



Sewerage (Scotland) Act 1968

1968 CHAPTER 47

PART I

GENERAL PROVISIONS AS TO SEWERAGE

Duties and powers of local authorities

1 Duty of local authority to provide for sewerage of their area.

- (1) Subject to the provisions of this Act, it shall be the duty of [^{F1}Scottish Water] to provide such public sewers as may be necessary for effectually draining [^{F2}its] area of domestic sewage, surface water and trade effluent, and to make such provision, by means of sewage treatment works or otherwise, as may be necessary for effectually dealing with the contents of [^{F2}its] sewers.
- [^{F3}(2) Without prejudice to the generality of subsection (1) above—
 - (a) [^{F4} Scottish Water] shall, subject to paragraph (b) below, take [^{F5} its] public sewers to such point or points as will enable the owners of premises which are to be served by the sewers to connect their drains or private sewers with the public sewers at reasonable cost;
 - (b) where [^{F6} Scottish Water] have agreed with some other person (in this section referred to as the “ private provider ”) that he will take a private sewer to such point or points as will enable owners to make such connection as is mentioned in paragraph (a) above, that paragraph shall not apply while the agreement subsists.]
- (3) The duties imposed by the foregoing subsections shall not require [^{F7}Scottish Water] to do anything which is not practicable at a reasonable cost.
- [^{F8}(3A) Subsection (3) shall not apply to such cases or descriptions of case as the Scottish Ministers may direct.
- (3B) In determining what is a reasonable cost for the purpose of subsection (3) so far as relating to subsection (2)(a), the costs to be taken into account include the costs of—

Status: Point in time view as at 06/03/2006.

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- (a) constructing such other public sewers, public SUD systems and such public sewage treatment works, and
 - (b) carrying out such other work,
- as Scottish Water considers necessary in consequence of the connection referred to in subsection (2)(a).
- (3C) Subject to subsection (3B), any question as to what is a reasonable cost for the purposes of this section shall be determined in accordance with regulations made by the Scottish Ministers.
- (3D) Such regulations may, in particular, make provision as to—
- (a) the matters to be taken into, or left out of, account,
 - (b) the criteria to be applied,
 - (c) the method of calculation to be adopted,
- in determining what is a reasonable cost for those purposes, and may make different provision for different cases and descriptions of case.]
- (4) If any question arises under this section as to whether [^{F9}a reasonable cost has been properly determined in accordance with regulations made under subsection (3C) or]anything is or is not practicable at a reasonable cost or as to the point or points to which [^{F10}a public sewer, or under an agreement such as is mentioned in paragraph (b) of subsection (2) above the private sewer of a private provider,] must be taken to enable drains or private sewers to be connected therewith at a reasonable cost, the Secretary of State, if requested to do so by any person aggrieved, shall, after consultation with that person and with [^{F11}[^{F6}Scottish Water], or as the case may be [^{F12}the] private provider, concerned], determine that question, and [^{F13}[^{F14}Scottish Water] or [^{F12}the] private provider] shall give effect to his determination.
- [^{F15}(5) The Secretary of State may by regulations make provision as respects the procedure to be followed as respects a request under subsection (4) above.
- (6) The power to make regulations under[^{F16}subsections (3C) and](5) above shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.]
- [^{F17}(7) The duties imposed by subsections (1) and (2) above shall not require Scottish Water to do anything which is prejudicial to its compliance with—
- (a) any directions given to it under section 56 of the Water Industry (Scotland) Act 2002 (asp 3) so far as setting objectives of a type referred to in section 56A of that Act, or
 - (b) a statement of policy issued under section 29D of that Act.]

Textual Amendments

- F1** Words in s. 1(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71, **Sch. 5 para. 5(a)(i)** (with s. 67); S.S.I. 2002/118, **art. 2**
- F2** Words in s. 1(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71, **Sch. 5 para. 5(a)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2**
- F3** S. 1(2) substituted (4.1.1995) by [1994 c. 39](#), s. 180(1), **Sch. 13 para. 75(2)(b)**; S.I. 1994/2850, **art. 3(c)(vi)** (with **art. 4**)
- F4** Words in s. 1(2)(a)(3) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71, **Sch. 5 para. 2** (with s. 67); S.S.I. 2002/118, **art. 2**

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- F5** Word in s. 1(2)(a) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 5(b)** (with s. 67); S.S.I. 2002/118, **art. 2**
- F6** Words in s. 1(2)(b)(4) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 3** (with s. 67); S.S.I. 2002/118, **art. 2**
- F7** Words in s. 1(2)(a)(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 2** (with s. 67); S.S.I. 2002/118, **art. 2**
- F8** S. 1(3A)-(3D) inserted (6.3.2006) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), **ss. 29(2), 38(1)** (with s. 35(2)); S.S.I. 2006/55, art. 2(a)
- F9** Words in s. 1(4) inserted (6.3.2006) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), **ss. 29(3), 38(1)** (with s. 35(2)); S.S.I. 2006/55, art. 2(a)
- F10** Words in s. 1(4) substituted (4.1.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(2)(d)(i)**; S.I. 1994/2850, **art. 3(c)(vi)** (with art. 4)
- F11** Words in s. 1(4) substituted (4.1.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(2)(d)(ii)**; S.I. 1994/2850, **art. 3(c)(vi)** (with art. 4)
- F12** Words in s. 1(4) inserted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 5(c)** (with s. 67); S.S.I. 2002/118, **art. 2**
- F13** Words in s. 1(4) substituted (4.1.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(2)(d)(iii)**; S.I. 1994/2850, **art. 3(c)(vi)** (with art. 4)
- F14** Words in s. 1(4) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 4** (with s. 67); S.S.I. 2002/118, **art. 2**
- F15** S. 1(5)(6) added (4.1.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(2)(e)**; S.I. 1994/2850, **art. 3(c)(vi)** (with art. 4)
- F16** Word in s. 1(6) substituted (6.3.2006) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), **ss. 29(4), 38(1)** (with s. 35(2)); S.S.I. 2006/55, art. 2(a)
- F17** S. 1(7) added (1.7.2005) by Water Services etc. (Scotland) Act 2005 (asp 3), **ss. 24(1), 37(2)** (with s. 36); S.S.I. 2005/351, art. 2, **Sch. 2**

Modifications etc. (not altering text)

- C1** S. 1: power to modify conferred (*temp.* from 4.1.1995 to 1.4.1996) by 1994 c. 39, s. 182(2); S.I. 1994/2850, art. 3(a), **Sch. 2** (with art. 4)

2 Maintenance of public sewers and other works.

Subject to section 4 below, it shall be the duty of [^{F18}Scottish Water] to inspect, maintain, repair, cleanse, empty, ventilate and where appropriate renew all sewers, sewage treatment works and other works vested in [^{F19}it] by virtue of this Act [^{F20}or of [^{F21}the Water Industry (Scotland) Act 2002 (asp 3)^{F21}]].

Textual Amendments

- F18** Words in s. 2 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 6(a)** (with s. 67); S.S.I. 2002/118, **art. 2**
- F19** Word in s. 2 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 6(b)** (with s. 67); S.S.I. 2002/118, **art. 2**
- F20** Words in s. 2 substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(3)(b)**; S.I. 1996/323, **art. 4(1)(b)(c)**
- F21** Words in s. 2 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 6(c)** (with s. 67); S.S.I. 2002/118, **art. 2**

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Modifications etc. (not altering text)

- C2** S. 2 applied with modifications (1.4.1992) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), [s. 45\(10\)](#); [S.I. 1992/266](#), [art. 3](#).

