



Water Industry Act 1991

1991 CHAPTER 56

PART VI

UNDERTAKERS' POWERS AND WORKS

CHAPTER III

SUPPLEMENTAL PROVISIONS WITH RESPECT TO UNDERTAKERS' POWERS

Damage etc. caused by works

180 Compensation for damage caused by works etc

Schedule 12 to this Act shall have effect for making provision for imposing obligations for the purpose of minimising the damage caused in the exercise of certain powers conferred on undertakers and for imposing obligations as to the payment of compensation.

181 Complaints with respect to the exercise of works powers on private land

- (1) Subject to subsection (2) below, it shall be the duty of the Director to investigate any complaint made or referred to him with respect to the exercise by a relevant undertaker of any powers conferred on that undertaker by or by virtue of section 159 or 161(2) above.
- (2) The Director shall not be required to investigate any such complaint as is mentioned in subsection (1) above if—
 - (a) the complaint appears to the Director to be vexatious or frivolous;
 - (b) the Director is not satisfied that the complaint has been brought by the complainant to the attention of the relevant undertaker in question and that that undertaker has been given a reasonable opportunity of investigating and dealing with it; or

Status: This is the original version (as it was originally enacted).

- (c) the complaint was first made to the Director or the appropriate customer service committee more than twelve months, or such longer period as the Director may for special reasons allow, after the matters to which the complaint relates first came to the notice of the complainant.
- (3) Where the Director, in pursuance of his duty under this section, investigates a complaint with respect to the exercise of any powers by a relevant undertaker—
- (a) it shall be the duty of that undertaker to provide the Director with all such information and assistance as he may reasonably require for the purposes of his investigation; and
 - (b) it shall be the duty of the Director, before giving any direction under subsection (4) below, to consider any representations made to him by the complainant or by that undertaker with respect to the subject-matter of the complaint.
- (4) If on a complaint under subsection (1) above with respect to the exercise of any powers by a relevant undertaker, the Director is satisfied that that undertaker—
- (a) has failed adequately to consult the complainant, before and in the course of exercising those powers, about the manner in which they are exercised; or
 - (b) by acting unreasonably in the manner of its exercise of those powers, has caused the complainant to sustain loss or damage or to be subjected to inconvenience,
- the Director may direct the undertaker to pay to the complainant an amount, not exceeding £5,000, in respect of that failure, loss, damage or inconvenience.
- (5) The Director shall not under subsection (4) above direct a relevant undertaker to pay any amount to a complainant in respect of any loss, damage or inconvenience for which compensation is recoverable under any other enactment except in so far as it appears to him appropriate to do so by reason of any failure of the amount of any such compensation to reflect the fact that it was not reasonable for the undertaker to cause the complainant to sustain the loss or damage or to be subjected to the inconvenience.
- (6) The duties of a relevant undertaker by virtue of subsection (3)(a) above shall be enforceable under section 18 above by the Director.
- (7) A person to whom any amount is required, in pursuance of a direction under subsection (4) above, to be paid by a relevant undertaker shall be entitled to recover that amount from that undertaker by virtue of this section.
- (8) The Secretary of State may by regulations substitute a different amount for the amount for the time being specified in subsection (4) above.

182 Codes of practice with respect to work on private land

- (1) For the purposes of section 181 above it shall be the duty of every company holding an appointment under Chapter I of Part II of this Act as a relevant undertaker—
- (a) as soon as reasonably practicable after its appointment takes effect, to submit to the Secretary of State for his approval a code of practice with respect to its exercise of any powers conferred by or by virtue of section 159 or 161(2) above; and
 - (b) if required to do so by the Secretary of State at any subsequent time, to submit proposed modifications of that code to the Secretary of State for his approval.

- (2) The Secretary of State, if he considers it appropriate to do so for the purpose of promoting what appear to him to be desirable practices with respect to the exercise, by any company holding an appointment under Chapter I of Part II of this Act as a relevant undertaker, of any powers conferred by or by virtue of section 159 or 161(2) above, may at any time by order made by statutory instrument, in relation to that company—
- (a) approve any code of practice with respect to the exercise of those powers which has been submitted to him (whether or not under subsection (1) above) by that company for his approval;
 - (b) approve any modifications of such a code which have been so submitted; or
 - (c) withdraw his approval for any such code or modification.
- (3) A contravention of a code of practice as for the time being approved under this section in relation to a company shall not—
- (a) affect the powers conferred on that company as a relevant undertaker by this Part;
 - (b) of itself entitle any person to be paid any amount under subsection (4) of section 181 above; or
 - (c) give rise to any criminal or civil liability;
- but the Director shall take into account whether there has been any such contravention in determining whether to give a direction under that subsection to that company and in determining the amount to which any such direction relates.
- (4) The Secretary of State shall not make an order under subsection (2) above unless he has first consulted all such persons as he considers it appropriate to consult.
- (5) The duties of a relevant undertaker under subsection (1) above shall be enforceable under section 18 above by the Secretary of State.