66I (prohibition on unauthorised use of supply system) is amended as follows.
- (2) In subsection (1), for “of a customer” there is substituted “of—
- (a) a customer,
- (b) the person so using that system, or

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(c) a person associated with that person”.

(3) In subsection (2)(b)—

- (a) for “licensed water supplier” there is substituted “water supply licensee”;
- (b) for “its licence” there is substituted “the licensee’s licence”.

(4) After subsection (8), there is inserted—

“(8A) For the purposes of this section, a person (A) is associated with another person (B) if they would be associated with each other for the purposes of Schedule 2A if A were a water supply licensee.”

(5) In subsection (9), for “section 17B(5) above” there is substituted “section 17B”.

SCHEDULE 3

Section 4

SEWERAGE LICENCES: AUTHORISATIONS

“SCHEDULE 2B

SEWERAGE LICENCES: AUTHORISATIONS

Retail authorisation

- 1 A retail authorisation given by a sewerage licence is an authorisation to the sewerage licensee to use the sewerage system of a sewerage undertaker for the purpose of enabling the licensee to provide sewerage services in respect of the premises of—
 - (a) the licensee,
 - (b) persons associated with the licensee, or
 - (c) the licensee’s customers.
- 2 None of the premises served by a sewerage licensee under a retail authorisation may be household premises (as defined in section 17C).
- 3 The requirement in paragraph 2 is enforceable by the Authority under section 18.
- 4 The Authority may from time to time, with the approval of the Secretary of State, issue guidance as to the factors which are, or are not, to be taken into account in determining the extent of any premises for the purposes of paragraph 2.

Wholesale authorisation

- 5 A wholesale authorisation given by a sewerage licence is an authorisation to the sewerage licensee to remove matter from the sewerage system of a sewerage undertaker where—
 - (a) the sewerage system is being used to enable a sewerage licensee (whether the licensee or another sewerage licensee) to provide sewerage services in respect of premises in accordance with a retail authorisation, and
 - (b) the removing of matter from the sewerage system is done in connection with sewerage services so provided.

Disposal authorisation

- 6 A disposal authorisation given by a sewerage licence is an authorisation to the sewerage licensee to remove matter from the sewerage system of a sewerage undertaker.
- 7 If a sewerage licensee with a disposal authorisation has, or a person associated with the licensee has, a retail authorisation—
- (a) the licensee or the person associated with it, or both of them, must obtain a wholesale authorisation, and
 - (b) neither the licensee nor the person associated with it (if that person has a disposal authorisation) may remove matter from a sewerage system in accordance with the disposal authorisation (or either disposal authorisation, if both have such an authorisation) while matter may be removed in accordance with the wholesale authorisation (or either wholesale authorisation, if both have such an authorisation).

Interpretation

- 8 For the purposes of this Schedule, a person (A) is associated with a sewerage licensee (L) if—
- (a) where A and L are bodies corporate, one of them is a subsidiary of the other or both are subsidiaries of the same body corporate;
 - (b) where A or L is an individual or an unincorporated association and the other is a body corporate, that individual or unincorporated association controls the other or a body corporate of which the other is a subsidiary;
 - (c) A is a partnership of which L is a member.
- 9 In paragraph 8 “subsidiary” has the meaning given by section 1159 of the Companies Act 2006; and sections 450(1) to (4) and 451(1) to (3) of the Corporation Taxes Act 2010 (control of a company) apply for the purposes of paragraph 8 as they apply for the purposes of Part 10 of that Act.”

SCHEDULE 4

Section 4

SEWERAGE UNDERTAKERS’ DUTIES AS REGARDS SEWERAGE LICENSEES

After Chapter 2 of Part 4 of the Water Industry Act 1991 there is inserted—

“CHAPTER 2A

DUTIES RELATING TO SEWERAGE SERVICES: SEWERAGE LICENSEES

Duties of sewerage undertakers as regards enabling the provision of sewerage services

117A Use of undertaker’s sewerage system

- (1) This section applies where a sewerage licensee with a retail authorisation (“L”) requests a sewerage undertaker to permit the use of the undertaker’s sewerage system for the purpose of enabling L to provide sewerage services in respect of premises that—

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- (a) L is to serve in accordance with L's retail authorisation, and
 - (b) are in the area of the sewerage undertaker.
- (2) Where this section applies, the undertaker must in accordance with a section 117E agreement take such steps—
- (a) for the purpose of connecting the drains or sewers of the premises in question to the undertaker's sewerage system, or
 - (b) in respect of that system,
- as may be provided for in that agreement in order to enable the requested use of that system.
- (3) A sewerage undertaker is not required by this section to permit the use of its sewerage system, or to take any steps to enable its use, if the sewerage licensee making a request has not secured by means of—
- (a) a request under section 117B made by the licensee, or
 - (b) a request under section 117C made by the licensee or another sewerage licensee,
- that there is to be provision for dealing with or removing matter from the sewerage system in quantities determined by reference to the extent of sewerage services provided in respect of the premises in question.
- (4) Where—
- (a) a request has been made by a sewerage licensee for the purposes of subsection (1), and
 - (b) the steps which the undertaker is required to take by virtue of that request include steps for the purpose of obtaining any necessary authority for, or agreement to, any exercise by it of any of its powers or the carrying out by it of any works,
- the failure of the undertaker to acquire the necessary authority or agreement does not affect the liability of the licensee to reimburse the undertaker in respect of some or all of the expenses incurred by it in taking those steps, if the section 117E agreement provides for such liability as regards those steps.
- (5) For the purposes of this section and sections 117B and 117C—
- (a) premises which are outside a sewerage undertaker's area are to be treated as being within that area if they are provided with sewerage services using the undertaker's sewerage system, and
 - (b) any sewers or drains of the sewerage undertaker which are used for the purpose of serving premises as mentioned in paragraph (a) are to be treated as being part of the undertaker's sewerage system (if they would not otherwise be part of it).
- (6) In this section and sections 117B to 117D—
- (a) references to the sewerage system of a sewerage undertaker are to be construed in accordance with section 17BA(7);
 - (b) references to the retail authorisation of a sewerage licensee are to be construed in accordance with Schedule 2B.

117B Matter dealt with by sewerage undertaker

- (1) This section applies where a sewerage licensee with a retail authorisation ("L") requests a sewerage undertaker to deal effectually with certain quantities of matter in its sewerage system in circumstances where—

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

- (a) sewerage services are to be provided in accordance with L's retail authorisation in respect of particular premises in the area of the undertaker, and
 - (b) the quantities to be dealt with are to be determined by reference to the extent of sewerage services provided in respect of those premises.
- (2) Where this section applies, the sewerage undertaker must in accordance with a section 117E agreement—
- (a) take such steps in respect of the undertaker's sewerage system as may be provided for in that agreement in order to enable the use of that system for the purpose in subsection (1), and
 - (b) having taken those steps, deal with matter as requested.
- (3) Where—
- (a) a request has been made by a sewerage licensee for the purposes of subsection (1), and
 - (b) the steps which the undertaker is required to take by virtue of that request include steps for the purpose of obtaining any necessary authority for, or agreement to, any exercise by it of any of its powers or the carrying out by it of any works,

the failure of the undertaker to acquire the necessary authority or agreement does not affect the liability of the licensee to reimburse the undertaker in respect of some or all of the expenses incurred by it in taking those steps, if the section 117E agreement provides for such liability as regards those steps.

117C Removal of matter from sewerage system by a sewerage licensee

- (1) This section applies where a sewerage licensee with a wholesale authorisation ("L") requests a sewerage undertaker to permit L to remove certain quantities of matter from the undertaker's sewerage system in circumstances where—
- (a) sewerage services are to be provided in accordance with a retail authorisation (whether L's or another's) in respect of particular premises in the area of the undertaker, and
 - (b) the quantities to be removed are to be determined by reference to the extent of sewerage services provided in respect of those premises.
- (2) Where this section applies, the sewerage undertaker must in accordance with a section 117E agreement—
- (a) take such steps, including steps in respect of the undertaker's sewerage system, as may be provided for in that agreement in order to enable L to remove matter from the undertaker's sewerage system as requested, and
 - (b) having taken those steps, permit that requested removal of matter from that sewerage system.
- (3) Where—
- (a) a request has been made by a sewerage licensee for the purposes of subsection (1), and
 - (b) the steps which the undertaker is required to take by virtue of that request include steps for the purpose of obtaining any necessary authority for, or agreement to, any exercise by it of any of its powers or the carrying out by it of any works,

the failure of the undertaker to acquire the necessary authority or agreement does not affect the liability of the licensee to reimburse the undertaker in respect of some or all of

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the expenses incurred by it in taking those steps, if the section 117E agreement provides for such liability as regards those steps.

- (4) A pipe connecting a sewerage undertaker's sewerage system to a sewage disposal works that is laid because of subsection (2)(a) is to be regarded as a disposal main for the purposes of this Act, subject to any provision to the contrary.
- (5) In this section, a reference to a wholesale authorisation is to be construed in accordance with Schedule 2B.

117D Connections for the purposes of a disposal authorisation

- (1) This section applies where a sewerage licensee with a disposal authorisation ("L") requests a sewerage undertaker to permit L to remove matter from the undertaker's sewerage system.
- (2) Where this section applies, the sewerage undertaker must in accordance with a section 117E agreement—
 - (a) take such steps, including steps in respect of the undertaker's sewerage system, as may be provided for in that agreement in order to enable L to remove matter from the undertaker's sewerage system as requested, and
 - (b) having taken those steps, permit that requested removal of matter from that sewerage system.
- (3) Where—
 - (a) a request has been made by a sewerage licensee for the purposes of subsection (1), and
 - (b) the steps which the undertaker is required to take by virtue of that request include steps for the purpose of obtaining any necessary authority for, or agreement to, any exercise by it of any of its powers or the carrying out by it of any works,

the failure of the undertaker to acquire the necessary authority or agreement does not affect the liability of the licensee to reimburse the undertaker in respect of some or all of the expenses incurred by it in taking those steps, if the section 117E agreement provides for such liability as regards those steps.

- (4) A pipe connecting a sewerage undertaker's sewerage system to a sewage disposal works that is laid because of subsection (2)(a) is to be regarded as a disposal main for the purposes of this Act, subject to any provision to the contrary.
- (5) In this section, a reference to a disposal authorisation is to be construed in accordance with Schedule 2B.

117E Agreements as to duties under sections 117A to 117D

- (1) On the application of—
 - (a) a sewerage licensee that has made a request under sections 117A to 117D, or
 - (b) a sewerage undertaker to which such a request has been made,
 the Authority may by order require a sewerage undertaker to perform the duty in question under sections 117A to 117D, for such period and on such terms and conditions as may be specified in the order.
- (2) The Authority may make an order under subsection (1) only if—

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- (a) it appears to the Authority that the sewerage undertaker is required to perform the duty in question, and
 - (b) it is satisfied that the parties cannot reach agreement within a reasonable time.
- (3) An order under subsection (1) has effect as an agreement between—
 - (a) the sewerage licensee, and
 - (b) the sewerage undertaker required to perform the duty in question.
- (4) On the application of a party to a section 117E agreement, the Authority may, if it is satisfied that the parties cannot reach agreement on the variation or termination of the agreement, by order vary or terminate the agreement.
- (5) If an order under subsection (4) is made in relation to a section 117E agreement, the agreement—
 - (a) has effect subject to the provision made by the order, or
 - (b) ceases to have effect, as the case may be.
- (6) An order under subsection (4) may require one party to the agreement to pay compensation to the other.
- (7) Neither the CMA nor the Authority may exercise, in respect of an agreement for the performance of a duty under sections 117A to 117D by a sewerage undertaker, the powers conferred by—
 - (a) section 32 of the Competition Act 1998 (directions in relation to agreements);
 - (b) section 35(2) of that Act (interim directions).
- (8) Subsection (7)(b) does not apply to the exercise of powers in respect of conduct—
 - (a) which is connected with an agreement for the performance of a duty under sections 117A to 117D by a sewerage undertaker, and
 - (b) in respect of which section 35(1) of the Competition Act 1998 applies because of an investigation under section 25 of that Act relating to a suspected infringement of the Chapter 2 prohibition imposed by section 18(1) of that Act.
- (9) In this Chapter a reference to a section 117E agreement is a reference to—
 - (a) an agreement for the performance of a duty under sections 117A to 117D by a sewerage undertaker, or
 - (b) an order deemed to be such an agreement under subsection (3), or
 - (c) an agreement varied by order under subsection (4).

117F Codes in respect of section 117E agreements

- (1) The Authority may issue one or more codes in respect of section 117E agreements.
- (2) A code may make provision about—
 - (a) procedures in connection with making a section 117E agreement;
 - (b) procedures in connection with varying or terminating a section 117E agreement;
 - (c) the terms and conditions of a section 117E agreement, including terms as to the duration of such an agreement;
 - (d) principles for determining the terms and conditions that should or should not be incorporated into a section 117E agreement.

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

- (3) A code may make provision about the steps to be taken by the Authority in determining for the purposes of section 117E(2) whether a sewerage undertaker is, in the particular case, required to perform a duty under sections 117A to 117D.
- (4) If the Authority considers that a sewerage undertaker or a sewerage licensee is not acting as required by a code, the Authority may give the undertaker or the licensee a direction to do, or not to do, a thing specified in the direction.
- (5) The Authority may not give a direction under subsection (4) requiring a person to enter into, vary or terminate an agreement.
- (6) It is the duty of a sewerage undertaker or a sewerage licensee to comply with a direction under subsection (4), and this duty is enforceable by the Authority under section 18.
- (7) A code may make—
 - (a) different provision for different persons or descriptions of person;
 - (b) different provision for different duties under sections 117A to 117D.
- (8) The Authority may from time to time revise a code issued under this section and issue a revised code.
- (9) A revised code may include provision for applying any of its revisions to section 117E agreements made before the revised code comes into effect.

117G Codes under section 117F: procedure

- (1) Before issuing a code under section 117F, the Authority must—
 - (a) prepare a draft of the proposed code under section 117F, and
 - (b) consult persons in accordance with subsections (2) and (3).
- (2) The relevant persons are—
 - (a) the Secretary of State;
 - (b) the appropriate agency;
 - (c) the Council;
 - (d) any sewerage undertakers likely to be affected by the proposed code;
 - (e) any sewerage licensees likely to be affected by the proposed code;
 - (f) such other persons as the Authority thinks appropriate.
- (3) The Authority must specify the period (“the consultation period”) within which a person may make representations about the proposed code.
- (4) Before a code under section 117F prepared by the Authority is issued for the first time, the Secretary of State may direct the Authority—
 - (a) not to issue the code, or
 - (b) to issue the code with specified modifications.
- (5) A direction under subsection (4) must be given within the period of 28 days beginning with the day after the end of the consultation period, and a code in relation to which a direction may be given may not be issued before that period of 28 days has expired.
- (6) In this section “the appropriate agency” means—
 - (a) the Environment Agency, in relation to section 117E agreements made with sewerage undertakers whose areas are wholly in England;

- (b) both the Environment Agency and the NRW, in relation to section 117E agreements made with sewerage undertakers whose areas are partly in England and partly in Wales.

(7) This section is subject to section 117H.

117H Codes under section 117F: minor or urgent revisions

- (1) This section applies if the Authority proposes to issue a revised code under section 117F and, in the view of the Authority, the revision or each of the revisions proposed to be made is—
 - (a) a revision for which consultation is unnecessary, or
 - (b) a revision that it is necessary or desirable to make without delay.
- (2) Section 117G does not apply to the proposed revised code.
- (3) Once the Authority has issued the revised code, it must give notice as soon as reasonably practicable of—
 - (a) the issuing of the revised code, and
 - (b) as regards each revision contained in it, whether in the view of the Authority the revision falls within paragraph (a) or (b) of subsection (1).
- (4) Notice under subsection (3) is to be given to such persons as the Authority considers appropriate.
- (5) Unless the Authority gives notice that a revision in a revised code is in the view of the Authority a revision falling within subsection (1)(a), the revision ceases to have effect at the end of the period of six months beginning with the day after that on which the revised code is issued.

117I Rules about charges

- (1) The Authority must issue rules about charges that may be imposed by sewerage undertakers under a section 117E agreement.
- (2) The rules may in particular make provision about—
 - (a) the types of charges that may be imposed;
 - (b) the amount or the maximum amount, or methods for determining the amount or maximum amount, of any type of charge;
 - (c) principles for determining what types of charges may or may not be imposed;
 - (d) principles for determining the amount of any charge that may be imposed;
 - (e) publication of the charges that may be imposed.
- (3) The rules must include provision for and in connection with requiring a sewerage undertaker to impose on a sewerage licensee only such charges as would enable the licensee, where the services it provides to a person under its retail authorisation are services to which a section 142(2)(b) agreement would apply if the undertaker had continued to provide the services, to charge for those services at the same rate or rates as would have applied if the section 142(2)(b) agreement had applied.
- (4) In subsection (3) “section 142(2)(b) agreement” means an agreement to which section 142(2)(b) applies.

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

- (5) If the Authority considers that a sewerage undertaker is not acting as required by rules under this section, the Authority may—
 - (a) give the undertaker a direction to do, or not to do, a thing specified in the direction, or
 - (b) in a case where a section 117E agreement to which the undertaker is party requires modification in order to conform to the rules, give a direction to the undertaker and the sewerage licensee in question to modify the agreement.
- (6) It is the duty of a sewerage undertaker or a sewerage licensee to comply with a direction under subsection (5), and this duty is enforceable by the Authority under section 18.
- (7) The rules may—
 - (a) make different provision for different persons or descriptions of person;
 - (b) make different provision for different purposes;
 - (c) make provision subject to exceptions.
- (8) The Authority may from time to time revise rules issued under this section and issue revised rules.
- (9) The Authority must issue revised rules if—
 - (a) guidance is issued under section 117M, and
 - (b) the Authority, having regard to that guidance, considers that it is appropriate to revise the rules.
- (10) Revised rules may include provision for applying any of the revisions to section 117E agreements made before the revised rules come into effect.

117J Rules about charges: provision about the reduction of charges

- (1) Rules under section 117I may provide for the reduction of charges payable under a section 117E agreement where—
 - (a) a sewerage licensee that has a retail authorisation is party to the section 117E agreement, and
 - (b) other conditions specified by the rules are satisfied.
- (2) Rules made by virtue of subsection (1) may in particular—
 - (a) specify conditions relating to any party to the section 117E agreement;
 - (b) specify conditions about persons taking steps for the purpose of reducing or managing demand for sewerage services;
 - (c) specify conditions about the premises by reference to which such steps are to be taken;
 - (d) specify conditions about reducing charges payable by a person who—
 - (i) is not party to the section 117E agreement, and
 - (ii) takes or proposes to take such steps as satisfy or would satisfy a condition specified under paragraph (b).
- (3) The rules may provide that, where a charge falls to be reduced in accordance with rules made by virtue of subsection (1), the sewerage undertaker to which the charges are payable must give notice of that reduction to the Authority.
- (4) Rules made by virtue of subsection (3) may—
 - (a) make provision as to the content of the notice;

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- (b) specify the period within which an undertaker is to give notice to the Authority.
- (5) Provision under subsection (4)(a) may in particular require the notice to specify—
- (a) the amount of the charge, with and without the reduction;
 - (b) the period for which the reduction has effect.

117K Rules under section 117I: procedure

- (1) Before issuing rules under section 117I, the Authority must—
 - (a) prepare a draft of the proposed rules, and
 - (b) consult the relevant persons about the draft.
- (2) The relevant persons are—
 - (a) the Secretary of State;
 - (b) the appropriate agency;
 - (c) the Council;
 - (d) any sewerage undertakers likely to be affected by the proposed rules;
 - (e) any sewerage licensees likely to be affected by the proposed rules;
 - (f) such other persons as the Authority thinks appropriate.
- (3) The Authority must specify the period (“the consultation period”) within which persons may make representations about the proposed rules.
- (4) The Authority must have regard to guidance issued under section 117M in making rules under section 117I.
- (5) Before rules under section 117I prepared by the Authority are issued, the Secretary of State may direct the Authority not to issue the rules.
- (6) A direction under subsection (5) must be given within the period of 28 days beginning with the day after the end of the consultation period, and rules may not be issued before that period of 28 days has expired.
- (7) In this section “the appropriate agency” means—
 - (a) the Environment Agency, in relation to section 117E agreements made with sewerage undertakers whose areas are wholly in England;
 - (b) both the Environment Agency and the NRBW, in relation to section 117E agreements made with sewerage undertakers whose areas are partly in England and partly in Wales.
- (8) This section is subject to section 117L.

117L Rules under section 117I: minor or urgent revisions

- (1) This section applies if the Authority proposes to issue revised rules under section 117I and, in the view of the Authority, the revision or each of the revisions proposed to be made is—
 - (a) a revision for which consultation is unnecessary, or
 - (b) a revision that it is necessary or desirable to make without delay.
- (2) Section 117K does not apply to the proposed revised rules.
- (3) Before issuing the revised rules, the Authority must give notice to the Secretary of State of its intention to issue revised rules.

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

- (4) Before the revised rules are issued, the Secretary of State may direct the Authority not to issue the revised rules.
- (5) A direction under subsection (4) must be given within the period of 14 days beginning with the day after the day on which notice is given under subsection (3), and the Authority may not issue the revised rules in question before—
 - (a) that period of 14 days expires, or
 - (b) the Secretary of State notifies the Authority that no direction under subsection (4) will be given in relation to the revised rules,
 whichever is the sooner.
- (6) Once the Authority has issued the revised rules, it must give notice as soon as reasonably practicable of—
 - (a) the issuing of the revised rules, and
 - (b) as regards each revision contained in them, whether in the view of the Authority the revision falls within paragraph (a) or (b) of subsection (1).
- (7) Notice under subsection (6) is to be given to such persons as the Authority considers appropriate.
- (8) Unless the Authority gives notice that a revision in revised rules is in the view of the Authority a revision falling within subsection (1)(a), the revision ceases to have effect at the end of the period of six months beginning with the day after that on which the revised rules are issued.

117M Rules under section 117I: guidance

- (1) The Minister may issue guidance as to the content of rules under section 117I.
- (2) Before issuing the guidance, the Minister must—
 - (a) prepare a draft of the proposed guidance;
 - (b) consult the relevant persons about the draft.
- (3) The relevant persons are such persons as the Minister thinks appropriate.
- (4) The Minister may from time to time revise the guidance and issue revised guidance.
- (5) Subsections (2) and (3) apply to revised guidance as they apply to the original guidance.
- (6) The Minister must arrange for the publication of guidance issued under this section.
- (7) In this section “the Minister” means the Secretary of State.

