



Water Industry Act 1991

1991 CHAPTER 56

PART IV

SEWERAGE SERVICES

CHAPTER II

PROVISION OF SEWERAGE SERVICES

Requisition of public sewer

98 Duty to comply with sewer requisition

- (1) It shall be the duty of a sewerage undertaker (in accordance with section 101 below) to provide a public sewer to be used for the drainage for domestic purposes of premises in a particular locality in its area if—
- (a) the undertaker is required to provide the sewer by a notice served on the undertaker by one or more of the persons who under subsection (2) below are entitled to require the provision of the sewer for that locality;
 - (b) the premises in that locality the drainage of which would be by means of that sewer are—
 - (i) premises on which there are buildings; or
 - (ii) premises on which there will be buildings when proposals made by any person for the erection of any buildings are carried out;
- and
- (c) the conditions specified in section 99 below are satisfied in relation to that requirement.
- (2) Each of the following persons shall be entitled to require the provision of a public sewer for any locality, that is to say—
- (a) the owner of any premises in that locality;

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- (b) the occupier of any premises in that locality;
 - (c) any local authority within whose area the whole or any part of that locality is situated;
 - (d) where the whole or any part of that locality is situated in a new town, within the meaning of the New Towns Act 1981—
 - (i) the Commission for the New Towns; and
 - (ii) the Development Board for Rural Wales or the development corporation for the new town, according to whether or not the new town is situated within the area for which that Board is for the time being responsible;
 and
 - (e) where the whole or any part of that locality is situated within an area designated as an urban development area under Part XVI of the Local Government, Planning and Land Act 1980, the urban development corporation.
- (3) The duty of a sewerage undertaker under this section to provide a public sewer shall be owed to the person who requires the provision of the sewer or, as the case may be, to each of the persons who joins in doing so.
- (4) Where a duty is owed by virtue of subsection (3) above to any person, any breach of that duty which causes that person to sustain loss or damage shall be actionable at the suit of that person; but, in any proceedings brought against a water undertaker in pursuance of this subsection, it shall be a defence for the undertaker to show that it took all reasonable steps and exercised all due diligence to avoid the breach.
- (5) In this section the reference to domestic purposes, in relation to the drainage of premises in a particular locality to which a requirement under this section relates, is a reference—
- (a) where there are buildings on premises in that locality, to such domestic sewerage purposes as are specified in relation to those buildings in the requirement; and
 - (b) where any person is proposing to erect buildings on premises in the locality, to such domestic sewerage purposes as are so specified in relation to the buildings and to times after the erection of the buildings.

99 Financial conditions of compliance

- (1) The conditions mentioned in section 98(1)(c) above are satisfied in relation to a requirement for the provision of a public sewer by a sewerage undertaker if—
- (a) such undertakings as the undertaker may have reasonably required in accordance with subsection (2) below have been given by the person or persons who have required the provision of the sewer; and
 - (b) such security as the undertaker may have reasonably required has been provided for the discharge of any obligations imposed by those undertakings on any person who, under subsection (3) below, may be required to secure his undertakings.
- (2) The undertakings which a sewerage undertaker may require for the purposes of subsection (1) above in respect of any public sewer are undertakings which—
- (a) bind the person or persons mentioned in that subsection to pay to the undertaker, in respect of each of the twelve years following the provision of

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- the sewer, an amount not exceeding the relevant deficit (if any) for that year on that sewer; and
- (b) in the case of undertakings binding two or more persons, bind them either jointly and severally or with liability to pay apportioned in such manner as they may agree.
- (3) For the purposes of subsection (1)(b) above a person may be required to secure his undertakings in relation to the provision of a public sewer if—
- (a) it was by virtue of section 98(2)(a) or (b) above that he required, or joined in requiring, the provision of the sewer; and
- (b) he is not a public authority.
- (4) Where for the purposes of subsection (1)(b) above any sums have been deposited with a sewerage undertaker by way of security for the discharge of any obligation, the undertaker shall pay interest at such rate as may be determined either—
- (a) by the undertaker with the approval of the Director; or
- (b) in default of a determination under paragraph (a) above, by the Director, on every sum of 50p so deposited for every three months during which it remains in the hands of the undertaker.
- (5) An approval or determination given or made by the Director for the purposes of subsection (4) above—
- (a) may be given or made in relation to the provision of a particular public sewer, in relation to the provision of sewers of a particular description or in relation to the provision of public sewers generally; and
- (b) may be revoked at any time.
- (6) Any dispute between a sewerage undertaker and any other person as to—
- (a) the undertakings or security required by the undertaker for the purposes of this section; or
- (b) the amount required to be paid in pursuance of any such undertaking, shall be referred to the arbitration of a single arbitrator appointed by agreement between the undertaker and that person or, in default of agreement, by the President of the Institution of Civil Engineers.
- (7) In this section “relevant deficit” has the meaning given by section 100 below.

