



Water (Scotland) Act 1980

1980 CHAPTER 45

PART V

HOUSES, ETC., TO BE SUPPLIED WITH WATER

63 Provision of water supply for new buildings and houses

- (1) Subject to the provisions of this section, it shall be the duty of any person erecting or causing to be erected a building the erection of which is begun after 15th May 1946 to make adequate provision to the satisfaction of the local authority for a sufficient supply of wholesome water in pipes for the domestic purposes of the persons occupying or using the building.
- (2) In the case of a building being a factory within the meaning of the Factories Act 1961, other than a factory in which the production or the preparation of food or drink for human consumption is carried on by way of trade, where the Secretary of State, after consulting the water authority is satisfied—
 - (a) that the authority would be unable to provide a sufficient supply of wholesome water in pipes for the purposes aforesaid without endangering their ability to meet existing obligations to supply water for any purpose or probable future requirements to supply water for domestic purposes or without having to incur unreasonable expense, and
 - (b) that it would not be reasonably practicable to obtain a sufficient supply as aforesaid from any other source,

it shall be a sufficient compliance with the requirements of this section if adequate provision is made to the satisfaction of the local authority for the installation of a sufficient supply of wholesome water in pipes for drinking, cooking and personal ablution and of a sufficient supply of suitable water in pipes for sanitary and other domestic purposes.

- (3) Subject to, and without prejudice to the generality of, the provisions of this section, no person shall after 15th May 1946 erect or cause to be erected a house or shall use or permit to be used as a house any building the erection of which is begun after that date,

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unless there is provided within the house or building a sufficient supply of wholesome water for domestic purposes in pipes.

- (4) For the purposes of this section a building or house shall be deemed to be erected where the building or house is re-erected after an outer wall of the building or house has been broken or pulled or burned down to within 10 feet of the surface of the ground adjoining the lowest storey.
- (5) If any person contravenes any of the provisions of this section, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £50 and in the case of a house or building being occupied as a house contrary to the provisions of subsection (3) he shall be liable to a further fine not exceeding £25 for each day on which the house or building is occupied as a house after conviction; and without prejudice to proceedings for the recovery of any such fine, the local authority may institute civil proceedings for the purpose of interdicting the occupation of any building in the case of which the provisions of subsection (1) are not complied with, or the occupation of a house as a house or the use of a building as a house in the case of which the provisions of subsection (3) are not complied with.
- (6) In this section " local authority " has the same meaning as in the Building (Scotland) Act 1959.

64 Provision of supply of water to other houses

- (1) It shall be the duty of the owner of every house within which there is not a sufficient supply of wholesome water for domestic purposes to provide such a supply of water in pipes within the house, unless it is not reasonably practicable to do so, and in that event, he shall, so far as not already done, provide such a supply of water immediately outside the house or as near thereto as is reasonably practicable. It shall be the duty of every islands or district council to give such notices as are necessary to secure compliance with the provisions of this subsection, and every such notice shall be served on the owner and on every person known to the council to be interested as a heritable creditor in the house and shall state the time within which the works to which it relates are to be executed.
- (2) Where an islands or district council are required by subsection (1) to serve a notice on the owner of any house, they shall require such owner to furnish a written statement specifying the name and address of every person interested as a heritable creditor in the house; and if any person fails to give the council any information required by them under this subsection, or knowingly makes any misstatement with reference thereto, he shall be liable on summary conviction to a fine not exceeding £25.
- (3) The owner or any person interested as a heritable creditor in the house may, within 28 days after the service of the notice required to be served under subsection (1), appeal against the notice to the sheriff, who may make such order confirming or varying or annulling the notice as seems to him proper in the circumstances.
- (4) If and in so far as the appeal is based on the ground of some informality, defect or error in or in connection with the notice, the sheriff shall dismiss the appeal if he is satisfied that the informality, defect or error was not a material one.
- (5) Subject to such right of appeal, if an owner on whom such a notice requiring the execution of any work is served fails to execute the work within the time thereby limited, the islands or district council—

