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Changes to legislation: Sewerage (Scotland) Act 1968, Cross Heading: Control of new discharges is up to date with all changes known to be in force on or before 17 May 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)



Sewerage (Scotland) Act 1968

1968 CHAPTER 47

PART II

TRADE EFFLUENTS

Control of new discharges

25 Meaning of new discharge.

In this Part of this Act, “new discharge” means a discharge from trade premises into the sewers or sewage treatment works of a [^{F1}sewerage] authority of trade effluent where the discharge—

- (a) has not previously been lawfully made into such sewers or works; or
- (b) not being an existing discharge by virtue of the proviso to section 33(1) below and whether commenced before or after the commencement of this section, has become substantially altered in nature or composition or whose temperature, volume or rate of discharge has been substantially increased since the commencement of this section; or
- (c) has been discontinued for a period of two years or more, the whole or part of which period occurs after the commencement of this section, and is thereafter resumed.

Textual Amendments

F1 Word in s. 25 substituted (1.4.1996) by 1994 c. 39, s. 180(1), Sch. 13 para. 75(15); S.I. 1996/323, art. 4(1)(b)(c)

Modifications etc. (not altering text)

C1 Ss. 24-38 (Pt. II) excluded (30.6.1993) by S.I. 1993/1446, reg. 3(3)

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26 New discharge only with consent of the authority.

Subject to section 37 below, an occupier or prospective occupier of trade premises who proposes to make a new discharge of trade effluent from those premises into the sewers or sewage treatment works of a [^{F2}sewerage] authority shall obtain the consent of the authority to the discharge, which shall be applied for in accordance with section 27 below.

Textual Amendments

F2 Word in s. 26 substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(15)**; S.I. 1996/323, **art. 4(1)(b)(c)**

Modifications etc. (not altering text)

C2 Ss. 24-38 (Pt. II) excluded (30.6.1993) by S.I. 1993/1446, **reg. 3(3)**
Ss. 26-32 applied (30.6.1993) by S.I. 1993/1446, **reg. 3(2)(b)**

27 Procedure on application for consent to new discharge.

- (1) An application for the consent of a [^{F3}sewerage] authority under section 26 above shall be made by serving a notice on the authority (hereafter in this Part of this Act referred to as a “trade effluent notice”).
- (2) A trade effluent notice shall state so far as is reasonably practicable—
 - (a) the nature, composition and temperature of the effluent;
 - (b) the maximum quantity of the effluent which it is proposed to discharge on any one day;
 - (c) the maximum hourly rate at which it is proposed to discharge the effluent.
- (3) Where the person applying for the consent of the authority is not the owner of the premises, he shall, at the same time as serving a trade effluent notice on the authority under subsection (1) above, send a copy of the notice to the owner of the premises and inform him that he may make representations in respect of the application to the authority within 28 days of receipt of the copy.
- (4) The authority on receiving a trade effluent notice shall forthwith send a copy of the notice to—
 - (a) any other [^{F3}sewerage] authority into whose sewers or sewage treatment works the new discharge will in due course be made (hereafter in this section referred to as a “second authority”), and
 - (b) any other body acting under statutory powers which, in the opinion of the authority, has an interest in the application.

and at the same time shall inform the second authority or any body to which a copy of the notice is sent in pursuance of this subsection that they may make representations in respect of the application to the authority within 28 days of receipt of the copy.
- (5) The authority before making a decision on an application shall take into account any representations made in pursuance of subsections (3) and (4) above.
- (6) Where the authority propose in their decision not to give effect to any representations made by a second authority under subsection (4) above, they shall forthwith inform the second authority accordingly; and if the second authority are dissatisfied with that

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proposal they may, within 7 days of being so informed, refer the matter to the Secretary of State whose decision in the matter shall be final.

