



# Water (Scotland) Act 1980

## 1980 CHAPTER 45

### PART II

#### DUTIES OF WATER AUTHORITIES

F13 .....

#### Textual Amendments

F1 S. 3 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(2), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

F24 .....

#### Textual Amendments

F2 S. 4 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(2), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

F35 .....

#### Textual Amendments

F3 S. 5 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(2), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

*Status: Point in time view as at 01/04/1996.*

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## 6 Duty of authority to provide supply.

- (1) It shall be the duty of every water authority to provide a supply of wholesome water to every part of their limits of supply where a supply of water is required for domestic purposes and can be provided at a reasonable cost.
- (2) Without prejudice to the generality of subsection (1), every water authority shall provide a supply of wholesome water in pipes to every part of their limits of supply where a supply of water is required for domestic purposes and shall take the pipes affording that supply to such point or points as will enable the buildings for which a supply is required for domestic purposes to be connected thereto at a reasonable cost; but this subsection shall not require a water authority to do anything which is not practicable at a reasonable cost or to provide such a supply to any part of their limits of supply where such a supply is already available at such point or points.
- (3) If any question arises under this section as to—
  - (a) whether a supply of water can be provided at a reasonable cost, or
  - (b) whether anything is or is not practicable at a reasonable cost, or
  - (c) the point or points to which pipes must be taken in order to enable buildings to be connected therewith at a reasonable cost,
 the Secretary of State, if requested to do so by [<sup>F4</sup>any person aggrieved], shall, after [<sup>F4</sup>consultation with that person and with the water authority concerned], determine that question and the authority shall give effect to his determination.
- (4) Every water authority shall also provide a supply of water for the purpose of complying with any other obligation imposed on them by this Act and may, if they think fit, provide a supply to enable them to exercise any of the powers conferred on them by this Act or for any other purpose which they consider is in the interests of the area comprising their limits of supply.

### Textual Amendments

- F4** Words in s. 6(3) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(3)**; S.I. 1996/323, **art. 4(1)(c)**

## 7 Supply of water for domestic purposes.

- (1) In this Act a supply of water for domestic purposes means a sufficient supply for drinking, washing, cooking, central heating and sanitary purposes but not for any bath having a capacity in excess of 100 gallons, and includes—
  - (a) a supply for the purposes of any profession carried on in any premises the greater part of which is used as a house; and
  - (b) where the water is drawn from a tap inside a house and no hosepipe or similar apparatus is used, a supply for watering a garden, for horses kept for private use and for washing vehicles kept for private use.
- (2) A supply of water under subsection (1) does not include a supply of water for the business of a laundry, or any business of preparing food or beverages for consumption otherwise than on the premises.
- (3) “Domestic purposes” in any local enactment relating to the supply of water shall be construed in accordance with sub-sections (1) and (2).

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## 8 Water supplied for domestic purposes to be wholesome.

Every water authority shall provide in their mains and communication pipes a supply of wholesome water sufficient for the domestic purposes of all owners and occupiers of premises within their limits of supply who are entitled to a supply for those purposes.

## 9 Supply of water for non-domestic purposes.

- (1) Subject to the following provisions of this Act, a water authority shall give a supply of water on reasonable terms and conditions for purposes other than domestic purposes to the owner or occupier of any premises within their limits of supply who requests them to give such a supply to those premises.
- (2) A water authority shall not be required to give a supply of water in accordance with subsection (1) if their ability to meet existing obligations to supply water for any purposes or probable future requirements to supply water for domestic purposes, without having to incur unreasonable expenditure in constructing new waterworks for the purpose, would thereby be endangered.
- (3) The water authority may require, as a condition of giving a supply of water under this section, that the person requesting the supply shall enter into an agreement undertaking to pay to them in respect of each year a sum not exceeding one-eighth of the cost of providing and laying the necessary mains (less any amounts received by the authority in respect of water supplied whether for domestic or non-domestic purposes in that year from those mains) until the expiration of a period of 12 years or such lesser period as may appear to the authority to be appropriate.
- (4) Any question arising as to the terms and conditions on which water is to be supplied [<sup>F5</sup>(not being a question as respect charges for the water which is to be supplied)] under this section and any question whether the authority are justified in refusing to give a supply shall in default of agreement, be referred to the Secretary of State and the Secretary of State may determine it himself or, if he thinks fit, refer it for determination by arbitration.
- (5) Where a water authority are required to give a supply of water under this section, the powers of the authority and of persons supplied or proposed to be supplied by them to lay mains and pipes for providing a supply of water for domestic purposes and to break open [<sup>F6</sup>roads] for that purpose shall apply for the purpose of the provision of a supply under this section.

<sup>F7</sup>(6) .....

