



Water Industry Act 1999

CHAPTER 9

Explanatory Notes have been produced to assist in the understanding of this Act and are available separately



Water Industry Act 1999

CHAPTER 9

ARRANGEMENT OF SECTIONS

PART I

WATER CHARGES IN ENGLAND AND WALES

Section

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Water Industry Act 1999

1999 CHAPTER 9

An Act to make further provision in relation to England and Wales as to charges in respect of the supply of water and the provision of sewerage services and to make provision in relation to Scotland for the establishment and functions of a Water Industry Commissioner for Scotland; and for connected purposes. [30th June 1999]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I

WATER CHARGES IN ENGLAND AND WALES

1.—(1) After subsection (1) of section 61 of the Water Industry Act 1991 (disconnection for non-payment of charges) there is inserted—

Disconnection for non-payment of charges.

“(1A) The power conferred by subsection (1) above is not exercisable in relation to any premises specified in Schedule 4A to this Act.”

1991 c. 56.

(2) After Schedule 4 to the Water Industry Act 1991 there is inserted, as Schedule 4A, the Schedule set out in Schedule 1 to this Act.

2. After section 63 of the Water Industry Act 1991 there is inserted—

Prohibition of use of limiting devices.

“Use of limiting devices

Prohibition of use of limiting devices.

63A.—(1) A water undertaker shall be guilty of an offence under this section if it uses a limiting device in relation to any premises specified in Schedule 4A to this Act, with the intention of enforcing payment of charges which are or may become due to the undertaker in respect of the supply of water to the premises.

PART I

(2) For the purposes of this section “a limiting device”, in relation to any premises, means any device or apparatus which—

- (a) is fitted to any pipe by which water is supplied to the premises or a part of the premises, whether that pipe belongs to the undertaker or to any other person, and
- (b) is designed to restrict the use which may be made of water supplied to the premises by the undertaker.

(3) An undertaker does not commit an offence under this section by disconnecting a service pipe to any premises or otherwise cutting off a supply of water to the premises.

(4) An undertaker guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.”

Undertakers to charge in accordance with charges schemes. 1991 c. 56.

3.—(1) In section 142 of the Water Industry Act 1991 (powers of undertakers to charge), in subsection (2) for “Subject to subsections (3) and (3A)” there is substituted “Subject to subsections (2A), (3) and (3A)” and after subsection (2) there is inserted—

“(2A) Paragraph (b) of subsection (2) above shall not have effect in relation to—

- (a) charges for the supply of water to a dwelling, or
- (b) charges for the provision of sewerage services in respect of a dwelling,

but this subsection does not affect any agreement made before the commencement of section 3 of the Water Industry Act 1999.

(2B) In subsection (2A) above, “dwelling” has the meaning given by paragraph 1(2) of Schedule 4A to this Act.”

(2) In section 143 of that Act (charges schemes), in subsection (5)(a) after “a relevant undertaker” there is inserted “in a case not falling within section 142(2A) above”.

Making and approval of charges schemes.

4.—(1) Section 143 of the Water Industry Act 1991 (charges schemes) is amended as follows.

(2) In subsection (1), after “which” there is inserted “has effect in relation to a specified period of twelve months and”.

(3) At the end there is inserted—

“(6) A charges scheme shall not take effect unless it has been approved by the Director.

(7) The Secretary of State may give guidance to the Director on the exercise of his power under subsection (6) above; and the Director shall have regard to that guidance in the exercise of that power.

(8) The Secretary of State shall arrange for any guidance given by him under subsection (7) above to be published in such manner as he considers appropriate.

PART I

(9) The Director may not exercise his power under subsection (6) above for the purpose of limiting the total revenues of relevant undertakers from charges fixed by or in accordance with charges schemes.”

5. After section 143 of the Water Industry Act 1991 (charges schemes), there is inserted—

Regulations concerning charges schemes. 1991 c. 56.

“Regulations as to provisions to be included in charges schemes.

143A.—(1) The provisions of any charges scheme under section 143 above must comply with any requirements prescribed by the Secretary of State by regulations.

(2) Without prejudice to the generality of subsection (1) above, regulations under this section may—

- (a) prescribe items with respect to which a consumer is, or is not, to be liable to pay a charge;
- (b) make provision as to the matters by reference to which charges may be fixed and as to methods and principles to be adopted in calculating and imposing charges;
- (c) require alternative bases of charging to be made available to consumers; and
- (d) require special provision, including exemption from specified charges, to be made for the purpose of assisting individuals who are or would be liable to pay any charges and who fall within any class of individuals appearing to the Secretary of State to require special provision.

