



# Water Industry Act 1991

## 1991 CHAPTER 56

### PART VII **E+W**

#### INFORMATION PROVISIONS

##### *Reports*

VALID FROM 01/10/2004

#### **[<sup>F1</sup>192A Forward work programmes **E+W****

- (1) The Authority and the Council shall, before each financial year, each publish a document (the “forward work programme”) containing a general description of the projects, other than those comprising routine activities in the exercise of its functions, which it plans to undertake during the year.
- (2) That description must include the objectives of each project.
- (3) The forward work programme for any year shall also include an estimate of the overall expenditure which the Authority or the Council expects to incur during the year in the exercise of its functions.
- (4) Before publishing the forward work programme for any year, the Authority or the Council shall give notice—
  - (a) containing a draft of the forward work programme; and
  - (b) specifying the time within which representations or objections to the proposals contained in it may be made,and shall consider any representations or objections which are duly made and not withdrawn.
- (5) The notice under subsection (4) above must be published by the Authority or the Council in such manner as it considers appropriate for the purpose of bringing the matters contained in it to the attention of persons likely to be affected by them.

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- (6) The Authority must send a copy of any notice given by it under subsection (4) above to the Council, the Secretary of State and the Assembly.
- (7) The Council must send a copy of any notice given by it under subsection (4) above to the Authority, the Secretary of State and the Assembly.

#### Textual Amendments

**F1** Ss. 192A, 192B inserted (1.10.2004) by Water Act 2003 (c. 37), ss. 38(1), 105(3); S.I. 2004/2528, art. 2(d) (with savings in art. 4)

VALID FROM 01/10/2004

#### **192B Annual and other reports** E+W

- (1) The Authority shall, as soon as practicable after the end of each financial year, make to the Secretary of State a report (the “annual report” for that year) on—
- (a) its activities during that year; and
  - (b) the activities of the Competition Commission during that year in respect of any references made by it.
- (2) The annual report for each year shall include—
- (a) a general survey of developments in respect of matters falling within the scope of the Authority’s functions;
  - (b) a report on the progress of the projects described in the forward work programme for that year;
  - (c) a summary of final and provisional orders made and penalties imposed by the Authority during the year;
  - (d) a report on such matters relating to any relevant undertaker whose area is wholly or mainly in Wales as the Assembly may from time to time require; and
  - (e) a report on such other matters as the Secretary of State may from time to time require.
- (3) The annual report for each year shall set out any general directions given by the Secretary of State under section 27(3) above.
- (4) The Secretary of State or (as the case may be) the Assembly shall consult the Authority before exercising the power under subsection (2)(d) or (e) above in relation to any matter.
- (5) The Secretary of State shall—
- (a) lay a copy of each annual report before each House of Parliament; and
  - (b) arrange for the report to be published in such manner as he considers appropriate.
- (6) The Authority may also prepare other reports with respect to any matter falling within the scope of its functions and may arrange for any such report to be published in such manner as it considers appropriate.

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- (7) The Authority shall send a copy of each annual or other report under this section to the Assembly, the Council and the Chief Inspector of Drinking Water.
- (8) In making or preparing any report under this section the Authority shall have regard to the need for excluding, so far as that is practicable, any matter which relates to the affairs of a particular individual or body of persons (corporate or unincorporate), where publication of that matter would or might, in the opinion of the Authority, seriously and prejudicially affect the interests of that individual or body.]

#### Textual Amendments

**F1** Ss. 192A, 192B inserted (1.10.2004) by Water Act 2003 (c. 37), ss. 38(1), 105(3); S.I. 2004/2528, art. 2(d) (with savings in art. 4)

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

**C1** S. 192B(8) applied (with modifications) (29.9.2005) by The Water Act 2003 (Commencement No. 5, Transitional Provisions and Savings) Order 2005 (S.I. 2005/2714), art. 5, Sch. para. 2(3)

### 193 Reports by Director. **E+W**

- (1) The Director shall, as soon as practicable after 31st December each year, make to the Secretary of State a report on—
  - (a) his activities during that year; and
  - (b) the [<sup>F2</sup>Competition Commission's]activities during that year so far as relating to references made by him.
- (2) Every such report shall—
  - (a) include a general survey of developments, during the year to which it relates, in respect of matters falling within the scope of the Director's functions; and
  - (b) set out any general directions given to the Director during that year under section 27(3) above.
- (3) The Secretary of State shall lay a copy of every report made by the Director under subsection (1) above before each House of Parliament and shall arrange for copies of every such report to be published in such manner as he considers appropriate.
- (4) The Director may also prepare such other reports as appear to him to be expedient with respect to any matters falling within the scope of his functions.
- (5) The Director may arrange for copies of any report prepared under subsection (4) above to be published in such manner as he considers appropriate.
- (6) In making or preparing any report under this section the Director shall have regard to the need for excluding, so far as that is practicable—
  - (a) any matter which relates to the affairs of an individual, where the publication of that matter would or might, in the opinion of the Director, seriously and prejudicially affect the interests of that individual; and
  - (b) any matter which relates specifically to the affairs of a particular body of persons, whether corporate or unincorporate, where publication of that matter would or might, in the opinion of the Director, seriously and prejudicially affect the interests of that body.

