

# Government response to the EFRA Committee's pre-legislative scrutiny of the Draft Water Bill

June 2013



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Presented to Parliament  
by the Secretary of State for Environment, Food and Rural Affairs by Command of Her Majesty  
June 2013

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# Introduction

1. The Government is grateful to the EFRA Select Committee for providing the pre-legislative scrutiny for the draft Water Bill.
2. The Government is pursuing an ambitious agenda for a sustainable, resilient and customer-focused water sector, as well as delivering substantial improvements in the health of our rivers through improving water quality and tackling unsustainable abstraction. The approach to delivering these objectives was set out in our Water White Paper, “Water for Life” in 2011 and we are pursuing them using a range of different policy tools. In many areas there are non-regulatory ways to achieve these improvements. The Water Bill covers those areas where legislative change is needed.
3. Pre-legislative scrutiny of the draft Bill, and the associated consultation process, has allowed us to develop a stronger and more robust Bill for introduction to Parliament. Having listened carefully to stakeholder comments about the draft Bill and analysed your recommendations for improvements, we have made a number of changes to strengthen the Bill’s focus on growth and resilience, as well as improving the market reform elements of the Bill. The Bill will also include measures to deal with the availability and affordability of flood insurance. The final Bill includes the following new measures:
  - changes to make it easier for owners of small scale water storage to sell excess water into the water supply market;
  - powers for the Secretary of State to specify a level of service for which water companies must plan;
  - changes that will make funding of water company schemes to restore sustainable abstraction quicker and easier, in order to tackle unsustainable abstraction more effectively;
  - measures to make it easier for developers to connect new developments to water and sewerage systems;
  - clarification that the functions of a sewerage undertaker include building and maintenance of Sustainable Drainage Systems, so that these can then be funded through the Price Review mechanism; and
  - a new resilience duty for Ofwat.
4. The Bill will also deliver on this Government’s commitment to simplify environmental consents, by extending the scope of the environmental permitting framework to include water abstraction and impoundment licences, flood defence consents and fish passage approvals.
5. The key changes are set out in **Annex A**, and where appropriate, are also covered in our response to the recommendations.
6. The Bill will help us ensure that we have a water sector that is resilient to future challenges and which supports a growing economy by driving innovation, creating employment, delivering a high quality service to its customers whilst continuing to attract global investment. It will help ensure water is available to supply households and businesses and the environment is protected. Our package of reforms will offer real choice and flexibility to customers and, by driving efficiency and innovation, help keep bills affordable.

7. The introduction of **market reform** through this Water Bill remains a key priority for Government. Our analysis shows that the overall package, including retail and upstream competition, will bring in benefits to the economy of around £2 billion over 30 years.
8. The Water White Paper was clear that ensuring the sector remains an attractive investment prospect is essential if water companies are to deliver continued investment at a cost that keeps bills at an acceptable level. Our *Strategic Policy Statement* to Ofwat has restated our firm commitment to a stable sector which can continue to attract competitively priced capital investment.
9. The Bill strikes a balance between the needs of customers, the water sector and its investors and other stakeholders. It aims to deliver reform at a measured and evolutionary pace, delivering the change customers want without undermining the reputation for stable regulation which attracts investors to the sector. We are convinced that we have struck the right balance – and investors recognise that stability cannot be at the expense of change that will benefit customers and help ensure the ongoing legitimacy of the water sector.
10. The legislation is only part of the story, and our approach to implementation will reinforce our commitment to ensuring an attractive regulatory environment for investors, for example through the charging guidance we provide to Ofwat. The way Ofwat regulate will also help ensure continued investor confidence. Ofwat has already committed that any investment made before and up to April 2015 will be maintained and protected. Our impact assessment shows that the efficiency gains provided by competition are likely to more than offset any additional borrowing costs. Competition should also ensure that any new investment is made on an efficient basis – where additional capacity is genuinely needed by customers. So these reforms will help ensure that investors' money goes into the right assets as part of a well signposted, evolutionary approach, protecting long term investment.
11. The framework provided by the Bill strikes a careful balance between those aspects which need to be fixed in primary legislation to provide certainty for customers and market participants, and those aspects which need to remain flexible to enable the development of innovative markets that can respond to changing circumstances. Government needs to provide a clear policy framework for the developing retail and upstream markets and to guide the way that Ofwat will regulate them. However, we have learnt from experience that prescribing too much detail on the face of the Bill can stifle competition and prevent markets evolving. The approach taken in this Bill enables us to work closely with the regulator, market participants and other stakeholders in developing and shaping the new markets, and fine-tuning that approach as we learn from experience.
12. These reforms are intended to benefit all customers – by improving the service they receive from water companies, driving efficiency, and stimulating new approaches to providing water and sewerage services in the future. It is a priority for Government to protect those customers who do not directly benefit from market reform. This includes household customers, who will not be able to exercise choice in their water supplier – and so should not have to subsidise others who can. This is a fundamental principle of the existing water supply licensing regime and one that will continue as competition in the sector develops.

## Non-legislative action

13. We would like to take this opportunity to update the Committee on the other work we are doing to implement the vision of the Water White Paper.
14. In advance of wider abstraction reform, tackling the over abstraction damaging our rivers today remains a high priority. We want to make early progress on this to restore the health of our rivers and, by moving catchments back to a more sustainable balance, prepare the ground for a transition to a reformed abstraction regime. We have set out the specific steps we are taking to do this in our response to Recommendation 12. Longer-term abstraction reform remains a priority for this Government and will be dealt with at a future legislative opportunity. We will also ensure that the implementation of upstream reforms is co-ordinated with the transition from the current to a future abstraction licensing regime in view of the potential interaction between the two and the importance of avoiding incentivising further over abstraction.
15. We are increasing the focus on the adequacy and resilience of our sewerage and drainage systems. A more strategic approach to drainage planning is being introduced to address investment in the aging network and its resilience in the face of increased surface water flooding, and we continue to promote take up of sustainable drainage systems which can reduce the risk from surface water flooding incidents.
16. To complement our approach to improving resilience in the Water Bill we are also using the Water Resource Management Planning process to ensure water companies are planning now for how they will ensure a resilient water supply for the next 25 years and beyond. Water companies are now consulting on their draft plans.
17. Water quality remains a key priority. We are increasing our efforts to reduce diffuse water pollution from agriculture. Over the summer we will be working with interested parties to explore how we can help to secure a productive and profitable farming industry while further protecting and enhancing our water environment. This work will inform the next round of statutory River Basin Management Plans which will contain objectives and actions to further improve our water environment between 2015 and 2021. In addition we have recently announced the launch of our Catchments partnerships that will cover the whole of England and provide a means to engage all interested parties to identify the pressures and target the measures to tackle them. We are also tackling urban pollution such as misconnected drainage pipes and run-off from roads. We will be preparing an urban pollution strategy for 2014.
18. Below are the Government's detailed responses to each of the recommendations in your report.

