



Water Industry Act 1991

1991 CHAPTER 56

PART III

WATER SUPPLY

CHAPTER IV

FLUORIDATION

Modifications etc. (not altering text)

- C1** Pt. 3 Ch. 4 modified (1.4.2013 for E.) by [Health and Social Care Act 2012 \(c. 7\), ss. 37\(1\), 306\(2\)\(3\)](#); [S.I. 2013/160, art. 2\(2\)](#) (with arts. 7-9)

[^{F1}87 Fluoridation of water supplies

- (1) If requested in writing to do so by a relevant authority, a water undertaker shall enter into arrangements with the relevant authority to increase the fluoride content of the water supplied by that undertaker to premises within the area specified in the arrangements.
- (2) But a water undertaker shall not be required by subsection (1) above to enter into any such arrangements until an indemnity with respect to the arrangements has been given by virtue of section 90 below—
 - (a) to the water undertaker; and
 - (b) to any [^{F2}water supply licensee] which is entitled to one.
- (3) In this section and the following provisions of this Chapter—
 - (a) references to a relevant authority—
 - [^{F3}(i) in relation to areas in England, are to the Secretary of State;]
 - (ii) in relation to areas in Wales, are to the Assembly; and

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- (b) references to water supplied by a water undertaker are to water supplied (whether by a water undertaker or a ^{F4}water supply licensee) to premises using the supply system of that undertaker.

^{F5}(3A)

- (4) The area specified in arrangements under this section may be—
 - ^{F6}(a) in relation to England, such area ^{F7}in England as the Secretary of State may determine];
 - (b) in relation to Wales, such area comprising the whole or any part of Wales as the Assembly may determine.

- (5) The arrangements shall be on such terms as may be agreed between the relevant authority and the water undertaker or, in the absence of agreement, determined in accordance with section 87B below.

- (6) ^{F8}Subject to subsection (6A)] those terms shall include provision—
 - (a) requiring the relevant authority to meet the reasonable capital and operating costs incurred by the water undertaker in giving effect to the arrangements;
 - (b) specifying circumstances in which the requirement to increase the fluoride content may be temporarily suspended; and
 - (c) for the variation of the arrangements at the request of the relevant authority.

^{F9}(6A) The Secretary of State may by regulations provide that, in circumstances specified in the regulations, subsection (6)(a) is not to apply in relation to arrangements entered into by the Secretary of State.

(6B) The Secretary of State may by regulations require a public body specified in the regulations to make payments to the Secretary of State to meet any costs incurred by the Secretary of State under the terms of the arrangements.]

- (7) The relevant authority shall consult the Authority in relation to the terms to be included in any arrangements under this section (in particular, terms which affect the operation of the water undertaker’s supply system).

^{F10}(7A)

^{F10}(7B)

^{F11}(7G) Before making regulations under subsection (6A) or (6B) the Secretary of State must consult such persons as the Secretary of State considers appropriate.]

^{F12}(8)

^{F12}(9)

^{F12}(10)

- (11) Before carrying out the consultation required by subsection (1) of section 89 below in relation to a step mentioned in paragraph (a), (b) or (c) of subsection (2) of that section, ^{F13}a relevant authority] shall consult the water undertaker in question as to whether the arrangements which would result from taking that step would be operable and efficient (or, where it is proposed to terminate the arrangements, as to whether it would be reasonably practicable to do so).

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[^{F14}(12) A statutory instrument containing regulations under subsection (6A) is not to be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.]]

