



Sewerage (Scotland) Act 1968

1968 CHAPTER 47

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 [^{F1}Scottish Water] may discharge into the sewers or sewage treatment works of [^{F2}Scottish 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 [^{F1}Scottish Water] without the consent of [^{F2}Scottish 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 [^{F3}£40,000].

Textual Amendments

- F1** 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](#)
- F2** 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](#)
- F3** 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)

- C1** Ss. 24-38 (Pt. II) excluded (30.6.1993) by [S.I. 1993/1446, reg. 3\(3\)](#)

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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 [^{F4}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

- F4** 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)

- C2** 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 [^{F5}Scottish Water] shall obtain the consent of [^{F6}Scottish Water] to the discharge, which shall be applied for in accordance with section 27 below.

Textual Amendments

- F5** 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](#)
- F6** 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)

- C3** 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 [^{F7}Scottish Water] under section 26 above shall be made by serving a notice on [^{F8}Scottish Water](hereafter in this Part of this Act referred to as a “trade effluent notice”).

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- (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 [F8Scottish Water] is not the owner of the premises, he shall, at the same time as serving a trade effluent notice on [F8Scottish 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 [F8Scottish Water] within 28 days of receipt of the copy.
- (4) [F8Scottish Water] on receiving a trade effluent notice shall forthwith send a copy of the notice to—
 - (a) F9
 - (b) any other body acting under statutory powers which, in the opinion of [F8Scottish Water], has an interest in the application.
and at the same time shall inform F10 ... 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) [F8Scottish Water] before making a decision on an application shall take into account any representations made in pursuance of subsections (3) and (4) above.
- (6) F11

Textual Amendments

- F7** 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**
- F8** 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**
- F9** 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**
- F10** 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**
- F11** 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)

- C4** 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 [F12Scottish Water] under section 26 above shall, subject to the following subsection, be decided by [F13it] and intimated in accordance with section 30 below within a period of 3 months of the receipt by [F13it] 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 [F14Scottish Water]

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within a period of 28 days of the receipt by [F13it] of the Secretary of State's decision under the said section 27(6).

Textual Amendments

- F12** 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](#)
- F13** 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](#)
- F14** 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)

- C5** 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) [F15Scottish Water] in [F16its] decision on an application under section 26 above may refuse [F16its] consent or [F17it] may grant [F16its] consent either unconditionally or subject to such conditions as [F17it] may think fit to impose.
- (2) Where [F18Scottish Water has] failed to intimate [F19its] 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, [F20it] shall be deemed to have made a decision on the last day of that period refusing [F19its] consent to the application.
- (3) Without prejudice to subsection (1) above, [F21Scottish Water] in granting [F22: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;
 - (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 [F21Scottish 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 effluent, before it enters the sewers, where [F21Scottish Water][F23is] 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

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- (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 [^{F21}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 [^{F21}Scottish Water] in connection with the reception, treatment or disposal of the trade effluent or in connection with the provision already made by [^{F24}it] for the treatment and disposal of trade effluent in [^{F25}its] area, and to any revenue likely to be derived by [^{F21}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 [^{F21}Scottish Water] concerning the volume, rate of discharge, nature, composition and temperature of any trade effluent so discharged.
- [^{F26}(p) the elimination from or diminution in any trade effluent of any priority substance or pollutant.]
- (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 [^{F27}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 [^{F21}Scottish Water] to an increase of volume or rate of discharge of a discharge which is already being made lawfully, no decision of [^{F21}Scottish Water] under this section shall have the effect of restricting the discharge already being made.

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- (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 ^{M1}Harbours Act 1964.

Textual Amendments

- F15** 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**
- F16** 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**
- F17** 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**
- F18** 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**
- F19** 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**
- F20** 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**
- F21** 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**
- F22** 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**
- F23** 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**
- F24** 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**
- F25** 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**
- F26** S. 29(3)(p) inserted (10.6.2013 for specified purposes, 21.12.2013 in so far as not already in force) by [Water Resources \(Scotland\) Act 2013 \(asp 5\)](#), **ss. 34(1)**, 56(1)(2); S.S.I. 2013/163, **art. 3**, **Sch.**; S.S.I. 2013/342, **art. 2(c)**
- F27** 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)

- C6** 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)**

Marginal Citations

- M1** 1964 c. 40.

