

Changes to legislation: Water Industry Act 1991, Cross Heading: General provisions protecting undertakings is up to date with all changes known to be in force on or before 20 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

SCHEDULE 13

PROTECTIVE PROVISIONS IN RESPECT OF CERTAIN UNDERTAKINGS

Modifications etc. (not altering text)

- C1** Sch. 13 applied (with modifications) (28.6.2013) by [The Water Industry \(Specified Infrastructure Projects\) \(English Undertakers\) Regulations 2013 \(S.I. 2013/1582\)](#), reg. 1(1)(b), **Sch. 1 para. 13(7)** (with reg. 1(1)(c))

PART I

PROVISIONS APPLYING GENERALLY

General provisions protecting undertakings

- 1 (1) Nothing in this Act conferring power on a relevant undertaker to carry out any works shall confer power to do anything, except with the consent of the persons carrying on an undertaking protected by this paragraph, which, whether directly or indirectly, so interferes or will so interfere—
- (a) with works or property vested in or under the control of the persons carrying on that undertaking, in their capacity as such; or
- (b) with the use of any such works or property,
- as to affect injuriously those works or that property or the carrying on of that undertaking.
- (2) Without prejudice to the construction of sub-paragraph (1) above for the purposes of its application in relation to the other provisions of this Act, that sub-paragraph shall have effect in its application in relation to the relevant sewerage provisions as if any use of, injury to or interference with any sluices, floodgates, sewers, groynes, sea defences or other works which are vested in or under the control of [^{F1}the Environment Agency][^{F2}or the NRBW] or an internal drainage board were such an interference with works or property vested in or under the control of [^{F1}the Environment Agency][^{F2}or the NRBW] or that board as to affect injuriously the works or property or the carrying on of the undertaking of [^{F1}the Environment Agency][^{F2}or the NRBW] or of that board.
- (3) A consent for the purposes of sub-paragraph (1) above may be given subject to reasonable conditions but shall not be unreasonably withheld.
- (4) Subject to the following provisions of this Schedule, any dispute—
- (a) as to whether anything done or proposed to be done interferes or will interfere as mentioned in sub-paragraph (1) above;

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- (b) as to whether any consent for the purposes of this paragraph is being unreasonably withheld; or
- (c) as to whether any condition subject to which any such consent has been given was reasonable,

shall be referred to the arbitration of a single arbitrator to be appointed by agreement between the parties to the dispute or, in default of agreement, by the President of the Institution of Civil Engineers.

- (5) The following are the undertakings protected by this paragraph, that is to say-
- (a) the undertakings of [^{F1}the Environment Agency], [^{F3}the NRBW,] the Civil Aviation Authority, [^{F4}the Coal Authority] and [^{F5}a universal service provider (so far as it is the provider’s undertaking in relation to the provision of a universal postal service)];
 - (b) the undertaking of any relevant undertaker;
 - [^{F6}(c) any undertaking consisting in the provision of an electronic communications network;]
 - (d) any airport to which Part V of the ^{M1}Airports Act 1986 applies;
 - (e) the undertaking of any public gas supplier within the meaning of Part I of the ^{M2}Gas Act 1986;
 - (f) the undertaking of any person authorised by a licence under Part I of the ^{M3}Electricity Act 1989 to generate, [^{F7}supply or participate in the transmission of] electricity;
 - (g) the undertaking of any navigation, harbour or conservancy authority or of any internal drainage board;
 - (h) the undertaking of any railway undertakers;
 - (i) any public utility undertaking carried on by a local authority under any Act or under any order having the force of an Act.
 - [^{F8}(j) the undertaking of any licensed operator, within the meaning of the Coal Industry Act 1994;]
 - [^{F9}(k) the undertaking of a person who holds a licence under Chapter I of Part I of the Transport Act 2000 (air traffic services) to the extent that it is the person’s undertaking as licence holder.]

[^{F10}(5A) In sub-paragraph (5)(a) above “universal service provider” has the same meaning as in [^{F11}Part 3 of the Postal Services Act 2011]; and the reference to the provision of a universal postal service shall be construed in accordance with [^{F12}that Part].]

- (6) For the purposes of this paragraph any reference in this paragraph, in relation to any such airport as is mentioned in sub-paragraph (5)(d) above, to the persons carrying on the undertaking is a reference to the airport operator.

Textual Amendments

- F1** Words in Sch. 13 para. 1(2)(5)(a) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 127** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F2** Words in Sch. 13 para. 1(2) inserted (1.4.2013) by **The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), Sch. 2 para. 263(2)** (with Sch. 7)
- F3** Words in Sch. 13 para. 1(5)(a) inserted (1.4.2013) by **The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), Sch. 2 para. 263(3)** (with Sch. 7)

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- F4** Words in Sch. 13 para. 1(5)(a) substituted (31.10.1994) by 1994 c. 21, ss. 67(1), 68(2), **Sch. 9 para. 42(a)** (with s. 40(7)); S.I. 1994/2553, **art. 2**
- F5** Words in Sch 13 para. 1(5)(a) substituted (26.3.2001) by S.I. 2001/1149, art. 3(1), **Sch. 1 para. 88(2)**
- F6** Sch. 13 para. 1(5)(c) substituted (25.7.2003) by Communications Act 2003 (c. 21), ss. 406, 411(2)(3), **Sch. 17 para. 111(2)**; S.I. 2003/1900, **art. 2(1)**, Sch. 1
- F7** Words in Sch. 13 para. 1(5)(f) substituted (1.9.2004) by Energy Act 2004 (c. 20), ss. 143, 198(2), **Sch. 19 para. 17**; S.I. 2004/2184, **art. 2(2)**, Sch. 2
- F8** Sch. 13 para. 1(5)(j) inserted (31.10.1994) by 1994 c. 21, ss. 67(1), 68(2), **Sch. 9 para. 42(b)** (with s. 40(7)); S.I. 1994/2553, **art. 2**
- F9** Sch. 13 para. 1(5)(k) inserted (1.4.2001) by 2000 c. 38, s. 37, **Sch. 5 para. 14**; S.I. 2001/869, **art. 2**
- F10** Sch. 13 para. 1(5A) inserted (26.3.2001) by S.I. 2001/1149, art. 3(1), **Sch. 1 para. 88(3)**
- F11** Words in Sch. 13 para. 1(5A) substituted (1.10.2011) by Postal Services Act 2011 (c. 5), s. 93(2)(3), **Sch. 12 para. 137(a)**; S.I. 2011/2329, art. 3
- F12** Words in Sch. 13 para. 1(5A) substituted (1.10.2011) by Postal Services Act 2011 (c. 5), s. 93(2)(3), **Sch. 12 para. 137(b)**; S.I. 2011/2329, art. 3

