



Strathclyde Regional Council Order Confirmation Act 1991

1991 CHAPTER xx

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1936, relating to Strathclyde Regional Council. [19th December 1991]

WHEREAS the Provisional Order set forth in the Schedule hereunto annexed has been made by the Secretary of State under the provisions of the Private Legislation Procedure (Scotland) Act 1936, and it is requisite that the said Order should be confirmed by Parliament:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Confirmation of Order in Schedule

The Provisional Order contained in the Schedule hereunto annexed is hereby confirmed.

2 Short title

This Act may be cited as the Strathclyde Regional Council Order Confirmation Act 1991.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

SCHEDULE

STRATHCLYDE REGIONAL COUNCIL

Provisional Order to re-enact with amendments certain local statutory provisions in force within the Strathclyde Region; to confer further powers on the Strathclyde Regional Council; and for other purposes.

“WHEREAS—

- (1) The Strathclyde Regional Council (hereinafter referred to as “the Council”) are vested with all the functions of a regional council by virtue of section 2 of the Local Government (Scotland) Act 1973 (hereinafter referred to as “the Act of 1973”) for the area of the Strathclyde Region as the said area is described in column 2 of Part I of Schedule 1 to that Act:
- (2) In pursuance of the Act of 1973 certain local statutory provisions which, before the coming into force of the said Act, were exercisable by the councils of the former administrative areas now comprising the Strathclyde Region are now exercisable by the Council:
- (3) In pursuance of section 225 of the Act of 1973 and Orders made thereunder the local statutory provisions now exercisable by the Council would cease to have effect at the end of 1991:
- (4) It is expedient that certain of the said local statutory provisions should be re-enacted with amendments and applied to the Strathclyde Region:
- (5) It is further expedient that new provision should be made for the improvement, health and local government of the Strathclyde Region and to confer further powers on the Council:
- (6) It is expedient that the other provisions in this Order should be enacted:
- (7) The purposes aforesaid cannot be effected without an Order confirmed by Parliament under the provisions of the Private Legislation Procedure (Scotland) Act 1936:

Now therefore in pursuance of the powers contained in the said Act the Secretary of State orders as follows:—

PART I

PRELIMINARY

Short title

- 1 This Order may be cited as the Strathclyde Regional Council Order 1991.

Interpretation

- 2 In this Order, except where the context otherwise requires—

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

“building” has the meaning given by section 275(1) of the Town and Country Planning (Scotland) Act 1972;

“Council” means the Strathclyde Regional Council;

“disabled person’s vehicle” has the meaning given by section 142(1) of the Road Traffic Regulation Act 1984;

“occupier” includes the actual occupier or tenant or sub-tenant;

“operational land” has the meaning given by section 211 of the Town and Country Planning (Scotland) Act 1972;

“public road” has the meaning given by section 151 of the Roads (Scotland) Act 1984;

“road” has the meaning given by section 151 of the Roads (Scotland) Act 1984;

“sewer” means any sewer vested in the Council in terms of the Sewerage (Scotland) Act 1968;

“statutory undertakers” has the meaning given by section 151 of the Roads (Scotland) Act 1984; and

“watercourse” includes any river, stream or burn but shall not include any part of the river or firth of Clyde within the jurisdiction of the Clyde Port Authority or their successors.

