



# Water Industry Act 1991

## 1991 CHAPTER 56

### PART IV

#### SEWERAGE SERVICES

##### CHAPTER II

##### PROVISION OF SEWERAGE SERVICES

###### *Communication of drains and private sewers with public sewers*

#### **106 Right to communicate with public sewers.**

<sup>F1</sup>[(1) Subject to the provisions of this section—

- (a) the owner or occupier of any premises, or
- (b) the owner of any private sewer which drains premises,

shall be entitled to have his drains or sewer communicate with the public sewer of any sewerage undertaker and thereby to discharge foul water and surface water from those premises or that private sewer.]

<sup>F2</sup>(1A) In this section, and in sections 107 to 109, 111, 113 to 116, 118, 119, 124, 127, 139 and 146 below—

- (a) references (however expressed) to a public sewer include a public lateral drain which satisfies sewer standards; and
- (b) for the purposes of paragraph (a) above—
  - (i) a “public lateral drain” is a lateral drain which either belongs to the sewerage undertaker or is vested in the sewerage undertaker by virtue of a declaration made under section 102 above or under an agreement made under section 104 above; and
  - (ii) “sewer standards” means such standards of construction and repair as the undertaker would require if the public lateral drain or part of it were to become a public sewer.]

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- [<sup>F3</sup>(1B) The right under subsection (1) is subject to section 106A.]
- (2) Subject to the provisions of Chapter III of this Part, nothing in subsection (1) above shall entitle any person—
  - (a) to discharge directly or indirectly into any public sewer—
    - (i) any liquid from a factory, other than domestic sewage or surface or storm water, or any liquid from a manufacturing process; or
    - (ii) any liquid or other matter the discharge of which into public sewers is prohibited by or under any enactment; or
  - (b) where separate public sewers are provided for foul water and for surface water, to discharge directly or indirectly—
    - (i) foul water into a sewer provided for surface water; or
    - (ii) except with the approval of the undertaker, surface water into a sewer provided for foul water; or
  - (c) to have his drains or sewer made to communicate directly with a storm-water overflow sewer.
- (3) A person desirous of availing himself of his entitlement under this section shall give notice of his proposals to the sewerage undertaker in question.
- (4) At any time within twenty-one days after a sewerage undertaker receives a notice under subsection (3) above, the undertaker may by notice to the person who gave the notice refuse to permit the communication to be made, if it appears to the undertaker that the mode of construction or condition of the drain or sewer
  - [<sup>F4</sup>(a) does not satisfy the standards reasonably required by the undertaker; or
  - (b) is such that the making of the communication would be prejudicial to the undertaker’s sewerage system.]
- (5) For the purpose of examining the mode of construction and condition of a drain or sewer to which a notice under subsection (3) above relates a sewerage undertaker may, if necessary, require it to be laid open for inspection.
- [<sup>F5</sup>(5A) Where the sewer or drain satisfies the standards reasonably required by it, a sewerage undertaker may, as a condition of permitting the communication to be made, require that the sewer or that part of the drain forming the lateral drain be vested in it by virtue of a declaration under section 102 above.]
- (6) Any question arising under subsections [<sup>F6</sup>(3) to (5A)] above between a sewerage undertaker and a person proposing to make a communication as to—
  - (a) the reasonableness of the undertaker’s refusal to permit a communication to be made; or
  - (b) as to the reasonableness of any requirement under subsection (5) [<sup>F7</sup>or (5A)] above,
 may, on the application of that person, be determined by [<sup>F8</sup>the Director under section 30A above][<sup>F9</sup>(and, accordingly, section 105 above shall not apply to any requirement under subsection (5A) above).]
- <sup>F10</sup>(7) .....
- (8) Where a person proposes under this section to make a communication between a drain or sewer and such a public sewer in Greater London as is used for the general reception

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of sewage from other public sewers and is not substantially used for the reception of sewage from private sewers and drains—

- (a) the grounds on which a sewerage undertaker may refuse to permit the communication shall be such grounds as the undertaker thinks fit; and
- (b) no application to <sup>F11</sup>the Director] may be made under subsection (6) above in respect of any refusal under this subsection.

(9) In this section “factory” has the same meaning as in the <sup>M1</sup>Factories Act 1961.

