



# Water Resources (Scotland) Act 2013

## 2013 asp 5

### PART 4

#### RAW WATER QUALITY

#### **30 Steps for sake of quality**

(1) In section 38 (entry of premises) of the 1980 Act, after subsection (8) there is inserted—

“(9) This section does not apply in relation to the purposes mentioned in section 76M(1).”.

(2) After Part VIA of the 1980 Act there is inserted—

#### “PART VIB

#### RAW WATER QUALITY

#### **76M Power to enter**

(1) Scottish Water may—

(a) enter any premises for the purposes of—

- (i) assessing or monitoring the quality of any raw water, or
- (ii) investigating or isolating anything that appears to be affecting, or may affect, the quality of any raw water,

(b) take any steps at the premises which are reasonably required for those purposes.

(2) Subsection (1)—

(a) authorises entry only if the occupier of the premises has been given at least 24 hours' notice of the intended entry for those purposes,

(b) does not authorise entry into a house.

(3) Subsection (1) has effect whether the water or thing is located at the premises or elsewhere.

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- (4) In subsection (1), the reference to affecting the quality of the water is to affecting its quality adversely (directly or indirectly).
- (5) In this section, “raw water”—
- (a) means water contained in any bodies of water—
    - (i) identified by an order made under section 6(1) of the Water Environment and Water Services (Scotland) Act 2003, or
    - (ii) specified by an order made under section 76R(1),
  - (b) also includes water that flows or drains into any bodies of water so identified or specified (or is capable of doing so).
- (6) But excluded from the definition given by subsection (5) is any water that is used or available as or for a private water supply within such meaning as the Scottish Ministers may by order prescribe for the purpose of this subsection.

#### 76N **Entry warrants**

- (1) Scottish Water may apply to the sheriff for a warrant authorising it to—
- (a) enter particular premises for the purposes mentioned in section 76M(1),
  - (b) take any steps at the premises which are reasonably required for those purposes.
- (2) The sheriff may grant the warrant sought if satisfied—
- (a) that there are reasonable grounds for entering the premises for those purposes, and
  - (b) that—
    - (i) the first and second conditions are met, or
    - (ii) the third condition is met.
- (3) The first condition is that—
- (a) admission to the premises has been refused,
  - (b) the taking of steps at the premises has been obstructed, or
  - (c) such refusal or obstruction may reasonably be expected.
- (4) The second condition is that notice of the intention to seek a warrant has been given to the occupier of the premises.
- (5) The third condition is that the premises are unoccupied.
- (6) A warrant under subsection (1)—
- (a) remains valid until the purposes mentioned in section 76M(1) are fulfilled,
  - (b) allows the use of reasonable force (if required),
  - (c) does not authorise entry into a house.
- (7) Subsection (1) has effect whether the water or thing is located at the premises or elsewhere.

#### 76O **Approved persons**

- (1) Subsection (2) applies to the authority conferred on Scottish Water by—

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- (a) section 76M(1), or
  - (b) a warrant under section 76N(1).
- (2) The authority is exercisable on behalf of Scottish Water by any person approved (in writing) by Scottish Water for the purposes mentioned in section 76M(1).

#### 76P **Taking steps**

- (1) Subsections (2) to (6) apply in relation to the exercise of the authority mentioned in section 76O(1)(a) or (b).
- (2) An approved person must, if required by the occupier of the premises—
- (a) produce evidence of the approved person's identity (and approval), and
  - (b) explain the nature of the authority by (as the case may be)—
    - (i) reference to section 76M, or
    - (ii) showing a copy of the warrant.
- (3) An approved person may take onto the premises—
- (a) other persons acting under the approved person's direction,
  - (b) such equipment as is necessary in connection with the steps that may be taken there.
- (4) The steps that may be taken by an approved person at the premises include—
- (a) inspecting or measuring any water found there,
  - (b) carrying out tests on or taking samples from any soil, water or other substance found there,
  - (c) installing or maintaining any measuring, testing or sampling equipment for use there.
- (5) An approved person may enter the premises only at a reasonable time.
- (6) If the premises are unoccupied, an approved person must leave them as effectively secured against entry as they were when that person entered them.
- (7) In subsections (2) to (6), “approved person” means person approved as mentioned in section 76O(2).

#### 76Q **Obstruction offence**

- (1) A person commits an offence if the person intentionally obstructs an approved person in the exercise of the authority mentioned in section 76O(1)(b).
- (2) In subsection (1), “approved person” means person approved as mentioned in section 76O(2).
- (3) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

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### 76R Specifying bodies of water

- (1) For the purpose of section 76M(5)(a)(ii), the Scottish Ministers may by order specify any bodies of water that are—
  - (a) used for the abstraction of water intended for human consumption, or
  - (b) intended to be used as mentioned in paragraph (a).
- (2) An order under subsection (1) may specify any bodies of water by reference to a map prepared in connection with the order (and laid along with it).
- (3) The Scottish Ministers must send to the Scottish Environment Protection Agency a copy of—
  - (a) an order made under subsection (1), and
  - (b) any map prepared in pursuance of subsection (2).

### 76S Orders under this Part

An order under section 76M(6) or 76R(1) is subject to the negative procedure.”.

#### Commencement Information

- I1** S. 30 in force at 10.6.2013 for specified purposes by [S.S.I. 2013/163, art. 3, Sch.](#)
- I2** S. 30 in force at 21.12.2013 in so far as not already in force by [S.S.I. 2013/342, art. 2\(b\)](#)

### 31 Agreements about activities

- (1) In section 68 (agreements as to drainage) of the 1980 Act, in subsection (1), for the words “collecting, conveying, or preserving the purity of,” there is substituted “collecting or conveying”.
- (2) After section 68 of the 1980 Act there is inserted—

#### “68A Agreements for water quality

- (1) With respect to the matters mentioned in subsection (2), Scottish Water may enter into agreements with—
  - (a) the owners and occupiers of any land (in so far as their interest enables them to bind it), or
  - (b) a local authority.
- (2) The matters are—
  - (a) the carrying out by a party to the agreement of such activities as Scottish Water considers necessary for the purpose of protecting or improving the quality of any raw water,
  - (b) the refraining by a party to the agreement from such activities as Scottish Water considers detrimental to the purpose of protecting or improving the quality of any raw water.
- (3) In subsection (2), the references to protecting or improving the quality of water include—

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- (a) preventing any deterioration in the quality of the water,
  - (b) reducing or eliminating the amount of any treatment that the water requires in order to be wholesome.
- (4) Section 68(2) applies to an agreement under this section as it applies to an agreement to which that section relates (if the agreement under this section is with the owners of the land).
- (5) In this section, “raw water” has the same meaning as in section 76M.”.

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**Commencement Information**

**I3** [S. 31](#) in force at 21.12.2013 by [S.S.I. 2013/342](#), [art. 2\(b\)](#)

**Changes to legislation:**

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