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SCHEDULE 5

(introduced by section 71)

MODIFICATIONS OF SEWERAGE (SCOTLAND) ACT 1968

- 1 The Sewerage (Scotland) Act 1968 (c.47) is amended as follows.
- 2 In each of the following provisions, for “a sewerage authority” wherever the expression occurs substitute “ Scottish Water ”
- 3 In each of the following provisions, for “the sewerage authority” wherever the expression occurs substitute “ Scottish Water ”
- 4 In each of the following provisions, for “the authority” wherever the expression occurs substitute “ Scottish Water ”
- 5 In section 1 (duty of sewerage authority to provide for sewerage of their area)—
 - (a) in subsection (1)—
 - (i) for “each of the sewerage authorities” substitute “ Scottish Water ”,
 - (ii) for “their”, in both places where it occurs, substitute “ its ”,
 - (b) in subsection (2)(a), for “their”, in the first place where it occurs, substitute “ its ”,
 - (c) in subsection (4), before “private provider”, in the second and third places where the expression occurs, insert “ the ”.
- 6 In section 2 (maintenance of public sewers and other works)—
 - (a) for “each of the sewerage authorities” substitute “ Scottish Water ”,
 - (b) for “them” substitute “ it ”,
 - (c) for the words from “Part” to the end substitute “ the Water Industry (Scotland) Act 2002 (asp 3) ”.
- 7 In section 3 (construction etc. of public sewers and public sewage treatment works)—
 - (a) in subsection (1)—
 - (i) the words “within or outwith their area” are repealed,
 - (ii) in paragraph (b), for “them” substitute “ it ”,
 - (b) in subsection (2), for “their” substitute “ its ”,
 - (c) subsection (4) is repealed.
- 8 In section 3A (authorisation of construction of certain private sewers)—
 - (a) in subsection (1)—
 - (i) for “their” in each place where it occurs substitute “ its ”,
 - (ii) for “them” substitute “ it ”,
 - (b) in subsection (2)—
 - (i) for “their” substitute “ its ”,
 - (ii) for “they” in the first place where it occurs substitute “ it ”,
 - (iii) for “them” in both places where it occurs substitute “ it ”,
 - (iv) for “they think” substitute “ it thinks ”.
- 9 In section 4 (power of sewerage authority to close or alter public sewers etc.)—
 - (a) for “they think” substitute “ it thinks ”,
 - (b) for “them” substitute “ it ”,

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- (c) for the words from “Part” to “1994” substitute “ the Water Industry (Scotland) Act 2002 (asp 3) ”,
 - (d) for “they” in the second place where it occurs substitute “ it ”,
 - (e) for “their” substitute “ its ”.
- 10 Section 6(functions outwith area of a sewerage authority) is repealed.
- 11 In section 7 (agreements between roads and sewerage authorities)—
- (a) subsection (2) is repealed,
 - (b) in subsection (3)—
 - (i) the words from “and” where it first occurs to “thereto” are repealed,
 - (ii) for “any authority” substitute “ a roads authority or Scottish Water ”,
 - (iii) for “authorities concerned” substitute “ authority concerned and Scottish Water ”.
- 12 In section 8 (agreements as to provision of sewers etc. for new premises)—
- (a) in subsection (1)—
 - (i) for “a sewerage authority are” substitute “ Scottish Water is ”,
 - (ii) for “their” substitute “ its ”,
 - (iii) for “they” substitute “ it ”,
 - (iv) for “them” substitute “ it ”,
 - (b) in subsection (2)—
 - (i) for “an authority” substitute “ Scottish Water ”,
 - (ii) for “the authority have” substitute “ it has ”.
- 13 In section 9 (loan of temporary sanitary conveniences), for—
- (a) “the sewerage authority concerned”, and
 - (b) in the proviso, “the sewerage authority”,
- substitute “ Scottish Water ”.
- 14 In section 10 (emptying of septic tanks)—
- (a) in subsection (1), for “their” in each place where it occurs substitute “ its ”,
 - (b) in subsection (2), for “they think” substitute “ it thinks ”,
 - (c) in subsection (4), for the words from “Part” to “1994” substitute “ the Water Industry (Scotland) Act 2002 (asp 3) ”.
- 15 In section 11 (duty of sewerage authority to keep map showing public sewers etc.)—
- (a) for “their” wherever it occurs substitute “ its ”,
 - (b) in subsection (1)—
 - (i) for “them” substitute “ it ”,
 - (ii) for the words from “Part” to “1994” substitute “ the Water Industry (Scotland) Act 2002 (asp 3) ”,
 - (iii) for “they have” substitute “ it has ”,
 - (c) in subsection (3)—
 - (i) for “they consider” substitute “ it considers ”,
 - (ii) for “the authority” substitute “ it ”,
 - (iii) for “they do” substitute “ it does ”.
- 16 In section 12 (rights of owners and occupiers to connect with and drain into public sewers etc.)—
- (a) in subsection (1)—

