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Water Industry Act 1991

1991 CHAPTER 56

PART IV

SEWERAGE SERVICES

CHAPTER II

PROVISION OF SEWERAGE SERVICES

^{F1}[Provision of public sewers otherwise than by requisition

Textual Amendments

F1 Cross heading and s. 101A inserted (1.2.1996 for specified purposes and otherwise 1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 103** (with ss. 7(6), 115, 117); S.I. 1996/186, **arts. 2, 3**

^{F2}101A Further duty to provide sewers.

- (1) Without prejudice to section 98 above, it shall be the duty of a sewerage undertaker to provide a public sewer to be used for the drainage for domestic sewerage purposes of premises in a particular locality in its area if the conditions specified in subsection (2) below are satisfied.
- (2) The conditions mentioned in subsection (1) above are—
 - (a) that the premises in question, or any of those premises, are premises on which there are buildings ^{F3}. . . ;
 - (b) that the drains or sewers used for the drainage for domestic sewerage purposes of the premises in question do not, either directly or through an intermediate drain or sewer, connect with a public sewer; and
 - (c) that the drainage of any of the premises in question ^{F4}. . . is giving, or is likely to give, rise to such adverse effects to the environment or amenity that it is

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- appropriate, having regard to any guidance issued under this section by the Secretary of State and all other relevant considerations, to provide a public sewer for the drainage for domestic sewerage purposes of the premises in question.
- (3) Without prejudice to the generality of subsection (2)(c) above, regard shall be had to the following considerations, so far as relevant, in determining whether it is appropriate for any sewer to be provided by virtue of this section—
- (a) the geology of the locality in question or of any other locality;
 - (b) the number of premises, being premises on which there are buildings, which might reasonably be expected to be drained by means of that sewer;
 - (c) the costs of providing that sewer;
 - (d) the nature and extent of any adverse effects to the environment or amenity arising, or likely to arise, as a result of the premises or, as the case may be, the locality in question not being drained by means of a public sewer; and
 - (e) the extent to which it is practicable for those effects to be overcome otherwise than by the provision (whether by virtue of this section or otherwise) of public sewers, and the costs of so overcoming those effects.
- (4) Guidance issued by the Secretary of State under this section may—
- (a) relate to how regard is to be had to the considerations mentioned in paragraphs (a) to (e) of subsection (3) above;
 - (b) relate to any other matter which the Secretary of State considers may be a relevant consideration in any case and to how regard is to be had to any such matter;
 - (c) set out considerations, other than those mentioned in paragraphs (a) to (e) of subsection (3) above, to which (so far as relevant) regard shall be had in determining whether it is appropriate for any sewer to be provided by virtue of this section;
 - (d) relate to how regard is to be had to any such consideration as is mentioned in paragraph (c) above;
 - (e) without prejudice to paragraphs (a) to (d) above, relate to how a sewerage undertaker is to discharge its functions under this section.
- (5) Before issuing guidance under this section the Secretary of State shall consult—
- (a) the Environment Agency^{F5}, if the guidance applies to premises in England];
^{F6}(aa) [the NRBW, if the guidance applies to premises in Wales;]
 - (b) the Director; and
 - (c) such other bodies or persons as he considers appropriate;
- and the Secretary of State shall arrange for any guidance issued by him under this section to be published in such manner as he considers appropriate.
- (6) Subject to the following provisions of this section, the duty of a sewerage undertaker by virtue of subsection (1) above shall be enforceable under section 18 above—
- (a) by the Secretary of State; or
 - (b) with the consent of or in accordance with a general authorisation given by the Secretary of State, by the Director.
- (7) Any dispute between a sewerage undertaker and an owner or occupier of any premises in its area as to—

