



Reservoirs Act 1975

1975 CHAPTER 23

Supplementary

19 Reference of disputed recommendations to referee

- (1) Where—
 - (a) an inspecting engineer includes in his report recommendations as to measures to be taken in the interests of safety or as to the time of the next inspection ; or
 - (b) an engineer acting under section 8, 9 or 14 above includes in his report recommendations as to measures to be taken in the interests of safety ;the undertakers if aggrieved by any recommendation may, in accordance with rules under this section, refer their complaint to a referee.
- (2) A referee under this section shall be an independent qualified civil engineer appointed by agreement between the undertakers and the engineer making the recommendation complained of, or in default of their agreement shall be a person appointed by the Secretary of State.
- (3) A referee under this section, after investigating the complaint, shall have power to make such modifications as he thinks fit in the report containing the recommendation complained of, and the report shall for the purposes of this Act have effect accordingly.
- (4) A referee under this section, when he gives his decision on a report, shall also give a certificate stating that the decision does or does not modify the report, and (if necessary in consequence of any modification) revising accordingly any certificate given with reference to the report by the engineer making the report.
- (5) The Secretary of State may by statutory instrument make rules as to the time within which a referee may be appointed by agreement under this section, as to the time within which, and the manner in which, a request for the appointment of a referee under this section may be made to him, as to the procedure before the referee and as to the costs of the proceedings before and investigation by the referee (including the remuneration of the referee), so, however, that those costs (including the remuneration of the referee) shall be paid by the undertakers.

20 General provisions as to reports, certificates etc. of engineers

- (1) Any report or certificate of an engineer acting for any purpose of this Act, including a referee under section 19 above, shall be in the prescribed form.
- (2) Any such report or certificate, unless the engineer in question is appointed to act by the enforcement authority, shall be delivered to and kept by the undertakers.
- (3) Any such report or certificate, where the engineer in question is appointed to act by the enforcement authority, shall be delivered to the authority, but a copy of it shall be sent by the engineer at the same time to the undertakers and shall be kept by them.
- (4) Where any document to which this subsection applies is delivered by the engineer in question to the undertakers, the engineer shall within twenty-eight days after he delivers it to the undertakers send a copy of it to the enforcement authority.

The documents to which this subsection applies are—

- (a) any certificate of an engineer acting for any purpose of this Act;
- (b) any report made by an inspecting engineer or an engineer acting for purposes of section 14 above and stated in his certificate to include a recommendation as to measures to be taken in the interests of safety, and any report made by an engineer acting under section 8 or 9 above ;
- (c) any decision of a referee modifying any such report as is mentioned in paragraph (b) above ;
- (d) any written explanation given by a construction engineer to the undertakers of his reasons for deferring the issue of his final certificate;
- (e) any advice given by a supervising engineer to the undertakers which either—
 - (i) recommends them to have the reservoir inspected under section 10 above or to take any other action; or
 - (ii) draws their attention to a breach of any provision of section 6(2) to (4) or 9(2) or of section 11 above.
- (5) Where an enforcement authority receive a certificate of an engineer acting for the purposes of section 13 above or a copy of such a certificate, and the reservoir is situated partly in the area of another local authority not being the undertakers, the enforcement authority shall send a copy of the certificate to that other local authority.

21 Duty of undertakers to furnish information

- (1) Where undertakers intend—
 - (a) to construct a large raised reservoir (whether as a new reservoir or by alteration of an existing reservoir that is not a large raised reservoir), or to alter a large raised reservoir so as to increase its capacity ; or
 - (b) to bring a large raised reservoir back into use as a reservoir after that use has been abandoned;

the undertakers, if they are not a local authority, shall serve notice of their intention, giving the prescribed information, on the local authority in whose area the intended large raised reservoir will be or, if it will extend into the areas of more than one local authority, on each of those authorities; and if the undertakers are a local authority and the reservoir or any part of it will be in the area of another local authority or authorities, they shall serve notice of their intention on the other authority or authorities.

A notice under this subsection shall be served not less than twenty-eight days before any work on the construction or alteration of the reservoir is begun or, if the case is within paragraph (b) above and the reservoir is to be brought back into use without alteration, not less than twenty-eight days before it is brought back into use.

- (2) Where the use of a large raised reservoir as a reservoir is abandoned, the undertakers shall within twenty-eight days notify the enforcement authority in writing.
- (3) Whenever a person is appointed to be, or ceases to be, supervising engineer for a large raised reservoir, the undertakers shall within twenty-eight days notify the enforcement authority in writing; and the notice of an appointment shall include the date on which the appointment will take effect, if it has not done so.
- (4) On the appointment of an inspecting engineer for a large raised reservoir the undertakers shall within twenty-eight days notify the enforcement authority in writing of the appointment.
- (5) The supervising engineer and every inspecting engineer for a large raised reservoir, and any civil engineer employed by the undertakers for purposes of section 8, 9, 10(6) or 14 above or appointed by an enforcement authority under section 15(2) or 16(3), shall be afforded by the undertakers all reasonable facilities for the effective performance of his functions ; and the undertakers shall furnish him—
 - (a) with the statutory record required to be kept for the reservoir; and
 - (b) with copies of any statutory certificates relating to the reservoir, with their annexes (if any); and
 - (c) with copies of the reports made by inspecting engineers on any statutory inspection of the reservoir; and
 - (d) with such further information and particulars as he may require.
- (6) In this section " statutory " refers to matters provided for by this Act or by the Reservoirs (Safety Provisions) Act 1930.

22 Criminal liability of undertakers and their employees

- (1) If—
 - (a) by the wilful default of the undertakers any of the provisions of section 6, 8(3), 9(1), (2) or (3), 10(1) or (6), 11, 12(1), 13 or 14(1) or (2) above is not observed or complied with in relation to a large raised reservoir; or
 - (b) the undertakers fail to comply with a notice from the enforcement authority under section 8, 9, 10, 12 or 14 above;then unless there is reasonable excuse for the default or failure, the undertakers shall be guilty of an offence and liable on conviction on indictment or on summary conviction to a fine, which on summary conviction shall not exceed £400.
- (2) If, in the case of any large raised reservoir, the undertakers fail without reasonable excuse to give the enforcement authority in due time any notice required by this Act to be given by them to that authority, the undertakers shall be guilty of an offence and liable on summary conviction to a fine not exceeding £250.
- (3) If, in the case of any large raised reservoir, the undertakers or persons employed by them without reasonable excuse refuse or knowingly fail to afford to any person the facilities required by section 21(5) above or to furnish to any person the information

Status: This is the original version (as it was originally enacted).

and particulars so required, the undertakers shall be guilty of an offence and liable on summary conviction to a fine not exceeding £250.

- (4) If for purposes of section 21(5) above a person makes use of any document or furnishes any information or particulars which he knows to be false in a material respect, or recklessly makes use of any document or furnishes any information or particulars which is or are false in a material respect, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £800.
- (5) Where an offence committed by a body corporate under this section is proved to have been committed with the consent or connivance 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, he as well as the body corporate shall be guilty of that offence, and shall be liable to be proceeded against and punished accordingly.

Where the affairs of a body corporate are managed by its members, this section 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.

- (6) In England and Wales proceedings for an offence under this section may be instituted by any local authority, London borough council or district council in whose area the reservoir in question or any part of it is situated, but otherwise shall not be instituted except by the Secretary of State or by or with the consent of the Director of Public Prosecutions.