

WATER ENVIRONMENT AND WATER SERVICES (SCOTLAND) ACT 2003

EXPLANATORY NOTES

THE ACT – SECTION BY SECTION

Part 2 – Water and sewerage services

Section 30 – Private sewers, SUD systems and sewage treatment works etc.: vesting, takeover and connection conditions

113. This section makes detailed provision on vesting, construction standards, connection agreements and takeover conditions, by amending sections 3, 8, 12 and 16 of the 1968 Act and adding three new sections, 14A, 14B and 14C, to that Act.
114. Subsection (1) adds subsection (3) to section 3A of the 1968 Act. The new subsection specifies that a sewer or SUD system shall vest in Scottish Water only if it complies with the construction standards set out in new sections 14A or 14B so far as applicable and also to any conditions that Scottish Water has made under new section 14C. Subsection (3) also provides that vesting of a sewer or SUD system should not take effect until any security required as part of an agreement under section 14C, for example a bond, has been provided.
115. Subsection (2) adds subsection (1A) to section 8 of the 1968 Act, and repeals section 8(2). The new subsection specifies that an agreement by Scottish Water to take over a sewage treatment works, or SUD system, is subject to the works complying with the construction standards set out in new sections 14A or 14B so far as applicable and also to any conditions that Scottish Water has made under new section 14C. Subsection (1A) also provides that the take-over of a sewage treatment works or SUD system should not take effect until any security required as part of an agreement under section 14C, for example a bond, has been provided.
116. Subsection (3) makes similar provision to the provisions in subsections (1) and (2), in respect of connecting drains or sewers or SUD systems to those of Scottish Water, by adding a new subsection (2A) to section 12 of the 1968 Act. Subsection (2A) provides that an owner can only connect their drains or sewers or SUD systems to those of Scottish Water if they meet the required construction standards and, if required by Scottish Water, the owner has entered into a connection agreement with Scottish Water and has provided adequate security.
117. Subsection (4) provides for new sections 14A, 14B and 14C to be added to the 1968 Act.
118. Section 14A relates to private sewers, SUD systems and sewage treatments works. It makes provision as to the construction standards which drains, private sewers, private SUD systems and private sewage treatment works must meet for the purposes of the new subsections 3A(3)(a)(i), 8(1A)(a)(i), 12(2A)(a) and 16A(3)(a)(i). Subsection (1) of the new section specifies that these standards are to be prescribed by the Scottish Ministers in regulations. Subsection (2) provides that the standards required by the regulations can include those specified in other enactments, e.g. those that are legally

binding on Scottish Water. Subsection (3) provides that any regulations made pursuant to this section can apply different standards to different persons or cases or types of case. The Scottish Ministers must consult Scottish Water and any other persons they consider appropriate before making any such regulations (section 14A(4)), and the regulations are to be made by statutory instrument, subject to negative procedure in the Scottish Parliament (section 14A(5)).

119. Section 14B relates to sustainable urban drainage systems. Subsection (1) specifies that for the purposes of the new subsections 3A(3)(a)(i), 8(1A)(a)(i), 12(2A)(a) and 16A(3)(a)(i) the SUD system requirements are to be prescribed by the Scottish Ministers in regulations. Subsection (2) provides that subsections (3) to (5) of new section 14A also apply to regulations made under section 14B.
120. Section 14C provides for vesting conditions and vesting of sewers or SUD systems (section 14C(1)), takeover conditions and taking over of sewage treatment works or a SUD system (section 14C(2)), and for connection agreements and connecting drains or sewers or a SUD system (section 14C(3)). It also confers a regulation making power on the Scottish Ministers to prescribe conditions which must be included in these agreements, and exceptions in which the agreements are not required, or are required with modifications (Section 14C(4)). Section 14C(5) enables detailed provision to be made for financial conditions which can be made in the regulations. Any such regulations must be made by statutory instrument, subject to negative procedure in the Scottish Parliament (section 14C(7)).
121. Subsection (5) adds subsection (3) to section 16A of the 1968 Act relating to vesting of private sewers. The new subsection specifies that a sewer or SUD system shall vest in Scottish Water only if it complies with the construction standards set out in new sections 14A or 14B so far as applicable and also to any conditions that Scottish Water has made under new section 14C. Subsection (3) also provides that vesting of a sewer or SUD system should not take effect until any security required as part of an agreement under section 14C, for example a bond, has been provided.