Sewerage (Scotland) Act 1968

1968 CHAPTER 47

An Act to make new provision as respects sewerage in Scotland, and for connected purposes. [26th July 1968]

Modifications etc. (not altering text)

C1 Act amended (27.8.1993) by 1993 c. 12, ss. 40, 51(2), **Sch. 3 Pt. II para.13** (with s. 46)

C2 Act modified (17.7.1995) by 1994 c. 39, **s. 65(2)** (with s. 74(4)); S.I. 1995/1898, art. 2(a), **Sch.**

Commencement Information

I1 Act partly in force at Royal Assent see s. 61(2); Act wholly in force at 16.5.1973

PART I

GENERAL PROVISIONS AS TO SEWERAGE

Duties and powers of local authorities

1 Duty of local authority to provide for sewerage of their area.

(1) Subject to the provisions of this Act, it shall be the duty of **[**[F1]Scottish Water**]** to provide such public sewers**[**[F2]and public SUD systems **]** as may be necessary for effectually draining **[**[F3]its**]** area of domestic sewage, surface water and trade effluent, and to make such provision, by means of sewage treatment works or otherwise, as may be necessary for effectually dealing with the contents of **[**[F3]its**]** sewers **[**[F4]and SUD systems **]**.

[[F5](2) Without prejudice to the generality of subsection (1) above—

(a) **[**[F6] Scottish Water **]** shall, subject to paragraph (b) below, take **[**[F7] its **]** 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 **[**[F8] Scottish Water **]** have agreed with some other person (in this section referred to as the " private provider ") that he will take a private sewer to such

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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. **]**

(3) The duties imposed by the foregoing subsections shall not require **[**[F9]Scottish Water**]** to do anything which is not practicable at a reasonable cost.

[[F10](3A) Subsection (3) shall not apply to such cases or descriptions of case as the Scottish Ministers may direct.

(3B) In determining what is a reasonable cost for the purpose of subsection (3) so far as relating to subsection (2)(a), the costs to be taken into account include the costs of—

(a) constructing such other public sewers, public SUD systems and such public sewage treatment works, and

(b) carrying out such other work,

as Scottish Water considers necessary in consequence of the connection referred to in subsection (2)(a).

(3C) Subject to subsection (3B), any question as to what is a reasonable cost for the purposes of this section shall be determined in accordance with regulations made by the Scottish Ministers.

(3D) Such regulations may, in particular, make provision as to—

(a) the matters to be taken into, or left out of, account,

(b) the criteria to be applied,

(c) the method of calculation to be adopted,

in determining what is a reasonable cost for those purposes, and may make different provision for different cases and descriptions of case.**]**

(4) If any question arises under this section as to whether **[**[F11]a reasonable cost has been properly determined in accordance with regulations made under subsection (3C) or **]**anything is or is not practicable at a reasonable cost or as to the point or points to which **[**[F12]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,**]** must be taken to enable drains or private sewers to be connected therewith at a reasonable cost, the**[**[F13]Water Industry Commission for Scotland**]**, if requested to do so by any person aggrieved, shall, after consultation with that person and with **[**[F14]**[**[F8]Scottish Water**]**, or as the case may be **[**[F15]the**]** private provider, concerned**]**, determine that question, and **[**[F16]**[**[F17]Scottish Water**]** or **[**[F15]the**]** private provider**]** shall give effect to **[**[F18]its**]** determination.

[[F19](4A) The Commission—

(a) shall prepare a statement which specifies the procedure to be followed for the purposes of its determining questions under subsection (4) above, and

(b) may from time to time revise the statement.

(4B) In preparing or revising the statement, the Commission shall consult Scottish Water and such other persons as it considers appropriate.

(4C) The Commission shall, on payment of such reasonable fee (if any) as the Commission may determine, send a copy of the statement to any person who requests it.**]**

[F20]**[**[F21](5) . . . . . .

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(6) The power to make regulations under**[**[F22]**[**[F23]subsection (3C)**]** above shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.**]**

[[F24](7) The duties imposed by subsections (1) and (2) above shall not require Scottish Water to do anything which is prejudicial to its compliance with—

(a) any directions given to it under section 56 of the Water Industry (Scotland) Act 2002 (asp 3) so far as setting objectives of a type referred to in section 56A of that Act, or

(b) a statement of policy issued under section 29D of that Act.**]]**

Textual Amendments

F1 Words in s. 1(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 5(a)(i)** (with s. 67); S.S.I. 2002/118, **art. 2**

F2 Words in s. 1(1) inserted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 38(1), **Sch. 3 para. 2(a)**; S.S.I. 2007/512, art. 2(c)

F3 Words in s. 1(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 5(a)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2**

F4 Words in s. 1(1) inserted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 38(1), **Sch. 3 para. 2(b)**; S.S.I. 2007/512, art. 2(c)

F5 S. 1(2) substituted (4.1.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(2)(b)**; S.I. 1994/2850, **art. 3(c)(vi)** (with art. 4)

F6 Words in s. 1(2)(a)(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**

F7 Word in s. 1(2)(a) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 5(b)** (with s. 67); S.S.I. 2002/118, **art. 2**

F8 Words in s. 1(2)(b)(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**

F9 Words in s. 1(2)(a)(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**

F10 S. 1(3A)-(3D) inserted (6.3.2006) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), **ss. 29(2)**, 38(1) (with s. 35(2)); S.S.I. 2006/55, art. 2(a)

F11 Words in s. 1(4) inserted (6.3.2006) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), **ss. 29(3)**, 38(1) (with s. 35(2)); S.S.I. 2006/55, art. 2(a)

F12 Words in s. 1(4) substituted (4.1.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(2)(d)(i)**; S.I. 1994/2850, **art. 3(c)(vi)** (with art. 4)

F13 Words in s. 1(4) substituted (1.4.2006) by Water Services etc. (Scotland) Act 2005 (asp 3) , **ss. 23(1)(a)** , 37(2) (with s. 36); S.S.I. 2006/167 , art. 2 , Sch. 1 (with art. 3(1))

F14 Words in s. 1(4) substituted (4.1.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(2)(d)(ii)**; S.I. 1994/2850, **art. 3(c)(vi)** (with art. 4)

F15 Words in s. 1(4) inserted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 5(c)** (with s. 67); S.S.I. 2002/118, **art. 2**

F16 Words in s. 1(4) substituted (4.1.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(2)(d)(iii)**; S.I. 1994/2850, **art. 3(c)(vi)** (with art. 4)

F17 Words in s. 1(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**

F18 Word in s. 1(4) substituted (1.4.2006) by Water Services etc. (Scotland) Act 2005 (asp 3) , **ss. 23(1)(a)** , 37(2) (with s. 36); S.S.I. 2006/167 , art. 2 , Sch. 1 (with art. 3(1))

F19 S. 1(4A)-(4C) inserted (1.4.2006) by Water Services etc. (Scotland) Act 2005 (asp 3) , **ss. 23(1)(b)** , 37(2) (with s. 36); S.S.I. 2006/167 , art. 2 , Sch. 1 (with art. 3(1))

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F20 S. 1(5) repealed (1.4.2006) by Water Services etc. (Scotland) Act 2005 (asp 3) , **ss. 23(1)(c)** , 37(2) (with s. 36); S.S.I. 2006/167 , art. 2 , Sch. 1 (with art. 3(1))

F21 S. 1(5)(6) added (4.1.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(2)(e)**; S.I. 1994/2850, **art. 3(c)(vi)** (with art. 4)

F22 Word in s. 1(6) substituted (6.3.2006) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), **ss. 29(4)**, 38(1) (with s. 35(2)); S.S.I. 2006/55, art. 2(a)

F23 Words in s. 1(6) substituted (1.4.2006) by Water Services etc. (Scotland) Act 2005 (asp 3) , **ss. 23(1)(d)** , 37(2) (with s. 36); S.S.I. 2006/167 , art. 2 , Sch. 1 (with art. 3(1))

F24 S. 1(7) added (1.7.2005) by Water Services etc. (Scotland) Act 2005 (asp 3), **ss. 24(1)**, 37(2) (with s. 36); S.S.I. 2005/351, art. 2, Sch. 2

Modifications etc. (not altering text)

C3 S. 1: 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)

2 Maintenance of public sewers and other works.

Subject to section 4 below, it shall be the duty of **[**[F25]Scottish Water**]** to inspect, maintain, repair, cleanse, empty, ventilate and where appropriate renew all sewers **[**[F26]SUD systems, **]**, sewage treatment works and other works vested in **[**[F27]it**]** by virtue of this Act **[**[F28]or of **[**[F29]the Water Industry (Scotland) Act 2002 (asp 3)**]]**.

Textual Amendments

F25 Words in s. 2 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 6(a)** (with s. 67); S.S.I. 2002/118, **art. 2**

F26 Words in s. 2 inserted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 38(1), **Sch. 3 para. 3**; S.S.I. 2007/512, art. 2(c)

F27 Word in s. 2 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 6(b)** (with s. 67); S.S.I. 2002/118, **art. 2**

F28 Words in s. 2 substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(3)(b)**; S.I. 1996/323, **art. 4(1)(b)(c)**

F29 Words in s. 2 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 6(c)** (with s. 67); S.S.I. 2002/118, **art. 2**

Modifications etc. (not altering text)

C4 S. 2 applied with modifications (1.4.1992) by Environmental Protection Act 1990 (c. 43, SIF 46:4), **s. 45(10)**; S.I. 1992/266, **art. 3**.

3 Construction etc. of public sewers and public sewage treatment works.

(1) Subject to the provisions of this Act, **[**[F30]Scottish Water**]** may, [F31]...—

(a) construct a public sewer **[**[F32] or SUD system**]**—

(i) in, under or over any **[**[F33]road**]**, or under any cellar or vault below any **[**[F33]road**]**;

(ii) in, on or over any land not forming part of a **[**[F33]road**]**;

(b) construct public sewage treatment works in or on any land held by **[**[F34]it**]** or appropriated for the purpose.

(2) Before commencing construction of a sewer **[**[F35] or SUD system **]** in, on or over any land not forming part of a **[**[F33]road**]**, **[**[F36]Scottish Water**]** shall serve notice of **[**[F37]its**]**

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intention on the owner and the occupier of land concerned together with a description of the proposed works and of the right to object thereto, and if within 2 months after the service of the notice the owner or the occupier objects to the proposed works, and that objection is not withdrawn, **[**[F38]Scottish Water**]** shall not proceed to execute the works without consent aftermentioned but may refer the matter by summary application to the sheriff who may grant consent to the proposed works either unconditionally or subject to such terms and conditions as he thinks just, or who may withhold his consent, and the decision of the sheriff on the matter shall be final.

(3) Section **[**[F39]192**]** of the Local Government (Scotland) Act **[**[F39]1973**]** (service of notices) shall apply to notices **[**[F40]served by **[**[F41]Scottish Water**]]** under subsection (2) above relating to land as it applies to notices **[**[F42]served by a local authority**]** relating to premises.

(4) [F43]. . . . . .

Textual Amendments

F30 Words in s. 3(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**

F31 Words in s. 3(1) repealed (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 7(a)(i)** (with s. 67); S.S.I. 2002/118, **art. 2**

F32 Words in s. 3(1)(a) inserted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 38(1), **Sch. 3 para. 4(a)**; S.S.I. 2007/512, art. 2(c)

F33 Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 64(2)**

F34 Word in s. 3(1)(b) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 7(a)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2**

F35 Words in s. 3(2) inserted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 38(1), **Sch. 3 para. 4(b)**; S.S.I. 2007/512, art. 2(c)

F36 Words in s. 3(2) 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**

F37 Word in s. 3(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 7(b)** (with s. 67); S.S.I. 2002/118, **art. 2**

F38 Words in s. 3(2) 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**

F39 Words substituted by Local Government (Scotland) Act 1973 (c. 65), **Sch. 27 Pt. II para. 179**

F40 Words in s. 3(3) inserted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(4)(b)(i)**; S.I. 1996/323, **art. 4(1)(b)(c)**

F41 Words in s. 3(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**

F42 Words in s. 3(3) inserted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(4)(b)(ii)**; S.I. 1996/323, **art. 4(1)(b)(c)**

F43 S. 3(4) repealed (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 7(c)** (with s. 67); S.S.I. 2002/118, **art. 2**

Modifications etc. (not altering text)

C5 S. 3 applied (with modifications) (1.4.1992) by Environmental Protection Act 1990 (c. 43, SIF 46:4), **s. 45(10)**; S.I. 1992/266, **art. 3**

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[F44 3A Authorisation of construction of certain private sewers etc.

(1) Without prejudice to [F45 its] powers under section 3 of this Act (including any power to authorise the construction, on [F45 its] behalf, of a public sewer), [F46 Scottish Water] may authorise a person to construct, within [F45 its] area but whether or not connecting with [F45 its] sewers or sewage treatment works, a sewer—

(a) in, under or over any road, or under any cellar or vault below any road; or

(b) in, on or over any land which does not form part of a road and is not land as respects which he is owner, lessee or occupier,

but where authorisation is so given, subsection (2) of section 3 of this Act shall apply in respect of the person and the construction proposed as that subsection applies in respect of a sewerage authority and works proposed by [F47 it] under subsection (1) of that section.

(2) [F48 Scottish Water] —

(a) in giving authorisation to a person under subsection (1) above; or

(b) as respects any sewer [F49 or SUD system] (not being a sewer constructed by or on behalf of [F50 Scottish Water]) whose construction by a person does not require such authorisation,

may, in a case where the proposed sewer [F51 or system] will connect with [F52 its] sewers [F53 , SUD systems] or sewage treatment works, determine (and by written notice advise the person) that all, or a part which [F54 it] shall specify in the notice, of the sewer [F51 or system] constructed shall not vest in [F55 it] through the operation of section 16(1)(c) of this Act and shall instead vest in him; but notwithstanding the determination [F56 Scottish Water] may, on such terms and conditions as [F57 it thinks] fit, then or at some later time enter into an agreement under which the sewer [F51 or system] , or as the case may be the part, shall vest in [F55 it] .]

