



Environment Act 2021

2021 CHAPTER 30

PART 5

WATER

PROSPECTIVE

Plans and proposals

78 Water resources management plans, drought plans and joint proposals

- (1) Chapter 1 of Part 3 of the Water Industry Act 1991 (general duties of water undertakers) is amended as follows.
- (2) In section 37A (water resources management plans)—
 - (a) in the heading omit “: preparation and review”;
 - (b) in subsection (3)(b) omit from “(also” to the end;
 - (c) in subsection (4)—
 - (i) at the beginning insert “Section 39F contains provision about”;
 - (ii) omit “is set out in section 37B below”;
 - (d) in subsection (6) omit the words after paragraph (c);
 - (e) omit subsection (8);
 - (f) omit subsection (10).
- (3) Omit sections 37B and 37C (water resources management plans: publication and provision of information).
- (4) In section 37D (water resources management plans: supplementary)—
 - (a) in subsection (1), in the words before paragraph (a), for “, 37AA or 37B” substitute “or 37AA”;
 - (b) in subsection (3)—
 - (i) in paragraph (a) for “to 37C” substitute “and 37AA”;

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(ii) omit paragraph (b) (and the “and” before it).

(5) In section 39B (drought plans)—

- (a) in the heading omit “: preparation and review”;
- (b) in subsection (4)(b) omit from “(also” to the end;
- (c) for subsection (5) substitute—

“(5) Section 39F makes provision about the procedure for preparing and publishing a drought plan (or revised plan).”;

- (d) in subsection (6)—
 - (i) in paragraph (c) omit from “in accordance” to the end;
 - (ii) omit the words after paragraph (c);
- (e) omit subsection (7);
- (f) in subsection (9), in the words before paragraph (a), omit from “(including” to “above”.

(6) Omit section 39C (drought plans: provision of information).

(7) After section 39D insert—

“39E Joint proposals

- (1) The Minister may give a direction to two or more water undertakers to prepare and publish a joint proposal.
- (2) A joint proposal is a proposal that identifies measures that may be taken jointly by the undertakers for the purpose of improving the management and development of water resources.
- (3) A joint proposal must not contain measures that (if taken) would result in any water undertaker being unable to meet its obligations under this Part.
- (4) A direction under this section may, in particular, require that—
 - (a) a joint proposal takes a specified form;
 - (b) a joint proposal addresses a specified matter;
 - (c) a joint proposal be prepared—
 - (i) in relation to a specified area;
 - (ii) by reference to specified criteria;
 - (iii) on the basis of a specified assumption.
- (5) Directions under this section are to be given by an instrument in writing.
- (6) Each water undertaker to whom a direction applies must comply with the direction.
- (7) The duties of a water undertaker under this section are enforceable by the Minister under section 18.
- (8) In this section “the Minister” means—
 - (a) the Secretary of State, in relation to water undertakers whose areas are wholly or mainly in England, and
 - (b) the Welsh Ministers, in relation to water undertakers whose areas are wholly or mainly in Wales.

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(9) In this section “specified” means specified in a direction under this section.

39F Plans and joint proposals: regulations about procedure

- (1) The Minister may by regulations make provision about the procedure for preparing and publishing—
- (a) a water resources management plan,
 - (b) a drought plan, and
 - (c) a joint proposal,
- including any revised plans or proposals.
- (2) The regulations may provide for the sharing of information and, in particular, may require a water supply licensee to share such information with a water undertaker as may be reasonably requested.
- (3) The regulations may make provision about consultation to be carried out by water undertakers, including provision about—
- (a) the persons to be consulted,
 - (b) the frequency and timing of any consultation, and
 - (c) the publication of statements relating to any consultation.
- (4) The regulations may make provision about the preparation and circulation of drafts, including provision for the Minister to require changes to a draft plan or proposal.
- (5) The regulations may make provision for the purposes of ensuring that persons likely to be affected by the plan or proposal have a reasonable opportunity to make representations to the Minister.
- (6) The regulations may make provision about how representations (and any comments on them by a water undertaker) are to be dealt with, and in respect of a plan mentioned in subsection (1)(a) or (b), the regulations may provide for—
- (a) the Minister to cause an inquiry or other hearing to be held in connection with the plan, and
 - (b) section 250(2) to (5) of the Local Government Act 1972 (local inquiries: evidence and costs) to apply to such an inquiry or hearing (with or without modifications).
- (7) The regulations may make provision about commercially confidential information and its publication.
- (8) In this section “the Minister” means—
- (a) the Secretary of State, in relation to water undertakers whose areas are wholly or mainly in England, and
 - (b) the Welsh Ministers, in relation to water undertakers whose areas are wholly or mainly in Wales.

