

Status: Point in time view as at 30/06/1999.

Changes to legislation: Environment Act 1995, Cross Heading: The Water Industry Act 1991 is up to date with all changes known to be in force on or before 28 June 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)

SCHEDULES

SCHEDULE 22

MINOR AND CONSEQUENTIAL AMENDMENTS

The Water Industry Act 1991

- 97 In section 3 of the ^{M1}Water Industry Act 1991 (general environmental and recreational duties) in subsection (4) (which imposes duties on the Director and relevant undertakers in relation to proposals relating to functions of the National Rivers Authority etc) for the words “the NRA”, in each place where they occur, there shall be substituted the words “ the Environment Agency ”.

Marginal Citations

M1 1991 c. 57.

- 98 In section 5 of that Act (codes of practice with respect to environmental duties) in subsection (4), in paragraph (a) (which requires consultation with the National Rivers Authority) for the words “the NRA” there shall be substituted the words “ the Environment Agency ”.
- 99 In section 40 of that Act (bulk supplies of water) in subsection (5) (which requires the Director to consult the National Rivers Authority before making an order) for the words “the NRA” there shall be substituted the words “ the Environment Agency ”.
- 100 In section 40A of that Act (variation and termination of bulk supply agreements) in subsection (3) (which requires the Director to consult the National Rivers authority before making an order) for the words “the NRA” there shall be substituted the words “ the Environment Agency ”.
- 101 (1) In section 71 of that Act (waste from water resources) in subsection (6) (power of court to authorise the National Rivers Authority to take steps to execute an order) for the words “the NRA” there shall be substituted—
(a) where it first occurs, the words “the Environment Agency”; and
(b) where it next occurs, the words “the Agency”.
- (2) In subsection (7) (powers of entry etc of persons designated by the National Rivers Authority) for the words “the NRA” in each place where it occurs there shall be substituted the words “ the Environment Agency ”.
- 102 After section 93 of that Act (interpretation of Part III) there shall be inserted—

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“PART IIIA

PROMOTION OF THE EFFICIENT USE OF WATER

93A Duty to promote the efficient use of water.

- (1) It shall be the duty of every water undertaker to promote the efficient use of water by its customers.
- (2) The duty of a water undertaker under this section shall be enforceable under section 18 above—
 - (a) by the Secretary of State; or
 - (b) with the consent of or in accordance with a general authorisation given by the Secretary of State, by the Director.
- (3) Nothing in this Part shall have effect to authorise or require a water undertaker to impose any requirement on any of its customers or potential customers.

93B Power of Director to impose requirements on water undertakers.

- (1) The Director may require a water undertaker, in its performance of its duty under section 93A above, to—
 - (a) take any such action; or
 - (b) achieve any such overall standards of performance,as he may specify in the document imposing the requirement.
- (2) Where the Director, in the document imposing a requirement on a water undertaker under subsection (1) above, stipulates that any contravention of the requirement by the undertaker will be a breach of its duty under section 93A above, any contravention of that requirement by the undertaker shall be a breach of that duty.
- (3) Without prejudice to the generality of subsection (1) above, a requirement under that subsection may—
 - (a) require a water undertaker to make available to its customers or potential customers such facilities as may be specified in the document imposing the requirement;
 - (b) require a water undertaker to provide or make available to its customers or potential customers such information as may be specified in the document imposing the requirement, and may specify the form in which, the times at which or the frequency with which any such information is to be provided or made available.
- (4) In exercising his powers under this section in relation to any water undertaker the Director shall have regard to the extent to which water resources are available to that undertaker.
- (5) Before imposing any requirement on a water undertaker under subsection (1) above the Director shall consult that undertaker.

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- (6) Nothing in this section authorises the Director to impose any requirement on a water undertaker which has or may have the effect of authorising or requiring that undertaker to impose any requirement on any of its customers or potential customers.

93C Publicity of requirements imposed under section 93B.

- (1) Where, under section 93B(1) above, the Director imposes any requirement on a water undertaker, the Director may arrange for that requirement to be publicised in any such manner as he may consider appropriate for the purpose of bringing it to the attention of that undertaker's customers.
- (2) Without prejudice to the generality of subsection (1) above, the Director may arrange for such publicising of the requirement as is mentioned in that subsection by—
- (a) himself publicising the requirement or causing it to be publicised; or
 - (b) directing the undertaker to inform or arrange to inform its customers of the requirement.