PART II

ROADS

Regulation of traffic on special occasions

- 3 (1) The Council may from time to time make orders—
- (a) diverting temporarily out of any road traffic of every kind or traffic of any particular kind;
 - (b) prescribing the route to be observed by all vehicles and other traffic or vehicles and other traffic of different classes on occasions of ceremonies, processions, rejoicings, shows, exhibitions, entertainments, sports, races or on any occasion when the roads are liable to be thronged or obstructed or the traffic likely to be abnormal and for keeping order and preventing obstruction on such occasions; and
 - (c) for keeping order and preventing the obstruction of roads in the neighbourhood of theatres and other places of public resort.
- (2) An order under subsection (1) above—
- (a) shall (where practicable) specify an alternative route or alternative routes;
 - (b) shall not have the effect of preventing at any time access for foot passengers to any premises situated on or adjacent to any road in respect of which the order has been made, or to any other premises accessible for foot passengers only from that road; and
 - (c) shall not have the effect of preventing for a period of more than three hours in all in any continuous period of eight hours access for any vehicular traffic to any commercial premises so situated, or to any other commercial premises accessible for vehicular traffic only from the road as aforesaid.
- (3) In subsection (1) above “temporarily” means for a period not exceeding three days.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (4) Any person who contravenes an order of the council under the provisions of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (5) Not less than 28 days before making any order under this section a notice stating the effect of any order made under this section shall be advertised in a newspaper or newspapers circulating in the area affected by the order, and in the Edinburgh Gazette, and shall be served on any organisation representing persons who use any road to which the order relates or are likely to be otherwise affected by any provisions of the order (unless it appears to the Council that there is no such organisation which can appropriately be consulted); and such notice shall be displayed in a prominent position at or near each end of the road affected and in such positions as the Council think requisite for securing that adequate information about the subject matter of the notice is given to persons using the road.
- (6) Before making an order under subsection (1) above the Council shall consult with any organisation referred to in subsection (5) above unless it appears to the Council that there is no such organisation which can appropriately be consulted.
- (7) The Council shall not exercise the powers of this section in such manner as unreasonably to obstruct or interfere with the access to, or exit from, any quay, dock, wharf, depot or shed of the Clyde Port Authority or with the access to or exit from any railway station or railway depot belonging to the British Railways Board or any canal depot or towing path belonging to the British Waterways Board or any station or depot of any operators of public service vehicles.
- (8) No order made under this section shall—
 - (a) affect the use of any road by vehicles of the police, fire or ambulance services, or by a disabled person's vehicle; or
 - (b) apply to any road which is the responsibility of the Secretary of State.

Barriers on roads

- 4 (1) For the purpose of securing public order or public safety or preventing congestion of traffic the Council may, in any case of emergency or on any occasion on which it is likely that any road will be thronged or obstructed, cause barriers to be erected in any road and kept in position for so long as may be necessary for that purpose:

Provided that the Council shall not exercise the powers of this section so as to deprive foot passengers bona fide going to or from any land or premises abutting on the road of reasonable access to the land or premises.
- (2) Except in an emergency the Council shall not exercise the powers of subsection (1) above without giving at least 7 days' prior notice by advertisement in a newspaper or newspapers circulating in their area.
- (3) For the purpose of erecting barriers in a road under this section the Council may provide sockets or slots in or under the surface of the road.
- (4) If any person without reasonable excuse removes or damages a barrier, socket or slot erected or provided under this section he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (e) (a) Nothing in this section shall authorise interference with cables, mains, pipes or other apparatus of any statutory undertakers or with the access thereto except

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

with the consent of such statutory undertakers which consent shall not be unreasonably withheld.

- (b) Any question arising under this subsection as to whether consent has been unreasonably withheld shall be determined by an arbiter to be mutually agreed upon or failing agreement to be appointed on the application of either party (after notice in writing to the other) by the President of the Institution of Civil Engineers.
- (6) The Council shall not exercise the powers of this section in such manner as unreasonably to obstruct or interfere with the access to, or exit from, any quay, dock, wharf, depot or shed of the Clyde Port Authority or with the access to or exit from any railway station or railway depot belonging to the British Railways Board or any canal depot or towing path belonging to the British Waterways Board or any station or depot of any operators of public service vehicles.

PART III

PUBLIC PARKING PLACES

Application of Control of Off-Street Parking (Scotland) Order 1979

- 5 (1) The Control of Off-Street Parking (Scotland) Order 1979 shall have effect in the City of Glasgow District as if in paragraph 16(2) of the Schedule to that Order for the words “subsections (4) to (8)” there were substituted the words “subsections (3) to (8)”, and as if the following were inserted at the end of that paragraph:—
- “16A An appeal under this Part of this Schedule shall in all cases state the circumstances in which and the grounds on which the appeal is brought.
- 16B Not later than the date upon which notice of an appeal under this Part of this Schedule is given to the Secretary of State a copy thereof shall be served by the appellant upon the Strathclyde Regional Council.”.
- (2) This section shall cease to have effect on the coming into operation of regulations made by the Secretary of State under paragraph 17 of the said Schedule.