[^{F28}29A Priority substances etc.

- (1) In section 29(3)(p)—

“pollutant” has the meaning given by regulation 2(1) of the [Water Environment \(Controlled Activities\) \(Scotland\) Regulations 2011](#) (S.S.I. 2011/209),

“priority substance” means substance listed in Annex X of [Directive 2000/60/EC](#) of the European Parliament and of the Council establishing a framework for Community action in the field of water policy (as amended from time to time).

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- (2) The Scottish Ministers may by regulations modify the definitions in subsection (1).
- (3) Regulations may be made under subsection (2) only if the Scottish Ministers consider them to be necessary or expedient in consequence of any revocation or amendment of (as the case may be)—
 - (a) the Regulations or Directive mentioned in subsection (1), or
 - (b) any subsequent regulations made under section 20 of the Water Environment and Water Services (Scotland) Act 2003 or directive concerning the same subject-matter as that Directive.
- (4) Regulations under subsection (2) are subject to the negative procedure.]

Textual Amendments

- F28** S. 29A inserted (10.6.2013 for specified purposes, 21.12.2013 in so far as not already in force) by [Water Resources \(Scotland\) Act 2013 \(asp 5\)](#), ss. **34(2)**, 56(1)(2); S.S.I. 2013/163, art. 3, Sch.; S.S.I. 2013/342, art. 2(c)

30 Intimation of decision.

- (1) [^{F29}Scottish Water] shall intimate [^{F30}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 ^{F31}... 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

- F29** 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**
- F30** 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**
- F31** 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)

- C7** 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 [^{F32}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 [^{F33}Scottish Water] in their decision on the application.

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Textual Amendments

- F32** 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](#)
- F33** 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)

- C8** 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\(3\)](#).

32 Review of consents, conditions and refusals.

- (1) [^{F34}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 [^{F35}it] under section 29 above.
- (2) Before making a direction under this section, [^{F36}Scottish Water] shall intimate to the owner and occupier of the premises in question that [^{F37}it proposes] to make such a direction, and [^{F38}its] reasons therefor, and inform the owner and occupier that they may, within 28 days of receipt of the intimation, make representations to [^{F39}it] in respect of the proposals.
- (3) Before making such a direction [^{F40}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 ^{F41}... 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 [^{F40}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 [^{F40}Scottish Water] in making the direction.

Textual Amendments

- F34** 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](#)
- F35** 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](#)
- F36** 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](#)
- F37** 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](#)

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- F38** 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](#)
- F39** 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](#)
- F40** 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](#)
- F41** 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)

- C9** 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\(2\)\(b\)](#).

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 [^{F42}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

- F42** 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)

- C10** 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 [^{F43}Scottish Water] and the person making the discharge otherwise agree, an existing discharge shall be allowed to continue.

Textual Amendments

- F43** 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](#)

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Modifications etc. (not altering text)

C11 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 [^{F44}Scottish Water], furnish such information to [^{F45}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

F44 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

F45 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)

C12 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) [^{F46}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 [^{F47}it] may think fit to impose.
- (2) [^{F48}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 [^{F49}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 [^{F50}Scottish Water has] directed under subsection (1) above that the continuation of the discharge shall be subject to conditions imposed by [^{F51}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 [^{F52}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.

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Textual Amendments

- F46** 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](#)
- F47** 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](#)
- F48** 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](#)
- F49** 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](#)
- F50** 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](#)
- F51** 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](#)
- F52** 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)

- C13** 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\(2\)\(b\)](#).
- C14** 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) [^{F53}Scottish Water] may enter into an agreement with the owner or occupier of any trade premises within [^{F54}its] area for the reception, treatment or disposal by [^{F55}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 [^{F53}Scottish Water] propose to enter into an agreement under this section with an occupier who is not also the owner of trade premises, [^{F56}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 [^{F57}Scottish Water] and such an occupier as is mentioned in subsection (3) above enter into an agreement under this section, [^{F58}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 [^{F59}Scottish Water] of such works as may be required for the reception, treatment or disposal of trade effluent;
 - (b) the removal and disposal by [^{F60}Scottish Water] of substances produced in the course of treating any trade effluent on or in connection with the premises;

