



# Environment Act 2021

## 2021 CHAPTER 30

### PART 5

#### WATER

##### *Plans and proposals*

#### **78 Water resources management plans, drought plans and joint proposals**

- (1) Chapter 1 of Part 3 of the Water Industry Act 1991 (general duties of water undertakers) is amended as follows.
- (2) In section 37A (water resources management plans)—
  - (a) in the heading omit “: preparation and review”;
  - (b) in subsection (3)(b) omit from “(also” to the end;
  - (c) in subsection (4)—
    - (i) at the beginning insert “Section 39F contains provision about”;
    - (ii) omit “is set out in section 37B below”;
  - (d) in subsection (6) omit the words after paragraph (c);
  - (e) omit subsection (8);
  - (f) omit subsection (10).
- (3) Omit sections 37B and 37C (water resources management plans: publication and provision of information).
- (4) In section 37D (water resources management plans: supplementary)—
  - (a) in subsection (1), in the words before paragraph (a), for “, 37AA or 37B” substitute “or 37AA”;
  - (b) in subsection (3)—
    - (i) in paragraph (a) for “to 37C” substitute “and 37AA”;
    - (ii) omit paragraph (b) (and the “and” before it).
- (5) In section 39B (drought plans)—

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- (a) in the heading omit “: preparation and review”;
  - (b) in subsection (4)(b) omit from “(also” to the end;
  - (c) for subsection (5) substitute—
    - “(5) Section 39F makes provision about the procedure for preparing and publishing a drought plan (or revised plan).”;
  - (d) in subsection (6)—
    - (i) in paragraph (c) omit from “in accordance” to the end;
    - (ii) omit the words after paragraph (c);
  - (e) omit subsection (7);
  - (f) in subsection (9), in the words before paragraph (a), omit from “(including” to “above”.
- (6) Omit section 39C (drought plans: provision of information).
- (7) After section 39D insert—

**“39E Joint proposals**

- (1) The Minister may give a direction to two or more water undertakers to prepare and publish a joint proposal.
- (2) A joint proposal is a proposal that identifies measures that may be taken jointly by the undertakers for the purpose of improving the management and development of water resources.
- (3) A joint proposal must not contain measures that (if taken) would result in any water undertaker being unable to meet its obligations under this Part.
- (4) A direction under this section may, in particular, require that—
  - (a) a joint proposal takes a specified form;
  - (b) a joint proposal addresses a specified matter;
  - (c) a joint proposal be prepared—
    - (i) in relation to a specified area;
    - (ii) by reference to specified criteria;
    - (iii) on the basis of a specified assumption.
- (5) Directions under this section are to be given by an instrument in writing.
- (6) Each water undertaker to whom a direction applies must comply with the direction.
- (7) The duties of a water undertaker under this section are enforceable by the Minister under section 18.
- (8) In this section “the Minister” means—
  - (a) the Secretary of State, in relation to water undertakers whose areas are wholly or mainly in England, and
  - (b) the Welsh Ministers, in relation to water undertakers whose areas are wholly or mainly in Wales.
- (9) In this section “specified” means specified in a direction under this section.

### **39F Plans and joint proposals: regulations about procedure**

- (1) The Minister may by regulations make provision about the procedure for preparing and publishing—
  - (a) a water resources management plan,
  - (b) a drought plan, and
  - (c) a joint proposal,including any revised plans or proposals.
- (2) The regulations may provide for the sharing of information and, in particular, may require a water supply licensee to share such information with a water undertaker as may be reasonably requested.
- (3) The regulations may make provision about consultation to be carried out by water undertakers, including provision about—
  - (a) the persons to be consulted,
  - (b) the frequency and timing of any consultation, and
  - (c) the publication of statements relating to any consultation.
- (4) The regulations may make provision about the preparation and circulation of drafts, including provision for the Minister to require changes to a draft plan or proposal.
- (5) The regulations may make provision for the purposes of ensuring that persons likely to be affected by the plan or proposal have a reasonable opportunity to make representations to the Minister.
- (6) The regulations may make provision about how representations (and any comments on them by a water undertaker) are to be dealt with, and in respect of a plan mentioned in subsection (1)(a) or (b), the regulations may provide for—
  - (a) the Minister to cause an inquiry or other hearing to be held in connection with the plan, and
  - (b) section 250(2) to (5) of the Local Government Act 1972 (local inquiries: evidence and costs) to apply to such an inquiry or hearing (with or without modifications).
- (7) The regulations may make provision about commercially confidential information and its publication.
- (8) In this section “the Minister” means—
  - (a) the Secretary of State, in relation to water undertakers whose areas are wholly or mainly in England, and
  - (b) the Welsh Ministers, in relation to water undertakers whose areas are wholly or mainly in Wales.

### **39G Regulations under section 39F: directions**

- (1) Regulations made under section 39F may confer on the Minister power to make provision by directions.
- (2) Those directions are to be given by an instrument in writing.

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- (3) They may be—
  - (a) general directions applying to all water undertakers, or
  - (b) directions applying only to one or more water undertakers specified in the directions.
- (4) Each water undertaker to whom a direction applies must comply with the direction.
- (5) The duties of a water undertaker under this section are enforceable by the Minister under section 18.
- (6) In this section “the Minister” has the same meaning as in section 39F.

### **39H Regulations under section 39F: supplementary**

- (1) Regulations under section 39F are to be made by statutory instrument.
- (2) A statutory instrument containing regulations under section 39F 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) Senedd Cymru, in the case of regulations made by the Welsh Ministers.
- (3) Subsection (4) applies in relation to a statutory instrument containing both—
  - (a) regulations made by the Secretary of State under section 39F, and
  - (b) regulations made by the Welsh Ministers under section 39F.
- (4) If in accordance with subsection (2)(a) or (b) (negative resolution procedure) —
  - (a) either House of Parliament resolves that an address be presented to Her Majesty praying that an instrument containing regulations made by the Secretary of State be annulled, or
  - (b) Senedd Cymru resolves that an instrument containing regulations made by the Welsh Ministers be annulled,
 the instrument is to have no further effect and Her Majesty may by Order in Council revoke the instrument.
- (5) Section 213(2) to (2B) applies to regulations made by the Welsh Ministers under section 39F as it applies to regulations made by the Secretary of State.”

## **79 Drainage and sewerage management plans**

In the Water Industry Act 1991, after section 94 insert—

### **“94A Drainage and sewerage management plans: preparation and review**

- (1) Each sewerage undertaker must prepare, publish and maintain a drainage and sewerage management plan.
- (2) A drainage and sewerage management plan is a plan for how the sewerage undertaker will manage and develop its drainage system and sewerage system so as to be able, and continue to be able, to meet its obligations under this Part.

- (3) A drainage and sewerage management plan must address in particular—
- (a) the capacity of the undertaker’s drainage system and sewerage system,
  - (b) an assessment of the current and future demands on the undertaker’s drainage system and sewerage system,
  - (c) the resilience of the undertaker’s drainage system and sewerage system,
  - (d) the measures the undertaker intends to take or continue for the purpose in subsection (2),
  - (e) the likely sequence and timing for implementing those measures,
  - (f) relevant environmental risks and how those risks are to be mitigated, and
  - (g) any other matters specified by the Minister in directions.
- (4) Section 94C contains provision about the preparation and publication of a drainage and sewerage management plan (including a revised plan).
- (5) Before each anniversary of the date when its plan (or revised plan) was last published, the sewerage undertaker must—
- (a) review its plan, and
  - (b) send a statement of the conclusions of its review to the Minister.
- (6) The sewerage undertaker must prepare and publish a revised plan in each of the following cases—
- (a) following conclusion of its annual review, if the review indicated a material change of circumstances;
  - (b) if directed to do so by the Minister;
  - (c) in any event, not later than the end of the period of 5 years beginning with the date when the plan (or the revised plan) was last published.
- (7) The Minister may give directions specifying—
- (a) the form which a drainage and sewerage management plan must take;
  - (b) the planning period to which a drainage and sewerage management plan must relate.
- (8) The duties of a sewerage undertaker under this section are enforceable by the Minister under section 18.
- (9) In this section references—
- (a) to a drainage system of a sewerage undertaker, are to any drainage system (within the meaning of section 114A) maintained or operated by the sewerage undertaker which is not part of its sewerage system;
  - (b) to the sewerage system of a sewerage undertaker, have the same meaning as in Chapter 1A of Part 2 (see section 17BA(7)).
- (10) In this section “the Minister” means—
- (a) the Secretary of State, in relation to sewerage undertakers whose areas are wholly or mainly in England, and
  - (b) the Welsh Ministers, in relation to sewerage undertakers whose areas are wholly or mainly in Wales.