Textual Amendments

F44 S. 3A and sidenote inserted (4.1.1995) by 1994 c. 39, **s. 101** (with s. 74(4)); S.I. 1994/2850, art. 3(a), **Sch. 2** (with art. 4)

F45 Words in s. 3A(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 8(a)(i)** (with s. 67); S.I. 2002/118, **art. 2**

F46 Words in s. 3A(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**

F47 Word in s. 3A(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 8(a)(ii)** (with s. 67); S.I. 2002/118, **art. 2**

F48 Words in s. 3A(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 3** (with s. 67); S.I. 2002/118, **art. 2**

F49 Words in s. 3A(2)(b) inserted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 38(1), **Sch. 3 para. 5(a)**; S.S.I. 2007/512, art. 2(c)

F50 Words in s. 3A(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 4** (with s. 67); S.I. 2002/118, **art. 2**

F51 Words in s. 3A(2)(b) inserted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 38(1), **Sch. 3 para. 5(b)**; S.S.I. 2007/512, art. 2(c)

F52 Word in s. 3A(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 8(b)(i)** (with s. 67); S.I. 2002/118, **art. 2**

F53 Words in s. 3A(2)(b) inserted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 38(1), **Sch. 3 para. 5(c)**; S.S.I. 2007/512, art. 2(c)

F54 Word in s. 3A(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 8(b)(ii)** (with s. 67); S.I. 2002/118, **art. 2**

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F55 Words in s. 3A(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 8(b)(iii)** (with s. 67); S.I. 2002/118, **art. 2**

F56 Words in s. 3A(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 3** (with s. 67); S.I. 2002/118, **art. 2**

F57 Words in s. 3A(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 8(b)(iv)** (with s. 67); S.I. 2002/118, **art. 2**

Modifications etc. (not altering text)

C6 S. 3A: 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)

4 Power of local authority to close or alter public sewers etc.

[[F58]Scottish Water**]** may, if **[**[F59]it thinks**]** fit, close, alter, replace or remove any sewer **[**[F60] , SUD system **]**, sewage treatment works or other works vested in **[**[F61]it**]** by virtue of this Act **[**[F62]or of **[**[F63]the Water Industry (Scotland) Act 2002 (asp 3)**]]**, but, before any person who is lawfully using the sewer **[**[F64] , system**]** or works for any purpose is deprived by **[**[F65]Scottish Water**]** of that use, **[**[F66]it**]** shall provide a sewer **[**[F60] , SUD system **]**or works equally effective for that use and shall at **[**[F67]its**]** expense carry out any work necessary to connect his drain or private sewer **[**[F64] , system**]** with the sewer or works so provided.

Textual Amendments

F58 Words in s. 4 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**

F59 Words in s. 4 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 9(a)** (with s. 67); S.S.I. 2002/118, **art. 2**

F60 Words in s. 4 inserted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 38(1), **Sch. 3 para. 6(a)**; S.S.I. 2007/512, art. 2(c)

F61 Word in s. 4 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 9(b)** (with s. 67); S.S.I. 2002/118, **art. 2**

F62 Words in s. 4 inserted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(5)(b)**; S.I. 1996/323, **art. 4(1)(b)(c)**

F63 Words in s. 4 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 9(c)** (with s. 67); S.S.I. 2002/118, **art. 2**

F64 Word in s. 4 inserted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 38(1), **Sch. 3 para. 6(b)**; S.S.I. 2007/512, art. 2(c)

F65 Words in s. 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**

F66 Word in s. 4 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 9(d)** (with s. 67); S.S.I. 2002/118, **art. 2**

F67 Word in s. 4 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 9(e)** (with s. 67); S.S.I. 2002/118, **art. 2**

Modifications etc. (not altering text)

C7 S. 4 applied with modifications (1.4.1992) by Environmental Protection Act 1990 (c. 43, SIF 46:4), **s. 45(10)**; S.I. 1992/266, **art. 3**.

[F68]5 . . . . . .

Textual Amendments

F68 Ss. 5, 7(4), 18(4)-(6), 19 repealed by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29**

6 Functions outwith the area of a local authority.

[F69] . . . . . .

Textual Amendments

F69 S. 6 repealed (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 10** (with s. 67); S.S.I. 2002/118, **art. 2**

7 Agreements between highway and local authorities.

(1) Subject to the provisions of this section, **[**[F70]a roads authority**]** and **[**[F71]Scottish Water**]** may agree, on such terms and conditions as may be specified in the agreement, as to the provision, management, maintenance or use of their sewers **[**[F72] , SUD systems **]** or drains for the conveyance of water from the surface of **[**[F73]a road**]** or surface water from premises.

(2) [F74] . . . . . .

(3) **[**[F75]A roads authority or **[**[F76]Scottish Water**]]** shall not unreasonably refuse to enter into an agreement for the purposes of this section or insist unreasonably upon terms or conditions unacceptable to the other party, [F77]..., and any dispute arising under this section to which the Secretary of State is not a party as to whether or not **[**[F78]a roads authority or Scottish Water**]** are acting unreasonably, shall be referred to the Secretary of State, who, after consultation with the **[**[F79]authority concerned and Scottish Water**]**, shall determine the dispute, and his decision shall be final.

[[F80](3A) In the foregoing provisions of this section, " roads authority " has the same meaning as in the [M1] Roads (Scotland) Act 1984. **]**

[F81](4) . . . . . .

Textual Amendments

F70 Words in s. 7(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(7)(a)(i)**; S.I. 1996/323, **art. 4(1)(b)(c)**

F71 Words in s. 7(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**

F72 Words in s. 7(1) inserted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 38(1), **Sch. 3 para. 7**; S.S.I. 2007/512, art. 2(c)

F73 Words in s. 7(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(7)(a)(iii)**; S.I. 1996/323, **art. 4(1)(b)(c)**

F74 S. 7(2) repealed (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 11(a)** (with s. 67); S.S.I. 2002/118, **art. 2**

F75 Words in s. 7(3) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(7)(c)(i)**; S.I. 1996/323, **art. 4(1)(b)(c)**

F76 Words in s. 7(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**

F77 Words in s. 7(3) repealed (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 11(b)(i)** (with s. 67); S.S.I. 2002/118, **art. 2**

F78 Words in s. 7(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 11(b)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2**

F79 Words in s. 7(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 11(b)(iii)** (with s. 67); S.S.I. 2002/118, **art. 2**

F80 S. 7(3A) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(7)(d)**; S.I. 1996/323, **art. 4(1)(b)(c)**

F81 Ss. 5, 7(4), 18(4)-(6), 19 repealed by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29**

Marginal Citations

M1 1984 c. 54.

8 Agreements as to provision of sewers etc. for new premises.

(1) Subject to subsection (2) below, where **[**[F82]Scottish Water is**]** satisfied that premises are to be constructed within **[**[F83]its**]** area by any person, **[**[F84]it**]** may enter into an agreement with that person as respects the provision by that person or by **[**[F85]it**]** of sewers **[**[F86], SUD systems **]**and sewage treatment works to serve those premises, and any such agreement may specify the terms and conditions on which the work is to be carried out, including provision as to the taking over by **[**[F87]Scottish Water**]** of **[**[F88]SUD systems and**]** sewage treatment works so provided, and, in relation to any premises served or to be served by the sewers **[**[F86], SUD systems **]** or works, shall be enforceable against **[**[F89]Scottish Water**]** by the owner or occupier of the premises for the time being.

(2) An agreement under the foregoing subsection may only be entered into by **[**[F90]Scottish Water**]** where **[**[F91]it has**]** no duty under section 1 above to provide public sewers to serve the premises.

Textual Amendments

F82 Words in s. 8(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 12(a)(i)** (with s. 67); S.S.I. 2002/118, **art. 2**

F83 Word in s. 8(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 12(a)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2**

F84 Word in s. 8(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 12(a)(iii)** (with s. 67); S.S.I. 2002/118, **art. 2**

F85 Word in s. 8(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 12(a)(iv)** (with s. 67); S.S.I. 2002/118, **art. 2**

F86 Words in s. 8(1) inserted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 38(1), **Sch. 3 para. 8(a)**; S.S.I. 2007/512, art. 2(c)

F87 Words in s. 8(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**

F88 Words in s. 8(1) inserted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 38(1), **Sch. 3 para. 8(b)**; S.S.I. 2007/512, art. 2(c)

F89 Words in s. 8(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**

F90 Words in s. 8(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 12(b)(i)** (with s. 67); S.S.I. 2002/118, **art. 2**

F91 Words in s. 8(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 12(b)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2**

9 Loan of temporary sanitary conveniences.

Where work is to be carried out in connection with a sewer, drain or sewage treatment works which necessitates the disconnection of water closets or other sanitary conveniences provided for or in connection with premises, **[**[F92]Scottish Water**]** may agree with the occupier of the premises, and on such terms and conditions as may be specified in the agreement, to supply on loan to him temporary sanitary conveniences in substitution for any water closets or other sanitary conveniences so disconnected:

Provided that **[**[F92]Scottish Water**]** shall make no charge for the supply, cleansing or removal of the temporary sanitary conveniences for the first 7 days of the period of loan or where the work is made necessary by a defect in a public sewer.

Textual Amendments

F92 Words in s. 9 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 13** (with s. 67); S.S.I. 2002/118, **art. 2**

[[F93]**10 Emptying of septic tanks.**

(1) It shall be the duty of **[**[F94]Scottish Water**]**[F94] to empty a septic tank serving premises in **[**[F95]its**]**[F95] area on **[**[F95]its**]**[F95] being requested to do so by the owner or occupier of the premises; but that duty is subject to subsection (2) below and as respects any particular septic tank—

(a) to its being reasonably practicable to empty the tank; and

(b) to all proper charges for **[**[F95]its**]**[F95] doing so being timeously paid.

(2) The duty does not extend to septic tanks which receive trade effluent; but **[**[F96]Scottish Water**]**[F96] may, at the request of an owner or occupier of premises served by any such septic tank, agree to empty it on such conditions as to payment or otherwise as **[**[F97]it thinks**]**[F97] fit.

(3) If any question arises under this section as to whether emptying is reasonably practicable or as to whether a septic tank receives trade effluent, it shall be determined summarily by the sheriff, whose decision in the matter shall be final.

(4) For the purposes of subsection (1) above, a charge is proper if fixed in accordance with, and timeously paid if paid in accordance with, a charges scheme (within the meaning of **[**[F98]the Water Industry (Scotland) Act 2002 (asp 3)**]**[F98]).**]**

Textual Amendments

F93 S. 10 and sidenote substituted (1.4.1996) by 1994 c. 39, **s. 102** (with s. 74(4)); S.I. 1996/323, art. 4(1)(a), **Sch. 1**

F94 Words in s. 10(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**

F95 Words in s. 10(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 14(a)** (with s. 67); S.S.I. 2002/118, **art. 2**

Status: *Point in time view as at 01/04/2011.*
Changes to legislation: *Sewerage (Scotland) Act 1968 is up to date with all changes known to be in force on or before 23 May 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)*

F96 Words in s. 10(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**

F97 Words in s. 10(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 14(b)** (with s. 67); S.S.I. 2002/118, **art. 2**

F98 Words in s. 10(4) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 14(c)** (with s. 67); S.S.I. 2002/118, **art. 2**

11 Duty of local authority to keep map showing public sewers etc.

[F99(1) [F100Scottish Water] shall keep deposited at [F101its] principal office a map showing and distinguishing so far as is reasonably practicable all sewers, drains[F102 , SUD systems] and sewage treatment works which are vested in [F103it] by virtue of this Act or of [F104the Water Industry (Scotland) Act 2002 (asp 3)] or in respect of which [F105it has] made a determination under section 3A(2) of this Act; and [F106Scottish Water] 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 [F106Scottish Water] may determine.]

(2) Where some of the sewers so vested in [F100Scottish Water] are reserved for foul water only or for surface water only, the said map shall show also the purposes which each such sewer is intended to serve.

[F107(3) [F100Scottish Water] shall keep deposited at such of [F101its] offices, other than [F101its] principal office, as [F108it considers] appropriate, a copy relevant to the office in question of part of the map mentioned in subsection (1) above; and [F109it] 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, [F110it does] in relation to the map mentioned in that subsection at [F101its] 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) above as appears to [F111Scottish Water] to be appropriate having regard to the geographical location of that office.]

Textual Amendments

F99 S. 11(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(8)(a)**; S.I. 1996/323, **art. 4(1)(b)(c)**

F100 Words in s. 11(1)(2)(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**

F101 Words in s. 11 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 15(a)** (with s. 67); S.S.I. 2002/118, **art. 2**

F102 Words in s. 11(1) inserted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 38(1), **Sch. 3 para. 9**; S.S.I. 2007/512, art. 2(c)

F103 Word in s. 11(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 15(b)(i)** (with s. 67); S.S.I. 2002/118, **art. 2**

F104 Words in s. 11(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 15(b)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2**

F105 Words in s. 11(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 15(b)(iii)** (with s. 67); S.S.I. 2002/118, **art. 2**

F106 Words in s. 11(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}

F107 S. 11(3)(4) added (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(8)(c)**; S.I. 1996/323, **art. 4(1)(b)(c)**

F108 Words in s. 11(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 15(c)(i)** (with s. 67); S.S.I. 2002/118, **art. 2**

F109 Words in s. 11(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 15(c)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2**

F110 Words in s. 11(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 15(c)(iii)** (with s. 67); S.S.I. 2002/118, **art. 2**

F111 Words in s. 11(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**

Rights and duties of owners and occupiers

12 Rights of owners and occupiers to connect with and drain into public sewers etc.

(1) Subject to the provisions of this section and of section 14 below, the owner of any premises [F112]... shall be entitled to connect his drains or **[**[F113], private sewers or private SUD systems **]**with the sewers**[**[F114], SUD systems **]** or sewage treatment works of **[**[F115]Scottish Water**]** , and the occupier of any such premises shall be entitled

[[F116](a)**]** by means of those drains or private sewers to drain into those sewers or works the domestic sewage**[**[F117], and

(b) by means of those drains, private sewers or private SUD systems, to drain into those sewers, systems or works the surface water,

from those premises . **]**

(2) An owner shall not, under the foregoing subsection, be entitled to connect his drains **[**[F118], sewers or SUD systems **]**with the sewers**[**[F119], SUD systems **]** or works of **[**[F120] Scottish Water **]** unless the intervening land is land through which the owner is entitled to construct a drain **[**[F121] , sewer or SUD system **]**.

(3) The owner of any premises who proposes to connect his drains **[**[F122], sewers or SUD systems **]** with the sewers **[**[F123], SUD systems **]**or works of **[**[F124] Scottish Water **]** , or to alter a drain **[**[F125], sewer or SUD system**]** connected with such sewer**[**[F126] , system **]** or works in such a manner as may interfere with them, shall give to **[**[F127] Scottish Water **]** notice of his proposals, and within 28 days of the receipt by **[**[F128] it **]** of the notice **[**[F127] Scottish Water **]** may refuse permission for the connection or alteration, or grant permission for the connection or alteration, subject to such conditions as **[**[F129] it thinks **]** fit, and any such permission may in particular specify the mode and point of connection and, where there are separate public sewers for foul water and surface water, prohibit the discharge of foul water into the sewer reserved for surface water, and prohibit the discharge of surface water into the sewer reserved for foul water.

(4) **[**[F124] Scottish Water **]** shall forthwith intimate to the owner **[**[F130] its **]** decision on any proposals made by him under subsection (3) above, and, where permission is refused, or granted subject to conditions, shall inform him of the reasons for **[**[F130] its **]** decision and of his right of appeal under subsection (5) below.

(5) If a person to whom a decision has been given under subsection (4) above is aggrieved by the decision or any conditions attached thereto, he may appeal to the Secretary of State who may confirm the decision and any such conditions either with or without modification or refuse to confirm it.

(6) Where permission has been granted as mentioned in subsection (3) above or by virtue of subsection (5) above, the person to whom it was granted shall, before commencing any work in pursuance of that permission, give not less than 3 days' notice to **[**[F131]

Scottish Water] so as to enable [F132 it] to supervise the execution of the work, and shall afford [F132 it] all reasonable facilities for so doing.

(7) Where any work to be done in pursuance of a permission granted under subsection (3) above or by virtue of subsection (5) above involves the breaking open of a [F133 road] , [F134 Scottish Water] may undertake the work in the [F133 road] and may recover the expenses reasonably incurred by [F135 it] in so doing from the person for whom the work was done.