(3) Regulations under this section imposing requirements for the purpose mentioned in subsection (2)(d) may—

- (a) prescribe the classes of persons for whom special provision is to be made in relation to any premises by reference to matters such as age, ill-health or disability, the age, ill-health or disability of any of their dependants or of any other persons who have their homes in the premises, or their financial circumstances;
- (b) make provision as to the method by which a person may establish his entitlement to assistance under the regulations; and
- (c) make provision as to responsibility for costs incurred for the purpose of establishing that entitlement.

(4) The power to make regulations under this section may not be exercised for the purpose of limiting the total revenues of relevant undertakers from charges fixed by or in accordance with charges schemes.”

PART I

Right of consumer to elect for charging by reference to volume.
1991 c. 56.

6. After section 144 of the Water Industry Act 1991 there is inserted—

“Restrictions on charging

Right of consumer to elect for charging by reference to volume.

144A.—(1) Where—

- (a) water is supplied by a water undertaker to premises in which, or in any part of which, a person has his home, and
- (b) charges in respect of those premises are fixed by virtue of any charges scheme under section 143 above without reference to the volume of water supplied,

the consumer may at any time give the undertaker a notice (in this section referred to as a “measured charges notice”) requiring the undertaker to fix charges in respect of the supply by reference to the volume of water supplied.

(2) Subject to subsection (3) below, a water undertaker must give effect to a measured charges notice before the end of a period determined in accordance with the undertaker’s charges scheme.

(3) A water undertaker is not obliged to give effect to a measured charges notice if—

- (a) it is not reasonably practicable to fix charges in respect of the premises by reference to the volume of water supplied, or
- (b) to do so would involve the incurring by the undertaker of unreasonable expense.

(4) Any dispute between a water undertaker and a consumer as to the application of paragraph (a) or (b) of subsection (3) above may be referred to the Director for determination under section 30A above by either party to the dispute.

(5) Where—

- (a) either the conditions in subsection (6) below or the conditions in subsection (7) below are satisfied in relation to premises in respect of which a measured charges notice has been given, and
- (b) such other conditions as may be prescribed are also satisfied in relation to the premises,

the consumer may, at any time before the end of the period of twelve months beginning with the day on which the supply began to be measured by volume for charging purposes, revoke the measured charges notice by notice to the water undertaker.

(6) The conditions in this subsection are—

- (a) that the person who gave the measured charges notice had not given any previous measured charges notice in relation to the premises, and
- (b) that he remains the consumer in respect of the premises.

PART I

(7) The conditions in this subsection are—

- (a) that the person who gave the measured charges notice has, since the notice was given, ceased to be the consumer in respect of the premises,
- (b) that neither he nor the person who has become the consumer had given any previous measured charges notice in respect of the premises, and
- (c) that any person who was in occupation of the premises when the measured charges notice was given remains in occupation.

(8) Where a measured charges notice has been revoked under subsection (5) above, the water undertaker must—

- (a) if reasonably practicable, before the end of the period of twelve months referred to in that subsection, or
- (b) in any other case, as soon as reasonably practicable after the end of that period,

revert to fixing the charges for the supply in respect of the premises without reference to the volume of water supplied.

(9) If and so long as a water undertaker is obliged under subsection (2) above to fix charges for the supply of water in respect of any premises by reference to the volume of water supplied, a sewerage undertaker is under a corresponding obligation to fix charges in respect of foul water drainage provided by the sewerage undertaker in respect of those premises by reference to that volume.

(10) If a water undertaker is obliged under subsection (8) above to fix charges without reference to volume, a sewerage undertaker is under a corresponding obligation in respect of charges for services provided by it.

(11) Any charges scheme under section 143 above—

- (a) must contain provision for determining the period mentioned in subsection (2) above, and
- (b) shall have effect subject to the preceding provisions of this section.”

7. After section 144A of the Water Industry Act 1991 there is inserted—

“Restriction on undertakers’ power to require fixing of charges by reference to volume.

144B.—(1) Subsection (2) below applies where—

- (a) water is supplied to any premises in which, or in any part of which, a person has his home,
- (b) charges in respect of those premises have previously been fixed without reference to volume, and
- (c) such conditions as may be prescribed are satisfied in relation to the premises.

Restriction on change in basis of charging.

