



# Water Industry Act 1991

## 1991 CHAPTER 56

### PART VIII

#### MISCELLANEOUS AND SUPPLEMENTAL

##### *Construction of Act*

#### **219 General interpretation**

(1) In this Act, except in so far as the context otherwise requires—

“accessories”, in relation to a water main, sewer or other pipe, includes any manholes, ventilating shafts, inspection chambers, settling tanks, wash-out pipes, pumps, ferrules or stopcocks for the main, sewer or other pipe, or any machinery or other apparatus which is designed or adapted for use in connection with the use or maintenance of the main, sewer or other pipe or of another accessory for it, but does not include any telecommunication apparatus (within the meaning of Schedule 2 to the Telecommunications Act 1984) unless it—

- (a) is or is to be situated inside or in the close vicinity of the main, sewer or other pipe or inside or in the close vicinity of another accessory for it; and
- (b) is intended to be used only in connection with the use or maintenance of the main, sewer or other pipe or of another accessory for it;

“analyse”, in relation to any sample of land, water or effluent, includes subjecting the sample to a test of any description, and cognate expressions shall be construed accordingly;

“conservancy authority” means any person who has a duty or power under any enactment to conserve, maintain or improve the navigation of a tidal water, and is not a harbour authority or navigation authority;

“contravention” includes a failure to comply, and cognate expressions shall be construed accordingly;

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“customer or potential customer”, in relation to a company holding an appointment under Chapter I of Part II of this Act, means—

- (a) any person for or to whom that company provides any services in the course of carrying out the functions of a water undertaker or sewerage undertaker; or
- (b) any person who might become such a person on making an application for the purpose to the company;

“damage”, in relation to individuals, includes death and any personal injury, including any disease or impairment of physical or mental condition;

“the Director” means the Director General of Water Services;

“disposal”—

- (a) in relation to land or any interest or right in or over land, includes the creation of such an interest or right and a disposal effected by means of the surrender or other termination of any such interest or right; and
- (b) in relation to sewage, includes treatment;

and cognate expressions shall be construed accordingly;

“disposal main” means (subject to subsection (2) below) any outfall pipe or other pipe which—

- (a) is a pipe for the conveyance of effluent to or from any sewage disposal works, whether of a sewerage undertaker or of any other person; and
- (b) is not a public sewer;

“domestic purposes”, except in relation to sewers, shall be construed in accordance with section 218 above;

“drain” means (subject to subsection (2) below) a drain used for the drainage of one building or of any buildings or yards appurtenant to buildings within the same curtilage;

“effluent” means any liquid, including particles of matter and other substances in suspension in the liquid;

“enactment” includes an enactment contained in this Act or in any Act passed after this Act;

“engineering or building operations”, without prejudice to the generality of that expression, includes—

- (a) the construction, alteration, improvement, maintenance or demolition of any building or structure or of any reservoir, watercourse, dam, weir, well, borehole or other works; and
- (b) the installation, modification or removal of any machinery or apparatus;

“financial year” means the twelve months ending with 31st March;

“functions”, in relation to a relevant undertaker, means the functions of the undertaker under or by virtue of any enactment and shall be construed subject to section 217 above;

“harbour authority” means a person who is a harbour authority within the meaning of the Prevention of Oil Pollution Act 1971 and is not a navigation authority;

“highway” and “highway authority” have the same meanings as in the Highways Act 1980;

“house” means any building or part of a building which is occupied as a dwelling-house, whether or not a private dwelling-house, or which, if unoccupied, is likely to be so occupied;

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“information” includes anything contained in any records, accounts, estimates or returns;

“inland waters”, has the same meaning as in the Water Resources Act 1991;

“limited company” means a company within the meaning of the Companies Act 1985 which is limited by shares;

“local authority” means the council of a district or of a London borough or the Common Council of the City of London;

“local statutory provision” means—

- (a) a provision of a local Act (including an Act confirming a provisional order);
- (b) a provision of so much of any public general Act as has effect with respect to a particular area, with respect to particular persons or works or with respect to particular provisions falling within any paragraph of this definition;
- (c) a provision of an instrument made under any provision falling within paragraph (a) or (b) above; or
- (d) a provision of any other instrument which is in the nature of a local enactment;