93D Information as to compliance with requirements under section 93B.

- (1) Where a water undertaker is subject to any requirement imposed under section 93B(1) above, the Director may arrange for there to be given to the customers of that undertaker at any such times or with such frequency, and in any such manner, as he may consider appropriate, such information about the level of performance achieved by the undertaker in relation to that requirement as appears to the Director to be expedient to be given to those customers.
- (2) Without prejudice to the generality of subsection (1) above, the Director may arrange for such giving of information as is mentioned in that subsection by—
- (a) himself disseminating the information or causing it to be disseminated; or
 - (b) directing the undertaker to give or arrange to give the information to its customers.
- (3) At such times and in such form or manner as the Director may direct, a water undertaker shall provide the Director with such information as may be specified in the direction in connection with the undertaker's performance in relation to any requirement imposed upon the undertaker under section 93B(1) above.
- (4) A water undertaker who fails without reasonable excuse to do anything required of him by virtue of subsection (3) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.”.

103 After section 101 of that Act (which provides for the determination of certain details in relation to requisitioned sewers) there shall be inserted—

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“ Provision of public sewers otherwise than by requisition

101A Further duty to provide sewers.

- (1) Without prejudice to section 98 above, it shall be the duty of a sewerage undertaker to provide a public sewer to be used for the drainage for domestic sewerage purposes of premises in a particular locality in its area if the conditions specified in subsection (2) below are satisfied.
- (2) The conditions mentioned in subsection (1) above are—
 - (a) that the premises in question, or any of those premises, are premises on which there are buildings each of which, with the exception of any shed, glasshouse or other outbuilding appurtenant to a dwelling and not designed or occupied as living accommodation, is a building erected before, or whose erection was substantially completed by, 20th June 1995;
 - (b) that the drains or sewers used for the drainage for domestic sewerage purposes of the premises in question do not, either directly or through an intermediate drain or sewer, connect with a public sewer; and
 - (c) that the drainage of any of the premises in question in respect of which the condition specified in paragraph (a) above is satisfied is giving, or is likely to give, rise to such adverse effects to the environment or amenity that it is appropriate, having regard to any guidance issued under this section by the Secretary of State and all other relevant considerations, to provide a public sewer for the drainage for domestic sewerage purposes of the premises in question.
- (3) Without prejudice to the generality of subsection (2)(c) above, regard shall be had to the following considerations, so far as relevant, in determining whether it is appropriate for any sewer to be provided by virtue of this section—
 - (a) the geology of the locality in question or of any other locality;
 - (b) the number of premises, being premises on which there are buildings, which might reasonably be expected to be drained by means of that sewer;
 - (c) the costs of providing that sewer;
 - (d) the nature and extent of any adverse effects to the environment or amenity arising, or likely to arise, as a result of the premises or, as the case may be, the locality in question not being drained by means of a public sewer; and
 - (e) the extent to which it is practicable for those effects to be overcome otherwise than by the provision (whether by virtue of this section or otherwise) of public sewers, and the costs of so overcoming those effects.
- (4) Guidance issued by the Secretary of State under this section may—
 - (a) relate to how regard is to be had to the considerations mentioned in paragraphs (a) to (e) of subsection (3) above;

