



# Competition and Service (Utilities) Act 1992

## 1992 CHAPTER 43

### PART I

#### STANDARDS OF PERFORMANCE AND SERVICE TO CUSTOMERS

##### *Water supply and sewerage services*

#### **34 Determination of disputes by the Director**

The following section shall be inserted after section 30 of the Water Industry Act 1991—

##### **“30A Determination of disputes by the Director**

- (1) In this section “relevant dispute” means a dispute which, by virtue of any provision of this Act, may be referred to the Director for determination under this section.
- (2) The practice and procedure to be followed in connection with the reference to the Director of any relevant dispute shall be such as he considers appropriate.
- (3) Where the Director determines any dispute under this section he shall give his reasons for reaching his decision with respect to the dispute.
- (4) On making a determination under this section the Director may include such incidental, supplemental and consequential provision (including provision requiring either party to pay a sum in respect of the costs or expenses incurred by the Director) as he considers appropriate.
- (5) A determination under this section—
  - (a) shall be final; and

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(b) shall be enforceable as if it were a judgment of a county court, in so far as it includes such provision as to costs or expenses as is mentioned in subsection (4) above.

(6) The Director shall not determine any relevant dispute which is the subject of proceedings before, or with respect to which judgment has been given by, any court.

(7) In including in any determination under this section any provision as to costs or expenses, the Director shall have regard to the conduct and means of the parties and any other relevant circumstances.”

### **35 Reference of certain disputes to the Director**

(1) The Water Industry Act 1991 shall be amended as follows.

(2) In section 45 (duty to make connections with mains), the following subsection shall be inserted after subsection (6)—

“(6A) Any dispute between a water undertaker and any other person as to whether the expenses were incurred reasonably may be referred to the Director for determination under section 30A above by either party to the dispute.”

(3) In section 46 (duty to carry out ancillary works for the purpose of making domestic connection), in subsection (7), for “(6)” there shall be substituted “(6A)”.

(4) In section 49 (supplemental provisions with respect to metering conditions), the following shall be substituted for subsection (3)—

“(3) Any dispute between a water undertaker and any other person as to the terms of any condition imposed under section 47 above for the purposes of metering shall be referred—

(a) to the arbitration of a single arbitrator appointed by agreement between the undertaker and that person; or

(b) if no agreement is reached, for determination by the Director under section 30A above.”

(5) In section 53 (conditions of compliance with domestic supply duty), the following subsection shall be inserted after subsection (2)—

“(2A) Any dispute between a water undertaker and any other person as to whether any requirement of a kind mentioned in subsection (2)(a) or (b) above has been complied with may be referred to the Director for determination under section 30A above by either party to the dispute.”

(6) In section 64 (supply by means of separate service pipes), the following subsection shall be inserted after subsection (2)—

“(2A) Any dispute between a water undertaker and any other person as to whether any condition of a kind mentioned in subsection (2) above has been complied with may be referred to the Director for determination under section 30A above by either party to the dispute.”

(7) In section 105 (appeals with respect to adoption of sewers etc.), for “Secretary of State”, wherever it appears, there shall be substituted “Director”.

