



Water Industry Act 1991

1991 CHAPTER 56

PART IV

SEWERAGE SERVICES

CHAPTER II

PROVISION OF SEWERAGE SERVICES

Adoption etc. of sewers and disposal works

105 Appeals with respect to adoption.

- (1) An owner of any sewer [^{F1}, lateral drain] or sewage disposal works may appeal to the [^{F2}Director] if—
 - (a) he is aggrieved by the proposal of a sewerage undertaker to make a declaration under section 102 above; or
 - (b) he is aggrieved by the refusal of a sewerage undertaker to make such a declaration.
- [^{F3}(2) A person who has entered or wants to enter an agreement under section 104 may appeal to the Authority about any matter concerning the agreement (including whether it is concluded, its terms and its operation).]
- (3) The time for the making of an appeal under subsection (1) above by the owner of any sewer [^{F4}, lateral drain] or sewage disposal works shall be—
 - (a) in the case of an appeal by virtue of paragraph (a) of that subsection, any time within two months after notice of the proposal is served on that owner; and
 - (b) in the case of an appeal by virtue of paragraph (b) of that subsection, any time after receipt of notice of the undertaker's refusal or, if no such notice is given, at any time after the end of two months from the making of the application for the declaration.

Status: Point in time view as at 01/04/2016. This version of this provision has been superseded.

Changes to legislation: Water Industry Act 1991, Section 105 is up to date with all changes known to be in force on or before 03 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (4) On the hearing of an appeal under this section, the [F2Director] may—
- (a) in the case of an appeal under subsection (1) above, allow or disallow the proposal of the sewerage undertaker or, as the case may be, make any declaration which the sewerage undertaker might have made; or
 - (b) in the case of an appeal under subsection (2) above—
 - (i) uphold the refusal of the undertaker to grant the application or to modify the terms offered; or
 - (ii) on behalf of the undertaker, refuse the application or enter into any agreement into which the undertaker might have entered on the application;
- and any declaration made under paragraph (a) above shall have the same effect as if it had been made by the undertaker in question.
- (5) Where the [F2Director] makes a declaration under subsection (4)(a) above, he may, if he thinks fit—
- (a) specify conditions, including conditions as to the payment of compensation by the sewerage undertaker; and
 - (b) direct that his declaration shall not take effect unless any conditions so specified are accepted.
- (6) Where the [F2Director] makes an agreement under subsection (4)(b) above on behalf of a sewerage undertaker, he may do so on such terms as he considers reasonable or, as the case may be, on the terms offered by the undertaker subject to such modifications as he considers appropriate for ensuring that the terms of the agreement are reasonable.
- (7) The [F2Director], in deciding, on an appeal under this section, whether any declaration or agreement should be made, shall have regard to all the circumstances of the case and, in particular, to the considerations specified in section 102(5) above; and for the purposes of this subsection, in its application in relation to an appeal under subsection (2) above, paragraphs (a) to (e) of section 102(5) above shall have effect with the necessary modifications.

Textual Amendments

- F1** Words in s. 105(1) inserted (28.5.2004) by [Water Act 2003 \(c. 37\)](#), **ss. 96(5)(a)**, 105(3); S.I. 2004/641, **art. 4(b)** (with [Sch. 3 para. 7](#))
- F2** Word in s. 105 substituted (1.9.1992) by [Competition and Service \(Utilities\) Act 1992 \(c. 43\)](#), **s. 35(7)**; [Competition and Service \(Utilities\) Act 1992 \(Commencement No. 1\) Order 1992](#), art. 4, Sch. Pt.II
- F3** S. 105(2) substituted (1.10.2010 for specified purposes, 1.10.2012 for specified purposes) by [Flood and Water Management Act 2010 \(c. 29\)](#), **ss. 42(2)**, 49(3) (with s. 49(1)(6)); S.I. 2010/2169, art. 4; S.I. 2012/2048, art. 2 (with art. 3)
- F4** Words in s. 105(3) inserted (28.5.2004) by [Water Act 2003 \(c. 37\)](#), **ss. 96(5)(b)**, 105(3); S.I. 2004/641, **art. 4(b)** (with [Sch. 3 para. 7](#))

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