



Water Industry Act 1991

1991 CHAPTER 56

PART VI

UNDERTAKERS' POWERS AND WORKS

CHAPTER I

UNDERTAKERS' POWERS

Other works powers

160 Power to carry out works for sewerage purposes.

- (1) A sewerage undertaker may, by agreement with the owner or occupier of any premises, carry out at that person's expense—
- (a) any work in connection with the construction, laying, alteration or repair of a sewer or drain which that person is entitled to carry out; or
 - (b) any work which the undertaker has required that person to carry out under Part IV of this Act;
- and for that purpose the undertaker shall have all such rights as that person would have.
- (2) Sections 291, 293 and 294 of the ^{M1}Public Health Act 1936 (which provide for the means of, and for limitations on, the recovery of expenses incurred by a local authority) shall apply in relation to the recovery by a sewerage undertaker of any sums under this section as they apply in relation to the recovery of expenses under that Act by a local authority.

Marginal Citations

M1 1936 c. 49.

Changes to legislation: Water Industry Act 1991, Cross Heading: Other works powers is up to date with all changes known to be in force on or before 21 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

161 Power to deal with foul water and pollution.

(1) Subject to the provisions of Chapter III of this Part, every relevant undertaker shall, for the purpose of carrying out its functions, have power—

- (a) to carry out in a street all such works as are requisite for securing that the water in any relevant waterworks is not polluted or otherwise contaminated; and
- (b) to carry out any works requisite for, or incidental to, the purposes of any works falling within paragraph (a) above, including for those purposes the following kinds of works, that is to say—
 - (i) breaking up or opening a street;
 - (ii) tunnelling or boring under a street;
 - (iii) breaking up or opening a sewer, drain or tunnel;
 - (iv) moving or removing earth and other materials;

and the provisions of section 158 above shall, so far as applicable, have effect in relation to the powers conferred by this subsection as they have effect in relation to the powers conferred by subsection (1) of that section.

(2) Subject to the provisions of Chapter III of this Part, every relevant undertaker shall, for the purpose of carrying out its functions, have power—

- (a) to carry out on any land which is not in, under or over a street all such works as are requisite for securing that the water in any relevant waterworks is not polluted or otherwise contaminated; and
- (b) to carry out any works requisite for, or incidental to, the purposes of any works falling within paragraph (a) above;

and the provisions of section 159 above shall, so far as applicable, have effect in relation to the powers conferred by this subsection as they have effect in relation to the powers conferred by subsection (1) of that section.

(3) Without prejudice to the powers conferred by subsections (1) and (2) above but subject to the provisions of Chapter III of this Part, every water undertaker shall have power, on any land which belongs to that undertaker or over or in which that undertaker has acquired the necessary easements or rights, to construct and maintain drains, sewers, watercourses, catchpits and other works for the purpose—

- (a) of intercepting, treating or disposing of any foul water arising or flowing upon that land; or
- (b) of otherwise preventing the pollution—
 - (i) of any waters, whether on the surface or underground, which belong to ^{F1}the Environment Agency^{F2} or the NRBW] or any water undertaker or from which ^{F1}the Environment Agency^{F2} or the NRBW] or any water undertaker is authorised to take water;
 - (ii) without prejudice to sub-paragraph (i) above, of any reservoir which belongs to or is operated by ^{F1}the Environment Agency^{F2} or the NRBW] or any water undertaker or which ^{F1}the Environment Agency^{F2} or the NRBW] or any water undertaker is proposing to acquire or construct for the purpose of being so operated; or
 - (iii) of any underground strata from which ^{F1}the Environment Agency^{F2} or the NRBW] or any water undertaker is for the time being authorised to abstract water in pursuance of a licence under Chapter II of Part II of the ^{M2}Water Resources Act 1991.