3 Construction etc. of public sewers and public sewage treatment works.

- (1) Subject to the provisions of this Act, [^{F22}Scottish Water] may, ^{F23}...—
- (a) construct a public sewer—
 - (i) in, under or over any [^{F24}road], or under any cellar or vault below any [^{F24}road];
 - (ii) in, on or over any land not forming part of a [^{F24}road];
 - (b) construct public sewage treatment works in or on any land held by [^{F25}it] or appropriated for the purpose.
- (2) Before commencing construction of a sewer in, on or over any land not forming part of a [^{F24}road], [^{F26}Scottish Water] shall serve notice of [^{F27}its] intention on the owner and the occupier of land concerned together with a description of the proposed works and of the right to object thereto, and if within 2 months after the service of the notice the owner or the occupier objects to the proposed works, and that objection is not withdrawn, [^{F28}Scottish Water] shall not proceed to execute the works without consent aftermentioned but may refer the matter by summary application to the sheriff who may grant consent to the proposed works either unconditionally or subject to such terms and conditions as he thinks just, or who may withhold his consent, and the decision of the sheriff on the matter shall be final.
- (3) Section [^{F29}192] of the Local Government (Scotland) Act [^{F29M1}1973] (service of notices) shall apply to notices [^{F30}served by [^{F31}Scottish Water^{F31}]] under subsection (2) above relating to land as it applies to notices [^{F32}served by a local authority] relating to premises.
- (4) ^{F33}

Textual Amendments

- F22** Words in s. 3(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71, [Sch. 5 para. 2](#) (with s. 67); [S.S.I. 2002/118](#), [art. 2](#)
- F23** Words in s. 3(1) repealed (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71, [Sch. 5 para. 7\(a\)\(i\)](#) (with s. 67); [S.S.I. 2002/118](#), [art. 2](#)
- F24** Word substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), [Sch. 9 para. 64\(2\)](#)
- F25** Word in s. 3(1)(b) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71, [Sch. 5 para. 7\(a\)\(ii\)](#) (with s. 67); [S.S.I. 2002/118](#), [art. 2](#)
- F26** Words in s. 3(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71, [Sch. 5 para. 2](#) (with s. 67); [S.S.I. 2002/118](#), [art. 2](#)
- F27** Word in s. 3(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71, [Sch. 5 para. 7\(b\)](#) (with s. 67); [S.S.I. 2002/118](#), [art. 2](#)
- F28** Words in s. 3(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71, [Sch. 5 para. 3](#) (with s. 67); [S.S.I. 2002/118](#), [art. 2](#)
- F29** Words substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 27 Pt. II para. 179](#)
- F30** Words in s. 3(3) inserted (1.4.1996) by [1994 c. 39](#), s. 180(1), [Sch. 13 para. 75\(4\)\(b\)\(i\)](#); [S.I. 1996/323](#), [art. 4\(1\)\(b\)\(c\)](#)
- F31** Words in s. 3(3) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71, [Sch. 5 para. 2](#) (with s. 67); [S.S.I. 2002/118](#), [art. 2](#)

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F32 Words in s. 3(3) inserted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(4)(b)(ii)**; S.I. 1996/323, **art. 4(1)(b)(c)**

F33 S. 3(4) repealed (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 7(c)** (with s. 67); S.S.I. 2002/118, **art. 2**

Modifications etc. (not altering text)

C3 S. 3 applied (with modifications) (1.4.1992) by Environmental Protection Act 1990 (c. 43, SIF 46:4), **s. 45(10)**; S.I. 1992/266, **art. 3**

Marginal Citations

M1 1973 c. 65.

[^{F34}3A Authorisation of construction of certain private sewers etc.

(1) Without prejudice to [^{F35}its]^{F35} powers under section 3 of this Act (including any power to authorise the construction, on [^{F35}its]^{F35} behalf, of a public sewer), [^{F36}Scottish Water]^{F36} may authorise a person to construct, within [^{F35}its]^{F35} area but whether or not connecting with [^{F35}its]^{F35} sewers or sewage treatment works, a sewer—

- (a) in, under or over any road, or under any cellar or vault below any road; or
- (b) in, on or over any land which does not form part of a road and is not land as respects which he is owner, lessee or occupier,

but where authorisation is so given, subsection (2) of section 3 of this Act shall apply in respect of the person and the construction proposed as that subsection applies in respect of a sewerage authority and works proposed by [^{F37}it]^{F37} under subsection (1) of that section.

(2) [^{F38}Scottish Water]^{F38}—

- (a) in giving authorisation to a person under subsection (1) above; or
- (b) as respects any sewer (not being a sewer constructed by or on behalf of [^{F39}Scottish Water]^{F39}) whose construction by a person does not require such authorisation,

may, in a case where the proposed sewer will connect with [^{F40}its]^{F40} sewers or sewage treatment works, determine (and by written notice advise the person) that all, or a part which [^{F41}it]^{F41} shall specify in the notice, of the sewer constructed shall not vest in [^{F42}it]^{F42} through the operation of section 16(1)(c) of this Act and shall instead vest in him; but notwithstanding the determination [^{F43}Scottish Water]^{F43} may, on such terms and conditions as [^{F44}it thinks]^{F44} fit, then or at some later time enter into an agreement under which the sewer, or as the case may be the part, shall vest in [^{F42}it]^{F42} .]

Textual Amendments

F34 S. 3A and sidenote inserted (4.1.1995) by 1994 c. 39, **s. 101** (with s. 74(4)); S.I. 1994/2850, **art. 3(a)**, **Sch. 2** (with **art. 4**)

F35 Words in s. 3A(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 8(a)(i)** (with s. 67); S.I. 2002/118, **art. 2**

F36 Words in s. 3A(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 2** (with s. 67); S.S.I. 2002/118, **art. 2**

F37 Word in s. 3A(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 8(a)(ii)** (with s. 67); S.I. 2002/118, **art. 2**

F38 Words in s. 3A(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 3** (with s. 67); S.I. 2002/118, **art. 2**

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- F39** Words in s. 3A(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 4** (with s. 67); S.I. 2002/118, **art. 2**
- F40** Word in s. 3A(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 8(b)(i)** (with s. 67); S.I. 2002/118, **art. 2**
- F41** Word in s. 3A(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 8(b)(ii)** (with s. 67); S.I. 2002/118, **art. 2**
- F42** Words in s. 3A(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 8(b)(iii)** (with s. 67); S.I. 2002/118, **art. 2**
- F43** Words in s. 3A(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 3** (with s. 67); S.I. 2002/118, **art. 2**
- F44** Words in s. 3A(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 8(b)(iv)** (with s. 67); S.I. 2002/118, **art. 2**

Modifications etc. (not altering text)

- C4** S. 3A: power to modify conferred (*temp.* from 4.1.1995 to 1.4.1996) by 1994 c. 39, **s. 182(2)**; S.I. 1994/2850, **art. 3(a)**, **Sch. 2** (with **art. 4**)

4 Power of local authority to close or alter public sewers etc.

[^{F45}Scottish Water] may, if [^{F46}it thinks] fit, close, alter, replace or remove any sewer, sewage treatment works or other works vested in [^{F47}it] by virtue of this Act [^{F48}or of [^{F49}the Water Industry (Scotland) Act 2002 (asp 3)^{F49}], but, before any person who is lawfully using the sewer or works for any purpose is deprived by [^{F50}Scottish Water] of that use, [^{F51}it] shall provide a sewer or works equally effective for that use and shall at [^{F52}its] expense carry out any work necessary to connect his drain or private sewer with the sewer or works so provided.

