



Water Act 1989

1989 CHAPTER 15

PART I

PRELIMINARY

The National Rivers Authority and the advisory committees

1 The National Rivers Authority

- (1) There shall be a body corporate to be known as the National Rivers Authority (in this Act referred to as “the Authority”) for the purpose of carrying out the functions assigned or transferred to it under this Act.
- (2) The Authority shall consist of not less than eight nor more than fifteen members of whom—
 - (a) two shall be appointed by the Minister; and
 - (b) the others shall be appointed by the Secretary of State.
- (3) The Secretary of State shall designate one of the members appointed by him as the chairman of the Authority and may, if he thinks fit, designate another member of the Authority (whether or not appointed by him) as the deputy chairman of the Authority.
- (4) In appointing a person to be a member of the Authority, the Secretary of State or, as the case may be, the Minister shall have regard to the desirability of appointing a person who has experience of, and has shown capacity in, some matter relevant to the functions of the Authority.
- (5) The Authority shall not be regarded as the servant or agent of the Crown, or as enjoying any status, immunity or privilege of the Crown, or, by virtue of any connection with the Crown, as exempt from any tax, duty, rate, levy or other charge whatsoever, whether general or local; and the Authority’s property shall not be regarded as property of, or property held on behalf of, the Crown.
- (6) The provisions of Schedule 1 to this Act shall have effect with respect to the Authority and its finances.

2 Regional rivers advisory committees

- (1) It shall be the duty of the Authority—
 - (a) to establish and maintain advisory committees, consisting of persons who are not members of the Authority, for the different regions of England and Wales;
 - (b) to consult the advisory committee for any region as to any proposals of the Authority relating generally to the manner in which the Authority carries out its functions in that region; and
 - (c) to consider any representations made to it by the advisory committee for any region (whether in response to consultation under paragraph (b) above or otherwise) as to the manner in which the Authority carries out its functions in that region.
- (2) The duty to establish and maintain advisory committees imposed by subsection (1) above is a duty—
 - (a) to establish and maintain an advisory committee for each area which the Authority considers it appropriate for the time being to regard as a region of England and Wales for the purposes of this section; and
 - (b) to ensure that the persons appointed by the Authority to each such committee are persons who appear to the Authority to have an interest in matters likely to be affected by the manner in which the Authority carries out any of its functions in the region in question;and it shall be the duty of the Authority in determining the regions for which advisory committees are established and maintained to ensure that one of those regions consists wholly or mainly of, or of most of, Wales.
- (3) There shall be paid by the Authority—
 - (a) to the chairman of an advisory committee established and maintained under this section such remuneration and such travelling and other allowances; and
 - (b) to any other members of that committee such sums reimbursing them for loss of remuneration, for travelling expenses or for any other out-of-pocket expenses,as may, with the consent of the Treasury, be determined by the Secretary of State.
- (4) For the purposes of this section functions of the Authority which are carried out in any area of Scotland or of the territorial sea which is adjacent to any region for which an advisory committee is maintained shall be regarded as carried out in that region.

3 Advisory Committee for Wales

- (1) The Secretary of State shall establish and maintain a committee for advising him with respect to matters affecting or otherwise connected with the carrying out in Wales of the Authority's functions by virtue of this Act.
- (2) The committee established and maintained under this section—
 - (a) shall consist of such persons as may be appointed by the Secretary of State; and
 - (b) shall meet at least once a year.
- (3) The Secretary of State shall, out of money provided by Parliament, pay to the members of the committee established and maintained under this section such sums reimbursing them for loss of remuneration, for travelling expenses and for other out-of-pocket expenses as he may with the consent of the Treasury determine.

The transfer of the water authorities' functions etc.

4 Transfer of the water authorities' functions etc

- (1) Subject to the following provisions of this Act, on such day as the Secretary of State may by order appoint as the transfer date—
 - (a) the functions of the water authorities shall, in accordance with those provisions, become functions of the Authority, of water undertakers or of sewerage undertakers; and
 - (b) schemes under Schedule 2 to this Act for the division of the property, rights and liabilities of those authorities between their successor companies and the Authority shall come into force.
- (2) The Secretary of State shall, by order made before the transfer date, nominate a company in relation to each water authority as that authority's successor company; but a company shall not be so nominated unless it is a limited company and, at the time when the order is made, is wholly owned by the Crown.
- (3) Subject to subsection (4) below, each water authority shall continue in existence after the transfer date until such time as they may be dissolved by order made by the Secretary of State.
- (4) On the transfer date the chairman and members of each water authority shall cease to hold office; and on and after that date each such authority—
 - (a) shall consist only of a chairman appointed by the Secretary of State and, if the Secretary of State thinks fit, such one or more other persons as the Secretary of State may appoint as members of that authority; and
 - (b) shall have only the functions which fall to be carried out by that authority under any scheme under Schedule 2 to this Act with respect to that authority.
- (5) The Secretary of State shall not make an order under subsection (3) above in relation to any water authority unless he is satisfied, after consultation with the water authority and with the Authority and the water authority's successor company, that nothing further remains to be done by the water authority under any scheme under Schedule 2 to this Act.
- (6) The power to make an order under this section shall be exercisable by statutory instrument and such an order shall not be amended or revoked—
 - (a) in the case of an order under subsection (2) above, on or after the transfer date; or
 - (b) in the case of an order under subsection (3) above, after the dissolution of the water authority to which the order relates.

