



# Water Industry Act 1991

## 1991 CHAPTER 56

### PART VIII

#### MISCELLANEOUS AND SUPPLEMENTAL

##### *Powers to make regulations*

#### **213 Powers to make regulations.**

(1) The powers of the Secretary of State to make regulations under this Act shall be exercisable by statutory instrument subject (except in the case of regulations under section 8(1) or (2) [<sup>F1</sup>, 17D(8), 36A][<sup>F2</sup>, 87(6A)][<sup>F3</sup>96K, 96N,][<sup>F4</sup>105A, 141DA or 141DB] above) to annulment in pursuance of a resolution of either House of Parliament.

[<sup>F5</sup>(1A) But on the occasion of the first exercise by the Secretary of State of the power to make regulations under]<sup>F6</sup>—

- (a) each of sections 89 and 90, and
- (b) each of sections 207A and 207C and Schedule 16;

the instrument] containing the regulations shall not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

(1B) The power of the Assembly to make regulations under section 89 above shall be exercisable by statutory instrument.]

(2) Subject to subsection (3) below, the provisions of any regulations made by the Secretary of State under this Act may include—

- (a) provision for any duty or other requirement imposed by the regulations on a water undertaker [<sup>F7</sup>, sewerage undertaker, water supply licensee or sewerage licensee] to be enforceable under section 18 above by the Secretary of State, by the Director or by either of them;

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- (b) provision, where such a duty or requirement is so enforceable by either of them, for enforcement by the Director to be subject to such consent or authorisation as may be prescribed;
  - (c) provision which, in relation to the furnishing of any information or the making of any application under the regulations, makes provision corresponding to section 207 above;
  - (d) provision for anything that may be prescribed by the regulations to be determined under the regulations and for anything falling to be so determined to be determined by such persons, in accordance with such procedure and by reference to such matters, and to the opinion of such persons, as may be prescribed;
  - [<sup>F8</sup>(dd) as to awarding costs or expenses of proceedings in any determination under the regulations, including the amount of the costs or expenses and the enforcement of the awards;]
  - (e) different provision for different cases, including different provision in relation to different persons, circumstances or localities; and
  - (f) such supplemental, consequential and transitional provision as the Secretary of State considers appropriate.
- [<sup>F9</sup>(2A) Such regulations may include provision—
- (a) for the determination of questions of fact or of law which may arise in giving effect to the regulations;
  - (b) for regulating (otherwise than in relation to any court proceedings) any matters relating to the practice and procedure to be followed in connection with the determination of such questions;
  - (c) as to the mode of proof of any matter;
  - (d) as to parties and their representation; and
  - (e) for the right to appear before and be heard by the Secretary of State, the Director and other authorities.
- (2B) Any such regulations which prescribe a period within which things are to be done may provide for extending the period so prescribed.]
- (3) Except to the extent that they would do so apart from this section, the power to make regulations under section 113, 125 or 126 above or under section 214 below or Schedule 8 to this Act—
- (a) shall not include the powers conferred by virtue of paragraphs (a) to (d) of subsection (2) above; and
  - (b) in the case of the power to make regulations under section 214 below, shall also not include the powers conferred by virtue of paragraphs (e) and (f) of that subsection.

#### Textual Amendments

- F1** Words in s. 213(1) substituted (1.10.2010 for E.) by [Flood and Water Management Act 2010 \(c. 29\)](#), [ss. 35\(2\), 49\(3\)](#) (with [s. 49\(1\)\(6\)](#)); [S.I. 2010/2169](#), art. 4, [Sch.](#)
- F2** Word in s. 213(1) inserted (1.11.2022 for E.) by [Health and Care Act 2022 \(c. 31\)](#), [ss. 175\(7\), 186\(6\)](#); [S.I. 2022/1003](#), [reg. 3\(a\)](#)
- F3** Words in s. 213(1) inserted (26.12.2023) by [Levelling-up and Regeneration Act 2023 \(c. 55\)](#), [ss. 168\(2\), 255\(6\)](#) (with [s. 247](#))

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- F4** Words in s. 213(1) substituted (3.11.2023 for specified purposes, 17.5.2024 in so far as not already in force) by [Environment Act 2021 \(c. 30\), ss. 82\(2\), 147\(3\)](#) (with s. 144); S.I. 2023/1170, reg. 2(a)(ii); S.I. 2024/639, reg. 2(d)
- F5** S. 213(1A)(1B) inserted (18.2.2005 for E. for specified purposes, 25.2.2009 for E. in so far as not already in force, 1.2.2017 for W.) by [Water Act 2003 \(c. 37\), ss. 58\(8\), 105\(3\)](#); S.I. 2005/344, art. 2; S.I. 2009/359, art. 2(c) (with saving in art. 3, Sch.); S.I. 2017/88, art. 2
- F6** Words in s. 213(1A) substituted (1.4.2016) by [Water Act 2014 \(c. 21\), ss. 37\(3\), 94\(3\)](#); S.I. 2016/465, art. 2(g) (with Sch. 2) (as amended (22.3.2017) by S.I. 2017/462, art. 16)
- F7** Words in s. 213(2)(a) substituted (1.11.2016) by [Water Act 2014 \(c. 21\), s. 94\(3\), Sch. 7 para. 119\(4\)](#); S.I. 2016/1007, art. 2(h)(v)
- F8** S. 213(2)(dd) inserted (1.7.1992) by [Competition and Service \(Utilities\) Act 1992 \(c. 43\), s. 56\(6\), Sch. 1 para.28](#); [Competition and Service \(Utilities\) Act 1992 \(Commencement No. 1\) Order 1992](#), art. 3, Sch. Pt.I
- F9** S. 213(2A)(2B) inserted (1.7.1992) by [Competition and Service \(Utilities\) Act 1992 \(c. 43\), s. 52](#); [Competition and Service \(Utilities\) Act 1992 \(Commencement No. 1\) Order 1992](#), art. 3, Sch. Pt.I

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**Modifications etc. (not altering text)**

- C1** S. 213 extended (01.12.1991) by [Statutory Water Companies Act 1991 \(c. 58, SIF 130\), ss. 9\(2\), 17\(2\)](#).
- C2** S. 213(1A) modified (1.11.2022 for E.) by [Health and Care Act 2022 \(c. 31\), ss. 175\(9\), 186\(6\)](#); S.I. 2022/1003, reg. 3(a)

**Changes to legislation:**

Water Industry Act 1991, Section 213 is up to date with all changes known to be in force on or before 29 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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**Changes and effects yet to be applied to :**

- s. 213(1) word inserted by [2014 c. 21 Sch. 7 para. 119\(2\)\(c\)](#)
- s. 213(1) words repealed by [2014 c. 21 Sch. 7 para. 119\(2\)\(a\)](#)
- s. 213(1) words repealed by [2014 c. 21 Sch. 7 para. 119\(2\)\(b\)](#)

**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. 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