

# Water (Scotland) Act, 1949

12 & 13 GEO. 6. CH. 31

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## ARRANGEMENT OF SECTIONS

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Section

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## CHAPTER 31

An Act to amend the law with respect to rating and charging for water supplies in Scotland ; to amend Part V of the Local Government Act, 1948, with respect to the ascertainment of the standard amounts thereunder in Scotland; to increase the financial assistance that may be given to local authorities in Scotland under the Rural Water Supplies and Sewerage Act, 1944; to amend the Water (Scotland) Act, 1946 ; and for purposes connected with the matters aforesaid.

[11th May 1949.]

**B**E it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

## PART I

## WATER RATES

**1.**—(1) Subject to the provisions of this Part of this Act, as from the appointed day the expenditure incurred by a local authority in the exercise of any of their functions under any enactment in relation to water supply in their district shall, in so far as not met otherwise, be defrayed as to such portion thereof, not exceeding one-third and not less than one-fifth, as the authority may determine, out of the county rate or the burgh rate, as the case may be, and as to the remainder out of a rate to be levied as hereafter in this Act provided.

Levy of rates  
in respect of  
expenditure  
on water  
supply.

(2) The portion of the county rate or of the burgh rate levied under the foregoing subsection shall be payable by owners and

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—cont.

occupiers in equal proportions and is hereafter in this Act referred to as “ the public water rate ”.

(3) For the purpose of defraying the remainder of the expenditure mentioned in subsection (1) of this section, the local authority shall, subject to the provisions of this Part of this Act, levy annually within their district a rate (hereafter in this Act referred to as “ the domestic water rate ”) which, notwithstanding anything in any other enactment, shall be levied as a separate rate and shall be payable by occupiers only.

Provisions as  
to liability for  
domestic  
water rate.

2.—(1) Subject to the provisions of this Part of this Act, the domestic water rate shall be levied by the local authority in respect of all lands and heritages within their district according to the gross annual value of such lands and heritages.

(2) The domestic water rate shall not be leviable in respect of any premises, being lands and heritages situated within the district of a local authority, unless—

- (a) in the case of a dwelling house, a sufficient supply of wholesome water provided by a local water authority for domestic purposes is provided in pipes within the house or within the premises in which the house is comprised ;
- (b) in the case of premises being agricultural lands and heritages, a sufficient supply of wholesome water provided by a local water authority for domestic purposes is provided in pipes within some dwelling house comprised in the premises ; and
- (c) in the case of any other premises, a supply of water provided by a local water authority is used for any purpose for or in connection with which the premises are used or by or for persons employed or otherwise engaged on or about the premises in connection with such purpose.

(3) Where premises are for the first time provided with a supply of water otherwise than on the first day of a rating year, the occupier of the premises shall be liable to pay in respect of that year such part only of the domestic water rate which would be leviable if a supply had been provided throughout that year as is proportionate to the part of that year which had not elapsed when the supply was provided.

(4) This section shall not apply to lands and heritages being a holding within the meaning of the Small Landholders (Scotland) Acts, 1886 to 1931.

Levy of  
domestic  
water rate on  
agricultural  
subjects.

3. Where the domestic water rate is leviable in respect of any premises being agricultural lands and heritages, the domestic water rate shall, subject to the provisions of subsection (5) of

section sixteen of this Act, be levied according to the gross annual value (ascertained as hereafter in this Act provided) of any dwelling house or dwelling houses comprised in the premises and provided with a supply of water by a local water authority.

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4.—(1) Where the domestic water rate is leviable in respect of lands and heritages being premises to which this section applies, it shall be levied according to one-half of the gross annual value thereof:

Levy of domestic water rate on business and commercial premises.

Provided that if the local authority so resolve not later than the fifteenth day of July in any year with respect to any particular premises such as aforesaid this subsection shall have effect in that year in relation to those premises with the substitution for one-half of such other fraction, not exceeding one-half and not less than one-quarter, as may be specified in the resolution.

(2) Where a supply of water is provided to any premises to which this section applies and which are entered in the valuation roll at a gross annual value exceeding such amount as the local authority may from time to time determine, the occupier thereof shall have the option of taking the supply by meter, and if he exercises that option the domestic water rate shall be leviable in respect of the premises according to a gross annual value of such amount as the local authority may have determined as aforesaid.