The Director General of Water Services and the customer service committees

5 The Director General of Water Services

- (1) The Secretary of State shall appoint an officer to be known as the Director General of Water Services (in this Act referred to as "the Director") for the purpose of carrying out the functions assigned or transferred to him under this Act.

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- (2) An appointment of a person to hold office as the Director shall be for a term not exceeding five years; but previous appointment to that office shall not affect eligibility for re-appointment.
- (3) The Director may at any time resign his office as the Director by notice addressed to the Secretary of State; and the Secretary of State may remove any person from that office on the ground of incapacity or misbehaviour.
- (4) Subject to subsections (2) and (3) above, the Director shall hold and vacate office as such in accordance with the terms of his appointment.
- (5) The provisions of Schedule 3 to this Act shall have effect with respect to the Director.

6 Customer service committees

- (1) The Director shall allocate every company holding an appointment under Chapter I of Part II of this Act to a committee established and maintained by him for the purpose, in relation to such companies as may be allocated to it, of carrying out—
 - (a) the functions assigned by this Act to such a committee; and
 - (b) such other functions as the committees established and maintained under this section may be required to carry out by the Director.
- (2) The committees established and maintained under this section shall be known as customer service committees.
- (3) There shall not at any time be more than ten customer service committees, but it shall be the duty of the Director so to exercise his powers under this section to establish and maintain customer service committees and to allocate companies to those committees as to secure—
 - (a) that such customer service committees are established, as soon as practicable after the transfer date, as he considers appropriate for the purpose of making allocations under subsection (1) above in respect of every company whose appointment under Chapter I of Part II of this Act comes into force on that date; and
 - (b) that at all times after that date such customer service committees are maintained, and such allocations under subsection (1) above are in force, as he considers appropriate for ensuring that the interests of the customers and potential customers of the companies for the time being holding appointments under that Chapter are effectively represented.
- (4) A customer service committee shall consist of—
 - (a) a chairman appointed by the Director after consultation with the Secretary of State; and
 - (b) such number (not less than ten nor more than twenty) of other members appointed by the Director as the Director may determine.
- (5) In appointing persons to be members of a customer service committee the Director shall have regard to—
 - (a) the desirability of the persons appointed being persons who have experience of, and have shown capacity in, some matter relevant to the functions of a water undertaker or sewerage undertaker or to the carrying out of those functions in relation to any area by a company which the Director has allocated, or is proposing to allocate, to that committee; and

- (b) the desirability—
 - (i) of the committee including one or more persons with experience of work among, and the special needs of, disabled persons; and
 - (ii) of persons appointed by virtue of this paragraph including disabled persons.
- (6) An appointment of a person to hold office as the chairman of a customer service committee shall be for a term not exceeding four years.
- (7) Subject to subsection (6) above, the chairman and other members of a customer service committee shall hold and vacate office in accordance with the terms of their appointments and, notwithstanding that subsection, shall on ceasing to hold office be eligible for re-appointment.
- (8) The provisions of Schedule 4 to this Act shall have effect with respect to customer service committees.

General duties

7 General duties with respect to water supply and sewerage services

- (1) Subsections (2) and (3) below shall have effect, subject to subsection (5) below, for imposing duties on the Secretary of State and on the Director as to when and how they should exercise the following powers and perform the following duties, that is to say—
 - (a) in the case of the Secretary of State, the powers and duties conferred or imposed on him by virtue of provisions contained in Chapter I of Part II of this Act or in section 38, 68 or 162 below; and
 - (b) in the case of the Director, the powers and duties conferred or imposed on him by virtue of provisions mentioned in paragraph (a) above or by virtue of section 41, 43, 72 or 161 below.
- (2) The Secretary of State or, as the case may be, the Director shall exercise and perform the powers and duties mentioned in subsection (1) above in the manner that he considers is best calculated—
 - (a) to secure that the functions of a water undertaker and of a sewerage undertaker are properly carried out as respects every area of England and Wales; and
 - (b) without prejudice to the generality of paragraph (a) above, to secure that companies holding appointments under Chapter I of Part II of this Act as water undertakers or sewerage undertakers are able (in particular, by securing reasonable returns on their capital) to finance the proper carrying out of the functions of such undertakers.
- (3) Subject to subsection (2) above, the Secretary of State or, as the case may be, the Director shall exercise and perform the powers and duties mentioned in subsection (1) above in the manner that he considers is best calculated—
 - (a) to ensure that the interests of every person who is a customer or potential customer of a company which has been or may be appointed under Chapter I of Part II of this Act to be a water undertaker or sewerage undertaker are protected as respects the fixing and recovery by that company of—
 - (i) charges in respect of any services provided in the course of the carrying out of the functions of a water undertaker or sewerage undertaker; and

