



Sewerage (Scotland) Act 1968

1968 CHAPTER 47

PART III

MISCELLANEOUS AND GENERAL

41 Breaking open of streets, etc.

Subject to the provisions of the [^{F1}Part IV of the New Roads and Street Works Act 1991], [^{F2}Scottish Water or any] other person may, for the purpose of taking any action or executing work authorised or required by this Act in relation to sewers [^{F3}, SUD systems], drains or sewage treatment works, break open [^{F4}any road, any bridge carrying a road,] and any cellar [^{F5}, vault, sewer, drain or tunnel in or under a road], and may remove and use the soil or other materials in or under any such [^{F6}road]:
Provided that [^{F7}Scottish Water or, as the case may be, that person] shall, in the exercise of the powers conferred by this section, cause as little inconvenience and do as little damage as may be, and for any damage done shall pay compensation to be determined, in case of dispute, by the sheriff summarily, whose decision in the matter shall be final.

Textual Amendments

- F1** Words in s. 41 substituted (1.1.1993) by [New Roads and Street Works Act 1991 \(c. 22, SIF 59, 108\)](#), s. 168(1), [Sch. 8](#), Part IV para. 103(2); S.I. 1992/2990, art. 2(2), [Sch. 2](#)
- F2** Words in s. 41 substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71, [Sch. 5 para. 36\(a\)](#) (with s. 67); S.S.I. 2002/118, [art. 2](#)
- F3** Words in s. 41 inserted (30.11.2007) by [Water Environment and Water Services \(Scotland\) Act 2003 \(asp 3\)](#), s. 38(1), [Sch. 3 para. 19](#); S.S.I. 2007/512, art. 2(c)
- F4** Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), [Sch. 9 para. 64\(4\)\(a\)](#)
- F5** Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), [Sch. 9 para. 64\(4\)\(b\)](#)
- F6** Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), [Sch. 9 para. 64\(4\)\(c\)](#)
- F7** Words in s. 41 substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71, [Sch. 5 para. 36\(b\)](#) (with s. 67); S.S.I. 2002/118, [art. 2](#)

Changes to legislation: *Sewerage (Scotland) Act 1968, Section 41 is up to date with all changes known to be in force on or before 30 May 2023. 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*

Modifications etc. (not altering text)

- C1 S. 41 applied with modifications (1.4.1992) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), [s. 45\(10\)](#); [S.I. 1992/266](#), [art. 3](#).

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. 3A(3) inserted by [2003 asp 3 s. 30\(1\)](#)
- s. 8(1A) inserted by [2003 asp 3 s. 30\(2\)\(a\)](#)
- s. 12(2A) inserted by [2003 asp 3 s. 30\(3\)](#)
- s. 14A-14C inserted by [2003 asp 3 s. 30\(4\)](#)
- s. 16A(3) inserted by [2003 asp 3 s. 30\(5\)](#)
- s. 29A(3)(b)(c) substituted for s. 29A(3)(b) by [2014 asp 3 sch. 3 para. 1\(2\)\(b\)](#)