Textual Amendments

F3 Words in s. 27(1)(4)(a) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(15)**; S.I. 1996/323, **art. 4(1)(b)(c)**

Modifications etc. (not altering text)

C3 Ss. 24-38 (Pt. II) excluded (30.6.1993) by S.I. 1993/1446, **reg. 3(3)**
Ss. 26-32 applied (30.6.1993) by S.I. 1993/1446, **reg. 3(2)(b)**

28 Time to dispose of application.

- (1) An application for the consent of a [^{F4}sewerage] authority under section 26 above shall, subject to the following subsection, be decided by them and intimated in accordance with section 30 below within a period of 3 months of the receipt by them of a trade effluent notice.
- (2) Any such application which has been the subject of a reference to the Secretary of State under section 27(6) above shall be decided and so intimated by the authority within a period of 28 days of the receipt by them of the Secretary of State's decision under the said section 27(6).

Textual Amendments

F4 Word in s. 28(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(15)**; S.I. 1996/323, **art. 4(1)(b)(c)**

Modifications etc. (not altering text)

C4 Ss. 24-38 (Pt. II) excluded (30.6.1993) by S.I. 1993/1446, **reg. 3(3)**
Ss. 26-32 applied (30.6.1993) by S.I. 1993/1446, **reg. 3(2)(b)**

29 Decision on application.

- (1) A [^{F5}sewerage] authority in their decision on an application under section 26 above may refuse their consent or they may grant their consent either unconditionally or subject to such conditions as they may think fit to impose.
- (2) Where the authority have failed to intimate their decision on an application within the 3 month period referred to in subsection (1), or, as the case may be, the 28 day period referred to in subsection (2), of section 28 above, they shall be deemed to have made a decision on the last day of that period refusing their consent to the application.
- (3) Without prejudice to subsection (1) above, the authority in granting their consent may impose conditions relating to—
 - (a) the sewers into which any trade effluent may be discharged;
 - (b) the nature or composition of any trade effluent which may be discharged;
 - (c) the maximum quantity of any trade effluent which may be discharged on any one day, either generally or into a particular sewer;

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- (d) the maximum hourly rate at which any trade effluent may be discharged, either generally or into a particular sewer;
- (e) the period or periods of the day during which any trade effluent may be discharged into the sewers;
- (f) the elimination from or the diminution in any trade effluent of cooling water;
- (g) the prevention of any injury to the health of persons engaged in carrying out the functions of the authority under this Act as a result of the discharge of any trade effluent into the sewers;
- (h) the elimination or diminution of any specified constituent of any trade effluent, before it enters the sewers, where the authority are satisfied that that constituent would, either alone or in combination with any matter with which it is likely to come into contact while passing through any sewers—
 - (i) injure or obstruct those sewers, or make specially difficult or expensive the treatment or disposal of the sewage from those sewers, or
 - (ii) (where the trade effluent is to be discharged into sewers having an outfall in any harbour or in any waters below high water mark of ordinary spring tides or into sewers which connect directly or indirectly with sewers having such an outfall) cause or tend to cause injury or obstruction to the navigation on, or the use of, the said harbour or waters;
- (i) the temperature of any trade effluent at the time when it is discharged into the sewers and its acidity or alkalinity at that time;
- (j) the payment by the occupier of the trade premises to the authority of charges for the reception of any trade effluent into the sewers, and for the treatment and disposal thereof, regard being had to the nature and composition and to the volume and rate of discharge of the trade effluent so discharged, to any additional expense incurred or likely to be incurred by the authority in connection with the reception, treatment or disposal of the trade effluent or in connection with the provision already made by them for the treatment and disposal of trade effluent in their area, and to any revenue likely to be derived by the authority from the trade effluent;
- (k) the provision and maintenance of such inspection chambers or manholes as will enable a person readily to take at any time samples of any effluent passing into the sewers from the trade premises;
- (l) the provision and maintenance of such meters as may be required to measure the volume and rate of discharge of any trade effluent being discharged from the trade premises into the sewers and for the testing of such meters;
- (m) the provision and maintenance of apparatus for determining the nature, composition and temperature of any trade effluent being discharged from the premises into the sewers and for the testing of the apparatus;
- (n) the keeping of records of the volume, rate of discharge, nature, composition and temperature of any trade effluent being so discharged, and in particular the keeping of records of readings of meters and other recording apparatus provided in compliance with any other condition imposed in connection with the consent;
- (o) the making of returns and giving of other information to the authority concerning the volume, rate of discharge, nature, composition and temperature of any trade effluent so discharged.