#### Textual Amendments

- F1** S. 106(1) substituted (1.7.1992) by [Competition and Service \(Utilities\) Act 1992 \(c. 43\), s. 43\(2\)](#); [Competition and Service \(Utilities\) Act 1992 \(Commencement No. 1\) Order 1992, art. 3, Sch. Pt. I](#)
- F2** S. 106(1A) inserted (28.5.2004) by [Water Act 2003 \(c. 37\), ss. 99\(2\), 105\(3\)](#); [S.I. 2004/641, art. 4\(b\)](#) (with [Sch. 3 para. 7](#))
- F3** S. 106(1B) inserted (2.5.2018 for W. for specified purposes, 7.1.2019 for W. in so far as not already in force) by [Flood and Water Management Act 2010 \(c. 29\), s. 49\(3\), Sch. 3 para. 16\(1\)](#) (with [s. 49\(1\)\(6\)](#)); [S.I. 2018/557, arts. 2\(b\), 3\(b\)](#)
- F4** S. 106(4): paras. (a)(b) substituted (28.5.2004) for words by [Water Act 2003 \(c. 37\), ss. 99\(3\), 105\(3\)](#); [S.I. 2004/641, art. 4\(b\)](#) (with [Sch. 3 para. 7](#))
- F5** S. 106(5A) inserted (28.5.2004) by [Water Act 2003 \(c. 37\), ss. 99\(4\), 105\(3\)](#); [S.I. 2004/641, art. 4\(b\)](#) (with [Sch. 3 para. 7](#))
- F6** Words in s. 106(6) substituted (28.5.2004) by [Water Act 2003 \(c. 37\), ss. 99\(5\)\(a\), 105\(3\)](#); [S.I. 2004/641, art. 4\(b\)](#) (with [Sch. 3 para. 7](#))
- F7** Words in s. 106(6)(b) inserted (28.5.2004) by [Water Act 2003 \(c. 37\), ss. 99\(5\)\(b\), 105\(3\)](#); [S.I. 2004/641, art. 4](#) (with [Sch. 3 para. 7](#))
- F8** Words in s. 106(6) substituted (1.9.1992) by [Competition and Service \(Utilities\) Act 1992 \(c. 43\), s. 35\(8\)\(a\)](#); [Competition and Service \(Utilities\) Act 1992 \(Commencement No. 1\) Order 1992, art. 4, Sch. Pt. II](#)
- F9** Words in s. 106(6) inserted (28.5.2004) by [Water Act 2003 \(c. 37\), ss. 99\(5\)\(c\), 105\(3\)](#); [S.I. 2004/641, art. 4](#) (with [Sch. 3 para. 7](#))
- F10** S. 106(7) repealed (1.7.1992) and is expressed to cease to have effect (1.9.1992) by [Competition and Service \(Utilities\) Act 1992 \(c. 43\), ss. 35\(8\)\(b\), 56\(7\), Sch. 2](#); [Competition and Service \(Utilities\) Act 1992 \(Commencement No. 1\) Order 1992, arts. 3, 4, Sch. Pts. I, II](#)
- F11** Words in s. 106(8)(b) substituted (1.9.1992) by [Competition and Service \(Utilities\) Act 1992 \(c. 43\), s. 35\(8\)\(c\)](#); [Competition and Service \(Utilities\) Act 1992 \(Commencement No. 1\) Order 1992, art. 4, Sch. Pt. II](#)

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

- C1** S. 106 applied (23.8.2007) by [The Docklands Light Railway \(Capacity Enhancement and 2012 Games Preparation\) Order 2007 \(S.I. 2007/2297\), art. 15\(2\)](#) (with savings in [arts. 3\(6\), 12\(3\)](#))
- C2** S. 106 applied (14.9.2006) by [The Borough of Poole \(Poole Harbour Opening Bridges\) Order 2006 \(S.I. 2006/2310\), art. 14\(2\)\(4\)](#)
- C3** S. 106 applied (3.7.2006) by [The Port of Blyth \(Battleship Wharf Railway\) Order 2006 \(S.I. 2006/1518\), art. 10\(2\)](#)
- C4** S. 106 applied (25.11.2005) by [The Docklands Light Railway \(Capacity Enhancement\) Order 2005 \(S.I. 2005/3105\), art. 19\(2\)](#)
- C5** S. 106 applied (7.8.2012) by [The Ipswich Barrier Order 2012 \(S.I. 2012/1867\), arts. 1, 13\(2\)](#) (with [arts. 46-48, Sch. 8 para. 18](#))
- C6** S. 106 applied (26.9.2012) by [The Network Rail \(Ipswich Chord\) Order 2012 \(S.I. 2012/2284\), arts. 1, 13\(2\)](#) (with [art. 26\(2\)](#))