# Response by recommendation

## Recommendation 1:

We find it frustrating that successive Governments have lacked the tenacity and resolution to implement important recommendations outstanding from the Pitt Review and provisions in the Flood and Water Management Act 2010. That frustration is made more acute as legislative time is a scarce resource. We recommend that Defra sets out in its response a full list of the outstanding issues from the Pitt Review and Flood and Water Management Act together with a clear timetable for their full implementation. (Paragraph 6)

## The Pitt Review

19. This recommendation underestimates the scale of the Government's activity to implement the Pitt Review, both in terms of progress to date and planned activity. We reported back in January 2012<sup>1</sup> that the vast majority of the recommendations have been met or are being implemented – this includes successfully running Exercise Watermark, the largest civil flood preparedness exercise ever run in England and Wales. We have also defined the powers and responsibilities of the Environment Agency, local authorities and other agencies and the Environment Agency has published its National Strategy which will help communities, the public sector and other organisations to work together to manage flood and coastal erosion risk – all key elements of the Pitt recommendations. This report set out details of progress on all of the recommendations for Government, including those recommendations not being taken forward or not as originally envisaged by the Review.
20. A progress update on the six recommendations that remained outstanding at the time of the January 2012 report is set out in **Annex B**. Progress on some of the outstanding issues (provision of unifying flood legislation, implementation of dam and reservoir safety legislation) was always planned to take until December 2014 and this has always been reflected in our legislative programme. While some work streams are taking longer than previously anticipated to come to fruition, the Government is committed to full implementation of these six remaining recommendations by December 2014 and is confident that this date will be met.
21. Progress on implementation of recommendations relating to Sustainable Drainage Systems (SuDS) and sewerage systems has taken longer than originally anticipated; this reflects the number of complex issues raised in consultations, and the innovative approach we are trialling to resolve them. However, we are confident that this approach will deliver a successful outcome with meaningful buy-in from all stakeholders and will develop good working relationships for the future.

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1 <https://www.gov.uk/government/publications/government-s-response-to-sir-michael-pitts-review-of-the-summer-2007-floods-final-progress-report>



## The Flood and Water Management Act 2010

22. The majority of measures are now in force, including for example:
- the implementation of various provisions including a duty on Lead Local Flood Authorities (LLFAs) to develop local flood strategies and a duty on the Environment Agency to develop a national flood and coastal erosion risk management strategy;
  - new responsibilities to LLFAs to investigate flooding, maintain a register of structures or features, which are likely to have a significant effect on a flood risk in its area, and powers to request information;
  - powers to allow the Environment Agency and Local Authorities to carry out works in respect of flooding or coastal erosion for nature conservation and preservation of cultural heritage; and
  - provisions to allow the Environment Agency, Local Authorities (LLFAs or District Councils) and Internal Drainage Boards in England and Wales to formally designate structures or features which affect flood or coastal erosion risk.
23. The plans for implementation of other remaining measures by December 2014 are consistent with the agreed timetable and are in line with Defra's Business Plan commitment. These measures are still on track subject to Parliamentary and cross Government approval. **Annex C** provides a full list of the remaining provisions that have not yet been implemented.
24. However, there are matters upon which this Government takes a different view from that of the previous administration. For example, we are firmly of the view that regulation should not always be the first resort of Government, especially when that regulation has the greatest impact on small and micro enterprises.
25. This is why the Government has decided not to impose new regulations on landlords by implementing the bad debt provisions in the Flood and Water Management Act. We will continue to work closely with the water industry and landlords' organisations to support the existing scheme enabling landlords voluntarily to share information with their water company. We will also continue to support the widespread implementation of social tariffs to ensure support is available for those customers that struggle to afford their water bills. [See response to Recommendation 16 for further details.]

### Recommendation 2:

We recommend that the Draft Bill be amended to make clear that guidance produced by the Secretary of State and Welsh Ministers on charging rules will be laid before Parliament for scrutiny and subject to the affirmative resolution procedure. We further recommend that this guidance should be published in draft alongside the Water Bill itself to maximise transparency and to inform debate on the Bill. (Paragraph 8)

26. The Government agrees that the charging guidance it will produce for Ofwat will be critical for setting the framework for implementing the market reform package in the Bill. Clear statements of principles will provide reassurance to some of the stakeholders concerned about possible impacts that reform could have on different groups of customers, or on water companies' ability to continue to finance their functions. The Government has therefore decided to strengthen this part of the Bill, reflecting the tenor of the Committee's recommendations.
27. Although it was always Government's intention to produce charging guidance, we have made this explicit in the Bill by making it a duty for Ministers to produce charging guidance rather than granting them a power as provided for in the Water Bill. This new duty will ensure that Ministers clearly set out Government policy to which Ofwat must have regard when preparing its charging rules. The guidance will embrace all relevant charging matters; establishing a clear framework governing both the companies' schemes for charging end users and the new competition regimes.
28. We have also amended the Bill to provide Parliament the opportunity to debate and vote upon ministerial charging guidance for the competition regimes and charges to end-user customers. However, following a precedent set by legislative provisions on ministerial guidance to Ofwat on social and environmental matters, we will introduce a negative resolution procedure for charging guidance.
29. The Government believes it would be premature to produce a draft of this charging guidance alongside the Bill. The guidance will need to reflect the debate in Parliament, and build on work that is being done to prepare for implementation of market reform in Ofwat and through the High Level Group. However, the Government agrees that early visibility of the principles that will drive its approach to the guidance will help reduce uncertainty and inform debate during the passage of the Bill. We will therefore publish high level principles that the future guidance might cover and the process for developing the full guidance.

## Market Reforms

### **Recommendation 3:**

We believe that protecting householders from subsidising competition in the non household sector is a fundamental principle that should be enshrined in primary legislation. We recommend that the Draft Bill be amended to reflect this. (Paragraph 17)

30. The Government agrees that protecting all customers that are not able to exercise choice in their water supplier is critical, and will reflect this in its principles on charging and subsequent charging guidance. Ensuring that customers that cannot switch should not have to subsidise those customers that can is a fundamental principle of the current water supply licensing regime and one that will continue as competition in the sector develops.

31. Currently, charges for large users (i.e. those that use 5 megalitres of water or more a year) are set separately from those for other customers through the use of so called “tariff baskets” where costs are clearly allocated between different classes of customers. Ofwat is proposing that the next Price Review should include separate retail price limits for household and non-household customers. This will continue to ensure that costs that are associated with the competitive market will be contained in the charges of customers that will be entitled to switch their supplier.
32. However, the Government does not agree that we should legislate to underline this principle. This risks repeating the problems arising from the costs principle which has stifled competition in the sector by minimising the margin available to new entrants and providing a disincentive for incumbent water companies to introduce efficiencies. The Government believes that the mechanisms in the Bill that allow Ofwat to set out enforceable charging rules and require them to take account of ministerial guidance will enable it to set fair and appropriate charges in consultation with stakeholders.

