

SCHEDULES

SCHEDULE 4

Section 4

SEWERAGE UNDERTAKERS' DUTIES AS REGARDS SEWERAGE LICENSEES

After Chapter 2 of Part 4 of the Water Industry Act 1991 there is inserted—

“CHAPTER 2A

DUTIES RELATING TO SEWERAGE SERVICES: SEWERAGE LICENSEES

Duties of sewerage undertakers as regards enabling the provision of sewerage services

117A Use of undertaker's sewerage system

- (1) This section applies where a sewerage licensee with a retail authorisation (“L”) requests a sewerage undertaker to permit the use of the undertaker's sewerage system for the purpose of enabling L to provide sewerage services in respect of premises that—
 - (a) L is to serve in accordance with L's retail authorisation, and
 - (b) are in the area of the sewerage undertaker.
- (2) Where this section applies, the undertaker must in accordance with a section 117E agreement take such steps—
 - (a) for the purpose of connecting the drains or sewers of the premises in question to the undertaker's sewerage system, or
 - (b) in respect of that system,as may be provided for in that agreement in order to enable the requested use of that system.
- (3) A sewerage undertaker is not required by this section to permit the use of its sewerage system, or to take any steps to enable its use, if the sewerage licensee making a request has not secured by means of—
 - (a) a request under section 117B made by the licensee, or
 - (b) a request under section 117C made by the licensee or another sewerage licensee,that there is to be provision for dealing with or removing matter from the sewerage system in quantities determined by reference to the extent of sewerage services provided in respect of the premises in question.
- (4) Where—
 - (a) a request has been made by a sewerage licensee for the purposes of subsection (1), and
 - (b) the steps which the undertaker is required to take by virtue of that request include steps for the purpose of obtaining any necessary authority for, or agreement to, any exercise by it of any of its powers or the carrying out by it of any works,

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the failure of the undertaker to acquire the necessary authority or agreement does not affect the liability of the licensee to reimburse the undertaker in respect of some or all of the expenses incurred by it in taking those steps, if the section 117E agreement provides for such liability as regards those steps.

- (5) For the purposes of this section and sections 117B and 117C—
- (a) premises which are outside a sewerage undertaker's area are to be treated as being within that area if they are provided with sewerage services using the undertaker's sewerage system, and
 - (b) any sewers or drains of the sewerage undertaker which are used for the purpose of serving premises as mentioned in paragraph (a) are to be treated as being part of the undertaker's sewerage system (if they would not otherwise be part of it).
- (6) In this section and sections 117B to 117D—
- (a) references to the sewerage system of a sewerage undertaker are to be construed in accordance with section 17BA(7);
 - (b) references to the retail authorisation of a sewerage licensee are to be construed in accordance with Schedule 2B.

117B Matter dealt with by sewerage undertaker

- (1) This section applies where a sewerage licensee with a retail authorisation (“L”) requests a sewerage undertaker to deal effectually with certain quantities of matter in its sewerage system in circumstances where—
- (a) sewerage services are to be provided in accordance with L's retail authorisation in respect of particular premises in the area of the undertaker, and
 - (b) the quantities to be dealt with are to be determined by reference to the extent of sewerage services provided in respect of those premises.
- (2) Where this section applies, the sewerage undertaker must in accordance with a section 117E agreement—
- (a) take such steps in respect of the undertaker's sewerage system as may be provided for in that agreement in order to enable the use of that system for the purpose in subsection (1), and
 - (b) having taken those steps, deal with matter as requested.
- (3) Where—
- (a) a request has been made by a sewerage licensee for the purposes of subsection (1), and
 - (b) the steps which the undertaker is required to take by virtue of that request include steps for the purpose of obtaining any necessary authority for, or agreement to, any exercise by it of any of its powers or the carrying out by it of any works,

the failure of the undertaker to acquire the necessary authority or agreement does not affect the liability of the licensee to reimburse the undertaker in respect of some or all of the expenses incurred by it in taking those steps, if the section 117E agreement provides for such liability as regards those steps.