PART IV

CLYDE TUNNELS

Definition of Linthouse– Whiteinch Tunnels

- 6 In this Part “the tunnels” are the two tunnels under the river Clyde between Linthouse and Whiteinch in the City of Glasgow District, together with all approaches, roundabouts, tunnels, lifts, stairs, subways, passages, means of ingress or egress, shafts, stagings, buildings, apparatus, plant, machinery and subsidiary and incidental works associated therewith.

Power to maintain tunnels

- 7 The Council may continue and maintain the tunnels and may for these purposes carry out any works which they consider necessary.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

Power to close tunnels at night or for repair

- 8 (1) The Council may—
- (a) at any time and for such period or periods as they may think fit, close to traffic during such hours of the night (not being earlier than 10.00 p.m. on any day or later than 7.00 a.m. on the following day) as they may determine either of the tunnels provided that they are satisfied that the other of the tunnels (which shall be kept open and available for the use of mechanically propelled vehicular traffic) makes reasonably adequate provision for normal traffic under the river Clyde during the hours when the other of the said tunnels is closed to traffic; or
 - (b) whenever in their opinion it is necessary so to do for the purposes of the maintenance of one or both of the tunnels, or any work forming part of or laid in one or both of the tunnels, wholly or partially close at any time one or both of the tunnels or any such work or any portion thereof.
- (2) (a) The powers of subsection (1) (a) above may be exercised without notice other than the placing of traffic signs indicating the closure of the tunnel to traffic.
- (b) Except in case of emergency the powers of subsection (1) (b) above shall not be exercised without giving at least 7 days' notice by advertisement in a newspaper or newspapers circulating in the area of the Council.
- (3) Whenever the Council exercise the powers of subsection (1) above the action taken shall be indicated by a traffic sign within the meaning of section 64 (1) of the Road Traffic Regulation Act 1984.

Mains or pipes not to be laid in tunnels

- 9 Notwithstanding anything contained in any enactment, it shall not be lawful for any person to enter upon, break up or interfere with either of the tunnels or the carriageways and footways thereof for the purpose of laying down any main, pipe, cable or wire or executing any work therein, thereon or thereunder except with the consent in writing of the Council and in accordance with such terms and conditions as the Council may determine.

Byelaws

- 10 (1) The Council may make and enforce byelaws for the regulation, control and protection of the tunnels and of persons resorting to or using the same and for the management, regulation, direction and control of traffic of every description using the tunnels and such byelaws may include provision fixing a speed limit for vehicles or prohibiting or restricting the use of the tunnels by vehicles of any specified class or description either generally or during particular hours.
- (2) Any person who contravenes any byelaw made under subsection (1) above shall be guilty of an offence and liable on summary conviction to such fine, not exceeding level 2 on the standard scale, as may be specified in the byelaw.

For protection of telecom- munications operators

- 11 (1) Nothing in section 8 (Power to close tunnels at night or for repair) or section 9 (Mains or pipes not to be laid in tunnels) of this Order shall alter or affect any of the rights and powers of a telecommunications operator under the Telecommunications Act 1984.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (2) In this section “telecommunications operator” means the operator of a telecommunications code system and “telecommunications code system” has the same meaning as in Schedule 4 to the Telecommunications Act 1984.

PART V

SEWERAGE

Interpretation of Part V

12 In this Part—

“the sewage purification works” means the Council’s Dalmuir Sewage Purification Works and Shieldhall Sewage Purification Works;

“the sewerage undertaking” means the sewerage undertaking of the Council;
and

“the wharves” means—

- (a) the wharf wholly in the district of Clydebank on the northern bank of the river Clyde situated on the banks on which the Dalmuir Sewage Purification Works have been constructed; and
- (b) the wharf in so far as owned by the Council in the City of Glasgow District on the southern bank of the river Clyde and used in connection with their Shieldhall Sewage Purification Works.

Wharves at Dalmuir and Shieldhall Sewage Purification Works

13 (1) Subject to the provisions of this Order the Council may in connection with the wharves construct, place, continue and maintain in the river Clyde and on the quays, banks, bed and foreshore thereof all such temporary piles, fenders, booms, dolphins, pontoons, caissons, stagings, cofferdams, embankments, piers, abutments, wharves, walls, fences, drains, stairs, buildings and other works and conveniences as may be necessary or expedient.

