



# Water Industry Act 1991

## 1991 CHAPTER 56

### PART VI

#### UNDERTAKERS' POWERS AND WORKS

##### CHAPTER I

##### UNDERTAKERS' POWERS

###### *Pipe-laying*

#### **158 Powers to lay pipes in streets.**

- (1) Subject to the following provisions of this section, to section 162(9) below and to the provisions of Chapter III of this Part, every relevant undertaker shall, for the purpose of carrying out its functions, have power—
- (a) to lay a relevant pipe in, under or over any street and to keep that pipe there;
  - (b) to inspect, maintain, adjust, repair or alter any relevant pipe which is in, under or over any street; and
  - (c) to carry out any works requisite for, or incidental to, the purposes of any works falling within paragraph (a) or (b) above, including for those purposes the following kinds of works, that is to say—
    - (i) breaking up or opening a street;
    - (ii) tunnelling or boring under a street;
    - (iii) breaking up or opening a sewer, drain or tunnel;
    - (iv) moving or removing earth and other materials.
- (2) Without prejudice to the generality of subsection (1)(c) above, every water undertaker shall have power to erect and keep in any street notices indicating the position of such underground accessories for its relevant pipes as may be used for controlling the flow of water in those pipes.

*Status: Point in time view as at 31/10/2021.*

*Changes to legislation: Water Industry Act 1991, Cross Heading: Pipe-laying is up to date with all changes known to be in force on or before 08 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) The power conferred by subsection (2) above shall include power to attach any such notice as is mentioned in that subsection to any building, fence or other structure which is comprised in premises abutting on the street in question.
- (4) A stopcock fitted to any service pipe in a street shall be situated as near as reasonably practicable to the boundary of the street; and a water undertaker shall consult with the highway authority concerned before determining in accordance with this subsection where to fit a stopcock in a highway.
- (5) Where a water undertaker exercises its powers under this section for the purpose of carrying out works of maintenance, repair or renewal in relation to a service pipe belonging to a person other than the undertaker, the undertaker shall be entitled to recover from the occupier of the premises supplied by means of that pipe the expenses reasonably incurred by that undertaker in so exercising that power.
- (6) Until the coming into force of its repeal by the <sup>M1</sup>New Roads and Street Works Act 1991 section 20 of the <sup>M2</sup>Highways Act 1980 (works in special roads) shall have effect as if the reference in that section to a power under any enactment to lay down or erect apparatus included a reference to any power to lay any relevant pipe which is conferred by this section.
- (7) Subject to section 161(7) below, in this section references to a relevant pipe shall be construed—
- (a) in relation to a water undertaker, as references to a water main (including a trunk main [<sup>F1</sup>but not including a pipe laid in pursuance of section 66B(3)(a)(ii) above which is used for the purpose of supplying water other than for domestic or food production purposes or laid in pursuance of section 66B(3)(a)(iii) above]), resource main, discharge pipe or service pipe; and
  - [<sup>F2</sup>(b) in relation to a sewerage undertaker, as references to—
    - (i) any sewer or disposal main; <sup>F3</sup> ...
    - (ii) in relation to the exercise of a power to lay a pipe under paragraph (a) of subsection (1) above or a power related to that power under paragraph (c) of that subsection, any lateral drain which the undertaker is to lay by virtue of section 98 or 101B [<sup>F4</sup>or any lateral drain which the undertaker is required to lay by virtue of section 117A(2) for the purpose of enabling the use of its sewerage system to provide sewerage services to premises in a retail exit area] above; <sup>F5</sup> ...
    - (iii) in relation to the exercise of any other power under subsection (1) above, any lateral drain which belongs to or is vested for the time being in the undertaker [<sup>F6</sup>or
    - (iv) any pipe forming part of, or required in connection with, a drainage system constructed under section 114A.]]
- <sup>F7</sup>[<sup>F8</sup>(8) Subsections (9) and (11) below apply where—
- (a) an appointment or variation has been made under section 7 above replacing a company as a relevant undertaker,
  - (b) the appointment or variation relates only to parts of the area to which the company's appointment as relevant undertaker related, and
  - (c) the conditions mentioned in subsection (5) of that section were required to be satisfied in relation to each of the premises in those parts served by that company.