117C Removal of matter from sewerage system by a sewerage licensee

- (1) This section applies where a sewerage licensee with a wholesale authorisation (“L”) requests a sewerage undertaker to permit L to remove certain quantities of matter from the undertaker’s sewerage system in circumstances where—
 - (a) sewerage services are to be provided in accordance with a retail authorisation (whether L’s or another’s) in respect of particular premises in the area of the undertaker, and
 - (b) the quantities to be removed are to be determined by reference to the extent of sewerage services provided in respect of those premises.
- (2) Where this section applies, the sewerage undertaker must in accordance with a section 117E agreement—
 - (a) take such steps, including steps in respect of the undertaker’s sewerage system, as may be provided for in that agreement in order to enable L to remove matter from the undertaker’s sewerage system as requested, and
 - (b) having taken those steps, permit that requested removal of matter from that sewerage system.
- (3) Where—
 - (a) a request has been made by a sewerage licensee for the purposes of subsection (1), and
 - (b) the steps which the undertaker is required to take by virtue of that request include steps for the purpose of obtaining any necessary authority for, or agreement to, any exercise by it of any of its powers or the carrying out by it of any works,
the failure of the undertaker to acquire the necessary authority or agreement does not affect the liability of the licensee to reimburse the undertaker in respect of some or all of the expenses incurred by it in taking those steps, if the section 117E agreement provides for such liability as regards those steps.
- (4) A pipe connecting a sewerage undertaker’s sewerage system to a sewage disposal works that is laid because of subsection (2)(a) is to be regarded as a disposal main for the purposes of this Act, subject to any provision to the contrary.
- (5) In this section, a reference to a wholesale authorisation is to be construed in accordance with Schedule 2B.

117D Connections for the purposes of a disposal authorisation

- (1) This section applies where a sewerage licensee with a disposal authorisation (“L”) requests a sewerage undertaker to permit L to remove matter from the undertaker’s sewerage system.
- (2) Where this section applies, the sewerage undertaker must in accordance with a section 117E agreement—
 - (a) take such steps, including steps in respect of the undertaker’s sewerage system, as may be provided for in that agreement in order to enable L to remove matter from the undertaker’s sewerage system as requested, and
 - (b) having taken those steps, permit that requested removal of matter from that sewerage system.
- (3) Where—

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- (a) a request has been made by a sewerage licensee for the purposes of subsection (1), and
- (b) the steps which the undertaker is required to take by virtue of that request include steps for the purpose of obtaining any necessary authority for, or agreement to, any exercise by it of any of its powers or the carrying out by it of any works,

the failure of the undertaker to acquire the necessary authority or agreement does not affect the liability of the licensee to reimburse the undertaker in respect of some or all of the expenses incurred by it in taking those steps, if the section 117E agreement provides for such liability as regards those steps.

- (4) A pipe connecting a sewerage undertaker's sewerage system to a sewage disposal works that is laid because of subsection (2)(a) is to be regarded as a disposal main for the purposes of this Act, subject to any provision to the contrary.
- (5) In this section, a reference to a disposal authorisation is to be construed in accordance with Schedule 2B.

117E Agreements as to duties under sections 117A to 117D

- (1) On the application of—
 - (a) a sewerage licensee that has made a request under sections 117A to 117D, or
 - (b) a sewerage undertaker to which such a request has been made,
 the Authority may by order require a sewerage undertaker to perform the duty in question under sections 117A to 117D, for such period and on such terms and conditions as may be specified in the order.
- (2) The Authority may make an order under subsection (1) only if—
 - (a) it appears to the Authority that the sewerage undertaker is required to perform the duty in question, and
 - (b) it is satisfied that the parties cannot reach agreement within a reasonable time.
- (3) An order under subsection (1) has effect as an agreement between—
 - (a) the sewerage licensee, and
 - (b) the sewerage undertaker required to perform the duty in question.
- (4) On the application of a party to a section 117E agreement, the Authority may, if it is satisfied that the parties cannot reach agreement on the variation or termination of the agreement, by order vary or terminate the agreement.
- (5) If an order under subsection (4) is made in relation to a section 117E agreement, the agreement—
 - (a) has effect subject to the provision made by the order, or
 - (b) ceases to have effect, as the case may be.
- (6) An order under subsection (4) may require one party to the agreement to pay compensation to the other.
- (7) Neither the CMA nor the Authority may exercise, in respect of an agreement for the performance of a duty under sections 117A to 117D by a sewerage undertaker, the powers conferred by—
 - (a) section 32 of the Competition Act 1998 (directions in relation to agreements);
 - (b) section 35(2) of that Act (interim directions).

