



Water Industry Act 1991

1991 CHAPTER 56

PART VIII

MISCELLANEOUS AND SUPPLEMENTAL

Miscellaneous

208 Directions in the interests of national security.

- (1) The Secretary of State may, after consultation with a relevant undertaker [^{F1}or licensed water supplier] , give to that undertaker [^{F2}or supplier (as the case may be)] such directions of a general character as appear to the Secretary of State to be requisite or expedient in the interests of national security or for the purpose of mitigating the effects of any civil emergency which may occur.
- (2) If it appears to the Secretary of State to be requisite or expedient to do so in the interests of national security or for the purpose of mitigating the effects of any civil emergency which has occurred or may occur, he may, after consultation with a relevant undertaker [^{F1}or licensed water supplier] , give to that undertaker [^{F2}or supplier (as the case may be)] a direction requiring it to do, or not to do, a particular thing specified in the direction.
- (3) It shall be the duty of a relevant undertaker [^{F3}or licensed water supplier] , notwithstanding any other duty imposed on it (whether or not by or under this Act), to comply with any direction given to it by the Secretary of State under this section; and the duty of a relevant undertaker [^{F3}or licensed water supplier] to comply with any such direction shall be enforceable under section 18 above by the Secretary of State.
- (4) The Secretary of State shall lay before each House of Parliament a copy of every direction given under this section unless he is of the opinion that disclosure of the direction is against the interests of national security.
- (5) A person shall not disclose, or be required by virtue of any enactment or otherwise to disclose, anything done by virtue of this section if the Secretary of State has notified

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him that the Secretary of State is of the opinion that disclosure of that thing is against the interests of national security.

- (6) Any person who discloses any matter in contravention of subsection (5) above shall be guilty of an offence and liable, on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.
- (7) Any reference in this section to a civil emergency is a reference to any natural disaster or other emergency which, in the opinion of the Secretary of State, is or may be likely, in relation to any area—
- (a) so to disrupt water supplies or sewerage services; or
 - (b) to involve such destruction of or damage to life or property in that area, as seriously and adversely to affect all the inhabitants of that area, or a substantial number of them, whether by depriving them of any of the essentials of life or otherwise.

Textual Amendments

- F1** Words in s. 208(1)(2) inserted (1.4.2004) by [Water Act 2003 \(c. 37\)](#), ss. 101(1), 105(3), [Sch. 8 para. 48\(2\)\(a\)](#); S.I. 2004/641, [art. 3\(y\)](#), Sch. 2 (with Sch. 3 para. 7)
- F2** Words in s. 208(1)(2) inserted (1.4.2004) by [Water Act 2003 \(c. 37\)](#), ss. 101(1), 105(3), [Sch. 8 para. 48\(2\)\(b\)](#); S.I. 2004/641, [art. 3\(y\)](#), Sch. 2 (with Sch. 3 para. 7)
- F3** Words in s. 208(3) inserted (1.4.2004) by [Water Act 2003 \(c. 37\)](#), ss. 101(1), 105(3), [Sch. 8 para. 48\(3\)](#); S.I. 2004/641, [art. 3\(y\)](#), Sch. 2 (with Sch. 3 para. 7)

Modifications etc. (not altering text)

- C1** [S. 208](#): certain functions exercisable concurrently with the Secretary of State (W.) (1.7.1999) by S.I.O. 1999/672, art. 2, Sch. 1

209 Civil liability of undertakers for escapes of water etc.

- (1) Where an escape of water, however caused, from a pipe vested in a water undertaker causes loss or damage, the undertaker shall be liable, except as otherwise provided in this section, for the loss or damage.
- (2) A water undertaker shall not incur any liability under subsection (1) above if the escape was due wholly to the fault of the person who sustained the loss or damage or of any servant, agent or contractor of his.
- (3) A water undertaker shall not incur any liability under subsection (1) above in respect of any loss or damage for which the undertaker would not be liable apart from that subsection and which is sustained—
- (a) by [^{F4}the Environment Agency], a relevant undertaker or any statutory undertakers, within the meaning of section 336(1) of the ^{M1}Town and Country Planning Act 1990;
 - (b) by any public gas supplier within the meaning of Part I of the ^{M2}Gas Act 1986 or the holder of a licence under section 6(1) of the ^{M3}Electricity Act 1989;
 - (c) by any highway authority; or
 - (d) by any person on whom a right to compensation is conferred by section 82 of the ^{M4}New Roads and Street Works Act 1991.