100 Calculation of “relevant deficit” for the purposes of section 99

- (1) For the purposes of section 99 above the relevant deficit for any year on a public sewer is the amount (if any) by which the drainage charges payable for the use during that year of that sewer are exceeded by the annual borrowing costs of a loan of the amount required for the provision of that sewer.
- (2) The annual borrowing costs of a loan of the amount required for the provision of a public sewer is the aggregate amount which would fall to be paid in any year by way of payments of interest and repayments of capital if an amount equal to so much of the costs reasonably incurred in providing that sewer as were not incurred in the provision of additional capacity had been borrowed, by the sewerage undertaker providing the sewer, on terms—
- (a) requiring interest to be paid and capital to be repaid in twelve equal annual instalments; and

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- (b) providing for the amount of the interest to be calculated at such rate, and in accordance with such other provision, as may have been determined for the purposes of this subsection.
- (3) A determination for the purposes of subsection (2) above shall be made either—
 - (a) by the undertaker with the approval of the Director; or
 - (b) in default of such a determination, by the Director.
- (4) For the purposes of this section the costs reasonably incurred in providing a public sewer (“the new sewer”) shall include—
 - (a) the costs reasonably incurred in providing such other public sewers and such pumping stations as it is necessary to provide in consequence of the provision of the new sewer; and
 - (b) such proportion (if any) as is reasonable of the costs reasonably incurred in providing any such additional capacity in an earlier public sewer as falls to be used in consequence of the provision of the new sewer.
- (5) In subsection (4) above the reference to an earlier public sewer, in relation to the new sewer, is a reference to any public sewer which—
 - (a) has been provided in the period of twelve years immediately before the provision of the new sewer; and
 - (b) was so provided in pursuance of a public sewer requisition.
- (6) Any reference in this section to the provision of additional capacity in a public sewer provided in pursuance of a requirement under any enactment is a reference to such works carried out or other things done in connection with the provision of that sewer as are carried out or done for the purpose of enabling that sewer to be used for purposes in addition to those for which it is necessary to provide the sewer in order to comply with the requirement.
- (7) Any reference in this section to the drainage charges payable for the use during any year of any sewer provided by a sewerage undertaker is a reference to so much of the aggregate of any charges payable to the sewerage undertaker in respect of services provided in the course of that year as represents charges which—
 - (a) have been imposed by the undertaker in relation to such of the premises connected with that sewer as are premises where there are buildings; and
 - (b) are reasonably attributable to the use of that sewer for the drainage for domestic sewerage purposes of those premises or to the disposal of effluent drained for any such purpose from those premises.
- (8) An approval or determination given or made by the Director for the purposes of subsection (2) above—
 - (a) may be given or made in relation to the provision of a particular public sewer, in relation to the provision of sewers of a particular description or in relation to the provision of public sewers generally; and
 - (b) may be revoked at any time except in relation to a public sewer that has already been provided.
- (9) In this section “public sewer requisition” means—
 - (a) a requirement under section 98 above (including, by virtue of paragraph 1 of Schedule 2 to the Water Consolidation (Consequential Provisions) Act 1991, a requirement under section 71 of the Water Act 1989);

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- (b) a requirement under the provisions of section 16 of the Water Act 1973 (sewer requisitions); or
- (c) a requirement under any local statutory provision corresponding to section 98 above or to any of the provisions of that section 16.

101 Determination of completion date and route for requisitioned sewer

- (1) A sewerage undertaker shall not be in breach of a duty imposed by section 98 above in relation to any locality unless—
 - (a) the period of six months beginning with the relevant day has expired; and
 - (b) the sewerage undertaker has not, before the end of that period, so laid the public sewer to be provided as to enable drains and private sewers to be used for the drainage of premises in that locality to communicate with the public sewer at the places determined under subsection (3) below.
- (2) The period mentioned in subsection (1)(a) above may be extended—
 - (a) by agreement between the undertaker and the person or persons who required the provision of the public sewer; or
 - (b) where there is a dispute as to whether the period should be extended, by an arbitrator on a reference under subsection (4) below.
- (3) The places mentioned in subsection (1)(b) above shall be—
 - (a) such places as are determined by agreement between the sewerage undertaker and the person or persons who required the provision of the public sewer; or
 - (b) in default of agreement, such places as are determined by an arbitrator on a reference under subsection (4) below to be the places at which it is reasonable, in all the circumstances, for drains or private sewers to be used for the drainage of premises in that locality to communicate with the public sewer.
- (4) A reference for the purposes of subsection (3) or (4) above shall be to a single arbitrator appointed—
 - (a) by agreement between the undertaker and the person or persons who required the provision of the public sewer; or
 - (b) in default of agreement, by the President of the Institution of Civil Engineers.
- (5) In this section “relevant day”, in relation to a requirement to provide a public sewer for any locality, means the day after whichever is the later of the following, that is to say—
 - (a) the day on which the conditions specified in section 99 above are satisfied in relation to the requirement; and
 - (b) the day on which the places where drains or private sewers to be used for the drainage of premises in that locality will communicate with the public sewer are determined under subsection (3) above.

