



Water (Scotland) Act 1980

1980 CHAPTER 45

PART VI

CONSERVATION AND PROTECTION OF WATER RESOURCES

68 Agreements as to drainage.

- (1) [^{F1}Scottish Water]^{F2} . . . may enter into agreements—
- (a) with the owners and occupiers of any land, in so far as their interest enables them to bind it, or
 - (b) with a [^{F3}local authority],

with respect to the execution and maintenance by any party to the agreement of such works as [^{F4}Scottish Water considers] necessary for the purpose of draining that land, or for more effectually [^{F5}collecting or conveying] water which [^{F6}it is] for the time being authorised to take:

Provided that where the execution of any such works would result in the discharge of water, otherwise than through public sewers, into any watercourse which is within a fishery district or is subject to the jurisdiction of a navigation authority or from which any public undertakers are authorised by any enactment to take or use water, [^{F7}Scottish Water]^{F2} . . . shall, before entering into the agreement, consult with the fishery district board or the navigation authority or the undertakers concerned.

- (2) An agreement under this section with an owner of land shall, if it is so expressed therein, on being [^{F8}registered in the Land Register of Scotland or recorded in the] Register of Sasines, be binding upon and enforceable against any person subsequently acquiring the land or any estate or interest therein.

^{F9}(3)

Textual Amendments

F1 Words in s. 68(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 42\(a\)](#) (with s. 67); [S.S.I. 2002/118](#), [art. 2\(3\)](#)

Changes to legislation: *Water (Scotland) Act 1980, Part VI is up to date with all changes known to be in force on or before 27 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) View outstanding changes*

- F2** Words in s. 68(1) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(35)(a)(i), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**
- F3** Words in s. 68(1)(b) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(35)(a)(ii)**; S.I. 1996/323, **art. 4(1)(c)**
- F4** Words in s. 68(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 42(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F5** Words in s. 68(1) substituted (21.12.2013) by Water Resources (Scotland) Act 2013 (asp 5), **ss. 31(1), 56(1)(2)**; S.S.I. 2013/342, art. 2(b)
- F6** Words in s. 68(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 42(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F7** Words in s. 68(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 42(d)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F8** Words in s. 68(2) substituted (8.12.2014) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **sch. 5 para. 21(3)** (with s. 121, sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2
- F9** S. 68(3) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(35)(b), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

[^{F10}68A Agreements for water quality

- (1) With respect to the matters mentioned in subsection (2), Scottish Water may enter into agreements with—
 - (a) the owners and occupiers of any land (in so far as their interest enables them to bind it), or
 - (b) a local authority.
- (2) The matters are—
 - (a) the carrying out by a party to the agreement of such activities as Scottish Water considers necessary for the purpose of protecting or improving the quality of any raw water,
 - (b) the refraining by a party to the agreement from such activities as Scottish Water considers detrimental to the purpose of protecting or improving the quality of any raw water.
- (3) In subsection (2), the references to protecting or improving the quality of water include—
 - (a) preventing any deterioration in the quality of the water,
 - (b) reducing or eliminating the amount of any treatment that the water requires in order to be wholesome.
- (4) Section 68(2) applies to an agreement under this section as it applies to an agreement to which that section relates (if the agreement under this section is with the owners of the land).
- (5) In this section, “raw water” has the same meaning as in section 76M.]

Textual Amendments

- F10** S. 68A inserted (21.12.2013) by Water Resources (Scotland) Act 2013 (asp 5), **ss. 31(2), 56(1)(2)**; S.S.I. 2013/342, art. 2(b)

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^{F11}69 Power to restrict use of hose pipes.

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Textual Amendments

- F11** S. 69 repealed (10.6.2013) by [Water Resources \(Scotland\) Act 2013 \(asp 5\)](#), s. 56(1)(2), [sch. 4 para. 1\(1\)](#); S.S.I. 2013/163, art. 3, sch.