Textual Amendments

- F1** Ss. 87-87C substituted for s. 87 (1.8.2008 for E. for certain purposes as regards s. 87 and 25.2.2009 for E. for all other purposes) by [Water Act 2003 \(c. 37\)](#), [ss. 58\(2\)\(11\)-\(14\)](#), 105(3); S.I. 2008/1922, [art. 2\(a\)](#); S.I. 2009/359, [art. 2](#), (with saving in art. 3, Sch. 3)
- F2** Words in s. 87(2)(b) substituted (1.4.2016) by [Water Act 2014 \(c. 21\)](#), s. 94(3), [Sch. 7 para. 76](#); S.I. 2016/465, [art. 2\(m\)](#), [Sch. 1 para. 1\(o\)](#) (with [Sch. 2](#)) (as amended (22.3.2017) by S.I. 2017/462, art. 16)
- F3** S. 87(3)(a)(i) substituted (1.4.2013 for E.) by [Health and Social Care Act 2012 \(c. 7\)](#), [ss. 35\(2\)](#), 306(2)(3); S.I. 2013/160, [art. 2\(2\)](#) (with [arts. 7-9](#))
- F4** Words in s. 87(3)(b) substituted (1.4.2016) by [Water Act 2014 \(c. 21\)](#), s. 94(3), [Sch. 7 para. 76](#); S.I. 2016/465, [art. 2\(m\)](#), [Sch. 1 para. 1\(o\)](#) (with [Sch. 2](#)) (as amended (22.3.2017) by S.I. 2017/462, art. 16)
- F5** S. 87(3A) omitted (1.11.2022 for E.) by virtue of [Health and Care Act 2022 \(c. 31\)](#), [ss. 175\(2\)\(a\)](#), 186(6); S.I. 2022/1003, [reg. 3\(a\)](#)
- F6** S. 87(4)(a) substituted (1.4.2013 for E.) by [Health and Social Care Act 2012 \(c. 7\)](#), [ss. 35\(4\)](#), 306(2)(3); S.I. 2013/160, [art. 2\(2\)](#) (with [arts. 7-9](#))
- F7** Words in s. 87(4)(a) substituted (1.11.2022 for E.) by [Health and Care Act 2022 \(c. 31\)](#), [ss. 175\(2\)\(b\)](#), 186(6); S.I. 2022/1003, [reg. 3\(a\)](#)
- F8** Words in s. 87(6) inserted (1.11.2022 for E.) by [Health and Care Act 2022 \(c. 31\)](#), [ss. 175\(2\)\(c\)](#), 186(6); S.I. 2022/1003, [reg. 3\(a\)](#)
- F9** S. 87(6A)(6B) inserted (1.11.2022 for E.) by [Health and Care Act 2022 \(c. 31\)](#), [ss. 175\(2\)\(d\)](#), 186(6); S.I. 2022/1003, [reg. 3\(a\)](#)
- F10** S. 87(7A)(7B) omitted (1.11.2022 for E.) by virtue of [Health and Care Act 2022 \(c. 31\)](#), [ss. 175\(2\)\(e\)](#), 186(6); S.I. 2022/1003, [reg. 3\(a\)](#)
- F11** s. 87(7G) inserted (1.11.2022 for E.) by [Health and Care Act 2022 \(c. 31\)](#), [ss. 175\(2\)\(f\)](#), 186(6); S.I. 2022/1003, [reg. 3\(a\)](#)
- F12** S. 87(8)-(10) omitted (1.4.2013 for E.) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), [ss. 35\(7\)](#), 306(2)(3); S.I. 2013/160, [art. 2\(2\)](#) (with [arts. 7-9](#))
- F13** Words in s. 87(11) substituted (1.11.2022 for E.) by [Health and Care Act 2022 \(c. 31\)](#), [ss. 175\(2\)\(g\)](#), 186(6); S.I. 2022/1003, [reg. 3\(a\)](#)
- F14** S. 87(12) inserted (1.11.2022 for E.) by [Health and Care Act 2022 \(c. 31\)](#), [ss. 175\(2\)\(h\)](#), 186(6); S.I. 2022/1003, [reg. 3\(a\)](#)

Modifications etc. (not altering text)

- C2** S. 87: functions not to be exercised by a primary care trust (1.4.2000) by virtue of S.I. 2000/695, [art. 4\(1\)](#), [Sch. 4](#)

[^{F15}87A Target concentration of fluoride

- (1) Arrangements under section 87(1) above shall include provision for securing that, so far as reasonably practicable, the concentration of fluoride in the water supplied to premises in the specified area is maintained at the general target concentration of one milligram per litre.
- (2) But the arrangements may provide for the concentration in the specified area (or any part of it) to be lower than that if the relevant authority considers that it is not reasonably practicable to achieve the general target concentration in the specified area (or that part of it).

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(3) Any such lower concentration must still be as high as is reasonably practicable in the circumstances.

^{F16}(3A)

(4) If, in relation to any area (“area A”), an order under section 88A(1) below specifies a general target concentration lower than that for which any arrangements effective there provide (or, by the previous operation of this subsection, are taken to provide), the arrangements shall have effect from the coming into force of the order as if they provided for the general target concentration specified in the order (subject to the operation again of subsections (2) and (3) above).

(5) If the result of the operation of subsection (4) above in relation to arrangements in area A is that in an area adjoining area A (“area B”) it is not reasonably practicable to maintain the concentration of fluoride in the water supplied by virtue of arrangements made in area B with the same water undertaker, the order shall be taken to extend also to area B so far as those arrangements are concerned, and subsection (4) above shall apply accordingly.

(6) An order under section 88A(1) below which in relation to any area specifies a general target concentration higher than that for which any arrangements effective there provide (or are taken to provide by virtue of subsection (4) or (5) above) does not have effect to increase the concentration for which the arrangements provide (or are taken to provide).

(7) In this section, “specified area” means the area specified in arrangements under section 87(1) above.]

Textual Amendments

F15 Ss. 87-87C substituted for s. 87 (1.8.2008 for E. for certain purposes as regards s. 87 and 25.2.2009 for E. for all other purposes) by [Water Act 2003 \(c. 37\)](#), [ss. 58\(2\)\(11\)-\(14\)](#), [105\(3\)](#); [S.I. 2008/1922](#), [art. 2\(a\)](#); [S.I. 2009/359](#), [art. 2](#), (with saving in art. 3, Sch. 3)

F16 S. 87A(3A) omitted (1.11.2022 for E.) by virtue of [Health and Care Act 2022 \(c. 31\)](#), [ss. 175\(3\)](#), [186\(6\)](#); [S.I. 2022/1003](#), [reg. 3\(a\)](#)

[^{F17}87B Fluoridation arrangements: determination of terms

(1) This section applies if a relevant authority and a water undertaker fail to agree—

- (a) the terms of arrangements requested by the relevant authority pursuant to subsection (1) of section 87 above; or
- (b) a variation in the terms of those arrangements following a request by the relevant authority pursuant to subsection (6)(c) of that section.

