



# Water Industry Act 1991

## 1991 CHAPTER 56

### PART III

#### WATER SUPPLY

### CHAPTER II

#### SUPPLY DUTIES

##### *Major supplies*

#### [<sup>F1</sup>40] **Bulk supplies.**

- (1) This section applies where—
  - (a) a qualifying person requests a water undertaker to provide a supply of water in bulk to the qualifying person, or
  - (b) a water undertaker proposes such an arrangement;and references in this section to the supplier are references to the water undertaker who is to provide the supply of water.
- (2) In this section “qualifying person” means—
  - (a) a water undertaker;
  - (b) a person who has made an application for an appointment or variation under section 8 which has not been determined.
- (3) On the application of the qualifying person or the supplier, the Authority may—
  - (a) if it appears to the Authority that it is necessary or expedient for the purposes of securing the efficient use of water resources, or the efficient supply of water, that the supplier should give a supply of water in bulk to the qualifying person, and
  - (b) if the Authority is satisfied that the supplier and qualifying person cannot reach agreement within a reasonable time,

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by order require the supplier to give and the qualifying person to take a supply of water in bulk for such period and on such terms and conditions as may be specified in the order.

- (4) Before making an order under subsection (3), the Authority must consult the appropriate agency, in particular about whether the proposed supply of water would secure an efficient use of water resources, taking into account the effect on the environment of the proposed supply.
- (5) Subject to subsection (6), an order under subsection (3) has effect as an agreement between the supplier and the qualifying person.
- (6) If the Authority makes an order under subsection (3) that affects a person who is a qualifying person by virtue of subsection (2)(b), the Authority must frame the order so that it does not have effect until—
  - (a) the person becomes a water undertaker for the area specified in the order, or
  - (b) the person becomes a water undertaker for an area that includes the area specified in the order (in the case of a water undertaker applying for a variation).
- (7) Neither the CMA nor the Authority may exercise, in respect of an agreement for the supply of water in bulk by a water undertaker to a qualifying person, the powers conferred by—
  - (a) section 32 of the Competition Act 1998 (directions in relation to agreements);
  - (b) section 35(2) of that Act (interim directions).
- (8) Subsection (7)(b) does not apply to the exercise of powers in respect of conduct—
  - (a) which is connected with an agreement for the supply of water in bulk by a water undertaker to a qualifying person, and
  - (b) in respect of which section 35(1) of the Competition Act 1998 applies because of an investigation under section 25 of that Act relating to a suspected infringement of the Chapter 2 prohibition imposed by section 18(1) of that Act.
- (9) In exercising its functions under this section, the Authority must have regard to the desirability of—
  - (a) facilitating effective competition within the water supply industry;
  - (b) the supplier's recovering the expenses of complying with its obligations by virtue of this section and securing a reasonable return on its capital;
  - (c) the supplier's being able to meet its existing obligations, and likely future obligations, to supply water without having to incur unreasonable expenditure in carrying out works;
  - (d) not putting at risk the ability of the supplier to meet its existing obligations, or likely future obligations, to supply water.
- (10) In this section and section 40A “the appropriate agency”, in relation to a determination whether to make an order under subsection (3) or section 40A(1) which would result in, or which would vary or terminate, a bulk supply agreement, means—
  - (a) the Environment Agency, in a case where all parties to the bulk supply agreement are or would be—
    - (i) a water undertaker whose area is wholly in England, or

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- (ii) a person who would, if the person's application for an appointment or variation is determined in accordance with the application, be such a water undertaker;
  - (b) the NRBW, in a case where all parties to the bulk supply agreement are or would be—
    - (i) a water undertaker whose area is wholly in Wales, or
    - (ii) a person who would, if the person's application for an appointment or variation is determined in accordance with the application, be such a water undertaker;
  - (c) both the Environment Agency and the NRBW, in any other case.
- (11) In this section and sections 40A to 40J “bulk supply agreement” means an agreement with one or more water undertakers for the supply of water in bulk and includes—
- (a) an order under subsection (3) which is deemed to be an agreement by virtue of subsection (5), and
  - (b) any agreement which has been varied by order under section 40A(1).]

#### Textual Amendments

- F1** Ss. 40-40J substituted for ss. 40, 40A (6.4.2015 for the insertion of s. 40J, 1.11.2016 for the insertion of s. 40E for specified purposes and s. 40I, 1.4.2018 for E. for specified purposes, 1.4.2019 for W. in so far as not already in force) by [Water Act 2014 \(c. 21\)](#), [ss. 8\(1\), 94\(3\)](#) (with s. 8(2)); [S.I. 2015/773](#), [art. 2\(1\)\(a\)\(i\)](#) (with art. 4); [S.I. 2016/1007](#), [art. 2\(b\)](#); [S.I. 2017/1288](#), [art. 3\(a\)](#); [S.I. 2018/397](#), [art. 2\(a\)](#)

#### [<sup>F1</sup>40A Variation and termination of bulk supply agreements.

- (1) On the application of any party to a bulk supply agreement, the Authority may—
  - (a) if it appears to the Authority that it is necessary or expedient for the purpose of securing the efficient use of water resources, or the efficient supply of water, that the bulk supply agreement should be varied or terminated, and
  - (b) if the Authority is satisfied that variation or termination cannot be achieved by agreement within a reasonable time,by order vary or terminate the bulk supply agreement.
- (2) Before making an order under subsection (1), the Authority must consult the appropriate agency, in particular about whether the proposed variation or termination of the bulk supply agreement would secure an efficient use of water resources, taking into account the effect on the environment of what is proposed.
- (3) If an order under subsection (1) is made in relation to a bulk supply agreement, the agreement—
  - (a) has effect subject to the provision made by the order, or
  - (b) ceases to have effect (as the case may be).
- (4) An order under subsection (1) may require any party to the agreement to pay compensation to any other party.
- (5) Neither the CMA nor the Authority may exercise, in respect of an agreement to vary or terminate a bulk supply agreement, the powers conferred by—
  - (a) section 32 of the Competition Act 1998 (directions in relation to agreements);
  - (b) section 35(2) of that Act (interim directions).

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- (6) Subsection (5)(b) does not apply to the exercise of powers in respect of conduct—
- (a) which is connected with an agreement to vary or terminate a bulk supply agreement, and
  - (b) in respect of which section 35(1) of the Competition Act 1998 applies because of an investigation under section 25 of that Act relating to a suspected infringement of the Chapter 2 prohibition imposed by section 18(1) of that Act.
- (7) In exercising its functions under this section, the Authority must have regard to the expenses incurred by the supplier in complying with its obligations under the bulk supply agreement in question and to the desirability of—
- (a) facilitating effective competition within the water supply industry;
  - (b) the supplier's recovering the expenses of complying with its obligations by virtue of this section and securing a reasonable return on its capital;
  - (c) the supplier's being able to meet its existing obligations, and likely future obligations, to supply water without having to incur unreasonable expenditure in carrying out works;
  - (d) not putting at risk the ability of the supplier to meet its existing obligations, or likely future obligations, to supply water.
- (8) In this section and sections 40B to 40J—
- “qualifying person” has the meaning given by section 40;
- “supplier”, in relation to a bulk supply agreement, means any water undertaker which is required by the agreement to provide a bulk supply of water.]

#### Textual Amendments

- F1** Ss. 40-40J substituted for ss. 40, 40A (6.4.2015 for the insertion of s. 40J, 1.11.2016 for the insertion of s. 40E for specified purposes and s. 40I, 1.4.2018 for E. for specified purposes, 1.4.2019 for W. in so far as not already in force) by [Water Act 2014 \(c. 21\)](#), ss. [8\(1\)](#), [94\(3\)](#) (with s. [8\(2\)](#)); S.I. [2015/773](#), art. [2\(1\)\(a\)\(i\)](#) (with art. [4](#)); S.I. [2016/1007](#), art. [2\(b\)](#); S.I. [2017/1288](#), art. [3\(a\)](#); S.I. [2018/397](#), art. [2\(a\)](#)

#### [<sup>F1</sup>40B Codes in respect of bulk supply agreements

- (1) The Authority may issue one or more codes in respect of bulk supply agreements.
- (2) A code may make provision about—
- (a) procedures in connection with making a bulk supply agreement;
  - (b) procedures in connection with varying or terminating a bulk supply agreement;
  - (c) procedures to be followed by the Authority in determining whether to make an order under section 40(3) or 40A(1);
  - (d) the terms and conditions of a bulk supply agreement, including terms as to the duration of such an agreement;
  - (e) principles for determining the terms and conditions that should or should not be incorporated into a bulk supply agreement;
  - (f) the steps to be taken by the Authority in determining whether a person is complying with a code.

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- (3) A code must include provision requiring persons proposing to make, vary or terminate a bulk supply agreement to consult the appropriate agency.
- (4) If the Authority considers that a water undertaker is not acting as required by a code, the Authority may give the undertaker a direction to do, or not to do, a particular thing specified in the direction.
- (5) The Authority may not give a direction under subsection (4) requiring a person to enter into, vary or terminate an agreement.
- (6) It is the duty of a water undertaker to comply with a direction under subsection (4), and this duty is enforceable by the Authority under section 18.
- (7) A code may make different provision for different persons or different descriptions of person.
- (8) The Authority may from time to time revise a code issued under this section and issue a revised code.
- (9) A revised code may include provision for applying any of its revisions to bulk supply agreements made before the revised code comes into force.
- (10) In this section “the appropriate agency”, in relation to a bulk supply agreement or proposed bulk supply agreement, means the body that would be consulted by the Authority under section 40(4) or 40A(2) if an order under section 40(3) or 40A(1) were being considered in relation to the agreement or proposed agreement.

#### Textual Amendments

- F1** Ss. 40-40J substituted for ss. 40, 40A (6.4.2015 for the insertion of s. 40J, 1.11.2016 for the insertion of s. 40E for specified purposes and s. 40I, 1.4.2018 for E. for specified purposes, 1.4.2019 for W. in so far as not already in force) by [Water Act 2014 \(c. 21\)](#), [ss. 8\(1\), 94\(3\)](#) (with s. 8(2)); [S.I. 2015/773](#), [art. 2\(1\)\(a\)\(i\)](#) (with art. 4); [S.I. 2016/1007](#), [art. 2\(b\)](#); [S.I. 2017/1288](#), [art. 3\(a\)](#); [S.I. 2018/397](#), [art. 2\(a\)](#)

#### 40C Codes under section 40B: procedure

- (1) Before issuing a code under section 40B, the Authority must—
  - (a) prepare a draft of the proposed code under section 40B;
  - (b) consult the appropriate agency;
  - (c) consult such other persons about the proposed code as it considers appropriate.
- (2) The Authority must specify the period (“the consultation period”) within which persons may make representations about the proposed code.
- (3) Before a code under section 40B prepared by the Authority is issued, the Minister may direct the Authority—
  - (a) not to issue the code, or
  - (b) to issue the code with specified modifications.
- (4) Subsection (3) is subject to subsections (6) and (7).
- (5) In subsection (3) “the Minister” means—
  - (a) the Secretary of State, so far as a code prepared by the Authority relates to bulk supply agreements to which all parties are—

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- (i) a water undertaker whose area is wholly or mainly in England, or
  - (ii) a person who would, if the person's application for an appointment or variation is determined in accordance with the application, be such a water undertaker;
  - (b) the Welsh Ministers, so far as a code prepared by the Authority relates to bulk supply agreements to which all parties are—
    - (i) a water undertaker whose area is wholly or mainly in Wales, or
    - (ii) a person who would, if the person's application for an appointment or variation is determined in accordance with the application, be such a water undertaker;
  - (c) the Secretary of State and the Welsh Ministers acting jointly, so far as a code prepared by the Authority relates to bulk supply agreements to which—
    - (i) a person falling within paragraph (a)(i) or (ii) is party, and
    - (ii) a person falling within paragraph (b)(i) or (ii) is party.
- (6) If the power under subsection (3) is exercised to give a direction in respect of such bulk supply agreements as are referred to in paragraph (a), (b) or (c) of subsection (5), it may not be exercised again in respect of such bulk supply agreements as are referred to in that paragraph.
- (7) If the power under subsection (3) to give a direction in respect of such bulk supply agreements as are referred to in paragraph (a), (b) or (c) of subsection (5) is not exercised on the first occasion on which it may be so exercised, it may not be exercised in respect of such bulk supply agreements as are referred to in that paragraph on a later occasion.
- (8) A direction under subsection (3) must be given within the period of 28 days beginning with the day after the end of the consultation period, and a code prepared by the Authority in relation to which a direction may be given may not be issued before that period of 28 days has expired.
- (9) In this section “the appropriate agency” means—
- (a) the Environment Agency, so far as a proposed code relates to bulk supply agreements to which all parties are persons mentioned in section 40(10)(a)(i) or (ii);
  - (b) the NRBW, so far as a proposed code relates to bulk supply agreements to which all parties are persons mentioned in section 40(10)(b)(i) or (ii);
  - (c) both the Environment Agency and the NRBW, in any other case.
- (10) This section is subject to section 40D.

#### Textual Amendments

**F1** Ss. 40-40J substituted for ss. 40, 40A (6.4.2015 for the insertion of s. 40J, 1.11.2016 for the insertion of s. 40E for specified purposes and s. 40I, 1.4.2018 for E. for specified purposes, 1.4.2019 for W. in so far as not already in force) by [Water Act 2014 \(c. 21\)](#), [ss. 8\(1\), 94\(3\)](#) (with [s. 8\(2\)](#)); [S.I. 2015/773](#), [art. 2\(1\)\(a\)\(i\)](#) (with [art. 4](#)); [S.I. 2016/1007](#), [art. 2\(b\)](#); [S.I. 2017/1288](#), [art. 3\(a\)](#); [S.I. 2018/397](#), [art. 2\(a\)](#)

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#### **40D Codes under section 40B: minor or urgent revisions**

- (1) This section applies if the Authority proposes to issue a revised code under section 40B and, in the view of the Authority, the revision or each of the revisions proposed to be made is—
  - (a) a revision for which consultation is unnecessary, or
  - (b) a revision that it is necessary or desirable to make without delay.
- (2) Section 40C does not apply to the proposed revised code.
- (3) Once the Authority has issued the revised code, it must give notice as soon as reasonably practicable of—
  - (a) the issuing of the revised code, and
  - (b) as regards each revision contained in it, whether in the view of the Authority the revision falls within paragraph (a) or (b) of subsection (1).
- (4) Notice under subsection (3) is to be given to such persons as the Authority considers appropriate.
- (5) Unless the Authority gives notice that a revision in a revised code is in the view of the Authority a revision falling within subsection (1)(a), the revision ceases to have effect at the end of the period of six months beginning with the day after that on which the revised code is issued.

#### **Textual Amendments**

- F1** *Ss. 40-40J* substituted for *ss. 40, 40A* (6.4.2015 for the insertion of s. 40J, 1.11.2016 for the insertion of s. 40E for specified purposes and s. 40I, 1.4.2018 for E. for specified purposes, 1.4.2019 for W. in so far as not already in force) by *Water Act 2014 (c. 21)*, **ss. 8(1), 94(3)** (with s. 8(2)); *S.I. 2015/773*, **art. 2(1)(a)(i)** (with **art. 4**); *S.I. 2016/1007*, **art. 2(b)**; *S.I. 2017/1288*, **art. 3(a)**; *S.I. 2018/397*, **art. 2(a)**

#### **40E Rules about charges for the supply of water in bulk**

- (1) The Authority may issue rules about charges that may be imposed by a water undertaker under a bulk supply agreement.
- (2) The rules may in particular make provision about—
  - (a) what types of charge may be imposed;
  - (b) the amount or the maximum amount, or a method for determining the amount or maximum amount, of any type of charge;
  - (c) principles for determining what types of charge may or may not be imposed;
  - (d) principles for determining the amount of any charge that may be imposed;
  - (e) publication of the charges that may be imposed.
- (3) If the Authority considers that a water undertaker is not acting as required by rules under this section, the Authority may give the undertaker a direction to do, or not to do, a particular thing specified in the direction.
- (4) It is the duty of a water undertaker to comply with a direction under subsection (3), and this duty is enforceable by the Authority under section 18.
- (5) The rules may—

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- (a) make different provision for different water undertakers or different descriptions of water undertaker;
  - (b) make different provision for different purposes;
  - (c) make provision subject to exceptions.
- (6) The Authority may from time to time revise rules issued under this section and issue revised rules.
- (7) The Authority must issue revised rules if—
- (a) guidance is issued under section 40I, and
  - (b) the Authority, having regard to that guidance, considers that it is appropriate to revise the rules.
- (8) Revised rules may include provision for applying any of their revisions to bulk supply agreements made before the revised rules come into effect.

#### Textual Amendments

- F1** Ss. 40-40J substituted for ss. 40, 40A (6.4.2015 for the insertion of s. 40J, 1.11.2016 for the insertion of s. 40E for specified purposes and s. 40I, 1.4.2018 for E. for specified purposes, 1.4.2019 for W. in so far as not already in force) by [Water Act 2014 \(c. 21\)](#), [ss. 8\(1\), 94\(3\)](#) (with s. 8(2)); [S.I. 2015/773](#), [art. 2\(1\)\(a\)\(i\)](#) (with art. 4); [S.I. 2016/1007](#), [art. 2\(b\)](#); [S.I. 2017/1288](#), [art. 3\(a\)](#); [S.I. 2018/397](#), [art. 2\(a\)](#)

#### 40F Rules under section 40E: provision about the reduction of charges

- (1) Rules under section 40E may provide for the reduction of charges payable for a supply of water under a bulk supply agreement where conditions specified by the rules are satisfied.
- (2) Rules made by virtue of subsection (1) may in particular—
- (a) specify conditions that affect any party to a bulk supply agreement;
  - (b) require that steps be taken for the purpose of reducing or managing water consumption;
  - (c) specify conditions about reducing charges payable by a person who—
    - (i) is not party to the agreement, and
    - (ii) takes or proposes to take such steps as satisfy or would satisfy a condition falling within paragraph (b).
- (3) The rules may provide that, where a charge falls to be reduced in accordance with rules made by virtue of subsection (1), the water undertaker to which the charges are payable must give notice of that reduction to the Authority.
- (4) Rules made by virtue of subsection (3) may—
- (a) make provision as to the content of the notice;
  - (b) specify the period within which an undertaker is to give notice to the Authority.
- (5) Provision under subsection (4)(a) may in particular require the notice to specify—
- (a) the provision of the rules that brings about the reduction in the charge;
  - (b) the amount of the charge, with and without the reduction;
  - (c) the period for which the reduction has effect.



