EXPLANATORY NOTES

Water (Special Measures) Act 2025

Chapter 5

£8.14

WATER (SPECIAL MEASURES) ACT 2025

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Water (Special Measures) Act 2025 which received Royal Assent on 24 February 2025 (c. 5).

- These Explanatory Notes have been prepared by the Department for Environment, Food and Rural Affairs in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by Parliament.

- These Explanatory Notes explain what each part of the Act will mean in practice; provide background information on the development of policy; and provide additional information on how the Act will affect existing legislation in this area.

- These Explanatory Notes might best be read alongside the Act. They are not, and are not intended to be, a comprehensive description of the Act.

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Overview of the Act

1 The Water (Special Measures) Act 2025 delivers on the Government's manifesto to put failing water companies under special measures and seeks to ensure water companies are better held to account where they have failed to deliver for the environment and customers.

2 The Water (Special Measures) Act 2025 enables government and the regulators to achieve the commitments outlined in the 2024 Labour manifesto:

- To block the payment of bonuses to executives who pollute waterways;
- To ensure independent monitoring of every outlet;
- To bring criminal charges against persistent law breakers; and
- To impose automatic and severe fines for wrongdoing.

3 The Water (Special Measures) Act 2025 includes provisions to:

- ban bonuses for persons holding senior roles where water companies fail to meet required standards relating to consumer matters, the environment, financial resilience or criminal liability;
- introduce a fit and proper person test for water company executives;
- ensure consumer representation in water company decision-making;
- require Ofwat to ensure that water companies publish a concise and intelligible overview of their financial position at least once a year in a prominent place on their websites to enable easy public access;
- require water companies to produce annual pollution incident reduction plans and report on the implementation of these plans each year. The Chief Executive will be required to approve these plans prior to publication and will be held liable for this duty. The environmental regulators will consider companies' record implementing these plans when carrying out its regulatory functions;
- require publication of near real-time data on discharges from emergency overflows;
- require sewerage undertakers to set out in their drainage and sewerage management plans, the use that is to be made of nature-based solutions, technologies and facilities within their drainage and sewerage systems;
- in respect of the operations of water companies, extend the sentencing power of the Courts to include imprisonment in all cases where the Environment Agency, Natural Resources Body for Wales and Drinking Water Inspectorate investigations have been obstructed by individuals;
- in relation to specified offences committed by a water company, enable the Environment Agency and Natural Resources Body for Wales to impose monetary penalties to the civil standard of proof;

- enable automatic penalties to be issued by the Environment Agency and Natural Resources Body for Wales for a defined list of offences committed by a water company;
- confer powers to impose conditions or general rules into abstraction and impounding water industry licences;
- require Ofwat to have regard to the Environment Act 2021 and Climate Change 2008 targets when carrying out their functions;
- introduce a new power for the Environment Agency and Natural Resources Body for Wales to recover costs from water companies for enforcement activities;
- allow for improved cost recovery for the Drinking Water Inspectorate;
- supplement existing powers to require water companies to make special provision to support customers in need;
- modify water company licences to recover shortfall in the event of insolvency or serious breach by a water company; and
- ensure His Majesty's Government (HMG) and Ofwat are notified ahead of any winding up petitions.

Policy background

4 The water industry was privatised in 1989 pursuant to the Water Act 1989. The regulatory regime for the privatised water industry is principally set out in the Water Industry Act 1991, and amendments made to that Act (notably in 2003 and 2014). Water abstraction licensing was introduced in the 1960s; the licensing regime is principally set out in the Water Resources Act 1991 and enables regulators to act to protect the environment and the needs of water users.

5 Concerns have been widely expressed about the performance of the water industry, particularly in relation to their record on pollution[1]. The Labour Party manifesto for the 2024 General Election promised to put failing water companies under special measures to clean up water. This Act addresses those concerns and fulfils that commitment. The measures in the Act aim to turn around the performance of the water industry as a first step in enabling long-term and transformative change across the water sector.

6 The Act includes measures to:

- strengthen the power of the water industry regulators;
- provide greater transparency around water company actions to tackle pollution incidents;

[1] Water and sewerage companies in England: environmental performance report 2023 - GOV.UK (www.gov.uk)

- enable independent monitoring of every outlet by requiring data from emergency overflows to be published within an hour of a discharge occurring. This requires companies to install and operate monitoring equipment at all emergency overflows, and for the near real time data on their operation to be scrutinised by the independent regulator;
- ensure water companies and their executives are held to account; and
- modernise the existing special administration regime for the water industry, strengthening the Government's control in this space and bringing the regime in line with special administration regimes in other sectors.