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### Textual Amendments

**F2** Words in s. 193(1)(b) substituted (1.4.1999) by S.I. 1999/506, art. 30(b)

## 194 Reports by customer service committees. **E+W**

- (1) A customer service committee —
  - (a) shall prepare a report on any such matter as the Director may require; and
  - (b) may prepare a report concerning any matter which appears to the customer service committee to affect the interests of the customers or potential customers of a company allocated to the committee,
 and, as soon as reasonably practicable after preparing a report under this subsection, a customer service committee shall send a copy of the report to the Director.
- (2) As soon as reasonably practicable after the end of each financial year, a customer service committee shall prepare a report on its activities during that year and shall send a copy of that report to the Director.
- (3) The Director may arrange for any report which has been sent to him by virtue of this section to be published in such manner as he considers appropriate.
- (4) In publishing any report under this section the Director shall have regard to the need for excluding, so far as that is practicable, any such matters as are specified in section 193(6)(a) and (b) above.

*Registers, maps etc.*

## 195 The Director's register. **E+W**

- (1) The Director shall, at such premises and in such form as he may determine, maintain a register for the purposes of Part II of this Act. [<sup>F3</sup>and of section 143 above]
- (2) Subject to any direction given under subsection (3) below, the Director shall cause to be entered in the register the provisions of—
  - (a) every appointment under Chapter I of Part II of this Act, every termination or transfer of any such appointment, every variation of the area for which any company holds any such appointment and every modification of the conditions of any such appointment;
  - (b) every direction, consent or determination given or made under any such appointment by the Secretary of State, the [<sup>F4</sup>Competition Commission] or the Director himself;
  - (c) every final enforcement order made under section 18 above, every provisional enforcement order made or confirmed under that section and every revocation of such a final or provisional enforcement order;
  - (d) every undertaking given to and accepted by the Secretary of State or the Director for the purposes of subsection (1)(b) of section 19 above and every notice under subsection (3) of that section; and
  - (e) every special administration order and every discharge of such an order.

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- (3) If it appears to the Secretary of State that the entry of any provision in the register would be against the public interest, he may direct the Director not to enter that provision in the register; and the Director shall comply with any such direction.
- [<sup>F5</sup>(3A) The Director shall also cause to be entered on the register the provisions of any guidance given to him by the Secretary of State under section 143(7) above.]
- (4) The contents of the register shall be available for inspection by the public at such times, and subject to the payment of such charges, as may be specified in an order made by the Secretary of State.
- (5) Any person may, on the payment of such fee as may be specified in an order so made, require the Director to supply him with a copy of, or extract from, the contents of any part of the register, being a copy or extract which is certified by the Director to be a true copy or extract.
- (6) The power to make an order under subsection (4) or (5) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) Any sums received by the Director under this section shall be paid into the Consolidated Fund.

#### Textual Amendments

- F3** Words in s. 195(1) inserted (23.12.1999) by 1999 c. 9, s. 15(1), **Sch. 3 Pt. I para. 4(1)(2)**; S.I. 1999/3440, **art. 2**
- F4** Words in s. 195(2)(b) substituted (1.4.1999) by S.I. 1999/506, **art. 30(b)**
- F5** S. 195(3A) inserted (23.12.1999) by 1999 c. 9, s. 15(1), **Sch. 3 Pt. I para. 4(1)(3)**; S.I. 1999/3440, **art. 2**

VALID FROM 01/04/2005

#### [<sup>F6</sup>195A Reasons for decisions **E+W**

- (1) This section applies to the following decisions of the Authority, the Secretary of State or the Assembly, namely—
- the modification of the conditions of an appointment under Chapter 1 of Part 2 of this Act or the variation of the area to which an appointment relates;
  - the modification of the conditions of a licence under Chapter 1A of that Part;
  - the termination of such an appointment or the revocation of such a licence;
  - the giving of any directions or consent in pursuance of a condition included in such an appointment by virtue of section 12(1) above or in such a licence by virtue of section 17G(3)(a) or (b) above;
  - the determination of a question referred in pursuance of a condition included in such an appointment by virtue of section 12(2) above or in such a licence by virtue of section 17G(3)(c) above;
  - the making of a determination under section 17E or 66D(1) above; and
  - the making of a final enforcement order, the making or confirmation of a provisional enforcement order or the revocation of a final order or of a provisional order which has been confirmed.