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### Textual Amendments

**F1** Ss. 40-40J substituted for ss. 40, 40A (6.4.2015 for the insertion of s. 40J, 1.11.2016 for the insertion of s. 40E for specified purposes and s. 40I, 1.4.2018 for E. for specified purposes, 1.4.2019 for W. in so far as not already in force) by [Water Act 2014 \(c. 21\)](#), **ss. 8(1), 94(3)** (with s. 8(2)); S.I. 2015/773, art. 2(1)(a)(i) (with art. 4); S.I. 2016/1007, art. 2(b); S.I. 2017/1288, art. 3(a); S.I. 2018/397, art. 2(a)

## 40G Rules under section 40E: procedure

- (1) Before issuing rules under section 40E, the Authority must—
  - (a) prepare a draft of the proposed rules, and
  - (b) consult such persons about the proposed rules as it thinks appropriate.
- (2) The Authority must specify the period (“the consultation period”) within which persons may make representations about the proposed rules.
- (3) The Authority must have regard to guidance issued under section 40I in making rules under section 40E.
- (4) Before rules under section 40E prepared by the Authority are issued, the Minister may direct the Authority not to issue the rules.
- (5) In subsection (4) “the Minister” means—
  - (a) the Secretary of State, so far as rules prepared by the Authority relate to bulk supply agreements to which all parties are—
    - (i) a water undertaker whose area is wholly or mainly in England, or
    - (ii) a person who would, if the person's application for an appointment or variation is determined in accordance with the application, be such a water undertaker;
  - (b) the Welsh Ministers, so far as rules prepared by the Authority relate to bulk supply agreements to which all parties are—
    - (i) a water undertaker whose area is wholly or mainly in Wales, or
    - (ii) a person who would, if the person's application for an appointment or variation is determined in accordance with the application, be such a water undertaker;
  - (c) the Secretary of State and the Welsh Ministers acting jointly, so far as rules prepared by the Authority relate to bulk supply agreements to which—
    - (i) a person falling within paragraph (a)(i) or (ii) is party, and
    - (ii) a person falling within paragraph (b)(i) or (ii) is party.
- (6) A direction under subsection (4) must be given within the period of 28 days beginning with the day after the end of the consultation period, and rules may not be issued before that period of 28 days has expired.
- (7) This section is subject to section 40H.

### Textual Amendments

**F1** Ss. 40-40J substituted for ss. 40, 40A (6.4.2015 for the insertion of s. 40J, 1.11.2016 for the insertion of s. 40E for specified purposes and s. 40I, 1.4.2018 for E. for specified purposes, 1.4.2019 for W. in

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so far as not already in force) by [Water Act 2014 \(c. 21\)](#), **ss. 8(1), 94(3)** (with s. 8(2)); S.I. 2015/773, art. 2(1)(a)(i) (with art. 4); S.I. 2016/1007, art. 2(b); S.I. 2017/1288, art. 3(a); S.I. 2018/397, art. 2(a)

#### 40H Rules under section 40E: minor or urgent revisions

- (1) This section applies if the Authority proposes to issue revised rules under section 40E and, in the view of the Authority, the revision or each of the revisions proposed to be made is—
  - (a) a revision for which consultation is unnecessary, or
  - (b) a revision that it is necessary or desirable to make without delay.
- (2) Section 40G does not apply to the proposed revised rules.
- (3) Before issuing the revised rules, the Authority must give notice to the Minister of its intention to issue revised rules.
- (4) Before the revised rules are issued, the Minister may direct the Authority not to issue the revised rules.
- (5) A direction under subsection (4) must be given within the period of 14 days beginning with the day after the day on which notice is given under subsection (3), and the Authority may not issue the revised rules in question before—
  - (a) that period of 14 days expires, or
  - (b) the Minister notifies the Authority that no direction under subsection (4) will be given in relation to the revised rules,
 whichever is the sooner.
- (6) Once the Authority has issued the revised rules, it must give notice as soon as reasonably practicable of—
  - (a) the issuing of the revised rules, and
  - (b) as regards each revision contained in them, whether in the view of the Authority the revision falls within paragraph (a) or (b) of subsection (1).
- (7) Notice under subsection (6) is to be given to such persons as the Authority considers appropriate.
- (8) Unless the Authority gives notice that a revision in revised rules is in the view of the Authority a revision falling within subsection (1)(a), the revision ceases to have effect at the end of the period of six months beginning with the day after that on which the revised rules are issued.
- (9) In this section “the Minister” has the meaning given by section 40G.

#### Textual Amendments

**F1** [Ss. 40-40J](#) substituted for [ss. 40, 40A](#) (6.4.2015 for the insertion of s. 40J, 1.11.2016 for the insertion of s. 40E for specified purposes and s. 40I, 1.4.2018 for E. for specified purposes, 1.4.2019 for W. in so far as not already in force) by [Water Act 2014 \(c. 21\)](#), **ss. 8(1), 94(3)** (with s. 8(2)); S.I. 2015/773, art. 2(1)(a)(i) (with art. 4); S.I. 2016/1007, art. 2(b); S.I. 2017/1288, art. 3(a); S.I. 2018/397, art. 2(a)

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#### **40I Rules under section 40E: guidance**

- (1) The Minister may issue guidance as to the content of rules under section 40E.
- (2) Before issuing the guidance, the Minister must—
  - (a) prepare a draft of the proposed guidance;
  - (b) consult the relevant persons about the draft.
- (3) The relevant persons are—
  - (a) the Secretary of State;
  - (b) the Welsh Ministers;
  - (c) such other persons as the Minister thinks appropriate.
- (4) The Minister may from time to time revise the guidance and issue revised guidance.
- (5) Subsections (2) and (3) apply to revised guidance as they apply to the original guidance.
- (6) The Minister must arrange for the publication of guidance issued under this section.
- (7) In this section “the Minister” means—
  - (a) the Secretary of State, in relation to bulk supply agreements to which all parties are—
    - (i) a water undertaker whose area is wholly or mainly in England, or
    - (ii) a person who would, if the person's application for an appointment or variation is determined in accordance with the application, be such a water undertaker;
  - (b) the Welsh Ministers, in relation to bulk supply agreements to which all parties are—
    - (i) a water undertaker whose area is wholly or mainly in Wales, or
    - (ii) a person who would, if the person's application for an appointment or variation is determined in accordance with the application, be such a water undertaker;
  - (c) the Secretary of State and the Welsh Ministers acting jointly, in relation to bulk supply agreements to which—
    - (i) a person falling within paragraph (a)(i) or (ii) is party, and
    - (ii) a person falling within paragraph (b)(i) or (ii) is party.

#### **Textual Amendments**

- F1** Ss. 40-40J substituted for ss. 40, 40A (6.4.2015 for the insertion of s. 40J, 1.11.2016 for the insertion of s. 40E for specified purposes and s. 40I, 1.4.2018 for E. for specified purposes, 1.4.2019 for W. in so far as not already in force) by [Water Act 2014 \(c. 21\)](#), [ss. 8\(1\), 94\(3\)](#) (with [s. 8\(2\)](#)); [S.I. 2015/773](#), [art. 2\(1\)\(a\)\(i\)](#) (with [art. 4](#)); [S.I. 2016/1007](#), [art. 2\(b\)](#); [S.I. 2017/1288](#), [art. 3\(a\)](#); [S.I. 2018/397](#), [art. 2\(a\)](#)

#### **40J Duty to provide information about bulk supplies**

- (1) A supplier under a bulk supply agreement must provide such information as the appropriate agency may request in relation to water supplied under the agreement.
- (2) The requirement in subsection (1) is enforceable by the Authority under section 18.

*Status: Point in time view as at 11/10/2023.*

*Changes to legislation: Water Industry Act 1991, chapter II is up to date with all changes known to be in force on or before 03 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)*

- (3) In subsection (1) “the appropriate agency” means the body that would be consulted by the Authority under section 40A(2) if the agreement were to be varied or terminated by an order under section 40A(1).]

#### Textual Amendments

- F1** Ss. 40-40J substituted for ss. 40, 40A (6.4.2015 for the insertion of s. 40J, 1.11.2016 for the insertion of s. 40E for specified purposes and s. 40I, 1.4.2018 for E. for specified purposes, 1.4.2019 for W. in so far as not already in force) by Water Act 2014 (c. 21), ss. 8(1), 94(3) (with s. 8(2)); S.I. 2015/773, art. 2(1)(a)(i) (with art. 4); S.I. 2016/1007, art. 2(b); S.I. 2017/1288, art. 3(a); S.I. 2018/397, art. 2(a)

#### 41 Duty to comply with water main requisition.

- (1) It shall be the duty of a water undertaker (in accordance with section 44 below) to provide a water main to be used for providing such supplies of water to premises in a particular locality in its area as (so far as those premises are concerned) are sufficient for domestic purposes, if-
- (a) the undertaker is required to provide the main by a notice served on the undertaker by one or more of the persons who under subsection (2) below are entitled to require the provision of the main for that locality;
  - (b) the premises in that locality to which those supplies would be provided by means of that main are—
    - (i) premises consisting in buildings or parts of buildings; or
    - (ii) premises which will so consist when proposals made by any person for the erection of buildings or parts of buildings are carried out;
 and
  - (c) the conditions specified in section 42 below are satisfied in relation to that requirement.
- (2) Each of the following persons shall be entitled to require the provision of a water main for any locality, that is to say—
- (a) the owner of any premises in that locality;
  - (b) the occupier of any premises in that locality;
  - (c) any local authority within whose area the whole or any part of that locality is situated;
  - [<sup>F2</sup>(ca) where the whole or any part of that locality is situated within a Mayoral development area, the Mayoral development corporation;]
  - (d) where the whole or any part of that locality is situated in a new town, within the meaning of the <sup>M1</sup>New Towns Act 1981—
    - (i) the [<sup>F3</sup>new towns residuary body]; and
    - (ii) <sup>F4</sup>. . . the development corporation for the new town, <sup>F4</sup>. . . ;
 and
  - (e) where the whole or any part of that locality is situated within an area designated as an urban development area under Part XVI of the <sup>M2</sup>Local Government, Planning and Land Act 1980, the urban development corporation.

<sup>F5</sup>(2A) . . . . .

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- (3) The duty of a water undertaker under this section to provide a water main shall be owed to the person who requires the provision of the main or, as the case may be, to each of the persons who joins in doing so.
- (4) Where a duty is owed by virtue of subsection (3) above to any person, any breach of that duty which causes that person to sustain loss or damage shall be actionable at the suit of that person; but, in any proceedings brought against a water undertaker in pursuance of this subsection, it shall be a defence for the undertaker to show that it took all reasonable steps and exercised all due diligence to avoid the breach.
- (5) In this section “local authority”, in relation to the Inner Temple and the Middle Temple, includes, respectively, the Sub-Treasurer of the Inner Temple and the Under-Treasurer of the Middle Temple.

#### Textual Amendments

- F2** S. 41(2)(ca) inserted (15.1.2012) by [Localism Act 2011 \(c. 20\), s. 240\(1\)\(l\), Sch. 22 para. 40](#)
- F3** Words in s. 41(2)(d)(i) substituted (1.12.2008) by [Housing and Regeneration Act 2008 \(c. 17\), ss. 56, 325, Sch. 8 para. 56; S.I. 2008/3068, art. 2\(1\)\(w\)](#) (with savings and transitional provisions in arts. 6-13)
- F4** Words in s. 41(2)(d)(ii) repealed (1.10.1998) by [1998 c. 38, s. 152, Sch. 18 Pt.IV](#) (with ss. 137(1), 139(2), 143(2)); [S.I. 1998/2244, art. 4](#)
- F5** S. 41(2A) omitted (E.) (31.10.2021) by virtue of [The Water and Sewerage Undertakers \(Exit from Non-household Retail Market\) \(Consequential Provision\) Regulations 2021 \(S.I. 2021/1208\), regs. 1\(2\), 2\(2\)](#)

#### Marginal Citations

- M1** 1981 c. 64.
- M2** 1980 c. 65.

## 42 Financial conditions of compliance.

- (1) The conditions mentioned in section 41(1)(c) above are satisfied in relation to a requirement for the provision of a water main by a water undertaker if—
  - (a) such undertakings as the undertaker may have reasonably required in accordance with subsection (2) below have been given by the person or persons who have required the provision of the main; and
  - (b) [<sup>F6</sup>such security as charging rules allow and the undertaker may have required] has been provided for the discharge of any obligations imposed by those undertakings on any person who, under subsection (3) below, may be required to secure his undertakings.
- (2) The undertakings which a water undertaker may require for the purposes of subsection (1) above in respect of any water main are undertakings which—
  - [<sup>F7</sup>(a) bind the person or persons mentioned in that subsection to pay to the undertaker such charges as the undertaker may impose in accordance with charging rules, and]
  - (b) in the case of undertakings binding two or more persons, bind them either jointly and severally or with liability to pay apportioned in such manner as they may agree.

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- (3) For the purposes of subsection (1)(b) above a person may be required to secure his undertakings in relation to the provision of a water main if—
- (a) it was by virtue of section 41(2)(a) or (b) above that he required, or joined in requiring, the provision of the main; and
  - (b) he is not a public authority.

<sup>F8</sup>(4) .....

<sup>F9</sup>(5) .....

- (6) Any dispute between a water undertaker and any other person as to—
- (a) the undertakings or security required by the undertaker for the purposes of this section; or
  - (b) the amount [<sup>F10</sup>or amounts by way of charges] required to be paid in pursuance of any such undertaking,

[<sup>F11</sup>may be referred to the Authority for determination under section 30A above by either party to the dispute.]

[<sup>F12</sup>(7) [<sup>F13</sup>In this section “relevant deficit” and “discounted aggregate deficit” have the meanings given by sections 43 and 43A below, respectively.]]

#### Textual Amendments

- F6** Words in s. 42(1)(b) substituted (1.4.2018) by [Water Act 2014 \(c. 21\)](#), **ss. 18(2)(a)**, 94(3); S.I. 2017/462, art. 5(a) (with art. 14)
- F7** S. 42(2)(a) substituted (1.4.2018) by [Water Act 2014 \(c. 21\)](#), **ss. 18(2)(b)**, 94(3); S.I. 2017/462, art. 5(a) (with art. 14)
- F8** S. 42(4) repealed (1.4.2018) by [Water Act 2014 \(c. 21\)](#), **ss. 18(2)(c)**, 94(3); S.I. 2017/462, art. 5(a) (with art. 14)
- F9** S. 42(5) repealed (1.4.2018) by [Water Act 2014 \(c. 21\)](#), **ss. 18(2)(c)**, 94(3); S.I. 2017/462, art. 5(a) (with art. 14)
- F10** Words in s. 42(6)(b) inserted (1.4.2018) by [Water Act 2014 \(c. 21\)](#), **ss. 18(2)(d)**, 94(3); S.I. 2017/462, art. 5(a) (with art. 14)
- F11** Words in s. 42(6) substituted (28.5.2004) by [Water Act 2003 \(c. 37\)](#), **ss. 90(3)(5)**, 105(3); S.I. 2004/641, **art. 4(a)** (with art. 6, Sch. 3)
- F12** S. 42(7) substituted (28.5.2004) by [Water Act 2003 \(c. 37\)](#), **ss. 90(4)(5)**, 105(3); S.I. 2004/641, **art. 4(a)** (with art. 6, Sch. 3)
- F13** S. 42(7) repealed (1.4.2018 for specified purposes) by [Water Act 2014 \(c. 21\)](#), s. 94(3), **Sch. 7 para. 54**; S.I. 2017/462, art. 5(e)(ii) (with art. 14) (as amended by S.I. 2017/926, art. 2(3))

#### 43 Calculation of “relevant deficit” for the purposes of section 42.

[<sup>F14</sup>(1) For the purposes of section 42 above the relevant deficit for any year on a water main is the amount (if any) by which the [<sup>F15</sup>relevant revenue in respect of that main for that year is] exceeded by the annual borrowing costs of a loan of the amount required for the provision of that main.

- (2) The annual borrowing costs of a loan of the amount required for the provision of a water main is the aggregate amount which would fall to be paid in any year by way of payments of interest and repayments of capital if an amount equal to so much of the costs reasonably incurred in providing that main as were not incurred in the provision

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- of additional capacity had been borrowed, by the water undertaker providing the main, on terms—
- (a) requiring interest to be paid and capital to be repaid in twelve equal annual instalments; and
  - (b) providing for the amount of the interest to be calculated at such rate, and in accordance with such other provision, as may have been determined for the purposes of this subsection.
- (3) A determination for the purposes of subsection (2) above shall be made either—
- (a) by the undertaker with the approval of the Director; or
  - (b) in default of such a determination, by the Director.
- (4) For the purposes of this section the costs reasonably incurred in providing a water main (“the new main”) shall include—
- (a) the costs reasonably incurred in providing such other water mains and such tanks, service reservoirs and pumping stations as it is necessary to provide in consequence of the provision of the new main; and
  - (b) such proportion (if any) as is reasonable of the costs reasonably incurred in providing [<sup>F16</sup>or procuring the provision of] any such additional capacity in an earlier main as falls to be used in consequence of the provision of the new main.
- [<sup>F17</sup>(5) In subsection (4) above the reference to an earlier main, in relation to the new main, is a reference to any water main which—
- (a) has been provided in pursuance of a water main requisition; or
  - (b) has been vested (by virtue of a declaration made under this Chapter) in the water undertaker,
- in the period of twelve years immediately before the provision of the new main.]
- (6) Any reference in this section to the provision of additional capacity in a water main provided in pursuance of a requirement under any enactment is a reference to such works carried out or other things done in connection with the provision of that main as are carried out or done for the purpose of enabling that main to be used for purposes in addition to those for which it is necessary to provide the main in order to comply with the requirement.
- [<sup>F18</sup>(7) Any reference in this section to the relevant revenue in respect of a main provided by a water undertaker for any year is—
- (a) in relation to premises connected with the main which are supplied with water by the undertaker, is a reference to so much of the aggregate of any charges payable to the undertaker in respect of services provided in the course of that year as represents charges which—
    - (i) have been imposed by the undertaker in relation to those premises; and
    - (ii) are reasonably attributable to the provision of a supply of water (whether or not for domestic purposes) to those premises by means of that main;
  - (b) in relation to premises connected with the main which are supplied with water by a licensed water supplier, is a reference to so much of the aggregate of any charges made during the course of that year which—
    - (i) are payable by the supplier to the undertaker in respect of the duty under section 66A(2)(b), 66B(3)(b) or 66C(2)(b)(ii) below; and



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- (ii) are reasonably attributable to the use of that main for the purpose of the supplier supplying water to those premises.]
- (8) An approval or determination given or made by the Director for the purposes of subsection (2) above—
- (a) may be given or made in relation to the provision of a particular water main, in relation to the provision of mains of a particular description or in relation to the provision of water mains generally; and
  - (b) may be revoked at any time except in relation to a water main [<sup>F19</sup>in respect of which the conditions referred to in section 42(1) above have already been satisfied.] .
- (9) In this section “water main requisition” means—
- (a) a requirement under section 41 above (including, by virtue of paragraph 1 of Schedule 2 to the <sup>M3</sup>Water Consolidation (Consequential Provisions) Act 1991, a requirement under section 40 of the <sup>M4</sup>Water Act 1989);
  - (b) a requirement under the provisions of section 36 or 37 of the <sup>M5</sup>Water Act 1945 or of section 29 of Schedule 3 to that Act (water main requisitions); or
  - (c) a requirement under any local statutory provision corresponding to section 41 above or to any of those provisions of that Act of 1945.]

