



Water Act 1989

1989 CHAPTER 15

PART II

WATER SUPPLY AND SEWERAGE SERVICES

CHAPTER II

WATER SUPPLY

Duties to provide supplies etc.

40 Requisitioning of water mains

- (1) It shall be the duty of a water undertaker to provide a water main to be used for providing such supplies of water to premises in a particular locality in its area as (so far as those premises are concerned) are sufficient for domestic purposes, if—
- (a) the undertaker is required to provide the main by a notice served on the undertaker by one or more of the persons who under subsection (2) below are entitled to require the provision of the main for that locality;
 - (b) the premises in that locality to which those supplies would be provided by means of that main are—
 - (i) premises consisting in buildings or parts of buildings; or
 - (ii) premises which will so consist when proposals made by any person for the erection of buildings or parts of buildings are carried out;
- and
- (c) the conditions specified in section 41 below are satisfied in relation to that requirement.
- (2) Each of the following persons shall be entitled to require the provision of a water main for any locality, that is to say—
- (a) the owner of any premises in that locality;

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- (b) the occupier of any premises in that locality;
 - (c) any local authority within whose area the whole or any part of that locality is situated;
 - (d) where the whole or any part of that locality is 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 Board for Rural Wales or the development corporation for the new town, according to whether or not the new town is situated within the area for which that Board is for the time being responsible;
 and
 - (e) where the whole or any part of that locality is situated within an area designated as an urban development area under Part XVI of the Local Government, Planning and Land Act 1980, the urban development corporation.
- (3) A water undertaker shall not be in breach of a duty imposed by this section in relation to any locality unless—
- (a) the period of three months beginning with the relevant day has expired; and
 - (b) the water undertaker has not, before the end of that period, so laid the water main to be provided as to enable service pipes to premises in that locality to connect with the main at the places determined under subsection (4) below;
- and for the purposes of this subsection the period mentioned in paragraph (a) above may be extended by agreement between the undertaker and the person or persons who required the provision of the water main or, where there is a dispute as to whether the period should be extended, by an arbitrator on a reference under subsection (5) below.
- (4) The places mentioned in subsection (3)(b) above shall be determined by agreement between the water undertaker and the person or persons who required the provision of the water main or, in default of agreement, shall be such places as are determined by an arbitrator, on a reference under subsection (5) below, to be the places at which it is reasonable, in all the circumstances, for service pipes to premises in the locality in question to connect with the water main.
- (5) A reference for the purposes of subsection (3) or (4) above shall be to a single arbitrator appointed by agreement between the undertaker and the person or persons who required the provision of the water main or, in default of agreement, by the President of the Institution of Civil Engineers.
- (6) The duty of a water undertaker under this section to provide a water main shall be owed to the person who requires the provision of the main or, as the case may be, to each of the persons who joins in doing so; and any breach by a water undertaker of any such duty which causes any person to whom the duty is owed to sustain loss or damage shall be actionable at the suit of that person.
- (7) In any proceedings brought against a water undertaker in pursuance of subsection (6) above in respect of a breach of duty which has caused any person to sustain loss or damage it shall be a defence for the undertaker to show that it took all reasonable steps and exercised all due diligence to avoid the breach.
- (8) In this section—

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“local authority”, in relation to the Inner Temple and the Middle Temple, includes, respectively, the Sub-Treasurer of the Inner Temple and the Under-Treasurer of the Middle Temple;

“relevant day”, in relation to a requirement to provide a water main for any locality, means the day after whichever is the later of the following, that is to say—

- (a) the day on which the conditions specified in section 41 below are satisfied in relation to the requirement; and
- (b) the day on which the places where service pipes to premises in that locality will connect with the main are determined under subsection (4) above.

41 Financial conditions for water main requisition

- (1) The conditions mentioned in section 40(1)(c) above are satisfied in relation to a requirement for the provision of a water main by a water undertaker if—
 - (a) such undertakings as the undertaker may have reasonably required in accordance with subsection (2) below have been given by the person or persons who have required the provision of the main; and
 - (b) such security as the undertaker may have reasonably required has been provided for the discharge of any obligations imposed by those undertakings on any person who—
 - (i) by virtue of section 40(2)(a) or (b) above required, or joined in requiring, the provision of the main; and
 - (ii) is not a public authority.
- (2) The undertakings which a water undertaker may require for the purposes of subsection (1) above in respect of any water main are undertakings which bind the person or persons mentioned in that subsection (in the case of two or more persons, either jointly and severally or with liability to pay apportioned in such manner as those persons may agree) to pay to the undertaker, in respect of each of the twelve years following the provision of the main, an amount not exceeding the relevant deficit (if any) for that year on that main.
- (3) For the purposes of this section the relevant deficit for any year on a water main is the amount (if any) by which the water charges payable for the use during that year of that main are exceeded by the annual borrowing costs of a loan of the amount required for the provision of that main.
- (4) The annual borrowing costs of a loan of the amount required for the provision of a water main is the aggregate amount which would fall to be paid in any year by way of payments of interest and repayments of capital if an amount equal to so much of the costs reasonably incurred in providing that main as were not incurred in the provision of additional capacity had been borrowed, by the water undertaker providing the main, on terms—
 - (a) requiring interest to be paid and capital to be repaid in twelve equal annual instalments; and
 - (b) providing for the amount of the interest to be calculated at such rate, and in accordance with such other provision, as may have been determined either by the undertaker with the approval of the Director or, in default of such a determination, by the Director.

