

**Changes to legislation:** *Local Government etc. (Scotland) Act 1994, Paragraph 75 is up to date with all changes known to be in force on or before 19 January 2024. 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*

## SCHEDULE 13

### MINOR AND CONSEQUENTIAL AMENDMENTS

#### *The Sewerage (Scotland) Act 1968 (c.47)*

75 (1) The Sewerage (Scotland) Act 1968 shall be amended in accordance with this paragraph.

(2) In section 1 (duty of local authority to provide for sewerage in their area)—

<sup>F1</sup>(a) .....

(b) for subsection (2) substitute—

“(2) Without prejudice to the generality of subsection (1) above—

(a) a sewerage authority shall, subject to paragraph (b) below, take their public sewers to such point or points as will enable the owners of premises which are to be served by the sewers to connect their drains or private sewers with the public sewers at reasonable cost;

(b) where the sewerage authority have agreed with some other person (in this section referred to as the “private provider”) that he will take a private sewer to such point or points as will enable owners to make such connection as is mentioned in paragraph (a) above, that paragraph shall not apply while the agreement subsists.”;

<sup>F1</sup>(c) .....

(d) in subsection (4)—

(i) for “public sewers” substitute “ a public sewer, or under an agreement such as is mentioned in paragraph (b) of subsection (2) above the private sewer of a private provider, ”;

(ii) for “local authority concerned” substitute “ sewerage authority, or as the case may be private provider, concerned ”; and

(iii) for “local authority”, where those words secondly occur, substitute “ authority or private provider ”; and

(e) after subsection (4) add—

“(5) The Secretary of State may by regulations make provision as respects the procedure to be followed as respects a request under subsection (4) above.

(6) The power to make regulations under subsection (5) above shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.”.

<sup>F2</sup>(3) .....

(4) In section 3 (construction etc. of public sewers and public sewage treatment works)—

<sup>F2</sup>(a) .....

(b) in subsection (3), after “notices”—

(i) where it secondly occurs, insert “ served by a sewerage authority ”; and

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(ii) where it thirdly occurs, insert “ served by a local authority ”.

<sup>F2</sup>(5) .....

<sup>F2</sup>(6) .....

(7) In section 7 (agreements between local authorities and the Secretary of State as respects provision, management, maintenance or use of sewers or drains to take water from surface of trunk road etc.)—

(a) in subsection (1)—

(i) for “the Secretary of State” substitute “ a roads authority ”;

<sup>F3</sup>(ii) .....

(iii) for “trunk roads” substitute “ a road ”;

(b) in subsection (2)—

(i) for “the Secretary of State” substitute “ a roads authority ”; and

<sup>F3</sup>(ii) .....

(c) in subsection (3)—

(i) for “The Secretary of State or a local” substitute “ A roads authority or a sewerage ” and

<sup>F3</sup>(ii) .....

(d) at the end add—

“(3A) In the foregoing provisions of this section, “roads authority” has the same meaning as in the <sup>M1</sup>Roads (Scotland) Act 1984.”.

(8) In section 11 (keeping of map showing public sewers etc.)—

(a) for subsection (1) substitute—

“(1) A sewerage authority shall keep deposited at their principal office a map showing and distinguishing so far as is reasonably practicable all sewers, drains and sewage treatment works which are vested in them by virtue of this Act or of Part II of the Local Government etc. (Scotland) Act 1994 or in respect of which they have made a determination under section 3A(2) of this Act; and the authority shall provide reasonable facilities at that office for inspection of the map by any person and shall permit a copy of the map, or of an extract of it, to be taken by a person on his paying such reasonable amount as the authority may determine.”;

<sup>F4</sup>(b) .....

(c) at the end add—

“(3) A sewerage authority shall keep deposited at such of their offices, other than their principal office, as they consider appropriate, a copy relevant to the office in question of part of the map mentioned in subsection (1) above; and the authority shall provide the like facilities and permission in relation to the copy part, at the office at which that copy is deposited, as, under subsection (1) above, they do in relation to the map mentioned in that subsection at their principal office.

(4) For the purposes of subsection (3) above, a copy is relevant to an office if it is of such part of the map mentioned in subsection (1)

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above as appears to the sewerage authority to be appropriate having regard to the geographical location of that office.”.

<sup>F5</sup>(9) .....

<sup>F5</sup>(10) .....

<sup>F5</sup>(11) .....