Legal background

7 The Act makes provision for new policy to improve the regulation of water and sewerage companies and to extend the powers of the regulators: Ofwat, the Environment Agency, Natural Resources Body for Wales and the Drinking Water Inspectorate. The following significant legislation is referenced or amended by this Act:

- Water Industry Act 1991
- Environment Act 1995
- Environment Act 2021
- Environmental Permitting (England and Wales) Regulations 2016
- Pollution Prevention and Control Act 1999
- Regulatory Enforcement and Sanctions Act 2008
- Security and Emergency Measures (SEMD) Direction 2022
- Water Resources Act 1991
- Water Act 2014
- Digital Economy Act 2017

8 Otherwise, the relevant legal background is explained in the policy background section of these Notes.

Territorial extent and application

9 Section 17 sets out the territorial extent of the sections in the Act. The extent of an Act is the legal jurisdiction where it forms part of the law. The extent of an Act can be different from its application. Application refers to where it has practical effect.

10 The Act forms part of the law of England and Wales and, subject to a few exceptions, applies to England and Wales. Sections 13 and 14 apply to England only, while section 15 applies to Wales only.

11 See the table in Annex A for a summary of the position regarding territorial extent and application in the United Kingdom.

Commentary on provisions of the Act

Section 1: Rules about remuneration and governance

12 This section inserts provisions into the Water Industry Act 1991 ("the 1991 Act") that enable Ofwat to make rules about pay and governance in the water industry and require it to do so on three topics.

13 Ofwat already has a wide power to set conditions of individual water company appointments and licences, but changes to those conditions require case-by-case consideration and the procedure for them can be cumbersome (including rights of appeal to the Competition and Markets Authority). This section establishes a single set of rules to apply to water companies generally across the industry, which can be made and revised more easily than individual conditions.

14 The first topic the rules will have to address is performance-related pay (new section 35B(2)(a)). The rules will set standards that companies will have to meet in a financial year in order to be able to make awards of performance-related pay to chief executives and directors for that year. Those standards will be worked up by Ofwat following consultation, but they will have to include standards relating to consumer matters, the environment, financial resilience and criminal liability (new section 35B(3)(a)).

15 The section allows the new rules to override employment contracts (potentially including existing contracts) and may require the recovery by companies of performance-related pay awarded in breach of the restrictions: new section 35B(3)(d) and (e). The rules can apply from the 2024-25 financial year: subsection (4) of the section.

16 The second mandatory topic for the rules is the fitness and propriety of chief executives and directors (new section 35B(2)(b)). Ofwat will use the rules to set standards of fitness and propriety (and potentially other types of standards) which chief executives and directors will have to meet in order to be appointed or stay in post.

17 While the bonus and fitness rules apply principally to chief executives and directors (as reflected in the above explanation), Ofwat has the power to extend them to cover other senior roles within water companies: new section 35B(5).

18 The third mandatory topic is consumer involvement in corporate decision-making (new section 35B(2)(c)). Companies are required to put in place arrangements for involving consumers in the wide range of decisions that have a material effect on consumer interests (the term "consumer matters", used in the section, is defined in section 27A(13) of the 1991 Act). The precise nature of those arrangements is for Ofwat to determine when it draws up the rules, but new section 35B(6) gives examples of what they might include.

19 The rules will be enforced first by Ofwat directions and then, if the directions are not complied with, the existing enforcement machinery provided by sections 18 to 22 of the 1991 Act (which involves the giving of enforcement orders enforceable by the courts). Ofwat has a wide discretion about which steps to tell a company to take to bring itself back into compliance with the rules.

20 Ofwat are required to provide a draft to the Secretary of State of the first rules to be issued under new section 35B of the 1991 Act at least seven days before they are issued.

21 New sections 35C and 35D provide for consultation about the rules, except in cases involving minor or urgent variations. The procedure is modelled on existing procedures followed by Ofwat when making codes or rules about bulk supplies: see sections 40C and 40G of the 1991 Act.

