



Water Act 2003

2003 CHAPTER 37

PART 3

MISCELLANEOUS

Sewers and drains

93 Requisition and adoption of sewers

- (1) In section 99 of the WIA (financial conditions of compliance with sewer requisition)—
- (a) in subsection (2), for paragraph (a) there is substituted—
 - “(a) bind the person or persons mentioned in that subsection to pay to the undertaker either (at the election of such person or persons)—
 - (i) in respect of each of the twelve years following the provision of the sewer, an amount not exceeding the relevant deficit (if any) for that year on that sewer; or
 - (ii) following provision of the sewer, a single amount not exceeding the discounted aggregate deficit on that sewer; and”
 - (b) in subsection (6), for the words from “shall be referred” to the end there is substituted “ may be referred to the Authority for determination under section 30A above by either party to the dispute. ”,
 - (c) for subsection (7) there is substituted—
 - “(7) In this section “relevant deficit” and “discounted aggregate deficit” have the meanings given by sections 100 and 100A below, respectively.”
- (2) In section 100 of the WIA (calculation of “relevant deficit” for the purposes of section 99), in subsection (8), in paragraph (b), for “that has already been provided” there is substituted “ in respect of which the conditions referred to in section 99(1) above have already been satisfied. ”.

Status: Point in time view as at 28/05/2004. This version of this cross heading contains provisions that are not valid for this point in time.

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(3) After section 100 of the WIA there is inserted—

“100A Calculation of “discounted aggregate deficit” for the purposes of section 99

- (1) For the purposes of section 99 above the discounted aggregate deficit on a public sewer is the amount equal to the sum of the estimated relevant deficits for each of the twelve years following the provision of the sewer, in each case discounted in accordance with subsection (6) below.
 - (2) The estimated relevant deficit for any year is the amount (if any) by which the estimated drainage charges payable for the use during that year of that sewer would be exceeded by the annual borrowing costs of a loan of the amount required for the provision of that sewer.
 - (3) Subsections (2) to (6), (8) and (9) of section 100 above (which relate to the annual borrowing costs of a loan of the amount required for the provision of a public sewer) shall apply for the purposes of this section as they apply for the purposes of that section.
 - (4) Any reference in this section to the estimated drainage charges payable for the use during any year of any sewer is a reference to so much of the aggregate of any charges expected to be payable to the sewerage undertaker for the provision of services in the course of that year as would represent charges—
 - (a) imposed by the undertaker in relation to such of the premises with which the sewer is expected to be connected as are premises where there are buildings; and
 - (b) reasonably attributable to the use of that sewer for the drainage for domestic sewerage purposes of those premises or to the disposal of effluent drained for any such purposes from those premises.
 - (5) For the purposes of subsection (4) above, a thing is expected to be the case if, at the time the relevant calculation is made, it is reasonably likely to occur.
 - (6) The estimated relevant deficit for a year mentioned in subsection (1) above shall be discounted in order to determine its net present value by applying such factor, and in accordance with such other provision, as may be determined by the Authority.
 - (7) A determination made by the Authority for the purposes of subsection (6) above—
 - (a) may be made in relation to the provision of a particular public sewer or in relation to the provision of public sewers generally; and
 - (b) may be revoked at any time except in relation to a public sewer in respect of which the conditions referred to in section 99(1) above have already been satisfied.”
- (4) The amendments made by subsections (1) to (3) of this section do not apply in respect of public sewer requisitions (as defined in section 100(9) of the WIA) for which notice has been served under section 98(1) of that Act before commencement of the subsection in question.

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Commencement Information

II S. 93 in force at 28.5.2004 by S.I. 2004/641, art. 4(b) (with Sch. 3 para. 7)

94 Provision of public sewers otherwise than by requisition

In section 101A of the WIA (which imposes a duty on sewerage undertakers to provide sewers for certain premises whose drainage gives rise to adverse environmental effects), in subsection (2)—

- (a) in paragraph (a), the words from “each of which” to the end of the paragraph are omitted, and
- (b) in paragraph (c), “in respect of which the condition specified in paragraph (a) above is satisfied” is omitted.

