



# Water (Scotland) Act 1980

## 1980 CHAPTER 45

### PART II

#### DUTIES OF WATER AUTHORITIES

#### 3 Water authorities.

- (1) Subject to subsection (2), the water authority for any area shall be the regional or islands council for that area.
- (2) For any area specified in column 1 of the following table the water authority shall be the regional council specified in relation to that area in column 2 of that table.

TABLE

Area	Regional council to whose limits of supply the area in column 1 is added
<b>1</b>	<b>2</b>
The whole of the former county of Kinross.	Fife
That part of the former counties of Stirling and Dunbarton which on 16th May 1975 lay within both the Strathclyde Region and the region of the former Mid-Scotland Water Board.	Central
That part of the Stirling District and the Central Region situated at Craigmaddie Loch which on 1st April 1977 was transferred to the Strathkelvin District and the Strathclyde Region.	Central

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- (3) The area within which a water authority are to exercise their functions shall comprise the limits of supply of that authority.
- (4) Notwithstanding section 57 (appointment of committees) of the <sup>M1</sup>Local Government (Scotland) Act 1973, where—
- (a) a water authority have arranged under section 56 (discharge of functions) of the said Act of 1973 for the discharge of their functions relating to water by a committee, and
  - (b) the limits of supply of that authority include an added area,
- then the members of that committee shall be appointed both by that authority and by the other water authority; and the number of such members to be appointed by each of those authorities shall be such number as may be agreed between them or in default of agreement as the Secretary of State may by order specify.
- (5) A member of such a committee who represents the other water authority shall not be entitled to exercise a deliberative vote or to submit a motion or, except with the leave of the committee, to take part in a discussion except in respect of a matter relating solely or, in the opinion of the person presiding at the meeting of the committee, mainly to the exercise of any of the functions of the water authority of whose committee he is a member.
- (6) Where the limits of supply of a water authority include an added area but the authority propose to make an arrangement for the discharge of their functions relating to water other than such an arrangement as is referred to in subsection (4)(a), then the proposed arrangement shall require the consent of the Secretary of State, who shall not give such consent unless he is satisfied that the interests of the other water authority will be adequately safeguarded by the proposed arrangement.
- (7) In this section—
- “added area” means an area specified in column 1 of the table set out at the end of subsection (2) or in that column as amended or extended by an order under section 4;
- “the other water authority” means the authority in whose region the added area is situated.

#### Marginal Citations

M1 1973 c. 65.

## 4 Alteration of limits of supply.

- (1) Subject to the provisions of this section, the Secretary of State may at any time by order alter the limits of supply of a water authority.
- (2) Any order under this section may include such transitional, incidental, supplementary and consequential provisions as the Secretary of State may consider necessary or expedient for the purposes of the order.
- (3) The provisions of Schedule 7 shall have effect in relation to the making of an order under this section.

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## 5 Maps of limits of supply.

- (1) The Secretary of State shall, as soon as practicable after the coming into force of the <sup>M2</sup>Local Government (Scotland) Act 1973, send to any water authority whose limits of supply include an area specified in column 1 of the table set out in section 3(2) and to any water authority whose limits of supply would include such an area but for the said section 3(2), a map of that area, and shall, as soon as practicable after an order under section 4 relating to the limits of supply of a water authority comes into operation, send to that authority a map of the limits of supply of that authority as altered or, as the case may be, designated by the order.
- (2) Any map sent to a water authority under section 6 of the <sup>M3</sup>Water (Scotland) Act 1967 or under this section, except a map which has been superseded by a subsequent map so sent, shall be kept at the principal office of the authority; and the authority shall provide reasonable facilities for the inspection of the map by any person wishing to inspect it, and for the taking of copies of, and extracts from, the map.
- (3) Any map to which subsection (2) applies shall be taken to be a document within the meaning of the <sup>M4</sup>Documentary Evidence Act 1868, as applied to the Secretary of State for Scotland.

### Marginal Citations

- M2** 1973 c. 65.  
**M3** 1967 c. 78.  
**M4** 1868 c. 37

## 6 Duty of authority to provide supply.

- (1) It shall be the duty of every water authority to provide a supply of wholesome water to every part of their limits of supply where a supply of water is required for domestic purposes and can be provided at a reasonable cost.
- (2) Without prejudice to the generality of subsection (1), every water authority shall provide a supply of wholesome water in pipes to every part of their limits of supply where a supply of water is required for domestic purposes and shall take the pipes affording that supply to such point or points as will enable the buildings for which a supply is required for domestic purposes to be connected thereto at a reasonable cost; but this subsection shall not require a water authority to do anything which is not practicable at a reasonable cost or to provide such a supply to any part of their limits of supply where such a supply is already available at such point or points.
- (3) If any question arises under this section as to—
  - (a) whether a supply of water can be provided at a reasonable cost, or
  - (b) whether anything is or is not practicable at a reasonable cost, or
  - (c) the point or points to which pipes must be taken in order to enable buildings to be connected therewith at a reasonable cost,the Secretary of State, if requested to do so by 10 or more local government electors in the limits of supply of the water authority, shall, after consulting the authority, determine that question and the authority shall give effect to his determination.
- (4) Every water authority shall also provide a supply of water for the purpose of complying with any other obligation imposed on them by this Act and may, if they think fit,

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provide a supply to enable them to exercise any of the powers conferred on them by this Act or for any other purpose which they consider is in the interests of the area comprising their limits of supply.