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- (i) the words “within the area of a sewerage authority” are repealed,
 - (ii) for “that authority” substitute “ Scottish Water ”,
 - (b) in subsection (2), for “an authority” substitute “ Scottish Water ”,
 - (c) in subsection (3)—
 - (i) for “them” in the second place where it occurs substitute “ it ”,
 - (ii) for “they think” substitute “ it thinks ”,
 - (d) in subsection (4), for “their” in both places where it occurs substitute “ its ”,
 - (e) in subsection (6)—
 - (i) for “the sewerage authority who granted it” substitute “ Scottish Water ”,
 - (ii) for “them” in both places where it occurs substitute “ it ”,
 - (f) in subsection (7)—
 - (i) for “the sewerage authority who granted the permission” substitute “ Scottish Water ”,
 - (ii) for “them” substitute “ it ”,
 - (g) in subsection (8), for “them” substitute “ it ”.
- 17 Section 13(rights of owners and occupiers to connect with and drain into sewers etc. of another sewerage authority) is repealed.
- 18 In section 14 (direction by sewerage authority as to manner of construction of works)—
 - (a) in subsection (1)—
 - (i) the words “or that subsection as applied by section 13 above” are repealed,
 - (ii) for “they consider” substitute “ it considers ”,
 - (iii) for “they have” substitute “ it has ”,
 - (iv) for “them” substitute “ it ”,
 - (b) in subsection (2), for the words from “the sewerage” to the end substitute “ Scottish Water ”,
 - (c) in subsection (4)—
 - (i) for the words “the sewerage authority who issued it” substitute “ Scottish Water ”,
 - (ii) for “them” in both places where it occurs substitute “ it ”,
 - (d) in subsection (5)—
 - (i) for the words “An authority who issue a direction under subsection (1) above” substitute “ Where Scottish Water has issued a direction under subsection (1) above, it ”,
 - (ii) for “they” substitute “ it ”,
 - (iii) for “their” substitute “ its ”.
- 19 In section 15 (owner or occupier to remedy defects in drains and other works)—
 - (a) in subsection (1)—
 - (i) after “their” insert “ or, as the case may be, its ”,
 - (ii) for “the authority in question” substitute “ the local authority or, as the case may be, Scottish Water ”,
 - (b) in subsection (3)—
 - (i) before “authority” in both places where it occurs insert “ local ”,