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- (4) Where any water undertaker is proposing to carry out any such works as are mentioned in subsection (3) above and the proposed works will affect any watercourse, the undertaker shall consult [^{F1}the Environment Agency][^{F3}, where the proposed works will affect any watercourse in England, and the NRBW, where the proposed works will affect any watercourse in Wales,] before carrying out the works.
- (5) Without prejudice to the protective provisions of Chapter III of this Part, nothing in subsection (3) above shall authorise any water undertaker, without the consent of the navigation authority in question, to intercept or take any water which a navigation authority are authorised to take or use for the purposes of their undertaking.
- (6) Any dispute as to whether any consent for the purposes of subsection (5) above is being unreasonably withheld 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.
- (7) In section 158 above the references to the laying of a relevant pipe shall include references-
- (a) to the laying of any drain or sewer for any of the purposes mentioned in subsection (3)(a) and (b) above; and
 - (b) to the construction of a watercourse for any of those purposes.
- (8) In this section—
- “the protective provisions of Chapter III of this Part” means the provisions of sections 183 to 191 below;
- “relevant waterworks” means any waterworks which contain water which is or may be used by a water undertaker for providing a supply of water to any premises; and
- “waterworks” includes any water main, resource main, service pipe or discharge pipe and any spring, well, adit, borehole, service reservoir or tank.

Textual Amendments

- F1** Words in s. 161(3)(4) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 117** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F2** Words in s. 161(3)(b) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), **art. 1(2)**, **Sch. 2 para. 250(2)** (with Sch. 7)
- F3** Words in s. 161(4) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), **art. 1(2)**, **Sch. 2 para. 250(3)** (with Sch. 7)

Modifications etc. (not altering text)

- C1** S. 161 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. 12(3)** (with **reg. 1(1)(c)**)

Marginal Citations

- M2** 1991 c. 57.

162 Works in connection with metering.

- (1) Subject to the following provisions of this section, to section 148 above and to the provisions of Chapter III of this Part, where—

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- [^{F4}(a) subsection (1A) below applies to a relevant undertaker in respect of any premises; and]
- (b) there is either—
- (i) a service pipe which is connected with a water undertaker's water main and by which a supply of water is or could be provided to those premises or to any building in which those premises are contained; or
 - (ii) a drain or private sewer which connects those premises with a public sewer,

the undertaker shall have power, in accordance with section 172 below or otherwise, to carry out any works specified in subsection (3) below.

- [^{F5}(1A) This subsection applies to a relevant undertaker in respect of any premises if—
- (a) the undertaker has fixed any charges in relation to any premises by reference to volume, [^{F6}or]
 - (b) the undertaker is entitled so to fix any charges because the person who is the consumer in relation to the premises for the purposes of Chapter I of Part V of this Act has exercised his right to give—
 - (i) a measured charges notice under section 144A above, or
 - (ii) any consent for the purposes of section 144B(2)(a)(ii) above,
 and has not revoked the measured charges notice or consent under section 144A, or
 - (c) the undertaker has given notice of its intention of so fixing any charges—
 - (i) within the period specified in the notice, or
 - (ii) in a case where it is not for the time being entitled so to fix the charges, if and when it becomes entitled to do so [^{F7}or
 - (d) a [^{F8}water supply licensee] supplies water to those premises using the undertaker's supply system[^{F9}, or
 - (e) a sewerage licensee provides sewerage services in respect of those premises using the undertaker's sewerage system.]]

[^{F10}(1B) In subsection (1A)(d) above, the reference to the supply system of a water undertaker shall be construed in accordance with [^{F11}section 17B] above.]

[^{F12}(1C) In subsection (1A)(e) above, the reference to the sewerage system of a sewerage undertaker shall be construed in accordance with section 17BA.]