(12) In section 15 (owner or occupier to remedy defects in drains and other works)—

- (a) in subsection (1)—
  - (i) after “local authority” insert “ or a sewerage authority ”;
  - (ii) after “vested in the” insert “ sewerage ”; and
  - (iii) for “they” substitute “ the authority in question ”;
- (b) in subsection (3), for “local authority”—
  - (i) where those words first occur, substitute “ authority which served the notice ”; and
  - (ii) where they occur in the proviso, substitute “ authority in question ”; and
- (c) in subsection (4)—
  - (i) for the words from “the medical” to “local authority” substitute “ a local authority or a sewerage authority that immediate action is required to remedy a defect ”; and
  - (ii) in paragraph (c), after “authority” insert “ which served the notice ”.

(13) In section 16 (vesting of sewers and other works)—

- (a) in subsection (1)—
  - (i) for the words from the beginning to “vest in them” substitute “ There shall vest in a sewerage authority ”; and
  - (ii) for paragraph (c) substitute—
    - “(c) subject to any determination notified under subsection (2) of section 3A of this Act, all private sewers connecting with their sewers or sewage treatment works;
    - (cc) where they enter into an agreement under subsection (2) of the said section 3A or under subsection (2) of section 16A of this Act (and subject to the terms of that agreement), all private sewers, or as the case may be parts of sewers, to which the agreement relates;”;
- (b) in subsection (2), for “the commencement of this section shall vest in the local” substitute “ 1st April 1996 shall vest in the sewerage ”; and

<sup>F6</sup>(c) .....

(14) After section 16 insert—

**“16A Vesting of certain private sewers.**

- (1) Subject to any agreement entered into under subsection (2) below, there shall vest in a person authorised, under subsection (1) of section 3A of this Act, by a sewerage authority to construct a sewer not connecting with their sewers

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or sewage treatment works the sewer constructed; and any sewer vested in a person by this subsection or by a determination under subsection (2) of that section shall be his property and he solely responsible for its management, maintenance and renewal.

(2) Notwithstanding subsection (1) above, the sewerage authority may, on such terms and conditions as they think fit, at any time enter into an agreement under which the sewer, or any part of it, shall vest in them.”.

<sup>F6</sup>(15) .....

(16) Section 18 (expenses of local authorities and dissolution of drainage districts) shall cease to have effect.

(17) In section 20 (compensation for loss etc, resulting from exercise of powers under Part I)—

- <sup>F7</sup>(a) .....
- (b) in subsection (3), for “12” substitute “ 24 ”;
- <sup>F7</sup>(c) .....
- (d) at the end add—

“(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 a sewerage authority constructing a sewer under section 3(1), of this Act.”.

(18) In section 21(1) (buildings not to interfere with sewers)—

- <sup>F8</sup>(a) .....
- (b) after “erected” insert “ or embankment constructed ”; and
- (c) at the end add “ or in respect of which they have made a determination under section 3A(2) of this Act ”.

(19) In section 22 (protection for statutory undertakers)—

- <sup>F8</sup>(a) .....
- (b) after subsection (2) insert—

“(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 a sewerage authority constructing a sewer under section 3(1), of this Act.”.

(20) In section 23 (restriction on working minerals), for the words from “any public” to the end substitute “—

- (a) any public sewers, public sewage treatment works or public drains; and
- (b) any sewers, sewage treatment works or drains not vested in a sewerage authority but forming (or forming part of) any such system as is mentioned in section 98(1)(b) of the Local Government etc. (Scotland) Act 1994,

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

- (i) for references to the railway, of references to the sewers, works or drains; and

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- (ii) for references to the company, of references to the sewerage authority, or as the case may be to the person other than a sewerage authority, in whom the sewers, works or drains are vested.”.

<sup>F9</sup>(21) .....

<sup>F9</sup>(22) .....

(23) Sections 40 (powers of local authorities as to research and publicity) and 47 (recovery of expenses by local authority) shall cease to have effect.

(24) In section 48 (powers of entry)—

(a) in subsection (1)—

(i) for “an authorised officer of a local authority” substitute “ any person duly authorised by a sewerage authority (whether or not an employee of the authority and whether such authorisation is special or general) ”;

(ii) in paragraph (d), at the end add “ or which may be authorised by them under section 3A of this Act ”;

(iii) after paragraph (d) insert—

“(dd) inspecting, maintaining, repairing, cleansing, emptying, ventilating or renewing any sewer which is not a public sewer but forms part of any such system as is mentioned in section 98(1)(b) of the Local Government etc. (Scotland) Act 1994;”;

(iv) in paragraph (f), for the words from “the sewers” to the end substitute “—

(i) public sewers or public sewage treatment works; or

(ii) sewers or sewage treatment works not vested in a sewerage authority but forming (or forming part of) any such system as is mentioned in the said section 98(1)(b).”;

(b) in subsection (3)—

(i) for “entering” substitute “ entry is made ”; and

(ii) for “local authority” substitute “ the authorised person, or the sewerage authority on his behalf, ”; and

(c) in subsection (10), for “local authority” substitute “ person who carried it out ”.

