



Water Act 2014

2014 CHAPTER 21

PART 1

WATER INDUSTRY

CHAPTER 2

WATER AND SEWERAGE UNDERTAKERS

Arrangements for water undertakers to take water

12 Arrangements for water undertakers to take water from other persons

In Part 3 of the Water Industry Act 1991, after Chapter 2A there is inserted—

“CHAPTER 2B

ADDITIONAL SOURCES OF WATER

66M Arrangements for water undertakers to take water from other persons

- (1) The Minister may by regulations make provision about the supply of water to a water undertaker by a person other than a water undertaker.
- (2) Regulations under this section may, in particular—
 - (a) confer functions on the Authority, the Secretary of State and the Welsh Ministers;
 - (b) make provision preventing the CMA or the Authority from exercising powers under the Competition Act 1998 in respect of a water supply agreement;

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- (c) include provision described in sections 66N and 66O;
 - (d) make provision excepting water supply agreements of such description as the regulations may specify from the effect of—
 - (i) any provision of the regulations, or
 - (ii) any provision of the codes or rules made under the regulations.
- (3) In this Chapter—
- “the Minister” means—
- (a) the Secretary of State, in relation to the supply of water to a water undertaker whose area is wholly or mainly in England, and
 - (b) the Welsh Ministers, in relation to the supply of water to a water undertaker whose area is wholly or mainly in Wales;
- “relevant person” means a person other than a water undertaker;
- “water supply agreement” means an agreement for the supply of water to a water undertaker by a relevant person.
- (4) Nothing in provision made under this Chapter affects a water supply agreement made before any regulations under this section first come into force.

66N Orders in respect of supplies by relevant persons

- (1) Regulations under section 66M may, in particular, make provision for the Authority by order—
- (a) to require a water undertaker to take a supply of water from a relevant person, and
 - (b) to vary or terminate a water supply agreement.
- (2) Provision made under subsection (1)(a) must provide that—
- (a) the Authority may make an order only on an application by the water undertaker or the relevant person, and
 - (b) before making an order the Authority must be satisfied that the water undertaker and the relevant person cannot reach agreement.
- (3) Provision made under subsection (1)(b) must provide that the Authority may make an order only on an application by a party to the agreement.
- (4) The provision that may be made under subsection (1) includes—
- (a) provision about the circumstances in which the Authority may make an order;
 - (b) provision requiring the Authority to consult the Environment Agency, the NRBW or both of them before making an order;
 - (c) provision requiring the Authority to have regard to whether a person has complied with a code or rules described in section 66O;
 - (d) provision enabling the Authority to specify the times at which, the period during which and the terms and conditions on which the supply of water must be taken;
 - (e) provision for an order made by the Authority requiring a supply of water to be taken to have effect as an agreement between the water undertaker and the relevant person (or those persons and other persons);

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- (f) provision requiring a party to a water supply agreement to pay compensation to another party on the variation or termination of the agreement.

66O Codes and rules in respect of water supply agreements

- (1) Regulations under section 66M may, in particular, make provision for the Authority to issue one or more codes in respect of water supply agreements, including—
 - (a) provision for a code to include provision about procedures in connection with making, varying or terminating a water supply agreement;
 - (b) provision for a code to include provision about the terms and conditions of water supply agreements;
 - (c) provision for a code to include provision about procedures to be followed by the Authority in determining whether to make an order described in section 66N;
 - (d) provision for the Authority to direct water undertakers to comply with a code;
 - (e) provision for such directions to be enforceable by the Authority under section 18;
 - (f) provision for the Minister to require a code to be revised or to prevent a code being issued or revised (but see subsections (3) and (4)).
- (2) Regulations under section 66M may, in particular, make provision for the Authority to issue and enforce rules about charges that may be imposed under water supply agreements, including—
 - (a) provision for the making of rules about the amount or maximum amount of a charge;
 - (b) provision for the Authority to direct water undertakers to comply with the rules;
 - (c) provision for such directions to be enforceable by the Authority under section 18;
 - (d) provision for the Minister to issue guidance as to the content of the rules (but see subsection (4));
 - (e) provision for the Minister to prevent rules being issued (but see subsection (4)).
- (3) Regulations conferring a power on the Minister as described in subsection (1) (f) must provide that—
 - (a) if the power is exercised to impose a requirement in respect of agreements for such supplies of water as are referred to in paragraph (a) or (b) of the definition of “the Minister” in section 66M(3), it may not be exercised again in respect of such supplies of water as are referred to in that paragraph, and
 - (b) if the power to impose a requirement in respect of agreements for such supplies of water as are referred to in paragraph (a) or (b) of the definition of “the Minister” in section 66M(3) is not exercised on the first occasion on which it may be so exercised, it may not be exercised in respect of such agreements as are referred to in that paragraph on a later occasion.

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- (4) Functions conferred by provision described in subsection (1)(f) or (2)(d) or (e) must be conferred on the Secretary of State and the Welsh Ministers acting jointly so far as the code, guidance or rules relate to—
- (a) a supply of water to a water undertaker whose area is wholly or mainly in England by means of the supply system of a water undertaker whose area is wholly or mainly in Wales;
 - (b) a supply of water to a water undertaker whose area is wholly or mainly in Wales by means of the supply system of a water undertaker whose area is wholly or mainly in England.
- (5) References in this section to a water undertaker’s supply system are to be construed in accordance with section 17B.

66P Procedure etc

- (1) A statutory instrument containing regulations under section 66M may not be made unless a draft of the instrument has been laid before and approved by a resolution of—
- (a) each House of Parliament, in the case of regulations made by the Secretary of State, or
 - (b) the Assembly, in the case of regulations made by the Welsh Ministers.
- (2) Before laying a draft of an instrument in accordance with subsection (1), the Minister must consult—
- (a) the Authority,
 - (b) water undertakers,
 - (c) water supply licensees,
 - (d) the Chief Inspector of Drinking Water,
 - (e) the Chief Inspector of Drinking Water for Wales if there is one,
 - (f) the Environment Agency,
 - (g) the NRBW,
 - (h) the Council, and
 - (i) such other persons as the Minister considers appropriate.
- (3) The supplemental and consequential provision that regulations under section 66M may include by virtue of section 213(2)(f) includes provision amending, repealing or revoking provision made by or under an enactment.
- (4) Section 213(2) to (2B) applies to regulations made by the Welsh Ministers under section 66M as it applies to regulations made by the Secretary of State.
- (5) If a draft of an instrument containing regulations under section 66M would, apart from this subsection, be treated for the purposes of the Standing Orders of either House of Parliament as a hybrid instrument, it is to proceed in that House as if it were not a hybrid instrument.
- (6) In this section “enactment” includes a Measure or Act of the Assembly.”