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- (a) may themselves execute the work and for that purpose may exercise the like powers as a water authority may exercise under this Act for the purposes of their water undertaking, and may recover from the owner the expenses reasonably incurred by them in executing the work; or
 - (b) may agree with the occupier of the house that he shall execute the works, in which case, on the works being executed and paid for by the occupier, he shall be entitled to recover from the owner the expenses reasonably incurred by him in so doing, together with interest thereon at the rate of five per cent, per annum from the date of service of a demand for payment of the said expenses, or to deduct the amount of such expenses and interest from the rent of the house from time to time becoming due to the owner.
- (6) Where the owners of two or more houses have failed to comply with the requirements of such notices and the islands or district council might execute the necessary works for the supply of water for each house, the council may, if it appears to them desirable and that no greater expense would be occasioned thereby, execute works for the joint supply of water for those houses, and may recover the whole or a reasonable part of the expenses incurred by them from the owners of the houses in such proportions as may be determined by the council or, in case of dispute, by arbitration.
- (7) Where an islands or district council are satisfied that an owner on whom such a notice requiring the execution of any work is served is unable to comply with the requirements thereof by reason of his being unable on reasonable terms to acquire any necessary rights to take water from a suitable source or to lay pipes through any land not belonging to him or to do any other work, the council may at the expense of the owner themselves take such steps as are necessary for the execution of the work, and for that purpose may exercise the like powers as a water authority may exercise under this Act for the purposes of their water undertaking.
- (8) An islands or district council may, if they think fit, contribute towards the cost of complying with any requirement made by them under the foregoing provisions of this section, and where they agree to make such a contribution the expenses shall be deemed to be the net expenses after deducting such contribution.
- (9) Without prejudice to any of the foregoing provisions of this section, an owner on whom a notice given under this section has been served shall, if he fails to comply with any requirement thereof, be guilty of an offence and shall on summary conviction be liable to a fine not exceeding £25 and to a further fine not exceeding £25 for each day on which the default continues after conviction therefor.
- (10) Where proceedings for the recovery of expenses incurred under this section are taken against an owner on whom a notice under this section has been served, it shall not be open to him to raise in those proceedings any question which he could have raised on an appeal under this section.
- (11) In this section and in the three next following sections the expression " owner " has the same meaning as in the Public Health (Scotland) Act 1897:

Provided that a landholder within the meaning of the Small Landholders (Scotland) Acts 1886 to 1931 shall, for the purposes of the said sections, be deemed to be the owner of any house on his holding in respect of which he would, on the termination of his tenancy, be entitled to compensation under the said Acts.

65 Power of council to make charging order for expenses of executing works

- (1) Where an islands or district council have under section 64 required any owner of a house to execute any works and the work has been completed, the council may on the application of the owner and on being satisfied as to the due execution of the work and as to the amount of the expenditure thereon make an order (in this section referred to as a "charging order") declaring that the house and any land held in connection therewith are thereby charged and burdened with an annuity to repay the amount of the expenditure together with the expenses of obtaining the charging order and recording it in the appropriate Register of Sasines.
- (2) Subject as hereinafter provided, the annuity charged shall be such sum (not exceeding such sum as may from time to time be prescribed) as the council may determine in respect of every hundred pounds of the said amount, and so in proportion in respect of any fraction of that amount, and shall commence from the date of the order and be payable by equal half-yearly payments to the person named in the order by whom the expenditure was incurred, his executors or assignees until the expiration of a period of 30 years from the date on which the council were satisfied as to the due execution of the work.
- (3) Where a council have incurred expenses in the execution of works under section 64 then, without prejudice to any other remedy for, or any preference with respect to, the recovery thereof, it shall be competent for them, on giving not less than 14 days' notice to the owner, to make a charging order in favour of themselves in respect of such expenses (including the expenses of obtaining the charging order and recording it in the appropriate Register of Sasines) in like manner as they may make a charging order in favour of a person under the foregoing provisions of this section.
- (4) A charging order shall not have effect until it is recorded in the appropriate Register of Sasines.
- (5) Every annuity constituted a charge by a charging order which is recorded in the appropriate Register of Sasines shall be a charge on the house and land specified in the order, having priority over all existing and future estates, interests and incumbrances with the exception of—
 - (a) feuduties and teinds;
 - (b) any charges on the premises by virtue of charging orders under the Housing (Scotland) Acts 1966 to 1975 recorded before the recording of the order under this section; and
 - (c) any charge created under any Act authorising advances of public money;and where more annuities than one are charged under this section on any house and land such annuities shall as between themselves have order and preference according to the respective dates of the recording of the charging orders in the appropriate Register of Sasines.
- (6) A charging order recorded in the appropriate Register of Sasines shall be conclusive evidence that all notices, acts and proceedings by this Part of this Act required in connection with the execution of the work or with reference to or consequent on obtaining or making such an order have been duly served, done and taken, and that the charge has been duly created and is a valid charge on the house and land declared to be subject thereto.
- (7) Every annuity charged by any such charging order may be recovered by the person for the time being entitled to it by the same means and in the like manner in all respects