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- (ii) amounts of any other description which such an undertaker is authorised by or under any enactment to require such a person to pay; and, in particular, that the interests of customers and potential customers in rural areas are so protected and that no undue preference is shown, and that there is no undue discrimination, in the fixing of those charges and amounts;
 - (b) to ensure that the interests of every such person are also protected as respects the other terms on which any services are provided by that company in the course of the carrying out of the functions of a water undertaker or sewerage undertaker and as respects the quality of those services;
 - (c) to ensure that the interests of every such person are further protected as respects benefits that could be secured for them by the application in a particular manner of any of the proceeds of a disposal (whether before, on or after the transfer date) of any of that company's protected land or of any interest or right in or over any of that land;
 - (d) to promote economy and efficiency on the part of any such company in the carrying out of the functions of a water undertaker or sewerage undertaker; and
 - (e) to facilitate effective competition, with respect to such matters as he considers appropriate, between persons holding or seeking appointments under that Chapter.
- (4) In performing his duty under subsection (3) above, so far as it requires him to do anything in the manner which he considers is best calculated to ensure that the interests of the customers and potential customers of any company are protected as respects the quality of any services provided by that company in the course of the carrying out of the functions of a water undertaker or sewerage undertaker, the Secretary of State or, as the case may be, the Director shall take into account, in particular, the interests of those who are disabled or of pensionable age.
- (5) The Secretary of State may give the Director directions of a general or specific character with respect to the exercise in relation to any company which is wholly owned by the Crown of any power conferred on the Director by or under the provisions of Part II of this Act; and it shall be the duty of the Director to comply with any such direction.
- (6) It shall be the duty of the Authority, in exercising any of its powers under any enactment, to have particular regard to the duties imposed, by virtue of the provisions of Part II of this Act, on any water undertaker or sewerage undertaker which appears to the Authority to be or to be likely to be affected by the exercise of the power in question.
- (7) It shall be the duty of the Secretary of State and of the Minister, in exercising—
- (a) any power conferred by virtue of this Act in relation to, or to decisions of, the Authority; or
 - (b) any power which, but for any direction given by the Secretary of State or the Minister, would fall to be exercised by the Authority,
- to take into account the duty imposed on the Authority by subsection (6) above.

8 General environmental and recreational duties

- (1) It shall be the duty of each of the following, that is to say, the Secretary of State, the Minister, the Director and every relevant body, in formulating or considering any

proposals relating to the functions of any relevant body or, as the case may be, that body—

- (a) so far as may be consistent with the purposes of any enactment relating to the functions of that body and, in the case of the Secretary of State and the Director, with their duties under section 7 above, so to exercise any power conferred on him or it with respect to the proposals as to further the conservation and enhancement of natural beauty and the conservation of flora, fauna and geological or physiographical features of special interest;
 - (b) to have regard to the desirability of protecting and conserving buildings, sites and objects of archaeological, architectural or historic interest; and
 - (c) to take into account any effect which the proposals would have on the beauty or amenity of any rural or urban area or on any such flora, fauna, features, buildings, sites or objects.
- (2) Subject to subsection (1) above, it shall be the duty of each of the following, that is to say, the Secretary of State, the Minister, the Director and every relevant body, in formulating or considering any proposals relating to the functions of a relevant body or, as the case may be, that body—
 - (a) to have regard to the desirability of preserving for the public any freedom of access to areas of woodland, mountains, moor, heath, down, cliff or foreshore and other places of natural beauty;
 - (b) to have regard to the desirability of maintaining the availability to the public of any facility for visiting or inspecting any building, site or object of archaeological, architectural or historic interest; and
 - (c) to take into account any effect which the proposals would have on any such freedom of access or on the availability of any such facility.
- (3) Subject to obtaining the consent of any navigation authority, harbour authority or conservancy authority before doing anything which causes navigation which is subject to the control of that authority to be obstructed or otherwise interfered with, it shall be the duty of every relevant body to take such steps as are—
 - (a) reasonably practicable; and
 - (b) consistent with the purposes of the enactments relating to the functions of that body,
for securing, so long as that body has rights to the use of water or land associated with water, that those rights are exercised so as to ensure that the water or land is made available for recreational purposes and is so made available in the best manner.
- (4) Without prejudice to its other duties under this section, it shall be the duty of the Authority, to such extent as it considers desirable, generally to promote—
 - (a) the conservation and enhancement of the natural beauty and amenity of inland and coastal waters and of land associated with such waters;
 - (b) the conservation of flora and fauna which are dependent on an aquatic environment; and
 - (c) the use of such waters and land for recreational purposes.
- (5) It shall be the duty of a relevant body, in determining what steps to take in performance of any duty imposed by virtue of subsection (3) or (4)(c) above, to take into account the needs of persons who are chronically sick or disabled.
- (6) Nothing in this section or the following provisions of this Act shall require recreational facilities made available by a relevant body to be made available free of charge.