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[ Where the company which has replaced the relevant undertaker has done so as water <sup>F8</sup>(9) undertaker, in the application of this section and section 159 below in relation to that company any pipe supplying, or intended to supply, any of the premises referred to in subsection (8)(c) above with a supply of water which exceeds, or is likely to exceed, in any period of twelve months—

(a) if the area of the relevant undertaker concerned is wholly or mainly in Wales, 250 megalitres;

(b) in all other cases, [<sup>F9</sup>50 megalitres] ,

shall, for the purposes of subsection (7) above, be deemed to be a water main.]]

(10) Where the Secretary of State makes regulations under section 7(6) above amending section 7(5)(a) above he shall by regulations make the corresponding amendment in subsection (9) above.

(11) Where the company which has replaced the relevant undertaker has done so as sewerage undertaker, in the application of this section and section 159 below in relation to that company any pipe draining, or intended to drain, any of those premises shall, for the purposes of subsection (7) above, be deemed to be a sewer.

#### Textual Amendments

- F1** Words in s. 158(7)(a) inserted (1.12.2005) by [Water Act 2003 \(c. 37\)](#), ss. 101(1), 105(3), [Sch. 8 para. 36](#); [S.I. 2005/2714](#), [art. 3\(c\)](#) (with [Sch. para. 8](#))
- F2** S. 158(7)(b) substituted (28.5.2004) by [Water Act 2003 \(c. 37\)](#), ss. [97\(4\)](#), 105(3); [S.I. 2004/641](#), [art. 4\(b\)](#) (with [Sch. 3 para. 7](#))
- F3** Word in s. 158(7)(b)(i) omitted (14.7.2014) by virtue of [Water Act 2014 \(c. 21\)](#), ss. [21\(2\)\(a\)](#), 94(2)(d)
- F4** Words in s. 158(7)(b)(ii) 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\(8\)](#)
- F5** Word in s. 158(7)(b)(ii) omitted (14.7.2014) by virtue of [Water Act 2014 \(c. 21\)](#), ss. [21\(2\)\(a\)](#), 94(2)(d)
- F6** S. 158(7)(b)(iv) and word inserted (14.7.2014) by [Water Act 2014 \(c. 21\)](#), ss. [21\(2\)\(b\)](#), 94(2)(d)
- F7** S. 158(8)-(11) added (1.7.1992) by [Competition and Service \(Utilities\) Act 1992 \(c. 43\)](#), s. [40\(6\)](#); [Competition and Service \(Utilities\) Act 1992 \(Commencement No. 1\) Order 1992](#), art. 3, Sch. Pt. 1
- F8** S. 158(9) substituted (17.8.2000) by [S.I. 2000/1842](#), [reg. 2](#)
- F9** Words in s. 158(9)(b) substituted (1.4.2005) by [The Water and Sewerage Undertakers \(Inset Appointments\) Regulations 2005 \(S.I. 2005/268\)](#), [art. 2\(3\)](#)

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

- C1** S. 158 applied (with modifications) (21.7.1994) by [1994 c. xi](#), s. [11\(2\)](#)  
S. 158 restricted (1.4.1996) by [1980 c. 66](#), s. [100\(6B\)\(b\)](#) (as inserted (1.4.1996) by [1994 c. 19](#), s. [22\(1\)](#), [Sch. 7 Pt. 1 para. 9](#) (with ss. [54\(5\)\(7\)](#), [55\(5\)](#)); [S.I. 1996/396](#), art. 3, [Sch. 1](#))
- C2** S. 158 applied (with modifications) (28.6.2013) by [The Water Industry \(Specified Infrastructure Projects\) \(English Undertakers\) Regulations 2013 \(S.I. 2013/1582\)](#), reg. 1(1)(b), [Sch. 1 para. 12\(1\)](#) (with reg. 1(1)(c))

#### Marginal Citations

- M1** [1991 c. 22](#).  
**M2** [1980 c. 66](#).

