



Water Industry Act 1991

1991 CHAPTER 56

PART III

WATER SUPPLY

CHAPTER II

SUPPLY DUTIES

[^{F1}Adoption of water mains and service pipes

Textual Amendments

- F1** 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](#))

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—

Status: Point in time view as at 26/09/2012.

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- (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 make an application in writing to a water undertaker requesting the undertaker to make an agreement under this section.
- (4) An application under subsection (3) above shall be accompanied and supplemented by all such information as the undertaker may reasonably require; but subject to subsection (5) below and without prejudice to the effect (if any) of any other contravention of the requirements of this section in relation to such an application, a failure to provide information in pursuance of the obligation to supplement such an application shall not invalidate the application.
- (5) Where—
- (a) a person who has made an application to a water undertaker under subsection (3) above has failed to comply with his obligation under this section to supplement that application 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, by virtue of section 51B below, to respond to the application as gave that person a reasonable opportunity to provide the required information within that period,
- the undertaker may delay its response to the application until a reasonable time after the required information is provided.
- (6) In deciding whether or on what terms to grant an application under subsection (3) above, a water undertaker shall have regard in particular to any effect or potential effect on the quality of water supplies and to any increased danger to life or health which it considers may result.
- (7) The terms of an agreement under subsection (1) above relating to a water main may, in particular, include terms—
- (a) for the provision (at the expense of the person constructing or proposing to construct the water main) by—
 - (i) that person; or
 - (ii) the water undertaker,
 of such associated infrastructure at or downstream of the point of connection with the undertaker's supply system as it is necessary to provide in consequence of incorporating the new water main into that system;
 - (b) providing that, if the water main and the associated infrastructure are constructed in accordance with the terms of the agreement, the undertaker will, in addition to declaring the water main to be vested in it, declare the associated infrastructure to be so vested;
 - (c) where the undertaker considers that the proposed main is, or is likely to be, needed for the provision of water supply services in addition to those for which the person is proposing to construct the main—
 - (i) requiring that person to construct the main in a manner differing, as regards material or size of pipes, depth or otherwise, from the manner

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- in which that person proposes, or could otherwise be required by the undertaker, to construct it; and
- (ii) providing for the repayment by the undertaker of any extra expense reasonably incurred by that person in complying with that requirement;
- (d) for the connection of the new water main to the undertaker's existing supply system at the point or points specified in the agreement;
- (e) for any service pipes which the person constructing or proposing to construct the new water main proposes to connect to that main to be constructed in accordance with the terms of the agreement and, subject to that, to be vested in the undertaker at the same time as the main.
- (8) The terms of an agreement under subsection (1) above relating to a service pipe may, in particular, include terms—
- (a) for the connection of the new service pipe to the undertaker's existing supply system at the point or points specified in the agreement;
- (b) for such requirements of the kind referred to in section 47(2) above as may be applicable to be complied with before connection takes place.
- (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.
- (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.

51B Appeals with respect to adoption

- (1) Subject to section 51A(5) above, a person constructing or proposing to construct a water main or service pipe may appeal to the Authority where the water undertaker—
- (a) has refused an application under section 51A above;
- (b) has offered to grant such an application on terms to which that person objects; or
- (c) has failed, before the end of two months from the making of such an application, either to refuse the application or to give notice to the applicant of the terms on which it is prepared to grant the application.
- (2) On the hearing of an appeal under this section, the Authority may—
- (a) uphold the refusal of the undertaker to grant the application or to modify the terms offered; or
- (b) on behalf of the undertaker, refuse the application or enter into any agreement into which the undertaker might have entered on the application.
- (3) Where the Authority makes an agreement under subsection (2)(b) above on behalf of a water undertaker, it may do so on such terms as it considers reasonable or, as the

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case may be, on the terms offered by the undertaker subject to such modifications as it considers appropriate for ensuring that the terms of the agreement are reasonable.

- (4) An agreement entered into on behalf of a water undertaker under subsection (2)(b) above shall be deemed, for the purposes of this Act, to have been entered into under section 51A above.
- (5) In deciding on an appeal under this section, the Authority may include such incidental, supplemental and consequential provision (including provision requiring either party to pay a sum in respect of the costs or expenses incurred by the Authority) as it thinks fit, and any such provision as to costs or expenses shall be enforceable as if it were a judgment of a county court.

51C Financial conditions of compliance

- (1) This section applies where an agreement is, or is to be, entered into under section 51A above in relation to a water main (“the adopted main”) by, or on behalf of, a water undertaker and a person constructing or proposing to construct that water main.
- (2) Where this section applies, the water undertaker may, as a condition of the undertaker’s compliance with the agreement, require that person to pay to it the costs mentioned in subsection (3) below.
- (3) The costs are those reasonably incurred by the undertaker in connection with the adopted main equivalent to the costs referred to in section 43(4)(a) and (b) above, as if references there (and in section 43(5)) to the provision of the new main were references to the incorporation of the adopted main into the undertaker’s supply system.
- (4) For the purposes of any payment required to be made by virtue of subsection (2) above, the water undertaker may require the person to provide such security as it may reasonably request, and the provisions of subsections (4) and (5) of section 42 above shall apply to any security so required as they apply to security required under that section.
- (5) Where this section applies, the water undertaker shall pay to the person referred to in subsection (1) above, upon declaring the water main to be vested in the undertaker, a sum equal to the discounted offset amount.
- (6) For the purposes of subsection (5) above, the discounted offset amount is the sum of the estimated offsets for each of the twelve years following the vesting in the undertaker of the water main, in each case discounted in accordance with subsection (9) below.
- (7) The estimated offset for any year is the lesser of—
 - (a) the estimated revenue (if any) in respect of the adopted main for that year; and
 - (b) the annual borrowing costs of a loan of the amount required for the provision of that main.
- (8) The amounts referred to in paragraphs (a) and (b) of subsection (7) above shall be calculated in accordance with the provisions of subsections (3) to (5) of section 43A above as if the adopted main had been provided in pursuance of a water main requisition (as defined in section 43 above).
- (9) The estimated offset for a year 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.

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- (10) A determination made by the Authority for the purposes of subsection (9) above—
- (a) may be made in relation to a particular water main or in relation to water mains generally; and
 - (b) may be revoked at any time except in relation to an adopted main in respect of which the agreement referred to in subsection (1) above has already been made.
- (11) Any dispute between the water undertaker and the other person as to the payments required to be made or the security required to be provided by virtue of this section may be referred to the Authority for determination under section 30A above by either party to the dispute.

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) In sections 51A to 51C above, 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.]

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