(2) In relation to areas in England (except where subsection (4) below applies)—

[the Secretary of State may—

- ^{F18}(a) (i) determine the terms of the arrangements as the Secretary of State sees fit; or
- (ii) refer the matter for determination by such other person as the Secretary of State considers appropriate; and]

^{F19}(b)

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- (c) the determination of the Secretary of State or, as the case may be, the other person shall be final.
- (3) In relation to areas in Wales (except where subsection (4) below applies)—
 - (a) the Assembly may—
 - (i) determine the terms of the arrangements itself as it sees fit; or
 - (ii) refer the matter for determination by such other person as it considers appropriate; and
 - (b) the determination of the Assembly or, as the case may be, the other person shall be final.
- (4) [^{F20}Where a combined reference is made under section 87(7C)(b) or 87(7F)] above—
 - (a) the terms of the arrangements shall be determined by a person appointed by the Secretary of State and the Assembly acting jointly; and
 - (b) the determination of that person shall be final.
- (5) Following determination under this section of the terms to be included in any arrangements—
 - (a) the relevant authority shall give notice of the determination to the water undertaker in question; and
 - (b) the undertaker shall be deemed to have entered into the arrangements under section 87(1) above on the terms determined under this section with effect from the day after the date of the notice.
- (6) References in this Chapter to arrangements entered into under section 87(1) above shall include arrangements deemed to have been entered into under that section by virtue of subsection (5)(b) above.]

Textual Amendments

- F17** Ss. 87-87C substituted for s. 87 (1.8.2008 for E. for certain purposes as regards s. 87 and 25.2.2009 for E. for all other purposes) by [Water Act 2003 \(c. 37\)](#), [ss. 58\(2\)\(11\)-\(14\)](#), 105(3); S.I. 2008/1922, [art. 2\(a\)](#); S.I. 2009/359, [art. 2](#), (with saving in art. 3, Sch. 3)
- F18** S. 87B(2)(a) substituted (1.4.2013 for E.) by [Health and Social Care Act 2012 \(c. 7\)](#), [ss. 35\(10\)\(a\)](#), 306(2)(3); S.I. 2013/160, [art. 2\(2\)](#) (with [arts. 7-9](#))
- F19** S. 87B(2)(b) omitted (1.4.2013 for E.) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), [ss. 35\(10\)\(b\)](#), 306(2)(3); S.I. 2013/160, [art. 2\(2\)](#) (with [arts. 7-9](#))
- F20** Words in s. 87B(4) substituted (1.4.2013 for E.) by [Health and Social Care Act 2012 \(c. 7\)](#), [ss. 35\(11\)](#), 306(2)(3); S.I. 2013/160, [art. 2\(2\)](#) (with [arts. 7-9](#))

[^{F21}87C Fluoridation arrangements: compliance

- (1) It shall be the duty of each water undertaker to comply with any arrangements entered into by it under section 87(1) above.
- (2) Where, pursuant to any such arrangements, the fluoride content of any water is increased, the increase may be effected only by the addition of one or more of the following compounds of fluorine—
 - hexafluorosilicic acid (H₂SiF₆)
 - disodium hexafluorosilicate (Na₂SiF₆).

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- (3) Subject to subsection (4) below, water to which fluoride has been added pursuant to any such arrangements entered into by a water undertaker (with a view to its supply in an area) may be supplied by that or any other undertaker to premises in any other area (whether or not that other area is the subject of arrangements under section 87(1) above).
- (4) Subsection (3) above applies if (and only if) the undertaker or undertakers concerned consider that it is necessary for the water to be supplied in the other area—
- (a) for the purpose of dealing with any serious deficiency in supply; or
 - (b) in connection with the carrying out of any works (including cleaning and maintenance) by the undertaker concerned or, as the case may be, by the undertakers concerned, or by a [^{F22}water supply licensee] supplying water using its or their supply system.
- (5) In this section—
- (a) the reference, in subsection (3) above, to water to which fluoride has been added pursuant to arrangements includes a reference to water to which fluoride has been added by Scottish Water in exercise of the power conferred by section 1 of the Water (Fluoridation) Act 1985; and
 - (b) in relation to a supply of such water by a water undertaker, the reference, in subsection (4) above, to the water undertakers concerned shall have effect as references to the water undertaker and Scottish Water.
- (6) In subsection (4) above, “serious deficiency in supply” means any existing or threatened serious deficiency in the supply of water (whether in quantity or quality) caused by an exceptional lack of rain or by any accident or unforeseen circumstances.
- (7) Arrangements entered into under section 87(1) above shall remain in force until the relevant authority, after giving reasonable notice to the water undertaker, terminates them.

