



2015 CHAPTER 8

PART 6

CIVIL ENFORCEMENT, EMERGENCY  
POWERS AND FURTHER OFFENCES

*Miscellaneous*

**Consultation in relation to regulations under sections 77(1), 81(1), 83(1) and 86(1)**

**90.**—(1) The consultation required by sections—

- (a) 77(2) (stop notices),
- (b) 81(2) (enforcement undertakings),
- (c) 83(2) (fixed monetary penalties),
- (d) 86(2) (variable monetary penalties),

is consultation with the organisations and persons mentioned in subsection (2).

(2) The persons are—

- (a) such organisations as appear to the Department to be representative of persons substantially affected by the making of the proposed regulations,
- (b) such other persons as the Department considers appropriate.

**Recovery by the Department of certain costs**

**91.**—(1) Regulations under section 77(1), 81(1) or 86(1) may include provision for the Department, by notice served on a reservoir manager on whom a stop notice is served, from whom an enforcement undertaking is accepted or on

whom a variable monetary penalty is imposed, to require the reservoir manager to pay the amount of any costs reasonably incurred by the Department in relation to (and up to the time of) the service of the notice, acceptance of the undertaking or imposition of the penalty.

- (2) In subsection (1), the reference to “costs” includes in particular—
  - (a) investigation costs,
  - (b) administration costs,
  - (c) costs of obtaining expert advice, including legal advice.
- (3) Provision pursuant to subsection (1) must—
  - (a) secure that the reservoir manager required to pay the costs may appeal to the Water Appeals Commission against the following—
    - (i) the Department’s decision to impose the requirement to pay costs,
    - (ii) the Department’s decision as to the amount of the costs,
  - (b) secure that the Commission may confirm, quash or vary the decision.

#### **Publication of enforcement action**

**92.**—(1) Except as provided in subsection (2), the Department may publish such information as it considers appropriate as regards cases in which it has—

- (a) commissioned a supervising engineer, an inspecting engineer or a construction engineer under section 69,
- (b) arranged for the taking of any measure under section 73,
- (c) served a stop notice by virtue of section 77(1),
- (d) imposed a fixed monetary penalty by virtue of section 83(1),
- (e) imposed a variable monetary penalty by virtue of section 86(1).

(2) The Department may not publish information as regards a case falling within paragraph (c), (d) or (e) of subsection (1) where the stop notice, fixed monetary penalty or variable monetary penalty has been imposed but overturned on appeal.