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#### **94B Drainage and sewerage management plans: power to amend period**

- (1) The Minister may by order made by statutory instrument amend the period for the time being specified in section 94A(6)(c).
- (2) In subsection (1) “the Minister” means—
  - (a) the Secretary of State, in relation to sewerage undertakers whose areas are wholly or mainly in England, and
  - (b) the Welsh Ministers, in relation to sewerage undertakers whose areas are wholly or mainly in Wales.
- (3) A statutory instrument containing an order under subsection (1) is subject to annulment in pursuance of a resolution of—
  - (a) either House of Parliament, in the case of an order made by the Secretary of State;
  - (b) Senedd Cymru, in the case of an order made by the Welsh Ministers.
- (4) Subsection (5) applies in relation to a statutory instrument containing both—
  - (a) an order made by the Secretary of State under subsection (1), and
  - (b) an order made by the Welsh Ministers under subsection (1).
- (5) If in accordance with subsection (3)(a) or (b) (negative resolution procedure)—
  - (a) either House of Parliament resolves that an address be presented to Her Majesty praying that an instrument containing regulations made by the Secretary of State be annulled, or
  - (b) Senedd Cymru resolves that an instrument containing regulations made by the Welsh Ministers be annulled,the instrument is to have no further effect and Her Majesty may by Order in Council revoke the instrument.

#### **94C Drainage and sewerage management plans: regulations about procedure**

- (1) The Minister may by regulations make provision about the procedure for preparing and publishing a drainage and sewerage management plan (including a revised plan).
- (2) The regulations may provide for the sharing of information and, in particular, may require a sewerage licensee to share such information with a sewerage undertaker as may be reasonably requested.
- (3) The regulations may make provision about consultation to be carried out by sewerage undertakers, including provision about—
  - (a) the persons to be consulted,
  - (b) the frequency and timing of any consultation, and
  - (c) the publication of statements relating to any consultation.
- (4) The regulations may make provision about the preparation and circulation of draft plans, including provision for the Minister to require changes to a draft plan.

- (5) The regulations may make provision for the purposes of ensuring that persons likely to be affected by the plan have a reasonable opportunity to make representations to the Minister.
- (6) The regulations may make provision about how representations (and any comments on them by the sewerage undertaker) are to be dealt with, including provision for—
  - (a) the Minister to cause an inquiry or other hearing to be held in connection with the plan, and
  - (b) section 250(2) to (5) of the Local Government Act 1972 (local inquiries: evidence and costs) to apply to such an inquiry or hearing (with or without modifications).
- (7) The regulations may make provision about commercially confidential information and its publication.
- (8) The regulations may confer on the Minister power to make provision by directions.
- (9) In this section “the Minister” means—
  - (a) the Secretary of State, in relation to sewerage undertakers whose areas are wholly or mainly in England, and
  - (b) the Welsh Ministers, in relation to sewerage undertakers whose areas are wholly or mainly in Wales.

#### **94D Regulations under section 94C: supplementary**

- (1) Regulations under section 94C are to be made by statutory instrument.
- (2) A statutory instrument containing regulations under section 94C 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, and
  - (b) Senedd Cymru, in the case of regulations made by the Welsh Ministers.
- (3) Subsection (4) applies in relation to a statutory instrument containing both—
  - (a) regulations made by the Secretary of State under section 94C, and
  - (b) regulations made by the Welsh Ministers under section 94C.
- (4) If in accordance with subsection (2)(a) or (b) (negative resolution procedure)—
  - (a) either House of Parliament resolves that an address be presented to Her Majesty praying that an instrument containing regulations made by the Secretary of State be annulled, or
  - (b) Senedd Cymru resolves that an instrument containing regulations made by the Welsh Ministers be annulled,the instrument is to have no further effect and Her Majesty may by Order in Council revoke the instrument.
- (5) Section 213(2) to (2B) applies to regulations made by the Welsh Ministers under section 94C as it applies to regulations made by the Secretary of State.

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### **94E Drainage and sewerage management plans: directions**

- (1) In this section “directions” means directions given under—
  - (a) section 94A, or
  - (b) regulations under section 94C.
- (2) Directions are to be given by an instrument in writing.
- (3) Directions may be—
  - (a) general directions applying to all sewerage undertakers, or
  - (b) directions applying only to one or more sewerage undertakers specified in the directions.
- (4) Each sewerage undertaker to whom a direction applies must comply with the direction.
- (5) The duties of a sewerage undertaker under this section are enforceable under section 18 by—
  - (a) the Secretary of State, in the case of directions given by the Secretary of State, and
  - (b) the Welsh Ministers, in the case of directions given by the Welsh Ministers.”

### *Storm overflows*

## **80 Storm overflows**

- (1) In Part 4 of the Water Industry Act 1991 (sewerage services), after Chapter 3 insert—

### **“CHAPTER 4**

#### STORM OVERFLOWS

### **141A Storm overflow discharge reduction plan**

- (1) The Secretary of State must prepare a plan for the purposes of—
  - (a) reducing discharges from the storm overflows of sewerage undertakers whose area is wholly or mainly in England, and
  - (b) reducing the adverse impacts of those discharges.
- (2) The reference in subsection (1)(a) to reducing discharges of sewage includes—
  - (a) reducing the frequency and duration of the discharges, and
  - (b) reducing the volume of the discharges.
- (3) The reference in subsection (1)(b) to reducing adverse impacts includes—
  - (a) reducing adverse impacts on the environment, and
  - (b) reducing adverse impacts on public health.
- (4) The plan may in particular include proposals for—



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- (a) reducing the need for anything to be discharged by the storm overflows;
  - (b) treating sewage that is discharged by the storm overflows;
  - (c) monitoring the quality of watercourses, bodies of water or water in underground strata into which the storm overflows discharge;
  - (d) obtaining information about the operation of the storm overflows.
- (5) When preparing the plan the Secretary of State must consult—
- (a) the Environment Agency,
  - (b) the Authority,
  - (c) the Council,
  - (d) Natural England,
  - (e) sewerage undertakers whose area is wholly or mainly in England, or persons representing them, and
  - (f) such other persons as the Secretary of State considers appropriate.
- (6) The Secretary of State must publish the plan before 1 September 2022.
- (7) The Secretary of State may at any time revise the plan, having consulted the persons referred to in subsection (5), and must publish any revised version.
- (8) The plan, and any revised version of it, must be laid before Parliament once it is published.

#### **141B Progress reports on storm overflow discharge reduction plan**

- (1) The Secretary of State must publish reports (“progress reports”) relating to the plan under section 141A.
- (2) A progress report is to contain the Secretary of State’s assessment of—
- (a) the progress made, during the period to which the report relates, in implementing the proposals in the plan (or any revised version of it), and
  - (b) the effect of that progress on the matters referred to in section 141A(1) (a) and (b).
- (3) The first progress report must relate to the period of three years beginning with the day on which the plan under section 141A is first published.
- (4) Subsequent progress reports must relate to successive periods of five years after the period referred to in subsection (3).
- (5) A progress report must be published within 12 weeks following the last day of the period to which it relates.
- (6) A progress report must be laid before Parliament once it is published.

#### **141C Annual reports on discharges from storm overflows**

- (1) A sewerage undertaker whose area is wholly or mainly in England must publish annual reports in relation to the undertaker’s storm overflows (“storm overflow reports”).

