

Changes to legislation: There are currently no known outstanding effects for the Water Consolidation (Consequential Provisions) Act 1991, Cross Heading: Byelaws preventing pollution. (See end of Document for details)

SCHEDULES

SCHEDULE 2

TRANSITIONAL AND TRANSITORY PROVISIONS AND SAVINGS

Modifications etc. (not altering text)

- C1** Sch. 2: power to modify conferred (1.12.1991) by [Water Industry Act 1991 \(c. 56, SIF 130\)](#), **ss. 74(6), 223(2)** (with s. 219(3))

PART I

GENERAL TRANSITIONAL PROVISIONS AND SAVINGS

Byelaws preventing pollution

- 4 (1) Where immediately before commencement any byelaws have effect by virtue of paragraph 57 of Schedule 26 to the 1989 Act as if the power conferred by any enactment repealed by this Act included a power to make those byelaws, those byelaws shall continue to have effect as if the corresponding enactment contained in the consolidation Acts contained such a power.
- (2) Notwithstanding any repeal made by the 1989 Act or this Act, the provisions of subsections (2) to (5) of section 18 of the 1945 Act and of subsections (2), (4) and (5) of section 19 of the 1945 Act and, in relation to those provisions, the provisions of Part V of the 1945 Act shall have effect in relation to any byelaws under section 18 of the 1945 Act which have effect by virtue of paragraph 57(1) and (2) of Schedule 26 to the 1989 Act and the preceding provisions of this Schedule—
- (a) as they had effect in relation to those byelaws immediately before 1st September 1989; but
- (b) as if any references in those provisions of sections 18 and 19 of the 1945 Act to the statutory water undertakers who made the byelaws were references to the relevant body;
- and every duty imposed on a water undertaker by virtue of paragraph (b) above shall be enforceable under section 18 of the Water Industry Act 1991 by the Secretary of State.
- (3) Without prejudice to the power of the Secretary of State under the ^{M1}Control of Pollution Act 1974 to bring the repeal of section 18 of the 1945 Act into force, the power of the Secretary of State under section 93 of the ^{M2}Water Resources Act 1991 to make an order for the purposes specified in that section shall include power, by an order under that section—
- (a) to modify the operation of the provisions of this Schedule in relation to any byelaws under the said section 18 that have effect by virtue of those provisions; and

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- (b) to revoke or amend any such byelaws.
- (4) Without prejudice to the power conferred by virtue of sub-paragraph (3) above, the Secretary of State shall not be required to hold a local inquiry before exercising his power, under paragraph 5 of Schedule 10 to the ^{M3}Water Industry Act 1991 or under paragraph 5 of Schedule 26 to the ^{M4}Water Resources Act 1991, to revoke any byelaw having effect by virtue of paragraph 57(2) of Schedule 26 to the 1989 Act and this Schedule.
- (5) The repeal by this Act of subsections (8) and (9) of section 79 of the ^{M5}Water Resources Act 1963 shall not affect the application of those subsections (pending the repeal of subsection (1) of that section) in relation to any byelaws made by virtue of that subsection (1).
- (6) The repeal by this Act of paragraph 26 of Schedule 26 to the 1989 Act (byelaws under the ^{M6}Rivers (Prevention of Pollution) Act 1951) shall not prevent any order made under that paragraph from continuing, subject to any modification required by paragraph 1(2)(b) above, to have effect; nor shall it affect any power to revoke, amend or re-enact any such order.
- (7) In this paragraph “the relevant body”, in relation to any byelaws—
- (a) in the case of byelaws made by a statutory water company, means that company;
 - (b) in the case of byelaws made by a water authority under section 22(6) of the ^{M7}Countryside Act 1968 (byelaws with respect to certain waterways) with respect to any waterway or land which—
 - (i) is owned by the water authority’s successor company (within the meaning of the 1989 Act); or
 - (ii) without being owned by the NRA, is managed by that company, means that company; and
 - (c) in any other case, means the NRA.

Marginal Citations

- M1** 1974 c. 40.
M2 1991 c. 57.
M3 1991 c. 56.
M4 1991 c. 57.
M5 1963 c. 38.
M6 1951 c. 64.
M7 1968 c. 41.

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