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- C7 S. 106 applied (6.11.2012) by The Network Rail (North Doncaster Chord) Order 2012 (S.I. 2012/2635), arts. 1, **20(2)** (with art. 35(2))
- C8 S. 106 applied (13.11.2012) by The Chiltern Railways (Bicester to Oxford Improvements) Order 2012 (S.I. 2012/2679), arts. 1, **19(2)** (with art. 42(2))
- C9 S. 106 modified (9.4.2013) by The Lancashire County Council (Torrisholme to the M6 Link (A683 Completion of Heysham to M6 Link Road)) Order 2013 (S.I. 2013/675), arts. 1, **16(2)**
- C10 S. 106 applied (9.4.2013) by The Hinkley Point C (Nuclear Generating Station) Order 2013 (S.I. 2013/648), arts. 1, **21(2)** (with arts. 48, 68, 79)
- C11 S. 106 applied (15.8.2013) by The North Blyth Biomass Power Station Order 2013 (S.I. 2013/1873), arts. 1, **11(2)** (with art. 30)
- C12 S. 106 applied (22.8.2013) by The Leeds Railway Station (Southern Entrance) Order 2013 (S.I. 2013/1933), arts. 1, **13(2)**
- C13 S. 106 applied (6.11.2013) by The Transport for Greater Manchester (Light Rapid Transit System) (Second City Crossing) Order 2013 (S.I. 2013/2587), arts. 1, **20(2)** (with arts. 20(7), 42, 43)
- C14 S. 106 applied (9.1.2014) by The National Grid (King's Lynn B Power Station Connection) Order 2013 (S.I. 2013/3200), arts. 1, **14(2)** (with art. 14(7))
- C15 S. 106 applied (21.4.2014) by The Network Rail (Norton Bridge Area Improvements) Order 2014 (S.I. 2014/909), arts. 1, **18(2)** (with art. 34(2))
- C16 S. 106 applied (7.5.2014) by The National Grid (North London Reinforcement Project) Order 2014 (S.I. 2014/1052), arts. 1, **17(2)**
- C17 S. 106 applied (7.7.2014) by The East Anglia ONE Offshore Wind Farm Order 2014 (S.I. 2014/1599), arts. 1, **13(2)** (with arts. 37, 38, Sch. 9 para. 19)
- C18 S. 106 applied (24.7.2014) by The Daventry International Rail Freight Interchange Alteration Order 2014 (S.I. 2014/1796), arts. 1, **17(2)** (with arts. 17(7), 24(2), Sch. 6 para. 3)
- C19 S. 106 applied (6.8.2014) by The Rampion Offshore Wind Farm Order 2014 (S.I. 2014/1873), arts. 1, **20(2)** (with arts. 12, 13, 20(7), Sch. 12 Pt. 1 para. 19, Sch. 12 Pt. 2 para. 6, Sch. 12 Pt. 3 para. 5, Sch. 12 Pt. 4 para. 4, Sch. 12 Pt. 5 para. 4)
- C20 S. 106 applied (18.9.2014) by The A556 (Knutsford to Bowdon Improvement) Development Consent Order 2014 (S.I. 2014/2269), arts. 1, **15(2)**
- C21 S. 106 applied (24.9.2014) by The Thames Water Utilities Limited (Thames Tideway Tunnel) Order 2014 (S.I. 2014/2384), arts. 1, **19(2)**
- C22 S. 106 applied (2.10.2014) by The Clocaenog Forest Wind Farm Order 2014 (S.I. 2014/2441), arts. 1, **18(2)** (with art. 33)
- C23 S. 106 applied (2.10.2014) by The North Killingholme (Generating Station) Order 2014 (S.I. 2014/2434), arts. 1, **14(2)** (with arts. 6, 13, 14(7), Sch. 8 Pt. 1 para. 6, Sch. 8 Pt. 3 paras. 4(3), 6, 17, Sch. 8 Pt. 5 para. 9)
- C24 S. 106 applied (21.10.2014) by The Central Bedfordshire Council (Woodside Link Houghton Regis) Development Consent Order 2014 (S.I. 2014/2637), arts. 1, **16(2)**
- C25 S. 106 applied (23.10.2014) by The South Hook Combined Heat and Power Plant Order 2014 (S.I. 2014/2846), arts. 1, **10(2)**
- C26 S. 106 modified (29.10.2014) by The Able Marine Energy Park Development Consent Order 2014 (S.I. 2014/2935), **art. 20(2)** (with arts. 30(4), 53)
- C27 S. 106 applied (28.11.2014) by The Walney Extension Offshore Wind Farm Order 2014 (S.I. 2014/2950), arts. 1, **15(2)** (with arts. 38, 39)
- C28 S. 106 applied (15.12.2014) by The London Underground (Northern Line Extension) Order 2014 (S.I. 2014/3102), arts. 1, **16(2)** (with Sch. 8 para. 45)
- C29 S. 106 applied (31.12.2014) by The Hornsea One Offshore Wind Farm Order 2014 (S.I. 2014/3331), arts. 1, **12(2)** (with arts. 37, 38)
- C30 S. 106 applied (7.1.2015) by The Willington C Gas Pipeline Order 2014 (S.I. 2014/3328), arts. 1, **14(2)**
- C31 S. 106 applied (2.2.2015) by The Northumberland County Council (A1 – South East Northumberland Link Road (Morpeth Northern Bypass)) Development Consent Order 2015 (S.I. 2015/23), arts. 1, **18(2)** (with art. 18(7))

