



Water Industry Act 1991

1991 CHAPTER 56

PART IV

SEWERAGE SERVICES

CHAPTER II

PROVISION OF SEWERAGE SERVICES

Communication of drains and private sewers with public sewers

106 Right to communicate with public sewers.

[^{F1}(1) Subject to the provisions of this section—

- (a) the owner or occupier of any premises, or
- (b) the owner of any private sewer which drains premises,

shall be entitled to have his drains or sewer communicate with the public sewer of any sewerage undertaker and thereby to discharge foul water and surface water from those premises or that private sewer.]

(2) Subject to the provisions of Chapter III of this Part, nothing in subsection (1) above shall entitle any person—

- (a) to discharge directly or indirectly into any public sewer—
 - (i) any liquid from a factory, other than domestic sewage or surface or storm water, or any liquid from a manufacturing process; or
 - (ii) any liquid or other matter the discharge of which into public sewers is prohibited by or under any enactment; or
- (b) where separate public sewers are provided for foul water and for surface water, to discharge directly or indirectly—
 - (i) foul water into a sewer provided for surface water; or

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- (ii) except with the approval of the undertaker, surface water into a sewer provided for foul water; or
- (c) to have his drains or sewer made to communicate directly with a storm-water overflow sewer.
- (3) A person desirous of availing himself of his entitlement under this section shall give notice of his proposals to the sewerage undertaker in question.
- (4) At any time within twenty-one days after a sewerage undertaker receives a notice under subsection (3) above, the undertaker may by notice to the person who gave the notice refuse to permit the communication to be made, if it appears to the undertaker that the mode of construction or condition of the drain or sewer is such that the making of the communication would be prejudicial to the undertaker’s sewerage system
- (5) For the purpose of examining the mode of construction and condition of a drain or sewer to which a notice under subsection (3) above relates a sewerage undertaker may, if necessary, require it to be laid open for inspection.
- (6) Any question arising under subsections (3) to (5) above between a sewerage undertaker and a person proposing to make a communication as to—
- (a) the reasonableness of the undertaker’s refusal to permit a communication to be made; or
- (b) as to the reasonableness of any requirement under subsection (5) above, may, on the application of that person, be determined by [^{F2}the Director under section 30A above].
- ^{F3}(7)
- (8) Where a person proposes under this section to make a communication between a drain or sewer and such a public sewer in Greater London as is used for the general reception of sewage from other public sewers and is not substantially used for the reception of sewage from private sewers and drains—
- (a) the grounds on which a sewerage undertaker may refuse to permit the communication shall be such grounds as the undertaker thinks fit; and
- (b) no application to [^{F4}the Director] may be made under subsection (6) above in respect of any refusal under this subsection.
- (9) In this section “factory” has the same meaning as in the ^{M1}Factories Act 1961.

Textual Amendments

- F1** S. 106(1) substituted (1.7.1992) by [Competition and Service \(Utilities\) Act 1992 \(c. 43\), s. 43\(2\)](#); Competition and Service (Utilities) Act 1992 (Commencement No. 1) Order 1992, art. 3, Sch. Pt. I
- F2** Words in s. 106(6) substituted (1.9.1992) by [Competition and Service \(Utilities\) Act 1992 \(c. 43\), s. 35\(8\)\(a\)](#); Competition and Service (Utilities) Act 1992 (Commencement No. 1) Order 1992, art. 4, Sch. Pt. II
- F3** S. 106(7) repealed (1.7.1992) and is expressed to cease to have effect (1.9.1992) by [Competition and Service \(Utilities\) Act 1992 \(c. 43\), ss. 35\(8\)\(b\), 56\(7\), Sch. 2](#); Competition and Service (Utilities) Act 1992 (Commencement No. 1) Order 1992, arts. 3, 4, Sch. Pts. I, II
- F4** Words in s. 106(8)(b) substituted (1.9.1992) by [Competition and Service \(Utilities\) Act 1992 \(c. 43\), s. 35\(8\)\(c\)](#); Competition and Service (Utilities) Act 1992 (Commencement No. 1) Order 1992, art. 4, Sch. Pt. II

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Modifications etc. (not altering text)

C1 S. 106(8) restricted (18.12.1996) by 1996 c. 61, s. 38, Sch. 10 para. 13

Marginal Citations

M1 1961 c. 34.