- (2) The power under subsection (1) above to carry out works specified in subsection (3) below shall include power to carry out any such works in a street; and the power conferred by virtue of subsection (1)(c) of section 158 above and subsection (6) of that section shall apply in relation to the power conferred by this subsection as they apply in relation to the powers conferred by that section.
- (3) The works mentioned in subsections (1) and (2) above are, in relation to any premises—
 - (a) works consisting in the installation and connection of any meter for use in determining the amount of any charges which have been or may be fixed in relation to the premises;
 - (b) where the premises comprise a house which is one of two or more houses to which the supply of water is wholly or partly by the same service pipe, works consisting in the installation and connection, for any purpose connected with

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- the installation or connection of such a meter, of a separate service pipe for that house;
- (c) works for the purpose of maintaining, repairing, disconnecting or removing—
- (i) any meter which has been installed for use in determining the amount of any charges which have been or may be fixed in relation to the premises; or
 - (ii) any pipes or apparatus installed in the course of any works specified in this section;
- and
- (d) any other works appearing to the undertaker to be necessary or expedient for any purpose connected with the carrying out of any works specified in paragraph (a), (b) or (c) above, including the installation and connection of any pipes or other apparatus on the premises and the alteration or removal of any of the plumbing of the premises.
- (4) A notice given for the purposes of subsection (1)(a) above may relate to particular premises or to any description of premises and shall be given—
- (a) by publishing the notice in the locality in which the premises to which it relates are situated in such a manner as the undertaker considers appropriate for bringing it to the attention of the persons likely to be affected by it; and
 - (b) by serving a copy of the notice on the Secretary of State.
- (5) Subject to subsection (6) below, any works carried out by a water undertaker by virtue of the provisions of this section shall be necessary works for the purposes of Chapter II of Part III of this Act.
- (6) Nothing in this section shall prevent the exercise by a water undertaker of its power by virtue of subsection (3)(b) of section 64 above to impose a condition by virtue of subsection (2)(c) or (d) of section 47 above in a case where it has, under the said section 64, required the provision of a separate service pipe to any premises.
- (7) Part II of Schedule 6 to this Act shall apply to the powers conferred by this section.
- (8) Any dispute between a relevant undertaker and any other person (including another such undertaker) as to the exercise of any power under this section to carry out any works on any premises shall be referred to the arbitration of a single arbitrator appointed—
- (a) by agreement between the undertaker and that person; or
 - (b) in default of agreement, by the Director.
- (9) Without prejudice to subsection (2) above, nothing in section 158, 159 or 161 above shall authorise the installation of any apparatus for measuring or showing the volume of water supplied to, or of effluent discharged from, any premises where that apparatus is to be used for the purpose only of determining the amount of any charges fixed, or to be fixed, in relation to those premises wholly or partly by reference to the volume of that water or effluent.

Textual Amendments

- F4** S. 162(1)(a) substituted (1.4.2000) by 1999 c. 9, s. 10(1)(2); S.I. 1999/3440, art. 3
- F5** S. 162(1A) inserted (1.4.2000) by 1999 c. 9, s.10(1)(3); S.I. 1999/3440, art. 3
- F6** Word in s. 162(1A)(a) inserted (1.12.2005) by Water Act 2003 (c. 37), ss. 101(1), 105(3), Sch. 8 para. 37(2); S.I. 2005/2714, art. 3(c) (with Sch. para. 8)

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- F7** S. 162(1A)(d) and preceding word inserted (1.12.2005) by Water Act 2003 (c. 37), ss. 101(1), 105(3), **Sch. 8 para. 37(3)**; S.I. 2005/2714, **art. 3(c)** (with Sch. para. 8)
- F8** Words in s. 162(1A)(d) substituted (1.4.2016) by Water Act 2014 (c. 21), s. 94(3), **Sch. 7 para. 105(2)(a)**; S.I. 2016/465, **art. 2(m)**, Sch. 1 para. 1(s) (with Sch. 2) (as amended (22.3.2017) by S.I. 2017/462, art. 16)
- F9** S. 162(1A)(e) and word inserted (1.4.2017) by Water Act 2014 (c. 21), s. 94(3), **Sch. 7 para. 105(2)(b)**; S.I. 2017/462, **art. 3(k)(xvi)**
- F10** S. 162(1B) inserted (1.12.2005) by Water Act 2003 (c. 37), ss. 101(1), 105(3), **Sch. 8 para. 37(4)**; S.I. 2005/2714, **art. 3(c)** (with Sch. para. 8)
- F11** Words in s. 162(1B) substituted (1.4.2017) by Water Act 2014 (c. 21), s. 94(3), **Sch. 7 para. 105(3)**; S.I. 2017/462, **art. 3(k)(xvi)**
- F12** S. 162(1C) inserted (1.4.2017) by Water Act 2014 (c. 21), s. 94(3), **Sch. 7 para. 105(4)**; S.I. 2017/462, **art. 3(k)(xvi)**