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- (c) the repayment by the owner or, as the case may be, occupier of the premises of the whole or part of the expenses incurred by [^{F61}Scottish Water] in carrying out [^{F62}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 [^{F63}Scottish Water] nor may the making of such a discharge be reviewed by the direction of [^{F64}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, [^{F65}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

- F53** 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**
- F54** 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**
- F55** 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**
- F56** 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**
- F57** 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**
- F58** 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**
- F59** 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**
- F60** 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**
- F61** 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**
- F62** 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**
- F63** 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**
- F64** 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**
- F65** 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)

- C15** Ss. 24-38 (Pt. II) excluded (30.6.1993) by S.I. 1993/1446, **reg. 3(3)**.
- C16** S. 37(6) excluded (30.6.1993) by S.I. 1993/1446, **reg. 3(2)(a)**.

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[^{F66}37A Register for purposes of Part II.

- (1) [^{F67}Scottish Water] shall maintain a register for the purposes of this Part of this Act.
- (2) [^{F68}Scottish Water] shall enter in the register—
 - (a) such particulars as may be prescribed—
 - (i) of any consent, affecting [^{F69}its] area and for the time being extant, given (whether before or after the coming into force of this section) under this Part of this Act; and
 - (ii) of any agreement, affecting [^{F69}its] area and for the time being extant, entered into (whether before or after the coming into force of this section) under section 37 of this Act; and
 - (b) such particulars of other matters relative to [^{F69}its] functions under this Part of this Act as may be prescribed.
- (3) It shall be the duty of [^{F70}Scottish Water]—
 - (a) to secure that the register maintained by [^{F71}it] in pursuance of subsection (1) above is, after such date as may be prescribed, open to inspection by the public free of charge at all reasonable hours; and
 - (b) to afford members of the public reasonable facilities for obtaining from [^{F71}it], on payment of reasonable charges, copies of entries in the register.
- (4) In subsections (2) and (3) above, “ prescribed ” means prescribed by the Secretary of State by regulations made under this subsection by statutory instrument.
- (5) An instrument containing regulations under subsection (4) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

Textual Amendments

- F66** S. 37A and sidenote inserted (30.6.1999) by 1994 c. 39, s. 103 (with s. 74(4)); S.I. 1998/2532, art. 2
- F67** 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
- F68** 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
- F69** 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
- F70** 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
- F71** 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

[^{F72} 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 [^{F73}Scottish Water] directions—
 - (a) specifying information, or descriptions of information, to be excluded from the register; or

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- (b) specifying descriptions of information to be referred to him for his determination;
- and no information referred to him in pursuance of paragraph (b) above shall be included in the register until he determines that it should be so included.
- (3) [^{F74}Scottish Water] shall notify the Secretary of State of any information [^{F75}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 [^{F76}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

F72 S. 37B and sidenote inserted (30.6.1999) by 1994 c. 39, s. 103 (with s. 74(4)); S.I. 1998/2532, art. 2

F73 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)

F74 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)

F75 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)

F76 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)

C17 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

[^{F77}37C Exclusion from register of commercially confidential information

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

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

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

Textual Amendments

F77 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 [^{F78}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 [^{F79}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 [^{F80}the Scottish Environment Protection Agency [^{F81}, Scottish Water and such]]. . . 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.

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- (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

- F78** 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**
- F79** 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**
- F80** 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**
- F81** 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**
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Modifications etc. (not altering text)

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

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 3A(3) inserted by [2003 asp 3 s. 30\(1\)](#)
- s. 8(1A) inserted by [2003 asp 3 s. 30\(2\)\(a\)](#)
- s. 12(2A) inserted by [2003 asp 3 s. 30\(3\)](#)
- s. 14A-14C inserted by [2003 asp 3 s. 30\(4\)](#)
- s. 16A(3) inserted by [2003 asp 3 s. 30\(5\)](#)
- s. 29A(3)(b)(c) substituted for s. 29A(3)(b) by [2014 asp 3 sch. 3 para. 1\(2\)\(b\)](#)