



# Water Industry (Scotland) Act 2002

## 2002 asp 3

### PART 4

#### MISCELLANEOUS AND GENERAL

##### *General*

#### **66 Offences by bodies corporate and partnerships**

- (1) Where an offence under this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—
  - (a) any director, manager, secretary, member or other similar officer of the body corporate, or
  - (b) any person who was purporting to act in any such capacity,that person, as well as the body corporate, is guilty of the offence and liable to be proceeded against and punished accordingly.
- (2) Where an offence under this Act which has been committed by a Scottish partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, the partner as well as the partnership is guilty of the offence and liable to be proceeded against and punished accordingly.

#### **67 Crown application**

- (1) This Act binds the Crown, but nothing in this section is to be taken as in any way affecting Her Majesty in her private capacity.
- (2) No contravention by the Crown of any provision made by or under this Act makes the Crown criminally liable; but the Court of Session may, on the application of any public authority or office-holder having responsibility for enforcing that provision, declare unlawful any act or omission of the Crown which constitutes such a contravention.
- (3) Despite subsection (2), any provision made by or under this Act applies to persons in the public service of the Crown as it applies to other persons.
- [<sup>F1</sup>(4) The powers conferred by section 47 are only exercisable—

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- (a) in relation to land forming part of the Crown Estate, with the consent of the Crown Estate Commissioners, and
- (b) in relation to land to which section 90B(5) of the Scotland Act 1998 applies, with the consent of the person having the management of the land concerned.]

#### Textual Amendments

- F1** S. 67(4) substituted (1.4.2017) by [The Crown Estate Transfer Scheme 2017 \(S.I. 2017/524\)](#), art. 1(2), [Sch. 5 para. 31](#)

### 68 Orders and regulations

- (1) Any power of the Scottish Ministers to make orders or regulations under this Act is exercisable by statutory instrument.
- (2) Any such power includes power—
  - (a) to make such incidental, supplemental, consequential, transitional, transitory or saving provision as the Scottish Ministers think necessary or expedient,
  - (b) to make different provision for different purposes and different areas.
- (3) An order under section 24(3) or 69 may modify any enactment, instrument or document.
- (4) A statutory instrument containing an order or regulations under this Act (except sections 41(5)<sup>F2</sup>, 56B] and 72(1) and, where subsection (5) of this section applies, sections 24(3) and 69) is subject to annulment in pursuance of a resolution of the Scottish Parliament.
- (5) No order under section 24(3) or 69 containing provisions which add to, replace or omit any part of the text of an Act is to be made unless a draft has been laid before, and approved by resolution of, the Parliament.
- (6) No order is to be made under section 41(5) [<sup>F3</sup>or 56B] unless a draft has been laid before, and approved by resolution of, the Parliament.

#### Textual Amendments

- F2** Words in s. 68(4) inserted (1.7.2005) by [Water Services etc. \(Scotland\) Act 2005 \(asp 3\)](#), s. 37(2), [sch. 5 para. 7\(8\)\(a\)](#) (with s. 36); S.S.I. 2005/351, art. 2, sch. 2
- F3** Words in s. 68(6) inserted (1.7.2005) by [Water Services etc. \(Scotland\) Act 2005 \(asp 3\)](#), s. 37(2), [sch. 5 para. 7\(8\)\(b\)](#) (with s. 36); S.S.I. 2005/351, art. 2, sch. 2

### 69 Ancillary provision

The Scottish Ministers may by order make such incidental, supplemental, consequential, transitional, transitory or saving provision as they consider necessary or expedient for the purposes or in consequence of this Act.