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- (4) A consent granted under this section, and (where such consent is granted subject to any conditions) all or any of the conditions, may be made to take effect as from a specified date or for a specified period, being not less than two years, or both as from a specified date and for such a specified period.
- (5) Any decision of an authority under this section shall continue to be effective notwithstanding that there has been a change of ownership or occupancy of the premises to which the decision relates.
- (6) Where an application under section 26 above is for the consent of the authority to an increase of volume or rate of discharge of a discharge which is already being made lawfully, no decision of the authority under this section shall have the effect of restricting the discharge already being made.
- (7) In this section, any reference to a sewer or sewers includes a reference to sewage treatment works, and “harbour” has the same meaning as in section 57 of the ^{M1}Harbours Act 1964.

Textual Amendments

F5 Word in s. 29(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(15)**; S.I. 1996/323, **art. 4(1)(b)(c)**

Modifications etc. (not altering text)

C5 Ss. 26-32 applied (30.6.1993) by S.I. 1993/1446, **reg. 3(2)(b)**
Ss. 24-38 (Pt. II) excluded (30.6.1993) by S.I. 1993/1446, **reg. 3(3)**

Marginal Citations

M1 1964 c. 40.

30 Intimation of decision.

- (1) A [^{F6}sewerage] authority shall intimate their decision under section 29 above, and the reasons therefor, to the owner and occupier or prospective occupier of the trade premises in question and to any authority or other body to which a copy of the trade effluent notice was sent under section 27(4) above.
- (2) An intimation of a decision under this section shall—
 - (a) draw attention to the provisions of section 29(5) above;
 - (b) refer to the applicant’s right of appeal against, and the power of review of, the decision under this Part of this Act.

Textual Amendments

F6 Word in s. 30(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(15)**; S.I. 1996/323, **art. 4(1)(b)(c)**

Modifications etc. (not altering text)

C6 Ss. 24-38 (Pt. II) excluded (30.6.1993) by S.I. 1993/1446, **reg. 3(3)**.
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31 Appeal against refusals and conditions.

Where the applicant for consent under section 26 above is aggrieved by the decision of the [^{F7}sewerage] authority under section 29 above, he may appeal to the Secretary of State, who may dispose of the appeal in any way competent to the authority in their decision on the application.

Textual Amendments

F7 Word in s. 31 substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(15)**; S.I. 1996/323, **art. 4(1)(b)(c)**

Modifications etc. (not altering text)

C7 Ss. 26-32 applied (30.6.1993) by S.I. 1993/1446, **reg. 3(2)(b)**.
Ss. 24-38 (Pt. II) excluded (30.6.1993) by S.I. 1993/1446, **reg. 3(3)**.

32 Review of consents, conditions and refusals.

- (1) A [^{F8}sewerage] authority may, and when requested so to do by the occupier of the premises in question shall, by direction review a decision made by them under section 29 above.
- (2) Before making a direction under this section, the [^{F8}sewerage] authority shall intimate to the owner and occupier of the premises in question that they propose to make such a direction, and their reasons therefor, and inform the owner and occupier that they may, within 28 days of receipt of the intimation, make representations to the authority in respect of the proposals.
- (3) Before making such a direction the authority shall take into account any representations made in pursuance of subsection (2) above.
- (4) Section 29 above except subsection (2), and section 30 above except subsection (1) so far as relating to intimation to any authority or other body, shall, with any necessary modifications, apply to such a direction as they apply to a decision under the said section 29.
- (5) No review under this section may take place earlier than two years after the making of a decision under the said section 29, and thereafter reviews may take place at intervals of not less than two years, unless in either case the authority and the applicant otherwise agree in writing.
- (6) A direction under this section shall take effect from a date specified therein, but not earlier than 3 months after the date of the direction.
- (7) Where a direction is made under this section relating to the discharge of trade effluent from any premises, the occupier of the premises may appeal against the direction to the Secretary of State, who may dispose of the appeal in any way competent to the authority in making the direction.

Textual Amendments

F8 Words in s. 32(1)(2) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 75(15)**; S.I. 1996/323, **art. 4(1)(b)(c)**

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