



Water Industry Act 1991

1991 CHAPTER 56

PART IV

SEWERAGE SERVICES

CHAPTER I

GENERAL FUNCTIONS OF SEWERAGE UNDERTAKERS

Principal duties and standards of performance

94 General duty to provide sewerage system.

- (1) It shall be the duty of every sewerage undertaker—
 - (a) to provide, improve and extend such a system of public sewers (whether inside its area or elsewhere) and so to cleanse and maintain those sewers [^{F1}and any lateral drains which belong to or vest in the undertaker] as to ensure that that area is and continues to be effectually drained; and
 - (b) to make provision for the emptying of those sewers and such further provision (whether inside its area or elsewhere) as is necessary from time to time for effectually dealing, by means of sewage disposal works or otherwise, with the contents of those sewers.
- (2) It shall be the duty of a sewerage undertaker in performing its duty under subsection (1) above to have regard—
 - (a) to its existing and likely future obligations to allow for the discharge of trade effluent into its public sewers; and
 - (b) to the need to provide for the disposal of trade effluent which is so discharged.
- (3) The duty of a sewerage undertaker under subsection (1) above shall be enforceable under section 18 above—
 - (a) by the Secretary of State; or

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- (b) with the consent of or in accordance with a general authorisation given by the Secretary of State, by the Director.
- (4) The obligations imposed on a sewerage undertaker by the following Chapters of this Part, and the remedies available in respect of contraventions of those obligations, shall be in addition to any duty imposed or remedy available by virtue of any provision of this section or section 95 below and shall not be in any way qualified by any such provision.
- (5) In this section “trade effluent” has the same meaning as in Chapter III of this Part.

Textual Amendments

F1 Words in s. 94(1)(a) inserted (28.5.2004) by [Water Act 2003 \(c. 37\)](#), **ss. 97(3), 105(3)**; S.I. 2004/641, **art. 4(b)** (with [Sch. 3 para. 7](#))

Modifications etc. (not altering text)

C1 [S. 94](#) applied (with modifications) (28.6.2013) by [The Water Industry \(Specified Infrastructure Projects\) \(English Undertakers\) Regulations 2013 \(S.I. 2013/1582\)](#), **reg. 1(1)(b), Sch. 1 para. 10(2)** (with [reg. 1\(1\)\(c\)](#))

95 Standards of performance in connection with provision of sewerage services.

- (1) For the purpose-
 - (a) of facilitating the determination of the extent to which breaches of the obligations imposed by virtue of the following provisions of this Part are to amount to breaches of the duty imposed by section 94 above; or
 - (b) of supplementing that duty by establishing overall standards of performance in relation to the provision of sewerage services by any sewerage undertaker, the Secretary of State may, in accordance with section 96 below, by regulations provide for contraventions of such requirements as may be prescribed to be treated for the purposes of this Act as breaches of that duty.
- (2) The Secretary of State may, in accordance with section 96 below, by regulations prescribe such standards of performance in connection with the provision of sewerage services as, in his opinion, ought to be achieved in individual cases.
- (3) Regulations under subsection (2) above may provide that, if a sewerage undertaker fails to meet a prescribed standard, it shall pay such amount as may be prescribed to any person who is affected by the failure and is of a prescribed description.
- (4) Without prejudice to the generality of the power conferred by subsection (2) above, regulations under that subsection may—
 - (a) include in a standard of performance a requirement for a sewerage undertaker, in prescribed circumstances, to inform a person of his rights by virtue of any such regulations;
 - (b) provide for any dispute under the regulations to be referred by either party to the dispute to the Director;
 - (c) make provision for the procedure to be followed in connection with any such reference and for the Director’s determination on such a reference to be enforceable in such manner as may be prescribed;

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- (d) prescribe circumstances in which a sewerage undertaker is to be exempted from requirements of the regulations.

^{F2}[(5) Where the Director determines any dispute in accordance with regulations under this section he shall, in such manner as may be specified in the regulations, give his reasons for reaching his decision with respect to the dispute.]

Textual Amendments

F2 S. 95(5) added (1.7.1992) by [Competition and Service \(Utilities\) Act 1992 \(c. 43\), s. 56\(6\), Sch. 1 para.24](#); Competition and Service (Utilities) Act 1992 (Commencement No. 1) Order 1992, art. 3, Sch. Pt.I

[95A ^{F3}Information with respect to levels of performance.