#### Textual Amendments

- F14** S. 43 repealed (1.4.2018 for specified purposes) by [Water Act 2014 \(c. 21\)](#), s. 94(3), [Sch. 7 para. 55](#); [S.I. 2017/462](#), art. 5(e)(ii) (with art. 14) (as amended by [S.I. 2017/926](#), art. 2(3))
- F15** Words in s. 43(1) substituted (1.12.2005) by [Water Act 2003 \(c. 37\)](#), ss. 101(1), 105(3), [Sch. 8 para. 14\(2\)](#); [S.I. 2005/2714](#), [art. 3\(c\)](#) (with [Sch. para. 8](#))
- F16** Words in s. 43(4)(b) inserted (28.5.2004) by [Water Act 2003 \(c. 37\)](#), [ss. 91\(1\)\(a\)\(4\)](#), 105(3); [S.I. 2004/641](#), [art. 4\(a\)](#) (with art. 6, [Sch. 3](#))
- F17** S. 43(5) substituted (28.5.2004) by [Water Act 2003 \(c. 37\)](#), [ss. 91\(1\)\(b\)\(4\)](#), 105(3); [S.I. 2004/641](#), [art. 4\(a\)](#) (with art. 6, [Sch. 3](#))
- F18** S. 43(7) substituted (1.12.2005) by [Water Act 2003 \(c. 37\)](#), ss. 101(1), 105(3), [Sch. 8 para. 14\(3\)](#); [S.I. 2005/2714](#), [art. 3\(c\)](#) (with [Sch. para. 8](#))
- F19** Words in s. 43(8)(b) substituted (28.5.2004) by [Water Act 2003 \(c. 37\)](#), [ss. 91\(1\)\(c\)\(4\)](#), 105(3); [S.I. 2004/641](#), [art. 4\(a\)](#) (with art. 6, [Sch. 3](#))

#### Marginal Citations

- M3** 1991 c. 60.  
**M4** 1989 c. 15.  
**M5** 1945 c. 42.

### [<sup>F20</sup>43A Calculation of “discounted aggregate deficit” for the purposes of section 42

- [<sup>F21</sup>(1) For the purposes of section 42 above the discounted aggregate deficit on a water main is the amount equal to the sum of the estimated relevant deficits for each of the twelve years following the provision of the main, in each case discounted in accordance with subsection (6) below.
- (2) The estimated relevant deficit for any year is the amount (if any) by which the estimated revenue in respect of the water main for that year would be exceeded by the annual borrowing costs of a loan of the amount required for the provision of that main.



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- (3) Subsections (2) to (6), (8) and (9) of section 43 above (which relate to the annual borrowing costs of a loan of the amount required for the provision of a water main) shall apply for the purposes of this section as they apply for the purposes of that.
- (4) Any reference in this section to the estimated revenue in respect of a water main for any year—
  - (a) in relation to premises expected to be connected with the main and supplied with water by a water undertaker, is a reference to so much of the aggregate of any charges expected to be payable to the undertaker for the provision of services in the course of that year as would represent charges—
    - (i) imposed by the undertaker in relation to those premises, and
    - (ii) reasonably attributable to the provision of a supply of water (whether or not for domestic purposes) to those premises by means of that main; and
  - (b) in relation to premises expected to be connected with the main and supplied with water by a licensed water supplier, is a reference to so much of the aggregate of any charges expected to be made during the course of that year as would be—
    - (i) payable by the supplier to the undertaker in respect of the duty under section 66A(2)(b), 66B(3)(b) or 66C(2)(b)(ii) below; and
    - (ii) reasonably attributable to the use of that main for the purpose of the supplier's supplying water to those premises.
- (5) For the purpose of calculating estimated revenue under subsection (4) above, a thing is expected to be the case if, at the time the calculation is made, it is reasonably likely to occur.
- (6) The estimated relevant deficit for a year mentioned in subsection (1) above shall be discounted in order to determine its net present value by applying such factor, and in accordance with such other provision, as may be determined by the Authority.
- (7) A determination made by the Authority for the purposes of subsection (6) above—
  - (a) may be made in relation to the provision of a particular water main or in relation to the provision of water mains generally; and
  - (b) may be revoked at any time except in relation to a water main in respect of which the conditions referred to in section 42(1) above have already been satisfied.]]

#### Textual Amendments

**F20** S. 43A inserted (28.5.2004) by [Water Act 2003 \(c. 37\)](#), **ss. 91(2)(4)**, 105(3); S.I. 2004/641, **art. 4(a)** (with **art. 6**, **Sch. 3**)

**F21** S. 43A repealed (1.4.2018 for specified purposes) by [Water Act 2014 \(c. 21\)](#), s. 94(3), **Sch. 7 para. 55**; S.I. 2017/462, **art. 5(e)(ii)** (with **art. 14**) (as amended by S.I. 2017/926, **art. 2(3)**)

#### 44 Determination of completion date and route for requisitioned main.

- (1) A water undertaker shall not be in breach of a duty imposed by section 41 above in relation to any locality unless-
  - (a) the period of three months beginning with the relevant day has expired; and

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- [<sup>F22</sup>(b) the water undertaker has not, before the end of that period, so laid the water main to be provided as to enable (as the case may be)—
- (i) service pipes to premises in that locality; or
  - (ii) a water main which is the subject of an agreement under section 51A below (“the self-laid main”),
- to connect with the main at the place or places determined under subsection (3) below.]
- (2) The period mentioned in subsection (1)(a) above may be extended in any case—
- (a) by agreement between the water undertaker and the person or persons who required the provision of the main; or
  - (b) where there is a dispute as to whether the period should be extended, by [<sup>F23</sup>the Authority] on a reference under subsection (4) below.
- (3) The places mentioned in subsection (1)(b) above shall be—
- (a) such places as are determined by agreement between the water undertaker and the person or persons who required the provision of the water main; or
  - (b) in default of agreement, such places as are determined by [<sup>F24</sup>the Authority], on a reference under subsection (4) below, to be the places at which it is reasonable, in all the circumstances, for service pipes to premises in the locality in question [<sup>F25</sup>, or (as the case may be) the self-laid main,] to connect with the water main.
- [<sup>F26</sup>(4) A reference for the purposes of subsection (2) or (3) above may be made to the Authority for determination under section 30A above by either party to the dispute.]
- (5) In this section “relevant day”, in relation to a requirement to provide a water main <sup>F27</sup> . . . , means the day after whichever is the later of the following, that is to say—
- (a) the day on which the conditions specified in section 42 above are satisfied in relation to the requirement; and
  - [<sup>F28</sup>(b) the day on which the place or places where (as the case may be)—
    - (i) service pipes to premises in the locality in question; or
    - (ii) the self-laid main,

will connect with the main are determined under subsection (3) above.]

### Textual Amendments

- F22** S. 44(1)(b) substituted (28.5.2004) by [Water Act 2003 \(c. 37\)](#), **ss. 91(3)(a)(4)**, 105(3); S.I. 2004/641, **art. 4(a)** (with [art. 6](#), [Sch. 3](#))
- F23** Words in s. 44(2)(b) substituted (28.5.2004) by [Water Act 2003 \(c. 37\)](#), **ss. 91(3)(b)(4)**, 105(3); S.I. 2004/641, **art. 4(a)** (with [art. 6](#), [Sch. 3](#))
- F24** Words in s. 44(3)(b) substituted (28.5.2004) by [Water Act 2003 \(c. 37\)](#), **ss. 91(3)(c)(i)(4)**, 105(3); S.I. 2004/641, **art. 4(a)** (with [art. 6](#), [Sch. 3](#))
- F25** Words in s. 44(3)(b) inserted (28.5.2004) by [Water Act 2003 \(c. 37\)](#), **ss. 91(3)(c)(ii)(4)**, 105(3); S.I. 2004/641, **art. 4(a)** (with [art. 6](#), [Sch. 3](#))
- F26** S. 44(4) substituted (28.5.2004) by [Water Act 2003 \(c. 37\)](#), **ss. 91(3)(d)(4)**, 105(3); S.I. 2004/641, **art. 4(a)** (with [art. 6](#), [Sch. 3](#))
- F27** Words in s. 44(5) omitted (28.5.2004) and repealed (1.4.2005) by virtue of [Water Act 2003 \(c. 37\)](#), **ss. 91(3)(e)(4)**, 101(2), 105(3), **Sch. 9 Pt. 3**; S.I. 2004/641, **art. 4(a)** (with [art. 6](#), [Sch. 3](#)); S.I. 2005/968, **art. 2(n)** (with savings in [art. 4](#), [Schs. 1, 2](#))

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**F28** S. 44(5)(b) substituted (28.5.2004) by [Water Act 2003 \(c. 37\)](#), **ss. 91(3)(e)(ii)(4)**, 105(3); S.I. 2004/641, **art. 4(a)** (with [art. 6](#), Sch. 3)

### *Domestic connections*

#### **45 Duty to make connections with main.**

(1) Subject to the following provisions of this section and to sections 46 and 47 below, it shall be the duty of a water undertaker (in accordance with section 51 below) to make a connection under this section where the owner or occupier of any premises<sup>F29</sup> . . . which—

- (a) consist in the whole or any part of a building; or
- (b) are premises on which any person is proposing to erect any building or part of a building,

serves a notice on the undertaker requiring it, for the purpose of providing a supply of water for domestic purposes to that building or part of a building, to connect a service pipe to those premises with one of the undertaker's water mains.

<sup>F30</sup>(1ZA) . . . . .

[<sup>F31</sup>(1A) In relation to service pipes which do not belong to or fall to be laid by the undertaker—

- (a) subsection (1) above is subject to section 51D(1) below; and
- (b) any such service pipe which is to vest in the undertaker by virtue of an agreement under section 51A below shall be connected to one of the undertaker's water mains subject to and in accordance with the terms of that agreement.]

(2) Where a notice has been served for the purposes of this section, the duty imposed by subsection (1) above shall be a duty<sup>F32</sup> . . . to make the connection required by the notice if—

- (a) the main with which the service pipe is required to be connected is neither a trunk main nor a water main which is or is to be used solely for the purpose of supplying water otherwise than for domestic purposes; and
- (b) such conditions as the undertaker may have imposed under sections 47 to 50 below have been satisfied;

and, subject to section 51 below, that duty shall arise whether or not the service pipe to which the notice relates has been laid when the notice is served.

(3) A notice for the purposes of this section—

- (a) shall be accompanied or supplemented by all such information as the undertaker may reasonably require; and
- (b) if the notice has effect so that a requirement is imposed on the undertaker by virtue of section 46(4) below, shall set out the matters that have given rise to the imposition of that requirement;

but, subject to section 51(5) below and without prejudice to the effect (if any) of any other contravention of this subsection, a failure to provide information in pursuance of the obligation to supplement such a notice shall not invalidate that notice.

(4) The duty imposed on a water undertaker by this section shall be owed to the person who served the notice by virtue of which the duty arises.

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- (5) Where a duty is owed by virtue of subsection (4) above to any person, any breach of that duty which causes that person to sustain loss or damage shall be actionable at the suit of that person; but, in any proceedings brought against a water undertaker in pursuance of this subsection, it shall be a defence for the undertaker to show that it took all reasonable steps and exercised all due diligence to avoid the breach.
- [<sup>F33</sup>(6) Where a water undertaker carries out any works which it is its duty under this section to carry out, the person serving the notice is liable to pay to the undertaker such charges as the undertaker may impose in accordance with charging rules.]
- <sup>F34</sup>[(6A) Any dispute between a water undertaker and any other person [<sup>F35</sup>as to the payments required to be made] may be referred to the Director for determination under section 30A above by either party to the dispute.]
- (7) Nothing in this section or in sections 46 to 51 below shall impose any duty on a water undertaker to connect a service pipe to any premises with a service pipe to any other premises.
- (8) In the following provisions of this Chapter a notice served for the purposes of this section is referred to as a connection notice.

#### Textual Amendments

- F29** Words in s. 45(1) repealed (1.7.1992) by [Competition and Service \(Utilities\) Act 1992 \(c. 43\)](#), ss. 43(1), 56(7), [Sch. 2](#); [Competition and Service \(Utilities\) Act 1992 \(Commencement No. 1\) Order 1992](#), art. 3, Sch. Pt. I
- F30** [S. 45\(1ZA\)](#) omitted (E.) (31.10.2021) by virtue of [The Water and Sewerage Undertakers \(Exit from Non-household Retail Market\) \(Consequential Provision\) Regulations 2021 \(S.I. 2021/1208\)](#), regs. 1(2), 2(3)
- F31** [S. 45\(1A\)](#) inserted (28.5.2004) by [Water Act 2003 \(c. 37\)](#), ss. 92(2)(7), 105(3); S.I. 2004/641, [art. 4\(a\)](#) (with [art. 6](#), [Sch. 3](#))
- F32** Words in s. 45(2) repealed (1.4.2018) by [Water Act 2014 \(c. 21\)](#), ss. 18(3)(a), 94(3); S.I. 2017/462, [art. 5\(a\)](#) (with [art. 14](#))
- F33** [S. 45\(6\)](#) substituted (1.4.2018) by [Water Act 2014 \(c. 21\)](#), ss. 18(3)(b), 94(3); S.I. 2017/462, [art. 5\(a\)](#) (with [art. 14](#))
- F34** [S. 45\(6A\)](#) inserted (1.9.1992) by [Competition and Service \(Utilities\) Act 1992 \(c. 43\)](#), s. 35(2); [Competition and Service \(Utilities\) Act 1992 \(Commencement No. 1\) Order 1992](#), art. 4, Sch. Pt. II
- F35** Words in s. 45(6A) substituted (1.4.2018) by [Water Act 2014 \(c. 21\)](#), ss. 18(3)(c), 94(3); S.I. 2017/462, [art. 5\(a\)](#) (with [art. 14](#))

#### 46 Duty to carry out ancillary works for the purpose of making domestic connection.

- (1) Where a water undertaker is required to make a connection in pursuance of any connection notice, it shall also be the duty of the undertaker<sup>F36</sup>... to carry out such of the works to which this section applies as need to be carried out before the connection can be made.
- (2) This section applies to the laying of so much of the service pipe to be connected with the water main as it is necessary, for the purpose of making that connection, to lay in a street.
- (3) In a case where—

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- (a) the water main with which the service pipe is to be connected is situated in a street;
  - (b) the premises consisting in the building or part of a building in question together with any land occupied with it abut on the part of the street where the main is situated; and
  - (c) the service pipe to those premises will—
    - (i) enter the premises otherwise than through an outer wall of a building abutting on the street; and
    - (ii) have a stopcock fitted to it by the undertaker in the premises,this section applies to the laying of so much of the service pipe as it is necessary, for the purpose of making the required connection, to lay in land between the boundary of the street and that stopcock.
- (4) In a case where the connection notice is served in compliance with a requirement imposed by a notice by a local authority under section 80 below, this section applies to the laying of so much of the service pipe to be connected with a water main in pursuance of the connection notice as it is necessary, for the purpose of making the connection, to lay in land owned or occupied by a person who is certified by that authority—
- (a) to have unreasonably refused his consent to the laying of the service pipe; or
  - (b) to have sought to make the giving of his consent subject to unreasonable conditions.
- (5) Where a water main is alongside a street and within eighteen metres of the middle of that street, subsections (2) to (4) above shall have effect in relation to the laying, for the purpose of making a connection with that main, of a service pipe to any premises as if the street included so much of the land between the main and the boundary of the street as is not comprised in those premises or in any land occupied with those premises.
- (6) It shall be the duty of any water undertaker making a connection in pursuance of a connection notice to ensure that a stopcock belonging to the undertaker is fitted to the service pipe which is connected.
- (7) Subsections (4) to [F37(6A)] of section 45 above shall have effect—
- (a) in relation to any duties which, by virtue of a connection notice, are imposed on a water undertaker by this section; and
  - (b) in relation to any works which, by virtue of the service of such a notice, such an undertaker carries out [F38as its duty under this section],
- as they have effect by virtue of that notice in relation to the duty which arises under that section or, as the case may be, to works which the undertaker carries out [F39as its duty under that section].
- (8) Subject to subsection (9) below, a water undertaker may comply with any duty under this section to lay a service pipe by laying a water main instead; but nothing in section 45 above or this section shall impose any duty on a water undertaker to lay a water main where it has no power to lay a service pipe.
- (9) Where a water undertaker exercises its power under subsection (8) above to lay a water main instead of a service pipe—
- (a) paragraph (a) of section 51(1) below shall have effect as if any additional time reasonably required by reason of the laying of the main instead of the service pipe were included in the time allowed by that paragraph for the laying of the service pipe; F40 ...

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F40(b) .....

#### Textual Amendments

- F36** Words in s. 46(1) repealed (1.4.2018) by [Water Act 2014 \(c. 21\)](#), **ss. 18(4)(a)**, 94(3); S.I. 2017/462, **art. 5(a)** (with **art. 14**)
- F37** Words in s. 46(7) substituted (1.9.1992) by [Competition and Service \(Utilities\) Act 1992 \(c. 43\)](#), **s. 35(3)**; Competition and Service (Utilities) Act 1992 (Commencement No. 1) Order 1992, **art. 4**, Sch. Pt. II
- F38** Words in s. 46(7)(b) substituted (1.4.2018) by [Water Act 2014 \(c. 21\)](#), **ss. 18(4)(b)**, 94(3); S.I. 2017/462, **art. 5(a)** (with **art. 14**)
- F39** Words in s. 46(7) substituted (1.4.2018) by [Water Act 2014 \(c. 21\)](#), **ss. 18(4)(c)**, 94(3); S.I. 2017/462, **art. 5(a)** (with **art. 14**)
- F40** S. 46(9)(b) and word repealed (1.4.2018) by [Water Act 2014 \(c. 21\)](#), **ss. 18(4)(d)**, 94(3); S.I. 2017/462, **art. 5(a)** (with **art. 14**)

#### 47 Conditions of connection with water main.

- (1) Subject to subsection (3) and [F41sections 48 to][F41sections 49 and] 50 below, where the owner or occupier of any premises (“the relevant premises”) serves a connection notice on a water undertaker, the undertaker may make compliance with one or more of the requirements specified in subsection (2) below a condition of its complying with the duties to which it is subject by virtue of that notice.
- (2) The requirements mentioned in subsection (1) above are—
- (a) a requirement that [F42such security as charging rules allow and the undertaker requires] has been provided for the discharge of any obligations imposed by virtue of section 45(6) or 46(7)(b) above on the person who served the connection notice;
  - (b) a requirement, in a case where the connection required by the connection notice is necessary as a consequence of a disconnection made by reason of any person’s failure to pay any charges, that the person serving the connection notice has paid any amount owed by him to the undertaker—
    - (i) in respect of a supply of water to the relevant premises; or
    - (ii) in respect of expenses [F43reasonably]incurred in the making of the disconnection;
  - (c) a requirement that a meter for use in determining the amount of any charges which have been or may be fixed in relation to the relevant premises by reference to volume has been installed and connected either—
    - (i) by the undertaker; or
    - (ii) in accordance with specifications approved by the undertaker;
  - (d) a requirement that—
    - [F44(i) subject to section 51D(1) below, so much of the service pipe to the relevant premises as does not belong to, vest in or fall to be laid by the undertaker; and]
    - (ii) the plumbing of the premises,
 comply with specifications approved by the undertaker for the purpose of ensuring that it will be reasonably practicable for such a meter as is mentioned in paragraph (c) above to be installed and connected as so mentioned;
  - (e) a requirement that a separate service pipe has been provided—



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- (i) to each house or building on the relevant premises; or
    - (ii) where different parts of a building on the relevant premises are separately occupied, to each of those parts or to any of them;
  - (f) a requirement, in relation to the relevant premises—
    - (i) that such a requirement as may be imposed under section 66 below has been complied with; or
    - (ii) in a case where such a requirement could be imposed but for there already being such a cistern as is mentioned in that section, that the cistern and its float-operated valve are in good repair;
  - (g) a requirement that there is no contravention in relation to the water fittings used or to be used in connection with—
    - (i) the supply of water to the relevant premises; or
    - (ii) the use of water in those premises,of such of the requirements of regulations under section 74 below as are prescribed for the purposes of this paragraph; and
  - (h) a requirement that every such step has been taken as has been specified in any notice served on any person under section 75 below in relation to the relevant premises.
- <sup>F45</sup>[(2A) No condition shall be imposed by a water undertaker under subsection (2)(e) above unless it is reasonable to do so in order to ensure that the undertaker will be able to perform its functions, in relation to the supply of water to the relevant premises or any part of those premises, efficiently.]
- (3) A condition shall not be imposed by a water undertaker under this section on a person who has served a connection notice except by a counter-notice served on that person before the end of the period of fourteen days beginning with the day after the service of the connection notice.
- <sup>F46</sup>[(3A) Any dispute as to whether any requirement of a kind mentioned in subsection (2) (a), (b), (e) or (f) above has been complied with may be referred to the Director for determination under section 30A above by either party to the dispute.
- (3B) Any dispute between a water undertaker and any other person as to <sup>F47</sup>...—
  - <sup>F48</sup>(a) the security required to be provided by a condition imposed under subsection (2)(a),]
  - (b) [<sup>F49</sup>whether] the expenses referred to in subsection (2)(b)(ii) above were incurred reasonably, or
  - (c) in a particular case, [<sup>F50</sup>whether] subsection (2A) above prevents a water undertaker from imposing a condition under subsection (2)(e) above,may be referred to the Director for determination under section 30A above by either party to the dispute.]
- (4) This section shall be without prejudice to the provisions of sections 233 and 372 of the <sup>M6</sup>Insolvency Act 1986 (conditions of supply after insolvency).