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- (4) The ^{M5}Law Reform (Contributory Negligence) Act 1945, the ^{M6}Fatal Accidents Act 1976 and the ^{M7}Limitation Act 1980 shall apply in relation to any loss or damage for which a water undertaker is liable under this section, but which is not due to the undertaker's fault, as if it were due to its fault.
- (5) Nothing in subsection (1) above affects any entitlement which a water undertaker may have to recover contribution under the ^{M8}Civil Liability (Contribution) Act 1978; and for the purposes of that Act, any loss for which a water undertaker is liable under that subsection shall be treated as if it were damage.
- (6) Where a water undertaker is liable under any enactment or agreement passed or made before 1st April 1982 to make any payment in respect of any loss or damage the undertaker shall not incur liability under subsection (1) above in respect of the same loss or damage.
- (7) In this section "fault" has the same meaning as in the ^{M9}Law Reform (Contributory Negligence) Act 1945.
- (8) Until the coming into force of section 82 of the New Roads and Street Works Act 1991, subsection (3) above shall have effect as if for paragraph (d) there were substituted the following paragraphs—
- “(d) by any bridge authority, bridge managers, street authority or street managers within the meaning of the Public Utilities Street Works Act 1950; or
 - (e) by any person on whom a right to compensation under section 26 of that Act of 1950 is conferred.”; but nothing in this section shall be taken to prejudice the power of the Secretary of State under that Act of 1991 to make an order bringing section 82 of that Act into force on different days for different purposes (including the purposes of this section).

Textual Amendments

F4 Words in s. 209(3)(a) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 122** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Modifications etc. (not altering text)

C2 S. 209(3)(b) amended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(2)(m)**; S.I. 1996/218, **art. 2**

Marginal Citations

M1 1990 c. 8.
M2 1986 c. 44.
M3 1989 c. 29.
M4 1991 c. 22.
M5 1945 c. 28.
M6 1976 c. 30.
M7 1980 c. 58.
M8 1978 c. 47.
M9 1945 c. 28.

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[^{F5}209A Rights of tenants in relation to metering.

- (1) Subject to subsection (3) below, no express or implied term of any tenancy is to be regarded—
 - (a) as excluding or restricting the exercise by the tenant of any right to give—
 - (i) a measured charges notice under section 144A above, or
 - (ii) any consent for the purposes of section 144B(2)(a)(ii) above,
 - (b) as preventing the installation or connection, in pursuance of such a notice or consent given by the tenant, of a meter for use in determining the charges which may be fixed in relation to water supplied to the premises comprised in the tenancy, or
 - (c) as requiring any consent to be obtained in relation to such installation or connection.
- (2) In subsection (1) above “tenancy” includes a licence which is treated as a tenancy by virtue of section 79(3) of ^{M10}the Housing Act 1985; and references to a “tenant” are to be construed accordingly.
- (3) Subsection (1) above does not apply where the tenancy is a fixed term tenancy for a term of less than six months; and for this purpose “fixed term tenancy” means any tenancy other than a periodic tenancy.]

Textual Amendments

F5 S. 209A inserted (1.4.2000) by 1999 c. 11, s. 11; S.I. 1999/3440, art. 3

Marginal Citations

M10 1985 c.68.

Offences

210 Offences by bodies corporate.

- (1) Where a body corporate is guilty of an offence under this Act and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, then he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by its members, subsection (1) above shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

211 Limitation on right to prosecute in respect of sewerage offences.

Proceedings in respect of an offence created by or under any of the relevant sewerage provisions shall not, without the written consent of the Attorney-General, be taken by any person other than—

- (a) a party aggrieved;
- (b) a sewerage undertaker; or

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- (c) a body whose function it is to enforce the provisions in question.

Judicial disqualification

212 Judicial disqualification.

No judge of any court or justice of the peace shall be disqualified from acting in relation to any proceedings to which a relevant undertaker is a party by reason only that he is or may become liable to pay a charge to that undertaker in respect of any service that is not the subject-matter of the proceedings.

Powers to make regulations

213 Powers to make regulations.

- (1) The powers of the Secretary of State to make regulations under this Act shall be exercisable by statutory instrument subject (except in the case of regulations under section 8(1) or (2) above) to annulment in pursuance of a resolution of either House of Parliament.
- (2) Subject to subsection (3) below, the provisions of any regulations made by the Secretary of State under this Act may include-
- (a) provision for any duty or other requirement imposed by the regulations on a water undertaker or sewerage undertaker [^{F6}or licensed water supplier] to be enforceable under section 18 above by the Secretary of State, by the Director or by either of them;
 - (b) provision, where such a duty or requirement is so enforceable by either of them, for enforcement by the Director to be subject to such consent or authorisation as may be prescribed;
 - (c) provision which, in relation to the furnishing of any information or the making of any application under the regulations, makes provision corresponding to section 207 above;
 - (d) provision for anything that may be prescribed by the regulations to be determined under the regulations and for anything falling to be so determined to be determined by such persons, in accordance with such procedure and by reference to such matters, and to the opinion of such persons, as may be prescribed;
- [^{F7}(dd) as to awarding costs or expenses of proceedings in any determination under the regulations, including the amount of the costs or expenses and the enforcement of the awards;]
- (e) different provision for different cases, including different provision in relation to different persons, circumstances or localities; and
 - (f) such supplemental, consequential and transitional provision as the Secretary of State considers appropriate.
- [^{F8}(2A) Such regulations may include provision—
- (a) for the determination of questions of fact or of law which may arise in giving effect to the regulations;

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- (b) for regulating (otherwise than in relation to any court proceedings) any matters relating to the practice and procedure to be followed in connection with the determination of such questions;
 - (c) as to the mode of proof of any matter;
 - (d) as to parties and their representation; and
 - (e) for the right to appear before and be heard by the Secretary of State, the Director and other authorities.
- (2B) Any such regulations which prescribe a period within which things are to be done may provide for extending the period so prescribed.]
- (3) Except to the extent that they would do so apart from this section, the power to make regulations under section 113, 125 or 126 above or under section 214 below or Schedule 8 to this Act—
- (a) shall not include the powers conferred by virtue of paragraphs (a) to (d) of subsection (2) above; and
 - (b) in the case of the power to make regulations under section 214 below, shall also not include the powers conferred by virtue of paragraphs (e) and (f) of that subsection.

