



# Water Act 1945

## 1945 CHAPTER 42

### PART IV

#### POWERS AND DUTIES OF LOCAL AUTHORITIES AND WATER UNDERTAKERS.

##### *Miscellaneous.*

#### **34 Temporary discharge of water into watercourses.**

- (1) Subject to the provisions of this section, statutory water undertakers who are carrying out, or are about to carry out, the construction, alteration, repair, cleaning, or examination of any reservoir, well or borehole, line of pipes or other work forming part of their undertaking may cause the water therein to be discharged into any available watercourse and for that purpose may lay and maintain in any street, whether within or outside their limits of supply, all necessary discharge pipes and apparatus, and such statutory provisions with respect to the breaking open of streets as are applicable to the undertakers shall, with any necessary modifications and adaptations, apply accordingly.
- (2) Except in a case of emergency, and except in so far as may be otherwise agreed in writing between the undertakers and the board or authority concerned, the following provisions shall have effect:—
  - (a) not less than seven days before commencing to discharge any such water as aforesaid through a pipe exceeding nine inches in diameter the undertakers shall give notice of their intentions to the catchment board of any catchment area and the fishery board of any fishery district within which any watercourse into which the water is to be discharged is situated and to any rivers board having jurisdiction over any such watercourse ;
  - (b) the undertakers shall have due regard to any representations which may be made to them as to the time, mode and rate of discharge with a view to avoiding or minimising injury or inconvenience therefrom ; and
  - (c) where the water is to be discharged into any river, canal or other inland navigation in respect of which a navigation authority exercise functions,

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*Status: This is the original version (as it was originally enacted).*

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the undertakers shall not discharge the water without the approval of the navigation authority, or except at such times as that authority may approve and in a manner approved by them as not likely to injure the river, canal or navigation or the banks thereof, or interfere with traffic thereon:

Provided that—

- (i) whenever the undertakers propose to discharge water on a number of occasions during a period, the giving by them of a general notice to that effect, accompanied by such particulars as it is reasonably practicable for them to give, shall constitute sufficient compliance by them with the provisions of paragraph (a) of this subsection ;
- (ii) in the case of a river, paragraph (c) of this subsection shall not apply if the point of discharge into the river is more than three miles above the limits within which the navigation authority exercise jurisdiction ;
- (iii) an approval required for the purposes of the said paragraph (c) shall not be withheld unreasonably, and any question whether it is withheld unreasonably or not shall be referred to an arbitrator to be appointed, in default of agreement, by the President of the Institution of Civil Engineers ; and
- (iv) any approval for which application is made under the said paragraph (c) shall be deemed to have been given unless notice of disapproval is given to the undertakers within seven days after the making of the application.

(3) If the undertakers are requested by—

- (a) the owner or occupier of any land which abuts on a watercourse at a point within three miles of any work of the undertakers from which water may be discharged into that watercourse under the provisions of this section ; or
- (b) the clerk to any association of mill owners any of whose constituent members is such an owner or occupier as aforesaid,

to register him for the purposes of this section, the undertakers shall enter his name and address in a register kept by them for the purpose and, so long as his name and address appear in the register, shall, except in a case of emergency and except in so far as may be otherwise agreed with him in writing, and unless the point at which the water is to be discharged as aforesaid is situated down stream of the 4 and in respect of which he is so registered, send to him in respect of that watercourse the like notices as they are (in the absence of any emergency or agreement to the contrary) required under the last foregoing subsection to send to such a board as is mentioned in paragraph (a) thereof.

- (4) Except in so far as may be otherwise agreed in writing, where the undertakers discharge water during an emergency, they shall forthwith give to the boards, authorities and registered persons concerned notice thereof and such further particulars relating to the discharge as may reasonably be required.
- (5) The undertakers shall take all necessary steps to secure that any water discharged by them under the provisions of this section shall be as free as may be reasonably practicable from mud and silt, from solid, polluting, offensive or injurious matters, and from any matter prejudicial to fish or spawn, or to spawning beds or food of fish, and, if they fail to do so, shall be guilty of an offence against this Act.
- (6) The powers of this section shall not be exercised so as to damage or affect injuriously any works or other property of a railway company or a navigation authority, or so as to flood or damage any highway.
- (7) In the exercise of the powers conferred by this section the undertakers shall do as little damage as may be and shall pay compensation to all persons for any damage sustained

by them or liability to which they may become subject by reason of the exercise of those powers and, for the purposes of this subsection, any extra expenditure which it becomes reasonably necessary for any public authority to incur for the purpose of properly discharging their statutory functions shall be deemed to be damage sustained by them.

Any question as to the amount of the compensation to be so paid shall be referred to an arbitrator to be appointed, in default of agreement, by the Minister.