



Our Code of Practice for access to land explained



**Scottish
Water**

Trusted to serve Scotland

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Introduction

Scottish Water is trusted to serve Scotland, providing a vital public service which is essential to daily life.

We provide clear, fresh and high quality drinking water to household and business premises across Scotland, and remove waste water which we treat, recover resources from and return safely to the environment.

We are continually working in communities across Scotland to maintain and improve our network. To ensure that we continue to deliver essential services and for the installation of new pipes and associated works, it is sometimes necessary for us to access private land.

This booklet is our Code of Practice for Access to Land which sets out good practice with regard to our powers and duties when we construct, inspect, maintain, repair or renew the public water and waste water network on private land. It also explains what you (the landowner and/or occupier) can expect before and during any planned Scottish Water work.

Before we lay a pipe we need to plan a route. We consider many aspects including:

1. The directness of possible routes;
2. The cost both of laying and maintaining the pipe, including the amount of compensation we may have to pay;
3. The disruptive effect of the works to traffic, businesses and individuals;
4. Engineering considerations;
5. The desirability of achieving gravity flow; and
6. The avoidance of sites of environmental or archaeological importance.

Introduction

continued

As a result we may have to lay pipes, take access or undertake other work in land which is in private ownership or occupation. Where that is the case, we will consult you and with the use of good working practice, seek to minimise any damage. After the works we will carry out reinstatement so that the land is restored. Where this is not practicable, compensation is payable for loss or damage caused by the works.

We will comply with the Code wherever it is possible and reasonably practicable to do so and if we cannot, we will explain why. This Code does not affect any other rights or powers that you or we may have.

This Code is in three sections which describe what happens:

- Before works commence;
- During the works; and
- After the works have been completed.

Before works commence

Consultation

Before we start any work we, or our agent, will contact you to explain the nature of our proposed work and where practicable we will take your priorities and concerns into account when developing our proposals further.

Surveying and trial holes

In order to finalise our proposals we may need entry to your land to survey possible routes so that we can work out the best route and the method by which to lay the pipe. If we need to make any experimental trial holes or boring so that we can determine the nature of soils and geology below the surface of your land we will advise you. Unless it is an emergency, or we have otherwise agreed entry with you, we will give you requisite notice before we enter. We will disturb the land as little as possible. If we are unable to fill in the hole immediately we will secure it and/or fence it off. Compensation can be claimed for any temporary loss or disturbance due to the work.

Notice of works

The results of the site investigations together with the earlier discussions with you will enable us to finalise our proposals. These proposals will be shown on the Statutory Notice issued to you in advance of the work.

Statutory Notices are the documents that Scottish Water use to notify land owners and occupiers of proposed work on their land. They are formal legal documents prepared in a prescribed form. The Notice will be accompanied by a plan and a letter providing you with information about the work to be carried out, showing the area of land that will be occupied by us for the duration of the work and explaining your rights to compensation. Depending on the nature of the work it will also explain how to object to the Notice. More detail is given in the questions and answers section at the end of this document. It is strongly advisable to file the Notice and plan with the title deeds of your property, so that subsequent purchasers of the land are aware of the pipe and apparatus.

Before works commence

continued

Gaining access

We will not commence any works until the necessary consents are in place. Until then you should continue to use your land as normal. When we are ready we will issue a further Statutory Notice notifying you of our intention to enter your land to start our work.

Record of condition of land

A record of condition will be prepared by us before access is taken. We will make a full schedule of condition of the working area, including any buildings in close proximity, any accesses and any compound in respect of this scheme. This may consist of written notes, photographs, or a video recording with verbal commentary. The purpose of the record is to help both you and us check that we have restored the land to a condition as near as practicable to that which existed before we started work and that any buildings remain in the same condition. A copy of this record will be made available to you on request.

Professional representation

You may choose to employ an agent to act on your behalf, usually a chartered surveyor or land agent experienced in this type of work. They can act on your behalf advising you on the works, protecting your interests and assessing and agreeing your claim for compensation. Scottish Water will reimburse you for the reasonable cost of employing an agent in accordance with Scottish Water's Surface Damage Claims Fees Policy. However, agent's fees will not be reimbursed for work done raising or resolving an objection to a Statutory Notice.

Private agreements

Our contractor may approach you directly seeking a private agreement for site accommodation during the course of Scottish Water's works. You are under no obligation to enter into any agreement with the contractor, but should you choose to do so, you should ensure that the agreement is made in writing and is binding. Unfortunately, we can take no responsibility for any obligations under these agreements.

