



Water Resources Act 1991

1991 CHAPTER 57

PART VIII

INFORMATION PROVISIONS

Annual report and publication of information

F1 187

Textual Amendments

F1 S. 187 repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 168, Sch. 24 (with ss. 7(6), 115, 117); S.I. 1996/186, art. 3 (with art. 4)

188 Duty of [^{F2}Agency] to publish certain information.

It shall be the duty of the [^{F2}Agency]—

- (a) to collate and publish information from which assessments can be made of the actual and prospective demand for water, and of actual and prospective water resources, in England and Wales; and
- (b) so far as it considers it appropriate to do so, to collaborate with others in collating and publishing any such information or any similar information in relation to places outside England and Wales.

Textual Amendments

F2 Words in s. 188 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1), Sch. 22 para. 128 (with ss. 7(6), 115, 117); S.I. 1996/186, art. 3 (with art. 4)

Status: Point in time view as at 31/10/2003.

Changes to legislation: There are currently no known outstanding effects for the Water Resources Act 1991, Part VIII. (See end of Document for details)

Registers etc. to be kept by the [F3 Agency]

Textual Amendments

- F3** Words in cross-heading substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with **art. 4**)

189 Register of abstraction and impounding licences.

- (1) The [F4 Agency] shall keep, in such manner as may be prescribed, registers containing such information as may be prescribed with respect—
- (a) to applications made for the grant, revocation or variation of licences under Chapter II of Part II of this Act, including information as to the way in which such applications have been dealt with; and
 - (b) to persons becoming the holders of such licences by virtue of section 49 above of this Act or regulations made under section 50 above.
- (2) Every register kept by the [F4 Agency] under this section shall also contain such information as may be prescribed with respect—
- (a) to applications made in accordance with regulations under section 64 above; and
 - (b) to licences granted or deemed to be granted, and licences revoked or varied, in accordance with regulations made under that section.
- (3) Subject to any regulations under this section, the information which the [F4 Agency] is required to keep in registers under this section shall continue to include the information which immediately before 1st September 1989 was contained in a register kept by a water authority under section 53 of the ^{M1}Water Resources Act 1963.
- (4) The contents of every register kept under this section shall be available, at such place as may be prescribed, for inspection by the public at all reasonable hours.

Textual Amendments

- F4** Words in s. 189 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with **art. 4**)

Marginal Citations

- M1** 1963 c. 38.

190 Pollution control register.

- (1) It shall be the duty of the [F5 Agency] to maintain, in accordance with regulations made by the Secretary of State, registers containing prescribed particulars of [F6 or relating to]—
- (a) any notices of water quality objectives or other notices served under section 83 above;
 - (b) applications made for consents under Chapter II of Part III of this Act;
 - (c) consents given under that Chapter and the conditions to which the consents are subject;

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- ^{F7}(d)
- (e) the following, that is to say—
- (i) samples of water or effluent taken by the [^{F5}Agency] for the purposes of any of the water pollution provisions of this Act;
 - (ii) information produced by analyses of those samples;
 - (iii) such information with respect to samples of water or effluent taken by any other person, and the analyses of those samples, as is acquired by the [^{F5}Agency] from any person under arrangements made by the [^{F5}Agency] for the purposes of any of those provisions; and
 - (iv) the steps taken in consequence of any such information as is mentioned in any of sub-paragraphs (i) to (iii) above;

^{F8}

- ^{F8}(f)
- ^{F9}(g) applications made to the Agency for the variation of discharge consents;
- (h) enforcement notices served under section 90B above;
 - (j) revocations, under paragraph 7 of Schedule 10 to this Act, of discharge consents;
 - (k) appeals under section 91 above;
 - (l) directions given by the Secretary of State in relation to the Agency's functions under the water pollution provisions of this Act;
 - (m) convictions, for offences under Part III of this Act, of persons who have the benefit of discharge consents;
 - (n) information obtained or furnished in pursuance of conditions of discharge consents;
 - (o) works notices under section 161A above;
 - (p) appeals under section 161C above;
 - (q) convictions for offences under section 161D above;
 - (r) such other matters relating to the quality of water or the pollution of water as may be prescribed by the Secretary of State.

(1A) Where information of any description is excluded from any register by virtue of section 191B below, a statement shall be entered in the register indicating the existence of information of that description.]

- (2) It shall be the duty of the [^{F5}Agency]—
- (a) to secure that the contents of registers maintained by the [^{F5}Agency] under this section are available, at all reasonable times, for inspection by the public free of charge; and
 - (b) to afford members of the public reasonable facilities for obtaining from the [^{F5}Agency], on payment of reasonable charges, copies of entries in any of the registers.

[^{F10}and, for the purposes of this subsection, places may be prescribed by the Secretary of State at which any such registers or facilities as are mentioned in paragraph (a) or (b) above are to be available or afforded to the public in pursuance of the paragraph in question.]

- (3) Section 101 above shall have effect in relation to any regulations under this section as it has effect in relation to any subordinate legislation under Part III of this Act.

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[^{F11}(4) The Secretary of State may give to the Agency directions requiring the removal from any register maintained by it under this section of any specified information which is not prescribed for inclusion under subsection (1) above or which, by virtue of section 191A or 191B below, ought to have been excluded from the register.

(5) In this section “discharge consent” has the same meaning as in section 91 above.]