117N Designation of strategic sewerage provision

- (1) Subsection (2) applies if at any time the Authority determines that the removal of matter from a sewerage undertaker’s sewerage system that the undertaker is required to permit under section 117C or 117D in accordance with a section 117E agreement constitutes strategic sewerage provision.
- (2) The Authority must designate the removal of matter as strategic sewerage provision.
- (3) Subsection (4) applies if—

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- (a) a sewerage undertaker requests the Authority to make a determination that a particular removal of matter constitutes strategic sewerage provision for the purposes of subsection (1), or
 - (b) the Authority otherwise proposes to make a determination that a particular removal of matter constitutes strategic sewerage provision for the purposes of subsection (1).
- (4) The Authority must give notice of the request or proposed determination to—
 - (a) the Secretary of State;
 - (b) the appropriate agency;
 - (c) the other party or parties, or the parties, to the section 117E agreement; and
 - (d) such other persons (if any) as the Authority thinks it appropriate to notify.
- (5) A notice under subsection (4) must specify the time within which representations or objections with respect to the request or proposed determination may be made.

The time specified may not be less than 28 days from the date on which the notice was given.
- (6) The Authority must consider any representations or objections which are duly made and not withdrawn.
- (7) If the Authority determines that a particular removal of matter designated under this section as strategic sewerage provision no longer constitutes such provision, it must cancel its designation.
- (8) If the Authority proposes to make a determination under subsection (7) that a particular removal of matter no longer constitutes strategic sewerage provision, it must give notice of the proposed determination to—
 - (a) the Secretary of State;
 - (b) the appropriate agency; and
 - (c) the parties to the section 117E agreements in question.
- (9) Subsection (5) applies to a notice under subsection (8) as it applies to a notice under subsection (4), and subsection (6) applies accordingly.
- (10) For the purposes of this section, a removal of matter from a sewerage system is strategic sewerage provision if, without that removal of matter, there is a substantial risk that the sewerage undertaker would be unable—
 - (a) to maintain its services to its own customers, and
 - (b) to fulfil its obligations under section 117B to deal with matter in its sewerage system.
- (11) In this section and section 117O “the appropriate agency”, in relation to a determination in respect of the removal of matter from a sewerage undertaker’s system, means—
 - (a) the Environment Agency, in a case where the undertaker’s area is wholly in England;
 - (b) both the Environment Agency and the NRBW, in a case where the undertaker’s area is partly in England and partly in Wales.

117O Designation of collective strategic sewerage provision

- (1) Subsection (2) applies if at any time the Authority determines that two or more cases of the removal of matter from a sewerage system—

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- (a) each of which is a removal by a sewerage licensee, and
 - (b) each of which is a removal that a sewerage undertaker is required to permit under section 117C or 117D in accordance with a section 117E agreement,constitute collective strategic sewerage provision.
- (2) The Authority must designate the cases of the removal of matter as collective strategic sewerage provision.
- (3) Subsection (4) applies if—
 - (a) a sewerage undertaker requests the Authority to make a determination that two or more cases of the removal of matter from a sewerage system constitute collective strategic sewerage provision for the purposes of subsection (1), or
 - (b) the Authority otherwise proposes to make a determination that two or more cases of the removal of matter from a sewerage system constitute collective strategic sewerage provision for the purposes of subsection (1).
- (4) The Authority must give notice of the request or proposed determination to—
 - (a) the Secretary of State;
 - (b) the appropriate agency;
 - (c) the other party or parties, or the parties, to the section 117E agreements in question; and
 - (d) such other persons (if any) as the Authority thinks it appropriate to notify.
- (5) A notice under subsection (4) must specify the time within which representations or objections with respect to the request or proposed determination may be made.

The time specified may not be less than 28 days from the date on which the notice was given.
- (6) The Authority must consider any representations or objections which are duly made and not withdrawn.
- (7) If the Authority determines that the cases of the removal of matter from a sewerage system designated under this section as collective strategic sewerage provision no longer constitute such provision, it must cancel their designation.
- (8) If the Authority proposes to make a determination under subsection (7) that the cases of the removal of matter from a sewerage system no longer constitute collective strategic sewerage provision, it must give notice of the proposed determination to—
 - (a) the Secretary of State;
 - (b) the appropriate agency; and
 - (c) the parties to the section 117E agreements in question.
- (9) Subsection (5) applies to a notice under subsection (8) as it applies to a notice under subsection (4), and subsection (6) applies accordingly.
- (10) For the purposes of this section, two or more cases of the removal of matter from a sewerage system are collective strategic sewerage provision if, without those cases of the removal of matter, there is a substantial risk that the sewerage undertaker would be unable—
 - (a) to maintain its services to its own customers, and
 - (b) to fulfil its obligations under section 117B to deal with matter in its sewerage system.

Offences

117P Prohibition on unauthorised use of sewerage system

- (1) No person may use the sewerage system of a sewerage undertaker whose area is wholly or mainly in England for the purpose of providing sewerage services to premises of—
 - (a) a customer,
 - (b) the person so using that system, or
 - (c) a person associated with that person.
- (2) Subsection (1) is subject to subsections (3) and (4) and section 117R.
- (3) Subsection (1) does not apply where that use of the system is made by—
 - (a) the sewerage undertaker, or
 - (b) a sewerage licensee in pursuance of its sewerage licence.
- (4) The Secretary of State may by regulations specify further circumstances in which subsection (1) does not apply.
- (5) A person who contravenes subsection (1) is guilty of an offence.
- (6) An undertaking entered into which involves a contravention of subsection (1) is unenforceable.
- (7) A person guilty of an offence under this section is liable—
 - (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to a fine.
- (8) Proceedings for an offence under this section may not be instituted except by—
 - (a) the Secretary of State, or
 - (b) the Authority.
- (9) For the purposes of this section, a person (A) is associated with another person (B) if they would be associated with each other for the purposes of Schedule 2B if A were a sewerage licensee.
- (10) In this section and sections 117Q and 117R, references to the sewerage system of a sewerage undertaker are to be construed in accordance with section 17BA(7).

117Q Prohibition on unauthorised removal of matter from sewerage system

- (1) No person other than the undertaker may remove matter from the sewerage system of a sewerage undertaker whose area is wholly or mainly in England.
- (2) Subsection (1) is subject to subsections (3) and (4) and section 117R.
- (3) Subsection (1) does not apply where —
 - (a) matter is removed by a sewerage licensee in pursuance of its sewerage licence, or
 - (b) matter is removed by another sewerage undertaker under a main connection agreement (within the meaning of section 110A).
- (4) The Secretary of State may by regulations specify further circumstances in which subsection (1) does not apply.

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- (5) An undertaking entered into which involves a contravention of subsection (1) is unenforceable.
- (6) A person who contravenes subsection (1) is guilty of an offence.
- (7) A person guilty of an offence under this section is liable—
 - (a) on summary conviction, to a fine not exceeding £20,000;
 - (b) on conviction on indictment, to a fine.
- (8) For the purposes of section 210, the penalty on conviction on indictment of an offence under this section is to be deemed to include imprisonment for a term not exceeding two years (in addition to or instead of a fine).
- (9) Proceedings for an offence under this section may not be instituted except by—
 - (a) the Secretary of State, or
 - (b) the Authority.

117R Sections 117P and 117Q: exemptions

- (1) The Secretary of State may by order made by statutory instrument grant exemption from section 117P(1) or 117Q(1) to—
 - (a) a person or persons of a class;
 - (b) generally or to such extent as may be specified in the order;
 - (c) unconditionally or subject to such conditions as may be specified in the order.
- (2) Before making an order under subsection (1), the Secretary of State must give notice—
 - (a) stating that the Secretary of State proposes to make such an order and setting out the terms of the proposed order;
 - (b) stating the reasons why the Secretary of State proposes to make the order in the terms proposed; and
 - (c) specifying the time (not being less than 28 days from the date of publication of the notice) within which representations or objections with respect to the proposals may be made,
 and must consider any representations or objections which are duly made and not withdrawn.
- (3) The notice required by subsection (2) is to be given—
 - (a) by serving a copy of it on the Authority, and
 - (b) by publishing it in such manner as the Secretary of State considers appropriate for bringing it to the attention of those likely to be affected by the proposed order.
- (4) Notice of an exemption granted to a particular person is to be given—
 - (a) by serving a copy of the exemption on the person, and
 - (b) by publishing the exemption in such manner as the Secretary of State considers appropriate for bringing it to the attention of other persons who may be affected by it.
- (5) Notice of an exemption granted to persons of a particular class is to be given by publishing the exemption in such manner as the Secretary of State considers appropriate for bringing it to the attention of—
 - (a) persons of that class, and

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- (b) other persons who may be affected by it.
- (6) An exemption may be granted—
 - (a) indefinitely, or
 - (b) for a period specified in, or determined by or under, the exemption.
- (7) The conditions that may be specified may, in particular, require any person carrying on any activity allowed by the exemption—
 - (a) to comply with any direction given by the Secretary of State or the Authority as to such matters as are specified in the exemption or are of a description so specified;
 - (b) except in so far as the Secretary of State or the Authority consents to the person's doing or not doing them, not to do or to do such things as are specified in the exemption or are of a description so specified;
 - (c) to refer for determination by the Secretary of State or the Authority such questions arising under the exemption as are specified in the exemption or are of a description so specified.

117S Section 117R: supplementary

- (1) The Secretary of State may by order made by statutory instrument revoke an order by which an exemption was granted to a particular person under section 117R(1) or vary an order by which more than one exemption was so granted so as to terminate any of the exemptions—
 - (a) at the person's request,
 - (b) in accordance with any provision of the order by which the exemption was granted, or
 - (c) if it appears to the Secretary of State inappropriate that the exemption should continue to have effect.
- (2) The Secretary of State may by order made by statutory instrument revoke an order by which an exemption was granted to persons of a particular class under section 117R(1) or vary an order by which more than one exemption was so granted so as to terminate any of the exemptions—
 - (a) in accordance with any provision of the order by which the exemption was granted, or
 - (b) if it appears to the Secretary of State inappropriate that the exemption should continue to have effect.
- (3) The Secretary of State may by direction withdraw an exemption granted to persons of a particular class under section 117R(1) from any person of that class—
 - (a) at the person's request,
 - (b) in accordance with any provision of the order by which the exemption was granted, or
 - (c) if it appears to the Secretary of State inappropriate that the exemption should continue to have effect in the case of the person.
- (4) Before making an order under subsection (1)(b) or (c) or (2) or giving a direction under subsection (3)(b) or (c), the Secretary of State must—
 - (a) consult the Authority, and
 - (b) give notice—

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- (i) stating that the Secretary of State proposes to make such an order or give such a direction,
 - (ii) stating the reasons why the Secretary of State proposes to make such an order or give such a direction, and
 - (iii) specifying the time (not being less than 28 days from the date of publication of the notice) within which representations or objections with respect to the proposals may be made,
- and must consider any representations or objections which are duly made and not withdrawn.
- (5) The notice required by subsection (4)(b) is to be given—
- (a) where the Secretary of State is proposing to make an order under subsection (1) (b) or (c), by serving a copy of it on the person to whom the exemption was granted;
 - (b) where the Secretary of State is proposing to make an order under subsection (2), by publishing it in such manner as the Secretary of State considers appropriate for bringing it to the attention of persons of the class of persons to whom the exemption was granted;
 - (c) where the Secretary of State is proposing to give a direction under subsection (3)(b) or (c), by serving a copy of it on the person from whom the Secretary of State proposes to withdraw the exemption.
- (6) A statutory instrument containing—
- (a) an order under subsection (1) or (2), or
 - (b) an order under section 117R(1),
- is subject to annulment in pursuance of a resolution of either House of Parliament.”

SCHEDULE 5

Section 5

EXTENSION OF LICENSING PROVISIONS IN RELATION TO WALES

- 1 The Water Industry Act 1991 is amended as follows.
- 2 In section 2 (general duties with respect to water industry) (as amended by Schedule 7)—
- (a) in subsection (2C)—
 - (i) after paragraph (d) there is inserted “and”;
 - (ii) paragraph (f) and the “and” preceding it are repealed;
 - (b) subsection (2D) is repealed.
- 3 In section 2B (strategic priorities and objectives: Wales) (as inserted by section 24 and amended by Schedule 7), in subsection (4)(d), after “water supply licensees” there is inserted “and sewerage licensees”.
- 4 (1) Section 17A (water supply licences) (as substituted by section 1) is amended as follows.
- (2) In subsection (2)—
- (a) the words from “one or more” to “combination of authorisations” are repealed;
 - (b) after paragraph (b) there is inserted “or

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- (ba) a retail authorisation and a wholesale authorisation.”;
 - (c) paragraphs (c) and (d) are repealed.
- (3) In subsection (3), the words “(including their operation in England and Wales)” are repealed.
- 5 (1) Section 17AA (water supply licences: restrictions on grants) (as substituted by section 1) is amended as follows.
- (2) In subsection (1), after paragraph (b) there is inserted—
 - “(ba) the Welsh Ministers;
 - (bb) the Chief Inspector of Drinking Water for Wales if there is one;”.
 - (3) Subsection (2) is repealed.
 - (4) In subsection (5), paragraphs (b) and (c) are repealed.
- 6 In section 17B (guidance and interpretation) (as amended by section 2)—
- (a) in subsection (4A), the words “, in the case of an undertaker whose area is wholly or mainly in England,” are repealed;
 - (b) subsections (5) to (8) are repealed.
- 7 (1) Section 17BA (sewerage licences) (inserted by section 4) is amended as follows.
- (2) In subsection (1), the words “whose area is wholly or mainly in England” are repealed.
 - (3) After subsection (5) there is inserted—
 - “(5A) Before giving a general authorisation, the Secretary of State must consult the Welsh Ministers.”
- 8 In section 17BB (sewerage licences: restrictions on grants) (inserted by section 4), in subsection (1), after “of State” there is inserted “, the Welsh Ministers”.
- 9 In section 17C (meaning of household premises) (as amended by Schedule 7), in subsection (1), for “paragraphs 4 and 7(a)” there is substituted “paragraph 4”.
- 10 Section 17D (the threshold requirement) is repealed (if not previously repealed by an order under section 3).
- 11 In section 17DA (guidance) (inserted by Schedule 7), paragraph (a) is repealed.
- 12 In section 17E (determinations by the Authority) (as amended by Schedule 7), in subsection (2)—
- (a) in paragraph (a), the words “or 7(a) or (b)” are repealed;
 - (b) paragraph (c) is repealed.
- 13 (1) Section 17FA (arrangements with the Water Industry Commission for Scotland) (inserted by section 6) is amended as follows.
- (2) In subsection (1)(a), the words “or a restricted retail authorisation or both” are repealed.
 - (3) In subsection (2)(a), the words “or particular authorisations” are repealed.
- 14 In section 17G (water supply licence conditions) (as amended by Schedule 7), in subsection (4)(a)(iii), the words “so far as subsection (3) applies to water supply licences,” are repealed.

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- 15 (1) Section 17H (standard conditions of water supply licences) (as amended by Schedule 7) is amended as follows.
- (2) Subsection (1A) is repealed.
- (3) In subsection (2), for the words from “the different” to the end there is substituted “whether the conditions are to relate to a retail authorisation or a wholesale authorisation or both types of authorisation.”
- (4) In subsection (3)—
- (a) for “giving a particular authorisation or a particular combination of authorisations” there is substituted “giving a retail authorisation or a wholesale authorisation or both authorisations”;
- (b) for “that particular combination of authorisations” there is substituted “those authorisations”.
- (5) In subsection (4), for “any particular authorisation or combination of authorisations” there is substituted “one or other or both authorisations”.
- (6) In subsection (8)(b)(i), the words from “if the” to “supplementary authorisation,” are repealed.
- (7) In subsection (9), the words from “in a case” to “subsection (8)(b)(i)” are repealed.
- 16 (1) Section 17HA (standard conditions of sewerage licences) (inserted by Schedule 7) is amended as follows.
- (2) In subsection (9)(b), after sub-paragraph (i) there is inserted—
- “(ia) on the Welsh Ministers.”
- (3) In subsection (10), after “of State” there is inserted “(after consulting the Welsh Ministers)”.
- 17 In section 17I (modifications of water supply licences by agreement) (as amended by Schedule 7)—
- (a) in subsection (4)(b)(iv), the words from the beginning to “supply licence,” are repealed;
- (b) in subsection (5A), the words “in relation to a water supply licence” are repealed.
- 18 (1) Section 17J (modification of standard conditions of water supply licences) (as amended by Schedule 7) is amended as follows.
- (2) In subsection (4)(b)(iv), the words from the beginning to “licence,” are repealed.
- (3) In subsection (5A), the words “in relation to a water supply licence” are repealed.
- (4) In subsection (10), the words “in relation to the standard conditions of water supply licences” are repealed.
- 19 In section 17K (water supply licences: modification references to Competition Commission) (as amended by Schedule 7), in subsection (5)(b)(iv), the words from the beginning to “licences,” are repealed.
- 20 (1) Section 17N (water supply licences: reports on modification references) (as amended by Schedule 7) is amended as follows.
- (2) In subsection (10)(a)(iv), the words from the beginning to “licence,” are repealed.

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- (3) In subsection (11)(a)(ii), the words from the beginning to “licences,” are repealed.
- (4) In subsection (12), the words “, if the report relates to water supply licences,” are repealed.
- 21 In section 17O (modification of licences following report) (as amended by Schedule 7), in subsection (5)(c)(iii), the words from the beginning to “or licences,” are repealed.
- 22 In section 17P (water supply licences: Commission’s power of veto following report) (as amended by Schedule 7), in subsection (7)(b)(v), the words from the beginning to “licences,” are repealed.
- 23 In section 23 (meaning and effect of special administration order) (as amended by Schedule 7), in subsection (6)(a), the words “or supplementary” are repealed.
- 24 In section 24 (special administration orders made on special petitions) (as amended by Schedule 7), in subsection (1B), the words from “in relation to” to “supplementary authorisation,” are repealed.
- 25 In section 27C (the interests of consumers) (as amended by Schedule 7)—
- (a) in subsection (1)—
 - (i) after paragraph (d) there is inserted “and”;
 - (ii) paragraph (f) and the “and” preceding it are repealed;
 - (b) subsection (2) is repealed.
- 26 (1) Section 38ZA (standards of performance in connection with the supply of water: water supply licensees) (inserted by section 29) is amended as follows.
- (2) In subsection (1), the words “or restricted retail authorisations” are repealed.
- (3) In subsection (6), for the definition of “the Minister” there is substituted—
- ““the Minister” means—
 - (a) the Secretary of State, in respect of the supply of water by a water supply licensee in accordance with the licensee’s retail authorisation using the supply system of a water undertaker whose area is wholly or mainly in England;
 - (b) the Welsh Ministers, in respect of the supply of water by a water supply licensee in accordance with the licensee’s retail authorisation using the supply system of a water undertaker whose area is wholly or mainly in Wales;”.
- 27 In section 52 (the domestic supply duty) (as amended by Schedule 7), in subsection (4A)—
- (a) after paragraph (a) there is inserted “and”;
 - (b) paragraph (c) and the “and” preceding it are repealed.
- 28 In section 55 (supplies for non-domestic purposes) (as amended by Schedule 7), in subsection (1A)(b), the words from “or, in the case” to “that subsection” are repealed.
- 29 In section 63AC(4) (as substituted by section 31), the words “or a restricted retail authorisation” are repealed.
- 30 (1) Section 66A (use of water undertaker’s supply system) (inserted by Schedule 2) is amended as follows.

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- (2) Subsection (2) is repealed.
- (3) In subsection (5)—
 - (a) in paragraph (a), the words “in the case of a request under subsection (1),” are repealed;
 - (b) paragraph (b) is repealed.
- (4) In subsection (7)(a), the words “or (2)” are repealed.
- (5) In subsection (9)(c), the words “or a restricted retail authorisation” are repealed.
- 31 (1) Section 66AA (water supply from water undertaker) (inserted by Schedule 2) is amended as follows.
 - (2) Subsection (2) is repealed.
 - (3) In subsection (3)(a), the words “or, as the case may be, subsection (2)” are repealed.
 - (4) In subsection (5)—
 - (a) in paragraph (a), the words “or, as the case may be, R” are repealed;
 - (b) in paragraph (b), the words “or, as the case may be, R” are repealed.
 - (5) In subsection (7)(a), the words “or (2)” are repealed.
- 32 (1) Section 66B (introduction of water into water undertaker’s supply system) (inserted by Schedule 2) is amended as follows.
 - (2) Subsections (2) and (3) are repealed.
 - (3) In subsection (4)—
 - (a) in paragraph (a), the words “in a case falling within subsection (1),” are repealed;
 - (b) paragraphs (b) and (c) are repealed;
 - (c) in paragraph (d), for “steps under paragraphs (a), (b) or (c) (as the case may be)” there is substituted “such steps”.
 - (4) In subsection (6)(a), the words “, (2) or (3)” are repealed.
 - (5) Subsections (7) and (8) are repealed.
 - (6) In subsection (9), the words “or (b)(i) or (ii)” are repealed.
 - (7) Subsection (10)(b) is repealed.
- 33 (1) Section 66C (introduction of water provided by secondary undertaker) (inserted by Schedule 2) is amended as follows.
 - (2) In subsection (1), the words from “A request under paragraph (a)” to the end are repealed.
 - (3) Subsections (2) to (4) are repealed.
 - (4) In subsection (5), the words “by virtue of subsection (1), (2) or (4)” are repealed.
 - (5) In subsection (6)(a), the words “, L2, L3 or R” are repealed.
 - (6) In subsection (7), the words “, L2 or R” are repealed.
 - (7) In subsection (9)(a), the words “, (2), (3) or (4)” are repealed.