39G Regulations under section 39F: directions

- (1) Regulations made under section 39F may confer on the Minister power to make provision by directions.

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- (2) Those directions are to be given by an instrument in writing.
- (3) They may be—
 - (a) general directions applying to all water undertakers, or
 - (b) directions applying only to one or more water undertakers specified in the directions.
- (4) Each water undertaker to whom a direction applies must comply with the direction.
- (5) The duties of a water undertaker under this section are enforceable by the Minister under section 18.
- (6) In this section “the Minister” has the same meaning as in section 39F.

39H Regulations under section 39F: supplementary

- (1) Regulations under section 39F are to be made by statutory instrument.
- (2) A statutory instrument containing regulations under section 39F is subject to annulment in pursuance of a resolution of—
 - (a) either House of Parliament, in the case of regulations made by the Secretary of State;
 - (b) Senedd Cymru, in the case of regulations made by the Welsh Ministers.
- (3) Subsection (4) applies in relation to a statutory instrument containing both—
 - (a) regulations made by the Secretary of State under section 39F, and
 - (b) regulations made by the Welsh Ministers under section 39F.
- (4) If in accordance with subsection (2)(a) or (b) (negative resolution procedure) —
 - (a) either House of Parliament resolves that an address be presented to Her Majesty praying that an instrument containing regulations made by the Secretary of State be annulled, or
 - (b) Senedd Cymru resolves that an instrument containing regulations made by the Welsh Ministers be annulled,

the instrument is to have no further effect and Her Majesty may by Order in Council revoke the instrument.
- (5) Section 213(2) to (2B) applies to regulations made by the Welsh Ministers under section 39F as it applies to regulations made by the Secretary of State.”

Commencement Information

II S. 78 not in force at Royal Assent, see s. 147(3)(4)

79 Drainage and sewerage management plans

In the Water Industry Act 1991, after section 94 insert—

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“94A Drainage and sewerage management plans: preparation and review

- (1) Each sewerage undertaker must prepare, publish and maintain a drainage and sewerage management plan.
- (2) A drainage and sewerage management plan is a plan for how the sewerage undertaker will manage and develop its drainage system and sewerage system so as to be able, and continue to be able, to meet its obligations under this Part.
- (3) A drainage and sewerage management plan must address in particular—
 - (a) the capacity of the undertaker’s drainage system and sewerage system,
 - (b) an assessment of the current and future demands on the undertaker’s drainage system and sewerage system,
 - (c) the resilience of the undertaker’s drainage system and sewerage system,
 - (d) the measures the undertaker intends to take or continue for the purpose in subsection (2),
 - (e) the likely sequence and timing for implementing those measures,
 - (f) relevant environmental risks and how those risks are to be mitigated, and
 - (g) any other matters specified by the Minister in directions.
- (4) Section 94C contains provision about the preparation and publication of a drainage and sewerage management plan (including a revised plan).
- (5) Before each anniversary of the date when its plan (or revised plan) was last published, the sewerage undertaker must—
 - (a) review its plan, and
 - (b) send a statement of the conclusions of its review to the Minister.
- (6) The sewerage undertaker must prepare and publish a revised plan in each of the following cases—
 - (a) following conclusion of its annual review, if the review indicated a material change of circumstances;
 - (b) if directed to do so by the Minister;
 - (c) in any event, not later than the end of the period of 5 years beginning with the date when the plan (or the revised plan) was last published.
- (7) The Minister may give directions specifying—
 - (a) the form which a drainage and sewerage management plan must take;
 - (b) the planning period to which a drainage and sewerage management plan must relate.
- (8) The duties of a sewerage undertaker under this section are enforceable by the Minister under section 18.
- (9) In this section references—
 - (a) to a drainage system of a sewerage undertaker, are to any drainage system (within the meaning of section 114A) maintained or operated by the sewerage undertaker which is not part of its sewerage system;

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(b) to the sewerage system of a sewerage undertaker, have the same meaning as in Chapter 1A of Part 2 (see section 17BA(7)).

(10) In this section “the Minister” means—

- (a) the Secretary of State, in relation to sewerage undertakers whose areas are wholly or mainly in England, and
- (b) the Welsh Ministers, in relation to sewerage undertakers whose areas are wholly or mainly in Wales.

94B Drainage and sewerage management plans: power to amend period

(1) The Minister may by order made by statutory instrument amend the period for the time being specified in section 94A(6)(c).