Section 2: Financial transparency requirements

22 This section inserts provisions into the Water Industry Act 1991 ("the 1991 Act") that require Ofwat to secure publication by each water company prominently on its website an overview of its financial position at least once a year (new section 35E).

23 A company's "financial position" includes details of the share capital and debt used to fund its operations. The purpose of the provision is to ensure that the public have easy access to a concise and intelligible overview of a company's financial position.

24 Ofwat may either exercise its appointment powers or issue rules in order to impose the necessary requirements on companies. The precise nature of the information to be included in the overview and the format in which it is to be published will be decided by Ofwat.

Section 3: Pollution incident reduction plans

25 This section inserts provisions into the Water Industry Act 1991 ("the 1991 Act") that require sewerage and water supply undertakers to publish an annual pollution incident reduction plan by 1 April each year and establishes the matters the plans must address.

New section 205A: Duty to prepare and publish plans

26 A pollution incident reduction plan is a plan for reducing the occurrence of pollution incidents attributable to an undertakers' sewerage or water supply system. Pollution incidents are discharges that may be harmful to health or the environment. However, this excludes treated effluent that is discharged in accordance with environmental permits.

27 These plans must address the frequency, seriousness and causes of pollution incidents and the measures (and timing of these measures) that undertakers intend to take to reduce the occurrence of pollution incidents. Undertakers must also assess the impact that the planned measures will have on reducing pollution incidents and set out the measures and timing for implementing those measures: subsection (4)(a) – (f) of the new section.

28 Ministers (the Secretary of State for undertakers wholly or mainly based in England or the Welsh Ministers for undertakers wholly or mainly based in Wales) may issue directions on other matters that the plans must address, subject to consultation with the environmental regulator (Environment Agency for undertakers wholly or mainly based in England or Natural Resources Wales for undertakers wholly or mainly based in Wales) before the directions are issued (new section 205A(4)(g) and (5)). The undertaker must have regard to guidance produced by the environmental regulator in producing these plans. The environmental regulators must consult the relevant Minister and Ofwat prior to providing any guidance under new section 205A(6).

29 The undertaker must publish its first plan before 1 April in the calendar year after the one in which this duty comes into force. The undertaker must publish a statement alongside the plan that confirms the chief executive has personally approved the plan.

New section 205B: Implementation reports

30 The undertaker must publish an implementation report alongside the pollution incident reduction plan each year (new section 205B). In this implementation report, the undertaker must set out the extent to which it succeeded in implementing planned measures in the preceding year. Where the undertaker failed to implement those measures during that year, it must set out the reasons for that failure and how it intends to avoid repeating the failure in future years.

New section 205C: Enforcement and sanctions

31 New section 205C provides that undertakers that fail to comply with this duty may be prosecuted and liable to a fine. Where the undertaker fails to comply with this duty, the chief executive will also have committed an offence and may be personally prosecuted and liable to a fine. The chief executive may rely on the defence provided in new section 205C(3) that they took all reasonable steps to avoid the failure.

32 The environmental regulators are responsible for enforcing this duty. Where the environmental regulator is considering how to exercise its functions and the undertaker's record with respect to compliance with its obligations relating to pollution, the regulator must also consider the undertaker's record in implementing measures set out in its pollution incident reduction plans.

Section 4: Emergency overflows

33 This section inserts new Chapter 5 (emergency overflows) into Part 4 (sewerage services) of the Water Industry Act 1991 ("the 1991 Act") after Chapter 4 (storm overflows). Chapter 5 includes two new sections to require reporting on discharges from emergency overflows and establish the meaning of "emergency overflow".

34 Although this section provides a statutory definition of emergency overflow for the first time, the concept of emergency overflow is not new. Emergency overflows have been permitted for many years under the Environmental Permitting (England and Wales) Regulations 2016 (and preceding regulations). The purpose of this section is to ensure that discharges from emergency overflows are reported within an hour of their starting and finishing.

New section 141F Reporting on discharges from emergency overflows

35 Sewerage undertakers must report in near real time (within an hour) on the fact of a discharge from an emergency overflow, together with location and information as to when the discharge began and ended. An emergency overflow is defined at new section 141G.

36 Information on discharges from emergency overflows must be reported within one hour of the discharge starting, and within one hour of it finishing. Additionally, the information to be published must be in a format which is both easily understandable and easily accessible by the public. Ofwat are responsible for bringing enforcement proceedings against undertakers which fail to comply with the duty, relying on existing enforcement machinery provided by sections 18 to 22 of the 1991 Act (which involves the giving of enforcement orders enforceable by the courts).

