
WELSH STATUTORY INSTRUMENTS

2018 No. 1077

The Sustainable Drainage (Approval and Adoption Procedure) (Wales) Regulations 2018

PART 5

Works on public land

Meaning of “statutory undertaker”

13. For the purpose of paragraph 28(3)(a) of Schedule 3, “statutory undertaker” means a person entitled under a provision of an enactment listed in regulation 14 to carry out statutory works on public land.

Meaning of “statutory works”

14. For the purpose of paragraph 28(3)(b) of Schedule 3, “statutory works” means works that may be carried out by a person under any of the following provisions—

- (a) section 159 of the Water Industry Act 1991(1) (power to lay, inspect, maintain etc. pipes);
- (b) Schedule 4 to the Gas Act 1986(2) (power to dig up streets);
- (c) paragraph 10(4) of Schedule 4 to the Electricity Act 1989(3)(power to make boreholes);
- (d) Schedule 3A to the Communications Act 2003(4).

Giving notice of statutory works and proposals for reconstruction work

15.—(1) Except in an emergency, a statutory undertaker must not commence statutory works that will or may affect the operation of a sustainable drainage system on any public land unless, at least 4 weeks before the statutory works are commenced, it gives notice to the approving body for that drainage system of—

- (a) the proposed statutory works, and
- (b) the proposal to carry out reconstruction work.

(2) Notice given under paragraph (1) must expire on the working day before the statutory works are to commence.

(3) If the statutory works are commenced in an emergency, the statutory undertaker must as soon as is practicable after the statutory works are commenced give notice to the approving body of—

- (a) the commencement of the statutory works, and

(1) 1991c. 56. Section 159 was amended by section 97(1) and (5) of the Water Act 2003 (c. 37).
(2) 1986 c. 44. Schedule 4 was amended by Schedule 6, Part 1, paragraphs 1 and 2(1) to the Utilities Act 2000 (c. 27) and by Schedule 8, paragraph 119 to the New Roads and Street Works Act 1991 (c. 22). There are other amendments not relevant to these Regulations.
(3) 1989 c. 29.
(4) 2003 c. 21. Schedule 3A was inserted by Schedule 1 to the Digital Economy Act 2017 (c. 30).

- (b) the proposal to carry out reconstruction work.
- (4) Reconstruction work may not be commenced unless the approving body has confirmed the proposal to carry out the reconstruction work.
- (5) Unless the approving body has notified the statutory undertaker to the contrary, a proposal to carry out reconstruction work is taken to be confirmed—
 - (a) for a proposal notified under paragraph (1)(b), 4 weeks beginning on the first working day after the notice is given;
 - (b) for a proposal notified under paragraph (3)(b), 48 hours after the notice is received by the approving body.
- (6) The statutory undertaker must as soon as reasonably practical after carrying out reconstruction work notify the approving body of the date the statutory works were completed.

Requirement to undertake remedial work

- 16.—(1) If a statutory undertaker fails to carry out reconstruction work in accordance with the confirmed proposal, the approving body may require the undertaker to carry out remedial work within a specified timescale.
- (2) If a statutory undertaker fails to comply with a requirement under paragraph (1), the approving body may—
- (a) carry out remedial work, and
 - (b) recover as a debt from the undertaker any costs incurred in carrying out that work.

Statutory works to comply with the national standards

- 17.—(1) Within 12 months after statutory works are completed, the approving body must decide if it is satisfied that the requirements in paragraph (2) are met.
- (2) The requirements are that—
- (a) a reconstructed or new sustainable drainage system functions in accordance with the confirmed proposal,
 - (b) a new sustainable drainage system, if not constructed in accordance with the confirmed proposal, complies with the national standards, or
 - (c) a reconstructed sustainable drainage system, if not constructed in accordance with the confirmed proposal, is reconstructed to the state it was in before the statutory works were commenced.
- (3) If an approving body is not satisfied that the requirements in paragraph (2) are met, it may require the statutory undertaker to carry out reconstruction work or remedial work within a specified timescale.
- (4) If a statutory undertaker fails to comply with a requirement under paragraph (3), the approving body may—
- (a) carry out remedial work, and
 - (b) recover as a debt from the undertaker any costs incurred in carrying out that work.