



# 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*

#### **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
  - (c) the complaint was first made to the Director or [<sup>F1</sup>the Council] 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-

*Status: Point in time view as at 01/01/2016.*

*Changes to legislation: Water Industry Act 1991, Section 181 is up to date with all changes known to be in force on or before 07 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)*

- (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.

#### Textual Amendments

- F1** Words in s. 181(2)(c) substituted (1.10.2005) by [Water Act 2003 \(c. 37\)](#), ss. 101(1), 105(3), [Sch. 7 para. 27\(4\)](#); S.I. 2005/2714, [art. 2\(1\)\(v\)\(aa\)](#) (with [Sch. para. 8](#))

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

- C1** [S. 181](#) 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. 13\(4\)](#) (with [reg. 1\(1\)\(c\)](#))

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