Commencement Information

I2 S. 94 in force at 28.5.2004 by S.I. 2004/641, art. 4(b) (with Sch. 3 para. 7)

95 Requisition of lateral drains

(1) Section 98 of the WIA (duty to comply with sewer requisition) is amended as provided in subsections (2) to (5).

(2) After subsection (1) there is inserted—

“(1A) It shall be the duty of a sewerage undertaker (in accordance with section 101 below) to provide a lateral drain to communicate with a public sewer and to be used for the drainage for domestic purposes of premises in its area if—

- (a) the undertaker is required to provide the lateral drain by a notice served on the undertaker by one or more of the persons who under subsection (2A) below are entitled to require the provision of the lateral drain;
- (b) the premises the drainage of which would be by means of that lateral drain are—
 - (i) premises on which there are buildings; or
 - (ii) premises on which there will be buildings when proposals made by any person for the erection of any buildings are carried out; and
- (c) the conditions specified in section 99 below are satisfied in relation to that requirement.”

(3) After subsection (2) there is inserted—

“(2A) Each of the following persons shall be entitled to require the provision of a lateral drain, that is to say—

- (a) the owner of the premises the drainage of which would be by means of that lateral drain;
- (b) the occupier of those premises;
- (c) any local authority within whose area those premises are situated;

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- (d) where those premises are situated in a new town, within the meaning of the New Towns Act 1981—
 - (i) the Commission for the New Towns; and
 - (ii) the development corporation for the new town; and
 - (e) where those premises are situated within an area designated as an urban development area under Part 16 of the Local Government, Planning and Land Act 1980, the urban development corporation.”
- (4) In subsection (3)—
- (a) after “public sewer” there is inserted “ or, as the case may be, a lateral drain ”,
 - (b) after “of the sewer” there is inserted “ or lateral drain ”.
- (5) In subsection (5)—
- (a) the words “in a particular locality” are omitted,
 - (b) in paragraph (a), for “premises in that locality” there is substituted “ those premises ”,
 - (c) in paragraph (b), for “premises in the locality” there is substituted “ those premises ”.
- (6) In section 99 of the WIA (financial conditions of compliance)—
- (a) in subsection (1)—
 - (i) after “98(1)(c)” there is inserted “ or 98(1A)(c) ”,
 - (ii) after “sewer”, in both places, there is inserted “ or (as the case may be) lateral drain ”,
 - (iii) in paragraph (a), after “subsection (2)” there is inserted “ or, as the case may be, subsection (2A) ”,
 - (b) after subsection (2) there is inserted—

“(2A) The undertakings which a sewerage undertaker may require for the purposes of subsection (1) above in respect of any lateral drain are undertakings which—

 - (a) bind the person or persons mentioned in that subsection to pay to the undertaker, following provision of the lateral drain, on such terms as may be specified in the undertaking, an amount not exceeding the costs reasonably incurred in or in connection with the provision of the lateral drain; and
 - (b) in the case of undertakings binding two or more persons, bind them either jointly and severally or with liability apportioned in such manner as they may agree.”,
 - (c) for subsection (3) there is substituted—

“(3) For the purposes of subsection (1)(b) above a person may be required to secure his undertakings in relation to the provision of a public sewer or, as the case may be, a lateral drain if—

 - (a) it was by virtue of section 98(2)(a) or (b) or (as the case may be) section 98(2A)(a) or (b) above that he required, or joined in requiring, the provision of the sewer or drain; and
 - (b) he is not a public authority.”,
 - (d) for paragraph (a) of subsection (5) there is substituted—

“(a) may be given or made in relation to the provision of a particular public sewer or (as the case may be) lateral drain,

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in relation to the provision of sewers or lateral drains of a particular description or in relation to the provision of public sewers or lateral drains generally; and”.

