



Water Industry Act 1991

1991 CHAPTER 56

PART IV

SEWERAGE SERVICES

CHAPTER II

PROVISION OF SEWERAGE SERVICES

Adoption etc. of sewers and disposal works

104 Agreements to adopt sewer, drain or sewage disposal works, at future date

[^{F1}(1) Subject to subsection (7) and section 146(3) below, a sewerage undertaker may agree with—

- (a) any person constructing or proposing to construct—
 - (i) any sewer;
 - (ii) any drain which is intended to communicate with a public sewer vested in that undertaker; or
 - (iii) any sewage disposal works; or
- (b) any person at whose expense the undertaker is, by virtue of an agreement under section 160 below, to carry out work in connection with the construction of such a drain or sewer,

that, if the sewer, drain or sewage disposal works is or are constructed in accordance with the terms of the agreement, the undertaker will, upon completion of the work, at some specified date or on the happening of some future event, declare the sewer or such part of the drain as constitutes the lateral drain or the works (as the case may be) to be vested in that undertaker.]

(2) A person [^{F2}mentioned in paragraph (a) or (b) of subsection (1) above] may [^{F3}request a sewerage undertaker to make an agreement under this section.]

Changes to legislation: Water Industry Act 1991, Section 104 is up to date with all changes known to be in force on or before 21 May 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) View outstanding changes

^{F4}(3)

^{F5}(4)

(5) Any agreement made under this section by a sewerage undertaker shall be enforceable against the undertaker by the owner or occupier for the time being of any premises served by the sewer [^{F6}, lateral drain] or works to which it relates.

[^{F7}(5A) The reference in subsection (5) to an agreement made under this section includes a reference to—

- (a) an order under section 105ZA which is deemed to be an agreement by virtue of section 105ZA(5), and
- (b) any agreement which has been varied by order under section 105ZB(1).]

(6) ^{F8}

^{F9}(6A)

[^{F10}(7) A sewerage undertaker shall not make an agreement under this section with respect to—

- (a) a sewer, drain or sewage disposal works situated within the area of another sewerage undertaker; or
- (b) a drain which is intended to communicate with a sewer which—
 - (i) is so situated; or
 - (ii) is vested in another sewerage undertaker,
 until one of the conditions mentioned in subsection (8) below is satisfied.

(8) The conditions are—

- (a) that other undertaker has consented to the making of the agreement; or
- (b) the Secretary of State, on an application made to him, has dispensed with the necessity for such consent, either unconditionally or subject to such conditions as he may think fit to impose.]

[^{F11}(9) Undertakers shall have regard to any guidance about agreements under this section issued by—

- (a) the Secretary of State, in relation to undertakers whose areas are wholly or mainly in England, or
- (b) the Welsh Ministers, in relation to undertakers whose areas are wholly or mainly in Wales.]

Textual Amendments

- F1** S. 104(1) substituted (28.5.2004) by [Water Act 2003 \(c. 37\)](#), **ss. 96(4)(a)**, 105(3); S.I. 2004/641, {art. 4(b)} (with Sch. 3 para. 7)
- F2** Words in s. 104(2) substituted (28.5.2004) by [Water Act 2003 \(c. 37\)](#), **ss. 96(4)(b)**, 105(3); S.I. 2004/641, {art. 4(b)} (with Sch. 3 para. 7)
- F3** Words in s. 104(2) substituted (1.10.2017 for E., 1.4.2019 for W.) by [Water Act 2014 \(c. 21\)](#), **ss. 11(2)(a)**, 94(3); S.I. 2017/462, art. 4(b); S.I. 2017/1288, art. 3(d)
- F4** S. 104(3) repealed (1.10.2017 for E., 1.4.2019 for W.) by [Water Act 2014 \(c. 21\)](#), **ss. 11(2)(b)**, 94(3); S.I. 2017/462, art. 4(b); S.I. 2017/1288, art. 3(d)
- F5** S. 104(4) repealed (1.10.2017 for E., 1.4.2019 for W.) by [Water Act 2014 \(c. 21\)](#), **ss. 11(2)(b)**, 94(3); S.I. 2017/462, art. 4(b); S.I. 2017/1288, art. 3(d)

Changes to legislation: Water Industry Act 1991, Section 104 is up to date with all changes known to be in force on or before 21 May 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) View outstanding changes

- F6** Words in s. 104(5) inserted (28.5.2004) by [Water Act 2003 \(c. 37\)](#), **ss. 96(4)(c)**, 105(3); S.I. 2004/641, {art. 4(b)} (with Sch. 3 para. 7)
- F7** S. 104(5A) inserted (1.10.2017 for E., 1.4.2019 for W.) by [Water Act 2014 \(c. 21\)](#), **ss. 11(2)(c)**, 94(3); S.I. 2017/462, art. 4(b); S.I. 2017/1288, art. 3(d)
- F8** S. 104(6) repealed (28.5.2004) by [Water Act 2003 \(c. 37\)](#), ss. 96(4)(d), 105(3), **Sch. 9 Pt. 3**; S.I. 2004/641, **art. 4(b)(d)(ii)** (with Sch. 3 para. 7)
- F9** S. 104(6A) repealed (1.10.2017 for E., 1.4.2019 for W.) by [Water Act 2014 \(c. 21\)](#), **ss. 11(2)(b)**, 94(3); S.I. 2017/462, art. 4(b); S.I. 2017/1288, art. 3(d)
- F10** S. 104(7)(8) substituted (28.5.2004) for s. 104(7) by [Water Act 2003 \(c. 37\)](#), **ss. 96(4)(f)**, 105(3); S.I. 2004/641, {art. 4(b)} (with Sch. 3 para. 7)
- F11** S. 104(9) added (1.10.2010 for specified purposes, 1.10.2012 for specified purposes) by [Flood and Water Management Act 2010 \(c. 29\)](#), **ss. 42(3)**, 49(3) (with s. 49(1)(6)); S.I. 2010/2169, art. 4; S.I. 2012/2048, art. 2 (with art. 3)

Changes to legislation:

Water Industry Act 1991, Section 104 is up to date with all changes known to be in force on or before 21 May 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.