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- (8) In subsection (11), the words “, (2), (3) or (4)” are repealed.
- 34 In section 66E (rules about charges) (inserted by Schedule 2), in subsection (3), the words “or restricted retail authorisation” are repealed.
- 35 In section 66EA (rules about charges: provision about reduction in charges) (inserted by Schedule 2), in subsection (1)(a), the words “or a restricted retail authorisation” are repealed.
- 36 In section 66G (designation of strategic supply) (as amended by Schedule 2), in subsection (11), paragraph (b) and the “or” preceding it are repealed.
- 37 In section 66H (designation of collective strategic supply) (as amended by Schedule 2), in subsection (11), paragraph (b) and the “or” preceding it are repealed.
- 38 (1) Section 68 (duties of water undertakers and licensed water suppliers with respect to water quality) (as amended by Schedule 7) is amended as follows.
- (2) In subsection (1A)—
- (a) in paragraph (a), the words “or restricted retail authorisation” are repealed;
 - (b) in paragraph (b), the words “or restricted retail authorisation” are repealed.
- (3) In subsection (6), the words “or a restricted retail authorisation” are repealed.
- 39 (1) Section 95ZA (standards of performance in connection with provision of sewerage services: sewerage licensees) (inserted by section 30) is amended as follows.
- (2) In the following places—
- (a) the opening words of subsection (1),
 - (b) subsection (1)(b)(i), and
 - (c) subsection (2),
- for “Secretary of State” there is substituted “Minister”.
- (3) In subsection (2), for “Secretary of State’s” there is substituted “Minister’s”.
- (4) After subsection (5) there is inserted—
- “(6) In this section—
- “the Minister” means—
- (a) the Secretary of State, in respect of the provision of services by a sewerage licensee in accordance with the licensee’s retail authorisation using the sewerage system of a sewerage undertaker whose area is wholly or mainly in England;
 - (b) the Welsh Ministers, in respect of the provision of services by a sewerage licensee in accordance with the licensee’s retail authorisation using the sewerage system of a sewerage undertaker whose area is wholly or mainly in Wales;
- “prescribed” means prescribed by regulations made by the Minister.”
- 40 In section 96ZA (procedure for regulations under section 95ZA) (inserted by section 30), for subsection (2) there is substituted—
- “(2) In the application of section 96 by virtue of subsection (1)—
- (a) a reference to a sewerage undertaker is to be treated as a reference to a sewerage licensee, and

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- (b) a reference to the Secretary of State is to be treated as a reference to the Minister (as defined in section 95ZA(6)).
 - (3) Regulations under section 95ZA are to be made by statutory instrument.
 - (4) A statutory instrument containing regulations under section 95ZA is subject to annulment in pursuance of a resolution of—
 - (a) either House of Parliament, in the case of regulations made by the Secretary of State;
 - (b) the Assembly, in the case of regulations made by the Welsh Ministers.
 - (5) Section 213(2) to (2B) applies to regulations made by the Welsh Ministers under section 95ZA as it applies to regulations made by the Secretary of State.”
- 41 (1) Section 117G (codes under section 117F: procedure) (inserted by Schedule 4) is amended as follows.
- (2) In subsection (2), after paragraph (a) there is inserted—
 - “(aa) the Welsh Ministers;”.
 - (3) For subsection (4) there is substituted—
 - “(4) Before a code under section 117F prepared by the Authority is issued, the Minister may direct the Authority—
 - (a) not to issue the code, or
 - (b) to issue the code with specified modifications.
 - (4A) Subsection (4) is subject to subsections (4C) and (4D).
 - (4B) In subsection (4) “the Minister” means—
 - (a) the Secretary of State, so far as a code prepared by the Authority relates to section 117E agreements made with sewerage undertakers whose areas are wholly or mainly in England;
 - (b) the Welsh Ministers, so far as a code prepared by the Authority relates to section 117E agreements made with sewerage undertakers whose areas are wholly or mainly in Wales.
 - (4C) The power under subsection (4) may not be exercised more than once by the Secretary of State or the Welsh Ministers.
 - (4D) If the power under subsection (4) is not exercised by the Secretary of State or the Welsh Ministers on the first occasion on which it may be exercised by the Secretary of State or (as the case may be) the Welsh Ministers, it may not be exercised by the Secretary of State or (as the case may be) the Welsh Ministers on a later occasion.”
- (4) In subsection (6), after paragraph (a) there is inserted—
- “(aa) the NRBW, in relation to section 117E agreements made with sewerage undertakers whose areas are wholly in Wales;”.
- (5) The power to give a direction under section 117G(4) of the Water Industry Act 1991 (as substituted by this paragraph) may not be exercised by the Secretary of State if, before the coming into force of this paragraph—

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- (a) the Secretary of State exercised the power to give a direction under section 117G(4) of the Water Industry Act 1991 (inserted by Schedule 4), or
 - (b) the Secretary of State omitted to exercise that power to give a direction.
- 42 (1) Section 117K (rules under section 117I: procedure) (inserted by Schedule 4) is amended as follows.
 - (2) In subsection (2), after paragraph (a) there is inserted—
 - “(aa) the Welsh Ministers;”.
 - (3) For subsection (5) there is substituted—
 - “(5) Before rules under section 117I prepared by the Authority are issued, the Minister may direct the Authority not to issue the rules.
 - (5A) In subsection (5) “the Minister” means—
 - (a) the Secretary of State, so far as rules prepared by the Authority relate to section 117E agreements made with sewerage undertakers whose areas are wholly or mainly in England;
 - (b) the Welsh Ministers, so far as rules prepared by the Authority relate to section 117E agreements made with sewerage undertakers whose areas are wholly or mainly in Wales.”
 - (4) In subsection (7), after paragraph (a) there is inserted—
 - “(aa) the NRBW, in relation to section 117E agreements made with sewerage undertakers whose areas are wholly in Wales;”.
- 43 (1) Section 117L (rules under section 117I: minor or urgent revisions) (inserted by Schedule 4) is amended as follows.
 - (2) In subsections (3), (4) and (5)(b), for “the Secretary of State” there is substituted “the Minister”.
 - (3) After subsection (8) there is inserted—
 - “(9) In this section “the Minister” has the meaning given by section 117K.”
- 44 (1) Section 117M (rules under section 117I: guidance) (inserted by Schedule 4) is amended as follows.
 - (2) In subsection (3), for the words from “are such” to the end there is substituted “are—
 - (a) the Secretary of State;
 - (b) the Welsh Ministers;
 - (c) such other persons as the Minister thinks appropriate.”
 - (3) In subsection (7), for “means the Secretary of State.” there is substituted “means—
 - (a) the Secretary of State, in relation to sewerage undertakers whose areas are wholly or mainly in England;
 - (b) the Welsh Ministers, in relation to sewerage undertakers whose areas are wholly or mainly in Wales.”
- 45 (1) Section 117N (designation of strategic sewerage provision) (inserted by Schedule 4) is amended as follows.
 - (2) In subsection (4), after paragraph (a) there is inserted—
 - “(aa) the Welsh Ministers;”.

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- (3) In subsection (8), after paragraph (a) there is inserted—
 “(aa) the Welsh Ministers;”.
- (4) In subsection (11), after paragraph (a) there is inserted—
 “(aa) the NRBW, in a case where the undertaker’s area is wholly in Wales;”.
- 46 (1) Section 117O (designation of collective strategic sewerage provision) (inserted by Schedule 4) is amended as follows.
- (2) In subsection (4), after paragraph (a) there is inserted—
 “(aa) the Welsh Ministers;”.
- (3) In subsection (8), after paragraph (a) there is inserted—
 “(aa) the Welsh Ministers;”.
- 47 In section 117P (prohibition on unauthorised use of sewerage system) (inserted by Schedule 4), in subsection (1), the words “whose area is wholly or mainly in England” are repealed.
- 48 In section 117Q (prohibition on unauthorised removal of matter from sewerage system) (inserted by Schedule 4), in subsection (1), the words “whose area is wholly or mainly in England” are repealed.
- 49 In section 117S (section 117R: supplementary) (inserted by Schedule 4), at the end there is inserted—
 “(7) The power to—
 (a) make an order under subsection (1) or (2) or section 117R(1), or
 (b) give a direction under subsection (3),
 is exercisable by the Welsh Ministers (and not by the Secretary of State) in relation to any supply system of a sewerage undertaker whose area is wholly or mainly in Wales.
 (8) Accordingly, subsections (1) to (5) and section 117R apply in relation to an order made or a direction given by the Welsh Ministers by virtue of subsection (7) as they apply in relation to an order made or direction given by the Secretary of State.
 (9) A statutory instrument containing an order made by the Welsh Ministers by virtue of subsection (7) is subject to annulment in pursuance of a resolution of the Assembly.”
- 50 In section 158 (powers to lay pipes in streets), in subsection (7)(a), the following words are repealed—
 (a) “or (b)(i)”;
 (b) “or laid in pursuance of section 66B(4)(b)(ii)”.
- 51 In section 195(3AA) (the Authority’s register: consultation as regards water supply licensees) (as amended by Schedule 7), after “water supply licensee” there is inserted “or a sewerage licensee”.
- 52 In section 207D (exercise of adjudication functions by other persons) (inserted by section 39), in subsection (5), in paragraph (b) of the definition of “the Minister”—
 (a) the “or” following sub-paragraph (i) is repealed;
 (b) after sub-paragraph (ii) there is inserted “, or

(iii) in relation to a sewerage licensee using the sewerage system of such an undertaker (see section 17BA);”.

53 In section 213 (powers to make regulations), subsection (1ZA) (inserted by Schedule 7) is repealed (if not previously repealed by an order under section 3).

54 (1) Schedule 2A (water supply licences: authorisations) (inserted by Schedule 1) is amended as follows.

(2) Paragraphs 1 and 2 are repealed.

(3) Paragraphs 6 to 8 are repealed.

(4) In paragraph 9, for “requirements in paragraphs 4 and 7 are” there is substituted “requirement in paragraph 4 is”.

(5) In paragraph 10, for “paragraphs 4 and 7” there is substituted “paragraph 4”.

SCHEDULE 6

Section 37

PROCEDURE ON APPEALS UNDER SECTION 207A OF THE WATER INDUSTRY ACT 1991

“SCHEDULE 16

PROCEDURE ON APPEALS UNDER SECTION 207A

Regulations as to procedure

1 The Secretary of State may by regulations make provision about the procedure applying to appeals under section 207A.

Particular provision

2 Regulations under this Schedule may in particular make provision about—

- (a) making an application for permission to bring an appeal;
- (b) imposing conditions on the granting of permission to appeal (including conditions requiring an appeal to be considered together with other appeals, whether relating to the same revision or the same code or not);
- (c) the persons who may be party to an appeal;
- (d) making an application for permission to be made party to an appeal;
- (e) imposing conditions on the granting of permission to become party to an appeal;
- (f) enabling a member of the CMA to make decisions as to the matters referred to in paragraphs (a), (b), (d) and (e);
- (g) enabling a member of the CMA to direct, pending the determination of the appeal, that the code in question—
 - (i) is to have effect without the revision, or
 - (ii) is to have effect with the revision but with modifications specified by the direction;
- (h) the number of persons in a group constituted to hear an appeal;

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- (i) the making of a decision by the group;
- (j) the participation of the Authority in the appeal (including provision as to the making of representations and observations by the Authority otherwise than in connection with the consideration of the appeal);
- (k) the imposing of time limits (including provision for time limits to be waived in certain cases by a member of the CMA);
- (l) orders for costs;
- (m) the recovery of the CMA's costs.

Consideration and determination of appeals

- 3 (1) Regulations under this Schedule may make provision about—
- (a) the consideration and determination of the appeal;
 - (b) giving effect to the determination.
- (2) Provision under sub-paragraph (1)(a) may include in particular—
- (a) provision for disregarding, when determining an appeal, matters not raised as required by the regulations;
 - (b) provision as to the time within which an appeal is to be determined.

Evidence

- 4 (1) Regulations under this Schedule may make provision about—
- (a) requiring the production of documents;
 - (b) requiring persons to attend an oral hearing;
 - (c) requiring persons attending an oral hearing—
 - (i) to give evidence at the hearing;
 - (ii) to make representations and observations;
 - (d) requiring persons—
 - (i) to produce a written statement;
 - (ii) to verify the statement by a statement of truth.
- (2) No person is to be compelled under the regulations—
- (a) to produce a document that the person could not be compelled to produce in civil proceedings in the High Court;
 - (b) to give evidence which the person could not be compelled to give in civil proceedings in the High Court;
 - (c) to produce a written statement with respect to a matter about which the person could not be compelled to give evidence in civil proceedings in the High Court.
- (3) The regulations may provide for a notice requiring the production of documents, attendance of a person, or the production of a written statement to be issued by any member of the CMA.
- 5 (1) Regulations under this Schedule may provide for penalties to be imposed where—
- (a) a person fails without reasonable excuse to comply with a requirement imposed in accordance with regulations under paragraph 4;
 - (b) having been required to produce a document in accordance with paragraph 4, a person wilfully alters, suppresses or destroys the document;

- (c) having been required to produce a written statement in accordance with paragraph 4, a person makes without reasonable excuse a false statement in the written statement produced;
 - (d) having been required by appeal rules to verify information with a statement of truth, a person provides without reasonable excuse information that is false in a material particular.
- (2) The regulations may provide for conduct falling within sub-paragraph (1)(a), (c) or (d) to be punished by the High Court as if the person had been guilty of contempt.
 - (3) The regulations may provide that, where a body corporate may be punished for contempt of court, the High Court has power to punish for contempt of court any director or other officer of the body (instead of or as well as the body).
 - (4) The regulations may provide for conduct falling within sub-paragraph (1)(b) to be an offence triable either summarily or on indictment.
 - (5) The regulations may provide for such an offence to be punishable—
 - (a) on summary conviction, by a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, by imprisonment for a term not exceeding two years or by a fine, or by both.

Appeal rules

- 6 (1) The CMA may make rules regulating the conduct and disposal of appeals.
- (2) The rules may include provision supplementing regulations made under this Schedule; and that provision may, in particular, impose time limits or other restrictions on—
 - (a) the taking of evidence at an oral hearing;
 - (b) the making of representations or observations at such a hearing.
- (3) The CMA must publish rules made under this paragraph in such manner as it considers appropriate for the purpose of bringing them to the attention of those likely to be affected by them.
- (4) Before making rules under this paragraph, the CMA must consult such persons as it considers appropriate.
- (5) Rules under this paragraph may make different provision for different cases.

Interpretation

- 7 In this Schedule—
 - “appeal” means an appeal under section 207A;
 - “appeal rules” means rules under paragraph 6;
 - “statement of truth” means a statement that the person producing the document believes the facts stated in the document to be true.”

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

SCHEDULE 7

Section 56

FURTHER AMENDMENTS

Water Act 1989 (c. 15)

- 1 (1) Section 174 of the Water Act 1989 (general restrictions on disclosure of information) is amended as follows.
- (2) In subsection (2)(b)—
- (a) for “company” there is substituted “person”;
 - (b) for “on it” there is substituted “on the undertaker or, as the case may be, the person”.
- (3) In subsection (6)(a)—
- (a) for “company” there is substituted “person”;
 - (b) for “its licence” there is substituted “the person’s licence”.

Water Industry Act 1991 (c. 56)

- 2 The Water Industry Act 1991 is amended as follows.
- 3 (1) Section 2 (general duties with respect to water industry) is amended as follows.
- (2) In subsection (1), for the words from “the following” to the end there is substituted “the powers and duties conferred or imposed on the Secretary of State or the Authority by virtue of any of the relevant provisions.”
- (3) In subsection (2A)(d), for “of a licensed water supplier” there is substituted “of a water supply licensee or sewerage licensee”.
- (4) In subsection (2C)—
- (a) the “and” after paragraph (d) is repealed;
 - (b) in paragraph (e), for the words from “not eligible” to the end there is substituted “household premises (as defined in section 17C)”;
 - (c) after paragraph (e) there is inserted “; and
 - (f) customers, of companies holding an appointment under Chapter 1 of Part 2 of this Act, whose premises are below the consumption threshold and in the area of a relevant undertaker whose area is wholly or mainly in Wales,”.
- (5) In subsection (2D), for the words from “not eligible” to “the total quantity” there is substituted “below the consumption threshold if the total quantity”.
- (6) In subsection (2DB) (inserted by section 22), in paragraph (b) (meaning of sewerage systems), for the words from “a reference to the system comprising” to the end there is substituted “to be construed in accordance with section 17BA(7).”
- (7) In subsection (5A), in the definition of “the interests of consumers”—
- (a) in paragraph (a), for “licensed water suppliers” there is substituted “water supply licensees”;
 - (b) in paragraph (b), for “by sewerage undertakers” there is substituted “either by sewerage undertakers or by sewerage licensees acting in their capacity as such”.

- (8) In subsection (6)—
- (a) in paragraph (a), for the words from “the provisions of” to “water suppliers” there is substituted “the relevant provisions”;
 - (b) in paragraph (a), for the words from “contained in” to the end, there is substituted “contained in—
 - (i) Part 2 of this Act (except section 27A and Schedule 3A),
 - (ii) any of sections 37A to 38, 38ZA, 39, 39ZA, 39B to 39D, 40E to 40J, 42, 51CD to 51CG, 63AC to 63AF, 66B, 66CA to 66H, 66K, 66L, 66O(2), 95, 95ZA, 96, 96ZA, 99, 105ZF to 105ZI, 110F to 110J, 110L to 110O, 117E to 117O, 117R, 117S, 143B to 143E, 144ZA to 144ZF, 153, 181, 182, 185, 192A, 192B, 195, 195A and 201 to 203 below, and
 - (iii) any of sections 42 to 54 of the Water Act 2014.”;
 - (c) paragraphs (b) and (c) are repealed.
- 4 In section 2A (strategic priorities and objectives: England) (inserted by section 24), in subsection (4)(d), for “licensed water suppliers” there is substituted “water supply licensees and sewerage licensees”.
- 5 In section 2B (strategic priorities and objectives: Wales) (inserted by section 24), in subsection (4)(d), for “licensed water suppliers” there is substituted “water supply licensees”.
- 6 In section 6 (appointment of relevant undertakers), in subsection (5A), for “a licensed water supplier” there is substituted “a water supply licensee or sewerage licensee”.
- 7 (1) Section 10 (transitional provision with respect to replacement appointments) is amended as follows.
- (2) In subsection (2), for “and (4)” there is substituted “to (4)”.
 - (3) After subsection (3) there is inserted—

“(3A) To the extent that charging rules issued under section 144ZA relate to charges imposed or security required by a relevant undertaker under section 185, those rules are to apply in relation to the new undertaker as if the appointment or variation had come into force.”
- 8 In section 12 (determinations under conditions of appointment)—
- (a) in subsection (3B) (application of certain provisions to references to competition authority under section 12) for “sections 16A and 16B” there is substituted “sections 14A and 14B”;
 - (b) in subsection (3D), for “16B” there is substituted “14B”.
- 9 For the heading of Chapter 1A of Part 2 there is substituted—

“Water supply licences and sewerage licences”.
- 10 (1) Section 17B (provision supplementary to section 17A) is amended as follows.
- (2) For the title there is substituted “Meaning of supply system”.
 - (3) Subsections (1) to (4) (provision as to guidance on extent of premises) are repealed.

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- (4) Subsection (9) (references to a licensed water supplier) is repealed.
- 11 In section 17C (meaning of “household premises”), in subsection (1), for “section 17A(3)(a) above” there is substituted “paragraphs 4 and 7(a) of Schedule 2A and paragraph 2 of Schedule 2B”.
- 12 (1) Section 17D (the threshold requirement) is amended as follows.
- (2) In subsection (1) (purpose of section 17D)—
- (a) for “section 17A(3)(b) above” there is substituted “paragraph 7(b) of Schedule 2A”;
 - (b) after “the supply of water to any premises” there is inserted “in accordance with a restricted retail authorisation”.
- (3) In subsection (2) (description of the requirement), for “licensed water supplier” there is substituted “water supply licensee”.
- (4) In subsection (3) (guidance on making estimate)—
- (a) after “guidance issued” there is inserted “from time to time”;
 - (b) for “the Secretary of State” there is substituted “the Welsh Ministers”.
- (5) Subsection (5) (duty of Secretary of State to consult the National Assembly for Wales before issuing guidance) is repealed.
- (6) Subsection (6) (application of guidance provision to threshold requirement) is repealed.
- (7) In subsection (7) (regulations as to entering into an undertaking to supply water)—
- (a) for “The Secretary of State” there is substituted “The Welsh Ministers”;
 - (b) for “licensed water supplier” there is substituted “water supply licensee”;
 - (c) the words “(subject to subsection (12) below)” are repealed.
- (8) In subsection (8) (regulations to alter the threshold)—
- (a) for “The Secretary of State” there is substituted “The Welsh Ministers”;
 - (b) the words “(subject to subsection (12) below)” are repealed.
- (9) In subsection (10) (procedure), for “each House of Parliament” there is substituted “the Assembly”.
- (10) In subsection (11) (consultation before making regulations)—
- (a) for “the Secretary of State”, in the first place where those words occur, there is substituted “the Welsh Ministers”;
 - (b) for “the Secretary of State thinks” there is substituted “the Welsh Ministers think”.
- (11) Subsections (12) and (13) (exercise of powers by Welsh Ministers) are repealed.
- 13 After section 17D there is inserted—

“17DA Guidance

The Authority must publish guidance issued from time to time under—

- (a) section 17D(3),
- (b) paragraph 10 of Schedule 2A, or
- (c) paragraph 4 of Schedule 2B,

in such manner as the Authority considers appropriate for the purpose of bringing it to the attention of persons likely to be affected by it.”

- 14 (1) Section 17E (determinations by the Authority) is amended as follows.
- (2) For subsection (1) there is substituted—
- “(1) The Authority may determine, in a case referred to it by—
- (a) a water supply licensee or a potential customer of a water supply licensee, or
- (b) a sewerage licensee or a potential customer of a sewerage licensee, whether a proposed supply of water to, or proposed sewerage services for, the customer would be in accordance with what is authorised by the licensee’s licence.”
- (3) In subsection (2)—
- (a) in paragraph (a), for “section 17A(3) above” there is substituted “paragraph 4 or 7(a) or (b) of Schedule 2A”;
- (b) after paragraph (a) there is inserted—
- “(aa) the extent of the premises to be served for the purposes of paragraph 2 of Schedule 2B;”;
- (c) in paragraph (b), after “to be supplied” there is inserted “or served”.
- 15 (1) Section 17F (procedure for granting water supply licences) is amended as follows.
- (2) In the title, after “water supply” there is inserted “and sewerage”.
- (3) In subsection (4)—
- (a) the words “the Secretary of State or” are repealed;
- (b) the words “he or”, in each place they occur, are repealed.
- (4) In subsection (7)—
- (a) the words “the Secretary of State or” are repealed;
- (b) for paragraph (g) there is substituted—
- “(g) on each water supply licensee and sewerage licensee (other than the holder of the licence in question);”;
- (c) paragraph (h) is repealed;
- (d) in paragraph (i), the words “if the licence or variation is granted by the Authority,” are repealed.
- (5) In subsection (8), the words “by the Secretary of State or” are repealed.
- 16 (1) Section 17G (water supply licence conditions) is amended as follows.
- (2) For the title there is substituted “Licence conditions”.
- (3) In subsection (1) (conditions to be included)—
- (a) for “A water supply licence” there is substituted “A licence under this Chapter”;
- (b) in paragraph (a), the words “the Secretary of State or, as the case may be,” are repealed;
- (c) in paragraph (a), the words “him or” are repealed;
- (d) in paragraph (b), for “the Secretary of State” there is substituted “the Authority”;

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- (e) in paragraph (b), for “water supply licence” there is substituted “licence under this Chapter”.
- (4) After subsection (2) there is inserted—
- “(2A) Conditions may be included by virtue of subsection (1)(a) in a sewerage licence whether or not they are connected with—
 - (a) effectual dealing with the contents of sewers, or
 - (b) the use of the sewerage system of a sewerage undertaker.”
- (5) In subsection (3) (directions and determinations), for “water supply licence” there is substituted “licence under this Chapter”.
- (6) In subsection (4) (persons who may give directions etc), in paragraph (a)(iii), at the beginning there is inserted “so far as subsection (3) applies to water supply licences,”.
- (7) In subsection (5) (duration and modification of conditions), for “water supply licence” there is substituted “licence under this Chapter”.
- (8) In subsection (7) (payments received by Secretary of State paid into the Consolidated Fund), for “the Secretary of State” there is substituted “the Authority”.
- 17 (1) Section 17H (standard conditions of water supply licences) is amended as follows.
- (2) For subsections (1) to (3) there is substituted—
- “(1) The Secretary of State may determine the conditions that are to be the standard conditions of water supply licences granted by the Authority.
 - (1A) Before determining the standard conditions, the Secretary of State must consult the Welsh Ministers as regards conditions relating to a restricted retail authorisation or a supplementary authorisation.
 - (1B) The Secretary of State is to publish the standard conditions in such manner as the Secretary of State considers appropriate.
 - (2) The standard conditions may be different depending on the different authorisations or combinations of authorisations to which the conditions are to relate.
 - (3) The power to determine standard conditions in relation to water supply licences giving a particular authorisation or a particular combination of authorisations may be exercised only before the grant of the first licence to give that authorisation or that particular combination of authorisations (but this is without prejudice to the power to modify standard conditions in accordance with the provisions of this Chapter).”
- (3) In subsection (4) (general provision about standard conditions), for “of either description” there is substituted “giving any particular authorisation or combination of authorisations”.
- (4) In subsection (6) (power to exclude or modify standard conditions in a particular case)—
- (a) the words “the Secretary of State or” are repealed;
 - (b) the words “he or” are repealed.
- (5) In subsection (7) (steps before exercising power in subsection (6))—

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- (a) the words “the Secretary of State or” are repealed;
 - (b) in paragraph (a), the words “he or” are repealed;
 - (c) in paragraph (b), the words “he or” are repealed.
- (6) In subsection (8) (publication of notice of intention to modify standard conditions)—
- (a) in paragraph (a), the words “the Secretary of State or (as the case may be)” are repealed;
 - (b) for paragraph (b)(i) there is substituted—
 - “(i) if the notice relates to a water supply licence giving a restricted retail authorisation or a restricted retail authorisation and a supplementary authorisation, on the Welsh Ministers;”;
 - (c) paragraph (b)(iii) is repealed;
 - (d) in paragraph (b)(iv), the words “if the notice is published by the Authority,” are repealed;
 - (e) after paragraph (b)(iv) there is inserted—
 - “(v) on the Water Industry Commission for Scotland.”
- (7) In subsection (9) (direction not to exclude or modify a standard condition), for “the Assembly” there is substituted “the Welsh Ministers in a case where notice was served on them under subsection (8)(b)(i)”.
- (8) In subsection (10) (power under subsection (6) not to be exercised in certain circumstances)—
- (a) the words “Secretary of State or the” are repealed;
 - (b) the words “he or” are repealed.