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- (8) Subsection (7)(b) does not apply to the exercise of powers in respect of conduct—
- (a) which is connected with an agreement for the performance of a duty under sections 117A to 117D by a sewerage undertaker, and
 - (b) in respect of which section 35(1) of the Competition Act 1998 applies because of an investigation under section 25 of that Act relating to a suspected infringement of the Chapter 2 prohibition imposed by section 18(1) of that Act.
- (9) In this Chapter a reference to a section 117E agreement is a reference to—
- (a) an agreement for the performance of a duty under sections 117A to 117D by a sewerage undertaker, or
 - (b) an order deemed to be such an agreement under subsection (3), or
 - (c) an agreement varied by order under subsection (4).

117F Codes in respect of section 117E agreements

- (1) The Authority may issue one or more codes in respect of section 117E agreements.
- (2) A code may make provision about—
- (a) procedures in connection with making a section 117E agreement;
 - (b) procedures in connection with varying or terminating a section 117E agreement;
 - (c) the terms and conditions of a section 117E agreement, including terms as to the duration of such an agreement;
 - (d) principles for determining the terms and conditions that should or should not be incorporated into a section 117E agreement.
- (3) A code may make provision about the steps to be taken by the Authority in determining for the purposes of section 117E(2) whether a sewerage undertaker is, in the particular case, required to perform a duty under sections 117A to 117D.
- (4) If the Authority considers that a sewerage undertaker or a sewerage licensee is not acting as required by a code, the Authority may give the undertaker or the licensee a direction to do, or not to do, a thing specified in the direction.
- (5) The Authority may not give a direction under subsection (4) requiring a person to enter into, vary or terminate an agreement.
- (6) It is the duty of a sewerage undertaker or a sewerage licensee to comply with a direction under subsection (4), and this duty is enforceable by the Authority under section 18.
- (7) A code may make—
- (a) different provision for different persons or descriptions of person;
 - (b) different provision for different duties under sections 117A to 117D.
- (8) The Authority may from time to time revise a code issued under this section and issue a revised code.
- (9) A revised code may include provision for applying any of its revisions to section 117E agreements made before the revised code comes into effect.

117G Codes under section 117F: procedure

- (1) Before issuing a code under section 117F, the Authority must—

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- (a) prepare a draft of the proposed code under section 117F, and
 - (b) consult persons in accordance with subsections (2) and (3).
- (2) The relevant persons are—
- (a) the Secretary of State;
 - (b) the appropriate agency;
 - (c) the Council;
 - (d) any sewerage undertakers likely to be affected by the proposed code;
 - (e) any sewerage licensees likely to be affected by the proposed code;
 - (f) such other persons as the Authority thinks appropriate.
- (3) The Authority must specify the period (“the consultation period”) within which a person may make representations about the proposed code.
- (4) Before a code under section 117F prepared by the Authority is issued for the first time, the Secretary of State may direct the Authority—
- (a) not to issue the code, or
 - (b) to issue the code with specified modifications.
- (5) A direction under subsection (4) must be given within the period of 28 days beginning with the day after the end of the consultation period, and a code in relation to which a direction may be given may not be issued before that period of 28 days has expired.
- (6) In this section “the appropriate agency” means—
- (a) the Environment Agency, in relation to section 117E agreements made with sewerage undertakers whose areas are wholly in England;
 - (b) both the Environment Agency and the NRBW, in relation to section 117E agreements made with sewerage undertakers whose areas are partly in England and partly in Wales.
- (7) This section is subject to section 117H.