1991 c. 56.

PART I

(2) Where this subsection applies, a relevant undertaker may not by virtue of any charges scheme under section 143 above begin to fix the charges in respect of those premises by reference to volume unless either—

(a) the consumer—

(i) has given the undertaker a measured charges notice under section 144A above which has not been revoked under that section, or

(ii) has consented to the charges in respect of the premises being so fixed and has not revoked that consent under section 144A, or

(b) there has been a change in the occupation of the premises and no charges have yet been demanded from the person who has become the consumer.

(3) A change in the persons occupying any premises does not constitute a change in the occupation of the premises for the purposes of subsection (2)(b) above if any person who was in occupation of the premises before the change remains in occupation after the change.

(4) Where a consumer gives consent for the purposes of subsection (2)(a)(ii) above in relation to premises in which, or in any part of which, a person has his home, he shall be treated for the purposes of subsections (5) to (8) of section 144A above as having given a measured charges notice under that section.”

Charging by reference to rateable value. 1991 c. 56.

8. Section 145 of the Water Industry Act 1991 (which prevents charging by reference to rateable value in respect of services provided after 31st March 2000) shall cease to have effect.

Restriction on charging for metering works.

9. In section 148 of the Water Industry Act 1991, in subsection (2)—

(a) for paragraph (c) there is substituted—

“(c) in the case of premises which do not consist of or include any building or part of a building which is occupied as a private dwelling-house, any sums which it is entitled to recover from that person by virtue of section 64(3)(b) above;”, and

(b) for paragraph (e) there is substituted—

“(e) in the case of premises which do not consist of or include any building or part of a building which is occupied as a private dwelling-house, any expenses incurred in consequence of the exercise by the consumer of any option to be charged by the undertaker in relation to those premises by reference to volume rather than by reference to other matters.”

PART I

10.—(1) Section 162 of the Water Industry Act 1991 (works in connection with metering) is amended as follows.

Extension of power to carry out works in connection with metering.
1991 c. 56.

(2) In subsection (1), for paragraph (a) there is substituted—

“(a) subsection (1A) below applies to a relevant undertaker in respect of any premises; and”.

(3) After subsection (1) there is inserted—

“(1A) This subsection applies to a relevant undertaker in respect of any premises if—

(a) the undertaker has fixed any charges in relation to any premises by reference to volume,

(b) the undertaker is entitled so to fix any charges because the person who is the consumer in relation to the premises for the purposes of Chapter I of Part V of this Act has exercised his right to give—

(i) a measured charges notice under section 144A above, or

(ii) any consent for the purposes of section 144B(2)(a)(ii) above,

and has not revoked the measured charges notice or consent under section 144A, or

(c) the undertaker has given notice of its intention of so fixing any charges—

(i) within the period specified in the notice, or

(ii) in a case where it is not for the time being entitled so to fix the charges, if and when it becomes entitled to do so.”

(4) In subsection (4), for “subsection (1)(a)” there is substituted “subsection (1A)(c)”.

11. After section 209 of the Water Industry Act 1991, there is inserted—

Rights of tenants in relation to metering.

“Rights of tenants in relation to metering.

209A.—(1) Subject to subsection (3) below, no express or implied term of any tenancy is to be regarded—

(a) as excluding or restricting the exercise by the tenant of any right to give—

(i) a measured charges notice under section 144A above, or

(ii) any consent for the purposes of section 144B(2)(a)(ii) above,

(b) as preventing the installation or connection, in pursuance of such a notice or consent given by the tenant, of a meter for use in determining the charges which may be fixed in relation to water supplied to the premises comprised in the tenancy, or

(c) as requiring any consent to be obtained in relation to such installation or connection.

PART I

1985 c. 68.

(2) In subsection (1) above “tenancy” includes a licence which is treated as a tenancy by virtue of section 79(3) of the Housing Act 1985; and references to a “tenant” are to be construed accordingly.

(3) Subsection (1) above does not apply where the tenancy is a fixed term tenancy for a term of less than six months; and for this purpose “fixed term tenancy” means any tenancy other than a periodic tenancy.”

PART II

THE WATER INDUSTRY COMMISSIONER FOR SCOTLAND

Water Industry
Commissioner for
Scotland.
1994 c. 39.

12.—(1) After section 67 of the Local Government etc. (Scotland) Act 1994 (in this Part of this Act referred to as “the 1994 Act”) there is inserted—

“The Water Industry Commissioner for Scotland

Water Industry
Commissioner
for Scotland and
Consultative
Committees.

