



Water Environment and Water Services (Scotland) Act 2003

2003 asp 3

PART 2

WATER AND SEWERAGE SERVICES

Mains and pipes provided by persons other than Scottish Water

31 Laying of water mains and communication pipes by persons other than Scottish Water

After section 23 of the 1980 Act insert—

“23A Laying of mains and communication pipes by persons other than Scottish Water

- (1) Without prejudice to sections 23 and 24 (including any power under those sections to authorise the laying of mains or communication pipes on its behalf), Scottish Water may authorise a person to lay a main or communication pipe which is to connect with a main vested in it—
 - (a) in, under or over any road or under any cellar or vault below any road, or
 - (b) in, on or over any land which does not form part of a road and is not land as respects which that person is owner, lessee or occupier.
- (2) Where Scottish Water gives an authorisation to any person under subsection (1) in relation to a main, subsections (1) to (2) of section 23, so far as relating to the laying of a main shall apply in respect of that person as they apply in respect of Scottish Water.
- (3) Where—
 - (a) a main or communication pipe (not being a main pipe or laid by or on behalf of Scottish Water) is laid by any person, and
 - (b) the main or pipe connects with a main vested in Scottish Water,

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the main or, as the case may be, the communication pipe shall vest in Scottish Water.

- (4) Notwithstanding subsection (3), Scottish Water may, before the completion of a main or communication pipe to which that subsection applies, determine that the main or pipe, or any part of it, shall vest in the person who laid it and that that person shall have sole responsibility for its management, maintenance and renewal.
- (5) Scottish Water shall give notice of a determination under subsection (4) to the person who laid the main or communication pipe.
- (6) Where—
 - (a) a main or communication pipe (not being a main or pipe laid by or on behalf of Scottish Water) is laid by any person, and
 - (b) the main or pipe does not connect with a main vested in Scottish Water, the main or, as the case may be, the communication pipe shall vest in the person who laid it, who shall have sole responsibility for its management, maintenance and renewal.
- (7) Notwithstanding subsections (4) and (6), Scottish Water may at any time enter into an agreement under which the main or communication pipe in question, or any part of it, shall vest in it.
- (8) An agreement under subsection (7) relating to a main or communication pipe to which subsection (3) applies—
 - (a) is subject to—
 - (i) the condition that the main or pipe shall vest in Scottish Water only if it complies with the construction standards specified by virtue of section 23B, so far as applicable,
 - (ii) such further conditions as Scottish Water may require to be included in the agreement by virtue of section 23C, and
 - (b) shall not take effect until the person who laid the main or pipe provides such security as Scottish Water may reasonably require for the performance of that person's obligations under the agreement by virtue of paragraph (a)(ii).

23B Construction standards for mains and communication pipes to vest in Scottish Water

- (1) In relation to a main or communication pipe to which subsection (3) of section 23A applies, the construction standards referred to in subsection (8) (a)(i) of that section are such standards as the Scottish Ministers may, by regulations, specify.
- (2) The standards which may be specified in regulations under subsection (1) include standards specified in or under other enactments.
- (3) Regulations under subsection (1) may make different provision in relation to different cases or descriptions of case.
- (4) Before making regulations under subsection (1) the Scottish Ministers must consult—
 - (a) Scottish Water, and

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- (b) such other persons as they consider appropriate.

23C Vesting conditions for mains and communication pipes

- (1) For the purposes of subsection (8)(a)(ii) of section 23A, Scottish Water may require the inclusion in an agreement under subsection (7) of that section of conditions (“vesting conditions”) as to—
- (a) any sum to be paid by Scottish Water to the person who laid the main or communication pipe in respect of its laying,
 - (b) the liability of that person to pay Scottish Water sums in respect of Scottish Water’s costs in relation to the main or pipe, including in particular the costs of—
 - (i) maintaining, repairing and renewing the main or pipe and such water mains, communication pipes and other waterworks constructed, and work carried out, as are mentioned in subparagraph (iii),
 - (ii) connecting the main or pipe to a main vested in Scottish Water,
 - (iii) constructing such water mains, communication pipes and other waterworks, and carrying out such other work, as Scottish Water considers necessary in consequence of the connection.
- (2) The Scottish Ministers may by regulations make provision as to—
- (a) the provisions to be included, by virtue of subsection (1) of this section, as vesting conditions in an agreement under section 23A(7),
 - (b) cases in relation to which subsection (1) of this section does not apply, or applies with modifications.
- (3) Regulations under subsection (2) may, in particular, make provision—
- (a) for determining the sum (if any) to be paid by Scottish Water by virtue of subsection (1)(a),
 - (b) for determining the liability, by virtue of subsection (1)(b), of the person who laid the main or communication pipe by reference to such matters, criteria and methods of calculation as the regulations may specify,
 - (c) as to when sums due under the vesting conditions are payable,
 - (d) as to the security which Scottish Water is entitled to require under section 23A(8)(b).
- (4) Regulations under subsection (2) may make different provision in relation to different descriptions of person and different cases or descriptions of case.”

Commencement Information

II S. 31 in force at 10.7.2008 by [S.S.I. 2008/269](#), [art. 2\(b\)](#)

Changes to legislation:

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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):

- s. 23(5) inserted by [2014 asp 3 sch. 3 para. 8\(6\)\(b\)](#)