“meter” means any apparatus for measuring or showing the volume of water supplied to, or of effluent discharged from, any premises;

“micro-organism” includes any microscopic biological entity which is capable of replication;

“modifications” includes additions, alterations and omissions, and cognate expressions shall be construed accordingly;

“the Monopolies Commission” means the Monopolies and Mergers Commission;

“the NRA” means the National Rivers Authority;

“navigation authority” means any person who has a duty or power under any enactment to work, maintain, conserve, improve or control any canal or other inland navigation, navigable river, estuary, harbour or dock;

“notice” means notice in writing;

“owner”, in relation to any premises, means the person who—

- (a) is for the time being receiving the rack-rent of the premises, whether on his own account or as agent or trustee for another person; or
  - (b) would receive the rack-rent if the premises were let at a rack-rent,
- and cognate expressions shall be construed accordingly;

“prescribed” means prescribed by regulations made by the Secretary of State;

“protected land”, in relation to a company holding an appointment under Chapter I of Part II of this Act, means any land which, or any interest or right in or over which—

- (a) was transferred to that company in accordance with a scheme under Schedule 2 to the Water Act 1989 or, where that company is a statutory water company, was held by that company at any time during the financial year ending with 31st March 1990;
- (b) is or has at any time on or after 1st September 1989 been held by that company for purposes connected with the carrying out of its functions as a water undertaker or sewerage undertaker (including any functions

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which for the purposes for which section 218 above has effect are taken to be such functions by virtue of subsection (6) or (7) of that section); or  
(c) has been transferred to that company in accordance with a scheme under Schedule 2 to this Act from another company in relation to which that land was protected land when the other company held an appointment under that Chapter;

“public authority” means any Minister of the Crown or government department, the NRA, any local authority or county council or any person certified by the Secretary of State to be a public authority for the purposes of this Act;

“public sewer” means a sewer for the time being vested in a sewerage undertaker in its capacity as such, whether vested in that undertaker by virtue of a scheme under Schedule 2 to the Water Act 1989 or Schedule 2 to this Act or under section 179 above or otherwise, and “private sewer” shall be construed accordingly;

“railway undertakers” means the British Railways Board, London Regional Transport or any other person authorised by any enactment, or by any order, rule or regulation made under any enactment, to construct, work or carry on any railway;

“records” includes computer records and any other records kept otherwise than in a document;

“the relevant sewerage provisions” means the following provisions of this Act, that is to say—

- (a) Chapters II and III of Part IV (except sections 98 to 101 and 110 and so much of Chapter III of that Part as provides for regulations under section 138 or has effect by virtue of any such regulations);
- (b) sections 160, 171, 172(4), 178, 184, 189, 196 and 204 and paragraph 4 of Schedule 12; and
- (c) the other provisions of this Act so far as they have effect for the purposes of any provision falling within paragraph (a) or (b) of this definition;

“relevant undertaker” means a water undertaker or sewerage undertaker;

“resource main” means (subject to subsection (2) below) any pipe, not being a trunk main, which is or is to be used for the purpose of—

- (a) conveying water from one source of supply to another, from a source of supply to a regulating reservoir or from a regulating reservoir to a source of supply; or
- (b) giving or taking a supply of water in bulk;

“service pipe” means (subject to subsection (2) below) so much of a pipe which is, or is to be, connected with a water main for supplying water from that main to any premises as—

- (a) is or is to be subject to water pressure from that main; or
- (b) would be so subject but for the closing of some valve,

and includes part of any service pipe;

“services” includes facilities;

“sewer” includes (without prejudice to subsection (2) below) all sewers and drains (not being drains within the meaning given by this subsection) which are used for the drainage of buildings and yards appurtenant to buildings;

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“sewerage services” includes the disposal of sewage and any other services which are required to be provided by a sewerage undertaker for the purpose of carrying out its functions;

“special administration order” has the meaning given by section 23 above;

“statutory water company” means any company which was a statutory water company for the purposes of the Water Act 1973 immediately before 1st September 1989;

“stopcock” includes any box or pit in which a stopcock is enclosed and the cover to any such box or pit;