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- (2) A storm overflow report must specify, for each of the sewerage undertaker's storm overflows—
  - (a) the location of the storm overflow;
  - (b) the watercourse, body of water or underground strata into which the storm overflow discharges;
  - (c) the frequency and duration of discharges from the storm overflow in the period to which the report relates;
  - (d) where the information is available, the volume of each discharge in that period;
  - (e) information on any investigations that have taken place or improvement works that have been undertaken in relation to the storm overflow during that period.
- (3) Storm overflow reports are to relate to successive calendar years, starting with 2021.
- (4) A storm overflow report must be published by a sewerage undertaker before 1 April in the year after the calendar year to which it relates.
- (5) A storm overflow report must—
  - (a) be in a form which allows the public readily to understand the information contained in the report, and
  - (b) be published in a way which makes the report readily accessible to the public.
- (6) The duties of a sewerage undertaker under this section are enforceable under section 18 by—
  - (a) the Secretary of State, or
  - (b) the Authority, with the consent of or in accordance with a general authorisation given by the Secretary of State.

#### **141D Environment Agency reports**

- (1) The Environment Agency must publish annual reports in relation to the operation of storm overflows of sewerage undertakers whose area is wholly or mainly in England.
- (2) A report under this section must specify—
  - (a) the location of the storm overflows;
  - (b) the watercourse, body of water or underground strata into which the storm overflows discharge;
  - (c) the frequency and duration of discharges from the storm overflows in the period to which the report relates;
  - (d) where the information is available, the volume of each discharge in that period.
- (3) Reports under this section are to relate to successive calendar years, starting with 2021.
- (4) A storm overflow report must be published by the Environment Agency —
  - (a) before 1 April in the year after the calendar year to which it relates, and

- (b) in such manner as the Environment Agency thinks fit.

#### **141E Interpretation of Chapter 4**

- (1) In this Chapter, references to a storm overflow of a sewerage undertaker are to any structure or apparatus—
  - (a) which is comprised in the sewerage system of the sewerage undertaker, and
  - (b) which, when the capacity of other parts of the system downstream or of storage tanks at sewage disposal works is exceeded, relieves them by discharging their excess contents into inland waters, underground strata or the sea.
- (2) References in this Chapter to discharges from a storm overflow do not include discharges occurring as a result of—
  - (a) electrical power failure at sewage disposal works,
  - (b) mechanical breakdown at sewage disposal works,
  - (c) rising main failure, or
  - (d) blockage of any part of the sewerage system downstream of the storm overflow.
- (3) Section 17BA(7) (meaning of sewerage system of a sewerage undertaker) applies for the purposes of subsection (1).”

#### **81 Reporting on discharges from storm overflows**

In Chapter 4 of Part 4 of the Water Industry Act 1991 (as inserted by section 80 above), after section 141D insert—

##### **“141DA Reporting on discharges from storm overflows**

- (1) Where there is a discharge from a storm overflow of a sewerage undertaker whose area is wholly or mainly in England, the undertaker must publish the following information—
  - (a) that there has been a discharge from the storm overflow;
  - (b) the location of the storm overflow;
  - (c) when the discharge began;
  - (d) when the discharge ended.
- (2) The information referred to in subsection (1)(a) to (c) must be published within an hour of the discharge beginning; and that referred to in subsection (1)(d) within an hour of it ending.
- (3) The information must—
  - (a) be in a form which allows the public readily to understand it, and
  - (b) be published in a way which makes it readily accessible to the public.
- (4) The duty of a sewerage undertaker under this section is enforceable under section 18 by—
  - (a) the Secretary of State, or

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- (b) the Authority, with the consent of or in accordance with a general authorisation given by the Secretary of State.
- (5) The Secretary of State may by regulations make provision for exceptions from the duty in subsection (1) or (2) (for example, by reference to descriptions of storm overflows, frequency of discharge or the level of risk to water quality).
- (6) Before making regulations under this section the Secretary of State must consult such persons as the Secretary of State considers appropriate.
- (7) The Secretary of State may not make regulations under this section unless a draft of the statutory instrument containing the regulations has been laid before, and approved by resolution of, each House of Parliament.”

## 82 Monitoring quality of water potentially affected by discharges

- (1) In Chapter 4 of Part 4 of the Water Industry Act 1991, after section 141DA insert—

**“141DB Monitoring quality of water potentially affected by discharges from storm overflows and sewage disposal works**

- (1) A sewerage undertaker whose area is wholly or mainly in England must continuously monitor the quality of water upstream and downstream of an asset within subsection (2) for the purpose of obtaining the information referred to in subsection (3).
- (2) The assets referred to in subsection (1) are—
  - (a) a storm overflow of the sewerage undertaker, and
  - (b) sewage disposal works comprised in the sewerage system of the sewerage undertaker,
 where the storm overflow or works discharge into a watercourse.
- (3) The information referred to in subsection (1) is information as to the quality of the water by reference to—
  - (a) levels of dissolved oxygen,
  - (b) temperature and pH values,
  - (c) turbidity,
  - (d) levels of ammonia, and
  - (e) anything else specified in regulations made by the Secretary of State.
- (4) The duty of a sewerage undertaker under this section is enforceable under section 18 by—
  - (a) the Secretary of State, or
  - (b) the Authority, with the consent of or in accordance with a general authorisation given by the Secretary of State.
- (5) The Secretary of State may by regulations make —
  - (a) provision as how the duty under subsection (1) is to be carried out (for example, provision as to the type of monitor to be used and where monitors must be placed);
  - (b) provision for exceptions from the duty in subsection (1) (for example, by reference to descriptions of asset, frequency of discharge from an asset or the level of risk to water quality);

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- (c) provision for the publication by sewerage undertakers of information obtained pursuant to subsection (1).
  - (6) Before making regulations under this section the Secretary of State must consult such persons as the Secretary of State considers appropriate.
  - (7) The Secretary of State may not make regulations under this section unless a draft of the statutory instrument containing the regulations has been laid before, and approved by resolution of, each House of Parliament.”
- (2) In section 213 of the Water Industry Act 1991 (power to make regulations) in subsection (1), for “or 105A” substitute “105A, 141DA or 141DB”.

### **83 Reduction of adverse impacts of storm overflows**

In Chapter 4 of Part 4 of the Water Industry Act 1991, after section 141DB insert—

#### **“141DC Reduction of adverse impacts of storm overflows**

- (1) A sewerage undertaker whose area is wholly or mainly in England must secure a progressive reduction in the adverse impacts of discharges from the undertaker’s storm overflows.
- (2) The reference in subsection (1) to reducing adverse impacts includes—
  - (a) reducing adverse impacts on the environment, and
  - (b) reducing adverse impacts on public health.
- (3) The duty of a sewerage undertaker under this section is enforceable under section 18 by—
  - (a) the Secretary of State, or
  - (b) the Authority with the consent of or in accordance with a general authorisation given by the Secretary of State.”

### **84 Report on elimination of discharges from storm overflows**

- (1) The Secretary of State must prepare a report on—
  - (a) the actions that would be needed to eliminate discharges from the storm overflows of sewerage undertakers whose areas are wholly or mainly in England, and
  - (b) the costs and benefits of those actions.
- (2) The Secretary of State must publish the report before 1 September 2022.
- (3) The report must be laid before Parliament once it is published.

*Regulation of water and sewerage undertakers*

### **85 Authority’s power to require information**

In the Water Industry Act 1991, after section 27 insert—

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**“27ZA Power to require information for purpose of monitoring**

- (1) The Authority may, for the purpose of performing its duty under section 27(1) or (2), serve a notice under subsection (2) on—
  - (a) a water undertaker or sewerage undertaker;
  - (b) a water supply licensee or sewerage licensee.
- (2) A notice under this subsection is a notice which requires the person on whom it is served—
  - (a) to produce to the Authority, at a time and place specified in the notice (which must be reasonable), any documents specified or described in the notice which are in that person’s custody or under that person’s control, or
  - (b) to provide to the Authority, at a time and place and in the form and manner specified in the notice (which must be reasonable), information specified or described in the notice.
- (3) The requirements imposed by a notice under subsection (2) are enforceable by the Authority under section 18.
- (4) Nothing in this section requires a disclosure of information that would contravene the data protection legislation (but in determining whether a disclosure would do so, take into account the duty imposed by this section).
- (5) In subsection (4) “the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3(9) of that Act).”