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- C32 S. 106 applied (25.2.2015) by The A160/A180 (Port of Immingham Improvement) Development Consent Order 2015 (S.I. 2015/129), arts. 1, **16(2)**
- C33 S. 106 applied (11.3.2015) by The Dogger Bank Creyke Beck Offshore Wind Farm Order 2015 (S.I. 2015/318), arts. 1, **17(2)** (with art. 17(7)(9), 40, 41, Sch. 12 Pt. 1 paras. 4, 9(2), 10, Sch. 12 Pt. 2 paras. 4(2)(3), 19, Sch. 12 Pt. 4 paras. 3, 4, 16)
- C34 S. 106 applied (1.4.2015) by The Knottingley Power Plant Order 2015 (S.I. 2015/680), arts. 1, **15(2)** (with art. 15(7), Sch. 8 para. 10)
- C35 S. 106 applied (21.4.2015) by The Network Rail (Ordsall Chord) Order 2015 (S.I. 2015/780), arts. 1, **17(2)** (with arts. 17(2), 36(2))
- C36 S. 106 applied (9.6.2015) by The White Moss Landfill Order 2015 (S.I. 2015/1317), arts. 1, **9(2)** (with art. 5)
- C37 S. 106 applied (23.6.2015) by The Norfolk County Council (Norwich Northern Distributor Road (A1067 to A47(T))) Order 2015 (S.I. 2015/1347), arts. 1, **17(2)**
- C38 S. 106 applied (30.6.2015) by The Swansea Bay Tidal Generating Station Order 2015 (S.I. 2015/1386), arts. 1, **13(2)** (with arts. 51, 53)
- C39 S. 106 applied (7.8.2015) by The Preesall Underground Gas Storage Facility Order 2015 (S.I. 2015/1561), arts. 1, **15(2)** (with art. 44)
- C40 S. 106 applied (14.8.2015) by The Progress Power (Gas Fired Power Station) Order 2015 (S.I. 2015/1570), arts. 1, **15(2)**
- C41 S. 106 applied (14.8.2015) by The Hirwaun Generating Station Order 2015 (S.I. 2015/1574), arts. 1, **14(2)**
- C42 S. 106 applied (26.8.2015) by The Dogger Bank Teesside A and B Offshore Wind Farm Order 2015 (S.I. 2015/1592), arts. 1, **18(2)** (with arts. 40, 41)
- C43 S. 106 applied (19.11.2015) by The Ferrybridge Multifuel 2 Power Station Order 2015 (S.I. 2015/1832), arts. 1(2), **12(2)**
- C44 S. 106 applied (16.12.2015) by The Network Rail (Tinsley Chord) Order 2015 (S.I. 2015/1876), arts. 1, **8(2)**
- C45 S. 106 modified (30.12.2015) by The Port Talbot Steelworks Generating Station Order 2015 (S.I. 2015/1984), arts. 1, **10(2)** (with art. 26)
- C46 S. 106 applied (2.2.2016) by The East Midlands Gateway Rail Freight Interchange and Highway Order 2016 (S.I. 2016/17), arts. 1, **22(2)**
- C47 S. 106 applied (9.2.2016) by The National Grid (Hinkley Point C Connection Project) Order 2016 (S.I. 2016/49), arts. 1, **16(2)** (with art. 16(7)(8), 32)
- C48 S. 106 applied (18.2.2016) by The A19/A1058 Coast Road (Junction Improvement) Development Consent Order 2016 (S.I. 2016/73), arts. 1, **15(2)** (with art. 37)
- C49 S. 106 applied (25.3.2016) by The Thorpe Marsh Gas Pipeline Order 2016 (S.I. 2016/297), arts. 1, **17(2)** (with art. 39)
- C50 S. 106 applied (1.6.2016) by The A14 Cambridge to Huntingdon Improvement Scheme Development Consent Order 2016 (S.I. 2016/547), arts. 1, **17(2)** (with arts. 4, 5(3), 17(6))
- C51 S. 106 applied (14.6.2016) by The Midland Metro (Birmingham City Centre Extension, etc.) (Land Acquisition and Variation) Order 2016 (S.I. 2016/545), arts. 1, **15(2)** (with art. 39)
- C52 S. 106 applied (2.8.2016) by The Meaford Gas Fired Generating Station Order 2016 (S.I. 2016/779), arts. 1, **16(2)**
- C53 S. 106 applied (2.8.2016) by The Midland Metro (Wolverhampton City Centre Extension) Order 2016 (S.I. 2016/684), arts. 1, **20(2)** (with arts. 46, 47, Sch. 9 para. 4, Sch. 10 para. 12(2))
- C54 S. 106 applied (10.8.2016) by The York Potash Harbour Facilities Order 2016 (S.I. 2016/772), arts. 1, **14(2)** (with arts. 14(7), 35, 36)
- C55 S. 106 applied (19.8.2016) by The North Wales Wind Farms Connection Order 2016 (S.I. 2016/818), arts. 1, **16(2)** (with art. 35)
- C56 S. 106 applied (7.9.2016) by The Hornsea Two Offshore Wind Farm Order 2016 (S.I. 2016/844), arts. 1(2), **15(2)** (with arts. 37, 38)
- C57 S. 106 applied (15.9.2016) by The River Humber Gas Pipeline Replacement Order 2016 (S.I. 2016/853), arts. 1, **18(2)** (with art. 43)