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- (ii) after “notice” in the second place where it occurs insert “ or, where the notice was served by Scottish Water, that body ”,
 - (iii) after “them” in both places where it occurs insert “ or, as the case may be, it ”,
 - (iv) after “question” insert “ or, as the case may be, Scottish Water ”,
 - (v) after “think” insert “ or it thinks ”,
 - (c) in subsection (4)(c)—
 - (i) before “authority” insert “ local ”,
 - (ii) after “notice” insert “ or, where the notice was served by Scottish Water, that body ”,
- 20 In section 16 (vesting of sewers and other works in sewerage authority)—
- (a) in subsection (1)—
 - (i) for “them” in each place where it occurs substitute “ it ”,
 - (ii) for “their” in each place where it occurs substitute “ its ”,
 - (iii) in paragraph (cc), for “they enter” substitute “ it enters ”,
 - (b) in subsection (2), for “1st April 1996” substitute “ the date when section 21 of the Water Industry (Scotland) Act 2002 (asp 3) comes into force ”,
 - (c) in subsection (3), for “the authority who” substitute “ Scottish Water which ”.
- 21 In section 16A (vesting of certain private sewers)—
- (a) in subsection (1), for “their” substitute “ its ”,
 - (b) in subsection (2)—
 - (i) for “they think” substitute “ it thinks ”,
 - (ii) for “them” substitute “ it ”.
- 22 In section 17 (sewerage authority may take over private sewage treatment works)—
- (a) in subsection (1)—
 - (i) for the words from “a sewerage” to “situated” substitute “ Scottish Water ”,
 - (ii) for “the works” where that expression first occurs substitute “ any private sewage treatment works ”,
 - (iii) for “them” substitute “ it ”,
 - (b) in subsection (2)—
 - (i) for “their” substitute “ its ”,
 - (ii) for “they think” substitute “ it thinks ”,
 - (iii) for “them” substitute “ it ”,
 - (iv) the words from “and shall” to “situated” are repealed,
 - (c) in subsection (4), for “them” substitute “ it ”.
- 23 In section 20 (compensation for loss etc. resulting from exercise of powers under this Act)—
- (a) in subsection (1), for “their” substitute “ its ”,
 - (b) in subsection (3), for “an authority” substitute “ Scottish Water ”,
 - (c) in subsection (4), for “their” substitute “ its ”.
- 24 In section 21(1) (buildings not to interfere with sewers), for “they have” substitute “ it has ”.

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- 25 In section 23 (restriction on working minerals), for “section 98(1)(b) of the Local Government etc. (Scotland) Act 1994” substitute “ section 46(1)(b)(ii) of the Water Industry (Scotland) Act 2002 (asp 3) ”.
- 26 In section 27 (procedure on application for consent to new discharge)—
- (a) in subsection (4)—
 - (i) paragraph (a) and the following “and” are repealed,
 - (ii) the words “the second authority or” are repealed,
 - (b) subsection (6) is repealed.
- 27 In section 28 (time to dispose of application), for “them” in each place where it occurs substitute “ it ”.
- 28 In section 29 (decision on application)—
- (a) in subsection (1)—
 - (i) for “their” in each place where it occurs substitute “ its ”,
 - (ii) for “they” in each place where it occurs substitute “ it ”,
 - (b) in subsection (2)—
 - (i) for “the authority have” substitute “ Scottish Water has ”,
 - (ii) for “their” in each place where it occurs substitute “ its ”,
 - (iii) for “they” substitute “ it ”,
 - (c) in subsection (3)—
 - (i) for “their” substitute “ its ”,
 - (ii) in paragraph (h), for “are” substitute “ is ”,
 - (iii) in paragraph (j), for “them” substitute “ it ”, and for “their” substitute “ its ”,
 - (d) in subsection (5), for “an authority” substitute “ Scottish Water ”.
- 29 In section 30(1) (intimation of decision)—
- (a) for “their” substitute “ its ”,
 - (b) the words “authority or” are repealed.
- 30 In section 32 (review of consents, conditions and refusals)—
- (a) in subsection (1), for “them” substitute “ it ”,
 - (b) in subsection (2)—
 - (i) for “they propose” substitute “ it proposes ”,
 - (ii) for “their” substitute “ its ”,
 - (iii) for “the authority” substitute “ it ”,
 - (c) in subsection (4), the words “authority or” are repealed.
- 31 In section 36 (review of continuation of existing discharge)—
- (a) in subsection (1), for “they” substitute “ it ”,
 - (b) in subsection (4)—
 - (i) for “the authority have” substitute “ Scottish Water has ”,
 - (ii) for “them” substitute “ it ”.
 - (iii) for “the authority” in the second place where that expression occurs substitute “ Scottish Water ”.
- 32 In section 37 (agreements as respects trade premises)—
- (a) in subsection (1)—
 - (i) for “their” substitute “ its ”,

