

# The Drought Plan (England) Direction 2016

The Secretary of State, having consulted the Welsh Ministers in relation to Wales<sup>(a)</sup>, makes the following Direction in exercise of the powers conferred by—

- (a) section 37B(11) of the Water Industry Act 1991<sup>(b)</sup>, as applied by section 39B(5) of that Act; and
- (b) section 39B(4)(d) and (9) of that Act<sup>(c)</sup>.

## Citation, commencement and application

1.—(1) This Direction may be cited as the Drought Plan (England) Direction 2016 and comes into force on 27th July 2016.

(2) This Direction applies in relation to a water undertaker whose area is wholly or mainly in England.

## Interpretation

2.—(1) In this Direction—

“the Act” means the Water Industry Act 1991;

“drought plan” means the plan which a water undertaker is required to prepare, publish and maintain under section 39B(1) of the Act;

“water undertaker” is to be construed in accordance with section 6 of the Act.

(2) A reference in this Direction to section 37B of the Act is a reference to that section as applied by section 39B(5) of the Act.

## Additional matters to be addressed in drought plans

3.—(1) A water undertaker, in its drought plan, must address the following matters—

- (a) the management structure that the water undertaker will put in place during a drought and an explanation of how the management structure will manage, communicate and make decisions during a drought;
- (b) the magnitude and duration of droughts for which the drought plan has been tested;
- (c) the permits and approvals that the water undertaker expects to need in order to implement the drought management measures;
- (d) the discussions that have occurred between the water undertaker and the bodies responsible for granting those permits and approvals and the arrangements for discussions with those bodies during the onset, duration and abatement of all droughts covered by the drought plan;
- (e) the measures that may be needed to mitigate any adverse effect on the environment resulting from the implementation of a drought management measure;

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(a) The functions of the Secretary of State under sections 37B and 39B of the Water Industry Act 1991 are exercisable in relation to Wales only after consultation with the Welsh Ministers (article 5 of, and Schedule 2 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) (“the Order”) and section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32)).

(b) 1991 c.56.

(c) Sections 37B and 39B were inserted into the Water Industry Act 1991 by sections 62 and 63 of the Water Act 2003 (c. 37). Section 39B was amended by section 28 of the Water Act 2014 (c.21). Functions of the Secretary of State under sections 37B and 39B, in so far as they relate to matters other than the construction or enlargement of reservoirs, were transferred to the National Assembly for Wales in relation to any water undertaker whose area is wholly or mainly in Wales by the Order, article 2: see the entry in Schedule 1, as amended by section 100(2) of the Water Act 2003, for the Water Industry Act 1991. Those functions were subsequently transferred to the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006.

- (f) the permits and approvals that the water undertaker expects to need in order to implement those mitigation measures; and
- (g) the compensation that may need to be made as a result of the implementation of a drought management measure.

(2) In this paragraph—

“compensation” means compensation within the meaning of Schedule 9 to the Water Resources Act 1991(a);

“drought management measure” means a measure mentioned in section 39B(4)(a) or (b) of the Act and set out in the drought plan.

### **Submitting draft drought plans to the Secretary of State**

4. Except where the Secretary of State otherwise permits, for the purpose of section 37B(1) of the Act, a water undertaker must send a draft of its drought plan to the Secretary of State as follows—

- (a) for a first drought plan, within 6 months after the date on which the water undertaker is required to prepare that drought plan; and
- (b) for a revised drought plan—
  - (i) if section 39B(6)(a) of the Act applies, within 6 months after the date on which the material change of circumstances occurs; and
  - (ii) if section 39B(6)(c) of the Act applies, within 4 years and 3 months after the date on which its drought plan, or its last revised drought plan, is published.

### **Responding to representations**

5. Except where the Secretary of State otherwise permits, a water undertaker must produce the statement required by regulation 4 of the Drought Plan Regulations 2005(b) within 15 weeks after the date on which the water undertaker publishes a draft of its drought plan under section 37B(3)(a) of the Act.

### **Revocation of the Drought Plan Direction 2011**

6. The Drought Plan Direction 2011(c) is revoked in relation to water undertakers whose areas are wholly or mainly in England.

*Holly Yates*

Deputy Director, Water Services, for and on behalf of the  
Secretary of State for Environment, Food and Rural Affairs

**22** July 2016

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(a) 1991 c.57.  
(b) S.I. 2005/1905.  
(c) The Drought Plan Direction 2011 came into force on 17th March 2011.