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- C58** S. 106 applied (23.9.2016) by The M4 Motorway (Junctions 3 to 12) (Smart Motorway) Development Consent Order 2016 (S.I. 2016/863), arts. 1, **17(2)**
- C59** S. 106 applied (27.9.2016) by The Triton Knoll Electrical System Order 2016 (S.I. 2016/880), arts. 1(2), **12(2)** (with arts. 39, 40, Sch. 8 para. 19)
- C60** S. 106 applied (28.10.2016) by The Brechfa Forest Wind Farm Connection Order 2016 (S.I. 2016/987), arts. 1, **15(2)** (with arts. 15(7), 37)
- C61** S. 106 applied (24.11.2016) by The Transport for Greater Manchester (Light Rapid Transit System) (Trafford Park Extension) Order 2016 (S.I. 2016/1035), arts. 1, **21(2)** (with arts. 21(7), 43, 44)
- C62** S. 106 applied (18.3.2017) by The North London Heat and Power Generating Station Order 2017 (S.I. 2017/215), arts. 1, **16(6)**
- C63** S. 106 applied (29.3.2017) by The Glyn Rhonwy Pumped Storage Generating Station Order 2017 (S.I. 2017/330), arts. 1, **17(2)** (with art. 31)
- C64** S. 106 applied (5.4.2017) by The Keuper Underground Gas Storage Facility Order 2017 (S.I. 2017/433), arts. 1, **16(2)**
- C65** S. 106 applied (8.8.2017) by The Wrexham Gas Fired Generating Station Order 2017 (S.I. 2017/766), arts. 1, **15(2)**
- C66** S. 106 applied (24.8.2017) by The National Grid (Richborough Connection Project) Development Consent Order 2017 (S.I. 2017/817), arts. 1, **16(2)** (with arts. 16(7), 22)
- C67** S. 106 applied (29.8.2017) by The East Anglia THREE Offshore Wind Farm Order 2017 (S.I. 2017/826), arts. 1, **13(2)** (with arts. 5(9), 36, 37, Sch. 8 para. 34)
- C68** S. 106 applied (5.9.2017) by The London Overground (Barking Riverside Extension) Order 2017 (S.I. 2017/830), arts. 1, **14(2)** (with art. 14(7), Sch. 8 para. 20)
- C69** S. 106 applied (19.12.2017) by The Network Rail (Buxton Sidings Extension) Order 2017 (S.I. 2017/1150), arts. 1, **15(2)** (with art. 32(2))
- C70** S. 106 applied (22.12.2017) by The M20 Junction 10a Development Consent Order 2017 (S.I. 2017/1202), arts. 1, **18(2)** (with arts. 4, 37)
- C71** S. 106 applied (2.1.2018) by The Boston Barrier Order 2017 (S.I. 2017/1329), arts. 1, **19(2)** (with arts. 55-57, Sch. 8 para. 13)
- C72** S. 106 applied (4.1.2018) by The Blackpool Tramway (Blackpool North Extension) Order 2017 (S.I. 2017/1214), arts. 1, **19(2)** (with arts. 19(7), 58, 59)
- C73** S. 106 applied (18.4.2018) by The Network Rail (Hope Valley Capacity) Order 2018 (S.I. 2018/446), arts. 1, **14(2)** (with arts. 14(7), 24(8), 33(2))
- C74** S. 106 applied (31.5.2018) by The Silvertown Tunnel Order 2018 (S.I. 2018/574), arts. 1(2), **14(2)**
- C75** S. 106 applied (24.8.2018) by The Network Rail (Werrington Grade Separation) Order 2018 (S.I. 2018/923), arts. 1, **16(2)** (with arts. 16(7), 31(2))
- C76** S. 106 applied (3.10.2018) by The A19/A184 Testo's Junction Alteration Development Consent Order 2018 (S.I. 2018/994), arts. 1, **17(2)(7)** (with arts. 3(3), 5)
- C77** S. 106 applied (12.10.2018) by The Eggborough Gas Fired Generating Station Order 2018 (S.I. 2018/1020), arts. 1, **14(2)** (with arts. 6, 42)
- C78** S. 106(8) restricted (18.12.1996) by 1996 c. 61, s. 38, **Sch. 10 para. 13**
- C79** S. 106(8) excluded (22.7.2008) by Crossrail Act 2008 (c. 18), s. 40, **Sch. 14 para. 16**
- C80** S. 106(8) excluded (24.9.2014) by The Thames Water Utilities Limited (Thames Tideway Tunnel) Order 2014 (S.I. 2014/2384), art. 1, **Sch. 19 Pt. 1 para. 5**
- C81** S. 106(8) excluded (23.2.2017) by High Speed Rail (London - West Midlands) Act 2017 (c. 7), s. 70(1), **Sch. 21 para. 7**