## **Recommendation 4:**

We recommend that the Draft Bill be amended to include a requirement for the functional separation of incumbent companies’ wholesale and retail arms. We further recommend that the principle of non-discrimination be included on the face of the Bill. (Paragraph 20)

33. Preventing discriminatory behaviour is critical to providing a level playing field in which new entrants can be confident that they will be treated fairly by incumbent water companies. However, the Government does not accept that a blanket requirement for incumbent companies to functionally separate their retail functions is the best solution to this.
34. Ofwat is already well equipped to address discrimination in the setting of charges. The Secretary of State, the Welsh Ministers and Ofwat all have a shared duty under section 2 of the Water Industry Act 1991 to ensure that incumbent water companies do not show undue preference or undue discrimination in the fixing of charges. We will extend this duty in the Bill to ensure that Ministers and Ofwat are also able to tackle undue discrimination in the provision of services by incumbent water companies.
35. Given the size and diversity of the water industry in England and Wales, we do not think it would be appropriate for the Government to prescribe any model on the face of primary legislation that will be difficult to change as water markets evolve – including functional separation of incumbents’ retail functions. Legislation would have to take account of those companies that have voluntarily separated their retail functions (e.g. Wessex Water and Bristol Water) and establish an appropriate level of separation for smaller water-only companies where staff may be responsible for both retail and wholesale activities and for those companies operating in Wales where the competitive market is much smaller than that in England. To be too prescriptive could therefore mean that disproportionate burdens were placed on smaller incumbents, which in turn could impact on their competitiveness in the new markets.

36. Furthermore, functional or legal separation reduces the risk of discrimination but does not remove the risk altogether (only compulsory divestment could do that). The Government therefore thinks it would be better for Ofwat to develop an approach that is flexible enough to reflect the circumstances of different water companies. The approach will need to be robust enough to ensure that new entrants are competing against the incumbents on a level playing field, but avoid imposing unnecessary burdens which would increase costs for customers.
37. We recognise that Ofwat will have to work hard to police the competitive markets. Aside from the core provision relating to services mentioned above, the Bill will strengthen the regulatory regime by:
- enabling Ofwat to take enforcement action where, amongst other things, provisions set out in charging rules or market codes are breached;
  - allowing financial penalties to be applied to breaches that took place in the previous five years (currently Ofwat can only impose fines on breaches that occurred within the previous 12 months); and
  - requiring water companies to report to Ofwat any discounts applied to its customers to ensure that they do not display undue preference in their dealings with their own customers or associates.

## **Recommendation 5:**

We recommend that the Bill includes provisions to enable incumbent companies to voluntarily exit the retail market. (Paragraph 24)

38. The Government does not accept this recommendation. We remain concerned that allowing an exit route from the retail market for some water companies would leave it open to a competition authority to impose separation on the sector. We are convinced this must be a decision for Ministers to take. During discussions ahead of publication of the Water White Paper, water companies and their investors left us in no doubt that compulsory separation would be harmful to the sector. We will not therefore include a provision in the Bill that will allow retail exits (e.g. by creating a separate retail licence) and create a risk of mandatory separation. Some investors and water companies have since modified their position on separation by suggesting that some water companies would welcome the opportunity to exit the retail market. However, it has become apparent that most water companies that might take this position are only referring to selling on their non-household customers, not household customers. This produces the risk of two-tier services where the cross-over benefits of competition will not be passed onto household customers. The Government will not include anything in the Bill that creates a risk of a two-tier water service model where there is only likely to be investment in services provided to non-household customers.
39. However, the Government does not want the regulatory system to prop up inefficient retail businesses. It is our view that water companies should consider contracting out their retail activities or establish joint ventures with other incumbents or new entrants if this would offer the best approach for customers. In the case of water-only incumbents, the draft Bill provides for the right to apply for a sewerage licence to incentivise them to invest in their retail services to win new business.

## Recommendation 6:

We are pleased that the Minister remains committed to opening the retail market in 2017. Business customers have been pressing for greater competition for some years and are understandably keen that the reforms retain momentum. We were therefore concerned by the suggestion that the progress of the High Level Group set up to drive the reforms may be hindered by the lack of a clear vision. We recommend that the Government set out what steps it is taking to provide the necessary direction and oversight of the High Level Group in its response to this report. (Paragraph 28)

40. Government remains committed to the start date of April 2017 for retail competition. It is working through the High Level Group (HLG), which is chaired by Defra's Director of Water and Flood Risk Management, to make this a reality. The Vision Statement produced by the HLG sets out the overarching goals, success criteria and outcomes against which the water industry market reform programme should be assessed. The programme is a shared activity between Defra, the Scottish Government and regulator, Ofwat, current players in the water industry, new entrants and customer representatives.
41. Since the EFRA report was published, the HLG has continued to meet every 4-6 weeks. Good progress is being made, driven by the industry members of the group. The water industry market reform programme has been formally launched to the wider stakeholder community as the 'Open Water' Programme.

## Recommendation 7:

We recommended earlier in this report that the Government publish statutory guidance to the regulator in draft alongside the Water Bill. We note that by doing so it would provide a greater level of certainty for market regulators and participants which would greatly assist them in the operational development of the competitive retail market. (Paragraph 29)

42. As set out in response to Recommendation 2 above, the Government believes it would be premature to produce a draft of this charging guidance alongside the Bill. We will, however, set out clearly the high level principles that will govern the future guidance to inform debate during the passage of the Bill through Parliament. These will underline the Government's expectation that charges in the water sector should:
  - represent a fair deal for all customers – charges should be stable, transparent and affordable;
  - better reflect the costs of supply, increasing the long-term resilience and sustainability of our water resources; and
  - facilitate a more competitive sector, providing space for both incumbent water and sewerage companies and new entrants to the market to innovate in order to deliver benefits to customers.

