



# Water Resources Act 1991

## 1991 CHAPTER 57

### PART VII

#### LAND AND WORKS POWERS

### CHAPTER III

#### PROVISIONS SUPPLEMENTAL TO LAND AND WORK POWERS

#### *Vesting of pipes in the [F<sup>1</sup>Agency]*

#### Textual Amendments

- F1** Word in s. 175 cross-heading substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, Sch. 22 para. 128 (with ss. 7(6), 115, 117); S.I. 1996/186, art. 3

#### **175 Vesting of pipes in the [F<sup>2</sup>Agency].**

- (1) Subject to any provision to the contrary contained in an agreement between the [F<sup>2</sup>Agency] and the person in whom an interest in the pipe is or is to be vested, every pipe which—
- (a) is a relevant pipe for the purposes of section 159 or 160 above; and
  - (b) has been laid, in exercise of any power conferred by Chapter I of this Part or otherwise, by the [F<sup>2</sup>Agency],
- shall vest in the [F<sup>2</sup>Agency].
- (2) Subsection (1) above is without prejudice to the vesting of anything in the [F<sup>2</sup>Agency] by virtue of the exercise by the [F<sup>2</sup>Agency] of any power to acquire property by agreement or compulsorily.

*Status: Point in time view as at 01/04/2004.*

*Changes to legislation: There are currently no known outstanding effects for the Water Resources Act 1991, chapter III. (See end of Document for details)*

### Textual Amendments

- F2** Word in s. 175 and the sidenote substituted (subject to the other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

### *Offence of interference with works etc.*

## 176 Offence of interference with works etc.

- (1) Subject to subsection (2) below, if any person without the consent of the [<sup>F3</sup>Agency]—
- (a) intentionally or recklessly interferes with any resource main or other pipe vested in the [<sup>F3</sup>Agency] or with any structure, installation or apparatus belonging to the [<sup>F3</sup>Agency]; or
  - (b) by any act or omission negligently interferes with any such main or other pipe or with any such structure, installation or apparatus so as to damage it or so as to have an effect on its use or operation,
- that person shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.
- (2) A person shall not be guilty of an offence under subsection (1) above—
- (a) by reason of anything done in an emergency to prevent loss or damage to persons or property; or
  - (b) by reason of his opening or closing the stopcock fitted to a service pipe by means of which water is supplied to any premises by a water undertaker if—
    - (i) he has obtained the consent of every consumer whose supply is affected by the opening or closing of that stopcock or, as the case may be, of every other consumer whose supply is so affected; and
    - (ii) in the case of opening a stopcock, the stopcock was closed otherwise than by the undertaker.
- (3) Any person who without the consent of the [<sup>F3</sup>Agency]—
- (a) attaches any pipe or apparatus to any resource main or other pipe vested in the [<sup>F3</sup>Agency]; or
  - (b) subject to subsection (4) below, uses any pipe or apparatus which has been attached or altered in contravention of this section,
- shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.
- (4) In proceedings against any person for an offence by virtue of paragraph (b) of subsection (3) above it shall be a defence for that person to show that he did not know, and had no grounds for suspecting, that the pipe or apparatus in question had been attached or altered as mentioned in that subsection.
- (5) An offence under subsection (1) or (3) above shall constitute a breach of a duty owed to the [<sup>F3</sup>Agency]; and any such breach of duty which causes the [<sup>F3</sup>Agency] to sustain loss or damage shall be actionable at the suit of the [<sup>F3</sup>Agency].
- (6) The amount recoverable by virtue of subsection (5) above from a person who has committed an offence under subsection (3) above shall include such amount as may be reasonable in respect of any water wasted, misused or improperly consumed in consequence of the commission of the offence.

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(7) In this section “service pipe” and “stopcock” have the same meanings as in the <sup>M1</sup>Water Industry Act 1991, and “consumer” has the same meaning as in Part III of that Act.

**Textual Amendments**

**F3** Words in s. 176 substituted (subject to the other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

**Marginal Citations**

**M1** 1991 c. 56.

*Compensation etc. in respect of exercise of works powers*

**177 Compensation etc. in respect of exercise of works powers.**

Schedule 21 to this Act shall have effect for making provision for imposing obligations as to the payment of compensation in respect of the exercise of the powers conferred on the [<sup>F4</sup>Agency] by sections 159 to 167 above and otherwise for minimising the damage caused by the exercise of those powers.

**Textual Amendments**

**F4** Word in s. 177 substituted (subject to the other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

*Protective provisions*

**178 Protection for particular undertakings.**

Schedule 22 to this Act shall have effect for the protection of particular undertakings in connection with the carrying out of works and other activities by the [<sup>F5</sup>Agency].