Modifications etc. (not altering text)

- C1** Sch. 13 para. 1(5)(e) 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** 1986 c. 31.
M2 1986 c. 44.
M3 1989 c. 29.

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

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

- Pt. 3 Ch. 2B inserted by [2014 c. 21 s. 12](#)
- s. 17(2)(aa) inserted by S.I. 2019/93, Sch. 1 para. 4(4)(b) (as substituted) by [S.I. 2019/1245 reg. 21](#) (This amendment not applied to legislation.gov.uk. The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- s. 17A(c) repealed by [2014 c. 21 Sch. 5 para. 4\(2\)\(c\)](#)
- s. 17A(d) repealed by [2014 c. 21 Sch. 5 para. 4\(2\)\(c\)](#)
- s. 17A(2)(ba) and word inserted by [2014 c. 21 Sch. 5 para. 4\(2\)\(b\)](#)
- s. 17R(2)(aa) inserted by S.I. 2019/93, Sch. 1 para. 4(7)(b) (as substituted) by [S.I. 2019/1245 reg. 21](#) (This amendment not applied to legislation.gov.uk. The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- s. 17AA(1)(ba)(bb) inserted by [2014 c. 21 Sch. 5 para. 5\(2\)](#)
- s. 17BA(5A) inserted by [2014 c. 21 Sch. 5 para. 7\(3\)](#)
- s. 17HA(9)(b)(ia) inserted by [2014 c. 21 Sch. 5 para. 16\(2\)](#)
- s. 23(2AA) inserted by [2014 c. 21 Sch. 7 para. 35\(4\)](#)
- s. 23(8)(9) inserted by [2014 c. 21 Sch. 7 para. 35\(10\)](#)
- s. 39E-39H inserted by [2021 c. 30 s. 78\(7\)](#)
- s. 87(7C)-(7F) inserted by [2012 c. 7 s. 35\(6\)](#)
- s. 94A-94E inserted by [2021 c. 30 s. 79](#)
- s. 95ZA(6) inserted by [2014 c. 21 Sch. 5 para. 39\(4\)](#)
- s. 96ZA(2)-(5) substituted for s. 96ZA(2) by [2014 c. 21 Sch. 5 para. 40](#)
- s. 106B(3A) inserted by [2014 c. 21 Sch. 7 para. 94](#)
- s. 117G(2)(aa) inserted by [2014 c. 21 Sch. 5 para. 41\(2\)](#)
- s. 117G(4)-(4D) substituted for s. 117(4) by [2014 c. 21 Sch. 5 para. 41\(3\)](#)
- s. 117G(6)(aa) inserted by [2014 c. 21 Sch. 5 para. 41\(4\)](#)
- s. 117K(2)(aa) inserted by [2014 c. 21 Sch. 5 para. 42\(2\)](#)
- s. 117K(5)(5A) substituted for s. 117(5) by [2014 c. 21 Sch. 5 para. 42\(3\)](#)
- s. 117L(9) inserted by [2014 c. 21 Sch. 5 para. 43\(3\)](#)
- s. 117N(4)(aa) inserted by [2014 c. 21 Sch. 5 para. 45\(2\)](#)
- s. 117N(8)(aa) inserted by [2014 c. 21 Sch. 5 para. 45\(3\)](#)
- s. 117N(11)(aa) inserted by [2014 c. 21 Sch. 5 para. 45\(4\)](#)
- s. 117O(4)(aa) inserted by [2014 c. 21 Sch. 5 para. 46\(2\)](#)
- s. 117O(8)(aa) inserted by [2014 c. 21 Sch. 5 para. 46\(3\)](#)
- s. 117S(7)-(9) inserted by [2014 c. 21 Sch. 5 para. 49](#)
- s. 119(2)(ab) inserted by [2003 c. 37 s. 89\(1\)\(a\)](#)
- s. 119(3) inserted by [2003 c. 37 s. 89\(1\)\(b\)](#)
- s. 121(1)(ba) inserted by [2003 c. 37 s. 89\(2\)\(a\)](#)
- s. 141DA inserted by [2021 c. 30 s. 81](#)
- s. 141DC inserted by [2021 c. 30 s. 83](#)
- s. 177K(7)(aa) inserted by [2014 c. 21 Sch. 5 para. 42\(4\)](#)
- s. 207D and cross-heading inserted by [2014 c. 21 s. 39](#)
- s. 207D(5) word repealed by [2014 c. 21 Sch. 5 para. 52\(a\)](#)

- s. 207D(5) words inserted by [2014 c. 21 Sch. 5 para. 52\(b\)](#)
- s. 213(1ZA) inserted by [2014 c. 21 Sch. 7 para. 119\(3\)](#)
- s. 213(1ZA) repealed by [2014 c. 21 Sch. 5 para. 53](#)