



Water Industry Act 1991

1991 CHAPTER 56

PART II

APPOINTMENT AND REGULATION OF UNDERTAKERS

CHAPTER II

ENFORCEMENT OF INSOLVENCY

Enforcement orders

18 Orders for securing compliance with certain provisions.

(1) Subject to subsection (2) and sections 19 and 20 below, where in the case of any company holding an appointment under Chapter I of this Part [^{F1}or a licence under Chapter 1A of this Part] the Secretary of State or the Director is satisfied—

- (a) that that company is contravening—
 - (i) any condition of the company's appointment [^{F2}or licence] in relation to which he is the enforcement authority; or
 - (ii) any statutory or other requirement which is enforceable under this section and in relation to which he is the enforcement authority;

or

- (b) that that company [^{F3}is likely to contravene any such condition or requirement]

he shall by a final enforcement order make such provision as is requisite for the purpose of securing compliance with that condition or requirement.

[^{F4}(1A) Subject to subsection (2) and sections 19 and 20 below, where—

- (a) in the case of any company holding an appointment under Chapter 1 of this Part, the Secretary of State or the Authority is satisfied that the company—

Status: Point in time view as at 13/11/2012. This version of this provision has been superseded.

Changes to legislation: Water Industry Act 1991, Section 18 is up to date with all changes known to be in force on or before 01 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)

- (i) is causing or contributing to a contravention of a condition or requirement such as is referred to in paragraph (a)(i) or (ii) of subsection (1) above by a company holding a licence under Chapter 1A of this Part; or
- (ii) is likely to cause or contribute to any such contravention; or
- (b) in the case of any company holding a licence under Chapter 1A of this Part, the Secretary of State or the Authority is satisfied that the company—
 - (i) is causing or contributing to a contravention of a condition or requirement such as is referred to in paragraph (a)(i) or (ii) of subsection (1) above by a company holding an appointment under Chapter 1 of this Part; or
 - (ii) is likely to cause or contribute to any such contravention,
 he or it shall by a final enforcement order make such provision as is requisite for the purpose of securing compliance with that condition or requirement.]
- (2) Subject to section 19 below, where in the case of any company holding an appointment under Chapter I of this Part [^{F5}or a licence under Chapter 1A of this Part]—
 - (a) it appears to the Secretary of State or the Director as mentioned in paragraph (a) or (b) of subsection (1) [^{F6}or (1A)] above; and
 - (b) it appears to him that it is requisite that a provisional enforcement order be made,
 he may (instead of taking steps towards the making of a final order) by a provisional enforcement order make such provision as appears to him requisite for the purpose of securing compliance with the condition or requirement in question.
- (3) In determining for the purposes of subsection (2)(b) above whether it is requisite that a provisional enforcement order be made, the Secretary of State or, as the case may be, the Director shall have regard, in particular, to the extent to which any person is likely to sustain loss or damage in consequence of anything which, in contravention of any condition or of any statutory or other requirement enforceable under this section, is likely to be done, or omitted to be done, before a final enforcement order may be made.
- (4) Subject to sections 19 and 20 below, where the Secretary of State or the Director has made a provisional enforcement order, he shall confirm it, with or without modifications, if—
 - (a) he is satisfied that the company to which the order relates—
 - (i) is contravening any condition or statutory or other requirement in relation to which he is the enforcement authority; or
 - [^{F7}(ii) is likely to contravene any such condition or requirement;]^{F8}or
 - (iii) is causing or contributing to a contravention of any such condition or requirement; or
 - (iv) is likely to cause or contribute to any such contravention;]
 and
 - (b) the provision made by the order (with any modifications) is requisite for the purpose of securing compliance with that condition or requirement.
- (5) An enforcement order—
 - (a) shall require the company to which it relates (according to the circumstances of the case) to do, or not to do, such things as are specified in the order or are of a description so specified;

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- (b) shall take effect at such time, being the earliest practicable time, as is determined by or under the order; and
 - (c) may be revoked at any time by the enforcement authority who made it.
- (6) For the purposes of this section and the following provisions of this Act—
- (a) the statutory and other requirements which shall be enforceable under this section in relation to a company holding an appointment under Chapter I of this Part [^{F9}or a licence under Chapter 1A of this Part] shall be such of the requirements of any enactment or of any subordinate legislation as—
 - (i) are imposed in consequence of that appointment [^{F10}or licence] ; and
 - (ii) are made so enforceable by that enactment or subordinate legislation;
 - (b) the Director shall be the enforcement authority in relation to the conditions of an appointment under Chapter I of this Part [^{F11}or of a licence under Chapter 1A of this Part] ; and
 - (c) the enforcement authority in relation to each of the statutory and other requirements enforceable under this section shall be the Secretary of State, the Director or either of them, according to whatever provision is made by the enactment or subordinate legislation by which the requirement is made so enforceable.
- (7) In this section and the following provisions of this Chapter—
- “enforcement order” means a final enforcement order or a provisional enforcement order;
- “final enforcement order” means an order under this section other than a provisional enforcement order;
- “provisional enforcement order” means an order under this section which, if not previously confirmed in accordance with subsection (4) above, will cease to have effect at the end of such period (not exceeding three months) as is determined by or under the order.