Textual Amendments

- F5** Words in s. 190 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)
- F6** Words in s. 190(1) inserted (21.11.1996 for certain purposes and 31.12.1996 otherwise) by 1995 c. 25, s. 120(1), **Sch. 22 para. 169(2)** (with ss. 7(6), 115, 117); S.I. 1996/2909, **arts. 2, 3** (subject to saving provisions in art. 4)
- F7** S. 190(1)(d) repealed (21.11.1996 for certain purposes and 31.12.1996 otherwise) by 1995 c. 25, s. 120(1)(3), **Sch. 22 para. 169(3), Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/2909, **arts. 2, 3** (subject to saving provisions in art. 4)
- F8** S. 190(1)(f) and word preceding it repealed (21.11.1996 for certain purposes and 31.12.1996 otherwise) by 1995 c. 25, s. 120(1)(3), **Sch. 22 para. 169(4), Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/2909, **arts. 2, 3** (subject to saving provisions in art. 4)
- F9** S. 190(1)(g)-(r)(1A) added (21.11.1996 for certain purposes and 31.12.1996 otherwise) by 1995 c. 25, s. 120(1), **Sch. 22 para. 169(4)** (with ss. 7(6), 115, 117); S.I. 1996/2909, **arts. 2, 3** (subject to saving provisions in art. 4)
- F10** Words in s. 190(2) added (21.11.1996 for certain purposes and 31.12.1996 otherwise) by 1995 c. 25, s. 120(1), **Sch. 22 para. 169(5)** (with ss. 7(6), 115, 117); S.I. 1996/2909, **arts. 2, 3** (subject to saving provisions in art. 4)
- F11** S. 190(4)(5) added (21.11.1996 for certain purposes and 31.12.1996 otherwise) by 1995 c. 25, s. 120(1), **Sch. 22 para. 169(6)** (with ss. 7(6), 115, 117); S.I. 1996/2909, **arts. 2, 3** (subject to saving provisions in art. 4)

Modifications etc. (not altering text)

- C1** S. 190 amended (27.8.1993) by 1993 c. 12, ss. 40, 51(2), **Sch. 3 Pt. I para. 9** (with s. 46).

191 Register for the purposes of works discharges.

- (1) The [^{F12}Agency] shall keep a register of persons and premises for the purposes of section 164 above.
- (2) The [^{F12}Agency] shall enter the name and address of a person in that register in respect of any premises which abut on any watercourse if that person has requested to be so registered and is either—
 - (a) the owner or occupier of those premises; or
 - (b) an officer of an association of owners or occupiers of premises which abut on that watercourse and include those premises.
- (3) If the [^{F12}Agency] contravenes, without reasonable excuse, any of the requirements 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.

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Changes to legislation: There are currently no known outstanding effects for the Water Resources Act 1991, Part VIII. (See end of Document for details)

Textual Amendments

F12 Words in s. 191 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

[^{F13}191A Exclusion from registers of information affecting national security.

- (1) No information shall be included in a register kept or maintained by the Agency under any provision of this Act if and so long as, in the opinion of the Secretary of State, the inclusion in such a register of that information, or information of that description, would be contrary to the interests of national security.
- (2) The Secretary of State may, for the purpose of securing the exclusion from registers of information to which subsection (1) above applies, give to the Agency directions—
 - (a) specifying information, or descriptions of information, to be excluded from their registers; or
 - (b) specifying descriptions of information to be referred to the Secretary of State for his determination;and no information referred to the Secretary of State in pursuance of paragraph (b) above shall be included in any such register until the Secretary of State determines that it should be so included.
- (3) The Agency shall notify the Secretary of State of any information it excludes from a register in pursuance of directions under subsection (2) above.
- (4) A person may, as respects any information which appears to him to be information to which subsection (1) above may apply, give a notice to the Secretary of State specifying the information and indicating its apparent nature; and, if he does so—
 - (a) he shall notify the Agency that he has done so; and
 - (b) no information so notified to the Secretary of State shall be included in any such register until the Secretary of State has determined that it should be so included.]

Textual Amendments

F13 S. 191A inserted (21.11.1996 for certain purposes and 31.12.1996 otherwise) by 1995 c. 25, s. 120(1), **Sch. 22 para. 170** (with ss. 7(6), 115, 117); S.I. 1996/2909, **arts. 2, 3** (subject to saving provisions in art. 4)

Modifications etc. (not altering text)

C2 S. 191A applied (with modifications) (1.4.1999) by S.I. 1998/2746, **reg. 14(3)**

[^{F14}191B Exclusion from registers of certain confidential information.

- (1) No information relating to the affairs of any individual or business shall, without the consent of that individual or the person for the time being carrying on that business, be included in a register kept or maintained by the Agency under any provision of this Act, if and so long as the information—
 - (a) is, in relation to him, commercially confidential; and

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(b) is not required to be included in the register in pursuance of directions under subsection (7) below;

but information is not commercially confidential for the purposes of this section unless it is determined under this section to be so by the Agency or, on appeal, by the Secretary of State.

- (2) Where information is furnished to the Agency for the purpose of—
- (a) an application for a discharge consent or for the variation of a discharge consent,
 - (b) complying with any condition of a discharge consent, or
 - (c) complying with a notice under section 202 below,

then, if the person furnishing it applies to the Agency to have the information excluded from any register kept or maintained by the Agency under any provision of this Act, on the ground that it is commercially confidential (as regards himself or another person), the Agency shall determine whether the information is or is not commercially confidential.