**86 Water and sewerage undertakers in England: modifying appointments**

- (1) Part 2 of the Water Industry Act 1991 (appointment and regulation of undertakers) is amended as follows.
- (2) After section 12 insert—

*“Modification of appointment conditions: England*

**12A Modification by the Authority**

- (1) This section and sections 12B to 12I apply in relation to a company appointed under this Chapter whose area is wholly or mainly in England.
- (2) The Authority may make modifications of the conditions of the company’s appointment under this Chapter.
- (3) Before making any modifications under this section, the Authority must give notice—
  - (a) stating that it proposes to make modifications,
  - (b) setting out the proposed modifications and their effect,
  - (c) stating the reasons why it proposes to make the modifications, and
  - (d) specifying the time within which representations with respect to the proposed modifications may be made.

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- (4) That time must not be less than 42 days from the date of publication of the notice.
- (5) A notice under subsection (3) must be given—
  - (a) by publishing the notice in a way the Authority considers appropriate for bringing it to the attention of persons likely to be affected by the modifications, and
  - (b) by sending a copy of it to—
    - (i) each company holding an appointment under this Chapter the conditions of which the Authority proposes to modify,
    - (ii) any other company holding an appointment under this Chapter, any water supply licensee and any sewerage licensee, whose interests the Authority considers are likely to be materially affected by the modifications,
    - (iii) the Secretary of State,
    - (iv) any person whose functions are or include representing those within sub-paragraph (i) or (ii) in respect of interests of theirs that the Authority considers are likely to be materially affected by the modifications, and
    - (v) the Consumer Council for Water.
- (6) The Authority must consider any representations which are duly made.
- (7) If, within the time specified under subsection (3)(d), the Secretary of State directs the Authority not to make a modification, the Authority must comply with the direction.
- (8) Subsections (9) to (11) apply where, having complied with subsections (3) to (6), the Authority decides to proceed with making modifications.
- (9) The Authority must—
  - (a) publish the decision and the modifications in a way the Authority considers appropriate for bringing them to the attention of persons likely to be affected by the modifications,
  - (b) state the effect of the modifications,
  - (c) state how it has taken account of any representations duly made, and
  - (d) state the reason for any differences between the modifications and those set out in the notice under subsection (3).
- (10) Each modification has effect from the date specified by the Authority in relation to that modification (subject to the giving of a direction under paragraph 2 of Schedule 2ZA).
- (11) The date specified may not be less than 56 days from publication of the decision to make the modification (except as provided in section 12B).

### **12B Modification of conditions of appointment: early effective date**

- (1) The date specified by virtue of section 12A(10) in relation to a modification under that section may be less than 56 days from the publication of the decision to make the modification if—

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- (a) the Authority considers it necessary or expedient for the modification to have effect before the 56 days expire, and
  - (b) the consultation condition is satisfied.
- (2) The consultation condition is that the notice under section 12A relating to the modification—
- (a) stated the date from which the Authority proposed that the modification should have effect,
  - (b) stated the Authority’s reasons for proposing that the modification should have effect from a date less than 56 days from the decision to modify, and
  - (c) explained why, in the Authority’s view, that would not have a material adverse effect on any person holding an appointment under this Chapter.

### **12C Modifications of conditions under section 12A: supplementary**

- (1) This section applies where under section 12A the Authority modifies the conditions of any appointment under this Chapter.
- (2) The Authority may make such incidental or consequential modifications of the conditions of any appointments as it considers necessary or expedient.
- (3) The modification of a condition of an appointment has effect subject to the giving of a direction under paragraph 2 of Schedule 2ZA in relation to the decision to which the modification relates.

### **12D Appeal to the CMA**

- (1) An appeal lies to the CMA against a decision by the Authority to proceed with the modification under section 12A of a condition of an appointment under this Chapter.
- (2) An appeal may be brought under this section only by—
  - (a) a company holding an appointment under this Chapter the conditions of which the Authority has decided to modify,
  - (b) any other company holding an appointment under this Chapter, any water supply licensee or any sewerage licensee, whose interests are materially affected by the decision,
  - (c) a person whose functions are or include representing those within paragraph (a) or (b) in respect of interests of theirs which are materially affected by the decision, or
  - (d) the Consumer Council for Water.
- (3) The permission of the CMA is required for the bringing of an appeal under this section.
- (4) The CMA may refuse permission only on one of the following grounds—
  - (a) in relation to an appeal brought by a company, water supply licensee or sewerage licensee within subsection (2)(b), that the interests of the company or licensee are not materially affected by the decision;



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- (b) in relation to an appeal brought by a person within subsection (2)(c), that the interests of the person represented are not materially affected by the decision;
- (c) in relation to any appeal, that the appeal is brought for reasons that are trivial or vexatious, or has no reasonable prospect of success.

### **12E Procedure on appeal to CMA**

- (1) Schedule 2ZA makes provision about the procedure for appeals under section 12D.
- (2) Except where specified otherwise in that Schedule, the functions of the CMA with respect to an appeal under section 12D are to be carried out by a group constituted for that purpose by the chair of the CMA under Schedule 4 to the Enterprise and Regulatory Reform Act 2013.

### **12F Determination by CMA of appeal**

- (1) This section applies to an appeal brought under section 12D.
- (2) In determining an appeal, the CMA must have regard, to the same extent as is required of the Authority, to—
  - (a) the Authority’s duties under section 2, and
  - (b) the Authority’s strategic priorities and objectives as set out in a statement under section 2A.
- (3) In determining the appeal the CMA—
  - (a) may have regard to any matter to which the Authority was not able to have regard in relation to the decision which is the subject of the appeal, but
  - (b) must not, in the exercise of that power, have regard to any matter to which the Authority would not have been entitled to have regard in reaching its decision had it had the opportunity of doing so.
- (4) The CMA may allow the appeal only to the extent that it is satisfied that the decision appealed against was wrong on one or more of the following grounds—
  - (a) that the Authority failed properly to have regard to any matter mentioned in subsection (2),
  - (b) that the Authority failed to give appropriate weight to any matter mentioned in subsection (2),
  - (c) that the decision was based, wholly or partly, on an error of fact,
  - (d) that the modifications fail to achieve, in whole or in part, the effect stated by the Authority by virtue of section 12A(9)(b),
  - (e) that the Authority did not follow the procedure required by sections 12A to 12C, or
  - (f) that the decision was otherwise wrong in law.
- (5) To the extent that the CMA does not allow the appeal, it must confirm the decision appealed against.

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### **12G CMA's powers on allowing an appeal**

- (1) Where the CMA allows an appeal under section 12D to any extent, it must do one or both of the following—
  - (a) quash the decision (to the extent that the appeal is allowed);
  - (b) remit the matter back to the Authority for reconsideration and determination in accordance with any directions given by the CMA.
- (2) A direction under subsection (1) must not require the Authority to do anything that it would not have power to do (apart from the direction).
- (3) The Authority must comply with a direction given to it under that subsection.

### **12H Time limits for CMA to determine an appeal**

- (1) The CMA must determine an appeal within the period of 4 months beginning with the permission date, unless subsection (2) applies.
- (2) This subsection applies where—
  - (a) the CMA has received representations on the timing of the determination from a party to the appeal, and
  - (b) it is satisfied that there are special reasons why the determination cannot be made within the period specified in subsection (1).
- (3) Where subsection (2) applies, the CMA must determine an appeal within the period specified by it, not being longer than the period of 5 months beginning with the permission date.
- (4) Where subsection (2) applies, the CMA must also—
  - (a) inform the parties to the appeal of the time limit for determining the appeal, and
  - (b) publish that time limit in a way it considers appropriate to bring it to the attention of any other persons likely to be affected by the determination.
- (5) References in this section to the permission date are to the date on which the CMA gave permission to bring the appeal in accordance with section 12D(3).
- (6) In this section and in section 12I any reference to a party to an appeal is to be read in accordance with Schedule 2ZA.