37 The Secretary of State has powers to make regulations that set out exceptions to the requirements to publish information under section 141F, subject to a consultation requirement. The regulations are to be made by statutory instrument under the draft affirmative resolution procedure: new subsections (5), (6) and (7).

New Section 141G: meaning of "emergency overflow" in section 141F

38 New section 141G sets out the definition of an emergency overflow. It provides that the duty in section 141F should apply where there is an emergency overflow of a description set out in subsection (2) or where an environmental permit has been issued which describes the overflow as capable of being relied on in an emergency (subsection (3)).

39 A 'sewerage system' as specified in subsection (1) is defined by way of section 17BA(7) of the 1991 Act, and includes the system of public sewers, the facilities for emptying or draining it, facilities for dealing with its contents, and the lateral drains that the undertaker is required to maintain. An 'environmental permit' is a permit granted under the Environmental Permitting (England and Wales) Regulations 2016.

Section 5: Nature-based solutions

40 This section inserts provisions into the Water Industry Act 1991 ("the 1991 Act") that require sewerage undertakers to explain in their drainage and sewerage management plans, the use that is to be made of nature-based solutions, technologies and facilities within their drainage and sewerage systems.

41 A drainage and sewerage management plan is the 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 Part IV of the 1991 Act.

42 The drainage and sewerage management plan must address a number of specific matters, including:

- the capacity of the undertaker's drainage and sewerage systems;
- an assessment of the current and future demands on the systems;
- the resilience of the systems;
- the measures the undertaker proposes to take or continue (and the sequence and timing of those measures) to meet its obligations under Part IV of the 1991 Act and relevant environmental risks; and
- how those risks are to be mitigated.

43 The new requirement (s.94A(3)(ea)) is enforceable under existing powers in section 18 of the 1991 Act.

Section 6: Impeding investigations into water companies: sentencing and liability

44 This section amends the sentencing and liability provisions for offences related to impeding investigations under section 110 of the Environment Act 1995 and section 86 of the Water Industry Act 1991 ("the 1991 Act") of the Environment Agency, the Natural Resources Body for Wales and the Drinking Water Inspectorate. These amendments are restricted to water and sewerage undertakers and licensees.

45 The section expands the options available to the court during the sentencing of offences under section 110(1) and (2). These offences are now triable in either the Crown or Magistrates' Court and the sentencing powers include an unlimited fine and imprisonment with a term not exceeding the general limit on summary conviction or 2 years for conviction on indictment.

46 Previously, the maximum sentence for obstruction of a requirement under section 108, which details the Environment Agency and Natural Resources Body for Wales' investigatory powers, was an unlimited fine – not imprisonment – and the offence could only be heard in the Magistrates' Court.

47 Subsection (1)(b) and (c) of the section amends subsections (4) and (5) of section 110 of the Environment Act 1995, creating exemptions where new subsection (3E) applies. Section 110(4) details the maximum penalty for an offence under section 110(1); section 110(5) details the maximum penalty for an offence under section 110(2) and (3).

48 The section also introduces a corporate liability provision (new sections 5I and 5J) in section 110 of the Environment Act 1995. If an obstruction offence is committed with the consent or connivance of, or is attributable to the neglect of, company executives or other relevant individuals, for example a Chief Executive Officer, they are also liable.

49 For example, where a data request is made, or samples collected, under section 108 of the Environment Act 1995, and it can be demonstrated that there has been a failure to comply, an officer of the company may be responsible for such failure if they are considered to be acting with consent, connivance or by way of neglect. This form of corporate body liability provision sits elsewhere in water regulation. For example, in section 210 of the 1991 Act and regulation 41 of the Environmental Permitting (England and Wales) Regulations 2016. The new subsection (5J) provides the definition of a 'relevant officer' in relation to offences committed by the body corporate.

50 The section also amends the penalty for obstruction offences committed against the Drinking Water Inspectorate through an amendment of section 86(6) of the 1991 Act. Section 86(3) places a duty on companies to provide assistance and information during investigations. The sentencing powers are now increased to mirror those in section 110 of the Environment Act 1995. The penalties are increased, on summary conviction, to imprisonment for a term not exceeding the general limit or to a fine, or both; and on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or both.