Textual Amendments

- F45** Words in s. 4 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 2** (with s. 67); S.S.I. 2002/118, **art. 2**
- F46** Words in s. 4 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 9(a)** (with s. 67); S.S.I. 2002/118, **art. 2**
- F47** Word in s. 4 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 9(b)** (with s. 67); S.S.I. 2002/118, **art. 2**
- F48** Words in s. 4 inserted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(5)(b)**; S.I. 1996/323, **art. 4(1)(b)(c)**
- F49** Words in s. 4 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 9(c)** (with s. 67); S.S.I. 2002/118, **art. 2**
- F50** Words in s. 4 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 4** (with s. 67); S.S.I. 2002/118, **art. 2**
- F51** Word in s. 4 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 9(d)** (with s. 67); S.S.I. 2002/118, **art. 2**
- F52** Word in s. 4 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 9(e)** (with s. 67); S.S.I. 2002/118, **art. 2**

Modifications etc. (not altering text)

- C5** S. 4 applied with modifications (1.4.1992) by Environmental Protection Act 1990 (c. 43, SIF 46:4), **s. 45(10)**; S.I. 1992/266, **art. 3**.

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^{F53}5

Textual Amendments

F53 Ss. 5, 7(4), 18(4)-(6), 19 repealed by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29**

6 Functions outwith the area of a local authority.

^{F54}

Textual Amendments

F54 S. 6 repealed (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 10** (with s. 67); S.S.I. 2002/118, **art. 2**

7 Agreements between highway and local authorities.

(1) Subject to the provisions of this section, [^{F55}a roads authority] and [^{F56}Scottish Water] may agree, on such terms and conditions as may be specified in the agreement, as to the provision, management, maintenance or use of their sewers or drains for the conveyance of water from the surface of [^{F57}a road] or surface water from premises.

(2) ^{F58}

(3) [^{F59}A roads authority or [^{F60}Scottish Water^{F60}]] shall not unreasonably refuse to enter into an agreement for the purposes of this section or insist unreasonably upon terms or conditions unacceptable to the other party, ^{F61}..., and any dispute arising under this section to which the Secretary of State is not a party as to whether or not [^{F62}a roads authority or Scottish Water] are acting unreasonably, shall be referred to the Secretary of State, who, after consultation with the [^{F63}authority concerned and Scottish Water], shall determine the dispute, and his decision shall be final.

[^{F64}(3A) In the foregoing provisions of this section, “roads authority” has the same meaning as in the ^{M2}Roads (Scotland) Act 1984.]

^{F65}(4)

Textual Amendments

F55 Words in s. 7(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(7)(a)(i)**; S.I. 1996/323, **art. 4(1)(b)(c)**

F56 Words in s. 7(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 2** (with s. 67); S.S.I. 2002/118, **art. 2**

F57 Words in s. 7(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(7)(a)(iii)**; S.I. 1996/323, **art. 4(1)(b)(c)**

F58 S. 7(2) repealed (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 11(a)** (with s. 67); S.S.I. 2002/118, **art. 2**

F59 Words in s. 7(3) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(7)(c)(i)**; S.I. 1996/323, **art. 4(1)(b)(c)**

F60 Words in s. 7(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 2** (with s. 67); S.S.I. 2002/118, **art. 2**

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- F61** Words in s. 7(3) repealed (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 11(b)(i)** (with s. 67); S.S.I. 2002/118, **art. 2**
- F62** Words in s. 7(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 11(b)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2**
- F63** Words in s. 7(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 11(b)(iii)** (with s. 67); S.S.I. 2002/118, **art. 2**
- F64** S. 7(3A) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(7)(d)**; S.I. 1996/323, **art. 4(1)(b)(c)**
- F65** Ss. 5, 7(4), 18(4)-(6), 19 repealed by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29**

Marginal Citations

- M2** 1984 c. 54.

8 Agreements as to provision of sewers etc. for new premises.

- (1) Subject to subsection (2) below, where [^{F66}Scottish Water is] satisfied that premises are to be constructed within [^{F67}its] area by any person, [^{F68}it] may enter into an agreement with that person as respects the provision by that person or by [^{F69}it] of sewers and sewage treatment works to serve those premises, and any such agreement may specify the terms and conditions on which the work is to be carried out, including provision as to the taking over by [^{F70}Scottish Water] of sewage treatment works so provided, and, in relation to any premises served or to be served by the sewers or works, shall be enforceable against [^{F71}Scottish Water] by the owner or occupier of the premises for the time being.
- (2) An agreement under the foregoing subsection may only be entered into by [^{F72}Scottish Water] where [^{F73}it has] no duty under section 1 above to provide public sewers to serve the premises.

Textual Amendments

- F66** Words in s. 8(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 12(a)(i)** (with s. 67); S.S.I. 2002/118, **art. 2**
- F67** Word in s. 8(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 12(a)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2**
- F68** Word in s. 8(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 12(a)(iii)** (with s. 67); S.S.I. 2002/118, **art. 2**
- F69** Word in s. 8(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 12(a)(iv)** (with s. 67); S.S.I. 2002/118, **art. 2**
- F70** Words in s. 8(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 4** (with s. 67); S.S.I. 2002/118, **art. 2**
- F71** Words in s. 8(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 4** (with s. 67); S.S.I. 2002/118, **art. 2**
- F72** Words in s. 8(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 12(b)(i)** (with s. 67); S.S.I. 2002/118, **art. 2**
- F73** Words in s. 8(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 12(b)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2**

Status: Point in time view as at 06/03/2006.

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9 Loan of temporary sanitary conveniences.

Where work is to be carried out in connection with a sewer, drain or sewage treatment works which necessitates the disconnection of water closets or other sanitary conveniences provided for or in connection with premises, [^{F74}Scottish Water] may agree with the occupier of the premises, and on such terms and conditions as may be specified in the agreement, to supply on loan to him temporary sanitary conveniences in substitution for any water closets or other sanitary conveniences so disconnected: Provided that [^{F74}Scottish Water] shall make no charge for the supply, cleansing or removal of the temporary sanitary conveniences for the first 7 days of the period of loan or where the work is made necessary by a defect in a public sewer.

Textual Amendments

F74 Words in s. 9 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 13** (with s. 67); S.S.I. 2002/118, **art. 2**

[^{F75}10 Emptying of septic tanks.

- (1) It shall be the duty of [^{F76}Scottish Water]^{F76} to empty a septic tank serving premises in [^{F77}its]^{F77} area on [^{F77}its]^{F77} being requested to do so by the owner or occupier of the premises; but that duty is subject to subsection (2) below and as respects any particular septic tank—
 - (a) to its being reasonably practicable to empty the tank; and
 - (b) to all proper charges for [^{F77}its]^{F77} doing so being timeously paid.
- (2) The duty does not extend to septic tanks which receive trade effluent; but [^{F78}Scottish Water]^{F78} may, at the request of an owner or occupier of premises served by any such septic tank, agree to empty it on such conditions as to payment or otherwise as [^{F79}it thinks]^{F79} fit.
- (3) If any question arises under this section as to whether emptying is reasonably practicable or as to whether a septic tank receives trade effluent, it shall be determined summarily by the sheriff, whose decision in the matter shall be final.
- (4) For the purposes of subsection (1) above, a charge is proper if fixed in accordance with, and timeously paid if paid in accordance with, a charges scheme (within the meaning of [^{F80}the Water Industry (Scotland) Act 2002 (asp 3)]^{F80}.)

Textual Amendments

- F75** S. 10 and sidenote substituted (1.4.1996) by 1994 c. 39, s. 102 (with s. 74(4)); S.I. 1996/323, art. 4(1) (a), **Sch. 1**
- F76** Words in s. 10(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 2** (with s. 67); S.S.I. 2002/118, **art. 2**
- F77** Words in s. 10(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 14(a)** (with s. 67); S.S.I. 2002/118, **art. 2**
- F78** Words in s. 10(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 4** (with s. 67); S.S.I. 2002/118, **art. 2**
- F79** Words in s. 10(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 14(b)** (with s. 67); S.S.I. 2002/118, **art. 2**

Status: Point in time view as at 06/03/2006.