### Textual Amendments

- F5** Words in s. 9(4) inserted (1.4.1996) by 1994 c. 39, s. 105; S.I. 1996/323, art. 4(1)(a), **Sch. 1**
- F6** Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 81(2)**
- F7** S. 9(6) repealed (1.4.1996) by Local Government Finance Act 1992 (c. 14), s. 117(2), **Sch. 14** (with s. 118(1)(2)(4)); S.I. 1996/918, **art. 2(b)(ii)**

[<sup>F8</sup>9A

[ [<sup>F10</sup>Notwithstanding anything in section 9] of this Act, no charge may be made by a <sup>F9</sup>(1)] water authority in respect of—

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- [ water taken for the purpose of extinguishing fires or taken by a fire authority  
<sup>F11</sup>(a) for any other emergency purposes;  
 (b) water taken for the purpose of testing apparatus installed or equipment used for extinguishing fires or for the purpose of training persons for fire-fighting;  
 or  
 (c) the availability of water for any purpose mentioned in paragraph (a) or (b) above;]

Provided that nothing in this section shall prevent the making of charges in respect of work carried out at the request of or for the benefit of any person receiving a supply of water for the said purposes.]

- [<sup>F12</sup>(2) Subsection (1) above shall not have the effect, where any water is used or made available for any of the purposes mentioned in paragraph (a) or (b) of that subsection, of requiring a reduction in the charges imposed in respect of the provision for other purposes of the supply from which the water is taken.]

#### Textual Amendments

- F8** S. 9A added by Local Government and Planning (Scotland) Act 1982 (c.43, SIF 81:2), s. 59  
**F9** S. 9A renumbered as s. 9A(1) (1.4.1996) by 1994 c. 39, s. 180(1), Sch. 13 para. 119(4)(b); S.I. 1996/323, art. 4(1)(c)  
**F10** Words in s. 9A substituted (1.4.1996) by 1994 c. 39, s. 180(1), Sch. 13 para. 119(4)(a); S.I. 1996/323, art. 4(1)(c)  
**F11** S. 9A(a)(b)(c) substituted (6.3.1992) for paras. (a)(b) by Local Government Finance Act 1992 (c. 14), s. 107, Sch. 11, Pt. IV, para. 29(b) (with s. 118(1)(2)(4))  
**F12** S. 9A(2) added (1.4.1996) by 1994 c. 39, s. 180(1), Sch. 13 para. 119(4)(c); S.I. 1996/323, art. 4(1)(c)

## 10 Compensation for damage resulting from exercise of powers.

- (1) Subject to the provisions of this section, a [<sup>F13</sup>local authority] or water authority <sup>F14</sup>shall make full compensation to any person who has sustained damage by reason of the exercise by them of any of their powers under this Act in relation to a matter as to which he has not himself been in default.
- [<sup>F15</sup>(1A) The escape of water, however caused, <sup>F16</sup> from one of a water authority's <sup>F16</sup> communication [<sup>F17</sup>or supply] pipes or mains shall for the purposes of subsection (1) above be taken to have been brought about by the exercise by them of powers under this Act.]
- (2) Any question arising under this section as to the fact of damage or as to the amount of compensation shall, in case of dispute, be determined by arbitration.
- (3) A claim for compensation under this section shall not be maintainable unless it is made within [<sup>F18</sup>24] months after the date on which it is alleged to have arisen.
- (4) The provisions of this section shall be without prejudice to any other provisions in this Act relating to compensation.
- [<sup>F19</sup>(5) Without prejudice to any right to compensation other than under subsection (1) above, in that subsection "person" does not, as regards compensation payable under that subsection by virtue of subsection (1A) above, include—

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- (a) statutory undertakers as defined in section 275(1) of the <sup>M1</sup> Town and Country Planning (Scotland) Act 1972;
  - <sup>F20</sup>(b) [ roads authorities as defined in section 151(1) of the <sup>M2</sup> Roads (Scotland) Act 1984;]
  - (c) bridge authorities [<sup>F21</sup>as defined in section 147 of the New Roads and Street Works Act 1991;]
  - <sup>F22</sup>(d) [ road works authority as defined in section 108 of the New Roads and Street Works Act 1991;]
  - (e) persons on whom a right to compensation under section [<sup>F23</sup>141 of the said Act of 1991] is conferred.
- <sup>F24</sup>(6) . . . . .]

