



# Fire (Scotland) Act 2005

## 2005 asp 5

### PART 2

#### FIRE AND RESCUE SERVICES

### CHAPTER 4

#### WATER SUPPLY

##### *Supply and use of water*

#### **17 Duty to secure water supply**

- (1) A relevant authority shall take all reasonable measures for securing that an adequate supply of water will be available for the authority's use for the purposes mentioned in subsection (2).
- (2) Those purposes are—
  - (a) extinguishing fires in the area of the authority;
  - (b) protecting life and property in the event of fires in its area;
  - (c) rescuing people in the event of road traffic accidents in its area;
  - (d) protecting people from serious harm in the event of road traffic accidents in its area;
  - (e) carrying out any function conferred on the authority by an order under section 11; and
  - (f) fulfilling any requirement made of the authority by a direction given to it under section 12.

#### **18 Use of water**

- (1) Subject to—
  - (a) an agreement under section 19(1); and
  - (b) section 9A of the Water (Scotland) Act 1980 (c. 45) (charging for emergency use of water),

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a relevant authority may use any suitable supply of water for the purposes mentioned in section 17(2).

- (2) A relevant authority shall pay reasonable compensation for water used by virtue of subsection (1).

## **19 Agreements in relation to water supply**

- (1) For the purposes of section 17, a relevant authority may—
- (a) enter into an agreement with Scottish Water; or
  - (b) enter into an agreement to—
    - (i) secure the use of water under the control of a person other than Scottish Water;
    - (ii) improve access to any such water;
    - (iii) lay and maintain pipes and carry out other works in connection with the use of such water.
- (2) Subject to section 9A of the Water (Scotland) Act 1980 (c. 45) (charging for emergency use of water), an agreement mentioned in subsection (1)(a) may include terms as to payment to be made to Scottish Water.
- (3) Scottish Water shall not unreasonably refuse to enter into an agreement mentioned in subsection (1)(a) which is proposed by a relevant authority.
- (4) Any question whether Scottish Water has unreasonably refused to enter into an agreement mentioned in subsection (1)(a) shall be determined by the Scottish Ministers.

## **20 Emergency supply by Scottish Water**

- (1) If a relevant authority requests Scottish Water to provide a supply or pressure of water for a purpose mentioned in section 17(2) that is greater than it would otherwise provide, it shall take all necessary steps in order to do so.
- (2) For the purposes of complying with its obligation under subsection (1) Scottish Water may shut off the water from the mains and pipes in any area.
- (3) Scottish Water (and any other person) shall not be liable to any penalty or claim arising because of anything done by Scottish Water in complying with its obligation under subsection (1).
- (4) If, without reasonable excuse, Scottish Water fails to take any step which it is obliged to take under subsection (1), it shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

### *Fire hydrants*

## **21 Fire hydrants: provision etc.**

- (1) Sections 19 to 22 of Schedule 4 to the Water (Scotland) Act 1980 (c. 45) (requirement to provide fire hydrants etc.) shall apply to Scottish Water.

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- (2) Scottish Water shall cause the location of every fire hydrant provided by it to be clearly indicated by—
  - (a) a notice; or
  - (b) a distinguishing mark.
- (3) Scottish Water may place such a notice or mark on a wall or fence adjoining a road or public place.
- (4) The expenses incurred by Scottish Water under subsection (2) in relation to a hydrant shall be borne by the relevant authority in whose area the hydrant is located.
- (5) The Scottish Ministers may make regulations providing for uniformity in—
  - (a) fire hydrants provided by Scottish Water; and
  - (b) notices or marks indicating locations of such hydrants.
- (6) Where a fire hydrant provided by Scottish Water is damaged as the result of any use made of it with the authority of Scottish Water (other than use for the purposes of fire-fighting or any other purposes of a relevant authority) the relevant authority in whose area the hydrant is located shall not be liable for the cost of repairing or replacing it.

## **22 Fire hydrants: recovery of costs**

- (1) Schedule 4 to the Water (Scotland) Act 1980 (c. 45) (provisions incorporated in orders relating to water undertakings) shall be amended as follows.
- (2) After section 21 insert—

The Scottish Ministers may by regulations make provision as to—

- (a) the persons (other than Scottish Water) from whom; or
- (b) the circumstances in which,

fire authorities may recover costs defrayed under section 21 of this Schedule.”.

- (3) In section 22, for the words “the last but one foregoing section” substitute “ section 20 of this Schedule ”.

## **23 Fire hydrants: offences**

- (1) A person who—
  - (a) uses a fire hydrant provided by Scottish Water otherwise than for a purpose mentioned in subsection (2); or
  - (b) damages or obstructs such a fire hydrant otherwise than in consequence of use for such a purpose,shall be guilty of an offence.
- (2) Those purposes are—
  - (a) fire-fighting;
  - (b) any other purpose of a relevant authority;
  - (c) any purpose authorised by Scottish Water.
- (3) A person guilty of an offence under subsection (1) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

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### *Works affecting supply and hydrants*

## 24 Notice of works affecting water supply and fire hydrants

- (1) A person who proposes to carry out works for the purpose of supplying water to any part of the area of a relevant authority shall give the relevant period's notice in writing to the authority.
- (2) In subsection (1) the “relevant period” is—
  - (a) in the case where the works are proposed to be carried out to comply with a requirement imposed under any enactment other than the Water (Scotland) Act 1980 (c. 45), 14 days;
  - (b) in any other case, 6 weeks.
- (3) A person who proposes to carry out works affecting a fire hydrant shall give at least 7 days' notice in writing to the relevant authority in whose area the hydrant is situated.
- (4) If it is not practicable for a person to give notice as required by subsection (1) or (3), the person shall be regarded as having given such notice if it is given as soon as practicable.
- (5) A person who, without reasonable excuse, fails to give notice as required by subsection (1) or (3) shall be guilty of an offence.
- (6) A person guilty of an offence under subsection (5) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

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### **[<sup>F1</sup>24A Use of electronic communication**

- (1) In section 24(1) and (3), the reference to the giving of notice in writing shall include the giving of notice by means of a document, the text of which—
  - (a) is received in legible form;
  - (b) is capable of being used for subsequent reference; and
  - (c) is sent by an electronic communication within the meaning of section 15(1) of the Electronic Communications Act 2000 (c. 7).]

#### **Textual Amendments**

**F1** S. 24A inserted (23.6.2006) by [The Electronic Communications \(Scotland\) Order 2006 \(S.S.I. 2006/367\)](#), [arts. 1\(1\)](#) {8}

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