- (1) The Director shall from time to time collect information with respect to—
- (a) the compensation paid by sewerage undertakers under regulations under section 95(2) above; and
 - (b) the levels of overall performance achieved by sewerage undertakers in connection with the provision of sewerage services.
- (2) At such times as the Director may direct, each sewerage undertaker shall give the following information to the Director—
- (a) as respects each standard prescribed by regulations under section 95(2) above, the number of cases in which compensation was paid and the aggregate amount or value of that compensation; and
 - (b) as respects each standard established by regulations under section 95(1)(b) above, such information with respect to the level of performance achieved by the undertaker as may be so specified.
- (3) A sewerage undertaker who without reasonable excuse fails to do anything required of him by subsection (2) above shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (4) The Director shall, at least once in every year, arrange for the publication, in such form and in such manner as he considers appropriate, of such of the information collected by or given to him under this section as it may appear to him expedient to give to customers or potential customers of sewerage undertakers.
- (5) In arranging for the publication of any such information the Director shall have regard to the need for excluding, so far as practicable—
- (a) any matter which relates to the affairs of an individual, where publication of that matter would or might, in the opinion of the Director, seriously and prejudicially affect the interests of that individual; and
 - (b) any matter which relates specifically to the affairs of a particular body of persons, whether corporate or unincorporate, where publication of that matter would or might, in the opinion of the Director, seriously and prejudicially affect the interests of that body.]

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Textual Amendments

- F3** S. 95A inserted (1.7.1992) by [Competition and Service \(Utilities\) Act 1992 \(c. 43\), s.31](#); Competition and Service (Utilities) Act 1992 (Commencement No. 1) Order 1992, art. 3, Sch. Pt. I

[^{F4}95B Publication of statistical information about complaints

- (1) It shall be the duty of the Council to publish, in such form and manner and with such frequency as it thinks appropriate, such statistical information as it considers appropriate relating to complaints made by consumers about any matter relating to the activities of sewerage undertakers and the handling of such complaints.
- (2) In subsection (1) above, “complaints” includes complaints made directly to sewerage undertakers (or anyone carrying on activities on their behalf) and complaints to the Authority, the Council, the Assembly or the Secretary of State.]

Textual Amendments

- F4** S. 95B inserted (1.10.2005) by [Water Act 2003 \(c. 37\), ss. 45\(2\), 105\(3\)](#); S.I. 2005/2714, [art. 2\(e\)](#) (with [Sch. para. 8](#))

96 Procedure for regulations under section 95.

[^{F5}(A1) The Secretary of State may make regulations under section 95 above—

- (a) on an application by the Authority, in accordance with subsections (1) to (3) below; or
- (b) otherwise than on such an application, in accordance with subsections (4) to (8) below.]

- (1) [^{F6}Where the Authority has made to the Secretary of State a written application complying with subsection (2) below, the Secretary of State may make regulations under section 95 above if—

^{F7}[(b) the Secretary of State is satisfied that a copy of the application has been served by the Director—

- (i) on every sewerage undertaker specified in the application; ^{F8} . . .
- (ii) on persons or bodies appearing to the Secretary of State to be representative of persons likely to be affected by the regulations;
- (iii) [^{F9}on the Council; and
- (iv) on such other persons or bodies as the Secretary of State may consider appropriate;]]
- (c) such period as the Secretary of State considers appropriate has been allowed for the making—
 - (i) by the Director; and
 - (ii) by any affected sewerage undertaker [^{F10}or person or body on whom a copy of the application has been served under paragraph [^{F11}(b)] above],

of representations or objections with respect to the Director’s proposals and any modifications proposed by the Secretary of State; and