as if it were a rentcharge secured on the subjects by absolute order made under and in terms of the Improvement of Land Act 1864.

- (8) A charging order and all sums payable thereunder may from time to time be transferred in like manner as a standard security or rentcharge.
- (9) Any owner of, or other person interested in, a house and land on which an annuity has been charged by any such charging order shall at any time be entitled to redeem the annuity on payment to the person entitled to the annuity of such sum as may be agreed upon or, in default of agreement, determined by the Secretary of State.
- (10) A charging order shall be in such form as may be prescribed.

66 Recovery of expenses from owner

- (1) Where an islands or district council have incurred expenses, for the repayment of which the owner of premises in respect of which the expenses were incurred is liable under this Part of this Act or the corresponding provisions contained in any enactment repealed by this Act, those expenses, together with interest from the date of service of a demand for payment of those expenses, may be recovered by the council from the person who is the owner of the premises at the date when the works are completed, or, if he has ceased to be the owner of the premises before the date when a demand for payment of the expenses is served from the person who is the owner at the date when the demand is served.
- (2) An islands or district council may by order declare any expenses so recoverable by them to be payable with interest by instalments for a period not exceeding 30 years until the whole amount is paid ; and any such expenses and interest, or any part thereof, may be recovered from the owner or occupier for the time being of the premises in respect of which the expenses were incurred, and if recovered from the occupier may be deducted by him from the rent of the premises:

Provided that an occupier shall not be required to pay at any one time any sum in excess of the amount which was due from him on account of rent at, or has become due from him on account of rent since, the date on which he received a demand from the council, together with a notice requiring him not to pay rent to his landlord without deducting the sum so demanded.

An order may be made under this subsection at any time with respect to any unpaid balance of expenses and accrued interest, so however that the period for repayment shall not in any case extend beyond 30 years from the service of the first demand for payment of the expenses.

- (3) The rate of interest chargeable under subsection (1) or (2) shall be such as the islands or district council may determine:

Provided that the Secretary of State may from time to time prescribe a maximum rate of interest for the purposes of this section generally or different maximum rates for different purposes and in different cases, but no such maximum shall exceed the rate provided for in section 121(2) of the Local Government (Scotland) Act 1973.

67 Limitation of liability of certain owners

Where an islands or district council claim to recover any expenses under this Part of this Act from a person as being the owner of the premises in respect of which the expenses were incurred, and that person proves that he—

- (a) is receiving the rent of those premises merely as a trustee, tutor, curator, factor or agent for some other person, and
- (b) has not, and since the date of the service on him of the demand for payment has not had, in his hands on behalf of that other person sufficient money to discharge the whole demand of the council,

his liability shall be limited to the total amount of the money which he has or has had in his hands as aforesaid; but an islands or district council who are or would be debarred by the foregoing provisions from recovering the whole of any such expenses from a trustee, tutor, curator, factor or agent may recover the whole or any unpaid balance thereof from the person on whose behalf he receives the rent.