51 To align with the increase in sentencing powers, a 'reasonable excuse' defence is inserted into section 86(6) of the 1991 Act so that culpability and the maximum penalty is equal to section 110(2) of the Environment Act 1995.

52 Subsection (3) of the section clarifies that the amendments only have effect in relation to offences committed on or after the day on which this section comes into force.

Section 7: Civil penalties: modification of standard of proof

53 This section relates to powers conferred on regulators under sections 36 and 62 of the Regulatory Enforcement and Sanctions Act 2008 ("the 2008 Act") to impose fixed monetary penalties and variable monetary penalties.

54 This section allows fixed and variable monetary penalties to be imposed for water industry offences as if "on the balance of probabilities" appears in sections 39(2) and 42(2) of the 2008 Act, instead of "beyond reasonable doubt". The power is made available only in relation to offences committed by a water company (defined in the section as an offence committed by a water or sewerage undertaker, or a water supply or sewerage licensee within the meaning of the Water Industry Act 1991) and will be specified in secondary legislation, to be made by the Secretary of State or Welsh Ministers.

55 For offences committed by a water supply or sewerage licensee, this provision only applies in relation to their licensed activities; wider business activities unrelated to the licensing regime are not included.

56 The secondary legislation must also prescribe a cap on the amount that may be imposed by the regulator when imposing a variable monetary penalty to this modified standard of proof (subsection (4)).

57 The offences in respect of which these powers are made available are outlined in subsection (3), and are those under sections 24(4), 25(2), 25C(1), 80 and 201(3) of the Water Resources Act 1991, regulations under section 2 of the Pollution Prevention and Control Act 1999, and regulations under section 61 of the Water Act 2014.

Section 8: Automatic penalties for certain offences

58 This section imposes a duty on the environmental regulators (the Environment Agency and the Natural Resources Body for Wales) to impose automatic penalties for specified offences committed by a water company (as defined in section 7(5) of the Act).

59 The offences that may fall within scope will be set out in secondary legislation (subsections (3) to (5)). This is limited to the offences included in section 7(3) of the Act.

60 Exceptions to the duty to apply an automatic penalty include where the regulator determines that there are exceptional circumstances which mitigate the company's culpability. This could include circumstances where breaches occur for reasons outside the water company's control, such as IT failures or where there has been third-party interference with company assets. Exceptions are also applied where alternative enforcement action is contemplated or in progress, such as criminal proceedings or variable monetary penalties.

61 Regulations applying the new duty will have to make provision that follows the procedure for imposing a penalty set out at section 40 of the Regulatory Enforcement and Sanctions Act 2008 ("the 2008 Act"), effectively requiring regulators to issue a notice of intent (section 40(2)(a) of the 2008 Act), as well as offering the company the opportunity to make representations about the proposed penalty (section 40(2)(c) of the 2008 Act). Companies will have a right of appeal to the first-tier tribunal for the existing grounds set out in the 2008 Act, but may be prevented from making an appeal against the regulator's determination as to whether exceptional circumstances apply which mitigate their culpability – subsection (7).

Section 9: Abstraction and impounding: power to impose general conditions

62 This section amends the Water Resources Act 1991 to insert a new section 46B to confer on the Secretary of State (in relation to England) and Welsh Ministers (in relation to Wales) a new power to impose conditions or general rules into water industry licences (as defined in subsection (3)) for water abstraction and impoundment activity. The new section 46B enables the use of the provisions set out in section 8 of this Act in respect of breaches of such conditions and general rules in water industry abstraction and impoundment licences.

Section 10: Requirement for Ofwat to have regard to climate change etc

63 This section amends section 2 of the Water Industry Act 1991 to require Ofwat when exercising its powers and duties to have regard to the Secretary of State's duty to meet specified environmental targets. This includes the net zero emissions target in section 1 of the Climate Change Act 2008 and duties in section 5 of the Environment Act 2021 (when regulating companies wholly or mainly in England).

64 This new duty requires Ofwat to consider, when making relevant regulatory decisions, how the water industry can contribute towards meeting these environmental targets.