- (3) A determination under subsection (2) above must be made within the period of fourteen days beginning with the date of the application and if the Agency fails to make a determination within that period it shall be treated as having determined that the information is commercially confidential.

- (4) Where it appears to the Agency that any information (other than information furnished in circumstances within subsection (2) above) which has been obtained by the Agency under or by virtue of any provision of any enactment might be commercially confidential, the Agency shall—

- (a) give to the person to whom or whose business it relates notice that that information is required to be included in a register kept or maintained by the Agency under any provision of this Act, unless excluded under this section; and
- (b) give him a reasonable opportunity—
 - (i) of objecting to the inclusion of the information on the ground that it is commercially confidential; and
 - (ii) of making representations to the Agency for the purpose of justifying any such objection;

and, if any representations are made, the Agency shall, having taken the representations into account, determine whether the information is or is not commercially confidential.

- (5) Where, under subsection (2) or (4) above, the Agency determines that information is not commercially confidential—

- (a) the information shall not be entered on the register until the end of the period of twenty-one days beginning with the date on which the determination is notified to the person concerned; and
- (b) that person may appeal to the Secretary of State against the decision;

and, where an appeal is brought in respect of any information, the information shall not be entered on the register until the end of the period of seven days following the day on which the appeal is finally determined or withdrawn.

- (6) Subsections (2A), (2C) and (2K) of section 91 above shall apply in relation to appeals under subsection (5) above; but—

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- (a) subsection (2C) of that section shall have effect for the purposes of this subsection with the substitution for the words from “(which may” onwards of the words “(which must be held in private)”; and
 - (b) subsection (5) above is subject to section 114 of the 1995 Act (delegation or reference of appeals etc).
- (7) The Secretary of State may give to the Agency directions as to specified information, or descriptions of information, which the public interest requires to be included in registers kept or maintained by the Agency under any provision of this Act notwithstanding that the information may be commercially confidential.
- (8) Information excluded from a register shall be treated as ceasing to be commercially confidential for the purposes of this section at the expiry of the period of four years beginning with the date of the determination by virtue of which it was excluded; but the person who furnished it may apply to the Agency for the information to remain excluded from the register on the ground that it is still commercially confidential and the Agency shall determine whether or not that is the case.
- (9) Subsections (5) and (6) above shall apply in relation to a determination under subsection (8) above as they apply in relation to a determination under subsection (2) or (4) above.
- (10) The Secretary of State may by regulations substitute (whether in all cases or in such classes or descriptions of case as may be specified in the regulations) for the period for the time being specified in subsection (3) above such other period as he considers appropriate.
- (11) Information is, for the purposes of any determination under this section, commercially confidential, in relation to any individual or person, if its being contained in the register would prejudice to an unreasonable degree the commercial interests of that individual or person.
- (12) In this section “discharge consent” has the same meaning as in section 91 above.]

Textual Amendments

- F14** S. 191B inserted (21.11.1996 for certain purposes and 31.12.1996 otherwise) by 1995 c. 25, s. 120(1), **Sch. 22 para. 170** (with ss. 7(6), 115, 117); S.I. 1996/2909, **arts. 2, 3** (subject to saving provisions in art. 4)

Modifications etc. (not altering text)

- C3** S. 191B applied (with modifications) (1.4.1999) by S.I. 1998/2746, **reg. 14(3)**
- C4** S. 191B(5): power to delegate functions conferred (1.4.1996) by 1995 c. 25, **s. 114(2)(a)(v)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

192 Maps of fresh-water limits.

- (1) The Secretary of State—
- (a) shall deposit maps with the [^{F15}Agency] showing what appear to him to be the fresh-water limits of every relevant river or watercourse; and
 - (b) may from time to time, if he considers it appropriate to do so by reason of any change of what appears to him to be the fresh-water limit of any

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river or watercourse, deposit a map showing a revised limit for that river or watercourse.

- (2) It shall be the duty of the [^{F15}Agency] to keep any maps deposited with it under subsection (1) above available, at all reasonable times, for inspection by the public free of charge.
- (3) In this section “relevant river or watercourse” has the same meaning as in section 104 above.

Textual Amendments

F15 Words in s. 192 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

193 Main river maps.

- (1) Subject to section 194 below, the [^{F16}Agency] shall—
 - (a) keep the main river map for the area of a regional flood defence committee at the principal office of the [^{F16}Agency] for that area; and
 - (b) provide reasonable facilities for inspecting that map and taking copies of and extracts from it;

and any local authority whose area is wholly or partly within the area of a regional flood defence committee shall, on application to the [^{F16}Agency], be entitled to be furnished with copies of the main river map for the area of that committee on payment of such sum as may be agreed between the [^{F16}Agency] and that local authority.

- (2) For the purposes of this Act a main river map is a map relating to the area of a regional flood defence committee which—
 - (a) shows by a distinctive colour the extent to which any watercourse in that area is to be treated as a main river, or part of a main river, for the purposes of this Act; and
 - (b) indicates (by a distinctive colour or otherwise) which (if any) of those watercourses are watercourses designated in a scheme made under section 137 above;

and, subject to section 194 below, references in this Act to a main river map, in relation to the area of a regional flood defence committee, include so much of any map as, by virtue of paragraph 38 of Schedule 26 to the Water Act 1989, has effect as such a map at the coming into force of this Act.