**Textual Amendments**

**F5** Word in s. 178 substituted (subject to the other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

**179 Protective provisions in respect of flood defence works and watercourses etc.**

(1) Nothing in this Act shall confer power on any person to do anything, except with the consent of the person who so uses them, which interferes—

- (a) with any sluices, floodgates, groynes, sea defences or other works used by any person for draining, preserving or improving any land under any local statutory provision; or
- (b) with any such works used by any person for irrigating any land.

(2) Where the [<sup>F6</sup>Agency] proposes, otherwise than in exercise of any compulsory powers—

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- (a) to construct or alter any such inland waters in any internal drainage district as do not form part of a main river; or
  - (b) to construct or alter any works on or in any such inland waters,
- the [<sup>F6</sup>Agency] shall consult the internal drainage board for that district before doing so.
- (3) A consent for the purposes of subsection (1) above may be given subject to reasonable conditions but shall not be unreasonably withheld.
- (4) Any dispute—
- (a) as to whether anything done or proposed to be done interferes or will interfere as mentioned in subsection (1) above;
  - (b) as to whether any consent for the purposes of this section is being unreasonably withheld; or
  - (c) as to whether any condition subject to which any such consent has been given was reasonable,
- shall be referred to the arbitration of a single arbitrator to be appointed by agreement between the parties or, in default of agreement, by the President of the Institution of Civil Engineers.
- (5) The provisions of this section shall be without prejudice to the provisions of Schedule 22 to this Act.

#### **Textual Amendments**

**F6** Words in s. 179 substituted (subject to the other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

#### **Modifications etc. (not altering text)**

**C1** S. 179 applied (01.12.1991) by **Land Drainage Act 1991 (c. 59, SIF 73:1), ss. 67(2), 76(2).**

### **180 Power of navigation authorities etc to divert the Authority's watercourses.**

- (1) Where any watercourses under the control of the [<sup>F7</sup>Agency] pass under or interfere with, or with the improvement or alteration of, any river, canal, dock, harbour, basin or other work (including any towing-path adjacent thereto) which belongs to or is under the jurisdiction of any relevant authority, the relevant authority may, at their own expense and on substituting for those watercourses other equally effective watercourses—
- (a) take up, divert or alter the level of those watercourses; and
  - (b) do all such matters and things as may be necessary in connection with the works authorised to be done by them under this section.
- (2) If any question arises under this section between the [<sup>F7</sup>Agency] and any relevant authority as to whether any watercourses substituted or proposed to be substituted by the relevant authority for any existing watercourses are as effective as the existing watercourses, that question shall be referred to the arbitration of a single arbitrator appointed by agreement between the parties or, in default of agreement, by the President of the Institution of Civil Engineers on the application of either party.
- (3) In this section—

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“relevant authority” means any navigation authority, harbour authority or conservancy authority; and

“watercourse” has the same meaning as in Part IV of this Act.

#### Textual Amendments

**F7** Words in s.180 substituted (subject to the other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

### 181 Works in tidal lands etc.

- (1) Nothing in any of the provisions of this Part relating to any relevant works power shall authorise the [<sup>F8</sup>Agency] to carry out any works at any place below the place to which the tide flows at mean high water springs, except in accordance with such plans and sections, and subject to such restrictions, as may, before the works are commenced, have been approved by the Secretary of State.
- (2) An approval for the purposes of subsection (1) above shall be given to the [<sup>F8</sup>Agency] by the service on the [<sup>F8</sup>Agency] of a notice containing the approval.
- (3) Section 38 of the <sup>M2</sup>Salmon and Freshwater Fisheries Act 1975 (tidal lands etc.) shall apply to any proposed construction, alteration or extension under section 156 above as it applies to any proposed construction, alteration or extension under that Act.
- (4) Section 74 of the <sup>M3</sup>Land Drainage Act 1991 (application to Crown and tidal lands), so far as it relates to lands below the high-water mark of ordinary spring tides shall apply, as it applies in relation to that Act, to the flood defence provisions of this Act.
- (5) In subsection (1) above the reference to a relevant works power is a reference to a power conferred by any of sections 159, 160, 162(2) and (3) and 163 above.

#### Textual Amendments

**F8** Words in s. 181 substituted (subject to the other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

#### Marginal Citations

**M2** 1975 c. 51.

**M3** 1991 c. 59.

### 182 Mineral rights.

Schedule 23 to this Act (which makes provision with respect to the acquisition of mineral rights by the [<sup>F9</sup>Agency] and with respect to the working of mines and minerals where pipes, sewers or other related works are affected) shall have effect and, in the case of the compulsory acquisition of land by virtue of this Act, shall have effect instead of Schedule 2 to the <sup>M4</sup>Acquisition of Land Act 1981 (mineral rights etc. in relation to compulsory purchase orders).