### **12I Determination of appeal by CMA: supplementary**

- (1) A determination by the CMA on an appeal—
  - (a) must be contained in an order made by the CMA;
  - (b) must set out the reasons for the determination;
  - (c) takes effect at the time specified in the order or determined in accordance with provision made in the order;
  - (d) must be notified by the CMA to the parties to the appeal;
  - (e) must be published by the CMA—
    - (i) as soon as reasonably practicable after the determination is made;

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- (ii) in a way the CMA considers appropriate to bring it to the attention of any person likely to be affected by it (other than a party to the appeal).
  - (2) The CMA may exclude from publication any information it is satisfied is—
    - (a) commercial information, the disclosure of which would, or in the CMA’s opinion might, significantly harm the legitimate business interests of an undertaking to which it relates, or
    - (b) information relating to the private affairs of an individual, the disclosure of which would, or in the CMA’s opinion might, significantly harm the individual’s interests.
  - (3) The Authority must take such steps as it considers requisite for it to comply with an order of the CMA under subsection (1)(a).
  - (4) The steps must be taken—
    - (a) if a time is specified in (or is to be determined in accordance with) the order, within that time;
    - (b) in any other case, within a reasonable time.
  - (5) Section 12C applies where a condition of a licence is modified in accordance with section 12G as it applies where a condition of a licence is modified under section 12A.”
- (3) For the italic heading before section 13 substitute—

*“Modification of appointment conditions: Wales”.*

- (4) In section 13 (modification by agreement), before subsection (1) insert—
- “(A1) This section and sections 14 to 16B apply in relation to a company appointed under this Chapter whose area is wholly or mainly in Wales.”
- (5) Before section 17 insert—

*“Modification of appointment conditions: England and Wales”.*

- (6) After Schedule 2 insert the Schedule set out in Schedule 13.
- (7) In paragraph 35(3) of Schedule 4 to the Enterprise and Regulatory Reform Act 2013 (CMA Panels), in the definition of “specialist utility functions”, after paragraph (c) insert—
- “(ca) an appeal under section 12D of that Act;”.

## **87 Electronic service of documents**

In section 216 of the Water Industry Act 1991 (service of documents) after subsection (4) insert—

- “(4A) Any document required or authorised by virtue of this Act to be served on any person may be served by electronic means.
- (4B) But a document may be served by electronic means on a person who is a consumer only if—

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- (a) the person has consented in writing to the receipt of documents by electronic means (and has not withdrawn that consent), and
  - (b) the document is sent to the number or address most recently specified by the person for that purpose.
- (4C) For the purposes of subsection (4B) “consumer” means a person who is liable to pay charges in respect of—
- (a) the supply of water to any premises, or
  - (b) the provision of sewerage services to any premises,
- but does not include a water undertaker, a water supply licensee, a sewerage undertaker, a sewerage licensee, or the Authority.”

### *Abstraction*

## **88 Water abstraction: no compensation for certain licence modifications**

- (1) In the Water Resources Act 1991, after section 61 insert—

### **“61ZA No compensation where modification to protect environment: England**

- (1) This section applies where—
- (a) a relevant licence is revoked or varied on or after 1 January 2028 in pursuance of a direction under section 54 or 56, and
  - (b) the ground for revoking or varying the licence is that the Secretary of State is satisfied the revocation or variation is necessary—
    - (i) having regard to a relevant environmental objective, or
    - (ii) to otherwise protect the water environment from damage.
- (2) A “relevant licence” is a licence to abstract water that—
- (a) is to abstract water in England only, and
  - (b) is to remain in force until revoked.
- (3) Where this section applies, no compensation is payable under section 61 in respect of the revocation or variation of the licence.
- (4) In this section the “water environment” means—
- (a) any inland waters (including, in relation to a lake, pond, river or watercourse that is for the time being dry, its bottom, channel or bed),
  - (b) any water contained in underground strata,
  - (c) any underground strata themselves,
- or any flora or fauna dependent on any of them.
- (5) In this section “relevant environmental objective” means an environmental objective within the meaning of whichever of the following is applicable—
- (a) the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 ([S.I. 2017/407](#));
  - (b) the Water Environment (Water Framework Directive) (Solway Tweed River Basin District) Regulations 2004 ([S.I. 2004/99](#));

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- (c) the Water Environment (Water Framework Directive) (Northumbria River Basin District) Regulations 2003 ([S.I. 2003/3245](#)).

**61ZB No compensation where variation to remove excess headroom:  
England**

- (1) This section applies if a relevant licence is varied in pursuance of a direction under section 54 on or after 1 January 2028 so as to reduce the quantity of water the holder is authorised to abstract.
- (2) A “relevant licence” is a licence to abstract water that—
  - (a) is to abstract water in England only, and
  - (b) is to remain in force until revoked.
- (3) No compensation is payable under section 61 if—
  - (a) in each year during the 12 year period ending with the relevant date, the quantity of water abstracted in pursuance of the licence did not exceed 75% of the quantity of water the holder was authorised to abstract in that year, and
  - (b) the ground for varying the licence is that the Secretary of State is satisfied the variation does not reduce the quantity of water the holder is authorised to abstract to a level below that which the holder reasonably requires.
- (4) In subsection (3) the “relevant date” is the date on which the notice of the proposals for varying the licence was served on the holder of the licence.”
- (2) In section 27 of the Water Act 2003 (withdrawal of compensation for certain revocations and variations), after subsection (3) insert—
  - “(4) This section does not apply in respect of a licence revoked or varied on or after 1 January 2028 if the licence is a “relevant licence” within the meaning of section 61ZA of the Water Resources Act 1991.”
- (3) Omit paragraph 30(4) of Schedule 8 to the Water Act 2014.

*Water quality*

**89 Water quality: powers of Secretary of State**

- (1) The Secretary of State may by regulations amend or modify any legislation to which this section applies for the purpose of—
  - (a) making provision about the substances to be taken into account in assessing the chemical status of surface water or groundwater;
  - (b) specifying standards in relation to those substances or in relation to the chemical status of surface water or groundwater.
- (2) This section applies to —
  - (a) the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 ([S.I. 2017/407](#));
  - (b) the Water Environment (Water Framework Directive) (Northumbria River Basin District) Regulations 2003 ([S.I. 2003/3245](#));

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- (c) the Water Environment (Water Framework Directive) (Solway Tweed River Basin District) Regulations 2004 ([S.I. 2004/99](#));
  - (d) the Groundwater Regulations (Northern Ireland) 2009 ([S.R. \(N.I.\) 2009 No. 254](#));
  - (e) the Water Framework Directive (Classification, Priority Substances and Shellfish Waters) Regulations (Northern Ireland) 2015 ([S.R. \(N.I.\) 2015 No. 351](#));
  - (f) the Water Environment (Water Framework Directive) Regulations (Northern Ireland) 2017 ([S.R. \(N.I.\) 2017 No. 81](#));
  - (g) any regulations modifying that legislation made under or by virtue of the European Union (Withdrawal) Act 2018.
- (3) Regulations under subsection (1) may also, in connection with provision made under subsection (1)(a) or (b), amend or modify legislation to which this section applies so as to make provision—
- (a) setting objectives in relation to the substances about which the provision is made, or in relation to the chemical status of surface water or groundwater (including objectives to maintain specified standards or to achieve specified standards by specified dates);
  - (b) about how objectives set by the regulations are to be met, including provision requiring, or otherwise relating to, measures to be taken to achieve those objectives;
  - (c) requiring, or otherwise relating to, the monitoring or assessment of any matter relating to the chemical status of surface water or the chemical status of groundwater;
  - (d) about the classification of bodies of water according to their chemical status or any matter relating to their chemical status.
- (4) Regulations under this section may not contain provision that could be contained in—
- (a) regulations made by the Welsh Ministers under section 90, or
  - (b) regulations made by the Department of Agriculture, Environment and Rural Affairs in Northern Ireland under section 91,
- unless those Ministers or that Department consents.
- (5) Regulations under this section may not contain provision applying to that part of a Scottish cross-border river basin district which is in Scotland, unless the Scottish Ministers consent.
- (6) Before making regulations under this section the Secretary of State must consult—
- (a) if the regulations apply to England (or part of England), the Environment Agency;
  - (b) if the regulations do not require the consent of the Welsh Ministers but apply to any part of a Welsh cross-border river basin district, the Welsh Ministers;
  - (c) if the regulations do not require the consent of the Scottish Ministers but apply to any part of a Scottish cross-border river basin district, the Scottish Ministers;
  - (d) any persons or bodies appearing to the Secretary of State to represent the interests of those likely to be affected by the regulations.
- (7) A “Scottish cross-border river basin district” is a river basin district which is partly in England and partly in Scotland.