Adoption etc. of sewers and disposal works

102 Adoption of sewers and disposal works

- (1) Subject to the following provisions of this section and to sections 103, 105 and 146(3) below, a sewerage undertaker may at any time declare that—
 - (a) any sewer which is situated within its area or which serves the whole or any part of that area; or

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- (b) any sewage disposal works which are so situated or which serve the whole or any part of that area,
 shall, as from such date as may be specified in the declaration, become vested in the undertaker.
- (2) The owner, or any of the owners, of any sewer or sewage disposal works with respect to which a sewerage undertaker might make a declaration under this section may make an application to that undertaker requesting it to make a declaration under this section with respect to the sewer or works.
- (3) A declaration or application under this section may be made with respect to a part only of a sewer.
- (4) A sewerage undertaker which proposes to make a declaration under this section—
- (a) shall give notice of its proposal to the owner or owners of the sewer or works in question; and
 - (b) shall take no further action in the matter until two months have elapsed without an appeal against the proposal being lodged under section 105 below or, as the case may be, until any appeal so lodged has been determined.
- (5) A sewerage undertaker, in deciding whether a declaration should be made under this section, shall have regard to all the circumstances of the case and, in particular, to the following considerations, that is to say—
- (a) whether the sewer or works in question is or are adapted to, or required for, any general system of sewerage or sewage disposal which the undertaker has provided, or proposes to provide, for the whole or any part of its area;
 - (b) whether the sewer is constructed under a highway or under land reserved by a planning scheme for a street;
 - (c) the number of buildings which the sewer is intended to serve, and whether, regard being had to the proximity of other buildings or the prospect of future development, it is likely to be required to serve additional buildings;
 - (d) the method of construction and state of repair of the sewer or works; and
 - (e) in a case where an owner objects, whether the making of the proposed declaration would be seriously detrimental to him.
- (6) Any person who immediately before the making of a declaration under this section was entitled to use the sewer in question shall be entitled to use it, or any sewer substituted for it, to the same extent as if the declaration had not been made.
- (7) No declaration may be made under this section in respect of any sewer or works the construction of which was completed before 1st October 1937.

103 Adoption of cross-border sewers etc

- (1) Where a sewerage undertaker is about to take into consideration the question of making a declaration under section 102 above with respect to—
- (a) any sewer which is situated within the area of another sewerage undertaker or which, though situated within its own area, serves the whole or any part of the area of another sewerage undertaker; or
 - (b) any sewage disposal works which are situated within the area of another sewerage undertaker or which, though situated within its own area, serve the whole or any part of the area of another sewerage undertaker,

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it shall give notice to the other undertaker.

- (2) Where a sewerage undertaker is required to give notice under subsection (1) above to another undertaker, no declaration under section 102 above shall be made by the former undertaker until either—
 - (a) the other undertaker has consented to the declaration; or
 - (b) the Secretary of State, on an application made to him, has dispensed with the necessity for such consent, either unconditionally or subject to such conditions as he may think fit to impose.
- (3) Where—
 - (a) a sewer or part of a sewer is vested, or any sewage disposal works are vested, in a relevant body; and
 - (b) in the case of a sewer, part of a sewer or works vested in railway undertakers or dock undertakers, the sewer or part in question is, or the works are, situated in or on land belonging to those undertakers and held or used by them for the purposes of their undertaking,a sewerage undertaker shall not make a declaration under section 102 above with respect to the sewer or part or, as the case may be, with respect to the works, except on the application of the relevant body concerned.
- (4) Where a sewerage undertaker makes a declaration under section 102 above with respect to—
 - (a) a sewer which is situated within the area of another sewerage undertaker; or
 - (b) any sewage disposal works which are so situated,it shall forthwith give notice of the fact to that other undertaker.
- (5) In this section “relevant body” means any sewerage undertaker, any local authority or county council or any railway undertakers or dock undertakers.