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- (2) As soon as reasonably practicable after making such a decision the Authority, the Secretary of State or the Assembly shall publish a notice stating the reasons for the decision in such manner as it considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be interested.
- (3) A person publishing a notice under subsection (2) above shall serve a copy on the company holding the appointment or licence to which the decision relates.
- (4) A person preparing a notice under subsection (2) above shall have regard to the need for excluding, so far as that is practicable, any matter which relates to the affairs of a particular individual or body of persons (corporate or unincorporate), where he considers that publication of that matter would or might seriously and prejudicially affect the interests of that individual or body.
- (5) This section does not apply in relation to a decision of the Authority resulting in any provision which the Authority was directed under section 195(3) above not to enter in the register required to be kept under that section.]

#### Textual Amendments

- F6** S. 195A inserted (1.4.2005) by [Water Act 2003 \(c. 37\)](#), **ss. 51**, 105(3); S.I. 2005/968, **art. 2(j)** (with [Sch. 2 para. 1](#))

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

- C2** S. 195A applied (1.12.2005) by [The Water Supply Licence \(New Customer Exception\) Regulations 2005 \(S.I. 2005/3076\)](#), **reg. 5(3)**

### 196 Trade effluent registers. **E+W**

- (1) It shall be the duty of every sewerage undertaker to secure that copies of—
  - (a) every consent given or having effect as if given by the undertaker under Chapter III of Part IV of this Act;
  - (b) every direction given or having effect as if given by the undertaker under that Chapter;
  - (c) every agreement entered into or having effect as if entered into by the undertaker under section 129 above; and
  - (e) every notice served on the undertaker under section 132 above,
 are kept available, at all reasonable times, for inspection by the public free of charge at the offices of the undertaker.
- (2) It shall be the duty of every sewerage undertaker, on the payment of such sum as may be reasonable, to furnish a person who requests it with a copy of, or of an extract from, anything kept available for inspection under this section.
- (3) The duties of a sewerage undertaker under this section shall be enforceable under section 18 above by the Director.

### 197 Register for the purposes of works discharges. **E+W**

- (1) Every water undertaker shall keep a register of persons and premises for the purposes of section 166 above.



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- (2) A water undertaker shall enter the name and address of a person in that register in respect of any premises which abut on any watercourse if that person has requested to be so registered and is either—
  - (a) the owner or occupier of those premises; or
  - (b) an officer of an association of owners or occupiers of premises which abut on that watercourse and include those premises.
- (3) If any water undertaker contravenes, without reasonable excuse, any of the requirements of this section, it shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

## 198 Maps of waterworks. **E+W**

- (1) Subject to subsections (4) and (5) below, it shall be the duty of every water undertaker to keep records of the location of—
  - (a) every resource main, water main or discharge pipe which is for the time being vested in that undertaker; and
  - (b) any other underground works, other than a service pipe, which are for the time being vested in that undertaker.
- (2) It shall be the duty of every water undertaker to secure that the contents of any records for the time being kept by it under this section are available, at all reasonable times, for inspection by the public free of charge at an office of the undertaker.
- (3) Any information which is required under this section to be made available by a water undertaker for inspection by the public shall be so made available in the form of a map.
- (4) For the purpose of determining whether any failure to make a modification of any records kept under this section constitutes a breach of the duty imposed by subsection (1) above, that duty shall be taken to require any modification of the records to be made as soon as reasonably practicable after the completion of the works which make the modification necessary; and, where records kept under this section are modified, the date of the modification and of the completion of the works making the modification necessary shall be incorporated in the records.
- (5) Nothing in this section shall require a water undertaker, at any time before 1st September 1999, to keep records of—
  - (a) any pipe which was laid before 1st September 1989; or
  - (b) any underground works which were completed before 1st September 1989, unless those particulars were shown on 31st August 1989 on a map kept by a water authority or statutory water company under section 12 of Schedule 3 to the <sup>M1</sup>Water Act 1945 (maps of underground works).
- (6) The reference in subsection (5) above to section 12 of Schedule 3 to the <sup>M2</sup>Water Act 1945 shall have effect, without prejudice to section 20(2) of the <sup>M3</sup>Interpretation Act 1978 (references to enactments to include references to enactments as amended, extended or applied), as including a reference to that section as applied, with or without modifications, by any local statutory provision.
- (7) The duties of a water undertaker under this section shall be enforceable under section 18 above by the Secretary of State.
- (8) In this section “discharge pipe” has the same meaning as in Part VI of this Act.