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F80 Words in s. 10(4) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 14(c)** (with s. 67); S.S.I. 2002/118, **art. 2**

11 Duty of local authority to keep map showing public sewers etc.

- [^{F81}(1) [^{F82}Scottish Water]^{F82} shall keep deposited at [^{F83}its]^{F83} principal office a map showing and distinguishing so far as is reasonably practicable all sewers, drains and sewage treatment works which are vested in [^{F84}it]^{F84} by virtue of this Act or of [^{F85}the Water Industry (Scotland) Act 2002 (asp 3)]^{F85} or in respect of which [^{F86}it has]^{F86} made a determination under section 3A(2) of this Act; and [^{F87}Scottish Water]^{F87} shall provide reasonable facilities at that office for inspection of the map by any person and shall permit a copy of the map, or of an extract of it, to be taken by a person on his paying such reasonable amount as [^{F87}Scottish Water]^{F87} may determine.]**
- (2) Where some of the sewers so vested in [^{F82}Scottish Water] are reserved for foul water only or for surface water only, the said map shall show also the purposes which each such sewer is intended to serve.
- [^{F88}(3) [^{F82}Scottish Water]^{F82} shall keep deposited at such of [^{F83}its]^{F83} offices, other than [^{F83}its]^{F83} principal office, as [^{F89}it considers]^{F89} appropriate, a copy relevant to the office in question of part of the map mentioned in subsection (1) above; and [^{F90}it]^{F90} shall provide the like facilities and permission in relation to the copy part, at the office at which that copy is deposited, as, under subsection (1) above, [^{F91}it does]^{F91} in relation to the map mentioned in that subsection at [^{F83}its]^{F83} principal office.**
- (4) For the purposes of subsection (3) above, a copy is relevant to an office if it is of such part of the map mentioned in subsection (1) above as appears to [^{F92}Scottish Water]^{F92} to be appropriate having regard to the geographical location of that office.]

Textual Amendments

- F81** S. 11(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(8)(a)**; S.I. 1996/323, **art. 4(1)(b)(c)**
- F82** Words in s. 11(1)(2)(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 2** (with s. 67); S.S.I. 2002/118, **art. 2**
- F83** Words in s. 11 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 15(a)** (with s. 67); S.S.I. 2002/118, **art. 2**
- F84** Word in s. 11(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 15(b)(i)** (with s. 67); S.S.I. 2002/118, **art. 2**
- F85** Words in s. 11(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 15(b)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2**
- F86** Words in s. 11(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 15(b)(iii)** (with s. 67); S.S.I. 2002/118, **art. 2**
- F87** Words in s. 11(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 4** (with s. 67); S.S.I. 2002/118, {art. 2}
- F88** S. 11(3)(4) added (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(8)(c)**; S.I. 1996/323, **art. 4(1)(b)(c)**
- F89** Words in s. 11(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 15(c)(i)** (with s. 67); S.S.I. 2002/118, **art. 2**
- F90** Words in s. 11(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 15(c)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2**
- F91** Words in s. 11(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 15(c)(iii)** (with s. 67); S.S.I. 2002/118, **art. 2**

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F92 Words in s. 11(4) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71, Sch. 5 para. 3](#) (with s. 67); [S.S.I. 2002/118, art. 2](#)

Rights and duties of owners and occupiers

12 Rights of owners and occupiers to connect with and drain into public sewers etc.

- (1) Subject to the provisions of this section and of section 14 below, the owner of any premises ^{F93}... shall be entitled to connect his drains or private sewers with the sewers or sewage treatment works of [^{F94}Scottish Water] , and the occupier of any such premises shall be entitled by means of those drains or private sewers to drain into those sewers or works the domestic sewage and surface water from those premises.
- (2) An owner shall not, under the foregoing subsection, be entitled to connect his drains or sewers with the sewers or works of [^{F95}Scottish Water] unless the intervening land is land through which the owner is entitled to construct a drain or sewer.
- (3) The owner of any premises who proposes to connect his drains or sewers with the sewers or works of [^{F96}Scottish Water], or to alter a drain or sewer connected with such sewer or works in such a manner as may interfere with them, shall give to [^{F97}Scottish Water] notice of his proposals, and within 28 days of the receipt by [^{F98}it] of the notice [^{F97}Scottish Water] may refuse permission for the connection or alteration, or grant permission for the connection or alteration, subject to such conditions as [^{F99}it thinks] fit, and any such permission may in particular specify the mode and point of connection and, where there are separate public sewers for foul water and surface water, prohibit the discharge of foul water into the sewer reserved for surface water, and prohibit the discharge of surface water into the sewer reserved for foul water.
- (4) [^{F96}Scottish Water] shall forthwith intimate to the owner [^{F100}its] decision on any proposals made by him under subsection (3) above, and, where permission is refused, or granted subject to conditions, shall inform him of the reasons for [^{F100}its] decision and of his right of appeal under subsection (5) below.
- (5) If a person to whom a decision has been given under subsection (4) above is aggrieved by the decision or any conditions attached thereto, he may appeal to the Secretary of State who may confirm the decision and any such conditions either with or without modification or refuse to confirm it.
- (6) Where permission has been granted as mentioned in subsection (3) above or by virtue of subsection (5) above, the person to whom it was granted shall, before commencing any work in pursuance of that permission, give not less than 3 days' notice to [^{F101}Scottish Water] so as to enable [^{F102}it] to supervise the execution of the work, and shall afford [^{F102}it] all reasonable facilities for so doing.
- (7) Where any work to be done in pursuance of a permission granted under subsection (3) above or by virtue of subsection (5) above involves the breaking open of a [^{F103}road], [^{F104}Scottish Water] may undertake the work in the [^{F103}road] and may recover the expenses reasonably incurred by [^{F105}it] in so doing from the person for whom the work was done.
- (8) Any person who connects a drain or sewer to the sewers or works of [^{F96}Scottish Water] or alters a drain or sewer without permission granted under this section, or contrary to any conditions attached thereto, shall be guilty of an offence and liable on summary conviction to a fine not exceeding [^{F106}£40,000] , and [^{F107}Scottish Water] may, whether

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or not proceedings have been taken under this subsection, close, remove or remake any such unlawful connection, and recover from the offender any expenses reasonably incurred by [F108it] in so doing.