(8) Any person who connects a drain [F136, sewer or SUD system] to the sewers [F137 , SUD systems] or works of [F124 Scottish Water] or alters a drain [F136 , sewer or SUD system] without permission granted under this section, or contrary to any conditions attached thereto, shall be guilty of an offence and liable on summary conviction to a fine not exceeding [F138 £40,000] , and [F139 Scottish Water] may, whether or not proceedings have been taken under this subsection, close, remove or remake any such unlawful connection, and recover from the offender any expenses reasonably incurred by [F140 it] in so doing.

Textual Amendments

F112 Words in s. 12(1) repealed (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3) , s. 71 , **Sch. 5 para. 16(a)(i)** (with s. 67); S.S.I 2002/118, {art. 2}

F113 Words in s. 12(1) substituted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3) , s. 38(1) , **Sch. 3 para. 10(2)(a)** ; S.S.I. 2007/512 , art. 2(c)

F114 Words in s. 12(1) inserted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3) , s. 38(1) , **Sch. 3 para. 10(2)(b)** ; S.S.I. 2007/512 , art. 2(c)

F115 Words in s. 12(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3) , s. 71 , **Sch. 5 para. 16(a)(ii)** (with s. 67); S.S.I 2002/118, {art. 2}

F116 Word in s. 12(1) inserted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3) , s. 38(1) , **Sch. 3 para. 10(2)(c)** ; S.S.I. 2007/512 , art. 2(c)

F117 Words in s. 12(1) substituted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3) , s. 38(1) , **Sch. 3 para. 10(2)(d)** ; S.S.I. 2007/512 , art. 2(c)

F118 Words in s. 12(2) substituted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3) , s. 38(1) , **Sch. 3 para. 10(3)(a)** ; S.S.I. 2007/512 , art. 2(c)

F119 Word in s. 12(2) inserted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3) , s. 38(1) , **Sch. 3 para. 10(3)(b)** ; S.S.I. 2007/512 , art. 2(c)

F120 Words in s. 12(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3) , s. 71 , **Sch. 5 para. 16(b)** (with s. 67); S.S.I 2002/118, {art. 2}

F121 Words in s. 12(2) substituted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3) , s. 38(1) , **Sch. 3 para. 10(3)(c)** ; S.S.I. 2007/512 , art. 2(c)

F122 Words in s. 12(3) substituted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3) , s. 38(1) , **Sch. 3 para. 10(4)(a)** ; S.S.I. 2007/512 , art. 2(c)

F123 Words in s. 12(3) inserted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3) , s. 38(1) , **Sch. 3 para. 10(4)(b)** ; S.S.I. 2007/512 , art. 2(c)

F124 Words in s. 12(3)(4)(8) 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**

F125 Words in s. 12(3) substituted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3) , s. 38(1) , **Sch. 3 para. 10(4)(c)** ; S.S.I. 2007/512 , art. 2(c)

F126 Words in s. 12(3) inserted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3) , s. 38(1) , **Sch. 3 para. 10(4)(d)** ; S.S.I. 2007/512 , art. 2(c)

F127 Words in s. 12(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**

F128 Word in s. 12(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3) , s. 71 , **Sch. 5 para. 16(c)(i)** (with s. 67); S.S.I 2002/118, {art. 2}

F129 Words in s. 12(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3) , s. 71 , **Sch. 5 para. 16(c)(ii)** (with s. 67); S.S.I 2002/118, {art. 2}

F130 Words in s. 12(4) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3) , s. 71 , **Sch. 5 para. 16(d)** (with s. 67); S.S.I 2002/118, {art. 2}

F131 Words in s. 12(6) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3) , s. 71 , **Sch. 5 para. 16(e)(i)** (with s. 67); S.S.I 2002/118, {art. 2}

F132 Words in s. 12(6) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3) , s. 71 , **Sch. 5 para. 16(e)(ii)** (with s. 67); S.S.I 2002/118, {art. 2}

F133 Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108) , s. 156(1) , **Sch. 9 para. 64(3)**

F134 Words in s. 12(7) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3) , s. 71 , **Sch. 5 para. 16(f)(i)** (with s. 67); S.S.I 2002/118, {art. 2}

F135 Words in s. 12(7) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3) , s. 71 , **Sch. 5 para. 16(f)(ii)** (with s. 67); S.S.I 2002/118, {art. 2}

F136 Words in s. 12(8) substituted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3) , s. 38(1) , **Sch. 3 para. 10(5)(a)** ; S.S.I. 2007/512 , art. 2(c)

F137 Words in s. 12(8) inserted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3) , s. 38(1) , **Sch. 3 para. 10(5)(b)** ; S.S.I. 2007/512 , art. 2(c)

F138 Word in s. 12(8) substituted (28.10.2004) by Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8) , s. 145(2) , **Sch. 2 para. 1(2)** ; S.S.I. 2004/420 , art. 3 , Sch. 1

F139 Words in s. 12(8) 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**

F140 Word in s. 12(8) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3) , s. 71 , **Sch. 5 para. 16(g)** (with s. 67); S.S.I 2002/118, {art. 2}

13 Rights of owners and occupiers to connect with and drain into sewers etc. of another local authority.

F141 . . . . . .

Textual Amendments

F141 S. 13 repealed (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 17** (with s. 67); S.S.I. 2002/118, **art. 2**

14 Direction by local authority as to manner of construction of works.

(1) Where the owner of any premises proposes to construct a drain **[**[F142], sewer or SUD system **]** in respect of which notice has been given to **[**[F143]Scottish Water**]** by virtue of section 12(3) above [F144]... , or sewage treatment works in respect of which notice has been given under subsection (2) below, **[**[F145]Scottish Water**]** may, if **[**[F146]it considers**]** that the proposed drain, sewer **[**[F147] , SUD system **]**or works is, or is likely to be, needed to form part of a general sewerage system which **[**[F148]it has**]** provided or propose to provide, within 28 days of the receipt by **[**[F149]it**]** of the notice direct him to construct the drain, sewer **[**[F147] , SUD system **]**or works in a manner differing from that in which he proposes to construct the drain, sewer**[**[F147] , SUD system **]** or works.

(2) Where the owner of any premises proposes to construct sewage treatment works to serve those premises he shall give notice of his proposals to **[**[F150]Scottish Water**]** .

Status: *Point in time view as at 01/04/2011.*
Changes to legislation: *Sewerage (Scotland) Act 1968 is up to date with all changes known to be in force on or before 23 May 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)*

(3) If a person to whom a direction has been issued under subsection (1) above is aggrieved by the direction, he may appeal to the Secretary of State, who may disallow the direction or allow it with or without modification.

(4) A person to whom a direction is issued under this section shall, before commencing any work in pursuance of that direction, give not less than 3 days' notice to **[**[F151]Scottish Water**]** so as to enable **[**[F152]it**]** to supervise the execution of the work and shall afford **[**[F152]it**]** all reasonable facilities for so doing.

(5) **[**[F153]Where Scottish Water has issued a direction under subsection (1) above, it**]** shall pay to the person constructing the drain, sewer**[**[F154], SUD system **]** or sewage treatment works the extra expenses reasonably incurred by him in complying with the direction and, until the drain, sewer**[**[F154], SUD system **]** or works become vested in **[**[F145]Scottish Water**]**, **[**[F155]it**]** shall also from time to time pay to him so much of any expenses reasonably incurred by him in repairing, operating or maintaining the drain, sewer **[**[F154], SUD system **]**or works as may be attributable to **[**[F156]its**]** direction having been made and complied with, and, if any question arises as to the amount of any payment to be made to him under this subsection, he may refer it by summary application to the sheriff whose decision on the matter shall be final.

(6) If any person who under this section has been directed by **[**[F143]Scottish Water**]** to construct a drain, sewer**[**[F157] , SUD system**]** or sewage treatment works in a particular manner constructs them otherwise than in accordance with the terms of the direction, or, if the direction has been modified under subsection (3) above, of the modified direction, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding **[**[F158]level 4 on the standard scale**]**.

Textual Amendments

F142 Words in s. 14(1) substituted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 38(1), **Sch. 3 para. 11(a)(i)**; S.S.I. 2007/512, art. 2(c)

F143 Words in s. 14(1)(6) 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**

F144 Words in s. 14(1) repealed (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 18(a)(i)** (with s. 67); S.S.I. 2002/118, **art. 2**

F145 Words in s. 14(1)(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**

F146 Words in s. 14(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 18(a)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2**

F147 Words in s. 14(1) inserted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 38(1), **Sch. 3 para. 11(a)(ii)**; S.S.I. 2007/512, art. 2(c)

F148 Words in s. 14(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 18(a)(iii)** (with s. 67); S.S.I. 2002/118, **art. 2**

F149 Words in s. 14(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, {Sch. 5 para. 18(a)(iv} (with s. 67); S.S.I. 2002/118, **art. 2**

F150 Words in s. 14(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 18(b)** (with s. 67); S.S.I. 2002/118, **art. 2**

F151 Words in s. 14(4) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 18(c)(i)** (with s. 67); S.S.I. 2002/118, **art. 2**

F152 Words in s. 14(4) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 18(c)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2**

F153 Words in s. 14(5) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 18(d)(i)** (with s. 67); S.S.I. 2002/118, **art. 2**

F154 Words in s. 14(5) inserted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 38(1), **Sch. 3 para. 11(b)**; S.S.I. 2007/512, art. 2(c)

F155 Words in s. 14(5) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 18(d)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2**

F156 Words in s. 14(5) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 18(d)(iii)** (with s. 67); S.S.I. 2002/118, **art. 2**

F157 Words in s. 14(6) inserted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 38(1), **Sch. 3 para. 11(c)**; S.S.I. 2007/512, art. 2(c)

F158 Words substituted by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **ss. 289F**, 289G

15 Owner or occupier to remedy defects in drains and other works.

(1) If it appears to a local authority **[**[F159]or **[**[F160]Scottish Water**]]** that as respects any premises in their **[**[F161]or, as the case may be, its**]** area the drains**[**[F162] , SUD systems **]** or sewage treatment works serving such premises (other than drains **[**[F162] , SUD systems **]** or works vested in **[**[F163]Scottish Water**]**) are defective, **[**[F164]the local authority or, as the case may be, Scottish Water**]** may by notice require the owner or occupier of the premises, within a reasonable time therein specified, to remedy the defect.

(2) If an owner or occupier is aggrieved by a notice under the foregoing subsection he may, within the time specified in the notice, refer the matter by summary application to the sheriff, who may issue such directions as he thinks fit, and whose decision on the matter shall be final.

(3) Where an owner or occupier fails to comply with the terms of a notice under subsection (1) above, or as modified under subsection (2) above, the **[**[F165]local**][**[F166]authority which served the notice **]** may, after giving not less than 7 days' notice **[**[F167]or, where the notice was served by Scottish Water, that body**]** to the owner or occupier concerned, carry out the work necessary to remedy the defect, and may recover the expenses reasonably incurred by them **[**[F168]or, as the case may be, it**]** in so doing from the person on whom the notice was served, but without prejudice to the rights and obligations, as between themselves, of the owner and occupier:
Provided that the **[**[F165]local**][**[F169]authority in question **[**[F170]or, as the case may be, Scottish Water**]]** may, if they think **[**[F171]or it thinks**]** fit, remit such part of the expenses as seems to them **[**[F168]or, as the case may be, it**]** to be equitable.

(4) If it appears to **[**[F172]a local authority or **[**[F160]Scottish Water**]** that immediate action is required to remedy a defect**]**, the foregoing provisions of this section shall apply with the following modifications—
   (a) the period specified in a notice under subsection (1) shall be 48 hours;
   (b) subsection (2) shall not apply; and
   (c) the period specified in subsection (3) shall not apply and the **[**[F173]local**]** authority **[**[F174]which served the notice**][**[F175]or, where the notice was served by Scottish Water, that body**]** may proceed to carry out the work forthwith.

(5) In this section "defect" includes any obstruction in a drain **[**[F176], SUD system **]** or sewage treatment works, and "defective" shall be construed accordingly.

Textual Amendments

F159 Words in s. 15(1) inserted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(12)(a)(i)**; S.I. 1996/323, **art. 4(1)(b)(c)**

F160 Words in s. 15(1)(4) 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**

F161 Words in s. 15(1) inserted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 19(a)(i)** (with s. 67); S.S.I. 2002/118, **art. 2**

F162 Words in s. 15(1) inserted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 38(1), **Sch. 3 para. 12(a)**; S.S.I. 2007/512, art. 2(c)

F163 Words in s. 15(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**

F164 Words in s. 15(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 19(a)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2**

F165 Words in s. 15(3) inserted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 19(b)(i)** (with s. 67); S.S.I. 2002/118, **art. 2**

F166 Words in s. 15(3) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(12)(b)(i)**; S.I. 1996/323, **art. 4(1)(b)(c)**

F167 Words in s. 15(3) inserted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 19(b)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2**

F168 Words in s. 15(3) inserted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 19(b)(iii)** (with s. 67); S.S.I. 2002/118, **art. 2**

F169 Words in proviso to s. 15(3) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(12)(b)(ii)**; S.I. 1996/323, **art. 4(1)(b)(c)**

F170 Words in s. 15(3) inserted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 19(b)(iv)** (with s. 67); S.S.I. 2002/118, **art. 2**

F171 Words in s. 15(3) inserted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 19(b)(v)** (with s. 67); S.S.I. 2002/118, **art. 2**

F172 Words in s. 15(4) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(12)(c)(i)**; S.I. 1996/323, **art. 4(1)(b)(c)**

F173 Word in s. 15(4)(c) inserted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 19(c)(i)** (with s. 67); S.S.I. 2002/118, **art. 2**

F174 Words in s. 15(4)(c) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(12)(c)(ii)**; S.I. 1996/323, **art. 4(1)(b)(c)**

F175 Words in s. 15(4)(c) inserted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 19(c)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2**

F176 Words in s. 15(5) inserted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 38(1), **Sch. 3 para. 12(b)**; S.S.I. 2007/512, art. 2(c)

Modifications etc. (not altering text)

C8 References to medical officer of health and sanitary inspector to be construed as references to the proper officer of a local authority: Local Government (Scotland) Act 1973 (c. 65), **Sch. 27 Pt. I para. 2**

Vesting of sewers, drains and works

16 Vesting of sewers and other works in local authority.

(1) **[**[F177]There shall vest in **[**[F178]Scottish Water**]]**—

(a) all sewers **[**[F179] , SUD systems**]** and sewage treatment works constructed by **[**[F180]it**]** at **[**[F181]its**]** expense in pursuance of section 1 above;

(b) all junctions with **[**[F181]its**]** sewers, [F182]. . . whether constructed at the expense of **[**[F183]Scottish Water**]** or otherwise;

[[F184](c) subject to any determination notified under subsection (2) of section 3A of this Act, all private sewers **[**[F185]and private SUD systems **]** connecting with **[**[F181]its**]** sewers or sewage treatment works;

(cc) where **[**[F186]it enters**]** 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 **[**[F187]and private SUD systems **]**, or as the case may be parts of sewers **[**[F187]and systems **]**, to which the agreement relates;**]**

(d) all sewage treatment works **[**[F188] and SUD systems **]** taken over by **[**[F180]it**]** by virtue of an agreement under section 8 above; and

(e) all sewage treatment works **[**[F189]and SUD systems**]**taken over by **[**[F180]it**]** under section 17 below.