18 After section 17H there is inserted—

“17HA Standard conditions of sewerage licences

- (1) The Secretary of State may determine the conditions that are to be the standard conditions of sewerage licences granted by the Authority.
- (2) The Secretary of State is to publish the standard conditions in such manner as the Secretary of State considers appropriate.
- (3) The standard conditions may be different depending on the different authorisations or combinations of authorisations to which the conditions are to relate.
- (4) The power to determine standard conditions in relation to sewerage licences giving a particular authorisation or a particular combination of authorisations may be exercised only before the grant of the first licence to give that authorisation or that particular combination of authorisations (but this is without prejudice to the power to modify standard conditions in accordance with the provisions of this Chapter).
- (5) The standard conditions for the purposes of sewerage licences giving any particular authorisation or combination of authorisations may contain provision—
 - (a) for any standard condition included in a licence of that description not to have effect until brought into operation in such manner and

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- in such circumstances as may be specified in or determined under the standard conditions;
- (b) for the effect of any standard condition included in such a licence to be suspended in such manner, and in such circumstances, as may be so specified or determined; and
 - (c) for any standard condition included in such a licence which is for the time being suspended to be brought back into operation in such manner and in such circumstances as may be so specified or determined.
- (6) Subject to subsection (7), each condition which is a standard condition is to be incorporated by reference in each sewerage licence (or in each such licence to which the standard condition applies).
- (7) Subject to the following provisions of this section, the Authority may, in granting a licence, exclude or modify any of the standard conditions to such extent as the Authority considers requisite to meet the circumstances of a particular case.
- (8) Before excluding any standard conditions or making any modifications under subsection (7), the Authority must give notice—
- (a) stating that the Authority proposes to exclude the conditions or make the modifications and setting out the effect of so doing;
 - (b) stating the reasons why the Authority proposes to exclude the conditions or make the modifications; and
 - (c) specifying the time (not being less than 28 days from the date of publication of the notice) within which representations or objections with respect to the proposed exclusions or modifications may be made,
- and the Authority must consider any representations or objections which are duly made and not withdrawn.
- (9) A notice under subsection (8) must be given—
- (a) by publishing the notice in such manner as the Authority considers appropriate for the purpose of bringing the notice to the attention of persons likely to be affected by the making of the exclusions or modifications; and
 - (b) by serving a copy of the notice—
 - (i) on the Secretary of State;
 - (ii) on the Environment Agency;
 - (iii) on the NRBW;
 - (iv) on the Water Industry Commission for Scotland.
- (10) If, within the time specified in the notice under subsection (8), the Secretary of State directs the Authority not to exclude or modify any standard condition, the Authority must comply with the direction.
- (11) The Authority may not exclude any conditions, or make any modifications, under subsection (7) unless the Authority is of the opinion that the exclusions or modifications are such that—
- (a) the licence holder would not be unduly disadvantaged in competing with other holders of sewerage licences; and

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- (b) no other holder of a sewerage licence would be unduly disadvantaged in competing with other holders of such licences (including the holder of the licence being granted).
 - (12) The modification under subsection (7) of part of a standard condition is not to prevent any other part of the condition from continuing to be treated as a standard condition for the purposes of this Chapter.”
- 19 (1) Section 17I (modification of licences by agreement) is amended as follows.
 - (2) For the title there is substituted “Modification of licences by agreement”.
 - (3) In subsection (1) (power of Authority to modify licence), for the words from “conditions of” to the end there is substituted “conditions of—
 - (a) a particular water supply licence, or
 - (b) a particular sewerage licence.”
 - (4) In subsection (2)(b) (modification not to cause undue disadvantage)—
 - (a) in sub-paragraph (i), after “water supply licences” there is inserted “or, as the case may be, sewerage licences”;
 - (b) in sub-paragraph (ii), after “a water supply licence” there is inserted “or, as the case may be, a sewerage licence”.
 - (5) In subsection (4)(b) (persons to be served with notice of proposed modifications), in sub-paragraph (iv), at the beginning there is inserted “if the notice relates to a water supply licence.”
 - (6) In subsection (5) (direction not to modify a condition), the words “(after consulting the Assembly)” are repealed.
 - (7) After subsection (5) there is inserted—
 - “(5A) The Secretary of State is to consult the Welsh Ministers before giving a direction under subsection (5) in relation to a water supply licence.”
- 20 (1) Section 17J (general modification of standard conditions) is amended as follows.
 - (2) For the title there is substituted “Modification of standard conditions”.
 - (3) In subsection (1) (power of Authority to modify standard conditions), for the words from “may modify” to the end there is substituted “may modify—
 - (a) the standard conditions of water supply licences, or
 - (b) the standard conditions of sewerage licences.”
 - (4) After subsection (1) there is inserted—
 - “(1A) Modifications may relate to—
 - (a) standard conditions contained in all water supply licences or sewerage licences, or
 - (b) standard conditions contained in those water supply licences or sewerage licences that grant a particular authorisation or combination of authorisations.”
 - (5) In subsection (2) (power to make incidental and consequential modifications)—
 - (a) for “retail licences or combined licences” there is substituted “water supply licences or sewerage licences”;

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- (b) for “any licence of that description” there is substituted “any licence so affected”.
 - (6) In subsection (4)(b) (persons to be served with notice of proposed modifications), in sub-paragraph (iv), at the beginning there is inserted “if the notice relates to a water supply licence.”.
 - (7) In subsection (5) (direction not to modify a standard condition), the words “(after consulting the Assembly)” are repealed.
 - (8) After subsection (5) there is inserted—
 - “(5A) The Secretary of State is to consult the Welsh Ministers before giving a direction under subsection (5) in relation to a water supply licence.”
 - (9) In subsection (6) (modification conditional on views of relevant licence holders), for “retail licences or combined licences” there is substituted “water supply licences or sewerage licences”.
 - (10) In subsection (8) (preconditions for modification of standard condition), in paragraph (c), after “a water supply licence” there is inserted “or, as the case may be, a sewerage licence”.
 - (11) In subsection (10) (consultation with Welsh Ministers), after “subsection (6) above” there is inserted “in relation to the standard conditions of water supply licences”.
 - (12) In subsection (12) (changed standard conditions to be used in new licences)—
 - (a) for “retail licences or combined licences” there is substituted “water supply licences or sewerage licences”;
 - (b) in paragraph (a), for “licences of that description” there is substituted “water supply licences or, as the case may be, sewerage licences”;
 - (c) after paragraph (b) there is inserted—
 - “Where the Authority modifies the standard conditions of water supply licences or sewerage licences that grant particular authorisations or combinations of authorisations, paragraph (a) has effect only as regards licences granting the same authorisations or combinations of authorisations.”
 - (13) In subsection (13) (meaning of “relevant licence holder”), for “retail licences or combined licences” there is substituted “water supply licences or sewerage licences or of such of those licences as grant a particular authorisation or combination of authorisations”.
- 21 (1) Section 17K (references to competition authority in relation to the modification of licences) is amended as follows.
- (2) For the title there is substituted “Modification references to competition authority”.
 - (3) In subsection (1) (reference of a particular licence), in paragraph (a)(i), for “a particular licence” there is substituted “a particular water supply or sewerage licence”.
 - (4) In subsection (2) (general matters that may be referred), in paragraph (a)(i), for “retail licences or combined licences” there is substituted “water supply licences or sewerage licences that grant a particular authorisation or combination of authorisations”.

- (5) In subsection (5)(b) (persons to be served with copy of reference or variation), in sub-paragraph (iv), at the beginning there is inserted “in a case relating to a water supply licence or licences,”.
- 22 (1) Section 17N (reports on modification references) is amended as follows.
- (2) For the title there is substituted “Reports on modification references”.
- (3) In subsection (10)(a) (persons to be served with report relating to a particular licence), in sub-paragraph (iv), at the beginning there is inserted “if the report relates to a water supply licence,”.
- (4) In subsection (11)(a) (persons to be served with report relating to a standard condition), in sub-paragraph (ii), at the beginning there is inserted “if the report relates to water supply licences,”.
- (5) In subsection (12) (meaning of “relevant time”), in paragraph (a), after “Secretary of State and” there is inserted “, if the report relates to water supply licences,”.
- 23 (1) Section 17O (modification of licences following report) is amended as follows.
- (2) For the title there is substituted “Modification of licences following report”.
- (3) In subsection (2) (power to make incidental and consequential modifications), for “the standard conditions of retail licences or combined licences” there is substituted “—
- (a) the standard conditions of water supply licences or sewerage licences, or
- (b) the standard conditions of water supply licences or sewerage licences that grant a particular authorisation or combination of authorisations,”.
- (4) In subsection (5)(c)(iii), at the beginning there is inserted “in a case relating to a water supply licence or licences,”.
- (5) In subsection (10) (changed standard conditions to be used in new licences)—
- (a) for “retail licences or combined licences” there is substituted “water supply licences or sewerage licences”;
- (b) in paragraph (a), for “licences of that description” there is substituted “water supply licences or, as the case may be, sewerage licences”;
- (c) after paragraph (b) there is inserted—
- “Where the Authority modifies the standard conditions of water supply licences or sewerage licences that grant particular authorisations or combinations of authorisations, paragraph (a) has effect only as regards licences granting the same authorisations or combinations of authorisations.”
- 24 (1) Section 17P (competition authority’s power of veto following report) is amended as follows.
- (2) For the title there is substituted “Power of veto following report”.
- (3) In subsection (7)(b) (persons to be served with notice of modifications proposed), in sub-paragraph (v), at the beginning there is inserted “if the reference relates to water supply licences,”.

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- (4) In subsection (10) (power to make incidental and consequential modifications), for “the standard conditions of retail licences or combined licences” there is substituted “—
- (a) the standard conditions of water supply licences or sewerage licences, or
 - (b) the standard conditions of water supply licences or sewerage licences that grant a particular authorisation or combination of authorisations.”.
- (5) In subsection (11) (changed standard conditions to be used in new licences)—
- (a) for “retail licences or combined licences” there is substituted “water supply licences or sewerage licences”;
 - (b) in paragraph (a), for “licences of that description” there is substituted “water supply licences or, as the case may be, sewerage licences”;
 - (c) after paragraph (b) there is inserted—
- “Where the Authority modifies the standard conditions of water supply licences or sewerage licences that grant particular authorisations or combinations of authorisations, paragraph (a) has effect only as regards licences granting the same authorisations or combinations of authorisations.”
- 25 (1) Section 17R (modification of licences by order under other enactments) is amended as follows.
- (2) For the title there is substituted “Modification by order under other enactments”.
- (3) In subsection (1) (power for the competition authorities and the Secretary of State to modify standard conditions in order to give effect to orders under the Enterprise Act 2002), for paragraphs (a) and (b) there is substituted—
- “(a) the conditions of a particular water supply or sewerage licence,
 - (b) the standard conditions of water supply licences or sewerage licences, or
 - (c) the standard conditions of water supply licences or sewerage licences that grant a particular authorisation or combination of authorisations.”.
- (4) In subsection (2) (identification of orders under the Enterprise Act 2002)—
- (a) in paragraph (a)(i), for “a retail licence or combined licence” there is substituted “a water supply licence or sewerage licence”;
 - (b) in paragraph (a)(ii), for “a retail licence or combined licence” there is substituted “a water supply licence or sewerage licence”;
 - (c) in paragraph (b), for “a retail licence or combined licence” there is substituted “a water supply licence or sewerage licence”.
- (5) In subsection (4) (changed standard conditions to be included in new licences and power to make incidental and consequential modifications of existing licences)—
- (a) for “subsection (1)(b)” there is substituted “subsection (1)(b) or (c)”;
 - (b) for “the standard conditions of retail licences or combined licences” there is substituted “the standard conditions of water supply licences or sewerage licences or of water supply licences or sewerage licences that grant a particular authorisation or combination of authorisations”.

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- (6) In subsection (5) (publication of modifications), for “retail licences or combined licences” there is substituted “water supply licences or sewerage licences”.
- 26 (1) Section 18 (orders for securing compliance with certain provisions) is amended as follows.
- (2) In subsection (1)—
- (a) after “Part or” there is inserted “any person holding”;
 - (b) in paragraph (a), after “that company” there is inserted “or that person”;
 - (c) in paragraph (a)(i), after “appointment or” there is inserted “the person’s”;
 - (d) in paragraph (b), after “that company” there is inserted “or that person”.
- (3) In subsection (1A)—
- (a) in paragraph (a)(i), for “a company” there is substituted “a person”;
 - (b) in paragraph (b), for “any company” there is substituted “any person”;
 - (c) in that paragraph, for “the company” there is substituted “the person”.
- (4) In subsection (2), after “Part or” there is inserted “any person holding”.
- (5) In subsection (6)(a), after “Part or” there is inserted “a person holding”.
- 27 In section 19 (exceptions to the duty to enforce), for “company”, in each place, there is substituted “person”.
- 28 In section 20 (procedure for enforcement orders), for “company to which”, in each place, there is substituted “person to whom”.
- 29 (1) Section 21 (validity of enforcement orders) is amended as follows.
- (2) In subsection (1)—
- (a) for “company to which” there is substituted “person to whom”;
 - (b) for “company”, in the second place it occurs, there is substituted “person”.
- (3) In subsection (2), for “company” there is substituted “person”.
- 30 In section 22 (effect of enforcement order), in subsection (3)—
- (a) for “company”, in each place, there is substituted “person”;
 - (b) for “it” there is substituted “the person”.
- 31 (1) Section 22A (penalties) is amended as follows.
- (2) In subsection (1)—
- (a) in paragraph (a)(ii), for “company” there is substituted “person”;
 - (b) in paragraph (b), in the opening words, for “company”, in both places, there is substituted “person”;
 - (c) in the closing words, for “the company” there is substituted “that company or that person”.
- (3) In subsection (2)—
- (a) in paragraph (a)(ii), for “company” there is substituted “person”;
 - (b) in paragraph (b), in the opening words, for “company”, in both places, there is substituted “person”;
 - (c) in the closing words, for “the company” there is substituted “that company or that person”.

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- (4) In subsection (4), in the opening words, for “company” there is substituted “person”.
- (5) In subsection (6)—
- (a) in the opening words, after “penalty” there is inserted “on a person”;
 - (b) in paragraph (a), for “company”, there is substituted “person”;
 - (c) in paragraph (d), for “company”, there is substituted “person”.
- (6) In subsection (7)—
- (a) for “company”, there is substituted “person on whom the penalty has been imposed”;
 - (b) the words “on it” are repealed.
- (7) In subsection (8)(b), for “company”, there is substituted “person on whom the penalty is to be or has been imposed”.
- (8) In subsection (11), for the words from “10%” to “(determined)” there is substituted “—
- (a) 10% of the turnover of the company, or
 - (b) in a case where the person on whom the penalty is imposed is not a company, 10% of the turnover of the business of the person,
- (determined)”.
- 32 (1) Section 22C (time limits on the imposition of financial penalties) is amended as follows.
- (2) In subsection (1)—
- (a) in the opening words, after “penalty” there is inserted “on a person”;
 - (b) in paragraph (a), for “company” there is substituted “person”;
 - (c) in paragraph (b), for “company” there is substituted “person”.
- (3) In subsection (2), in the opening words—
- (a) after the first “penalty” there is inserted “on a person”;
 - (b) for “company” there is substituted “person”.
- 33 (1) Section 22E (appeals) is amended as follows.
- (2) In subsection (1), for “company on which” there is substituted “person on whom”.
- (3) In subsections (2)(a) and (b) (in both places) and (4)(b), for “company” there is substituted “person”.
- 34 In section 22F (recovery of penalties), for “company” there is substituted “person”.
- 35 (1) Section 23 (meaning and effect of special administration orders) is amended as follows.
- (2) In subsection (1), for “a qualifying licensed water supplier” there is substituted “a qualifying water supply licensee or a qualifying sewerage licensee”.
- (3) In subsection (2A)—
- (a) for “a qualifying licensed water supplier” there is substituted “a qualifying water supply licensee”;
 - (b) for “subsection (6)(b)” there is substituted “subsection (7)”.
- (4) After subsection (2A) there is inserted—

- “(2AA) The purposes of a special administration order made in relation to a company which is a qualifying sewerage licensee must be—
- (a) the transfer to another company or companies, as a going concern, of so much of the company’s undertaking as it is necessary to transfer in order to secure that the activities relating to the removal or removals of matter mentioned in subsection (9) may be properly carried on, and
 - (b) the carrying on of those activities pending the making of the transfer.”
- (5) In subsection (2B)(b)—
- (a) in the opening words, for “or (2A)(a)” there is substituted “, (2A)(a) or (2AA)(a)”;
 - (b) in sub-paragraph (ii), for “or (2A)(a)” there is substituted “, (2A)(a) or (2AA)(a)”.
- (6) In subsection (2C), for “and (2A)(b)” there is substituted “, (2A)(b) and (2AA)(b)”.
- (7) In subsection (4), for paragraph (b) there is substituted—
- “(b) a company carries on activities relating to—
 - (i) the introduction or introductions of water mentioned in subsection (7) formerly carried on by another company; or
 - (ii) the removal or removals of matter mentioned in subsection (9) formerly carried on by another company.”
- (8) In subsection (6)—
- (a) for “licensed water supplier” there is substituted “water supply licensee”;
 - (b) for “qualifying licensed water supplier” there is substituted “qualifying water supply licensee”;
 - (c) for paragraphs (a) and (b) there is substituted—
 - “(a) it is the holder of a water supply licence giving it a wholesale or supplementary authorisation (within the meaning of Chapter 1A of this Part), and
 - (b) the condition in subsection (7) is satisfied in relation to it.”
- (9) After subsection (6) there is inserted—
- “(7) The condition in this subsection is that—
 - (a) the introduction of water by the licence holder which is permitted under section 66B or 66C is designated as a strategic supply under section 66G, or
 - (b) the introductions of water by the licence holder which are permitted under section 66B or 66C are designated as a collective strategic supply under section 66H.”
- (10) After subsection (7) (inserted by sub-paragraph (9)) there is inserted—
- “(8) For the purposes of this section, sections 24 to 26 and Schedule 2, a sewerage licensee is a qualifying sewerage licensee if—
 - (a) it is the holder of a sewerage licence giving it a wholesale or disposal authorisation (within the meaning of Chapter 1A of this Part), and
 - (b) the condition in subsection (9) is satisfied in relation to it.

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- (9) The condition in this subsection is that—
- (a) the removal of matter by the licence holder which is permitted under section 117C or 117D is designated as strategic sewerage provision under section 117N, or
 - (b) the removals of matter by the licence holder which are permitted under section 117C or 117D are designated as collective strategic sewerage provision under section 117O.”
- 36 (1) Section 24 (special administration orders made on special petitions) is amended as follows.
- (2) In subsection (1A)—
- (a) in paragraphs (a) and (b), the words “(after consulting the Assembly)” are repealed;
 - (b) in paragraph (b), before “the Authority” there is inserted “by”;
 - (c) in the words following paragraph (b), for “qualifying licensed water supplier” there is substituted “qualifying water supply licensee or qualifying sewerage licensee”.
- (3) After subsection (1A) there is inserted—
- “(1B) Before presenting a petition under subsection (1A) in relation to a qualifying water supply licensee whose licence gives it a supplementary authorisation, the Secretary of State or the Authority (as the case may be) must consult the Welsh Ministers.”
- (4) In subsection (2)—
- (a) in paragraph (bb), for “qualifying licensed water supplier” there is substituted “qualifying water supply licensee”;
 - (b) after paragraph (bb) there is inserted—
 - “(bc) in the case of a company which is a qualifying sewerage licensee, that—
 - (i) action taken by the company has caused a contravention by a sewerage undertaker of any principal duty; and
 - (ii) that action is serious enough to make it inappropriate for the company to continue to hold its licence;”;
 - (c) in paragraph (d), for “qualifying licensed water supplier” there is substituted “qualifying water supply licensee or a qualifying sewerage licensee”.
- (5) In subsection (7)(b), for “qualifying licensed water supplier” there is substituted “qualifying water supply licensee or a qualifying sewerage licensee”.
- 37 In section 25 (power to make special administration order on winding-up petition) for “qualifying licensed water supplier”, in both places, there is substituted “qualifying water supply licensee or a qualifying sewerage licensee”.
- 38 In section 26 (restrictions on voluntary winding up and insolvency proceedings), in subsection (1), for “qualifying licensed water supplier” there is substituted “qualifying water supply licensee or a qualifying sewerage licensee”.
- 39 (1) Section 27 (general duty of Authority to keep matters under review) is amended as follows.

