



# Sewerage (Scotland) Act 1968

## 1968 CHAPTER 47

### PART III

#### MISCELLANEOUS AND GENERAL

#### 48 Powers of entry.

- (1) Subject to the provisions of this section, [<sup>F1</sup>any person duly authorised by [<sup>F2</sup>Scottish Water](whether or not an employee of [<sup>F3</sup>Scottish Water] and whether such authorisation is special or general)] shall, on producing if so required some duly authenticated document showing his authority, have a right to enter any land or premises at all reasonable hours for the purpose of—
- (a) surveying land or boring or carrying out other works in order to ascertain the suitability of the land for the laying of a sewer or the construction of [<sup>F4</sup>a SUD system or ] other works under this Act;
  - (b) ascertaining whether there is or has been on or in connection with the land or premises any contravention of the provisions of this Act or of any conditions imposed thereunder;
  - (c) ascertaining whether or not circumstances exist which would authorise [<sup>F3</sup>Scottish Water] to take any action or execute any work under this Act;
  - (d) taking any action or executing any work authorised or required by this Act to be taken or executed by [<sup>F3</sup>Scottish Water][<sup>F5</sup>or which may be authorised by [<sup>F6</sup>it] under section 3A of this Act];
  - [<sup>F7</sup>(dd) inspecting, maintaining, repairing, cleansing, emptying, ventilating or renewing any sewer [<sup>F8</sup> or SUD system ] which is not a public sewer [<sup>F9</sup> or public SUD system ] but forms part of any such system as is mentioned in [<sup>F10</sup> section 46(1)(b)(ii) of the Water Industry (Scotland) Act 2002 (asp 3) ] ; ]
  - (e) inspecting any records and other documents and apparatus which [<sup>F3</sup>Scottish Water] may reasonably require to inspect for the purpose of exercising any of [<sup>F11</sup>its] functions under this Act;
  - (f) [<sup>F12</sup>monitoring, inspecting, testing or] taking away for analysis samples of sewage or any other matter or substance which is passing from the premises into [<sup>F13</sup>—

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- (i) public sewers <sup>F14</sup>, public SUD systems ] or public sewage treatment works; or
    - (ii) sewers <sup>F15</sup>, SUD systems ] or sewage treatment works not vested in <sup>F2</sup> Scottish Water ] but forming (or forming part of) any such system as is mentioned in the said <sup>F16</sup> section 46(1)(b)(ii) ] . ]
  - <sup>F17</sup>(g) installing or maintaining any monitoring, testing or sampling equipment for use on the premises,
  - (h) investigating the source of any matter or substance (other than sewage) which is passing from the premises into—
    - (i) public sewers, public SUD systems or public sewage treatment works; or
    - (ii) sewers, SUD systems or sewage treatment works not vested in Scottish Water but forming (or forming part of) any such system as is mentioned in the said section 46(1)(b)(ii).]
- (2) Entry to land or premises not being a factory within the meaning of the <sup>M1</sup>Factories Act 1961, or a place in which persons are employed otherwise than in domestic service, shall not be demanded as of right unless at least 24 hours notice of the intended entry has been given to the occupier.
- (3) Before <sup>F18</sup>entry is made] upon land or premises for any of the purposes mentioned in subsection (1)(a) above the <sup>F19</sup>the authorised person, or <sup>F20</sup>Scottish Water] on his behalf,] shall serve notice of the intended entry upon the owner and occupier, who within 14 days of the receipt of the notice may make representations to the Secretary of State, who, having considered any such representations, may authorise the entry either unconditionally or subject to such conditions as he thinks fit, or refuse to authorise it.
- Every notice under this subsection shall inform the owner and occupier of their right to make representations to the Secretary of State.
- (4) A person carrying out an inspection of documents under subsection (1)(e) above shall have a right to take copies or extracts from the documents.
- (5) Where notice of intended entry for a particular purpose has been given as respects the first occasion on which the right of entry is exercised, no further notice shall be required before entering the land or premises on a subsequent occasion in connection with that purpose.
- (6) If it is shown to the satisfaction of the sheriff, or a magistrate or justice of the peace having jurisdiction in the place where the land or premises are situated, on a sworn information in writing—
- (a) that admission to land or premises which any person is entitled to enter by virtue of this section has been refused to that person, or that refusal is apprehended, or that the land or premises are unoccupied, or the occupier is temporarily absent, or that the case is one of urgency, or that the application for admission would defeat the object of the entry, and
  - (b) that there are reasonable grounds for entry to the land or premises for any purpose for which the right of entry is exercisable
- the sheriff, magistrate or justice may by warrant under his hand authorise that person to enter the land or premises if need be by force.
- (7) Any person entitled to enter any land or premises, by virtue of a right of entry or of a warrant issued under this section, may take with him such other persons as may be necessary, and on leaving any unoccupied land or premises which he has entered by

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- virtue of such a warrant shall leave them as effectually secured against trespassers as he found them.
- (8) Every warrant granted under this section shall continue in force until the purpose for which the entry is necessary has been satisfied.
- (9) A person who wilfully obstructs any person upon whom a right of entry has been conferred by any of the provisions of this section or by a warrant issued thereunder shall be guilty of an offence and liable on summary conviction to a fine not exceeding [<sup>F21</sup>level 3 on the standard scale] and to a further fine not exceeding £5 for each day on which the offence continues after conviction therefor.
- (10) Where work has been carried out on land in pursuance of this section the [<sup>F22</sup>person who carried it out] shall, as soon as possible, reinstate the land.