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- (d) the Secretary of State has considered [^{F12}the summary mentioned in subsection (2)(bb) below,] the Director's reasons for his proposals and every representation or objection which has been duly made with respect to those proposals, or any proposed modifications of those proposals, and has not been withdrawn.
- ^{F13}[(1A) Before making an application to the Secretary of State under this section the Director shall arrange for such research as he considers appropriate with a view to discovering the views of a representative sample of persons likely to be affected and consider the results.]
- (2) An application made by the Director to the Secretary of State complies with this subsection if it—
- (a) sets out [^{F14}the Authority's proposals for the making of] regulations under section 95 above;
 - (b) specifies the sewerage undertaker or undertakers in relation to which it is proposed [^{F15}the regulations] should apply
 - ^{F16}(bb) is accompanied by a written summary of the results of the research carried out in accordance with subsection (1A) above;]; and
 - (c) summarises the Director's reasons for his proposals.
- (3) The Secretary of State shall not make any regulations [^{F17}on an application by the Authority under this section] except where—
- (a) the only provisions of the regulations are [^{F18}those which in the opinion of the Secretary of State give effect to the proposals set out in the Authority's application or to those proposals] with such modifications as the Secretary of State considers appropriate; and
 - (b) each of the modifications (if any) of the Director's proposals to which effect is given by the regulations is a modification the proposal to make which has been notified—
 - (i) to the Director; ^{F19} . . .
 - (ii) to any sewerage undertaker appearing to the Secretary of State to be likely to be affected by the modifications [^{F20} and
 - (iii) to any person or body on whom a copy of the Authority's application was served under subsection (1)(b) above.]
- ^{F21}(4) Where no such application as is mentioned in subsection (1) above has been made, the Secretary of State may make regulations under section 95 above only if he considers—
- (a) that the regulations will contribute towards the attainment of policies relating to public health or the environment; or
 - (b) (if he does not consider that they will so contribute) that there are exceptional reasons why it is otherwise in the public interest that the regulations should be made.
- (5) Before making regulations under section 95 above by virtue of subsection (4) above, the Secretary of State shall—
- (a) give notice of his proposals;
 - (b) consider the results of the research carried out in accordance with subsection (7) below; and
 - (c) consider every representation or objection with respect to the proposals which has been duly made and not withdrawn.

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- (6) A notice under subsection (5)(a) above must—
- (a) summarise the Secretary of State’s reasons for his proposals;
 - (b) specify the sewerage undertaker or undertakers in relation to which it is proposed the regulations should apply; and
 - (c) specify the period within which objections or representations with respect to the proposals may be made.
- (7) Before giving notice under subsection (5)(a) above the Secretary of State shall arrange for such research as he considers appropriate with a view to discovering the views of a representative sample of persons likely to be affected.
- (8) A notice under subsection (5)(a) above shall be given by serving a copy on—
- (a) the Authority;
 - (b) the Council;
 - (c) every sewerage undertaker to which the regulations will apply;
 - (d) persons or bodies appearing to the Secretary of State to be representative of persons likely to be affected by the regulations; and
 - (e) such other persons or bodies as the Secretary of State may consider appropriate.]