- (7) For section 101 of the WIA (determination of completion date and route for requisitioned sewer) there is substituted—

“101 Determination of completion date and route for requisitioned sewer or lateral drain

- (1) A sewerage undertaker shall not be in breach of a duty imposed by section 98 above in relation to any locality or (in the case of a lateral drain) in relation to any premises unless—
- (a) the period of six months beginning with the relevant day has expired; and
 - (b) the sewerage undertaker has not, before the end of that period, so laid (as the case may be)—
 - (i) the public sewer to be provided as to enable drains and private sewers to be used for the drainage of premises in the locality to communicate with the public sewer; or
 - (ii) the lateral drain to be provided as to enable the drain to be used for the drainage of premises to communicate with a public sewer vested in that undertaker,at the place or places determined under subsection (3) below.
- (2) The period mentioned in subsection (1)(a) above may be extended—
- (a) by agreement between the undertaker and the person or persons who required the provision of the public sewer or, as the case may be, lateral drain; or
 - (b) where there is a dispute as to whether the period should be extended, by the Authority on a reference under subsection (4) below.
- (3) The places mentioned in subsection (1)(b) above shall be—
- (a) such place or places as are determined by agreement between the sewerage undertaker and the person or persons who required the provision of the public sewer or, as the case may be, lateral drain; or
 - (b) in default of agreement, such place or places as are determined by the Authority on a reference under subsection (4) below to be the place or places at which it is reasonable, in all the circumstances—
 - (i) in relation to the provision of a public sewer, for drains or private sewers to be used for the drainage of premises in the locality in question to communicate with the public sewer; or
 - (ii) in relation to the provision of a lateral drain—
 - (a) for the lateral drain to communicate with a public sewer vested in the undertaker; and
 - (b) for the remainder of the drain of which the lateral drain forms part to connect with the lateral drain.
- (4) A reference for the purposes of subsection (2) or (3) above may be made to the Authority for determination under section 30A above by either party to the dispute.

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- (5) In this section “relevant day”, in relation to a requirement to provide a public sewer for any locality or, as the case may be, a lateral drain, means the day after whichever is the later of the following—
- (a) the day on which the conditions specified in section 99 above are satisfied in relation to the requirement; and
 - (b) the day on which the place or places where (as the case may be)—
 - (i) drains or private sewers to be used for the drainage of premises in that locality will communicate with the public sewer; or
 - (ii) the lateral drain will communicate with a public sewer and the remainder of the drain will connect with the lateral drain, are determined under subsection (3) above.”
- (8) The substitution, by subsection (7), of section 101 of the WIA does not apply in respect of requirements notified under section 98 of the WIA before subsection (7) comes into force.
- (9) After section 101A of the WIA there is inserted—

“101B Power to construct lateral drains following provision of public sewer

- (1) Where a sewerage undertaker provides a public sewer pursuant to a duty to do so imposed on it by section 98 or section 101A above, the undertaker may, at the request of the person mentioned in subsection (2) below, also provide at the same time one or more lateral drains to be used for the drainage for domestic purposes of premises in its area and to communicate with that sewer.
- (2) A request under subsection (1) above may be made—
 - (a) in the case of a public sewer to be provided under section 98 above, by the person who requires the provision of the sewer under that section; and
 - (b) in the case of a public sewer to be provided under section 101A above, by the owner or occupier of any premises in respect of which the duty to provide the sewer arises under that section (but any request may only be for the provision of a lateral drain to his premises).
- (3) The person making a request under this section shall pay to the water undertaker, following provision of the lateral drain, the costs reasonably incurred in or in connection with providing that drain.
- (4) Any dispute between the sewerage undertaker and the person making a request under this section as to—
 - (a) whether a lateral drain should be provided pursuant to the request; or
 - (b) the costs reasonably incurred in the provision of a lateral drain,
 may be referred to the Authority for determination under section 30A above by either party to the dispute.
- (5) Any lateral drain provided pursuant to a request made to a sewerage undertaker under this section shall belong to the undertaker.”

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- (10) Section 101B of the WIA (as inserted by subsection (9)) does not apply in respect of a public sewer to be provided pursuant to—
- (a) a requirement notified under section 98 of that Act before the coming into force of subsection (9), or
 - (b) a duty under section 101A of that Act which the sewerage undertaker had accepted, or the Environment Agency had determined, it was under before the coming into force of subsection (9).