## Upstream Reform

### **Recommendation 8:**

In order to improve certainty for all parties, including investors, we recommend that Defra make clear on the face of the Bill the key principles that will underpin the introduction of upstream reforms. This should include a clear commitment that the reforms will not lead to any further de-averaging of prices. (Paragraph 37)

### **Recommendation 9:**

We are concerned by the levels of uncertainty in the proposals for reform of the upstream markets and we do not believe that the case for these reforms has yet been fully made out. Given the potentially serious implications of the reforms both for customer bills and for national resilience in the face of climate change and population growth, we believe that further work must be undertaken to establish how upstream reforms can be introduced in a way that will preserve investor confidence, ensure that customers do not face increased bills, and maintain resilience in the sector. We recommend that Defra revisit this issue, inviting evidence from water companies, consumer representatives and other interested parties both on the likely impact of the reforms and on the detail of their implementation. This work should be commenced immediately. (Paragraph 41)

### **Recommendation 10:**

We recommend that the Bill sets target dates for the final decision on the form and scope of upstream reforms, and the opening of the upstream market. (Paragraph 42)

43. The Government remains committed to the reform of upstream markets set out in the Water White Paper. The driver for these reforms has always been to encourage innovation and increase efficiency, harnessing competition as a means to deliver increased resilience and better outcomes for customers and for the environment. We understand the desire for greater detail on the final shape of upstream markets. However, as noted in Recommendation 2 above, we are strongly of the view that setting a blueprint for these new markets through primary legislation at this stage would be self-defeating. The regulator and the participating businesses are best placed to define the shape of well functioning markets. It is vital that we develop the details of the implementation process in partnership with the companies that will participate in the upstream markets and not foreclose decisions at this stage. This process is already underway through the work of the High Level Group and with the active support of both existing and new entrant water companies.



44. The Government has listened carefully to stakeholders' concerns about upstream reforms. In particular we have listened carefully to concerns about the stranding of assets and fragmentation of networks. We judge that these risks are small. Our high level charging principles will reiterate the importance Government attaches to this issue, as will an effective approach to regulation, with Ofwat retaining their statutory duty to ensure that incumbent water companies are able to finance their functions. To mitigate these risks still further we have removed the provisions related to the ownership and operation of infrastructure from the Bill (the network infrastructure authorisations). These changes narrow the scope for upstream entry to reinforce our commitment to incumbent water companies retaining ownership of the core network and responsibility for its ongoing management. The changes also focus reform more closely on our priorities of allowing new water resources and treatment to be introduced and stimulating alternative markets for recycled wastewater and sludge.
45. We have also decided to remove the retail infrastructure authorisations which would have eventually replaced the inset regime. This will reduce complexity in the new regime. We will instead work with Ofwat to improve the inset regime to ensure it is well placed to enable the development required to support sustainable economic growth and to meet the housing needs of a growing population. Ofwat has committed to reduce the time it takes them to grant an inset appointment by 40% from 110 to 65 days.
46. We have always been clear about our commitment to supporting regulatory stability by introducing these reforms in a measured, evolutionary way. That is why we will implement the upstream reforms in a co-ordinated way alongside our planned reforms of the abstraction regime. There are strong parallels between the approaches we are taking to upstream and abstraction reforms and a co-ordinated approach to implementation will ensure we are able to manage the risk of unintended consequences and capitalise on the opportunities. In this context, we have made it clear that the upstream market will not open before 2019.
47. The Bill requires that Ofwat issues charging rules which will, amongst other things, govern wholesale charges. We have made changes to the Bill to place a duty on the Secretary of State to provide Charging Guidance to Ofwat. This is designed to ensure that independent economic regulation takes place within a framework of duties and policies set by a democratically accountable Parliament and Government. We will consult widely upon this Charging Guidance and Parliament will have the opportunity to debate and vote upon it prior to publication.
48. We will set out clearly the high level principles that will govern the future guidance to inform debate during the passage of the Bill through Parliament. These will establish the Government's expectation that charges in the water sector are fair, stable, transparent and affordable. They will recognise the need to better reflect the costs of supply in future in order to increase the long-term resilience and sustainability of our water resources. The principles will also reflect the need to facilitate a more competitive sector, providing space for both incumbent water and sewerage companies and new entrants to the market to innovate in order to deliver benefits to customers.

## **Recommendation 11:**

Given the UK-wide implications of the Draft Water Bill, it is essential that Defra takes a collaborative and consultative approach to engagement with the devolved administrations. In its response to this report we expect Defra to be able to confirm that there are no outstanding areas of dispute or concern with either the Welsh or Scottish administrations. (Paragraph 45)

49. The integrated nature of the water resource means it is important that we work in partnership with the Scottish and Welsh Governments. Government has been working closely with them on the development and drafting of the Water Bill, which reflects the position reached.

## **Omissions from the Draft Bill**

### **Recommendation 12:**

We remain concerned that Defra appears to lack the necessary sense of urgency to press on with these reforms. The detail of a new abstraction regime will need to be developed following consultation. Following that consultation Defra will have to produce legislative proposals and secure space in the legislative programme before a new regime can be introduced. We urge the Department to redouble its efforts and to set out in response to this report how it will meet our target date for a new abstraction regime of 2022. (Paragraph 51)

50. The current abstraction management regime is not flexible enough to cope with the challenges of climate change and increased demand from a growing population. The Water White Paper, set out a vision, direction and process to reform the abstraction regime to make it more responsive to future uncertainty and enable us to manage our water resources more effectively. The new system needs to give clearer signals on water availability to allow abstractors to plan effectively and invest for the future. Reforming the regime is about long-term resilience; it is not the route for tackling current unsustainable abstraction.
51. We recognise the need to act now to address current unsustainable abstraction. The Environment Agency is already addressing locally damaging abstractions through the Restoring Sustainable Abstraction programme. It has reviewed thousands of licences and changed 47 of the most damaging. This work, together with catchment-scale investigations, will give us early notice of the issues we need to tackle in the next River Basin Management Plans, starting in 2015. As part of that process we will develop an action programme for the whole of England up to 2027, and beyond.
52. We are also proposing to use the Water Bill to change the way water company solutions for restoring sustainable abstraction are funded, as set out in the Water White Paper. An approach of funding these solutions into the Price Review process will lead to better value integrated solutions and reduce the risk of delay. Beyond this we are putting in place a number of other immediate measures to tackle the legacy of damaging abstraction more efficiently. These include: Ofwat's proposal for an Abstraction Incentive Mechanism; a modified charging scheme which will allow the Environmental Improvement Unit Charge to



be used to fund changes to river channels to protect water ecosystems; and using a power in the Water Act 2003 to enable licences causing serious damage to our rivers to be removed or altered without compensation.

53. We are currently focusing substantial resources on developing abstraction reform options and assessing their impacts, working very closely with stakeholders. This is a complex and challenging process but we are still on track to deliver a detailed consultation paper this year demonstrating our urgency in delivering this reform.
54. We have also started to scope out a path to implementation, although this will depend on space being found in the legislative programme. If we are able to legislate early in the next Parliament, we agree that implementation should be in progress by 2022. However, we cannot set a firm timetable until decisions have been taken on the shape of the future regime and we fully understand the scale and complexity of the implementation challenge and the legislative timetable. The time taken to deliver reform will also depend on a range of other factors, such as requirements for new systems, for piloting change and for providing reasonable notice for abstractors.

