



Countryside (Scotland) Act 1967

1967 CHAPTER 86

PART IV

FURTHER POWERS OF CERTAIN AUTHORITIES

61 Improvement of waterways for purposes of open-air recreation.

- (1) Subject to the provisions of the next following section, a local planning authority [^{F1}may, as respects any waterway in] their area, carry out such work and do such other things as may appear to them expedient for facilitating the use of the waterway by the public for sailing, boating, bathing, fishing or other water sport or recreation, but in doing so shall take into consideration the disturbance of any fishing rights over the waterway which may be caused thereby.
- (2) A local planning authority may, as respects any waterway in their area, enter into an agreement, on such terms as to payment or otherwise as may be specified in the agreement, with any public body on whom powers are conferred in relation to the waterway by or under any enactment, for the exercise by that body of any power conferred on the local planning authority by the last foregoing subsection.
- (3) Where an agreement is made under the last foregoing subsection for the exercise of any power by any such body as is therein mentioned, no limitation imposed by law on the capacity of that body by virtue of the constitution thereof shall operate so as to prevent the body from exercising that power.
- (4) Where it appears to the Secretary of State, as respects a waterway in the area of a local planning authority, that any power conferred on the authority by subsection (1) above should be exercised by any such body as is mentioned in subsection (2) above, and the local planning authority have not entered into an agreement with the said body under the said subsection (2), the Secretary of State may direct that the said power shall be exercisable by the said body:
Provided that no direction shall be given under this subsection except after consultation with the local planning authority and the said body.

*Changes to legislation: There are currently no known outstanding effects for the
 Countryside (Scotland) Act 1967, Section 61. (See end of Document for details)*

- (5) Subject to the following provisions of this section, no body shall exercise any power conferred by this section without the consent of [^{F2}Scottish Water so far as it has]^{F2} functions relating to the waterway in question; and before exercising any such power the body shall consult with every other body which under any enactment has functions relating to that waterway.
- (6) Where [^{F3}Scottish Water]^{F3} referred to in the last foregoing subsection has refused its consent to a proposed exercise of powers under this section, the body proposing to exercise the power may apply to the Secretary of State who, if he is satisfied that the consent of [^{F4}Scottish Water]^{F4} was unreasonably withheld, may authorise the proposed exercise of powers subject to such conditions or modifications as he may think fit.
- (7) Where any body consulted under subsection (5) above objects to a proposed exercise of powers under this section, and the objection is not withdrawn, the proposal shall not be proceeded with unless the body proposing to exercise the power applies to the Secretary of State who, if he is satisfied that it is expedient so to do, may authorise the proposed exercise of powers subject to such conditions or modifications as he may think fit, and if not so satisfied may refuse to authorise the proposed exercise of powers.
- (8) Before deciding whether to authorise any proposal on an application to him under either of the last two foregoing subsections, the Secretary of State shall consult with [^{F5}Scottish Natural Heritage] and shall afford to the body proposing to exercise the power and [^{F6}, where it has refused its consent, to Scottish Water]^{F6} and to every other body which has objected to the proposed exercise of powers an opportunity of being heard by a person appointed by him for the purpose, and shall consider that person's report.
- (9) Any local planning authority may acquire land compulsorily for the purpose of enabling any power conferred by this section to be exercised.

Textual Amendments

- F1** Words in s. 61(1) substituted (1.4.1992) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1\)](#), s. 27(1), [Sch. 10](#), para. 4(6); S.I. 1991/2633, [art. 4](#)
- F2** Words in s. 61(5) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71, [Sch. 7 para. 5\(2\)\(a\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#) (with savings in art. 3)
- F3** Words in s. 61(6) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71, [Sch. 7 para. 5\(2\)\(b\)\(i\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#) (with savings in art. 3)
- F4** Words in s. 61(6) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71, [Sch. 7 para. 5\(2\)\(b\)\(ii\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#) (with savings in art. 3)
- F5** Words in s. 61(8) substituted (1.4.1992) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1\)](#), s. 14(3); S.I. 1991/2633, [art. 4](#)
- F6** Words in s. 61(8) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71, [Sch. 7 para. 5\(2\)\(c\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#) (with savings in art. 3)

Modifications etc. (not altering text)

- C1** [S. 61](#) modified (8.9.2000) by [2000 asp 10](#), s. 9, [Sch. 3 para. 8](#) (with s. 32); S.S.I. 2000/312, [art. 2](#)

Changes to legislation:

There are currently no known outstanding effects for the Countryside (Scotland) Act 1967, Section 61.