



Water Industry Act 1991

1991 CHAPTER 56

PART II

APPOINTMENT AND REGULATION OF UNDERTAKERS

CHAPTER II

ENFORCEMENT OF INSOLVENCY

Enforcement orders

19 Exceptions to duty to enforce.

- (1) [^{F1}Subject to the Drinking Water (Undertakings) (England and Wales) Regulations 2000]Neither the Secretary of State nor the Director shall be required to make an enforcement order in relation to any [^{F2}person], or to confirm a provisional enforcement order so made, if he is satisfied—
- (a) that the contraventions were, or the apprehended contraventions are, of a trivial nature;
 - [^{F3}(aa) that the extent to which the [^{F2}person] caused or contributed to, or was likely to cause or contribute to, a contravention was trivial;]
 - (b) that the [^{F2}person] has given, and is complying with, an undertaking to take all such steps as it appears to him for the time being to be appropriate for the [^{F2}person] to take for the purpose of securing or facilitating compliance with the condition or requirement in question; or
 - (c) that the duties imposed on him by Part I of this Act preclude the making or, as the case may be, the confirmation of the order.
- [^{F4}(1A) Before making an enforcement order or confirming a provisional enforcement order, the Authority shall consider whether it would be more appropriate to proceed under the Competition Act 1998.

Changes to legislation: Water Industry Act 1991, Section 19 is up to date with all changes known to be in force on or before 22 July 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. (See end of Document for details) View outstanding changes

- (1B) The Authority shall not make an enforcement order or confirm a provisional enforcement order if it considers that it would be more appropriate to proceed under the Competition Act 1998.]
- (2) The requirement to comply with an undertaking given for the purposes of subsection (1)(b) above shall be treated as a statutory requirement enforceable under section 18 above—
- (a) by the Secretary of State; or
 - (b) with the consent of or in accordance with a general authorisation given by the Secretary of State, by the Director.
- (3) Where the Secretary of State or the Director, having notified a [F2person] that he is considering the making in relation to the [F2person] of an enforcement order or the confirmation of a provisional enforcement order so made, is satisfied as mentioned in paragraph (a), [F5(aa),(b) or (c) of subsection (1) above [F6or, in the case of the Director, [F7has decided that it would be more appropriate to proceed under the Competition Act 1998]], he shall—
- (a) serve notice that he is so satisfied [F8or has so decided] on the [F2person];
 - [F9(b) publish in such manner as the Secretary of State or the Authority considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by them—
 - (i) a copy of the notice, and
 - (ii) where the Secretary of State or the Authority is satisfied as mentioned in paragraph (b) of subsection (1), a summary of the undertaking describing the steps to be taken under it; and]
 - (c) in a case where the Secretary of State is satisfied as mentioned in the said paragraph (b), serve a copy of the notice and of the undertaking given for the purposes of that paragraph on the Director.
- [F10(3A) In a case where notice under subsection (3)(a) falls to be served by the Welsh Ministers, references to the Secretary of State in subsection (3)(b) are to be read as references to the Welsh Ministers.]
- (4) The requirements of subsection (3) above shall not apply, in the case of any proposed order or confirmation in respect of a direction under section 208 below, to the extent that the Secretary of State directs that they should not be complied with in the interests of national security.

Textual Amendments

- F1** Words in s. 19(1) inserted (14.6.2000) by [S.I. 2000/1297, art. 8](#)
- F2** Word in s. 19 substituted (1.4.2016) by [Water Act 2014 \(c. 21\), s. 94\(3\), Sch. 7 para. 27; S.I. 2016/465, art. 2\(m\), Sch. 1 para. 1\(j\)](#) (with [Sch. 2](#)) (as amended (22.3.2017) by [S.I. 2017/462, art. 16](#))
- F3** S. 19(1)(aa) inserted (1.12.2005) by [Water Act 2003 \(c. 37\), ss. 101\(1\), 105\(3\), Sch. 8 para. 5\(2\); S.I. 2005/2714, art. 3\(c\)](#) (with [Sch. para. 8](#))
- F4** S. 19(1A)(1B) substituted for s. 19(1A) (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\), s. 103\(3\), Sch. 14 para. 9\(2\); S.I. 2014/416, art. 2\(1\)\(e\)](#) (with [Sch.](#))
- F5** Words in s. 19(3) inserted (1.12.2005) by [Water Act 2003 \(c. 37\), ss. 101\(1\), 105\(3\), Sch. 8 para. 5\(3\); S.I. 2005/2714, art. 3\(c\)](#) (with [Sch. para. 8](#))
- F6** Words in s. 19(3) inserted (1.3.2000) by [1998 c. 41, s. 54\(3\), Sch. 10 Pt. IV para. 13\(7\)](#) (with [s. 73](#)); [S.I. 2000/344, art. 2 Sch.](#)

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- F7** Words in s. 19(3) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 14 para. 9(3)(a)**; S.I. 2014/416, art. 2(1)(e) (with Sch.)
- F8** Words in s. 19(3)(a) inserted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 14 para. 9(3)(b)**; S.I. 2014/416, art. 2(1)(e) (with Sch.)
- F9** S. 19(3)(b) substituted (20.4.2010) by The Water Supply (Miscellaneous Amendments) (England and Wales) Regulations 2010 (S.I. 2010/996), regs. 1, **2(2)**
- F10** S. 19(3A) inserted (20.4.2010) by The Water Supply (Miscellaneous Amendments) (England and Wales) Regulations 2010 (S.I. 2010/996), regs. 1, **2(3)**

Modifications etc. (not altering text)

- C1** S. 19 applied (28.6.2013) by The Water Industry (Specified Infrastructure Projects) (English Undertakers) Regulations 2013 (S.I. 2013/1582), reg. 1(1)(b), **Sch. 1 para. 6(2)** (with reg. 1(1)(c))
- C2** S. 19(1)(b) restricted (14.6.2000) by S.I. 2000/1297, **art. 2**
- C3** S. 19(4): functions exercisable by the Assembly concurrently with the Ministers of the Crown (W.) (1.7.1999) by S.I. 1999/672, art. 2, **Sch. 1**

Changes to legislation:

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

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

- Pt. 3 Ch. 2B inserted by [2014 c. 21 s. 12](#)
- s. 14B(6) inserted by [2024 c. 13 Sch. 30 para. 12\(4\)](#)
- s. 16B(11) inserted by [2024 c. 13 Sch. 30 para. 13\(4\)](#)
- 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. 17M(6) inserted by [2024 c. 13 Sch. 30 para. 14\(4\)](#)
- s. 17Q(11) inserted by [2024 c. 13 Sch. 30 para. 15\(4\)](#)
- 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. 31(10) inserted by [2024 c. 13 Sch. 29 para. 12](#)
- 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