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# Water Industry Act 1991

## 1991 CHAPTER 56

### PART IV

#### SEWERAGE SERVICES

##### CHAPTER I

##### GENERAL FUNCTIONS OF SEWERAGE UNDERTAKERS

###### *Principal duties and standards of performance*

#### **94 General duty to provide sewerage system.**

- (1) It shall be the duty of every sewerage undertaker—
  - (a) to provide, improve and extend such a system of public sewers (whether inside its area or elsewhere) and so to cleanse and maintain those sewers as to ensure that that area is and continues to be effectually drained; and
  - (b) to make provision for the emptying of those sewers and such further provision (whether inside its area or elsewhere) as is necessary from time to time for effectually dealing, by means of sewage disposal works or otherwise, with the contents of those sewers.
- (2) It shall be the duty of a sewerage undertaker in performing its duty under subsection (1) above to have regard—
  - (a) to its existing and likely future obligations to allow for the discharge of trade effluent into its public sewers; and
  - (b) to the need to provide for the disposal of trade effluent which is so discharged.
- (3) The duty of a sewerage undertaker under subsection (1) above shall be enforceable under section 18 above—
  - (a) by the Secretary of State; or

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- (b) with the consent of or in accordance with a general authorisation given by the Secretary of State, by the Director.
- (4) The obligations imposed on a sewerage undertaker by the following Chapters of this Part, and the remedies available in respect of contraventions of those obligations, shall be in addition to any duty imposed or remedy available by virtue of any provision of this section or section 95 below and shall not be in any way qualified by any such provision.
- (5) In this section “trade effluent” has the same meaning as in Chapter III of this Part.

## 95 Standards of performance in connection with provision of sewerage services.

- (1) For the purpose-
  - (a) of facilitating the determination of the extent to which breaches of the obligations imposed by virtue of the following provisions of this Part are to amount to breaches of the duty imposed by section 94 above; or
  - (b) of supplementing that duty by establishing overall standards of performance in relation to the provision of sewerage services by any sewerage undertaker, the Secretary of State may, in accordance with section 96 below, by regulations provide for contraventions of such requirements as may be prescribed to be treated for the purposes of this Act as breaches of that duty.
- (2) The Secretary of State may, in accordance with section 96 below, by regulations prescribe such standards of performance in connection with the provision of sewerage services as, in his opinion, ought to be achieved in individual cases.
- (3) Regulations under subsection (2) above may provide that, if a sewerage undertaker fails to meet a prescribed standard, it shall pay such amount as may be prescribed to any person who is affected by the failure and is of a prescribed description.
- (4) Without prejudice to the generality of the power conferred by subsection (2) above, regulations under that subsection may—
  - (a) include in a standard of performance a requirement for a sewerage undertaker, in prescribed circumstances, to inform a person of his rights by virtue of any such regulations;
  - (b) provide for any dispute under the regulations to be referred by either party to the dispute to the Director;
  - (c) make provision for the procedure to be followed in connection with any such reference and for the Director’s determination on such a reference to be enforceable in such manner as may be prescribed;
  - (d) prescribe circumstances in which a sewerage undertaker is to be exempted from requirements of the regulations.

VALID FROM 01/07/1992

### [95A <sup>F1</sup>Information with respect to levels of performance.

- (1) The Director shall from time to time collect information with respect to—
  - (a) the compensation paid by sewerage undertakers under regulations under section 95(2) above; and

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- (b) the levels of overall performance achieved by sewerage undertakers in connection with the provision of sewerage services.
- (2) At such times as the Director may direct, each sewerage undertaker shall give the following information to the Director—
- (a) as respects each standard prescribed by regulations under section 95(2) above, the number of cases in which compensation was paid and the aggregate amount or value of that compensation; and
  - (b) as respects each standard established by regulations under section 95(1)(b) above, such information with respect to the level of performance achieved by the undertaker as may be so specified.
- (3) A sewerage undertaker who without reasonable excuse fails to do anything required of him by subsection (2) above shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (4) The Director shall, at least once in every year, arrange for the publication, in such form and in such manner as he considers appropriate, of such of the information collected by or given to him under this section as it may appear to him expedient to give to customers or potential customers of sewerage undertakers.
- (5) In arranging for the publication of any such information the Director shall have regard to the need for excluding, so far as practicable—
- (a) any matter which relates to the affairs of an individual, where publication of that matter would or might, in the opinion of the Director, seriously and prejudicially affect the interests of that individual; and
  - (b) any matter which relates specifically to the affairs of a particular body of persons, whether corporate or unincorporate, where publication of that matter would or might, in the opinion of the Director, seriously and prejudicially affect the interests of that body.]

#### Textual Amendments

- F1** S. 95A inserted (1.7.1992) by [Competition and Service \(Utilities\) Act 1992 \(c. 43\), s.31](#); Competition and Service (Utilities) Act 1992 (Commencement No. 1) Order 1992, art. 3, Sch. Pt. I

VALID FROM 01/10/2005

#### **[<sup>F2</sup>95B** Publication of statistical information about complaints

- (1) It shall be the duty of the Council to publish, in such form and manner and with such frequency as it thinks appropriate, such statistical information as it considers appropriate relating to complaints made by consumers about any matter relating to the activities of sewerage undertakers and the handling of such complaints.
- (2) In subsection (1) above, “complaints” includes complaints made directly to sewerage undertakers (or anyone carrying on activities on their behalf) and complaints to the Authority, the Council, the Assembly or the Secretary of State.]