Textual Amendments

- F6** Words in s. 213(2)(a) inserted (1.4.2004) by [Water Act 2003 \(c. 37\)](#), ss. 101(1), 105(3), [Sch. 8 para. 49\(3\)](#); S.I. 2004/641, [art. 3\(y\)](#), [Sch. 2](#) (with [Sch. 3 para. 7](#))
- F7** [S. 213\(2\)\(dd\)](#) inserted (1.7.1992) by [Competition and Service \(Utilities\) Act 1992 \(c. 43\)](#), s. 56(6), [Sch. 1 para.28](#); [Competition and Service \(Utilities\) Act 1992 \(Commencement No. 1\) Order 1992](#), art. 3, Sch. Pt.I
- F8** [S. 213\(2A\)\(2B\)](#) inserted (1.7.1992) by [Competition and Service \(Utilities\) Act 1992 \(c. 43\)](#), s. 52; [Competition and Service \(Utilities\) Act 1992 \(Commencement No. 1\) Order 1992](#), art. 3, Sch. Pt.I

Modifications etc. (not altering text)

- C3** [S. 213](#) extended (01.12.1991) by [Statutory Water Companies Act 1991 \(c. 58, SIF 130\)](#), ss. 9(2), 17(2).

214 Power to prescribe forms.

- (1) The Secretary of State may by regulations prescribe the form of any notice or other document to be used for any of the purposes of the relevant sewerage provisions.
- (2) If forms are prescribed under this section, those forms or forms to the like effect may be used in all cases to which those forms are applicable.

Local inquiries

215 Local inquiries.

- (1) The Secretary of State may cause a local inquiry to be held in any case where he is authorised by any of the relevant sewerage provisions to determine any difference, to make any order, to give any consent or otherwise to act under any of those provisions.
- (2) Subject to subsection (3) below, subsections (2) to (5) of section 250 of the ^{M11}Local Government Act 1972 (which contain supplementary provisions with respect to local

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inquiries held in pursuance of that section) shall apply to local inquiries under subsection (1) above or any of the other provisions of this Act as they apply to inquiries under that section.

- (3) Subsection (4) of the said section 250 shall apply in accordance with subsection (2) above in relation to such local inquiries under this Act as are held with respect to any matter affecting the carrying out of any function of [^{F9}the Environment Agency] as if the reference to a local authority in that subsection included a reference to [^{F9}the Environment Agency].

Textual Amendments

F9 Words in s. 215(3) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 123** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Marginal Citations

M11 1972 c. 70.

Construction of Act

216 Provisions relating to the service of documents.

- (1) Any document required or authorised by virtue of this Act to be served on any person may be served—
- (a) by delivering it to him or by leaving it at his proper address or by sending it by post to him at that address; or
 - (b) if the person is a body corporate, by serving it in accordance with paragraph (a) above on the secretary or clerk of that body; or
 - (c) if the person is a partnership, by serving it in accordance with paragraph (a) above on a partner or a person having the control of management of the partnership business.
- (2) For the purposes of this section and section 7 of the ^{M12}Interpretation Act 1978 (which relates to the service of documents by post) in its application to this section, the proper address of any person on whom a document is to be served shall be his last known address, except that—
- (a) in the case of service on a body corporate or its secretary or clerk, it shall be the address of the registered or principal office of the body;
 - (b) in the case of service on a partnership or a partner or a person having the control or management of a partnership business, it shall be the principal office of the partnership;

and for the purposes of this subsection the principal office of a company registered outside the United Kingdom or of a partnership carrying on business outside the United Kingdom is its principal office within the United Kingdom.

- (3) If a person to be served by virtue of this Act with any document by another has specified to that other an address within the United Kingdom other than his proper address (as determined in pursuance of subsection (2) above) as the one at which he or someone on his behalf will accept documents of the same description as that document, that address shall also be treated as his proper address for the purposes of this section and for the purposes of the said section 7 in its application to this section.

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- (4) Where under any provision of this Act any document is required to be served on the owner, on a lessee or on the occupier of any premises then—
- (a) if the name or address of the owner, of the lessee or, as the case may be, of the occupier of the premises cannot after reasonable inquiry be ascertained; or
 - (b) in the case of service on the occupier, if the premises appear to be or are unoccupied,
- that document may be served either by leaving it in the hands of a person who is or appears to be resident or employed on the land or by leaving it conspicuously affixed to some building or object on the land.
- (5) This section shall not apply to any document in relation to the service of which provision is made by rules of court.

Modifications etc. (not altering text)

C4 S. 216 extended (01.12.1991) by Statutory Water Companies Act 1991 (c. 58, SIF 130), ss. 15(4), 17(2).

Marginal Citations

M12 1978 c. 30.

