



Water Act 1989

1989 CHAPTER 15

PART II

WATER SUPPLY AND SEWERAGE SERVICES

CHAPTER II

WATER SUPPLY

Duties to provide supplies etc.

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

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- (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—
- (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.