70 Byelaws for preventing misuse of water.

- (1) [^{F12}Scottish Water]^{F13} ... may make byelaws for preventing waste, undue consumption, misuse or contamination of water supplied by [^{F14}it], and such byelaws may, without prejudice to the foregoing generality, include provisions—
- (a) prescribing the size, nature, design, materials, strength and workmanship, and the mode of arrangement, connection, disconnection, alteration and repair of the water fittings to be used; and
 - (b) forbidding the use of any water fittings which are of such a nature or design or are so arranged or connected as to cause or permit, or be likely to cause or permit, waste, undue consumption, misuse, erroneous measurement or contamination of water, or reverberation in pipes.
- (2) If a person contravenes the provisions of any byelaw made under this section, [^{F15}Scottish Water]^{F13} ... may, whether proceedings have been taken in respect of the offence or not, cause any water fittings belonging to or used by that person which are not in accordance with the requirements of the byelaws to be altered, repaired or replaced, and may recover the expenses reasonably incurred by [^{F16}it] in so doing from the person in default.
- (3) Nothing in this section, or in any byelaw made thereunder, shall apply to any fittings used on premises which belong to a railway company and are held or used by them for the purposes of their railway, so long as those fittings are not of such a nature or design or so arranged or connected as to cause or permit waste, undue consumption, misuse or contamination of water supplied by [^{F17}Scottish Water] or board or reverberation in pipes:

Provided that the exemption conferred by this subsection shall not extend to fittings used in hotels or dwelling houses or in offices not forming part of a railway station.

- [^{F18}(4) Where [^{F19}Scottish Water considers] that a byelaw made by [^{F20}it] under this section ought not to operate in relation to any particular case or class of cases [^{F21}it] may, with the consent of the Secretary of State, relax the requirements of, or dispense with compliance with, that byelaw accordingly:

Provided that [^{F22}Scottish Water]^{F13} ... shall, in such manner and to such person, if any, as the Secretary of State may direct, give notice of any such proposed relaxation or dispensation; and the Secretary of State—

- (a) shall not give his consent before the expiration of one month from the giving of the notice; and
- (b) shall, before giving his consent, take into consideration any relevant objection which may have been received by him.]

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Textual Amendments

- F12** Words in s. 70(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 44(2)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F13** Words in s. 70(1)(2)(4) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(37)(a)-(d), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**
- F14** Word in s. 70(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 44(2)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F15** Words in s. 70(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 44(3)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F16** Word in s. 70(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 44(3)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F17** Words in s. 70(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 44(4)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F18** S. 70(4) added by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23, SIF 81:2), **s. 33**
- F19** Words in s. 70(4) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 44(5)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F20** Word in s. 70(4) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 44(5)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F21** Word in s. 70(4) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 44(5)(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F22** Words in s. 70(4) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 44(5)(d)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

Modifications etc. (not altering text)

- C1** S. 70 amended (27.8.1993) by 1993 c. 12, s. 40(4), **Sch. 3 Pt. II para. 17** (with ss. 42, 46)
- C2** S. 70 restricted (1.9.2018) by The Environmental Authorisations (Scotland) Regulations 2018 (S.S.I. 2018/219), reg. 1, **sch. 8 para. 39(2)(a)(vi)** (with reg. 78, sch. 5 para. 2)

71 Byelaws for preventing pollution of water.

- (1) If it appears to [^{F23}Scottish Water]^{F24}... to be necessary for the purpose of protecting against pollution any water whether on the surface or underground, which belongs to [^{F25}it] or which [^{F26}it is] for the time being authorised to take, [^{F27}it] may by byelaws—
- (a) define the area within which [^{F28}it deems] it necessary to exercise control; and
 - (b) prohibit or regulate the doing within that area of any act specified in the byelaws.

Byelaws made under this section may contain different provisions for different parts of the area defined by the byelaws.

- (2) Where an area has been defined by byelaws under this section, [^{F29}Scottish Water] may by notice require either the owner or the occupier of any premises within that area to execute and keep in good repair such works as [^{F30}it considers] necessary for preventing pollution of [^{F31}its] water, and, if he fails to comply with any such requirement, he shall be liable on summary conviction to the same penalties as if he had committed an act prohibited by the byelaws:

Provided that an owner or occupier who considers that a requirement made on him under this subsection is unreasonable may, within 28 days after service on him of

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the requirement, appeal to the sheriff who may, if he decides that the requirement is unreasonable, modify or disallow the requirement.