(2) The wharves shall not be used as landing or loading places for goods or passengers except for the purpose of landing or loading from or into vessels not arriving from or departing for ports outwith the United Kingdom—

- (a) goods or materials required for or used in the construction, maintenance or repair of the wharves;
- (b) goods or materials required or used for the purposes of the sewerage undertaking and the carrying on of the same;
- (c) materials, sludge or residual products resulting from or produced in connection with the sewerage undertaking; and
- (d) persons conveyed under section 16 (Utilisation of sludge boats) of this Order.

Exemption from rates of vessels, etc., employed in connection with sewerage undertaking

14 Notwithstanding anything contained in any of the Acts relating to the Clyde Navigation the Clyde Port Authority shall not levy rates on—

- (a) any vessel owned or employed by the Council for the purposes of the sewerage undertaking and any material in respect of the vessel berthing and the material

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

being loaded or discharged at the wharves for the purposes of the sewage purification works;

- (b) any such vessel using the waterway only of the Clyde Navigation for purposes connected with the sewerage undertaking and for which no payment or other equivalent consideration is received by the Council;
- (c) any materials exclusively required for the treatment of sewage at the sewage purification works or for carrying on of the sewage purification works or sludge or residual products conveyed from the sewage purification works;
- (d) any such materials delivered direct from any vessel into the sewage purification works although the same form part only of the cargo of such vessel and whether such vessel is or is not owned or employed by the Council:

Provided that such materials shall not have been shipped or transhipped at or alongside any quay, wharf or other works belonging to the Clyde Port Authority; and

- (e) any persons carried on any vessel under section 16 (Utilisation of sludge boats) of this Order.

Vessels not to interfere with navigation

- 15 The Council shall so carry on their work at the wharves and shall so navigate their vessels as not to interfere with the navigation of the river Clyde and the harbour of Glasgow; and their vessels shall be subject to the byelaws and regulations applicable to the said river and harbour and shall comply with the directions of the harbourmaster of the Clyde Port Authority and his deputed in the same way as other vessels berthed in and navigating the said river and harbour.

Utilisation of sludge boats

- 16 (1) The Council may when the vessels provided for the purposes of the sewerage undertaking are proceeding down the river Clyde to the firth thereof for the purpose of discharging the sludge produced at the Shieldhall Sewage Purification Works, permit persons desirous of inspecting the said works and of accompanying the said vessels on their journey to and from the said firth to travel in such vessels on such conditions as the Council think fit.
- (2) The Council may from time to time expend the revenues of the sewerage undertaking in making the said vessels available for such travelling and in effecting an insurance against any liability and in meeting any expenditure or liability which the Council may incur by the grant of permission under this section.

For protection of sewers

- 17 (1) No person shall without the consent of the Council, which consent may be granted on such conditions as the Council may deem necessary—
- (a) deposit any materials to be used in the construction of any building or the development of any land over any sewer vested in the Council; or
 - (b) carry out over or under any such sewer any work by which, or by the carrying out of which, the safety of that sewer might be endangered.
- (2) If in the opinion of the Council any work (not being any work to which subsection (1) (a) above applies) proposed to be carried out by any person will endanger the safety of any sewer vested in the Council, the Council may serve a notice on such person either

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- objecting to the carrying out of such work or directing that such work be carried out subject to such conditions as may be specified in the notice.
- (3) If in the opinion of the Council any person has through his act or default or otherwise caused or permitted damage to any sewer vested in the Council, the Council may serve a notice on such a person requiring him to carry out such work as is necessary to remedy such damage.
- (4) The Council may remove any materials or things deposited in contravention of subsection (1) above or in contravention of a notice served under subsection (2) or (3) above and the expense reasonably incurred in so doing shall be recoverable by the Council from the person responsible for the depositing of such materials or things.
- (5) Nothing in this section shall prevent the laying, placing, maintaining, repairing or renewing of any mains, pipes or apparatus or the construction or maintenance of other works by any statutory undertaker—
- (a) in any road in accordance with the provisions of the Public Utilities Street Works Act 1950 or, as the case may be, Part IV of the New Roads and Street Works Act 1991; or
 - (b) otherwise than in a road in pursuance of powers conferred by any enactment.
- (6) Nothing in this section shall affect the operation of any agreement between the British Railways Board and the Council or their respective predecessors in title.

