



Water Industry Act 1991

1991 CHAPTER 56

PART VIII

MISCELLANEOUS AND SUPPLEMENTAL

Miscellaneous

209 Civil liability of undertakers for escapes of water etc.

- (1) Where an escape of water, however caused, from a pipe vested in a water undertaker causes loss or damage, the undertaker shall be liable, except as otherwise provided in this section, for the loss or damage.
- (2) A water undertaker shall not incur any liability under subsection (1) above if the escape was due wholly to the fault of the person who sustained the loss or damage or of any servant, agent or contractor of his.
- (3) A water undertaker shall not incur any liability under subsection (1) above in respect of any loss or damage for which the undertaker would not be liable apart from that subsection and which is sustained—
 - (a) by [^{F1}the Environment Agency], a relevant undertaker or any statutory undertakers, within the meaning of section 336(1) of the ^{M1}Town and Country Planning Act 1990;
 - (b) by any public gas supplier within the meaning of Part I of the ^{M2}Gas Act 1986 or the holder of a licence under section 6(1) of the ^{M3}Electricity Act 1989;
 - (c) by any highway authority; or
 - (d) by any person on whom a right to compensation is conferred by section 82 of the ^{M4}New Roads and Street Works Act 1991.
- (4) The ^{M5}Law Reform (Contributory Negligence) Act 1945, the ^{M6}Fatal Accidents Act 1976 and the ^{M7}Limitation Act 1980 shall apply in relation to any loss or damage for which a water undertaker is liable under this section, but which is not due to the undertaker's fault, as if it were due to its fault.

Status: Point in time view as at 01/10/2010. This version of this provision has been superseded.

Changes to legislation: Water Industry Act 1991, Section 209 is up to date with all changes known to be in force on or before 19 August 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)

- (5) Nothing in subsection (1) above affects any entitlement which a water undertaker may have to recover contribution under the ^{M8}Civil Liability (Contribution) Act 1978; and for the purposes of that Act, any loss for which a water undertaker is liable under that subsection shall be treated as if it were damage.
- (6) Where a water undertaker is liable under any enactment or agreement passed or made before 1st April 1982 to make any payment in respect of any loss or damage the undertaker shall not incur liability under subsection (1) above in respect of the same loss or damage.
- (7) In this section “fault” has the same meaning as in the ^{M9}Law Reform (Contributory Negligence) Act 1945.
- (8) Until the coming into force of section 82 of the New Roads and Street Works Act 1991, subsection (3) above shall have effect as if for paragraph (d) there were substituted the following paragraphs—
- “(d) by any bridge authority, bridge managers, street authority or street managers within the meaning of the Public Utilities Street Works Act 1950; or
 - (e) by any person on whom a right to compensation under section 26 of that Act of 1950 is conferred.”; but nothing in this section shall be taken to prejudice the power of the Secretary of State under that Act of 1991 to make an order bringing section 82 of that Act into force on different days for different purposes (including the purposes of this section).

Textual Amendments

F1 Words in s. 209(3)(a) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 122** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Modifications etc. (not altering text)

C1 S. 209(3)(b) amended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(2)(m)**; S.I. 1996/218, **art. 2**

Marginal Citations

M1 1990 c. 8.
M2 1986 c. 44.
M3 1989 c. 29.
M4 1991 c. 22.
M5 1945 c. 28.
M6 1976 c. 30.
M7 1980 c. 58.
M8 1978 c. 47.
M9 1945 c. 28.

Status:

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