#### Textual Amendments

- F41** Words in s. 47(1) substituted (1.4.2018 for specified purposes) by [Water Act 2014 \(c. 21\), s. 94\(3\), Sch. 7 para. 56](#); S.I. 2017/462, art. 5(e)(ii) (with art. 14) (as amended by S.I. 2017/926, art. 2(3))
- F42** Words in s. 47(2)(a) substituted (1.4.2018) by [Water Act 2014 \(c. 21\), ss. 18\(5\)\(a\), 94\(3\)](#); S.I. 2017/462, art. 5(a) (with art. 14)

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- F43** Word in s. 47(2)(b)(ii) inserted (1.9.1992) by [Competition and Service \(Utilities\) Act 1992 \(c. 43\), s. 51\(2\)](#); Competition and Service (Utilities) Act 1992 (Commencement No. 1) Order 1992, art. 4, Sch. Pt. II
- F44** S. 47(2)(d)(i) substituted (28.5.2004) by [Water Act 2003 \(c. 37\), ss. 92\(3\)\(7\), 105\(3\)](#); S.I. 2004/641, [art. 4\(a\)](#) (with [art. 6, Sch. 3](#))
- F45** S. 47(2A) inserted (1.9.1992) by [Competition and Service \(Utilities\) Act 1992 \(c. 43\), s. 51\(3\)](#); Competition and Service (Utilities) Act 1992 (Commencement No. 1) Order 1992, art. 4, Sch. Pt. II
- F46** S. 47(3A)(3B) inserted (1.9.1992) by [Competition and Service \(Utilities\) Act 1992 \(c. 43\), s. 51\(4\)](#); Competition and Service (Utilities) Act 1992 (Commencement No. 1) Order 1992, art. 4, Sch. Pt. II
- F47** Word in s. 47(3B) repealed (1.4.2018) by [Water Act 2014 \(c. 21\), ss. 18\(5\)\(b\), 94\(3\)](#); S.I. 2017/462, [art. 5\(a\)](#) (with [art. 14](#))
- F48** S. 47(3B)(a) substituted (1.4.2018) by [Water Act 2014 \(c. 21\), ss. 18\(5\)\(c\), 94\(3\)](#); S.I. 2017/462, [art. 5\(a\)](#) (with [art. 14](#))
- F49** Word in s. 47(3B)(b) inserted (1.4.2018) by [Water Act 2014 \(c. 21\), ss. 18\(5\)\(d\), 94\(3\)](#); S.I. 2017/462, [art. 5\(a\)](#) (with [art. 14](#))
- F50** Word in s. 47(3B)(c) inserted (1.4.2018) by [Water Act 2014 \(c. 21\), ss. 18\(5\)\(e\), 94\(3\)](#); S.I. 2017/462, [art. 5\(a\)](#) (with [art. 14](#))

#### Marginal Citations

**M6** 1986 c. 45.

## 48 Interest on sums deposited in pursuance of the deposit condition.

- [<sup>F51</sup>(1) Where for the purposes of subsection (2)(a) of section 47 above any sums have been deposited with a water undertaker by way of security for the discharge of any obligation, the undertaker shall pay interest at such rate as may be determined either—
- (a) by the undertaker with the approval of the Director; or
  - (b) in default of a determination under paragraph (a) above, by the Director,
- on every sum of 50p so deposited for every three months during which it remains in the hands of the undertaker.
- (2) An approval or determination by the Director for the purposes of this section—
- (a) may be given or made in relation to a particular case or description of cases or generally; and
  - (b) may be revoked at any time.]

#### Textual Amendments

**F51** S. 48 repealed (1.4.2018 for specified purposes) by [Water Act 2014 \(c. 21\), s. 94\(3\), Sch. 7 para. 57](#); S.I. 2017/462, [art. 5\(e\)\(ii\)](#) (with [art. 14](#)) (as amended by S.I. 2017/926, [art. 2\(3\)](#))

## 49 Supplemental provisions with respect to the metering conditions.

- (1) The power conferred on a water undertaker to impose conditions under section 47 above for the purposes of metering—
- (a) shall be exercisable in relation to any premises even if the undertaker has no immediate intention, when the power is exercised, of fixing charges in relation to those premises by reference to volume; but
  - (b) shall not be exercisable so as to require the alteration or removal of any pipe laid or plumbing installed before 1st April 1989.



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- (2) Specifications approved by any water undertaker for the purposes of subsection (2)(c) or (d) of section 47 above may be approved—
  - (a) in relation to particular premises; or
  - (b) by being published in such manner as the undertaker considers appropriate, in relation to premises generally or to any description of premises.
- <sup>F52</sup>[(3) Any dispute between a water undertaker and any other person as to the terms of any condition imposed under section 47 above for the purposes of metering shall be referred—
  - (a) to the arbitration of a single arbitrator appointed by agreement between the undertaker and that person; or
  - (b) if no agreement is reached, for determination by the Director under section 30A above.]
- (4) References in this section to the imposition of a condition under section 47 above for the purposes of metering are references to the imposition of conditions by virtue of subsection (2)(c) or (d) of that section.

#### Textual Amendments

- F52** S. 49(3) substituted (1.9.1992) by [Competition and Service \(Utilities\) Act 1992 \(c. 43\), s. 35\(4\)](#); Competition and Service (Utilities) Act 1992 (Commencement No. 1) Order 1992, art. 4, Sch. Pt. II

## 50 Restriction on imposition of condition requiring separate service pipes.

- (1) This section applies where the effect of a connection notice served in respect of any house is to require a service pipe to that house to be connected with a water main with which it has previously been connected.
- (2) Where this section applies, the water undertaker on which the connection notice is served shall not be entitled to make the reconnection subject to any such condition as, apart from this section, may be imposed by virtue of section 47(2)(e) above unless the undertaker would have been entitled under section 64 below to require the provision of a separate service pipe if the reconnection had already been made.

## 51 Time for performance of connection etc. duties.

- (1) A water undertaker shall not be in breach of a duty imposed by virtue of the service of a connection notice unless—
  - (a) in the case of a duty to lay any service pipe or to connect any service pipe to which such a duty relates, it has failed to lay that pipe or to make that connection as soon as reasonably practicable after the relevant day;
  - (b) in the case of a duty to connect a service pipe the whole of which has already been laid when the notice is served on the undertaker, it has failed to make the connection before the end of the period of fourteen days beginning with the relevant day.
- (2) In any case in which a water undertaker is subject to any such duty as is mentioned in subsection (1)(a) above, it shall be presumed, unless the contrary is shown in relation to that case, that the period of twenty-one days beginning with the relevant day is the period within which it is reasonably practicable for a water undertaker—

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- (a) to lay so much of any service pipe; and
- (b) to fit such stopcock,

as it is necessary to lay or fit in that case for connecting a water main in a street with a service pipe at the boundary of any premises which abut on the part of the street where the main is situated.

(3) Where—

- (a) a connection notice is served in respect of any premises; and
- (b) at the time when the notice is served, the customer’s part of the service pipe to those premises has not been laid,

the duties of the undertaker under sections 45 and 46 above shall not arise by virtue of that notice until the person serving the notice, having obtained the necessary consents from the owners and occupiers of any affected land, has, at his own expense, laid so much of the service pipe as it is necessary, for the purpose of making the connection, to lay otherwise than in a street or in land mentioned in subsections (3) to (5) of section 46 above.

(4) In subsection (3) above the reference to the customer’s part of the service pipe to any premises is a reference to so much of the service pipe to those premises as falls to be laid otherwise than by the water undertaker in pursuance of section 46 above.

(5) Where—

- (a) a person who has served a connection notice on a water undertaker has failed to comply with his obligation under section 45(3)(a) above to supplement that notice with information required by the undertaker; and
- (b) that requirement was made by the undertaker at such a time before the end of the period within which the undertaker is required to comply with the duties imposed by virtue of the notice as gave that person a reasonable opportunity to provide the required information within that period,

the undertaker may delay its compliance with those duties until a reasonable time after the required information is provided.

(6) In this section “the relevant day”, in relation to a duty imposed on a water undertaker by virtue of a connection notice, means the day after whichever is the latest of the following days, that is to say-

- (a) the day on which the notice was served on the undertaker;
- (b) in a case where it is necessary for the person serving the notice to lay any service pipe after serving the notice, the day on which a notice stating that the pipe has been laid is served on the undertaker;
- (c) the day on which all such conditions are satisfied as the undertaker has, under sections 47 to 50 above, made conditions of its compliance with that duty.

*f<sup>F53</sup> Adoption of water mains and service pipes*

**Textual Amendments**

**F53** Ss. 51A-51E and preceding cross-heading inserted (28.5.2004) by [Water Act 2003 \(c. 37\)](#), [ss. 92\(1\), 105\(3\)](#); [S.I. 2004/641](#), [art. 4\(a\)](#) (with [art. 6, Sch. 3](#))

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## 51A Agreements to adopt water main or service pipe at future date

(1) Subject to subsections (2) and (10) below, a water undertaker may agree with any person constructing or proposing to construct—

- (a) any water main; or
- (b) any service pipe,

that, if the water main or service pipe is constructed in accordance with the terms of the agreement, the undertaker will, upon completion of the work, at some specified date or on the happening of some future event, declare the water main or (as the case may be) so much of the service pipe as the undertaker could otherwise, by virtue of sections 45 to 51 above, be required to lay, to be vested in that undertaker.

(2) Subsection (1) above shall not apply in the case of water mains or service pipes which are to be used (in whole or in part) for the purpose of supplying water other than for domestic purposes, but—

- (a) nothing in this section shall prevent a water undertaker from agreeing apart from this section to declare any such water main or service pipe (or a part of it, as specified in the agreement) to be vested in the undertaker; and
- (b) such a declaration shall take effect as a declaration made under this Chapter.

(3) A person constructing or proposing to construct a water main or a service pipe to which subsection (1) above applies may [<sup>F54</sup>request a water undertaker to make an agreement under this section.]

<sup>F55</sup>(4) .....

<sup>F55</sup>(5) .....

<sup>F55</sup>(6) .....

<sup>F55</sup>(7) .....

<sup>F55</sup>(8) .....

(9) An agreement made under this section by a water undertaker shall be enforceable against the undertaker by the owner or occupier for the time being of any premises connected or to be connected with the water main or service pipe to which it relates.

[ The reference in subsection (9) to an agreement made under this section includes a <sup>F56</sup>(9A) reference to—

- (a) an order under section 51B which is deemed to be an agreement by virtue of section 51B(5), and
- (b) an agreement which has been varied by order under section 51C(1).]

(10) A water undertaker shall not make an agreement under this section with respect to a water main or a service pipe situated within the area of another water undertaker, until either—

- (a) that other undertaker has consented in writing to the making of the agreement; or
- (b) the Secretary of State, on an application made to him, has dispensed with the necessity for such consent, either unconditionally or subject to such conditions as he may think fit to impose.

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### Textual Amendments

- F54** Words in s. 51A(3) substituted (1.10.2017 for E., 1.4.2019 for W.) by [Water Act 2014 \(c. 21\), ss. 10\(2\)\(a\), 94\(3\)](#); [S.I. 2017/462, art. 4\(a\)](#); [S.I. 2017/1288, art. 3\(c\)](#)
- F55** S. 51A(4)-(8) repealed (1.10.2017 for E., 1.4.2019 for W.) by [Water Act 2014 \(c. 21\), ss. 10\(2\)\(b\), 94\(3\)](#); [S.I. 2017/462, art. 4\(a\)](#); [S.I. 2017/1288, art. 3\(c\)](#)
- F56** S. 51A(9A) inserted (1.10.2017 for E., 1.4.2019 for W.) by [Water Act 2014 \(c. 21\), ss. 10\(2\)\(c\), 94\(3\)](#); [S.I. 2017/462, art. 4\(a\)](#); [S.I. 2017/1288, art. 3\(c\)](#)

### [<sup>F57</sup> 51B Adoption at a future date: orders by Authority

- (1) This section applies where a person constructing or proposing to construct a water main or service pipe makes a request to a water undertaker under section 51A(3).
- (2) The person or the water undertaker may apply to the Authority for an order under subsection (4) if the person and the water undertaker have not made such agreement as was requested by the person.
- (3) The Authority may, on the application of the person or the water undertaker, make an order under subsection (4) if the Authority is satisfied that—
  - (a) it is appropriate for work proposed to be done by a person other than the water undertaker to be so done, and
  - (b) the person and the water undertaker cannot reach agreement within a reasonable time.
- (4) The Authority may by order—
  - (a) require the water undertaker to give such undertakings as to the vesting of the water main or service pipe in the undertaker as the Authority may specify, and
  - (b) impose such terms and conditions as regards taking the benefit of the undertakings as the Authority may specify.
- (5) An order under subsection (4) has effect as an agreement under section 51A between the person and the water undertaker.
- (6) The Authority may not, by order under subsection (4), require a water undertaker to vest in itself a water main or service pipe as regards which there is a contravention of any of the requirements of section 74 that are prescribed for the purposes of this subsection.
- (7) The Authority may not make an order under subsection (4) with respect to a water main or service pipe that is situated within the area of another water undertaker, until either—
  - (a) that other undertaker has consented in writing to the making of the order, or
  - (b) the Minister, on an application made to the Minister, has disapplied paragraph (a), either unconditionally or subject to such conditions as the Minister thinks fit.
- (8) “The Minister” means—
  - (a) the Secretary of State, as regards the consent of a water undertaker whose area is wholly or mainly in England;
  - (b) the Welsh Ministers, as regards the consent of a water undertaker whose area is wholly or mainly in Wales.

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- (9) Neither the CMA nor the Authority may exercise, in respect of an agreement for the vesting of a water main or service pipe in a water undertaker at a future date, the powers conferred by—
- (a) section 32 of the Competition Act 1998 (directions in relation to agreements);
  - (b) section 35(2) of that Act (interim directions).
- (10) Subsection (9)(b) does not apply to the exercise of powers in respect of conduct—
- (a) which is connected with an agreement for the vesting of a water main or service pipe at a future date, and
  - (b) in respect of which section 35(1) of the Competition Act 1998 applies because of an investigation under section 25 of that Act relating to a suspected infringement of the Chapter 2 prohibition imposed by section 18(1) of that Act.
- (11) In exercising its functions under this section, the Authority must have regard to the desirability of—
- (a) facilitating effective competition within the water supply industry;
  - (b) the recovery by the water undertaker of the expenses of complying with its obligations by virtue of this section and securing a reasonable return on its capital;
  - (c) the ability of the water undertaker to meet its existing obligations, and likely future obligations, to supply water without having to incur unreasonable expenditure in carrying out works;
  - (d) not putting at risk the ability of the water undertaker to meet its existing obligations, or likely future obligations, to supply water.]

#### Textual Amendments

**F57** Ss. 51B-51CG substituted for ss. 51B, 51C (18.12.2015 for the substitution of ss. 51CD-51CG, 1.4.2017 for E. for the substitution of s. 51B(6) for specified purposes and s. 51CB, 1.10.2017 for E. in so far as not already in force, 1.4.2019 for W. in so far as not already in force) by [Water Act 2014 \(c. 21\)](#), [ss. 10\(3\)](#), [94\(3\)](#); [S.I. 2015/1938](#), [art. 2\(b\)\(ii\)](#); [S.I. 2017/462](#), [arts. 3\(d\)\(ii\)](#), [4\(a\)](#) (with [art. 15](#)); [S.I. 2017/1288](#), [art. 3\(c\)](#)

#### [<sup>F57</sup>51C Variation and termination of section 51A agreements

- (1) On the application of a party to a section 51A agreement to vary (or terminate) the agreement, the Authority may—
- (a) if it appears to the Authority that it is necessary or expedient that the section 51A agreement should be varied (or terminated),
  - (b) if the Authority is satisfied, in the case of an application to vary the agreement, that it is appropriate for work proposed to be done by a person other than the water undertaker to be so done, and
  - (c) if the Authority is satisfied that variation (or termination) cannot be achieved by agreement within a reasonable time,
- by order vary (or terminate) the section 51A agreement.
- (2) If an order under subsection (1) is made in relation to a section 51A agreement, the agreement—
- (a) has effect subject to the provision made by the order, or

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- (b) ceases to have effect, as the case may be.
- (3) An order under subsection (1) may require any party to the agreement to pay compensation to any other party.
- (4) Neither the CMA nor the Authority may exercise, in respect of an agreement to vary or terminate a section 51A agreement, the powers conferred by—
  - (a) section 32 of the Competition Act 1998 (directions in relation to agreements);
  - (b) section 35(2) of that Act (interim directions).
- (5) Subsection (4)(b) does not apply to the exercise of powers in respect of conduct—
  - (a) which is connected with an agreement to vary or terminate a section 51A agreement, and
  - (b) in respect of which section 35(1) of the Competition Act 1998 applies because of an investigation under section 25 of that Act relating to a suspected infringement of the Chapter 2 prohibition imposed by section 18(1) of that Act.
- (6) In exercising its functions under this section, the Authority must have regard to the expenses incurred by the water undertaker in complying with its obligations under the section 51A agreement in question and to the desirability of—
  - (a) facilitating effective competition within the water supply industry;
  - (b) the recovery by the water undertaker of the expenses of complying with its obligations by virtue of this section and securing a reasonable return on its capital;
  - (c) the ability of the water undertaker to meet its existing obligations, and likely future obligations, to supply water without having to incur unreasonable expenditure in carrying out works;
  - (d) not putting at risk the ability of the water undertaker to meet its existing obligations, or likely future obligations, to supply water.
- (7) In this section and sections 51CA to 51CG “section 51A agreement” means an agreement with a water undertaker for the vesting of a water main or service pipe in a water undertaker at a future date and includes—
  - (a) an order under section 51B which is deemed to be an agreement by virtue of section 51B(5), and
  - (b) any agreement which has been varied by order under subsection (1).]