During the works

Before the works commence we will give you the name, workplace address and telephone number of the person responsible for supervising the works. Normally, they will be available during working hours. We will also give you an emergency telephone number for use outside normal working hours or if our normal named contact is unavailable.

Access for owners and occupiers

We realise the importance to you of maintaining access to your property, however for safety reasons access to our works will be restricted. We will provide access across the works area where this can be done safely.

During works

During the work we will keep any disruption that our work may cause to a minimum. This includes maintaining your services wherever possible.

When topsoil is stripped from the land we will store it separately from other excavated materials. When the works are finished, adequate subsoil preparation will be undertaken before replacing the topsoil. The excavated material will be replaced, so far

as possible, to the condition it was before the works, and in particular topsoil will be replaced to the same depth as it was originally.

If we disturb the land drainage system we will do our best to reinstate or replace it to the same standard as existed before the works.

We will take reasonable steps to keep damage to a minimum. We will keep working areas tidy and the works will, if appropriate and requested by you, be suitably fenced to prevent injury or straying of livestock. We will not take dogs or other animals onto your land. Whenever possible we will seek to avoid felling or lopping any trees, but if this is unavoidable, we will consult you first.

Where reasonable and practicable, we will plan our work to avoid unnecessary interference with farming, sporting, forestry and other land management operations.

Subject to law, fossils and other archaeological remains discovered during the course of our work remain your property. Where 'finds' are made, we will advise the appropriate authority.



After the works have been completed

Reinstatement

When we lay new underground pipes across fields we will mark their position at the field edges and at the crossing point of ditches and streams.

On completion of the work we will reinstate the working area to a condition as near as practicable to that which existed before. This includes all land drainage, soil, fences, walls, hedges and ditches.

Where necessary we will employ a suitably qualified specialist to carry this out. Where this is not practicable, or if you prefer, reasonable compensation will be paid so that you may carry out the work for yourself.

We will leave all cuttings arising from tree works neatly on site or, if appropriate and agreed, chipped and removed from site.

Compensation

Under the terms of the Water (Scotland) Act 1980 and the Sewerage (Scotland) Act 1968 you may be entitled to compensation for any losses arising as a result of our works.

Compensation claims must be made in writing within 24 months of the damage occurring and sent to us as directed within the Statutory Notice served on you. The amount of compensation payable will be such as to ensure that you are no worse off as a result of our work.

If you have appointed a land agent they will prepare and negotiate your claim for you.

As-laid plans showing the location of the main can be provided on request.

Inspection and maintenance

After a new pipe or structure has been installed we will need to periodically inspect, maintain, repair or renew it as appropriate. We, or our nominated contractors, will control all works to be carried out. Our employees and contractors' staff will always be happy to identify themselves to you and produce formal identification on request.

After the works have been completed

continued

Except in the case of emergencies, urgent repairs or exceptional circumstances, we will observe the following practices if we require access to your land:

- For routine works, we will provide you with as much notice as reasonably possible of our intention. Where we cannot give prior notice (for example in the case of an emergency) we will contact you as quickly as practicable.
- Wherever possible, we will agree with you the access route to our equipment on a project by project basis. We will provide a detailed plan if appropriate. If we have to make any subsequent deviations we will, where possible, agree these with you. We will restrict the number of vehicles on site to a minimum and of an appropriate type for the works in progress.

- We will observe the current recommendations of the Scottish Government and additional reasonable requests from you or your agent regarding maintenance of good bio-security.
- We will not obstruct access to your land unnecessarily, but when this is necessary, for example for safety reasons while we are working, we will do so for the shortest time possible.

In return, please can you respect all reasonable requests from our staff and contractors in relation to safety of our staff or contractors, you and your property – for example, the need to temporarily relocate stock or take an alternative route.

Please let us know about any land management schemes, sensitive areas or proposed developments which may affect your land or pose any hazard to our staff or contractors when accessing your land.



Scottish Water
Working to protect
the River Kelvin

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the River Kelvin

Statutory Notices Q&A

Q: What is a Statutory Notice?

A: It is a formal legal document which gives Scottish Water the right to access private land to undertake specific works detailed in the Notice.

Q: Why are Statutory Notices necessary?

A: Except in the case of an emergency, Scottish Water does not have a general right to access private land. Under the current legislation Scottish Water is granted powers to take entry to land provided the owner and/or occupier has had advance warning of our intentions. That is the purpose of a Statutory Notice – to provide advance warning.

Q: What is the current legislation?