#### Textual Amendments

- F13** Words in s. 10(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(5)(a)(i)**; S.I. 1996/323, **art. 4(1)(c)**
- F14** Words in s. 10(1) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(5)(a)(ii), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**
- F15** S. 10(1A) inserted by Local Government and Planning (Scotland) Act 1982 (c. 43, SIF 81:2), **s. 57(a)**
- F16** Words in s. 10(1A) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(5)(b)(i), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**
- F17** Words in s. 10(1A) inserted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(5)(b)(ii)**; S.I. 1996/323, **art. 4(1)(c)**
- F18** Words in s. 10(3) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(5)(c)**; S.I. 1996/323, **art. 4(1)(c)**
- F19** S. 10(5)(6) inserted by Local Government and Planning (Scotland) Act 1982 (c. 43, SIF 81:2), **s. 57(b)**
- F20** S. 10(5)(b) substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 81(3)(a)**
- F21** Words in s. 10(5)(c) substituted (1.1.1993) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(1), **Sch. 8 Pt. IV para. 108(2)(a)**; S.I. 1992/2990, art. 2(2), **Sch. 2**
- F22** S. 10(5)(d) substituted (1.1.1993) by virtue of New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(1), **Sch. 8, Pt. IV, para. 108(2)(b)**; S.I. 1992/2990, art. 2(2), **Sch. 2**
- F23** Words in s. 10(5)(e) substituted (4.1.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(5)(d)**; S.I. 1994/2850, **art. 3**
- F24** S. 10(6) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(5)(e), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

#### Marginal Citations

- M1** 1972 c. 52 (**123:3**).
- M2** 1984 c. 54 (**59, 108**).

## 11 Power of Secretary of State on default of authority or board.

- (1) If—
  - (a) a complaint is made to the Secretary of State that a water authority <sup>F25</sup> have failed—
    - (i) to do anything which they are required to do by or under this Act,
    - (ii) to give an adequate supply of water either as respects quantity or quality within their limits of supply, or have failed to give any supply which they have been lawfully required to give, or

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- (iii) to take such steps as are in the circumstances reasonable to obtain new powers or to extend their existing powers for the purpose of remedying any such failure as is mentioned in paragraph (ii), or
- (b) the Secretary of State is of opinion that an investigation should be made as to whether any authority <sup>F25</sup> have failed in any of those matters, he may cause a local inquiry to be held into the matter.
- (2) If after a local inquiry has been held in pursuance of subsection (1), the Secretary of State is satisfied that there has been such a failure on the part of the authority <sup>F25</sup> in question, he may make an order declaring them to be in default and directing them for the purpose of remedying the default to discharge such of their functions in such a manner and within such time or times as may be specified in the order or, as the case may be, to take such steps within such time or times as may be specified in the order to obtain new powers or to extend their existing powers.
- (3) If the authority <sup>F25</sup> declared to be in default by an order made under subsection (2) fail to comply with any requirements of that order within the time specified therein for compliance with that requirement—
- (a) the Secretary of State may make an order transferring to another authority <sup>F25</sup> such of the functions of the authority <sup>F25</sup> in default as he thinks fit; or
- (b) the Court of Session may on the application of the Lord Advocate on behalf of the Secretary of State order specific performance of the functions and do otherwise as to the Court appears to be just.
- (4) Any expenses incurred by the authority <sup>F25</sup> to whom functions are transferred by an order under this section (in this section referred to as “the transferee authority”<sup>F25</sup>) in discharging those functions shall be defrayed in the first instance by the transferee authority <sup>F25</sup> in such manner as the order may provide and shall be a debt due by the authority <sup>F25</sup> in default to the transferee authority <sup>F25</sup> and recoverable accordingly.
- (5) The transferee authority <sup>F25</sup> shall keep separate accounts of all income and expenditure in respect of the transferred functions.
- (6) The authority <sup>F25</sup> in default shall have the like power of raising the money required to meet the expenses of the transferee authority <sup>F25</sup> as they have of raising money for defraying expenses incurred directly by themselves, and the payment of any such expenses shall, to such extent as may be sanctioned by the Secretary of State, be a purpose for which the authority <sup>F25</sup> in default may borrow money in accordance with the statutory provisions relating to borrowing by such authority <sup>F25</sup>.
- (7) An order made under subsection (3) may provide for the transfer to the transferee authority <sup>F25</sup> of such of the property and liabilities of the authority <sup>F25</sup> in default as in the opinion of the Secretary of State may be necessary or expedient, and when any such order is revoked the Secretary of State may, either by the revoking order or by a subsequent order, make such provision as appears to him to be desirable with respect to any property or liabilities acquired or incurred by the transferee authority <sup>F25</sup> in discharging any of the functions to which the order so revoked related.

#### Textual Amendments

**F25** Words in s. 11(1)(a)(b)(2)-(7) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(6)(a)-(e), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

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**Modifications etc. (not altering text)**

- C1** S. 11 extended (1.10.1991) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1, 130\)](#), [s. 20\(6\)\(b\)](#)
- C2** S. 11: Transfer of functions (*temp.* from 6.5.1999 until 1.7.1999) by [S.I. 1999/901](#), arts. 2, 5, [Sch.](#); [S.I. 1998/3178](#), [art. 3](#)

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