

# **WATER ACT 2014**

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## **EXPLANATORY NOTES**

### **SUMMARY AND BACKGROUND**

#### **Part 1: Water industry**

#### ***Chapter 2: Water and sewerage undertakers (sections 8 to 21)***

8. This Chapter focuses on arrangements between undertakers and the duties of Ofwat and the Competition and Markets Authority (CMA). It sets out new powers for the Secretary of State and the Welsh Ministers to issue guidance and for Ofwat to issue charging rules with respect to undertakers' charges schemes, connection charges, and charges for bulk supplies of water (and connections for sewerage) between undertakers. This Chapter also makes constructing and operating sustainable drainage systems a specific function of sewerage undertakers.
9. The Government wants to increase the interconnectivity between undertakers so that water resources can be used more flexibly and efficiently. Therefore the Act amends the WIA to introduce codes and charging rules from Ofwat that are intended to increase transparency and streamline negotiations between undertakers, including those involving new appointees, for bulk supplies of water. These provisions are mirrored in main connections for undertakers' sewerage systems.
10. The current special merger regime within the WIA acts as a disincentive to mergers between undertakers and creates uncertainty when a merger is proposed or has taken place. Therefore the Act amends the WIA to allow the CMA to determine whether or not to make a merger reference, or to accept undertakings to compensate for the loss of a comparator in lieu of a reference. The Act also amends the WIA to include a new duty on the CMA to keep the merger turnover threshold under review (currently set at an annual turnover of £10 million where the acquiring undertaker, the target undertaker or both undertakers together meet or exceed this threshold).
11. The WIA requires water and sewerage undertakers to agree charging schemes with Ofwat prior to charging their customers. This is generally seen to be an overly burdensome and regulatory approach requiring significant concentration of resources each year. Therefore the Act repeals this duty and replaces it with a power for Ofwat to produce charging rules with which the companies must comply in setting their charges schemes and a power for Ministers to issue charging guidance to Ofwat which will shape their charging rules. Alongside this, the Act also allows for the creation of a new charging scheme for developers and other customers connecting to water and sewerage infrastructure.
12. The Act also amends the WIA to confirm undertakers have the power to construct, maintain and operate drainage systems.