Textual Amendments

- F93** Words in s. 12(1) repealed (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71, [Sch. 5 para. 16\(a\)\(i\)](#) (with s. 67); S.S.I. 2002/118, {art. 2}
- F94** Words in s. 12(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71, [Sch. 5 para. 16\(a\)\(ii\)](#) (with s. 67); S.S.I. 2002/118, {art. 2}
- F95** Words in s. 12(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71, [Sch. 5 para. 16\(b\)](#) (with s. 67); S.S.I. 2002/118, {art. 2}
- F96** Words in s. 12(3)(4)(8) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71, [Sch. 5 para. 2](#) (with s. 67); S.S.I. 2002/118, [art. 2](#)
- F97** Words in s. 12(3) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71, [Sch. 5 para. 4](#) (with s. 67); S.S.I. 2002/118, [art. 2](#)
- F98** Word in s. 12(3) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71, [Sch. 5 para. 16\(c\)\(i\)](#) (with s. 67); S.S.I. 2002/118, {art. 2}
- F99** Words in s. 12(3) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71, [Sch. 5 para. 16\(c\)\(ii\)](#) (with s. 67); S.S.I. 2002/118, {art. 2}
- F100** Words in s. 12(4) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71, [Sch. 5 para. 16\(d\)](#) (with s. 67); S.S.I. 2002/118, {art. 2}
- F101** Words in s. 12(6) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71, [Sch. 5 para. 16\(e\)\(i\)](#) (with s. 67); S.S.I. 2002/118, {art. 2}
- F102** Words in s. 12(6) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71, [Sch. 5 para. 16\(e\)\(ii\)](#) (with s. 67); S.S.I. 2002/118, {art. 2}
- F103** Word substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), [Sch. 9 para. 64\(3\)](#)
- F104** Words in s. 12(7) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71, [Sch. 5 para. 16\(f\)\(i\)](#) (with s. 67); S.S.I. 2002/118, {art. 2}
- F105** Words in s. 12(7) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71, [Sch. 5 para. 16\(f\)\(ii\)](#) (with s. 67); S.S.I. 2002/118, {art. 2}
- F106** Word in s. 12(8) substituted (28.10.2004) by [Antisocial Behaviour etc. \(Scotland\) Act 2004 \(asp 8\)](#), s. 145(2), [Sch. 2 para. 1\(2\)](#); S.S.I. 2004/420, art. 3, Sch. 1
- F107** Words in s. 12(8) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71, [Sch. 5 para. 3](#) (with s. 67); S.S.I. 2002/118, [art. 2](#)
- F108** Word in s. 12(8) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71, [Sch. 5 para. 16\(g\)](#) (with s. 67); S.S.I. 2002/118, {art. 2}

13 Rights of owners and occupiers to connect with and drain into sewers etc. of another local authority.

F109

Textual Amendments

- F109** S. 13 repealed (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71, [Sch. 5 para. 17](#) (with s. 67); S.S.I. 2002/118, [art. 2](#)

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14 Direction by local authority as to manner of construction of works.

- (1) Where the owner of any premises proposes to construct a drain or sewer in respect of which notice has been given to [F110Scottish Water] by virtue of section 12(3) above [F111...], or sewage treatment works in respect of which notice has been given under subsection (2) below, [F112Scottish Water] may, if [F113it considers] that the proposed drain, sewer or works is, or is likely to be, needed to form part of a general sewerage system which [F114it has] provided or propose to provide, within 28 days of the receipt by [F115it] of the notice direct him to construct the drain, sewer or works in a manner differing from that in which he proposes to construct the drain, sewer or works.
- (2) Where the owner of any premises proposes to construct sewage treatment works to serve those premises he shall give notice of his proposals to [F116Scottish Water].
- (3) If a person to whom a direction has been issued under subsection (1) above is aggrieved by the direction, he may appeal to the Secretary of State, who may disallow the direction or allow it with or without modification.
- (4) A person to whom a direction is issued under this section shall, before commencing any work in pursuance of that direction, give not less than 3 days' notice to [F117Scottish Water] so as to enable [F118it] to supervise the execution of the work and shall afford [F118it] all reasonable facilities for so doing.
- (5) [F119Where Scottish Water has issued a direction under subsection (1) above, it] shall pay to the person constructing the drain, sewer or sewage treatment works the extra expenses reasonably incurred by him in complying with the direction and, until the drain, sewer or works become vested in [F112Scottish Water], [F120it] shall also from time to time pay to him so much of any expenses reasonably incurred by him in repairing, operating or maintaining the drain, sewer or works as may be attributable to [F121its] direction having been made and complied with, and, if any question arises as to the amount of any payment to be made to him under this subsection, he may refer it by summary application to the sheriff whose decision on the matter shall be final.
- (6) If any person who under this section has been directed by [F110Scottish Water] to construct a drain, sewer or sewage treatment works in a particular manner constructs them otherwise than in accordance with the terms of the direction, or, if the direction has been modified under subsection (3) above, of the modified direction, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding [F122level 4 on the standard scale].

Textual Amendments

- F110** Words in s. 14(1)(6) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71, [Sch. 5 para. 2](#) (with s. 67); S.S.I. 2002/118, [art. 2](#)
- F111** Words in s. 14(1) repealed (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71, [Sch. 5 para. 18\(a\)\(i\)](#) (with s. 67); S.S.I. 2002/118, [art. 2](#)
- F112** Words in s. 14(1)(5) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71, [Sch. 5 para. 4](#) (with s. 67); S.S.I. 2002/118, [art. 2](#)
- F113** Words in s. 14(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71, [Sch. 5 para. 18\(a\)\(ii\)](#) (with s. 67); S.S.I. 2002/118, [art. 2](#)
- F114** Words in s. 14(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71, [Sch. 5 para. 18\(a\)\(iii\)](#) (with s. 67); S.S.I. 2002/118, [art. 2](#)
- F115** Words in s. 14(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71, {[Sch. 5 para. 18\(a\)\(iv\)](#)} (with s. 67); S.S.I. 2002/118, [art. 2](#)

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- F116** Words in s. 14(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71, **Sch. 5 para. 18(b)** (with s. 67); S.S.I. 2002/118, **art. 2**
- F117** Words in s. 14(4) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71, **Sch. 5 para. 18(c)(i)** (with s. 67); S.S.I. 2002/118, **art. 2**
- F118** Words in s. 14(4) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71, **Sch. 5 para. 18(c)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2**
- F119** Words in s. 14(5) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71, **Sch. 5 para. 18(d)(i)** (with s. 67); S.S.I. 2002/118, **art. 2**
- F120** Words in s. 14(5) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71, **Sch. 5 para. 18(d)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2**
- F121** Words in s. 14(5) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71, **Sch. 5 para. 18(d)(iii)** (with s. 67); S.S.I. 2002/118, **art. 2**
- F122** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **ss. 289F, 289G**

15 Owner or occupier to remedy defects in drains and other works.

- (1) If it appears to a local authority [^{F123}or [^{F124}Scottish Water^{F124}]] that as respects any premises in their [^{F125}or, as the case may be, its] area the drains or sewage treatment works serving such premises (other than drains or works vested in [^{F126}Scottish Water]) are defective, [^{F127}the local authority or, as the case may be, Scottish Water] may by notice require the owner or occupier of the premises, within a reasonable time therein specified, to remedy the defect.
- (2) If an owner or occupier is aggrieved by a notice under the foregoing subsection he may, within the time specified in the notice, refer the matter by summary application to the sheriff, who may issue such directions as he thinks fit, and whose decision on the matter shall be final.
- (3) Where an owner or occupier fails to comply with the terms of a notice under subsection (1) above, or as modified under subsection (2) above, the [^{F128}local^{F128}][^{F129}authority which served the notice] may, after giving not less than 7 days' notice [^{F130}or, where the notice was served by Scottish Water, that body] to the owner or occupier concerned, carry out the work necessary to remedy the defect, and may recover the expenses reasonably incurred by them [^{F131}or, as the case may be, it] in so doing from the person on whom the notice was served, but without prejudice to the rights and obligations, as between themselves, of the owner and occupier: Provided that the [^{F128}local^{F128}][^{F132}authority in question [^{F133}or, as the case may be, Scottish Water^{F133}]] may, if they think [^{F134}or it thinks] fit, remit such part of the expenses as seems to them [^{F131}or, as the case may be, it] to be equitable.
- (4) If it appears to [^{F135}a local authority or [^{F124}Scottish Water]^{F124}] that immediate action is required to remedy a defect], the foregoing provisions of this section shall apply with the following modifications—
 - (a) the period specified in a notice under subsection (1) shall be 48 hours;
 - (b) subsection (2) shall not apply; and
 - (c) the period specified in subsection (3) shall not apply and the [^{F136}local] authority [^{F137}which served the notice][^{F138}or, where the notice was served by Scottish Water, that body] may proceed to carry out the work forthwith.
- (5) In this section “defect” includes any obstruction in a drain or sewage treatment works, and “defective” shall be construed accordingly.