217 Construction of provision conferring powers by reference to undertakers' functions.

- (1) The purposes to which this section applies shall be the construction of any enactment which, by reference to the functions of a relevant undertaker, confers any power on or in relation to that undertaker.
- (2) For the purposes to which this section applies the functions of every relevant undertaker shall be taken to include joining with or acting on behalf of—
- (a) the [^{F10}Environment Agency];
 - (b) one or more other relevant undertakers; or
 - (c) the [^{F10}Environment Agency] and one or more other such undertakers,
- for the purpose of carrying out any works or acquiring any land which at least one of the bodies with which it joins, or on whose behalf it acts, is authorised to carry out or acquire for the purposes of that body's functions under any enactment or of any function which is taken to be a function of that body for the purposes to which this section or section 3 of the ^{M13}Water Resources Act 1991 (functions of [^{F10}Environment Agency] for certain purposes) applies.
- (3) For the purposes to which this section applies the functions of every relevant undertaker shall be taken to include the protection against pollution—
- (a) of any waters, whether on the surface or underground, which belong to the [^{F10}Environment Agency] or any water undertaker or from which the [^{F10}Environment Agency] or any water undertaker is authorised to take water;
 - (b) without prejudice to paragraph (a) above, of any reservoir which belongs to or is operated by the [^{F10}Environment Agency] or any water undertaker or which the [^{F10}Environment Agency] or any water undertaker is proposing to acquire or construct for the purpose of being so operated; and

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- (c) of any underground strata from which the [^{F10}Environment Agency] or any water undertaker is for the time being authorised to abstract water in pursuance of a licence under Chapter II of Part II of the ^{M14}Water Resources Act 1991.
- (4) For the purposes to which this section applies the functions of every relevant undertaker shall be taken to include the furtherance of research into matters in respect of which functions are conferred by or under this Act, the other consolidation Acts or the ^{M15}Water Act 1989 on the [^{F10}Environment Agency], on water undertakers or on sewerage undertakers.
- (5) For the purposes to which this section applies the functions of every relevant undertaker shall be taken to include the provision of houses and other buildings for the use of persons employed by that undertaker and the provision of recreation grounds for persons so employed.
- (6) For the purposes to which this section applies the functions of every water undertaker shall be taken to include the provision of supplies of water in bulk, whether or not such supplies are provided for the purposes of, or in connection with, the carrying out of any other function of that undertaker.
- (7) For the purposes to which this section applies the functions of every water undertaker shall be taken to include the doing of anything in pursuance of any arrangements under section 20 of the Water Resources Act 1991 between that undertaker and the [^{F10}Environment Agency].
- (8) In this section “the other consolidation Acts” has the same meaning as in section 206 above.

Textual Amendments

F10 Words in s. 217(2)(3)(4)(7) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 124** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Marginal Citations

M13 1991 c. 57.

M14 1991 c. 57.

M15 1989 c. 15.

218 Meaning of “domestic purposes” in relation to water supply.

- (1) Subject to the following provisions of this section, in this Act references to domestic purposes, in relation to a supply of water to any premises or in relation to any cognate expression, are references to the drinking, washing, cooking, central heating and sanitary purposes for which water supplied to those premises may be used.
- (2) Where the whole or any part of the premises are or are to be occupied as a house, those purposes shall be taken to include—
- (a) the purposes of a profession carried on in that house or, where—
- (i) that house and another part of the premises are occupied together; and
- (ii) the house comprises the greater part of what is so occupied, in that other part; and
- (b) such purposes outside the house (including the washing of vehicles and the watering of gardens) as are connected with the occupation of the house and

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may be satisfied by a supply of water drawn from a tap inside the house and without the use of a hosepipe or similar apparatus.

- (3) No such reference to domestic purposes shall be taken to include a reference—
- (a) to the use of a bath having a capacity, measured to the centre line of overflow or in such other manner as may be prescribed, of more than two hundred and thirty litres;
 - (b) to the purposes of the business of a laundry; or
 - (c) to any purpose of a business of preparing food or drink for consumption otherwise than on the premises.

219 General interpretation.

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

“accessories”, in relation to a water main, sewer or other pipe, includes any manholes, ventilating shafts, inspection chambers, settling tanks, wash-out pipes, pumps, ferrules or stopcocks for the main, sewer or other pipe, or any machinery or other apparatus which is designed or adapted for use in connection with the use or maintenance of the main, sewer or other pipe or of another accessory for it, but does not include any [^{F11}electronic communications apparatus] unless it—

- (a) is or is to be situated inside or in the close vicinity of the main, sewer or other pipe or inside or in the close vicinity of another accessory for it; and
- (b) is intended to be used only in connection with the use or maintenance of the main, sewer or other pipe or of another accessory for it;

“analyse”, in relation to any sample of land, water or effluent, includes subjecting the sample to a test of any description, and cognate expressions shall be construed accordingly;

[^{F12}“the Assembly” means the National Assembly for Wales;]

[^{F13}“the Authority” means the Water Services Regulation Authority;]

“conservancy authority” means any person who has a duty or power under any enactment to conserve, maintain or improve the navigation of a tidal water, and is not a harbour authority or navigation authority;

“contravention” includes a failure to comply, and cognate expressions shall be construed accordingly;