117H Codes under section 117F: minor or urgent revisions

- (1) This section applies if the Authority proposes to issue a revised code under section 117F and, in the view of the Authority, the revision or each of the revisions proposed to be made is—
- (a) a revision for which consultation is unnecessary, or
 - (b) a revision that it is necessary or desirable to make without delay.
- (2) Section 117G does not apply to the proposed revised code.
- (3) Once the Authority has issued the revised code, it must give notice as soon as reasonably practicable of—
- (a) the issuing of the revised code, and
 - (b) as regards each revision contained in it, whether in the view of the Authority the revision falls within paragraph (a) or (b) of subsection (1).
- (4) Notice under subsection (3) is to be given to such persons as the Authority considers appropriate.
- (5) Unless the Authority gives notice that a revision in a revised code is in the view of the Authority a revision falling within subsection (1)(a), the revision ceases to have effect

at the end of the period of six months beginning with the day after that on which the revised code is issued.

117I Rules about charges

- (1) The Authority must issue rules about charges that may be imposed by sewerage undertakers under a section 117E agreement.
- (2) The rules may in particular make provision about—
 - (a) the types of charges that may be imposed;
 - (b) the amount or the maximum amount, or methods for determining the amount or maximum amount, of any type of charge;
 - (c) principles for determining what types of charges may or may not be imposed;
 - (d) principles for determining the amount of any charge that may be imposed;
 - (e) publication of the charges that may be imposed.
- (3) The rules must include provision for and in connection with requiring a sewerage undertaker to impose on a sewerage licensee only such charges as would enable the licensee, where the services it provides to a person under its retail authorisation are services to which a section 142(2)(b) agreement would apply if the undertaker had continued to provide the services, to charge for those services at the same rate or rates as would have applied if the section 142(2)(b) agreement had applied.
- (4) In subsection (3) “section 142(2)(b) agreement” means an agreement to which section 142(2)(b) applies.
- (5) If the Authority considers that a sewerage undertaker is not acting as required by rules under this section, the Authority may—
 - (a) give the undertaker a direction to do, or not to do, a thing specified in the direction, or
 - (b) in a case where a section 117E agreement to which the undertaker is party requires modification in order to conform to the rules, give a direction to the undertaker and the sewerage licensee in question to modify the agreement.
- (6) It is the duty of a sewerage undertaker or a sewerage licensee to comply with a direction under subsection (5), and this duty is enforceable by the Authority under section 18.
- (7) The rules may—
 - (a) make different provision for different persons or descriptions of person;
 - (b) make different provision for different purposes;
 - (c) make provision subject to exceptions.
- (8) The Authority may from time to time revise rules issued under this section and issue revised rules.
- (9) The Authority must issue revised rules if—
 - (a) guidance is issued under section 117M, and
 - (b) the Authority, having regard to that guidance, considers that it is appropriate to revise the rules.
- (10) Revised rules may include provision for applying any of the revisions to section 117E agreements made before the revised rules come into effect.

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117J Rules about charges: provision about the reduction of charges

- (1) Rules under section 117I may provide for the reduction of charges payable under a section 117E agreement where—
 - (a) a sewerage licensee that has a retail authorisation is party to the section 117E agreement, and
 - (b) other conditions specified by the rules are satisfied.
- (2) Rules made by virtue of subsection (1) may in particular—
 - (a) specify conditions relating to any party to the section 117E agreement;
 - (b) specify conditions about persons taking steps for the purpose of reducing or managing demand for sewerage services;
 - (c) specify conditions about the premises by reference to which such steps are to be taken;
 - (d) specify conditions about reducing charges payable by a person who—
 - (i) is not party to the section 117E agreement, and
 - (ii) takes or proposes to take such steps as satisfy or would satisfy a condition specified under paragraph (b).
- (3) The rules may provide that, where a charge falls to be reduced in accordance with rules made by virtue of subsection (1), the sewerage undertaker to which the charges are payable must give notice of that reduction to the Authority.
- (4) Rules made by virtue of subsection (3) may—
 - (a) make provision as to the content of the notice;
 - (b) specify the period within which an undertaker is to give notice to the Authority.
- (5) Provision under subsection (4)(a) may in particular require the notice to specify—
 - (a) the amount of the charge, with and without the reduction;
 - (b) the period for which the reduction has effect.

