



# Sewerage (Scotland) Act 1968

## 1968 CHAPTER 47

### PART I

#### GENERAL PROVISIONS AS TO SEWERAGE

##### *Miscellaneous*

#### **18 Expenses of local authorities and dissolution of drainage districts**

- (1) On the appointed day all special drainage districts and drainage districts shall be dissolved, and as from the commencement of this section the power to form such districts under Part VII of the Local Government (Scotland) Act 1947 or section 218 of the Burgh Police (Scotland) Act 1892 shall cease to have effect.
- (2) The Secretary of State shall, by regulations made by statutory instrument, provide for the payment by the local authority within whose area any such district was situated, subject to such exceptions or conditions as may be specified in the regulations, of compensation to or in respect of persons who were officers or servants employed for the purposes of the district who suffer loss of employment or loss or diminution of emoluments which is attributable to the dissolution of the district; and the regulations shall include provision as to the manner in which and the persons to whom any claim for compensation under this subsection is to be made and for the determination of all questions arising under the regulations.
- (3) As from the appointed day, the expenses of a town council under this Act shall be met from the burgh rate and the expenses of a county council under this Act shall be met from the county rate, and, if the county council think fit, and in accordance with the subsequent provisions of this section, from the special district sewer rate.
- (4) Notwithstanding the dissolution under this section of special drainage districts, a county council may continue to levy a special district sewer rate in any part of their area which formed a special drainage district where such a rate was levied for the year immediately preceding the appointed day:

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Provided that for the seven years commencing on the appointed day the product of any such rate shall not exceed—

- (a) for the first year, the relevant sum;
- (b) for the second year, the relevant sum;
- (c) for the third year, 85 per cent. of the relevant sum;
- (d) for the fourth year, 70 per cent. of the relevant sum;
- (e) for the fifth year, 55 per cent. of the relevant sum;
- (f) for the sixth year, 40 per cent. of the relevant sum;
- (g) for the seventh year, 25 per cent. of the relevant sum;

and no special district sewer rate shall thereafter be levied by the county council.

In this subsection " relevant sum " means the product of the special district sewer rate levied in a special drainage district for the year preceding the appointed day.

- (5) Notwithstanding the dissolution under this section of special drainage districts, section 45 of the Local Government (Scotland) Act 1894 (which provides for distinguishing in the valuation roll lands and heritages in special drainage districts and for the separate valuation of portions of undertakings within such districts) shall, during such period as may be necessary for the purposes of subsection (4) above, continue to have effect in relation to areas which formed the special districts so dissolved.
- (6) As from the appointed day, the provisions of Part VII of the Local Government (Scotland) Act 1947, so far as relating to the operation and dissolution of special drainage districts, shall cease to have effect.

## **19 Compulsory acquisition of land**

- (1) A local authority may, if so authorised by the Secretary of State, purchase land compulsorily for the purposes of this Part of this Act, whether or not the land is immediately required for those purposes, and the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 shall apply in relation to any such compulsory purchase as if this Act had been in force immediately before the commencement of that Act.
- (2) Where a dispute arises as to the compensation payable in respect of any such compulsory purchase, it shall be determined by the Lands Tribunal for Scotland in accordance with the Land Compensation (Scotland) Act 1963, but until sections 1 to 3 of the Lands Tribunal Act 1949 come into force as regards Scotland any such dispute shall be determined by an official arbiter appointed under Part I of the said Act of 1963.

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

- (1) Subject to the provisions of this section, a local authority shall make full compensation for any loss, injury or damage sustained by any person by reason of the exercise by the authority of any of their 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 an authority under this section shall not be maintainable unless it is made to the authority within 12 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 a local authority having, in the exercise of their 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 the local authority shall be entitled to set off that amount against the amount of any compensation awarded.

## **21 Buildings not to interfere with sewers**

- (1) Unless with the consent of the local authority, which shall not be unreasonably withheld, no building shall be erected over, or in such a way as to interfere with or to obstruct access to, any sewer vested in the authority.
- (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 29(1) of the Building (Scotland) Act 1959.

## **22 Protection for statutory undertakers**

- (1) Subject to the provisions of this section, nothing in this Part of this Act shall authorise a local authority to carry out works which will interfere with the carrying on of a statutory undertaking without the consent of the statutory undertakers concerned.
- (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.
- (3) Nothing in this section shall be construed as limiting the powers of a local authority under section 41 below.
- (4) In this section " statutory undertakers " and " statutory undertaking " have the meanings assigned to them by section 113(1) of the Town and Country Planning (Scotland) Act 1947.

## **23 Restriction on working of minerals**

Sections 71 to 78 of the Railways Clauses Consolidation (Scotland) Act 1845 (which restrict the working of minerals, subject to the payment of compensation), as originally

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enacted and not as amended for certain purposes by section 15 of the Mines (Working Facilities and Support) Act 1923, shall apply in relation to any public sewers, public sewage treatment works and public drains to which they do not already apply with the substitution—

- (a) for references to the railway of references to the sewers, works and drains;
- (b) for references to the company of references to the local authority in whom the sewers, works or drains are vested.