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- (5) The costs reasonably incurred in providing a water main (“the new main”) shall include—
- (a) the costs reasonably incurred in providing such other water mains and such tanks, service reservoirs and pumping stations as it is necessary to provide in consequence of the provision of the new main; and
 - (b) such proportion (if any) as is reasonable of the costs reasonably incurred in providing any such additional capacity in an earlier water main as falls to be used in consequence of the provision of the new main;
- and in this subsection “earlier water main”, in relation to the new main, means any water main which has been provided in the period of twelve years immediately before the provision of the new main and was so provided in pursuance of a requirement under section 40 above, under the provisions of section 36 or 37 of the 1945 Act or of section 29 of Schedule 3 to that Act (water main requisitions) or under any local statutory provision corresponding to section 40 above or to any of those provisions of the 1945 Act.
- (6) Any reference in this section to the provision of additional capacity in a water main provided in pursuance of a requirement under any enactment is a reference to such works carried out or other things done in connection with the provision of that main as are carried out or done for the purpose of enabling that main to be used for purposes in addition to those for which it is necessary to provide the main in order to comply with the requirement.
- (7) For the purposes of this section references to the water charges payable for the use during any year of any main provided by a water undertaker are references to so much of the aggregate of any charges payable to the water undertaker in respect of services provided in the course of that year as represents charges which—
- (a) have been imposed by the undertaker in relation to premises which are connected with that main; and
 - (b) are reasonably attributable to the provision of a supply of water (whether or not for domestic purposes) to those premises by means of that main.
- (8) Where for the purposes of subsection (1)(b) above any sums have been deposited with a water undertaker by way of security for the discharge of any obligation, the undertaker shall pay interest at such rate as may be determined either—
- (a) by the undertaker with the approval of the Director; or
 - (b) in default of a determination under paragraph (a) above, by the Director,
- on every sum of 50p so deposited for every three months during which it remains in the hands of the undertaker.
- (9) An approval or determination given or made by the Director for the purposes of subsection (4) or (8) above—
- (a) may be given or made in relation to the provision of a particular water main, in relation to the provision of mains of a particular description or in relation to the provision of water mains generally; and
 - (b) may be revoked at any time except, in the case of an approval or determination for the purposes of subsection (4) above, in relation to a water main that has already been provided.
- (10) Any dispute between a water undertaker and any other person as to—
- (a) the undertakings or security required by the undertaker for the purposes of this section; or

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(b) the amount required to be paid in pursuance of any such undertaking, shall be referred to the arbitration of a single arbitrator appointed by agreement between the undertaker and that person or, in default of agreement, by the President of the Institution of Civil Engineers.

42 Duty to make connections to water mains

(1) This section applies where the owner or occupier of any premises which are situated in the area of a water undertaker and are premises which consist in the whole or any part of a building or premises on which any person is proposing to erect any building or part of a building serves a notice on the undertaker which—

- (a) requires the undertaker, for the purpose of providing a supply of water for domestic purposes to that building or part, to connect a service pipe to those premises with one of the undertaker's water mains; and
- (b) is accompanied or supplemented by all such information as the undertaker may reasonably require and, if it has effect so that a requirement is imposed on the undertaker by virtue of subsection (3)(c) below, sets out the matters that have given rise to the imposition of that requirement;

and this section applies where a notice has been served for the purposes of this section whether or not the service pipe to which the notice relates has been laid when the notice is served.

(2) Subject to the following provisions of this section and to section 44 below, it shall be the duty of a water undertaker on whom a notice is served for the purposes of this section, at the expense of the person serving the notice, to make the required connection if—

- (a) the main with which the service pipe is required to be connected is neither a trunk main nor a water main which is or is to be used solely for the purpose of supplying water otherwise than for domestic purposes; and
- (b) such conditions as the undertaker may have imposed under section 43 below have been satisfied.