(2) Private sewers **[**[F190], private SUD systems **]** and junctions with sewers referred to in the foregoing subsection which are completed after **[**[F191]**[**[F192]the date when section 21 of the Water Industry (Scotland) Act 2002 (asp 3) comes into force**]** shall vest in **[**[F193]Scottish Water**]]** on the date of their completion, and the works **[**[F194]and SUD systems **]** referred to in paragraph (e) of the foregoing subsection shall vest in **[**[F195]Scottish Water**]** in accordance with the provisions of section 17 below.

(3) All sewers, junctions therewith, drains **[**[F196] , SUD systems**]**and sewage treatment works vested in **[**[F178]Scottish Water**]** shall be the property of **[**[F197]Scottish Water which**]** shall be solely responsible for their management, maintenance and renewal.

(4) In this section "junction" means the junction between a public sewer and any other sewer or drain.

Textual Amendments

F177 Words in s. 16(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(13)(a)(i)**; S.I. 1996/323, **art. 4(1)(b)(c)**

F178 Words in s. 16(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**

F179 Words in s. 16(1)(a) inserted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 38(1), **Sch. 3 para. 13(a)(i)**; S.S.I. 2007/512, art. 2(c)

F180 Words in s. 16(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 20(a)(i)** (with s. 67); S.S.I. 2002/118, **art. 2**

F181 Words in s. 16(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 20(a)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2**

F182 Words repealed by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29**

F183 Words in s. 16(1)(b)(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**

F184 S. 16(1)(c)(cc) substituted for s. 16(1)(c) (4.1.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(13)(a)(ii)**; S.I. 1994/2850, **art. 3(c)(vi)** (with art. 4)

F185 Words in s. 16(1)(c) inserted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 38(1), **Sch. 3 para. 13(a)(ii)**; S.S.I. 2007/512, art. 2(c)

F186 Words in s. 16(1)(cc) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 20(a)(iii)** (with s. 67); S.S.I. 2002/118, **art. 2**

F187 Words in s. 16(1)(cc) inserted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 38(1), **Sch. 3 para. 13(a)(iii)**; S.S.I. 2007/512, art. 2(c)

F188 Words in s. 16(1)(d) inserted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 38(1), **Sch. 3 para. 13(a)(iv)**; S.S.I. 2007/512, art. 2(c)

Status: *Point in time view as at 01/04/2011.*
Changes to legislation: *Sewerage (Scotland) Act 1968 is up to date with all changes known to be in force on or before 23 May 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)*

F189 Words in s. 16(1)(e) inserted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 38(1), **Sch. 3 para. 13(a)(v)**; S.S.I. 2007/512, art. 2(c)

F190 Words in s. 16(2) inserted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 38(1), **Sch. 3 para. 13(b)(i)**; S.S.I. 2007/512, art. 2(c)

F191 Words in s. 16(2) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(13)(b)**; S.I. 1996/323, **art. 4(1)(b)(c)**

F192 Words in s. 16(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 20(b)** (with s. 67); S.S.I. 2002/118, **art. 2**

F193 Words in s. 16(2) 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**

F194 Words in s. 16(2) inserted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 38(1), **Sch. 3 para. 13(b)(ii)**; S.S.I. 2007/512, art. 2(c)

F195 Words in s. 16(1)(b)(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**

F196 Words in s. 16(3) inserted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 38(1), **Sch. 3 para. 13(c)**; S.S.I. 2007/512, art. 2(c)

F197 Words in s. 16(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 20(c)** (with s. 67); S.S.I. 2002/118, **art. 2**

Modifications etc. (not altering text)

C9 S. 16: 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)

[F198 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 **[**F199 Scottish Water**]** to construct a sewer not connecting with **[**F200 its**]** sewers or sewage treatment works the sewer constructed; and any sewer vested in a person by this subsection**[**F201 and any sewer or SUD system vested in a person **]**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, **[**F202 Scottish Water**]** may, on such terms and conditions as **[**F203 it thinks**]** fit, at any time enter into an agreement under which the sewer **[**F204 or SUD system **]**, or any part of it, shall vest in **[**F205 it**]** .**]**

Textual Amendments

F198 S. 16A and sidenote inserted (4.1.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(14)**; S.I. 1994/2850, **art. 3(c)(vi)** (with art. 4)

F199 Words in s. 16A(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**

F200 Words in s. 16A(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 21(a)** (with s. 67); S.S.I. 2002/118, **art. 2**

F201 Words in s. 16A(1) substituted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 38(1), **Sch. 3 para. 14(a)**; S.S.I. 2007/512, art. 2(c)

F202 Words in s. 16A(2) 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**

F203 Words in s. 16A(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 21(b)(i)** (with s. 67); S.S.I. 2002/118, **art. 2**

F204 Words in s. 16A(2) inserted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 38(1), **Sch. 3 para. 14(b)**; S.S.I. 2007/512, art. 2(c)

F205 Words in s. 16A(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 21(b)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2**

Modifications etc. (not altering text)

C10 S. 16A: 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)

17 Local authority may take over private sewage treatment works.

(1) Subject to the provisions of this section, **[**[F206]Scottish Water**]** may, by agreement with the owner of **[**[F207]any private sewage treatment works**[**[F208] or private SUD system **]]**, or failing such agreement, in pursuance of proposals made by **[**[F209]it**]** under subsection (2) below, take over the works **[**[F210]or system **]**.

(2) **[**[F211]Scottish Water**]** may, by notice served on the owner of works **[**[F212]or a SUD system **]** as mentioned in the foregoing subsection, intimate **[**[F213]its**]** proposals to take over the works **[**[F214]or system**]** within such period, not being less than 2 months, as may be specified in the notice, and on such conditions, including if **[**[F215]it thinks**]** fit conditions as to payment of compensation by **[**[F216]it**]**, as may be so specified [F217]... ; any notice served under this subsection shall inform the owner of his right of appeal under subsection (3) below.

(3) If an owner on whom a notice has been served under subsection (2) above is aggrieved by the notice, he may, within the period specified in the notice, appeal to the Secretary of State who may confirm the proposals of **[**[F218]Scottish Water**]** and any conditions so specified either with or without modification or refuse to confirm them.

(4) All works **[**[F219]and any SUD system **]** taken over by **[**[F220]Scottish Water**]** under this section shall vest in **[**[F221]it**]** in accordance with the terms of any agreement made under subsection (1) above, or failing such agreement, at the end of the period specified under subsection (2) above or on such date as may be specified by the Secretary of State in his decision on an appeal under subsection (3) above.

(5) Subject to the provisions of this Act, a person who immediately before the taking over of works **[**[F222]or a SUD system **]** under this section was lawfully entitled to use them **[**[F223]or it**]** shall continue to be so entitled after they have**[**[F224]or it has **]** been so taken over.

(6) An agreement under subsection (1) above or proposals under subsection (2) above may relate to a part only of works **[**[F225]or a SUD system **]**.

Textual Amendments

F206 Words in s. 17(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 22(a)(i)** (with s. 67); S.S.I. 2002/118, **art. 2**

F207 Words in s. 17(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 22(a)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2**

F208 Words in s. 17(1) inserted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 38(1), **Sch. 3 para. 15(a)(i)**; S.S.I. 2007/512, art. 2(c)

F209 Words in s. 17(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 22(a)(iii)** (with s. 67); S.S.I. 2002/118, **art. 2**

F210 Words in s. 17(1) inserted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 38(1), **Sch. 3 para. 15(a)(ii)**; S.S.I. 2007/512, art. 2(c)
F211 Words in s. 17(2) 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**
F212 Words in s. 17(2) inserted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 38(1), **Sch. 3 para. 15(b)(i)**; S.S.I. 2007/512, art. 2(c)
F213 Words in s. 17(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 22(b)(i)** (with s. 67); S.S.I. 2002/118, **art. 2**
F214 Words in s. 17(2) inserted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 38(1), **Sch. 3 para. 15(b)(ii)**; S.S.I. 2007/512, art. 2(c)
F215 Words in s. 17(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 22(b)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2**
F216 Words in s. 17(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 22(b)(iii)** (with s. 67); S.S.I. 2002/118, **art. 2**
F217 Words in s. 17(2) repealed (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 22(b)(iv)** (with s. 67); S.S.I. 2002/118, **art. 2**
F218 Words in s. 17(3) 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**
F219 Words in s. 17(4) inserted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 38(1), **Sch. 3 para. 15(c)**; S.S.I. 2007/512, art. 2(c)
F220 Words in s. 17(4) 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**
F221 Words in s. 17(4) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 22(c)** (with s. 67); S.S.I. 2002/118, **art. 2**
F222 Words in s. 17(5) inserted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 38(1), **Sch. 3 para. 15(d)(i)**; S.S.I. 2007/512, art. 2(c)
F223 Words in s. 17(5) inserted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 38(1), **Sch. 3 para. 15(d)(ii)**; S.S.I. 2007/512, art. 2(c)
F224 Words in s. 17(5) inserted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 38(1), **Sch. 3 para. 15(d)(iii)**; S.S.I. 2007/512, art. 2(c)
F225 Words in s. 17(6) inserted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 38(1), **Sch. 3 para. 15(e)**; S.S.I. 2007/512, art. 2(c)

Miscellaneous

F226 18 . . . . . .

Textual Amendments
F226 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 . . . . . F227

Textual Amendments
F227 Ss. 5, 7(4), 18(4)—(6), 19 repealed by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29**

Status: *Point in time view as at 01/04/2011.*
Changes to legislation: *Sewerage (Scotland) Act 1968 is up to date with all changes known to be in force on or before 23 May 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)*

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

(1) Subject to the provisions of this section, **[**[F228]Scottish Water**]** shall make full compensation for any loss, injury or damage sustained by any person by reason of the exercise by **[**[F229]Scottish Water**]** of any of **[**[F230]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 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 **[**[F231]Scottish Water**]** under this section shall not be maintainable unless it is made to **[**[F232]Scottish Water**]** within **[**[F233]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 **[**[F228]Scottish Water**]** having, in the exercise of **[**[F234]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 **[**[F235]Scottish Water**]** shall be entitled to set off that amount against the amount of any compensation awarded.

[[F236](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 **[**[F228]Scottish Water**]**[F228] constructing a sewer under section 3(1), of this Act.**]**

Textual Amendments

F228 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**

F229 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**

F230 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**

F231 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**

F232 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**

F233 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)**

F234 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**

F235 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**

F236 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)

Status: *Point in time view as at 01/04/2011.*
Changes to legislation: *Sewerage (Scotland) Act 1968 is up to date with all changes known to be in force on or before 23 May 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)*

Modifications etc. (not altering text)

C11 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.

[F237](1) Unless with the consent of **[**[F238]Scottish Water**]**, which shall not be unreasonably withheld, no building shall be erected **[**[F239]or embankment constructed**]** over, or in such a way as to interfere with or to obstruct access to, any sewer **[**[F240]or SUD system **]** vested in **[**[F241]Scottish Water**][**[F242]or in respect of which **[**[F243]it has**]** made a determination under section 3A(2) of this Act**]**.

(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 **[**[F244]55(1) and (2) of the Building (Scotland) Act 2003 (asp 8)**]**.

Textual Amendments

F237 S. 21(1): power to modfiy conferred (4.1.1995) by 1994 c. 39, **s. 182(2)**; S.I. 1994/2850, art. 3(a), **Sch. 2** (with art. 4)

F238 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**

F239 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)**

F240 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)

F241 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**

F242 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)

F243 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**

F244 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)

C12 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 **[**[F245]Scottish Water**]** to carry out works which will interfere with the carrying on of a statutory undertaking **[**[F246]or the running of **[**[F247]an electronic communications code network**]**without the consent of the statutory undertakers concerned or, as the case may be, of the operator of **[**[F248]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.

[[F249](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 **[**[F245]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 **[**[F245]Scottish Water**]** under section 41 below.

(4) In this section "statutory undertakers" and "statutory undertaking" have the meanings assigned to them by **[**[F250]section 275(1) of the [M2]Town and Country Planning (Scotland) Act 1972**]**.

Textual Amendments

F245 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**

F246 Words substituted by Telecommunications Act 1984 (c. 12, SIF 96), s. 109, **Sch. 4 para. 49**

F247 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)**

F248 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)**

F249 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)

F250 Words substituted by Airports Authority Act 1975 (c. 78), **Sch. 5 Pt. II para. 2**

Modifications etc. (not altering text)

C13 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**

C14 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)

C15 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

M2 1972 c. 52.

23 Restriction on working minerals.

Sections 71 to 78 of the [M3]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 [M4]Mines (Working Facilities and Support) Act 1923, shall apply in relation to

[F251(a) any public sewers, public sewage treatment works [F252 , public SUD systems] or public drains; and

(b) any sewers, sewage treatment works [F253, SUD systems] or drains not vested in [F254Scottish Water] but forming (or forming part of) any such system as is mentioned in [F255section 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 [F253, SUD systems] or drains; and

(ii) for references to the company, of references to [F256Scottish Water], or as the case may be to the person other than [F254Scottish Water], in whom the sewers, works [F253, SUD systems] or drains are vested.]

Textual Amendments

F251 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)

F252 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)

F253 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)

F254 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**

F255 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**

F256 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)

C16 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

M3 1845 c. 33.

M4 1923 c. 20.

PART II

TRADE EFFLUENTS

Right to discharge into public sewers

24 Right to discharge into public sewers.

(1) Subject to the provisions of this Act, the occupier of any trade premises within the area of [F257Scottish Water] may discharge into the sewers or sewage treatment works of [F258Scottish Water] any trade effluent from those premises.

(2) Any occupier of trade premises who discharges trade effluent into the sewers or sewage treatment works of [F257Scottish Water] without the consent of [F258Scottish

Water**]**, where such consent is required, or contrary to any direction given or condition imposed by virtue of any provision of this Part of this Act, shall be guilty of an offence and liable on summary conviction to a fine not exceeding **[**[F259]£40,000 **]**.

Textual Amendments

F257 Words in s. 24 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**

F258 Words in s. 24 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**

F259 Word in s. 24(2) substituted (28.10.2004) by Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8), s. 145(2), **Sch. 2 para. 1(3)**; S.S.I. 2004/420, art. 3, Sch. 1

Modifications etc. (not altering text)

C17 Ss. 24-38 (Pt. II) excluded (30.6.1993) by S.I. 1993/1446, **reg. 3(3)**

Control of new discharges

25 Meaning of new discharge.

In this Part of this Act, "new discharge" means a discharge from trade premises into the sewers or sewage treatment works of **[**[F260]Scottish Water**]** of trade effluent where the discharge—

(a) has not previously been lawfully made into such sewers or works; or

(b) not being an existing discharge by virtue of the proviso to section 33(1) below and whether commenced before or after the commencement of this section, has become substantially altered in nature or composition or whose temperature, volume or rate of discharge has been substantially increased since the commencement of this section; or

(c) has been discontinued for a period of two years or more, the whole or part of which period occurs after the commencement of this section, and is thereafter resumed.