#### Textual Amendments

**F57** Ss. 51B-51CG substituted for ss. 51B, 51C (18.12.2015 for the substitution of ss. 51CD-51CG, 1.4.2017 for E. for the substitution of s. 51B(6) for specified purposes and s. 51CB, 1.10.2017 for E. in so far as not already in force, 1.4.2019 for W. in so far as not already in force) by [Water Act 2014](#) (c. 21), [ss. 10\(3\), 94\(3\)](#); S.I. 2015/1938, [art. 2\(b\)\(ii\)](#); S.I. 2017/462, [arts. 3\(d\)\(ii\), 4\(a\)](#) (with [art. 15](#)); S.I. 2017/1288, [art. 3\(c\)](#)

#### **Codes in respect of section 51A agreements**

**F57** **51CA**

- (1) The Authority must issue a code in respect of section 51A agreements.
- (2) The code may make provision about—
  - (a) procedures in connection with making an agreement under section 51A;

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- (b) procedures in connection with varying or terminating a section 51A agreement;
  - (c) procedures to be followed by the Authority in determining whether to make an order under section 51B(4) or 51C(1);
  - (d) the circumstances in which it is, or is not, appropriate for work to be done by a person other than a water undertaker;
  - (e) the terms and conditions of a section 51A agreement;
  - (f) principles for determining the terms and conditions that should or should not be incorporated into a section 51A agreement;
  - (g) the steps to be taken by the Authority in determining whether a person is complying with the code.
- (3) Provision under subsection (2)(c) may in particular require the Authority to consult—
- (a) the Chief Inspector of Drinking Water;
  - (b) the Chief Inspector of Drinking Water for Wales if there is one.
- (4) Provision under subsection (2)(d) may include in particular provision about circumstances relating to—
- (a) the nature of the work;
  - (b) the kind of premises supplied or to be supplied.
- (5) Provision under subsection (2)(e) may include in particular provision about terms and conditions as regards—
- (a) constructing associated infrastructure;
  - (b) vesting associated infrastructure in a water undertaker;
  - (c) constructing water mains so as to meet additional supply requirements;
  - (d) connecting new water mains or service pipes to the existing supply system of a water undertaker;
  - (e) complying with requirements of the kind referred to in section 47(2);
  - (f) the duration of a section 51A agreement.
- (6) If the Authority considers that a water undertaker is not acting as required by the code, the Authority may give the undertaker a direction to do, or not to do, a particular thing specified in the direction.
- (7) The Authority may not give a direction under subsection (6) requiring a person to enter into, vary or terminate an agreement.
- (8) It is the duty of a water undertaker to comply with a direction under subsection (6), and this duty is enforceable by the Authority under section 18.
- (9) The code may make different provision for different persons or descriptions of person.
- (10) The Authority must from time to time review the code and, if appropriate, issue a revised code.
- (11) A revised code may include provision for applying any of its revisions to section 51A agreements made before the revised code comes into force.

#### Textual Amendments

**F57** **Ss. 51B-51CG** substituted for **ss. 51B, 51C** (18.12.2015 for the substitution of ss. 51CD-51CG, 1.4.2017 for E. for the substitution of s. 51B(6) for specified purposes and s. 51CB, 1.10.2017 for E.



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in so far as not already in force, 1.4.2019 for W. in so far as not already in force) by [Water Act 2014](#) (c. 21), [ss. 10\(3\)](#), [94\(3\)](#); S.I. 2015/1938, art. 2(b)(ii); S.I. 2017/462, arts. 3(d)(ii), 4(a) (with art. 15); S.I. 2017/1288, art. 3(c)

## 51CB Codes under section 51CA: procedure

- (1) Before issuing a code under section 51CA, the Authority must—
  - (a) prepare a draft of the proposed code under section 51CA, and
  - (b) consult the relevant persons about the proposed code.
- (2) The relevant persons are—
  - (a) the Chief Inspector of Drinking Water;
  - (b) the Chief Inspector of Drinking Water for Wales if there is one;
  - (c) such other persons as the Authority considers appropriate.
- (3) The Authority must specify the period (“the consultation period”) within which a person may make representations about the proposed code.
- (4) Before a code under section 51CA prepared by the Authority is issued, the Minister may direct the Authority—
  - (a) not to issue the code, or
  - (b) to issue the code with specified modifications.
- (5) Subsection (4) is subject to subsections (7) and (8).
- (6) In subsection (4) “the Minister” means—
  - (a) the Secretary of State, so far as the code relates to section 51A agreements for the vesting of water mains or service pipes in water undertakers whose areas are wholly or mainly in England;
  - (b) the Welsh Ministers, so far as the code relates to section 51A agreements for the vesting of water mains or service pipes in water undertakers whose areas are wholly or mainly in Wales.
- (7) The power under subsection (4) may not be exercised more than once by the Secretary of State or the Welsh Ministers.
- (8) If the power under subsection (4) is not exercised by the Secretary of State or the Welsh Ministers on the first occasion on which it may be exercised by the Secretary of State or (as the case may be) the Welsh Ministers, it may not be exercised by the Secretary of State or (as the case may be) the Welsh Ministers on a later occasion.
- (9) A direction under subsection (4) must be given within the period of 28 days beginning with the day after the end of the consultation period, and a code in relation to which a direction may be given may not be issued before that period of 28 days has expired.
- (10) This section is subject to section 51CC.

### Textual Amendments

**F57** [Ss. 51B-51CG](#) substituted for [ss. 51B, 51C](#) (18.12.2015 for the substitution of [ss. 51CD-51CG](#), 1.4.2017 for E. for the substitution of [s. 51B\(6\)](#) for specified purposes and [s. 51CB](#), 1.10.2017 for E. in so far as not already in force, 1.4.2019 for W. in so far as not already in force) by [Water Act 2014](#)



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(c. 21), **ss. 10(3)**, 94(3); S.I. 2015/1938, art. 2(b)(ii); S.I. 2017/462, arts. 3(d)(ii), 4(a) (with art. 15); S.I. 2017/1288, art. 3(c)

### **51CC Codes under section 51CA: minor or urgent revisions**

- (1) This section applies if the Authority proposes to issue a revised code under section 51CA and, in the view of the Authority, the revision or each of the revisions proposed to be made is—
  - (a) a revision for which consultation is unnecessary, or
  - (b) a revision that it is necessary or desirable to make without delay.
- (2) Section 51CB does not apply to the proposed revised code.
- (3) Once the Authority has issued the revised code, it must give notice as soon as reasonably practicable of—
  - (a) the issuing of the revised code, and
  - (b) as regards each revision contained in it, whether in the view of the Authority the revision falls within paragraph (a) or (b) of subsection (1).
- (4) Notice under subsection (3) is to be given to such persons as the Authority considers appropriate.
- (5) Unless the Authority gives notice that a revision in a revised code is in the view of the Authority a revision falling within subsection (1)(a), the revision ceases to have effect at the end of the period of six months beginning with the day after that on which the revised code is issued.

#### **Textual Amendments**

**F57** **Ss. 51B-51CG** substituted for **ss. 51B, 51C** (18.12.2015 for the substitution of ss. 51CD-51CG, 1.4.2017 for E. for the substitution of s. 51B(6) for specified purposes and s. 51CB, 1.10.2017 for E. in so far as not already in force, 1.4.2019 for W. in so far as not already in force) by **Water Act 2014** (c. 21), **ss. 10(3)**, 94(3); S.I. 2015/1938, art. 2(b)(ii); S.I. 2017/462, arts. 3(d)(ii), 4(a) (with art. 15); S.I. 2017/1288, art. 3(c)

### **51CD Rules about charges in connection with a section 51A agreement**

- (1) The Authority may issue rules about charges that may be imposed by a water undertaker under a section 51A agreement.
- (2) The rules may in particular make provision about—
  - (a) what types of charge may be imposed;
  - (b) the amount or the maximum amount, or a method for determining the amount or maximum amount, of any type of charge;
  - (c) principles for determining what types of charge may or may not be imposed;
  - (d) principles for determining the amount of any charge that may be imposed;
  - (e) publication of the charges that may be imposed.
- (3) The rules may require a water undertaker, upon declaring a water main or service pipe to be vested in the undertaker in accordance with a section 51A agreement, to pay to the other party to the agreement an amount (which may be nil) determined in accordance with the rules.

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- (4) Rules made by virtue of subsection (3) may, in particular, provide for the determination to take into account—
  - (a) revenue that might be derived from the water main or service pipe in question;
  - (b) costs that might have been incurred in providing such a water main or service pipe.
- (5) The rules may also make provision as to—
  - (a) the amount of security that may be required by a water undertaker for the purposes of any charges imposed by the water undertaker under a section 51A agreement;
  - (b) the type of security that may be required;
  - (c) the payment of interest on a sum deposited with a water undertaker by way of security.
- (6) If the Authority considers that a water undertaker is not acting as required by rules under this section, the Authority may give the undertaker a direction to do, or not to do, a particular thing specified in the direction.
- (7) It is the duty of a water undertaker to comply with a direction under subsection (6), and this duty is enforceable by the Authority under section 18.
- (8) The rules may make different provision for different water undertakers or descriptions of undertaker.
- (9) The Authority may from time to time revise rules issued under this section and issue revised rules.
- (10) The Authority must issue revised rules if—
  - (a) guidance is issued under section 51CG, and
  - (b) the Authority, having regard to that guidance, considers that it is appropriate to revise the rules.
- (11) Revised rules may include provision for applying any of their revisions to section 51A agreements made before the revised rules come into effect.

#### **Textual Amendments**

**F57** Ss. 51B-51CG substituted for ss. 51B, 51C (18.12.2015 for the substitution of ss. 51CD-51CG, 1.4.2017 for E. for the substitution of s. 51B(6) for specified purposes and s. 51CB, 1.10.2017 for E. in so far as not already in force, 1.4.2019 for W. in so far as not already in force) by [Water Act 2014 \(c. 21\)](#), [ss. 10\(3\)](#), 94(3); S.I. 2015/1938, art. 2(b)(ii); S.I. 2017/462, arts. 3(d)(ii), 4(a) (with art. 15); S.I. 2017/1288, art. 3(c)

#### **51CE Rules under section 51CD: procedure**

- (1) Before issuing rules under section 51CD, the Authority must—
  - (a) prepare a draft of the proposed rules, and
  - (b) consult the relevant persons about the draft.
- (2) The relevant persons are—
  - (a) the Secretary of State;
  - (b) the Welsh Ministers;

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- (c) the Council;
  - (d) any water undertakers or other persons likely to be affected by the rules;
  - (e) such other persons as the Authority thinks appropriate.
- (3) The Authority must specify the period (“the consultation period”) within which the relevant persons may make representations about the proposed rules.
- (4) The Authority must have regard to guidance issued under section 51CG in making rules under section 51CD.
- (5) Before rules under section 51CD prepared by the Authority are issued, the Minister may direct the Authority not to issue the rules.
- (6) In subsection (5) “the Minister” means—
- (a) the Secretary of State, so far as the rules relate to section 51A agreements for the vesting of water mains or service pipes in water undertakers whose areas are wholly or mainly in England;
  - (b) the Welsh Ministers, so far as the rules relate to section 51A agreements for the vesting of water mains or service pipes in water undertakers whose areas are wholly or mainly in Wales.
- (7) A direction under subsection (5) must be given within the period of 28 days beginning with the day after the end of the consultation period, and rules may not be issued before that period of 28 days has expired.
- (8) This section is subject to section 51CF.

#### Textual Amendments

**F57** Ss. 51B-51CG substituted for ss. 51B, 51C (18.12.2015 for the substitution of ss. 51CD-51CG, 1.4.2017 for E. for the substitution of s. 51B(6) for specified purposes and s. 51CB, 1.10.2017 for E. in so far as not already in force, 1.4.2019 for W. in so far as not already in force) by [Water Act 2014 \(c. 21\)](#), [ss. 10\(3\)](#), 94(3); S.I. 2015/1938, art. 2(b)(ii); S.I. 2017/462, arts. 3(d)(ii), 4(a) (with art. 15); S.I. 2017/1288, art. 3(c)

#### 51CF Rules under section 51CD: minor or urgent revisions

- (1) This section applies if the Authority proposes to issue revised rules under section 51CD and, in the view of the Authority, the revision or each of the revisions proposed to be made is—
- (a) a revision for which consultation is unnecessary, or
  - (b) a revision that it is necessary or desirable to make without delay.
- (2) Section 51CE does not apply to the proposed revised rules.
- (3) Before issuing the revised rules, the Authority must give notice to the Minister of its intention to issue revised rules.
- (4) Before the revised rules are issued, the Minister may direct the Authority not to issue the revised rules.
- (5) A direction under subsection (4) must be given within the period of 14 days beginning with the day after the day on which notice is given under subsection (3), and the Authority may not issue the revised rules in question before—

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- (a) that period of 14 days expires, or
  - (b) the Minister notifies the Authority that no direction under subsection (4) will be given in relation to the revised rules,
- whichever is the sooner.
- (6) Once the Authority has issued the revised rules, it must give notice as soon as reasonably practicable of—
- (a) the issuing of the revised rules, and
  - (b) as regards each revision contained in them, whether in the view of the Authority the revision falls within paragraph (a) or (b) of subsection (1).
- (7) Notice under subsection (6) is to be given to such persons as the Authority considers appropriate.
- (8) Unless the Authority gives notice that a revision in revised rules is in the view of the Authority a revision falling within subsection (1)(a), the revision ceases to have effect at the end of the period of six months beginning with the day after that on which the revised rules are issued.
- (9) In this section “the Minister” has the meaning given by section 51CE.

#### Textual Amendments

**F57** Ss. 51B-51CG substituted for ss. 51B, 51C (18.12.2015 for the substitution of ss. 51CD-51CG, 1.4.2017 for E. for the substitution of s. 51B(6) for specified purposes and s. 51CB, 1.10.2017 for E. in so far as not already in force, 1.4.2019 for W. in so far as not already in force) by [Water Act 2014](#) (c. 21), [ss. 10\(3\)](#), 94(3); S.I. 2015/1938, art. 2(b)(ii); S.I. 2017/462, arts. 3(d)(ii), 4(a) (with art. 15); S.I. 2017/1288, art. 3(c)

#### 51CG Rules under section 51CD: guidance

- (1) The Minister may issue guidance as to the content of rules under section 51CD.
- (2) Before issuing the guidance, the Minister must—
  - (a) prepare a draft of the proposed guidance;
  - (b) consult the relevant persons about the draft.
- (3) The relevant persons are—
  - (a) the Secretary of State;
  - (b) the Welsh Ministers;
  - (c) such other persons as the Minister thinks appropriate.
- (4) The Minister may from time to time revise the guidance and issue revised guidance.
- (5) Subsections (2) and (3) apply to revised guidance as they apply to the original guidance.
- (6) The Minister must arrange for the publication of guidance issued under this section.
- (7) In this section “the Minister” means—
  - (a) the Secretary of State, so far as the guidance is as to the content of rules relating to section 51A agreements for the vesting of water mains or service pipes in water undertakers whose areas are wholly or mainly in England;

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- (b) the Welsh Ministers, so far as the guidance is as to the content of rules relating to section 51A agreements for the vesting of water mains or service pipes in water undertakers whose areas are wholly or mainly in Wales.]

#### Textual Amendments

**F57** Ss. 51B-51CG substituted for ss. 51B, 51C (18.12.2015 for the substitution of ss. 51CD-51CG, 1.4.2017 for E. for the substitution of s. 51B(6) for specified purposes and s. 51CB, 1.10.2017 for E. in so far as not already in force, 1.4.2019 for W. in so far as not already in force) by [Water Act 2014 \(c. 21\)](#), [ss. 10\(3\)](#), 94(3); S.I. 2015/1938, art. 2(b)(ii); S.I. 2017/462, arts. 3(d)(ii), 4(a) (with art. 15); S.I. 2017/1288, art. 3(c)

### 51D Prohibition on connection without adoption

- (1) Where a person (other than a water undertaker) constructs a water main or service pipe which is to be used, in whole or in part, for supplying water for domestic or food production purposes, no water undertaker may permit that water main or service pipe to become connected with its supply system unless it vests (to the relevant extent) in a water undertaker.
- (2) In subsection (1) above, “the relevant extent” means the extent specified in the agreement for the vesting in the undertaker of the water main or service pipe in question.
- (3) The prohibition imposed on a water undertaker by subsection (1) above shall be enforceable under section 18 above by the Authority.

### 51E Sections 51A to 51D: supplementary

- (1) For the purposes of sections 51A to 51D above, the definition of “water main” in section 219(1) below shall be treated as if the words “not being a pipe for the time being vested in a person other than the undertaker” were omitted.
- (2) [<sup>F58</sup>In section 51A], references to so much of the service pipe as the undertaker could otherwise, by virtue of sections 45 to 51 above, be required to lay shall be construed disregarding section 46(8) above.
- (3) In this Act, references to vesting or the making of a declaration of vesting with respect to a service pipe refer to so much of the service pipe as is specified for those purposes in the relevant vesting agreement.]