163 Power to fit stopcocks.

- (1) Subject to subsection (2) below and without prejudice to section 159 above, a water undertaker shall have power, at its own expense, to fit a stopcock to any service pipe by which a supply of water is or is to be provided to any premises by the undertaker [^{F13}or [^{F14}a water supply licensee]], whether that pipe belongs to the undertaker or to any other person.
- (2) A stopcock fitted in private premises by a water undertaker to any service pipe shall be situated as near as practicable to any street from which that pipe enters those premises.

Textual Amendments

- F13** Words in s. 163(1) inserted (1.12.2005) by Water Act 2003 (c. 37), ss. 101(1), 105(3), **Sch. 8 para. 38**; S.I. 2005/2714, **art. 3(c)** (with Sch. para. 8)
- F14** Words in s. 163(1) substituted (1.4.2016) by Water Act 2014 (c. 21), s. 94(3), **Sch. 7 para. 106**; S.I. 2016/465, **art. 2(m)**, Sch. 1 para. 1(t) (with Sch. 2) (as amended (22.3.2017) by S.I. 2017/462, art. 16)

Modifications etc. (not altering text)

- C2** S. 163 restricted (1.4.1996) by 1980 c. 66, **s. 100(6B)(b)** (as inserted (1.4.1996) by 1994 c. 19, s. 22(1), **Sch. 7 Pt. I para. 9** (with ss. 54(5)(7), 55(5)); S.I. 1996/396, **art. 3**, **Sch. 1**)

164 Agreements for works with respect to water sources.

- (1) A water undertaker may enter into agreements under this section with the owners and occupiers of any land, or with a local authority, with respect to the carrying out and maintenance by any party to the agreement of such works as the undertaker considers necessary—
- (a) for the purpose of draining that land; or
 - (b) for more effectually collecting, conveying or preserving the purity of any water which the undertaker is for the time being authorised to take.
- (2) Before entering into an agreement under this section with respect to the carrying out of works the carrying out of which would result in the discharge of any water into a watercourse otherwise than through public sewers, a water undertaker shall consult [^{F15}—

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- (a) the Environment Agency, if the proposed works will affect any watercourse in England,
 - (b) the NRBW, if the proposed works will affect any watercourse in Wales, and
 - (c) if the watercourse] is subject to the jurisdiction of a navigation authority, that authority.
- (3) An agreement under this section with the owner of any land which is expressed to be binding on and enforceable against the owner's successors in title to that land—
- (a) may be registered under section 2 of the ^{M3}Land Charges Act 1972 as an obligation affecting land falling within Class D; and
 - (b) shall be so binding and enforceable unless it is void by reason of a failure so to register it.
- (4) In this section the reference to a local authority includes a reference to a county council and to the Sub-Treasurer of the Inner Temple and the Under-Treasurer of the Middle Temple; and any expenses incurred by the Common Council of the City of London in the exercise of their functions under this section shall be defrayed as part of their general expenses.

Textual Amendments

F15 Words in s. 164(2) substituted (14.7.2014) by [Water Act 2014 \(c. 21\)](#), s. 94(2)(t), [Sch. 7 para. 107](#)

Marginal Citations

M3 1972 c. 61.

Changes to legislation:

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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