Commencement Information

I3 S. 95 in force at 28.5.2004 by S.I. 2004/641, art. 4(b) (with Sch. 3 para. 7)

96 Adoption of lateral drains

- (1) In section 102 of the WIA (adoption of sewers and disposal works)—
- (a) in subsection (1), the word “or” at the end of paragraph (a) is omitted and after that paragraph there is inserted—
 - “(aa) any lateral drain which communicates or is to communicate with a public sewer which—
 - (i) is so situated or serves the whole or any part of that area; and
 - (ii) is vested in that undertaker; or”
 - (b) in subsection (2), after “sewer” in both places there is inserted “ , lateral drain ”
 - (c) in subsection (4), in paragraph (a), after “sewer” there is inserted “ , lateral drain ”
 - (d) in subsection (5)—
 - (i) in paragraph (b), after “sewer” there is inserted “ or lateral drain ”
 - (ii) in paragraph (c), after “sewer” there is inserted “ or lateral drain ”
 - (iii) in paragraph (d), after “sewer” there is inserted “ , lateral drain ”
 - (e) in subsection (6), after “sewer” in both places there is inserted “ or lateral drain ”.
- (2) In section 103 of the WIA (adoption of cross-border sewers etc)—
- (a) in subsection (1), the word “or” at the end of paragraph (a) is omitted and after that paragraph there is inserted—
 - “(aa) any lateral drain which is situated within the area of another sewerage undertaker or which, though situated within its own area, communicates or is to communicate with a public sewer which is situated within or serves the whole or any part of the area of another sewerage undertaker; or”
 - (b) for subsection (3) there is substituted—
 - “(3) Where—
 - (a) a sewer (or part of a sewer) or a lateral drain is vested, or any sewage disposal works are vested, in a relevant body; and
 - (b) in the case of a sewer, part of a sewer, lateral drain or works vested in railway undertakers or dock undertakers, the sewer, part or lateral drain in question is, or the works are, situated

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in or on land belonging to those undertakers and held or used by them for the purposes of their undertaking,

a sewerage undertaker shall not make a declaration under section 102 above with respect to (as the case may be) the sewer, or part of it, or the lateral drain or the works, except on the application of the relevant body concerned.”,

- (c) in subsection (4), in paragraph (a), after “sewer” there is inserted “ or lateral drain ”.

(3) Sections 102 and 103 of the WIA (adoption of sewers etc), as amended by subsections (1) and (2) above, do not apply to any lateral drains (as mentioned in those sections) the construction of which was completed before the coming into force of subsections (1) and (2) above.

(4) Section 104 of the WIA (agreements to adopt sewer etc at future date) is amended as follows—

- (a) for subsection (1) there is substituted—

“(1) Subject to subsection (7) and section 146(3) below, a sewerage undertaker may agree with—

- (a) any person constructing or proposing to construct—

(i) any sewer;

(ii) any drain which is intended to communicate with a public sewer vested in that undertaker; or

(iii) any sewage disposal works; or

- (b) any person at whose expense the undertaker is, by virtue of an agreement under section 160 below, to carry out work in connection with the construction of such a drain or sewer,

that, if the sewer, drain or sewage disposal works is or are constructed in accordance with the terms of the agreement, the undertaker will, upon completion of the work, at some specified date or on the happening of some future event, declare the sewer or such part of the drain as constitutes the lateral drain or the works (as the case may be) to be vested in that undertaker.”,

- (b) in subsection (2), for “constructing or proposing to construct a sewer” there is substituted “ mentioned in paragraph (a) or (b) of subsection (1) above ”,

(c) in subsection (5), after “sewer” there is inserted “ , lateral drain ”,

(d) subsection (6) is omitted,

- (e) after subsection (6) there is inserted—

“(6A) Without limiting the terms which may be included in an agreement under this section, the terms of an agreement which relates to a drain may include in particular—

(a) identification of that part of the drain which constitutes the lateral drain for the purposes of the agreement and, in particular, the point or points of connection between that part and the remainder of the drain;

(b) a requirement for the installation of an inspection chamber, at the expense of the person with whom the sewerage undertaker is to make the agreement, at a place specified in the agreement;

