



Sewerage (Scotland) Act 1968

1968 CHAPTER 47

PART II

TRADE EFFLUENTS

Agreements in lieu of applications for consent

37 Agreements as respects trade premises.

- (1) [^{F1}Scottish Water] may enter into an agreement with the owner or occupier of any trade premises within [^{F2}its] area for the reception, treatment or disposal by [^{F3}it] of any trade effluent produced on those premises.
- (2) The reference in the foregoing subsection to an agreement shall include a reference to an agreement varying or renewing an existing agreement, whether that existing agreement was entered into before or after the commencement of this section.
- (3) Where [^{F1}Scottish Water] propose to enter into an agreement under this section with an occupier who is not also the owner of trade premises, [^{F4}it] shall intimate the proposal to the owner who may, within 28 days of receipt of the intimation, make representations in respect of the proposal.
- (4) Before [^{F5}Scottish Water] and such an occupier as is mentioned in subsection (3) above enter into an agreement under this section, [^{F6}Scottish Water] shall take into account any representations made by the owner of the premises in question in pursuance of that subsection.
- (5) Without prejudice to subsection (1) above, any agreement under this section may provide for—
 - (a) the construction by [^{F7}Scottish Water] of such works as may be required for the reception, treatment or disposal of trade effluent;
 - (b) the removal and disposal by [^{F8}Scottish Water] of substances produced in the course of treating any trade effluent on or in connection with the premises;

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- (c) the repayment by the owner or, as the case may be, occupier of the premises of the whole or part of the expenses incurred by [^{F9}Scottish Water] in carrying out [^{F10}its] obligations under the agreement.
- (6) A discharge of trade effluent which is made in accordance with an agreement under this section shall not otherwise require the consent of [^{F11}Scottish Water] nor may the making of such a discharge be reviewed by the direction of [^{F12}Scottish Water]; and accordingly sections 26 to 32 and 36 above shall not apply to such a discharge.
- (7) If the parties to an agreement under this section have failed to renew the agreement, with or without variation, on or before the date of its expiry, [^{F13}Scottish Water] may, and if requested by the person making the discharge shall, review the making of the discharge by direction; and subsections (2) to (7) of section 32 above shall, with any necessary modifications, apply to a direction under this subsection.
- (8) Until a direction has been made under subsection (7) above in respect of an agreement, a discharge may continue to be made in accordance with the agreement.
- (9) Any reference in this section to an occupier shall include a reference to a prospective occupier.

Textual Amendments

- F1** Words in s. 37(1)(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**
- F2** Word in s. 37(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 32(a)(i)** (with s. 67); S.S.I. 2002/118, **art. 2**
- F3** Words in s. 37(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 32(a)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2**
- F4** Words in s. 37(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 32(b)** (with s. 67); S.S.I. 2002/118, **art. 2**
- F5** Words in s. 37(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**
- F6** Words in s. 37(4) 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**
- F7** Words in s. 37(5) 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** Words in s. 37(5) 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**
- F9** Words in s. 37(5) 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**
- F10** Word in s. 37(5)(c) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 32(c)** (with s. 67); S.S.I. 2002/118, **art. 2**
- F11** Words in s. 37(6) 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**
- F12** Words in s. 37(6) 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**
- F13** Words in s. 37(7) 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**

Modifications etc. (not altering text)

- C1** Ss. 24-38 (Pt. II) excluded (30.6.1993) by S.I. 1993/1446, **reg. 3(3)**.
- C2** S. 37(6) excluded (30.6.1993) by S.I. 1993/1446, **reg. 3(2)(a)**.

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[^{F14}37A Register for purposes of Part II.

- (1) [^{F15}Scottish Water] shall maintain a register for the purposes of this Part of this Act.
- (2) [^{F16}Scottish Water] shall enter in the register—
 - (a) such particulars as may be prescribed—
 - (i) of any consent, affecting [^{F17}its] area and for the time being extant, given (whether before or after the coming into force of this section) under this Part of this Act; and
 - (ii) of any agreement, affecting [^{F17}its] area and for the time being extant, entered into (whether before or after the coming into force of this section) under section 37 of this Act; and
 - (b) such particulars of other matters relative to [^{F17}its] functions under this Part of this Act as may be prescribed.
- (3) It shall be the duty of [^{F18}Scottish Water]—
 - (a) to secure that the register maintained by [^{F19}it] in pursuance of subsection (1) above is, after such date as may be prescribed, open to inspection by the public free of charge at all reasonable hours; and
 - (b) to afford members of the public reasonable facilities for obtaining from [^{F19}it], on payment of reasonable charges, copies of entries in the register.
- (4) In subsections (2) and (3) above, “ prescribed ” means prescribed by the Secretary of State by regulations made under this subsection by statutory instrument.
- (5) An instrument containing regulations under subsection (4) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

Textual Amendments

- F14** S. 37A and sidenote inserted (30.6.1999) by 1994 c. 39, s. 103 (with s. 74(4)); S.I. 1998/2532, art. 2
- F15** Words in s. 37A(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
- F16** Words in s. 37A(2) 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. 37A(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, Sch. 5 para. 33(a) (with s. 67); S.S.I. 2002/118, art. 2
- F18** Words in s. 37A(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
- F19** Words in s. 37A(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, Sch. 5 para. 33(b) (with s. 67); S.S.I. 2002/118, art. 2

[^{F20} 37B Exclusion from register of information affecting national security.