### Marginal Citations

- M1** 1961 c. 34.

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## **[<sup>F12</sup>106A Sustainable drainage**

- (1) This section applies to a drainage system construction of which required approval under Schedule 3 to the Flood and Water Management Act 2010 (sustainable drainage).
- (2) A person may exercise the right under section 106(1) in respect of surface water only if—
  - (a) the construction of the drainage system was approved under that Schedule, and
  - (b) the proposals for approval included a proposal for the communication with the public sewer.
- (3) Where subsection (2) is satisfied, the connection may not be refused—
  - (a) under section 106(4), or
  - (b) on grounds that the drainage system absorbs water from more than one set of premises or sewer, or from land that is neither premises nor a sewer.]

### **Textual Amendments**

**F12** S. 106A inserted (2.5.2018 for W. for specified purposes, 7.1.2019 for W. in so far as not already in force) by [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), [Sch. 3 para. 16\(2\)](#) (with s. 49(1)(6)); S.I. 2018/557, arts. 2(b), 3(b)

## **[<sup>F13</sup>106B Requirement to enter into agreement before construction**

- (1) A person may exercise the right under section 106(1) in respect of a lateral drain or sewer constructed after the commencement of this section only if Conditions 1 and 2 are satisfied.
- (2) Condition 1 is that an agreement was entered into under section 104 in respect of the drain or sewer.
- (3) Condition 2 is that the agreement included—
  - (a) provision about the standards according to which the drain or sewer was to be constructed, and
  - (b) provision about adoption of the drain or sewer by the sewerage undertaker.
- (4) Provision for the purposes of Condition 2(a) must either—
  - (a) incorporate or accord with standards published by the Minister, or
  - (b) depart from those standards by express consent of the parties to the agreement.
- (5) Provision for the purposes of Condition 2(b) must—
  - (a) include provision for adoption to occur automatically upon the occurrence of specified events, and
  - (b) comply with any regulations made by the Minister (which may concern the provision required by paragraph (a) of this subsection).
- (6) Subsection (1) does not apply—
  - (a) to drainage systems required to be approved in accordance with Schedule 3 to the Flood and Water Management Act 2010, or
  - (b) in other circumstances specified by the Minister in regulations.