67A.—(1) There shall be a Water Industry Commissioner for Scotland (in this Part of this Act referred to as “the Commissioner”), who shall have the general function of promoting the interests of customers of the new water and sewerage authorities.

(2) In respect of each new water and sewerage authority there shall be a Water Industry Consultative Committee, which shall have the general function of advising the Commissioner on the promotion of the interests of customers of that authority.

(3) In exercising his functions in relation to an authority the Commissioner shall have regard to any advice given to him by the Consultative Committee in respect of that authority.

(4) The Secretary of State may, after consulting the Commissioner, give him directions of a general or specific character as to the exercise of his functions; and the Commissioner shall comply with those directions.

(5) Schedule 9A to this Act (which makes further provision about the Commissioner and Water Industry Consultative Committees) shall have effect.”

(2) The Scottish Water and Sewerage Customers Council is dissolved.

S.I.1981/1794.

(3) For the purposes of the Transfer of Undertakings (Protection of Employment) Regulations 1981—

(a) the functions of the Customers Council are to be treated as transferring to the Water Industry Commissioner for Scotland on the date on which this section comes into force, and

(b) the transfer is to be treated as the transfer of an undertaking, and the Regulations shall apply to the transfer (whether or not they would apply apart from this provision).

(4) Before Schedule 10 to the 1994 Act there is inserted, as Schedule 9A, the Schedule set out in Schedule 2 to this Act.

PART II

Commissioner's
advice on charges.

13. After section 75 of the 1994 Act there is inserted—

“Commissioner's
advice on
charges.

75A.—(1) The Commissioner shall, when required by the Secretary of State, advise him on the matters to be taken into, or left out of, account by the new water and sewerage authorities in fixing charges in charges schemes (within the meaning of section 76(1) of this Act).

(2) The advice—

- (a) shall, as the Secretary of State requires, relate to authorities generally or to a particular authority,
- (b) shall apply in relation to charges schemes made during such period as the Secretary of State may specify (in this section referred to as “the period of the advice”).

(3) In preparing his advice the Commissioner shall have regard to—

- (a) the economy, efficiency and effectiveness with which authorities are using their resources in exercising their functions,
- (b) the likely cost to each authority, for the period of the advice, of exercising the functions mentioned in subsection (4) below,
- (c) the likely borrowing capacity of each authority for the period of the advice,
- (d) any guidance issued to authorities by the Secretary of State, and
- (e) any directions issued under section 116 or 117 of this Act.

(4) The functions referred to in subsection (3)(b) above are—

- (a) complying with any duty to which an authority are subject by virtue of any enactment,
- (b) complying with any such duty to which they will, or are likely to, become subject during the period of the advice, and
- (c) providing services to their customers at the same standard, and protection of the environment at the same level, as those at the time when the advice is given, or at such other standard or level as the Secretary of State may specify.

(5) The Secretary of State shall, within three months of receiving from the Commissioner advice under subsection (1) above—

- (a) accept the advice, with or without modifications, or
- (b) reject the advice and substitute his own advice for it.

PART II

(6) Where the Secretary of State accepts the Commissioner's advice with modifications or rejects it, he shall give reasons for doing so.

(7) The Commissioner shall arrange for the publication, in such manner as he considers appropriate, of advice as accepted, modified or substituted under subsection (5) above, together with any reasons given under subsection (6) above."

PART III

SUPPLEMENTAL

Application to
Wales and
Scotland.
1998 c. 38.

14.—(1) Subsection (2) below applies to an Order in Council under section 22 of the Government of Wales Act 1998 (transfer of Ministerial functions) if the Order in Council contains a statement that it makes no provision which is not—

- (a) provision about functions conferred by or by virtue of this Act; or
- (b) provision in connection with such provision.

(2) An Order in Council to which this subsection applies—

- (a) shall not be subject to subsection (4)(a) of that section (affirmative resolution of both Houses of Parliament); but
- (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

1998 c. 46.

(3) For the purposes of the Scotland Act 1998, this Act so far as it extends to Scotland shall be taken to be a pre-commencement enactment within the meaning of that Act.

Minor and
consequential
amendments and
repeals.

15.—(1) Schedule 3 to this Act (minor and consequential amendments) has effect.

(2) Schedule 4 to this Act (repeals) has effect.

Financial
provision.

16. There shall be paid out of money provided by Parliament any increase attributable to this Act in the sums so payable under any other Act.