- (2) In subsection (1)(b), for “licensed water suppliers” there is substituted “water supply licensees or sewerage licensees”.
- (3) In subsection (2)—
- (a) in paragraph (aa), for “companies” there is substituted “persons”;
 - (b) in paragraph (b), after “company” there is inserted “or person”.
- (4) In subsection (4)—
- (a) in paragraph (c), for the words from “retail” to “Part)” there is substituted “the authorisations or combinations of authorisations given by licences under Chapter 1A of this Part (see sections 17A and 17BA)”;
 - (b) in paragraph (d), for “company” there is substituted “person”.
- 40 In section 27A (establishment of the Council and committees), in subsection (13), in the definition of “the interests of consumers”—
- (a) in paragraph (a), for “licensed water suppliers” there is substituted “water supply licensees”;
 - (b) in paragraph (b), for “by sewerage undertakers” there is substituted “either by sewerage undertakers or by sewerage licensees acting in their capacity as such”.
- 41 (1) Section 27C (the interests of consumers) is amended as follows.
- (2) In subsection (1)—
- (a) the “and” after paragraph (d) is repealed;
 - (b) in paragraph (e), for the words from “not eligible” to the end there is substituted “household premises (as defined in section 17C)”;
 - (c) after paragraph (e) there is inserted “; and
 - (f) customers, of companies holding an appointment under Chapter 1 of Part 2 of this Act, whose premises are below the consumption threshold and in the area of a relevant undertaker whose area is wholly or mainly in Wales,”.
- (3) In subsection (2), for the words from “not eligible” to “the total quantity” there is substituted “below the consumption threshold if the total quantity”.
- 42 In section 27E (provision of advice and information to public authorities), in subsection (1), for “licensed water suppliers” there is substituted “water supply licensees, sewerage licensees”.
- 43 (1) Section 27H (provision of information to the Council) is amended as follows.
- (2) In subsection (1)—
- (a) the “or” at the end of paragraph (b) is repealed;
 - (b) in paragraph (c), for “a licensed water supplier” there is substituted “a water supply licensee, or”;
 - (c) after paragraph (c) there is inserted—
“(d) a sewerage licensee,”.
- (3) In subsections (2), (3) and (4), after “body”, in each place, there is inserted “or person”.
- (4) In subsection (4)—
- (a) for “it” there is substituted “the body or person”;

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

- (b) for “its” there is substituted “the”.
- 44 (1) Section 27K (sections 27H to 27J: supplementary) is amended as follows.
- (2) In subsection (2), for “or a licensed water supplier” there is substituted “, a water supply licensee or a sewerage licensee”.
- (3) In subsection (5), for “and a licensed water supplier” there is substituted “, a water supply licensee and a sewerage licensee”.
- 45 (1) Section 29 (consumer complaints) is amended as follows.
- (2) In subsection (1)—
- (a) for “or a licensed water supplier” there is substituted “, a water supply licensee or a sewerage licensee”;
- (b) for “by that licensed water supplier” there is substituted “by that water supply licensee or that sewerage licensee”.
- (3) In subsection (5)(a), for the words from “by a licensed water supplier” to “Wales” there is substituted “—
- (i) by a water supply licensee using the supply system of a water undertaker whose area is wholly or mainly in Wales,
or
- (ii) by a sewerage licensee using the supply system of a sewerage undertaker whose area is wholly or mainly in Wales”.
- (4) In subsections (8)(a) and (b) and (9), for “or the licensed water supplier” there is substituted “, the water supply licensee or the sewerage licensee”.
- 46 In the heading to Chapter 1 of Part 3 (general duties of water undertakers) at the end there is inserted “etc”.
- 47 In section 37A (water resources management plans: preparation and review)—
- (a) in subsection (3)(b), for “licensed water suppliers” there is substituted “water supply licensees”;
- (b) in subsection (8)(d) for “licensed water supplier” there is substituted “water supply licensee”.
- 48 In section 37C (water resources management plans: provision of information)—
- (a) for “licensed water supplier”, in each place, there is substituted “water supply licensee”;
- (b) in the closing words to subsection (3), for “licensed water supplier’s” there is substituted “water supply licensee’s”.
- 49 In section 37D (water resources management plans: supplementary), in subsection (3)(b), for “licensed water supplier” there is substituted “water supply licensee”.
- 50 In section 38B (publication of statistical information about complaints)—
- (a) in subsection (1), for “licensed water suppliers” there is substituted “water supply licensees”;
- (b) in subsection (2), for “licensed water suppliers” there is substituted “water supply licensees”.
- 51 (1) Section 39A (information to be given to customers about performance) is amended as follows.

- (2) In subsections (1) and (2A), for “licensed water suppliers”, in both places, there is substituted “water supply licensees”.
- (3) After subsection (1) there is inserted—
- “(1A) Each water supply licensee must, in such form and manner and with such frequency as the Authority may direct, take steps to inform the licensee’s customers of—
- (a) the standards of overall performance established under section 38ZA(1) which are applicable to that licensee;
- (b) that licensee’s level of performance as regards those standards.
- (1B) The Authority may direct that the requirement in subsection (1A) is not to apply to such water supply licensees as may be specified in the direction.”
- (4) In subsection (2), for “any such direction” there is substituted “a direction under subsection (1) or (1A)”.
- (5) In subsection (2B), for “section 17B(5)” there is substituted “section 17B”.
- (6) In subsection (3), for “licensed water supplier” there is substituted “water supply licensee”.
- 52 In section 39B (drought plans: preparation and review)—
- (a) in subsection (4)(b), for “licensed water suppliers” there is substituted “water supply licensees”;
- (b) in subsection (7)(d), for “licensed water supplier” there is substituted “water supply licensee”.
- 53 In section 39C (drought plans: provision of information)—
- (a) for “licensed water supplier”, in each place, there is substituted “water supply licensee”;
- (b) in the closing words to subsection (3), for “licensed water supplier’s” there is substituted “water supply licensee’s”.
- 54 In section 42 (financial conditions for compliance with the duty in section 41), subsection (7) (terms defined in sections 43 and 43A) is repealed.
- 55 Sections 43 and 43A (calculations for the purpose of section 42) are repealed.
- 56 In section 47 (conditions of connection with water main), in subsection (1), for “sections 48 to” there is substituted “sections 49 and”.
- 57 Section 48 (interest on sums provided by way of security) is repealed.
- 58 (1) Section 52 (domestic supply duty) is amended as follows.
- (2) In subsection (4A) (exclusion of certain premises), in paragraph (c), at the beginning, there is inserted “in the case of premises to be supplied using the supply system of a water undertaker whose area is wholly or mainly in Wales,”.
- 59 In section 55 (supplies for non-domestic purposes), in subsection (1A)(b), after “17C above) or” there is inserted “, in the case of premises to be supplied using the supply system of a water undertaker whose area is wholly or mainly in Wales,”.
- 60 (1) Section 61 (disconnections for non-payment of charges) is amended as follows.
- (2) In subsection (1)—

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

- (a) for “the following provisions of this section” there is substituted “subsections (1A) to (6)”;
- (b) after “cut off a supply of water to any premises,” there is inserted “if subsection (1ZA) or (1ZB) applies.

“(1ZA) This subsection applies”.

(3) After the subsection (1ZA) so formed there is inserted—

“(1ZB) This subsection applies if a water supply licensee requests the undertaker to disconnect the service pipe or otherwise cut off the supply of water to the premises.

(1ZC) A water supply licensee may make a request under subsection (1ZB) only if—

- (a) the occupier of the premises is liable under an agreement with the licensee to pay charges to the licensee in respect of the supply of water to the premises,
- (b) the licensee has served notice on the occupier requiring payment of charges due,
- (c) the occupier has failed to pay the charges before the end of the period of seven days beginning with the day after the notice was served, and
- (d) that period has expired.”

(4) In subsection (2)—

- (a) in paragraph (a), for “subsection (1)” there is substituted “subsection (1ZA)”;
- (b) in the words following paragraph (b), for “that subsection” there is substituted “subsection (1)”.

(5) After subsection (2) there is inserted—

“(2A) Where—

- (a) a water supply licensee has served a notice for the purposes of subsection (1ZC)(b) on a person, and
- (b) within the period of seven days mentioned in subsection (1ZC)(c), the person serves a counter-notice on the licensee stating that he disputes his liability to pay the charges in question,

the licensee may not make a request under subsection (1ZB) in relation to the premises except at a time when that person is the occupier of the premises and those charges are enforceable against that person in a manner specified in subsection (3).”

(6) In subsection (3)—

- (a) after “subsection (2)” there is inserted “or (2A)”;
- (b) in paragraph (a), after “the undertaker” there is inserted “or, as the case may be, the licensee”;
- (c) in paragraph (b), after “the undertaker” there is inserted “or, as the case may be, the licensee”.

(7) In subsection (4)—

- (a) the words “, from the person in respect of whose liability the power is exercised,” are repealed;
- (b) at the end there is inserted “—

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

- (a) from the person in respect of whose liability the power is exercised, in a case where the power is exercised in the circumstances mentioned in subsection (1ZA);
 - (b) from the water supply licensee who made the request, in a case where the power is exercised in the circumstances mentioned in subsection (1ZB).”
- (8) In subsection (5)—
 - (a) in paragraph (b)—
 - (i) after “those premises” there is inserted “(“the primary premises”);
 - (ii) after “other premises” there is inserted “(“the secondary premises”);
 - (b) in the words after paragraph (b)—
 - (i) for “those other premises” there is substituted “the secondary premises”;
 - (ii) for “the premises in relation to which the charges are due” there is substituted “the primary premises”;
 - (iii) for “the other premises” there is substituted “the secondary premises”.
- (9) After subsection (5) there is inserted—

“(6) The undertaker may not cut off the supply to the secondary premises in reliance on subsection (5) if—

 - (a) in a case where the undertaker is exercising the power in subsection (1) because charges are due to it, the secondary premises are supplied by a person other than the undertaker;
 - (b) in a case where the undertaker is exercising the power in subsection (1) because of a request for disconnection under subsection (1ZB), the secondary premises are supplied by a person other than the licensee which made that request.”
- 61 In section 63 (general duties of undertakers with respect to disconnections), after subsection (3) there is inserted—

“(3A) A water undertaker is not guilty of an offence under subsection (3) where it disconnects a service pipe or otherwise cuts off a supply of water under section 61 in the circumstances mentioned in section 61(1ZB) (request from water supply licensee).”
- 62 In the italic heading preceding section 63AA, for “licensed water supplier” there is substituted “water supply licensee”.
- 63 (1) Section 63AA (supply by licensed water supplier: domestic supply duty) is amended as follows.
 - (2) In the title, for “licensed water supplier” there is substituted “water supply licensee”.
 - (3) In subsection (1)(a), for “licensed water supplier” there is substituted “water supply licensee”.
- 64 (1) Section 63AB (supply by licensed water supplier: non-domestic supply) is amended as follows.
 - (2) In the title, for “licensed water supplier” there is substituted “water supply licensee”.

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

- (3) In subsection (1), in the opening words, after “above” there is inserted “or section 63AC(2)”.
- (4) In subsection (1)(a), for “licensed water supplier” there is substituted “water supply licensee”.
- 65 (1) Section 63AC (interim duty of water undertaker: domestic and non-domestic supply) is amended as follows.
- (2) In subsections (1)(a) and (2), for “licensed water supplier” there is substituted “water supply licensee”.
- 66 In the italic heading preceding section 68, for “licensed water suppliers” there is substituted “water supply licensees”.
- 67 (1) Section 68 (duties with respect to water quality) is amended as follows.
- (2) In the title, for “licensed water suppliers” there is substituted “water supply licensees”.
- (3) In subsection (1A)—
- (a) for “licensed water supplier” there is substituted “water supply licensee”;
 - (b) in paragraph (a), for “its retail authorisation” there is substituted “the licensee’s retail authorisation or restricted retail authorisation”;
 - (c) in paragraph (b), for “that supplier” there is substituted “that licensee”;
 - (d) in paragraph (b), for “its retail authorisation” there is substituted “the licensee’s retail authorisation or restricted retail authorisation”;
 - (e) the words following paragraph (b) are repealed.
- (4) In subsection (3A)—
- (a) for “licensed water supplier” there is substituted “water supply licensee”;
 - (b) in paragraph (b), for “the supplier” there is substituted “the licensee”.
- (5) In subsection (3B), for “licensed water supplier” there is substituted “water supply licensee”.
- (6) In subsection (5), for “licensed water supplier” there is substituted “water supply licensee”.
- (7) After subsection (5) there is inserted—
- “(6) References in this section to a retail authorisation or a restricted retail authorisation are to be construed in accordance with Schedule 2A.
- (7) In this section “prescribed” means—
- (a) in relation to a water undertaker whose area is wholly or mainly in Wales, and
 - (b) in relation to a water supply licensee so far as relating to licensed activities using the supply system of such a water undertaker,
- prescribed by regulations made by the Welsh Ministers by statutory instrument, which is subject to annulment in pursuance of a resolution of the Assembly.”
- 68 (1) Section 69 (regulations for preserving water quality) is amended as follows.

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

- (2) In subsections (1), (2), (5)(aa), (6)(b) and (c) and (7)(a)(ii) and (b), for “licensed water supplier”, in each place, there is substituted “water supply licensee”.
- (3) In subsections (3) and (4)(a) and (b), for “licensed water suppliers”, in each place, there is substituted “water supply licensees”.
- (4) In subsection (5)(aa), for “that supplier” there is substituted “that licensee”.
- (5) In subsections (5)(b) and (6)(b), for “or supplier”, in both places, there is substituted “or licensee”.
- 69 In section 72 (contamination of water sources), in subsection (5)(c) for “licensed water supplier” there is substituted “water supply licensee”.
- 70 In section 73 (offences of contaminating, wasting and misusing water etc), in subsection (1)—
- (a) for “licensed water supplier” there is substituted “water supply licensee”;
- (b) in paragraph (b), for “supplier” there is substituted “licensee”.
- 71 (1) Section 74 (regulations for preventing contamination, waste etc and with respect to water fittings) is amended as follows.
- (2) In subsection (1)(b) and (d), for “licensed water supplier”, in each place, there is substituted “water supply licensee”.
- (3) In subsection (1)(c), for “a licensed water supplier” there is substituted “that or another water supply licensee”.
- 72 (1) Section 75 (power to prevent damage and to take steps to prevent contamination, waste etc) is amended as follows.
- (2) In subsection (1A), for “licensed water supplier” there is substituted “water supply licensee”.
- (3) In subsection (11)(b), for “licensed water supplier” there is substituted “water supply licensee”.
- (4) In subsection (12), for “section 17B(5)” there is substituted “section 17B”.
- 73 In section 76 (temporary bans on use)—
- (a) in subsection (1), for “by it” there is substituted “by means of its supply system”;
- (b) after subsection (7) there is inserted—
- “(8) The reference in subsection (1) to the supply system of a water undertaker is to be construed in accordance with section 17B.”
- 74 (1) Section 78 (local authority functions in relation to undertakers’ supplies) is amended as follows.
- (2) In subsection (1)(a), for “licensed water supplier” there is substituted “water supply licensee”.
- (3) In subsection (3), for “section 17B(5)” there is substituted “section 17B”.
- 75 (1) Section 86 (assessors for the enforcement of water quality) is amended as follows.
- (2) In subsections (2)(a)(i), (3), (4)(c)(i) and (6), for “licensed water supplier”, in each place, there is substituted “water supply licensee”.

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

- (3) In subsection (4)(c)(i), for “or supplier” there is substituted “or licensee”.
- (4) In subsection (6), for “it” there is substituted “that person”.
- 76 In section 87 (fluoridation of water supplies at request of relevant authorities), in subsections (2)(b) and (3)(b), for “licensed water supplier” there is substituted “water supply licensee”.
- 77 In section 87C (fluoridation arrangements: compliance), in subsection (4)(b), for “licensed water supplier” there is substituted “water supply licensee”.
- 78 In section 90 (indemnities in respect of fluoridation), in subsection (2)—
- (a) for “licensed water supplier” there is substituted “water supply licensee”;
 - (b) for “it”, in both places, there is substituted “the licensee”.
- 79 In section 93 (interpretation of Part 3), in subsection (1), in the definition of “private supply”, for “licensed water supplier” there is substituted “water supply licensee”.
- 80 (1) In section 93A (duty to promote the efficient use of water)—
- (a) in subsections (1), (2) and (3), for “licensed water supplier”, in each place, there is substituted “water supply licensee”;
 - (b) in subsections (1) and (3), for “its customers” there is substituted “that person’s customers”.
- 81 (1) Section 93B (power of Authority to impose requirements on water undertakers) is amended as follows.
- (2) In subsections (1), (2), (3), (4), (5) and (6), for “licensed water supplier”, in each place, there is substituted “water supply licensee”.
 - (3) In subsection (1), for “its performance of its duty” there is substituted “the performance of that undertaker’s or licensee’s duty”.
 - (4) In subsections (2), (4), (5) and (6), for “or supplier”, in each place, there is substituted “or licensee”.
 - (5) In subsection (2), for “its duty” there is substituted “the undertaker’s or licensee’s duty”.
 - (6) In subsections (3) and (6), for “its customers”, in each place, there is substituted “that person’s customers”.
- 82 (1) Section 93C (publicity of requirements imposed under section 93B) is amended as follows.
- (2) In subsection (1)—
 - (a) for “licensed water supplier” there is substituted “water supply licensee”;
 - (b) for “or supplier’s” there is substituted “or licensee’s”. - (3) In subsection (2)(b), for “or supplier” there is substituted “or licensee”.
- 83 (1) Section 93D (information as to compliance with requirements under section 93B) is amended as follows.
- (2) In subsections (1), (3) and (4), for “licensed water supplier”, in each place, there is substituted “water supply licensee”.

- (3) In subsections (1), (2)(b) and (3), for “or supplier”, in each place, there is substituted “or licensee”.
- (4) In subsection (3), for “or supplier’s” there is substituted “or licensee’s”.
- 84 In the heading to Chapter 1 of Part 4 (general functions of sewerage undertakers), at the end there is inserted “etc”.
- 85 In section 95B (publication of statistical information about complaints)—
- (a) in subsection (1), after “undertakers” there is inserted “or sewerage licensees”;
 - (b) in subsection (2), after “undertakers” there is inserted “or sewerage licensees”.
- 86 (1) Section 96A (information to be given to customers about overall performance) is amended as follows.
- (2) In subsection (1), after “customers” there is inserted “, and, if the direction so specifies, sewerage licensees using the undertaker’s sewerage system for the purpose of providing sewerage services to the premises of customers.”.
- (3) After subsection (1) there is inserted—
- “(1A) Each sewerage licensee must, in such form and manner and with such frequency as the Authority may direct, take steps to inform the licensee’s customers of—
 - (a) the standards of overall performance established under section 95ZA(1) which are applicable to that licensee;
 - (b) that licensee’s level of performance as regards those standards. - (1B) The Authority may direct that the requirement in subsection (1A) is not to apply to such sewerage licensees as may be specified in the direction.”
- (4) In subsection (2), for “any such direction” there is substituted “a direction under subsection (1) or (1A)”.
- (5) After subsection (2) there is inserted—
- “(2A) The sewerage licensees referred to in subsection (1) shall, if the Authority so directs, pass on the information about the matters mentioned in that subsection to their customers.
 - (2B) In subsection (1), the reference to the sewerage undertaker’s sewerage system is to be construed in accordance with section 17BA(7).”
- (6) In subsection (3), after “undertaker” there is inserted “or sewerage licensee”.
- 87 In section 99 (financial conditions for compliance with the duty in section 98), subsection (7) (terms defined in sections 100 and 100A) is repealed.
- 88 Sections 100 and 100A (calculations for the purposes of section 99) are repealed.
- 89 In section 101B (power to provide lateral drain following provision of public sewer) (as amended by section 19)—
- (a) in subsection (3), for “water” there is substituted “sewerage”;
 - (b) in subsection (4), the “or” following paragraph (a) is repealed.

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

- 90 In section 102 (adoption of sewers and disposal works), in subsection (4) (sewerage undertaker to give notice of proposal), after “under this section—” there is inserted—
“*(za)* shall give notice of its proposal to any sewerage licensee which uses, or removes matter from, the undertaker’s sewerage system in accordance with a retail, wholesale or disposal authorisation;”.
- 91 In section 104 (agreements to adopt sewers, etc), subsection (9) (inserted by section 42(3) of the Flood and Water Management Act 2010) is repealed.
- 92 In section 105 (appeals with respect to adoption)—
(a) subsection (2) is repealed;
(b) in subsection (4), paragraph (b) and the “or” preceding it are repealed;
(c) subsection (6) is repealed;
(d) in subsection (7), the words from “and for” to the end are repealed.
- 93 In section 105C (adoption schemes: supplementary), in subsection (2), after paragraph (a) insert—
“*(aa)* any sewerage licensee which uses, or removes matter from, the sewerage system of any such sewerage undertaker in accordance with a retail, wholesale or disposal authorisation;”.
- 94 In section 106B (requirement to enter into agreement before connection charges etc), after subsection (3) (no charges for vesting declaration) there is inserted—
“(3A) A reference in this section to an agreement entered into under section 104 includes a reference to—
(a) an order under section 105ZA which is deemed to be an agreement by virtue of section 105ZA(5), and
(b) an agreement which has been varied by order under section 105ZB(1).”
- 95 In section 107 (right of sewerage undertaker to undertake the making of communications with public sewers), after subsection (6) there is inserted—
“(7) A reference in this section to an agreement under section 104 includes a reference to—
(a) an order under section 105ZA which is deemed to be an agreement by virtue of section 105ZA(5), and
(b) an agreement which has been varied by order under section 105ZB(1).”
- 96 In section 113 (power to alter drainage system of premises in an area), in subsection (3), for the words from “notice of its proposals to” to the end of the subsection there is substituted “notice of its proposals to—
(a) the owner of the premises in question, and
(b) any sewerage licensee providing sewerage services to those premises.”
- 97 In section 117 (interpretation of Chapter 2), in subsection (5)(a), after “the Water Resources Act 1991” there is inserted “or the Environmental Permitting (England and Wales) Regulations 2010 ([S.I. 2010/675](#))”.
- 98 (1) Section 146 (connection charges etc) is amended as follows.
(2) After subsection (3) there is inserted—

- “(3A) The reference in subsection (3) to an agreement under section 104 includes a reference to—
- (a) an order under section 105ZA which is deemed to be an agreement by virtue of section 105ZA(5), and
 - (b) an agreement which has been varied by order under section 105ZB(1).”
- (3) In subsection (4)—
- (a) after “sewerage undertaker” there is inserted “or a sewerage licensee”;
 - (b) after “to the undertaker” there is inserted “or the licensee (as the case may be)”.
- (4) In subsection (5), after “certain charges” there is inserted “by relevant undertakers”.
- 99 In section 147 (charging for use of emergency water), in subsection (1), after “undertaker” there is inserted “or water supply licensee”.
- 100 In section 148 (restriction on charging for metering works), in subsection (2)(cc), after “section 66D” there is inserted “or 117E”.
- 101 In section 150 (fixing maximum charges for services provided with the help of undertakers’ services), for subsection (1A) there is substituted—
- “(1A) This section does not apply to—
- (a) water supplies provided by a water supply licensee, or
 - (b) sewerage services provided by a sewerage licensee,
- to premises of customers in accordance with Chapter 1A of Part 2.”
- 102 In section 152 (grants for national security purposes), in subsection (1), for “and licensed water suppliers” there is substituted “, water supply licensees and sewerage licensees”.
- 103 (1) Section 154A (financial assistance to reduce charges of relevant undertakers and water supply licensees) is amended as follows.
- (2) In subsection (1)—
- (a) the “or” following paragraph (a) is repealed;
 - (b) in paragraph (b), for “licensed water supplier” there is substituted “water supply licensee”;
 - (c) in paragraph (b), for “its” there is substituted “the licensee’s”;
 - (d) at the end of paragraph (b) there is inserted “, or
 - (c) a sewerage licensee that serves premises in accordance with the licensee’s retail authorisation using the sewerage system of an English undertaker.”
- (3) In subsection (6)—
- (a) the “or” following paragraph (a) is repealed;
 - (b) in paragraph (b), for “licensed water supplier” there is substituted “water supply licensee”;
 - (c) at the end of paragraph (b) there is inserted “, or
 - (c) to a sewerage licensee by means of an arrangement made by the Secretary of State with an English undertaker that is a sewerage undertaker.”