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#### Marginal Citations

- M1** 1945 c. 42.  
**M2** 1945 c. 42.  
**M3** 1978 c. 30.

### 199 Sewer maps. **E+W**

- (1) Subject to subsections (6) to (8) below, it shall be the duty of every sewerage undertaker to keep records of the location and other relevant particulars—
  - (a) of every public sewer or disposal main which is vested in the undertaker;
  - (b) of every sewer in relation to which a declaration of vesting has been made by the undertaker under Chapter II of Part IV of this Act but has not taken effect; and
  - (c) of every drain or sewer which is the subject of any agreement to make such a declaration which has been entered into by the undertaker under section 104 above.
- (2) For the purposes of this section the relevant particulars of a drain, sewer or disposal main are (in addition to its location) particulars—
  - (a) of whether it is a drain, sewer or disposal main and of the descriptions of effluent for the conveyance of which it is or is to be used; and
  - (b) of whether it is vested in the undertaker or, if it is not, of whether it is a sewer in relation to which a declaration has been made under Chapter II of Part IV of this Act or a drain or sewer which is the subject of an agreement under section 104 above.
- (3) The records kept by a sewerage undertaker under this section shall be kept separately in relation to the area of each local authority within whose area there is any drain, sewer or disposal main of which that undertaker is required to keep records and to whom the undertaker is required under section 200 below to provide copies of the contents of those records.
- (4) It shall be the duty of every sewerage undertaker to secure that the contents of all the records for the time being kept by it under this section are available, at all reasonable times, for inspection by the public free of charge at an office of the undertaker.
- (5) Any information which is required under this section to be made available by a sewerage undertaker for inspection by the public shall be so made available in the form of a map.
- (6) For the purpose of determining whether any failure to make a modification of any records kept under this section constitutes a breach of the duty imposed by subsection (1) above, that duty shall be taken to require any modification of the records to be made as soon as reasonably practicable after the completion of the works which make the modification necessary; and, where records kept under this section are modified, the date of the modification and of the completion of the works making the modification necessary shall be incorporated in the records.
- (7) Nothing in this section shall require a sewerage undertaker to keep records of any particulars of a drain, sewer or disposal main laid before 1st September 1989 if—



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- (a) the undertaker does not know of, or have reasonable grounds for suspecting, the existence of the drain, sewer or disposal main; or
  - (b) it is not reasonably practicable for the undertaker to discover the course of the drain, sewer or disposal main and it has not done so.
- (8) Nothing in this section shall require a sewerage undertaker, at any time before 1st September 1999, to keep records of any particulars of any such drain, sewer or disposal main laid before 1st September 1989 as would not be excluded from its records by virtue of subsection (7) above unless—
- (a) those particulars were shown on 31st August 1989 on a map kept by a local authority under section 32 of the <sup>M4</sup>Public Health Act 1936 (sewer maps); or
  - (b) it is a drain or sewer in relation to which a declaration of vesting, or an agreement to make such a declaration, has been made since 31st August 1989.
- (9) The duties of a sewerage undertaker under this section shall be enforceable under section 18 above by the Secretary of State.

**Marginal Citations**

**M4** 1936 c. 49.

**200 Provision of sewer maps to local authorities. E+W**

- (1) It shall be the duty of every sewerage undertaker so to provide local authorities, free of charge, with—
- (a) copies of the contents of records kept under section 199 above; and
  - (b) copies of any modifications of those records,
- as to ensure that every local authority to whose area any of those records relate are at all times informed of the contents for the time being of the records relating to their area.
- (2) A local authority shall secure that so much of any information provided to them by virtue of this section as consists in the contents for the time being of records kept by a sewerage undertaker under section 199 above is available, at all reasonable times, for inspection by the public free of charge at an office of the authority.
- (3) Any information which is required under this section to be provided to a local authority or to be made available by a local authority for inspection by the public shall be so provided or made available in the form of a map.
- (4) The duties of a sewerage undertaker under this section shall be enforceable under section 18 above by the Secretary of State.
- (5) In this section and, accordingly, in section 199(3) above “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.