^{F23}(8)]

Textual Amendments

- F21** Ss. 87-87C substituted for s. 87 (1.8.2008 for E. for certain purposes as regards s. 87 and 25.2.2009 for E. for all other purposes) by [Water Act 2003 \(c. 37\)](#), **ss. 58(2)(11)-(14)**, 105(3); S.I. 2008/1922, **art. 2(a)**; S.I. 2009/359, **art. 2**, (with saving in art. 3, Sch. 3)
- F22** Words in s. 87C(4)(b) substituted (1.4.2016) by [Water Act 2014 \(c. 21\)](#), s. 94(3), **Sch. 7 para. 77**; S.I. 2016/465, art. 2(m), **Sch. 1 para. 1(o)** (with Sch. 2) (as amended (22.3.2017) by S.I. 2017/462, **art. 16**)
- F23** S. 87C(8) omitted (1.4.2013 for E.) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 35(12)**, 306(2)(3); S.I. 2013/160, art. 2(2) (with arts. 7-9)

88 Power to vary permitted fluoridation agents.

- (1) The Secretary of State may by order amend section [^{F24}87C(2)] above by—
- (a) adding a reference to another compound of fluorine; or
 - (b) removing any reference to a compound of fluorine.

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- (2) The power of the Secretary of State to make orders under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

Textual Amendments

F24 Words in s. 88(1) substituted (25.2.2009 for E.) by [Water Act 2003 \(c. 37\)](#), ss. **58(3)**, 105(3); S.I. 2009/359, arts. 2, 3, [Sch.](#)

[^{F25}**88A Power to vary target concentration of fluoride**

- (1) The appropriate authority may by order made by statutory instrument provide that section 87A(1) above is to have effect as if for “one milligram per litre” there were substituted a lower concentration specified in the order.
- (2) An order under subsection (1) above may make different provision for different geographical areas, or for some such areas and not others.
- (3) A statutory instrument containing an order under subsection (1) above shall not be made by the Secretary of State (or by the Secretary of State and the Assembly acting jointly) unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (4) In subsection (1) above “appropriate authority”—
- (a) in relation to an area which is partly in England and partly in Wales, means the Secretary of State and the Assembly acting jointly;
 - (b) in relation to an area which is wholly in England, means the Secretary of State; and
 - (c) in relation to an area which is wholly in Wales, means the Assembly.
- (5) An order amending or revoking an order under subsection (1) above made by virtue of subsection (4)(a) above must also be made by the Secretary of State and the Assembly acting jointly.]

Textual Amendments

F25 [S. 88A](#) inserted (25.2.2009 for E.) by [Water Act 2003 \(c. 37\)](#), ss. **58(4)**, 105(3); S.I. 2009/359, [art. 2\(b\)](#) (with saving in [art. 3](#), [Sch.](#))

^{F26}**88B Requirement for fluoridation proposal: England**

Textual Amendments

F26 [Ss. 88B-88O](#) omitted (1.11.2022 for E.) by virtue of [Health and Care Act 2022 \(c. 31\)](#), ss. **175(4)**, 186(6); S.I. 2022/1003, [reg. 3\(a\)](#)

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F26 88C Initial consultation etc. on fluoridation proposal

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Textual Amendments
F26 Ss. 88B-88O omitted (1.11.2022 for E.) by virtue of [Health and Care Act 2022 \(c. 31\)](#), **ss. 175(4)**, 186(6); S.I. 2022/1003, reg. 3(a)

F26 88D Additional requirements where other local authorities affected

.....

Textual Amendments
F26 Ss. 88B-88O omitted (1.11.2022 for E.) by virtue of [Health and Care Act 2022 \(c. 31\)](#), **ss. 175(4)**, 186(6); S.I. 2022/1003, reg. 3(a)

F26 88E Decision on fluoridation proposal

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Textual Amendments
F26 Ss. 88B-88O omitted (1.11.2022 for E.) by virtue of [Health and Care Act 2022 \(c. 31\)](#), **ss. 175(4)**, 186(6); S.I. 2022/1003, reg. 3(a)

F26 88F Decision-making procedure: exercise of functions by committee

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Textual Amendments
F26 Ss. 88B-88O omitted (1.11.2022 for E.) by virtue of [Health and Care Act 2022 \(c. 31\)](#), **ss. 175(4)**, 186(6); S.I. 2022/1003, reg. 3(a)

F26 88G Secretary of State's duty in relation to fluoridation proposal

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Textual Amendments
F26 Ss. 88B-88O omitted (1.11.2022 for E.) by virtue of [Health and Care Act 2022 \(c. 31\)](#), **ss. 175(4)**, 186(6); S.I. 2022/1003, reg. 3(a)

F26 88H Payments by local authorities towards fluoridation costs

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Textual Amendments

F26 Ss. 88B-88O omitted (1.11.2022 for E.) by virtue of [Health and Care Act 2022 \(c. 31\)](#), [ss. 175\(4\)](#), [186\(6\)](#); S.I. 2022/1003, [reg. 3\(a\)](#)

F26 88I Variation or termination of arrangements under section 87(1)

.....

Textual Amendments

F26 Ss. 88B-88O omitted (1.11.2022 for E.) by virtue of [Health and Care Act 2022 \(c. 31\)](#), [ss. 175\(4\)](#), [186\(6\)](#); S.I. 2022/1003, [reg. 3\(a\)](#)

F26 88J Initial consultation etc. on variation or termination proposal

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Textual Amendments

F26 Ss. 88B-88O omitted (1.11.2022 for E.) by virtue of [Health and Care Act 2022 \(c. 31\)](#), [ss. 175\(4\)](#), [186\(6\)](#); S.I. 2022/1003, [reg. 3\(a\)](#)

F26 88K Additional requirements where other local authorities affected

.....

