



Local Government etc. (Scotland) Act 1994

1994 CHAPTER 39

PART II

WATER AND SEWERAGE REORGANISATION

Amendment of Sewerage (Scotland) Act 1968

101 Authorisation of construction of certain private sewers etc.

The following section shall be inserted after section 3 of the 1968 Act—

“3A Authorisation of construction of certain private sewers etc.

- (1) Without prejudice to their powers under section 3 of this Act (including any power to authorise the construction, on their behalf, of a public sewer), a sewerage authority may authorise a person to construct, within their area but whether or not connecting with their sewers or sewage treatment works, a sewer—
- (a) in, under or over any road, or under any cellar or vault below any road; or
 - (b) in, on or over any land which does not form part of a road and is not land as respects which he is owner, lessee or occupier,
- but where authorisation is so given, subsection (2) of section 3 of this Act shall apply in respect of the person and the construction proposed as that subsection applies in respect of a sewerage authority and works proposed by them under subsection (1) of that section.
- (2) The sewerage authority—
- (a) in giving authorisation to a person under subsection (1) above; or

Changes to legislation: There are currently no known outstanding effects for the Local Government etc. (Scotland) Act 1994, Cross Heading: Amendment of Sewerage (Scotland) Act 1968. (See end of Document for details)

- (b) as respects any sewer (not being a sewer constructed by or on behalf of the authority) whose construction by a person does not require such authorisation,

may, in a case where the proposed sewer will connect with their sewers or sewage treatment works, determine (and by written notice advise the person) that all, or a part which they shall specify in the notice, of the sewer constructed shall not vest in them through the operation of section 16(1)(c) of this Act and shall instead vest in him; but notwithstanding the determination the sewerage authority may, on such terms and conditions as they think fit, then or at some later time enter into an agreement under which the sewer, or as the case may be the part, shall vest in them.”.

102 Emptying of septic tanks.

For section 10 of the 1968 Act (whereby local authorities are under a duty to empty septic tanks only where they have passed a resolution electing to do so) there shall be substituted—

“10 Emptying of septic tanks.

- (1) It shall be the duty of a sewerage authority to empty a septic tank serving premises in their area on their being requested to do so by the owner or occupier of the premises; but that duty is subject to subsection (2) below and as respects any particular septic tank—
- (a) to its being reasonably practicable to empty the tank; and
 - (b) to all proper charges for their doing so being timeously paid.
- (2) The duty does not extend to septic tanks which receive trade effluent; but the authority may, at the request of an owner or occupier of premises served by any such septic tank, agree to empty it on such conditions as to payment or otherwise as they think fit.
- (3) If any question arises under this section as to whether emptying is reasonably practicable or as to whether a septic tank receives trade effluent, it shall be determined summarily by the sheriff, whose decision in the matter shall be final.
- (4) For the purposes of subsection (1) above, a charge is proper if fixed in accordance with, and timeously paid if paid in accordance with, a charges scheme (within the meaning of Part II of the Local Government etc. (Scotland) Act 1994).”.

103 Register as respects trade effluents.

The following sections shall be inserted after section 37 of the 1968 Act—

“37A Register for purposes of Part II.

- (1) A sewerage authority shall maintain a register for the purposes of this Part of this Act.
- (2) The authority shall enter in the register—
- (a) such particulars as may be prescribed—

Changes to legislation: There are currently no known outstanding effects for the Local Government etc. (Scotland) Act 1994, Cross Heading: Amendment of Sewerage (Scotland) Act 1968. (See end of Document for details)

- (i) of any consent, affecting their area and for the time being extant, given (whether before or after the coming into force of this section) under this Part of this Act; and
 - (ii) of any agreement, affecting their area and for the time being extant, entered into (whether before or after the coming into force of this section) under section 37 of this Act; and
 - (b) such particulars of other matters relative to their functions under this Part of this Act as may be prescribed.
- (3) It shall be the duty of a sewerage authority—
- (a) to secure that the register maintained by them in pursuance of subsection (1) above is, after such date as may be prescribed, open to inspection by the public free of charge at all reasonable hours; and
 - (b) to afford members of the public reasonable facilities for obtaining from them, on payment of reasonable charges, copies of entries in the register.
- (4) In subsections (2) and (3) above, “prescribed” means prescribed by the Secretary of State by regulations made under this subsection by statutory instrument.
- (5) An instrument containing regulations under subsection (4) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.

37B Exclusion from register of information affecting national security.

- (1) No information shall be included in a register maintained under section 37A of this Act if and so long as, in the opinion of the Secretary of State, the inclusion in the register of that information, or of information of that description, would be contrary to the interests of national security.
- (2) The Secretary of State may, for the purposes of subsection (1) above, give to a sewerage authority directions—
 - (a) specifying information, or descriptions of information, to be excluded from the register; or
 - (b) specifying descriptions of information to be referred to him for his determination;and no information referred to him in pursuance of paragraph (b) above shall be included in the register until he determines that it should be so included.
- (3) The sewerage authority shall notify the Secretary of State of any information they exclude from the register in pursuance of directions under subsection (2) above.
- (4) A person may, as respects any information which (but for this section) might be included in the register but which he believes may be information whose inclusion would be contrary to the interests of national security, by notice so inform the Secretary of State, specifying the information and indicating its apparent nature; and if the person does so—
 - (a) he shall advise the sewerage authority that he has given such notice; and

Changes to legislation: There are currently no known outstanding effects for the Local Government etc. (Scotland) Act 1994, Cross Heading: Amendment of Sewerage (Scotland) Act 1968. (See end of Document for details)

- (b) no information in respect of which such advice has been given shall be included in the register until the Secretary of State has determined that it should be so included.”.

104 Disapplication of restrictions on disclosure of information.

In section 50 of the 1968 Act (which imposes restrictions on the disclosure of information obtained under or by virtue of that Act)—

- (a) in subsection (2), after paragraph (a) there shall be inserted—
“(aa) in prescribed circumstances or for prescribed purposes; or”; and
- (b) after subsection (3) there shall be added—

“(4) In paragraph (aa) of subsection (2) above, “prescribed” means prescribed by the Secretary of State by regulations made under this subsection by statutory instrument.

(5) An instrument containing regulations under subsection (4) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(6) Subsections (1) and (2) above are subject to regulation 3(7) of the Environmental Information Regulations 1992 (which disapplies restrictions on disclosure if in pursuance of the ^{M1}regulations).”.

Marginal Citations

M1 S.I. 1992/3240.

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