



2015 CHAPTER 8

PART 6

CIVIL ENFORCEMENT, EMERGENCY POWERS AND FURTHER OFFENCES

Powers of entry

Compensation

97.—(1) Subject to subsection (7), the Department must pay compensation in accordance with this section where subsection (2) or (4) applies.

(2) This subsection applies where, in the exercise of a right to enter land conferred by section 93 (whether or not under a warrant under section 94) any of the following occurs—

- (a) any land, other than land which is occupied by the reservoir manager, is damaged,
- (b) the enjoyment of any land, other than land which is so occupied, is disturbed.

(3) Compensation under subsection (1) in respect of the damage or disturbance, where subsection (2) applies, is to be paid to—

- (a) a person with an interest in the land,
- (b) a person whose enjoyment of the land is disturbed.

(4) This subsection applies where in the exercise of a right to enter land conferred by section 93 (whether or not under a warrant under section 94), land occupied by the reservoir manager is damaged and the reservoir manager is not disqualified from claiming compensation.

(5) The reservoir manager of a controlled reservoir is disqualified from claiming compensation under subsection (1) in either of the following circumstances—

- (a) the exercise of the right was for the purposes of section 73,
- (b) the exercise of the right was for the purpose of taking measures under section 75 and the reservoir manager had not taken all practicable steps to prevent an escape of water from the reservoir.

(6) Compensation under subsection (1) in respect of the damage, where subsection (4) applies, is to be paid to the reservoir manager.

(7) The Department may agree to secure the reinstatement or partial reinstatement of the land instead of payment of compensation under subsection (1), or a combination of such reinstatement and compensation; and subject to subsection (10) any such agreement reached with a person referred to in subsection (2), or the reservoir manager, is binding on the parties to it.

(8) If the Department considers it appropriate to do so it may, in the circumstances mentioned in subsection (9), by notice served on the reservoir manager require the manager to pay the Department such amount of the following as is specified in the notice—

- (a) any compensation payable under this section,
- (b) any costs reasonably incurred by the Department in relation to such compensation or an agreement under subsection (7),

(9) The circumstances are where the damage or disturbance concerned occurred in the exercise of a right to enter land in either of the circumstances referred to in paragraph (a) or (b) of subsection (5).

(10) Any dispute as to a right of compensation under this section, the amount of any such compensation or costs incurred by the Department in relation to such compensation, or costs incurred by it in relation to an agreement under subsection (7), is to be determined by the Lands Tribunal.