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- (a) whether the undertaker is under a duty by virtue of subsection (1) above to provide a public sewer to be used for any such drainage of those premises as is mentioned in that subsection;
- (b) the domestic sewerage purposes for which any such sewer should be provided; or
- (c) the time by which any such duty of the undertaker should be performed,
- shall be determined by the [^{F7}appropriate agency], and may be referred to the [^{F7}appropriate agency] for determination by either of the parties to the dispute.
- (8) The [^{F7}appropriate agency]—
- (a) shall notify the parties of the reasons for its decision on any dispute referred to it under subsection (7) above; and
- (b) may make any such recommendations, or give any such guidance, relating to or in connection with the drainage of the premises or locality in question as it considers appropriate.
- (9) The decision of the [^{F7}appropriate agency] on any dispute referred to it under subsection (7) above shall be final.
- (10) A sewerage undertaker shall only be taken to be in breach of its duty under subsection (1) above where, and to the extent that, it has accepted, or the [^{F7}appropriate agency] has determined under this section, that it is under such a duty and where any time accepted by it, or determined by the [^{F7}appropriate agency] under this section, as the time by which the duty is to that extent to be performed has passed.
- [In this section “the appropriate agency” means—
- ^{F8}(11) (a) the Environment Agency, in relation to disputes between sewerage undertakers and owners or occupiers of premises in England;
- (b) the NRBW, in relation to disputes between sewerage undertakers and owners or occupiers of premises in Wales.]]

Textual Amendments

- F2** S. 101A inserted (1.2.1996 for specified purposes and otherwise 1.4.1996) by 1995 c. 25, s. 120(1), [Sch. 22 para. 103](#) (with [ss. 7\(6\), 115, 117](#)); S.I. 1996/186, [arts. 2, 3](#)
- F3** Words in s. 101A(2)(a) repealed (28.5.2004) by [Water Act 2003 \(c. 37\)](#), [ss. 94\(a\), 105\(3\)](#), [Sch. 9 Pt. 3](#); S.I. 2004/641, [art. 4](#) (with [Sch. 3 para. 7](#))
- F4** Words in s. 101A(2)(c) repealed (28.5.2004) by [Water Act 2003 \(c. 37\)](#), [ss. 94\(b\), 105\(3\)](#), [Sch. 9 Pt. 3](#); S.I. 2004/641, [art. 4](#) (with [Sch. 3 para. 7](#))
- F5** Words in s. 101A(5)(a) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), [art. 1\(2\)](#), [Sch. 2 para. 237\(2\)\(a\)](#) (with [Sch. 7](#))
- F6** S. 101A(5)(aa) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), [art. 1\(2\)](#), [Sch. 2 para. 237\(2\)\(b\)](#) (with [Sch. 7](#))
- F7** Words in [ss. 101A\(7\)-\(10\)](#) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), [art. 1\(2\)](#), [Sch. 2 para. 237\(3\)](#) (with [Sch. 7](#))
- F8** S. 101A(11) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), [art. 1\(2\)](#), [Sch. 2 para. 237\(4\)](#) (with [Sch. 7](#))

[^{F9}101B [^{F9}Power to construct lateral drains following provision of public sewer]

- (1) Where a sewerage undertaker provides a public sewer pursuant to a duty to do so imposed on it by section 98 or section 101A above, the undertaker may, at the request

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of the person mentioned in subsection (2) below, also provide at the same time one or more lateral drains to be used for the drainage for domestic purposes of premises in its area and to communicate with that sewer.

- (2) A request under subsection (1) above may be made—
- (a) in the case of a public sewer to be provided under section 98 above, by the person who requires the provision of the sewer under that section; and
 - (b) in the case of a public sewer to be provided under section 101A above, by the owner or occupier of any premises in respect of which the duty to provide the sewer arises under that section (but any request may only be for the provision of a lateral drain to his premises).
- (3) The person making a request under this section shall pay to the water undertaker, following provision of the lateral drain, the costs reasonably incurred in or in connection with providing that drain.
- (4) Any dispute between the sewerage undertaker and the person making a request under this section as to—
- (a) whether a lateral drain should be provided pursuant to the request; or
 - (b) the costs reasonably incurred in the provision of a lateral drain,
- may be referred to the Authority for determination under section 30A above by either party to the dispute.
- (5) Any lateral drain provided pursuant to a request made to a sewerage undertaker under this section shall belong to the undertaker.]

Textual Amendments

- F9** S. 101B inserted (28.5.2004) by [Water Act 2003 \(c. 37\)](#), **ss. 95(9)(10)**, 105(3); S.I. 2004/641, **art. 4(b)** (with [Sch. 3 para. 7](#))

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