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- (ii) for “the authority” substitute “ it ”,
 - (b) in subsection (3), for “the authority” substitute “ it ”,
 - (c) in subsection (5)(c), for “their” substitute “ its ”.
- 33 In section 37A (register for purposes of Part II)—
- (a) in subsection (2), for “their” in each place where it occurs substitute “ its ”,
 - (b) in subsection (3), for “them” in each place where it occurs substitute “ it ”.
- 34 In section 38 (power to extend Part II to other effluents), in subsection (3), for “and such sewerage authorities” substitute “ , Scottish Water and such ”.
- 35 In section 39 (sewerage authority to have right to sewage)—
- (a) for “their” substitute “ its ”,
 - (b) for “them” substitute “ it ”.
- 36 In section 41 (breaking open of roads etc.)—
- (a) for “a sewerage authority or” substitute “ Scottish Water or any ”,
 - (b) in the proviso, for “they” substitute “ Scottish Water or, as the case may be, that person ”.
- 37 In section 42(1) (execution of works by sewerage authorities for other persons)—
- (a) for “the sewerage authority concerned” substitute “ Scottish Water ”,
 - (b) for “their” substitute “ its ”.
- 38 In section 44 (power of sewerage authorities to require information as to ownership etc. of premises)—
- (a) for “them” in each place where it occurs substitute “ it ”,
 - (b) for “their” substitute “ its ”.
- 39 In section 48(1) (powers of entry)—
- (a) in paragraph (d), for “them” substitute “ it ”,
 - (b) in paragraph (dd), for “section 98(1)(b) of the Local Government etc. (Scotland) Act 1994” substitute “ section 46(1)(b)(ii) of the Water Industry (Scotland) Act 2002 (asp 3) ”,
 - (c) in paragraph (e), for “their” substitute “ its ”,
 - (d) in paragraph (f)(ii), for “section 98(1)(b)” substitute “ section 46(1)(b)(ii) ”.
- 40 In section 55(2) (application of Act to Crown), for the words from “the sewerage” to “situated” substitute “ Scottish Water ”.
- 41 In section 59(interpretation)—
- (a) for the definition of “area” substitute—
 - ““area”, in relation to Scottish Water, means the area comprising all of the local government areas established by virtue of section 1 of the Local Government etc. (Scotland) Act 1994 (c.39);”,
 - (b) in the definitions of—
 - (i) “private sewage treatment works”,
 - (ii) “public drain”,
 - (iii) “public sewage treatment works”, and
 - (iv) “public sewer”,
 for “a sewerage authority” substitute “ Scottish Water ”,
 - (c) the definition of “sewerage authority” is repealed.