Textual Amendments

F26 Ss. 88B-88O omitted (1.11.2022 for E.) by virtue of [Health and Care Act 2022 \(c. 31\)](#), [ss. 175\(4\)](#), [186\(6\)](#); S.I. 2022/1003, [reg. 3\(a\)](#)

F26 88L Decision on variation or termination proposal

.....

Textual Amendments

F26 Ss. 88B-88O omitted (1.11.2022 for E.) by virtue of [Health and Care Act 2022 \(c. 31\)](#), [ss. 175\(4\)](#), [186\(6\)](#); S.I. 2022/1003, [reg. 3\(a\)](#)

F26 88M Decision-making procedure: exercise of functions by committee

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Textual Amendments

F26 Ss. 88B-88O omitted (1.11.2022 for E.) by virtue of [Health and Care Act 2022 \(c. 31\)](#), [ss. 175\(4\)](#), [186\(6\)](#); S.I. 2022/1003, [reg. 3\(a\)](#)

^{F26}88N Secretary of State's duty in relation to requests for variation or termination

.....

Textual Amendments

F26 Ss. 88B-88O omitted (1.11.2022 for E.) by virtue of [Health and Care Act 2022 \(c. 31\)](#), [ss. 175\(4\)](#), [186\(6\)](#); S.I. 2022/1003, [reg. 3\(a\)](#)

^{F26}88O Power to make regulations as to maintenance of section 87 arrangements

.....

Textual Amendments

F26 Ss. 88B-88O omitted (1.11.2022 for E.) by virtue of [Health and Care Act 2022 \(c. 31\)](#), [ss. 175\(4\)](#), [186\(6\)](#); S.I. 2022/1003, [reg. 3\(a\)](#)

^{F28}89 Consultation ^{F27}...

- (1) Before taking any step mentioned in subsection (2) below, [^{F29}a relevant authority] shall—
 - (a) consult and ascertain opinion in accordance with regulations made by [^{F30}that authority]; and
 - (b) comply with the requirements set out in regulations made by [^{F31}that authority].
- (2) The steps are—
 - (a) requesting a water undertaker to enter into arrangements under section 87(1) above;
 - (b) requesting a water undertaker to vary any such arrangements in, or except in, prescribed circumstances or cases;
 - (c) giving notice to a water undertaker under section 87C(7) above to terminate any such arrangements;
 - (d) maintaining any such arrangements in prescribed circumstances.
- (3) Regulations—
 - (a) under paragraph (a) of subsection (1) above shall include provision about the process which [^{F32}the relevant authority is] to follow for the purposes of that paragraph;
 - (b) under paragraph (b) of that subsection shall include provision about the requirements which must be satisfied (with respect to the outcome of that process or otherwise) before a step mentioned in subsection (2) above may be taken.

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- (4) Subsection (1) above shall not apply in relation to a proposal by [^{F33}a relevant authority] to take the step mentioned in subsection (2)(c) above if [^{F34}that authority so directs] by an instrument in writing (and such a direction may apply either generally or in relation to a particular proposal).
- (5) [^{F35}In this section “appropriate authority”—
- (a) in a case where two or more relevant authorities (one of which is the Assembly) propose to request a particular water undertaker to take a step mentioned in subsection (2)(a), (b) or (c) in respect of arrangements in adjoining areas, means the Secretary of State and the Assembly acting jointly;
 - (b) in relation to England (except in a case to which paragraph (a) applies), means the Secretary of State; and
 - (c) in relation to Wales (except in a case to which paragraph (a) applies), means the Assembly.]]

Textual Amendments

- F27** Word in s. 89 heading omitted (1.11.2022 for E.) by virtue of [Health and Care Act 2022 \(c. 31\)](#), [ss. 175\(5\)\(a\)](#), 186(6); S.I. 2022/1003, [reg. 3\(a\)](#)
- F28** S. 89 substituted (18.2.2005 for E. for specified purposes, 1.8.2008 for E. for further specified purposes and 25.2.2009 for E. insofar as not already in force) by [Water Act 2003 \(c. 37\)](#), [ss. 58\(5\)](#), 105(3); S.I. 2005/344, [art. 2](#); S.I. 2008/1922, [art. 2\(b\)\(c\)](#); S.I. 2009/359, [arts. 2\(c\)](#) (with saving in art. 3, Sch.)
- F29** Words in s. 89(1) substituted (1.11.2022 for E.) by [Health and Care Act 2022 \(c. 31\)](#), [ss. 175\(5\)\(b\)\(i\)](#), 186(6); S.I. 2022/1003, [reg. 3\(a\)](#)
- F30** Words in s. 89(1)(a) substituted (1.11.2022 for E.) by [Health and Care Act 2022 \(c. 31\)](#), [ss. 175\(5\)\(b\)\(ii\)](#), 186(6); S.I. 2022/1003, [reg. 3\(a\)](#)
- F31** Words in s. 89(1)(b) substituted (1.11.2022 for E.) by [Health and Care Act 2022 \(c. 31\)](#), [ss. 175\(5\)\(b\)\(ii\)](#), 186(6); S.I. 2022/1003, [reg. 3\(a\)](#)
- F32** Words in s. 89(3)(a) substituted (1.11.2022 for E.) by [Health and Care Act 2022 \(c. 31\)](#), [ss. 175\(5\)\(c\)](#), 186(6); S.I. 2022/1003, [reg. 3\(a\)](#)
- F33** Words in s. 89(4) substituted (1.11.2022 for E.) by [Health and Care Act 2022 \(c. 31\)](#), [ss. 175\(5\)\(d\)\(i\)](#), 186(6); S.I. 2022/1003, [reg. 3\(a\)](#)
- F34** Words in s. 89(4) substituted (1.11.2022 for E.) by [Health and Care Act 2022 \(c. 31\)](#), [ss. 175\(5\)\(d\)\(ii\)](#), 186(6); S.I. 2022/1003, [reg. 3\(a\)](#)
- F35** S. 89(5) omitted (1.4.2013 for E.) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), [ss. 35\(13\)\(f\)](#), 306(2)(3); S.I. 2013/160, [art. 2\(2\)](#) (with arts. 7-9)