- (8) In section 106 (right to communicate with public sewers)—
- (a) in subsection (6), for “a magistrates' court” there shall be substituted “the Director under section 30A above”;
  - (b) subsection (7) shall cease to have effect; and
  - (c) in subsection (8)(b), for “a magistrates' court” there shall be substituted “the Director”.
- (9) In section 107 (right of sewerage undertaker to undertake the making of communications with public sewers), in subsection (1)(b), for “a magistrates' court” there shall be substituted “the Director” and after subsection (4) there shall be inserted the following subsection—
- “(4A) Any dispute between a sewerage undertaker and any other person as to—
- (a) whether the undertaker’s estimate of the cost of works given under subsection (3)(b)(i) above is reasonable,
  - (b) whether any requirement of security for the payment of the cost of works was reasonably made by the undertaker, or
  - (c) whether any excess is repayable, or any expenses are recoverable, by the undertaker under subsection (4) above, or the amount of any such excess or expenses,
- may be referred to the Director for determination under section 30A above by either party to the dispute.”
- (10) In section 112 (requirement that proposed drain or sewer be constructed so as to form part of general system), in subsections (2) and (3), for “Secretary of State” there shall be substituted “Director”.
- (11) In section 113 (power to alter drainage system of premises)—
- (a) in subsection (4), for “appeal to a magistrates' court” there shall be substituted “refer the matter to the Director for determination under section 30A above”; and
  - (b) subsection (5) shall cease to have effect.
- (12) In section 116 (power to close or restrict use of public sewer), the following subsection shall be inserted after subsection (3)—
- “(4) Any dispute arising under subsection (3)(a) above between a sewerage undertaker and any other person as to the effectiveness of any sewer provided by the undertaker for that person’s use may be referred to the Director for determination under section 30A above by either party to the dispute.”

## **36 Billing disputes**

The following section shall be inserted in the Water Industry Act 1991, after section 150—

### **“150A Billing disputes**

- (1) The Secretary of State may by regulations make provision for billing disputes to be referred to the Director for determination in accordance with the regulations.

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- (2) In this section “billing dispute” means a dispute between a relevant undertaker and a customer concerning the amount of the charge which the undertaker is entitled to recover from the customer in connection with—
- (a) the supply of water for domestic purposes, in the case of a water undertaker; and
  - (b) the provision of sewerage services other than by the carrying out of trade effluent functions, in the case of a sewerage undertaker.
- (3) Regulations under this section may only be made after consulting—
- (a) the Director; and
  - (b) persons or bodies appearing to the Secretary of State to be representative of persons likely to be affected by the regulations.
- (4) Regulations under this section may provide that, where a billing dispute is referred to the Director, he may either—
- (a) determine the dispute, or
  - (b) appoint an arbitrator to determine it.
- (5) Any person determining any billing dispute in accordance with regulations under this section shall, in such manner as may be specified in the regulations, give his reasons for reaching his decision with respect to the dispute.
- (6) Regulations under this section may provide—
- (a) that disputes may be referred to the Director under this section only by prescribed persons; and
  - (b) for any determination to be final and enforceable as if it were a judgment of a county court.
- (7) Except in such circumstances (if any) as may be prescribed—
- (a) the Director or an arbitrator appointed by him shall not determine any billing dispute which is the subject of proceedings before, or with respect to which judgment has been given by, any court; and
  - (b) neither party to any billing dispute which has been referred to the Director for determination in accordance with regulations under this section shall commence proceedings before any court in respect of that dispute pending its determination in accordance with the regulations.
- (8) No relevant undertaker may commence proceedings before any court in respect of any charge in connection with the supply of water for domestic purposes or (as the case may be) the provision of sewerage services other than by the carrying out of trade effluent functions unless, not less than 28 days before doing so, the customer concerned was informed by it, in such form and manner as may be prescribed, of—
- (a) its intention to commence proceedings;
  - (b) the customer’s rights by virtue of this section; and
  - (c) such other matters (if any) as may be prescribed.
- (9) Where a dispute is referred to the Director in accordance with regulations made under this section, it shall be the duty of the undertaker concerned to give him such information as he may reasonably require for the purpose of assisting him in determining the dispute.

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- (10) Section 202 below shall have effect, with the necessary modifications, in relation to information which the Director requires for that purpose as it has effect in relation to information which the Secretary of State requires for purposes mentioned in subsection (1) of that section.
- (11) For the purposes of this section—
- “charge” means any charge fixed by a scheme made under section 143 above;
  - “customer” means any person to whom the relevant undertaker provides services;
- and references to a sewerage undertaker’s trade effluent functions are references to its functions under Chapter III of Part IV of this Act.”