- (3) [^{F32}Scottish Water] shall pay compensation to the owners and occupiers of, and other persons interested in, any premises within the area defined by byelaws made under this section in respect of—
- (a) any curtailment or injurious affection of their legal rights by restrictions imposed by the byelaws; and
 - (b) any expenses incurred by them in complying with a requirement to construct and maintain any works the construction of which could not, apart from this section, lawfully have been required otherwise than upon payment of compensation by [^{F33}Scottish Water] ;

and any question as to the amount of compensation to be paid shall in case of dispute be determined by arbitration.

In this subsection the expression “legal rights” includes the use of land in respect of which proceedings might have been taken by [^{F34}Scottish Water] or otherwise under any public general Act or under byelaws made thereunder, but have not been so taken, either by reason of the character or situation of the land or for some other reason.

- (4) Where any person has failed to comply with a requirement made on him under subsection (2) and either—
- (a) he has not appealed to the sheriff against that requirement and the time for appealing has expired, or
 - (b) his appeal has been dismissed or the requirement has been modified on his appeal and he has failed to comply with the requirement as so modified,

[^{F35}Scottish Water] may, whether proceedings have been taken in respect of such failure or not, execute and keep in good repair the works specified in the requirement as originally made or, as the case may be, as modified on appeal, and may recover the expenses reasonably incurred by [^{F36}it] in so doing from the person in default, except expenses incurred in respect of works the construction of which could not, apart from this section, lawfully have been required otherwise than upon payment of compensation by [^{F35}Scottish Water].

^{F37}(5)

- (6) Nothing in this section shall be construed as empowering [^{F38}Scottish Water]^{F39} ... to make any byelaws restricting the rights of a navigation authority under any enactment.

Textual Amendments

- F23** Words in s. 71(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 45\(2\)\(a\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F24** Words in s. 71(1) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(38)(a), [Sch. 14](#); S.I. 1996/323, [art. 4\(1\)\(c\)\(d\)](#), [Sch. 2](#)
- F25** Word in s. 71(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 45\(2\)\(b\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F26** Words in s. 71(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 45\(2\)\(c\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F27** Word in s. 71(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 45\(2\)\(d\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F28** Words in s. 71(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 45\(2\)\(e\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)

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- F29** Words in s. 71(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 45(3)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F30** Words in s. 71(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 45(3)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F31** Word in s. 71(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 45(3)(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F32** Words in s. 71(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 45(4)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F33** Words in s. 71(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 45(4)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F34** Words in s. 71(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 45(4)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F35** Words in s. 71(4) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 45(5)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F36** Word in s. 71(4) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 45(5)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F37** S. 71(5) repealed (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 45(6)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F38** Words in s. 71(6) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 45(7)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F39** Words in s. 71(5)(6) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(38)(e)(ii)(f), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

Modifications etc. (not altering text)

- C3** S. 71 amended (27.8.1993) by 1993 c. 12, s. 40(4), **Sch. 3 Pt. II para. 17** (with ss. 42, 46)
- C4** S. 71 restricted (1.9.2018) by The Environmental Authorisations (Scotland) Regulations 2018 (S.S.I. 2018/219), reg. 1, **sch. 8 para. 39(2)(a)(vi)** (with reg. 78, sch. 5 para. 2)

72 General provisions as to byelaws.

- (1) The Secretary of State shall be the confirming authority as respects byelaws made under either of the last two foregoing sections, and the provisions of Part IV of Schedule 1 shall apply to the making and confirming of such byelaws.
- (2) It shall be the duty of [^{F40}Scottish Water to enforce such] byelaws, so however that nothing in this subsection shall be construed as authorising [^{F41}Scottish Water] to institute proceedings for any offence against those byelaws.
- (3) Any such byelaws may contain provisions for imposing on any person contravening the byelaws a fine, recoverable on summary conviction, not exceeding the sum of [^{F42}[^{F43}level 5] on the standard scale] in respect of each offence, and in the case of a continuing offence a further fine not exceeding £50 for each day during which the offence continues after conviction therefor.

[^{F44}(3A) Subject to subsection (3B), proceedings for any offence against such byelaws may be commenced at any time—

- (a) within 6 months after the date on which evidence sufficient in the opinion of the procurator fiscal to justify the proceedings came to the procurator fiscal's knowledge, or
- (b) where such evidence was reported to the procurator fiscal by Scottish Water, within 6 months after the date on which it came to Scottish Water's knowledge.