“customer or potential customer”, in relation to a company holding an appointment under Chapter I of Part II of this Act, means—

- (a) any person for or to whom that company provides any services in the course of carrying out the functions of a water undertaker or sewerage undertaker [^{F14}(other than a licensed water supplier)] ; or
- (b) any person who might become such a person on making an application for the purpose to the company;

“damage”, in relation to individuals, includes death and any personal injury, including any disease or impairment of physical or mental condition;

“the Director” means the Director General of Water Services;

“disposal”—

- (a) in relation to land or any interest or right in or over land, includes the creation of such an interest or right and a disposal effected by means of the surrender or other termination of any such interest or right; and
- (b) in relation to sewage, includes treatment;

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and cognate expressions shall be construed accordingly;

“disposal main” means (subject to subsection (2) below) any outfall pipe or other pipe which—

- (a) is a pipe for the conveyance of effluent to or from any sewage disposal works, whether of a sewerage undertaker or of any other person; and
- (b) is not a public sewer;

“domestic purposes”, except in relation to sewers, shall be construed in accordance with section 218 above;

“drain” means (subject to subsection (2) below) a drain used for the drainage of one building or of any buildings or yards appurtenant to buildings within the same curtilage;

“effluent” means any liquid, including particles of matter and other substances in suspension in the liquid;

“enactment” includes an enactment contained in this Act or in any Act passed after this Act;

“engineering or building operations”, without prejudice to the generality of that expression, includes—

- (a) the construction, alteration, improvement, maintenance or demolition of any building or structure or of any reservoir, watercourse, dam, weir, well, borehole or other works; and
- (b) the installation, modification or removal of any machinery or apparatus;

“financial year” means the twelve months ending with 31st March;

“functions”, in relation to a relevant undertaker, means the functions of the undertaker under or by virtue of any enactment and shall be construed subject to section 217 above;

“harbour authority” means a person who is a harbour authority within the meaning of [^{F15}Chapter II of Part VI of the Merchant Shipping Act 1995] and is not a navigation authority;

“highway” and “highway authority” have the same meanings as in the ^{M16}Highways Act 1980;

“house” means any building or part of a building which is occupied as a dwelling-house, whether or not a private dwelling-house, or which, if unoccupied, is likely to be so occupied;

“information” includes anything contained in any records, accounts, estimates or returns;

“inland waters”, has the same meaning as in the ^{M17}Water Resources Act 1991;

[^{F16}“licensed water supplier” shall be construed in accordance with section 17B(9) above;]

“limited company” means a company within the meaning of the ^{M18}Companies Act 1985 which is limited by shares;

“local authority” means the council of a district or of a London borough or the Common Council of the City of London [^{F17}but, in relation to Wales, means the council of a county or county borough];

“local statutory provision” means—

- (a) a provision of a local Act (including an Act confirming a provisional order);

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- (b) a provision of so much of any public general Act as has effect with respect to a particular area, with respect to particular persons or works or with respect to particular provisions falling within any paragraph of this definition;
- (c) a provision of an instrument made under any provision falling within paragraph (a) or (b) above; or

- (d) a provision of any other instrument which is in the nature of a local enactment;

“meter” means any apparatus for measuring or showing the volume of water supplied to, or of effluent discharged from, any premises;

“micro-organism” includes any microscopic biological entity which is capable of replication;

“modifications” includes additions, alterations and omissions, and cognate expressions shall be construed accordingly;

F18 . . .

F19 . . .

“navigation authority” means any person who has a duty or power under any enactment to work, maintain, conserve, improve or control any canal or other inland navigation, navigable river, estuary, harbour or dock;

“notice” means notice in writing;

[^{F20}“the OFT” means the Office of Fair Trading;]

“owner”, in relation to any premises, means the person who—

- (a) is for the time being receiving the rack-rent of the premises, whether on his own account or as agent or trustee for another person; or
- (b) would receive the rack-rent if the premises were let at a rack-rent,

and cognate expressions shall be construed accordingly;

“prescribed” means prescribed by regulations made by the Secretary of State;

“protected land”, in relation to a company holding an appointment under Chapter I of Part II of this Act, means any land which, or any interest or right in or over which—

- (a) was transferred to that company in accordance with a scheme under Schedule 2 to the ^{M19}Water Act 1989 or, where that company is a statutory water company, was held by that company at any time during the financial year ending with 31st March 1990;
- (b) is or has at any time on or after 1st September 1989 been held by that company for purposes connected with the carrying out of its functions as a water undertaker or sewerage undertaker (including any functions which for the purposes for which section 218 above has effect are taken to be such functions by virtue of subsection (6) or (7) of that section); or
- (c) has been transferred to that company in accordance with a scheme under Schedule 2 to this Act from another company in relation to which that land was protected land when the other company held an appointment under that Chapter;

“public authority” means any Minister of the Crown or government department, [^{F21}the Environment Agency], any local authority or county council or any person certified by the Secretary of State to be a public authority for the purposes of this Act;

“public sewer” means a sewer for the time being vested in a sewerage undertaker in its capacity as such, whether vested in that undertaker by virtue