Textual Amendments

F260 Words in s. 25 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**

Modifications etc. (not altering text)

C18 Ss. 24-38 (Pt. II) excluded (30.6.1993) by S.I. 1993/1446, **reg. 3(3)**

26 New discharge only with consent of the authority.

Subject to section 37 below, an occupier or prospective occupier of trade premises who proposes to make a new discharge of trade effluent from those premises into the sewers or sewage treatment works of **[**[F261]Scottish Water**]** shall obtain the consent of **[**[F262]Scottish Water**]** to the discharge, which shall be applied for in accordance with section 27 below.

Textual Amendments

F261 Words in s. 26 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**

F262 Words in s. 26 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)

C19 Ss. 24-38 (Pt. II) excluded (30.6.1993) by S.I. 1993/1446, **reg. 3(3)**
Ss. 26-32 applied (30.6.1993) by S.I. 1993/1446, **reg. 3(2)(b)**

27 Procedure on application for consent to new discharge.

(1) An application for the consent of **[**[F263]Scottish Water**]** under section 26 above shall be made by serving a notice on **[**[F264]Scottish Water**]**(hereafter in this Part of this Act referred to as a "trade effluent notice").

(2) A trade effluent notice shall state so far as is reasonably practicable—
- (a) the nature, composition and temperature of the effluent;
- (b) the maximum quantity of the effluent which it is proposed to discharge on any one day;
- (c) the maximum hourly rate at which it is proposed to discharge the effluent.

(3) Where the person applying for the consent of **[**[F264]Scottish Water**]** is not the owner of the premises, he shall, at the same time as serving a trade effluent notice on **[**[F264]Scottish Water**]** under subsection (1) above, send a copy of the notice to the owner of the premises and inform him that he may make representations in respect of the application to **[**[F264]Scottish Water**]** within 28 days of receipt of the copy.

(4) **[**[F264]Scottish Water**]** on receiving a trade effluent notice shall forthwith send a copy of the notice to—
- (a) [F265] . . . . . .
- (b) any other body acting under statutory powers which, in the opinion of **[**[F264]Scottish Water**]**, has an interest in the application.

and at the same time shall inform [F266]... any body to which a copy of the notice is sent in pursuance of this subsection that they may make representations in respect of the application to the authority within 28 days of receipt of the copy.

(5) **[**[F264]Scottish Water**]** before making a decision on an application shall take into account any representations made in pursuance of subsections (3) and (4) above.

(6) [F267] . . . . . .

Textual Amendments

F263 Words in s. 27(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**

F264 Words in s. 27(1)(3)(4)(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**

F265 S. 27(4)(a) and following word repealed (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 26(a)(i)** (with s. 67); S.S.I. 2002/118, **art. 2**

F266 Words in s. 27(4) repealed (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 26(a)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2**

F267 S. 27(6) repealed (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 26(b)** (with s. 67); S.S.I. 2002/118, **art. 2**

Modifications etc. (not altering text)

C20 Ss. 24-38 (Pt. II) excluded (30.6.1993) by S.I. 1993/1446, **reg. 3(3)**
Ss. 26-32 applied (30.6.1993) by S.I. 1993/1446, **reg. 3(2)(b)**

28 Time to dispose of application.

(1) An application for the consent of **[**[F268]Scottish Water**]** under section 26 above shall, subject to the following subsection, be decided by **[**[F269]it**]** and intimated in accordance with section 30 below within a period of 3 months of the receipt by **[**[F269]it**]** of a trade effluent notice.

(2) Any such application which has been the subject of a reference to the Secretary of State under section 27(6) above shall be decided and so intimated by **[**[F270]Scottish Water**]** within a period of 28 days of the receipt by **[**[F269]it**]** of the Secretary of State's decision under the said section 27(6).

Textual Amendments

F268 Words in s. 28(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**

F269 Words in s. 28 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 27** (with s. 67); S.S.I. 2002/118, **art. 2**

F270 Words in s. 28(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**

Modifications etc. (not altering text)

C21 Ss. 24-38 (Pt. II) excluded (30.6.1993) by S.I. 1993/1446, **reg. 3(3)**
Ss. 26-32 applied (30.6.1993) by S.I. 1993/1446, **reg. 3(2)(b)**

29 Decision on application.

(1) **[**[F271]Scottish Water**]** in **[**[F272]its**]** decision on an application under section 26 above may refuse **[**[F272]its**]** consent or **[**[F273]it**]** may grant **[**[F272]its**]** consent either unconditionally or subject to such conditions as **[**[F273]it**]** may think fit to impose.

(2) Where **[**[F274]Scottish Water has**]** failed to intimate **[**[F275]its**]** decision on an application within the 3 month period referred to in subsection (1), or, as the case may be, the 28 day period referred to in subsection (2), of section 28 above, **[**[F276]it**]** shall be deemed to have made a decision on the last day of that period refusing **[**[F275]its**]** consent to the application.

(3) Without prejudice to subsection (1) above, **[**[F277]Scottish Water**]** in granting **[**[F278]its**]** consent may impose conditions relating to—

(a) the sewers into which any trade effluent may be discharged;

(b) the nature or composition of any trade effluent which may be discharged;

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(c) the maximum quantity of any trade effluent which may be discharged on any one day, either generally or into a particular sewer;

(d) the maximum hourly rate at which any trade effluent may be discharged, either generally or into a particular sewer;

(e) the period or periods of the day during which any trade effluent may be discharged into the sewers;

(f) the elimination from or the diminution in any trade effluent of cooling water;

(g) the prevention of any injury to the health of persons engaged in carrying out the functions of **[**[F277]Scottish Water**]** under this Act as a result of the discharge of any trade effluent into the sewers;

(h) the elimination or diminution of any specified constituent of any trade effleunt, before it enters the sewers, where **[**[F277]Scottish Water[F277]**][**[F279]is**]** satisfied that that constituent would, either alone or in combination with any matter with which it is likely to come into contact while passing through any sewers—

(i) injure or obstruct those sewers, or make specially difficult or expensive the treatment or disposal of the sewage from those sewers, or

(ii) (where the trade effluent is to be discharged into sewers having an outfall in any harbour or in any waters below high water mark of ordinary spring tides or into sewers which connect directly or indirectly with sewers having such an outfall) cause or tend to cause injury or obstruction to the navigation on, or the use of, the said harbour or waters;

(i) the temperature of any trade effluent at the time when it is discharged into the sewers and its acidity or alkalinity at that time;

(j) the payment by the occupier of the trade premises to **[**[F277]Scottish Water**]** of charges for the reception of any trade effluent into the sewers, and for the treatment and disposal thereof, regard being had to the nature and composition and to the volume and rate of discharge of the trade effluent so discharged, to any additional expense incurred or likely to be incurred by **[**[F277]Scottish Water**]** in connection with the reception, treatment or disposal of the trade effluent or in connection with the provision already made by **[**[F280]it**]** for the treatment and disposal of trade effleunt in **[**[F281]its**]** area, and to any revenue likely to be derived by **[**[F277]Scottish Water**]** from the trade effluent;

(k) the provision and maintenance of such inspection chambers or manholes as will enable a person readily to take at any time samples of any effluent passing into the sewers from the trade premises;

(l) the provision and maintenance of such meters as may be required to measure the volume and rate of discharge of any trade effluent being discharged from the trade premises into the sewers and for the testing of such meters;

(m) the provision and maintenance of apparatus for determining the nature, composition and temperature of any trade effluent being discharged from the premises into the sewers and for the testing of the apparatus;

(n) the keeping of records of the volume, rate of discharge, nature, composition and temperature of any trade effluent being so discharged, and in particular the keeping of records of readings of meters and other recording apparatus provided in compliance with any other condition imposed in connection with the consent;

(o) the making of returns and giving of other information to **[**[F277]Scottish Water**]** concerning the volume, rate of discharge, nature, composition and temperature of any trade effluent so discharged.

(4) A consent granted under this section, and (where such consent is granted subject to any conditions) all or any of the conditions, may be made to take effect as from a specified date or for a specified period, being not less than two years, or both as from a specified date and for such a specified period.

(5) Any decision of **[**[F282]Scottish Water**]** under this section shall continue to be effective notwithstanding that there has been a change of ownership or occupancy of the premises to which the decision relates.

(6) Where an application under section 26 above is for the consent of **[**[F277]Scottish Water**]** to an increase of volume or rate of discharge of a discharge which is already being made lawfully. no decision of **[**[F277]Scottish Water**]** under this section shall have the effect of restricting the discharge already being made.

(7) In this section, any reference to a sewer or sewers includes a reference to sewage treatment works, and "harbour" has the same meaning as in section 57 of the [M5]Harbours Act 1964.

Textual Amendments

F271 Words in s. 29 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**

F272 Words in s. 29(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 28(a)(i)** (with s. 67); S.S.I. 2002/118, **art. 2**

F273 Words in s. 29(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 28(a)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2**

F274 Words in s. 29(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 28(b)(i)** (with s. 67); S.S.I. 2002/118, **art. 2**

F275 Words in s. 29(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 28(b)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2**

F276 Words in s. 29(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 28(b)(iii)** (with s. 67); S.S.I. 2002/118, **art. 2**

F277 Words in s. 29(3)(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**

F278 Word in s. 29(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 28(c)(i)** (with s. 67); S.S.I. 2002/118, **art. 2**

F279 Word in s. 29(3)(h) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 28(c)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2**

F280 Word in s. 29(3)(j) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 28(c)(iii)** (with s. 67); S.S.I. 2002/118, **art. 2**

F281 Word in s. 29(3)(j) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 28(c)(iii)** (with s. 67); S.S.I. 2002/118, **art. 2**

F282 Words in s. 29(5) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 28(d)** (with s. 67); S.S.I. 2002/118, **art. 2**

Modifications etc. (not altering text)

C22 Ss. 26-32 applied (30.6.1993) by S.I. 1993/1446, **reg. 3(2)(b)**
Ss. 24-38 (Pt. II) excluded (30.6.1993) by S.I. 1993/1446, **reg. 3(3)**

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Changes to legislation: *Sewerage (Scotland) Act 1968 is up to date with all changes known to be in force on or before 23 May 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)*

Marginal Citations

M5 1964 c. 40.

30 Intimation of decision.

(1) **[**[F283]Scottish Water**]** shall intimate **[**[F284]its**]** decision under section 29 above, and the reasons therefor, to the owner and occupier or prospective occupier of the trade premises in question and to any [F285]... other body to which a copy of the trade effluent notice was sent under section 27(4) above.

(2) An intimation of a decision under this section shall—

(a) draw attention to the provisions of section 29(5) above;

(b) refer to the applicant's right of appeal against, and the power of review of, the decision under this Part of this Act.

Textual Amendments

F283 Words in s. 30(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**

F284 Word in s. 30(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 29(a)** (with s. 67); S.S.I. 2002/118, **art. 2**

F285 Words in s. 30(1) repealed (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 29(b)** (with s. 67); S.S.I. 2002/118, **art. 2**

Modifications etc. (not altering text)

C23 Ss. 24-38 (Pt. II) excluded (30.6.1993) by S.I. 1993/1446, **reg. 3(3)**.
Ss. 26-32 applied (30.6.1993) by S.I. 1993/1446, **reg. 3(2)(b)**.

31 Appeal against refusals and conditions.

Where the applicant for consent under section 26 above is aggrieved by the decision of **[**[F286]Scottish Water**]** under section 29 above, he may appeal to the Secretary of State, who may dispose of the appeal in any way competent to **[**[F287]Scottish Water**]** in their decision on the application.

Textual Amendments

F286 Words in s. 31 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**

F287 Words in s. 31 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)

C24 Ss. 26-32 applied (30.6.1993) by S.I. 1993/1446, **reg. 3(2)(b)**.
Ss. 24-38 (Pt. II) excluded (30.6.1993) by S.I. 1993/1446, **reg. 3(3)**.

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Changes to legislation: *Sewerage (Scotland) Act 1968 is up to date with all changes known to be in force on or before 23 May 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)*

32 Review of consents, conditions and refusals.

(1) **[**[F288]Scottish Water**]** may, and when requested so to do by the occupier of the premises in question shall, by direction review a decision made by **[**[F289]it**]** under section 29 above.

(2) Before making a direction under this section, **[**[F290]Scottish Water**]** shall intimate to the owner and occupier of the premises in question that **[**[F291]it proposes**]** to make such a direction, and **[**[F292]its**]** reasons therefor, and inform the owner and occupier that they may, within 28 days of receipt of the intimation, make representations to **[**[F293]it**]** in respect of the proposals.

(3) Before making such a direction **[**[F294]Scottish Water**]** shall take into account any representations made in pursuance of subsection (2) above.

(4) Section 29 above except subsection (2), and section 30 above except subsection (1) so far as relating to intimation to any [F295]... other body, shall, with any necessary modifications, apply to such a direction as they apply to a decision under the said section 29.

(5) No review under this section may take place earlier than two years after the making of a decision under the said section 29, and thereafter reviews may take place at intervals of not less than two years, unless in either case **[**[F294]Scottish Water**]** and the applicant otherwise agree in writing.

(6) A direction under this section shall take effect from a date specified therein, but not earlier than 3 months after the date of the direction.

(7) Where a direction is made under this section relating to the discharge of trade effluent from any premises, the occupier of the premises may appeal against the direction to the Secretary of State, who may dispose of the appeal in any way competent to **[**[F294]Scottish Water**]** in making the direction.

Textual Amendments

F288 Words in s. 32(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**

F289 Word in s. 32(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 30(a)** (with s. 67); S.S.I. 2002/118, **art. 2**

F290 Words in s. 32(2) 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**

F291 Words in s. 32(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 30(b)(i)** (with s. 67); S.S.I. 2002/118, **art. 2**

F292 Word in s. 32(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 30(b)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2**

F293 Words in s. 32(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 30(b)(iii)** (with s. 67); S.S.I. 2002/118, **art. 2**

F294 Words in s. 32(3)(5)(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**

F295 Words in s. 32(4) repealed (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 30(c)** (with s. 67); S.S.I. 2002/118, **art. 2**

Modifications etc. (not altering text)

C25 Ss. 24-38 (Pt. II) excluded (30.6.1993) by S.I. 1993/1446, **reg. 3(3)**.

Status: *Point in time view as at 01/04/2011.*
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Ss. 26-32 applied (30.6.1993) by S.I. 1993/1446, **reg. 3(2)(b)**.

Control of existing discharges

33 Meaning of existing discharge.

(1) In this Part of this Act, "existing discharge" means a discharge of trade effluent from trade premises into the sewers or sewage treatment works of a local authority which was lawfully made within the period of two years ending on the date of the commencement of this section:
Provided that where before the said date the local authority and the person making the discharge have agreed that after that date the nature or composition of the discharge may be altered or the temperature, volume or rate of discharge may be increased, any discharge made in accordance with such agreement shall be treated for the purposes of this Part of this Act as an existing discharge.

(2) Any dispute between **[**[F296]Scottish Water**]** and the person making the discharge as to whether the discharge is an existing discharge shall be determined by the sheriff, against whose determination an appeal shall lie to the Court of Session.

Textual Amendments

F296 Words in s. 33(2) 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)

C26 Ss. 24-38 (Pt. II) excluded (30.6.1993) by S.I. 1993/1446, **reg. 3(3)**.