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- (3B) No such proceedings shall be commenced more than 3 years after—
- (a) the date of the commission of the offence, or
 - (b) in the case of a continuing offence, the last date on which the offence was committed.
- (3C) Subsection (3) of section 136 (time limit for certain offences) of the Criminal Procedure (Scotland) Act 1995 (c.46) applies for the purposes of this section as it applies for the purposes of that section.
- (3D) For the purposes of subsection (3A), a certificate signed by or on behalf of the procurator fiscal or, as the case may be, Scottish Water, and stating the date on which evidence such as is mentioned in that subsection came to the procurator fiscal's or, as the case may be, Scottish Water's knowledge shall be conclusive evidence of that fact.
- (3E) A certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.]
- (4) Any byelaw made under either of the last two foregoing sections shall cease to have effect on the expiration of the period of 10 years beginning with the date on which it was made; but the Secretary of State may by order extend the period during which any such byelaw is to remain in force.

Subordinate Legislation Made

- P1** S. 72: power previously exercised by [S.I. 1981/1801](#), 1988/327 and 1990/2250.
- P2** S. 72(4): s. 72(4) power exercised (12.11.1991) by [S.I. 1991/2573](#)
S. 72(4): s. 72(4) power exercised (20.11.1991) by [S.I. 1991/2639](#)

Textual Amendments

- F40** Words in s. 72(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 46\(a\)](#) (with s. 67); [S.S.I. 2002/118](#), [art. 2\(3\)](#)
- F41** Words in s. 72(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 46\(b\)](#) (with s. 67); [S.S.I. 2002/118](#), [art. 2\(3\)](#)
- F42** Words in s. 72(3) substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\)](#), s. 289G, 289H, [Sch. 7D](#) (as inserted by [Criminal Justice Act 1982 \(c. 48\)](#), s. 54, [Sch. 6](#), which Sch. 6 was repealed (1.4.1996) by [1995 c. 40](#), ss. 6, 7(2), [Sch. 5](#)) and those same words substituted (1.4.1996) by [1995 c. 40](#), ss. 3, 7(2), [Sch. 1 para. 10](#), [Sch. 2 Pt. III](#)
- F43** Words in s. 72(3) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), [s. 65\(2\)](#) (with s. 67); [S.S.I. 2002/118](#), [art. 2\(3\)](#)
- F44** S. 72(3A)-(3E) inserted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), [s. 65\(3\)](#) (with s. 67); [S.S.I. 2002/118](#), [art. 2\(3\)](#)

73 Power of Secretary of State to require the making of byelaws.

- (1) The Secretary of State may by notice require [^{F45}Scottish Water]^{F46} to make byelaws under section 70 or 71 in relation to such matters as he may specify, and, in the case of byelaws made under section 71, he shall specify the area for which the byelaws are to be made, and if [^{F47}Scottish Water does] not within three months after such requirement make in relation to the matters specified byelaws satisfactory to him, the Secretary of State may himself make byelaws with respect to those matters.

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- (2) If, after they have been in operation for a period of not less than three years, the Secretary of State considers unsatisfactory any byelaws made by [^{F48}Scottish Water]^{F46} under section 70 or 71 or any byelaws or regulations made by [^{F48}Scottish Water]^{F46} under any other enactment conferring power to make byelaws or regulations for purposes similar to the purposes for which byelaws may be made under either of the said sections, he may by notice require [^{F49}Scottish Water]^{F46} to revoke those byelaws or regulations and to make such new byelaws under section 70 or 71 as he considers necessary; and if [^{F50}Scottish Water does] not within three months after such requirement comply therewith, the Secretary of State may himself revoke the byelaws or regulations and make such new byelaws under section 70 or 71 as he considers necessary.
- (3) Any byelaws made by the Secretary of State under this section shall have effect as if they had been made by [^{F51}Scottish Water] and confirmed by the Secretary of State.

