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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 every local authority to provide such public sewers as may be necessary for effectually draining their 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 their sewers.
- (2) Without prejudice to the generality of the foregoing subsection, every local authority shall take their 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 therewith at a reasonable cost.
- (3) The duties imposed by the foregoing subsections shall not require a local authority to do anything which is not practicable at a reasonable cost.
- (4) If any question arises under this section as to whether anything is or is not practicable at a reasonable cost or as to the point or points to which public sewers 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 the local authority concerned, determine that question, and the local authority shall give effect to his determination.

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2 Maintenance of public sewers and other works.

Subject to section 4 below, it shall be the duty of every local authority to inspect, maintain, repair, cleanse, empty, ventilate and where appropriate renew all sewers, sewage treatment works and other works vested in them by virtue of this Act.

Modifications etc. (not altering text)

C1 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, a local authority may, within or outwith their area—
 - (a) construct a public sewer—
 - (i) in, under or over any [^{F1}road], or under any cellar or vault below any [^{F1}road];
 - (ii) in, on or over any land not forming part of a [^{F1}road];
 - (b) construct public sewage treatment works in or on any land held by them or appropriated for the purpose.
- (2) Before commencing construction of a sewer in, on or over any land not forming part of a [^{F1}road], a local authority shall serve notice of their 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, the local authority 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 [^{F2}192] of the Local Government (Scotland) Act [^{F2M1}1973] (service of notices) shall apply to notices under subsection (2) above relating to land as it applies to notices relating to premises.
- (4) Where a local authority, in the exercise of their powers under subsection (1) above, propose to execute works outwith their area ^{F3}. . . they shall in addition to any notice served under subsection (2) above serve notice of their intention on the local authority within whose area it is proposed to execute the works together with a description of the proposed works and if within two months after the service of the notice the local authority on whom it was served object to the proposed works, and that objection is not withdrawn, the first-mentioned authority shall not proceed to execute the works without consent aftermentioned but may refer the matter for the determination of the Secretary of State 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 his decision on the matter shall be final.

Textual Amendments

F1 Word substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), [Sch. 9 para. 64\(2\)](#)

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F2 Words substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 27 Pt. II para. 179](#)

F3 Words repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 29](#)

Modifications etc. (not altering text)

C2 [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.](#)

VALID FROM 04/01/1995

[^{F4}3A Authorisation of construction of certain private sewers etc.

(1) Without prejudice to their powers under section 3 of this Act (including any power to authorise the construction, on their behalf, of a public sewer), a sewerage authority may authorise a person to construct, within their area but whether or not connecting with their 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 them under subsection (1) of that section.

(2) The sewerage authority—

- (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 the authority) whose construction by a person does not require such authorisation,

may, in a case where the proposed sewer will connect with their sewers or sewage treatment works, determine (and by written notice advise the person) that all, or a part which they shall specify in the notice, of the sewer constructed shall not vest in them through the operation of section 16(1)(c) of this Act and shall instead vest in him; but notwithstanding the determination the sewerage authority may, on such terms and conditions as they think 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 them.]

Textual Amendments

F4 [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](#))

Modifications etc. (not altering text)

C3 [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](#))

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

A local authority may, if they think fit, close, alter, replace or remove any sewer, sewage treatment works or other works vested in them by virtue of this Act, but, before any person who is lawfully using the sewer or works for any purpose is deprived by the authority of that use, they shall provide a sewer or works equally effective for that use and shall at their expense carry out any work necessary to connect his drain or private sewer with the sewer or works so provided.

Modifications etc. (not altering text)

C4 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](#).

F5

Textual Amendments

F5 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.

Where . . . ^{F6} in pursuance of section 13 below a local authority exercise any functions in relation to any part of the area of another local authority or in relation to any premises situated therein, they may do so as if that part or those premises were situated within their area.

Textual Amendments

F6 Words repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 29](#)

7 Agreements between highway and local authorities.

- (1) Subject to the provisions of this section, [^{F7}the Secretary of State] and a local authority 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 [^{F7}trunk roads] or surface water from premises.
- (2) Where a sewer or drain with respect to which [^{F7}the Secretary of State] and a local authority propose to make an agreement under this section discharges, whether directly or indirectly, into the sewers or sewage treatment works of another local authority, the agreement shall not be made without the consent of that other authority, who may give their consent upon such terms and conditions as they think fit.
- (3) [^{F7}The Secretary of State or a] local authority 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, and a local authority shall not, under subsection (2) above, unreasonably refuse to consent to the making of such an agreement or insist unreasonably upon terms or conditions unacceptable to either party

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thereto, and any dispute arising under this section to which the Secretary of State is not a party as to whether or not any authority are acting unreasonably, shall be referred to the Secretary of State, who, after consultation with the authorities concerned, shall determine the dispute, and his decision shall be final.

(4) F8

Textual Amendments

F7 Words substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 27 Pt. II para. 180](#)

F8 [Ss. 5, 7\(4\), 18\(4\)—\(6\), 19](#) repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 29](#)

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

- (1) Subject to subsection (2) below, where a local authority are satisfied that premises are to be constructed within their area by any person, they may enter into an agreement with that person as respects the provision by that person or by them 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 the authority 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 the authority 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 an authority where the authority have no duty under section 1 above to provide public sewers to serve the premises.

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, the local authority concerned 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 the local authority 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.

10 Emptying of septic tanks.

- (1) A local authority may pass a resolution whereby they elect to empty all septic tanks serving premises situated in their area or in any part thereof specified in the resolution, and where such a resolution has been passed . . . F9 it shall be the duty of the authority, subject to subsection (2) below, to empty all septic tanks serving such premises, where it is reasonably practicable to do so, at reasonable intervals and at such convenient hours and times as they consider proper.

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- (2) The duty imposed by the foregoing subsection does not extend to septic tanks which receive trade effluent or to septic tanks which are, or are part of, public sewage treatment works.
- (3) If any question arises under this section as to whether anything is or is not reasonably practicable or as to whether intervals are or are not reasonable, or if any question arises under subsection (2) above, it shall be determined summarily by the sheriff, whose decision on the matter shall be final.
- (4) Where in relation to any premises situated in their area a local authority have no duty to empty septic tanks serving those premises, they may, at the request of the owner or occupier of the premises, agree to empty any such tank on such conditions as to payment or otherwise as the authority may think fit.

Textual Amendments

F9 Words repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 29](#)

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

- (1) Every local authority shall keep deposited at their offices, for inspection and copying by any person at all reasonable hours free of charge, a map showing and distinguishing so far as is reasonably practicable all sewers, drains and sewage treatment works which are vested in them by virtue of this Act.
- (2) Where some of the sewers so vested in a local authority 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.

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