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- (8) A “Welsh cross-border river basin district” is a river basin district which is partly in England and partly in Wales.
- (9) Regulations under this section are subject to the negative procedure.

## **90 Water quality: powers of Welsh Ministers**

- (1) The Welsh Ministers may by regulations amend or modify any legislation to which this section applies for the purpose of—
  - (a) making provision about the substances to be taken into account in assessing the chemical status of surface water or groundwater;
  - (b) specifying standards in relation to those substances or in relation to the chemical status of surface water or groundwater.
- (2) This section applies to —
  - (a) the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 ([S.I. 2017/407](#));
  - (b) any regulations modifying that legislation made under or by virtue of the European Union (Withdrawal) Act 2018.
- (3) Regulations under subsection (1) may also, in connection with provision made under subsection (1)(a) or (b), amend or modify legislation to which this section applies so as to make provision—
  - (a) setting objectives in relation to the substances about which the provision is made, or in relation to the chemical status of surface water or groundwater (including objectives to maintain specified standards or to achieve specified standards by specified dates);
  - (b) about how objectives set by the regulations are to be met, including provision requiring, or otherwise relating to, measures to be taken to achieve those objectives;
  - (c) requiring, or otherwise relating to, the monitoring or assessment of any matter relating to the chemical status of surface water or the chemical status of groundwater;
  - (d) about the classification of bodies of water according to their chemical status or any matter relating to their chemical status.
- (4) Before making regulations under this section the Welsh Ministers must consult—
  - (a) the Natural Resources Body for Wales;
  - (b) if the regulations apply to any part of a river basin district which is partly in Wales and partly in England, the Secretary of State;
  - (c) any persons or bodies appearing to the Welsh Ministers to represent the interests of those likely to be affected by the regulations.
- (5) Regulations under this section may contain only provision which, if contained in an Act of Senedd Cymru, would (disregarding paragraphs 8(1)(c) and 11(1)(a) and (c) of Schedule 7B to the Government of Wales Act 2006) be within the legislative competence of the Senedd.
- (6) Regulations under this section are subject to the negative procedure.

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## **91 Water quality: powers of Northern Ireland department**

- (1) The Department of Agriculture, Environment and Rural Affairs in Northern Ireland may by regulations amend or modify any legislation to which this section applies for the purpose of—
  - (a) making provision about the substances to be taken into account in assessing the chemical status of surface water or groundwater;
  - (b) specifying standards in relation to those substances or in relation to the chemical status of surface water or groundwater.
- (2) This section applies to—
  - (a) the Groundwater Regulations (Northern Ireland) 2009 ([S.R. \(N.I.\) 2009 No. 254](#));
  - (b) the Water Framework Directive (Classification, Priority Substances and Shellfish Waters) Regulations (Northern Ireland) 2015 ([S.R. \(N.I.\) 2015 No. 351](#));
  - (c) the Water Environment (Water Framework Directive) Regulations (Northern Ireland) 2017 ([S.R. \(N.I.\) 2017 No. 81](#));
  - (d) any regulations modifying that legislation made under or by virtue of the European Union (Withdrawal) Act 2018.
- (3) Regulations under subsection (1) may also, in connection with provision made under subsection (1)(a) or (b), amend or modify legislation to which this section applies so as to make provision—
  - (a) setting objectives in relation to the substances about which the provision is made, or in relation to the chemical status of surface water or groundwater (including objectives to maintain specified standards or to achieve specified standards by specified dates);
  - (b) about how objectives set by the regulations are to be met, including provision requiring, or otherwise relating to, measures to be taken to achieve those objectives;
  - (c) requiring, or otherwise relating to, the monitoring or assessment of any matter relating to the chemical status of surface water or the chemical status of groundwater;
  - (d) about the classification of bodies of water according to their chemical status or any matter relating to their chemical status.
- (4) Before making regulations under this section the Department must consult any persons or bodies appearing to the Department to represent the interests of those likely to be affected by the regulations.
- (5) Regulations under this section may contain only provision which, if contained in an Act of the Northern Ireland Assembly, would be within the legislative competence of the Assembly and would not require the Secretary of State's consent.
- (6) Regulations under this section are subject to the negative procedure.

## **92 Solway Tweed river basin district: power to transfer functions**

- (1) The Secretary of State may by regulations amend or modify the Solway Tweed Regulations in accordance with this section.



- (2) The “Solway Tweed Regulations” means the Water Environment (Water Framework Directive) (Solway Tweed River Basin District) Regulations 2004 ([S.I. 2004/99](#)).
- (3) The regulations may provide for a function under the Solway Tweed Regulations which is exercisable (to any extent)—
  - (a) by the Secretary of State and the Scottish Ministers jointly,
  - (b) by the Secretary of State and the Scottish Ministers concurrently, or
  - (c) only by the Secretary of State or the Scottish Ministers,to be exercised (to any extent) in another of those ways.
- (4) The regulations may provide for a function under the Solway Tweed Regulations which is exercisable (to any extent)—
  - (a) by the Environment Agency and SEPA jointly,
  - (b) by the Environment Agency and SEPA concurrently, or
  - (c) only by the Environment Agency or SEPA,to be exercised (to any extent) in another of those ways.
- (5) The regulations may make provision changing the geographical area in relation to which a function under the Solway Tweed Regulations is exercisable (or is exercisable by a specified person).
- (6) The regulations may also provide—
  - (a) for a function within subsection (3) to be exercisable only with the consent of, or after consultation with, the Secretary of State or the Scottish Ministers;
  - (b) for a function within subsection (4) to be exercisable only with the consent of, or after consultation with, the Environment Agency, SEPA, the Secretary of State or the Scottish Ministers.
- (7) The Secretary of State may make regulations under this section only with the consent of the Scottish Ministers.
- (8) Regulations under this section are subject to the negative procedure.
- (9) In this section “SEPA” means the Scottish Environment Protection Agency.

### **93 Water quality: interpretation**

In sections 89 to 92—

- “groundwater” has the same meaning as in the Water Framework Directive;
- “river basin district” means an area identified as such by or under any legislation to which the section in question applies;
- “surface water” has the same meaning as in the Water Framework Directive;
- “Water Framework Directive” means [Directive 2000/60/EC](#) of the European Parliament and of the Council establishing a framework for Community action in the field of water policy.

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### *Land drainage*

#### **94 Valuation of other land in drainage district: England**

(1) Section 37 of the Land Drainage Act 1991 (apportionment of internal drainage board's drainage expenses) is amended in accordance with subsections (2) and (3).

(2) In subsection (5), in the words before paragraph (a), after “shall” insert “, subject to subsection (5ZA)”.

(3) After subsection (5) insert—

“(5ZA) The Secretary of State may by regulations make provision for the value of other land in an English internal drainage district to be determined in accordance with the regulations.