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

- (4) In subsection (7)—
- (a) in paragraph (a), for “a licensed water supplier” there is substituted “a water supply licensee or a sewerage licensee”;
 - (b) the “or” following paragraph (a) is repealed;
 - (c) in paragraph (b), for “licensed water supplier” there is substituted “water supply licensee”;
 - (d) in paragraph (b), for “its” there is substituted “the licensee’s”;
 - (e) at the end of paragraph (b) there is inserted “, or
 - (c) a person whose premises are served by a sewerage licensee in accordance with the licensee’s retail authorisation using the undertaker’s sewerage system.”
- (5) In subsection (8)—
- (a) for “of a licensed water supplier” there is substituted “of a water supply licensee or of a sewerage licensee”;
 - (b) for “section 17A(2)” there is substituted “Schedule 2A or Schedule 2B, as the case may be.”.
- 104 In section 158 (powers to lay pipes in streets), in subsection (7)(a), for the words from “section 66B(3)(a)(ii) above” to “section 66B(3)(a)(iii) above” there is substituted “section 66B(4)(a)(i) or (b)(i) which is used for the purpose of supplying water other than for domestic or food production purposes or laid in pursuance of section 66B(4)(b)(ii)”.
- 105 (1) Section 162 (works in connection with metering) is amended as follows.
- (2) In subsection (1A)—
- (a) in paragraph (d), for “licensed water supplier” there is substituted “water supply licensee”;
 - (b) after paragraph (d) there is inserted “, or
 - (e) a sewerage licensee provides sewerage services in respect of those premises using the undertaker’s sewerage system.”
- (3) In subsection (1B), for “section 17B(5)” there is substituted “section 17B”.
- (4) After subsection (1B) there is inserted—
- “(1C) In subsection (1A)(e) above, the reference to the sewerage system of a sewerage undertaker shall be construed in accordance with section 17BA.”
- 106 In section 163 (power to fit stopcocks), in subsection (1), for “a licensed water supplier” there is substituted “a water supply licensee”.
- 107 In section 164 (agreements for works with respect to water sources), in subsection (2) (notice to be given before agreeing to works entailing a discharge into a watercourse), for the words from “the NRA” to “if the watercourse” there is substituted “—
- (a) the Environment Agency, if the proposed works will affect any watercourse in England,
 - (b) the NRBW, if the proposed works will affect any watercourse in Wales, and
 - (c) if the watercourse”.
- 108 (1) Section 174 (offences of interference with works etc) is amended as follows.

- (2) In subsection (1A)—
 - (a) in the opening words, for “the licensed water supplier” there is substituted “the water supply licensee”;
 - (b) in paragraph (a)(i)—
 - (i) for “any licensed water supplier” there is substituted “any water supply licensee”;
 - (ii) for “any such supplier” there is substituted “any such licensee”;
 - (c) in paragraph (a)(ii)—
 - (i) for “the supplier” there is substituted “the licensee”;
 - (ii) for “its licence” there is substituted “the licensee’s licence”.
 - (3) In subsection (2)(b), for “licensed water supplier” there is substituted “water supply licensee”.
 - (4) In subsection (2A)—
 - (a) in paragraph (b), in the opening words, for “a licensed water supplier” there is substituted “a water supply licensee”;
 - (b) in paragraph (b)(i), for “the supplier” there is substituted “the licensee”;
 - (c) in paragraph (b)(ii), for “the supplier”, in both places, there is substituted “the licensee”;
 - (d) in the words following paragraph (b), for “section 17B(5)” there is substituted “section 17B”.
 - (5) In subsection (3A)—
 - (a) in the opening words, for “the licensed water supplier” there is substituted “the water supply licensee”;
 - (b) in paragraph (a)(i), for “a licensed water supplier” there is substituted “a water supply licensee”;
 - (c) in paragraph (a)(ii)—
 - (i) for “the supplier” there is substituted “the licensee”;
 - (ii) for “its licence” there is substituted “the licensee’s licence”;
 - (d) in paragraph (b), for “a supplier”, in both places, there is substituted “a licensee”.
 - (6) In subsection (5A)—
 - (a) in paragraph (a), for “a licensed water supplier” there is substituted “a water supply licensee”;
 - (b) in paragraph (b)—
 - (i) for “the supplier” there is substituted “the licensee”;
 - (ii) for “its licence” there is substituted “the licensee’s licence”.
 - (7) In subsection (8A)(b)—
 - (a) for “a licensed water supplier” there is substituted “a water supply licensee”;
 - (b) for “the supplier” there is substituted “the licensee”.
- 109 (1) Section 175 (offence of tampering with meter) is amended as follows.
- (2) In subsection (1) (offence of tampering) for “or licensed water supplier” there is substituted “, water supply licensee or sewerage licensee”.
 - (3) In subsection (3) (meaning of “appropriate consent”)—

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

- (a) for paragraph (b) there is substituted—
 - “(b) if the meter is used by one water supply licensee, the consent of that licensee;
 - (ba) if the meter is used by one sewerage licensee, the consent of that licensee;”;
 - (b) in paragraph (c), for sub-paragraph (ii) there is substituted—
 - “(ii) a water supply licensee;
 - (iii) a sewerage licensee.”.
- 110 In section 179 (vesting of works in undertaker), in subsection (1A) (when persons may agree to vest pipes etc in a person other than the undertaker), the words from “but no agreement” to the end are repealed.
- 111 (1) Section 195 (the Authority’s register) is amended as follows.
- (2) In subsection (2)—
 - (a) in paragraph (bc), for “66D(1)” there is substituted “66CA(1)”;
 - (b) in paragraph (g), for “or 66H above” there is substituted “, 66H, 117N or 117O”.
 - (3) In subsection (3AA), for “licensed water supplier” there is substituted “water supply licensee”.
 - (4) Subsection (3A) is repealed.
- 112 (1) Section 195A (reasons for decisions) is amended as follows.
- (2) In subsection (1)(f), for “66D(1)” there is substituted “66CA(1)”.
 - (3) In subsection (3), after “appointment or” there is inserted “the person holding the”.
- 113 (1) Section 201 (publication of certain information and advice) is amended as follows.
- (2) In subsection (1)(b), for “company” there is substituted “person”.
 - (3) In subsection (2), after “Part II of this Act or” there is inserted “a person holding”.
- 114 (1) Section 202 (duties of undertakers to furnish the Secretary of State with information) is amended as follows.
- (2) In subsection (1A), for “company”, in both places, there is substituted “person”.
 - (3) In subsection (3), for “company”, in each place, there is substituted “person”.
 - (4) In subsection (4)(c)—
 - (a) after “particular company” there is inserted “or person”;
 - (b) after “to companies” there is inserted “or persons”;
 - (c) for “description or” there is substituted “description,”;
 - (d) after “Part II of this Act or” there is inserted “to all the persons holding”.
 - (5) In subsection (5), for “or licensed water supplier” there is substituted “, water supply licensee or sewerage licensee”.
- 115 In section 205 (exchange of metering information between undertakers), in subsection (4)—
- (a) the “and” at the end of paragraph (a) is repealed;

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

- (b) in paragraph (b), for “licensed water supplier” there is substituted “water supply licensee”;
 - (c) after paragraph (b) there is inserted—
 - “(c) any sewerage licensee.”
- 116 (1) Section 206 (restriction on disclosure of information) is amended as follows.
 - (2) In subsection (3)(b), for “a licensed water supplier of any of the duties imposed on it” there is substituted “a water supply licensee or sewerage licensee of any of the duties imposed on the licensee”.
 - (3) In subsection (5)(a), for “a licensed water supplier of activities under its licence” there is substituted “a water supply licensee or sewerage licensee of activities under the licence held by the licensee”.
- 117 (1) Section 208 (directions in the interests of national security) is amended as follows.
 - (2) In subsection (1)—
 - (a) for “or licensed water supplier” there is substituted “, water supply licensee or sewerage licensee”;
 - (b) for “or supplier” there is substituted “or licensee”.
 - (3) In subsection (2)—
 - (a) for “or licensed water supplier” there is substituted “, water supply licensee or sewerage licensee”;
 - (b) for “or supplier” there is substituted “or licensee”;
 - (c) for “requiring it” there is substituted “requiring that undertaker or licensee”.
 - (4) In subsection (3)—
 - (a) for “or licensed water supplier”, in both places, there is substituted “, water supply licensee or sewerage licensee”;
 - (b) for “on it” there is substituted “on that undertaker or licensee”;
 - (c) for “to it” there is substituted “to that undertaker or licensee”.
- 118 In section 211 (limitation on right to prosecute in respect of sewerage offences), in paragraph (b), after “undertaker;” there is inserted—
 - “(ba) a sewerage licensee;”.
- 119 (1) Section 213 (powers to make regulations) is amended as follows.
 - (2) In subsection (1)—
 - (a) the words “17D(8),” (inserted by section 35(2) of the Flood and Water Management Act 2010) are repealed;
 - (b) the words “or 17D(8)” (inserted by paragraph 49 of Schedule 8 to the Water Act 2003) are repealed (if they remain in force to any extent);
 - (c) before “or 105A” there is inserted “, 66M”.
 - (3) After subsection (1) there is inserted—
 - “(1ZA) The requirement in subsection (1) does not apply in the case of regulations made by the Welsh Ministers under section 17D(8).”
 - (4) In subsection (2)(a), for “or sewerage undertaker or licensed water supplier” there is substituted “, sewerage undertaker, water supply licensee or sewerage licensee”.
- 120 (1) Section 219 (general interpretation) is amended as follows.

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

- (2) In subsection (1)—
- (a) in the definition of “customer or potential customer”, in paragraph (a), for “licensed water supplier” there is substituted “water supply licensee or sewerage licensee”;
 - (b) in the definition of “protected land”, in paragraph (b), for “section 218” there is substituted “section 217”;
 - (c) in the definition of “sewerage services”, for “includes” there is substituted “—
 - (a) in the case of a sewerage undertaker, includes”;
 - (d) in that definition, after the paragraph (a) so formed there is inserted “or
 - (b) in the case of a sewerage licensee, means the services provided by that person in that person’s capacity as a sewerage licensee.”;
 - (e) in the definition of “water main”—
 - (i) for “licensed water supplier” there is substituted “water supply licensee”;
 - (ii) for “or supplier” there is substituted “or licensee”;
 - (f) the following are inserted at the appropriate place—
 - ““charging rules” means rules issued under section 144ZA.”;
 - ““sewerage licensee” is to be construed in accordance with section 17BA(6).”;
 - ““water supply licensee” is to be construed in accordance with section 17A(7).”;
 - (g) the definition of “licensed water supplier” is repealed.
- (3) After subsection (10) there is inserted—
- “(11) Subsection (10) does not apply to references to the Chief Inspector of Drinking Water in sections 8, 17AA, 51CA, 51CB, 66DB, 66P and 86ZA.”
- 121 In Schedule 1A (the Water Services Regulation Authority), in paragraph 9(3), for paragraph (f) (and the “and” following it) there is substituted—
- “(f) water supply licensees;
 - (fa) sewerage licensees; and”.
- 122 (1) Schedule 2 (transitional provision on termination of appointments) is amended as follows.
- (2) In paragraph 1—
- (a) in sub-paragraph (3A)(a), for “a qualifying licensed water supplier” there is substituted “a qualifying water supply licensee or a qualifying sewerage licensee”;
 - (b) in sub-paragraph (3A)(b), for “carry on activities” there is substituted “carry on—
 - (i) activities”;
 - (c) in sub-paragraph (3A)(b), after the sub-paragraph (i) so formed there is inserted “; or
 - (ii) activities relating to the removal or removals of matter mentioned in section 23(9) of this Act which were carried on by the transferor until that date (as the case may be).”;

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

- (d) in sub-paragraph (4), in the definition of “other relevant companies”, for “to be holding” there is substituted “to be—
 - (a) holding”;
 - (e) in sub-paragraph (4), in that definition, after the paragraph (a) so formed there is inserted “or
 - (b) holding appointments as sewerage undertakers for any area in which, or in part of which, the activities relating to the removal or removals of matter mentioned in section 23(9) of this Act will be carried on by the transferee (as the case may be);”.
- (3) In paragraph 2(7A)(b), for “licensed water supplier” there is substituted “water supply licensee or sewerage licensee”.
- 123 In Schedule 8 (pre-1989 Act transitional authority for trade effluent discharges etc), after paragraph 2(3) there is inserted—
- “(3A) If a sewerage undertaker serves a notice under sub-paragraph (2) in relation to premises in respect of which a sewerage licensee provides sewerage services, the sewerage undertaker must send a copy of the notice to the sewerage licensee.”

Water Resources Act 1991 (c. 57)

- 124 The Water Resources Act 1991 is amended as follows.
- 125 (1) Section 203 (exchange of information with respect to pollution incidents etc) is amended as follows.
- (2) In subsection (1A)—
 - (a) for “licensed water supplier” there is substituted “water supply licensee”;
 - (b) for “supplier” there is substituted “licensee”;
 - (c) for “its licence” there is substituted “the licensee’s licence”.
 - (3) In subsection (2A)—
 - (a) for “licensed water supplier” there is substituted “water supply licensee”;
 - (b) for “supplier” there is substituted “licensee”.
 - (4) In subsection (3)—
 - (a) for “licensed water supplier” there is substituted “water supply licensee”;
 - (b) for “supplier” there is substituted “licensee”.
 - (5) In subsection (4), for “licensed water supplier” there is substituted “water supply licensee”.
 - (6) In subsection (5)(b), for “licensed water supplier” there is substituted “water supply licensee”.
 - (7) In subsection (8)—
 - (a) for “licensed water supplier” there is substituted “water supply licensee”;
 - (b) for “a company” there is substituted “a person”.
- 126 (1) Section 204 (restriction on disclosure of information) is amended as follows.
- (2) In subsection (2)(b)—

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

- (a) for “company” there is substituted “person”;
- (b) for “on it” there is substituted “on the undertaker or, as the case may be, the person”.

(3) In subsection (4)(a)—

- (a) for “a company” there is substituted “a person”;
- (b) for “its licence” there is substituted “the person’s licence”.

The National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672)

127 In Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999, in the entry relating to the Water Industry Act 1991—

- (a) for “licensed water suppliers” there is substituted “water supply licensees”;
- (b) for “licensed water supplier”, in each place those words occur, there is substituted “water supply licensee”.

Enterprise Act 2002 (c. 40)

128 The Enterprise Act 2002 is amended as follows.

129 (1) Section 168 (regulated markets) is amended as follows.

(2) In subsection (3)(ff), after “section 66D” there is inserted “or 117E”.

(3) In subsection (4)(ff), after “section 66D”, in both places, there is inserted “or 117E”.

130 In section 249 (special administration regime), in subsection (1)(aa)—

- (a) for “licensed water supplier” there is substituted “water supply licensee”;
- (b) after “administration order)” there is inserted “or a qualifying sewerage licensee within the meaning of subsection (8) of that section”.

Water Act 2003 (c. 37)

131 The Water Act 2003 is amended as follows.

132 Section 40 (which inserted the section 2A of the Water Industry Act 1991 that is being replaced by section 24 of this Act) is repealed.

133 (1) Section 52 (co-operation between water regulators) is amended as follows.

(2) In subsection (3)—

- (a) in paragraph (a), for “and licensed water suppliers” there is substituted “, water supply licensees and sewerage licensees”;
- (b) in paragraph (b), for “licensed water suppliers” there is substituted “water supply licensees”;
- (c) in paragraph (c), for “and licensed water suppliers” there is substituted “, water supply licensees and sewerage licensees”.

(3) After subsection (8) there is inserted—

“(9) In this section—

“sewerage licensee” means a person holding a sewerage licence under Chapter 1A of Part 2 of the Water Industry Act 1991;

“water supply licensee” means a person holding a water supply licence under Chapter 1A of Part 2 of the Water Industry Act 1991.”

- 134 (1) Section 58 (fluoridation of water supplies) is amended as follows, to the extent that it is not in force on the day on which paragraphs 76 to 78 come into force.
- (2) In subsection (2)—
- (a) in the inserted section 87 of the Water Industry Act 1991 (fluoridation of water supplies at request of relevant authorities), in subsections (2)(b) and (3)(b), for “licensed water supplier” there is substituted “water supply licensee”;
 - (b) in the inserted section 87C of the Water Industry Act 1991 (fluoridation arrangements: compliance), in subsection (4)(b), for “licensed water supplier” there is substituted “water supply licensee”.
- (3) In subsection (6), in the inserted section 90 of the Water Industry Act 1991 (indemnities in respect of fluoridation), in subsection (2)—
- (a) for “licensed water supplier” there is substituted “water supply licensee”;
 - (b) for “it”, in both places, there is substituted “the licensee”.

Government of Wales Act 2006 (c. 32)

- 135 In Schedule 7 to the Government of Wales Act 2006 (Acts of the Assembly), in paragraph 19 (water and flood defence), in the second exception, for “licensed water supplier” there is substituted “water supply licensee”.

Consumers, Estate Agents and Redress Act 2007 (c. 17)

- 136 The Consumers, Estate Agents and Redress Act 2007 is amended as follows.
- 137 In section 4 (meaning of “designated consumers”), in subsection (3)—
- (a) for “or a licensed water supplier” there is substituted “, a water supply licensee or a sewerage licensee”;
 - (b) for “its capacity” there is substituted “the undertaker’s or licensee’s capacity”.
- 138 (1) Section 25 (enforcement by regulator of section 24 notice) is amended as follows.
- (2) In subsection (2), for “its capacity” there is substituted “the person’s capacity”.
- (3) In subsection (3), in the table, for “or licensed water supplier” there is substituted “, water supply licensee or sewerage licensee”.
- (4) In subsection (7), for “or licensed water supplier” there is substituted “, water supply licensee or sewerage licensee”.
- 139 In section 33 (supplementary provision about transfer and abolition orders), in subsection (10)—
- (a) for “or a licensed water supplier” there is substituted “, a water supply licensee or a sewerage licensee”;
 - (b) for “its capacity” there is substituted “the undertaker’s or licensee’s capacity”.
- 140 In section 41 (interpretation of Part 1), in subsection (1)—
- (a) the definition of “licensed water supplier” is repealed;
 - (b) at the appropriate place there is inserted—
““sewerage licensee” means a person holding a sewerage licence under Chapter 1A of Part 2 of the Water Industry Act 1991;”;

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

““water supply licensee” means a person holding a water supply licence under Chapter 1A of Part 2 of the Water Industry Act 1991.”

- 141 (1) Section 42 (interpretation of Part 2) is amended as follows.
- (2) In subsection (1), in the table—
- (a) in the first column, for “or licensed water supplier” there is substituted “, water supply licensee or sewerage licensee”;
 - (b) in the second column, for “or licensed water supplier in its capacity” there is substituted “, water supply licensee or sewerage licensee in the undertaker’s or licensee’s capacity”.
- (3) In subsection (2)—
- (a) the definition of “licensed water supplier” is repealed;
 - (b) at the appropriate place there is inserted—
 - ““sewerage licensee” has the same meaning as in Part 1;”;
 - ““water supply licensee” has the same meaning as in Part 1.”
- 142 In section 52 (enforcement of requirements imposed under Part 2), in subsection (3), for “or licensed water supplier” there is substituted “, water supply licensee or sewerage licensee”.

Flood and Water Management Act 2010 (c. 29)

- 143 The Flood and Water Management Act 2010 is amended as follows.
- 144 In section 6 (other Part 1 definitions), in subsection (11) (“water company”)—
- (a) in the opening words, the words “a company which holds” are repealed;
 - (b) in paragraph (a), at the beginning there is inserted “a company which holds”;
 - (c) in paragraph (b), at the beginning there is inserted “a person who holds”.
- 145 In section 35 (provision of infrastructure), in subsection (2), in the words inserted into section 213(1) of the Water Industry Act 1991, the words “17D(8),” are repealed (if section 35(2) remains to be brought into force to any extent).
- 146 In section 42 (agreements on new drainage systems)—
- (a) subsection (2) (which substitutes section 105(2) of the Water Industry Act 1991) is repealed;
 - (b) subsection (3) (which inserts section 104(9) of the Water Industry Act 1991) is repealed.
- 147 In section 44 (social tariffs in charges schemes), in subsection (3), for the words from “in connection with” to “1991 Act)” there is substituted “under the Water Industry Act 1991 in connection with undertakers’ charges schemes under section 143 of that Act”.

SCHEDULE 8

Section 61

REGULATION OF THE WATER ENVIRONMENT

PART 1

PURPOSES FOR WHICH PROVISION MAY BE MADE

Interpretation

- 1 In this Schedule—
 - “fish regulations” means regulations containing provision which—
 - (a) satisfies section 61(2)(c), or
 - (b) is for the purpose mentioned in paragraph 8(2) or 30(3);
 - “flood regulations” means regulations containing provision which—
 - (a) satisfies section 61(2)(b), or
 - (b) is for the purpose mentioned in paragraph 8(2) or 30(2);
 - “water regulations” means regulations containing provision which—
 - (a) satisfies section 61(2)(a), or
 - (b) is for the purpose mentioned in paragraph 8(2) or 30(1).
- 2 In this Schedule—
 - “functions” includes powers and duties;
 - “regulated activity” means—
 - (a) in relation to water regulations, the use of water resources;
 - (b) in relation to flood regulations, any activity that affects, or could affect, the drainage of land, flood risk or the management of flood risk;
 - (c) in relation to fish regulations, any activity that affects, or could affect, the movement of fish through regulated waters;
 - “regulated field” means—
 - (a) in relation to water regulations, regulating the use of water resources;
 - (b) in relation to flood regulations, securing the drainage of land or the management of flood risk;
 - (c) in relation to fish regulations, safeguarding the movement of fish through regulated waters;
 - “the regulations” means regulations under section 61;
 - “specified” means specified in the regulations.