Status: Point in time view as at 06/03/2006.

Changes to legislation: Sewerage (Scotland) Act 1968, Part I is up to date with all changes known to be in force on or before 18 June 2024. 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)

Textual Amendments

- F123** Words in s. 15(1) inserted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(12)(a)(i)**; S.I. 1996/323, **art. 4(1)(b)(c)**
- F124** Words in s. 15(1)(4) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 2** (with s. 67); S.S.I. 2002/118, **art. 2**
- F125** Words in s. 15(1) inserted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 19(a)(i)** (with s. 67); S.S.I. 2002/118, **art. 2**
- F126** Words in s. 15(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 3** (with s. 67); S.S.I. 2002/118, **art. 2**
- F127** Words in s. 15(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 19(a)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2**
- F128** Words in s. 15(3) inserted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 19(b)(i)** (with s. 67); S.S.I. 2002/118, **art. 2**
- F129** Words in s. 15(3) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(12)(b)(i)**; S.I. 1996/323, **art. 4(1)(b)(c)**
- F130** Words in s. 15(3) inserted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 19(b)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2**
- F131** Words in s. 15(3) inserted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 19(b)(iii)** (with s. 67); S.S.I. 2002/118, **art. 2**
- F132** Words in proviso to s. 15(3) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(12)(b)(ii)**; S.I. 1996/323, **art. 4(1)(b)(c)**
- F133** Words in s. 15(3) inserted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 19(b)(iv)** (with s. 67); S.S.I. 2002/118, **art. 2**
- F134** Words in s. 15(3) inserted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 19(b)(v)** (with s. 67); S.S.I. 2002/118, **art. 2**
- F135** Words in s. 15(4) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(12)(c)(i)**; S.I. 1996/323, **art. 4(1)(b)(c)**
- F136** Word in s. 15(4)(c) inserted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 19(c)(i)** (with s. 67); S.S.I. 2002/118, **art. 2**
- F137** Words in s. 15(4)(c) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(12)(c)(ii)**; S.I. 1996/323, **art. 4(1)(b)(c)**
- F138** Words in s. 15(4)(c) inserted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 19(c)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2**

Modifications etc. (not altering text)

- C6** References to medical officer of health and sanitary inspector to be construed as references to the proper officer of a local authority: **Local Government (Scotland) Act 1973 (c. 65), Sch. 27 Pt. I para. 2**

Vesting of sewers, drains and works

16 Vesting of sewers and other works in local authority.

- (1) [^{F139}There shall vest in [^{F140}Scottish Water^{F140}]]—
- all sewers and sewage treatment works constructed by [^{F141}it] at [^{F142}its] expense in pursuance of section 1 above;
 - all junctions with [^{F142}its] sewers, ^{F143} . . . whether constructed at the expense of [^{F144}Scottish Water] or otherwise;

Status: Point in time view as at 06/03/2006.

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- [^{F145}(c) subject to any determination notified under subsection (2) of section 3A of this Act, all private sewers connecting with [^{F142}its]^{F142} sewers or sewage treatment works;
- (cc) where [^{F146}it enters]^{F146} into an agreement under subsection (2) of the said section 3A or under subsection (2) of section 16A of this Act (and subject to the terms of that agreement), all private sewers, or as the case may be parts of sewers, to which the agreement relates;]
- (d) all sewage treatment works taken over by [^{F141}it] by virtue of an agreement under section 8 above; and
- (e) all sewage treatment works taken over by [^{F141}it] under section 17 below.
- (2) Private sewers and junctions with sewers referred to in the foregoing subsection which are completed after [^{F147}^{F148}the date when section 21 of the Water Industry (Scotland) Act 2002 (asp 3) comes into force]^{F148} shall vest in [^{F149}Scottish Water^{F149}] on the date of their completion, and the works referred to in paragraph (e) of the foregoing subsection shall vest in [^{F150}Scottish Water] in accordance with the provisions of section 17 below.
- (3) All sewers, junctions therewith, drains and sewage treatment works vested in [^{F140}Scottish Water] shall be the property of [^{F151}Scottish Water which] shall be solely responsible for their management, maintenance and renewal.
- (4) In this section “junction” means the junction between a public sewer and any other sewer or drain.

Textual Amendments

- F139** Words in s. 16(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(13)(a)(i)**; S.I. 1996/323, **art. 4(1)(b)(c)**
- F140** Words in s. 16(1)(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 2** (with s. 67); S.S.I. 2002/118, **art. 2**
- F141** Words in s. 16(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 20(a)(i)** (with s. 67); S.S.I. 2002/118, **art. 2**
- F142** Words in s. 16(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 20(a)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2**
- F143** Words repealed by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29**
- F144** Words in s. 16(1)(b)(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 4** (with s. 67); S.S.I. 2002/118, **art. 2**
- F145** S. 16(1)(c)(cc) substituted for s. 16(1)(c) (4.1.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(13)(a)(ii)**; S.I. 1994/2850, **art. 3(c)(vi)** (with art. 4)
- F146** Words in s. 16(1)(cc) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 20(a)(iii)** (with s. 67); S.S.I. 2002/118, **art. 2**
- F147** Words in s. 16(2) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(13)(b)**; S.I. 1996/323, **art. 4(1)(b)(c)**
- F148** Words in s. 16(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 20(b)** (with s. 67); S.S.I. 2002/118, **art. 2**
- F149** Words in s. 16(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 3** (with s. 67); S.S.I. 2002/118, **art. 2**
- F150** Words in s. 16(1)(b)(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 4** (with s. 67); S.S.I. 2002/118, **art. 2**
- F151** Words in s. 16(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 20(c)** (with s. 67); S.S.I. 2002/118, **art. 2**

Status: Point in time view as at 06/03/2006.

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Modifications etc. (not altering text)

- C7 S. 16: power to modify conferred (*temp.* from 4.1.1995 to 1.4.1996) by 1994 c. 39, s. 182(2); S.I. 1994/2850, art. 3(a), Sch. 2 (with art. 4)

[^{F152}16A Vesting of certain private sewers.

- (1) Subject to any agreement entered into under subsection (2) below, there shall vest in a person authorised, under subsection (1) of section 3A of this Act, by [^{F153}Scottish Water]^{F153} to construct a sewer not connecting with [^{F154}its]^{F154} sewers or sewage treatment works the sewer constructed; and any sewer vested in a person by this subsection or by a determination under subsection (2) of that section shall be his property and he solely responsible for its management, maintenance and renewal.
- (2) Notwithstanding subsection (1) above, [^{F155}Scottish Water]^{F155} may, on such terms and conditions as [^{F156}it thinks]^{F156} fit, at any time enter into an agreement under which the sewer, or any part of it, shall vest in [^{F157}it]^{F157}.

Textual Amendments

- F152 S. 16A and sidenote inserted (4.1.1995) by 1994 c. 39, s. 180(1), Sch. 13 para. 75(14); S.I. 1994/2850, art. 3(c)(vi) (with art. 4)
- F153 Words in s. 16A(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, Sch. 5 para. 2 (with s. 67); S.S.I. 2002/118, art. 2
- F154 Words in s. 16A(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, Sch. 5 para. 21(a) (with s. 67); S.S.I. 2002/118, art. 2
- F155 Words in s. 16A(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, Sch. 5 para. 3 (with s. 67); S.S.I. 2002/118, art. 2
- F156 Words in s. 16A(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, Sch. 5 para. 21(b)(i) (with s. 67); S.S.I. 2002/118, art. 2
- F157 Words in s. 16A(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, Sch. 5 para. 21(b)(ii) (with s. 67); S.S.I. 2002/118, art. 2

Modifications etc. (not altering text)

- C8 S. 16A: power to modify conferred (*temp.* from 4.1.1995 to 1.4.1996) by 1994 c. 39, s. 182(2); S.I. 1994/2850, art. 3(a), Sch. 2 (with art. 4)

17 Local authority may take over private sewage treatment works.

- (1) Subject to the provisions of this section, [^{F158}Scottish Water] may, by agreement with the owner of [^{F159}any private sewage treatment works], or failing such agreement, in pursuance of proposals made by [^{F160}it] under subsection (2) below, take over the works.
- (2) [^{F161}Scottish Water] may, by notice served [^{F162}its] proposals to take over the works within such period, not being less than 2 months, as may be specified in the notice, and on such conditions, including if [^{F163}it thinks] fit conditions as to payment of compensation by [^{F164}it], as may be so specified ^{F165}... ; any notice served under this subsection shall inform the owner of his right of appeal under subsection (3) below.