Section 11: Charges in respect of Environment Agency and NRBW functions

65 This section amends section 41(1) of the Environment Act 1995 in order to extend existing powers to make charging schemes to recover costs from water companies (as defined in the section). The schemes are produced by the Environment Agency and Natural Resources Body for Wales to enable them to recover their costs of performing functions in relation to the Environmental Permitting (England and Wales) Regulations 2016, water abstraction and impounding, drought orders and drought permits under Chapters 2 and 3 of Part 2 of the Water Resources Act 1991, and pollution incident reduction plans and implementation reports under sections 205A and 205B of the Water Industry Act 1991.

66 The effect of the section is to extend the existing legislation to allow the recovery of costs by the Environment Agency and Natural Resources Body for Wales incurred in performing water industry enforcement functions. This includes allowing fees to be charged to water companies for enforcement relating to unauthorised assets, or in suspected breach of a permit, and duties relating to pollution incident reduction plans. This section enables fees to be

charged to water undertakers and sewerage undertakers; and to water licensees and sewerage licensees only in relation to their licensed activities, excluding their other unrelated wider business activities.

Section 12: Drinking Water Inspectorate: functions and fees

67 This provision relates to the functions of the Drinking Water Inspectorate, the agency responsible for regulating the safety of public drinking water supplies in England and Wales. The Drinking Water Inspectorate's functions include monitoring and auditing water suppliers responsible for providing drinking water to ensure that regulatory requirements are adhered to, investigating possible breaches of those standards, and providing advice to the public and government on drinking water safety.

68 The section amends section 86(1) of the Water Industry Act 1991 ("the 1991 Act") to extend the purposes for which inspectors of water quality may be appointed to include functions related to national security directions under section 208 of the 1991 Act.

69 This section also makes amendments to section 86ZA (charging of fees by Drinking Water Inspectorate) to provide greater flexibility in how fees are charged for regulatory work. This means the Drinking Water Inspectorate could charge fees when individual functions are completed or charge a fee for all functions completed in a particular period of time.

Section 13: Special provision in charges schemes

70 This section amends section 143A of the Water Industry Act 1991 ("the 1991 Act") and inserts new sections 143AA and 143AB, in order to supplement existing powers to provide for special charging arrangements for customers in need.

71 The amendment to section 143A of the 1991 Act allows regulations under the section to be able to require water companies to auto-enrol eligible customers.

72 New section 143AA of the 1991 Act allows for the costs of special provision under section 143A(2)(d) of the same Act to be shared among water companies by way of direct payments or via a managed fund. Subsections (4) to (10) ensure water companies are not prevented by their other obligations (such as the conditions of their appointment) from passing on their relevant net costs (subsection (8)) to their customers.

73 New section 143AB of the 1991 Act requires the Secretary of State to consult prior to the introduction of regulations under existing section 143A(2)(d) or new section 143AA, subject to a specific exception set out in subsection (3).

74 This section also amends the permissive information-sharing gateways in sections 38 and 39 of the Digital Economy Act 2017 to expand their availability to those eligible for special provision under section 143A(2)(d) of the 1991 Act.

Section 14: Modification by Secretary of State of water company's appointment conditions etc to recover losses

75 This section inserts new sections 12J and 12K into the 1991 Act. Section 12J enables the Secretary of State to modify the conditions of appointment of water and/or sewerage undertakers whose area is wholly or mainly in England (referred to here as water companies) to ensure that any shortfall following the provision of financial assistance by the Secretary of State to a company in special administration can be made good. Appointments are colloquially referred to as licences.

76 The Secretary of State currently has the power to issue licences under section 6 of the 1991 Act but not to modify the conditions after they have been issued, as that power sits with Ofwat. However, this change will allow the Secretary of State to make modifications in these specific and very limited circumstances only.

77 The modifications can require a water company to raise amounts of money determined by the Secretary of State from its consumers, and to pay those amounts to the Secretary of State to make good any shortfall and may include a requirement that amounts be held on trust pending payment to the Secretary of State. The Secretary of State may also make incidental or consequential modifications considered necessary or expedient.

78 The Secretary of State can modify the licence of the water company that has been placed in special administration, or any other water company in England.

79 The drafting anticipates that the Secretary of State may provide financial assistance under section 153 of the 1991 Act in relation to a water company in administration as part of the Water Industry Special Administration Regime ('WISAR', provided for by sections 23-25 of the 1991 Act) which it may not, absent these provisions, be able to fully recover. This shortfall is described as an 'SAO loss' and includes any loss or expense incurred as a result of, or otherwise in connection with, the giving of the assistance.