Preliminary

- 3 (1) Establishing standards, objectives or requirements in relation to—
 - (a) regulated activities, and
 - (b) in the case of fish regulations, structures or obstructions that affect, or could affect, the movement of fish through regulated waters.
- (2) In the case of water regulations, authorising the making of plans for—
 - (a) the setting of overall limits,
 - (b) the allocation of rights, or

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

- (c) the progressive improvement of standards or objectives, relating to the use of water resources.
- (3) In the case of water regulations, authorising the making of schemes for the trading or other transfer of rights so allocated.
- 4 (1) Determining the authorities (whether public or local or the Minister) by whom functions conferred by the regulations—
 - (a) in relation to permits under the regulations, or
 - (b) otherwise for or in connection with the regulated field,
 are to be exercisable (in this Schedule referred to as “regulators”).
- (2) Specifying any purposes for which any such functions are to be exercisable by regulators.
- 5 Enabling the Minister to give directions which regulators are to comply with, or guidance which regulators are to have regard to, in exercising functions under the regulations, including—
 - (a) directions providing for any functions exercisable by one regulator to be instead exercisable by another;
 - (b) directions given for the purpose of the implementation of any obligations of the United Kingdom under the EU treaties or under any international agreement to which the United Kingdom is a party;
 - (c) directions relating to the exercise of any function in a particular case or class of case (except functions in relation to the investigation or prosecution, in a particular case, of an offence under the regulations).

Permits

- 6 Prohibiting persons from carrying on any activities of any specified description, except—
 - (a) under a permit in force under the regulations, and
 - (b) in accordance with any conditions to which the permit is subject.
- 7 Specifying restrictions or other requirements in connection with the grant of permits (including provisions for restricting the grant of permits to those who are fit and proper persons within the meaning of the regulations); and otherwise regulating the procedure to be followed in connection with the grant of permits.
- 8 (1) Prescribing the contents of permits.
- (2) Authorising permits to be granted subject to conditions imposed by regulators (the nature of any such condition not being restricted by section 61(2)).
- (3) Securing that permits have effect subject to—
 - (a) conditions specified in the regulations; or
 - (b) rules of general application specified in or made under the regulations.
- 9 (1) Requiring permits or the conditions to which permits are subject to be reviewed by regulators (whether periodically or in any specified circumstances).
- (2) Authorising or requiring the variation of permits or such conditions by regulators (whether on applications made by holders of permits or otherwise).
- (3) Regulating the making of changes in the carrying on of the activities.

- 10 (1) Regulating the transfer or surrender of permits.
- (2) Authorising the revocation of permits by regulators.
- (3) Authorising the imposition by regulators of requirements with respect to the taking of preventive action (by holders of permits or other persons) in connection with the surrender or revocation of permits.
- 11 Authorising the Minister to make schemes for the charging by regulators of fees or other charges in respect of, or in respect of an application for—
 - (a) the grant of a permit,
 - (b) the variation of a permit or the conditions to which it is subject, or
 - (c) the transfer or surrender of a permit,or in respect of the subsistence of a permit.
- 12 Authorising, or authorising the Minister to make schemes for, the charging by the Minister or public or local authorities of fees or other charges in respect of—
 - (a) any advice given, or
 - (b) any testing, assessment or investigation done or other action taken,in cases where the advice or action is in any way in anticipation of, or otherwise in connection with, the making of applications for the grant of permits or is carried out in pursuance of conditions to which any permit is subject.

Further regulation

- 13 (1) Requiring persons who propose to carry out activities of a specified description to give notice of their proposals to regulators.
- (2) Requiring owners or occupiers of land to give notice to regulators of any obstruction of a specified description occurring on the land.
- 14 Requiring persons to apply for a permit under the regulations in respect of activities of a specified description.
- 15 (1) Authorising a regulator, where a person is carrying on an activity of a specified description—
 - (a) to serve notice on the person requiring them to cease carrying on the activity or, at their own cost, to take such action in connection with the activity as may be specified in the notice, or
 - (b) to arrange itself for action to be taken in connection with the activity.
- (2) Authorising a regulator to—
 - (a) to serve notice on persons of a specified description requiring them, at their own cost, to take such action as may be specified in the notice, or
 - (b) to arrange itself for action to be taken,in respect of a structure or obstruction of a specified description.
- 16 Imposing requirements, or authorising regulators to impose requirements, on persons of a specified description in relation to the operation and maintenance of specified structures.

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

Information, publicity and consultation

- 17 Enabling persons of any specified description (whether or not they are holders of permits) to be required—
- (a) to compile information about—
 - (i) regulated activities, and
 - (ii) in the case of fish regulations, structures or obstructions that affect, or could affect, the movement of fish through regulated waters;
 - (b) to provide such information in such manner as is specified in the regulations.
- 18 Securing—
- (a) that publicity is given to specified matters;
 - (b) that regulators maintain registers of specified matters (but excepting information which under the regulations is, or is determined to be, commercially confidential and subject to any other exceptions specified in the regulations) which are open to public inspection;
 - (c) that copies of entries in such registers, or of specified documents, may be obtained by members of the public.
- 19 Requiring or authorising regulators to carry out consultation in connection with the exercise of any of their functions; and providing for them to take into account representations made to them on consultation.

Enforcement and offences

- 20 (1) Conferring on regulators functions with respect to the monitoring and inspection of—
- (a) the carrying on of regulated activities, or
 - (b) regulated structures or obstructions.
- (2) Authorising regulators to appoint suitable persons to exercise any such functions and conferring on persons so appointed powers such as those specified in—
- (a) sections 169 to 174 of the Water Resources Act 1991;
 - (b) section 108(4) of the Environment Act 1995;
 - (c) regulation 26 of the Eels (England and Wales) Regulations 2009 ([S.I. 2009/3344](#));
 - (d) sections 31 and 32 of the Salmon and Freshwater Fisheries Act 1975.
- (3) Functions which may be conferred in reliance on sub-paragraph (1) include—
- (a) power to take samples or to make copies of information;
 - (b) power to arrange for preventive or remedial action to be taken at the expense of holders of permits.
- (4) In sub-paragraph (1) “regulated structures or obstructions” means structures or obstructions which—
- (a) may be the subject of notices served by regulators under the regulations, or
 - (b) may be subject to requirements imposed under the regulations.
- 21 Authorising regulators to serve on holders of permits—
- (a) notices requiring them to take remedial action in respect of contraventions, actual or potential, of conditions to which their permits are subject;

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- (b) notices requiring them to provide such financial security as the regulators serving the notices consider appropriate pending the taking of remedial action in respect of any such contraventions;
 - (c) notices requiring them to take steps to remove or reduce, or to mitigate the effect of the potential consequences of, the following imminent risks (whether or not arising from any such contraventions)—
 - (i) an imminent risk of a significant waste of water resources or of significant damage to the environment, in the case of water regulations;
 - (ii) an imminent risk of a significant impediment to drainage or of a flood, in the case of flood regulations;
 - (iii) an imminent risk of a significant impediment to the movement of fish through regulated waters, in the case of fish regulations.
- 22 Authorising regulators to suspend the operation of permits so far as having effect to authorise the carrying on of activities to which they relate.
- 23 Establishing a procedure for the resolution of disputes in relation to notices served by regulators under the regulations.
- 24 Providing for the enforcement of notices served by regulators under the regulations by proceedings in—
 - (a) the High Court, or
 - (b) in the case of fish regulations applying as mentioned in section 61(11)(b), the Sheriff Court.
- 25 Where action is required to be taken by a person under the regulations or pursuant to a notice served under the regulations, authorising regulators in specified circumstances to take action instead of that person; and making provision for the liability of that person in respect of reasonable costs incurred by the regulators in taking such action.
- 26 Creating offences and dealing with matters relating to such offences, including—
 - (a) the provision of defences, and
 - (b) evidentiary matters.
- 27 Enabling, where a person has been convicted of an offence under the regulations—
 - (a) a court dealing with that person for the offence to order the taking of remedial action (in addition to or instead of imposing any punishment), or
 - (b) a regulator to arrange for such action to be taken at that person's expense.
- 28 Where a person causes damage to any structure constructed, altered or maintained by a regulator under these regulations, authorising the regulator to require the person to pay the expenses of the regulator in repairing the damage and providing for the manner in which such expenses may be recovered.

Appeals

- 29 Conferring rights of appeal in respect of decisions made, notices served or other things done (or omitted to be done) under the regulations; and making provision for (or for the determination of) matters relating to the making, considering and determination of such appeals (including provision for or in connection with the holding of inquiries or hearings).

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

Corresponding provision

- 30 (1) Making provision which, subject to any modifications that the Minister considers appropriate, corresponds or is similar to any provision made by or under, or capable of being made under—
- (a) section 71 of the Water Industry Act 1991 (waste from water sources);
 - (b) Chapter 2 of Part 2 of the Water Resources Act 1991 (abstraction and impounding);
 - (c) Part 1 of the Water Act 2003 (abstraction and impounding).
- (2) Making provision which, subject to any modifications that the Minister considers appropriate, corresponds or is similar to—
- (a) any provision made by section 339 of the Highways Act 1980 (saving for works etc of drainage authorities etc);
 - (b) any provision made by or under, or capable of being made under, sections 109 and 110 of the Water Resources Act 1991 (erecting structures over main rivers etc prohibited without consent);
 - (c) any provision made by any byelaw, or capable of being made by any byelaw, under paragraph 5 of Schedule 25 to that Act (byelaws for flood defence and drainage purposes).
- (3) Making provision which, subject to any modifications that the Minister considers appropriate, corresponds or is similar to—
- (a) sections 9 to 15 and 18 of the Salmon and Freshwater Fisheries Act 1975 (obstructions to passage of fish);
 - (b) Part 4 of the Eels (England and Wales) Regulations 2009 ([S.I. 2009/3344](#)) (passage of eels).
- (4) Each reference to an enactment in sub-paragraph (1), (2) or (3) is a reference to that enactment as it has effect on the coming into force of that sub-paragraph.
- (5) Provision made under this paragraph is not subject to the requirement in section 61(2).

Crown application

- 31 Making provision about the application of the regulations to the Crown.

PART 2

SUPPLEMENTARY PROVISION

Water regulations trading schemes: penalties

- 32 (1) The regulations may, if they are water regulations, authorise the inclusion in a trading scheme of—
- (a) provision for penalties in respect of contraventions of provisions of the scheme;
 - (b) provision for the amount of any penalty under the scheme to be such as may be set out in, or calculated in accordance with—
 - (i) the scheme, or

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(ii) the regulations (including regulations made after the scheme starts to operate).

(2) In this paragraph “trading scheme” means a scheme of the kind mentioned in paragraph 3(3).

Determination of matters by regulators

33 The regulations may make provision for anything which, by virtue of paragraphs 7 to 10, could be provided for by the regulations to be determined under the regulations by regulators.

Delegation between regulators

34 The regulations may make provision authorising regulators to arrange for specified functions to be exercised on their behalf by other regulators.

Imposition of conditions

35 In connection with the determination of conditions as mentioned in paragraph 8(3)
(a) the regulations may in particular provide—
(a) for such conditions to be determined in the light of any specified general principles and any directions or guidance given under the regulations;
(b) for such guidance to include guidance sanctioning reliance by a regulator on any arrangements referred to in the guidance to operate to secure a particular result as an alternative to imposing a condition.

Charging schemes

36 The regulations may—
(a) require any such scheme as is mentioned in paragraph 11 or 12 to be so framed that the fees and charges payable under the scheme are sufficient, taking one year with another, to cover such expenditure (whether or not incurred by the regulator or other person to whom they are so payable) as is specified;
(b) authorise any such scheme to make different provision for different cases (and specify particular kinds of such cases).

Offences

37 (1) The regulations may provide for any such offence as is mentioned in paragraph 26 to be triable—
(a) only summarily, or
(b) either summarily or on indictment.
(2) The regulations may provide for any such offence to be punishable on summary conviction with—
(a) imprisonment for a term not exceeding such period as is specified in the regulations (which may not exceed the normal maximum term), or
(b) a fine not exceeding such amount as is so specified (which may not exceed £20,000),
or both.

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- (3) The “normal maximum term” means—
- (a) in relation to England and Wales—
 - (i) in the case of an offence triable only summarily, 51 weeks, and
 - (ii) in the case of an offence triable either summarily or on indictment, twelve months;
 - (b) in relation to Scotland—
 - (i) in the case of an offence triable only summarily, 6 months, and
 - (ii) in the case of an offence triable either summarily or on indictment, twelve months.
- (4) Regulations that—
- (a) are made before the date on which section 281(5) of the Criminal Justice Act 2003 comes into force, and
 - (b) in relation to England and Wales, make provision for a summary offence to be punishable with a term of imprisonment exceeding six months,
- must provide that, where the offence is committed before that date, it is punishable with imprisonment for a term not exceeding six months.
- (5) Regulations that—
- (a) are made before the date on which section 154(1) of the Criminal Justice Act 2003 comes into force, and
 - (b) in relation to England and Wales, make provision for an offence triable either summarily or on indictment to be punishable on summary conviction with a term of imprisonment exceeding six months,
- must provide that, where the offence is committed before that date, it is punishable on summary conviction with imprisonment for a term not exceeding six months.
- (6) The regulations may provide for such an offence to be punishable on indictment with—
- (a) imprisonment for a term not exceeding such period as is specified (which may not exceed two years), or
 - (b) a fine,
- or both.

Restrictions on Crown application

- 38 (1) To the extent that the regulations bind the Crown (by virtue of provision made under paragraph 31), they are subject to the following restrictions.
- (2) No contravention of any provision of the regulations may make the Crown criminally liable; but the regulations may provide that the High Court may, on the application of a regulator, declare unlawful any act or omission of the Crown which constitutes such a contravention.
- (3) Sub-paragraph (2) does not affect the criminal liability of persons in the service of the Crown.
- (4) The regulations must provide that if the Secretary of State certifies that it appears to him, as respects any Crown premises and any relevant powers of entry, that it is requisite or expedient that, in the interests of national security, the powers should not

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be exercisable in relation to those premises, those powers shall not be exercisable in relation to those premises.

- (5) Subject to sub-paragraph (6), where a power is conferred in relation to land by any provision of the regulations, the regulations must provide that—
- (a) that power is to be exercisable in relation to any land in which there is a Crown or Duchy interest only with the consent of the appropriate authority, and
 - (b) that a consent for such purposes may be given on such financial and other conditions as the appropriate authority giving the consent may consider appropriate.
- (6) But provision contained in the regulations in accordance with sub-paragraph (5) is not to require any consent to be given for the exercise of any power in relation to any land in which there is a Crown or Duchy interest to the extent that that power would be so exercisable apart from provision in the regulations made by virtue of paragraph 31.
- (7) In this paragraph—
- “the appropriate authority” has the same meaning as in section 293 of the Town and Country Planning Act 1990;
 - “Crown or Duchy interest” means an interest belonging to Her Majesty in right of the Crown or the Duchy of Lancaster, or to the Duchy of Cornwall, or belonging to a government department, or held in trust for Her Majesty for the purposes of a government department;
 - “Crown premises” means premises held by or on behalf of the Crown;
 - “relevant powers of entry” means powers of entry that are—
 - (a) contained in the regulations,
 - (b) exercisable in relation to the premises in question, and
 - (c) specified in the Secretary of State’s certificate under sub-paragraph (4).

SCHEDULE 9

Section 87

PUBLICATION REQUIREMENTS UNDER THE LAND DRAINAGE ACT 1991

- 1 The Land Drainage Act 1991 is amended as follows.
- 2 (1) Section 2 (review of boundaries of internal drainage districts) is amended as follows.
- (2) In subsection (2)(b), the words “, in one or more newspapers circulating in the internal drainage district,” are repealed.
 - (3) After subsection (2) there is inserted—
 - “(2A) Where the internal drainage district is wholly or partly in Wales the duty under subsection (2)(b) to publish a notice is a duty to publish the notice in one or more newspapers circulating in that district.”
- 3 (1) Section 3 (schemes for reorganisation of internal drainage districts etc) is amended as follows.
- (2) In subsection (4)(b), the words “in one or more newspapers circulating in the area affected by the scheme” are repealed.

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- (3) After subsection (4) there is inserted—
- “(4A) Where the area affected by the scheme is wholly or partly in Wales the duty under subsection (4)(b) to publish a notice is a duty to publish the notice in one or more newspapers circulating in that area.”
- 4 (1) Section 38 (orders subdividing a district for the purposes of raising expenses) is amended as follows.
- (2) In subsection (5)(b), the words “, in one or more newspapers circulating in that district,” are repealed.
- (3) After subsection (6) there is inserted—
- “(6A) Where an order is made under this section by the drainage board for an internal drainage district that is wholly or partly in Wales, the duty under subsection (5)(b) to publish a notice is a duty to publish the notice in one or more newspapers circulating in that district.”
- 5 (1) Section 39 (petition for subdivision of internal drainage district) is amended as follows.
- (2) In subsection (4)(b), the words “in one or more newspapers circulating in that district” are repealed.
- (3) After subsection (5) there is inserted—
- “(5A) Where a petition is received by the drainage board for an internal drainage district that is wholly or partly in Wales, the duty under subsection (4)(b) to publish a notice is a duty to publish the notice in one or more newspapers circulating in that district.”
- 6 (1) Section 48 (procedure for making of rate) is amended as follows.
- (2) In subsection (3)(b), for “in one or more newspapers circulating in that district” there is substituted “in some other way”.
- (3) After subsection (3) there is inserted—
- “(3A) Where the rate is made by the drainage board for an internal drainage district that is wholly or partly in Wales, the reference in subsection (3)(b) to publishing the notice in some other way is to be read as a reference to publishing it in one or more newspapers circulating in that district.”
- 7 (1) Section 58 (allocation of appropriate agency revenue for its functions as an internal drainage board) is amended as follows.
- (2) In subsection (3), the words “in one or more newspapers circulating in the internal drainage district in question” are repealed.
- (3) After subsection (3) there is inserted—
- “(3A) Where the internal drainage district in question is wholly or partly in Wales, the duty under subsection (3) to publish a resolution is a duty to publish the resolution in one or more newspapers circulating in that district.”
- 8 (1) Paragraph 1 of Schedule 5 (byelaws: publicity for application and confirmation) is amended as follows.

(2) In sub-paragraph (1), in paragraph (a), the words from “in the London Gazette” to the end are repealed.

(3) After sub-paragraph (1) there is inserted—

“(1A) Where the relevant drainage board’s district is wholly or partly in Wales, the duty under sub-paragraph (1)(a) to cause a notice to be published is a duty to cause the notice to be published in the London Gazette and in such other manner as the board think best adapted for informing persons affected by it.”

SCHEDULE 10

Section 89

AMENDMENTS RELATING TO REGIONAL FLOOD AND COASTAL COMMITTEES

Public Bodies (Admission to Meetings) Act 1960 (c. 67)

1 In the Schedule to the Public Bodies (Admission to Meetings) Act 1960 (bodies to which the Act applies), in paragraph 1(i), for “regional and local flood defence committees” there is substituted “Regional Flood and Coastal Committees”.

Local Government Act 1974 (c. 7)

2 In section 25 of the Local Government Act 1974 (authorities subject to investigation by the Commission for Local Administration in England), in subsection (1)(d), for “any regional flood defence committee” there is substituted “any Regional Flood and Coastal Committee”.

House of Commons Disqualification Act 1975 (c. 24)

3 In Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975 (other disqualifying offices)—

- (a) the entry for a chairman of a local flood defence committee for any district in England and Wales is repealed;
- (b) in the entry for a chairman of a regional flood defence committee for any area of England and Wales, for “regional flood defence committee” there is substituted “Regional Flood and Coastal Committee”.

Land Drainage Act 1991 (c. 59)

4 In section 1 of the Land Drainage Act 1991 (internal drainage districts and boards), in subsection (1)(a), for “the areas of the regional flood defence committees” there is substituted “the regions of the Regional Flood and Coastal Committees (within the meaning of section 22 of the Flood and Water Management Act 2010)”.

Water Resources Act 1991 (c. 57)

5 The Water Resources Act 1991 is amended as follows.

6 (1) Section 134 (raising of general drainage charges) is amended as follows.

