



Water Industry Act 1991

1991 CHAPTER 56

PART IV

SEWERAGE SERVICES

CHAPTER III

TRADE EFFLUENT

Consents on an application

119 Application for consent.

- (1) An application to a sewerage undertaker for a consent to discharge trade effluent from any trade premises into a public sewer of that undertaker shall be by notice served on the undertaker by the owner or occupier of the premises.
- (2) An application under this section with respect to a proposed discharge of any such effluent shall state—
 - (a) the nature or composition of the trade effluent;
 - (b) the maximum quantity of the trade effluent which it is proposed to discharge on any one day; and
 - (c) the highest rate at which it is proposed to discharge the trade effluent.

120 Applications for the discharge of special category effluent.

- (1) Subject to subsection (3) below, where a notice containing an application under section 119 above is served on a sewerage undertaker with respect to discharges of any special category effluent, it shall be the duty of the undertaker to refer to the Secretary of State the questions—
 - (a) whether the discharges to which the notice relates should be prohibited; and

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- (b) whether, if they are not prohibited, any requirements should be imposed as to the conditions on which they are made.
- (2) Subject to subsection (3) below, a reference which is required to be made by a sewerage undertaker by virtue of subsection (1) above shall be made before the end of the period of two months beginning with the day after the notice containing the application is served on the undertaker.
- (3) There shall be no obligation on a sewerage undertaker to make a reference under this section in respect of any application if, before the end of the period mentioned in subsection (2) above, there is a refusal by the undertaker to give any consent on the application.
- (4) It shall be the duty of a sewerage undertaker where it has made a reference under this section not to give any consent, or enter into any agreement, with respect to the discharges to which the reference relates at any time before the Secretary of State serves notice on the undertaker of his determination on the reference.
- (5) Every reference under this section shall be made in writing and shall be accompanied by a copy of the notice containing the application in respect of which it is made.
- (6) It shall be the duty of a sewerage undertaker, on making a reference under this section, to serve a copy of the reference on the owner or the occupier of the trade premises in question, according to whether the discharges to which the reference relates are to be by the owner or by the occupier.
- (7) Subject to subsection (8) below, the duties of a sewerage undertaker under this section shall be enforceable under section 18 above by the Secretary of State.
- (8) Where an application is made to the Secretary of State under section 18 above in respect of a failure by a sewerage undertaker to make a reference under this section, the Secretary of State may, instead of making an order under that section, proceed with the matter as if the application were the reference.

121 Conditions of consent.

- (1) The power of a sewerage undertaker, on an application under section 119 above, to give a consent with respect to the discharge of any trade effluent shall be a power to give a consent either unconditionally or subject to such conditions as the sewerage undertaker thinks fit to impose with respect to—
 - (a) the sewer or sewers into which the trade effluent may be discharged;
 - (b) the nature or composition of the trade effluent which may be discharged;
 - (c) the maximum quantity of trade effluent which may be discharged on any one day, either generally or into a particular sewer; and
 - (d) the highest rate at which trade effluent may be discharged, either generally or into a particular sewer.
- (2) Conditions with respect to all or any of the following matters may also be attached under this section to a consent to the discharge of trade effluent from any trade premises—
 - (a) the period or periods of the day during which the trade effluent may be discharged from the trade premises into the sewer;
 - (b) the exclusion from the trade effluent of all condensing water;

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- (c) the elimination or diminution, in cases falling within subsection (3) below, of any specified constituent of the trade effluent, before it enters the sewer;
 - (d) the temperature of the trade effluent at the time when it is discharged into the sewer, and its acidity or alkalinity at that time;
 - (e) the payment by the occupier of the trade premises to the undertaker of charges for the reception of the trade effluent into the sewer and for the disposal of the effluent;
 - (f) the provision and maintenance of such an inspection chamber or manhole as will enable a person readily to take samples, at any time, of what is passing into the sewer from the trade premises;
 - (g) the provision, testing and maintenance of such meters as may be required to measure the volume and rate of discharge of any trade effluent being discharged from the trade premises into the sewer;
 - (h) the provision, testing and maintenance of apparatus for determining the nature and composition of any trade effluent being discharged from the premises into the sewer;
 - (i) the keeping of records of the volume, rate of discharge, nature and composition of any trade effluent being discharged and, in particular, the keeping of records of readings of meters and other recording apparatus provided in compliance with any other condition attached to the consent; and
 - (j) the making of returns and giving of other information to the sewerage undertaker concerning the volume, rate of discharge, nature and composition of any trade effluent discharged from the trade premises into the sewer.
- (3) A case falls within this subsection where the sewerage undertaker is satisfied that the constituent in question, either alone or in combination with any matter with which it is likely to come into contact while passing through any sewers-
- (a) would injure or obstruct those sewers, or make the treatment or disposal of the sewage from those sewers specially difficult or expensive; or
 - (b) in the case of trade effluent which is to be or is discharged—
 - (i) into a sewer having an outfall in any harbour or tidal water; or
 - (ii) into a sewer which connects directly or indirectly with a sewer or sewage disposal works having such an outfall,would cause or tend to cause injury or obstruction to the navigation on, or the use of, the harbour or tidal water.
- (4) In the exercise of the power conferred by virtue of subsection (2)(e) above, regard shall be had—
- (a) to the nature and composition and to the volume and rate of discharge of the trade effluent discharged;
 - (b) to any additional expense incurred or likely to be incurred by a sewerage undertaker in connection with the reception or disposal of the trade effluent; and
 - (c) to any revenue likely to be derived by the undertaker from the trade effluent.
- (5) If, in the case of any trade premises, a condition imposed under this section is contravened, the occupier of the premises shall be guilty of an offence and liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum; and
 - (b) on conviction on indictment, to a fine.