Short title,
commencement
and extent.

17.—(1) This Act may be cited as the Water Industry Act 1999.

(2) The following provisions of this Act shall come into force on the day on which this Act is passed—

- (a) section 1 and Schedule 1,
- (b) section 2,
- (c) section 8,
- (d) section 14,
- (e) section 15 and Schedule 4, so far as they relate to the repeal of section 145 of the Water Industry Act 1991 and the heading preceding it, and
- (f) so much of any other provision of this Act as confers any power to make subordinate legislation.

1991 c. 56.

PART III

(3) The remaining provisions of this Act shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint; and different days may be appointed for different purposes.

(4) An order under subsection (3) above may include such transitional provisions, consequential provisions or savings as the Secretary of State considers appropriate for the purposes of, or in connection with, the provisions to which it applies.

(5) In this Act—

(a) Part I extends to England and Wales only,

(b) Part II extends to Scotland only, and

(c) section 15 and Schedules 3 and 4 have the same extent as the enactments which they amend or repeal.

(6) Except as provided by subsection (5)(c) above, this Act does not extend to Northern Ireland.

SCHEDULES

Section 1(2).

SCHEDULE 1

SCHEDULE TO BE INSERTED IN THE WATER INDUSTRY ACT 1991

"SCHEDULE 4A

PREMISES THAT ARE NOT TO BE DISCONNECTED FOR NON-PAYMENT OF CHARGES

- 1.—(1) Any dwelling which is occupied by a person as his only or principal home.
- (2) In this paragraph "dwelling" means—
- (a) a private dwelling-house (which may be a building or part of a building),
 - 1960 c. 62. (b) a caravan within the meaning of Part I of the Caravan Sites and Control of Development Act 1960 (disregarding the amendment made by section 13(2) of the Caravan Sites Act 1968), or
 - 1968 c. 52. (c) a boat or similar structure designed or adapted for use as a place of permanent habitation.
- 2.—(1) Any house in multiple occupation which does not constitute a dwelling within the meaning of paragraph 1 above and in which any person has his only or principal home.
- (2) In this paragraph "house in multiple occupation" has the meaning given by section 345(1) of the Housing Act 1985.
- 1985 c. 68.
- 3.—(1) Accommodation for the elderly in which a person has his only or principal home.
- (2) In this paragraph "accommodation for the elderly" means residential accommodation to which sub-paragraph (3) or (4) below applies, but which is not a dwelling within the meaning of paragraph 1 above or a house in multiple occupation within the meaning of paragraph 2 above.
- (3) This sub-paragraph applies to residential accommodation—
- (a) which is particularly suitable, having regard to its location, size, design, heating systems and other features, for occupation by elderly persons,
 - (b) which it is the practice of the landlord to let for occupation by persons aged 60 or more, and
 - (c) where the services of a warden are provided.
- (4) This sub-paragraph applies to any building or part of a building designed or adapted for use as residential accommodation for elderly persons.
- 1984 c. 22. 4. A hospital within the meaning of section 11 of the Public Health (Control of Disease) Act 1984.
5. Premises used for the provision of medical services by a registered medical practitioner.
- 1984 c. 24. 6. Premises used for the provision of dental services by a person who under the Dentists Act 1984 is permitted to practise dentistry.
- 7.—(1) Premises used for the provision of personal medical services or personal dental services under a pilot scheme.
- (2) In this paragraph "personal medical services", "personal dental services" and "pilot scheme" have the same meaning as in Part I of the National Health Service (Primary Care) Act 1997.
- 1997 c. 46.