#### Textual Amendments

**F58** Words in s. 51E(2) substituted (1.10.2017 for E., 1.4.2019 for W.) by [Water Act 2014 \(c. 21\)](#), [ss. 10\(4\)](#), 94(3); S.I. 2017/462, art. 4(a); S.I. 2017/1288, art. 3(c)

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### *Domestic supplies*

## 52 The domestic supply duty.

- (1) The domestic supply duty of a water undertaker in relation to any premises is a duty, until there is an interruption of that duty—
- (a) to provide to those premises such a supply of water as (so far as those premises are concerned) is sufficient for domestic purposes; and
  - (b) to maintain the connection between the undertaker’s water main and the service pipe by which that supply is provided to those premises.
- (2) Subject to the following provisions of this section and to section 53 below, a water undertaker shall owe a domestic supply duty in relation to any premises to which this section applies<sup>F59</sup> . . . if—
- (a) a demand for a supply of water for domestic purposes has been made, in accordance with subsection (5) below, to the undertaker in respect of those premises; or
  - (b) those premises are premises to which this section applies by reason of a supply of water provided before 1st September 1989,
- and there has been no interruption of the domestic supply duty in relation to those premises since that demand was made or, as the case may be, since the beginning of 1st September 1989.
- (3) [<sup>F60</sup>Subject to subsection (4A) below,]this section applies to any premises if—
- (a) they consist in the whole or any part of a building and are connected by means of a service pipe to [<sup>F61</sup>one of the water undertaker’s water mains]; and
  - (b) the requirements of subsection (4) below are satisfied in relation to those premises.
- (4) The requirements of this subsection are satisfied in relation to any premises if—
- (a) the pipe by means of which the premises are connected to the water main in question was first connected with that main in pursuance of a connection notice served in respect of those premises;
  - (b) that pipe was the means by which a supply of water from that main was being supplied to those premises for domestic purposes immediately before 1st September 1989;
  - (c) the condition specified in paragraph (b) above would be satisfied in relation to the premises if any service pipe to those premises had not been temporarily disconnected for the purposes of any necessary works which were being carried out immediately before 1st September 1989;
- [<sup>F62</sup>(ca) the premises are in a retail exit area and the pipe by means of which the premises are connected to the water main in question was first connected with that main in pursuance of section 66A(3);] or,
- (d) the condition specified in any of the preceding paragraphs—
    - (i) has been satisfied in relation to the premises at any time on or after 1st September 1989; and
    - (ii) would continue to be satisfied in relation to the premises had not the whole or any part of a service pipe to those premises, or the main with which such a pipe had been connected, been renewed (on one or more previous occasions).

[<sup>F63</sup>(4A) This section does not apply to any premises if—

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- (a) they are not in the area of the water undertaker [<sup>F64</sup>or they are in a retail exit area] ;
  - (b) they are not household premises (as defined in section 17C above); and
  - (c) [<sup>F65</sup>in the case of premises to be supplied using the supply system of a water undertaker whose area is wholly or mainly in Wales,] the total quantity of water estimated to be supplied to them annually for the purposes of subsection (2) of section 17D above is not less than the quantity specified in that subsection.]
- (5) For the purposes of this section a demand in respect of any premises is made in accordance with this subsection if it is made—
- (a) by the person who is the occupier of the premises at the time when the demand is made; or
  - (b) by a person who is the owner of the premises at that time and agrees with the undertaker to pay all the undertaker’s charges in respect of the supply demanded.
- (6) For the purposes of this section—
- (a) there is an interruption of the domestic supply duty owed by a water undertaker in relation to any premises if that supply is cut off by anything done by the undertaker in exercise of any of its disconnection powers, other than a disconnection or cutting off for the purposes of the carrying out of any necessary works; and
  - (b) a domestic supply duty owed in relation to any premises shall not be treated as interrupted by reason only of a change of the occupier or owner of the premises.
- [<sup>F66</sup>(6A) For the purposes of this section, there is also an interruption of the domestic supply duty owed by a water undertaker in relation to any premises where—
- (a) a notice is served in respect of those premises under section 63AA below; and
  - (b) the time specified in that notice has passed.]
- (7) Nothing in this section shall impose any duty on a water undertaker—
- (a) to provide a supply of water directly from, or maintain any connection with, a water main which is a trunk main or is or is to be used solely for the purpose of supplying water otherwise than for domestic purposes; or
  - (b) to provide a supply of water to any premises, or maintain the connection between a water main and a service pipe to any premises, during any period during which it is reasonable—
    - (i) for the supply of water to those premises to be cut off or reduced; or
    - (ii) for the pipe to be disconnected,for the purposes of the carrying out of any necessary works.
- (8) In this section references to the disconnection powers of a water undertaker are references to the powers conferred on the undertaker by any of sections 60 to 62 and 75 below.

#### Textual Amendments

- F59** Words in s. 52(2) repealed (1.7.1992) by [Competition and Service \(Utilities\) Act 1992 \(c. 43\), ss. 41, 56\(7\), Sch. 2](#); Competition and Service (Utilities) Act 1992 (Commencement No. 1) Order 1992, art. 3, Sch. Pt.1



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- F60** Words in s. 52(3) inserted (1.12.2005) by Water Act 2003 (c. 37), ss. 101(1), 105(3), **Sch. 8 para. 15(2)**; S.I. 2005/2714, **art. 3(c)** (with Sch. para. 8)
- F61** WOrds in s. 52(3)(a) substituted (1.7.1992) by Competition and Service (Utilities) Act 1992 (c. 43), s. 56(6), **Sch. 1 para. 20**; Competition and Service (Utilities) Act 1992 (Commencement No. 1) Order 1992, art. 3, Sch. Pt.I
- F62** S. 52(4)(ca) inserted (E.) (31.10.2021) by The Water and Sewerage Undertakers (Exit from Non-household Retail Market) (Consequential Provision) Regulations 2021 (S.I. 2021/1208), regs. 1(2), **2(4)**
- F63** S. 52(4A) inserted (1.12.2005) by Water Act 2003 (c. 37), ss. 101(1), 105(3), **Sch. 8 para. 15(3)**; S.I. 2005/2714, **art. 3(c)** (with Sch. para. 8)
- F64** Words in s. 52(4A)(a) inserted (3.10.2016) by The Water and Sewerage Undertakers (Exit from Non-household Retail Market) Regulations 2016 (S.I. 2016/744), reg. 1(2), **Sch. 2 para. 4**
- F65** Words in s. 52(4A)(c) inserted (1.4.2017) by Water Act 2014 (c. 21), s. 94(3), **Sch. 7 para. 58(2)**; S.I. 2017/462, art. 3(k)(vii)
- F66** S. 52(6A) inserted (1.12.2005) by Water Act 2003 (c. 37), ss. 101(1), 105(3), **Sch. 8 para. 15(4)**; S.I. 2005/2714, **art. 3(c)** (with Sch. para. 8)

### 53 Conditions of compliance with domestic supply duty.

- (1) Where a demand for the purposes of section 52(2) above has been made to a water undertaker in respect of any premises (“the relevant premises”), the undertaker may make compliance with one or more of the requirements specified in subsection (2) below a condition of providing his first supply of water in compliance with that demand.
- (2) The requirements mentioned in subsection (1) above are—
- (a) a requirement, in a case where the demand is made as a consequence of a supply having been cut off by reason of any person’s failure to pay any charges, that the person making the demand has paid any amount owed by him to the undertaker—
    - (i) in respect of a supply of water to the relevant premises; or
    - (ii) in respect of expenses [<sup>F67</sup>reasonably] incurred in cutting off any such supply;
  - (b) a requirement, in relation to the relevant premises
    - (i) that such a requirement as may be imposed under section 66 below has been complied with; or
    - (ii) in a case where such a requirement could be imposed but for there already being such a cistern as is mentioned in that section, that the cistern and its float-operated valve are in good repair;
  - (c) a requirement that there is no contravention in relation to the water fittings used or to be used in connection with—
    - (i) the supply of water to the relevant premises; or
    - (ii) the use of water in those premises,
 of such of the requirements of regulations under section 74 below as are prescribed for the purposes of this subsection; and
  - (d) a requirement that every such step has been taken as has been specified in any notice served on any person under section 75 below in relation to the relevant premises.

<sup>F68</sup>[2A) Any dispute between a water undertaker and any other person as to whether the expenses referred to in subsection (2)(a)(ii) above were incurred reasonably may be



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referred to the Director for determination under section 30A above by either party to the dispute.]

<sup>F69</sup>[(2A) Any dispute between a water undertaker and any other person as to whether any requirement of a kind mentioned in subsection (2)(a) or (b) above has been complied with may be referred to the Director for determination under section 30A above by either party to the dispute.]

(3) This section shall be without prejudice to the provisions of sections 233 and 372 of the <sup>M7</sup>Insolvency Act 1986 (conditions of supply after insolvency).

#### Textual Amendments

**F67** Word in s. 53(2)(a)(ii) inserted (1.9.1992) by [Competition and Service \(Utilities\) Act 1992 \(c. 43\), s. 51\(5\)](#); Competition and Service (Utilities) Act 1992 (Commencement No. 1) Order 1992, art. 4, Sch. Pt. II

**F68** S. 53(2A) inserted (1.9.1992) by [Competition and Service \(Utilities\) Act 1992 \(c. 43\), s. 51\(5\)](#); Competition and Service (Utilities) Act 1992 (Commencement No. 1) Order 1992, art. 4, Sch. Pt. II

**F69** S. 53(2A) inserted (1.9.1992) by [Competition and Service \(Utilities\) Act 1992 \(c. 43\), s. 35\(5\)](#); Competition and Service (Utilities) Act 1992 (Commencement No. 1) Order 1992, art. 4, Sch. Pt. II

#### Marginal Citations

**M7** 1986 c. 45.

## 54 Enforcement of domestic supply duty.

- (1) A duty imposed on a water undertaker under section 52 above—
- (a) to provide a supply of water to any premises; or
  - (b) to maintain a connection between a water main and a service pipe by which such a supply is provided,
- shall be owed to the consumer.
- (2) Where a duty is owed by virtue of this section to any person, any breach of that duty which causes that person to sustain loss or damage shall be actionable at the suit of that person; but, in any proceedings brought against a water undertaker in pursuance of this subsection, it shall be a defence for the undertaker to show that it took all reasonable steps and exercised all due diligence to avoid the breach.

### *Other supplies*

## 55 Supplies for non-domestic purposes.

- (1) This section applies where the owner or occupier of any premises in the area of a water undertaker requests the undertaker to provide a supply of water to those premises and—
- (a) the premises are premises which do not consist in the whole or any part of a building; or
  - (b) the requested supply is for purposes other than domestic purposes.

<sup>F70</sup>(1A) This section also applies where—

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- (a) a water undertaker is requested to provide a supply of water to premises which are not in the undertaker's area by the owner or occupier of the premises;
  - (b) the premises are household premises (as defined in section 17C above) [<sup>F71</sup>, in the case of premises to be supplied using the supply system of a water undertaker whose area is wholly or mainly in Wales,] or the total quantity of water estimated to be supplied to the premises annually for the purposes of subsection (2) of section 17D above is less than the quantity specified in that subsection; and
  - (c) paragraph (a) or (b) of subsection (1) above applies.]
- [<sup>F72</sup>(1B) But this section does not apply to any premises if—
- (a) they are in a retail exit area, and
  - (b) they are not household premises (as defined in section 17C above).]

(2) Where this section applies, it shall be the duty of the water undertaker, in accordance with such terms and conditions as may be determined under section 56 below—

    - (a) to take any such steps as may be so determined in order to enable the undertaker to provide the requested supply; and
    - (b) having taken any such steps, to provide that supply.

(3) A water undertaker shall not be required by virtue of this section to provide a new supply to any premises, or to take any steps to enable it to provide such a supply, if the provision of that supply or the taking of those steps would—

    - (a) require the undertaker, in order to meet all its existing obligations to supply water for domestic or other purposes, together with its probable future obligations to supply buildings and parts of buildings with water for domestic purposes, to incur unreasonable expenditure in carrying out works; or
    - (b) otherwise put at risk the ability of the undertaker to meet any of the existing or probable future obligations mentioned in paragraph (a) above.

(4) A water undertaker shall not be required by virtue of this section to provide a new supply to any premises, or to take any steps to enable it to provide such a supply, if there is a contravention in relation to the water fittings used or to be used in connection with—

    - (a) the supply of water to those premises; or
    - (b) the use of water in those premises,

of such of the requirements of regulations under section 74 below as are prescribed for the purposes of this subsection.

(5) Where—

    - (a) a request has been made by any person to a water undertaker for the purposes of subsection (2) above; and
    - (b) the steps which the undertaker is required to take by virtue of that request include steps for the purpose of obtaining any necessary authority for, or agreement to, any exercise by the undertaker of any of its powers or the carrying out by the undertaker of any works,

the failure of the undertaker to acquire the necessary authority or agreement shall not affect any liability of that person, under any term or condition in accordance with which those steps are taken, to re-imburse the undertaker in respect of some or all of the expenses incurred by the undertaker in taking those steps.

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- (6) Nothing in this section shall impose any duty on a water undertaker to provide a supply of water to any premises during any period during which it is reasonable for the supply of water to those premises to be cut off or reduced for the purposes of the carrying out of any necessary works.
- (7) The duty of a water undertaker to supply water under this section at the request of any person, and any terms and conditions determined under section 56 below in default of agreement between the undertaker and that person, shall have effect as if contained in such an agreement.
- (8) Except so far as otherwise provided by the terms and conditions determined under section 56 below in relation to any supply, the duties of a water undertaker under this section shall have effect subject to the provisions of sections 60 to 63 [<sup>F73</sup>and 63AB] and 75 below.

#### Textual Amendments

- F70** S. 55(1A) inserted (1.12.2005) by [Water Act 2003 \(c. 37\)](#), ss. 101(1), 105(3), **Sch. 8 para. 16(2)**; S.I. 2005/2714, **art. 3(c)** (with [Sch. para. 8](#))
- F71** Words in s. 55(1A)(b) inserted (1.4.2017) by [Water Act 2014 \(c. 21\)](#), s. 94(3), **Sch. 7 para. 59**; S.I. 2017/462, **art. 3(k)(vii)**
- F72** S. 55(1B) inserted (3.10.2016) by [The Water and Sewerage Undertakers \(Exit from Non-household Retail Market\) Regulations 2016 \(S.I. 2016/744\)](#), reg. 1(2), **Sch. 2 para. 5**
- F73** Words in s. 55(8) inserted (1.12.2005) by [Water Act 2003 \(c. 37\)](#), ss. 101(1), 105(3), **Sch. 8 para. 16(3)**; S.I. 2005/2714, **art. 3(c)** (with [Sch. para. 8](#))

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

- C1** S. 55 extended (01.12.1991) By [Water Consolidation \(Consequential Provisions\) Act 1991 \(c. 60, SIF 130\)](#), ss. 2(2), 4(2), **Sch. 2 Pt. I para.8**.

## 56 Determinations on requests for non-domestic supplies.

- (1) Subject to subsection (3) below, any terms or conditions or other matter which falls to be determined for the purposes of a request made by any person to a water undertaker for the purposes of section 55 above shall be determined—
  - (a) by agreement between that person and the water undertaker; or
  - (b) in default of agreement, by the Director according to what appears to him to be reasonable.
- (2) Subject to subsection (3) below, the Director shall also determine any dispute arising between any person and a water undertaker by virtue of subsection (3) or (4) of section 55 above.
- (3) The Director may, instead of himself making a determination under subsection (1) or (2) above, refer any matter submitted to him for determination under that subsection to the arbitration of such person as he may appoint.
- (4) For the purposes of any determination under this section by the Director or any person appointed by him it shall be for a water undertaker to show that it should not be required to comply with a request made for the purposes of section 55 above.
- (5) The charges in respect of a supply provided in compliance with any request made for the purposes of section 55 above—

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- (a) shall not be determined by the Director or a person appointed by him, except in so far as, at the time of the request, no provision is in force by virtue of a charges scheme under section 143 below in respect of supplies of the applicable description; and
- (b) in so far they do fall to be determined, shall be so determined having regard to the desirability of the undertaker's—
  - (i) recovering the expenses of complying with its obligations under section 55 above; and
  - (ii) securing a reasonable return on its capital.
- (6) To the extent that subsection (5)(a) above excludes any charges from a determination under this section, those charges shall be fixed from time to time by a charges scheme under section 143 below, but not otherwise.
- (7) The determination of any matter under this section shall be without prejudice to the provisions of sections 233 and 372 of the <sup>M8</sup>Insolvency Act 1986 (conditions of supply after insolvency).

#### Marginal Citations

**M8** 1986 c. 45.

### 57 Duty to provide a supply of water etc. for fire-fighting.

- (1) It shall be the duty of a water undertaker to allow any person to take water for extinguishing fires from any of its water mains or other pipes on which a fire-hydrant is fixed.
- (2) Every water undertaker shall, at the request of the [<sup>F74</sup>fire and rescue authority] concerned, fix fire-hydrants on its water mains (other than its trunk mains) at such places as may be most convenient for affording a supply of water for extinguishing any fire which may break out within the area of the undertaker.
- (3) It shall be the duty of every water undertaker to keep every fire-hydrant fixed on any of its water mains or other pipes in good working order and, for that purpose, to replace any such hydrant when necessary.
- (4) It shall be the duty of a water undertaker to ensure that a [<sup>F74</sup>fire and rescue authority] has been supplied by the undertaker with all such keys as the authority may require for the fire-hydrants fixed on the water mains or other pipes of the undertaker.
- [<sup>F75</sup>(4A) Where a fire-hydrant is removed (other than at the request of the fire authority concerned) by a water undertaker in the course of carrying out works in relation to any of its water mains or other pipes, the cost of replacing the fire-hydrant shall be borne by the undertaker.]
- (5) Subject to [<sup>F76</sup>subsection (5A) and] section 58(3) below, the expenses incurred by a water undertaker in complying with its obligations under subsections (2) to (4) above shall be borne by the [<sup>F77</sup>fire and rescue authority] concerned.
- [<sup>F78</sup>(5A) Where a fire-hydrant is damaged as the result of any use made of it with the authority of a water undertaker, other than use for the purposes of fire-fighting or for any other purposes of a fire and rescue authority, the fire and rescue authority is not liable for the cost of repairing or replacing the hydrant.]

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- (6) Nothing in this section shall require a water undertaker to do anything which it is unable to do by reason of the carrying out of any necessary works.
- (7) The obligations of a water undertaker under this section shall be enforceable under section 18 above by the Secretary of State.
- (8) In addition, where a water undertaker is in breach of its obligations under this section, the undertaker shall be guilty of an offence and liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to a fine.
- (9) In any proceedings against any water undertaker for an offence under subsection (8) above it shall be a defence for that undertaker to show that it took all reasonable steps and exercised all due diligence to avoid the commission of the offence.
- (10) <sup>F79</sup> .....

