

These notes refer to the Water Act 2003 (c.37) which received Royal Assent on 20th November 2003

WATER ACT 2003

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3: Miscellaneous

Sections 74 to 80 Reservoirs

371. These sections amend the Reservoirs Act 1975. The provisions of the Reservoirs Act 1975 are devolved to the Assembly, except the new section 12A(4) introduced by section 77 of this Act, which deals with public safety for England.

372.

Section 74: Environment Agency to be enforcement authority under the Reservoirs Act 1975.

Enforcement within England and Wales of the provisions of the Reservoirs Act 1975 (which covers the whole of Great Britain) currently falls to some 140 local authorities. This section transfers enforcement functions in relation to England and Wales to a single body, the EA.

373.

Section 75: Extension of enforcement authority's reserve powers.

Enforcement authorities have reserve powers that may be used in certain circumstances where reservoir undertakers have failed to comply with their responsibilities under the 1975 Act. For example, these powers may be used where, having failed to comply with a notice served by the authority, the undertaker refuses to implement recommendations made by a panel engineer in the interests of safety. This section enables the enforcement authority to step in and arrange for the works to be executed and to charge the costs of doing so to the undertaker. The reserve powers are not presently available in respect of reservoirs that are under construction or being enlarged and this section extends the power to encompass such cases. This section applies in England and Wales.

374.

Section 76: Service of documents.

The amendments made by this section are consequential on provisions made by section 71.

375.

Section 77: Flood plans: large raised reservoirs.

The Reservoirs Act 1975 makes provision in respect of escapes of water from large raised reservoirs. The emphasis of the current legislation is on prevention of escapes. But with uncertainties over the future implications of climate change and rainfall patterns further flexibility within this safety legislation, in the Government's view, should be available. Some reservoir owners already prepare flood plans voluntarily. This section enables the Secretary of State, after consultation with all interested parties, to issue a

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direction to the owner of a large raised reservoir in England or Wales requiring the preparation and dissemination of such a plan. Under section 77(4), the Secretary of State may also issue directions to reservoir undertakers in Wales where the Assembly has not itself done so but where it is considered necessary in the interests of public safety in England.

376.

Section 78-79: National security and offences.

This section provides for the exclusion from the registers, maintained under section 2 of the 1975 Act of information that is prejudicial to the interests of national security. It also imposes restrictions on consultation and publication arrangements in section 77 where the Secretary of State (or Assembly) considers it necessary to do so in the interests of national security. The restrictions on publication may extend to flood plans other than those prepared under section 77 and restrictions may also limit access to any flood plans. Failure by an undertaker to comply with a notice issued under this section will be a criminal offence (under section 79).

377.

Section 80: Crown application.

Although exempt from the provisions of the 1975 Act, Crown bodies have acted as though bound by the Act. This section formally extends the Act to the Crown in England and Wales.