



Water (Scotland) Act 1980

1980 CHAPTER 45

^{F1} PART VIA

QUALITY OF WATER

76H Effect, confirmation and variation of notice under section 76G.

- (1) Subject to subsection (2) below, a notice served by a local authority under section 76G above shall not take effect until the end of the period specified in the notice as the period within which representations or objections with respect to the notice must be received by that authority.
- (2) Where any written representation or objection with respect to a notice by a local authority under section 76G above is received by the authority, before the end of the period specified in the notice, from a person on whom the notice was served, that notice shall not take effect unless—
 - (a) the notice is submitted by the authority to the Secretary of State and is confirmed by him either with or without modifications; or
 - (b) the representation or objection is withdrawn.
- (3) If a local authority submit a notice under section 76G above to the Secretary of State for confirmation, the Secretary of State—
 - (a) shall consider whether the notice should be confirmed and whether, if it is confirmed, it should be confirmed with or without modifications;
 - (b) may, with respect to the matters specified in the notice or any proposed modification of it, direct the local authority to serve a notice under section 76G above, in such terms as may be specified in the direction, on any relevant person who has not previously been so served;
 - (c) may, for the purposes of paragraph (a) or (b) above—
 - (i) cause a local inquiry to be held; or
 - (ii) afford to the local authority and to every person who has made representations or objections with respect to the notice or a proposed direction under paragraph (b) above an opportunity of appearing

Changes to legislation: Water (Scotland) Act 1980, Section 76H is up to date with all changes known to be in force on or before 19 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

before, and being heard by, a person appointed by the Secretary of State for the purpose;

and

- (d) may, if he is satisfied that the person on whom any notice to be served in pursuance of a direction under paragraph (b) above has had a proper opportunity of having his representations or objections with respect to the proposal for the direction considered, dispense in relation to the notice so served with the provisions of subsections (1) and (2) above and of section 76G(2)(c) and (d) above.
- (4) Where the Secretary of State confirms a notice under section 76G above (whether with or without modifications)—
- (a) he, or if he so directs, the local authority concerned shall serve notice of that confirmation on every person originally served with the notice under that section; and
 - (b) that notice shall take effect, with any modifications made by the Secretary of State, at such time as may be specified in the notice served under this subsection.
- (5) Where any relevant person who is required by virtue of a notice under section 76G above to take any step in relation to any premises fails to take that step within the period specified in the notice, the authority which served the notice [^{F1}—
- (a) may, except where the case is one to which paragraph (b) below applies, take that step themselves in accordance with any applicable provision having effect by virtue of section 76I below; and
 - (b) may, in a case to which this paragraph applies, take that step themselves and for that purpose exercise the powers which [^{F2}Scottish Water] may, under this Act, exercise for the purpose of [^{F3}its] water undertaking.]
- [^{F4}(5A) Paragraph (b) of subsection (5) above applies to any case where the local authority are satisfied that the failure arose because the person was unable on reasonable terms to acquire any necessary rights—
- (a) to take water from a suitable source;
 - (b) to lay pipes through any land not belonging to him; or
 - (c) to do any other work.]
- (6) Where any step is taken by a local authority in relation to any premises by virtue of subsection (5) above—
- (a) the authority may recover from the person who failed to take that step within the specified period any expenses reasonably incurred by the authority in taking that step; and
 - (b) for the purposes of any requirement under which payments are required to be made to that person by any person other than the authority, sums paid by virtue of paragraph (a) above in respect of the taking of any step shall be deemed to be expenses incurred in the taking of that step by the person who failed to take it.
- (7) Nothing in this Act shall confer any right of action on any person in respect of any loss or damage sustained by that person in consequence of the failure by any other person to take any step specified in a notice under section 76G above; but any sum required to be paid to any person by virtue of any requirement or undertaking contained in such a notice shall be recoverable by that person from the person who is required to pay it.

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- (8) Any requirement which is imposed by virtue of a notice under section 76G above on the owner or occupier of any premises and is expressed to bind those premises in relation to the owners or occupiers from time to time shall bind successive owners or, as the case may be, occupiers of those premises ^{F5}.
- (9) Subject to subsection (10) below, a local authority may by notice served on any person modify or revoke the effect in relation to that person of any notice under section 76G above or this subsection (including a notice which has been confirmed, with or without modifications, by the Secretary of State).
- (10) Section 76G(2)(c) and (d) and subsections (1) to (4) above shall apply, as they apply in relation to a notice under section 76G above, in relation to any notice served by a local authority on any person under subsection (9) above except where the notice—
- (a) extends the period within which any step is required to be taken by that person; or
 - (b) discharges, postpones or abates any obligation of that person to make a payment to the local authority.

Textual Amendments

- F1** Words in s. 76H(5) substituted (4.1.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(43)(a)**; S.I. 1994/2850, **art. 3(c)**
- F2** Words in s. 76H(5)(b) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 56(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F3** Word in s. 76H(5)(b) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 56(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F4** S. 76H(5A) inserted (4.1.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(43)(b)**; S.I. 1994/2850, **art. 3(c)**
- F5** Words in s. 76H(8) repealed (4.1.1995) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(43)(c), **Sch. 14**; S.I. 1994/2850, **art. 3(c)**

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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](#)