(2) In subsection (1) “the Minister” means—

- (a) the Secretary of State, in relation to sewerage undertakers whose areas are wholly or mainly in England, and
- (b) the Welsh Ministers, in relation to sewerage undertakers whose areas are wholly or mainly in Wales.

(3) A statutory instrument containing an order under subsection (1) is subject to annulment in pursuance of a resolution of—

- (a) either House of Parliament, in the case of an order made by the Secretary of State;
- (b) Senedd Cymru, in the case of an order made by the Welsh Ministers.

(4) Subsection (5) applies in relation to a statutory instrument containing both—

- (a) an order made by the Secretary of State under subsection (1), and
- (b) an order made by the Welsh Ministers under subsection (1).

(5) If in accordance with subsection (3)(a) or (b) (negative resolution procedure)

- (a) either House of Parliament resolves that an address be presented to Her Majesty praying that an instrument containing regulations made by the Secretary of State be annulled, or
- (b) Senedd Cymru resolves that an instrument containing regulations made by the Welsh Ministers be annulled,

the instrument is to have no further effect and Her Majesty may by Order in Council revoke the instrument.

94C Drainage and sewerage management plans: regulations about procedure

(1) The Minister may by regulations make provision about the procedure for preparing and publishing a drainage and sewerage management plan (including a revised plan).

(2) The regulations may provide for the sharing of information and, in particular, may require a sewerage licensee to share such information with a sewerage undertaker as may be reasonably requested.

(3) The regulations may make provision about consultation to be carried out by sewerage undertakers, including provision about—

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- (a) the persons to be consulted,
 - (b) the frequency and timing of any consultation, and
 - (c) the publication of statements relating to any consultation.
- (4) The regulations may make provision about the preparation and circulation of draft plans, including provision for the Minister to require changes to a draft plan.
- (5) The regulations may make provision for the purposes of ensuring that persons likely to be affected by the plan have a reasonable opportunity to make representations to the Minister.
- (6) The regulations may make provision about how representations (and any comments on them by the sewerage undertaker) are to be dealt with, including provision for—
- (a) the Minister to cause an inquiry or other hearing to be held in connection with the plan, and
 - (b) section 250(2) to (5) of the Local Government Act 1972 (local inquiries: evidence and costs) to apply to such an inquiry or hearing (with or without modifications).
- (7) The regulations may make provision about commercially confidential information and its publication.
- (8) The regulations may confer on the Minister power to make provision by directions.
- (9) In this section “the Minister” means—
- (a) the Secretary of State, in relation to sewerage undertakers whose areas are wholly or mainly in England, and
 - (b) the Welsh Ministers, in relation to sewerage undertakers whose areas are wholly or mainly in Wales.

94D Regulations under section 94C: supplementary

- (1) Regulations under section 94C are to be made by statutory instrument.
- (2) A statutory instrument containing regulations under section 94C is subject to annulment in pursuance of a resolution of—
- (a) either House of Parliament, in the case of regulations made by the Secretary of State, and
 - (b) Senedd Cymru, in the case of regulations made by the Welsh Ministers.
- (3) Subsection (4) applies in relation to a statutory instrument containing both—
- (a) regulations made by the Secretary of State under section 94C, and
 - (b) regulations made by the Welsh Ministers under section 94C.
- (4) If in accordance with subsection (2)(a) or (b) (negative resolution procedure) —
- (a) either House of Parliament resolves that an address be presented to Her Majesty praying that an instrument containing regulations made by the Secretary of State be annulled, or

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- (b) Senedd Cymru resolves that an instrument containing regulations made by the Welsh Ministers be annulled, the instrument is to have no further effect and Her Majesty may by Order in Council revoke the instrument.
- (5) Section 213(2) to (2B) applies to regulations made by the Welsh Ministers under section 94C as it applies to regulations made by the Secretary of State.

94E Drainage and sewerage management plans: directions

- (1) In this section “directions” means directions given under—
- (a) section 94A, or
 - (b) regulations under section 94C.
- (2) Directions are to be given by an instrument in writing.
- (3) Directions may be—
- (a) general directions applying to all sewerage undertakers, or
 - (b) directions applying only to one or more sewerage undertakers specified in the directions.
- (4) Each sewerage undertaker to whom a direction applies must comply with the direction.
- (5) The duties of a sewerage undertaker under this section are enforceable under section 18 by—
- (a) the Secretary of State, in the case of directions given by the Secretary of State, and
 - (b) the Welsh Ministers, in the case of directions given by the Welsh Ministers.”

Commencement Information

I2 S. 79 not in force at Royal Assent, see [s. 147\(3\)\(4\)](#)

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