104 Agreements to adopt sewer, drain or sewage disposal works, at future date

- (1) Subject to subsection (7) and section 146(3) below, a sewerage undertaker may agree with any person constructing, or proposing to construct—
 - (a) any sewer; or
 - (b) any sewage disposal works,that, if the sewer or works is or are constructed in accordance with the terms of the agreement, the undertaker will, upon the completion of the work, at some specified date or on the happening of some future event, declare the sewer or works to be vested in that undertaker.
- (2) A person constructing or proposing to construct a sewer may make an application to a sewerage undertaker requesting the undertaker to make an agreement under this section.
- (3) An application under subsection (2) above shall be accompanied and supplemented by all such information as the undertaker may reasonably require; but, subject to subsection (4) below and without prejudice to the effect (if any) of any other contravention of the requirements of this section in relation to such an application, a failure to provide information in pursuance of the obligation to supplement such an application shall not invalidate the application.
- (4) Where—

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- (a) a person who has made an application to a sewerage undertaker under subsection (2) above has failed to comply with his obligation under this section to supplement that application with information required by the undertaker; and
 - (b) that requirement was made by the undertaker at such a time before the end of the period within which the undertaker is required, by virtue of section 105 below, to respond to the application as gave that person a reasonable opportunity to provide the required information within that period,
- the undertaker may delay its response to the application until a reasonable time after the required information is provided.
- (5) Any agreement made under this section by a sewerage undertaker shall be enforceable against the undertaker by the owner or occupier for the time being of any premises served by the sewer or works to which it relates.
 - (6) The preceding provisions of this section shall apply also in relation to drains as if references to a sewer included references to a drain; but it shall be a condition of any agreement under this section with respect to a drain that a declaration shall not be made before the drain has become a sewer.
 - (7) A sewerage undertaker shall not make an agreement under this section with respect to a sewer, drain or sewage disposal works situated within the area of another sewerage undertaker, until either—
 - (a) that other undertaker has consented to the making of the agreement; or
 - (b) the Secretary of State, on an application made to him, has dispensed with the necessity for such consent, either unconditionally or subject to such conditions as he may think fit to impose.

105 Appeals with respect to adoption

- (1) An owner of any sewer or sewage disposal works may appeal to the Secretary of State if—
 - (a) he is aggrieved by the proposal of a sewerage undertaker to make a declaration under section 102 above; or
 - (b) he is aggrieved by the refusal of a sewerage undertaker to make such a declaration.
- (2) Subject to section 104(4) above, a person constructing or proposing to construct a drain or sewer or any sewage disposal works may appeal to the Secretary of State where a sewerage undertaker—
 - (a) has refused an application under section 104 above;
 - (b) has offered to grant such an application on terms to which that person objects; or
 - (c) has failed, before the end of two months from the making of such an application, either to refuse the application or to give notice to the applicant of the terms on which it is prepared to grant the application.
- (3) The time for the making of an appeal under subsection (1) above by the owner of any sewer or sewage disposal works shall be—
 - (a) in the case of an appeal by virtue of paragraph (a) of that subsection, any time within two months after notice of the proposal is served on that owner; and

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- (b) in the case of an appeal by virtue of paragraph (b) of that subsection, any time after receipt of notice of the undertaker's refusal or, if no such notice is given, at any time after the end of two months from the making of the application for the declaration.
- (4) On the hearing of an appeal under this section, the Secretary of State may—
- (a) in the case of an appeal under subsection (1) above, allow or disallow the proposal of the sewerage undertaker or, as the case may be, make any declaration which the sewerage undertaker might have made; or
 - (b) in the case of an appeal under subsection (2) above—
 - (i) uphold the refusal of the undertaker to grant the application or to modify the terms offered; or
 - (ii) on behalf of the undertaker, refuse the application or enter into any agreement into which the undertaker might have entered on the application;
- and any declaration made under paragraph (a) above shall have the same effect as if it had been made by the undertaker in question.
- (5) Where the Secretary of State makes a declaration under subsection (4)(a) above, he may, if he thinks fit—
- (a) specify conditions, including conditions as to the payment of compensation by the sewerage undertaker; and
 - (b) direct that his declaration shall not take effect unless any conditions so specified are accepted.
- (6) Where the Secretary of State makes an agreement under subsection (4)(b) above on behalf of a sewerage undertaker, he may do so on such terms as he considers reasonable or, as the case may be, on the terms offered by the undertaker subject to such modifications as he considers appropriate for ensuring that the terms of the agreement are reasonable.
- (7) The Secretary of State, in deciding, on an appeal under this section, whether any declaration or agreement should be made, shall have regard to all the circumstances of the case and, in particular, to the considerations specified in section 102(5) above; and for the purposes of this subsection, in its application in relation to an appeal under subsection (2) above, paragraphs (a) to (e) of section 102(5) above shall have effect with the necessary modifications.