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of a scheme under Schedule 2 to the ^{M20}Water Act 1989 or Schedule 2 to this Act or under section 179 above or otherwise, and “private sewer” shall be construed accordingly;

“railway undertakers” means the British Railways Board, [^{F22}Transport for London or any subsidiary (within the meaning of the Greater London Authority Act 1999) of Transport for London,] or any other person authorised by any enactment, or by any order, rule or regulation made under any enactment, to construct, work or carry on any railway;

“records” includes computer records and any other records kept otherwise than in a document;

“the relevant sewerage provisions” means the following provisions of this Act, that is to say—

- (a) Chapters II and III of Part IV (except sections 98 to 101 and 110 and so much of Chapter III of that Part as provides for regulations under section 138 or has effect by virtue of any such regulations);
- (b) sections 160, 171, 172(4), 178, 184, 189, 196 and 204 and paragraph 4 of Schedule 12; and
- (c) the other provisions of this Act so far as they have effect for the purposes of any provision falling within paragraph (a) or (b) of this definition;

“relevant undertaker” means a water undertaker or sewerage undertaker;

“resource main” means (subject to subsection (2) below) any pipe, not being a trunk main, which is or is to be used for the purpose of—

- (a) conveying water from one source of supply to another, from a source of supply to a regulating reservoir or from a regulating reservoir to a source of supply; or
- (b) giving or taking a supply of water in bulk;

“service pipe” means (subject to subsection (2) below) so much of a pipe which is, or is to be, connected with a water main for supplying water from that main to any premises as—

- (a) is or is to be subject to water pressure from that main; or
- (b) would be so subject but for the closing of some valve,

and includes part of any service pipe;

“services” includes facilities;

“sewer” includes (without prejudice to subsection (2) below) all sewers and drains (not being drains within the meaning given by this subsection) which are used for the drainage of buildings and yards appurtenant to buildings;

“sewerage services” includes the disposal of sewage and any other services which are required to be provided by a sewerage undertaker for the purpose of carrying out its functions;

“special administration order” has the meaning given by section 23 above;

“statutory water company” means any company which was a statutory water company for the purposes of the ^{M21}Water Act 1973 immediately before 1st September 1989;

“stopcock” includes any box or pit in which a stopcock is enclosed and the cover to any such box or pit;

“street” has, subject to subsection (5) below, the same meaning as in Part III of the ^{M22}New Roads and Street Works 1991;

“subordinate legislation” has the same meaning as in the ^{M23}Interpretation Act 1978;

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“substance” includes micro-organisms and any natural or artificial substance or other matter, whether it is in solid or liquid form or in the form of a gas or vapour;

“supply of water in bulk” means a supply of water for distribution by a water undertaker taking the supply;

“surface water” includes water from roofs;

“trunk main” means a water main which is or is to be used by a water undertaker for the purpose of—

- (a) conveying water from a source of supply to a filter or reservoir or from one filter or reservoir to another filter or reservoir; or
- (b) conveying water in bulk, whether in the course of taking a supply of water in bulk or otherwise, between different places outside the area of the undertaker, from such a place to any part of that area or from one part of that area to another part of that area;

“underground strata” means strata subjacent to the surface of any land;

“vessel” includes a hovercraft within the meaning of the ^{M24}Hovercraft Act 1968;

“water main” means (subject to subsection (2) below) any pipe, not being a pipe for the time being vested in a person other than the undertaker, which is used or to be used by a water undertaker [^{F23}or licensed water supplier] for the purpose of making a general supply of water available to customers or potential customers of the undertaker [^{F24}or supplier], as distinct from for the purpose of providing a supply to particular customers;

“watercourse” includes all rivers, streams, ditches, drains, cuts, culverts, dykes, sluices, sewers and passages through which water flows except mains and other pipes which belong to [^{F21}the Environment Agency] or a water undertaker or are used by a water undertaker or any other person for the purpose only of providing a supply of water to any premises.

(2) In this Act—

- (a) references to a pipe, including references to a main, a drain or a sewer, shall include references to a tunnel or conduit which serves or is to serve as the pipe in question and to any accessories for the pipe; and
- (b) references to any sewage disposal works shall include references to the machinery and equipment of those works and any necessary pumping stations and outfall pipes;

and, accordingly, references to the laying of a pipe shall include references to the construction of such a tunnel or conduit, to the construction or installation of any such accessories and to the making of a connection between one pipe and another.

(3) Nothing in Part III or IV of this Act by virtue of which a relevant undertaker owes a duty to any particular person to lay any water main, resource main or service pipe or any sewer, disposal main or discharge pipe shall be construed—

- (a) as conferring any power in addition to the powers conferred apart from those Parts; or
- (b) as requiring the undertaker to carry out any works which it has no power to carry out.

(4) References in this Act to the fixing of charges in relation to any premises by reference to volume are references to the fixing of those charges by reference to the volume of water supplied to those premises, to the volume of effluent discharged from those

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premises, to both of those factors or to one or both of those factors taken together with other factors.

[^{F25}(4A) In this Act, unless otherwise stated, references to the supply system of a water undertaker are to the water mains and other pipes which it is the undertaker's duty to develop and maintain by virtue of section 37 above.]