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- (c) provision, if the inspection chamber is constructed in accordance with the terms of the agreement, for the undertaker to declare that the inspection chamber be vested in the undertaker at the same time as the lateral drain; and
 - (d) provision for the lateral drain, once vested in the undertaker, to communicate with a public sewer at the place or places specified in the agreement.”,
- (f) for subsection (7) there is substituted—
- “(7) A sewerage undertaker shall not make an agreement under this section with respect to—
- (a) a sewer, drain or sewage disposal works situated within the area of another sewerage undertaker; or
 - (b) a drain which is intended to communicate with a sewer which—
 - (i) is so situated; or
 - (ii) is vested in another sewerage undertaker,until one of the conditions mentioned in subsection (8) below is satisfied.
- (8) The conditions are—
- (a) that other undertaker has consented to the making of the agreement; or
 - (b) the Secretary of State, on an application made to him, has dispensed with the necessity for such consent, either unconditionally or subject to such conditions as he may think fit to impose.”

(5) In section 105 of the WIA (appeals with respect to adoption)—

 - (a) in subsection (1), after “sewer” there is inserted “ , lateral drain ”,
 - (b) in subsection (3), after “sewer” there is inserted “ , lateral drain ”.

Commencement Information

I4 S. 96 in force at 28.5.2004 by S.I. 2004/641, art. 4(b) (with Sch. 3 para. 7)

97 Requisitioning and adoption of lateral drains: supplementary

- (1) The WIA is amended as follows.
- (2) In section 36 (interpretation of Part 2 of the WIA)—
- (a) in subsection (3)(b)(i), after “sewer” there is inserted “ or drain ”,
 - (b) for the definition of “relevant sewer” in subsection (4) there is substituted—

““relevant sewer or drain”, in relation to any appointment or variation which would replace a company as a sewerage undertaker, means any of the following, that is to say—

 - (a) a public sewer or lateral drain vested in that company;
 - (b) a sewer or lateral drain in relation to which that company has made a declaration of vesting under section 102 below which has not yet taken effect;

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- (c) a sewer or lateral drain in relation to which that company has entered into an agreement under section 104 below.”
- (3) In section 94 (general duty to provide sewerage system), in paragraph (a) of subsection (1), after “those sewers” there is inserted “ and any lateral drains which belong to or vest in the undertaker ”.
- (4) In section 158 (powers to lay pipes in streets), for paragraph (b) of subsection (7) there is substituted—
- “ (b) in relation to a sewerage undertaker, as references to—
- (i) any sewer or disposal main; or
- (ii) in relation to the exercise of a power to lay a pipe under paragraph (a) of subsection (1) above or a power related to that power under paragraph (c) of that subsection, any lateral drain which the undertaker is to lay by virtue of section 98 or 101B above; or
- (iii) in relation to the exercise of any other power under subsection (1) above, any lateral drain which belongs to or is vested for the time being in the undertaker.”
- (5) In section 159 (power to lay pipes in other land), in subsection (7), at the end there is added “ (reading references there to subsection (1) as references to subsection (1) of this section). ”.
- (6) In section 171 (entry for sewerage purposes), in subsection (3), for “a private drain or sewer” there is substituted “ a drain or private sewer ”.
- (7) In section 179 (vesting of works in undertaker)—
- (a) in paragraph (a) of subsection (2), after “sewer” there is inserted “ , lateral drain ”,
- (b) in subsection (7), in paragraph (b) of the definition of “relevant pipe”, after “sewer” there is inserted “ , lateral drain ”.
- (8) In section 199 (sewer maps), in subsection (1)—
- (a) in paragraph (a), after “sewer” there is inserted “ , lateral drain ”,
- (b) in paragraph (b), after “sewer” there is inserted “ or lateral drain ”.
- (9) In section 219 (general interpretation)—
- (a) in subsection (1), after the definition of “inland waters” there is inserted—
- ““lateral drain” means—
- (a) that part of a drain which runs from the curtilage of a building (or buildings or yards within the same curtilage) to the sewer with which the drain communicates or is to communicate; or
- (b) (if different and the context so requires) the part of a drain identified in a declaration of vesting made under section 102 above or in an agreement made under section 104 above;”,
- (b) in subsection (3), after “sewer,” there is inserted “ lateral drain, ”.
- (10) In Schedule 12 (compensation etc in respect of pipe-laying and other works powers), in sub-paragraph (5) of paragraph 4, after “sewer” there is inserted “ , lateral drain ”.