Communication of drains and private sewers with public sewers

106 Right to communicate with public sewers

- (1) Subject to the provisions of this section—
- (a) the owner or occupier of any premises in the area of a sewerage undertaker; or
 - (b) the owner of any private sewer draining premises in the area of any such undertaker,
- shall be entitled to have his drains or sewer communicate with the public sewers of that undertaker and thereby to discharge foul water and surface water from those premises or that private sewer.
- (2) Subject to the provisions of Chapter III of this Part, nothing in subsection (1) above shall entitle any person—

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- (a) to discharge directly or indirectly into any public sewer—
 - (i) any liquid from a factory, other than domestic sewage or surface or storm water, or any liquid from a manufacturing process; or
 - (ii) any liquid or other matter the discharge of which into public sewers is prohibited by or under any enactment; or
 - (b) where separate public sewers are provided for foul water and for surface water, to discharge directly or indirectly—
 - (i) foul water into a sewer provided for surface water; or
 - (ii) except with the approval of the undertaker, surface water into a sewer provided for foul water; or
 - (c) to have his drains or sewer made to communicate directly with a storm-water overflow sewer.
- (3) A person desirous of availing himself of his entitlement under this section shall give notice of his proposals to the sewerage undertaker in question.
- (4) At any time within twenty-one days after a sewerage undertaker receives a notice under subsection (3) above, the undertaker may by notice to the person who gave the notice refuse to permit the communication to be made, if it appears to the undertaker that the mode of construction or condition of the drain or sewer is such that the making of the communication would be prejudicial to the undertaker's sewerage system
- (5) For the purpose of examining the mode of construction and condition of a drain or sewer to which a notice under subsection (3) above relates a sewerage undertaker may, if necessary, require it to be laid open for inspection.
- (6) Any question arising under subsections (3) to (5) above between a sewerage undertaker and a person proposing to make a communication as to—
 - (a) the reasonableness of the undertaker's refusal to permit a communication to be made; or
 - (b) as to the reasonableness of any requirement under subsection (5) above,may, on the application of that person, be determined by a magistrates' court.
- (7) Sections 300 to 302 of the Public Health Act 1936 (which relate to the determination of questions by courts of summary jurisdiction and to appeals against such determinations) shall apply for the purposes of and in relation to a determination on an application under subsection (6) above—
 - (a) as they apply for the purposes of and in relation to a determination by a magistrates' court under that Act; and
 - (b) in the case of section 302, as if the reference to a decision of a local authority included a reference to a decision of a sewerage undertaker.
- (8) Where a person proposes under this section to make a communication between a drain or sewer and such a public sewer in Greater London as is used for the general reception of sewage from other public sewers and is not substantially used for the reception of sewage from private sewers and drains—
 - (a) the grounds on which a sewerage undertaker may refuse to permit the communication shall be such grounds as the undertaker thinks fit; and
 - (b) no application to a magistrates' court may be made under subsection (6) above in respect of any refusal under this subsection.
- (9) In this section "factory" has the same meaning as in the Factories Act 1961.

107 Right of sewerage undertaker to undertake the making of communications with public sewers

- (1) Where a person gives to a sewerage undertaker notice under section 106 above of his proposal to have his drains or sewer made to communicate with a public sewer of that undertaker, the undertaker may—
 - (a) within fourteen days after the receipt of the notice; or
 - (b) if any question arising under the notice requires to be determined by a magistrates' court, within fourteen days after the determination of that question,give notice to that person that the undertaker intends itself to make the communication.
- (2) If, after a notice has been given to any person under subsection (1) above, that person proceeds himself to make the communication, he shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 4 on the standard scale.
- (3) Where a sewerage undertaker has given a notice under subsection (1) above—
 - (a) the undertaker shall have all such rights in respect of the making of the communication as the person desiring it to be made would have; but
 - (b) it shall not be obligatory on the undertaker to make the communication until either—
 - (i) there has been paid to the sewerage undertaker any such sum, not exceeding the undertaker's reasonable estimate of the cost of the work, as the undertaker may have required to be paid to it; or
 - (ii) there has been given to the undertaker such security for the payment of the cost of the work as it may reasonably have required.
- (4) If any payment made to a sewerage undertaker under subsection (3) above exceeds the expenses reasonably incurred by it in the carrying out of the work in question, the excess shall be repaid by the undertaker; and, if and so far as those expenses are not covered by such a payment, the undertaker may recover the expenses, or the balance of them, from the person for whom the work was done.
- (5) Sections 291, 293 and 294 of the Public Health Act 1936 (which provide for the means of, and for limitations on, the recovery of expenses incurred by a local authority) shall apply in relation to the recovery by a sewerage undertaker of any sums under this section as they apply in relation to the recovery of expenses under that Act by a local authority.
- (6) For the purposes of this section, the making of the communication between a drain or private sewer and a public sewer includes all such work as involves the breaking open of a street.

