



2015 CHAPTER 8

PART 6

CIVIL ENFORCEMENT, EMERGENCY
POWERS AND FURTHER OFFENCES

Enforcement of commissioning of engineers

Enforcement notice: commissioning of engineers

67.—(1) This section applies in relation to a controlled reservoir where it appears to the Department that—

- (a) the reservoir manager is required by section 25(2) to commission a supervising engineer, but no supervising engineer is for the time being commissioned,
- (b) the reservoir manager is required by section 34(1) to commission an inspecting engineer, but no inspecting engineer is for the time being commissioned,
- (c) the reservoir manager is required by section 43(2)(a) to commission a construction engineer, but no construction engineer is for the time being commissioned.

(2) The Department may by notice (“the notice”) served on the reservoir manager of the reservoir require the manager—

- (a) to commission the relevant engineer before the end of the period of 28 days beginning with the day on which the notice is given (unless the reservoir manager has already commissioned the relevant engineer),

(b) before the expiry of such period as is specified in the notice, to give notice to the Department of the commissioning (whether it was made before or after the notice was given).

(3) In subsection (2)(a) and sections 69 and 70, “the relevant engineer” is a supervising engineer, an inspecting engineer or (as appropriate) a construction engineer.

Offence: failure to comply with notice under section 67(2)

68.—(1) Failure to comply with the requirements of a notice by the Department under the following sections is an offence—

- (a) section 67(2)(a) (requirement to commission supervising engineer, inspecting engineer or construction engineer),
- (b) section 67(2)(b) (notice to Department of commissioning).

(2) A reservoir manager guilty of an offence under subsection (1)(a) or (b) is liable—

- (a) on conviction on indictment to imprisonment for a term not exceeding 2 years, or to a fine, or to both,
- (b) on summary conviction to imprisonment for a term not exceeding 6 months, or to a fine not exceeding the statutory maximum, or to both.

Commissioning of engineer by Department

69.—(1) The Department may commission a relevant engineer where—

- (a) it has by notice under section 67(2) required a reservoir manager to do so,
- (b) the reservoir manager has failed to do so.

(2) Any commissioning of a relevant engineer under this section is to be treated for the purposes of this Act as if the commissioning were by the reservoir manager under section 25(2), 34(1) or 43(2)(a).

(3) The commissioning of a relevant engineer under this section—

- (a) has no effect if the reservoir manager has already commissioned a relevant engineer,
- (b) terminates with effect from the date of the subsequent commissioning of a relevant engineer by the reservoir manager.

(4) If the Department considers it appropriate to do so, it may by notice served on the reservoir manager require the manager to pay the Department such amount of the costs reasonably incurred by it in pursuance of the exercise of its powers under this section as is specified in the notice.

(5) Subject to section 76, the reservoir manager must pay the amount of any costs so incurred and specified in such notice.

Commissioning by the Department: engineers' reports, certificates, recommendations etc.

70. Where the Department commissions a relevant engineer under section 69, the following are to be given to the Department (instead of being given to the reservoir manager) and copied to the reservoir manager, not later than 28 days after being given to the Department—

- (a) where the relevant engineer is a supervising engineer, any notice under section 26(2)(a) or (g), recommendation under section 26(3) or statement under section 26(5) by the supervising engineer,
- (b) where the relevant engineer is an inspecting engineer, any inspection report, interim inspection compliance certificate or inspection compliance certificate by the inspecting engineer,
- (c) where the relevant engineer is a construction engineer, any safety report, safety measure certificate, preliminary certificate, construction certificate or final certificate by the construction engineer.