(5ZB) The provision that may be made under subsection (5ZA) includes, in particular, provision—

- (a) about methods to be applied, or factors to be taken into account, in determining the value of land;
- (b) for the value of land to be determined on the basis of estimates, assumptions or averages;
- (c) for the value of land to be determined by reference to such time or times as may be specified in the regulations;
- (d) for the value of land to be determined by reference to the value shown for the time being in a list or register prepared for the purposes of another enactment;
- (e) for determining the value of land which is only partly within the internal drainage district in question;
- (f) for the making of adjustments to what would otherwise be determined to be the value of land;
- (g) for land to be taken to have a nil value.

(5ZC) Regulations under subsection (5ZA) may apply in relation to—

- (a) English drainage boards specified in the regulations;
- (b) English drainage boards of a description specified in the regulations;
- (c) all English drainage boards.

(5ZD) Provision made by virtue of subsection (5ZC) may, in particular, include provision for an English drainage board—

- (a) to elect that the regulations are to apply to them, and
- (b) to make such an election in accordance with the procedure specified in the regulations.

(5ZE) Regulations under subsection (5ZA) may—

- (a) make different provision for different cases, including different provision in relation to different circumstances or different descriptions of English drainage board or of land;
- (b) make such incidental, supplementary, consequential, transitional, transitory or saving provision as the Secretary of State considers appropriate.

(5ZF) Provision made by virtue of subsection (5ZE)(b) may include provision which amends or repeals any provision of this Act.

(5ZG) Before making regulations under subsection (5ZA) the Secretary of State must consult such persons (if any) as the Secretary of State considers appropriate having regard to the extent to which the regulations are, in the view of the Secretary of State, likely to affect the valuation of any land.

(5ZH) Regulations may not be made under subsection (5ZA) unless a draft of the instrument containing the regulations has been laid before, and approved by a resolution of, each House of Parliament.”

(4) In section 65(2) of that Act (regulations) after “Subject to” insert “section 37(5ZH)”.

## **95 Valuation of other land in drainage district: Wales**

(1) Section 83 of the Environment (Wales) Act 2016 (which amends the Land Drainage Act 1991) is amended as follows.

(2) In subsection (2)—

(a) for paragraph (a) substitute—

“(a) in subsection (5), in the words before paragraph (a), after “subject to subsection (5ZA)” insert “and subject to subsection (5A),”;

(b) in paragraph (b)—

(i) for the inserted subsection (5A) substitute—

“(5A) The Welsh Ministers may by regulations make provision for the value of other land in a Welsh internal drainage district to be determined in accordance with the regulations.”;

(ii) in each of the inserted subsections (5B) and (5C) for “The regulations” substitute “Regulations under subsection (5A)”;

(iii) for the inserted subsection (5D) substitute—

“(5D) Before making regulations under subsection (5A) the Welsh Ministers must consult such persons (if any) as they consider appropriate having regard to the extent to which the regulations are, in their view, likely to affect the valuation of any land.

(5E) Regulations may not be made under subsection (5A) unless a draft of the instrument containing them has been laid before, and approved by a resolution of, Senedd Cymru.”

(3) For subsection (3) substitute—

“(3) In section 65(2) (regulations) after “section 37(5ZH)” insert “and (5E),”.”

## **96 Valuation of agricultural land in drainage district: England and Wales**

(1) The Land Drainage Act 1991 is amended as follows.

(2) In section 41 (rates charged by reference to annual value of agricultural land and buildings), in subsection (2), at the end insert—

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“This is subject to section 41A below.”

(3) After section 41 insert—

**“41A Alternative method of calculating annual value of agricultural land and buildings**

(1) The appropriate national authority may by regulations make provision for the annual value of each chargeable property in an internal drainage district to be determined for the purposes of this Chapter by the drainage board for that district in accordance with the regulations.

Any determination made under the regulations is subject to sections 43 and 44 below.

(2) In this section “the appropriate national authority” means—

- (a) in the case of any English internal drainage district, the Secretary of State;
- (b) in the case of any Welsh internal drainage district, the Welsh Ministers.

(3) Regulations under subsection (1) may, in particular, make provision—

- (a) about the date by which a drainage board are to determine the annual value of each chargeable property in their internal drainage district;
- (b) about methods to be applied, or factors to be taken into account, in determining the annual value of a chargeable property;
- (c) for the annual value of a chargeable property to be determined on the basis of estimates, assumptions or averages;
- (d) for the annual value of a chargeable property to be determined by reference to such time or times as may be specified in the regulations;
- (e) for the annual value of a chargeable property to be determined by reference to the value shown for the time being in a list or register prepared for the purposes of another enactment;
- (f) for the annual value of a chargeable property to be determined by reference to the amount payable under a hypothetical transaction involving the property;
- (g) for determining the annual value of a chargeable property which is only partly within the internal drainage district in question;
- (h) for the making of adjustments to what would otherwise be determined to be the annual value of a chargeable property;
- (i) for the determination of the annual value of a chargeable property to be made on behalf of a drainage board by a person, or a person of a description, specified in the regulations;
- (j) about the appointment by the drainage board of such a person.

(4) Provision made by virtue of subsection (3)(f) may, in particular, include provision as to—

- (a) the assumptions to be made about—
  - (i) the date of the transaction;
  - (ii) the nature of the transaction;
  - (iii) the characteristics of the parties to the transaction;

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- (iv) the characteristics of the property;
    - (v) the terms of the transaction;
  - (b) any matters relating to the chargeable property which are to be taken into account or disregarded;
  - (c) any matters relating to comparable transactions which are to be taken into account or disregarded.
- (5) Regulations under subsection (1) may make provision which—
- (a) applies to a drainage board which have determined the annual values of the chargeable properties in their internal drainage district for the purposes of this Chapter under the regulations (regardless of whether any of those determinations has been replaced under section 43 below or altered on appeal under section 46 below), and
  - (b) requires the drainage board to make further determinations of those values for those purposes in accordance with the regulations at such times or at the end of such periods as may be specified in the regulations.
- (6) Provision made by virtue of subsection (5) may, in particular—
- (a) make provision in relation to such a further determination which is the same as or similar to that made in relation to an initial determination, or
  - (b) apply provision in the regulations relating to an initial determination to a further determination, with or without modifications.
- (7) Regulations made by the Secretary of State under subsection (1) may apply in relation to—
- (a) English drainage boards specified in the regulations;
  - (b) English drainage boards of a description specified in the regulations;
  - (c) all English drainage boards.
- (8) Regulations made by the Welsh Ministers under subsection (1) may apply in relation to—
- (a) Welsh drainage boards specified in the regulations;
  - (b) Welsh drainage boards of a description specified in the regulations;
  - (c) all Welsh drainage boards.
- (9) Provision made by virtue of subsection (7) or (8) may, in particular, include provision for an internal drainage board—
- (a) to elect that the regulations are to apply to them, and
  - (b) to make such an election in accordance with the procedure specified in the regulations.
- (10) Regulations under subsection (1) may—
- (a) make different provision for different cases, including different provision in relation to different circumstances or different descriptions of drainage board or of land;
  - (b) make such incidental, supplementary, consequential, transitional, transitory or saving provision as the appropriate national authority considers appropriate.