107 Right of sewerage undertaker to undertake the making of communications with public sewers.

- (1) Where a person gives to a sewerage undertaker notice under section 106 above of his proposal to have his drains or sewer made to communicate with a public sewer of that undertaker, the undertaker may—
 - (a) within fourteen days after the receipt of the notice; or
 - (b) if any question arising under the notice requires to be determined by [^{F5}the Director], within fourteen days after the determination of that question, give notice to that person that the undertaker intends itself to make the communication.
 - (2) If, after a notice has been given to any person under subsection (1) above, that person proceeds himself to make the communication, he shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 4 on the standard scale.
 - (3) Where a sewerage undertaker has given a notice under subsection (1) above—
 - (a) the undertaker shall have all such rights in respect of the making of the communication as the person desiring it to be made would have; but
 - (b) it shall not be obligatory on the undertaker to make the communication until either—
 - (i) there has been paid to the sewerage undertaker any such sum, not exceeding the undertaker's reasonable estimate of the cost of the work, as the undertaker may have required to be paid to it; or
 - (ii) there has been given to the undertaker such security for the payment of the cost of the work as it may reasonably have required.
 - (4) If any payment made to a sewerage undertaker under subsection (3) above exceeds the expenses reasonably incurred by it in the carrying out of the work in question, the excess shall be repaid by the undertaker; and, if and so far as those expenses are not covered by such a payment, the undertaker may recover the expenses, or the balance of them, from the person for whom the work was done.
- [^{F6}(4A) Any dispute between a sewerage undertaker and any other person as to—
 - (a) whether the undertaker's estimate of the cost of works given under subsection (3)(b)(i) above is reasonable,
 - (b) whether any requirement of security for the payment of the cost of works was reasonably made by the undertaker, or
 - (c) whether any excess is repayable, or any expenses are recoverable, by the undertaker under subsection (4) above, or the amount of any such excess or expenses,may be referred to the Director for determination under section 30A above by either party to the dispute.]
- (5) Sections 291, 293 and 294 of the ^{M2}Public Health Act 1936 (which provide for the means of, and for limitations on, the recovery of expenses incurred by a local authority)

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shall apply in relation to the recovery by a sewerage undertaker of any sums under this section as they apply in relation to the recovery of expenses under that Act by a local authority.

- (6) For the purposes of this section, the making of the communication between a drain or private sewer and a public sewer includes all such work as involves the breaking open of a street.

Textual Amendments

- F5** Words in s. 107(1)(b) substituted (1.9.1992) by [Competition and Service \(Utilities\) Act 1992 \(c. 43\), s. 35\(9\)](#); Competition and Service (Utilities) Act 1992 (Commencement No. 1) Order 1992, art. 4, Sch. Pt. II
- F6** [S. 107\(4A\)](#) inserted (1.9.1992) by [Competition and Service \(Utilities\) Act 1992 \(c. 43\), s. 35\(9\)](#); Competition and Service (Utilities) Act 1992 (Commencement No. 1) Order 1992, art. 4, Sch. Pt. II

Marginal Citations

- M2** [1936 c. 49](#).

108 Communication works by person entitled to communication.

- (1) Where a sewerage undertaker does not under section 107 above elect itself to make a communication to which a person is entitled under section 106 above, the person making it shall—
- (a) before commencing the work, give reasonable notice to any person directed by the undertaker to superintend the carrying out of the work; and
 - (b) afford any such person all reasonable facilities for superintending the carrying out of the work.
- (2) For the purpose—
- (a) of exercising his rights under section 106 above; or
 - (b) of examining, repairing or renewing any drain or private sewer draining his premises into a public sewer,
- the owner or occupier of any premises shall be entitled to exercise the same powers as, for the purpose of carrying out its functions, are conferred on a sewerage undertaker by sections 158 and 161(1) below.
- (3) The provisions of Part VI of this Act shall apply, with the necessary modifications, in relation to the power conferred by subsection (2) above as they apply in relation to the power conferred by sections 158 and 161(1) below.

109 Unlawful communications.

- (1) Any person who causes a drain or sewer to communicate with a public sewer—
- (a) in contravention of any of the provisions of section 106 or 108 above; or
 - (b) before the end of the period mentioned in subsection (4) of that section 106,
- shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 4 on the standard scale.
- (2) Whether proceedings have or have not been taken by a sewerage undertaker in respect of an offence under this section, such an undertaker may—

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- (a) close any communication made in contravention of any of the provisions of section 106 or 108 above; and
 - (b) recover from the offender any expenses reasonably incurred by the undertaker in so doing.
- (3) Sections 291, 293 and 294 of the ^{M3}Public Health Act 1936 (which provide for the means of, and for limitations on, the recovery of expenses incurred by a local authority) shall apply in relation to the recovery by a sewerage undertaker of any sums under this section as they apply in relation to the recovery of expenses under that Act by a local authority.

Marginal Citations

M3 1936 c. 49.

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