



Health and Care Act 2022

2022 CHAPTER 31

PART 6

MISCELLANEOUS

Fluoridation of water supplies

175 Fluoridation of water supplies

- (1) The Water Industry Act 1991, as amended by the Health and Social Care Act 2012, is amended in accordance with subsections (2) to (7).
- (2) In section 87 (fluoridation of water supplies at request of relevant authorities)—
 - (a) omit subsection (3A);
 - (b) in subsection (4), in paragraph (a), for the words from “as the Secretary of State” to the end of that paragraph substitute “in England as the Secretary of State may determine”;
 - (c) in subsection (6), at the beginning insert “Subject to subsection (6A)”;
 - (d) after subsection (6) insert—

“(6A) The Secretary of State may by regulations provide that, in circumstances specified in the regulations, subsection (6)(a) is not to apply in relation to arrangements entered into by the Secretary of State.

(6B) The Secretary of State may by regulations require a public body specified in the regulations to make payments to the Secretary of State to meet any costs incurred by the Secretary of State under the terms of the arrangements.”;
 - (e) omit subsections (7A) and (7B);
 - (f) after subsection (7F) insert—

Status: This is the original version (as it was originally enacted).

“(7G) Before making regulations under subsection (6A) or (6B) the Secretary of State must consult such persons as the Secretary of State considers appropriate.”;

- (g) in subsection (11), for “the Welsh Ministers” substitute “a relevant authority”;
- (h) after subsection (11) insert—

“(12) A statutory instrument containing regulations under subsection (6A) is not to be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”

- (3) In section 87A (target concentration of fluoride), omit subsection (3A).
- (4) Omit sections 88B to 88O (procedural requirements in connection with fluoridation of water supplies).
- (5) In section 89 (consultation)—
 - (a) in the heading, omit “: Wales”;
 - (b) in subsection (1)—
 - (i) in the words before paragraph (a), for “the Welsh Ministers” substitute “a relevant authority”;
 - (ii) in paragraphs (a) and (b), for “the Welsh Ministers” substitute “that authority”;
 - (c) in subsection (3), in paragraph (a), for “the Welsh Ministers are” substitute “the relevant authority is”;
 - (d) in subsection (4)—
 - (i) for “the Welsh Ministers”, in the first place it occurs, substitute “a relevant authority”;
 - (ii) for “the Welsh Ministers so direct” substitute “that authority so directs”.
- (6) In section 90A (review of fluoridation), omit subsection (5A).
- (7) In section 213 (power to make regulations), in subsection (1), after “36A” insert “, 87(6A)”.
- (8) In consequence of the amendments made by this section, omit section 36 of the Health and Social Care Act 2012.
- (9) The reference in section 213(1A) of the Water Industry Act 1991 to the first exercise of the power to make regulations under section 89 is to be read as a reference to the first exercise of the power to make regulations under that section as amended by subsection (5).

176 Fluoridation of water supplies: transitional provision

- (1) The Water Industry Act 1991 is amended in accordance with subsections (2) and (3).
- (2) After section 90A insert—

“90B Old English fluoridation arrangements: transitional provision

- (1) With effect from the day on which section 176 of the Health and Care Act 2022 comes into force, old English fluoridation arrangements are to be treated

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

- for the purposes of this Chapter as if they were arrangements entered into by the water undertaker with the Secretary of State under section 87(1).
- (2) The Secretary of State may request such modifications to the arrangements as the Secretary of State considers necessary in order to give effect to subsection (1) (for example to insert the terms mentioned in section 87(6)).
- (3) If the Secretary of State and the water undertaker fail to agree the modifications requested by the Secretary of State—
- (a) subsection (2) or, as the case may be, (4) of section 87B is to apply as if the parties had failed to agree the terms of the arrangements under section 87(1), and
 - (b) following determination of the modifications—
 - (i) the Secretary of State is to give notice of the determination to the water undertaker, and
 - (ii) the arrangements are deemed to have been modified as so determined with effect from the day after the date of notice.
- (4) Sections 87(11) and 89(1) (which relate to consultation) do not apply to the deemed entry into, and modification of, arrangements by virtue of this section.
- (5) References in this Chapter to arrangements entered into under section 87(1) include arrangements entered into by a water undertaker by virtue of subsection (1).
- (6) In this section “old English fluoridation arrangements” means—
- (a) any arrangements entered into by a water undertaker with a Strategic Health Authority under section 87(1) of the Water Industry Act 1991 (before section 87(3) was amended by section 35(2) of the Health and Social Care Act 2012 in relation to England), and
 - (b) any arrangements which were treated as arrangements falling within paragraph (a) by virtue of section 91 (as that section had effect immediately before the commencement of section 37(4) of the Health and Social Care Act 2012).”
- (3) In section 91—
- (a) for the heading substitute “Old Welsh fluoridation arrangements: transitional provision”;
 - (b) in subsection (1)—
 - (i) for “relevant pre-1985 arrangements” substitute “old Welsh fluoridation arrangements”;
 - (ii) for “relevant authority” substitute “Welsh Ministers”;
 - (c) in subsection (2), for “relevant authority” substitute “Welsh Ministers”;
 - (d) in subsection (3)—
 - (i) for “relevant authority”, in both places it occurs, substitute “Welsh Ministers”;
 - (ii) in the words before paragraph (a), for “the authority” substitute “the Welsh Ministers”;
 - (iii) in paragraph (a), omit “(2),”;
 - (e) in subsection (6)—
 - (i) in the definition of “the appointed day”, after “force” insert “in relation to Wales”;

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

- (ii) for the definition of “relevant pre-1985 arrangements” substitute—
- ““old Welsh fluoridation arrangements” means arrangements, other than arrangements mentioned in section 90B(6), in pursuance of which a scheme for increasing the fluoride content of water was being operated by a water undertaker by virtue of paragraph 1 of Schedule 7 to this Act immediately before the appointed day.”
- (4) In consequence of the amendments made by this section, omit section 37 of the Health and Social Care Act 2012.