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- (6) In this section “harbour” and “tidal water” have the same meanings as in the ^{M1}Merchant Shipping Act 1894.
- (7) This section has effect subject to the provisions of sections 133 and 135(3) below.

Marginal Citations

M1 1894 c. 60.

122 Appeals to the Director with respect to decisions on applications etc.

- (1) Any person aggrieved by—
- (a) the refusal of a sewerage undertaker to give a consent for which application has been duly made to the undertaker under section 119 above;
 - (b) the failure of a sewerage undertaker to give such a consent within the period of two months beginning with the day after service of the notice containing the application; or
 - (c) any condition attached by a sewerage undertaker to such a consent, may appeal to the Director.
- (2) On an appeal under this section in respect of a refusal or failure to give a consent, the Director may give the necessary consent, either unconditionally or subject to such conditions as he thinks fit to impose for determining any of the matters as respects which the undertaker has power to impose conditions under section 121 above.
- (3) On an appeal under this section in respect of a condition attached to a consent, the Director may take into review all the conditions attached to the consent, whether appealed against or not, and may—
- (a) substitute for them any other set of conditions, whether more or less favourable to the appellant; or
 - (b) annul any of the conditions.
- (4) The Director may, under subsection (3) above, include provision as to the charges to be made in pursuance of any condition attached to a consent for any period before the determination of the appeal.
- (5) On any appeal under this section, the Director may give a direction that the trade effluent in question shall not be discharged until a specified date.
- (6) Any consent given or conditions imposed by the Director under this section in respect of discharges of trade effluent shall have effect for the purposes of this Chapter as if given or imposed by the sewerage undertaker in question.
- (7) The powers of the Director under this section shall be subject to the provisions of sections 123, 128, 133, 135 and 137 below.

123 Appeals with respect to the discharge of special category effluent.

- (1) Where a reference is made to the Secretary of State under section 120 above, the period mentioned in paragraph (b) of subsection (1) of section 122 above shall not begin to run for the purposes of that subsection, in relation to the application to which

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the reference relates, until the beginning of the day after the Secretary of State serves notice on the sewerage undertaker in question of his determination on the reference.

- (2) If, on an appeal under section 122 above, it appears to the Director—
 - (a) that the case is one in which the sewerage undertaker in question is required to make a reference under section 120 above before giving a consent; and
 - (b) that the undertaker has not made such a reference, whether because the case falls within subsection (3) of that section or otherwise,the Director shall not be entitled to determine the appeal, otherwise than by upholding a refusal, except where the conditions set out in subsection (3) below are satisfied.
- (3) The conditions mentioned in subsection (2) above are satisfied if the Director—
 - (a) has himself referred the questions mentioned in section 120(1) above to the Secretary of State; and
 - (b) has been sent a copy of the notice of the Secretary of State's determination on the reference.
- (4) Every reference under this section shall be made in writing and shall be accompanied by a copy of the notice containing the application in respect of which the appeal and reference is made.
- (5) It shall be the duty of the Director, on making a reference under this section, to serve a copy of the reference—
 - (a) on the owner or the occupier of the trade premises in question, according to whether the discharges to which the reference relates are to be by the owner or by the occupier; and
 - (b) on the sewerage undertaker in question.

124 Variation of consents.

- (1) Subject to sections 128, 133 and 135(3) below, a sewerage undertaker may from time to time give a direction varying the conditions which have been attached to any of its consents under this Chapter to the discharge of trade effluent into a public sewer.
- (2) Subject to subsections (3) and (4) and section 125 below, no direction shall be given under this section with respect to a consent under this Chapter—
 - (a) within two years from the date of the consent; or
 - (b) where a previous direction has been given under this section with respect to that consent, within two years from the date on which notice was given of that direction.
- (3) Subsection (2) above shall not prevent a direction being given before the time specified in that subsection if it is given with the consent of the owner and occupier of the trade premises in question.
- (4) A direction given with the consent mentioned in subsection (3) above shall not affect the time at which any subsequent direction may be given.
- (5) The sewerage undertaker shall give to the owner and occupier of the trade premises to which a consent under this Chapter relates notice of any direction under this section with respect to that consent.
- (6) A notice under subsection (5) above shall—

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- (a) include information as to the right of appeal conferred by subsection (1) of section 126 below; and
 - (b) state the date, being a date not less than two months after the giving of the notice, on which (subject to subsection (2) of that section) the direction is to take effect.
- (7) For the purposes of this section references to the variation of conditions include references to the addition or annulment of a condition and to the attachment of a condition to a consent to which no condition was previously attached.