[^{F36}90] **Indemnities in respect of fluoridation.**

- (1) The Secretary of State may, with the consent of the Treasury, agree to indemnify any water undertaker in respect of liabilities which it may incur in complying with arrangements entered into by it pursuant to section 87(1) above.
- (2) The Secretary of State may also, with the consent of the Treasury, agree to indemnify any [^{F37}water supply licensee] in respect of liabilities which [^{F38}the licensee] may incur—
- (a) in supplying water to which fluoride has been added by a water undertaker by virtue of any such arrangements;

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- (b) (if the licensee is introducing water into the water undertaker's supply system) in complying with any obligation imposed on [^{F38}the licensee] by the undertaker in consequence of the arrangements.
- (3) The Secretary of State may by regulations make provision with respect to—
 - (a) the matters in respect of which an indemnity may be given under subsection (1) or (2) above;
 - (b) the form and terms of any such indemnity; and
 - (c) such ancillary matters as he sees fit.]

Textual Amendments

- F36** Ss. 90, 90A substituted for s. 90 (18.2.2005 (E.) for specified purposes and 25.2.2009 (E.) insofar as not already in force) by Water Act 2003 (c. 37), ss. 58(6), 105(3); S.I. 2005/344, art. 2; S.I. 2009/359, art. 2(c) (subject to art. 3, Sch.)
- F37** Words in s. 90(2) substituted (1.4.2016) by Water Act 2014 (c. 21), s. 94(3), Sch. 7 para. 78(a); S.I. 2016/465, art. 2(m), Sch. 1 para. 1(o) (with Sch. 2) (as amended (22.3.2017) by S.I. 2017/462, art. 16)
- F38** Words in s. 90(2) substituted (1.4.2016) by Water Act 2014 (c. 21), s. 94(3), Sch. 7 para. 78(b); S.I. 2016/465, art. 2(m), Sch. 1 para. 1(o) (with Sch. 2) (as amended (22.3.2017) by S.I. 2017/462, art. 16)

[^{F39}90A Review of fluoridation

- (1) A relevant authority which has entered into arrangements under section 87(1) above shall—
 - (a) monitor the effects of the arrangements on the health of persons living in the area specified in the arrangements; and
 - (b) in accordance with subsections (3) to (5) below publish reports containing an analysis of those effects.
- (2) The relevant authority shall make available—
 - (a) any information collected by it for the purposes of subsection (1) above; or
 - (b) summaries of that information.
- (3) The relevant authority shall publish a report under subsection (1)(b) above within the period of four years beginning with the date on which the arrangements come into force (unless section 91(1) below applies in relation to the arrangements).
- (4) Where section 91(1) below applies in relation to the arrangements, the relevant authority shall publish a report under subsection (1)(b) above within the period of four years beginning with the date on which section 58 of the Water Act 2003 came into force.
- (5) The relevant authority shall publish a further report under subsection (1)(b) above within each period of four years beginning with the date on which their last such report was published.
- ^{F40}(5A)
- (6) This section ceases to apply in relation to any arrangements under section 87(1) above if those arrangements are terminated.]

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Textual Amendments

- F39** Ss. 90, 90A substituted for s. 90 (18.2.2005 (E.) for specified purposes and 25.2.2009 (E.) insofar as not already in force) by [Water Act 2003 \(c. 37\)](#), [ss. 58\(6\), 105\(3\)](#); S.I. 2005/344, [art. 2](#); S.I. 2009/359, [art. 2\(c\)](#) (subject to [art. 3, Sch.](#))
- F40** S. 90A(5A) omitted (1.11.2022 for E.) by virtue of [Health and Care Act 2022 \(c. 31\)](#), [ss. 175\(6\), 186\(6\)](#); S.I. 2022/1003, [reg. 3\(a\)](#)