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#### Textual Amendments

- F9** Word in s. 182 substituted (subject to the other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

#### Marginal Citations

- M4** 1981 c. 67.

### 183 Saving for planning controls etc.

- (1) Without prejudice to the operation of section 90 of the <sup>M5</sup>Town and Country Planning Act 1990 (planning permission deemed to be granted in certain cases) in relation to any provision made by or under this Act or any other enactment which by virtue of this Act or the <sup>M6</sup>Water Act 1989 relates to the functions of the [<sup>F10</sup>Agency], nothing in this Act or in any such enactment shall be construed as authorising the carrying out of any development (within the meaning of that Act of 1990) without the grant of such planning permission as may be required by that Act of 1990.
- (2) Nothing in the flood defence provisions of this Act shall authorise any person to carry out any works or do anything in contravention of any of the provisions of the <sup>M7</sup>Ancient Monuments and Archaeological Areas Act 1979.

#### Textual Amendments

- F10** Word in s. 183 substituted (subject to the other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

#### Modifications etc. (not altering text)

- C2** S. 183 applied (01.12.1991) by Land Drainage Act 1991 (c. 59, SIF 73:1), **ss. 67(2), 76(2)**.

#### Marginal Citations

- M5** 1990 c. 8.  
**M6** 1989 c. 15.  
**M7** 1979 c. 46.

### 184 Duties to make recreational facilities available when building reservoirs in Wales.

- (1) Where the [<sup>F11</sup>Agency] carries out any works for or in connection with the construction or operation of a reservoir in Wales which—
  - (a) permanently affect one or more communities; and
  - (b) are not primarily intended by the [<sup>F11</sup>Agency] to benefit the inhabitants of that or those communities,
 it shall be the duty of the [<sup>F11</sup>Agency] to make available facilities for recreation or other leisure-time occupation for the benefit of those inhabitants or to assist others to make such facilities available.
- (2) It shall be the duty of the [<sup>F11</sup>Agency], in performing its duty under subsection (1) above, to consult—

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- (a) the community councils of the communities affected, in the case of communities having such councils; and
- (b) in any case, the council of any [<sup>F12</sup>county or county borough] in which any community affected is situated.

#### Textual Amendments

**F11** Words in s. 184 substituted (subject to the other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

**F12** Words in s. 184(2)(b) substituted (1.4.1996) by 1994 c. 19, s. 22(5), **Sch. 11**, para. 3(5) (with ss. 54(4) (7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**

#### *Savings in respect of existing drainage obligations*

### **185 Savings in respect of existing drainage obligations.**

- (1) Nothing in the flood defence provisions of this Act shall operate to release any person from an obligation to which section 21 of the <sup>M8</sup>Land Drainage Act 1991 applies.
- (2) The functions of the [<sup>F13</sup>Agency] as respects the doing of any work under the flood defence provisions of this Act are not to be treated as in any way limited by the fact that some other person is under an obligation, by reason of tenure, custom, prescription or otherwise, to do that work.

#### Textual Amendments

**F13** Word in s. 185 substituted (subject to the other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

#### Marginal Citations

**M8** 1991 c. 59.

#### *Interpretation of Part VII*

### **186 Interpretation of Part VII.**

- (1) In this Part—
  - “discharge pipe” means a pipe from which discharges are or are to be made under section 163 above;
  - “resource main” means any pipe, not being a trunk main within the meaning of the <sup>M9</sup>Water Industry Act 1991, which is or is to be used for the purpose of—
    - (a) conveying water from one source of supply to another, from a source of supply to a regulating reservoir or from a regulating reservoir to a source of supply; or
    - (b) giving or taking a supply of water in bulk.
- (2) In subsection (1) above—
  - “source of supply” shall be construed without reference to the definition of that expression in section 221 below; and
  - “supply of water in bulk” has the same meaning as in section 3 above.

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*Changes to legislation: There are currently no known outstanding effects for the Water Resources Act 1991, chapter III. (See end of Document for details)*

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- (3) The powers conferred by Chapter I of this Part shall be without prejudice to the powers conferred on the [<sup>F14</sup>Agency] by any other enactment or by any agreement.

**Textual Amendments**

**F14** Word in s. 186 substituted (subject to the other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

**Marginal Citations**

**M9** 1991 c. 56.



**Status:**

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**Changes to legislation:**

There are currently no known outstanding effects for the Water Resources Act 1991, chapter III.