80 Money received by the Secretary of State must be paid into the Consolidated Fund.

81 New section 12K requires the Secretary of State to fulfil certain procedural requirements before modifying licence conditions under section 12J.

82 Notice must be given that the Secretary of State proposes to make modifications. The modifications and their effect must be set out along with reasons for making them and providing a time period of at least 42 days for representations to be made about the proposed modifications. The notice must be published in an appropriate manner so those likely to be affected are aware of it and it must be sent to each water company whose licence conditions are to be modified, other water companies and water supply/sewerage licensees whose interests may be affected, Ofwat, certain persons representing the interests of water companies (such as Water UK) and the Consumer Council for Water.

83 The Secretary of State must consider any representations made and if a decision is made to proceed with the licence modifications the decision and the modifications must be published, the effect of the modifications must be set out, as well as explaining how the representations were taken into account and any changes between the modifications and those initially proposed.

84 Licence modifications come into effect from a date specified by the Secretary of State not less than 56 days after the publication of the decision to make the modification, unless giving them earlier effect is considered to be necessary or expedient and the notice of intention to modify licence conditions stated the earlier date, gave reasons for the shorter time period and explained why this would not have a material adverse effect on a water company.

Section 15: Modification by Welsh Ministers of water company's appointment conditions etc to recover losses

85 Section 15 introduces new sections 16C and 16D into the 1991 Act, which have an equivalent effect to sections 12J and 12K for the purposes of water companies whose area is wholly or mainly in Wales. Sections 16C and 16D create powers and procedural requirements for the Welsh Ministers in the same terms as those created for the Secretary of State in sections 12J and 12K, although note that section 16C does not refer to the Consolidated Fund since section 120 of the Government of Wales Act 2006 has the effect of directing the sums collected to the Welsh Consolidated Fund.

Section 16: Winding up petitions

86 Section 16 amends section 25 of the 1991 Act to provide that on an application for the winding up of an undertaker, a court may not exercise its powers unless the Secretary of State or the Welsh Minsters (as the case may be, see new subsection (4)) and Ofwat have been given notice of the petition and at least 14 days have passed - new subsection (2).

87 Subsection (3) is inserted into section 25 of the 1991 Act to require that the Secretary of State or the Welsh Ministers (as the case may be) and Ofwat ('relevant persons') are entitled to be heard at the hearing of a winding up petition and any other hearings in relation to Part IV ('Winding up of companies registered under the Companies Acts') of the Insolvency Act 1986.

Section 17: Extent, commencement, transitional provision and short title

88 Section 17 sets out the extent of the Act. Annex A provides further information. The section comes into force on the day this Act is passed, as do the other sections listed in subsection (2).

89 Those provisions which come into force on such day as the Secretary of State may by regulations appoint are set out in subsection (3). Corresponding powers are provided for Welsh Minsters. Commencement regulations may also make transitional or saving provision and different provision for different purposes or places.

90 Those provisions in the Act which will come into force two months after the day this Act is passed are set out in subsection (5).

91 Subsection (7) permits commencement regulations to make reference to criteria established by regulators (the Environment Agency for assets wholly or mainly in England, Natural Resources Body for Wales for those in Wales), established to identify the categories of asset which the duty should first apply to.

92 Consultation that takes place prior to this Act being passed will meet any consultation requirement arising from the provisions of the Act - subsection (9). For example, under new section 35C of the Water Industry Act 1991, as inserted by section 1, Ofwat has a duty to consult on rules that it proposes to issue under section 35B. Consultation undertaken prior to the Act being passed will meet that requirement by virtue of subsection (9).

93 Finally, this section confirms the short title of the Act.

Commencement

94 Sections 1, 2, 7, 8, 9, 11, 12 and 17 will come into force on the day this Act is passed. Section 17(5) sets out those provisions in the Act which will come into force two months after the day this Act is passed.

95 Section 17(3) sets out those provisions which will come into force on such day as the Secretary of State may by regulations appoint. Corresponding powers are provided for Welsh Minsters.

Related documents

96 The following document is relevant to the Act and can be read at the stated location:

- The Water (Special Measures) Act 2025 Policy Statement is available on the GOV.UK website.

