



Water Act 1989

1989 CHAPTER 15

PART VI

MISCELLANEOUS AND SUPPLEMENTAL

Other supplemental provisions

190 Amendments, transitional provisions, savings and repeals

- (1) The enactments mentioned in Schedule 25 to this Act shall have effect subject to the amendments there specified (being minor amendments or amendments consequential on the preceding provisions of this Act); and, without prejudice to any power conferred by any other provision of this Act, the Secretary of State and the Minister shall each have power by regulations to make such additional consequential amendments—
 - (a) of public general enactments not mentioned in that Schedule but passed before, or in the same Session as, this Act; and
 - (b) of subordinate legislation made before the passing of this Act,as he considers necessary or expedient by reason of the coming into force of any provision of this Act.
- (2) The transitional provisions and savings contained in Schedule 26 to this Act shall have effect; but those provisions and savings are without prejudice to sections 16 and 17 of the Interpretation Act 1978 (effect of repeals) or to the transfer, in accordance with a scheme under Schedule 2 to this Act, of any rights or liabilities saved by virtue of those sections.
- (3) The enactments mentioned in Schedule 27 to this Act (which include some which are spent or no longer of practical utility) are hereby repealed to the extent specified in the third column of that Schedule.
- (4) Subject to paragraphs 17, 46 and 53 of Schedule 26 to this Act, any reference in that Schedule or in Schedule 27 to this Act to a provision of Schedule 3 to the 1945 Act shall have effect, without prejudice to section 20(2) of the Interpretation Act 1978 (references to enactments to include references to enactments as amended, extended

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or applied), as including a reference to that provision as applied, with or without modifications, by any local statutory provision.

191 Local statutory provisions: consequential amendments etc

- (1) If it appears to the Secretary of State or the Minister to be appropriate to do so—
 - (a) for the purposes of, or in consequence of, the coming into force of any enactment contained in this Act; or
 - (b) in consequence of the effect or operation at any time after the transfer date of any such enactment or of anything done under any such enactment,
 he may by order repeal, amend or re-enact (with or without modifications) any local statutory provision, including, in the case of an order by virtue of paragraph (b) above, a provision amended by virtue of paragraph (a) above.
- (2) An order made by the Secretary of State or the Minister under subsection (1) above may—
 - (a) make provision applying generally in relation to local statutory provisions of a description specified in the order;
 - (b) make different provision for different cases, including different provision in relation to different persons, circumstances or localities;
 - (c) contain such supplemental, consequential and transitional provision as the Secretary of State or, as the case may be, the Minister considers appropriate; and
 - (d) in the case of an order made after the transfer date, require provision contained in the order to be treated as if it came into force on that date.
- (3) The power under this section to repeal or amend a local statutory provision shall include power to modify the effect in relation to any local statutory provision of any provision of Schedule 26 to this Act.
- (4) Nothing in any order under this section may abrogate or curtail the effect of so much of any local statutory provision as confers any right of way or confers on or preserves for the public—
 - (a) any right of enjoyment of air, exercise or recreation on land; or
 - (b) any right of access to land for the purposes of exercise or recreation.
- (5) The power to make an order under subsection (1) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) Subject to the provisions of Schedule 26 to this Act, nothing in any local statutory provision passed or made before the transfer date shall be construed as relieving any water undertaker or sewerage undertaker from any liability arising by virtue of this Act in respect of any act or omission occurring on or after that date.

192 Application to Crown land etc

- (1) Subject to the following provisions of this section, the provisions of this Act shall have effect in relation to land in which there is a Crown or Duchy interest as they have effect in relation to land in which there is no such interest.

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- (2) Subject to subsection (3) below, a power which is conferred by or under this Act in relation to land shall be exercisable in relation to any land in which there is a Crown or Duchy interest only with the consent of the appropriate authority.
- (3) Subsection (2) above shall not require any consent to be given—
- (a) for the exercise of any power in relation to any land in which there is a Crown or Duchy interest to the extent that that power would be so exercisable apart from subsection (1) above;
 - (b) for the imposition in relation to any premises in which there is a Crown or Duchy interest of any charges for a service provided by a water undertaker or sewerage undertaker in the course of carrying out its functions; or
 - (c) for the purposes of any provision having effect by virtue of so much of section 155 above and Schedule 20 to this Act as relates to the granting of authority for discharges of water;
- but nothing in this section shall be construed as authorising the Authority to require the Crown to make any payment to the Authority in respect of any premises.
- (4) A consent given for the purposes of subsection (2) above may be given on such financial and other conditions as the appropriate authority giving the consent may consider appropriate.
- (5) In this section—
- “the appropriate authority” has the same meaning as in section 266 of the Town and Country Planning Act 1971; and
 - “Crown or Duchy interest” means an interest belonging to Her Majesty in right of the Crown or of the Duchy of Lancaster, or to the Duchy of Cornwall, or belonging to a government department or held in trust for Her Majesty for the purposes of a government department;
- and the provisions of subsection (7) of the said section 266 as to the determination of questions shall apply for the purposes of this section.