### **Recommendation 13:**

We have carefully considered the arguments for and against elevating Ofwat's duty to contribute to the achievement of sustainable development to primary status. We are persuaded that the increasing pressures on our water resources, highlighted in the Water White Paper, justify such a change. We therefore recommend that the Draft Bill be amended to include a clause giving effect to this change. (Paragraph 57)

55. We agree that there is a case for making changes to the content of the duties to support action to address the long-term challenges facing the sector and to encourage better outcomes for customers and the environment. In order to support the change in behaviours required to address the increasing pressures on our water resources, water environment and water services more generally, we propose to create a new duty to clarify the key role of the regulatory framework in securing the long-term resilience of water and sewerage services; and of water and wastewater networks.
56. Ofwat has had a duty to contribute to the achievement of sustainable development since 2005. We have not been persuaded that making changes to the order rather than the content of Ofwat's existing statutory duties would be the most effective way of achieving the desired outcome. Through the Government's statutory guidance to the regulator, the *Strategic Policy Statement*, we have already clarified that the existing sustainable development duty must underpin all the decisions made by the regulator. We now want to go further, by creating a new overarching duty specifically designed to prioritise an enhanced focus on long-term resilience to support delivery of the vision set out in the Water White Paper.

## The Wider Policy Agenda

### Recommendation 14:

We are greatly concerned by the further postponement of the implementation of the Flood and Water Management Act's provisions on Sustainable Drainage Systems to April 2014. We expect the Department, in its response to this report, to set out which particular elements of the regulations have caused such difficulty to implement and to explain the steps it is taking to address those issues so that the regulations can come into force at the earliest possible opportunity. (Paragraph 61)

57. We appreciate the Committee's concern about any delay in implementing Schedule 3 of the Flood and Water Management Act 2010, and we are working hard to do so at the earliest opportunity whilst taking full account of the requirement set by our key stakeholders that we provide a minimum six-month notice period to enable them to secure the requisite resources in an economic and efficient manner. Our aim remains to commence Schedule 3 in April 2014 (subject to "Cross Whitehall" and Parliamentary approval).
58. In view of the importance of the construction sector to the Government's economic growth agenda, and the potential cost implications for both developers and local authorities, it is vital that Sustainable Drainage Systems (SuDS) implementation proceeds with a robust evidence base.
59. In analysing the 300+ consultation responses we received, a number of complex issues were raised which the Government wishes to see resolved before we proceed to introduce the relevant implementation of Statutory Instruments. They include:
  - a set of agreed definitions of SuDS for the purposes of adoption by the SuDS Approval Bodies (SABs);
  - a set of agreed National Standards for SuDS and accompanying guidance; and
  - guidance for developers and local authorities on the calculation and operation of non-performance bonds, such that developers may proceed with the confidence to build and invest without suffering undue or unpredictable burdens.
60. We are working through these and other issues in collaboration with representatives from local authorities, developers and the water industry in task-and-finish groups. As previously described, these groups provide an innovative and practical solution to resolving the issues identified during the consultation exercise through co-operative working between representatives of the sectors affected. It may be a little more time-consuming than traditional policy development methodologies but we are confident that the task-and-finish groups will deliver a successful outcome with meaningful buy-in from the developers, local authorities, and the sewerage undertakers with good working relationships developed for the future. We expect the groups to deliver their agreed recommendations in the autumn.
61. We remain committed to encouraging the uptake of SuDS and, to this end, we are including measures in the Bill to make clear that sewerage undertakers can use SuDS to fulfil their duty to effectually drain an area where it is cost effective to do so.

## Recommendation 15:

We urge Defra to ensure that the revised Guide to the Reservoirs Act 1975 is published no later than April 2013. We are disappointed by the two-year target timescale for the review of Floods and Reservoirs Safety Guidance and recommend that Defra work with the Institution of Civil Engineers to bring publication forward to April 2013. (Paragraph 63)

62. The revised *Guide to the Reservoirs Act 1975* cannot be published before the amendments to the Reservoirs Act 1975 and the necessary regulations come into force in July, subject to Parliamentary approval. We are working with the Institution's review team to develop the revised non-statutory guidance as soon as practicable with the aim of publication within a month of implementation of the amendments.
63. The review of *Floods and Reservoir Safety, 3rd Edition* is a work in progress. It will take account of current research into reservoir risk assessment funded by the Defra/Environment Agency R&D programme that is nearing completion (as well as important guidance on the internal erosion of dams being produced by the International Commission on Large Dams, currently issued as a draft for international comment). We are working with the review team to develop the revised guidance as early as practicable having considered the implications of this work as well as recent advances in flood estimation for reservoirs. The Institution currently plans to publish its revised guidance by the end of June 2014.
64. As background, there is a perception that these guides will make it easier to develop marginal flood storage reservoirs. Such reservoirs, if large enough, are subject to regulation through the provisions of the Reservoirs Act 1975. The amendments to the Act will not alter the regulatory position significantly for those reservoirs that pose a risk to life in the event of a breach of the reservoir causing an uncontrollable release of water. The April 2013 date was the target date for implementation of the Phase 1 amendments to the Act, which has been revised to July 2013, subject to the passage of the Statutory Instruments through Parliament. *Floods and Reservoirs Safety* is a guide for practitioners and is likely to reinforce current approaches to delivering robust reservoirs where these are considered to pose a risk to life in the event of a breach. By definition, flood storage reservoirs are upstream of the communities they protect and to be effective are close enough for a breach flood wave to have high impact if they fail.

## Recommendation 16:

We remain of the view that it is unacceptable for honest customers to be forced to subsidise those who refuse to pay their water bills. We reiterate our previous recommendation that Defra should implement the provisions of the Flood and Water Management Act 2010 on bad debt without further delay. (Paragraph 65)

65. The Water White Paper committed to consult on the regulations set out in the Flood and Water Management Act 2010. Implementation of this Act's regulations would require landlords to provide personal data on their tenants to water companies. Failure to comply would result in the owner rather than the occupier of the property becoming liable for any unpaid bills.