Power to keep watercourses free from obstruction

- 18 (1) The Council may, for the purpose of keeping free from obstruction any watercourse, carry out such minor works as may be necessary, including minor works of culverting, excavation, construction, reconstruction or removal.
- (2) The Council may enter into agreements with the owners of land adjoining or in or near to any watercourse for the purchase of land or otherwise, to enable them to exercise any of the powers of this section.
- (3) Nothing in this section shall authorise the Council to execute any works in, through or under or so as to affect any operational land or any works belonging to any statutory undertakers and used by them for the purposes of their undertaking without the consent of such statutory undertakers which may be given subject to reasonable conditions, but such consent shall not be unreasonably withheld and any question whether such consent is being unreasonably withheld or whether any condition subject to which any consent was given was reasonable shall be determined by an arbiter to be mutually agreed upon or, failing agreement, to be appointed on the application of either party (after notice in writing to the other) by the President of the Institution of Civil Engineers.

Drainage of low level premises

- 19 (1) As from the commencement of this Order, no works to which this section applies shall be executed at a lower level than will permit the drainage from those works, or from the building or part of a building constructed as a result of those works, passing to the satisfaction of the Council into a sufficient sewer.
- (2) This section applies to—
- (a) the erection of a building;
 - (b) the formation or construction of a floor of a building; and

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (c) the formation or construction as a place requiring drainage of a cellar, vault or chamber.
- (3) The Council shall not—
 - (a) be required to provide drainage for any premises erected, formed or constructed in contravention of this section; or
 - (b) be liable for the flooding of any such premises other than premises erected, formed or constructed on their behalf.

PART VI

MISCELLANEOUS

Monkland Canal pipelines

- 20 (1) The Council may for the purpose of continuing and maintaining the pipelines conveying the former Monklands Canal carry out such works as may be necessary.
- (2) In this section “the pipelines” means the line or lines of pipes in the City of Glasgow District commencing at the former Forth and Clyde Canal (Glasgow Branch) at a point due north of the M8 motorway in the Port Dundas area of Glasgow (map reference 5945:6648) on the 1/1250 Ordnance Survey map of Glasgow Plan NS 5966 SW (1973 edition) and terminating on the north bank of the existing Monklands Canal at a point 233 metres due east of Cuilhill Road in the Baillieston area of Glasgow (map reference 7032:6512) on the 1/2500 Ordnance Survey map of Glasgow and Coatbridge Plan NS 7065:7165 (1973 edition).
- (3) Nothing in this section shall affect the operation of any agreement between the British Railways Board and the Council or their respective predecessors in title.

Weir in river Clyde at Glasgow Green

- 21 (1) (a) The Council may continue and maintain the weir and may for that purpose carry out such works as may be necessary.
- (b) The Council may excavate, dredge, deepen, alter or improve the bed, shore and banks of the river Clyde at or near the site of the weir.
- (2) The Council shall be responsible for the operation of the weir and in the event of any passenger or trading vessels requiring to pass the weir the Council shall if so required by the master or person in charge of any such vessel at any time within 30 minutes before or after highwater of neap tides lift up the sluices to admit of the passage of such vessels.
- (3) In this section “the weir” means the weir or tidal dam consisting of a footbridge or platform with movable sluices commencing at a point on the north bank of the river Clyde in the City of Glasgow District 400 feet or thereby measuring up the north bank of the river in an easterly direction from the northern end of the eastern parapet of the Albert Bridge and terminating at a point on the south bank of the river Clyde 340 feet or thereby measuring up the left bank of the river in an easterly direction from the southern end of the eastern parapet of the said Albert Bridge.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

Harbour tunnel

- 22 (1) The Council may continue, work, use, manage, maintain, improve or dispose of the tunnel under the river Clyde at Finnieston in the City of Glasgow District and the shafts, buildings and other works associated therewith.
- (2) During such time as they remain in the ownership of the Council, the tunnel, shafts, buildings and other works associated therewith shall be exempt from valuation under the Lands Valuation (Scotland) Acts in force from time to time.

