



Local Government etc. (Scotland) Act 1994

1994 CHAPTER 39

PART II

WATER AND SEWERAGE REORGANISATION

Miscellaneous provisions as respects new authorities

116 Power of Secretary of State to give directions to new authorities

- (1) Subject to subsection (2) below, the Secretary of State may under this subsection give a new water and sewerage authority directions of a general or specific character (but not such directions as may be given under section 117 of this Act) as to the exercise of the authority's functions; and it shall be the duty of the authority to comply with those directions.
- (2) Before giving an authority directions under subsection (1) above, the Secretary of State shall consult the authority.

117 Directions in the interests of national security

- (1) The Secretary of State may, after consultation with a new water and sewerage authority, give the authority such directions of a general character as appear to him requisite or expedient—
 - (a) in the interests of national security; or
 - (b) for the purpose of mitigating the effects of any civil emergency which may occur.
- (2) If it appears to the Secretary of State to be requisite or expedient to do so in the national interest or for the purpose of mitigating the effects of any civil emergency which has occurred or may occur, he may, after consultation with a new water and sewerage

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authority, give the authority a direction requiring that they do, or as the case may be do not do, a particular thing specified in the direction.

- (3) A new water and sewerage authority, notwithstanding any other duty imposed on them by, under or by virtue of this or any other Act, shall comply with any direction given to them under this section by the Secretary of State.
- (4) The Secretary of State shall lay before each House of Parliament a copy of a direction given under this section unless he is of the opinion that disclosure of the direction is against the interests of national security.
- (5) A person shall not disclose, or be required on any basis whatsoever to disclose, anything done by virtue of this section if the Secretary of State is of the opinion that disclosure of the thing would be against the interests of national security and has notified him of that opinion.
- (6) A person who, in contravention of subsection (5) above, discloses anything shall be guilty of an offence and liable, on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.
- (7) In subsections (1) and (2) above, “civil emergency” means a natural disaster or other emergency which in the opinion of the Secretary of State is, or may be, likely—
 - (a) so to disrupt water supplies, the provision of sewerage or disposal of sewage in; or
 - (b) to involve such destruction of, or damage to, life or property in, any area as seriously and adversely to affect all the inhabitants of the area, or a substantial number of them, whether by depriving them of any of the essentials of life or otherwise.

118 Provision of information, etc

- (1) A new water and sewerage authority shall provide the Secretary of State with such information relating to the exercise (and proposed exercise) of their functions as he may from time to time require, and for that purpose shall—
 - (a) permit any person authorised to do so by the Secretary of State to inspect and make copies of their accounts, books, documents or papers; and
 - (b) provide that person with such explanations in relation to the things inspected as the person may reasonably require.
- (2) As respects, and as soon as possible after the end of, each financial year, a new water and sewerage authority shall make to the Secretary of State a report on the exercise of their powers, and the performance of their functions.
- (3) The Secretary of State shall lay before each House of Parliament a copy of each report received by him under subsection (2) above.

119 Records held by new authorities

- (1) Subject to subsection (3) below—
 - (a) this section applies to all records (in whatever form or medium)—
 - (i) transferred to and vested in a new water and sewerage authority by virtue of section 91(1) of this Act;
 - (ii) created or acquired by them in the exercise of any of their functions; or

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- (iii) otherwise in their keeping;
 - (b) the authority shall ensure that the records, other than such as are mentioned in paragraph (c) below, are preserved and managed in accordance with such arrangements as the authority, after consulting the Keeper of the Records of Scotland, shall put into effect;
 - (c) records which, in the opinion of the authority, are not worthy of preservation may be disposed of by them;
 - (d) the authority may from time to time revise the arrangements mentioned in paragraph (b) above but before making any material change to those arrangements shall consult the Keeper; and
 - (e) the authority—
 - (i) shall secure that the Keeper has at all reasonable hours, unrestricted access to the records preserved by them;
 - (ii) may afford members of the public, free of charge or on payment of reasonable charges, facilities for inspecting, and for obtaining copies or extracts from, those records.
- (2) Nothing in subsection (1)(e)(ii) above permits infringement of copyright or contravention of conditions subject to which records are in the keeping of the authority.
- (3) In so far as any provision of, or inserted or amended by, this Part of this Act, being a provision which relates to records of a specific kind, is (but for this subsection) inconsistent with subsection (1) above, that subsection is subject to the provision in question.

120 Duty of new authorities to collaborate

- (1) The new water and sewerage authorities shall, in matters of common interest which relate to the performance of their functions, consult together and collaborate with each other.
- (2) Where a new water and sewerage authority propose to investigate a potential new source of water supply they shall, as soon as is practicable, give to any other such authority likely to be interested, notice of the proposal so that such consultation as is required in relation to the proposal by subsection (1) above may then begin.

121 Power of new authorities to promote or oppose private legislation

- (1) A new water and sewerage authority may, where they are satisfied that it is expedient to do so—
- (a) with the consent of the Secretary of State, petition for the issue of a provisional order under the Private Legislation Procedure (Scotland) Act 1936; or
 - (b) oppose any private legislation in Parliament.
- (2) The consent mentioned in paragraph (a) of subsection (1) above shall be withheld if the Secretary of State considers that the powers sought by the order petitioned for could be obtained by means of an order under the 1980 Act or, as the case may be, under the 1968 Act.
- (3) An application for the consent so mentioned shall be accompanied by a concise summary of the purposes of the order petitioned for.
- (4) In paragraph (b) of subsection (1) above, “private legislation in Parliament” includes—

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- (a) a provisional order and a Confirmation Bill relating to such an order; and
- (b) any local or personal Bill.

122 Supply of goods and services to new authorities by local authorities

The powers conferred by section 1 of the Local Authorities (Goods and Services) Act 1970 (supply of goods and services by local authorities to public bodies) shall be exercisable by a local authority as if the new water and sewerage authorities were public bodies within the meaning of that section.

123 Power to require local authorities and assessors to supply information to new authorities

- (1) The Secretary of State may, by regulations made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament, require a local authority or an assessor to furnish relevant information (whether in documentary form or in such other form as he may specify) to a new water and sewerage authority.
- (2) For the purposes of subsection (1) above, information is relevant if, being information held—
 - (a) by the local authority in connection with their—
 - (i) setting, levying or collecting council tax or council water charges (within the meaning of Part II of the Local Government Finance Act 1992) or the non-domestic water rate or non-domestic sewerage rate (as defined in paragraphs (c) and (d) of section 99(2) of that Act before the repeal of those paragraphs by this Act); or
 - (ii) levying or collecting the non-domestic rate (as for the time being defined in section 37(1) of the 1975 Act); or
 - (b) as the case may be, by the assessor in connection with his functions under any enactment,

its possession by the new water and sewerage authority would, in the opinion of the Secretary of State, be likely to assist that authority to make a charges scheme or to collect, or arrange to have collected, such charges as may be fixed by a charges scheme made by them.
- (3) In the application of subsections (1) and (2) above to any requirement to furnish information imposed—
 - (a) before 1st April 1996, “local authority” means a regional or islands council and “assessor” an assessor appointed under section 116(2) or (5) of the 1973 Act; and
 - (b) on or after that date—
 - (i) “local authority” means a council constituted under section 2 of this Act or a residuary body; and
 - (ii) “assessor” shall be construed in accordance with section 27 of this Act.
- (4) Without prejudice to the generality of subsections (1) and (2) above, in those subsections “information” includes a copy of the whole, or of any part of, a valuation roll or valuation list.