



# Sewerage (Scotland) Act 1968

## 1968 CHAPTER 47

### 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 [<sup>F1</sup>Scottish Water] to provide such public sewers [<sup>F2</sup>and public SUD systems ] as may be necessary for effectually draining [<sup>F3</sup>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 [<sup>F3</sup>its] sewers [<sup>F4</sup>and SUD systems ].

[<sup>F5</sup>(2) Without prejudice to the generality of subsection (1) above—

- (a) [<sup>F6</sup> Scottish Water ] shall, subject to paragraph (b) below, take [<sup>F7</sup> 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 [<sup>F8</sup> 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 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 [<sup>F9</sup>Scottish Water] to do anything which is not practicable at a reasonable cost.

[<sup>F10</sup>(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—

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- (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 <sup>F11</sup>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 <sup>F12</sup>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<sup>F13</sup>Water Industry Commission for Scotland], if requested to do so by any person aggrieved, shall, after consultation with that person and with <sup>F14</sup>[<sup>F8</sup>Scottish Water], or as the case may be <sup>F15</sup>[the] private provider, concerned], determine that question, and <sup>F16</sup>[<sup>F17</sup>Scottish Water] or <sup>F15</sup>[the] private provider] shall give effect to <sup>F18</sup>[its] determination.

<sup>F19</sup>(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.]

<sup>F20</sup><sup>F21</sup>( 5 ) .....

(6) The power to make regulations under<sup>F22</sup>[<sup>F23</sup>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.]

<sup>F24</sup>(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.]]

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## 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))
- 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

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

- C1** 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 [<sup>F25</sup>Scottish Water] to inspect, maintain, repair, cleanse, empty, ventilate and where appropriate renew all sewers [<sup>F26</sup>SUD systems, ], sewage treatment works and other works vested in [<sup>F27</sup>it] by virtue of this Act [<sup>F28</sup>or of [<sup>F29</sup>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)

- C2** 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, [<sup>F30</sup>Scottish Water] may, <sup>F31</sup>...—
- (a) construct a public sewer [<sup>F32</sup> or SUD system]—
    - (i) in, under or over any [<sup>F33</sup>road], or under any cellar or vault below any [<sup>F33</sup>road];
    - (ii) in, on or over any land not forming part of a [<sup>F33</sup>road];
  - (b) construct public sewage treatment works in or on any land held by [<sup>F34</sup>it] or appropriated for the purpose.
- (2) Before commencing construction of a sewer [<sup>F35</sup> or SUD system ] in, on or over any land not forming part of a [<sup>F33</sup>road], [<sup>F36</sup>Scottish Water] shall serve notice of [<sup>F37</sup>its] 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, [<sup>F38</sup>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.

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- (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)

- C3** 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**

### [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

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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**
- 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)

- C4** 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)

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

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

- C5** 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](#).

<sup>F68</sup>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.

<sup>F69</sup> .....

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### 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, [<sup>F70</sup>a roads authority] and [<sup>F71</sup>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 [<sup>F72</sup>, SUD systems ] or drains for the conveyance of water from the surface of [<sup>F73</sup>a road] or surface water from premises.

(2) <sup>F74</sup> .....

(3) [<sup>F75</sup>A roads authority or [<sup>F76</sup>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, <sup>F77</sup> ..., and any dispute arising under this section to which the Secretary of State is not a party as to whether or not [<sup>F78</sup>a roads authority or Scottish Water] are acting unreasonably, shall be referred to the Secretary of State, who, after consultation with the [<sup>F79</sup>authority concerned and Scottish Water], shall determine the dispute, and his decision shall be final.

[<sup>F80</sup>(3A) In the foregoing provisions of this section, “ roads authority ” has the same meaning as in the <sup>M1</sup> Roads (Scotland) Act 1984. ]

<sup>F81</sup>(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](#)



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#### Marginal Citations

M1 1984 c. 54.

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

- (1) Subject to subsection (2) below, where [<sup>F82</sup>Scottish Water is] satisfied that premises are to be constructed within [<sup>F83</sup>its] area by any person, [<sup>F84</sup>it] may enter into an agreement with that person as respects the provision by that person or by [<sup>F85</sup>it] of sewers [<sup>F86</sup>, 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 [<sup>F87</sup>Scottish Water] of [<sup>F88</sup>SUD systems and] sewage treatment works so provided, and, in relation to any premises served or to be served by the sewers [<sup>F86</sup>, SUD systems ] or works, shall be enforceable against [<sup>F89</sup>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 [<sup>F90</sup>Scottish Water] where [<sup>F91</sup>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, [<sup>F92</sup>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:

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Provided that [<sup>F92</sup>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**

### [<sup>F93</sup>10 Emptying of septic tanks.

- (1) It shall be the duty of [<sup>F94</sup>Scottish Water]<sup>F94</sup> to empty a septic tank serving premises in [<sup>F95</sup>its]<sup>F95</sup> area on [<sup>F95</sup>its]<sup>F95</sup> 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 [<sup>F95</sup>its]<sup>F95</sup> doing so being timeously paid.
- (2) The duty does not extend to septic tanks which receive trade effluent; but [<sup>F96</sup>Scottish Water]<sup>F96</sup> 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 [<sup>F97</sup>it thinks]<sup>F97</sup> 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 [<sup>F98</sup>the Water Industry (Scotland) Act 2002 (asp 3)]<sup>F98</sup>).

#### 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**
- 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.

- [<sup>F99</sup>(1) [<sup>F100</sup>Scottish Water] shall keep deposited at [<sup>F101</sup>its] principal office a map showing and distinguishing so far as is reasonably practicable all sewers, drains<sup>F102</sup>, SUD systems ] and sewage treatment works which are vested in [<sup>F103</sup>it] by virtue of this Act or of

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- [<sup>F104</sup>the Water Industry (Scotland) Act 2002 (asp 3)] or in respect of which [<sup>F105</sup>it has] made a determination under section 3A(2) of this Act; and [<sup>F106</sup>Scottish 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 [<sup>F106</sup>Scottish Water] may determine.]
- (2) Where some of the sewers so vested in [<sup>F100</sup>Scottish 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.
- [<sup>F107</sup>(3) [<sup>F100</sup>Scottish Water] shall keep deposited at such of [<sup>F101</sup>its] offices, other than [<sup>F101</sup>its] principal office, as [<sup>F108</sup>it considers] appropriate, a copy relevant to the office in question of part of the map mentioned in subsection (1) above; and [<sup>F109</sup>it] 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, [<sup>F110</sup>it does] in relation to the map mentioned in that subsection at [<sup>F101</sup>its] 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 [<sup>F111</sup>Scottish 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**

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