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- (11) Provision made by virtue of subsection (10)(b) may include provision which amends or repeals any provision of this Act.
  - (12) Before making regulations under subsection (1) the appropriate national authority must consult such persons (if any) as the authority considers appropriate having regard to the extent to which the regulations are, in the view of the authority, likely to affect the valuation of any chargeable properties.
  - (13) Regulations may not be made under subsection (1) by the Secretary of State unless a draft of the instrument containing the regulations has been laid before, and approved by a resolution of, each House of Parliament.
  - (14) Regulations may not be made under subsection (1) by the Welsh Ministers unless a draft of the instrument containing the regulations has been laid before, and approved by a resolution of, Senedd Cymru.”
- (4) In section 42 (determination of annual value)—
    - (a) in subsection (4) after “under this section” insert “or under regulations under section 41A(1) above”;
    - (b) in subsection (5) after “subsections (1) and (2) above” insert “or under regulations under section 41A above”.
  - (5) In section 44 (effect of determinations under section 43) in each of subsections (2) and (3) after “Subject to” insert “regulations under section 41A above and to”.
  - (6) In section 45 (appeals against determinations of annual value)—
    - (a) in subsection (1) after “determination under” insert “regulations under section 41A above or a determination under”;
    - (b) in subsection (3)(b) after “determination under” insert “regulations under section 41A above or a fresh determination under”;
    - (c) in subsection (7) after “determination under” insert “regulations under section 41A above or a determination under”.
  - (7) In section 46 (hearing and determination of appeals under section 45) in each of subsections (2)(a), (3), (4), (5), (6), (7) and (8) after “determination under” insert “regulations under section 41A above or a determination under”.
  - (8) In section 65(2) (regulations) after “section 37A(6) and (7),” insert “section 41A(13) and (14) and”.

## **97 Disclosure of Revenue and Customs information**

- (1) The Land Drainage Act 1991 is amended as follows.
- (2) After section 37 insert—

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*“Disclosure of Revenue and Customs information*

**37A Disclosure of Revenue and Customs information**

- (1) An officer of the Valuation Office of Her Majesty’s Revenue and Customs may disclose Revenue and Customs information to a qualifying person for a qualifying purpose.
- (2) Information disclosed to a qualifying person under this section may be retained and used for any qualifying purpose.
- (3) Each of the following is a “qualifying person”—
  - (a) an internal drainage board;
  - (b) the Agency;
  - (c) the Natural Resources Body for Wales;
  - (d) a person authorised to exercise any function of a body within paragraph (a), (b) or (c) relating to drainage rates or special levies;
  - (e) a person providing services to a body within paragraph (a), (b) or (c) relating to drainage rates or special levies;
  - (f) the Secretary of State;
  - (g) the Welsh Ministers;
  - (h) any other person specified in regulations made by the appropriate national authority.
- (4) Each of the following is a “qualifying purpose”—
  - (a) enabling the qualifying person to whom the disclosure is made, or any other qualifying person, to carry out any functions conferred by or under Chapter 1 or 2 of this Part or section 75 of the Local Government Finance Act 1988;
  - (b) enabling the qualifying person to whom the disclosure is made, or any other qualifying person, to determine for the purposes of Part 1 how functions mentioned in paragraph (a) might be exercised by—
    - (i) an internal drainage board which is proposed to be constituted under that Part, or
    - (ii) the drainage board for an internal drainage district which is proposed to be constituted under that Part.
- (5) Regulations under subsection (3)(h) may only be made with the consent of the Commissioners for Her Majesty’s Revenue and Customs.
- (6) Regulations may not be made under subsection (3)(h) by the Secretary of State unless a draft of the instrument containing the regulations has been laid before, and approved by a resolution of, each House of Parliament.
- (7) Regulations may not be made under subsection (3)(h) by the Welsh Ministers unless a draft of the instrument containing the regulations has been laid before, and approved by a resolution of, Senedd Cymru.
- (8) In this section—

“the appropriate national authority” means—

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- (a) the Secretary of State in relation to English internal drainage districts, and
- (b) the Welsh Ministers in relation to Welsh internal drainage districts;

“drainage rates” means drainage rates made by an internal drainage board under Chapter 2 of this Part;

“Revenue and Customs information” means information held as mentioned in section 18(1) of the Commissioners for Revenue and Customs Act 2005;

“special levy” means a special levy issued by an internal drainage board under regulations under section 75 of the Local Government Finance Act 1988.

### **37B Restrictions on onward disclosure of Revenue and Customs information**

- (1) Information disclosed under section 37A or this section may not be further disclosed unless that further disclosure is—
  - (a) to a qualifying person for a qualifying purpose,
  - (b) in pursuance of a court order,
  - (c) with the consent of each person to whom the information relates,
  - (d) required under any other enactment, or
  - (e) permitted under any other enactment.
- (2) Information may not be disclosed—
  - (a) under subsection (1)(a) to a qualifying person within section 37A(3)(d), (e), (f) or (g),
  - (b) under subsection (1)(a) to a person who is a qualifying person by virtue of regulations under section 37A(3)(h), where those regulations specify that this subsection is to apply in relation to the person, or
  - (c) under subsection (1)(e),
 except with the consent of the Commissioners for Her Majesty’s Revenue and Customs (which may be general or specific).
- (3) Information disclosed to a qualifying person under this section may be retained and used for any qualifying purpose.
- (4) A person commits an offence if the person contravenes subsection (1) or (2) by disclosing information relating to a person whose identity—
  - (a) is specified in the disclosure, or
  - (b) can be deduced from it.
- (5) It is a defence for a person charged with an offence under this section to prove that the person reasonably believed—
  - (a) that the disclosure was lawful, or
  - (b) that the information had already lawfully been made available to the public.
- (6) A person guilty of an offence under this section is liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding 12 months, to a fine or to both;



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- (b) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine or to both.
- (7) A prosecution under this section may be instituted only by, or with the consent of, the Director of Public Prosecutions.
- (8) In relation to an offence under this section committed before the coming into force of paragraph 24(2) of Schedule 22 to the Sentencing Act 2020 (increase in maximum term that may be imposed on summary conviction of offence triable either way) the reference in subsection (6)(a) to 12 months is to be read as a reference to 6 months.
- (9) This section is without prejudice to the pursuit of any remedy or the taking of any action in relation to a contravention of subsection (1) or (2) (whether or not subsection (4) applies to the contravention).
- (10) In this section—
  - “qualifying person” has the same meaning as in section 37A;
  - “qualifying purpose” has the same meaning as in that section.

### **37C Further provisions about disclosure under section 37A or 37B**

- (1) A disclosure of information under section 37A or 37B does not breach—
  - (a) any obligation of confidence owed by the person making the disclosure, or
  - (b) any other restriction on the disclosure of information (however imposed).
- (2) But nothing in section 37A or 37B authorises the making of a disclosure—
  - (a) if the disclosure would contravene the data protection legislation (but in determining whether a disclosure would do so, take the powers conferred by those sections into account), or
  - (b) which is prohibited by any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016.
- (3) Until the repeal of Part 1 of the Regulation of Investigatory Powers Act 2000 by paragraphs 45 and 54 of Schedule 10 to the Investigatory Powers Act 2016 is fully in force, subsection (2)(b) has effect as if it included a reference to that Part.
- (4) Revenue and customs information relating to a person which has been disclosed under section 37A or 37B is exempt information by virtue of section 44(1)(a) of the Freedom of Information Act 2000 (prohibition on disclosure) if its further disclosure—
  - (a) would specify the identity of the person to whom the information relates, or
  - (b) would enable the identity of such a person to be deduced.
- (5) In subsection (4) “revenue and customs information relating to a person” has the same meaning as in section 19(2) of the Commissioners for Revenue and Customs Act 2005.
- (6) In this section “data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3(9) of that Act).”

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- (3) In section 65(2) (regulations) after “and (5E),” insert “section 37A(6) and (7),”.
- (4) In section 70 (confidentiality of information obtained by Environment Agency and Natural Resources Body for Wales)—
- (a) the existing provision becomes subsection (1);
  - (b) after that subsection insert—
    - “(2) Subsection (1) does not apply to information obtained by virtue of section 37A (disclosure of Revenue and Customs information).”
- (5) In section 72(1) (interpretation), at the appropriate places insert—
- ““enactment” includes an enactment comprised in subordinate legislation within the meaning of the Interpretation Act 1978;”;
  - ““English drainage board” means a drainage board for an English internal drainage district;”;
  - ““English internal drainage district” means an internal drainage district which is wholly or mainly in England;”;
  - ““Welsh drainage board” means a drainage board for a Welsh internal drainage district;”;
  - ““Welsh internal drainage district” means an internal drainage district which is wholly or mainly in Wales.”.