Annex A - Territorial extent and application in the United Kingdom

Provision	England	Wales	Scotland	Northern Ireland
	Extends to E & W and applies to England?	**Extends to E & W and applies to Wales?**	**Extends and applies to Scotland?**	**Extends and applies to Northern Ireland?**
Section 1	Yes	Yes	No	No
Section 2	Yes	Yes	No	No
Section 3	Yes	Yes	No	No
Section 4	Yes	Yes	No	No
Section 5	Yes	Yes	No	No
Section 6	Yes	Yes	No	No
Section 7	Yes	Yes	No	No
Section 8	Yes	Yes	No	No
Section 9	Yes	Yes	No	No
Section 10	Yes	Yes	No	No
Section 11	Yes	Yes	No	No
Section 12	Yes	Yes	No	No
Section 13	Yes	No	No	No
Section 14	Yes	No	No	No
Section 15	No	Yes	No	No
Section 16	Yes	Yes	No	No
Section 17	Yes	Yes	No	No

Annex B - Hansard References

97 The following table sets out the dates and Hansard references for each stage of the Act's passage through Parliament.

Stage	**Date**	**Hansard Reference**
House of Lords		
Introduction	04 September 2024	Vol. 839 Col. 1158
Second Reading	09 October 2024	Vol. 829 Col. 2021
Grand Committee	28 October 2024 28 October 2024 30 October 2024 30 October 2024 04 November 2024	First Sitting Vol. 840 Col. 929 Second Sitting Vol. 840 Col. 999 Third Sitting Vol. 840 Col. 1129 Fourth Sitting Vol. 840 Col. 1188 Fifth Sitting Vol. 840 Col. 1362
Report	20 November 2024	Vol. 841 Col. 231
Third Reading	26 November 2024	Vol. 841 Col. 602
House of Commons		
Introduction	27th November 2024	NA
Second Reading	16 December 2024	Vol. 759 Col. 76
Public Bill Committee	09 January 2025 09 January 2025 14 January 2025 14 January 2025 16 January 2025	First Sitting Vol. 759 Col. 1 Second Sitting Vol. 759 Col. 31 Third Sitting Vol. 760 Col. 69 Fourth Sitting Vol. 760 Col. 105 Fifth Sitting Vol. 760 Col.153
Report and Third Reading	28 January 2025	Vol. 761 Col. 221
Lords Consideration of Commons Amendments	05 February 2025	Vol. 843 Col. 765
Commons Consideration of Lords Message	11 February 2025	Vol. 762 Col. 194
Lords Consideration of Commons Amendments	11 February 2025	Vol. 843 Col. 1181
Royal Assent	24 February 2025	House of Lords Vol. 843 Col. 1445 House of Commons Vol. 762 Col. 485

Annex C - Progress of Bill Table

98 This Annex shows how each section and Schedule of the Act was numbered during the passage of the Bill through Parliament.

Section of the Act	Bill as Introduced in the Lords	Bill as amended in Committee in the Lords	Bill as introduced in the Commons	Bill as amended in Committee in the Commons	Bill as amended on Report in the Commons
Section 1	Clause 1	Clause 1	Clause 1	Clause 1	Clause 1
Section 2	-	-	-	-	-
Section 3	Clause 2	Clause 2	Clause 2	Clause 2	Clause 2
Section 4	Clause 3	Clause 3	Clause 3	Clause 3	Clause 3
Section 5	-	-	Clause 4	Clause 4	Clause 4
Section 6	Clause 4	Clause 4	Clause 5	Clause 5	Clause 5
Section 7	Clause 5	Clause 5	Clause 6	Clause 6	Clause 6
Section 8	Clause 6	Clause 6	Clause 7	Clause 7	Clause 7
Section 9	Clause 7	Clause 7	Clause 8	Clause 8	Clause 8
Section 10	-	-	Clause 9	Clause 9	Clause 9
Section 11	Clause 8	Clause 8	Clause 10	Clause 10	Clause 10
Section 12	Clause 9	Clause 9	Clause 11	Clause 11	Clause 11
Section 13	-	-	-	-	Clause 12
Section 14	Clause 10	Clause 10	Clause 12	Clause 12	Clause 13
Section 15	Clause 11	Clause 11	Clause 13	Clause 13	Clause 14
Section 16	Clause 12	Clause 12	Clause 14	Clause 14	Clause 15
Section 17	Clause 13	Clause 13	Clause 15	Clause 15	Clause 16

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