### 70 Interpretation

- (1) In this Act, unless the context otherwise requires—

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“the 1968 Act” means the Sewerage (Scotland) Act 1968 (c.47),  
“the 1980 Act” means the Water (Scotland) Act 1980 (c.45),  
“the 1994 Act” means the Local Government etc. (Scotland) Act 1994 (c.39),  
“charges scheme” has the meaning given by section [F4]29A(1) ,  
[F5]“Citizens Advice Scotland” means the Scottish Association of Citizens Advice  
Bureaux,]  
[F6]“the Commission” means the Water Industry Commission for Scotland  
established under section 1(1) of this Act,]  
“financial year” means a period of 12 months ending with 31st March,  
[F7]“the First-tier Tribunal for Scotland” means the First-tier Tribunal for  
Scotland, established by section 1 of the Tribunals (Scotland) Act 2014;]  
“local authority” means a council constituted under section 2 of the 1994 Act,  
“new water and sewerage authorities” means the bodies established by  
section 62(1) of the 1994 Act and—  
    (a) a reference to a new water and sewerage authority is a reference to any  
        of those bodies,  
    (b) “water area” and “sewerage area”, in relation to any such authority, are  
        to be construed in accordance with that section,  
“the Parliament” means the Scottish Parliament.  
[F8]“sewerage services provider” has the meaning given in section 6(4) of Water  
Services etc. (Scotland) Act 2005 (asp 3),  
“water services provider” has the meaning given in section 6(2) of the Water  
Services etc. (Scotland) Act 2005.]

[F9](2) In this Act, the references to core functions in relation to Scottish Water are to its  
functions under or by virtue of—  
    (a) the 1968 Act and the 1980 Act,  
    (b) any other enactment (including this Act) so far as relating to the provision of  
        water or sewerage services in Scotland.]

#### Textual Amendments

- F4** Words in s. 70(1) substituted (1.7.2005) by [Water Services etc. \(Scotland\) Act 2005 \(asp 3\), s. 37\(2\), sch. 5 para. 7\(9\)\(a\)](#) (with s. 36); S.S.I. 2005/351, art. 2, sch. 2
- F5** Words in s. 70(1) inserted (1.4.2014) by [The Public Bodies \(Abolition of the National Consumer Council and Transfer of the Office of Fair Trading’s Functions in relation to Estate Agents etc\) Order 2014 \(S.I. 2014/631\), art. 1\(3\), Sch. 1 para. 15\(12\)](#) (with Sch. 1 para. 28, Sch. 2 paras. 13-15)
- F6** Words in s. 70(1) substituted (1.7.2005) by [Water Services etc. \(Scotland\) Act 2005 \(asp 3\), s. 37\(2\), sch. 5 para. 7\(9\)\(b\)](#) (with s. 36); S.S.I. 2005/351, art. 2, sch. 2
- F7** Words in s. 70 inserted (1.4.2023) by [The First-tier Tribunal for Scotland \(Transfer of Functions of Valuation Appeals Committees\) Regulations 2023 \(S.S.I. 2023/45\), reg. 1\(2\), sch. 2 para. 11\(3\)](#) (with sch. 1 paras. 1-4, 13-20)
- F8** Words in s. 70 inserted (15.8.2011) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\), ss. 130\(8\), 134\(7\)\(8\); S.S.I. 2011/278, art. 2\(b\)](#)
- F9** S. 70(2) substituted (21.12.2013) by [Water Resources \(Scotland\) Act 2013 \(asp 5\), ss. 26, 56\(1\)\(2\); S.S.I. 2013/342, art. 2\(a\)](#)

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## **71      Modification of enactments**

- (1) Schedules 5 and 6 make modifications of, respectively, the 1968 Act and the 1980 Act.
- (2) Schedule 7 makes modifications of other enactments.

## **72      Commencement and short title**

- (1) The provisions of this Act, other than this section and sections 66 to 70, come into force on such day as the Scottish Ministers may by order appoint.
- (2) This Act may be cited as the Water Industry (Scotland) Act 2002.

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### **Subordinate Legislation Made**

- P1**    [S. 72\(1\)](#) power fully exercised: different dates appointed for specified provisions and purposes by [S.S.I. 2002/118, art. 2, Sch.](#) (with savings in [art. 3](#))

**Changes to legislation:**

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