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STATUTORY INSTRUMENTS

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**2013 No. 1676**

**WATER, ENGLAND**

**The Reservoirs Act 1975 (Referees) (Appointment,  
Procedure and Costs) (England) Rules 2013**

<i>Made</i>	- - - -	<i>3rd July 2013</i>
<i>Laid before Parliament</i>		<i>8th July 2013</i>
<i>Coming into force</i>	- -	<i>30th July 2013</i>

The Secretary of State, in exercise of the powers conferred by section 19(5) of the Reservoirs Act 1975<sup>(1)</sup>, makes the following Rules:

**Citation, commencement, extent and application**

1.—(1) These Rules may be cited as the Reservoirs Act 1975 (Referees) (Appointment, Procedure and Costs) (England) Rules 2013 and come into force on 30th July 2013.

(2) These Rules extend to England and Wales but apply in relation to reservoirs in England only.

**Appointment of referee**

2.—(1) A referee may be appointed under section 19 of the Reservoirs Act 1975 by agreement between the undertakers and the engineer making the recommendation or determination complained of within 60 days after the day on which the undertakers receive the report containing the recommendation or a copy of it or are notified of the determination.

(2) In default of agreement, a request may be made in writing to the Secretary of State to appoint a referee within 70 days after the day on which the undertakers receive the report or a copy of it or are notified of the determination.

(3) A request under paragraph (2) must be accompanied—

- (a) in the case of a request made for the purposes of section 19(1) of that Act (reference relating to recommendations in a report as to safety measures, maintenance or inspection timing), by a copy of the report and a statement indicating the recommendation in respect of which the appointment is requested;

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<sup>(1)</sup> 1975 c. 23. Section 19 was amended in relation to England and Wales by the Flood and Water Management Act 2010 (c. 29), Schedule 4, paragraphs 14 and 22 (see S.I. 2011/2204 (C.80), article 3(1)(f) and S.I. 2013/1590 (C. 64), article 3 for relevant commencement provisions).

- (b) in the case of a request made for the purposes of section 19(1A) of that Act (reference relating to a determination that the requirements of a direction are not satisfied), by a statement giving details of the way in which the requirements of the direction have, as determined, not been satisfied.

### **Investigation of complaints**

**3.—(1)** Upon appointment, a referee must invite the undertakers to send to the referee, within 28 days after the date of the appointment, a written statement of the grounds of their complaint.

(2) The referee must send a copy of that statement to the engineer who made the recommendation or determination with a request for the engineer's written observations within 28 days after the date of that request.

(3) The referee must send a copy of the written observations of the engineer to the undertakers for comment and may arrange to meet the undertakers and the engineer (or the representatives of either) together to hear any observations either party may wish to make orally.

(4) The referee may, at any time during investigation of the complaint, make an inspection of the reservoir with or without the undertakers and the engineer (or the representatives of either).

(5) Except as otherwise provided in this rule, the referee may conduct the investigation in such manner as the referee determines.

(6) After concluding the investigation of the complaint, the referee must communicate the referee's decision on the report or determination, and reasons for it, to the undertakers and the engineer as soon as practicable.

### **Costs**

**4.** The undertakers must pay the costs of the proceedings before, and the investigation of their complaint by, the referee (including the referee's remuneration).

### **Revocation**

**5.** The Reservoirs Act 1975 (Referees) (Appointment and Procedure) Rules 1986(2) are revoked.

*de Mauley*  
Parliamentary Under Secretary of State  
Department for Environment, Food and Rural  
Affairs

3rd July 2013

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## EXPLANATORY NOTE

*(This note is not part of the Rules)*

These Rules revoke and replace, in England, the Reservoirs Act 1975 (Referees) (Appointment and Procedure) Rules 1986 (S.I. 1986/467).

Section 19 of the Reservoirs Act 1975 (c. 23) makes provision for the reference of disputed recommendations or determinations to a referee. Such references may be made where an engineer includes in a report relating to a large raised reservoir recommendations as to measures to be taken in the interests of safety, the maintenance of the reservoir or as to the time of the next inspection, or where an engineer determines that the requirements of a direction made by the Secretary of State relating to the preparation of flood plans are not satisfied. The undertakers, if aggrieved by any such recommendation or determination, may refer their complaint to a referee, who will investigate the complaint.

These Rules make provision for the time within which any appointment of a referee by agreement between the undertakers and the engineer must be made and the manner in which any request to the Secretary of State to appoint a referee in default of agreement must be made. They also provide for procedure and for the payment of costs of the investigation.

No impact assessment has been prepared for this instrument as no change to the impact on the costs of business, charities or the voluntary sector is anticipated.