## **7 Supply of water for domestic purposes.**

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

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

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

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

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

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- (5) Where a water authority are required to give a supply of water under this section, the powers of the authority and of persons supplied or proposed to be supplied by them to lay mains and pipes for providing a supply of water for domestic purposes and to break open [<sup>F1</sup>roads] for that purpose shall apply for the purpose of the provision of a supply under this section.
- (6) Charges for water supplied under this section, whether by meter or otherwise, shall be recoverable in the manner in which [<sup>F2</sup>non-domestic rates] levied by the regional or islands council <sup>F3</sup> are recoverable.

#### Textual Amendments

- F1** Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 81(2)**
- F2** Words substituted by Abolition of Domestic Rates Etc. (Scotland) Act 1987 (c.47, SIF 81:2, 103:2), s. 25, **Sch. 5 Pt. IV para. 27**
- F3** Words repealed by Abolition of Domestic Rates Etc. (Scotland) Act 1987 (c. 47, SIF 81:2, 103:2), s. 34, **Sch. 6**

[<sup>F4</sup>9A

Without prejudice to any provision relating to [<sup>F5</sup>the non-domestic water rate or the [<sup>F6</sup>council water charge]], but notwithstanding anything in section 9 or 49 of this Act, no charge may be made by a water authority in respect of—

- [ water taken for the purpose of extinguishing fires or taken by a fire authority
- <sup>F7</sup>(a) for any other emergency purposes;
- (b) water taken for the purpose of testing apparatus installed or equipment used for extinguishing fires or for the purpose of training persons for fire-fighting; or
- (c) the availability of water for any purpose mentioned in paragraph (a) or (b) above:]

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

#### Textual Amendments

- F4** S. 9A added by Local Government and Planning (Scotland) Act 1982 (c.43, SIF 81:2), s. 59
- F5** Words substituted by Abolition of Domestic Rates Etc. (Scotland) Act 1987 (c. 47, SIF 81:2, 103:2), s. 25, **Sch. 5 Pt. IV para. 28**
- F6** Words in s. 9A substituted (1.4.1993) by Local Government Finance Act 1992 (c. 14), s. 107, **Sch. 11, Pt. IV, para. 29(a)** (with s. 118(1)(2)(4)); S.I. 1993/575, **art. 2(b)**
- F7** S. 9A(a)(b)(c) substituted (6.3.1992) for paras. (a)(b) by Local Government Finance Act 1992 (c. 14), s. 107, **Sch. 11, Pt. IV, para. 29(b)** (with s. 118(1)(2)(4))

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

- (1) Subject to the provisions of this section, a district council or water authority or water development board shall make full compensation to any person who has sustained damage by reason of the exercise by them of any of their powers under this Act in relation to a matter as to which he has not himself been in default.

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- [<sup>F8</sup>(1A) The escape of water, however caused, onto agricultural land or forestry land from one of a water authority's or as the case may be water development board's communication pipes or mains shall for the purposes of subsection (1) above be taken to have been brought about by the exercise by them of powers under this Act.]
- (2) Any question arising under this section as to the fact of damage or as to the amount of compensation shall, in case of dispute, be determined by arbitration.
- (3) A claim for compensation under this section shall not be maintainable unless it is made within 12 months after the date on which it is alleged to have arisen.
- (4) The provisions of this section shall be without prejudice to any other provisions in this Act relating to compensation.
- [<sup>F9</sup>(5) Without prejudice to any right to compensation other than under subsection (1) above, in that subsection "person" does not, as regards compensation payable under that subsection by virtue of subsection (1A) above, include—
- (a) statutory undertakers as defined in section 275(1) of the <sup>M5</sup> Town and Country Planning (Scotland) Act 1972;
  - [ roads authorities as defined in section 151(1) of the <sup>M6</sup> Roads (Scotland) Act <sup>F10</sup>(b) 1984;]
  - (c) bridge authorities [<sup>F11</sup>as defined in section 147 of the New Roads and Street Works Act 1991;]
  - [ road works authority as defined in section 108 of the New Roads and Street <sup>F12</sup>(d) Works Act 1991;]
  - (e) persons on whom a right to compensation under section 26 of the said Act of 1950 is conferred.
- (6) In subsection (1A) above, the expressions "agricultural land" and "forestry land" mean land (but not any building) used, respectively, for agriculture or for forestry which is so used for the purposes of a trade or business; and in the foregoing provisions of this subsection "agriculture" has the meaning assigned to it by section 86(3) of the Agriculture (Scotland) Act 1948 and "forestry" means the growing of woods and forests for the production of timber and other forest products and the growing of trees for planting in such woods and forests.]

#### Textual Amendments

- F8** S. 10(1A) inserted by Local Government and Planning (Scotland) Act 1982 (c. 43, SIF 81:2), s. 57(a)
- F9** S. 10(5)(6) inserted by Local Government and Planning (Scotland) Act 1982 (c. 43, SIF 81:2), s. 57(b)
- F10** S. 10(5)(b) substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 81(3)(a)**
- F11** Words in s. 10(5)(c) substituted (1.1.1993) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(1), **Sch. 8 Pt. IV para. 108(2)(a)**; S.I. 1992/2990, art. 2(2), **Sch. 2**
- F12** S. 10(5)(d) substituted (1.1.1993) by virtue of New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(1), **Sch. 8, Pt. IV, para. 108(2)(b)**; S.I. 1992/2990, art. 2(2), **Sch. 2**

#### Marginal Citations

- M5** 1972 c. 52 (123:3).
- M6** 1984 c. 54 (59, 108).

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

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

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default as in the opinion of the Secretary of State may be necessary or expedient, and when any such order is revoked the Secretary of State may, either by the revoking order or by a subsequent order, make such provision as appears to him to be desirable with respect to any property or liabilities acquired or incurred by the transferee authority or board in discharging any of the functions to which the order so revoked related.

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

**C1** S. 11 extended (1.10.1991) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1, 130\)](#), s. **20(6)(b)**



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