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- (7) Where a person seeks to exercise the right under section 106(1) in reliance on satisfying Conditions 1 and 2, an undertaker may not refuse connection—
- (a) whether or not in reliance on section 106(4), and
  - (b) whether or not the terms of the agreement under section 104 (including terms required by this section) have been complied with.
- (8) In this section “the Minister” means—
- (a) the Secretary of State, in relation to sewerage undertakers whose areas are wholly or mainly in England, and
  - (b) the Welsh Ministers, in relation to sewerage undertakers whose areas are wholly or mainly in Wales.]

#### Textual Amendments

**F13** S. 106B inserted (1.10.2010 for specified purposes, 1.10.2012 for specified purposes) by [Flood and Water Management Act 2010 \(c. 29\)](#), **ss. 42(1), 49(3)** (with [s. 49\(1\)\(6\)](#)); [S.I. 2010/2169](#), art. 4; [S.I. 2012/2048](#), art. 2 (with art. 3)

### 107 Right of sewerage undertaker to undertake the making of communications with public sewers.

- (1) Where a person gives to a sewerage undertaker notice under section 106 above of his proposal to have his drains or sewer made to communicate with a public sewer of that undertaker, the undertaker may—
- (a) within fourteen days after the receipt of the notice; or
  - (b) if any question arising under the notice requires to be determined by <sup>F14</sup>the Director], within fourteen days after the determination of that question, give notice to that person that the undertaker intends itself to make the communication.
- <sup>F15</sup>(1A) A sewerage undertaker may not give notice to a person under subsection (1) if—
- (a) the undertaker and the person entered into an agreement under section 104, and
  - (b) the agreement provides for the communication to which the person's proposal relates to be made by the person.]
- (2) If, after a notice has been given to any person under subsection (1) above, that person proceeds himself to make the communication, he shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 4 on the standard scale.
- (3) Where a sewerage undertaker has given a notice under subsection (1) above—
- (a) the undertaker shall have all such rights in respect of the making of the communication as the person desiring it to be made would have; but
  - (b) it shall not be obligatory on the undertaker to make the communication until either—
    - (i) there has been paid to the sewerage undertaker any such sum, not exceeding the undertaker’s reasonable estimate of <sup>F16</sup>the amount by way of charges that the undertaker may impose in accordance with charging rules for making the connection], as the undertaker may have required to be paid to it; or



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(ii) there has been given to the undertaker [<sup>F17</sup>such security for the payment of that amount as charging rules allow and it may have required.]

[<sup>F18</sup>(4) If a payment to a sewerage undertaker under subsection (3) exceeds the charges that may, in the event, be imposed in accordance with charging rules for making the connection in question, the excess is to be repaid by the undertaker; and, if and so far as those charges are not covered by a payment under subsection (3), those charges are to be paid by the person for whom the work was undertaken.]

[<sup>F19</sup>(4A) Any dispute between a sewerage undertaker and any other person as to—

(a) whether the undertaker's estimate [<sup>F20</sup>of the amount of charges] given under subsection (3)(b)(i) above is reasonable,

[<sup>F21</sup>(b) the security required by the undertaker, or]

[<sup>F22</sup>(c) whether any excess is repayable, or any charges are payable, under subsection (4), or the amount of any such excess or charges,]

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

(5) Sections 291, 293 and 294 of the <sup>M2</sup>Public Health Act 1936 (which provide for the means of, and for limitations on, the recovery of expenses incurred by a local authority) shall apply in relation to the recovery by a sewerage undertaker of any sums under this section as they apply in relation to the recovery of expenses under that Act by a local authority.

(6) For the purposes of this section, the making of the communication between a drain or private sewer and a public sewer includes all such work as involves the breaking open of a street.

[<sup>F23</sup>(7) A reference in this section to an agreement under section 104 includes a reference to—

(a) an order under section 105ZA which is deemed to be an agreement by virtue of section 105ZA(5), and

(b) an agreement which has been varied by order under section 105ZB(1).]