(3) Where a water undertaker is required to make a connection under subsection (2) above, it shall be the duty of the undertaker, at the expense of the person serving the notice, to carry out such of the following works as need to be carried out before the connection in question can be made, that is to say—

- (a) to lay so much of the service pipe as it is necessary, for the purpose of making a connection with the main, to lay in a street;
- (b) in a case where—
 - (i) the water main in question is situated in a street;
 - (ii) the premises consisting in the building or part of a building in question together with any land occupied with it abut on the part of the street where the main is situated; and
 - (iii) the service pipe to those premises will enter the premises otherwise than through an outer wall of a building abutting on the street and will have a stopcock fitted by the undertaker in the premises,

to lay so much of the service pipe as it is necessary for that purpose to lay in land between the boundary of the street and that stopcock;

- (c) in a case where the notice for the purposes of this section is served in compliance with a requirement imposed by a notice served by a local authority under section 57 below, to lay so much of the service pipe as it is necessary

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for that purpose to lay in land owned or occupied by a person who is certified by that authority—

- (i) to have unreasonably refused his consent to the laying of the service pipe; or
- (ii) to have sought to make the giving of his consent subject to unreasonable conditions;

and it shall be the duty of any water undertaker making a connection under this section to ensure that a stopcock belonging to the undertaker is fitted to the service pipe which is connected.

- (4) Where a water main is alongside a street and within eighteen metres of the middle of that street, subsection (3) above shall have effect in relation to the laying, for the purpose of making a connection with that main, of a service pipe to any premises as if the street included so much of the land between the main and the boundary of the street as is not comprised in those premises or in any land occupied with those premises.
- (5) Subject to section 44(6) below, a water undertaker may comply with any duty under this section to lay a service pipe by laying a water main instead; but nothing in this section shall impose any duty on a water undertaker—
 - (a) to lay a water main where it has no power to lay a service pipe; or
 - (b) to connect a service pipe to any premises with a service pipe to other premises.
- (6) Where a notice under this section is served in respect of any premises before the laying of so much of the service pipe to those premises as falls to be laid otherwise than by the water undertaker under subsection (3) above, the duties of the undertaker under this section shall not arise by virtue of that notice until the person serving the notice, having obtained the necessary consents from the owners and occupiers of any affected land, has, at his own expense, laid so much of the service pipe as it is necessary, for the purpose of making the connection, to lay otherwise than in a street or in land mentioned in subsection (3)(b) or (c) or (4) above.

43 Conditions of connection to water main

- (1) Subject to the following provisions of this section and without prejudice to the provisions of sections 233 and 372 of the Insolvency Act 1986 (conditions of supply after insolvency), where the owner or occupier of any premises serves a notice on a water undertaker under section 42 above, the undertaker may make any one or more of the following a condition of complying with the duties to which it is subject by virtue of that notice, that is to say—
 - (a) that such security as the undertaker may reasonably require has been provided for the discharge of any obligations imposed by virtue of section 44(5) below on the person serving the notice;
 - (b) in a case where the connection required by the notice is necessary as a consequence of a disconnection made by reason of any person's failure to pay any charges, that the person serving the notice has paid any amount owed by him to the undertaker in respect of a supply of water to those premises or in respect of expenses incurred in the making of the disconnection;
 - (c) that a meter for use in determining the amount of any charges which have been or may be fixed in relation to those premises by reference to volume has been installed and connected either by the undertaker or in accordance with specifications approved by the undertaker;

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- (d) that so much of the service pipe to the premises as does not belong to, or fall to be laid by, the undertaker and the plumbing of the premises comply with specifications approved by the undertaker for the purpose of ensuring that it will be reasonably practicable for such a meter to be so installed and connected;
 - (e) that a separate service pipe has been provided to each house or building on the premises or, where different parts of a building on the premises are separately occupied, to each of those parts or to any of them;
 - (f) that such a requirement as may be imposed under subsection (5) of section 51 below has been complied with or, in a case where such a requirement could be imposed but for there already being such a cistern as is mentioned in that subsection, that the cistern and its float-operated valve are in good repair;
 - (g) that there is no contravention in relation to the water fittings used or to be used in connection with the supply of water to those premises, or with the use of water in those premises, of such of the requirements of regulations under section 62 below as are prescribed for the purposes of this paragraph; and
 - (h) that every such step has been taken as has been specified in any notice served under section 63 below in relation to those premises on any person.
- (2) A condition shall not be imposed by an undertaker under this section on a person who has served a notice under section 42 above except by a counter-notice served on that person before the end of the period of fourteen days beginning with the day after the service of the notice under that section.
- (3) Where for the purposes of subsection (1)(a) above any sums have been deposited with a water undertaker by way of security for the discharge of any obligation, the undertaker shall pay interest at such rate as may be determined either—
- (a) by the undertaker with the approval of the Director; or
 - (b) in default of a determination under paragraph (a) above, by the Director,
- on every sum of 50p so deposited for every three months during which it remains in the hands of the undertaker; and an approval or determination by the Director for the purposes of this subsection may be given or made in relation to a particular case or description of cases or generally and may be revoked at any time.
- (4) The power conferred on a water undertaker by virtue of paragraphs (c) and (d) of subsection (1) above shall be exercisable in relation to any premises even if the undertaker has no immediate intention, when the power is exercised, of fixing charges in relation to those premises by reference to volume, but shall not be exercisable so as to require the alteration or removal of any pipe laid or plumbing installed before 1st April 1989.
- (5) Specifications approved by any water undertaker for the purposes of either of the said paragraphs (c) and (d) may be approved in relation to particular premises or, by being published in such manner as the undertaker considers appropriate, in relation to premises generally or to any description of premises.
- (6) Any dispute between a water undertaker and any other person as to the terms of any condition imposed by virtue of either of the said paragraphs (c) and (d) shall be referred to the arbitration of a single arbitrator appointed by agreement between the undertaker and that person or, in default of agreement, by the Secretary of State.
- (7) Where the effect of a notice served on a water undertaker under section 42 above in respect of any house is to require a service pipe to that house to be connected with