117K Rules under section 117I: procedure

- (1) Before issuing rules under section 117I, the Authority must—
 - (a) prepare a draft of the proposed rules, and
 - (b) consult the relevant persons about the draft.
- (2) The relevant persons are—
 - (a) the Secretary of State;
 - (b) the appropriate agency;
 - (c) the Council;
 - (d) any sewerage undertakers likely to be affected by the proposed rules;
 - (e) any sewerage licensees likely to be affected by the proposed rules;
 - (f) such other persons as the Authority thinks appropriate.
- (3) The Authority must specify the period (“the consultation period”) within which persons may make representations about the proposed rules.
- (4) The Authority must have regard to guidance issued under section 117M in making rules under section 117I.
- (5) Before rules under section 117I prepared by the Authority are issued, the Secretary of State may direct the Authority not to issue the rules.

- (6) A direction under subsection (5) must be given within the period of 28 days beginning with the day after the end of the consultation period, and rules may not be issued before that period of 28 days has expired.
- (7) In this section “the appropriate agency” means—
 - (a) the Environment Agency, in relation to section 117E agreements made with sewerage undertakers whose areas are wholly in England;
 - (b) both the Environment Agency and the NRW, in relation to section 117E agreements made with sewerage undertakers whose areas are partly in England and partly in Wales.
- (8) This section is subject to section 117L.

117L Rules under section 117I: minor or urgent revisions

- (1) This section applies if the Authority proposes to issue revised rules under section 117I and, in the view of the Authority, the revision or each of the revisions proposed to be made is—
 - (a) a revision for which consultation is unnecessary, or
 - (b) a revision that it is necessary or desirable to make without delay.
- (2) Section 117K does not apply to the proposed revised rules.
- (3) Before issuing the revised rules, the Authority must give notice to the Secretary of State of its intention to issue revised rules.
- (4) Before the revised rules are issued, the Secretary of State may direct the Authority not to issue the revised rules.
- (5) A direction under subsection (4) must be given within the period of 14 days beginning with the day after the day on which notice is given under subsection (3), and the Authority may not issue the revised rules in question before—
 - (a) that period of 14 days expires, or
 - (b) the Secretary of State notifies the Authority that no direction under subsection (4) will be given in relation to the revised rules,whichever is the sooner.
- (6) Once the Authority has issued the revised rules, it must give notice as soon as reasonably practicable of—
 - (a) the issuing of the revised rules, and
 - (b) as regards each revision contained in them, whether in the view of the Authority the revision falls within paragraph (a) or (b) of subsection (1).
- (7) Notice under subsection (6) is to be given to such persons as the Authority considers appropriate.
- (8) Unless the Authority gives notice that a revision in revised rules is in the view of the Authority a revision falling within subsection (1)(a), the revision ceases to have effect at the end of the period of six months beginning with the day after that on which the revised rules are issued.

117M Rules under section 117I: guidance

- (1) The Minister may issue guidance as to the content of rules under section 117I.

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- (2) Before issuing the guidance, the Minister must—
 - (a) prepare a draft of the proposed guidance;
 - (b) consult the relevant persons about the draft.
- (3) The relevant persons are such persons as the Minister thinks appropriate.
- (4) The Minister may from time to time revise the guidance and issue revised guidance.
- (5) Subsections (2) and (3) apply to revised guidance as they apply to the original guidance.
- (6) The Minister must arrange for the publication of guidance issued under this section.
- (7) In this section “the Minister” means the Secretary of State.