- (3) A main river map—
 - (a) shall be conclusive evidence for all purposes as to what is a main river; and
 - (b) shall be taken for the purposes of the ^{M2}Documentary Evidence Act 1868, as it applies to either of the Ministers, to be a document within the meaning of that Act and to have been issued by that Minister.
- (4) In this section and section 194 below “watercourse” has the same meaning as in Part IV of this Act.

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Textual Amendments

F16 Words in s. 193 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

Marginal Citations

M2 1868 c. 37.

194 Amendment of main river maps.

- (1) Either of the Ministers may at any time send the [^{F17}Agency] one or more new maps to be substituted for the whole or part of a main river map and containing a statement to that effect.
- (2) A statement contained in a map in pursuance of subsection (1) above shall specify the date on which the substitution is to take effect and the substitution shall take effect in accordance with the statement.
- (3) Where—
 - (a) the area of a regional flood defence committee is altered so as to affect any of the particulars shown on the main river map for that area; or
 - (b) one of the Ministers confirms a scheme under section 137 above; or
 - (c) the [^{F17}Agency] applies to one of the Ministers for the variation of a main river map, so far as it shows the extent to which any watercourse is to be treated as a main river or part of a main river,the Ministers shall each be under a duty to ensure that such action as he considers appropriate is taken under subsection (4) below.
- (4) The action referred to in subsection (3) above is action by one of the Ministers—
 - (a) requiring the [^{F17}Agency] to send him any part of the main river map in question, altering it and sending it back to the ; or
 - (b) preparing a new main river map and sending it to the [^{F17}Agency]; or
 - (c) notifying the [^{F17}Agency] that he does not intend to vary the main river map in question.
- (5) Before one of the Ministers alters a map or prepares a new map by virtue of subsection (3)(c) above, he shall—
 - (a) give notice of his intention to do so in such manner as he thinks best adapted for informing persons affected; and
 - (b) consider any objections made to him within the time and in the manner specified in that notice;and he may then alter or prepare the map either in accordance with the proposals contained in the notice or otherwise.

Textual Amendments

F17 Words in s. 194 substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

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Modifications etc. (not altering text)

C5 S. 194(5) excluded (16.3.1992) by Aire and Calder Navigation Act 1992 (c. iv), s. 15(3)

195 Maps of waterworks.

- (1) Subject to subsections (4) and (5) below, it shall be the duty of the [^{F18}Agency] to keep records of the location of—
 - (a) every resource main or discharge pipe which is for the time being vested in the [^{F18}Agency]; and
 - (b) any other underground works which are for the time being vested in the [^{F18}Agency].
- (2) It shall be the duty of the [^{F18}Agency] to secure that the contents of any records for the time being kept by it under this section are available, at all reasonable times, for inspection by the public free of charge at an office of the [^{F18}Agency].
- (3) Any information which is required under this section to be made available by the [^{F18}Agency] for inspection by the public shall be so made available in the form of a map.
- (4) For the purpose of determining whether any failure to make a modification of any records kept under this section constitutes a breach of the duty imposed by subsection (1) above, that duty shall be taken to require any modification of the records to be made as soon as reasonably practicable after the completion of the works which make the modification necessary; and, where records kept under this section are modified, the date of the modification and of the completion of the works making the modification necessary shall be incorporated in the records.
- (5) Nothing in this section shall require the [^{F18}Agency], at any time before 1st September 1999, to keep records of—
 - (a) any pipe which was laid before 1st September 1989; or
 - (b) any underground works which were completed before 1st September 1989, unless those particulars were shown on 31st August 1989 on a map kept by a water authority or statutory water company under section 12 of Schedule 3 to the ^{M3}Water Act 1945 (maps of underground works).
- (6) The reference in subsection (5) above to section 12 of Schedule 3 to the Water Act 1945 shall have effect, without prejudice to section 20(2) of the ^{M4}Interpretation Act 1978 (references to enactments to include references to enactments as amended, extended or applied), as including a reference to that section as applied, with or without modifications, by any local statutory provision.
- (7) In this section—

“discharge pipe” and “resource main” have the same meanings as in Part VII of this Act;

“underground works” does not include a service pipe within the meaning of the ^{M5}Water Industry Act 1991.

Textual Amendments

F18 Words in s. 195 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

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Marginal Citations

- M3 1945 c. 42.
- M4 1978 c. 30.
- M5 1991 c. 56.

Provision and acquisition of information etc.

F19 196

Textual Amendments

- F19** S. 196 repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 171, Sch. 24 (with ss. 7(6), 115, 117); S.I. 1996/186, art. 3 (with art. 4)