34 Right to continue existing discharge.

Subject to this Part of this Act, and except where **[**[F297]Scottish Water**]** and the person making the discharge otherwise agree, an existing discharge shall be allowed to continue.

Textual Amendments

F297 Words in s. 34 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)

C27 Ss. 24-38 (Pt. II) excluded (30.6.1993) by S.I. 1993/1446, **reg. 3(3)**.

35 Furnishing of information.

The owner or occupier of premises from which an existing discharge is being made shall, when requested in writing to do so by **[**[F298]Scottish Water**]**, furnish such information to **[**[F299]Scottish Water**]** concerning the discharge as an applicant for consent to a new discharge is required to furnish in a trade effluent notice under section 27(2) above, and information concerning the period for which the discharge has continued.

Textual Amendments

F298 Words in s. 35 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**

F299 Words in s. 35 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)

C28 Ss. 24-38 (Pt. II) excluded (30.6.1993) by S.I. 1993/1446, **reg. 3(3)**.

36 Review of continuation of existing discharge.

(1) **[**[F300]Scottish Water**]** may, and when requested by the person making the discharge shall, review the making of an existing discharge and may direct that any continuation of the discharge shall be either unconditional or subject to such conditions as **[**[F301]it**]** may think fit to impose.

(2) **[**[F302]Scottish Water**]** may by direction from time to time, and when requested by the person making the discharge shall, review a direction under the foregoing subsection, but, unless **[**[F303]Scottish Water**]** and the person making the discharge otherwise agree in writing, reviews under this subsection shall not take place at intervals of less than two years.

(3) Section 29 above, except subsection (1) so far as relating to the refusal of consent and subsection (2), and section 30 above shall, with any necessary modifications, apply to a direction under this section as they apply to a decision under the said section 29; and subsections (2), (3) and (6), and subject to subsection (4) below, subsection (7) of section 32 above, shall apply to such a direction as they apply to a direction under the said section 32.

(4) Where **[**[F304]Scottish Water has**]** directed under subsection (1) above that the continuation of the discharge shall be subject to conditions imposed by **[**[F305]it**]** which did not previously apply to the making of the discharge, and an appeal is made against the imposition of those conditions, it shall be for **[**[F306]Scottish Water**]** to establish that the circumstances of the making of the discharge or its reception, treatment or disposal are so altered as compared with those pertaining before the date of the commencement of section 33 above that it is reasonable that those conditions should be imposed.

Textual Amendments

F300 Words in s. 36(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**

F301 Word in s. 36(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 31(a)** (with s. 67); S.S.I. 2002/118, **art. 2**

F302 Words in s. 36(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**

F303 Words in s. 36(2) 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**

F304 Words in s. 36(4) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 31(b)(i)** (with s. 67); S.S.I. 2002/118, **art. 2**

F305 Word in s. 36(4) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 31(b)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2**

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Changes to legislation: *Sewerage (Scotland) Act 1968 is up to date with all changes known to be in force on or before 23 May 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)*

F306 Words in s. 36(4) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 31(b)(iii)** (with s. 67); S.S.I. 2002/118, **art. 2**

Modifications etc. (not altering text)

C29 Ss. 24-38 (Pt. II) excluded (30.6.1993) by S.I. 1993/1446, **reg. 3(3)**.
S. 36 applied (30.6.1993) by S.I. 1993/1446, **reg. 3(2)(b)**.

C30 S. 36(4) restricted (30.6.1993) by S.I. 1993/1446, **reg. 3(1)**.

Agreements in lieu of applications for consent

37 Agreements as respects trade premises.

(1) **[**[F307]Scottish Water**]** may enter into an agreement with the owner or occupier of any trade premises within **[**[F308]its**]** area for the reception, treatment or disposal by **[**[F309]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 **[**[F307]Scottish Water**]** propose to enter into an agreement under this section with an occupier who is not also the owner of trade premises, **[**[F310]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 **[**[F311]Scottish Water**]** and such an occupier as is mentioned in subsection (3) above enter into an agreement under this section, **[**[F312]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 **[**[F313]Scottish Water**]** of such works as may be required for the reception, treatment or disposal of trade effluent;

(b) the removal and disposal by **[**[F314]Scottish Water**]** of substances produced in the course of treating any trade effluent on or in connection with the premises;

(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 **[**[F315]Scottish Water**]** in carrying out **[**[F316]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 **[**[F317]Scottish Water**]** nor may the making of such a discharge be reviewed by the direction of **[**[F318]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, **[**[F319]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

F307 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**

F308 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**

F309 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**

F310 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**

F311 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**

F312 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**

F313 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**

F314 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**

F315 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**

F316 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**

F317 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**

F318 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**

F319 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)

C31 Ss. 24-38 (Pt. II) excluded (30.6.1993) by S.I. 1993/1446, **reg. 3(3)**.

C32 S. 37(6) excluded (30.6.1993) by S.I. 1993/1446, **reg. 3(2)(a)**.

[F320 37A Register for purposes of Part II.

(1) [F321 Scottish Water] F321 shall maintain a register for the purposes of this Part of this Act.

(2) [F322 Scottish Water] F322 shall enter in the register—

(a) such particulars as may be prescribed—

(i) of any consent, affecting [F323 its] F323 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 [F323 its] F323 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 [F323 its] F323 functions under this Part of this Act as may be prescribed.

Status: *Point in time view as at 01/04/2011.*
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(3) It shall be the duty of **[**[F324]Scottish Water**]**[F324]—

(a) to secure that the register maintained by **[**[F325]it**]**[F325] 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 **[**[F325]it**]**[F325], 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

F320 S. 37A and sidenote inserted (30.6.1999) by 1994 c. 39, **s. 103** (with s. 74(4)); S,.I. 1998/2532, art. 2

F321 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**

F322 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**

F323 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**

F324 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**

F325 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**

[[F326]**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 **[**[F327]Scottish Water**]** directions—

(a) specifying information, or descriptions of information, to be excluded from the register; or

(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) **[**[F328]Scottish Water**]** shall notify the Secretary of State of any information **[**[F329]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 **[**[F330]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

F326 S. 37B and sidenote inserted (30.6.1999) by 1994 c. 39, **s. 103** (with s. 74(4)); S.I. 1998/2532, **art. 2**

F327 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)**

F328 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)**

F329 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)**

F330 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)

C33 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**

[F331 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 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.

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(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

F331 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**

Supplementary

38 Power to extend Part II to other effluents.

(1) The Secretary of State may by order made by statutory instrument provide that this Part of this Act shall apply in relation to liquid or other matter of any description specified in the order which is discharged from any premises into the sewers or sewage treatment works of **[**[F332]Scottish Water**]** as they apply in relation to trade effluent, but subject to such modifications, if any, as may be specified in the order, and in particular subject to any modification of the definition of trade premises in this Act which may be so specified.

(2) An order under this section may designate particular premises in the area of **[**[F333]Scottish Water**]**, or may be made to apply to premises throughout the area, or to premises in any part of the area specified in the order.

(3) Before making an order under this section, the Secretary of State shall consult **[**[F334]the Scottish Environment Protection Agency **[**[F335], Scottish Water and such[F335]**]]**. . . trade organisations and other persons as the Secretary of State considers may have an interest in the order, and, where, in pursuance of subsection (2) above, the order designates particular premises, shall consult the owner and occupier thereof.

(4) The Secretary of State may include in an order under this section such provisions as appear to him expedient for modifying any enactment relating to sewage as that enactment applies in relation to the discharge into sewers of any liquid or other matter to which any provisions of this Part of this Act are applied by an order under this section.

(5) The Secretary of State may include in an order under this section such transitional, supplemental and incidental provisions as appear to him to be expedient.

(6) The Secretary of State shall not make an order under this section unless a draft of the order has been laid before Parliament and approved by a resolution of each House of Parliament.

Textual Amendments

F332 Words in s. 38(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**

F333 Words in s. 38(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**

F334 Words in s. 38(3) inserted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 12(1)(a)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

F335 Words in s. 38(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 34** (with s. 67); S.S.I. 2002/118, **art. 2**

Modifications etc. (not altering text)

C34 Ss. 24-38 (Pt. II) excluded (30.6.1993) by S.I. 1993/1446, **reg. 3(3)**.

PART III

MISCELLANEOUS AND GENERAL

39 Local authority to have right to sewage.

[[F336]Scottish Water**]** shall have right to all sewage discharged into **[**[F337]its**]** sewers **[**[F338] , SUD systems **]** or sewage treatment works and to the contents of any septic tank emptied by **[**[F339]it**]** under section 10(1) above and may process, sell or otherwise dispose of such sewage or contents.

Textual Amendments

F336 Words in s. 39 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**

F337 Words in s. 39 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 35(a)** (with s. 67); S.S.I. 2002/118, **art. 2**

F338 Words in s. 39 inserted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 38(1), **Sch. 3 para. 18**; S.S.I. 2007/512, art. 2(c)

F339 Words in s. 39 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 35(b)** (with s. 67); S.S.I. 2002/118, **art. 2**

[F340]40 . . . . . .

Textual Amendments

F340 S. 40 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 75(23), **Sch. 14**; S.I. 1996/323, art. 4(1)(b)(c)(d), **Sch. 2**

41 Breaking open of streets, etc.

Subject to the provisions of the **[**[F341]Part IV of the New Roads and Street Works Act 1991**]**, **[**[F342]Scottish Water or any**]** other person may, for the purpose of taking any

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action or executing work authorised or required by this Act in relation to sewers **[**[F343] , SUD systems **]**, drains or sewage treatment works, break open **[**[F344]any road, any bridge carrying a road,**]** and any cellar **[**[F345], vault, sewer, drain or tunnel in or under a road**]**, and may remove and use the soil or other materials in or under any such **[**[F346]road**]**:

Provided that **[**[F347]Scottish Water or, as the case may be, that person**]** shall, in the exercise of the powers conferred by this section, cause as little inconvenience and do as little damage as may be, and for any damage done shall pay compensation to be determined, in case of dispute, by the sheriff summarily, whose decision in the matter shall be final.

Textual Amendments

F341 Words in s. 41 substituted (1.1.1993) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(1), **Sch. 8**, Part IV para. 103(2); S.I. 1992/2990, art. 2(2), **Sch. 2**

F342 Words in s. 41 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 36(a)** (with s. 67); S.S.I. 2002/118, **art. 2**

F343 Words in s. 41 inserted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 38(1), **Sch. 3 para. 19**; S.S.I. 2007/512, art. 2(c)

F344 Words substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 64(4)**(*a*)

F345 Words substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 64(4)**(*b*)

F346 Words substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 64(4)**(*c*)

F347 Words in s. 41 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 36(b)** (with s. 67); S.S.I. 2002/118, **art. 2**

Modifications etc. (not altering text)

C35 S. 41 applied with modifications (1.4.1992) by Environmental Protection Act 1990 (c. 43, SIF 46:4), **s. 45(10)**; S.I. 1992/266, **art. 3**.

42 Execution of works by local authorities for other persons.

(1) Where by virtue of this Act or anything done thereunder a person is authorised or required to carry out any works, **[**[F348]Scottish Water**]** may carry out those works at the request of that person and may recover from him **[**[F349]its**]** reasonable expenses for so doing.

(2) In carrying out such works **[**[F350]Scottish Water**]** shall have all the rights and powers which the person who made the request as aforesaid would have in relation thereto.

Textual Amendments

F348 Words in s. 42(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 37(a)** (with s. 67); S.S.I. 2002/118, **art. 2**

F349 Words in s. 42(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 37(b)** (with s. 67); S.S.I. 2002/118, **art. 2**

F350 Words in s. 24(2) 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**

43 Power to require occupier to permit works to be executed by owner.

If on a complaint by the owner of any premises it appears to the sheriff that the occupier of those premises prevents the owner from executing any work which he is required

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or authorised to execute by or under this Act, the sheriff may authorise the owner to enter the premises for the purpose of executing the work.

44 Power of local authorities to require information as to ownership etc. of premises.

[[F351]Scottish Water**]** may, for the purpose of enabling **[**[F352]it**]** to perform any of **[**[F353]its**]** functions under this Act, require the occupier or owner of any premises to state in writing the nature of his own interest therein and the name and address of any other person known to him as having an interest therein, whether as owner, tenant, heritable creditor or otherwise, and any person who having been required by a local authority in pursuance of this section to give **[**[F352]it**]** any information fails to give **[**[F352]it**]** that information, or knowingly makes any misstatement in respect thereof, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding **[**[F354]level 3 on the standard scale**]**.

Textual Amendments

F351 Words in s. 44 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**

F352 Words in s. 44 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 38(a)** (with s. 67); S.S.I. 2002/118, **art. 2**

F353 Words in s. 44 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 38(b)** (with s. 67); S.S.I. 2002/118, **art. 2**

F354 Words substituted by virtue of Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 56, **Sch. 6 para. 41** and by 1995 c. 40, ss. 3, 7(2), Sch. 1 para. 10, **Sch. 2 Pt. III** it is provided (1.4.1996) that s. 44 shall have effect as if the maximum fine that may be imposed on summary conviction for the offence mentioned therein were a fine not exceeding level 3 on the standard scale instead of a fine not exceeding £20

45 Production of plans and furnishing of information to authorities.

(1) The owner or occupier of any land on or under which is situated any sewer **[**[F355] , SUD system **]** or drain used or intended to be used for discharging any sewage into a sewer **[**[F355] , SUD system **]** or sewage treatment works of **[**[F356]Scottish Water**]** shall, when requested in writing so to do by **[**[F357]Scottish Water**]**—

(a) produce to **[**[F357]Scottish Water**]** all such plans of the sewer **[**[F358] , system **]**or drain as the owner or occupier, as the case may be, possesses or is able without unreasonable expense to obtain, and allow copies of the plans so produced by him to be made by, or under the direction of, **[**[F357]Scottish Water**]**, and

(b) furnish to **[**[F357]Scottish Water**]** all such information as the owner or occupier, as the case may be, can reasonably be expected to supply with respect to the sewer **[**[F358] , system **]** or drain and any sewage discharged therefrom.

(2) A person who fails to comply with this section shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding **[**[F359]level 3 on the standard scale**]**.

Textual Amendments

F355 Words in s. 45 inserted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 38(1), **Sch. 3 para. 20(a)**; S.S.I. 2007/512, art. 2(c)

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F356 Words in s. 45 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**

F357 Words in s. 45(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**

F358 Words in s. 45 inserted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 38(1), **Sch. 3 para. 20(b)**; S.S.I. 2007/512, art. 2(c)

F359 Words substituted by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **ss. 289F**, 289G

46 Certain matter not to be passed into drains.

(1) Without prejudice to the provisions of Part II of this Act, no person shall pass or permit to be passed into, or into a drain connecting with, a public sewer **[**[F360] , public SUD system **]** or public sewage treatment works any matter or substance which, either alone or in combination with any matter or substance with which it is likely to come into contact while passing through any sewer **[**[F361] , SUD system **]** or works, is likely to injure the sewer **[**[F361] , SUD system **]** or works, or to interfere with the free flow of their contents, or to affect prejudicially the treatment or disposal of their contents or to be prejudicial to health:
Provided that it shall be a defence for any person charged with an offence under this section if he proves that at the time he so passed or permitted to be passed the matter or substance concerned he did not know, and could not reasonably be expected to know, that it would be likely to have the aforementioned effects.

