



# Sewerage (Scotland) Act 1968

## 1968 CHAPTER 47

### PART I

#### GENERAL PROVISIONS AS TO SEWERAGE

##### *Miscellaneous*

<sup>F1</sup>18 .....

##### Textual Amendments

**F1** S. 18 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 75(16), Sch. 14; S.I. 1996/323, art. 4(1)(b)(c)(d), Sch. 2

19 .....<sup>F2</sup>

##### Textual Amendments

**F2** Ss. 5, 7(4), 18(4)—(6), 19 repealed by Local Government (Scotland) Act 1973 (c. 65), Sch. 29

**20 Compensation for loss etc. resulting from exercise of powers under this Part of this Act.**

- (1) Subject to the provisions of this section, [<sup>F3</sup>Scottish Water] shall make full compensation for any loss, injury or damage sustained by any person by reason of the exercise by [<sup>F4</sup>Scottish Water] of any of [<sup>F5</sup>its] powers under this Part of this Act in relation to a matter as to which he has not himself been in default.
- (2) Any question arising under this section as to the fact of loss, injury or damage or as to the amount of compensation shall, in the case of dispute, be referred to a single arbiter

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to be appointed by agreement between the parties or, in default of agreement, by the Secretary of State, and the arbiter may, and, if so directed by the Court of Session, shall, state a case for the opinion of that Court on any question of law arising in the proceedings.

- (3) A claim for compensation against [<sup>F6</sup>Scottish Water] under this section shall not be maintainable unless it is made to [<sup>F7</sup>Scottish Water] within [<sup>F8</sup>24] months after the date on which it is alleged to have arisen.
- (4) Where an owner of land claims compensation in respect of loss, injury or damage sustained by him by reason of [<sup>F3</sup>Scottish Water] having, in the exercise of [<sup>F9</sup>its] powers under this Part of this Act, constructed a sewer in, on or over his land, the arbiter in determining the amount of compensation shall determine also by what amount, if any, the value to the claimant of any land belonging to him has been enhanced by the construction of the sewer, and [<sup>F10</sup>Scottish Water] shall be entitled to set off that amount against the amount of any compensation awarded.
- [<sup>F11</sup>(5) The foregoing provisions of this section shall apply to a person constructing a sewer by virtue of having been authorised to do so under section 3A(1), as they would apply to [<sup>F3</sup>Scottish Water] constructing a sewer under section 3(1), of this Act.]

#### Textual Amendments

- F3** Words in s. 20(1)(4)(5) 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](#)
- F4** Words in s. 20(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](#)
- F5** Word in s. 20(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71, Sch. 5 para. 23\(a\)](#) (with s. 67); S.S.I. 2002/118, [art. 2](#)
- F6** Words in s. 20(3) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71, Sch. 5 para. 23\(b\)](#) (with s. 67); S.S.I. 2002/118, [art. 2](#)
- F7** Words in s. 20(3) 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](#)
- F8** Word in s. 20(3) substituted (1.4.1996) by 1994 c. 39, s. 180(1), [Sch. 13 para. 75\(17\)\(b\)](#); S.I. 1996/323, [art. 4\(1\)\(b\)\(c\)](#)
- F9** Word in s. 20(4) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71, Sch. 5 para. 23\(c\)](#) (with s. 67); S.S.I. 2002/118, [art. 2](#)
- F10** Words in s. 20(4) 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](#)
- F11** S. 20(5) added (4.1.1995) by 1994 c. 39, s. 180(1), [Sch. 13 para. 75\(17\)\(d\)](#); S.I. 1994/2850, [art. 3\(c\)\(vi\)](#) (with [art. 4](#))

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

- C1** S. 20(5): power to modify conferred (4.1.1995) by 1994 c. 39, [s. 182\(2\)](#); S.I. 1994/2850, [art. 3\(a\), Sch. 2](#) (with [art. 4](#))

## 21 Buildings not to interfere with sewers.

- [<sup>F12</sup>(1) Unless with the consent of [<sup>F13</sup>Scottish Water], which shall not be unreasonably withheld, no building shall be erected [<sup>F14</sup>or embankment constructed] over, or in such a way as to interfere with or to obstruct access to, any sewer [<sup>F15</sup>or SUD system] vested in [<sup>F16</sup>Scottish Water][<sup>F17</sup>or in respect of which [<sup>F18</sup>it has] made a determination under section 3A(2) of this Act].

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- (2) If any question arises as to whether consent under the foregoing subsection has been unreasonably withheld or as to what conditions should be attached to the consent, a person aggrieved may refer the question by summary application to the sheriff, whose decision in the matter shall be final.
- (3) In this section “building” has the same meaning as in section <sup>F19</sup>55(1) and (2) of the Building (Scotland) Act 2003 (asp 8)].

#### Textual Amendments

- F12** S. 21(1): power to modify conferred (4.1.1995) by 1994 c. 39, s. 182(2); S.I. 1994/2850, art. 3(a), **Sch. 2** (with art. 4)
- F13** Words in s. 21(1) 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**
- F14** Words in s. 21(1) inserted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(18)(b)**; S.I. 1996/323, **art. 4(1)(b)(c)**
- F15** Words in s. 21(1) inserted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 38(1), **Sch. 3 para. 16**; S.S.I. 2007/512, art. 2(c)
- F16** Words in s. 21(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**
- F17** Words in s. 21(1) added (4.1.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(18)(c)**; S.I. 1994/2850, **art. 3(c)(vi)** (with art. 4)
- F18** Words in s. 21(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 24** (with s. 67); S.S.I. 2002/118, **art. 2**
- F19** Words in s. 21(3) substituted (1.5.2005) by Building (Scotland) Act 2003 (asp 8), s. 59(1), **Sch. 6 para. 2** (with s. 53); S.S.I. 2004/404, art. 2(1)