108 Communication works by person entitled to communication

- (1) Where a sewerage undertaker does not under section 107 above elect itself to make a communication to which a person is entitled under section 106 above, the person making it shall—
 - (a) before commencing the work, give reasonable notice to any person directed by the undertaker to superintend the carrying out of the work; and
 - (b) afford any such person all reasonable facilities for superintending the carrying out of the work.

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- (2) For the purpose—
- (a) of exercising his rights under section 106 above; or
 - (b) of examining, repairing or renewing any drain or private sewer draining his premises into a public sewer,
- the owner or occupier of any premises shall be entitled to exercise the same powers as, for the purpose of carrying out its functions, are conferred on a sewerage undertaker by sections 158 and 161(1) below.
- (3) The provisions of Part VI of this Act shall apply, with the necessary modifications, in relation to the power conferred by subsection (2) above as they apply in relation to the power conferred by sections 158 and 161(1) below.

109 Unlawful communications

- (1) Any person who causes a drain or sewer to communicate with a public sewer—
- (a) in contravention of any of the provisions of section 106 or 108 above; or
 - (b) before the end of the period mentioned in subsection (4) of that section 106,
- shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 4 on the standard scale.
- (2) Whether proceedings have or have not been taken by a sewerage undertaker in respect of an offence under this section, such an undertaker may—
- (a) close any communication made in contravention of any of the provisions of section 106 or 108 above; and
 - (b) recover from the offender any expenses reasonably incurred by the undertaker in so doing.
- (3) Sections 291, 293 and 294 of the Public Health Act 1936 (which provide for the means of, and for limitations on, the recovery of expenses incurred by a local authority) shall apply in relation to the recovery by a sewerage undertaker of any sums under this section as they apply in relation to the recovery of expenses under that Act by a local authority.

Connections between public sewers

110 Determination of disputes with respect to cross boundary sewers

- (1) Where any part of a sewer is vested in a sewerage undertaker by virtue of section 70 of the Water Act 1989 (cross boundary sewers), the terms on which that part of that sewer—
- (a) communicates with such parts of that sewer or of any other sewer; or
 - (b) discharges into any such sewage disposal works,
- as immediately before 1st September 1989 were vested in the same water authority as that part of that sewer but, by virtue of that section, are vested in another sewerage undertaker shall be determined, in default of agreement, by the Director.
- (2) A determination by the Director under this section shall have effect as an agreement between the sewerage undertakers in question but may be varied or revoked by a subsequent determination made by the Director on the application of either of those undertakers, as well as by agreement between the undertakers.

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- (3) In making a determination under this section, the Director shall have regard to the desirability of a sewerage undertaker's recovering the costs resulting from its allowing the sewers of other sewerage undertakers to communicate with its sewers or to discharge into its sewage disposal works and of its securing a reasonable return on its capital.

Provisions protecting sewerage system

111 Restrictions on use of public sewers

- (1) Subject to the provisions of Chapter III of this Part, no person shall throw, empty or turn, or suffer or permit to be thrown or emptied or to pass, into any public sewer, or into any drain or sewer communicating with a public sewer—
- (a) any matter likely to injure the sewer or drain, to interfere with the free flow of its contents or to affect prejudicially the treatment and disposal of its contents; or
 - (b) any such chemical refuse or waste steam, or any such liquid of a temperature higher than one hundred and ten degrees Fahrenheit, as by virtue of subsection (2) below is a prohibited substance; or
 - (c) any petroleum spirit or carbide of calcium.
- (2) For the purposes of subsection (1) above, chemical refuse, waste steam or a liquid of a temperature higher than that mentioned in that subsection is a prohibited substance if (either alone or in combination with the contents of the sewer or drain in question) it is or, in the case of the liquid, is when so heated—
- (a) dangerous;
 - (b) the cause of a nuisance; or
 - (c) injurious, or likely to cause injury, to health.
- (3) A person who contravenes any of the provisions of this section shall be guilty of an offence and liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum and to a further fine not exceeding £50 for each day on which the offence continues after conviction;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.
- (4) For the purposes of so much of subsection (3) above as makes provision for the imposition of a daily penalty—
- (a) the court by which a person is convicted of the original offence may fix a reasonable date from the date of conviction for compliance by the defendant with any directions given by the court; and
 - (b) where a court has fixed such a period, the daily penalty shall not be imposed in respect of any day before the end of that period.
- (5) In this section the expression “petroleum spirit” means any such—
- (a) crude petroleum;
 - (b) oil made from petroleum or from coal, shale, peat or other bituminous substances; or
 - (c) product of petroleum or mixture containing petroleum,

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as, when tested in the manner prescribed by or under the Petroleum (Consolidation) Act 1928, gives off an inflammable vapour at a temperature of less than seventy-three degrees Fahrenheit.