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(7) In this section—

“building” includes structure; and

“relevant body” means the Authority, a water undertaker, a sewerage undertaker or an internal drainage board;

and references in this section to a water undertaker or sewerage undertaker or to the functions of such an undertaker shall be construed as if those functions included the management, by the company holding an appointment as such an undertaker, of any land for the time being held by that company for any purpose whatever (whether connected with the carrying out of the functions of a water undertaker or sewerage undertaker or not).

9 Environmental duties with respect to sites of special interest

(1) Where the Nature Conservancy Council are of the opinion that any area of land—

(a) is of special interest by reason of its flora, fauna or geological or physiographical features; and

(b) may at any time be affected by schemes, works, operations or activities of a relevant body or by an authorisation given by the Authority,

the Council shall notify the fact that the land is of special interest for that reason to every relevant body whose works, operations or activities may affect the land or, as the case may be, to the Authority.

(2) Where a National Park authority or the Broads Authority is of the opinion that any area of land in a National Park or in the Broads—

(a) is land in relation to which the matters for the purposes of which section 8 above has effect are of particular importance; and

(b) may at any time be affected by schemes, works, operations or activities of a relevant body or by an authorisation given by the Authority,

the National Park authority or Broads Authority shall notify the fact that the land is such land, and the reasons why those matters are of particular importance in relation to the land, to every relevant body whose works, operations or activities may affect the land or, as the case may be, to the Authority.

(3) Where a relevant body has received a notification under subsection (1) or (2) above with respect to any land, that body shall consult the notifying body before carrying out, or (in the case of the Authority) carrying out or authorising, any works, operations or activities which appear to that relevant body to be likely—

(a) to destroy or damage any of the flora, fauna, or geological or physiographical features by reason of which the land is of special interest; or

(b) significantly to prejudice anything the importance of which is one of the reasons why the matters mentioned in subsection (2) above are of particular importance in relation to that land.

(4) Subsection (3) above shall not apply in relation to anything done in an emergency where particulars of what is done and of the emergency are notified to the Nature Conservancy Council, the National Park authority in question or, as the case may be, the Broads Authority as soon as practicable after that thing is done.

(5) In this section—

“the Broads” has the same meaning as in the Norfolk and Suffolk Broads Act 1988;

“National Park authority” means a National Park Committee or a joint or special planning board for a National Park; and

“relevant body” has the same meaning as in section 8 above.

10 Codes of practice with respect to environmental and recreational duties

- (1) The relevant Minister may by order approve any code of practice issued (whether by the relevant Minister or another person) for the purpose of—
 - (a) giving practical guidance to the Authority or to water undertakers and sewerage undertakers with respect to any of the matters for the purposes of which sections 8 and 9 above have effect; and
 - (b) promoting what appear to him to be desirable practices by the Authority or such undertakers with respect to those matters,and may at any time by such an order approve a modification of such a code or withdraw his approval of such a code or modification.
- (2) A contravention of a code of practice as for the time being approved under this section shall not of itself constitute a contravention of any requirement imposed by section 8 or 9 above or give rise to any criminal or civil liability, but the Secretary of State and the Minister shall each be under a duty to take into account whether there has been or is likely to be any such contravention in determining when and how he should exercise his powers by virtue of this Act in relation to the Authority or any water undertaker or sewerage undertaker.
- (3) The power of the relevant Minister to make an order under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) Except in the case of an order made before the transfer date, the relevant Minister shall not make an order under this section unless he has first consulted the Authority, the Countryside Commission, the Nature Conservancy Council, the Historic Buildings and Monuments Commission for England, the Sports Council, the Sports Council for Wales and such water undertakers, sewerage undertakers and other persons as he considers it appropriate to consult.
- (5) In this section “the relevant Minister” means—
 - (a) in relation to the Authority, the Secretary of State or the Minister; and
 - (b) in relation to a water undertaker or sewerage undertaker, the Secretary of State.