125 Variations within time limit.

- (1) A sewerage undertaker may give a direction under section 124 above before the time specified in subsection (2) of that section and without the consent required by subsection (3) of that section if it considers it necessary to do so in order to provide proper protection for persons likely to be affected by the discharges which could lawfully be made apart from the direction.
- (2) Subject to section 134(3) below, where a sewerage undertaker gives a direction by virtue of subsection (1) above, the undertaker shall be liable to pay compensation to the owner and occupier of the trade premises to which the direction relates, unless the undertaker is of the opinion that the direction is required—
- (a) in consequence of a change of circumstances which—
 - (i) has occurred since the beginning of the period of two years in question; and
 - (ii) could not reasonably have been foreseen at the beginning of that period;
 - and
 - (b) otherwise than in consequence of consents for discharges given after the beginning of that period.
- (3) Where a sewerage undertaker gives a direction by virtue of subsection (1) above and is of the opinion mentioned in subsection (2) above, it shall be the duty of the undertaker to give notice of the reasons for its opinion to the owner and occupier of the premises in question.
- (4) For the purposes of this section the circumstances referred to in subsection (2)(a) above may include the information available as to the discharges to which the consent in question relates or as to the interaction of those discharges with other discharges or matter.
- (5) The Secretary of State may by regulations make provision as to the manner of determining the amount of any compensation payable under this section, including the factors to be taken into account in determining that amount.

126 Appeals with respect to variations of consent.

- (1) The owner or occupier of any trade premises may—
- (a) within two months of the giving to him under subsection (5) of section 124 above of a notice of a direction under that section; or
 - (b) with the written permission of the Director, at any later time,
- appeal to the Director against the direction.

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- (2) Subject to subsection (3) below, if an appeal against a direction is brought under subsection (1) above before the date specified under section 124(6)(b) above in the notice of the direction, the direction shall not take effect until the appeal is withdrawn or finally disposed of.
- (3) In so far as the direction which is the subject of an appeal relates to the making of charges payable by the occupier of any trade premises, it may take effect on any date after the giving of the notice.
- (4) On an appeal under subsection (1) above with respect to a direction, the Director shall have power—
 - (a) to annul the direction given by the sewerage undertaker; and
 - (b) to substitute for it any other direction, whether more or less favourable to the appellant;and any direction given by the Director may include provision as to the charges to be made for any period between the giving of the notice by the sewerage undertaker and the determination of the appeal.
- (5) A person to whom notice is given in pursuance of section 125(3) above may, in accordance with regulations made by the Secretary of State, appeal to the Director against the notice on the ground that compensation should be paid in consequence of the direction to which the notice relates.
- (6) On an appeal under subsection (5) above the Director may direct that section 125 above shall have effect as if the sewerage undertaker in question were not of the opinion to which the notice relates.
- (7) Any consent given or conditions imposed by the Director under this section in respect of discharges of trade effluent shall have effect for the purposes of this Chapter as if given or imposed by the sewerage undertaker in question.
- (8) The powers of the Director under this section shall be subject to the provisions of sections 133, 135 and 137 below.

127 Review by the Secretary of State of consents relating to special category effluent.

- (1) Where any person, as the owner or occupier of any trade premises, is (whether or not in accordance with a notice under section 132 below) for the time being authorised by virtue of a consent under this Chapter to make discharges of any special category effluent from those premises into a sewerage undertaker's public sewer, the Secretary of State may review the questions—
 - (a) whether the discharges authorised by the consent should be prohibited; and
 - (b) whether, if they are not prohibited, any requirements should be imposed as to the conditions on which they are made.
- (2) Subject to subsection (3) below, the Secretary of State shall not review any question under this section unless—
 - (a) the consent or variation by virtue of which the discharges in question are made has not previously been the subject-matter of a review and was given or made—
 - (i) before 1st September 1989; or
 - (ii) in contravention of section 133 below;

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- (b) a period of more than two years has elapsed since the time, or last time, when notice of the Secretary of State's determination on any reference or review relating to that consent or the consent to which that variation relates was served under section 132 below on the owner or occupier of the trade premises in question; or
 - (c) there has, since the time, or last time, when such a notice was so served, been a contravention of any provision which was included in compliance with a requirement of a notice under section 132 below in the consent or variation by virtue of which the discharges in question are made.
- (3) Subsection (2) above shall not apply if the review is carried out—
- (a) for the purpose of enabling Her Majesty's Government in the United Kingdom to give effect to any Community obligation or to any international agreement to which the United Kingdom is for the time being a party; or
 - (b) for the protection of public health or of flora and fauna dependent on an aquatic environment.

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