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a water main with which it has previously been connected, the undertaker shall not be entitled to make the reconnection subject to any such condition as is mentioned in paragraph (e) of subsection (1) above unless the undertaker would have been entitled under section 50 below to require the provision of a separate service pipe if the reconnection had already been made.

- (8) In this section “meter” means any apparatus for measuring or showing the volume of water supplied to, or of effluent discharged from, any premises; and any reference in this section to the fixing of charges in relation to any premises by reference to volume is a reference to the fixing of those charges by reference to the volume of water supplied to those premises, to the volume of effluent discharged from those premises, to both of those factors or to one or both of those factors taken together with other factors.

44 Enforcement of obligations under section 42

- (1) Any duty imposed on a water undertaker by virtue of a notice under section 42 above shall be owed to the person who served the notice; and any breach by a water undertaker of any such duty which causes the person to whom the duty is owed to sustain loss or damage shall be actionable at the suit of that person.
- (2) A water undertaker shall not be in breach of a duty imposed by virtue of a notice under section 42 above unless—
- (a) in the case of a duty to lay any service pipe or to connect any service pipe to which such a duty relates, it has failed to lay that pipe or to make that connection as soon as reasonably practicable after the relevant day;
 - (b) in the case of a duty to connect a service pipe the whole of which has already been laid when the notice is served on the undertaker, it has failed to make the connection before the end of the period of fourteen days beginning with the relevant day.
- (3) In any case in which a water undertaker is subject to any such duty as is mentioned in subsection (2)(a) above, it shall be presumed, unless the contrary is shown in relation to that case, that the period of twenty-one days beginning with the relevant day is the period within which it is reasonably practicable for a water undertaker—
- (a) to lay so much of any service pipe; and
 - (b) to fit such stopcock,
- as it is necessary to lay or fit in that case for connecting a water main in a street with a service pipe at the boundary of any premises which abut on the part of the street where the main is situated.
- (4) In any proceedings brought against a water undertaker in pursuance of subsection (1) above in respect of a breach of duty which has caused any person to sustain loss or damage it shall be a defence for the undertaker to show that it took all reasonable steps and exercised all due diligence to avoid the breach.
- (5) Where a water undertaker carries out any works which it is its duty to carry out under section 42 above at the expense of a person who has served a notice on the undertaker, the undertaker shall be entitled to recover from that person an amount equal to the expenses reasonably incurred by the undertaker in carrying out the works.
- (6) Where a water undertaker exercises its power under section 42(5) above to lay a water main instead of a service pipe—

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- (a) paragraph (a) of subsection (2) above shall have effect as if any additional time reasonably required by reason of the laying of the main instead of the service pipe were included in the time allowed by that paragraph for the laying of the service pipe; but
 - (b) the expenses recoverable by virtue of subsection (5) above shall not exceed such amount as it would have been reasonable for the undertaker to have incurred in laying a service pipe instead of the main.
- (7) In this section “the relevant day”, in relation to a duty imposed on a water undertaker by virtue of a notice under section 42 above, means the day after whichever is the latest of the following days, that is to say—
- (a) the day on which the notice was served on the undertaker;
 - (b) in a case where it is necessary for the person serving the notice to lay any service pipe after serving the notice, the day on which a notice stating that the pipe has been laid is served on the undertaker;
 - (c) the day on which all such conditions are satisfied as the undertaker has, under section 43 above, made conditions of its compliance with that duty.