*Publication of certain information and advice*

**201 Publication of certain information and advice. E+W**

- (1) The Secretary of State may arrange for the publication, in such form and in such manner as he considers appropriate, of such information relating to any matter which is

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connected with the carrying out by a company holding an appointment under Chapter I of Part II of this Act of the functions of a relevant undertaker as it may appear to him to be in the public interest to publish.

- (2) The Director may arrange for the publication, in such form and in such manner as he considers appropriate, of such information and advice as it may appear to him to be expedient to give to any customer or potential customer of a company holding an appointment under Chapter I of Part II of this Act.
- (3) In arranging for the publication of any such information or advice the Secretary of State or the Director shall have regard to the need for excluding, so far as that is practicable—
  - (a) any matter which relates to the affairs of an individual, where the publication of that matter would or might, in the opinion of the Secretary of State or (as the case may be) the Director, seriously and prejudicially affect the interests of that individual; and
  - (b) any matter which relates specifically to the affairs of a particular body of persons, whether corporate or unincorporate, where publication of that matter would or might, in the opinion of the Secretary of State or (as the case may be) the Director, seriously and prejudicially affect the interests of that body.
- [<sup>F7</sup>(4) The OFT shall consult the Director before publishing under section 6 of the Enterprise Act 2002 any information or advice which may be published by the Director under subsection (2) of this section.]

#### Textual Amendments

**F7** S. 201(4) inserted (20.6.2003) by [Enterprise Act 2002 \(c. 40\)](#), ss. 278, 279, [Sch. 25 para. 25\(9\)](#); [S.I. 2003/1397](#), [art. 2\(1\)](#), [Sch.](#)

### *Powers to acquire and duties to provide information*

## **202 Duties of undertakers to furnish the Secretary of State with information.** E+W

- (1) It shall be the duty of a company holding an appointment as a relevant undertaker to furnish the Secretary of State with all such information relating to any matter which—
  - (a) is connected with, or with any proposals relating to, the carrying out by that company of the functions of a relevant undertaker; or
  - (b) is material to the carrying out by the Secretary of State of any of his functions under this Act, any of the other consolidation Acts or the <sup>M5</sup>Water Act 1989, as the Secretary of State may reasonably require.
- (2) Information required under this section shall be furnished in such form and manner, and be accompanied or supplemented by such explanations, as the Secretary of State may reasonably require.
- (3) The information which a company may be required to furnish to the Secretary of State under this section shall include information which, although it is not in the possession of that company or would not otherwise come into the possession of that company, is information which it is reasonable to require that company to obtain.
- (4) A requirement for the purposes of this section shall be contained in a direction which—

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- (a) may describe the information to be furnished in such manner as the Secretary of State considers appropriate;
  - (b) may require the information to be furnished on a particular occasion, in particular circumstances or from time to time; and
  - (c) may be given to a particular company, to companies of a particular description or to all the companies holding appointments under Chapter I of Part II of this Act.
- (5) The obligations of a relevant undertaker under this section shall be enforceable under section 18 above by the Secretary of State.
- (6) In this section “the other consolidation Acts” means the <sup>M6</sup>Water Resources Act 1991, the <sup>M7</sup>Statutory Water Companies Act 1991, so much of the <sup>M8</sup>Land Drainage Act 1991 as confers functions on the Secretary of State with respect to [<sup>F8</sup>the Environment Agency] and the <sup>M9</sup>Water Consolidation (Consequential Provisions) Act 1991.

#### Textual Amendments

**F8** Words in s. 202(6) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 120** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

#### Marginal Citations

**M5** 1989 c. 15.  
**M6** 1991 c. 57.  
**M7** 1991 c. 58.  
**M8** 1991 c. 59.  
**M9** 1991 c. 60.

### 203 Power to acquire information for enforcement purposes. **E+W**

- (1) Where it appears to the Secretary of State or the Director that a company which holds an appointment as a relevant undertaker may be contravening, or may have contravened—
- (a) any condition of its appointment; or
  - (b) any statutory or other requirement enforceable under section 18 above,
- he may, for any purpose connected with such of his powers under Chapter II of Part II of this Act as are exercisable in relation to that matter, serve a notice under subsection (2) below on any person.
- (2) A notice under this subsection is a notice signed by the Secretary of State or the Director and—
- (a) requiring the person on whom it is served to produce, at a time and place specified in the notice, to—
    - (i) the Secretary of State or the Director; or
    - (ii) any person appointed by the Secretary of State or the Director for the purpose,any documents which are specified or described in the notice and are in that person’s custody or under his control; or
  - (b) requiring that person, if he is carrying on a business, to furnish, at the time and place and in the form and manner specified in the notice, the Secretary of

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State or the Director with such information as may be specified or described in the notice.