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- (b) relate to any other matter which the Secretary of State considers may be a relevant consideration in any case and to how regard is to be had to any such matter;
 - (c) set out considerations, other than those mentioned in paragraphs (a) to (e) of subsection (3) above, to which (so far as relevant) regard shall be had in determining whether it is appropriate for any sewer to be provided by virtue of this section;
 - (d) relate to how regard is to be had to any such consideration as is mentioned in paragraph (c) above;
 - (e) without prejudice to paragraphs (a) to (d) above, relate to how a sewerage undertaker is to discharge its functions under this section.
- (5) Before issuing guidance under this section the Secretary of State shall consult—
- (a) the Environment Agency;
 - (b) the Director; and
 - (c) such other bodies or persons as he considers appropriate;
- and the Secretary of State shall arrange for any guidance issued by him under this section to be published in such manner as he considers appropriate.
- (6) Subject to the following provisions of this section, the duty of a sewerage undertaker by virtue of subsection (1) above shall be enforceable under section 18 above—
- (a) by the Secretary of State; or
 - (b) with the consent of or in accordance with a general authorisation given by the Secretary of State, by the Director.
- (7) Any dispute between a sewerage undertaker and an owner or occupier of any premises in its area as to—
- (a) whether the undertaker is under a duty by virtue of subsection (1) above to provide a public sewer to be used for any such drainage of those premises as is mentioned in that subsection;
 - (b) the domestic sewerage purposes for which any such sewer should be provided; or
 - (c) the time by which any such duty of the undertaker should be performed,
- shall be determined by the Environment Agency, and may be referred to the Environment Agency for determination by either of the parties to the dispute.
- (8) The Environment Agency—
- (a) shall notify the parties of the reasons for its decision on any dispute referred to it under subsection (7) above; and
 - (b) may make any such recommendations, or give any such guidance, relating to or in connection with the drainage of the premises or locality in question as it considers appropriate.
- (9) The decision of the Environment Agency on any dispute referred to it under subsection (7) above shall be final.
- (10) A sewerage undertaker shall only be taken to be in breach of its duty under subsection (1) above where, and to the extent that, it has accepted, or the Environment Agency has determined under this section, that it is under such

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a duty and where any time accepted by it, or determined by the Environment Agency under this section, as the time by which the duty is to that extent to be performed has passed.”.

Commencement Information

II Sch. 22 para. 103 partly in force; Sch. 22 para. 103 not in force at Royal Assent see s. 125(3); Sch. 22 para. 103 in force for specified purposes at 1.2.1996 by S.I. 1996/186, art 2; Sch. 22 para. 103 in force at 1.4.1996 insofar as not already in force by S.I. 1996/186, art. 3

- 104 In section 110A of that Act (new connections with public sewers) in subsection (6) (which requires the Director to consult the National Rivers Authority before making an order) for the words “the NRA” there shall be substituted the words “ the Environment Agency ”.
- 105 (1) Section 120 of that Act (application for the discharge of special category effluent) shall be amended in accordance with the following provisions of this paragraph.
- (2) In subsection (1) (sewerage undertakers to refer certain questions to the Secretary of State) for the words “the Secretary of State” there shall be substituted the words “ the Environment Agency ”.
- (3) In subsection (4) (undertaker not to give consent etc until Secretary of State gives notice of his determination of the questions) for the words “the Secretary of State” there shall be substituted the words “ the Environment Agency ”.
- (4) For subsections (7) and (8) (enforcement by Secretary of State) there shall be substituted—
- “(9) If a sewerage undertaker fails, within the period provided by subsection (2) above, to refer to the Environment Agency any question which he is required by subsection (1) above to refer to the Agency, the undertaker 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.
- (10) If the Environment Agency becomes aware of any such failure as is mentioned in subsection (9) above, the Agency may—
- (a) if a consent under this Chapter to make discharges of any special category effluent has been granted on the application in question, exercise its powers of review under section 127 or 131 below, notwithstanding anything in subsection (2) of the section in question; or
- (b) in any other case, proceed as if the reference required by this section had been made.”
- 106 In section 123 of that Act (appeals with respect to the discharge of special category effluent) for the words “the Secretary of State” or “the Secretary of State’s”, wherever occurring, there shall be substituted respectively the words “ the Environment Agency ” or “ the Environment Agency’s ”.
- 107 In section 127 of that Act (review by the Secretary of State of consents relating to special category effluent) for the words “the Secretary of State” or “the Secretary