45 Duty to supply water for domestic purposes

- (1) This section applies to any premises which consist in the whole or any part of a building and which are connected by means of a service pipe to a water main if—
- (a) that pipe was first connected with that main in pursuance of a notice served under section 42 above in respect of those premises;
 - (b) that pipe was the means by which a supply of water from that main was being supplied to those premises for domestic purposes immediately before the transfer date;
 - (c) the condition specified in paragraph (b) above would be satisfied in relation to the premises if any service pipe to those premises had not been temporarily disconnected for the purposes of any necessary works which were being carried out immediately before the transfer date; or
 - (d) the condition specified in any of the preceding paragraphs—
 - (i) has been satisfied in relation to those premises at any time on or after the transfer date; and
 - (ii) would continue to be satisfied in relation to those premises had not the whole or any part of a service pipe to those premises, or the main with which such a pipe had been connected, been renewed (on one or more previous occasions).
- (2) Subject to the following provisions of this section, a water undertaker shall owe a domestic supply duty in relation to any premises to which this section applies and which are situated in the area of the undertaker if—
- (a) a demand for a supply of water for domestic purposes has been made to the undertaker in respect of those premises—
 - (i) by the person who was the occupier of the premises at the time when the demand was made; or
 - (ii) by any person who was the owner of the premises at that time and agreed with the undertaker to pay all the undertaker’s charges in respect of the supply demanded;

or

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- (b) those premises are premises to which this section applies by reason of a supply of water provided before the transfer date,
and there has been no interruption of the domestic supply duty in relation to those premises since that demand was made or, as the case may be, since the beginning of the transfer date.
- (3) Where a water undertaker owes a domestic supply duty in relation to any premises, it shall be the duty of that undertaker, until there is an interruption of that duty—
- (a) to provide to those premises such a supply of water as (so far as those premises are concerned) is sufficient for domestic purposes; and
 - (b) to maintain the connection between the undertaker's water main and the service pipe by which that supply is provided to those premises.
- (4) For the purposes of this section—
- (a) there is an interruption of the domestic supply duty owed by a water undertaker in relation to any premises if that supply is cut off by anything done by the undertaker in exercise of any power conferred on the undertaker by section 49 or 63 below, other than a disconnection or cutting off for the purposes of the carrying out of any necessary works; and
 - (b) a domestic supply duty owed in relation to any premises shall not be treated for the purposes of this section as interrupted by reason only of a change of the occupier or owner of the premises.
- (5) Nothing in this section shall impose any duty on a water undertaker—
- (a) to provide a supply of water directly from, or maintain any connection with, a water main which is a trunk main or is or is to be used solely for the purpose of supplying water otherwise than for domestic purposes; or
 - (b) to provide a supply of water to any premises, or maintain the connection between a water main and a service pipe to any premises, during any period during which it is reasonable for the supply of water to those premises to be cut off or reduced, or for the pipe to be disconnected, for the purposes of the carrying out of any necessary works.
- (6) Without prejudice to the provisions of sections 233 and 372 of the Insolvency Act 1986 (conditions of supply after insolvency), where a demand for the purposes of subsection (2) above has been made to a water undertaker in respect of any premises, the undertaker may make any one or more of the following a condition of providing his first supply of water in compliance with that demand, that is to say—
- (a) in a case where the demand is made as a consequence of a supply having been cut off by reason of any person's failure to pay any charges, that the person serving the notice has paid any amount owed by him to the undertaker in respect of a supply of water to those premises or in respect of expenses incurred in cutting off any such supply;
 - (b) that such a requirement as may be imposed under subsection (5) of section 51 below has been complied with or, in a case where such a requirement could be imposed but for there already being such a cistern as is mentioned in that subsection, that the cistern and its float-operated valve are in good repair;
 - (c) that there is no contravention in relation to the water fittings used or to be used in connection with the supply of water to those premises, or with the use of water in those premises, of such of the requirements of regulations under section 62 below as are prescribed for the purposes of this paragraph; and

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- (d) that every such step has been taken as has been specified in any notice served under section 63 below in relation to those premises on any person.
- (7) Any duty imposed on a water undertaker under this section to provide a supply of water to any premises, or to maintain a connection between a water main and a service pipe by which such a supply is provided, shall be owed to the consumer; and any breach by a water undertaker of any duty imposed by this section which causes any person to whom the duty is owed to sustain loss or damage shall be actionable at the suit of that person.
- (8) In any proceedings brought against a water undertaker in pursuance of subsection (7) above in respect of a breach of duty which has caused any person to sustain loss or damage it shall be a defence for the undertaker to show that it took all reasonable steps and exercised all due diligence to avoid the breach.