- (3) No person shall be required under this section to produce any documents which he could not be compelled to produce in civil proceedings in the High Court or, in complying with any requirement for the furnishing of information, to give any information which he could not be compelled to give in evidence in any such proceedings.
- (4) A person who, without reasonable excuse, fails to do anything required of him by a notice under subsection (2) above shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.
- (5) A person who intentionally alters, suppresses or destroys any document which he has been required by any notice under subsection (2) above to produce 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.
- (6) If a person makes default in complying with a notice under subsection (2) above, the High Court may, on the application of the Secretary of State or the Director, make such order as the Court thinks fit for requiring the default to be made good; and any such order may provide that all the costs or expenses of and incidental to the application shall be borne by the person in default or by any officers of a company or other association who are responsible for its default.
- (7) Nothing in this section shall be construed as restricting any power of the Secretary of State or the Director under section 202 above or the conditions of an appointment under Chapter I of Part II of this Act to require a company holding such an appointment to produce any document to him or to furnish him with any information.

**204 Provision of information to sewerage undertakers with respect to trade effluent discharges. E+W**

- (1) The owner or occupier of any land on or under which is situated any sewer, drain, pipe, channel or outlet used or intended to be used for discharging any trade effluent into a sewer of a sewerage undertaker shall, when requested to do so by the undertaker—
  - (a) produce to the undertaker all such plans of the sewer, drain, pipe, channel or outlet as the owner or, as the case may be, occupier possesses or is able without expense to obtain;
  - (b) allow copies of the plans so produced by him to be made by, or under the directions of, the undertaker; and
  - (c) furnish to the undertaker all such information as the owner or, as the case may be, occupier can reasonably be expected to supply with respect to the sewer, drain, pipe, channel or outlet.
- (2) A request by a sewerage undertaker for the purposes of this section shall be made in writing.
- (3) Every person who fails to comply with this section shall be guilty of an offence and liable, on summary conviction to a fine not exceeding level 3 on the standard scale.
- (4) Expressions used in this section and in Chapter III of Part IV of this Act have the same meanings in this section as in that Chapter; and, accordingly, section 139 above

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shall have effect for the purposes of this section as it has effect for the purposes of that Chapter.

**205 Exchange of metering information between undertakers. E+W**

(1) Where—

- (a) different services are provided in relation to the same premises by different relevant undertakers;
- (b) one of those undertakers has obtained a reading from a meter used in determining the amount of any charges fixed in relation to those premises;
- (c) the charges in relation to those premises of another of those undertakers are fixed by reference to any matter to which the reading is relevant; and
- (d) that other undertaker has agreed to bear a reasonable proportion of the expenses of obtaining the reading together with the reasonable expenses of the disclosure of the reading to it,

it shall be the duty of the undertaker who obtained the reading to disclose the reading to the other undertaker.

(2) Any dispute between a relevant undertaker and any other person (including another such undertaker)—

- (a) as to the terms to be contained in any agreement for the purposes of subsection (1)(d) above; or
- (b) as to the amount of any expenses to be borne by any person under any such agreement,

shall be referred to the arbitration of a single arbitrator appointed by agreement between the undertaker and that person or, in default of agreement, by the Director.

(3) The duties of a relevant undertaker under this section shall be enforceable under section 18 above by the Secretary of State.

*Restriction on disclosure of information*

**206 Restriction on disclosure of information. E+W**

(1) Subject to the following provisions of this section, no information with respect to any particular business which—

- (a) has been obtained by virtue of any of the provisions of this Act; and
- (b) relates to the affairs of any individual or to any particular business,

shall, during the lifetime of that individual or so long as that business continues to be carried on, be disclosed without the consent of that individual or the person for the time being carrying on that business.

(2) No person shall disclose any information furnished to him under section <sup>F9</sup>. . . 204 above or under Chapter III of Part IV of this Act except—

- (a) with the consent of the person by whom the information was furnished;
- (b) in connection with the execution of that Chapter;
- (c) for the purposes of any proceedings arising under that Chapter (including any appeal, application to the Secretary of State or the Director or an arbitration);
- (d) for the purposes of any criminal proceedings (whether or not so arising); or