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- (2) In subsection (1) (power of Environment Agency and Natural Resources Body for Wales to raise charge per hectare of chargeable land in a local flood defence district), for “a local flood defence district” there is substituted “a flood risk management region”.
 - (3) In subsection (2) (power under subsection (1) subject to recommendation of the regional flood defence committee)—
 - (a) for “any local flood defence district” there is substituted “any flood risk management region”;
 - (b) for “the regional flood defence committee for the area in which that district is situated” there is substituted “the Regional Flood and Coastal Committee for that region”.
 - (4) Subsection (3) (treatment of the parts of an area of a regional flood defence committee which are not local flood defence districts) is repealed.
- 7 (1) Section 135 (amount, assessment etc of general drainage charge) is amended as follows.
- (2) In subsection (1) (charge to be at a uniform rate per hectare of chargeable land)—
 - (a) for “a local flood defence district” there is substituted “a flood risk management region”;
 - (b) for “that district” there is substituted “that region”.
 - (3) In subsection (3) (calculation), in paragraph (b), for “the local flood defence district” there is substituted “the flood risk management region”.
 - (4) In subsection (4) (provision that may be made by a single order)—
 - (a) in paragraph (b), for “one or more local flood defence districts” there is substituted “one or more flood risk management regions”;
 - (b) in the words following paragraph (b)—
 - (i) for “more than one local flood defence district” there is substituted “more than one flood risk management region”;
 - (ii) for “districts” there is substituted “flood risk management regions”.
- 8 (1) Section 137 (special drainage charges in the interests of agriculture) is amended as follows.
- (2) In subsection (1) (power of Environment Agency and Natural Resources Body for Wales to devise scheme for drainage works in the interests of agriculture), for “the area of any regional flood defence committee” there is substituted “any flood risk management region”.
 - (3) In subsection (3) (scheme to designate land for special drainage charge), for “the area of the regional flood defence committee” there is substituted “the flood risk management region”.
- 9 (1) Section 138 (levying and amount of special drainage charge) is amended as follows.
- (2) In subsection (3) (regional flood defence committee to determine the uniform amount), for “the regional flood defence committee for the area” there is substituted “the Regional Flood and Coastal Committee for the flood risk management region within which is the area”.
 - (3) In subsection (5) (provision that may be made by a single order)—

- (a) in paragraph (b), for “such areas of regional flood defence committees” there is substituted “areas within such flood risk management regions”;
- (b) in the words following paragraph (c)—
- (i) for “more than one area of a regional flood defence committee” there is substituted “areas within more than one flood risk management region”;
 - (ii) for “different areas” there is substituted “different flood risk management regions”.
- 10 In section 143(1) (power of Environment Agency and Natural Resources Body for Wales to levy navigation tolls in certain navigable waters), in paragraph (b), for “the area of a regional flood defence committee” there is substituted “a flood risk management region”.
- 11 (1) Section 145 (interpretation of Chapter 2 of Part 6) is amended as follows.
- (2) In the definition of “chargeable land”, for “the area of a regional flood defence committee” there is substituted “a flood risk management region”.
- (3) At the appropriate place there is inserted—
- ““flood risk management region” means the region of a Regional Flood and Coastal Committee, within the meaning of section 22 of the Flood and Water Management Act 2010;”.
- 12 (1) Section 166 (power of Environment Agency and Natural Resources Body for Wales to carry out works for the purpose of providing a flood warning system) is amended as follows.
- (2) In subsection (3) (exercise of powers in Scotland)—
- (a) in paragraph (a), for “the areas of the regional flood defence committees whose areas are adjacent to Scotland” there is substituted “the flood risk management regions adjacent to Scotland”;
 - (b) in paragraph (b), for “the areas of each of those committees” there is substituted “those flood risk management regions”.
- (3) In subsection (4) (interpretation), at the appropriate place there is inserted—
- ““flood risk management region” means the region of a Regional Flood and Coastal Committee, within the meaning of section 22 of the Flood and Water Management Act 2010;”.
- 13 In section 221(1) (interpretation of terms in the Act), in the definition of “flood defence provisions”, in paragraph (b)—
- (a) after sub-paragraph (i) there is inserted “and”;
 - (b) sub-paragraph (iii) and the “and” following it are repealed.
- 14 In Schedule 15 (supplemental provisions with respect to drainage charges), in paragraph 3(1)(a), for “the local flood defence district” there is substituted “the flood risk management region”.
- 15 In Schedule 26 (procedure relating to bye-laws made by the Environment Agency), in paragraph 7 (meaning of “the relevant Minister”)—
- (a) in paragraph (a)(ii), for “the area of a regional flood defence committee the whole or the greater part of whose area is in England” there is substituted “a flood risk management region the whole or the greater part of which is in England”;

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(b) after paragraph (c) there is inserted—

“For the purposes of this paragraph “flood risk management region” means the region of a Regional Flood and Coastal Committee, within the meaning of section 22 of the Flood and Water Management Act 2010.”

Environment Act 1995 (c. 25)

16 In section 6 of the Environment Act 1995 (general provisions with respect to water), in subsection (5) (flood defence functions to extend to the territorial sea), in paragraph (a), for “the area of any regional flood defence committee” there is substituted “the region of any Regional Flood and Coastal Committee”.

Freedom of Information Act 2000 (c. 36)

17 In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (other public bodies and offices: general), for the entry for any regional flood defence committee there is substituted—

“Any Regional Flood and Coastal Committee.”

Public Services Ombudsman (Wales) Act 2005 (c. 10)

18 In Schedule 3 to the Public Services Ombudsman (Wales) Act 2005 (authorities entitled to refer matters to ombudsman), in the entry for a regional flood defence committee for an area wholly or partly in Wales, for “regional flood defence committee” there is substituted “Regional Flood and Coastal Committee”.

The National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672)

19 In Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999, in the entry relating to the Local Government Act 1974, in paragraph (c), for “a regional flood defence committee” there is substituted “a Regional Flood and Coastal Committee”.

SCHEDULE 11

Section 91(5)

ORDERS UNDER SECTION 91: FURTHER PROVISION

Introductory

- 1 (1) The provision that may be made by an order under section 91 (“a section 91 order”) includes such provision as is mentioned in this Schedule.
- (2) Nothing in this Schedule affects the generality of section 91.

Changes in water supply licensing

- 2 (1) A section 91 order may make provision in connection with the introduction of new water supply licences.
- (2) A section 91 order may in particular—

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- (a) make provision for old water supply licences to continue in effect, subject to provision made by a qualifying scheme;
 - (b) make provision about the granting of a new water supply licence on application made by the holder of an old water supply licence.
- (3) A qualifying scheme is a scheme that—
- (a) is made by the Water Services Regulation Authority, and
 - (b) contains such provision as is described in sub-paragraph (4).
- (4) The provision mentioned in sub-paragraph (3)(b) is—
- (a) provision for the revocation of all old water supply licences—
 - (i) on the first day on which it would be possible for a new water supply licence to come into effect, or
 - (ii) in accordance with arrangements in the scheme and before a day specified in or determined under the scheme,
 - (b) provision for compensation to be paid by the Water Services Regulation Authority in connection with the revocation under the scheme of an old water supply licence,
 - (c) provision, in a case where the scheme allows a holder’s old water supply licence and new water supply licence to have effect at the same time, for preventing the holder supplying water to premises in reliance on the old water supply licence where—
 - (i) the premises supplied are the premises of a person who was not a customer of the holder immediately before the grant of the new licence, and
 - (ii) the premises could be supplied with water in reliance on the new water supply licence,
 - (d) provision for compensation to be paid by the Water Services Regulation Authority in connection with the restriction imposed on an old water supply licence under paragraph (c),
 - (e) provision about the determination of—
 - (i) claims for compensation payable under the scheme, and
 - (ii) appeals from the determination of such claims, and
 - (f) provision satisfying such other requirements as may be specified in a section 91 order, including requirements about the persons who may claim compensation, the measure of compensation and matters by reference to which compensation may be reduced.
- (5) Requirements imposed under sub-paragraph (4)(f) may allow the scheme to make provision by virtue of which the compensation payable in a particular case may be nil.
- (6) A qualifying scheme may include provision about—
- (a) the making of claims for compensation;
 - (b) the matters to be proved by a claimant.
- (7) Sub-paragraphs (4) to (6) are not exhaustive of what may be included in a qualifying scheme.
- (8) A section 91 order may make provision for a relevant person specified in the order, or appointed by the Secretary of State, to determine—
- (a) claims for compensation payable under a qualifying scheme;

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- (b) appeals from the determinations of such claims.
- (9) In sub-paragraph (8) “relevant person” means—
 - (a) the Water Services Regulation Authority, except in relation to appeals from the determination of claims for compensation,
 - (b) the Competition and Markets Authority, or
 - (c) any other public authority (within the meaning of section 6 of the Human Rights Act 1998).
- (10) A section 91 order may provide for functions of the Competition and Markets Authority (“the CMA”) relating to compensation payable under a qualifying scheme to be carried out on behalf of the CMA by a group constituted for the purpose by the chair of the CMA under Schedule 4 to the Enterprise and Regulatory Reform Act 2013.

Modification of conditions of old water supply licences

- 3 (1) Where a section 91 order makes provision for old water supply licences to continue in effect, that provision may include provision for applying new sections 17I to 17R to old water supply licences, with such modifications as appear to the Secretary of State to be appropriate.
- (2) Provision under sub-paragraph (1) may include provision for treating a reference to a new water supply licence as including a reference to an old water supply licence.
- (3) Provision under sub-paragraph (1) may include provision for treating—
 - (a) a reference to a standard condition of a new water supply licence as including a reference to a standard condition of an old water supply licence, if the two conditions are in, or as nearly as may be in, the same terms;
 - (b) a reference to a standard condition of a new water supply licence giving the holder a new retail authorisation as including a reference to a standard condition of an old water supply licence giving the holder a retail authorisation, if the two conditions are in, or as nearly as may be in, the same terms;
 - (c) a reference to a standard condition of a new water supply licence giving the holder a new restricted retail authorisation as including a reference to a standard condition of an old water supply licence giving the holder a retail authorisation, if the two conditions are in, or as nearly as may be in, the same terms;
 - (d) a reference to a standard condition of a new water supply licence giving the holder a new wholesale authorisation as including a reference to a standard condition of an old water supply licence giving the holder a supplementary authorisation, if the two conditions are in, or as nearly as may be in, the same terms.
 - (e) a reference to a standard condition of a new water supply licence giving the holder a new supplementary authorisation as including a reference to a standard condition of an old water supply licence giving the holder a supplementary authorisation, if the two conditions are in, or as nearly as may be in, the same terms.

Changes in water supply licensing: Wales

- 4 (1) A section 91 order may make provision in connection with the extension of new retail authorisations and new wholesale authorisations to the use of supply systems of water undertakers whose areas are wholly or mainly in Wales, where that extension takes place after the introduction of new water supply licences.
- (2) A section 91 order may in particular include provision for or in relation to the payment by the Water Services Regulation Authority of compensation to any person holding a new water supply licence who—
- (a) following the coming into force of any provision of this Act, is unable to carry on activities that had previously been authorised by a new restricted retail authorisation, or a new restricted retail authorisation and a new supplementary authorisation, given by the licence as a result of—
 - (i) a new retail authorisation or a new wholesale authorisation or both having been required in respect of them, and
 - (ii) the person's licence not having been varied to add a new retail authorisation or a new wholesale authorisation or both, because the person did not apply to vary the licence, or did not apply to add the appropriate authorisation or authorisations, or because the person's application to vary the licence was refused or granted only as to one authorisation, and
 - (b) has suffered loss or damage as a result of not having a licence that enables the person to carry on all those activities.

Introduction of sewerage licensing

- 5 (1) A section 91 order may make provision in connection with the introduction of sewerage licences.
- (2) A section 91 order may in particular include provision for or in relation to the payment by the Water Services Regulation Authority of compensation to any person who—
- (a) before 31 March 2014 was carrying on any activities in relation to the sewerage system of a sewerage undertaker,
 - (b) following the coming into force of any provision of this Act—
 - (i) is unable to continue to carry on those activities as a result of their having been prohibited,
 - (ii) is unable to continue to carry on those activities as a result of a sewerage licence having been required in respect of them, and the person's not having applied for, or the person's having been refused, a sewerage licence, or
 - (iii) is unable to continue to carry on those activities in the same manner as a result of the person's having been granted a sewerage licence the effect of which is to restrict the carrying on of the activities, and
 - (c) has suffered loss or damage as a result of—
 - (i) those activities having been prohibited,
 - (ii) a sewerage licence not having been granted, or
 - (iii) those activities having been restricted.

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New retail authorisations and the threshold requirement

- 6 (1) A section 91 order may make provision for the threshold requirement (see section 17D of the Water Industry Act 1991) to have effect for a relevant period in relation to the supply of water to any premises, where the supply to those premises is made in connection with the introduction of water into the supply system of a water undertaker under a new wholesale authorisation.
- (2) Provision under sub-paragraph (1) may in particular include such modifications of Schedule 2A to the Water Industry Act 1991 (forms of authorisations given by water supply licences) as appear to the Secretary of State to be appropriate.

Modifications relating to new wholesale authorisations

- 7 (1) Where a section 91 order makes provision as regards new wholesale authorisations, that provision may include provision for provisions of the Water Industry Act 1991 to have effect for a relevant period with such modifications as appear to the Secretary of State to be appropriate.
- (2) Provision under sub-paragraph (1) may include provision for applying old provisions of the Water Industry Act 1991 with such modifications as appear to the Secretary of State to be appropriate.
- (3) Provision under sub-paragraph (2) may in particular provide for the application of provision in old section 66D(2) to (8) for the purpose of determining—
- (a) the period for which, and
 - (b) the terms and conditions on which,
- a water undertaker's duties under new section 66B or 66C are to be performed.
- (4) Provision under sub-paragraph (2) may in particular provide for the application of provision in old section 66E for the purpose of determining charges payable in respect of the performance of a water undertaker's duties under new section 66B or 66C.
- (5) Provision under sub-paragraph (1) may in particular make provision about the interpretation of references to a water undertaker's supply system, including in particular provision for such references to be treated as references to the supply system of a water undertaker as it is described in old section 17B.
- (6) Provision under sub-paragraph (1) may provide for modifications to have effect for different relevant periods.
- (7) Provision under sub-paragraph (1) may make provision—
- (a) in relation to new wholesale authorisations that authorise the introduction of water into the supply system of a water undertaker whose area is wholly or mainly in England,
 - (b) in relation to new wholesale authorisations that authorise the introduction of water into the supply system of a water undertaker whose area is wholly or mainly in Wales, or
 - (c) in relation to new wholesale authorisations that authorise the introduction of water into the supply system of any water undertaker.
- (8) Before making provision falling within sub-paragraph (7)(b) or (c), the Secretary of State must consult the Welsh Ministers.

Modifications relating to new supplementary authorisations

- 8 (1) Where a section 91 order makes provision as regards new supplementary authorisations, that provision may include provision for provisions of the Water Industry Act 1991 to have effect for a relevant period with such modifications as appear to the Secretary of State to be appropriate.
- (2) Provision under sub-paragraph (1) may include provision for applying old provisions of the Water Industry Act 1991 with such modifications as appear to the Secretary of State to be appropriate.
- (3) Provision under sub-paragraph (2) may in particular provide for the application of provision in old section 66D(2) to (8) for the purpose of determining—
- (a) the period for which, and
 - (b) the terms and conditions on which,
- a water undertaker's duties under new section 66B or 66C are to be performed.
- (4) Provision under sub-paragraph (2) may in particular provide for the application of provision in old section 66E for the purpose of determining charges payable in respect of the performance of a water undertaker's duties under new section 66B or 66C.
- (5) Provision under sub-paragraph (1) may provide for modifications to have effect for different relevant periods.
- (6) Before making provision under this paragraph, the Secretary of State must consult the Welsh Ministers.

Old section 66D agreements and new water supply licences

- 9 (1) A section 91 order may include provision for securing that an old section 66D agreement continues to have effect in a case where the person who entered into the agreement as the holder of an old water supply licence is granted a new water supply licence.
- (2) Provision under sub-paragraph (1) may provide for the modification of the agreement and may in particular include—
- (a) provision for treating a reference in the agreement to the old water supply licence as a reference to the new water supply licence;
 - (b) provision for treating a reference in the agreement to an authorisation given under the old licence as a reference to an authorisation or authorisations given under the new licence;
 - (c) provision for the Water Services Regulation Authority to vary the agreement by order, on application by a party to the agreement.
- (3) Before making provision under this paragraph in relation to old section 66D agreements to which a water undertaker whose area is wholly or mainly in Wales is party, the Secretary of State must consult the Welsh Ministers.

New section 66E and old section 66D agreements

- 10 (1) A section 91 order may provide for new section 66E (rules about charges that may be imposed under a section 66D agreement) to have effect as regards—
- (a) charges payable under old section 66D agreements, or

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- (b) specified descriptions of charges payable under old section 66D agreements.
- (2) Provision under sub-paragraph (1) may include provision for making such modifications of—
 - (a) new sections 66E to 66ED, and
 - (b) old sections 66A to 66D and 66F,
 as appear to the Secretary of State to be appropriate.
- (3) Provision under sub-paragraph (1) may provide for the modification of old section 66D agreements and may in particular include provision for the Water Services Regulation Authority to vary the agreement by order, on application by a party to the agreement.
- (4) Before making provision under this paragraph in relation to the supply of water using the supply system of a water undertaker whose area is wholly or mainly in Wales, the Secretary of State must consult the Welsh Ministers.

Interpretation

- 11 (1) In this Schedule—
- “new restricted retail authorisation” means a restricted retail authorisation given by a new water supply licence;
 - “new retail authorisation” means a retail authorisation given by a new water supply licence;
 - “new supplementary authorisation” means a supplementary authorisation given by a new water supply licence;
 - “new water supply licence” means a water supply licence granted under new section 17A;
 - “new wholesale authorisation” means a wholesale authorisation given by a new water supply licence;
 - “old section 66D agreement” means such agreement or determination as is mentioned in old section 66D(3);
 - “old water supply licence” means a water supply licence granted under old section 17A;
 - “sewerage licence” means a sewerage licence granted under section 17BA of the Water Industry Act 1991.
- (2) In this Schedule “relevant period” means—
- (a) a period specified in or determined in accordance with a section 91 order, or
 - (b) a period that—
 - (i) begins at a time specified in or determined in accordance with a section 91 order, and
 - (ii) ends at such time as the Secretary of State may specify by order.
- (3) Before making provision under sub-paragraph (2)(a) or (b)(i) or making an order under sub-paragraph (2)(b)(ii) that affects provision to which paragraph 7(8), 8(6) or 10(4) applies, the Secretary of State must consult the Welsh Ministers.
- (4) In this Schedule a reference to an old provision is a reference to a provision of the Water Industry Act 1991 as it has effect before the coming into force of an amendment or repeal of that provision made by this Act.

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- (5) In this Schedule a reference to a new provision is a reference to—
- (a) a provision of the Water Industry Act 1991 after an amendment of that provision made by this Act has come into force, or
 - (b) a provision of the Water Industry Act 1991 inserted by this Act.

SCHEDULE 12

Section 94(5)

COMMENCEMENT ORDERS: APPROPRIATE AUTHORITY

- 1 In relation to the sections and Schedules listed in the first column of this table, the appropriate authority for the purposes of section 94(3) is as listed in the second column (see paragraph 3 as regards interpretation of terms used in the table)—

<i>Section or Schedule</i>	<i>Appropriate authority</i>
Section 5 and Schedule 5	The Welsh Ministers (but see paragraph 2).
Section 7	The Scottish Ministers.
Section 8	The Minister, as defined in subsection (7) of section 40I of the Water Industry Act 1991 (as inserted by section 8).
Section 9	The Minister, as defined in subsection (7) of section 110J of the Water Industry Act 1991 (as inserted by section 9).
Sections 10 to 12	The Secretary of State, in relation to wholly or mainly English undertakers. The Welsh Ministers, in relation to wholly or mainly Welsh undertakers.
Sections 16 to 20	The Secretary of State, in relation to wholly or mainly English undertakers. The Welsh Ministers, in relation to wholly or mainly Welsh undertakers.
Section 22	The Welsh Ministers, in relation to wholly or mainly Welsh undertakers (see section 94(2)(e) as regards commencement in relation to wholly or mainly English undertakers).
Section 23	The Secretary of State, in relation to wholly or mainly English undertakers. The Welsh Ministers, in relation to wholly or mainly Welsh undertakers.
Section 24	The Secretary of State, in relation to—

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<i>Section or Schedule</i>	<i>Appropriate authority</i>
	<p>(a) the insertion of section 2A of the Water Industry Act 1991 by subsection (1) of section 24, and</p> <p>(b) the amendments made by subsections (2) and (3) of section 24 so far as relating to section 2A.</p>
	<p>The Welsh Ministers, in relation to—</p> <p>(a) the insertion of section 2B of the Water Industry Act 1991 by subsection (1) of section 24, and</p> <p>(b) the amendments made by subsections (2) and (3) of section 24 so far as relating to section 2B.</p>
Section 29	<p>The Secretary of State, in relation to supplies of water made in accordance with a retail authorisation.</p>
	<p>The Welsh Ministers, in relation to supplies of water made in accordance with a restricted retail authorisation.</p>
Section 38	<p>The Secretary of State, in relation to wholly or mainly English undertakers.</p>
	<p>The Welsh Ministers, in relation to wholly or mainly Welsh undertakers.</p>
Section 39	<p>The Secretary of State, in relation to the power to make an order under section 207D of the Water Industry Act 1991 (as inserted by section 39) in respect of adjudication functions exercisable as regards—</p> <p>(a) wholly or mainly English undertakers, or</p> <p>(b) wholly or mainly English licensees.</p>
	<p>The Welsh Ministers, in relation to the power to make an order under section 207D of the Water Industry Act 1991 (as inserted by section 39) in respect of adjudication functions exercisable as regards—</p> <p>(a) wholly or mainly Welsh undertakers, or</p> <p>(b) wholly or mainly Welsh licensees.</p>
Section 40(1)	<p>The Secretary of State, in relation to the power of the Secretary of State to make an order under section 86ZA of the</p>

<i>Section or Schedule</i>	<i>Appropriate authority</i>
	Water Industry Act 1991 (as inserted by section 40).
	The Welsh Ministers, in relation to the power of the Welsh Ministers to make an order under section 86ZA of the Water Industry Act 1991 (as inserted by section 40).
Section 40(2)(a)	The Welsh Ministers.
Section 41	The Welsh Ministers.
Section 54	The Secretary of State— <ul style="list-style-type: none"> (a) in relation to wholly or mainly English undertakers, (b) in relation to water supply licensees so far as their licences relate to the use of the supply systems of wholly or mainly English water undertakers, or (c) in relation to sewerage licensees so far as their licences relate to the use of the sewerage systems of wholly or mainly English sewerage undertakers. The Welsh Ministers— <ul style="list-style-type: none"> (a) in relation to wholly or mainly Welsh undertakers, (b) in relation to water supply licensees so far as their licences relate to the use of the supply systems of wholly or mainly Welsh water undertakers, or (c) in relation to sewerage licensees so far as their licences relate to the use of the sewerage systems of wholly or mainly Welsh sewerage undertakers.
Section 59	The Secretary of State, in relation to the main river map for England. The Welsh Ministers, in relation to the main river map for Wales.
2	A statutory instrument containing an order to be made by the Welsh Ministers under section 94(3) in relation to section 5 and Schedule 5 may not be made unless a draft has been laid before and approved by a resolution of the National Assembly for Wales.
3	In the table in paragraph 1— <ul style="list-style-type: none"> (a) “wholly or mainly English water undertakers” means water undertakers whose areas are wholly or mainly in England;

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- (b) “wholly or mainly English sewerage undertakers” means sewerage undertakers whose areas are wholly or mainly in England;
- (c) “wholly or mainly English undertakers” means undertakers falling within paragraph (a) or (b);
- (d) “wholly or mainly English water supply licensees” means water supply licensees using the supply systems of water undertakers whose areas are wholly or mainly in England;
- (e) “wholly or mainly English sewerage licensees” means sewerage licensees using the sewerage systems of sewerage undertakers whose areas are wholly or mainly in England;
- (f) “wholly or mainly English licensees” means licensees falling within paragraph (d) or (e);
- (g) “wholly or mainly Welsh water undertakers” means water undertakers whose areas are wholly or mainly in Wales;
- (h) “wholly or mainly Welsh sewerage undertakers” means sewerage undertakers whose areas are wholly or mainly in Wales;
- (i) “wholly or mainly Welsh undertakers” means undertakers falling within paragraph (g) or (h);
- (j) “wholly or mainly Welsh water supply licensees” means water supply licensees using the supply systems of water undertakers whose areas are wholly or mainly in Wales;
- (k) “wholly or mainly Welsh sewerage licensees” means sewerage licensees using the sewerage systems of sewerage undertakers whose areas are wholly or mainly in Wales;
- (l) “wholly or mainly Welsh licensees” means licensees falling within paragraph (j) or (k).

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In this Schedule—

- (a) references to water undertakers’ supply systems are to be construed in accordance with section 17B of the Water Industry Act 1991;
- (b) references to sewerage undertakers’ sewerage systems are to be construed in accordance with section 17BA(7) of the Water Industry Act 1991.