(5) Until the coming into force of Part III of the ^{M25}New Roads and Street Works Act 1991, the definition of "street" in subsection (1) above shall have effect as if the reference to that Part were a reference to the ^{M26}Public Utilities Street Works Act 1950; but nothing in this section shall be taken—

- (a) to prejudice the power of the Secretary of State under that Act of 1991 to make an order bringing Part III of that Act into force on different days for different purposes (including the purposes of this section); or
- (b) in the period before the coming into force of that Part, to prevent references in this Act to a street, where the street is a highway which passes over a bridge or through a tunnel, from including that bridge or tunnel.

(6) For the purposes of any provision of this Act by or under which power is or may be conferred on any person to recover the expenses incurred by that person in doing anything, those expenses shall be assumed to include such sum as may be reasonable in respect of establishment charges or overheads.

(7) References in this Act to the later or latest of two or more different times or days are, in a case where those times or days coincide, references to the time at which or, as the case may be, the day on which they coincide.

(8) Where by virtue of any provision of this Act any function of a Minister of the Crown is exercisable concurrently by different Ministers, that function shall also be exercisable jointly by any two or more of those Ministers.

(9) Sub-paragraph (1) of paragraph 1 of Schedule 2 to the ^{M27}Water Consolidation (Consequential Provisions) Act 1991 has effect (by virtue of sub-paragraph (2)(b) of that paragraph) so that references in this Act to things done under or for the purposes of provisions of this Act or the ^{M28}Water Resources Act 1991 include references to things done, or treated as done, under or for the purposes of the corresponding provisions of the law in force before the commencement of this Act.

[^{F26}(10) If the Assembly designates a person as Chief Inspector of Drinking Water for Wales under section 86(1B) above, references in this Act to the Chief Inspector of Drinking Water, as respects anything to be done in relation to him, shall be taken as references to the person designated as the Chief Inspector of Drinking Water by the Secretary of State and also the person designated by the Assembly as the Chief Inspector of Drinking Water for Wales.]

Textual Amendments

- F11** S. 219(1): words in definition of "accessories" substituted (25.7.2003) by [Communications Act 2003](#) (c. 21), ss. 406, 411(2)(3), [Sch. 17 para. 110](#); S.I. 2003/1900, [art. 2\(1\)](#), [Sch. 1](#)
- F12** S. 219(1): definition of "the Assembly" inserted (1.4.2004) by [Water Act 2003](#) (c. 37), ss. 101(1), 105(3), [Sch. 7 para. 27\(7\)\(a\)](#); S.I. 2004/641, [art. 3\(y\)](#), [Sch. 2](#)
- F13** S. 219(1): definition of "the Authority" inserted (1.4.2004) by [Water Act 2003](#) (c. 37), ss. 101(1), 105(3), [Sch. 7 para. 27\(7\)\(a\)](#); S.I. 2004/641, [art. 3\(y\)](#), [Sch. 2](#)

Status: Point in time view as at 01/04/2004.

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- F14** S. 219(1): words in definition of "customer or potential customer" inserted (1.4.2004 for specified purposes and otherwise prosp.) by Water Act 2003 (c. 37), ss. 101(1), 105(3), **Sch. 8 para. 50(2)(a)**; S.I. 2004/641, **art. 3(y)**, Sch. 2 (with art. 6, Sch. 3)
- F15** Words in the definition of "harbour authority" in s. 219(1) substituted (1.1.1996) by 1995 c. 21, ss. 314(2), 316(2), **Sch. 13 para. 89(b)**
- F16** S. 219(1): definition of "licenced water supplier" inserted (1.4.2004 for specified purposes and otherwise prosp.) by Water Act 2003 (c. 37), ss. 101(1), 105(3), **Sch. 8 para. 50(2)(c)**; S.I. 2004/641, **art. 3(y)**, Sch. 2 (with art. 6, Sch. 3)
- F17** Words in the definition of "local authority" in s. 219(1) inserted (1.4.1996) by 1994 c. 19, s. 22(5), **Sch. 11 Pt. I para. 2(2)** (with ss. 54(5)(7), 55(5)); S.I. 1996/396, **art. 3**
- F18** S. 219(1): definition of "the Monopolies Comission" repealed (1.4.1999) by S.I. 1999/3434, **art. 30(c)**
- F19** Definition of "the NRA" in s. 219(1) repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 125(a), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F20** S. 219(1): definition of "the OFT" inserted (1.4.2003) by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 25(11)**; S.I. 2003/766, **art. 2**, Sch. (with art. 3)
- F21** Words in the definitions of "public authority" and "watercourse" in s. 219(1) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 125(b)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F22** S. 219(1): words in definition of "railway undertakers" substituted (15.7.2003) by The Transport for London (Consequential Provisions) Order 2003 (S.I. 2003/1615), art. 2, **Sch. 1 para. 15**
- F23** S. 219(1): words in definition of "water main" inserted (1.4.2004 for specified purposes and otherwise prosp.) by Water Act 2003 (c. 37), ss. 101(1), 105(3), **Sch. 8 para. 50(2)(b)**; S.I. 2004/641, **art. 3(y)**, Sch. 2 (with art. 6, Sch. 3)
- F24** S. 219(1): words in definition of "water main" inserted (1.4.2004 for specified purposes and otherwise prosp.) by Water Act 2003 (c. 37), ss. 101(1), 105(3), **Sch. 8 para. 50(2)(b)**; S.I. 2004/641, **art. 3(y)**, Sch. 2 (with art. 6, Sch. 3)
- F25** S. 219(4A) inserted (1.4.2004 for specified purposes and otherwise prosp.) by Water Act 2003 (c. 37), ss. 101(1), 105(3), **Sch. 8 para. 50(3)**; S.I. 2004/641, **art. 3(y)**, Sch. 2 (with art. 6, Sch. 3)
- F26** S. 219(10) inserted (1.4.2004) by Water Act 2003 (c. 37), **ss. 57(9)**, 105(3); S.I. 2004/641, **art. 3(m)** (with art. 6, Sch. 3)