[^{F41}90B Old English fluoridation arrangements: transitional provision

- (1) With effect from the day on which section 176 of the Health and Care Act 2022 comes into force, old English fluoridation arrangements are to be treated for the purposes of this Chapter as if they were arrangements entered into by the water undertaker with the Secretary of State under section 87(1).
- (2) The Secretary of State may request such modifications to the arrangements as the Secretary of State considers necessary in order to give effect to subsection (1) (for example to insert the terms mentioned in section 87(6)).
- (3) If the Secretary of State and the water undertaker fail to agree the modifications requested by the Secretary of State—
 - (a) subsection (2) or, as the case may be, (4) of section 87B is to apply as if the parties had failed to agree the terms of the arrangements under section 87(1), and
 - (b) following determination of the modifications—
 - (i) the Secretary of State is to give notice of the determination to the water undertaker, and
 - (ii) the arrangements are deemed to have been modified as so determined with effect from the day after the date of notice.
- (4) Sections 87(11) and 89(1) (which relate to consultation) do not apply to the deemed entry into, and modification of, arrangements by virtue of this section.
- (5) References in this Chapter to arrangements entered into under section 87(1) include arrangements entered into by a water undertaker by virtue of subsection (1).
- (6) In this section “old English fluoridation arrangements” means—
 - (a) any arrangements entered into by a water undertaker with a Strategic Health Authority under section 87(1) of the Water Industry Act 1991 (before section 87(3) was amended by section 35(2) of the Health and Social Care Act 2012 in relation to England), and
 - (b) any arrangements which were treated as arrangements falling within paragraph (a) by virtue of section 91 (as that section had effect immediately before the commencement of section 37(4) of the Health and Social Care Act 2012).]

Textual Amendments

- F41** S. 90B inserted (1.11.2022 for E.) by [Health and Care Act 2022 \(c. 31\)](#), [ss. 176\(2\), 186\(6\)](#); S.I. 2022/1003, [reg. 3\(b\)](#)

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[^{F42}91] [^{F43}Old Welsh fluoridation arrangements: transitional provision]

- (1) With effect from the appointed day, [^{F44}old Welsh fluoridation arrangements] shall be treated for the purposes of this Chapter as if they were arrangements entered into by the water undertaker in question with the [^{F45}Welsh Ministers] under section 87(1) above.
- (2) The [^{F46}Welsh Ministers] may request such modifications to the arrangements as it considers necessary in order to give effect to subsection (1) above, for example to insert the terms mentioned in section 87(6) above.
- (3) If the [^{F47}Welsh Ministers] and the water undertaker fail to agree the modifications requested by [^{F48}the Welsh Ministers]—
 - (a) subsection ^{F49}... (3) or, as the case may be, (4) of section 87B above shall apply as if the parties had failed to agree the terms of arrangements requested under section 87(1) above; and
 - (b) following determination of the modifications—
 - (i) the [^{F47}Welsh Ministers] shall give notice of the determination to the water undertaker; and
 - (ii) the arrangements shall be deemed to have been modified as so determined with effect from the day after the date of the notice.
- (4) Sections 87(11) and 89(1) above (which relate to consultation) shall not apply to the deemed entry into, and modification of, arrangements by virtue of this section.
- (5) References in this Chapter to arrangements entered into under section 87(1) above shall include arrangements treated as entered into by a water undertaker by virtue of subsection (1) above.
- (6) In this section—

“the appointed day” means the day on which section 58 of the Water Act 2003 comes into force [^{F50}in relation to Wales]; and

[^{F51}“old Welsh fluoridation arrangements” means arrangements, other than arrangements mentioned in section 90B(6), in pursuance of which a scheme for increasing the fluoride content of water was being operated by a water undertaker by virtue of paragraph 1 of Schedule 7 to this Act immediately before the appointed day.]]

Textual Amendments

- F42** S. 91 substituted (26.3.2010 for E.) by [Water Act 2003 \(c. 37\)](#), **ss. 58(7)**, 105(3); S.I. 2010/975, art. 2(a)
- F43** S. 91 heading substituted (1.11.2022 for E.) by [Health and Care Act 2022 \(c. 31\)](#), **ss. 176(3)(a)**, 186(6); S.I. 2022/1003, reg. 3(b)
- F44** Words in s. 91(1) substituted (1.11.2022 for E.) by [Health and Care Act 2022 \(c. 31\)](#), **ss. 176(3)(b)(i)**, 186(6); S.I. 2022/1003, reg. 3(b)
- F45** Words in s. 91(1) substituted (1.11.2022 for E.) by [Health and Care Act 2022 \(c. 31\)](#), **ss. 176(3)(b)(ii)**, 186(6); S.I. 2022/1003, reg. 3(b)
- F46** Words in s. 91(2) substituted (1.11.2022 for E.) by [Health and Care Act 2022 \(c. 31\)](#), **ss. 176(3)(c)**, 186(6); S.I. 2022/1003, reg. 3(b)
- F47** Words in s. 91(3) substituted (1.11.2022 for E.) by [Health and Care Act 2022 \(c. 31\)](#), **ss. 176(3)(d)(i)**, 186(6); S.I. 2022/1003, reg. 3(b)
- F48** Words in s. 91(3) substituted (1.11.2022 for E.) by [Health and Care Act 2022 \(c. 31\)](#), **ss. 176(3)(d)(ii)**, 186(6); S.I. 2022/1003, reg. 3(b)