Status: Point in time view as at 06/03/2006.

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- (3) If an owner on whom a notice has been served under subsection (2) above is aggrieved by the notice, he may, within the period specified in the notice, appeal to the Secretary of State who may confirm the proposals of ^{F166}Scottish Water] and any conditions so specified either with or without modification or refuse to confirm them.
- (4) All works taken over by ^{F167}Scottish Water] under this section shall vest in ^{F168}it] in accordance with the terms of any agreement made under subsection (1) above, or failing such agreement, at the end of the period specified under subsection (2) above or on such date as may be specified by the Secretary of State in his decision on an appeal under subsection (3) above.
- (5) Subject to the provisions of this Act, a person who immediately before the taking over of works under this section was lawfully entitled to use them shall continue to be so entitled after they have been so taken over.
- (6) An agreement under subsection (1) above or proposals under subsection (2) above may relate to a part only of works.

Textual Amendments

- F158** Words in s. 17(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71, Sch. 5 para. 22\(a\)\(i\)](#) (with s. 67); S.S.I. 2002/118, [art. 2](#)
- F159** Words in s. 17(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71, Sch. 5 para. 22\(a\)\(ii\)](#) (with s. 67); S.S.I. 2002/118, [art. 2](#)
- F160** Words in s. 17(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71, Sch. 5 para. 22\(a\)\(iii\)](#) (with s. 67); S.S.I. 2002/118, [art. 2](#)
- F161** Words in s. 17(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71, Sch. 5 para. 2](#) (with s. 67); S.S.I. 2002/118, [art. 2](#)
- F162** Words in s. 17(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71, Sch. 5 para. 22\(b\)\(i\)](#) (with s. 67); S.S.I. 2002/118, [art. 2](#)
- F163** Words in s. 17(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71, Sch. 5 para. 22\(b\)\(ii\)](#) (with s. 67); S.S.I. 2002/118, [art. 2](#)
- F164** Words in s. 17(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71, Sch. 5 para. 22\(b\)\(iii\)](#) (with s. 67); S.S.I. 2002/118, [art. 2](#)
- F165** Words in s. 17(2) repealed (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71, Sch. 5 para. 22\(b\)\(iv\)](#) (with s. 67); S.S.I. 2002/118, [art. 2](#)
- F166** Words in s. 17(3) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71, Sch. 5 para. 3](#) (with s. 67); S.S.I. 2002/118, [art. 2](#)
- F167** Words in s. 17(4) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71, Sch. 5 para. 2](#) (with s. 67); S.S.I. 2002/118, [art. 2](#)
- F168** Words in s. 17(4) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71, Sch. 5 para. 22\(c\)](#) (with s. 67); S.S.I. 2002/118, [art. 2](#)

Miscellaneous

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Textual Amendments

F169 S. 18 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 75(16), **Sch. 14**; S.I. 1996/323, art. 4(1)(b)(c)(d), **Sch. 2**

19 **F170**

Textual Amendments

F170 Ss. 5, 7(4), 18(4)—(6), 19 repealed by **Local Government (Scotland) Act 1973 (c. 65)**, **Sch. 29**

20 **Compensation for loss etc. resulting from exercise of powers under this Part of this Act.**

- (1) Subject to the provisions of this section, [^{F171}Scottish Water] shall make full compensation for any loss, injury or damage sustained by any person by reason of the exercise by [^{F172}Scottish Water] of any of [^{F173}its] powers under this Part of this Act in relation to a matter as to which he has not himself been in default.
- (2) Any question arising under this section as to the fact of loss, injury or damage or as to the amount of compensation shall, in the case of dispute, be referred to a single arbiter to be appointed by agreement between the parties or, in default of agreement, by the Secretary of State, and the arbiter may, and, if so directed by the Court of Session, shall, state a case for the opinion of that Court on any question of law arising in the proceedings.
- (3) A claim for compensation against [^{F174}Scottish Water] under this section shall not be maintainable unless it is made to [^{F175}Scottish Water] within [^{F176}24] months after the date on which it is alleged to have arisen.
- (4) Where an owner of land claims compensation in respect of loss, injury or damage sustained by him by reason of [^{F171}Scottish Water] having, in the exercise of [^{F177}its] powers under this Part of this Act, constructed a sewer in, on or over his land, the arbiter in determining the amount of compensation shall determine also by what amount, if any, the value to the claimant of any land belonging to him has been enhanced by the construction of the sewer, and [^{F178}Scottish Water] shall be entitled to set off that amount against the amount of any compensation awarded.
- [^{F179}(5) The foregoing provisions of this section shall apply to a person constructing a sewer by virtue of having been authorised to do so under section 3A(1), as they would apply to [^{F171}Scottish Water]^{F171} constructing a sewer under section 3(1), of this Act.]

Textual Amendments

F171 Words in s. 20(1)(4)(5) substituted (1.4.2002) by **Water Industry (Scotland) Act 2002 (asp 3)**, s. 71,

Sch. 5 para. 2 (with s. 67); S.S.I. 2002/118, **art. 2**

F172 Words in s. 20(1) substituted (1.4.2002) by **Water Industry (Scotland) Act 2002 (asp 3)**, s. 71, **Sch. 5**

para. 4 (with s. 67); S.S.I. 2002/118, **art. 2**

F173 Word in s. 20(1) substituted (1.4.2002) by **Water Industry (Scotland) Act 2002 (asp 3)**, s. 71, **Sch. 5**

para. 23(a) (with s. 67); S.S.I. 2002/118, **art. 2**

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- F174** Words in s. 20(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 23(b)** (with s. 67); S.S.I. 2002/118, **art. 2**
- F175** Words in s. 20(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 4** (with s. 67); S.S.I. 2002/118, **art. 2**
- F176** Word in s. 20(3) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(17)(b)**; S.I. 1996/323, **art. 4(1)(b)(c)**
- F177** Word in s. 20(4) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 23(c)** (with s. 67); S.S.I. 2002/118, **art. 2**
- F178** Words in s. 20(4) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 3** (with s. 67); S.S.I. 2002/118, **art. 2**
- F179** S. 20(5) added (4.1.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(17)(d)**; S.I. 1994/2850, **art. 3(c)(vi)** (with art. 4)

Modifications etc. (not altering text)

- C9** S. 20(5): power to modify conferred (4.1.1995) by 1994 c. 39, s. 182(2); S.I. 1994/2850, art. 3(a), **Sch. 2** (with art. 4)

21 Buildings not to interfere with sewers.

- ^{F180}(1) Unless with the consent of [^{F181}Scottish Water], which shall not be unreasonably withheld, no building shall be erected [^{F182}or embankment constructed] over, or in such a way as to interfere with or to obstruct access to, any sewer vested in [^{F183}Scottish Water][^{F184}or in respect of which [^{F185}it has] made a determination under section 3A(2) of this Act].
- (2) If any question arises as to whether consent under the foregoing subsection has been unreasonably withheld or as to what conditions should be attached to the consent, a person aggrieved may refer the question by summary application to the sheriff, whose decision in the matter shall be final.
- (3) In this section “building” has the same meaning as in section [^{F186}55(1) and (2) of the Building (Scotland) Act 2003 (asp 8)].