#### Textual Amendments

- F74** Words in s. 57(2)(4) substituted (1.10.2004 for E. and 10.11.2004 for W.) by [Fire and Rescue Services Act 2004 \(c. 21\), ss. 53, 61](#), {Sch. 1 para. 76(2)}; [S.I. 2004/2304, art. 2\(2\)](#) (subject to savings in [art. 3](#)); [S.I. 2004/2917, art. 2](#)
- F75** S. 57(4A) inserted (1.4.2004) by [Water Act 2003 \(c. 37\), ss. 84\(1\), 105\(3\)](#); [S.I. 2004/641, art. 3\(v\)](#) (with [art. 6, Sch. 3](#))
- F76** Words in s. 57(5) inserted (1.10.2004 for E. and 10.11.2004 for W.) by [Fire and Rescue Services Act 2004 \(c. 21\), ss. 53, 61](#), {Sch. 1 para. 76(3)(a)}; [S.I. 2004/2304, art. 2\(2\)](#) (subject to savings in [art. 3](#)); [S.I. 2004/2917, art. 2](#)
- F77** Words in s. 57(5) substituted (1.10.2004 for E. and 10.11.2004 for W.) by [Fire and Rescue Services Act 2004 \(c. 21\), ss. 53, 61](#), {Sch. 1 para. 76(3)(b)}; [S.I. 2004/2304, art. 2\(2\)](#) (subject to [art. 2](#)); [S.I. 2004/2917, art. 2](#)
- F78** S. 57(5A) inserted (1.10.2004 for E. and 10.11.2004 for W.) by [Fire and Rescue Services Act 2004 \(c. 21\), ss. 53, 61](#), {Sch. 1 para. 76(4)}; [S.I. 2004/2304, art. 2\(2\)](#) (subject to savings in [art. 3](#)); [S.I. 2004/2917, art. 2](#)
- F79** S. 57(10) repealed (1.10.2004 for E. and 10.11.2004 for W.) by [Fire and Rescue Services Act 2004 \(c. 21\), ss. 54, 61](#), {Sch. 2}; [S.I. 2004/2304, art. 2\(2\)](#) (subject to savings in [art. 3](#)); [S.I. 2004/2917, art. 2](#)

## 58 Specially requested fire-hydrants.

- (1) A water undertaker shall, at the request of the owner or occupier of any factory or place of business, fix a fire-hydrant, to be used for extinguishing fires and not other purposes, at such place on any suitable water main or other pipe of the undertaker as is as near as conveniently possible to that factory or place of business.
- (2) For the purposes of subsection (1) above a water main or other pipe is suitable, in relation to a factory or place of business, if—
  - (a) it is situated in a street which is in or near to that factory or place of business; and
  - (b) it is of sufficient dimensions to carry a hydrant and is not a trunk main.

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- (3) Subsection (5) of section 57 above shall not apply in relation to expenses incurred in compliance, in relation to a specially requested fire-hydrant, with the obligations under subsections (3) and (4) of that section.
- (4) Any expenses incurred by a water undertaker—
- (a) in complying with its obligations under subsection (1) above; or
  - (b) in complying, in relation to a specially requested fire-hydrant, with its obligations under section 57(3) or (4) above,
- shall be borne by the owner or occupier of the factory or place of business in question, according to whether the person who made the original request for the hydrant did so in his capacity as owner or occupier.
- [<sup>F80</sup>(4A) Where a specially requested fire-hydrant is removed (other than at the request of the owner or occupier of the factory or place of business in question) by a water undertaker in the course of carrying out works in relation to any of its water mains or other pipes, the cost of replacing the fire-hydrant shall be borne by the undertaker.]
- (5) Subsections (6) to (9) of section 57 above shall apply in relation to the obligations of a water undertaker under this section as they apply to the obligations of a water undertaker under that section.
- (6) In this section—
- “factory” has the same meaning as in the <sup>M9</sup>Factories Act 1961; and
  - “specially requested fire-hydrant” means a fire-hydrant which—
- (a) is fixed on a water main or other pipe of a water undertaker; and
  - (b) was fixed on that main or pipe (whether before or after it became such a main or pipe under the <sup>M10</sup>Water Act 1989) in pursuance of a request made by the owner or occupier of a factory or place of business.

#### Textual Amendments

**F80** S. 58(4A) inserted (1.4.2004) by [Water Act 2003 \(c. 37\)](#), **ss. 84(2)**, 105(3); S.I. 2004/641, **art. 3(v)** (art. 6, Sch. 3)

#### Marginal Citations

**M9** 1961 c. 34.

**M10** 1989 c. 15.

## 59 Supplies for other public purposes.

- (1) A water undertaker shall, at the request of a sewerage undertaker, highway authority or local authority, provide, from such of its pipes as are of an appropriate capacity, a supply of water for cleansing sewers and drains, for cleansing and watering highways or, as the case may be, for supplying any public pumps, baths or wash-houses.
- (2) A supply of water provided by a water undertaker under this section shall be provided upon such terms and conditions as may be reasonable.
- (3) A water main or other pipe of a water undertaker shall be treated as of an appropriate capacity for the purposes of this section if and only if it has a fire-hydrant fixed on it.

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- (4) Nothing in this section shall require a water undertaker to do anything which it is unable to do by reason of the carrying out of any necessary works.
- (5) The obligations of a water undertaker under this section shall be enforceable under section 18 above by the Director.

### *Disconnections*

#### **60 Disconnections for the carrying out of necessary works.**

- (1) Subject to the following provisions of this section, a water undertaker may—
  - (a) disconnect a service pipe which, for the purposes of providing a supply of water to any premises, is connected with any water main of that undertaker; or
  - (b) otherwise cut off a supply of water to any premises,if it is reasonable for the disconnection to be made, or the supply to be cut off, for the purposes of the carrying out of any necessary works.
- (2) The power of a water undertaker under this section to cut off a supply of water shall include power to reduce a supply of water.
- (3) Except in an emergency or in the case of a reduction which is immaterial, the power of a water undertaker under this section to cut off or reduce a supply shall be exercisable in relation to any premises only after the undertaker has served reasonable notice on the consumer of the proposal for the carrying out of the necessary works.
- (4) Where a water undertaker exercises its power under this section to make any disconnection or to cut off or reduce a supply of water to any premises for the purposes of the carrying out of any necessary works, it shall owe a duty to the consumer to secure—
  - (a) that those works are carried out with reasonable dispatch; and
  - (b) that any supply of water to those premises for domestic purposes is interrupted for more than twenty-four hours for the purposes of the carrying out of those works only if an emergency supply has been made available (whether or not in pipes) within a reasonable distance of the premises.
- (5) Any breach by a water undertaker of the duty owed by virtue of subsection (4) above which causes any person to whom it is owed to sustain loss or damage shall be actionable at the suit of that person.

#### **61 Disconnections for non-payment of charges.**

- (1) Subject to <sup>F81</sup>subsections (1A) to (6)], a water undertaker may disconnect a service pipe which for the purposes of providing a supply of water to any premises is connected with any water main of that undertaker, or may otherwise cut off a supply of water to any premises, <sup>F82</sup>if subsection (1ZA) or (1ZB) applies
- (1ZA) This subsection applies] if the occupier of the premises—
- (a) is liable (whether in his capacity as occupier or under any agreement with the undertaker) to pay charges due to the undertaker in respect of the supply of water to those premises; and
  - (b) has failed to do so before the end of the period of seven days beginning with the day after he is served with notice requiring him to do so.



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[<sup>F83</sup>(1ZB) This subsection applies if a water supply licensee requests the undertaker to disconnect the service pipe or otherwise cut off the supply of water to the premises.

(1ZC) A water supply licensee may make a request under subsection (1ZB) only if—

- (a) the occupier of the premises is liable under an agreement with the licensee to pay charges to the licensee in respect of the supply of water to the premises,
- (b) the licensee has served notice on the occupier requiring payment of charges due,
- (c) the occupier has failed to pay the charges before the end of the period of seven days beginning with the day after the notice was served, and
- (d) that period has expired.]

[<sup>F84</sup>(1A) The power conferred by subsection (1) above is not exercisable in relation to any premises specified in Schedule 4A to this Act.]

(2) Where—

- (a) a water undertaker has served a notice for the purposes of paragraph (b) of [<sup>F85</sup>subsection (1ZA)] above on a person; and
- (b) within the period of seven days mentioned in that paragraph, that person serves a counter-notice on the undertaker stating that he disputes his liability to pay the charges in question,

the undertaker shall not in respect of that notice exercise his power by virtue of [<sup>F86</sup>subsection (1)] in relation to any premises except at a time when that person is the occupier of the premises and those charges are enforceable against that person in a manner specified in subsection (3) below.

[<sup>F87</sup>(2A) Where—

- (a) a water supply licensee has served a notice for the purposes of subsection (1ZC)(b) on a person, and
- (b) within the period of seven days mentioned in subsection (1ZC)(c), the person serves a counter-notice on the licensee stating that he disputes his liability to pay the charges in question,

the licensee may not make a request under subsection (1ZB) in relation to the premises except at a time when that person is the occupier of the premises and those charges are enforceable against that person in a manner specified in subsection (3).]

(3) For the purposes of subsection (2) [<sup>F88</sup>or (2A)] above charges are enforceable in a manner specified in this subsection against a person if-

- (a) the undertaker [<sup>F89</sup>or, as the case may be, the licensee] is able to enforce a judgment against that person for the payment of the charges; or
- (b) that person is in breach of an agreement entered into, since the service of his counter-notice, for the purpose of avoiding or settling proceedings by the undertaker [<sup>F90</sup>or, as the case may be, the licensee] for the recovery of the charges.

(4) A water undertaker which exercises its power under this section to disconnect any pipe or otherwise to cut off any supply of water may recover<sup>F91</sup>... any expenses reasonably incurred by the undertaker in making the disconnection or in otherwise cutting off the supply [<sup>F92</sup>—

- (a) from the person in respect of whose liability the power is exercised, in a case where the power is exercised in the circumstances mentioned in subsection (1ZA);

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- (b) from the water supply licensee who made the request, in a case where the power is exercised in the circumstances mentioned in subsection (1ZB).]
- (5) Where—
- (a) a water undertaker has power under this section to disconnect any pipe to any premises, or otherwise to cut off any supply to any premises; and
- (b) a supply of water is provided to those premises [<sup>F93</sup>(“the primary premises”)] and to other premises [<sup>F94</sup>(“the secondary premises”)] wholly or partly by the same service pipe,
- the undertaker may exercise that power so as to cut off the supply to [<sup>F95</sup>the secondary premises] if and only if the same person is the occupier of [<sup>F96</sup>the primary premises] and of [<sup>F97</sup>the secondary premises].
- [<sup>F98</sup>(6) The undertaker may not cut off the supply to the secondary premises in reliance on subsection (5) if—
- (a) in a case where the undertaker is exercising the power in subsection (1) because charges are due to it, the secondary premises are supplied by a person other than the undertaker;
- (b) in a case where the undertaker is exercising the power in subsection (1) because of a request for disconnection under subsection (1ZB), the secondary premises are supplied by a person other than the licensee which made that request.]

#### Textual Amendments

- F81** Words in s. 61(1) substituted (1.4.2017) by Water Act 2014 (c. 21), s. 94(3), **Sch. 7 para. 60(2)(a)**; S.I. 2017/462, art. 3(k)(vii)
- F82** S. 61(1ZA) and words inserted (1.4.2017) by Water Act 2014 (c. 21), s. 94(3), **Sch. 7 para. 60(2)(b)**; S.I. 2017/462, art. 3(k)(vii)
- F83** S. 61(1ZB)(1ZC) inserted (1.4.2017) by Water Act 2014 (c. 21), s. 94(3), **Sch. 7 para. 60(3)**; S.I. 2017/462, art. 3(k)(vii)
- F84** S. 61(1A) inserted (30.6.1999) by 1999 c. 9, **ss. 1(1)**, 17(2)
- F85** Words in s. 61(2)(a) substituted (1.4.2017) by Water Act 2014 (c. 21), s. 94(3), **Sch. 7 para. 60(4)(a)**; S.I. 2017/462, art. 3(k)(vii)
- F86** Words in s. 61(2) substituted (1.4.2017) by Water Act 2014 (c. 21), s. 94(3), **Sch. 7 para. 60(4)(b)**; S.I. 2017/462, art. 3(k)(vii)
- F87** S. 61(2A) inserted (1.4.2017) by Water Act 2014 (c. 21), s. 94(3), **Sch. 7 para. 60(5)**; S.I. 2017/462, art. 3(k)(vii)
- F88** Words in s. 61(3) inserted (1.4.2017) by Water Act 2014 (c. 21), s. 94(3), **Sch. 7 para. 60(6)(a)**; S.I. 2017/462, art. 3(k)(vii)
- F89** Words in s. 61(3)(a) inserted (1.4.2017) by Water Act 2014 (c. 21), s. 94(3), **Sch. 7 para. 60(6)(b)**; S.I. 2017/462, art. 3(k)(vii)
- F90** Words in s. 61(3)(b) inserted (1.4.2017) by Water Act 2014 (c. 21), s. 94(3), **Sch. 7 para. 60(6)(c)**; S.I. 2017/462, art. 3(k)(vii)
- F91** Words in s. 61(4) repealed (1.4.2017) by Water Act 2014 (c. 21), s. 94(3), **Sch. 7 para. 60(7)(a)**; S.I. 2017/462, art. 3(k)(vii)
- F92** S. 61(4)(a)(b) inserted (1.4.2017) by Water Act 2014 (c. 21), s. 94(3), **Sch. 7 para. 60(7)(b)**; S.I. 2017/462, art. 3(k)(vii)
- F93** Words in s. 61(5)(b) inserted (1.4.2017) by Water Act 2014 (c. 21), s. 94(3), **Sch. 7 para. 60(8)(a)(i)**; S.I. 2017/462, art. 3(k)(vii)
- F94** Words in s. 61(5)(b) inserted (1.4.2017) by Water Act 2014 (c. 21), s. 94(3), **Sch. 7 para. 60(8)(a)(ii)**; S.I. 2017/462, art. 3(k)(vii)

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- F95** Words in s. 61(5) substituted (1.4.2017) by [Water Act 2014 \(c. 21\)](#), s. 94(3), [Sch. 7 para. 60\(8\)\(b\)\(i\)](#); [S.I. 2017/462](#), art. 3(k)(vii)
- F96** Words in s. 61(5) substituted (1.4.2017) by [Water Act 2014 \(c. 21\)](#), s. 94(3), [Sch. 7 para. 60\(8\)\(b\)\(ii\)](#); [S.I. 2017/462](#), art. 3(k)(vii)
- F97** Words in s. 61(5) substituted (1.4.2017) by [Water Act 2014 \(c. 21\)](#), s. 94(3), [Sch. 7 para. 60\(8\)\(b\)\(iii\)](#); [S.I. 2017/462](#), art. 3(k)(vii)
- F98** S. 61(6) inserted (1.4.2017) by [Water Act 2014 \(c. 21\)](#), s. 94(3), [Sch. 7 para. 60\(9\)](#); [S.I. 2017/462](#), art. 3(k)(vii)

## 62 Disconnections at request of customer.

- (1) Subject to the following provisions of this section, a water undertaker may—
- (a) disconnect a service pipe which for the purposes of providing a supply of water to any premises is connected with any water main of that undertaker; or
  - (b) otherwise cut off a supply of water to any premises,
- if notice specifying the time after which a supply of water to those premises will no longer be required has been served on the undertaker by a consumer and that time has passed.
- (2) No person shall be liable to a water undertaker for any expenses incurred by the undertaker in exercising the power conferred on the undertaker by this section.

## 63 General duties of undertakers with respect to disconnections.

- (1) Where a water undertaker—
- (a) disconnects a service pipe to any inhabited house, or otherwise cuts off a supply of water to such a house; and
  - (b) does so without restoring the supply to that house before the end of the period of twenty-four hours beginning with the time when it is cut off,
- the undertaker shall, no later than forty-eight hours after that time, serve notice that it has cut off that supply on the local authority in whose area the house is situated.
- (2) A water undertaker which fails, without reasonable excuse, to serve a notice on a local authority as required by subsection (1) above shall be guilty of an offence under this section.
- (3) A water undertaker shall be guilty of an offence under this section if—
- (a) it disconnects a service pipe to any premises, or otherwise cuts off a supply of water to any premises, in a case in which it has no power to do so under sections 60 to 62 above, section 75 below or any other enactment; or
  - (b) in disconnecting any such pipe or cutting off any such supply it fails, without reasonable excuse, to comply with any requirement of the provisions in pursuance of which it disconnects the pipe or cuts off the supply.
- [<sup>F99</sup>(3A) A water undertaker is not guilty of an offence under subsection (3) where it disconnects a service pipe or otherwise cuts off a supply of water under section 61 in the circumstances mentioned in section 61(1ZB) (request from water supply licensee).]
- (4) A water undertaker which is guilty of an offence under this section shall be liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

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#### Textual Amendments

**F99** S. 63(3A) inserted (1.4.2017) by [Water Act 2014 \(c. 21\)](#), s. 94(3), [Sch. 7 para. 61](#); S.I. 2017/462, art. 3(k)(vii)

*[<sup>F100</sup>Supply by [<sup>F101</sup>water supply licensee]etc*

#### Textual Amendments

**F100** Ss. 63AA-63AC and preceding cross-heading inserted (1.12.2005) by [Water Act 2003 \(c. 37\)](#), ss. 101(1), 105(3), [Sch. 8 para. 17](#); S.I. 2005/2714, [art. 3\(c\)](#) (with [Sch. para. 8](#))

**F101** Words in s. 63AA cross-heading substituted (1.4.2016) by [Water Act 2014 \(c. 21\)](#), s. 94(3), [Sch. 7 para. 62](#); S.I. 2016/465, [art. 2\(m\)](#), [Sch. 1 para. 1\(l\)](#) (with [Sch. 2](#)) (as amended (22.3.2017) by S.I. 2017/462, [art. 16](#))

### **63AA Supply by [<sup>F102</sup>water supply licensee]: domestic supply**

- (1) The owner or occupier of any premises may serve a notice on a water undertaker—
  - (a) informing the undertaker that the premises are to be supplied by a [<sup>F103</sup>water supply licensee]; and
  - (b) specifying the time after which a supply of water to the premises by the undertaker will no longer be required.
- (2) Where the charges for the water supplied by the undertaker are, under Chapter 1 of Part 5 of this Act, fixed in relation to the premises by reference to volume, the time specified in the notice shall fall at least two working days after the notice is served.
- (3) In this section and section 63AB below, any reference to two working days is a reference to a period of forty-eight hours calculated after disregarding any time falling on—
  - (a) a Saturday or Sunday; or
  - (b) Christmas Day, Good Friday or any day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971.

#### Textual Amendments

**F102** Words in s. 63AA title substituted (1.4.2016) by [Water Act 2014 \(c. 21\)](#), s. 94(3), [Sch. 7 para. 63\(2\)](#); S.I. 2016/465, [art. 2\(m\)](#), [Sch. 1 para. 1\(l\)](#) (with [Sch. 2](#)) (as amended (22.3.2017) by S.I. 2017/462, [art. 16](#))

**F103** Words in s. 63AA(1)(a) substituted (1.4.2016) by [Water Act 2014 \(c. 21\)](#), s. 94(3), [Sch. 7 para. 63\(3\)](#); S.I. 2016/465, [art. 2\(m\)](#), [Sch. 1 para. 1\(l\)](#) (with [Sch. 2](#)) (as amended (22.3.2017) by S.I. 2017/462, [art. 16](#))

### **63AB Supply by [<sup>F104</sup>water supply licensee]: non-domestic supply**

- (1) The duty of a water undertaker under section 55 above [<sup>F105</sup>or section 63AC(2)] to provide a supply of water to any premises shall cease to apply if—
  - (a) a notice specifying the time after which a supply of water to the premises by the undertaker will no longer be required in consequence of the premises being

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supplied by a [<sup>F106</sup>water supply licensee] has been served on the undertaker by the owner or occupier of the premises; and

(b) that time has passed.

(2) Where the charges for the water supplied by the undertaker are, under Chapter 1 of Part 5 of this Act, fixed in relation to the premises by reference to volume, the time specified in the notice shall fall at least two working days after the notice is served.