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- of State's", wherever occurring, there shall be substituted respectively the words "the Environment Agency" or "the Environment Agency's".
- 108 (1) Section 130 of that Act (reference to the Secretary of State of agreements relating to special category effluent) shall be amended in accordance with the following provisions of this paragraph.
- (2) For the words "the Secretary of State", wherever occurring, there shall be substituted the words "the Environment Agency".
- (3) For subsections (5) and (6) (enforcement by Secretary of State) there shall be substituted—
- “(7) If a sewerage undertaker fails, before giving any consent or entering into any agreement with respect to any such operations as are mentioned in paragraph (a) of subsection (1) above, to refer to the Environment Agency any question which he is required by that subsection to refer to the Agency, the undertaker 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.
- (8) If the Environment Agency becomes aware—
- (a) that a sewerage undertaker and the owner or occupier of any trade premises are proposing to enter into any such agreement as is mentioned in subsection (1) above, and
- (b) that the sewerage undertaker has not referred to the Agency any question which it is required to refer to the Agency by that subsection,
- the Agency may proceed as if the reference required by that subsection had been made.
- (9) If the Environment Agency becomes aware that any consent has been given or agreement entered into with respect to any such operations as are mentioned in paragraph (a) of subsection (1) above without the sewerage undertaker in question having referred to the Environment Agency any question which he is required by that subsection to refer to the Agency, the Agency may exercise its powers of review under section 127 above or, as the case may be, section 131 below, notwithstanding anything in subsection (2) of the section in question.”
- 109 In section 131 of that Act (review by the Secretary of State of agreements relating to special category effluent) for the words "the Secretary of State" or "the Secretary of State's", wherever occurring, there shall be substituted respectively the words "the Environment Agency" or "the Environment Agency's".
- 110 (1) Section 132 of that Act (powers and procedure on references and reviews) shall be amended in accordance with the following provisions of this paragraph.
- (2) For the words "the Secretary of State", wherever occurring, there shall be substituted the words "the Environment Agency".
- (3) In subsection (2)(b) of that section (duty of the Secretary of State to consider representations or objections duly made to him) for the words "him" and "he" there shall be substituted the word "the Agency".

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- (4) In subsection (6) of that section (section 121(1) and (2) not to restrict power to impose conditions under subsection (4)(b)) for the word “he” there shall be substituted the words “ the Agency ”.
- (5) Subsection (7) (powers of entry) shall cease to have effect.
- 111 In section 133 of that Act (effect of determination on reference or review) for subsection (4) (duties of sewerage undertaker to be enforceable under section 18 by the Secretary of State) there shall be substituted—
- “(5) A sewerage undertaker which fails to perform its duty under subsection (1) above 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) The Environment Agency may, for the purpose of securing compliance with the provisions of a notice under section 132 above, by serving notice on the sewerage undertaker in question and on the person specified in section 132(2)(a)(ii) above, vary or revoke—
- (a) any consent given under this Chapter to make discharges of any special category effluent, or
- (b) any agreement under section 129 above.”
- 112 In section 134 of that Act (compensation in respect of determinations made for the protection of public health etc)—
- (a) for the words “the Secretary of State” or “the Secretary of State’s”, wherever occurring, there shall be substituted respectively the words “ the Environment Agency ” or “ the Environment Agency’s ”; and
- (b) in subsection (2)(b) for the word “him” there shall be substituted the words “ the Agency ”.
- 113 After section 135 there shall be inserted—

“135A Power of the Environment Agency to acquire information for the purpose of its functions in relation to special category effluent.

- (1) For the purpose of the discharge of its functions under this Chapter, the Environment Agency may, by notice in writing served on any person, require that person to furnish such information specified in the notice as that Agency reasonably considers it needs, in such form and within such period following service of the notice, or at such time, as is so specified.
- (2) A person who—
- (a) fails, without reasonable excuse, to comply with a requirement imposed under subsection (1) above, or
- (b) in furnishing any information in compliance with such a requirement, makes any statement which he knows to be false or misleading in a material particular, or recklessly makes a statement which is false or misleading in a material particular,
- shall be guilty of an offence.
- (3) A person guilty of an offence under subsection (2) above shall be liable—

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- (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or to both.”

- 114 (1) Section 142 of that Act (powers of undertakers to charge) shall be amended in accordance with the following provisions of this paragraph.
 - (2) In subsection (2) (manner in which charging powers to be exercised) for the words “subsection (3)” there shall be substituted the words “ subsections (3) and (3A) ”.
 - (3) After subsection (3) (restriction on charging by agreement for trade effluent functions) there shall be inserted—
 - “(3A) The power of a sewerage undertaker to charge, by virtue of subsection (1) above, for any services provided in the course of carrying out its duty under section 101A(1) above shall be exercisable only by or in accordance with a charges scheme under section 143 below.”

