



# 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 a local authority may discharge into the sewers or sewage treatment works of the authority any trade effluent from those premises.
- (2) Any occupier of trade premises who discharges trade effluent into the sewers or sewage treatment works of a local authority without the consent of the authority, 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 £50 and a further fine not exceeding £20 for each day on which the offence continues after conviction therefor.

#### *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 a local authority 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.

## **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 a local authority shall obtain the consent of the authority to the discharge, which shall be applied for in accordance with section 27 below.

## **27 Procedure on application for consent to new discharge**

- (1) An application for the consent of a local authority under section 26 above shall be made by serving a notice on the authority (hereafter in this Part of this Act referred to as a " trade effluent notice ").
- (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 the authority is not the owner of the premises, he shall, at the same time as serving a trade effluent notice on the authority 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 the authority within 28 days of receipt of the copy.
- (4) The authority on receiving a trade effluent notice shall forthwith send a copy of the notice to—
  - (a) any other local authority into whose sewers or sewage treatment works the new discharge will in due course be made (hereafter in this section referred to as a " second authority "), and
  - (b) any other body acting under statutory powers which, in the opinion of the authority, has an interest in the application,and at the same time shall inform the second authority or 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) The authority before making a decision on an application shall take into account any representations made in pursuance of subsections (3) and (4) above.
- (6) Where the authority propose in their decision not to give effect to any representations made by a second authority under subsection (4) above, they shall forthwith inform the second authority accordingly ; and if the second authority are dissatisfied with that proposal they may, within 7 days of being so informed, refer the matter to the Secretary of State whose decision in the matter shall be final.

## **28 Time to dispose of application**

- (1) An application for the consent of a local authority under section 26 above shall, subject to the following subsection, be decided by them and intimated in accordance with section 30 below within a period of 3 months of the receipt by them 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 the authority within a period of 28 days of the receipt by them of the Secretary of State's decision under the said section 27(6).

## **29 Decision on application**

- (1) A local authority in their decision on an application under section 26 above may refuse their consent or they may grant their consent either unconditionally or subject to such conditions as they may think fit to impose.
- (2) Where the authority have failed to intimate their 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, they shall be deemed to have made a decision on the last day of that period refusing their consent to the application.
- (3) Without prejudice to subsection (1) above, the authority in granting their 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 the authority 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 the authority are 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
    - (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;

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*Status: This is the original version (as it was originally enacted).*

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- (j) the payment by the occupier of the trade premises to the authority 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 the authority in connection with the reception, treatment or disposal of the trade effluent or in connection with the provision already made by them for the treatment and disposal of trade effluent in their area, and to any revenue likely to be derived by the authority 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 the authority concerning the volume, rate of discharge, nature, composition and temperature of any trade effluent so discharged.
- (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 an authority 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 the authority to an increase of volume or rate of discharge of a discharge which is already being made lawfully, no decision of the authority under this section shall have the effect of restricting the discharge already being made.
- (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 Harbours Act 1964.

### **30 Intimation of decision**

- (1) A local authority shall intimate their 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 authority or 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.

### **31 Appeal against refusals and conditions**

Where the applicant for consent under section 26 above is aggrieved by the decision of the local authority under section 29 above, he may appeal to the Secretary of State, who may dispose of the appeal in any way competent to the authority in their decision on the application.

### **32 Review of consents, conditions and refusals**

- (1) A local authority may, and when requested so to do by the occupier of the premises in question shall, by direction review a decision made by them under section 29 above.
- (2) Before making a direction under this section, the local authority shall intimate to the owner and occupier of the premises in question that they propose to make such a direction, and their reasons therefor, and inform the owner and occupier that they may, within 28 days of receipt of the intimation, make representations to the authority in respect of the proposals.
- (3) Before making such a direction the authority 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 authority or 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 the authority 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 the authority in making the direction.

#### *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 the local authority 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.

### **34 Right to continue existing discharge**

Subject to this Part of this Act, and except where the local authority and the person making the discharge otherwise agree, an existing discharge shall be allowed to continue.

### **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 the local authority, furnish such information to the authority 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.

### **36 Review of continuation of existing discharge**

- (1) A local authority 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 they may think fit to impose.
- (2) The authority 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 the local authority 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 the authority have directed under subsection (1) above that the continuation of the discharge shall be subject to conditions imposed by them 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 the authority 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.

*Agreements in lieu of applications for consent*

**37 Agreements as respects trade premises**

- (1) A local authority may enter into an agreement with the owner or occupier of any trade premises within their area for the reception, treatment or disposal by the authority 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 a local authority propose to enter into an agreement under this section with an occupier who is not also the owner of trade premises, the authority 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 the local authority and such an occupier as is mentioned in subsection (3) above enter into an agreement under this section, the authority 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 the authority of such works as may be required for the reception, treatment or disposal of trade effluent;
  - (b) the removal and disposal by the authority of substances produced in the course of treating any trade effluent on or in connection with the premises;
  - (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 the authority in carrying out their 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 the local authority nor may the making of such a discharge be reviewed by the direction of the authority; 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, the authority 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.

### *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 a local authority 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 the authority, 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 such local authorities, river purification authorities, 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.
- (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.