Completion of title in certain circumstances to land acquired compulsorily

- 23 (1) Where in the case of any land or premises the Council would if the purchase money or compensation payable had been deposited in a bank in accordance with section 75 of the Lands Clauses Consolidation (Scotland) Act 1845, have been entitled to expedite a notarial instrument under section 76 of that Act, they may (notwithstanding any law or practice to the contrary and notwithstanding that the amount of the purchase money or compensation payable has not been agreed or awarded and in any case without depositing such purchase money or compensation, if any, in a bank) expedite a notarial instrument in relation to such land or premises; and the said section 76 shall, with any necessary adaptations, apply to such land or premises as if it had been land or premises to which the said section was applicable.
- (2) Nothing in this section shall affect the rights of any parties interested in any land or premises acquired compulsorily to recover the purchase money or compensation payable to them by the Council.

PART VII

GENERAL

Power to enter, execute works and recover expenses

- 24 (1) Where, under any notice served by the Council under this Order, any person is required to do any act, work or other thing, any person authorised by the Council may, on the expiration of any period of time specified in the notice as that in which the thing has to be done, enter any land or premises to see if whatever is required to be done under the notice has been done.
- (2) Where—
- (a) under any notice served by the Council under this Order any person is required to do any act, work or other thing and the person fails to do it in accordance with the notice, and
 - (b) there is no express provision in this Order, apart from this section, authorising the Council to do whatever is required by the notice to be done, any person authorised by the Council may enter any land or premises and do or cause to be done whatever is required by the notice to be done.
- (3) A person shall not be entitled to exercise the powers which he may exercise under subsection (1) or (2) above until he has produced his authorisation to do so to the person for the time being in charge of the land or premises.
- (4) The Council shall be entitled to recover the expense of doing anything under subsection (2) above from any person who is required by any notice served under this

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

Order to do any act, work or other thing but may remit any sum or any part of any sum due to them under this subsection as they think fit.

- (5) Where such expense as is mentioned in subsection (4) above is recoverable under that subsection from more than one person, the Council may apportion such expense among them.
- (6) Any person who, in pursuance of the provisions of this section, enters on any railway or operational land of the British Railways Board shall, in the interests of safety, comply with the reasonable requirements of that Board for the protection of their undertaking.

Interest on expenses

- 25 Where under any provision of this Order the Council are entitled to recover expenses, they shall also be entitled to interest thereon at such reasonable rate as they may determine from the date on which a demand for the expenses is served until payment but they may remit any sum or any part of any sum due to them as interest as they think fit.

Contents of notices

- 26 Except where otherwise expressly provided under this Order, any notice issued or served by the Council under this Order regarding the doing of any thing in relation to land or premises shall be in writing and shall, so far as necessary and reasonably practicable, specify—
- (a) details, including the location, of the land or premises;
 - (b) the nature of any works which have to be carried out and of any requirements which have to be met; and
 - (c) the period within which the notice has to be complied with.

Period of compliance with notice

- 27 The period within which any notice issued or served by the Council under this Order has to be complied with shall not be less than 14 days from the issue or service of the notice.

Power to cancel or vary notices

- 28 The Council may cancel any notice given by them to any person in pursuance of the provisions of this Order or give a new notice to the same person or to any other person.

Appeals

- 29 (1) A person may, in accordance with subsection (2) below, appeal to the sheriff—
- (a) against any requirement in any notice served on him under this Order by the Council; or
 - (b) in respect of the amount of any expenses or interest claimed from him or the rate at which interest is charged against him under this Order; or
 - (c) against a decision of the Council to refuse to grant consent under section 17 (For protection of sewers) of this Order, or a decision to grant the same subject to conditions.
- (2) An appeal under subsection (1) above shall be made by way of summary application and shall be lodged—

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (a) in the case of an appeal under subsection (1) (a) or (1) (b) above, within 21 days of the service of the notice or the claim for payment;
 - (b) in the case of an appeal under subsection (1) (c) above, within 28 days of the receipt of the written notification of the Council's decision.
- (3) The sheriff may, on an appeal under this section—
- (a) by order confirm, vary or set aside the requirement or decision appealed against;
 - (b) make such order as to the expenses which are or interest which is the subject of the appeal as appears to him appropriate.
- (4) Any party to an appeal under subsection (1) above may appeal on a point of law from the sheriff's decision to the Court of Session, in the case of an appeal under subsection (1) (a) or (1) (b) above, within 14 days and, in the case of an appeal under subsection (1) (c) above, within 21 days from the date of the decision.
- (5) No appeal shall lie from the opinion of the Court of Session given in pursuance of subsection (4) above.