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- (e) for the purposes of any report of any proceedings falling within paragraph (c) or (d) above.
- (3) Subsection (1) above does not apply to any disclosure of information which is made—
- (a) for the purpose of facilitating the carrying out by the Secretary of State, the Minister, [<sup>F10</sup>the Environment Agency, the Scottish Environment Protection Agency], the Director, the [<sup>F11</sup>Competition Commission] or a county council or local authority of any of his, its or, as the case may be, their functions by virtue of this Act, any of the other consolidation Acts [<sup>F12</sup>, <sup>M10</sup>the Water Act 1989, Part I or IIA of the Environmental Protection Act 1990 [<sup>F13</sup>, the <sup>M11</sup>Environment Act 1995]or regulations under section 2 of the Pollution Prevention and Control Act 1999];
  - (b) for the purpose of facilitating the performance by a relevant undertaker of any of the duties imposed on it by or under this Act, any of the other consolidation Acts or the Water Act 1989;
  - (c) in pursuance of any arrangements made by the Director under section 29(6) above or of any duty imposed by section 197(1)(a) or (2) or 203(1) or (2) of the <sup>M12</sup>Water Resources Act 1991 (information about water flow and pollution);
  - (d) for the purpose of facilitating the carrying out by any person mentioned in Part I of Schedule 15 to this Act of any of his functions under any of the enactments or instruments specified in Part II of that Schedule;
  - [<sup>F14</sup>(e) for the purpose of enabling or assisting the Secretary of State, the Treasury or the Financial Services Authority to exercise any powers conferred by or under the Financial Services and Markets Act 2000 or by the enactments relating to companies or insolvency;
  - (ea) for the purpose of enabling or assisting any inspector appointed under enactments relating to companies to carry out his functions;]
  - (f) for the purpose of enabling an official receiver to carry out his functions under the enactments relating to insolvency or for the purpose of enabling or assisting a recognised professional body for the purposes of section 391 of the <sup>M13</sup>Insolvency Act 1986 to carry out its functions as such;
  - (g) for the purpose of facilitating the carrying out by the Health and Safety Commission or the Health and Safety Executive of any of its functions under any enactment or of facilitating the carrying out by any enforcing authority, within the meaning of Part I of the <sup>M14</sup>Health and Safety at Work etc. Act 1974, of any functions under a relevant statutory provision, within the meaning of that Act;
  - (h) for the purpose of facilitating the carrying out by the Comptroller and Auditor General of any of his functions under any enactment;
  - (i) in connection with the investigation of any criminal offence or for the purposes of any criminal proceedings;
  - (j) for the purposes of any civil proceedings brought under or by virtue of this Act, any of the other consolidation Acts, the <sup>M15</sup>Water Act 1989 or any of the enactments or instruments specified in Part II of Schedule 15 to this Act, or of any arbitration under this Act, any of the other consolidation Acts or that Act of 1989; or
  - (k) in pursuance of a Community obligation.
- (4) Nothing in subsection (1) above shall be construed—
- (a) as limiting the matters which may be published under section [<sup>F15</sup>38A, 95A or] 201 above or may be included in, or made public as part of, a



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- report of [<sup>F16</sup>the Environment Agency, the Scottish Environment Protection Agency], the Director, a customer service committee or the [<sup>F17</sup>Competition Commission] under any provision of this Act [<sup>F18</sup>, Part I or IIA of <sup>M16</sup>the Environmental Protection Act 1990, the <sup>M17</sup>Water Resources Act 1991][<sup>F13</sup>, the <sup>M18</sup>Environment Act 1995 or regulations under section 2 of the Pollution Prevention and Control Act 1999]; or
- (b) as applying to any information which has been so published or has been made public as part of such a report or to any information exclusively of a statistical nature.
- (5) Subject to subsection (6) below, nothing in subsection (1) above shall preclude the disclosure of information—
- (a) if the disclosure is of information relating to a matter connected with the carrying out of the functions of a relevant undertaker and is made by one Minister of the Crown or government department to another; or
- (b) if the disclosure is for the purpose of enabling or assisting any public or other authority for the time being designated for the purposes of this section by an order made by the Secretary of State to discharge any functions which are specified in the order.
- (6) The power 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; and where such an order designates an authority for the purposes of paragraph (b) of that subsection, the order may—
- (a) impose conditions subject to which the disclosure of information is permitted by virtue of that paragraph; and
- (b) otherwise restrict the circumstances in which disclosure is so permitted.
- (7) Any person who discloses any information in contravention of the preceding provisions of this section shall be guilty of an offence.
- (8) A person who is guilty of an offence under this section by virtue of subsection (1) above shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.
- (9) A person who is guilty of an offence under this section by virtue of subsection (2) above shall be liable, on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding level 3 on the standard scale or to both.
- [<sup>F19</sup>(9A) Information obtained by the Director in the exercise of functions which are exercisable concurrently with [<sup>F20</sup>the OFT] under Part I of the Competition Act 1998 is subject to [<sup>F21</sup>Part 9 of the Enterprise Act 2002 (Information)] and not to subsections (1) to (9) of this section.]
- (10) In this section “the other consolidation Acts” means the <sup>M19</sup>Water Resources Act 1991, the <sup>M20</sup>Statutory Water Companies Act 1991, the <sup>M21</sup>Land Drainage Act 1991 and the <sup>M22</sup>Water Consolidation (Consequential Provisions) Act 1991.