- (1) No information shall be included in a register maintained under section 37A of this Act if and so long as, in the opinion of the Secretary of State, the inclusion in the register of that information, or of information of that description, would be contrary to the interests of national security.
- (2) The Secretary of State may, for the purposes of subsection (1) above, give to [^{F21}Scottish Water] directions—
 - (a) specifying information, or descriptions of information, to be excluded from the register; or

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- (b) specifying descriptions of information to be referred to him for his determination;
- and no information referred to him in pursuance of paragraph (b) above shall be included in the register until he determines that it should be so included.
- (3) [^{F22}Scottish Water] shall notify the Secretary of State of any information [^{F23}it excludes] from the register in pursuance of directions under subsection (2) above.
- (4) A person may, as respects any information which (but for this section) might be included in the register but which he believes may be information whose inclusion would be contrary to the interests of national security, by notice so inform the Secretary of State, specifying the information and indicating its apparent nature; and if the person does so—
- (a) he shall advise [^{F24}Scottish Water] that he has given such notice; and
 - (b) no information in respect of which such advice has been given shall be included in the register until the Secretary of State has determined that it should be so included.]

Textual Amendments

- F20** S. 37B and sidenote inserted (30.6.1999) by 1994 c. 39, s. 103 (with s. 74(4)); S.I. 1998/2532, art. 2
- F21** Words in s. 37B(2) substituted (14.7.2004) by Water Industry (Scotland) Act 2002 (Consequential Modifications) Order 2004 (S.I. 2004/1822), art. 1(1), Sch. para. 6(a)
- F22** Words in s. 37B(3) substituted (14.7.2004) by Water Industry (Scotland) Act 2002 (Consequential Modifications) Order 2004 (S.I. 2004/1822), art. 1(1), Sch. para. 6(b)(i)
- F23** Words in s. 37B(3) substituted (14.7.2004) by Water Industry (Scotland) Act 2002 (Consequential Modifications) Order 2004 (S.I. 2004/1822), art. 1(1), Sch. para. 6(b)(ii)
- F24** Words in s. 37B(4) substituted (14.7.2004) by Water Industry (Scotland) Act 2002 (Consequential Modifications) Order 2004 (S.I. 2004/1822), art. 1(1), Sch. para. 6(c)

Modifications etc. (not altering text)

- C3** S. 37B: Certain functions made exercisable by the Scottish Ministers concurrently with the Minister (1.7.1999) by S.I. 1999/1750, arts. 1, 3, Sch. 2 (with art. 7); S.I. 1998/3178, art. 3

[^{F25}37C Exclusion from register of commercially confidential information

- (1) Despite subsection (2) of section 37A of this Act, Scottish Water shall not enter in the register maintained under that section information relating to the affairs of any individual or business if—
- (a) it determines, on the application of the person providing the information, that it is commercially confidential (as regards that or any other person), and
 - (b) the information is not information which is required to be entered in the register in pursuance of a direction under subsection (4) below.
- (2) If, on an application under subsection (1) above, Scottish Water fails to make a determination within the period of 21 days beginning with the date of the application, it shall be treated as having determined that the information is commercially confidential.
- (3) Where, on an application under subsection (1) above, Scottish Water determines that information is not commercially confidential, the information shall not be entered on

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the register until the end of the period of 21 days beginning with the date on which the determination is notified to the person concerned.

- (4) The Scottish Ministers may give Scottish Water directions as to specified information, or descriptions of information, which the public interest requires to be included in the register regardless of whether the information is commercially confidential.
- (5) Information excluded from the register by virtue of subsection (1) above shall be treated as ceasing to be commercially confidential for the purposes of this section on the expiry of the period of 4 years beginning with the date of the determination by virtue of which it was excluded unless Scottish Water determines, on the application of the person who provided the information, that it is still commercially confidential.
- (6) Subsection (2) above applies in relation to an application under subsection (5) above as it applies in relation to an application under subsection (1) above.
- (7) The Scottish Ministers may, by order made by statutory instrument, substitute (whether in all cases or in such descriptions of case as the order may specify) for the period for the time being specified in subsection (2) above such other period as they consider appropriate.
- (8) A statutory instrument containing an order under subsection (7) above is subject to annulment in pursuance of a resolution of the Scottish Parliament.
- (9) Information is, for the purposes of any determination under this section, commercially confidential, in relation to any person, if its inclusion in the register would prejudice to an unreasonable degree the commercial interests of that person.]

Textual Amendments

F25 S. 37C inserted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 63 (with s. 67); S.S.I. 2002/118, art. 2

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