66. Following the consultation “Tackling Bad Debt in the Water Industry”, the Government has decided that the case for imposing new regulation on landlords has not been made. We are firmly of the view that regulation should not always be the first resort of Government. Especially when, as in this situation, the regulated parties are not the cause of the problem. The Government is always mindful of the burden that additional regulation could place on business. In this case we have particular concerns regarding the imposition of additional costs on small and micro businesses, the category to which the vast majority of landlords belong. The consultation failed to provide evidence that the cost to landlords arising from the implementation of these regulations would be outweighed by benefits to water companies or savings to customers.
67. The Government warmly welcomes the work already underway by the water industry and landlords’ organisations to implement a voluntary system enabling landlords to share information with their water company. Government will continue to work with all parties to support this voluntary approach.
68. In the Water White Paper we set out our commitment to driving change in the water industry so that companies improve their customer service and become much more sharply focused on the needs of customers. There is some excellent practice in debt collection amongst water companies but it is not always applied consistently across the sector. Many water companies already use credit referencing and contact with customers to assess customers’ ability to pay. They can then actively pursue those choosing not to pay and offer appropriate support and advice to those struggling to do so. We want to see such good practice become the norm across the sector.
69. Debt problems can be linked to customers’ ability to pay. Support for struggling households should help reduce levels of bad debt. The Government expects water companies to know their customers and to offer appropriately targeted tariffs and payment plans designed to minimise the numbers falling into debt and to maximise the numbers addressing their debts. Ofwat’s proposals for a new retail price cap for the 2014 price review will strengthen the incentive on companies to manage this process effectively. The Government has published guidance to water companies to enable them to develop social tariffs for introduction from April 2013. That guidance makes it clear that the Government expects each water company to consider bringing forward a social tariff as part of its overall strategy for addressing water affordability. A number of water companies are planning to introduce social tariffs this year, with several more currently consulting their customers with the intention of introducing new social tariffs in the future.

## **Recommendation 17:**

Whilst we understand the Minister’s reluctance to provide a running commentary on negotiations with the Association for British Insurers and the possible solutions that are being considered, we are conscious that the current Statement of Principles will expire in less than six months, well before Royal Assent to a Water Act can reasonably be expected. We therefore wish to establish more details of the legislative solution(s) that are being considered should it prove necessary to go down that route; and in particular what consideration has been given to the basis on which flood insurance would be provided during the period between the expiry of the Statement of Principles and Royal Assent to a Water Act. We expect the Department to provide these details in its response to this report. (Paragraph 68)

70. We recognise the Committee's interest in understanding more about potential legislative solutions to address the availability and affordability of insurance in flood risk areas. We will provide a further public update at the earliest opportunity, including on elements of any solution which would require legislative underpinning through the Water Bill.
71. Meanwhile the Association of British Insurers (ABI) has announced that their members have agreed to continue to abide by their commitments under the Statement of Principles for an additional month until 31 July 2013. As currently, households should continue to find that it pays to shop around for their insurance since insurance companies each take different approaches to pricing. This is why we have worked with the ABI, the British Insurance Brokers' Association and others to produce a 'Guide to obtaining flood insurance in high risk areas' to help households in high flood risk areas access appropriate cover.
72. Action taken by communities, individuals, Government and businesses to reduce flood risk will continue to be the best way of keeping insurance terms affordable into the future. We are now on course to spend £2.3 billion on reducing the risk from flooding and coastal erosion in England over the four years to 2015. We now expect to better protect 165,000 households by 2015, exceeding our current goal by 20,000.

### **Recommendation 18:**

We recommend that Defra work with water companies to explore methods to encourage the installation of water meters upon change of occupancy, including through providing financial incentives.

73. The Government's policy on water metering was set out in the Water White Paper; we believe this is a choice to be made by customers and water companies, who are best placed to find the appropriate local solution in discussion with their customers. Government wants water companies to do more to actively promote metering to those who would benefit, and to make switching as simple as possible for those who choose to do so.
74. Over a third of households are on a meter already, which will rise to over half by 2015 as households continue to switch voluntarily to meters and several water companies in water stressed areas roll out metering programmes.
75. It is important to note that, whilst many households would see bills fall with the installation of a meter, others, notably large households in properties with low rateable values, would be likely to see their bills increase to reflect their actual water consumption. This group includes large families on low incomes. In all cases meter installation programmes must be implemented with sensitivity; some households, bills will go up and the costs of installation may mean higher bills for all customers.



76. The costs and benefits of increasing levels of water metering to help reduce demand will vary from region to region, depending on the level of water stress. Because of these complexities, the Government will not impose a blanket approach to metering across the country. As the climate changes and the population grows, the case for universal metering may change, but will do so at different times for different areas.

## Conclusion

77. The Government fully supports pre-legislative scrutiny of draft legislation and is grateful for the EFRA Select Committee's report into the draft Water Bill. This is a Bill that stakeholders broadly support as a tool to help deliver a sustainable, resilient and customer-focused water sector.
78. Privatisation of the water sector has been a success, but we need to build on this to ensure that the sector is able to deal with future challenges. Water supplies will come under pressure as a result of an increasing population and the risks from climate change, including more frequent droughts and floods. Our reform package is designed to balance the need for a stable regulatory environment to ensure that the sector can continue to attract the investment it needs with the call from customers for a higher standard of service from the companies who supply them.
79. The Bill we are introducing responds directly to a range of concerns stakeholders have raised during pre-legislative scrutiny. We have retained the central elements, but streamlined the content to ensure a focus on our policy priorities and removed some of the elements which stakeholders feared signalled a move away from our commitment to water company ownership of the core network. We have also responded to concerns that the draft Bill offered Ofwat too much discretion in how the Bill was implemented, strengthening Ministerial and Parliamentary accountability for the public policy framework, for example around the approach to future charging and market codes. We have also included a power of direction for Ministers over any consequential licence modifications that Ofwat needs to make in response to the reform within the Bill.
80. Furthermore we have included a range of new measures in the Bill to increase its focus upon growth and resilience. These changes have been in response to issues raised by the Committee and stakeholders during the inquiry.
81. We are confident that the work done since publication last July means we now have a much improved and strengthened Water Bill that is ready for Parliamentary scrutiny.