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### Textual Amendments

- F9** Words in s. 206(2) repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 121(1), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F10** Words in s. 206(3)(a) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 121(2)(a)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F11** Words in s. 206(3)(a)(4)(a) substituted (1.4.1999) by S.I. 1999/506, **art. 30(b)**
- F12** Words in s. 206(3)(a) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 121(2)(b)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F13** Words in s. 206(3)(a)(4)(a) substituted (21.3.2000) by 1999 c. 24, s. 6, **Sch. 2 para. 7**; S.I. 2000/800, **art. 2**
- F14** S. 206(3)(e)(ea) substituted (1.12.2001) for s. 206(3)(e) by S.I. 2001/3649, **arts. 1, 328**
- F15** Words in s. 206(4)(a) inserted (1.7.1992) by **Competition and Service (Utilities) Act 1992** (c. 43), s. 56(6), **Sch. 1 para. 27**; **Competition and Service (Utilities) Act 1992** (Commencement No. 1) Order 1992, art. 3, Sch. Pt. I
- F16** Words in s. 206(4)(a) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 121(3)(a)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F17** Words in s. 206(3)(a)(4)(a) substituted (1.4.1999) by S.I. 1999/506, **art. 30(b)**
- F18** Words in s. 206(4)(a) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 121(3)(b)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F19** S. 206(9A) inserted (1.3.2000) by 1998 c. 41, s. 66(5), **Sch. 10 Pt. IV para. 13(9)** (with s. 73); S.I. 2000/344, art. 2, **Sch.**
- F20** Words in s. 206(9A) substituted (1.4.2003) by **Enterprise Act 2002** (c. 40), ss. 278, 279, **Sch. 25 para. 25(10)(a)**; S.I. 2003/766, **art. 2**, Sch. (with art. 3)
- F21** Words in s. 206(9A) substituted (20.6.2003) by **Enterprise Act 2002** (c. 40), ss. 278, 279, **Sch. 25 para. 25(10)(b)**; S.I. 2003/1397, **art. 2(1)**, Sch.

### Modifications etc. (not altering text)

- C3** S. 206 restricted (31.10.2003) by **Railways and Transport Safety Act 2003** (c. 20), **ss. 115, 120**; S.I. 2003/2681, **art. 2**
- C4** S. 206 extended (1.12.1991) by **Statutory Water Companies Act 1991** (c. 58, SIF 130), **ss. 16, 17(2)**.
- C5** S. 206(3): disclosure powers extended (14.12.2001) by 2001 c. 24, ss. 17, 127(2)(a), **Sch. 4 Pt. I para. 31**

### Marginal Citations

- M10** 1989 c. 15.  
**M11** 1995 c. 25.  
**M12** 1991 c. 57.  
**M13** 1986 c. 45.  
**M14** 1974 c. 37.  
**M15** 1989 c. 15.  
**M16** 1990 c. 43.  
**M17** 1991 c. 57.  
**M18** 1995 c. 25.  
**M19** 1991 c. 57.  
**M20** 1991 c. 58.  
**M21** 1991 c. 59.  
**M22** 1991 c. 60.

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### *Provision of false information*

#### **207 Provision of false information. E+W**

- (1) If any person, in furnishing any information or making any application under or for the purposes of any provision of this Act, makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular, he 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.
- (2) Proceedings for an offence under subsection (1) above shall not be instituted except by or with the consent of the Secretary of State<sup>F22</sup> . . . or the Director of Public Prosecutions.

#### **Textual Amendments**

**F22** Words in s. 207(2) repealed (27.3.2002) by [The Ministry of Agriculture, Fisheries and Food \(Dissolution\) Order 2002 \(S.I. 2002/794\)](#), art. 5(2), [Sch. 2](#) (with art. 6)

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

**C6** S. 207 extended (01.12.1991) by [Statutory Water Companies Act 1991 \(c. 58, SIF 130\)](#), [ss.16, 17\(2\)](#).  
S. 207: functions exercised concurrently with the Ministers of the Crown (W.) (1.7.1999) by [S.I. 1999/672](#), art. 2, [Sch. 1](#)

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