46 Supply of water for non-domestic purposes

- (1) This section applies where the owner or occupier of any premises in the area of a water undertaker requests the undertaker to provide a supply of water to those premises and—
 - (a) the premises are premises which do not consist in the whole or any part of a building; or
 - (b) the requested supply is for purposes other than domestic purposes.
- (2) Subject to the following provisions of this section and to sections 49 and 63 below, where this section applies, it shall be the duty of the undertaker, in accordance with such terms and conditions as may be determined under this section—
 - (a) to take any such steps as may be so determined in order to enable the undertaker to provide the requested supply; and
 - (b) having taken any such steps, to provide that supply.
- (3) A water undertaker shall not be required by virtue of this section to provide a new supply to any premises, or to take any steps to enable it to provide such a supply, if—
 - (a) the provision of that supply or the taking of those steps would—
 - (i) require the undertaker, in order to meet all its existing obligations to supply water for domestic or other purposes, together with its probable future obligations to supply buildings and parts of buildings with water for domestic purposes, to incur unreasonable expenditure in carrying out works; or
 - (ii) otherwise put at risk the ability of the undertaker to meet any of the existing or probable future obligations mentioned in sub-paragraph (i) above;
 - or
 - (b) there is a contravention in relation to the water fittings used or to be used in connection with the supply of water to those premises, or with the use of water in those premises, of such of the requirements of regulations under section 62 below as are prescribed for the purposes of this paragraph.
- (4) Subject to subsection (5) below and without prejudice to the provisions of sections 233 and 372 of the Insolvency Act 1986 (conditions of supply after insolvency), any terms or conditions or other matter which falls to be determined for the purposes of a request made by any person to a water undertaker under subsection (2) above shall be determined by agreement between that person and the water undertaker or, in default

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of agreement, shall be determined by the Director according to what appears to him to be reasonable; and the Director shall also determine any dispute arising between such a person and a water undertaker by virtue of subsection (3) above.

- (5) The Director may, instead of himself making a determination under subsection (4) above, refer any matter submitted to him for determination under that subsection to the arbitration of such person as he may appoint.
- (6) For the purposes of any determination under this section by the Director or any person appointed by him—
- (a) it shall be for a water undertaker to show that it should not be required to comply with a request for the purposes of subsection (2) above;
 - (b) the charges in respect of a supply provided in compliance with such a request shall not be determined by the Director or such a person except in so far as at the time of the request no provision is in force by virtue of a scheme under section 76 below in respect of supplies of the applicable description; and
 - (c) in so far as charges in respect of such a supply do fall to be determined they shall be determined having regard to the desirability of the undertaker's recovering the expenses of complying with its obligations under this section and of securing a reasonable return on its capital;

and, to the extent that paragraph (b) above excludes any charges from a determination under this section, those charges shall be fixed from time to time by a scheme under the said section 76 but not otherwise.

- (7) Where—
- (a) a request has been made by any person to a water undertaker for the purposes of subsection (2) above; and
 - (b) the steps which the undertaker is required to take by virtue of that request include steps for the purpose of obtaining any necessary authority for or agreement to any exercise by the undertaker of any of its powers or to the carrying out by the undertaker of any works,

the failure of the undertaker to acquire the necessary authority or agreement shall not affect any liability of that person, under any term or condition in accordance with which those steps are taken, to re-imburse the undertaker in respect of some or all of the expenses incurred by the undertaker in taking those steps.

- (8) Nothing in this section shall impose any duty on a water undertaker to provide a supply of water to any premises during any period during which it is reasonable for the supply of water to those premises to be cut off or reduced for the purposes of the carrying out of any necessary works.
- (9) The duty of a water undertaker to supply water under this section at the request of any person and any terms and conditions determined under this section in default of agreement between the undertaker and that person shall have effect as if contained in such an agreement.

47 Duty to provide a supply of water etc. for fire-fighting

- (1) It shall be the duty of a water undertaker to allow any person to take water for extinguishing fires from any of its water mains or other pipes on which a fire-hydrant is fixed.

