



Water (Scotland) Act 1980

1980 CHAPTER 45

PART III

POWERS OF WATER AUTHORITIES FOR THE PURPOSES OF WATER SUPPLY

23 Power to lay mains, etc.

- (1) [^{F1}Scottish Water] or ^{F2} ... may for the purposes of [^{F3}its] functions lay a main—
- (a) in, under or over any [^{F4}roads] or under any cellar or vault below any [^{F4}roads] after giving reasonable notice to [^{F4}—
 - (i) where the road is a public road, the roads authority; and
 - (ii) in any other case, the authority or person responsible for the maintenance of the road, or, if no authority or person is so responsible, to the owners of the solum of the road,], and
 - (b) in, on or over any land not forming part of a [^{F5}road], after giving reasonable notice to the owner and the occupier of that land;

and may from time to time inspect, repair, maintain, alter, or renew or may at any time remove a main previously laid whether by virtue of this section or otherwise.

[^{F6}(1ZA) Section 192 of the Local Government (Scotland) Act 1973 (c.65)(service of notices) shall apply to notices served by Scottish Water under subsection (1) above relating to land as it applies to notices served by a local authority relating to premises.]

[^{F7}(1A) If within two months after the service of a notice under subsection (1)(b) above the owner or occupier objects to [^{F8}Scottish Water] about the proposed works (and that objection is not withdrawn), [^{F9}Scottish Water] shall not proceed to lay the main but shall refer the matter by summary application to the sheriff, who may—

- (a) grant consent to the proposed works, either unconditionally or subject to such terms and conditions as he thinks just; or
- (b) withhold his consent;

and the decision of the sheriff on the matter shall be final.]

- (2) Where [^{F10}Scottish Water]^{F2} ... in the exercise of [^{F11}its] powers under this section lay a main in, on or over any land not forming part of a [^{F12}road], or inspect, repair,

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maintain, alter, renew or remove a main laid in or over any such land, [F13]it] shall from time to time pay compensation to every person interested in that land for any damage done to or injurious affection of that land by reason of the laying, inspection, repair, maintenance, alteration, renewal or removal of the main; and any question as to the amount of compensation to be paid under this subsection shall, in case of dispute, be determined by arbitration.

[F14(2A) In relation to a main not vested in Scottish Water, Scottish Water may recover from the person in whom the main is vested any expenses reasonably incurred by Scottish Water under subsection (1) or (2) in connection with the inspection, repair, maintenance, alteration, renewal or removal of the main.]

[F14(2B) In relation to a main laid by any person in pursuance of an authorisation under section 23A(1), subsections (1) and (2) of this section, so far as relating to the inspection, repair, maintenance, alteration, renewal or removal of a main, apply to that person as they apply to Scottish Water.]

(3) [F15]Scottish Water[F2 ... may erect and maintain in any [F16]road] notices indicating the position of underground water fittings used for controlling the flow of water through [F17]its] mains whether laid by virtue of this section or otherwise and may affix such a notice to any house or other building, or any wall or fence.

[F18(4) In the case of works in respect of which notice is required to be given under section 114 of the New Roads and Street Works Act 1991 (notice of starting date of road works), notice duly given to a person in accordance with that section and section 156 of that Act (service of notice) shall be treated as reasonable notice for the purposes of subsection [F16(1)(a)] above.]

[F19(5) For the avoidance of doubt, all mains laid in pursuance of subsection (1) above (whether laid before or after the commencement of this subsection) vest in Scottish Water.]

Textual Amendments

- F1** Words in s. 23(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 18\(2\)\(a\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F2** Words in s. 23(1)-(3) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), [Sch. 13 para. 119\(14\)\(a\)\(b\)\(c\)](#), [Sch. 14](#); S.I. 1996/323, [art. 4\(1\)\(c\)\(d\)](#), [Sch. 2](#)
- F3** Word in s. 23(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 18\(2\)\(b\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F4** Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), [Sch. 9 para. 81\(5\)\(a\)\(i\)](#)
- F5** Word substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), [Sch. 9 para. 81\(5\)\(a\)\(ii\)](#)
- F6** S. 23(1ZA) inserted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 18\(3\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F7** S. 23(1A) inserted (1.4.1996) by 1994 c. 39, [s. 109](#) (with s. 74(4)); S.I. 1996/323, [art. 4\(1\)\(a\)](#), [Sch. 1](#)
- F8** Words in s. 23(1A) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 18\(4\)\(a\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F9** Words in s. 23(1A) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 18\(4\)\(b\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F10** Words in s. 23(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 18\(5\)\(a\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F11** Word in s. 23(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71(1), [Sch. 6 para. 18\(5\)\(b\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F12** Word substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), [Sch. 9 para. 81\(5\)\(b\)](#)

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- F13** Word in s. 23(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 18(5)(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F14** S. 23(2A)(2B) inserted (10.7.2008 for the insertion of s. 23(2B)) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 38(1), **sch. 4 para. 2**; S.S.I. 2008/269, art. 2(e)
- F15** Words in s. 23(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 18(6)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F16** Words in s. 23(3)(4) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(14)(c)(ii)(d)**; S.I. 1996/323, **art. 4(1)(c)**
- F17** Word in s. 23(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 18(6)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F18** S. 23(4) inserted (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(4)**; S.I. 1992/2990, art. 2(2), **Sch. 2**
- F19** S. 23(5) inserted (6.3.2006) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), **s. 32(2)** (with s. 35(2)); S.S.I. 2006/55, **art. 2**

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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](#)