SCH. 1

- 8.—(1) A residential care home, nursing home or mental nursing home.
- (2) In this paragraph—
- “mental nursing home” means anything which is a mental nursing home within the meaning of the Registered Homes Act 1984; 1984 c. 23.
- “nursing home” means anything which is a nursing home within the meaning of the Registered Homes Act 1984 or which would be but for section 21(3)(a) of that Act;
- “residential care home” means—
- (a) an establishment in respect of which registration is required under Part I of the Registered Homes Act 1984 or would be so required but for section 1(4) (small homes) or section 1(5)(j) of that Act (establishments managed or provided by government departments, etc.), or
- (b) a building or part of a building in which residential accommodation is provided under section 21 of the National Assistance Act 1948. 1948 c. 29.
- 9.—(1) A children’s home.
- (2) In this paragraph “children’s home” means—
- (a) a community home within the meaning of section 53 of the Children Act 1989, 1989 c. 41.
- (b) a voluntary home within the meaning of section 60(3) of that Act,
- (c) a children’s home registered under Part VIII of that Act,
- (d) a home providing (or usually providing or intended to provide) care and accommodation for three or fewer children at any one time, other than a home which is (or would, if it provided care and accommodation for more than three children at any one time, be) exempted from registration under Part VIII of that Act—
- (i) by or under any of subsections (4), (5), (7) or (12) of section 63 of that Act, or
- (ii) by regulations made for the purposes of subsection (3) of that section by the Secretary of State.
10. A school within the meaning of the Education Act 1996. 1996 c. 56.
- 11.—(1) Premises used by an institution within the further education sector or an institution within the higher education sector for, or in connection with, the provision of education.
- (2) In this paragraph the references to an institution within the further education sector or within the higher education sector are to be construed in accordance with section 91 of the Further and Higher Education Act 1992. 1992 c. 13.
12. Premises used for the provision of day care for children by a person who is registered under section 71(1)(b) of the Children Act 1989 in respect of the premises.
- 13.—(1) A prison or detention centre.
- (2) In this paragraph “prison” means—
- (a) any prison, young offender institution or remand centre which is under the general superintendence of, or is provided by, the Secretary of State under the Prison Act 1952, including a contracted out prison within the meaning of Part IV of the Criminal Justice Act 1991, 1952 c. 52.
1991 c. 53.

SCH. 1

- 1952 c. 52. (b) any secure training centre within the meaning of section 43(1)(d) of the Prison Act 1952, or
(c) a naval, military or air force prison.
- 1971 c. 77.
1993 c. 23. (3) In this paragraph “detention centre” means any premises which are used solely for detaining persons under the Immigration Act 1971 or the Asylum and Immigration Appeals Act 1993, but which are not a part of a prison.
14. Premises occupied for the purposes of a police force.
- 1947 c. 41. 15. Premises occupied for the purposes of a fire brigade maintained in pursuance of the Fire Services Act 1947.
- 1990 c. 19. 16. Premises occupied for the purposes of the provision of an ambulance service by a National Health Service trust established under Part I of the National Health Service and Community Care Act 1990.”

Section 12(4).

SCHEDULE 2

SCHEDULE TO BE INSERTED IN THE LOCAL GOVERNMENT ETC. (SCOTLAND) ACT
1994

“SCHEDULE 9A

THE WATER INDUSTRY COMMISSIONER FOR SCOTLAND AND CONSULTATIVE
COMMITTEES

PART I

THE COMMISSIONER

Appointment

1.—(1) The Commissioner shall be appointed by the Secretary of State on such terms and conditions as he may determine.

(2) Those terms and conditions may include arrangements for the payment of pensions, allowances or gratuities to, or in respect of, persons who have ceased to hold office as Commissioner.

Staff

2.—(1) The Commissioner may, with the consent of the Secretary of State as to numbers, terms and conditions, appoint staff.

(2) The Commissioner may make arrangements for the payment of pensions, gratuities or allowances to, or in respect of, any person who has ceased to be a member of staff of the Commissioner and may, in particular—

- (a) make contributions or payments towards provision for such pensions, gratuities or allowances,
- (b) establish and administer one or more pension schemes.

(3) Arrangements under sub-paragraph (2) are subject to the approval of the Secretary of State.

Status

3. The Commissioner and his staff are not to be regarded as servants or agents of the Crown and do not have any status, immunity or privilege of the Crown.

PART II

THE CONSULTATIVE COMMITTEES

Membership

- 4.—(1) Each Consultative Committee shall consist of—
- (a) the Commissioner, who shall be its chairman, and
 - (b) not fewer than 6 nor more than 9 other members appointed by the Commissioner in accordance with procedures, and on terms and conditions, approved by the Secretary of State.
- (2) The Commissioner shall, in accordance with those procedures, appoint one of the other members to be its deputy chairman.

Allowances

5. The deputy chairman and the ordinary members of a Consultative Committee shall be entitled to travelling and other allowances, to be paid by the Commissioner in accordance with arrangements determined by the Secretary of State, in respect of expenses properly incurred in the performance of their duties.

Proceedings

6. The proceedings of a Consultative Committee shall be conducted in accordance with arrangements determined by the Commissioner and approved by the Secretary of State.”

SCHEDULE 3

Section 15(1).