*Status: Point in time view as at 31/10/2021.*

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## 159 Power to lay pipes in other land.

- (1) Subject to the following provisions of this section, to section 162(9) below and to the provisions of Chapter III of this Part, every relevant undertaker shall, for the purpose of carrying out its functions, have power—
  - (a) to lay a relevant pipe (whether above or below the surface) in any land which is not in, under or over a street and to keep that pipe there;
  - (b) to inspect, maintain, adjust, repair or alter any relevant pipe which is in any such land;
  - (c) to carry out any works requisite for, or incidental to, the purposes of any works falling within paragraph (a) or (b) above.
- (2) Nothing in subsection (1) above shall authorise a water undertaker to lay a service pipe in, on or over any land except where—
  - (a) there is already a service pipe where that pipe is to be laid; <sup>F10</sup>...
  - (b) the undertaker is required to lay the pipe in, on or over that land by virtue of any of subsections (3) to (5) of section 46 above; [<sup>F11</sup>or]
  - <sup>F12</sup>(c) the undertaker is required to lay the pipe in, on or over that land by virtue of section 66A(3) for the purpose of enabling the use of its supply system to supply premises in a retail exit area.]
- (3) The power conferred by virtue of paragraph (b) of subsection (1) above, and the power conferred in relation to that paragraph by virtue of paragraph (c) of that subsection shall be exercisable in relation to a service pipe irrespective of the person to whom the pipe belongs; but expenses incurred in exercising those powers in relation to any pipe shall be recoverable from the person to whom the pipe belongs only if and to the extent that that person has agreed to pay them.
- (4) The powers conferred by this section shall be exercisable only after reasonable notice of the proposed exercise of the power has been given to the owner and to the occupier of the land where the power is to be exercised.
- (5) Subject to subsection (6) below, in relation to any exercise of the powers conferred by this section for the purpose of laying or altering a relevant pipe, the minimum period that is capable of constituting reasonable notice for the purposes of subsection (4) above shall be deemed—
  - (a) where the power is exercised for the purpose of laying a relevant pipe otherwise than in substitution for an existing pipe of the same description, to be three months; and
  - (b) where the power is exercised for the purpose of altering an existing pipe, to be forty-two days.
- (6) Subsection (5) above shall not apply in the case of any notice given with respect to the exercise of any power in an emergency or for the purpose of—
  - (a) laying or altering a service pipe; or
  - (b) complying with a duty imposed under section 41 or 98 above.
- (7) Subject to subsection (2) above, in this section “relevant pipe” has the same meaning as in section 158 above [<sup>F13</sup>(reading references there to subsection (1) as references to subsection (1) of this section).]

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### Textual Amendments

- F10** Word in s. 159(2)(a) 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(9)(a)**
- F11** Word in s. 159(2)(b) 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(9)(b)**
- F12** S. 159(2)(c) 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(9)(c)**
- F13** Words in s. 159(7) inserted (28.5.2004) by Water Act 2003 (c. 37), **ss. 97(5)**, 105(3); S.I. 2004/641, **art. 4** (with Sch. 3 para. 7)

### Modifications etc. (not altering text)

- C3** S. 159 applied (with modifications) (21.7.1994) by 1994 c. xi, **s. 11(2)**  
S. 159 restricted (1.4.1996) by 1980 c. 66, **s. 100(6B)(b)** (as inserted (1.4.1996) by 1994 c. 19, s. 22(1), **Sch. 7 Pt. I para. 9** (with ss. 54(5)(7), 55(5)); S.I. 1996/396, art. 3, **Sch. 1**)
- C4** S. 159 applied (with modifications) (28.6.2013) by The Water Industry (Specified Infrastructure Projects) (English Undertakers) Regulations 2013 (S.I. 2013/1582), reg. 1(1)(b), **Sch. 1 para. 12(2)** (with reg. 1(1)(c))

**Status:**

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