117N Designation of strategic sewerage provision

- (1) Subsection (2) applies if at any time the Authority determines that the removal of matter from a sewerage undertaker’s sewerage system that the undertaker is required to permit under section 117C or 117D in accordance with a section 117E agreement constitutes strategic sewerage provision.
- (2) The Authority must designate the removal of matter as strategic sewerage provision.
- (3) Subsection (4) applies if—
 - (a) a sewerage undertaker requests the Authority to make a determination that a particular removal of matter constitutes strategic sewerage provision for the purposes of subsection (1), or
 - (b) the Authority otherwise proposes to make a determination that a particular removal of matter constitutes strategic sewerage provision for the purposes of subsection (1).
- (4) The Authority must give notice of the request or proposed determination to—
 - (a) the Secretary of State;
 - (b) the appropriate agency;
 - (c) the other party or parties, or the parties, to the section 117E agreement; and
 - (d) such other persons (if any) as the Authority thinks it appropriate to notify.
- (5) A notice under subsection (4) must specify the time within which representations or objections with respect to the request or proposed determination may be made.

 The time specified may not be less than 28 days from the date on which the notice was given.
- (6) The Authority must consider any representations or objections which are duly made and not withdrawn.
- (7) If the Authority determines that a particular removal of matter designated under this section as strategic sewerage provision no longer constitutes such provision, it must cancel its designation.
- (8) If the Authority proposes to make a determination under subsection (7) that a particular removal of matter no longer constitutes strategic sewerage provision, it must give notice of the proposed determination to—
 - (a) the Secretary of State;
 - (b) the appropriate agency; and

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- (c) the parties to the section 117E agreements in question.
- (9) Subsection (5) applies to a notice under subsection (8) as it applies to a notice under subsection (4), and subsection (6) applies accordingly.
- (10) For the purposes of this section, a removal of matter from a sewerage system is strategic sewerage provision if, without that removal of matter, there is a substantial risk that the sewerage undertaker would be unable—
 - (a) to maintain its services to its own customers, and
 - (b) to fulfil its obligations under section 117B to deal with matter in its sewerage system.
- (11) In this section and section 117O “the appropriate agency”, in relation to a determination in respect of the removal of matter from a sewerage undertaker’s system, means—
 - (a) the Environment Agency, in a case where the undertaker’s area is wholly in England;
 - (b) both the Environment Agency and the NRBW, in a case where the undertaker’s area is partly in England and partly in Wales.

117O Designation of collective strategic sewerage provision

- (1) Subsection (2) applies if at any time the Authority determines that two or more cases of the removal of matter from a sewerage system—
 - (a) each of which is a removal by a sewerage licensee, and
 - (b) each of which is a removal that a sewerage undertaker is required to permit under section 117C or 117D in accordance with a section 117E agreement,constitute collective strategic sewerage provision.
- (2) The Authority must designate the cases of the removal of matter as collective strategic sewerage provision.
- (3) Subsection (4) applies if—
 - (a) a sewerage undertaker requests the Authority to make a determination that two or more cases of the removal of matter from a sewerage system constitute collective strategic sewerage provision for the purposes of subsection (1), or
 - (b) the Authority otherwise proposes to make a determination that two or more cases of the removal of matter from a sewerage system constitute collective strategic sewerage provision for the purposes of subsection (1).
- (4) The Authority must give notice of the request or proposed determination to—
 - (a) the Secretary of State;
 - (b) the appropriate agency;
 - (c) the other party or parties, or the parties, to the section 117E agreements in question; and
 - (d) such other persons (if any) as the Authority thinks it appropriate to notify.
- (5) A notice under subsection (4) must specify the time within which representations or objections with respect to the request or proposed determination may be made.

The time specified may not be less than 28 days from the date on which the notice was given.