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Commencement Information

15 S. 97 in force at 28.5.2004 by S.I. 2004/641, art. 4(b) (with Sch. 3 para. 7)

VALID FROM 01/04/2007

98 Schemes for the adoption of sewers, lateral drains and sewage disposal works

After section 105 of the WIA there is inserted—

“105A Schemes for the adoption of sewers, lateral drains and sewage disposal works

- (1) The Secretary of State may by regulations provide for him to make schemes for the adoption by sewerage undertakers of sewers, lateral drains and sewage disposal works of the descriptions set out in paragraphs (a), (aa) and (b) of section 102(1) above.
- (2) The regulations may require sewerage undertakers to prepare draft schemes and to submit them to the Secretary of State.
- (3) Each scheme shall relate to—
 - (a) the area of a sewerage undertaker, or part or parts of it; or
 - (b) the areas of more than one sewerage undertaker, or part or parts of them.
- (4) It shall be the duty of a sewerage undertaker, in specified circumstances, to exercise its powers under section 102 above with a view to making the declaration referred to in subsection (1) of that section in relation to sewers, lateral drains or sewage disposal works which—
 - (a) fall within the area to which a scheme relates; and
 - (b) satisfy specified criteria.
- (5) The circumstances and the criteria shall each be—
 - (a) specified in the regulations; or
 - (b) determined in accordance with the regulations and specified in the scheme.
- (6) In relation to the exercise of those powers pursuant to that duty—
 - (a) section 102 above shall have effect—
 - (i) with the omission of subsections (2), (5) and (7);
 - (ii) as if in subsection (1) the words “sections 103, 105 and 146(3) below” read “section 105B below”;
 - (iii) with the omission of the words “or application” in subsection (3);
 - (iv) as if for subsection (4)(a) there were substituted—
 - “(a) shall give notice of its proposal to the owner or owners of the sewer, lateral drain or works in question unless, after diligent enquiry, he or they cannot be traced;

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- (aa) shall publish notice of its proposal in the prescribed manner; and”;
 - (v) as if in subsection (4)(b) “two months” read “two months or, if longer, the period specified by virtue of section 105B(5) below” and “section 105 below” read “section 105B(4) or (5) below, or”; and
 - (vi) as if section 96(3) of the Water Act 2003 did not apply;
 - (b) sections 103 and 105 above shall not apply; and
 - (c) if the regulations so provide, section 146(3) below shall not apply in circumstances or cases specified in the regulations.
- (7) A duty imposed on a sewerage undertaker under subsection (4) above shall be enforceable by the Secretary of State under section 18 above.
- (8) A statutory instrument containing regulations under subsection (1) above shall not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

105B Adoption schemes: appeals

- (1) Any person falling within subsection (2) below may appeal to the Authority if he is aggrieved by—
- (a) the proposal of a sewerage undertaker to make a declaration under section 102 above in relation to a sewer, lateral drain or sewage disposal works, pursuant to the undertaker’s duty to do so under section 105A(4) above (the “relevant duty”); or
 - (b) the failure of a sewerage undertaker to make such a proposal pursuant to that duty.
- (2) The persons referred to are—
- (a) an owner of a sewer, lateral drain or sewage disposal works;
 - (b) any other person affected by the proposal, or the failure, in question.
- (3) The grounds upon which a person may appeal are—
- (a) in a subsection (1)(a) case, that the relevant duty is not owed in relation to the sewer, lateral drain or sewage disposal works, or that the making of the proposed declaration would be seriously detrimental to him;
 - (b) in a subsection (1)(b) case, that the relevant duty is owed in relation to the sewer, lateral drain or sewage disposal works; or
 - (c) any other prescribed ground.
- (4) An appeal under subsection (1)(a) above shall be made within two months after notice of the proposal is—
- (a) served on the owner of the sewer, lateral drain or sewage disposal works; or
 - (b) published in accordance with section 102(4) above as modified by section 105A(6) above,
- (or, if both occur, within two months after whichever is the later).
- (5) An appeal under subsection (1)(b) above shall be made within such period as is specified in the scheme (not being less than two months).