#### Textual Amendments

**F104** Words in s. 63AB title substituted (6.3.2017) by [Water Act 2014 \(c. 21\)](#), s. 94(3), [Sch. 7 para. 64\(2\)](#); [S.I. 2017/58](#), art. 2(c) (with art. 3(1))

**F105** Words in s. 63AB(1) inserted (6.3.2017) by [Water Act 2014 \(c. 21\)](#), s. 94(3), [Sch. 7 para. 64\(3\)](#); [S.I. 2017/58](#), art. 2(c) (with art. 3(1))

**F106** Words in s. 63AB(1)(a) substituted (6.3.2017) by [Water Act 2014 \(c. 21\)](#), s. 94(3), [Sch. 7 para. 64\(4\)](#); [S.I. 2017/58](#), art. 2(c) (with art. 3(1))

#### [<sup>F107</sup>63A] **Interim duty: domestic and non-domestic supply**

(1) This section applies where—

- (a) a water supply licensee (“the previous licensee”) ceases to supply any premises with water, and
- (b) the owner or occupier of the premises has not notified the water undertaker in whose area the premises are that—
  - (i) he has made arrangements for the continuation of the supply of water to the premises, or
  - (ii) he intends any supply of water to the premises to cease.

(2) It is to be the duty of the water undertaker to continue the supply of water to the premises which was made by the previous licensee.

(3) But the Authority may give a direction to an eligible water supply licensee (an “interim licensee”) providing that it is to be the duty of that licensee to continue the supply instead.

(4) An “eligible water supply licensee” is a water supply licensee with a retail authorisation or a restricted retail authorisation who has elected to be an eligible water supply licensee for the purposes of this section in accordance with the code issued under section 63AF.

(5) If the Authority proposes to give a direction under subsection (3) to an eligible water supply licensee—

- (a) the Authority must give notice of the proposed direction to the licensee, and
- (b) the licensee may, in accordance with the code issued under section 63AF, temporarily suspend the election made by the licensee as mentioned in subsection (4), so that the proposed direction cannot be given to the licensee.

(6) Where a supply is made by an undertaker under subsection (2)—

- (a) the charges payable in respect of the supply are to be fixed from time to time by a charges scheme under section 143, and
- (b) subject to subsection (12), the supply is to be made until—

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- (i) a supply is made by an interim licensee by virtue of a direction under subsection (3),
  - (ii) a supply is made by a water supply licensee following the service of a notice under section 63AA or 63AB;
  - (iii) a supply is made under section 52 or 55, or
  - (iv) a notice is served by the undertaker on the owner or occupier of the premises stating that the supply is to be discontinued (subject to subsection (8)),whichever is the earlier.
- (7) Where a supply is made by an interim licensee by virtue of a direction given under subsection (3)—
  - (a) the supply by the interim licensee is to be treated as having begun on the date on which the previous licensee ceased to supply the premises,
  - (b) the terms and conditions in accordance with which the supply is to be made are to be—
    - (i) those provided for by a scheme made under section 63AE, or
    - (ii) such other terms and conditions as may be agreed between the interim licensee and the owner or occupier of the premises, and
  - (c) subject to subsection (12), the supply is to be made until it is discontinued in accordance with the terms and conditions mentioned in paragraph (b).
- (8) A notice under subsection (6)(b)(iv) may not be served before the end of the period of three months beginning with the day on which the supply by the previous licensee ceased.
- (9) Subsections (10) and (11) apply if, within a period of three months beginning with the date on which the previous licensee ceased to supply the premises with water, the owner or occupier of the premises serves notice—
  - (a) under section 63AA or 63AB, on the water undertaker continuing the supply under subsection (2), or
  - (b) in accordance with the terms and conditions mentioned in subsection (7)(b), on the interim licensee continuing the supply by virtue of a direction given under subsection (3),that instead another water supply licensee (“the new licensee”) is to continue the supply of water to the premises which was made by the previous licensee.
- (10) The notice must—
  - (a) specify the time from which the new licensee is to continue the supply in question, and
  - (b) be served in accordance with the code issued under section 63AF.
- (11) In the case of a notice served as mentioned in subsection (9)(a), the supply by the new licensee is to be treated as having begun on the date on which the previous licensee ceased to supply the premises.
- (12) Supplies of water under this section are subject to sections 60 to 63.]]

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#### Textual Amendments

**F107** Ss. 63AC-63AF substituted for s. 63AC (1.4.2017) by [Water Act 2014 \(c. 21\)](#), **ss. 31**, 94(3); S.I. 2017/462, art. 3(f)

#### [<sup>F107</sup>63A] **Interim duty: supplementary**

- (1) A water undertaker is not required by virtue of section 63AC to provide a supply of water to any premises if the provision of the supply would—
  - (a) require the undertaker, in order to meet all its existing obligations to supply water for domestic or other purposes, together with its probable future obligations to supply buildings and parts of buildings with water for domestic purposes, to incur unreasonable expenditure in carrying out works, or
  - (b) otherwise put at risk its ability to meet any of the existing or probable future obligations mentioned in paragraph (a).
- (2) The Authority may determine, in a case referred to it by the owner or occupier of the premises in question, whether the condition in subsection (1) is satisfied in relation to a water undertaker.
- (3) Before the Authority determines whether that condition is satisfied, it must consult—
  - (a) the Secretary of State, in the case of a water undertaker whose area is wholly or mainly in England;
  - (b) the Welsh Ministers, in the case of a water undertaker whose area is wholly or mainly in Wales.
- (4) The supply of water to any premises by a water undertaker under section 63AC does not prevent a proposed supply to those premises by that undertaker under section 55 from being regarded as a new supply for the purposes of that section.
- (5) Where a duty is imposed by section 63AC(2), or by virtue of a direction given under section 63AC(3), in respect of any premises, any breach of the duty which causes the owner or occupier of the premises to sustain loss or damage is actionable at the suit of that owner or occupier.
- (6) But in any proceedings brought against a water undertaker or water supply licensee in pursuance of subsection (5), it is a defence for the undertaker or licensee to show that the undertaker or, as the case may be, the licensee took all reasonable steps and exercised all due diligence to avoid the breach.
- (7) For the purposes of section 63AC, premises which are outside a water undertaker's area are to be treated as being within that area if they are supplied with water using the undertaker's supply system.
- (8) In subsection (7), the reference to the undertaker's supply system is to be construed in accordance with section 17B.

#### Textual Amendments

**F107** Ss. 63AC-63AF substituted for s. 63AC (1.4.2017) by [Water Act 2014 \(c. 21\)](#), **ss. 31**, 94(3); S.I. 2017/462, art. 3(f)



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### **63AE Interim licensees: schemes for terms and conditions**

- (1) A person who is an eligible water supply licensee for the purposes of section 63AC must make, and from time to time revise, a scheme containing the terms and conditions which, in the absence of agreed terms and conditions, are to apply to a supply of water made by the licensee by virtue of a direction given under section 63AC(3).
- (2) A scheme under this section may make different provision for different purposes, or for different areas.
- (3) As soon as practicable after a water supply licensee makes or revises a scheme under this section the licensee is to—
  - (a) publish the scheme, or revised scheme, on the licensee's website, and
  - (b) send a copy of the scheme, or revised scheme, to the Authority.
- (4) The Authority may give a direction that terms and conditions applying to a supply of water in accordance with a scheme under this section must be modified as specified in the direction.
- (5) A direction under subsection (4) may apply—
  - (a) generally to terms and conditions applying in accordance with a scheme under this section, or
  - (b) to terms and conditions so applying in any particular case.
- (6) It is the duty of a water supply licensee to comply with a direction under subsection (4), and this duty is enforceable under section 18.

#### **Textual Amendments**

**F107** Ss. 63AC-63AF substituted for s. 63AC (1.4.2017) by [Water Act 2014 \(c. 21\)](#), **ss. 31, 94(3)**; S.I. [2017/462](#), art. 3(f)

### **63AF Interim duty: code**

- (1) The Authority must issue a code in relation to—
  - (a) supplies of water under section 63AC, and
  - (b) its power of direction under section 63AC(3) (power to direct that eligible water supply licensee makes interim supply).
- (2) The code may, in particular, make provision about—
  - (a) the procedure for electing to be an eligible water supply licensee for the purposes of section 63AC;
  - (b) the procedure for temporarily suspending such an election under section 63AC(5)(b);
  - (c) the circumstances in which the Authority's power of direction under section 63AC(3) or 63AE(4) may or may not be exercised;
  - (d) how the Authority will determine the date on which a water supply licensee ceased to supply premises with water for the purposes of section 63AC;
  - (e) terms and conditions contained in schemes made under section 63AE;
  - (f) eligible water supply licensees informing owners or occupiers of premises of their schemes for terms and conditions made under section 63AE, before agreeing any terms and conditions as mentioned in section 63AC(7)(b)(ii);

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- (g) the giving of notices as mentioned in section 63AC(9) (that a new licensee is to continue the supply of water made by the previous licensee) including, in particular, provision about—
  - (i) the earliest time that a notice may specify as the time from which a new licensee is to continue the supply of water made by a previous licensee;
  - (ii) the procedure for serving a notice.
- (3) If the Authority considers that a water supply licensee is not acting as required by provision contained in the code as mentioned in subsection (2)(e) or (f), the Authority may give the licensee a direction to do, or not to do, a particular thing specified in the direction.
- (4) It is the duty of a water supply licensee to comply with a direction under subsection (3), and this duty is enforceable under section 18.
- (5) The Authority must from time to time review the code and, if appropriate, issue a revised code.
- (6) References in section 63AC to the code issued under this section are to the code issued under this section that has effect at the time in question.]

**Textual Amendments**

**F107** Ss. 63AC-63AF substituted for s. 63AC (1.4.2017) by [Water Act 2014 \(c. 21\)](#), **ss. 31, 94(3)**; S.I. 2017/462, art. 3(f)

*[ Use of limiting devices*

**<sup>F108</sup>63A Prohibition of use of limiting devices.**

- (1) A water undertaker shall be guilty of an offence under this section if it uses a limiting device in relation to any premises specified in Schedule 4A to this Act, with the intention of enforcing payment of charges which are or may become due to the undertaker in respect of the supply of water to the premises.
- (2) For the purposes of this section “a limiting device”, in relation to any premises, means any device or apparatus which—
  - (a) is fitted to any pipe by which water is supplied to the premises or a part of the premises, whether that pipe belongs to the undertaker or to any other person, and
  - (b) is designed to restrict the use which may be made of water supplied to the premises by the undertaker.
- (3) An undertaker does not commit an offence under this section by disconnecting a service pipe to any premises or otherwise cutting off a supply of water to the premises.
- (4) An undertaker guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.]

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### Textual Amendments

**F108** S. 63A inserted (30.6.1999) by 1999 c. 9, ss. 2, 17(2)

## Means of supply

### 64 Supply by means of separate service pipes.

- (1) Subject to the following provisions of this section, a water undertaker may require the provision of a separate service pipe to any premises<sup>F109</sup> . . . which—
  - (a) consist in a house or any other building or part of a building, being, in the case of a part of a building, a part which is separately occupied; and
  - (b) are already supplied with water by the undertaker but do not have a separate service pipe.
- (2) Where the supply of water to two or more houses [F110 is provided wholly or partly by the same service pipe], the water undertaker shall not require the provision of separate service pipes to those houses until—
  - (a) the service pipe, in so far as it belongs to a person other than the undertaker, becomes so defective as to require renewal or is no longer sufficient to meet the requirements of those houses;
  - (b) a payment in respect of the supply of water to any of those houses remains unpaid after the end of the period for which it is due;
  - (c) the houses are, by structural alterations to one or more of them, converted into a larger number of houses;
  - (d) the owner or occupier of any of those houses has interfered with, or allowed another person to interfere with, the existing service pipe and thereby caused the supply of water to any house to be interfered with; or
  - (e) the undertaker has reasonable grounds for believing that such interference as is mentioned in paragraph (d) above is likely to take place.

<sup>F111</sup>[(2A) Any dispute between a water undertaker and any other person as to whether any condition of a kind mentioned in subsection (2) above has been complied with may be referred to the Director for determination under section 30A above by either party to the dispute.]

- (3) If, in the case of any such premises as are described in subsection (1) above, the water undertaker which provides a supply of water to those premises serves notice on the consumer requiring the provision of a separate service pipe and setting out the power of the undertaker under subsection (4) below—
  - (a) that consumer shall, within three months after the service of the notice, lay so much of the required pipe as the undertaker is not under a duty to lay by virtue of paragraph (b) below;
  - (b) sections 45 to 51 above shall apply as if that consumer had by a connection notice required the undertaker to connect the separate service pipe to those premises with the undertaker's water main;
  - (c) that consumer shall be presumed, without prejudice to his power to make further demands and requests—
    - (i) in so far as those premises were provided before the service of the notice with a supply of water for domestic purposes, to have made

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- a demand for the purposes of section 52 above that such a supply is provided by means of the separate service pipe; and
- (ii) in so far as those premises were provided before the service of the notice with a supply of water for other purposes, to have requested the undertaker to provide the same supply by means of that pipe as was provided before the service of the notice;
- and
- (d) on providing a supply of water to those premises by means of the separate service pipe, the undertaker may cut off any supply replaced by that supply and may make such disconnections of pipes by which the replaced supply was provided as it thinks fit.
- (4) If a person upon whom a notice has been served for the purposes of subsection (3) above fails to comply with the notice, the water undertaker may—
- (a) itself carry out the works which that person was required to carry out; and
- (b) recover the expenses reasonably incurred by the undertaker in doing so from that person.
- (5) Without prejudice—
- (a) to the power of a water undertaker by virtue of paragraph (b) of subsection (3) above to impose conditions under section 47 above; or
- (b) to the power conferred by virtue of paragraph (d) of that subsection, any works carried out by a water undertaker by virtue of the provisions of the said paragraph (b) or of subsection (4) above shall be necessary works for the purposes of this Chapter.

#### Textual Amendments

- F109** Words in s. 64(1) repealed (1.7.1992) by [Competition and Service \(Utilities\) Act 1992 \(c. 43\), s. 56\(6\), Sch. 1, para. 21\(a\), Sch. 2](#); Competition and Service (Utilities) Act 1992 (Commencement No. 1) Order 1992, art. 3, Sch. Pt. I
- F110** Words in s. 64(2) substituted (1.7.1992) by [Competition and Service \(Utilities\) Act 1992 \(c. 43\), s. 56\(6\), Sch. 1 para. 21\(b\)](#); Competition and Service (Utilities) Act 1992 (Commencement No. 1) Order 1992, art. 3, Sch. Pt. I
- F111** S. 64(2A) inserted (1.9.1992) by [Competition and Service \(Utilities\) Act 1992 \(c. 43\), s. 35\(6\)](#); Competition and Service (Utilities) Act 1992 (Commencement No. 1) Order 1992, art. 4, Sch. Pt. II

## 65 Duties of undertakers as respects constancy and pressure.

- (1) Subject to the following provisions of this section, it shall be the duty of a water undertaker to cause the water in such of its water mains and other pipes as—
- (a) are used for providing supplies of water for domestic purposes; or
- (b) have fire-hydrants fixed on them,
- to be laid on constantly and at such a pressure as will cause the water to reach to the top of the top-most storey of every building within the undertaker's area.
- (2) Nothing in subsection (1) above shall require a water undertaker to provide a supply of water at a height greater than that to which it will flow by gravitation through its water mains from the service reservoir or tank from which that supply is taken.

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- (3) For the purposes of this section a water undertaker shall be entitled to choose the service reservoir or tank from which any supply is to be taken.
- (4) Nothing in subsection (1) above shall impose any duty on a water undertaker to maintain the constancy or pressure of any supply of water during any period during which it is reasonable for that supply to be cut off or reduced for the purposes of the carrying out of any necessary works.
- (5) The Secretary of State may by order modify the application of the preceding provisions of this section in relation to any water undertaker.
- (6) The Secretary of State shall not make an order under subsection (5) above except—
  - (a) in accordance with Schedule 5 to this Act; and
  - (b) on an application made in accordance with that Schedule by the Director or by the water undertaker in relation to which the order is made.
- (7) Subject to subsection (6) above, the power of the Secretary of State to make an order under subsection (5) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament
- (8) An order under subsection (5) above may—
  - (a) require the payment of compensation by a water undertaker to persons affected by the order;
  - (b) make different provision for different cases, including different provision in relation to different persons, circumstances or localities; and
  - (c) contain such supplemental, consequential and transitional provision as the Secretary of State considers appropriate.
- (9) The obligations of a water undertaker under this section shall be enforceable under section 18 above by the <sup>F112</sup>Director].
- (10) In addition, where a water undertaker is in breach of a duty under this section, the undertaker shall be guilty of an offence and liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to a fine.
- (11) In any proceedings against any water undertaker for an offence under subsection (10) above it shall be a defence for that undertaker to show that it took all reasonable steps and exercised all due diligence to avoid the commission of the offence.

#### Textual Amendments

**F112** Word in s. 65(9) substituted (1.7.1992) by [Competition and Service \(Utilities\) Act 1992 \(c. 43\), s. 56\(6\), Sch. 1 para.22](#); [Competition and Service \(Utilities\) Act 1992 \(Commencement No. 1\) Order 1992, art. 3, Sch. Pt.I](#)

## 66 Requirements by undertaker for maintaining pressure.

- (1) A water undertaker may require that any premises consisting in—
  - (a) any building or part of a building the supply of water to which need not, in accordance with provision contained in or made under this Act, be constantly laid on under pressure; or

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- (b) any relevant house to which water is required to be delivered at a height greater than a point 10.5 metres below the draw-off level of the service reservoir or tank from which a supply of water is being provided by the undertaker to those premises,  
 shall be provided with a cistern which has a float-operated valve and is fitted on the pipe by means of which water is supplied to those premises.
- (2) A water undertaker may, in the case of such a house as is mentioned in paragraph (b) of subsection (1) above, require that a cistern the provision of which is required under that subsection shall be capable of holding sufficient water to provide an adequate supply to the house for a period of twenty-four hours.
- (3) If, where a water undertaker provides a supply of water to any premises, the consumer, after having been required to do so by notice served on him by the undertaker, fails before the end of the period specified in the notice—
- (a) to provide a cistern in accordance with a requirement under this section; or
  - (b) to put any such cistern and its float-operated valve into good repair,
- the water undertaker may itself provide a cistern, or carry out any repairs necessary to prevent waste of water.
- (4) The period specified for the purposes of subsection (3) above in a notice under this section shall be a period of not less than twenty-eight days beginning with the day after the service of the notice.
- (5) Where a water undertaker provides a cistern or carries out any repairs under subsection (3) above, it may recover the expenses reasonably incurred by it in doing so from the owner of the premises in question.
- (6) In this section—
- “pre-transfer supplier”, in relation to a house, means the person who was supplying water to that house immediately before 1st September 1989; and
- “relevant house” means any house other than a house in relation to which the following two conditions are satisfied, that is to say—
- (i) the erection of the house was commenced before 1st September 1989; and
  - (ii) no such requirement as is mentioned in subsection (1) or (2) above could have been imposed in relation to the house under any enactment having effect immediately before that date in relation to the pre-transfer supplier.

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