Marginal Citations

- M16** 1980 c. 66.
M17 1991 c. 57.
M18 1985 c. 6.
M19 1989 c. 15.
M20 1989 c. 15.
M21 1973 c. 37.
M22 1991 c. 22.
M23 1978 c. 30.
M24 1968 c. 59.
M25 1991 c. 22.
M26 1950 c. 39.
M27 1991 c. 60.
M28 1991 c. 57.

220 Effect of local Acts.

Subject to any provision to the contrary which is contained in Schedule 26 to the Water Act 1989 or in the Water Consolidation (Consequential Provisions) Act 1991, nothing in any local statutory provision passed or made before 1st September 1989 shall be

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construed as relieving any relevant undertaker from any liability arising by virtue of this Act in respect of any act or omission occurring on or after that date.

Other supplemental provisions

[221 ^{F27}**Crown application.**

- (1) Subject to the provisions of this section, this Act shall bind the Crown.
- (2) No contravention by the Crown of any provision made by or under this Act shall make the Crown criminally liable; but the High Court may, on the application of the Environment Agency, a water undertaker or a sewerage undertaker, declare unlawful any act or omission of the Crown which constitutes such a contravention.
- (3) Notwithstanding anything in subsection (2) above, any provision made by or under this Act shall apply to persons in the public service of the Crown as it applies to other persons.
- (4) If the Secretary of State certifies that it appears to him, as respects any Crown premises and any powers of entry exercisable in relation to them specified in the certificate, that it is requisite or expedient that, in the interests of national security, the powers should not be exercisable in relation to those premises, those powers shall not be exercisable in relation to those premises.
- (5) Nothing in this section shall be taken as in any way affecting Her Majesty in her private capacity; and this subsection shall be construed as if section 38(3) of the ^{M29}Crown Proceedings Act 1947 (interpretation of references to Her Majesty in her private capacity) were contained in this Act.
- (6) Subject to subsections (4) and (5) above, the powers conferred by sections 155, 159, 161(2) and 167 above shall be exercisable in relation to land in which there is a Crown or Duchy interest only with the consent of the appropriate authority.
- (7) In this section—

“the appropriate authority” has the same meaning as it has in Part XIII of the ^{M30}Town and Country Planning Act 1990 by virtue of section 293(2) of that Act;

“Crown or Duchy interest” means an interest which belongs to Her Majesty in right of the Crown or of the Duchy of Lancaster, or to the Duchy of Cornwall, or belonging to a government department or held in trust for Her Majesty for the purposes of a government department;

“Crown premises” means premises held by or on behalf of the Crown.
- (8) The provisions of subsection (3) of section 293 of the ^{M31}Town and Country Planning Act 1990 (questions relating to Crown application) as to the determination of questions shall apply for the purposes of this section.]

Textual Amendments

F27 S. 221 substituted (1.12.2000) by 1995 c. 25, s. 116, 125(3), **Sch. 21 Pt. I para. 1(1)** (with ss. 7(6), 115, 117)

Marginal Citations

M29 1947 c. 44.

Status: Point in time view as at 01/04/2004.

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M30 1990 c. 8.

M31 1990 c. 8.

[222 ^{F28} **Application to the Isles of Scilly.**

- (1) Subject to the provisions of any order under this section, this Act shall not apply in relation to the Isles of Scilly.
- (2) The Secretary of State may, after consultation with the Council of the Isles of Scilly, by order provide for the application of any provisions of this Act to the Isles of Scilly; and any such order may provide for the application of those provisions to those Isles with such modifications as may be specified in the order.
- (3) An order under this section may—
 - (a) make different provision for different cases, including different provision in relation to different persons, circumstances or localities; and
 - (b) contain such supplemental, consequential and transitional provision as the Secretary of State considers appropriate, including provision saving provision repealed by or under any enactment.
- (4) The power of the Secretary of State to make an order under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.]

Textual Amendments

F28 S. 222 substituted (1.2.1996 for specified purposes and otherwise *prosp.*) by 1995 c. 25, **ss. 118(4), 125(3)** (with **ss. 7(6), 115, 117**); S.I. 1996/186, **art. 2**

223 Short title, commencement and extent.

- (1) This Act may be cited as the Water Industry Act 1991.
- (2) This Act shall come into force on 1st December 1991.
- (3) Except for the purpose of giving effect to any scheme under Schedule 2 to this Act, this Act extends to England and Wales only.

Status:

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