

1989 No. 1379

WATER, ENGLAND AND WALES

**The Water and Sewerage (Works) (Advance Payments)
Regulations 1989**

Made - - - - - *3rd August 1989*
Laid before Parliament *11th August 1989*
Coming into force *1st September 1989*

The Secretary of State for the Environment and the Secretary of State for Wales, acting jointly in exercise of the powers conferred on them by section 185(2)(d) and (e) of, and paragraph 6(8) of Schedule 19 to, the Water Act 1989(a), and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Water and Sewerage (Works) (Advance Payments) Regulations 1989 and shall come into force on 1st September 1989.

Interpretation

2. In these Regulations—

“the 1989 Act” means the Water Act 1989; and

“the compensating authority” means such of the following bodies as is liable to pay the compensation in question, namely—

- (a) a water undertaker;
- (b) a sewerage undertaker;
- (c) the National Rivers Authority.

Advance payment of compensation

3.—(1) Where a water undertaker, a sewerage undertaker or the National Rivers Authority has—

- (a) given notice pursuant to sub-paragraph (4) of paragraph 4 of Schedule 19 to the 1989 Act of the proposed exercise of a power conferred by that paragraph (works other than street works); or
- (b) given notice pursuant to paragraph 10(4)(b) of that Schedule of intended entry for the purpose of exercising the power conferred by paragraph 5 of that Schedule (stopcocks); or
- (c) in an emergency entered any land for the purpose of exercising the power referred to in sub-paragraph (b),

it shall, if a request in that behalf is made in accordance with paragraph (2) below, make an advance payment on account of any compensation payable by it by virtue of paragraph 6(1) or (2) of that Schedule.

(a) 1989 c.15; see section 189(9) as to the joint exercise of functions exercisable concurrently.

(2) Any request under this regulation shall be made by the person entitled to the compensation ("the claimant"), shall be in writing, shall give particulars of his interest in the land (so far as not already given) and shall be accompanied or supplemented by such other particulars as the compensating authority may reasonably require to enable it to estimate the amount of the compensation in respect of which the advance payment is to be made.

(3) The amount of any advance payment under this regulation shall be equal to 90% of the following amount, that is to say—

- (a) if the compensating authority has agreed with the claimant the amount of the compensation, the agreed amount;
- (b) in any other case, an amount equal to the compensation as estimated by the compensating authority.

(4) Any advance payment under this regulation shall be made not later than three months after the date on which a request for the payment is made in accordance with paragraph (2).

(5) Where an advance payment is made on the basis of an estimate under paragraph (3)(b) and the amount of that payment exceeds the compensation as finally determined or agreed, the excess shall be repaid; and if after an advance payment has been made to any person it is discovered that he was not entitled to it the amount of the payment shall be recoverable by the undertaker or by the Authority, as the case may be.

(6) Any advance payment on account of compensation in respect of an interest which is settled land for the purposes of the Settled Land Act 1925(a) shall be made to the persons entitled to give a discharge for capital money and shall be treated as capital money arising under that Act.

(7) Where an advance payment is made to the claimant in respect of an interest in any relevant land, then if thereafter he disposes of the interest to, or creates an interest in that land in favour of, a person other than the compensating authority, the amount of the advance payment shall be set off against any sum payable by the authority to that other person by virtue of paragraph 6(1) or (2) of Schedule 19 to the 1989 Act in respect of the exercise of the power to which the advance payment relates.

Signed by authority of the Secretary of State

2nd August 1989

Colin Moynihan
Parliamentary Under Secretary of State,
Department of the Environment

Signed by authority of the Secretary of State

3rd August 1989

Ian Grish
Parliamentary Under Secretary of State,
Welsh Office

(a) 1925 c.18.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for advance payment on account of compensation payable by a water undertaker, a sewage undertaker or the National Rivers Authority when it exercises powers conferred by paragraphs 4 and 5 of Schedule 19 to the Water Act 1989 (powers to carry out work other than street works and powers in relation to stopcocks).

The amount of the advance payment is 90% of the amount which the parties have agreed as the amount of compensation or, where no such agreement has been reached, 90% of the compensating authority's estimate of the compensation.