



Flood and Water Management Act 2010

2010 CHAPTER 29

PART 2

MISCELLANEOUS

42 Agreements on new drainage systems

- (1) After section 106A of the Water Industry Act 1991 (sustainable drainage - inserted by Schedule 3 to this Act) insert—

“106B Requirement to enter into agreement before construction

- (1) A person may exercise the right under section 106(1) in respect of a lateral drain or sewer constructed after the commencement of this section only if Conditions 1 and 2 are satisfied.
- (2) Condition 1 is that an agreement was entered into under section 104 in respect of the drain or sewer.
- (3) Condition 2 is that the agreement included—
- (a) provision about the standards according to which the drain or sewer was to be constructed, and
 - (b) provision about adoption of the drain or sewer by the sewerage undertaker.
- (4) Provision for the purposes of Condition 2(a) must either—
- (a) incorporate or accord with standards published by the Minister, or
 - (b) depart from those standards by express consent of the parties to the agreement.
- (5) Provision for the purposes of Condition 2(b) must—
- (a) include provision for adoption to occur automatically upon the occurrence of specified events, and

Changes to legislation: Flood and Water Management Act 2010, Section 42 is up to date with all changes known to be in force on or before 19 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

- (b) comply with any regulations made by the Minister (which may concern the provision required by paragraph (a) of this subsection).
- (6) Subsection (1) does not apply—
 - (a) to drainage systems required to be approved in accordance with Schedule 3 to the Flood and Water Management Act 2010, or
 - (b) in other circumstances specified by the Minister in regulations.
- (7) Where a person seeks to exercise the right under section 106(1) in reliance on satisfying Conditions 1 and 2, an undertaker may not refuse connection—
 - (a) whether or not in reliance on section 106(4), and
 - (b) whether or not the terms of the agreement under section 104 (including terms required by this section) have been complied with.
- (8) In this section “the Minister” means—
 - (a) the Secretary of State, in relation to sewerage undertakers whose areas are wholly or mainly in England, and
 - (b) the Welsh Ministers, in relation to sewerage undertakers whose areas are wholly or mainly in Wales.”
- (2) For section 105(2) of the Water Industry Act 1991 (appeals: s.104 agreements) substitute—

“(2) A person who has entered or wants to enter an agreement under section 104 may appeal to the Authority about any matter concerning the agreement (including whether it is concluded, its terms and its operation).”
- (3) At the end of section 104 of that Act (agreement to adopt) add—

“(9) Undertakers shall have regard to any guidance about agreements under this section issued by—

 - (a) the Secretary of State, in relation to undertakers whose areas are wholly or mainly in England, or
 - (b) the Welsh Ministers, in relation to undertakers whose areas are wholly or mainly in Wales.”
- (4) At the end of section 112 (requirement that proposed drain or sewer be constructed so as to form part of general system) add—

“(8) A requirement imposed under this section may not be inconsistent with, or more onerous than, standards published for the purposes of section 106B.”

Commencement Information

- I1** S. 42 in force at 1.10.2010 for specified purposes by S.I. 2010/2169, art. 4, Sch.
- I2** S. 42 in force at 1.10.2012 for specified purposes by S.I. 2012/2048, art. 2 (with art. 3)

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Changes and effects yet to be applied to :

- s. 42(2) repealed by [2014 c. 21 Sch. 7 para. 146\(a\)](#)
- s. 42(3) repealed by [2014 c. 21 Sch. 7 para. 146\(b\)](#)