(25) In section 51 (procedure on appeal to Secretary of State)—

<sup>F10</sup>(a) .....

(b) after subsection (6) add—

“(7) The Secretary of State may by regulations make further provision as respects the procedure to be followed in any such appeal.

(8) The power to make regulations under subsection (7) above shall be exercisable by statutory instrument, which shall be subject

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to annulment in pursuance of a resolution of either House of Parliament.”.

(26) Section 52 (exemption from stamp duties) shall cease to have effect.

<sup>F11</sup>(27) .....

(28) In section 59(1) (interpretation)—

<sup>F12</sup>(a) .....

(b) the definitions of “authorised officer” and “local authority” shall cease to have effect;

<sup>F12</sup>(c) .....

(d) in the definition of “public drain”, at the end add “ or a sewerage authority ”;

<sup>F12</sup>(e) .....

<sup>F12</sup>(f) .....

(g) the definition of “trunk road” shall cease to have effect.

#### Textual Amendments

- F1** Sch. 13 para. 75(2)(a)(c) repealed (1.4.2002) by 2002 asp 3, s. 71, **Sch. 7 para. 23(g)(v)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F2** Sch. 13 para. 75(3)(4)(a)(5)(6) repealed (1.4.2002) by 2002 asp 3, s. 71, **Sch. 7 para. 23(g)(v)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F3** Sch. 13 para. 75(7)(a)(ii)(b)(ii)(c)(ii) repealed (1.4.2002) by 2002 asp 3, s. 71, **Sch. 7 para. 23(g)(v)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F4** Sch. 13 para. 75(8)(b) repealed (1.4.2002) by 2002 asp 3, s. 71, **Sch. 7 para. 23(g)(v)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F5** Sch. 13 para. 75(9)-(11) repealed (1.4.2002) by 2002 asp 3, s. 71, **Sch. 7 para. 23(g)(v)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F6** Sch. 13 para. 75(13)(c)(15) repealed (1.4.2002) by 2002 asp 3, s. 71, **Sch. 7 para. 23(g)(v)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F7** Sch. 13 para. 75(17)(a)(c) repealed (1.4.2002) by 2002 asp 3, s. 71, **Sch. 7 para. 23(g)(v)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F8** Sch. 13 para. 75(18)(a)(19)(a) repealed (1.4.2002) by 2002 asp 3, s. 71, **Sch. 7 para. 23(g)(v)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F9** Sch. 13 para. 75(21)(22) repealed (1.4.2002) by 2002 asp 3, s. 71, **Sch. 7 para. 23(g)(v)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F10** Sch. 13 para. 75(25)(a) repealed (1.4.2002) by 2002 asp 3, s. 71, **Sch. 7 para. 23(g)(v)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F11** Sch. 13 para. 75(27) repealed (1.4.2002) by 2002 asp 3, s. 71, **Sch. 7 para. 23(g)(v)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F12** Sch. 13 para. 75(28)(a)(c)(e)(f) repealed (1.4.2002) by 2002 asp 3, s. 71, **Sch. 7 para. 23(g)(v)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

#### Commencement Information

- I1** Sch. 13 para. 75 wholly in force at 1.4.1996; Sch. 13. para. 75 not in force at Royal Assent see s. 184(2); Sch. 13. para. 75(1)(2)(b)(d)(e)(13)(a)(ii)(14)(17)(d)(18)(c)(19)(b)(20)(24) in force at 4.1.1995 by S.I. 1994/2850, **art. 3(c)(vi)**; Sch. 13 para. 75(25)(b) in force at 17.7.1995 by S.I. 1995/1898, **art. 2(d)**; Sch. 13 para. 75 in force at 1.4.1996 insofar as not already in force by S.I. 1996/323, **art. 4(1)(c)**

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**Marginal Citations**

**M1** 1984 c. 54.

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**Changes and effects yet to be applied to :**

- Sch. 13 para. 75(27) words substituted by [1995 c. 25 Sch. 22 para. 232\(2\)](#)