



# Reservoirs Act 1975

## 1975 CHAPTER 23

### *[<sup>F1</sup> Additional powers of enforcement authority*

#### **Textual Amendments**

- F1** Act repealed (S.) (1.4.2016) by [Reservoirs \(Scotland\) Act 2011 \(asp 9\)](#), ss. **8(2)**, 116(1) (with s. 110); S.S.I. 2016/42, art. 2, sch. (with art. 3)

#### **15 Reserve powers.**

- (1) Where undertakers are required by a notice from the enforcement authority under section 8, 9, 10, 12 [<sup>F2</sup>, 13] or 14 above to appoint an engineer for any purpose of this Act, and the undertakers fail to make the appointment, the authority may appoint an engineer for that purpose, being a person eligible for appointment by the undertakers; and, except as otherwise provided, the provisions of this Act shall apply in relation to any person appointed under this section and to anything done by him as if he had been duly appointed by the undertakers.
- (2) Where undertakers are required by a notice from the enforcement authority under section [<sup>F3</sup> 8, ] 9, 10 or 14 above to carry into effect any recommendation as to measures to be taken in the interests of safety, and the undertakers fail to comply with that requirement, the authority may cause the recommendation to be carried into effect under the supervision of a qualified civil engineer appointed by them, who shall give a certificate, as soon as he is satisfied that it is so, that the recommendation has been carried into effect.
- (3) An appointment made under subsection (1) above for any purpose of this Act shall be of no effect, if before it is made the undertakers have appointed for that purpose an engineer eligible to be so appointed; and an appointment under that subsection of a supervising engineer shall terminate when an appointment of a supervising engineer duly made by the undertakers takes effect.
- (4) Without prejudice to [<sup>F4</sup>section 123 of the Environment Act 1995 as it is applied by section 22A of this Act] or section 192 of the <sup>M1</sup>Local Government (Scotland) Act 1973, where the enforcement authority are unable after reasonable enquiry to ascertain

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the name or address of the undertakers for any large raised reservoir, then for purposes of this section a notice relating to the reservoir shall be deemed to have been duly served on the undertakers if it has been left in the hands of a person who is or appears to be resident or employed at the reservoir or if it has been left conspicuously affixed to some building or object at the reservoir.

- (5) Where an enforcement authority make any appointment under subsection (1) above or exercise powers conferred by subsection (2), the undertakers shall pay them the amount of the expenses reasonably incurred by them by reason of the appointment or, as the case may be, in the exercise of those powers.

#### Textual Amendments

- F2** Word in s. 15(1) inserted (30.7.2013 for E., 1.4.2016 for W.) by [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), **Sch. 4 para. 26(1)** (with s. 49(1)(6)); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(d)
- F3** Word in s. 15(2) inserted (E.W.) (1.4.2004 for E., 1.4.2004 for W.) by [Water Act 2003 \(c. 37\)](#), **ss. 75(3)**, 105(3); S.I. 2004/641, art. 3(t) (with [Sch. 3 para. 7](#)); S.I. 2004/910, art. 2(1)(e); S.I. 2004/641, art. 3(t) (with [Sch. 3 para. 7](#)); S.I. 2004/910, art. 2(1)(e)
- F4** Words in s. 15(4) substituted (1.10.2004) by [Water Act 2003 \(c. 37\)](#), **ss. 76(1)**, 105(3); S.I. 2004/2528, art. 2(l) (with [Sch. para. 8](#))

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

- C1** S. 15 modified by [S.I. 1985/176](#), art. 2(3)(ii), **Sch.** and 1986/466, art. 2(2), Schs. 1, 2

#### Marginal Citations

- M1** 1973 c. 63.