A: Scottish Water is the national provider for both water and waste water services. The Water (Scotland) Act 1980 and the Sewerage (Scotland) Act 1968 set out its powers and obligations for each of these services.

Q: How will I know if I have received a Statutory Notice?

A: The Statutory Notice will not arrive on its own or unannounced. Scottish Water representatives will have discussed the proposed works with you and advised you to expect a Notice. The Notice will come with a covering letter confirming that a Notice is enclosed.

Q: How will you consult with me before/after service of a Statutory Notice?

A: We will always use our best endeavours to consult you before the Notice is served, but if for any reason we have not been able to do so we will consult you about what we propose to do during the Notice period. During that consultation we will be asking you for information about:

- Ownership (and, if different, occupancy) of the land;
- Any proposals you have for developing the land;
- Known pipes, cables, equipment or structures below the ground;

- Anything which you believe might affect the timing of our works;
- The location of springs, wells, cesspools, septic tanks or land drains;
- Any harmful materials, liquids or vegetation or if the land has been subject to any notifiable plant or animal diseases;
- Planned cropping and stocking; and
- Any other factor which you believe is relevant or might affect our works.

Q: Why are there different types of Statutory Notice?

A: Some Notices give Scottish Water a right to install new apparatus on private land. These Notices are issued at least two months in advance so the recipient has the chance to carefully consider our proposals, which might entail major civil engineering works for a significant period of time. In other circumstances more minor works are proposed, such as maintenance and repairs or inspections and non-intrusive surveys, in which case a different type of Notice only requiring at least 24 hours advance warning is required.

Q: How are Scottish Water’s works detailed in a Statutory Notice?

A: The Notice document confirms whether our proposals are water or waste water related. The Notice will be supplemented by a plan which shows where Scottish Water intends to work and take access. If new apparatus is to be installed then the Notice and plan will also be supplemented by a schedule which gives written technical details and a key to the symbols used on the plan.

Q: Once I get a Statutory Notice can I make representations if I don’t like the proposals?

A: Sometimes. If the particular Notice served offers recipients the right to object then this will be clearly detailed, complete with a note of who to write to and when.

Statutory Notices Q&A

continued

Q: Other utility companies don't issue Statutory Notices, so why do Scottish Water?

A: Unlike other utility companies in Scotland, Scottish Water is a public body. It is granted powers to pursue works which are deemed to be to the greater public good. Sometimes, individuals will be opposed to our works. Whilst we always take the priorities and interests of all interested parties in to account, the statutory powers provide support to ensure that projects can be delivered as quickly and efficiently as possible for the wider benefit of the community.

Q: Can Scottish Water allow others to use their statutory powers?

A: In certain circumstances Scottish Water may authorise a person to construct a sewer or main using its statutory powers. However, the landowner and/or occupier's rights to compensation under either the Water (Scotland) Act or the Sewerage (Scotland) Act remain the same as if the Notice had been served directly by Scottish Water.

Commonly used Statutory Notices

Sewerage (Scotland) Act 1968

- Section 48(1)(a) Notice to take access to survey the site using intrusive methods such as boreholes and trial pits.
- Section 48(1)(c) Notice to take access for non intrusive surveys such as visual inspection and topographic surveys.
- Section 48(1)(d) Notice of entry for new apparatus or renewal works.
- Section 3(1)(a)(ii) Notice to lay new sewerage apparatus.

Water (Scotland) Act 1980

- Section 16(1) Notice to the Scottish Government asking for permission to serve notice on a landowner to carry out intrusive survey.
- Section 16(2) Duplicate notice to the landowner notifying them of our request to the Scottish Government.
- Section 16(7) Notice to take access to survey the site using intrusive methods once permission has been granted by the Scottish Government.
- Section 38(1)(c) Notice with details of non intrusive surveys such as visual inspection and topographic surveys.
- Section 38(1)(d) Notice of entry for new apparatus or renewal works.
- Section 23(1)(b) Notice to lay new water apparatus.

Keeping up to date and getting in touch

Find out more about Scottish Water, our services and keep up to date with what we are doing in your area:

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[@scottish water](https://twitter.com/scottish_water)

Email

help@scottishwater.co.uk

Call

Free Customer Helpline
(24 hours a day, seven days a week)



0800 0778778

Alternative formats of this leaflet can be made available free of charge. For information on Braille, large print, audio and a variety of languages, please call our Customer Helpline.

If you have a disability, medical condition or other reason where you may need additional assistance from Scottish Water then please contact us and we can add your name, address and requirements to our confidential Priority Services Register.

We record all calls for quality and training purposes.