#### Textual Amendments

**F14** Words in s. 107(1)(b) substituted (1.9.1992) by [Competition and Service \(Utilities\) Act 1992 \(c. 43\), s. 35\(9\)](#); [Competition and Service \(Utilities\) Act 1992 \(Commencement No. 1\) Order 1992, art. 4, Sch. Pt. II](#)

**F15** S. 107(1A) inserted (1.10.2017 for E.) by [Water Act 2014 \(c. 21\), ss. 11\(4\), 94\(3\)](#); [S.I. 2017/462, art. 4\(b\)](#)

**F16** Words in s. 107(3)(b)(i) substituted (1.4.2018) by [Water Act 2014 \(c. 21\), ss. 19\(4\)\(a\), 94\(3\)](#); [S.I. 2017/462, art. 5\(b\) \(with art. 14\)](#)

**F17** Words in s. 107(3)(b)(ii) substituted (1.4.2018) by [Water Act 2014 \(c. 21\), ss. 19\(4\)\(b\), 94\(3\)](#); [S.I. 2017/462, art. 5\(b\) \(with art. 14\)](#)

**F18** S. 107(4) substituted (1.4.2018) by [Water Act 2014 \(c. 21\), ss. 19\(4\)\(c\), 94\(3\)](#); [S.I. 2017/462, art. 5\(b\) \(with art. 14\)](#)

**F19** S. 107(4A) inserted (1.9.1992) by [Competition and Service \(Utilities\) Act 1992 \(c. 43\), s. 35\(9\)](#); [Competition and Service \(Utilities\) Act 1992 \(Commencement No. 1\) Order 1992, art. 4, Sch. Pt. II](#)

**F20** Words in s. 107(4A) substituted (1.4.2018) by [Water Act 2014 \(c. 21\), ss. 19\(4\)\(d\), 94\(3\)](#); [S.I. 2017/462, art. 5\(b\) \(with art. 14\)](#)

**F21** S. 107(4A)(b) substituted (1.4.2018) by [Water Act 2014 \(c. 21\), ss. 19\(4\)\(e\), 94\(3\)](#); [S.I. 2017/462, art. 5\(b\) \(with art. 14\)](#)

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- F22** S. 107(4A)(c) substituted (1.4.2018) by [Water Act 2014 \(c. 21\), ss. 19\(4\)\(f\), 94\(3\)](#); S.I. 2017/462, art. 5(b) (with art. 14)
- F23** S. 107(7) inserted (1.10.2017 for specified purposes) by [Water Act 2014 \(c. 21\), s. 94\(3\), Sch. 7 para. 95](#); S.I. 2017/462, art. 4(d)(iii) (as substituted by S.I. 2017/926, art. 2(2))

#### Marginal Citations

- M2** 1936 c. 49.

### 108 Communication works by person entitled to communication.

- (1) Where a sewerage undertaker does not under section 107 above elect itself to make a communication to which a person is entitled under section 106 above, the person making it shall—
  - (a) before commencing the work, give reasonable notice to any person directed by the undertaker to superintend the carrying out of the work; and
  - (b) afford any such person all reasonable facilities for superintending the carrying out of the work.
- (2) For the purpose—
  - (a) of exercising his rights under section 106 above; or
  - (b) of examining, repairing or renewing any drain or private sewer draining his premises into a public sewer,

the owner or occupier of any premises shall be entitled to exercise the same powers as, for the purpose of carrying out its functions, are conferred on a sewerage undertaker by sections 158 and 161(1) below.
- (3) The provisions of Part VI of this Act shall apply, with the necessary modifications, in relation to the power conferred by subsection (2) above as they apply in relation to the power conferred by sections 158 and 161(1) below.

### 109 Unlawful communications.

- (1) Any person who causes a drain or sewer to communicate with a public sewer—
  - (a) in contravention of any of the provisions of section 106 or 108 above; or
  - (b) before the end of the period mentioned in subsection (4) of that section 106,

shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 4 on the standard scale.
- (2) Whether proceedings have or have not been taken by a sewerage undertaker in respect of an offence under this section, such an undertaker may—
  - (a) close any communication made in contravention of any of the provisions of section 106 or 108 above; and
  - (b) recover from the offender any expenses reasonably incurred by the undertaker in so doing.
- (3) Sections 291, 293 and 294 of the <sup>M3</sup>Public Health Act 1936 (which provide for the means of, and for limitations on, the recovery of expenses incurred by a local authority) shall apply in relation to the recovery by a sewerage undertaker of any sums under this section as they apply in relation to the recovery of expenses under that Act by a local authority.

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**Marginal Citations**

**M3** 1936 c. 49.

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