112 Requirement that proposed drain or sewer be constructed so as to form part of general system

- (1) Where—
 - (a) a person proposes to construct a drain or sewer; and
 - (b) a sewerage undertaker considers that the proposed drain or sewer is, or is likely to be, needed to form part of a general sewerage system which that undertaker provides or proposes to provide,
the undertaker may require that person to construct the drain or sewer in a manner differing, as regards material or size of pipes, depth, fall, direction or outfall or otherwise, from the manner in which that person proposes, or could otherwise be required by the undertaker, to construct it.
- (2) If any person on whom requirements are imposed under this section by a sewerage undertaker is aggrieved by the requirements, he may within twenty-eight days appeal to the Secretary of State.
- (3) On an appeal under subsection (2) above with respect to any requirements, the Secretary of State may either disallow the requirements or allow them with or without modification.
- (4) It shall be the duty of a person on whom requirements are imposed by a sewerage undertaker under this section to comply with those requirements.
- (5) The duty of any person by virtue of subsection (4) above to comply with the requirements of a sewerage undertaker shall be owed to the undertaker; and any breach of that duty which causes the undertaker to sustain loss or damage shall be actionable at the suit of the undertaker.
- (6) A sewerage undertaker which exercises the powers conferred on it by this section shall—
 - (a) repay to the person constructing the drain or sewer the extra expenses reasonably incurred by that person in complying with the undertaker's requirements; and
 - (b) until the drain or sewer becomes a public sewer, from time to time repay to that person so much of any expenses reasonably incurred by him in repairing or maintaining the drain or sewer as may be attributable to the undertaker's requirements having been imposed and complied with.
- (7) Nothing in this section shall apply in relation to so much of any drain or sewer as is proposed to be constructed by any railway undertakers or dock undertakers in or on land which—
 - (a) belongs to them; and
 - (b) is held or used by them for the purposes of their undertaking.

113 Power to alter drainage system of premises in area

- (1) Where any premises have a drain or sewer communicating with a public sewer or a cesspool, but that system of drainage, though sufficient for the effectual drainage of the premises—
 - (a) is not adapted to the general sewerage system of the area; or
 - (b) is, in the opinion of the sewerage undertaker for the area, otherwise objectionable,the undertaker may, at its own expense, close the existing drain or sewer and fill up the cesspool, if any, and do any work necessary for that purpose.
- (2) The power conferred on a sewerage undertaker by subsection (1) above shall be exercisable on condition only that the undertaker first provides, in a position equally convenient to the owner of the premises in question, a drain or sewer which—
 - (a) is equally effectual for the drainage of the premises; and
 - (b) communicates with a public sewer.
- (3) A sewerage undertaker which proposes to carry out any work under this section shall give notice of its proposals to the owner of the premises in question.
- (4) If the owner of the premises is aggrieved by the proposals, whether as regards the position or the sufficiency of the drain or sewer proposed to be provided for the drainage of the premises, he may appeal to a magistrates' court.
- (5) Sections 300 to 302 of the Public Health Act 1936 (which relate to the determination of questions by courts of summary jurisdiction and to appeals against such determinations) shall apply in relation to an appeal under subsection (4) above and to any determination on such an appeal—
 - (a) as they apply in relation to appeals against any decision of a local authority under that Act and to determinations on any such appeal; and
 - (b) in the case of section 302, as if the reference to a decision of a local authority included a reference to a decision of a sewerage undertaker.
- (6) The Secretary of State may by regulations make provision with respect to consents and the conditions of consents for discharges of trade effluent into the sewer of a sewerage undertaker through a drain or sewer provided in pursuance of this section.
- (7) In this section—

“cesspool” includes a settlement tank or other tank for the reception or disposal of foul matter from buildings; and

“trade effluent” has the same meaning as in Chapter III of this Part.

114 Power to investigate defective drain or sewer

- (1) Where it appears to a sewerage undertaker that there are reasonable grounds for believing—
 - (a) that any drain connecting with a public sewer, or any private sewer so connecting, is in such a condition as to be injurious or likely to cause injury to health or as to be a nuisance; or
 - (b) that any such drain or private sewer is so defective as to admit subsoil water,the undertaker may examine the condition of the drain or sewer and, for that purpose, may apply any test, other than a test by water under pressure and, if the undertaker deems it necessary, open the ground.