MINOR AND CONSEQUENTIAL AMENDMENTS

PART I

ENGLAND AND WALES

Water Industry Act 1991 (c. 56)

1. In section 148(1) of the Water Industry Act 1991 (restriction on charging for metering), for “to be used” there is substituted “capable of being used”.
2. In section 149(2)(a) of that Act (further provision relating to charging by volume), for “in relation to which the meter is to be used” there is substituted “to which the meter relates”.
3. After section 150A of that Act there is inserted—

“Interpretation of Chapter I

Meaning of “consumer” in Chapter I.

150B. In this Chapter “consumer”—

- (a) in relation to the supply of water by a water undertaker to any premises, means a person who is for the time being the person on whom liability to pay charges to the undertaker in respect of that supply of water would fall, and
- (b) in relation to the provision of sewerage services in respect of any premises, means a person who is for the time being the person on whom liability to pay charges to the undertaker in respect of those services would fall.”

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4.—(1) Section 195 of that Act (the Director's register) is amended as follows.

(2) At the end of subsection (1) there is inserted "and of section 143 above".

(3) After subsection (3) there is inserted—

"(3A) The Director shall also cause to be entered on the register the provisions of any guidance given to him by the Secretary of State under section 143(7) above."

PART II

SCOTLAND

House of Commons Disqualification Act 1975 (c. 24)

5.—(1) Schedule 1 to the House of Commons Disqualification Act 1975 (offices disqualifying for membership) is amended as follows.

(2) In Part II (bodies of which all members are disqualified), the entry for the Scottish Water and Sewerage Customers Council and any committee established by it is repealed.

(3) In Part III (other disqualifying offices), there is inserted in the appropriate place—

"The Water Industry Commissioner for Scotland".

Water (Fluoridation) Act 1985 (c. 63)

6.—(1) The Water (Fluoridation) Act 1985 is amended as follows.

(2) In section 4 (publicity and consultation about fluoridation schemes)—

(a) in subsection (2)(b)(i), for "Customers Council" there is substituted "Water Industry Commissioner for Scotland", and

(b) in subsection (3), for the words from "each" to "subsection (2)(b)(i) and (ii)" there is substituted "the Commissioner and each local authority to whom they are required by subsection (2)(b)".

(3) In section 5 (interpretation), the definition of "Customers Council" is repealed.

Local Government etc. (Scotland) Act 1994 (c. 39)

7. The Local Government etc. (Scotland) Act 1994 is amended as follows.

8. In section 63(4) (consultation about alteration of water areas and sewerage areas), for "Customers Council" there is substituted "Commissioner (established under section 67A(1) of this Act)".

9. In section 66 (codes of practice)—

(a) subsection (2) is repealed,

(b) in subsection (4), for "Customers Council" there is substituted "Commissioner",

(c) in subsection (5), for the words from "apply" in the second place where it occurs to the end there is substituted "to a charges scheme made under that section", and

(d) after subsection (6) there is inserted—

"(7) The Commissioner—

(a) shall monitor the compliance by each authority with their code of practice as so approved,

- (b) may advise the Secretary of State on such compliance, and
- (c) may request an authority to review their code of practice, or any provision of it, in such respects as the Commissioner may specify.”

10.—(1) Section 68 (functions of Customers Council) is amended as follows.

(2) Subsection (1) is repealed.

(3) For subsection (2) there is substituted—

“(2) The Commissioner shall investigate any complaint made to him, or to the appropriate Consultative Committee, by a current, potential or former customer of a new water and sewerage authority, as respects a function of that authority (whether as a water authority or as a sewerage authority).

(2A) The Commissioner need not investigate such a complaint if—

- (a) the complainer has not pursued the complaint with the authority, or
- (b) it appears to the Commissioner that the complaint is vexatious or frivolous.”

(4) In subsection (3)—

- (a) the words “Without prejudice to subsection (1)(c) above” are repealed,
- (b) for “Customers Council” there is substituted “Commissioner”,
- (c) for “it” in the second place where it occurs there is substituted “him”, and in the third place where it occurs there is substituted “he”, and
- (d) for “the Council” there is substituted “him”.

(5) In subsection (4)—

- (a) for “Customers Council” there is substituted “Commissioner”, and
- (b) for “the Council, or to him” there is substituted “either of them”.

(6) In subsection (5)—

- (a) for “Customers Council” there is substituted “Commissioner”,
- (b) for “its” there is substituted “his”, and
- (c) the words from “and without prejudice” to the end are repealed.