197 Provision of information about water flow etc.

- (1) It shall be the duty of the [F20 Agency]—
 - (a) to provide a water undertaker with all such information to which this section applies as is in the possession of the [F20 Agency] and is reasonably requested by the undertaker for purposes connected with the carrying out of its functions; and
 - (b) to provide reasonable facilities to all persons—
 - (i) for the inspection of the contents of any records kept by the [F20 Agency] and containing information to which this section applies; and
 - (ii) for the taking of copies of, or of extracts from, any such records.
- (2) It shall be the duty of every water undertaker to provide the [F20 Agency] with all such information to which this section applies as is in the possession of the undertaker and is reasonably requested by the [F20 Agency] for purposes connected with the carrying out of any of its functions.
- (3) Where records of the flow, level or volume of any inland waters, other than discrete waters, are kept by a person other than a water undertaker, the [F20 Agency] shall have the right at all reasonable times—
 - (a) to inspect the contents of any of those records; and
 - (b) to take copies of, or of extracts from, the contents of any of those records;and any person who, without reasonable excuse, refuses or fails to permit the [F20 Agency] to exercise its right under this subsection shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 1 on the standard scale.
- (4) Information provided to a water undertaker or to the [F20 Agency] under subsection (1) or (2) above shall be provided in such form and in such manner and at such times as the undertaker or, as the case may be, the [F20 Agency] may reasonably require; and the duties of the [F20 Agency] under subsection (1) above shall extend to information provided to or obtained by the [F20 Agency] under subsection (2) or (3) above.
- (5) Information or facilities provided under subsection (1) or (2) above to the [F20 Agency], to a water undertaker, to a local authority or joint planning board, or to an internal

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drainage board, shall be provided free of charge; and facilities provided under subsection (1) above to other persons may be provided on terms requiring the payment by persons making use of the facilities of such reasonable charges as the may determine.

- (6) The duties of a water undertaker under subsection (2) above shall be enforceable under section 18 of the ^{M6}Water Industry Act 1991 by the Secretary of State.
- (7) This section applies to information about the flow, level or volume of any inland waters or any water contained in underground strata, about rainfall or any fall of snow, hail or sleet or about the evaporation of any water.

Textual Amendments

F20 Words in s. 197 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

Marginal Citations

M6 1991 c. 56.

198 Information about underground water.

- (1) Any person who, for the purpose of searching for or abstracting water, proposes to sink a well or borehole intended to reach a depth of more than fifty feet below the surface shall, before he begins to do so, give notice to the Natural Environment Research Council of his intention to do so.
- (2) Any person sinking any such well or borehole as is mentioned in subsection (1) above shall-
 - (a) keep a journal of the progress of the work and, on completion or abandonment of the work, send a complete copy of the journal to the Natural Environment Research Council;
 - (b) send to that Council particulars of any test made before completion or abandonment of the work of the flow of water;
 - (c) allow any person authorised by that Council for the purpose, on production of some duly authenticated document showing his authority, at all reasonable times to exercise any of the rights specified in subsection (5) below.
- (3) The journal required to be kept under this section shall include measurements of—
 - (a) the strata passed through; and
 - (b) the levels at which water is struck and subsequently rests.
- (4) The particulars required to be sent to the Natural Environment Research Council under subsection (2)(b) above shall specify—
 - (a) the rate of flow throughout the test;
 - (b) the duration of the test;
 - (c) where practicable, the water levels during the test and afterwards until the water returns to its natural level; and
 - (d) where the well or borehole is sunk in connection with an existing pumping station, the rate of pumping at the existing works during the test.

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- (5) The rights mentioned in subsection (2)(c) above are the rights, subject to section 205 below—
- (a) to have free access to the well or borehole;
 - (b) to inspect the well or borehole and the material extracted from it;
 - (c) to take specimens of any such material and of water abstracted from the well or borehole; and
 - (d) to inspect and take copies of or extracts from the journal required to be kept under this section.
- (6) Where the person sinking a well or borehole on any land is not the occupier of the land, the obligation imposed on that person by virtue of subsection (2)(c) above shall be the obligation of the occupier as well.
- (7) Where—
- (a) any person contracts to sink any well or borehole on land belonging to or occupied by another; and
 - (b) the carrying out of the work is under the control of the contractor,
- the contractor and no other person shall be deemed for the purposes of this section to be the person sinking the well or borehole.
- (8) Any person who fails to comply with any obligation imposed on him by this section shall be guilty of an offence and liable, on summary conviction—
- (a) to a fine not exceeding level 3 on the standard scale; and
 - (b) where the offence continues after conviction, to a further fine of £20 for every day during which it so continues.

199 Notice etc. of mining operations which may affect water conservation.

- (1) Where a person proposes to construct or extend a boring for the purpose of searching for or extracting minerals, he shall, before he begins to construct or extend the boring, give to the [^{F21}Agency] a notice of his intention in the prescribed form.
- (2) The provisions of subsections (2) and (3) of section 30 above and of section 31 above shall apply where a notice is served under subsection (1) above as they apply where a notice is served under subsection (1) of that section 30 but as if the references in subsection (3) of that section 30 and in subsection (1) of that section 31 to interference with the protection of the underground works in question were a reference to interference with the winning of minerals.
- (3) Sections 68 to 70 above shall apply for the purposes of subsection (2) above as they apply for the purposes of the provisions applied by that subsection.
- (4) Any person who contravenes subsection (1) above or fails to comply with a conservation notice given by virtue of subsection (2) above shall be guilty of an offence and liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to a fine.