# Annex A: Key changes to the draft Water Bill

Key change	Explanation
<b>Market Reform</b>	
Introduce a right of appeal to Ofwat's proposed changes to market codes	The draft Bill did not allow market participants the right of appeal to changes to market codes put forward by Ofwat. In the energy sector market participants can appeal to the Competition Commission. We have included a similar appeal mechanism, for Ofwat's proposals, through the newly formed Competition and Markets Authority.
Final connections to the water main and sewerage systems	<p>We will introduce a market code to facilitate greater competition to make final water main and sewerage connections in England. We anticipate that the introduction of a market code, coupled with suitable safeguards, will make entry into the market in England easier and increase transparency.</p> <p>This complements measures already in the Bill on increasing transparency on charges made by water companies in respect of connections to undertakers' systems.</p>
Duty to ensure incumbent water companies do not show undue preference or discrimination.	<p>The Secretary of State, the Welsh Ministers and Ofwat all have a shared duty under section 2 of the Water Industry Act 1991 to ensure that incumbent water companies do not show undue preference or undue discrimination in the fixing of charges. We will extend this duty in the Bill to ensure that ministers and Ofwat are also able to tackle undue discrimination in the provision of services by incumbent water companies.</p> <p>This change relates to <b>Recommendation 4</b>.</p>
The removal of the network infrastructure authorisation from the water supply and sewerage licensing regime	<p>We are removing the network infrastructure authorisation from the water supply and sewerage licensing regime. These authorisations are being removed in response to concerns around the stranding of assets and fragmentation of networks and represented the highest risk.</p> <p>This change relates to <b>Recommendation 10</b>.</p>
The removal of retail infrastructure authorisation from the water supply and sewerage licensing regime	<p>It was envisaged that retail infrastructure authorisations would have eventually replaced the inset regime. Instead of proceeding with these authorisations, we will work with Ofwat to improve the inset regime so that it is able to support the need to build more houses as part of the growth agenda.</p> <p>This change relates to <b>Recommendation 10</b>.</p>
Extension of market reform proposals to create a cross-border market with Scotland	<p>We will amend Scots Law to facilitate a cross-border retail water market between England and Scotland.</p> <p>This change relates to <b>Recommendation 11</b>.</p>

Key change	Explanation
<b>OFWAT</b>	
Ofwat discretion	<p>We are amending the Bill to limit the degree of Ofwat's discretion. We will be making it a duty for Ministers to produce charging guidance for wholesale services rather than granting them a power as provided for in the draft Bill. This will ensure that Ministers clearly set out Government policy to which Ofwat must have regard when preparing its charging rules.</p> <p>This change relates to <b>Recommendation 2</b>.</p>
Introduce a revised statutory framework for the Strategic Policy Statement (SPS) for Ofwat	<p>We will provide clear guidance on their role in line with the Government's Principles of Economic Regulation. This will create a consolidated duty to issue statutory guidance on a range of topics including: resilience and sustainable development, affordability and customer protection.</p> <p>This will replace the existing duty to issue Social and Environmental Guidance and the separate powers under which the SPS is currently issued.</p> <p>This change relates to <b>Recommendation 13</b>.</p>
Adjudication of Complaints	<p>Ofwat has a statutory duty to make a formal determination in certain cases of dispute between customers and the water and sewerage companies. The Bill will allow ministers to make an order allowing any of the relevant functions to be performed by a specified party other than Ofwat; or by either Ofwat or another party at Ofwat's discretion. This will enable the introduction of greater flexibility into the system for dispute resolution.</p>
Amend Ofwat's Duties to take greater account of resilience	<p>There already exists a sustainable development duty. We will now go further, by creating a new overarching duty specifically designed to prioritise an enhanced focus on long-term resilience to support delivery of the vision set out in the Water White Paper.</p> <p>We consider that this provides the correct balance of duties for Ofwat that giving them a primary sustainable development duty would not achieve.</p> <p>This change relates to <b>Recommendation 13</b>.</p>
Power of Direction over Ofwat's consequential licences modifications	<p>We will amend the Water Industry Act to give the Secretary of State (and the Welsh Ministers) a power of veto over any proposed changes to undertakers' licences that Ofwat propose as a result of this Bill.</p>



Key change	Explanation
<b>Other Measures</b>	
Changes to abstraction licence compensation funding	<p>Restoring sustainable abstraction is also a Government priority. We are therefore making changes to abstraction licence compensation funding, to alter the funding route for losses resulting from modifications and revocations of water company abstraction licences.</p> <p>This measure gives a clear signal that losses resulting from modifications and revocations of water company abstraction licences will be funded through the Ofwat Price Review. This work sits alongside a number of other measures we are taking to reduce unsustainable abstraction that do not require legislation.</p> <p>This change relates to <b>Recommendation 12</b>.</p>
Non-water company water storage	<p>The aim of this measure is to incentivise the development of non-water company water storage. This can build in additional resilience to our supply system, as well as offering benefits for farmers and land managers in supplying their own water needs. The UK Government would like to make it easier for owners of such storage who have excess capacity to sell water into the water supply market by using a slightly modified bulk supply regime.</p>
Encourage the uptake of Sustainable Drainage Systems (SuDS) approach for surface water management	<p>We will encourage the uptake of SuDS, through water sensitive urban design and use of permeable paving, ponds or artificial wetlands by clarifying the functions of a sewerage undertaker under the Water Industry Act 1991 to make it clear that they include the building and maintenance of SuDS features.</p> <p>This change relates to <b>Recommendation 14</b>.</p>
Level of Service	<p>We will clarify the Powers of Direction that exist within the water resources planning framework in order to be explicit that such Directions may include specifying a level of service that a water resources plan must address. This power could be used to reduce the planned-for frequency of restrictions on water use or to address company specific resilience issues.</p>
Drinking Water Inspectorate (DWI) cost recovery	<p>We will include a measure amending the Public Bodies Act 2011 that allows the DWI to continue to recover the full costs of their testing charges from water companies beyond 2017. This will replace a similar provision in the Public Bodies Act 2011, which ceases to have effect in 2017. This will enable the DWI to adjust its fees in light of review and inflation and is in line with Government policy, which states that businesses which benefit from regulation should bear the cost of regulation, not the taxpayer.</p>

Key change	Explanation
Extension of the environmental permitting regime to the Border River Esk	<p>We will extend the environmental permitting regime, in relation to fish passage, to the Border River Esk (up to the source in Scotland). Historically, English legislation on salmon and freshwater fisheries has applied to the Scottish as well as the English River Esk and its tributaries. Conversely, Scottish legislation has applied to the English as well as the Scottish Tweed.</p> <p>This change relates to <b>Recommendation 11</b>.</p>
Flood Insurance	<p>We will provide a further public update at the earliest opportunity, including on elements of any solution which would require legislative underpinning through the Water Bill.</p> <p>This change relates to <b>Recommendation 17</b>.</p>