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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. 2(3)-(5D) substituted for s. 2(3)-(5) by 2005 asp 3 s. 3(1)
- s. 2A inserted by 2010 asp 8 sch. 2 para. 2
- s. 2A heading words substituted by S.I. 2014/631 Sch. 1 para. 15(2)(a)
- s. 2A(1) words substituted by S.I. 2014/631 Sch. 1 para. 15(2)(b)
- s. 2A(2) words substituted by S.I. 2014/631 Sch. 1 para. 15(2)(c)
- s. 4(2) (3) substituted for s. 4(2) by 2005 asp 3 s. 1(2)
- s. 4(4) inserted by 2010 asp 8 sch. 2 para. 3
- s. 4(4) words substituted by S.I. 2014/631 Sch. 1 para. 15(3)
- s. 5(2)(a)(i) words substituted by 2010 asp 8 sch. 2 para. 4(a)
- s. 5(2)(a)(i) words substituted by S.I. 2014/631 Sch. 1 para. 15(4)
- s. 5(2)(a)(ii) words substituted by 2010 asp 8 sch. 2 para. 4(b)
- s. 5(4) added by 2005 asp 3 s. 1(3)
- s. 6(2A) (2B) inserted by 2010 asp 8 sch. 2 para. 5
- s. 6(2A) words substituted by S.I. 2014/631 Sch. 1 para. 15(5)(b)(i)
- s. 6(2A) words substituted by S.I. 2014/631 Sch. 1 para. 15(5)(b)(ii)
- s. 6(2B) words substituted by S.I. 2014/631 Sch. 1 para. 15(5)(c)
- s. 6A-6C added by 2005 asp 3 s. 3(3)
- s. 6A repealed by 2010 asp 8 sch. 2 para. 21
- s. 6B repealed by 2010 asp 8 sch. 2 para. 21
- s. 6C repealed by 2010 asp 8 sch. 2 para. 21
- s. 11(7A) inserted by S.S.I. 2010/95 reg. 6
- s. 25(1A) inserted by 2013 asp 5 s. 23
- s. 29-29G substituted for s. 29 by 2005 asp 3 s. 21(1)
- s. 29B(4)(a) word repealed by 2010 asp 8 s. 130(4)(a)
- s. 29B(4)(a)(iii) substituted by 2010 asp 8 sch. 2 para. 10
- s. 29B(4)(a)(iii) words substituted by S.I. 2014/631 Sch. 1 para. 15(8)
- s. 29B(4)(ia) inserted by 2010 asp 8 s. 130(4)(b)
- s. 29D(5)(b) substituted by 2010 asp 8 sch. 2 para. 11
- s. 29D(5)(b) words substituted by S.I. 2014/631 Sch. 1 para. 15(9)
- s. 29D(5)(aa) inserted by 2010 asp 8 s. 130(5)
- s. 35(10) added by 2005 asp 3 s. 21(4)
- s. 35A inserted by 2005 asp 3 s. 21(5)
- s. 42A 42B inserted by 2013 asp 5 s. 27(1)
- s. 50A inserted by 2013 asp 5 s. 24
- s. 51A inserted by 2013 asp 5 s. 25
- s. 56(1)(aa) inserted by 2009 asp 12 s. 74
- s. 56A 56B inserted by 2005 asp 3 s. 22
- s. 56A(4) words inserted by 2010 asp 8 s. 130(6)
- s. 56A(4) words substituted by 2010 asp 8 sch. 2 para. 12
- s. 56A(4) words substituted by S.I. 2014/631 Sch. 1 para. 15(10)
- s. 57(7)(a) substituted for words by 2005 asp 3 Sch. 5 para. 7(7)(a)
- s. 57(7)(b) inserted by 2005 asp 3 Sch. 5 para. 7(7)(b)
- Sch. A1 inserted by 2005 asp 3 Sch. 1
- Sch. 4 para. 2(3)(zb) inserted by 2007 asp 3 Sch. 5 para. 26(2)

Commencement Orders yet to be applied to the Water Industry (Scotland) Act 2002

Commencement Orders bringing legislation that affects this Act into force:

- [S.S.I. 2004/495 art. 2 commences \(2004 asp 6\)](#)
- [S.S.I. 2005/351 art. 2 commences \(2005 asp 3\)](#)
- [S.S.I. 2005/392 art. 2 commences \(2005 asp 5\)](#)
- [S.S.I. 2006/167 art. 2 commences \(2005 asp 3\)](#)
- [S.S.I. 2006/445 art. 2 Sch. commences \(2005 asp 3\)](#)
- [S.S.I. 2006/599 art. 2 commences \(2005 asp 3\)](#)
- [S.S.I. 2007/512 art. 2 commences \(2003 asp 3\)](#)
- [S.S.I. 2007/516 art. 2 commences \(2007 asp 8\)](#)
- [S.S.I. 2008/115 art. 3 commences \(2007 asp 3\)](#)
- [S.S.I. 2009/341 art. 2 commences \(2009 asp 12\)](#)
- [S.S.I. 2009/369 art. 3 Sch. commences \(2007 asp 3\)](#)
- [S.S.I. 2010/230 art. 2-4 commences \(2010 asp 5\)](#)
- [S.S.I. 2010/401 art. 2-4 commences \(2009 asp 6\)](#)
- [S.S.I. 2011/278 art. 1 commences \(2010 asp 8\)](#)