“street” has, subject to subsection (5) below, the same meaning as in Part III of the New Roads and Street Works 1991;

“subordinate legislation” has the same meaning as in the Interpretation Act 1978;

“substance” includes micro-organisms and any natural or artificial substance or other matter, whether it is in solid or liquid form or in the form of a gas or vapour;

“supply of water in bulk” means a supply of water for distribution by a water undertaker taking the supply;

“surface water” includes water from roofs;

“trunk main” means a water main which is or is to be used by a water undertaker for the purpose of—

- (a) conveying water from a source of supply to a filter or reservoir or from one filter or reservoir to another filter or reservoir; or
- (b) conveying water in bulk, whether in the course of taking a supply of water in bulk or otherwise, between different places outside the area of the undertaker, from such a place to any part of that area or from one part of that area to another part of that area;

“underground strata” means strata subjacent to the surface of any land;

“vessel” includes a hovercraft within the meaning of the Hovercraft Act 1968;

“water main” means (subject to subsection (2) below) any pipe, not being a pipe for the time being vested in a person other than the undertaker, which is used or to be used by a water undertaker for the purpose of making a general supply of water available to customers or potential customers of the undertaker, as distinct from for the purpose of providing a supply to particular customers;

“watercourse” includes all rivers, streams, ditches, drains, cuts, culverts, dykes, sluices, sewers and passages through which water flows except mains and other pipes which belong to the NRA or a water undertaker or are used by a water undertaker or any other person for the purpose only of providing a supply of water to any premises.

(2) In this Act—

- (a) references to a pipe, including references to a main, a drain or a sewer, shall include references to a tunnel or conduit which serves or is to serve as the pipe in question and to any accessories for the pipe; and
- (b) references to any sewage disposal works shall include references to the machinery and equipment of those works and any necessary pumping stations and outfall pipes;

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and, accordingly, references to the laying of a pipe shall include references to the construction of such a tunnel or conduit, to the construction or installation of any such accessories and to the making of a connection between one pipe and another.

- (3) Nothing in Part III or IV of this Act by virtue of which a relevant undertaker owes a duty to any particular person to lay any water main, resource main or service pipe or any sewer, disposal main or discharge pipe shall be construed—
  - (a) as conferring any power in addition to the powers conferred apart from those Parts; or
  - (b) as requiring the undertaker to carry out any works which it has no power to carry out.
- (4) References in this Act to the fixing of charges in relation to any premises by reference to volume are references to the fixing of those charges by reference to the volume of water supplied to those premises, to the volume of effluent discharged from those premises, to both of those factors or to one or both of those factors taken together with other factors.
- (5) Until the coming into force of Part III of the New Roads and Street Works Act 1991, the definition of “street” in subsection (1) above shall have effect as if the reference to that Part were a reference to the Public Utilities Street Works Act 1950; but nothing in this section shall be taken—
  - (a) to prejudice the power of the Secretary of State under that Act of 1991 to make an order bringing Part III of that Act into force on different days for different purposes (including the purposes of this section); or
  - (b) in the period before the coming into force of that Part, to prevent references in this Act to a street, where the street is a highway which passes over a bridge or through a tunnel, from including that bridge or tunnel.
- (6) For the purposes of any provision of this Act by or under which power is or may be conferred on any person to recover the expenses incurred by that person in doing anything, those expenses shall be assumed to include such sum as may be reasonable in respect of establishment charges or overheads.
- (7) References in this Act to the later or latest of two or more different times or days are, in a case where those times or days coincide, references to the time at which or, as the case may be, the day on which they coincide.
- (8) Where by virtue of any provision of this Act any function of a Minister of the Crown is exercisable concurrently by different Ministers, that function shall also be exercisable jointly by any two or more of those Ministers.
- (9) Sub-paragraph (1) of paragraph 1 of Schedule 2 to the Water Consolidation (Consequential Provisions) Act 1991 has effect (by virtue of sub-paragraph (2)(b) of that paragraph) so that references in this Act to things done under or for the purposes of provisions of this Act or the Water Resources Act 1991 include references to things done, or treated as done, under or for the purposes of the corresponding provisions of the law in force before the commencement of this Act.