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- F49** Word in s. 91(3)(a) omitted (1.11.2022 for E.) by virtue of Health and Care Act 2022 (c. 31), **ss. 176(3)(d)(iii)**, 186(6); S.I. 2022/1003, reg. 3(b)
- F50** Words in s. 91(6) inserted (1.11.2022 for E.) by Health and Care Act 2022 (c. 31), **ss. 176(3)(e)(i)**, 186(6); S.I. 2022/1003, reg. 3(b)
- F51** Words in s. 91(6) substituted (1.11.2022 for E.) by Health and Care Act 2022 (c. 31), **ss. 176(3)(e)(ii)**, 186(6); S.I. 2022/1003, reg. 3(b)

Modifications etc. (not altering text)

- C3** S. 91 excluded (1.4.2013 for E.) by virtue of Health and Social Care Act 2012 (c. 7), **ss. 37(4)**, 306(2)(3); S.I. 2013/160, art. 2(2) (with arts. 7-9)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Pt. 3 Ch. 2B inserted by [2014 c. 21 s. 12](#)
- s. 17(2)(aa) inserted by S.I. 2019/93, Sch. 1 para. 4(4)(b) (as substituted) by [S.I. 2019/1245 reg. 21](#) (This amendment not applied to legislation.gov.uk. The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- s. 17A(c) repealed by [2014 c. 21 Sch. 5 para. 4\(2\)\(c\)](#)
- s. 17A(d) repealed by [2014 c. 21 Sch. 5 para. 4\(2\)\(c\)](#)
- s. 17A(2)(ba) and word inserted by [2014 c. 21 Sch. 5 para. 4\(2\)\(b\)](#)
- s. 17R(2)(aa) inserted by S.I. 2019/93, Sch. 1 para. 4(7)(b) (as substituted) by [S.I. 2019/1245 reg. 21](#) (This amendment not applied to legislation.gov.uk. The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- s. 17AA(1)(ba)(bb) inserted by [2014 c. 21 Sch. 5 para. 5\(2\)](#)
- s. 17BA(5A) inserted by [2014 c. 21 Sch. 5 para. 7\(3\)](#)
- s. 17HA(9)(b)(ia) inserted by [2014 c. 21 Sch. 5 para. 16\(2\)](#)
- s. 23(2AA) inserted by [2014 c. 21 Sch. 7 para. 35\(4\)](#)
- s. 23(8)(9) inserted by [2014 c. 21 Sch. 7 para. 35\(10\)](#)
- s. 39E-39H inserted by [2021 c. 30 s. 78\(7\)](#)
- s. 87(7C)-(7F) inserted by [2012 c. 7 s. 35\(6\)](#)
- s. 94A-94E inserted by [2021 c. 30 s. 79](#)
- s. 95ZA(6) inserted by [2014 c. 21 Sch. 5 para. 39\(4\)](#)
- s. 96ZA(2)-(5) substituted for s. 96ZA(2) by [2014 c. 21 Sch. 5 para. 40](#)
- s. 106B(3A) inserted by [2014 c. 21 Sch. 7 para. 94](#)
- s. 117G(2)(aa) inserted by [2014 c. 21 Sch. 5 para. 41\(2\)](#)
- s. 117G(4)-(4D) substituted for s. 117(4) by [2014 c. 21 Sch. 5 para. 41\(3\)](#)
- s. 117G(6)(aa) inserted by [2014 c. 21 Sch. 5 para. 41\(4\)](#)
- s. 117K(2)(aa) inserted by [2014 c. 21 Sch. 5 para. 42\(2\)](#)
- s. 117K(5)(5A) substituted for s. 117(5) by [2014 c. 21 Sch. 5 para. 42\(3\)](#)
- s. 117L(9) inserted by [2014 c. 21 Sch. 5 para. 43\(3\)](#)
- s. 117N(4)(aa) inserted by [2014 c. 21 Sch. 5 para. 45\(2\)](#)
- s. 117N(8)(aa) inserted by [2014 c. 21 Sch. 5 para. 45\(3\)](#)
- s. 117N(11)(aa) inserted by [2014 c. 21 Sch. 5 para. 45\(4\)](#)
- s. 117O(4)(aa) inserted by [2014 c. 21 Sch. 5 para. 46\(2\)](#)
- s. 117O(8)(aa) inserted by [2014 c. 21 Sch. 5 para. 46\(3\)](#)
- s. 117S(7)-(9) inserted by [2014 c. 21 Sch. 5 para. 49](#)
- s. 119(2)(ab) inserted by [2003 c. 37 s. 89\(1\)\(a\)](#)
- s. 119(3) inserted by [2003 c. 37 s. 89\(1\)\(b\)](#)
- s. 121(1)(ba) inserted by [2003 c. 37 s. 89\(2\)\(a\)](#)
- s. 141DA inserted by [2021 c. 30 s. 81](#)
- s. 141DC inserted by [2021 c. 30 s. 83](#)
- s. 177K(7)(aa) inserted by [2014 c. 21 Sch. 5 para. 42\(4\)](#)
- s. 207D and cross-heading inserted by [2014 c. 21 s. 39](#)
- s. 207D(5) word repealed by [2014 c. 21 Sch. 5 para. 52\(a\)](#)
- s. 207D(5) words inserted by [2014 c. 21 Sch. 5 para. 52\(b\)](#)

- s. 213(1ZA) inserted by [2014 c. 21 Sch. 7 para. 119\(3\)](#)
- s. 213(1ZA) repealed by [2014 c. 21 Sch. 5 para. 53](#)