



Water Resources Act 1991

1991 CHAPTER 57

PART VII

LAND AND WORKS POWERS

CHAPTER I

POWERS OF THE [F1 AGENCY]

Powers to discharge water

163 Discharges for works purposes.

- (1) Subject to the following provisions of this section and to section 164 below, where the [F1 Agency]—
- (a) is carrying out, or is about to carry out, the construction, alteration, repair, cleaning, or examination of any reservoir, well, borehole or other work belonging to or used by the [F1 Agency] for the purposes of, or in connection with, the carrying out of any of its functions; or
 - (b) is exercising or about to exercise any power conferred by section 159, 160 or 162(2) or (3) above,
- the [F1 Agency] may cause the water in any relevant pipe or in any such reservoir, well, borehole or other work to be discharged into any available watercourse.
- (2) Nothing in this section shall authorise any discharge which—
- (a) damages or injuriously affects the works or property of any railway company or navigation authority; or
 - (b) floods or damages any highway.
- (3) If the [F1 Agency] fails to take all necessary steps to secure that any water discharged by it under this section is as free as may be reasonably practicable from—
- (a) mud and silt;

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- (b) solid, polluting, offensive or injurious substances; and
- (c) any substances prejudicial to fish or spawn, or to spawning beds or food of fish,

it shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

(4) In this section—

“railway company” means the British Railways Board, London Regional Transport or any other person authorised by any enactment, or by any order, rule or regulation made under any enactment, to construct, work or carry on a railway; and

“relevant pipe” has the same meaning as in section 159 above.

Textual Amendments

- F1** Words in s. 163 substituted (subject to the other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

164 Consents for certain discharges under section 163.

- (1) Except in an emergency, no discharge through any pipe the diameter of which exceeds two hundred and twenty-nine millimetres shall be made under section 163 above except with such consent as may be prescribed.
- (2) Where the [^{F2}Agency] makes an application to any person for a consent for the purposes of this section—
 - (a) that application shall be accompanied or supplemented by all such information as that person may reasonably require; and
 - (b) the [^{F2}Agency] shall serve a copy of the application, and of any consent given on that application, on every person who—
 - (i) is registered with the [^{F2}Agency] in respect of any premises which are within three miles of the place where the discharge to which the application relates is proposed to be made and are not upstream from that place; and
 - (ii) has not agreed in writing that he need not be served with such a copy;
- (3) Subject to subsection (4) below, an application for a consent for the purposes of this section shall be determined—
 - (a) in the case of an application with respect to a particular discharge, before the end of the period of seven days beginning with the day after the application is made; and
 - (b) in any other case, before the end of the period of three months beginning with that day;

and, subject to that subsection, where an application for any consent is required to be determined within the period specified in paragraph (a) above and is not so determined, the consent applied for shall be deemed to have been given unconditionally.

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- (4) Where—
- (a) the [Agency], having made an application to any person for a consent for the purposes of this section, has failed to comply with its obligation under subsection (2)(a) above to supplement that application with information required by that person; and
 - (b) that requirement was made by that person at such a time before the end of the period within which he is required to determine the application as gave the [^{F2}Agency] a reasonable opportunity to provide the required information within that period,
- that person may delay his determination of the application until a reasonable time after the required information is provided.
- (5) A consent for the purposes of this section may relate to a particular discharge or to discharges of a particular description and may be made subject to such reasonable conditions as may be specified by the person giving it; but a consent for those purposes shall not be unreasonably withheld.
- (6) Any dispute as to whether a consent for the purposes of this section should be given or withheld, or as to whether the conditions to which any such consent is made subject are reasonable, shall be referred to the arbitration of a single arbitrator appointed by agreement between the parties to the dispute or, in default of agreement, by the President of the Institution of Civil Engineers.
- (7) Where any discharge under section 163 above is made in an emergency without the consent which, if there were no emergency, would be required by virtue of this section, the [^{F2}Agency] shall, as soon as practicable after making the discharge, serve a notice which—
- (a) states that the discharge has been made; and
 - (b) gives such particulars of the discharge and of the emergency as the persons served with the notice might reasonably require,
- on every person on whom the [^{F2}Agency] would have been required to serve the application for that consent or any copy of that application.
- (8) If the [^{F2}Agency] contravenes, without reasonable excuse, any of the requirements of this section or any condition of a consent given for the purposes of this section, it shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.
- (9) Nothing in this section shall require any consent to be obtained, or any notice to be served, in respect of any discharge if the requirements of section 34 of the ^{M1}Water Act 1945 (temporary discharges into watercourses) in relation to that discharge had been satisfied before 1st September 1989.

Textual Amendments

F2 Words in s. 164 substituted (subject to the other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

Marginal Citations

M1 1945 c. 42.

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