View outstanding changes

Changes and effects yet to be applied to :

- s. 104(9) repealed by [2014 c. 21 Sch. 7 para. 91](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Pt. 3 Ch. 2B inserted by [2014 c. 21 s. 12](#)
- s. 17(2)(aa) inserted by S.I. 2019/93, Sch. 1 para. 4(4)(b) (as substituted) by [S.I. 2019/1245 reg. 21](#) (This amendment not applied to legislation.gov.uk. The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- s. 17A(c) repealed by [2014 c. 21 Sch. 5 para. 4\(2\)\(c\)](#)
- s. 17A(d) repealed by [2014 c. 21 Sch. 5 para. 4\(2\)\(c\)](#)
- s. 17A(2)(ba) and word inserted by [2014 c. 21 Sch. 5 para. 4\(2\)\(b\)](#)
- s. 17R(2)(aa) inserted by S.I. 2019/93, Sch. 1 para. 4(7)(b) (as substituted) by [S.I. 2019/1245 reg. 21](#) (This amendment not applied to legislation.gov.uk. The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- s. 17AA(1)(ba)(bb) inserted by [2014 c. 21 Sch. 5 para. 5\(2\)](#)
- s. 17BA(5A) inserted by [2014 c. 21 Sch. 5 para. 7\(3\)](#)
- s. 17HA(9)(b)(ia) inserted by [2014 c. 21 Sch. 5 para. 16\(2\)](#)
- s. 23(2AA) inserted by [2014 c. 21 Sch. 7 para. 35\(4\)](#)
- s. 23(8)(9) inserted by [2014 c. 21 Sch. 7 para. 35\(10\)](#)
- s. 39E-39H inserted by [2021 c. 30 s. 78\(7\)](#)
- s. 87(7C)-(7F) inserted by [2012 c. 7 s. 35\(6\)](#)
- s. 94A-94E inserted by [2021 c. 30 s. 79](#)
- s. 95ZA(6) inserted by [2014 c. 21 Sch. 5 para. 39\(4\)](#)
- s. 96ZA(2)-(5) substituted for s. 96ZA(2) by [2014 c. 21 Sch. 5 para. 40](#)
- s. 106B(3A) inserted by [2014 c. 21 Sch. 7 para. 94](#)
- s. 117G(2)(aa) inserted by [2014 c. 21 Sch. 5 para. 41\(2\)](#)
- s. 117G(4)-(4D) substituted for s. 117(4) by [2014 c. 21 Sch. 5 para. 41\(3\)](#)
- s. 117G(6)(aa) inserted by [2014 c. 21 Sch. 5 para. 41\(4\)](#)
- s. 117K(2)(aa) inserted by [2014 c. 21 Sch. 5 para. 42\(2\)](#)
- s. 117K(5)(5A) substituted for s. 117(5) by [2014 c. 21 Sch. 5 para. 42\(3\)](#)
- s. 117L(9) inserted by [2014 c. 21 Sch. 5 para. 43\(3\)](#)
- s. 117N(4)(aa) inserted by [2014 c. 21 Sch. 5 para. 45\(2\)](#)
- s. 117N(8)(aa) inserted by [2014 c. 21 Sch. 5 para. 45\(3\)](#)
- s. 117N(11)(aa) inserted by [2014 c. 21 Sch. 5 para. 45\(4\)](#)
- s. 117O(4)(aa) inserted by [2014 c. 21 Sch. 5 para. 46\(2\)](#)
- s. 117O(8)(aa) inserted by [2014 c. 21 Sch. 5 para. 46\(3\)](#)
- s. 117S(7)-(9) inserted by [2014 c. 21 Sch. 5 para. 49](#)
- s. 119(2)(ab) inserted by [2003 c. 37 s. 89\(1\)\(a\)](#)
- s. 119(3) inserted by [2003 c. 37 s. 89\(1\)\(b\)](#)
- s. 121(1)(ba) inserted by [2003 c. 37 s. 89\(2\)\(a\)](#)
- s. 141DC inserted by [2021 c. 30 s. 83](#)

- s. 177K(7)(aa) inserted by 2014 c. 21 Sch. 5 para. 42(4)
- s. 207D and cross-heading inserted by 2014 c. 21 s. 39
- s. 207D(5) word repealed by 2014 c. 21 Sch. 5 para. 52(a)
- s. 207D(5) words inserted by 2014 c. 21 Sch. 5 para. 52(b)
- s. 213(1ZA) inserted by 2014 c. 21 Sch. 7 para. 119(3)
- s. 213(1ZA) repealed by 2014 c. 21 Sch. 5 para. 53