- 115 In section 143 of that Act (charges schemes) after subsection (3) (charges which may be imposed in certain cases) there shall be inserted—
 - “(3A) A sewerage undertaker is under a duty to ensure that any charges scheme made by the undertaker, so far as having effect to recover the undertaker’s costs of providing a sewer by virtue of its duty under section 101A(1) above, causes those costs to be borne by the undertaker’s customers generally; and a sewerage undertaker’s duty under this subsection shall be enforceable under section 18 above—
 - (a) by the Secretary of State; or
 - (b) with the consent of or in accordance with a general authorisation given by the Secretary of State, by the Director.”

- 116 Section 151 of that Act shall cease to have effect.

- 117 In section 161 of that Act (power to deal with foul water and pollution) in subsections (3) and (4) for the words “the NRA”, wherever occurring, there shall be substituted the words “ the Environment Agency ”.

- 118 In section 166 of that Act (consents for certain discharges under section 165) in subsection (1) (which requires the consent of the National Rivers Authority to certain discharges) for the words “the NRA” there shall be substituted the words “ the Environment Agency ”.

- 119 In section 184 of that Act (power of certain undertakers to alter public sewers etc) in subsection (1) for the words “NRA”, in each place where it occurs, there shall be substituted the words “ Environment Agency ”.

- 120 In section 202 of that Act (duties of undertakers to furnish the Secretary of State with information) in subsection (6) (which defines the expression “the other consolidation Acts”) for the words “the NRA” there shall be substituted the words “ the Environment Agency ”.

- 121 (1) In section 206 of that Act (restriction on disclosure of information) in subsection (2) (information furnished under section 196 or 204) the words “196 or” shall cease to have effect.

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- (2) In subsection (3)(a) of that section (exception for disclosure of information for purposes of functions under certain enactments)—
- (a) for the words “the NRA” there shall be substituted the words “ the Environment Agency, the Scottish Environment Protection Agency ”; and
 - (b) for the words “or the Water Act 1989” there shall be substituted the words “ , ^{M2}the Water Act 1989, Part I or IIA of the Environmental Protection Act 1990 or the ^{M3}Environment Act 1995 ”.
- (3) In subsection (4), in paragraph (a) (which provides that nothing in subsection (1) shall limit the matters which may be included in reports made by specified bodies under specified enactments)—
- (a) for the words “the NRA” there shall be substituted the words “ the Environment Agency, the Scottish Environment Protection Agency ”; and
 - (b) for the words “or of the Water Resources Act 1991” there shall be substituted the words “ , Part I or IIA of ^{M4}the Environmental Protection Act 1990, the ^{M5}Water Resources Act 1991 or the ^{M6}Environment Act 1995 ”.

Marginal Citations

- M2** 1989 c. 15.
M3 1995 c. 25.
M4 1990 c. 43.
M5 1991 c. 57.
M6 1995 c. 25.

- 122 In section 209 of that Act (civil liability of undertakers for escapes of water etc) in subsection (3) (exceptions for loss sustained by other public undertakers) for the words “the NRA” there shall be substituted the words “ the Environment Agency ”.
- 123 In section 215 of that Act (local inquiries) in subsection (3) (application of section 250(4) of the ^{M7}Local Government Act 1972 in relation to the National Rivers Authority) for the words “the NRA”, in each place where they occur, there shall be substituted the words “ the Environment Agency ”.

Marginal Citations

- M7** 1972 c. 70.

- 124 In section 217 of that Act (construction of provisions conferring powers by reference to undertakers’ functions) for the words “NRA”, wherever occurring, there shall be substituted the words “ Environment Agency ”.
- 125 In section 219 of that Act (general interpretation) in subsection (1)—
- (a) the definition of “the NRA” shall be omitted; and
 - (b) subject to that, for the words “the NRA”, wherever occurring, there shall be substituted the words “ the Environment Agency ”.
- 126 In Schedule 11 to that Act (orders conferring compulsory works powers) in paragraph 1(3) (persons on whom copy notices are to be served) in paragraph (a), for the words “the NRA” there shall be substituted the words “ the Environment Agency ”.

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- 127 In Schedule 13 to that Act (protective provisions in respect of certain undertakers) in paragraph 1, in sub-paragraphs (2) and (5)(a), for the words “the NRA”, wherever occurring, there shall be substituted the words “ the Environment Agency ”.

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