[^{F12}(8) Where any act or omission—

- (a) constitutes a contravention of a condition of an appointment under Chapter 1 of this Part or of a condition of a licence under Chapter 1A of this Part or of a statutory or other requirement enforceable under this section; or
- (b) causes or contributes to a contravention of any such condition or requirement, the only remedies for, or for causing or contributing to, that contravention (apart from those available by virtue of this section) shall be those for which express provision is made by or under any enactment and those that are available in respect of that act or omission otherwise than by virtue of its constituting, or causing or contributing to, such a contravention.]

Textual Amendments

- F1** Words in s. 18(1) inserted (1.12.2005) by [Water Act 2003 \(c. 37\)](#), ss. 101(1), 105(3), [Sch. 8 para. 4\(2\)\(a\)](#); [S.I. 2005/2714](#), [art. 3\(e\)](#) (with [Sch. 2 para. 8](#))
- F2** Words in s. 18(1)(a) inserted (1.12.2005) by [Water Act 2003 \(c. 37\)](#), ss. 101(1), 105(3), [Sch. 8 para. 4\(2\)\(b\)](#); [S.I. 2005/2714](#), [art. 3\(c\)](#) (with [Sch. 2 para. 8](#))
- F3** Words in s. 18(1)(b) substituted (1.10.2004) by [Water Act 2003 \(c. 37\)](#), ss. [49\(2\)\(a\)](#), 105(3); [S.I. 2004/2528](#), [art. 2\(f\)](#) (with [art. 4](#), [Sch.](#))
- F4** S. 18(1A) inserted (1.12.2005) by [Water Act 2003 \(c. 37\)](#), ss. 101(1), 105(3), [Sch. 8 para. 4\(3\)](#); [S.I. 2005/2714](#), [art. 3\(e\)](#) (with [Sch. 2 para. 8](#))

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- F5** Words in s. 18(2) inserted (1.12.2005) by Water Act 2003 (c. 37), ss. 101(1), 105(3), **Sch. 8 para. 4(4)(a)**; S.I. 2005/2714, **art. 3(c)** (with Sch. 2 para. 8)
- F6** Words in s. 18(2)(a) inserted (1.12.2005) by Water Act 2003 (c. 37), ss. 101(1), 105(3), **Sch. 8 para. 4(4)(b)**; S.I. 2005/2714, **art. 3(c)** (with Sch. 2 para. 8)
- F7** S. 18(4)(a)(ii) substituted (1.10.2004) by Water Act 2003 (c. 37), **ss. 49(2)(b)**, 105(3); S.I. 2004/2528, **art. 2(f)** (with savings in art. 4)
- F8** S. 18(4)(iii)(iv) and preceding word inserted (1.12.2005) by Water Act 2003 (c. 37), ss. 101(1), 105(3), **Sch. 8 para. 4(5)**; S.I. 2005/2714, **art. 3(c)** (with Sch. 2 para. 8)
- F9** Words in s. 18(6)(a) inserted (1.12.2005) by Water Act 2003 (c. 37), ss. 101(1), 105(3), **Sch. 8 para. 4(6)(a)(i)**; S.I. 2005/2714, **art. 3(c)** (with Sch. 2 para. 8)
- F10** Words in s. 18(6)(a)(i) inserted (1.12.2005) by Water Act 2003 (c. 37), ss. 101(1), 105(3), **Sch. 8 para. 4(6)(a)(ii)**; S.I. 2005/2714, **art. 3(c)** (with Sch. 2 para. 8)
- F11** Words in s. 18(6)(b) inserted (1.12.2005) by Water Act 2003 (c. 37), ss. 101(1), 105(3), **Sch. 8 para. 4(6)(b)**; S.I. 2005/2714, **art. 3(c)** (with Sch. 2 para. 8)
- F12** S. 18(8) substituted (1.12.2005) by Water Act 2003 (c. 37), ss. 101(1), 105(3), **Sch. 8 para. 4(7)**; S.I. 2005/2714, **art. 3(c)** (with Sch. 2 para. 8)

Modifications etc. (not altering text)

- C1** S. 18 extended (1.12.1991) by Water Resources Act 1991 (c. 57, SIF 130), **ss. 20(3)**, 225(2).
- C2** S. 18 extended (1.12.1991) by Water Resources Act 1991 (c. 57, SIF 130), **ss. 197(6)**, 225(2).
- C3** S. 18 extended (1.12.1991) by Water Resources Act 1991 (c. 57, SIF 130), **ss. 203(5)**, 225(2).
- C4** S. 18: power to extend conferred (1.12.1991) by Water Resources Act 1991 (c. 57, SIF 130), **ss. 219(2)(a)**, 225(2).
- C5** S. 18 extended (1.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60, SIF 130), ss. 2(2), 4(2), **Sch. 2 Pt. I para. 4(2)**.
- C6** S. 18 extended (prosp.) by Consumers, Estate Agents and Redress Act 2007 (c. 17), **ss. 52(3)**, 66
- C7** S. 18 extended (prosp.) by Consumers, Estate Agents and Redress Act 2007 (c. 17), **ss. 25(7)**, 66
- C8** S. 18 extended (20.4.2010) by The Water Supply (Water Quality) Regulations 2010 (S.I. 2010/994), regs. 1(1), **38** (with reg. 1(2)(3))

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