#### Textual Amendments

- F1** Words in s. 48(1) substituted (4.1.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(24)(a)(i)**; S.I. 1994/2850, **art. 3(c)(vi)** (with art. 4)
- F2** Words in s. 48(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 2** (with s. 67); S.S.I. 2002/118, **art. 2**
- F3** Words in s. 48(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 4** (with s. 67); S.S.I. 2002/118, **art. 2**
- F4** Words in s. 48(1)(a) inserted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 38(1), **Sch. 3 para. 22(a)**; S.S.I. 2007/512, art. 2(c)
- F5** Words in s. 48(1)(d) added (4.1.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(24)(a)(ii)**; S.I. 1994/2850, **art. 3(c)(vi)** (with art. 4)
- F6** Word in s. 48(1)(d) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 39(a)** (with s. 67); S.S.I. 2002/118, **art. 2**
- F7** S. 48(1)(dd) inserted (4.1.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(24)(a)(iii)**; S.I. 1994/2850, **art. 3(c)(vi)** (with art. 4)
- F8** Words in s. 48(1)(dd) inserted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 38(1), **Sch. 3 para. 22(b)(i)**; S.S.I. 2007/512, art. 2(c)
- F9** Words in s. 48(1)(dd) inserted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 38(1), **Sch. 3 para. 22(b)(ii)**; S.S.I. 2007/512, art. 2(c)
- F10** Words in s. 48(1)(dd) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 39(b)** (with s. 67); S.S.I. 2002/118, **art. 2**
- F11** Word in s. 48(1)(e) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 39(c)** (with s. 67); S.S.I. 2002/118, **art. 2**
- F12** Words in s. 48(1)(f) inserted (21.12.2013) by Water Resources (Scotland) Act 2013 (asp 5), **ss. 36(a), 56(1)(2)**; S.S.I. 2013/342, art. 2(c)
- F13** Paras. (i)(ii) substituted for words in s. 48(1)(f) (4.1.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(24)(a)(i)**; S.I. 1994/2850, **art. 3(c)(vi)** (with art. 4)
- F14** Words in s. 48(1)(f)(i) inserted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 38(1), **Sch. 3 para. 22(c)(i)**; S.S.I. 2007/512, art. 2(c)
- F15** Words in s. 48(1)(f)(ii) inserted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 38(1), **Sch. 3 para. 22(c)(ii)**; S.S.I. 2007/512, art. 2(c)
- F16** Words in s. 48(1)(f)(ii) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 39(d)** (with s. 67); S.S.I. 2002/118, **art. 2**
- F17** S. 48(1)(g)(h) inserted (21.12.2013) by Water Resources (Scotland) Act 2013 (asp 5), **ss. 36(b), 56(1)(2)**; S.S.I. 2013/342, art. 2(c)
- F18** Words in s. 48(3) substituted (4.1.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(24)(b)(i)**; S.I. 1994/2850, **art. 3(c)(vi)** (with art. 4)

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- F19** Words in s. 48(3) substituted (4.1.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(24)(b)(ii)**; S.I. 1994/2850, **art. 3(c)(vi)** (with art. 4)
- F20** Words in s. 48(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 3** (with s. 67); S.S.I. 2002/118, **art. 2**
- F21** Words substituted by virtue of Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 56, **Sch. 6 para. 42** and by 1995 c. 40, ss. 3, 7(2), **Sch. 1 para. 10, Sch. 2 Pt. III** it is provided (1.4.1996) that s. 48(9) shall have effect as if the maximum fine that may be imposed on summary conviction for the offence mentioned therein were a fine not exceeding level 5 on the standard scale and £5 per day which the offence continues instead of a fine not exceeding £20
- F22** Words in s. 48(10) substituted (4.1.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(24)(c)**; S.I. 1994/2850, **art. 3(c)(vi)** (with art. 4)

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**Modifications etc. (not altering text)**

- C1** S. 48: power to modify conferred (*temp.* from 4.1.1995 to 1.4.1996) by 1994 c. 39, s. 182(2); S.I. 1994/2850, art. 3(a), **Sch. 2** (with art. 4)

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**Marginal Citations**

- M1** 1961 c. 34.

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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\(2\)\(b\)](#)