Textual Amendments

- F180** S. 21(1): power to modify conferred (4.1.1995) by 1994 c. 39, s. 182(2); S.I. 1994/2850, art. 3(a), **Sch. 2** (with art. 4)
- F181** Words in s. 21(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 3** (with s. 67); S.S.I. 2002/118, **art. 2**
- F182** Words in s. 21(1) inserted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(18)(b)**; S.I. 1996/323, **art. 4(1)(b)(c)**
- F183** Words in s. 21(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 4** (with s. 67); S.S.I. 2002/118, **art. 2**
- F184** Words in s. 21(1) added (4.1.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(18)(c)**; S.I. 1994/2850, **art. 3(c)(vi)** (with art. 4)
- F185** Words in s. 21(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 24** (with s. 67); S.S.I. 2002/118, **art. 2**
- F186** Words in s. 21(3) substituted (1.5.2005) by Building (Scotland) Act 2003 (asp 8), s. 59(1), **Sch. 6 para. 2** (with s. 53); S.S.I. 2004/404, art. 2(1)

Modifications etc. (not altering text)

- C10** S. 21 extended by Control of Pollution Act 1974 (c. 40), s. 28(3)

Status: Point in time view as at 06/03/2006.

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22 Protection for statutory undertakers.

- (1) Subject to the provisions of this section, nothing in this Part of this Act shall authorise [^{F187}Scottish Water] to carry out works which will interfere with the carrying on of a statutory undertaking [^{F188}or the running of [^{F189}an electronic communications code network]without the consent of the statutory undertakers concerned or, as the case may be, of the operator of [^{F190}that network].]
- (2) Consent under the foregoing subsection shall not be unreasonably withheld, and if any question arises as to whether or not consent is unreasonably withheld or as to what conditions, including payment of compensation, should be attached to the consent, either party may require that it shall be referred to a single arbiter to be appointed, in default of agreement, by the President of the Institution of Civil Engineers, and the arbiter may, and, if so directed by the Court of Session, shall, state a case for the opinion of that Court on any question of law arising in the proceedings.
- [^{F191}(2A) The foregoing provisions of this section shall apply to a person constructing a sewer by virtue of having been authorised to do so under section 3A(1), as they would apply to [^{F187}Scottish Water] constructing a sewer under section 3(1), of this Act.]
- (3) Nothing in this section shall be construed as limiting the powers of [^{F187}Scottish Water] under section 41 below.
- (4) In this section “statutory undertakers” and “statutory undertaking” have the meanings assigned to them by [^{F192}section 275(1) of the ^{M3}Town and Country Planning (Scotland) Act 1972].

Textual Amendments

- F187** Words in s. 22(1)(2A)(3) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71, [Sch. 5 para. 2](#) (with s. 67); S.S.I. 2002/118, [art. 2](#)
- F188** Words substituted by [Telecommunications Act 1984 \(c. 12, SIF 96\)](#), s. 109, [Sch. 4 para. 49](#)
- F189** Words in s. 22(1) substituted (17.9.2003) by [Communications Act 2003 \(Consequential Amendments\) Order 2003 \(S.I. 2003/2155\)](#), art. 1(1), [Sch. 1 para. 7\(a\)](#)
- F190** Words in s. 22(1) substituted (17.9.2003) by [Communications Act 2003 \(Consequential Amendments\) Order 2003 \(S.I. 2003/2155\)](#), art. 1(1), [Sch. 1 para. 7\(b\)](#)
- F191** S. 22(2A) inserted (4.1.1995) by 1994 c. 39, s. 180(1), [Sch. 13 para. 75\(19\)\(b\)](#); S.I. 1994/2850, [art. 3\(c\)\(vi\)](#) (with art. 4)
- F192** Words substituted by [Airports Authority Act 1975 \(c. 78\)](#), [Sch. 5 Pt. II para. 2](#)

Modifications etc. (not altering text)

- C11** S. 22 extended by [Post Office Act 1969 \(c. 48\)](#), [Sch. 4 para. 93\(1\)](#)
S. 22 extended by [Civil Aviation Act 1982 \(c. 16, SIF 9\)](#), s. 19, [Sch. 2 para. 4](#)
S. 22 extended by [Gas Act 1986 \(c. 44, SIF 44:2\)](#), s. 67(1)(3), Sch. 7 para. 2(1)(xxiii), [Sch. 8 para. 33](#)
S. 22 extended by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 1(1)(xxi), [Sch. 17 para. 33](#)
S. 22 extended (1.3.1996) by 1995 c. 45, s. 16(1), [Sch. 4 para. 2\(1\)\(xviii\)](#); S.I. 1996/218, [art. 2](#)
- C12** S. 22: power to modify conferred (4.1.1995) by 1994 c. 39, s. 182(2); S.I. 1994/2850, art. 3(a), [Sch. 2](#) (with art. 4)
- C13** S. 22 modified (1.4.2001) by 2000 c. 38, s. 37, [Sch. 5 para. 1\(2\)\(n\)](#); S.I. 2001/869, [art. 2](#)

Marginal Citations

- M3** 1972 c. 52.

Status: Point in time view as at 06/03/2006.

Changes to legislation: Sewerage (Scotland) Act 1968, Part I is up to date with all changes known to be in force on or before 18 June 2024. 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)

23 Restriction on working minerals.

Sections 71 to 78 of the ^{M4}Railways Clauses Consolidation (Scotland) Act 1845 (which restrict the working of minerals, subject to the payment of compensation), as originally enacted and not as amended for certain purposes by section 15 of the ^{M5}Mines (Working Facilities and Support) Act 1923, shall apply in relation to

- [^{F193}(a) any public sewers, public sewage treatment works or public drains; and
(b) any sewers, sewage treatment works or drains not vested in [^{F194}Scottish Water]^{F194} but forming (or forming part of) any such system as is mentioned in [^{F195}section 46(1)(b)(ii) of the Water Industry (Scotland) Act 2002 (asp 3)]^{F195},
to which they do not already apply, with the substitution—
- (i) for references to the railway, of references to the sewers, works or drains; and
(ii) for references to the company, of references to [^{F196}Scottish Water]^{F196},
or as the case may be to the person other than [^{F194}Scottish Water]^{F194},
in whom the sewers, works or drains are vested.]

Textual Amendments

- F193** S. 23(a)(b)(i)(ii) substituted (for subparas. (a), (b) and words)(4.1.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(20)**; S.I. 1994/2850, **art. 3(c)(vi)** (with art. 4)
- F194** Words in s. 23 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 2** (with s. 67); S.S.I. 2002/118, **art. 2**
- F195** Words in s. 23 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 25** (with s. 67); S.S.I. 2002/118, **art. 2**
- F196** Words in s. 23 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 5 para. 3** (with s. 67); S.S.I. 2002/118, **art. 2**

Modifications etc. (not altering text)

- C14** S. 23: power to modify conferred (*temp.* from 4.1.1995 to 1.4.1996) by 1994 C. 39, S. 182(2); S.I. 1994/2850, **art. 3(a)**, **Sch. 2** (with art. 4)

Marginal Citations

- M4** 1845 c. 33.
M5 1923 c. 20.

Status:

Point in time view as at 06/03/2006.

Changes to legislation:

Sewerage (Scotland) Act 1968, Part I is up to date with all changes known to be in force on or before 18 June 2024. 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.