## 16 Emergency powers.

- (1) Where it appears to the enforcement authority, in the case of any large raised reservoir, that the reservoir is unsafe and that immediate action is needed to protect persons or property against an escape of water from the reservoir, they may take at the reservoir such measures as they consider proper to remove or reduce the risk or to mitigate the effects of an escape.
- (2) Where it appears to the enforcement authority, in the case of any large raised reservoir, that the use of the reservoir as a reservoir has been abandoned, but that there may from time to time be an undue accumulation of water there and immediate action is needed to protect persons or property against an escape of water, they may take there such measures as they consider proper to remove or reduce the risk or to mitigate the effects of an escape.
- (3) An enforcement authority proposing to exercise the powers conferred by this section shall appoint a qualified civil engineer to make recommendations as to the measures to be taken in the exercise of those powers; and any measures so taken shall be carried into effect under the supervision of a qualified civil engineer appointed by the authority.
- (4) Subject to subsection (5) below, an enforcement authority exercising or proposing to exercise at a reservoir the powers conferred by this section shall, as early as practicable, serve on the undertakers a notice giving full information of the measures that are being or are to be taken in the exercise of those powers; and if that notice

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cannot be given before the work is begun, the authority shall notify the undertakers as early as practicable of the beginning of the work.

- (5) Subsection (4) above shall not require an enforcement authority to serve any notice on the undertakers after work is begun at the reservoir, if the authority are unable after reasonable enquiry to ascertain the name or address of the undertakers; and in relation to notices served before work is begun section 15(4) above shall apply for purposes of this section as it applies for the purposes of that.
- (6) Where an enforcement authority exercise the powers conferred by this section, the undertakers shall pay them the amount of the expenses reasonably incurred by them in the exercise of those powers.
- (7) For purposes of subsection (2) above references in this section, and in any other provision of this Act as it operates in relation thereto, to the enforcement authority or to the undertakers shall have effect as at the time when the use of the reservoir as such is abandoned.

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

C2 S. 16 modified by [S.I. 1985/176, art. 2\(3\)\(ii\)](#), [Sch.](#) and 1986/466, art. 2(2), Sch. 2

## 17 Powers of entry.

- (1) Subject to the following provisions of this section a person duly authorised in writing by an enforcement authority may at any reasonable time enter upon the land on which a reservoir is situated—
  - (a) [<sup>F5</sup>for the purpose of carrying out an inspection, survey or other operation to determine whether any provision of this Act applies;]
  - (b) for the purpose of carrying out any survey or other operation needed to determine whether any recommendation as to measures to be taken in the interests of safety [<sup>F6</sup>, or as to the maintenance of the reservoir,] has been carried into effect as required by section [<sup>F7</sup>8,] 9, 10 or 14 above or what period should be specified in a notice under section [<sup>F7</sup>8,] 9, 10 or 14 requiring the undertakers to carry such a recommendation into effect;
  - (c) for the purpose of carrying out any inspection of the reservoir that he has been appointed under section 15(1) above to carry out, or any survey or other operation needed for the purpose of a report that he has been appointed under section 15(1) to make;
  - (d) for any purpose connected with the carrying into effect under section 15(2) above of a recommendation as to measures to be taken in the interests of safety;
  - (e) for the purpose of carrying out any survey or other operation needed to determine whether any or what measures should be taken under section 16 above, or for any purpose connected with the carrying into effect of any measures taken under that section.
- (2) Where the entry is for a purpose within subsection (1)(e) above, the power to enter upon the land on which a reservoir is situated shall extend also to any neighbouring land.
- (3) Where the use of a large raised reservoir as a reservoir is abandoned, subsection (1) above (so far as material) shall continue to apply in relation to the site of the

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reservoir as land on which a reservoir is situated; and for this purpose references in subsection (1), and in any other provision of this Act as it operates in relation thereto, to the enforcement authority or to the undertakers shall have effect as at the time when the use of the reservoir as such is abandoned.

- (4) Except for a purpose within subsection (1)(e) above, a person may not under this section demand admission as of right to any land that is occupied, unless at least seven days' notice in writing of the intended entry has been given to the occupier or the entry is authorised by a warrant granted under subsection (5) below.

A notice under this subsection shall specify the purpose for which entry is required and shall indicate so far as practicable the nature of any works to be executed on the land.