(2) A person who contravenes any of the provisions of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding **[**[F362] £40,000 **][**[F363]and on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both a fine and such imprisonment**]**.

Textual Amendments

F360 Words in s. 46 inserted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 38(1), **Sch. 3 para. 21(a)**; S.S.I. 2007/512, art. 2(c)

F361 Words in s. 46 inserted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 38(1), **Sch. 3 para. 21(b)**; S.S.I. 2007/512, art. 2(c)

F362 Word in s. 46(2) substituted (28.10.2004) by Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8), s. 145(2), **Sch. 2 para. 1(4)**; S.S.I. 2004/420, art. 3, Sch. 1

F363 Words added by Control of Pollution Act 1974 (c. 40), **Sch. 2 para. 25(b)**

[F364]47 . . . . . .

Textual Amendments

F364 S. 47 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 75(23), **Sch. 14**; S.I. 1996/323, art. 4(1)(b)(c)(d), **Sch. 2**

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48 Powers of entry.

(1) Subject to the provisions of this section, **[**[F365]any person duly authorised by **[**[F366]Scottish Water**]**(whether or not an employee of **[**[F367]Scottish Water**]** and whether such authorisation is special or general)**]** 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) surveying land or boring or carrying out other works in order to ascertain the suitability of the land for the laying of a sewer or the construction of **[**[F368] a SUD system or **]** other works under this Act;

(b) ascertaining whether there is or has been on or in connection with the land or premises any contravention of the provisions of this Act or of any conditions imposed thereunder;

(c) ascertaining whether or not circumstances exist which would authorise **[**[F367]Scottish Water**]** to take any action or execute any work under this Act;

(d) taking any action or executing any work authorised or required by this Act to be taken or executed by **[**[F367]Scottish Water**][**[F369]or which may be authorised by **[**[F370]it**]** under section 3A of this Act**]**;

[[F371](dd) inspecting, maintaining, repairing, cleansing, emptying, ventilating or renewing any sewer **[**[F372]or SUD system **]** which is not a public sewer **[**[F373]or public SUD system **]** but forms part of any such system as is mentioned in **[**[F374]section 46(1)(b)(ii) of the Water Industry (Scotland) Act 2002 (asp 3)**]**;**]**

(e) inspecting any records and other documents and apparatus which **[**[F367]Scottish Water**]** may reasonably require to inspect for the purpose of exercising any of **[**[F375]its**]** functions under this Act;

(f) taking away for analysis samples of sewage or any other matter or substance which is passing from the premises into **[**[F376]—

(i) public sewers **[**[F377], public SUD systems **]** or public sewage treatment works; or

(ii) sewers **[**[F378], SUD systems **]** or sewage treatment works not vested in **[**[F366]Scottish Water**]** but forming (or forming part of) any such system as is mentioned in the said **[**[F379]section 46(1)(b)(ii)**].]**

(2) Entry to land or premises not being a factory within the meaning of the [M6]Factories Act 1961, or a place in which persons are employed otherwise than in domestic service, shall not be demanded as of right unless at least 24 hours notice of the intended entry has been given to the occupier.

(3) Before **[**[F380]entry is made**]** upon land or premises for any of the purposes mentioned in subsection (1)(a) above the **[**[F381]the authorised person, or **[**[F382]Scottish Water**]** on his behalf,**]** shall serve notice of the intended entry upon the owner and occupier, who within 14 days of the receipt of the notice may make representations to the Secretary of State, who, having considered any such representations, may authorise the entry either unconditionally or subject to such conditions as he thinks fit, or refuse to authorise it.

Every notice under this subsection shall inform the owner and occupier of their right to make representations to the Secretary of State.

(4) A person carrying out an inspection of documents under subsection (1)(e) above shall have a right to take copies or extracts from the documents.

(5) Where notice of intended entry for a particular purpose has been given as respects the first occasion on which the right of entry is exercised, no further notice shall be

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required before entering the land or premises on a subsequent occasion in connection with that purpose.

(6) If it is shown to the satisfaction of the sheriff, or a magistrate or justice of the peace having jurisdiction in the place where the land or premises are situated, on a sworn information in writing—

(a) that admission to land or premises which any person is entitled to enter by virtue of this section has been refused to that person, or that refusal is apprehended, or that the land or premises are unoccupied, or the occupier is temporarily absent, or that the case is one of urgency, or that the application for admission would defeat the object of the entry, and

(b) that there are reasonable grounds for entry to the land or premises for any purpose for which the right of entry is exercisable

the sheriff, magistrate or justice may by warrant under his hand authorise that person to enter the land or premises if need be by force.

(7) Any person entitled to enter any land or premises, by virtue of a right of entry or of a warrant issued under this section, may take with him such other persons as may be necessary, and on leaving any unoccupied land or premises which he has entered by virtue of such a warrant shall leave them as effectually secured against trespassers as he found them.

(8) Every warrant granted under this section shall continue in force until the purpose for which the entry is necessary has been satisfied.

(9) A person who wilfully obstructs any person upon whom a right of entry has been conferred by any of the provisions of this section or by a warrant issued thereunder shall be guilty of an offence and liable on summary conviction to a fine not exceeding **[**[F383]level 3 on the standard scale**]** and to a further fine not exceeding £5 for each day on which the offence continues after conviction therefor.

(10) Where work has been carried out on land in pursuance of this section the **[**[F384]person who carried it out**]** shall, as soon as possible, reinstate the land.

Textual Amendments

F365 Words in s. 48(1) substituted (4.1.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(24)(a)(i)**; S.I. 1994/2850, **art. 3(c)(vi)** (with art. 4)

F366 Words in s. 48(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**

F367 Words in s. 48(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**

F368 Words in s. 48(1)(a) inserted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 38(1), **Sch. 3 para. 22(a)**; S.S.I. 2007/512, art. 2(c)

F369 Words in s. 48(1)(d) added (4.1.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(24)(a)(ii)**; S.I. 1994/2850, **art. 3(c)(vi)** (with art. 4)

F370 Word in s. 48(1)(d) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 39(a)** (with s. 67); S.S.I. 2002/118, **art. 2**

F371 S. 48(1)(dd) inserted (4.1.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(24)(a)(iii)**; S.I. 1994/2850, **art. 3(c)(vi)** (with art. 4)

F372 Words in s. 48(1)(dd) inserted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 38(1), **Sch. 3 para. 22(b)(i)**; S.S.I. 2007/512, art. 2(c)

F373 Words in s. 48(1)(dd) inserted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 38(1), **Sch. 3 para. 22(b)(ii)**; S.S.I. 2007/512, art. 2(c)

F374 Words in s. 48(1)(dd) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 39(b)** (with s. 67); S.S.I. 2002/118, **art. 2**

F375 Word in s. 48(1)(e) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 39(c)** (with s. 67); S.S.I. 2002/118, **art. 2**

F376 Paras. (i)(ii) substituted for words in s. 48(1)(f) (4.1.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(24)(a)(i)**; S.I. 1994/2850, **art. 3(c)(vi)** (with art. 4)

F377 Words in s. 48(1)(f)(i) inserted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 38(1), **Sch. 3 para. 22(c)(i)**; S.S.I. 2007/512, art. 2(c)

F378 Words in s. 48(1)(f)(ii) inserted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 38(1), **Sch. 3 para. 22(c)(ii)**; S.S.I. 2007/512, art. 2(c)

F379 Words in s. 48(1)(f)(ii) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 39(d)** (with s. 67); S.S.I. 2002/118, **art. 2**

F380 Words in s. 48(3) substituted (4.1.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(24)(b)(i)**; S.I. 1994/2850, **art. 3(c)(vi)** (with art. 4)

F381 Words in s. 48(3) substituted (4.1.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(24)(b)(ii)**; S.I. 1994/2850, **art. 3(c)(vi)** (with art. 4)

F382 Words in s. 48(3) 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**

F383 Words substituted by virtue of Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 56, **Sch. 6 para. 42** and by 1995 c. 40, ss. 3, 7(2), Sch. 1 para. 10, **Sch. 2 Pt. III** it is provided (1.4.1996) that s. 48(9) shall have effect as if the maximum fine that may be imposed on summary conviction for the offence mentioned therein were a fine not exceeding level 5 on the standard scale and £5 per day which the offence continues instead of a fine not exceeding £20

F384 Words in s. 48(10) substituted (4.1.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(24)(c)**; S.I. 1994/2850, **art. 3(c)(vi)** (with art. 4)

Modifications etc. (not altering text)

C36 S. 48: power to modify conferred (*temp.* from 4.1.995 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

M6 1961 c. 34.

F385 49 . . . . . .

Textual Amendments

F385 S. 49 repealed (1.4.1996) by 1995 c. 25, ss. 111(1)(b), 120(3), **Sch. 24**. (with ss 7(6), 115, 117); S.I. 1996/186, **art. 3(viii)**

50 Restriction on disclosure of information.

(1) If any person who, in compliance with any of the provisions of this Act or with a warrant issued thereunder, is admitted to any land or premises makes use of or discloses to any person any information obtained by him there with regard to any manufacturing process or trade secret, he shall, unless such use or disclosure was made in the performance of his duty, be guilty of an offence under this section.

(2) If any person discloses any information which has been furnished to him under this Act, he shall be guilty of an offence under this section, unless the disclosure is made—

Status: *Point in time view as at 01/04/2011.*
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(a) with the consent of the person by whom the information was furnished; or **[**[F386](aa) in prescribed circumstances or for prescribed purposes; or**]**

(b) in connection with the execution of this Act; or

(c) for the purposes of any proceedings arising out of this Act, or of any criminal proceedings whether so arising or not, or for the purpose of any report of any such proceedings.

(3) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding **[**[F387]level 5 on the standard scale**]**.

[[F388](4) In paragraph (aa) of subsection (2) 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.

(6) Subsections (1) and (2) above are subject to regulation 3(7) of the Environmental Information Regulations 1992 (which disapplies restrictions on disclosure if in pursuance of the [M7]regulations).**]**

Textual Amendments

F386 S. 50(2)(aa) inserted (4.1.1995) by 1994 c. 39, **s. 104(a)** (with s. 74(4)); S.I. 1994/2850, **art. 3(c)(vi)** (with art. 4)

F387 Words substituted by virtue of Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 56, **Sch. 6 para. 43** and by 1995 c. 40, ss. 3, 7(2), Sch. 1 para. 10, **Sch. 2 Pt. III** it is provided (1.4.1996) that s. 50(3) shall have effect as if the maximum fine that may be imposed on summary conviction for the offence mentioned therein were a fine not exceeding level 5 on the standard scale instead of a fine not exceeding £100

F388 S. 50(4)(5)(6) added (4.1.1995) by 1994 c. 39, **s. 104(b)** (with s. 74(4)); S.I. 1994/2850, **art. 3(c)(vi)** (with art. 4)

Marginal Citations

M7 S.I. 1992/3240.

51 Procedure on appeals to Secretary of State.

(1) Any appeal to the Secretary of State under this Act shall be made, unless the parties to the appeal otherwise agree, within 28 days of the decision against which the appeal is made.

(2) At the same time as an appellant makes any such appeal under this Act he shall serve a copy of the appeal on **[**[F389]Scottish Water**]** .

(3) Before disposing of any such appeal the Secretary of State may afford to the appellant and **[**[F390]Scottish Water**]** an opportunity of appearing before and being heard by a person appointed in that behalf by the Secretary of State.

(4) The decision of the Secretary of State on any such appeal shall be deemed to be the decision of **[**[F389]Scottish Water**]** from whom the appeal is made.

(5) The decision of the Secretary of State on any such appeal shall be final, but at any stage of the proceedings on the appeal he may, and if so directed by the Court of Session

shall, state a case for the opinion of the Court on any question of law arising in those proceedings.

(6) Pending a decision on any appeal to the Secretary of State under Part II of this Act a discharge of trade effluent being made may continue to be made in accordance with the conditions then applying.

[[F391](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 to annulment in pursuance of a resolution of either House of Parliament.**]**

Textual Amendments

F389 Words in s. 51(2)(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**

F390 Words in s. 51(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**

F391 S 51(7)(8) added (17.7.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(25)(b)**; S.I. 1995/1898, **art. 2(c)(d)**

[F392]52 . . . . . .

Textual Amendments

F392 S. 52 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 75(26), **Sch. 14**; S.I. 1996/323, art. 4(1)(b)(c)(d), **Sch. 2**

53 Notices etc. to be in writing.

All notices, directions, decisions, applications, appeals and agreements given or made under this Act by **[**[F393]Scottish Water**]**, or an owner, occupier or prospective occupier of premises, and other documents which are given, made, served, authorised or required under this Act shall be in writing.

Textual Amendments

F393 Words in s. 53 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**

54 Local enactments.

(1) Subject to subsection (2) below, where any local enactment provides for any matter which is also provided for by any provision of this Act or of any order made thereunder, the provision of this Act, or, as the case may be, of that order, shall have effect in substitution for the local enactment, which shall cease to have effect.

Status: *Point in time view as at 01/04/2011.*
Changes to legislation: *Sewerage (Scotland) Act 1968 is up to date with all changes known to be in force on or before 23 May 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)*

(2) The Secretary of State may by order except from the operation of the foregoing subsection such local enactments as may be specified in the order and direct that the corresponding provisions of this Act or of any order made thereunder as may be so specified shall not have effect in the areas in which the specified local enactments have effect.

(3) If it appears to the Secretary of State that any local enactment, not being an enactment which has ceased to have effect by virtue of subsection (1) above, is inconsistent with any provision of this Act or of any order made thereunder, or is no longer required, or requires to be amended, having regard to any provision of this Act or of any order made thereunder, he may by order repeal or amend the local enactment as he may consider appropriate.

(4) Any order made under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

55 Application of Act to Crown premises.

(1) The provisions of this section shall apply in relation to any premises belonging to Her Majesty in right of the Crown, or belonging to a government department, or held in trust for Her Majesty for the purposes of a government department.

(2) The appropriate authority in relation to any premises and **[**[F394]Scottish Water**]** may agree that any provisions of this Act specified in the agreement shall apply to those premises and, while the agreement is in force, those provisions shall apply to the premises accordingly, subject however to the terms of the agreement.

(3) Any such agreement as aforesaid may contain such consequential and incidental provisions, including, with the approval of the Treasury, provisions of a financial character, as appear to the appropriate authority to be necessary or equitable, but agreements made by the Crown Estate Commissioners **[**[F395]or the Scottish Ministers**]**. . . shall not require such approval.

(4) In this section "the appropriate authority" means—

(a) in the case of premises belonging to Her Majesty in right of the Crown, the Crown Estate Commissioners or other government department having the management of the premises in question; and

(b) in the case of premises belonging to a government department or held in trust for Her Majesty for the purposes of a government department, that department;

and, if any question arises as to what authority is the appropriate authority in relation to any premises, that question shall be referred to the Treasury, whose decision shall be final.