Time for enforcing certain notices pending appeal

- 30 A notice containing a requirement which may be appealed against under subsection (1) (a) of section 29 (Appeals) of this Order shall not be acted upon by the Council or any person authorised by the Council until the time for appealing under that subsection has expired or, if an appeal thereunder has been lodged, until it is disposed of or abandoned.

Fines

- 31 Except as otherwise provided in this Order any person—
- (a) acting in contravention of any of the provisions of this Order, or
 - (b) omitting, failing or refusing to do any act or thing prescribed by this Order after notice by the Council requiring such act or thing to be done, shall be guilty of an offence and, except where other provision is made in this Order, liable on summary conviction to a fine not exceeding level 2 on the standard scale besides being bound to comply with such order as the court may pronounce in pursuance of the provisions of this Order:

Provided that a person who has appealed against a notice by the Council in accordance with the provisions of section 29 (Appeals) of this Order shall not be deemed to have omitted, failed or refused to do such act or thing in the event of his objections being sustained and in any event pending a decision on such objections.

General powers of entry

- 32 (1) Any person authorised in writing by the Council 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) carrying out any inspection necessary for the proper exercise by the Council of their powers under this Order; or
 - (b) taking any action or executing any work which the Council are empowered to take or carry out under this Order, not being a purpose for which entry may be required under section 24 (Power to enter, execute works and recover expenses) of this Order.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (2) Entry to land or premises under this section shall not be demanded as of right unless at least seven days' notice of the intended entry has been given to the occupier.
- (3) Any person who, in pursuance of the provisions of this section, enters on any railway or operational land of the British Railways Board shall, in the interests of safety, comply with the reasonable requirements of that Board for the protection of their undertaking.

Obstruction of officers

- 33 Any person who intentionally obstructs any officer authorised by the Council in the performance of his duty under any provision of this Order or aids or incites any other person to do so shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Entry warrants

- 34 (1) If a justice of the peace or sheriff is satisfied by evidence on oath that—
- (a) entry to any land or premises which a person is entitled to enter in pursuance of this Order has been refused to that person or he has been prevented from doing there anything which he is entitled to do in pursuance of this Order or such refusal or prevention is apprehended or that the land or premises are unoccupied or that the occupier is temporarily absent or that the case is one of emergency, and
 - (b) there is reasonable ground for entry to the land or premises for the purposes for which entry is required,
- he may grant a warrant to the person to enter the land or premises specified in the warrant if need be by force and to do whatever is to be done.
- (2) A warrant issued in pursuance of this section shall continue in force for a period of one month beginning with the day on which it was granted or until the purpose for which entry is required has been satisfied, whichever is the shorter.
 - (3) A person who has been granted a warrant under this section to enter any unoccupied land or premises or land or premises the occupier of which is temporarily absent shall leave the land or premises as effectively secured against trespassers as he found it or them.

Compensation for damage resulting from exercise of powers under this Order

- 35 (1) Subject to the provisions of this section, the Council shall make full compensation for any damage sustained by any person by reason of the carrying out by the Council of any works which they are empowered by this Order to carry out 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 damage or as to the amount of compensation shall, in the case of dispute, be referred to a single arbiter to be appointed by agreement between the parties or, in default of agreement, by the sheriff 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 the Council under this section shall not be maintainable unless it is made to the Council within 12 months after the date on which it is alleged to have arisen.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (4) Where an owner of land claims compensation in respect of damage sustained by him by reason of the Council having, in the exercise of their powers under this Order, constructed any works 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 works and the Council shall be entitled to set off that amount against the amount of any compensation awarded.

Cesser

- 36 As from the commencement of this Order, the Local Statutory Provisions (Postponement of Repeal) (Scotland) Order 1990 shall cease to have effect in so far as it applies to the Strathclyde Region.

Costs of Order

- 37 The costs, charges and expenses of and incidental to the preparing for, obtaining and confirming of this Order or otherwise in relation thereto shall be paid by the Council and shall be allocated amongst the several undertakings and services of the Council in such proportions as the Council may deem expedient.”