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- (6) The Authority must consider any representations or objections which are duly made and not withdrawn.
- (7) If the Authority determines that the cases of the removal of matter from a sewerage system designated under this section as collective strategic sewerage provision no longer constitute such provision, it must cancel their designation.
- (8) If the Authority proposes to make a determination under subsection (7) that the cases of the removal of matter from a sewerage system no longer constitute collective strategic sewerage provision, it must give notice of the proposed determination to—
 - (a) the Secretary of State;
 - (b) the appropriate agency; and
 - (c) the parties to the section 117E agreements in question.
- (9) Subsection (5) applies to a notice under subsection (8) as it applies to a notice under subsection (4), and subsection (6) applies accordingly.
- (10) For the purposes of this section, two or more cases of the removal of matter from a sewerage system are collective strategic sewerage provision if, without those cases of the removal of matter, there is a substantial risk that the sewerage undertaker would be unable—
 - (a) to maintain its services to its own customers, and
 - (b) to fulfil its obligations under section 117B to deal with matter in its sewerage system.

Offences

117P Prohibition on unauthorised use of sewerage system

- (1) No person may use the sewerage system of a sewerage undertaker whose area is wholly or mainly in England for the purpose of providing sewerage services to premises of—
 - (a) a customer,
 - (b) the person so using that system, or
 - (c) a person associated with that person.
- (2) Subsection (1) is subject to subsections (3) and (4) and section 117R.
- (3) Subsection (1) does not apply where that use of the system is made by—
 - (a) the sewerage undertaker, or
 - (b) a sewerage licensee in pursuance of its sewerage licence.
- (4) The Secretary of State may by regulations specify further circumstances in which subsection (1) does not apply.
- (5) A person who contravenes subsection (1) is guilty of an offence.
- (6) An undertaking entered into which involves a contravention of subsection (1) is unenforceable.
- (7) A person guilty of an offence under this section is liable—
 - (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to a fine.

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- (8) Proceedings for an offence under this section may not be instituted except by—
 - (a) the Secretary of State, or
 - (b) the Authority.
- (9) For the purposes of this section, a person (A) is associated with another person (B) if they would be associated with each other for the purposes of Schedule 2B if A were a sewerage licensee.
- (10) In this section and sections 117Q and 117R, references to the sewerage system of a sewerage undertaker are to be construed in accordance with section 17BA(7).

117Q Prohibition on unauthorised removal of matter from sewerage system

- (1) No person other than the undertaker may remove matter from the sewerage system of a sewerage undertaker whose area is wholly or mainly in England.
- (2) Subsection (1) is subject to subsections (3) and (4) and section 117R.
- (3) Subsection (1) does not apply where —
 - (a) matter is removed by a sewerage licensee in pursuance of its sewerage licence, or
 - (b) matter is removed by another sewerage undertaker under a main connection agreement (within the meaning of section 110A).
- (4) The Secretary of State may by regulations specify further circumstances in which subsection (1) does not apply.
- (5) An undertaking entered into which involves a contravention of subsection (1) is unenforceable.
- (6) A person who contravenes subsection (1) is guilty of an offence.
- (7) A person guilty of an offence under this section is liable—
 - (a) on summary conviction, to a fine not exceeding £20,000;
 - (b) on conviction on indictment, to a fine.
- (8) For the purposes of section 210, the penalty on conviction on indictment of an offence under this section is to be deemed to include imprisonment for a term not exceeding two years (in addition to or instead of a fine).
- (9) Proceedings for an offence under this section may not be instituted except by—
 - (a) the Secretary of State, or
 - (b) the Authority.

117R Sections 117P and 117Q: exemptions

- (1) The Secretary of State may by order made by statutory instrument grant exemption from section 117P(1) or 117Q(1) to—
 - (a) a person or persons of a class;
 - (b) generally or to such extent as may be specified in the order;
 - (c) unconditionally or subject to such conditions as may be specified in the order.
- (2) Before making an order under subsection (1), the Secretary of State must give notice—