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- (2) If on examination the drain or sewer is found to be in proper condition, the undertaker shall, as soon as possible, reinstate any ground which has been opened by it and make good any damage done by the undertaker.

Use of pipes for sewerage purposes

115 Use of highway drains as sewers and vice versa

- (1) Subject to the provisions of this section, a relevant authority and a sewerage undertaker may agree that—
- (a) any drain or sewer which is vested in the authority in their capacity as a highway authority may, upon such terms as may be agreed, be used by the undertaker for the purpose of conveying surface water from premises or streets;
 - (b) any public sewer vested in the undertaker may, upon such terms as may be agreed, be used by the authority for conveying surface water from roads repairable by the authority.
- (2) Where a sewer or drain with respect to which a relevant authority and a sewerage undertaker propose to make an agreement under this section discharges, whether directly or indirectly, into the sewers or sewage disposal works of another sewerage undertaker, the agreement shall not be made without the consent of that other undertaker.
- (3) Subject to subsection (4) below, a consent given by a sewerage undertaker for the purposes of subsection (2) above may be given on such terms as that undertaker thinks fit.
- (4) Neither a relevant authority nor a sewerage undertaker shall—
- (a) unreasonably refuse to enter into an agreement for the purposes of this section; or
 - (b) insist unreasonably upon terms unacceptable to the other party;
- and a sewerage undertaker shall not unreasonably refuse to consent to the making of such an agreement or insist unreasonably upon terms unacceptable to either party.
- (5) Any question arising under this section as to whether or not any authority or undertaker is acting unreasonably shall be referred to the Secretary of State, whose decision shall be final.
- (6) The powers by virtue of paragraph (a) of subsection (1) above of a relevant authority and a sewerage undertaker to enter into an agreement shall be exercisable by two relevant authorities as they would be exercisable if one of them were a sewerage undertaker.
- (7) Nothing in this section shall be construed as limiting the rights of a relevant authority under section 264 of the Highways Act 1980.
- (8) Part XII of the Public Health Act 1936 shall apply for the purposes of the provisions of this section which confer functions on relevant authorities as they apply for the purposes of the provisions of that Act.
- (9) In this section “relevant authority” means a county council or any local authority except a non-metropolitan district council.

(10) The provisions of this section are subject to the provisions of section 146(4) below.

116 Power to close or restrict use of public sewer

- (1) Subject to subsection (3) below, a sewerage undertaker may discontinue and prohibit the use of any public sewer which is vested in the undertaker.
- (2) A discontinuance or prohibition under this section may be for all purposes, for the purpose of foul water drainage or for the purpose of surface water drainage.
- (3) Before any person who is lawfully using a sewer for any purpose is deprived under this section by a sewerage undertaker of the use of the sewer for that purpose, the undertaker shall—
 - (a) provide a sewer which is equally effective for his use for that purpose; and
 - (b) at the undertaker's own expense, carry out any work necessary to make that person's drains or sewers communicate with the sewer provided in pursuance of this subsection.

Interpretation of Chapter II

117 Interpretation of Chapter II

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

“dock undertakers” means persons authorised by any enactment, or by any order, rule or regulation made under any enactment, to construct, work or carry on any dock, harbour, canal or inland navigation;

“domestic sewerage purposes”, in relation to any premises, means any one or more of the following purposes, that is to say—

 - (a) the removal, from buildings on the premises and from land occupied with and appurtenant to the buildings, of the contents of lavatories;
 - (b) the removal, from such buildings and from such land, of water which has been used for cooking or washing; and
 - (c) the removal, from such buildings and such land, of surface water;

but does not, by virtue of paragraph (b) of this definition, include the removal of any water used for the business of a laundry or for a business of preparing food or drink for consumption otherwise than on the premises.
- (2) References in this Chapter to the construction of a sewer or of any sewage disposal works include references to the extension of any existing sewer or works.
- (3) In this Chapter “local authority”, in relation to the Inner Temple and the Middle Temple, includes, respectively, the Sub-Treasurer of the Inner Temple and the Under-Treasurer of the Middle Temple.
- (4) Every application made or consent given under this Chapter shall be made or given in writing.
- (5) Nothing in sections 102 to 109 above or in sections 111 to 116 above shall be construed as authorising a sewerage undertaker to construct or use any public or other sewer, or any drain or outfall—
 - (a) in contravention of any applicable provision of the Water Resources Act 1991; or

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- (b) for the purpose of conveying foul water into any natural or artificial stream, watercourse, canal, pond or lake, without the water having been so treated as not to affect prejudicially the purity and quality of the water in the stream, watercourse, canal, pond or lake.
- (6) A sewerage undertaker shall so carry out its functions under sections 102 to 105, 112, 115 and 116 above as not to create a nuisance.