Textual Amendments

- F45** Words in s. 73(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 47\(a\)\(i\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F46** Words in s. 73(1)-(3) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(40), [Sch. 14; S.I. 1996/323, art. 4\(1\)\(c\)\(d\), Sch. 2](#)
- F47** Words in s. 73(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 47\(a\)\(ii\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F48** Words in s. 73(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 47\(b\)\(i\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F49** Words in s. 73(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 47\(b\)\(ii\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F50** Words in s. 73(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 47\(b\)\(iii\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F51** Words in s. 73(3) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 47\(c\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)

74 Regulations to prevent waste, misuse or contamination of water.

- (1) The Secretary of State may make regulations for any of the purposes for which byelaws may be made under section 70 (byelaws for the prevention of waste, misuse or contamination of water); and any such regulations shall have effect in substitution for any such byelaws in force immediately before the coming into force of these regulations.
- (2) Any reference in this Act to a byelaw made under the said section 70 (other than a reference in section 72(1), (2) and (4) to byelaws) shall include a reference to a regulation made under this section.
- (3) Regulations made under this section may be made so as to apply in all parts of Scotland or to apply only in such part or parts as may be specified in the regulations, and may contain different provisions for different parts, or for different circumstances in any such part.

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75 Penalty for polluting water.

- (1) If any person is guilty of any act or neglect whereby any spring, well or adit, the water from which is used or likely to be used for human consumption or domestic purposes or for manufacturing food or drink for human consumption, is polluted or likely to be polluted, he shall be guilty of an offence.
- (2) Nothing in this section shall be construed as prohibiting or restricting—
 - (a) any method of cultivation or use of land which is in accordance with the principles of good husbandry; or
 - (b) the reasonable use of oil or tar on any [^{F52}public road, so long as the roads] authority take all reasonable steps for preventing the oil or tar, or any liquid or matter resulting from the use thereof, from polluting any such spring, well or adit.
- (3) Any person guilty of an offence by virtue of this section shall be liable in respect of each offence—
 - (a) on summary conviction, to a fine not exceeding [^{F53}£40,000] and, in the case of a continuing offence, to a further fine not exceeding £50 for every day during which the offence is continued after conviction;
 - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both a fine and such imprisonment.
- (4) ^{F54}

Textual Amendments

- F52** Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), **Sch. 9 para. 81(9)**
- F53** Words in s. 75(3)(a) substituted (28.10.2004) by [Antisocial Behaviour etc. \(Scotland\) Act 2004 \(asp 8\)](#), s. 66, **Sch. 2 para. 3(a)**; S.S.I. 2004/420, arts. 2, 3, Sch. 1 (as amended by S.S.I. 2005/553 and 2006/104)
- F54** S. 75(4) repealed (28.10.2004) by [Antisocial Behaviour etc. \(Scotland\) Act 2004 \(asp 8\)](#), s. 66, **Sch. 2 para. 3(b)**; S.S.I. 2004/420, arts. 2, 3, Sch. 1 (as amended by S.S.I. 2005/553 and 2006/104)

Modifications etc. (not altering text)

- C5** S. 75 amended (27.8.1993) by 1993 c. 12, s. 40(4), **Sch. 3 Pt. II para. 17** (with ss. 42, 46)
- C6** S. 75 restricted (1.9.2018) by [The Environmental Authorisations \(Scotland\) Regulations 2018 \(S.S.I. 2018/219\)](#), reg. 1, **sch. 8 para. 39(2)(a)(vi)** (with reg. 78, sch. 5 para. 2)

76 Acquisition of land for protection of water.

- (1) For the purpose of any provision of this Act [^{F55}, or of the [^{F56}Water Industry (Scotland) Act 2002 (asp 3)] ,] conferring power on [^{F57}Scottish Water]^{F58} to acquire land for the purposes of [^{F59}its] undertaking [^{F55}or functions], there shall be deemed to be included among those purposes the purpose of protecting against pollution any water, whether on the surface or underground, which belongs to [^{F60}Scottish Water]^{F58} or which [^{F61}it is] for the time being authorised to take.
- (2) [^{F62}Scottish Water]^{F63} may on any land belonging to [^{F64}it], or over or in which [^{F65}it has] acquired the necessary servitudes or rights, construct or maintain drains, sewers, watercourses, catchpits and other works for intercepting, treating or disposing of any foul water arising or flowing upon that land, or for otherwise preventing water which

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belongs to [F66Scottish Water]^{F63} or which [F67it is] for the time being authorised to take from being polluted:

