
EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force on 1st April 2005 or 1st August 2005 certain provisions of the Water Act 2003 (“the Act”), and makes transitional provision and savings in respect of some of those provisions.

The provisions in Part 1 of the Act brought into force on 1st April 2005 relate to abstraction licensing. They: substitute a new general exemption from licensing of small volume abstractions for the exemptions previously found in section 27 of the Water Resources Act 1991 (“the WRA”) (section 6); enable the Secretary of State (in England) and the National Assembly for Wales (“the Assembly”) (in Wales) to revoke any order made under section 33 of the WRA, or under a local or private Act, which provides for an exemption from abstraction licensing (section 10); and make related and consequential changes to the protected rights framework (sections 16, in part, and 17). The transitional and savings provisions in Schedule 1 protect certain applications already made, and certain abstractions already taking place (including those in relation to which an entitlement to succeed has arisen), so that abstractors can benefit from protected rights.

The provisions in Parts 2 and 3 of the Act brought into force on 1st April 2005: empower the Secretary of State to make transfer schemes in relation to the setting up of the Consumer Council for Water (“the Council”) and the Water Services Regulation Authority (“the Authority”) (section 36); amend the general duties with respect to the water industry on the Secretary of State, the Assembly, the Director General of Water Services and, in due course, the Authority (“Ofwat”) (section 39); establish a new regime for the Secretary of State and the Assembly to give guidance on social and environmental matters to Ofwat (section 40); establish new rules for making Regulations in relation to standards of performance in relation to water supply and sewerage services (sections 41 and 42); establish a new financial penalties regime for relevant undertakers and licensed water suppliers (section 48); impose new duties on Ofwat, the Secretary of State and the Assembly to publish reasons for certain decisions made under the Water Industry Act 1991 (section 51); and extend the Environment Agency’s powers to obtain information in respect of its water resources functions (section 70).

The provisions in Part 2 of the Act brought into force on 1st August 2005 empower the Secretary of State and the Assembly to direct the Council as to the establishment of regional committees (section 35), and permit applications to be made to Ofwat for water supply licences (but do not empower Ofwat to grant such licences).

Transitional provisions and savings arising from the coming into force of provisions in Part 2 of the Act are made in Schedule 2.