Textual Amendments

F394 Words in s. 55(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 40** (with s. 67); S.S.I. 2002/118, **art. 2**

F395 Words in s. 55(3) inserted (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, **Sch. 2 Pt. I para. 47** (with art. 5); S.I. 1998/3178, **art. 3**

Status: *Point in time view as at 01/04/2011.*
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Modifications etc. (not altering text)

C37 S. 55(4): 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**

56 Saving for Coast Protection Act 1949.

Nothing in this Act shall affect the application to any operation of sections 34 to 36 of the [M8]Coast Protection Act 1949 (restriction of works detrimental to navigation).

Marginal Citations

M8 1949 c. 74.

57 Expenses.

There shall be paid out of moneys provided by Parliament any increase attributable to this Act in the sums payable out of moneys so provided under any other Act.

58 Orders.

Any power conferred on the Secretary of State by this Act to make an order shall include power, exercisable in like manner and subject to the same conditions, to vary or revoke the order by a subsequent order.

59 Interpretation.

[F396](1) In this Act, unless the context otherwise requires—

"appointed day" means such day as the Secretary of State may by order made by statutory instrument appoint;

[[F397] " area ", in relation to Scottish Water, means the area comprising all of the local government areas established by virtue of section 1 of the Local Government etc. (Scotland) Act 1994 (c.39); **]**

[F397] . . . . . .

[F398] . . . . . .

[F399] . . . . . .

"domestic sewage" in relation to any area or premises means sewage which is not surface water or trade effluent;

"drain" in relation to premises, means any pipe or drain within the curtilage of those premises used solely for or in connection with the drainage of one building or of any buildings or yards appurtenant to buildings within the same curtilage;

"foul water" means any water contaminated by domestic sewage or trade effluent;

"function" includes power and duty;

[F400] . . . . . .

"land" includes land covered with water and any interest or right in or over land;

"local authority" means a **[**[F401]regional or islands**]** council;

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"local enactment" means any local Act of Parliament or any provision in any such Act;

"occupier" means the person in occupation or having the charge, management or control of premises, either on his own account or as the agent of another person;

"owner" means the person for the time being entitled to receive, or who would, if the same were let, be entitled to receive, the rents of the premises, and includes a trustee, factor, tutor or curator, and in the case of public or municipal property applies to the persons to whom the management thereof is entrusted;

"private sewage treatment works" means sewage treatment works which are not vested in **[**[F402]Scottish Water**]**;

"private sewer" means any sewer which is not a public sewer;

[[F396] " private SUD system " means any SUD system which is not a public SUD system; **]**

"public drain" means any drain which is vested in a local authority **[**[F403]or **[**[F402]Scottish Water**]]**;

"public sewage treatment works" means sewage treatment works which are vested in **[**[F402]Scottish Water**]**;

"public sewer" means any sewer which is vested in **[**[F402]Scottish Water**]**;

[[F396] " public SUD system " means any SUD system which is vested in Scottish Water; **]**

F404 . . . . . .

[[F405] " road " has the same meaning as in **[**[F406] Part IV of the New Roads and Street Works Act 1991 **]** ; **]**

[[F396] " road water " means the run-off of rainwater from any road for the time being entered in a list of public roads kept by a local roads authority under section 1(1) of the Roads (Scotland) Act 1984; **]**

"sewage" includes domestic sewage, surface water and trade effluent;

"sewage treatment works" means any works, apparatus or plant used for the treatment or disposal of sewage, and includes a septic tank **[**[F407]but does not include a SUD system **]**;

"sewer" does not include a drain as defined in this section, but, save as aforesaid, includes all sewers, pipes or drains used for the drainage of buildings and yards appurtenant to buildings;

F408 . . . . . .

F409 . . . . . .

F410 . . . . . .

"surface water" means the run-off of rainwater from roofs and any paved ground surface within the curtilage of premises;

[[F396] " SUD system " means a sustainable urban drainage system; **]**

[[F396] " sustainable urban drainage system " means a drainage system which —

(a) facilitates attenuation, settlement or treatment of surface water from 2 or more premises (whether or not together with road water), and

(b) includes one or more of the following: inlet structures, outlet structures, swales, constructed wetlands, ponds, filter trenches, attenuation tanks and detention basins (together with any associated pipes and equipment);**]**

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"trade effluent" means any liquid, either with or without particles of matter in suspension therein, which is wholly or in part produced in the course of any trade or industry carried on at trade premises, including trade waste waters or waters heated in the course of any trade or industry and, in relation to any trade premises, means any such liquid as aforesaid which is so produced in the course of any trade or industry carried on at those premises;

"trade or industry" for the purpose of the definition of "trade effluent" shall include agriculture, horticulture and scientific research or experiment **[**[F411]the carrying on of a hospital and the provision of a care home service**]**, and for the purpose of the definition of "trade premises" shall include premises used or intended to be used in whole or in part for carrying on agriculture, horticulture or scientific research or experiment, or as a hospital or a **[**[F412]as accomodation provided by a care home service**]**;

"trade premises" means any premises used or intended to be used for carrying on any trade or industry.

[F413] . . . . . .

(2) Unless the context otherwise requires any reference in this Act to a drain or to a sewer shall be construed as including a reference to any manholes, ventilating shafts, pumping stations, storm water overflow pipes, outfall pipes or other accessories belonging to a drain or sewer, and any reference in this Act to sewage treatment works shall be construed as including a reference to accommodation used in connection therewith, the machinery and equipment of those works and any necessary pumping stations.

(3) Any reference in this Act to the construction of a sewer **[**[F414] , SUD system**]** or sewage treatment works shall be construed as including a reference to the extension of an existing sewer **[**[F414] , SUD system**]**or of existing works.

[[F415](3A) In the definition of "trade or industry" in subsection (1) above, the references to a "care home service" shall be construed in accordance with **[**[F416]paragraph 2 of schedule 12 to the Public Services Reform (Scotland) Act 2010**]** (asp 8).**]**

(4) Unless the context otherwise requires, any reference in this Act to any enactment is a reference to that enactment as amended by or under any subsequent enactment, including this Act.

Textual Amendments

F396 Words in s. 59(1) inserted (6.3.2006 for specified purposes, 30.11.2007 in so far as not already in force) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), **ss. 33(1)**, 38(1) (with s. 35(2)); S.S.I. 2006/55, art. 2(c); S.S.I. 2007/512, art. 2(a)

F397 S. 59(1): definition of "area" substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 41(a)** (with s. 67); S.S.I. 2002/118, **art. 2**

F398 Definitions of
"authorised officer"
and
"local authority"
in s. 59(1) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 75(28)(b), **Sch. 14**; S.I. 1996/323, art. 4(1)(b)(c)(d), **Sch. 2**

F399 Definitions repealed by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29**

F400 Definitions of "general rate" and "regional rate" repealed by Abolition of Domestic Rates Etc. (Scotland) Act 1987 (c. 47, SIF 81:2), s. 34, **Sch. 6**

F401 Words substituted by Local Government (Scotland) Act 1973 (c. 65), **Sch. 27 Pt. II para. 182**

F402 S. 59(1): words in definitions of "private sewage treatment works", "public drain", "public sewage treatment works" and "public sewer" substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 41(b)** (with s. 67); S.S.I. 2002/118, **art. 2**

F403 Words in definition of
"public drain"
in s. 59(1) added (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(28)(d)**; S.I. 1996/323, **art. 4(1)(b)(c)**

F404 Definition of
"river purification authority"
in s. 59(1) repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 12(1)(b), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3(viii)**

F405 Definition of "road" inserted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 64(5)(a)**

F406 Words in s. 59(1) substituted (1.1.1993) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(1), **Sch. 8**, Part IV, para. 103(3); S.I. 1992/2990, art. 2(2), **Sch. 2**

F407 Words in s. 59(1) inserted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 38(1), **Sch. 3 para. 23(a)**; S.S.I. 2007/512, art. 2(c)

F408 S. 59(1): definition of "sewerage authority" repealed (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 41(c)** (with s. 67); S.S.I. 2002/118, **art. 2**

F409 Definition repealed by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29**

F410 Definition of "street" repealed by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1)(3), Sch. 9 para. 64(5)(b), **Sch. 11**

F411 S. 59(1): words in definition of "trade or industry" substituted (1.4.2002) by 2001 asp 8, ss. 79, 81(2), Sch. 3 para. 3(a)(i); S.S.I. 2002/162, **art. 2(h)** (subject to arts. 3-13)

F412 S. 59(1): words in definition of "trade or industry" substituted (1.4.2002) by 2001 asp 8, ss. 79, 81(2), Sch. 3 para. 3(a)(ii); S.S.I. 2002/162, **art. 2(h)** (subject to arts. 3-13)

F413 Definition of
"trunk road"
in s. 59(1) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 75(28)(g), **Sch. 14**; S.I. 1996/323, art. 4(1)(b)(c)(d), **Sch. 2**

F414 Words in s. 59(3) inserted (30.11.2007) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 38(1), **Sch. 3 para. 23(b)**; S.S.I. 2007/512, art. 2(c)

F415 S. 59(3A) inserted (27.3.2002) by 2001 asp 8, s. 79, **Sch. 3 para. 3(b)**; S.S.I 2002/162, {art. 2(h)} (subject to arts. 3-13)

F416 Words in s. 59(3A) substituted (1.4.2011) by The Public Services Reform (Scotland) Act 2010 (Consequential Modifications) Order 2011 (S.S.I. 2011/211), art. 1, **Sch. 1 para. 2**

Modifications etc. (not altering text)

C38 References to medical officer of health, surveyor, and sanitary inspector to be construed as references to the proper officer of a local authority; Local Government (Scotland) Act 1973 (c. 65), **Sch. 27 Pt. I para. 2**

60 Amendments and repeals.

(1) The enactments mentioned in Schedule 1 to this Act shall have effect subject to the amendments there specified, being amendments consequential on the provisions of this Act.

(2) The enactments described in Schedule 2 to this Act are hereby repealed to the extent specified in the third column of that Schedule, and so much of that Schedule as relates

Status: *Point in time view as at 01/04/2011.*
Changes to legislation: *Sewerage (Scotland) Act 1968 is up to date with all changes known to be in force on or before 23 May 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)*

to the [M9]Local Government (Scotland) Act 1947 (so far as relating to the operation and dissolution of special drainage districts) shall come into force on the appointed day.

Modifications etc. (not altering text)

C39 The text of s. 60(1)(2), Sch. 1 paras. 2—4, Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

M9 1947 c. 43.

61 Short title, extent and commencement.

(1) This Act may be cited as the Sewerage (Scotland) Act 1968 and shall extend to Scotland only.

(2) This Act, except this section, shall come into force on such date as the Secretary of State may by order made by statutory instrument appoint, and different dates may be appointed under this subsection for different provisions of this Act or for different purposes.

(3) Any reference in this Act to the commencement of any provision thereof shall be construed as a reference to the date when that provision comes into force.

Modifications etc. (not altering text)

C40 Power of appointment conferred by s. 61(2) fully exercised: S.I. 1972/363

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SCHEDULE 1

Section 60(1).

CONSEQUENTIAL AMENDMENTS

The [M10]Public Health (Scotland) Act 1897

Marginal Citations
M10 1897 c. 38.

1 . . . . . [F417]

Textual Amendments
F417 Sch. 1 para. 1 repealed by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29**

[F418]2 . . . . . .

Textual Amendments
F418 Sch. 1 para. 2 repealed (1.10.2009) by Public Health etc. (Scotland) Act 2008 (asp 5), s. 128(2), **Sch. 3 Pt. 1** (with s. 127); S.S.I. 2009/319, art. 2(a), Sch. 1

Modifications etc. (not altering text)
C41 [F418]...

The [M11]Local Government (Scotland) Act 1947

Marginal Citations
M11 1947 c. 43.

3 In Schedule 6, item 11, for the words "Section 139 of the Public Health (Scotland) Act 1897" there shall be substituted the words "The Sewerage (Scotland) Act 1968".

Modifications etc. (not altering text)
C42 The text of s. 60(1)(2), Sch. 1 paras. 2—4, Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

The [M12]Radioactive Substances Act 1960

Marginal Citations
M12 1960 c. 34.

Status: *Point in time view as at 01/04/2011.*
Changes to legislation: *Sewerage (Scotland) Act 1968 is up to date with all changes known to be in force on or before 23 May 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)*

F419 4 . . . . . .

Textual Amendments

F419 Sch. 1 para. 4 repealed (27.8.1993) by 1993 c. 12, ss. 50, 51(2), **Sch.6 Pt. 1** (with s. 46).

SCHEDULE 2

Section 60(2).

ENACTMENTS REPEALED

Modifications etc. (not altering text)

C43 The text of s. 60(1)(2), Sch. 1 paras. 2—4, Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Chap ter	Short Title	Extent of Repeal
39 & 40 Vict. c. 75	The Rivers Pollution Prevention Act 1876.	The whole Act
55 & 56 Vict. c. 55.	The Burgh Police (Scotland) Act 1892.	In section 107, the word “sewers”. In section 111, the words “and for cleansing the sewers and drains”. Sections 214 to 222, 224, 225 and 227. In section 228, the words “ No building shall be erected over any sewer belonging to the commissioners”, the words “ and so as not to interfere or communicate with any sewers belonging to the commissioners”, the words “any building be erected”, and the words “erecting such building”. Sections 229 to 232. In section 233, the words from “guilty of” to “besides being”. Sections 234 to 237 and section 242.

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		In section 243 the words "drain or" wherever they occur, and the words from "and all branch drains"onwards.
		In section 250, the words "and with power to make such drain if none such already exist", the words from "the sanction" to "street; and", the words "with the expense of restoring the street, so far as interfered with", and the words from "with such" to "may fix".
		In section 329, the words from "the special" to "sewers", the words "rate or", and the word "rate".
		In sections 330 and 331, the word "rate".
		In section 332, the word "rate" where first occurring.
		Sections 361, 362 and 364.
		In section 366, the words "special sewer rate, general sewer rate, and".
		In section 367, the words "rates or" wherever they occur.
		In section 368, the words "special sewer rate, general sewer rate, and", the words "rates and", and the words "rated or" wherever they occur.
		In section 369, the words "rates or" wherever they occur.
		Schedule VI so far as it relates to general sewer rate and special sewer rate.
F420	**F420**	**F420**
. . .	. . .	. . .
		In section 116, the words from "or to use" onwards.

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		Sections 117, 119, 120, 122 and 139.
1 Edw. 7. c. 24.	The Burgh Sewerage, Drainage and Water Supply (Scotland) Act 1901.	The whole Act.
3 Edw. 7. c. 33.	The Burgh Police (Scotland) Act 1903.	Section 25.
		In section 98(6), the words “sewers, drains”.
10 & 11 Geo. 6. c. 43.	The Local Government (Scotland) Act 1947.	Part VII, so far as relating to the formation,operation and dissolution of special drainage districts.
		Section 225(1) so far as relating to the special district sewer rate.
8 & 9 Eliz. 2. c. 34.	The Radioactive Substances Act 1960.	In Part II of Schedule 1, paragraph 10, in paragraph 11 the reference to section 222, and in paragraph 13 the reference to section 120.

Textual Amendments

F420 Words in Sch. 2 repealed (1.10.2009) by Public Health etc. (Scotland) Act 2008 (asp 5), s. 128(2), **Sch. 3 Pt. 1** (with s. 127); S.S.I. 2009/319, art. 2(a), Sch. 1

Status:
Point in time view as at 01/04/2011.

Changes to legislation:
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