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- (2) Every water undertaker shall, at the request of the fire authority concerned, fix fire-hydrants on its water mains (other than its trunk mains) at such places as may be most convenient for affording a supply of water for extinguishing any fire which may break out within the area of the undertaker.
- (3) A water undertaker shall, at the request of the owner or occupier of any factory or place of business, fix a fire-hydrant, to be used for extinguishing fires and not other purposes, at such place on any suitable water main or other pipe of the undertaker as is as near as conveniently possible to that factory or place of business.
- (4) It shall be the duty of every water undertaker to keep every fire-hydrant fixed on any of its water mains or other pipes in good working order and, for that purpose, to replace any such hydrant when necessary.
- (5) It shall be the duty of a water undertaker to ensure that a fire authority has been supplied by the undertaker with all such keys as the authority may require for the fire-hydrants fixed on the water mains or other pipes of the undertaker.
- (6) The expenses incurred by a water undertaker in complying with its obligations under subsections (2) to (5) above shall be borne—
 - (a) in the case of a hydrant fixed in pursuance of a request made (whether before or after the transfer date) by the owner or occupier of a factory or place of business, by the owner or occupier for the time being of that factory or place, according to whether the person who made the original request did so in his capacity as owner or occupier; and
 - (b) in any other case, by the fire authority concerned.
- (7) Nothing in this section shall require a water undertaker to do anything which it is unable to do by reason of the carrying out of any necessary works.
- (8) The obligations of a water undertaker under this section shall be enforceable under section 20 above by the Secretary of State; and, in addition, where a water undertaker is in breach of a duty under this section the undertaker shall be guilty of an offence and liable—
 - (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to a fine.
- (9) In any proceedings against any water undertaker for an offence under subsection (8) above it shall be a defence for that undertaker to show that it took all reasonable steps and exercised all due diligence to avoid the commission of the offence.
- (10) For the purposes of subsection (3) above a water main or other pipe is suitable, in relation to a factory or place of business, if—
 - (a) it is situated in a street which is in or near to that factory or place of business; and
 - (b) it is of sufficient dimensions to carry a hydrant and is not a trunk main.
- (11) In this section—
 - “factory” has the same meaning as in the Factories Act 1961; and
 - “fire authority” has the same meaning as in the Fire Services Act 1947.

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48 Duty to supply water for other public purposes

- (1) A water undertaker shall, at the request of a sewerage undertaker, highway authority or local authority, provide, from such of its pipes as are of an appropriate capacity, a supply of water for cleansing sewers and drains, for cleansing and watering highways or, as the case may be, for supplying any public pumps, baths or wash-houses.
- (2) A supply of water provided by a water undertaker under this section shall be provided upon such terms and conditions as may be reasonable.
- (3) A water main or other pipe of a water undertaker shall be treated as of an appropriate capacity for the purposes of this section if and only if it has a fire-hydrant fixed on it.
- (4) Nothing in this section shall require a water undertaker to do anything which it is unable to do by reason of the carrying out of any necessary works.
- (5) The obligations of a water undertaker under this section shall be enforceable under section 20 above by the Director.

49 Powers to disconnect service pipes and cut off supplies

- (1) Subject to the following provisions of this section and, in the case of a supply provided under section 46 above, to any terms or conditions determined under that section, a water undertaker may disconnect a service pipe which for the purposes of providing a supply of water to any premises is connected with any water main of that undertaker, or may otherwise cut off a supply of water to any premises, if—
 - (a) it is reasonable for the disconnection to be made, or the supply to be cut off, for the purposes of the carrying out of any necessary works;
 - (b) the occupier of the premises—
 - (i) is liable (whether in his capacity as occupier or under any agreement with the undertaker) to pay charges due to the undertaker in respect of the supply of water to those premises; and
 - (ii) has failed to do so before the end of the period of seven days beginning with the day after he is served with notice requiring him to do so;

or

 - (c) notice specifying the time after which a supply of water to those premises will no longer be required has been served on the undertaker by a consumer and that time has passed.
- (2) The power of a water undertaker by virtue of paragraph (a) of subsection (1) above to cut off a supply of water shall include power to reduce a supply of water; and, except in an emergency or in the case of a reduction which is immaterial, the power of a water undertaker by virtue of that paragraph to cut off or reduce a supply shall be exercisable in relation to any premises only after the undertaker has served reasonable notice on the consumer of the proposal for the carrying out of the necessary works.
- (3) Where a water undertaker exercises its power by virtue of the said paragraph (a) to make any disconnection or to cut off or reduce a supply of water to any premises for the purposes of the carrying out of any necessary works, it shall owe a duty to the consumer to secure—
 - (a) that those works are carried out with reasonable dispatch; and
 - (b) that any supply of water to those premises for domestic purposes is interrupted for more than twenty-four hours for the purposes of the carrying out of those