Status: Point in time view as at 28/05/2004. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation: Water Act 2003, Cross Heading: Sewers and drains is up to date with all changes known to be in force on or before 15 January 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)

- (6) On the hearing of an appeal under subsection (1) above, the Authority may—
- (a) in a subsection (1)(a) case, allow or disallow the proposal of the sewerage undertaker; or
 - (b) in a subsection (1)(b) case, determine that the undertaker was not under the relevant duty in relation to the sewer, lateral drain or sewage disposal works in question,
- or, in either case, make any declaration that the sewerage undertaker might have made, unless the proposal is disallowed.
- (7) If, in a subsection (1)(a) case, the Authority finds that the making of the proposed declaration would be seriously detrimental to the appellant, it shall disregard any duty on the part of the sewerage undertaker to make the proposal for the purpose of determining whether to allow or disallow the proposal.
- (8) If, in a subsection (1)(a) case, the Authority disallows the proposal of the sewerage undertaker, the scheme pursuant to which it was made shall have effect as if there were no duty under section 105A(4) above on the sewerage undertaker in relation to the sewer, lateral drain or sewage disposal works in question.
- (9) Where the Authority makes a declaration under subsection (6) above, it may, if it thinks fit—
- (a) specify conditions, including conditions as to the payment of compensation by the sewerage undertaker; and
 - (b) direct that its declaration shall not take effect unless any conditions so specified are accepted.
- (10) A declaration made under subsection (6) above shall have the same effect as if it had been made by the undertaker.
- (11) The Secretary of State may by regulations make further provision in connection with appeals under this section.
- (12) The regulations may, in particular, require the Authority to have regard to prescribed matters when determining an appeal under this section.

105C Adoption schemes: supplementary

- (1) The Secretary of State may vary any scheme, or revoke it.
- (2) Before making regulations or any scheme under section 105A above, and before amending or revoking the regulations or varying or revoking a scheme, the Secretary of State shall consult—
- (a) each sewerage undertaker which would be affected;
 - (b) the Authority;
 - (c) the Council;
 - (d) such other persons as the Secretary of State considers appropriate.
- (3) The Secretary of State shall publish each scheme he makes, and any such scheme as varied, in the way he considers best for the purpose of bringing it to the attention of those likely to be affected by it.”

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99 Communication with public sewers

(1) Section 106 of the WIA (right to communicate with public sewers) is amended as follows.

(2) After subsection (1) there is inserted—

“(1A) In this section, and in sections 107 to 109, 111, 113 to 116, 118, 119, 124, 127, 139 and 146 below—

- (a) references (however expressed) to a public sewer include a public lateral drain which satisfies sewer standards; and
- (b) for the purposes of paragraph (a) above—
 - (i) a “public lateral drain” is a lateral drain which either belongs to the sewerage undertaker or is vested in the sewerage undertaker by virtue of a declaration made under section 102 above or under an agreement made under section 104 above; and
 - (ii) “sewer standards” means such standards of construction and repair as the undertaker would require if the public lateral drain or part of it were to become a public sewer.”

(3) In subsection (4), for “is such that the making of the communication would be prejudicial to the undertaker’s sewerage system” there is substituted—

- “(a) does not satisfy the standards reasonably required by the undertaker; or
- (b) is such that the making of the communication would be prejudicial to the undertaker’s sewerage system.”

(4) After subsection (5) there is inserted—

“(5A) Where the sewer or drain satisfies the standards reasonably required by it, a sewerage undertaker may, as a condition of permitting the communication to be made, require that the sewer or that part of the drain forming the lateral drain be vested in it by virtue of a declaration under section 102 above.”

(5) In subsection (6)—

- (a) for “(3) to (5)” there is substituted “(3) to (5A)”,
- (b) in paragraph (b), after “(5)” there is inserted “or (5A)”,
- (c) at the end there is added “(and, accordingly, section 105 above shall not apply to any requirement under subsection (5A) above).”

(6) In section 219 of the WIA (general interpretation), in the definition of “public sewer”, after “means” there is inserted “(subject to section 106(1A) above)”.

Commencement Information

16 S. 99 in force at 28.5.2004 by S.I. 2004/641, art. 4(b) (with Sch. 3 para. 7)

Status:

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Changes to legislation:

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