## Annex B: Pitt Review progress

<p><b>Recommendation 10:</b> The automatic right to connect surface water drainage of new developments to the sewerage system should be removed.</p>	<p>Schedule 3 to the Flood and Water Management Act 2010 will amend the automatic right to connect surface water drainage to the public sewer, making it conditional on the SuDS Approval Body approving the drainage plans. We aim to commence Schedule 3 in April 2014 (subject to “Cross Whitehall” and Parliamentary approval).</p>
<p><b>Recommendation 11:</b> Building Regulations should be revised to ensure that all new or refurbished buildings in high flood-risk areas are flood-resistant or resilient.</p>	<p>Complete. The Government has concluded that non-regulatory options are more appropriate. The National Planning Policy Framework was published in March 2012 which sets out the framework for local authority planning decisions. Development in areas of flood risk is only permitted exceptionally where there are wider sustainability considerations and must in all cases be safe, must not increase flood risk elsewhere and, where possible, overall flood risk should be reduced.</p>
<p><b>Recommendation 20:</b> The Government should resolve the issue of which organisations should be responsible for the ownership and maintenance of sustainable drainage systems.</p>	<p>Schedule 3 to the Flood and Water Management Act 2010 will provide for increased uptake of sustainable drainage systems (SuDS) in new developments. It will establish a SuDS Approving Body (SAB) in county or unitary authorities. SABs will:</p> <ul style="list-style-type: none"> <li>i) approve drainage systems before construction begins, according to new National SuDS Standards and</li> <li>ii) adopt and maintain SuDS serving more than one property.</li> </ul> <p>We are currently working with key stakeholders to resolve the outstanding issues which arose from our consultation on implementation of Schedule 3. This work is being taken forward with developers, local authorities and sewerage undertakers. Simultaneously we have commissioned further research to strengthen our evidence base. We aim to commence Schedule 3 in April 2014 (subject to “Cross Whitehall” and Parliamentary approval).</p>

<p><b>Recommendation 21:</b> Defra should work with Ofwat and the water industry to explore how appropriate risk-based standards for public sewerage systems can be achieved.</p>	<p>Before 2011 sewers that connected to the public sewerage system lacked integrated management, arising primarily from the disparate and private ownership of many sewers. The October 2011 transfer of pre-existing private sewers to the sewerage undertakers addressed this problem.</p> <p>The second stage of this package is to provide for the automatic adoption of new sewers for new properties by the sewerage companies, and to set adequate build standards before this responsibility is assumed. This would avoid the accumulation of a new legacy of private sewers, and all the problems which led to the 2011 transfer.</p> <p>Section 42 of the Flood and Water Management Act 2010 provides for these new-build arrangements, and the public consultation on our implementation proposals took place in 2012. The consultation responses showed that developers were concerned that the new standards and adoption process would impose excessive costs. We are presently working with key stakeholders to resolve the outstanding issues. This work is being taken forward in task-and-finish groups that include both developers and sewerage undertakers. Simultaneously we have commissioned additional research to strengthen our evidence base. We aim to implement Section 42 in April 2014 (subject to “Cross Whitehall” and Parliamentary approval). Implementation in Wales took effect on 1 October 2012.</p>
<p><b>Recommendation 28:</b> The forthcoming flooding legislation should be a single unifying Act that addresses all sources of flooding, clarifies responsibilities and facilitates flood risk management.</p>	<p>The Flood and Water Management Act 2010 addresses all sources of flooding, clarifies responsibilities and facilitates flood risk management.</p> <p>It is intended to consolidate legislation in due course, probably once further water legislation is passed. In the meantime work is continuing on consolidation of some aspects of legislation (e.g. reservoirs). Defra’s Departmental Plan makes clear our commitment to complete this consolidation work by December 2014.</p>
<p><b>Recommendation 58:</b> The Government should implement the legislative changes proposed in the Environment Agency biennial report on dam and reservoir safety through the forthcoming flooding legislation.</p>	<p>Implementation of the relevant provisions in the Flood and Water Management Act 2010 will be complete by December 2014.</p>

# Annex C: Flood and Water Management Act Progress

Section 15 – Civil Sanctions	<p>The Government has concluded that it is not necessary at this time to commence section 15, which gives the Environment Agency and lead local flood authorities the power to issue enforcement and penalty notices in the event of non-compliance with a request for information made under section 14 of the Act. Recent experience indicates that those approached are prepared to share requested information voluntarily with the Environment Agency and local flood authorities. Defra will keep this under review.</p>
Section 32 and Schedule 3 – Sustainable Drainage Systems	<p>Schedule 3 of the Flood and Water Management Act 2010 provides for increased uptake of sustainable drainage systems (SuDS) in new developments. It will establish a SuDS Approving Body (SAB) in county or unitary authorities. SABs will:</p> <ul style="list-style-type: none"> <li>i) approve drainage systems before construction begins, according to new National SuDS Standards and</li> <li>ii) adopt and maintain SuDS serving more than one property.</li> </ul> <p>We are currently working with key stakeholders to resolve the outstanding issues which arose from our consultation on implementation of Schedule 3. This work is being taken forward with developers, local authorities and sewerage undertakers in task-and-finish groups that operate in the same way as described below (see Section 42). For SuDS, these groups are co-chaired by both developers and local authorities. We have also commissioned further research to strengthen our evidence base.</p> <p>Schedule 3 of the Flood and Water Management Act 2010 will also amend the automatic right to connect surface water drainage to the public sewer, making it conditional on the SAB approving the drainage plans. We aim to commence Schedule 3 in April 2014 (subject to “Cross Whitehall” and Parliamentary approval).</p>
Section 33 and Schedule 4 – Reservoirs	<p>It is intended that phase 1 amendments to the Reservoirs Act 1975 by Schedule 4 will be implemented by the end of the summer of 2013. The amendments will apply to those reservoirs that are currently regulated. It is intended to complete all of the implementation of Schedule 4 (as they apply to smaller reservoirs) by December 2014, subject to Whitehall agreement.</p>
Section 34 and Schedule 5 – Special Administration	<p>Implementation of these provisions is now expected in the autumn of 2013.</p>

<p>Section 42 – Agreements on new drainage systems</p>	<p>Section 42 provides for new-build arrangements, and the public consultation on our implementation proposals took place in 2012. The consultation responses showed that developers were concerned that the new standards and adoption process would impose excessive costs. Equally the sewerage undertakers were concerned that the automatic adoption mechanism for new sewers should not expose them to unreasonable liabilities.</p> <p>We are presently working with these stakeholders to resolve the outstanding issues. This work is being taken forward in task-and-finish groups that are co-chaired by both developers and sewerage undertakers. This is an innovative and practical solution to resolving the issues identified during the consultation exercise through co-operative working between representatives of the sectors affected. It may be a little more time-consuming than traditional policy development methodologies but we are confident that the task-and-finish groups will deliver a successful outcome with meaningful buy-in from the developers and the sewerage undertakers with good working relationships developed for the future. We also commissioned additional research to strengthen our evidence base which has recently reported. We aim to implement Section 42 in April 2014 (subject to “Cross Whitehall” and Parliamentary approval). Implementation in Wales took effect on 1 October 2012.</p>
<p>Section 45 – Water and sewerage charges non-owner occupiers</p>	<p>The Government is continuing to work with all parties to support the development of the existing voluntary approach, whilst weighing the costs and benefits associated with regulation for all parties. The consultation completed for these provisions resulted in a divided response.</p>



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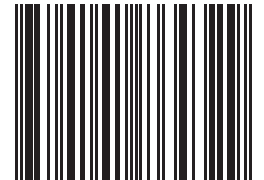
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