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- (a) stating that the Secretary of State proposes to make such an order and setting out the terms of the proposed order;
 - (b) stating the reasons why the Secretary of State proposes to make the order in the terms proposed; and
 - (c) specifying the time (not being less than 28 days from the date of publication of the notice) within which representations or objections with respect to the proposals may be made,
- and must consider any representations or objections which are duly made and not withdrawn.
- (3) The notice required by subsection (2) is to be given—
 - (a) by serving a copy of it on the Authority, and
 - (b) by publishing it in such manner as the Secretary of State considers appropriate for bringing it to the attention of those likely to be affected by the proposed order.
 - (4) Notice of an exemption granted to a particular person is to be given—
 - (a) by serving a copy of the exemption on the person, and
 - (b) by publishing the exemption in such manner as the Secretary of State considers appropriate for bringing it to the attention of other persons who may be affected by it.
 - (5) Notice of an exemption granted to persons of a particular class is to be given by publishing the exemption in such manner as the Secretary of State considers appropriate for bringing it to the attention of—
 - (a) persons of that class, and
 - (b) other persons who may be affected by it.
 - (6) An exemption may be granted—
 - (a) indefinitely, or
 - (b) for a period specified in, or determined by or under, the exemption.
 - (7) The conditions that may be specified may, in particular, require any person carrying on any activity allowed by the exemption—
 - (a) to comply with any direction given by the Secretary of State or the Authority as to such matters as are specified in the exemption or are of a description so specified;
 - (b) except in so far as the Secretary of State or the Authority consents to the person's doing or not doing them, not to do or to do such things as are specified in the exemption or are of a description so specified;
 - (c) to refer for determination by the Secretary of State or the Authority such questions arising under the exemption as are specified in the exemption or are of a description so specified.

117S Section 117R: supplementary

- (1) The Secretary of State may by order made by statutory instrument revoke an order by which an exemption was granted to a particular person under section 117R(1) or vary an order by which more than one exemption was so granted so as to terminate any of the exemptions—
 - (a) at the person's request,

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- (b) in accordance with any provision of the order by which the exemption was granted, or
 - (c) if it appears to the Secretary of State inappropriate that the exemption should continue to have effect.
- (2) The Secretary of State may by order made by statutory instrument revoke an order by which an exemption was granted to persons of a particular class under section 117R(1) or vary an order by which more than one exemption was so granted so as to terminate any of the exemptions—
 - (a) in accordance with any provision of the order by which the exemption was granted, or
 - (b) if it appears to the Secretary of State inappropriate that the exemption should continue to have effect.
- (3) The Secretary of State may by direction withdraw an exemption granted to persons of a particular class under section 117R(1) from any person of that class—
 - (a) at the person's request,
 - (b) in accordance with any provision of the order by which the exemption was granted, or
 - (c) if it appears to the Secretary of State inappropriate that the exemption should continue to have effect in the case of the person.
- (4) Before making an order under subsection (1)(b) or (c) or (2) or giving a direction under subsection (3)(b) or (c), the Secretary of State must—
 - (a) consult the Authority, and
 - (b) give notice—
 - (i) stating that the Secretary of State proposes to make such an order or give such a direction,
 - (ii) stating the reasons why the Secretary of State proposes to make such an order or give such a direction, and
 - (iii) specifying the time (not being less than 28 days from the date of publication of the notice) within which representations or objections with respect to the proposals may be made,and must consider any representations or objections which are duly made and not withdrawn.
- (5) The notice required by subsection (4)(b) is to be given—
 - (a) where the Secretary of State is proposing to make an order under subsection (1)(b) or (c), by serving a copy of it on the person to whom the exemption was granted;
 - (b) where the Secretary of State is proposing to make an order under subsection (2), by publishing it in such manner as the Secretary of State considers appropriate for bringing it to the attention of persons of the class of persons to whom the exemption was granted;
 - (c) where the Secretary of State is proposing to give a direction under subsection (3)(b) or (c), by serving a copy of it on the person from whom the Secretary of State proposes to withdraw the exemption.
- (6) A statutory instrument containing—
 - (a) an order under subsection (1) or (2), or
 - (b) an order under section 117R(1),

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is subject to annulment in pursuance of a resolution of either House of Parliament.”