- (5) If it is shown to the satisfaction of a justice of the peace on sworn information in writing—
- (a) that admission to any land on which any person is entitled to enter under this section has been refused to that person, or that a refusal is apprehended, or that the occupier is temporarily absent; and
  - (b) that there is reasonable ground for entry on to the land for the purpose for which entry is required;

the justice may by warrant under his hand authorise that person to enter on the land, if need be by force; but such a warrant shall not be issued on the ground that entry has been refused or that a refusal of entry is apprehended unless the justice is satisfied that notice in writing of the intention to apply for a warrant has been given to the occupier.

- (6) Every warrant granted under this section shall continue in force until the purpose for which the entry is required has been satisfied.
- (7) A person duly authorised to enter on any land by virtue of this section shall, if so required, produce evidence of his authority before so entering and may take with him on to the land such other persons and such equipment as may be necessary.
- (8) Any person who wilfully obstructs a person entitled to enter on land by virtue of this section shall be liable on summary conviction to a fine not exceeding [<sup>F8</sup>level 3 on the standard scale].
- (9) In the application of this section to Scotland—
- (a) any reference to a justice of the peace includes a reference to the sheriff having jurisdiction in the place where the land is situated;
  - (b) for the reference to be sworn information in writing there shall be substituted a reference to evidence on oath.

#### Textual Amendments

- F5** S. 17(1)(a) substituted (30.7.2013 for E., 1.4.2016 for W.) by [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), [Sch. 4 para. 29](#) (with s. 49(1)(6)); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(d)
- F6** Words in s. 17(1)(b) inserted (30.7.2013 for E., 1.4.2016 for W.) by [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), [Sch. 4 para. 13](#) (with s. 49(1)(6)); S.I. 2013/1590, art. 3(b); S.I. 2016/79, art. 2(b)
- F7** Words in s. 17(1)(b) inserted (E.W.) (1.4.2004 for E., 1.4.2004 for W.) by [Water Act 2003 \(c. 37\)](#), [ss. 75\(4\)](#), 105(3); S.I. 2004/641, art. 3(t) (with [Sch. 3 para. 7](#)); S.I. 2004/910, art. 2(1)(e); S.I. 2004/641, art. 3(t) (with [Sch. 3 para. 7](#)); S.I. 2004/910, art. 2(1)(e)
- F8** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [ss. 38](#), 46 and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c.21, SIF 39:1\)](#), [ss. 289F](#), 289G

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

C3 S. 17 modified by [S.I. 1985/176](#), [art. 2\(3\)\(ii\)](#), [Sch.](#) and 1986/466, art. 2(2), Schs. 1, 2

**18 Compensation to third parties for damage or disturbance.**

- (1) Where in the exercise in relation to any reservoir of powers conferred by section 17 above—
- (a) any land on which entry is made and which is not in the occupation of the undertakers is damaged; or
  - (b) any person is disturbed in his enjoyment of any such land;
- any person interested in the land which is damaged or, as the case may be, the person whose enjoyment of land is disturbed shall be entitled to receive compensation from the enforcement authority in respect of the damage or disturbance.
- (2) Any dispute as to a right to compensation under this section or as to the amount of any such compensation shall be determined by the [<sup>F9</sup>Upper Tribunal or] , if the land in question is in Scotland, by the Lands Tribunal for Scotland.
- (3) Compensation payable under this section by an enforcement authority shall for the purpose of recovery from the undertakers be treated as an expense incurred in the exercise of the powers conferred by section 16 above.]

**Textual Amendments**

F9 Words in s. 18(2) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, [Sch. 1 para. 113](#) (with Sch. 5)

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

C4 S. 18 modified by [S.I. 1985/176](#), [art. 2\(3\)\(ii\)](#), [Sch.](#) and 1986/466, art. 2(2), Sch. 2

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 1(4B) inserted by [2009 asp 6 s. 84\(2\)](#)
- s. 12C inserted by [2009 asp 6 s. 89](#)
- s. 12ZA inserted by [2009 asp 6 s. 88](#)
- s. 22B inserted by [2009 asp 6 s. 86\(2\)](#)
- s. 27B inserted by [2009 asp 6 s. 90](#)