Textual Amendments

- F5** S. 96(A1) inserted (1.4.2005) by [Water Act 2003 \(c. 37\)](#), **ss. 42(2)**, 105(3); S.I. 2005/968, **art. 2(h)** (with savings in [art. 4](#), [Schs. 1](#), 2)
- F6** Words in s. 96(1) substituted (1.4.2005) for "words preceding paragraph (a), and paragraph (a)" by virtue of [Water Act 2003 \(c. 37\)](#), **ss. 42(3)(a)**, 105(3); S.I. 2005/968, **art. 2(h)** (with savings in [art. 4](#), [Schs. 1](#), 2)
- F7** S. 96(1)(b) substituted (1.7.1992) by [Competition and Service \(Utilities\) Act 1992 \(c. 43\)](#), s. 56(6), **Sch. 1 para. 25(2)**; [Competition and Service \(Utilities\) Act 1992 \(Commencement No. 1\) Order 1992](#), art. 3, Sch. Pt. I
- F8** Word in s. 96(1)(b)(i) repealed (1.4.2005) by [Water Act 2003 \(c. 37\)](#), **ss. 42(3)(b)**, 101(2), 105(3), **Sch. 9 Pt. 2**; S.I. 2005/968, **art. 2(h)(n)(i)** (with savings in [art. 4](#), [Schs. 1](#), 2)
- F9** S. 96(1)(b)(iii)(iv) inserted (1.4.2005) by [Water Act 2003 \(c. 37\)](#), **ss. 42(3)(b)**, 105(3); S.I. 2005/968, **art. 2(h)** (with savings in [art. 4](#), [Schs. 1](#), 2)
- F10** Words in s. 96(1)(c)(ii) inserted (1.7.1992) by [Competition and Service \(Utilities\) Act 1992 \(c. 43\)](#), s. 56(6), **Sch. 1 para. 25(3)**; [Competition and Service \(Utilities\) Act 1992 \(Commencement No. 1\) Order 1992](#), art. 3, Sch. Pt. I
- F11** Words in s. 96(1)(c)(ii) substituted (1.4.2005) by [Water Act 2003 \(c. 37\)](#), **ss. 42(3)(c)**, 105(3); S.I. 2005/968, **art. 2(h)** (with savings in [art. 4](#), [Schs. 1](#), 2)
- F12** Words in s. 96(1)(d) substituted (1.7.1992) by [Competition and Service \(Utilities\) Act 1992 \(c. 43\)](#), s. 30(2); [Competition and Service \(Utilities\) Act 1992 \(Commencement No. 1\) Order 1992](#), art. 3, Sch. Pt. I
- F13** S. 96(1A) inserted (1.7.1992) by [Competition and Service \(Utilities\) Act 1992 \(c. 43\)](#), s. 30(3); [Competition and Service \(Utilities\) Act 1992 \(Commencement No. 1\) Order 1992](#), art. 3, Sch. Pt. I
- F14** Words in s. 96(2)(a) substituted (1.4.2005) by [Water Act 2003 \(c. 37\)](#), **ss. 42(4)(a)**, 105(3); S.I. 2005/968, **art. 2(h)** (with savings in [art. 4](#), [Schs. 1](#), 2)
- F15** Words in s. 96(2)(b) substituted (1.4.2005) by [Water Act 2003 \(c. 37\)](#), **ss. 42(4)(b)**, 105(3); S.I. 2005/968, **art. 2(h)** (with savings in [art. 4](#), [Schs. 1](#), 2)
- F16** S. 96(2)(bb) inserted (1.7.1992) by [Competition and Service \(Utilities\) Act 1992 \(c. 43\)](#), s. 30(4); [Competition and Service \(Utilities\) Act 1992 \(Commencement No. 1\) Order 1992](#), art. 3, Sch. Pt. I

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- F17** Words in s. 96(3) substituted (1.4.2005) by [Water Act 2003 \(c. 37\)](#), **ss. 42(5)(a)**, 105(3); S.I. 2005/968, **art. 2(h)** (with savings in [art. 4](#), Schs. 1, 2)
- F18** Words in s. 96(3)(a) substituted (1.4.2005) by [Water Act 2003 \(c. 37\)](#), **ss. 42(5)(b)**, 105(3); S.I. 2005/968, **art. 2(h)** (with savings in [art. 4](#), Schs. 1, 2)
- F19** Word in s. 96(3)(b)(i) repealed (1.4.2005) by [Water Act 2003 \(c. 37\)](#), **ss. 42(5)(c)**, 101(2), 105(3), **Sch. 9 Pt. 2**; S.I. 2005/968, **art. 2(h)(n)(i)** (with savings in [art. 4](#), Schs. 1, 2)
- F20** S. 96(3)(b)(iii) and preceding word inserted (1.4.2005) by [Water Act 2003 \(c. 37\)](#), **ss. 42(5)(c)**, 105(3); S.I. 2005/968, **art. 2(h)** (with savings in [art. 4](#), Schs. 1, 2)
- F21** S. 96(4)-(8) added (1.4.2005) by [Water Act 2003 \(c. 37\)](#), **ss. 42(6)**, 105(3); S.I. 2005/968, **art. 2(h)** (with savings in [art. 4](#), Schs. 1, 2)

[96A ^{F22}**Information to be given to customers about overall performance.**

- (1) Each sewerage undertaker shall, in such form and manner and with such frequency as the Director may direct, take steps to inform its customers of—
- (a) the standards of overall performance established under section 95(1)(b) above which are applicable to that undertaker; and
 - (b) that undertaker’s level of performance as respects each of those standards.
- (2) In giving any such direction, the Director shall not specify a frequency of less than once in every period of twelve months.
- (3) The duty of a sewerage undertaker to comply with this section shall be enforceable by the Director under section 18 above.]

Textual Amendments

- F22** S. 96A inserted (1.7.1992) by [Competition and Service \(Utilities\) Act 1992 \(c. 43\)](#), **s.32**; [Competition and Service \(Utilities\) Act 1992 \(Commencement No. 1\) Order 1992](#), [art. 3](#), Sch. Pt.I

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