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Textual Amendments

F21 Word in s. 199 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

200 Gauges and records kept by other persons.

- (1) Subject to subsection (3) below, any person other than the [^{F22}Agency], who proposes to install a gauge for measuring and recording the flow, level or volume of any inland waters other than discrete waters—
 - (a) shall give notice to the [^{F22}Agency] of his proposal to install the gauge; and
 - (b) shall not begin the work of installing it before the end of the period of three months beginning with the date of service of the notice or such shorter period as the [^{F22}Agency] may in any particular case allow.
- (2) Not more than one month after any such work as is mentioned in paragraph (b) of subsection (1) above is completed, the person required to give notice under that subsection shall give notice to the [^{F22}Agency] stating where the records obtained by means of the gauge are to be kept.
- (3) Subsections (1) and (2) above shall not apply—
 - (a) to any gauge installed for the sole purpose of indicating the level of any inland waters for the benefit of persons who fish in them; or
 - (b) to any gauge which is removed at or before the end of the period of twenty-eight days beginning with the date on which it is installed.
- (4) Any person who contravenes subsection (1) or (2) above shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 1 on the standard scale.

Textual Amendments

F22 Words in s. 200 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

201 Power to require information with respect to abstraction.

- (1) The [^{F23}Agency] may give directions requiring any person who is abstracting water from a source of supply, at such times and in such form as may be specified in the directions, to give such information to the [^{F23}Agency] as to the abstraction as may be so specified.
- (2) Where—
 - (a) directions are given to any person under this section; and
 - (b) that person considers that they are unreasonable or unduly onerous,
 he may make representations to the Secretary of State with respect to the directions.
- (3) Subject to subsection (4) below, where representations are made to the Secretary of State under subsection (2) above, he may, if he thinks fit, give a direction under this section requiring the [^{F23}Agency] to revoke or modify the direction.

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- (4) Subsection (3) above shall not apply to any directions in so far as they require the occupier of any land to give any prescribed particulars as to the quantity or quality of water abstracted by him or on his behalf from any source of supply.
- (5) Any person who fails to comply with any directions given by the [F23 Agency] under this section shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 1 on the standard scale.

Textual Amendments

F23 Words in s. 201 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

202 Information and assistance required in connection with the control of pollution.

- (1) It shall be the duty of the [F24 Agency], if and so far as it is requested to do so by either of the Ministers, to give him all such advice and assistance as appears to it to be appropriate for facilitating the carrying out by him of his functions under the water pollution provisions of this Act.
- (2) Subject to subsection (3) below, either of the Ministers or the [F24 Agency] may serve on any person a notice requiring that person to furnish him or, as the case may be, it, within a period or at times specified in the notice and in a form and manner so specified, with such information as is reasonably required by the the Minister in question or by the [F24 Agency] for the purpose of carrying out any of his or, as the case may be, its functions under the water pollution provisions of this Act.
- (3) Each of the Ministers shall have power by regulations to make provision for restricting the information which may be required under subsection (2) above and for determining the form in which the information is to be so required.
- (4) A person who fails without reasonable excuse to comply with the requirements of a notice served on him under this section shall be guilty of an offence and [F25]liable—
 - (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or to both.]

F26(5)

Textual Amendments

F24 Words in s. 202 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

F25 Words in s. 202(4) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 172(1)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

F26 S. 202(5) repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), **Sch. 22 para. 172(2)**, **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

Modifications etc. (not altering text)

C6 S. 202 amended (27.8.1993) by 1993 c. 12, ss. 40, 51(2), **Sch. 3 Pt. I para. 9** (with s. 46).

C7 S. 202(2) modified (6.1.1997) by S.I. 1996/3001, **reg. 7(3)**
S. 202(2) modified (12.6.1997) by S.I. 1997/1331, **reg. 6(3)**

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S. 202(2) modified (12.6.1997) by S.I. 1997/1332, **reg. 6(3)**

203 Exchange of information with respect to pollution incidents etc.

- (1) It shall be the duty of the [^{F27}Agency] to provide a water undertaker with all such information to which this section applies as is in the possession of the [^{F27}Agency] and is reasonably requested by the undertaker for purposes connected with the carrying out of its functions.
- (2) It shall be the duty of every water undertaker to provide the [^{F27}Agency] with all such information to which this section applies as is in the possession of the undertaker and is reasonably requested by the [^{F27}Agency] for purposes connected with the carrying out of any of its functions.
- (3) Information provided to a water undertaker or to the [^{F27}Agency] under subsection (1) or (2) above shall be provided in such form and in such manner and at such times as the undertaker or, as the case may be, the [^{F27}Agency] may reasonably require.
- (4) Information provided under subsection (1) or (2) above to a water undertaker or to the [^{F27}Agency] shall be provided free of charge.
- (5) The duties of a water undertaker under subsection (2) above shall be enforceable under section 18 of the ^{M7}Water Industry Act 1991 by the Secretary of State.
- (6) This section applies to information—
 - (a) about the quality of any controlled waters or of any other waters; or
 - (b) about any incident in which any poisonous, noxious or polluting matter or any solid waste matter has entered any controlled waters or other waters.
- (7) In this section “controlled waters” has the same meaning as in Part III of this Act.

Textual Amendments

F27 Words in s. 203 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

Modifications etc. (not altering text)

C8 S. 203 amended (27.8.1993) by 1993 c. 12, ss. 40, 51(2), **Sch. 3 Pt. I para. 9** (with s. 46).

Marginal Citations

M7 1991 c. 56.

Restriction on disclosure of information

204 Restriction on disclosure of information.

- (1) Subject to the following provisions of this section, no information with respect to any particular business which—
 - (a) has been obtained by virtue of any of the provisions of this Act; and
 - (b) relates to the affairs of any individual or to any particular business,

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shall, during the lifetime of that individual or so long as that business continues to be carried on, be disclosed without the consent of that individual or the person for the time being carrying on that business.