Provided that—

- (a) before constructing any such works [F66Scottish Water]^{F63} shall, if the proposed works will affect any watercourses in a fishery district or which is subject to the jurisdiction of a navigation authority, consult with the fishery district board or the navigation authority concerned;
 - (b) nothing in this subsection shall authorise [F68Scottish Water]^{F63} to intercept or take any water which a navigation authority or any public undertakers are authorised by any enactment to take or use for the purposes of their undertaking without the consent of that navigation authority or those public undertakers.
- (3) [F69Where Scottish Water proposes] to construct any drain, sewer or water-course for the purposes mentioned in subsection (2) [F70it] may, with the consent of the [F71roads] authority concerned, which may be given subject to such conditions as the [F71roads] authority think fit, carry the drain, sewer or water-course under, across or along any [F72road]. . . ^{F73}, and such statutory provisions with respect to the breaking open of [F72roads] as are applicable to [F74Scottish Water]^{F73} shall, with any necessary modifications and adaptations, apply accordingly:

Provided that the consent of the [F71roads] authority shall not be required by virtue of this subsection for the carrying by [F75Scottish Water]^{F76} of any drain, sewer or water-course under any [F77public road] which is within the limits of supply of [F78Scottish Water]^{F76}.

- (4) A consent required for the purposes of subsection (2) or (3) shall not be unreasonably withheld nor shall any unreasonable conditions be attached to such a consent, and any question whether or not such a consent is unreasonably withheld or whether any condition which it is sought to impose is unreasonable shall in case of dispute be determined by arbitration.

Textual Amendments

- F55** Words in s. 76(1) inserted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(41)(a)(i)(iii)**; S.I. 1996/323, **art. 4(1)(c)**
- F56** Words in s. 76(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 48(2)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F57** Words in s. 76(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 48(2)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F58** Words in s. 76(1) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(41)(a)(ii), **Sch. 14**; S.I. 1996/323, **art. 4(1)(c)(d)**, **Sch. 2**
- F59** Word in s. 76(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 48(2)(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F60** Words in s. 76(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 48(2)(d)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F61** Words in s. 76(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 48(2)(e)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F62** Words in s. 76(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 48(3)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F63** Words in s. 76(2) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(41)(b), Sch. 14; S.I. 1996/323, **art. 4(1)(c)(d)**, **Sch. 2**

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- F64** Word in s. 76(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 48(3)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F65** Words in s. 76(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 48(3)(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F66** Words in s. 76(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 48(3)(d)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F67** Words in s. 76(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 48(3)(e)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F68** Words in s. 76(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 48(3)(d)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F69** Words in s. 76(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 48(4)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F70** Word in s. 76(3) inserted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 48(4)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F71** Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 81(10)(a)**
- F72** Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 81(10)(b)**
- F73** Words in s. 76(3) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(41)(c), Sch. 14; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**
- F74** Words in s. 76(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 48(4)(d)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F75** Words in s. 76(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 48(4)(e)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F76** Words in the proviso to s. 76(3) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(41)(d), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**
- F77** Words substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 81(10)(c)**
- F78** Words in s. 76(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 48(4)(f)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 24(1A) inserted by [2003 asp 3 sch. 4 para. 3\(3\)](#)
- s. 110A certain functions transferred by [S.I. 1999/1750 art. 3Sch. 2](#) (This amendment not applied to legislation.gov.uk. The insertion of s. 110A by 1995 c. 25, Sch. 21 para. 5 has not yet been brought into force)
- s. 110A inserted by [1995 c. 25 Sch. 21 para. 5](#)
- s. 110A(7) words substituted by [1997 c. 11 Sch. 2 para. 30\(2\)\(a\)](#) (This amendment not applied to legislation.gov.uk. The insertion of s. 110A by 1995 c. 25, Sch. 21 para. 5 has not yet been brought into force)
- s. 110A(8) words substituted by [1997 c. 11 Sch. 2 para. 30\(2\)\(b\)](#) (This amendment not applied to legislation.gov.uk. The insertion of s. 110A by 1995 c. 25, Sch. 21 para. 5 has not yet been brought into force)
- Sch. 3 para. 4(3)(4) inserted by [2003 asp 3 sch. 4 para. 4\(2\)](#)
- Sch. 3 para. 6(1A) inserted by [2003 asp 3 sch. 4 para. 4\(3\)](#)
- Sch. 4 s. 34(3) inserted by [2003 asp 3 sch. 4 para. 5](#)