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### Textual Amendments

**F2** S. 95B inserted (1.10.2005) by [Water Act 2003 \(c. 37\)](#), ss. **45(2)**, 105(3); S.I. 2005/2714, **art. 2(e)** (with [Sch. para. 8](#))

## 96 Procedure for regulations under section 95.

- (1) The Secretary of State shall not make any regulations under section 95 above unless—
- (a) the Director has made to the Secretary of State a written application complying with subsection (2) below;
  - (b) the Secretary of State is satisfied that a copy of the application has been served by the Director on every sewerage undertaker specified in the application;
  - (c) such period as the Secretary of State considers appropriate has been allowed for the making—
    - (i) by the Director; and
    - (ii) by any affected sewerage undertaker,
 of representations or objections with respect to the Director’s proposals and any modifications proposed by the Secretary of State; and
  - (d) the Secretary of State has considered both the Director’s reasons for his proposals and every representation or objection which has been duly made with respect to those proposals, or any proposed modifications of those proposals, and has not been withdrawn.
- (2) An application made by the Director to the Secretary of State complies with this subsection if it—
- (a) sets out draft provisions proposed by the Director for inclusion in regulations under section 95 above;
  - (b) specifies the sewerage undertaker or undertakers in relation to which it is proposed those provisions should apply; and
  - (c) summarises the Director’s reasons for his proposals.
- (3) The Secretary of State shall not make any regulations under section 95 above except where—
- (a) the only provisions of the regulations are the provisions proposed by the Director in his application or those provisions with such modifications as the Secretary of State considers appropriate; and
  - (b) each of the modifications (if any) of the Director’s proposals to which effect is given by the regulations is a modification the proposal to make which has been notified—
    - (i) to the Director; and
    - (ii) to any sewerage undertaker appearing to the Secretary of State to be likely to be affected by the modifications.

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**[96A F3 Information to be given to customers about overall performance.**

- (1) Each sewerage undertaker shall, in such form and manner and with such frequency as the Director may direct, take steps to inform its customers of—
  - (a) the standards of overall performance established under section 95(1)(b) above which are applicable to that undertaker; and
  - (b) that undertaker’s level of performance as respects each of those standards.
- (2) In giving any such direction, the Director shall not specify a frequency of less than once in every period of twelve months.
- (3) The duty of a sewerage undertaker to comply with this section shall be enforceable by the Director under section 18 above.]

**Textual Amendments**

- F3** S. 96A inserted (1.7.1992) by [Competition and Service \(Utilities\) Act 1992 \(c. 43\), s.32](#); [Competition and Service \(Utilities\) Act 1992 \(Commencement No. 1\) Order 1992, art. 3, Sch. Pt.I](#)

*Performance of sewerage undertaker’s functions by local authorities etc.*

**97 Performance of sewerage undertaker’s functions by local authorities etc.**

- (1) A relevant authority may, in accordance with any arrangements which it has entered into for the purpose with any sewerage undertaker, carry out sewerage functions on that undertaker’s behalf in relation to such area comprising the whole or any part of that authority’s relevant area, together (where that authority are a local authority or an urban development corporation and the arrangements so provide) with parts of any adjacent relevant areas of other relevant authorities, as may be specified in the arrangements.
- (2) Arrangements entered into for the purposes of this section may contain any such provision as may be agreed between the relevant authority and the sewerage undertaker but shall not affect the availability to any person, other than the relevant authority, of any remedy against the undertaker in respect of the carrying out of the undertaker’s sewerage functions or of any failure to carry them out.
- (3) It is hereby declared that, if arrangements entered into for the purposes of this section so provide, a relevant authority shall be entitled to exercise on behalf of a sewerage undertaker any power which by or under any enactment is exercisable by the undertaker for the purposes of, or in connection with, the carrying out of the undertaker’s sewerage functions.
- (4) Where arrangements entered into for the purposes of this section provide for a local authority to carry out the sewerage functions of a sewerage undertaker on the undertaker’s behalf, section 101 of the <sup>M1</sup>Local Government Act 1972 (delegation of functions), so far as it relates to the carrying out of functions by a committee, sub-committee or officer of a local authority, shall have effect in relation to those sewerage functions only in so far as the arrangements do not otherwise provide.

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(5) In this section—

“new town” has the same meaning as in the <sup>M2</sup>New Towns Act 1981;

“relevant area”—

- (a) in relation to a local authority, means the area of the authority and the whole of any new town or urban development area any part of which is situated within the area of the authority;
- (b) in relation to the Commission for the New Towns, means any new town;
- (c) in relation to the development corporation for any new town, means that new town;
  - (d) in relation to the Development Board for Rural Wales, means any new town situated within the area for which the Board is for the time being responsible; and
  - (e) in relation to any urban development corporation for any urban development area, means that area;

“relevant authority” means any of the following, that is to say—

- (a) a local authority;
- (b) the Commission for the New Towns, a development corporation for a new town or the Development Board for Rural Wales;
- (c) the urban development corporation for any urban development area;

“sewerage functions”, in relation to a sewerage undertaker, means any of the functions of the undertaker by virtue of its appointment under Chapter I of Part II of this Act as a sewerage undertaker, other than its functions relating to sewage disposal and its functions by virtue of Chapter III of this Part;

“urban development area” means any area so designated under Part XVI of the <sup>M3</sup>Local Government, Planning and Land Act 1980.

(6) Nothing in the <sup>M4</sup>Public Health Act 1875 (Support of Sewers) Amendment Act 1883 shall apply in relation to any sanitary work by virtue of this section; and in this section “sanitary work” has the same meaning as in that Act of 1883.

#### Marginal Citations

- M1** 1972 c. 70.
- M2** 1981 c. 64.
- M3** 1980 c. 65.
- M4** 1883 c. 37.

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