193 Application to Isles of Scilly

- (1) Subject to the provisions of any order under this section, nothing in this Act shall require or authorise any function, duty or power to be carried out, performed or exercised in relation to the Isles of Scilly by the Authority, a water undertaker or sewerage undertaker; and references in the preceding provisions of this Act to England and Wales shall not include references to those Isles.
- (2) The Secretary of State may, on the application of the Council of the Isles of Scilly, by order make provision with respect to the carrying out in those Isles of functions falling under this Act to be carried out in relation to other parts of England and Wales by the Authority, by a water undertaker or by a sewerage undertaker; and, without prejudice to the generality of that power, an order under this section may apply any provision of this Act in relation to the Isles of Scilly with or without modifications.
- (3) The power of the Secretary of State 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; and such an order may—
- (a) make different provision for different cases, including different provision in relation to different persons, circumstances or localities; and

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- (b) contain such supplemental, consequential and transitional provision as the Secretary of State considers appropriate, including provision saving provision repealed by or under any enactment.

194 Short title, commencement and extent

- (1) This Act may be cited as the Water Act 1989.
- (2) This section, so much of this Act as confers any power to make subordinate legislation or makes provision with respect to the exercise of any such power and sections 29 and 30 above shall come into force on the passing of this Act.
- (3) The following provisions of this Act, except in so far as they are already in force in accordance with subsection (2) above, shall come into force on the transfer date, namely—
 - (a) sections 15 to 28 (including Schedules 5 and 6), section 31 and sections 33 to 36;
 - (b) Chapters II to V of Part II, except section 79;
 - (c) section 97;
 - (d) Parts III and IV, except so far as relating to the amendment, in Schedule 17, to the Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951;
 - (e) Part V, except so far as relating to sections 33, 47 and 48 of the Control of Pollution Act 1974;
 - (f) Schedule 26 and section 190 so far as relating to that Schedule; and
 - (g) Part I of Schedule 27 and section 190 so far as relating to that Part of that Schedule.
- (4) The provisions of this Act not brought into force on the passing of this Act or on the transfer date by subsection (2) or (3) above shall come into force on such day (whether that date or a day before or after that date) as the Secretary of State may by order made by statutory instrument appoint; and different days may be so appointed for different provisions or for different purposes.
- (5) An order made by the Secretary of State under subsection (4) above may make such transitional provisions and savings in connection with the bringing into force by that order of any provision of this Act as the Secretary of State considers appropriate.
- (6) This section and the following provisions of this Act shall extend to the whole of the United Kingdom, namely—
 - (a) Schedules 2 and 5 and sections 4, 13 and 23 so far as relating to any scheme under either of those Schedules;
 - (b) section 95; and
 - (c) any amendment or repeal by this Act of any provision contained in the Parliamentary Commissioner Act 1967, the Capital Allowances Act 1968, the House of Commons Disqualification Act 1975 or the Northern Ireland Assembly Disqualification Act 1975.
- (7) Subject to any enactment by virtue of which a provision of this Act has effect in relation to any part of the territorial sea adjacent to or to any part of Great Britain, the following provisions of this Act shall extend to Great Britain only, namely—
 - (a) section 136 and Schedule 15 so far as they amend section 32 of the Land Drainage Act 1976;

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- (b) subsections (1) to (4), (6) and (7) of section 141 and, so far as they amend the Diseases of Fish Act 1937 or section 39 of the Salmon and Freshwater Fisheries Act 1975 (border rivers), subsection (5) of the said section 141 and Schedule 17;
 - (c) section 172;
 - (d) section 190 and Schedule 25 so far as they relate to the Agriculture Act 1970, the Health and Safety at Work etc. Act 1974 and the Employment Protection (Consolidation) Act 1978; and
 - (e) section 190 and Schedule 27 so far as they relate to the Diseases of Fish Act 1937, the Border Rivers (Prevention of Pollution) Act 1951, section 126 of the Water Resources Act 1963 (border rivers), section 39(4) of the Salmon and Freshwater Fisheries Act 1975 and the Diseases of Fish Act 1983.
- (8) The following provisions of this Act shall extend to Scotland only (subject, in the case of paragraph (a) below, to the application of sections 21 and 22 of the Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951 to any provision of that Act), namely—
- (a) subsection (5) of section 141 above and Schedule 17 to this Act, so far as they amend section 15 of the Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951;
 - (b) Part V;
 - (c) section 190 and Schedule 25 so far as they amend the Public Health (Scotland) Act 1897, the Agricultural Holdings (Scotland) Act 1949, the Rivers (Prevention of Pollution) (Scotland) Act 1951, the Valuation and Rating (Scotland) Act 1956 and the Water (Scotland) Act 1980;
 - (d) section 190 and Part I of Schedule 27 so far as they relate to section 104 of the Control of Pollution Act 1974.
- (9) Subject to subsections (6) to (8) above, to any enactment by virtue of which a provision of this Act has effect in relation to any part of the territorial sea adjacent to England and Wales and to the application of section 39(1) of the Salmon and Freshwater Fisheries Act 1975 (border rivers) to any provision of this Act in so far as it amends or repeals an enactment contained in the said Act of 1975, this Act shall extend to England and Wales only.