11. In section 69 (power of Customers Council to require information)—

- (a) for “Customers Council” and “Council” there is substituted “Commissioner”, and
- (b) for “it” and “its” there is substituted “he” and “his”.

12.—(1) Section 70 (annual reports and information) is amended as follows.

(2) For subsection (1) there is substituted—

“(1) Without prejudice to subsection (3) below, the Commissioner shall, as soon as practicable after the end of each financial year, submit to the Secretary of State a report on his exercise of his functions during that financial year.”

(3) In subsection (2)—

- (a) for “Customers Council” there is substituted “Commissioner”, and
- (b) for “it” there is substituted “he”.

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- (4) In subsection (3)—
- (a) for “Customers Council” there is substituted “Commissioner”, and
 - (b) for “its” there is substituted “his”.
13. In section 71 (funding of Customers Council)—
- (a) in subsection (1), for “Customers Council” there is substituted “Commissioner”,
 - (b) in subsection (3), for “Customers Council” and “Council” there is substituted “Commissioner”.
- 14.—(1) Section 76 (charges schemes) is amended as follows.
- (2) In subsection (4)—
- (a) for “the Customers Council” and for “the Council” in the first four places where the expression occurs there is substituted “the Commissioner”,
 - (b) in paragraph (a), the words “in draft” are repealed,
 - (c) in paragraph (b), for “it” in the first place where it occurs there is substituted “he”, and for “draft” there is substituted “scheme”, and
 - (d) in paragraph (b)(ii), the words “the Council and” are repealed.
- (3) In subsection (5)—
- (a) for “Customers Council” and “Council” there is substituted “Commissioner”,
 - (b) the words “in draft” are repealed, and
 - (c) for “draft” in the second place where it occurs there is substituted “scheme”.
- (4) In subsection (6)—
- (a) for “Customers Council” and “Council” there is substituted “Commissioner”, and
 - (b) for “it” there is substituted “he”.
- (5) In subsection (7)—
- (a) for “Customers Council” there is substituted “Commissioner”,
 - (b) after “shall” there is inserted “(a)”, and
 - (c) at the end there is inserted “and
“(b) have regard to any advice published under section 75A of this Act in force at the time of the making of the scheme under subsection (1) above.”
15. In section 125 (interpretation of Part II)—
- (a) after the definition of “charges scheme” there are inserted the following definitions—
 - ““the Commissioner” means the Water Industry Commissioner for Scotland (established under section 67A(1));
 - “Consultative Committee” means a Water Industry Consultative Committee established under section 67A(2);”,
 - (b) the definition of “the Customers Council” is repealed.

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16. In section 177(2) (Parliamentary disqualification), the entry for the Scottish Water and Sewerage Customers Council or any committee established by it is repealed.

17. Schedule 9 (Customers Council) is repealed.

18. In Schedule 13 (minor and consequential amendments), paragraph 140(4)(c) and (5)(a) is repealed.

SCHEDULE 4

Section 15(2).

REPEALS

PART I

ENGLAND AND WALES

Chapter	Short title	Extent of repeal
1991 c. 56.	The Water Industry Act 1991.	Section 145 and the heading preceding it.
1995 c. 25.	The Environment Act 1995.	In Schedule 22, paragraph 114(2).

PART II

SCOTLAND

Chapter	Short title	Extent of repeal
1975 c. 24.	The House of Commons Disqualification Act 1975.	In Schedule 1, in Part II, the entry for the Scottish Water and Sewerage Customers Council and any committee established by it.
1985 c. 63.	The Water (Fluoridation) Act 1985.	In section 5, the definition of "Customers Council".
1994 c. 39.	The Local Government etc. (Scotland) Act 1994.	Section 66(2). Section 67. In section 68, subsection (1), in subsection (3) the words "Without prejudice to subsection (1)(c) above", and in subsection (5) the words from "and without prejudice" to the end. In section 76, in subsection (4), in paragraph (a) the words "in draft" and in paragraph (b)(ii) the words "the Council and", and in subsection (5) the words "in draft".

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Chapter	Short title	Extent of repeal
1994 c. 39 — <i>Contd.</i>	The Local Government etc. (Scotland) Act 1994. — <i>Contd.</i>	In section 125, the definition of “the Customers Council”. In section 177(2), the entry for the Scottish Water and Sewerage Customers Council and any committee established by it. Schedule 9. In Schedule 13, paragraph 140(4)(c) and (5)(a).

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