



Sewerage (Scotland) Act 1968

1968 CHAPTER 47

[^{F1}PART IIA

PRIVATE SEWAGE TREATMENT WORKS

[^{F1}38F Recovery of cost

- (1) Where measures have been taken under section 38C(2)—
 - (a) each of the owners of the private works is liable for a proportion of the actual cost of taking them, and
 - (b) any of those owners is entitled to recover from any of the other owners the proportion of that cost for which the other owner is liable.
- (2) Subsection (1) is subject to subsections (3) to (8).
- (3) The proportion of the cost mentioned in subsection (1)(a) for which each owner is liable is the equivalent to the owner's pro indiviso share of the ownership of the private works.
- (4) Liability accrues to an owner under subsection (1)(a) only when there has been duly served—
 - (a) a notice under section 38D(1) relating to the measures, and
 - (b) a notice under subsection (5) relating to the measures.
- (5) Before exercising the entitlement to make recovery under subsection (1)(b), an owner must serve on each of the other owners a notice containing—
 - (a) a statement of the cost mentioned in subsection (1)(a),
 - (b) a note confirming the proportion of that cost for which each owner is liable in accordance with subsection (3) (along with their names and addresses).
- (6) The entitlement of an owner to make recovery under subsection (1)(b) is not—
 - (a) established unless the owner has—
 - (i) incurred the cost mentioned in subsection (1)(a), and
 - (ii) duly served a notice under subsection (5),

Changes to legislation: Sewerage (Scotland) Act 1968, Section 38F is up to date with all changes known to be in force on or before 30 April 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (b) exercisable until after the end of the period of 30 days beginning with the day on which the notice under subsection (5) is duly served (or, if it is so served on different days, the last of those days).
- (7) A notice under subsection (5) is valid only if it is accompanied by an invoice or other clear evidence of the cost mentioned in subsection (1)(a).
- (8) Section 38E applies in relation to a notice under subsection (5) as it does in relation to one under section 38D(1), except that in relation to a notice under subsection (5) a review under section 38E is competent only if the actual cost of the measures grossly exceeds the estimate of the cost of them contained in the notice under section 38D(1).]

Textual Amendments

- F1** Pt. 2A 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. 37, 56(1)(2)**; S.S.I. 2013/163, **art. 3, Sch.**; S.S.I. 2013/342, **art. 2(c)**

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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\(2\)\(b\)](#)