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

- C2** S. 21 extended by Control of Pollution Act 1974 (c. 40), s. 28(3)

## 22 Protection for statutory undertakers.

- (1) Subject to the provisions of this section, nothing in this Part of this Act shall authorise [<sup>F20</sup>Scottish Water] to carry out works which will interfere with the carrying on of a statutory undertaking [<sup>F21</sup>or the running of [<sup>F22</sup>an electronic communications code network]without the consent of the statutory undertakers concerned or, as the case may be, of the operator of [<sup>F23</sup>that network].]
  - (2) Consent under the foregoing subsection shall not be unreasonably withheld, and if any question arises as to whether or not consent is unreasonably withheld or as to what conditions, including payment of compensation, should be attached to the consent, either party may require that it shall be referred to a single arbiter to be appointed, in default of agreement, by the President of the Institution of Civil Engineers, and the arbiter may, and, if so directed by the Court of Session, shall, state a case for the opinion of that Court on any question of law arising in the proceedings.
- <sup>F24</sup>(2A) The foregoing provisions of this section shall apply to a person constructing a sewer by virtue of having been authorised to do so under section 3A(1), as they would apply to [<sup>F20</sup> Scottish Water ] constructing a sewer under section 3(1), of this Act. ]
- (3) Nothing in this section shall be construed as limiting the powers of [<sup>F20</sup>Scottish Water] under section 41 below.

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- (4) In this section “statutory undertakers” and “statutory undertaking” have the meanings assigned to them by <sup>F25</sup>section 275(1) of the <sup>M1</sup>Town and Country Planning (Scotland) Act 1972].

#### Textual Amendments

- F20** Words in s. 22(1)(2A)(3) 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**
- F21** Words substituted by Telecommunications Act 1984 (c. 12, SIF 96), s. 109, **Sch. 4 para. 49**
- F22** Words in s. 22(1) substituted (17.9.2003) by Communications Act 2003 (Consequential Amendments) Order 2003 (S.I. 2003/2155), art. 1(1), **Sch. 1 para. 7(a)**
- F23** Words in s. 22(1) substituted (17.9.2003) by Communications Act 2003 (Consequential Amendments) Order 2003 (S.I. 2003/2155), art. 1(1), **Sch. 1 para. 7(b)**
- F24** S. 22(2A) inserted (4.1.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(19)(b)**; S.I. 1994/2850, **art. 3(c)(vi)** (with art. 4)
- F25** Words substituted by Airports Authority Act 1975 (c. 78), **Sch. 5 Pt. II para. 2**

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

- C3** S. 22 extended by Post Office Act 1969 (c. 48), **Sch. 4 para. 93(1)**  
S. 22 extended by Civil Aviation Act 1982 (c. 16, SIF 9), s. 19, **Sch. 2 para. 4**  
S. 22 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(1)(xxiii), **Sch. 8 para. 33**  
S. 22 extended by Electricity Act 1989 (c. 29, SIF 44:1), s. 1(1)(xxi), **Sch. 17 para. 33**  
S. 22 extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xviii)**; S.I. 1996/218, **art. 2**
- C4** S. 22: power to modify conferred (4.1.1995) by 1994 c. 39, s. 182(2); S.I. 1994/2850, art. 3(a), **Sch. 2** (with art. 4)
- C5** S. 22 modified (1.4.2001) by 2000 c. 38, s. 37, **Sch. 5 para. 1(2)(n)**; S.I. 2001/869, **art. 2**

#### Marginal Citations

- M1** 1972 c. 52.

## 23 Restriction on working minerals.

Sections 71 to 78 of the <sup>M2</sup>Railways Clauses Consolidation (Scotland) Act 1845 (which restrict the working of minerals, subject to the payment of compensation), as originally enacted and not as amended for certain purposes by section 15 of the <sup>M3</sup>Mines (Working Facilities and Support) Act 1923, shall apply in relation to

- <sup>F26</sup>(a) any public sewers, public sewage treatment works <sup>F27</sup>, public SUD systems ] or public drains; and
- (b) any sewers, sewage treatment works <sup>F28</sup>, SUD systems ] or drains not vested in <sup>F29</sup> Scottish Water ] but forming (or forming part of) any such system as is mentioned in <sup>F30</sup> section 46(1)(b)(ii) of the Water Industry (Scotland) Act 2002 (asp 3) ] ,

to which they do not already apply, with the substitution—

- (i) for references to the railway, of references to the sewers, works <sup>F28</sup>, SUD systems ] or drains; and
- (ii) for references to the company, of references to <sup>F31</sup> Scottish Water ] , or as the case may be to the person other than <sup>F29</sup> Scottish Water ] , in whom the sewers, works <sup>F28</sup>, SUD systems ] or drains are vested. ]

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### Textual Amendments

- F26** S. 23(a)(b)(i)(ii) substituted (for subparas. (a), (b) and words)(4.1.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(20)**; S.I. 1994/2850, **art. 3(c)(vi)** (with art. 4)
- F27** Words in s. 23(a) inserted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 38(1), **Sch. 3 para. 17(a)**; S.S.I. 2007/512, art. 2(c)
- F28** Words in s. 23(b),(b)(i)(ii) inserted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 38(1), **Sch. 3 para. 17(b)**; S.S.I. 2007/512, art. 2(c)
- F29** Words in s. 23 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**
- F30** Words in s. 23 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 25** (with s. 67); S.S.I. 2002/118, **art. 2**
- F31** Words in s. 23 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**

### Modifications etc. (not altering text)

- C6** S. 23: 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)

### Marginal Citations

- M2** 1845 c. 33.  
**M3** 1923 c. 20.

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