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- works only if an emergency supply has been made available (whether or not in pipes) within a reasonable distance of those premises;
and any breach by a water undertaker of that duty which causes any person to whom it is owed to sustain loss or damage shall be actionable at the suit of that person.
- (4) Where a water undertaker has served a notice for the purposes of paragraph (b) of subsection (1) above on a person who, within the period of seven days mentioned in that paragraph, serves a notice on the undertaker stating that he disputes his liability to pay the charges in question, the undertaker shall not exercise his power by virtue of that paragraph in relation to any premises except at a time when that person is the occupier of the premises and—
- (a) the undertaker is able to enforce a judgment against that person for the payment of the charges in question; or
 - (b) that person is in breach of an agreement entered into, since the service of his notice, for the purpose of avoiding or settling proceedings by the undertaker for the recovery of those charges.
- (5) A water undertaker which exercises its power by virtue of the said paragraph (b) to disconnect any pipe or otherwise to cut off any supply of water may recover, from the person in respect of whose liability the power is exercised, any expenses reasonably incurred by the undertaker in making the disconnection or in otherwise cutting off the supply.
- (6) Where—
- (a) a water undertaker has power by virtue of the said paragraph (b) to disconnect any pipe to any premises, or otherwise to cut off any supply to any premises; and
 - (b) a supply of water is provided to those premises and to other premises wholly or partly by the same service pipe,
- the undertaker may exercise that power so as to cut off the supply to those other premises if and only if the same person is the occupier of the premises in relation to which the charges are due and of the other premises.
- (7) No person shall be liable to a water undertaker for any expenses incurred by the undertaker in exercising the power conferred on the undertaker by virtue of paragraph (c) of subsection (1) above.
- (8) Where a water undertaker disconnects a service pipe to any inhabited house, or otherwise cuts off a supply of water to such a house, without restoring that supply before the end of the period of twenty-four hours beginning with the time when it is cut off, the undertaker shall, no later than forty-eight hours after that time, serve notice that it has cut off that supply on the local authority in whose area the house is situated.
- (9) A water undertaker which —
- (a) disconnects a service pipe to any premises, or otherwise cuts off a supply of water to any premises, in a case in which it has no power to do so under this section, section 63 below or any other enactment;
 - (b) in disconnecting any such pipe or cutting off any such supply fails, without reasonable excuse, to comply with any requirement of this section, that section or, as the case may be, the other enactment in pursuance of which it disconnects the pipe or cuts off the supply; or
 - (c) fails, without reasonable excuse, to serve a notice on a local authority as required by subsection (8) above,

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shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

50 Power to require separate service pipes

- (1) Subject to the following provisions of this section, a water undertaker may require the provision of a separate service pipe to any premises within its area which—
- (a) consist in a house or any other building or part of a building, being, in the case of a part of a building, a part which is separately occupied; and
 - (b) are already supplied with water by the undertaker but do not have a separate service pipe.
- (2) Where the supply of water to two or more houses was provided to those houses before 15th April 1981 wholly or partly by the same service pipe and continues to be so provided, the water undertaker shall not require the provision of separate service pipes to those houses until—
- (a) the service pipe, in so far as it belongs to a person other than the undertaker, becomes so defective as to require renewal or is no longer sufficient to meet the requirements of those houses;
 - (b) a payment in respect of the supply of water to any of those houses remains unpaid after the end of the period for which it is due;
 - (c) the houses are, by structural alterations to one or more of them, converted into a larger number of houses;
 - (d) the owner or occupier of any of those houses has interfered with, or allowed another person to interfere with, the existing service pipe and thereby caused the supply of water to any house to be interfered with; or
 - (e) the undertaker has reasonable grounds for believing that such interference as is mentioned in paragraph (d) above is likely to take place.
- (3) If, in the case of any such premises as are described in subsection (1) above, the water undertaker which provides a supply of water to those premises serves notice on the consumer requiring the provision of a separate service pipe and setting out the power of the undertaker under subsection (4) below—
- (a) that consumer shall, within three months after the service of the notice, lay so much of the required pipe as the undertaker is not under a duty to lay by virtue of paragraph (b) below;
 - (b) sections 42 to 44 above shall apply as if that consumer had, by a notice under the said section 42, required the undertaker to connect the separate service pipe to those premises with the undertaker's water main;
 - (c) that consumer shall be presumed, without prejudice to his power to make further demands and requests—
 - (i) in so far as those premises were provided before the service of the notice with a supply of water for domestic purposes, to have made a demand for the purposes of section 45 above that such a supply is provided by means of the separate service pipe; and
 - (ii) in so far as those premises were provided before the service of the notice with a supply of water for other purposes, to have requested the undertaker to provide the same supply by means of that pipe as was provided before the service of the notice;

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- (d) on providing a supply of water to those premises by means of the separate service pipe, the undertaker may cut off any supply replaced by that supply and may make such disconnections of pipes by which the replaced supply was provided as it thinks fit.
- (4) If a person upon whom a notice has been served for the purposes of subsection (3) above fails to comply with the notice, the water undertaker may itself carry out the works which that person was required to carry out and may recover the expenses reasonably incurred by the undertaker in doing so from that person.
- (5) Without prejudice to the power of a water undertaker by virtue of paragraph (b) of subsection (3) above to impose conditions under section 43 above or to the power conferred by virtue of paragraph (d) of that subsection, any works carried out by a water undertaker by virtue of the provisions of the said paragraph (b) or of subsection (4) above shall be necessary works for the purposes of sections 45 to 49 above and section 51 below.