- (2) Subsection (1) above does not apply to any disclosure of information which is made—
- (a) for the purpose of facilitating the carrying out by either of the Ministers, [^{F28}the Agency, the Scottish Environmental Protection Agency], the Director General of Water Services, the [^{F29}Competition Commission] or a local authority of any of his, its or, as the case may be, their functions by virtue of this Act, any of the other consolidation Acts [^{F30}, the Water Act 1989, Part I or IIA of the Environmental Protection Act 1990 [^{F31}, the 1995 Act or regulations under section 2 of the Pollution Prevention and Control Act 1999]];
 - (b) for the purpose of facilitating the performance by a water undertaker or sewerage undertaker of any of the duties imposed on it by or under this Act, any of the other consolidation Acts or the Water Act 1989;
 - (c) in pursuance of any duty imposed by section 197(1)(a) or (2) or 203(1) or (2) above or of any arrangements made by the Director General of Water Services under section 29(6) of the Water Industry Act 1991;
 - (d) for the purpose of facilitating the carrying out by any person mentioned in Part I of Schedule 24 to this Act of any of his functions under any of the enactments or instruments specified in Part II of that Schedule;
 - [^{F32}(e) for the purpose of enabling or assisting the Secretary of State, the Treasury or the Financial Services Authority to exercise any powers conferred by or under the Financial Services and Markets Act 2000 or by the enactments relating to companies or insolvency;
 - (ea) for the purpose of enabling or assisting any inspector appointed under enactments relating to companies to carry out his functions;]
 - (f) for the purpose of enabling an official receiver to carry out his functions under the enactments relating to insolvency or for the purpose of enabling or assisting a recognised professional body for the purposes of section 391 of the ^{M8}Insolvency Act 1986 to carry out its functions as such;
 - (g) for the purpose of facilitating the carrying out by the Health and Safety Commission or the Health and Safety Executive of any of its functions under any enactment or of facilitating the carrying out by any enforcing authority, within the meaning of Part I of the ^{M9}Health and Safety at Work etc. Act 1974, of any functions under a relevant statutory provision, within the meaning of that Act;
 - (h) for the purpose of facilitating the carrying out by the Comptroller and Auditor General of any of his functions under any enactment;
 - (i) in connection with the investigation of any criminal offence or for the purposes of any criminal proceedings;
 - (j) for the purposes of any civil proceedings brought under or by virtue of this Act, any of the other consolidation Acts, the ^{M10}Water Act 1989 or any of the enactments or instruments specified in Part II of Schedule 24 to this Act, or of any arbitration under this Act, any of the other consolidation Acts or that Act of 1989; or
 - (k) in pursuance of a Community obligation.
- (3) Nothing in subsection (1) above shall be construed—
- (a) as limiting the matters which may be included in, or made public as part of, a report of—

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- (i) the ^{F33}Agency];
 - ^{F34}(ia) the Scottish Environment Protection Agency;]
 - (ii) the Director General of Water Services;
 - (iii) a customer service committee maintained under the ^{M11}Water Industry Act 1991; or
 - (iv) the ^{F35}Competition Commission],
- under any provision of this Act ^{F36}, Part I or IIA of the Environmental Protection Act 1990, that Act of 1991 ^{F37}, the 1995 Act or regulations under section 2 of the Pollution Prevention and Control Act 1999];
- (b) as limiting the matters which may be published under section 201 of that Act ^{F38}of 1991]; or
 - (c) as applying to any information which has been made public as part of such a report or has been so published or to any information exclusively of a statistical nature.
- (4) Subject to subsection (5) below, nothing in subsection (1) above shall preclude the disclosure of information—
- (a) if the disclosure is of information relating to a matter connected with the carrying out of the functions of a water undertaker or sewerage undertaker and is made by one Minister of the Crown or government department to another; or
 - (b) if the disclosure is for the purpose of enabling or assisting any public or other authority for the time being designated for the purposes of this section by an order made by the Secretary of State to discharge any functions which are specified in the order.
- (5) The power to make an order under subsection (4) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament; and where such an order designates an authority for the purposes of paragraph (b) of that subsection, the order may—
- (a) impose conditions subject to which the disclosure of information is permitted by virtue of that paragraph; and
 - (b) otherwise restrict the circumstances in which disclosure is so permitted.
- (6) Any person who discloses any information in contravention of the preceding provisions of this section shall be guilty of an offence and liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.
- (7) In this section “the other consolidation Acts” means the ^{M12}Water Industry Act 1991, the ^{M13}Statutory Water Companies Act 1991, the ^{M14}Land Drainage Act 1991 and the ^{M15}Water Consolidation (Consequential Provisions) Act 1991.

Textual Amendments

- F28** Words in s. 204(2)(a) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 173(2)(a)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with **art. 4**)
- F29** Words in s. 204(2)(a) substituted (1.4.1999) by S.I. 1999/506, **art. 31(a)**
- F30** Words in s. 204(2)(b) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 173(2)(b)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with **art. 4**)
- F31** Words in s. 204(2)(a) substituted (21.3.2000) by 1999 c. 24, s. 6, **Sch. 2 para. 8**; S.I. 2000/800, **art. 2**

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- F32** S. 204(2)(e)(ea) substituted for s. 204(2)(e) (1.12.2001) by S.I. 2001/3649, **art. 329**
- F33** Words in s. 204 substituted (subject to other provisions of the amending Act) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 128** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)
- F34** S. 204(3)(a)(ia) inserted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 173(3)(a)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)
- F35** Words in s. 204(3)(a)(iv) substituted (1.4.1999) by S.I. 1999/506, **art. 31(a)**
- F36** Words in s. 204(3)(a) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 173(3)(b)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)
- F37** Words in s. 204(3)(a) substituted (21.3.2000) by 1999 c. 24, s. 6, **Sch. 2 para. 8**; S.I. 2000/800, **art. 2**
- F38** Words in s. 204(3)(b) inserted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 173(4)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

Modifications etc. (not altering text)

- C9** S. 204 applied (01.12.1991) by Land Drainage Act 1991 (c. 59, SIF 73:1), **ss. 70, 76(2)**.
- C10** S. 204 restricted (31.10.2003) by Railways and Transport Safety Act 2003 (c. 20), **s. 115**; S.I. 2003/2681, **art. 2(b)**
- C11** S. 204(2): disclosure powers extended (14.12.2001) by 2001 c. 24, s. 17, **Sch. 4 Pt.I para. 32**

Marginal Citations

- M8** 1986 c. 45.
- M9** 1974 c. 37.
- M10** 1989 c. 15.
- M11** 1991 c. 56.
- M12** 1991 c. 56.
- M13** 1991 c. 58.
- M14** 1991 c. 59.
- M15** 1991 c. 60.

205 Confidentiality of information relating to underground water etc.

- (1) The person sinking any such well or borehole as is mentioned in section 198 above or, if it is a different person, the owner or occupier of the land on which any such well or borehole is sunk may by notice to the Natural Environment Research Council require that Council to treat as confidential—
- (a) any copy of or extract from the journal required to be kept under that section; or
- (b) any specimen taken in exercise of the rights specified in subsection (5) of that section.
- (2) Subject to subsections (3) and (4) below, the Natural Environment Research Council shall not, without the consent of the person giving the notice, allow any matter to which any notice under subsection (1) above relates to be published or shown to any person who is not an officer of that Council or of a department of the Secretary of State.
- (3) Subsection (2) above shall not prohibit any matter from being published or shown to any person in so far as it contains or affords information as to water resources and supplies.
- (4) If at any time the Natural Environment Research Council give notice to any person that in their opinion his consent for the purposes of subsection (2) above is being unreasonably withheld—

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- (a) that person may, within three months after the giving of the notice, appeal to the High Court for an order restraining that Council from acting as if consent had been given; and
 - (b) that Council may proceed as if consent had been given if either no such appeal is brought within that period or the High Court, after hearing the appeal, do not make such an order.
- (5) Any person who fails to comply with any obligation imposed on him by the preceding provisions of this section shall be guilty of an offence and liable, on summary conviction—
- (a) to a fine not exceeding level 3 on the standard scale; and
 - (b) where the offence continues after conviction, to a further fine of £20 for every day during which it so continues.
- (6) If any person who is admitted to any premises in compliance with section 198(2)(c) above discloses to any person any information obtained by him there with regard to any manufacturing process or trade secret, he shall, unless the disclosure is in performance of his duty, be guilty of an offence and liable—
- (a) on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding the statutory maximum or to both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding three months or to a fine or to both.

Making of false statements etc.

206 Making of false statements etc.

[^{F39}(1) If, in furnishing any information or making any application under or for the purposes of any provision of this Act, any person makes a statement which he knows to be false or misleading in a material particular, or recklessly makes any statement which is false or misleading in a material particular, he shall be guilty of an offence under this section.]

^{F40}(2)

(3) Where—

- (a) the provisions contained in a licence under Chapter II of Part II of this Act in pursuance of paragraph (b) of subsection (2) of section 46 above, or of that paragraph as modified by subsection (6) of that section, require the use of a meter, gauge or other device; and
- (b) such a device is used for the purposes of those provisions,

any person who wilfully alters or interferes with that device so as to prevent it from measuring correctly shall be guilty of an offence under this section.

[^{F41}(3A) If a person intentionally makes a false entry in any record required to be kept by virtue of a licence under Chapter II of Part II of this Act, or a consent under Chapter II of Part III of this Act, he shall be guilty of an offence under this section.]

(4) If, in keeping any record or journal or in furnishing any information which he is required to keep or furnish under section 198 or 205 above, any person knowingly or recklessly makes any statement which is false in a material particular, he shall be guilty of an offence under this section.

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- [^{F42}(5) A person who is guilty of an offence under this section shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or to both.]

Textual Amendments

- F39** S. 206(1) substituted (1.4.1996) by 1995 c. 25, s. 112, **Sch. 19 para. 5(2)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)
- F40** S. 206(2) repealed (1.4.1996) by 1995 c. 25, ss. 112, 125(2), Sch. 19 para. 5(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)
- F41** S. 206(3A) inserted (1.4.1996) by 1995 c. 25, s. 112, **Sch. 19 para. 5(4)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)
- F42** S. 206(5) substituted for s. 206(5)-(7) (1.4.1996) by 1995 c. 25, s. 112, **Sch. 19 para. 5(5)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3** (with art. 4)

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