(3) Where the domestic water rate is leviable in respect of lands and heritages being premises to which this section applies and which are occupied partly as a dwelling house, the domestic water rate shall, subject to the provisions of subsection (5) of section sixteen of this Act, be levied on the part occupied as a dwelling house according to the gross annual value (ascertained as hereafter in this Act provided) of that part, and on the remainder of the premises in accordance with the provisions of this section.

(4) This section applies to lands and heritages being premises occupied wholly or partly as a shop, offices, a warehouse, factory, cinematograph theatre, theatre, town hall, dance hall or concert hall, and such other premises not being premises occupied wholly as a dwelling house or such premises as are mentioned in the last foregoing section or in either of the two next succeeding sections of this Act as the local authority may from time to time resolve.

5. Where the domestic water rate is leviable in respect of premises being lands and heritages occupied as waterworks, gas works or sewage works, or as a mine or a quarry, or as a public park or recreation ground, it shall be levied according to one-quarter of the gross annual value thereof.

Levy of domestic water rate on certain public utility undertakings, mines, parks, etc.

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Levy of domestic water rate on shootings and fishings.

6. Where the domestic water rate is leviable in respect of premises being lands and heritages occupied as shootings or as fishings it shall be levied according to one-eighth of the gross annual value thereof.

Temporary adjustment of water rates as between owners and occupiers.

7. Where by reason of the provisions of section one of this Act the total amount which would, apart from the provisions of this section, fall to be defrayed by a local authority out of rates levied by them on owners in the year commencing on the appointed day in respect of expenditure incurred in the provision of a supply of water is less than the total amount which fell to be so defrayed in the year immediately preceding that day, then, in the year commencing on that day and in each of the four succeeding years, the total amount to be levied by that authority on owners liable in payment of the county rate or the burgh rate, as the case may be, shall be increased, and the total amount to be levied on occupiers liable in payment of the domestic water rate shall be decreased, by an amount equal to the difference between the amounts aforesaid, and the county rate or the burgh rate and the domestic water rate shall, in each of those five years, be adjusted and levied accordingly.

Contributions by county council in aid of domestic water rate.

8.—(1) If in any year it appears to a local authority being the council of a county that by reason of the cost of works undertaken or to be undertaken in connection with the provision or improvement of a supply of water in their district or by reason of the foregoing provisions of this Part of this Act requiring a major portion of the rate-borne expenditure of the authority in providing a supply of water to be defrayed out of a domestic water rate payable by occupiers only, the financial burden imposed or to be imposed on occupiers in their district is greater than they can reasonably be expected to bear unaided, the authority may with the approval of the Secretary of State in that year defray such part of the cost of providing or improving the supply of water in their district in such manner as appears to them equitable, and where part of such cost is defrayed out of rates it shall be defrayed out of the county rate.

(2) Subsection (2) of section two hundred and thirty-seven of the Local Government (Scotland) Act, 1947 (which subsection relates to the information required to be contained in demand notes for payment of rates) shall have effect as if expenditure under this section were a branch of expenditure prescribed by the Secretary of State for the purposes of paragraph (f) of that subsection.

Dissolution of special water supply districts.

9.—(1) On the appointed day all special water supply districts shall be dissolved.

(2) The Secretary of State shall by regulations provide for the payment by the council of the county within which any such special district was situated, subject to such exceptions or conditions as may be specified in the regulations, of compensation to persons who were, or who, but for any war service in which they have been engaged, would have been, officers or servants employed for the purposes of the special district who suffer loss of employment or loss or diminution of emoluments which is attributable to the dissolution of the special district; and the regulations shall include provision as to the manner in which and the persons to whom any claim for compensation under this subsection is to be made and for the determination of all questions arising under the regulations.

In this subsection the expression “ war service ” means service in any of His Majesty’s Forces, and such other employment as may be prescribed by regulations of the Secretary of State.

(3) During such period (not exceeding ten years) commencing on the appointed day as the county council may think proper, the domestic water rate shall be payable within the areas which formed the special districts dissolved under this section or any of them at such different amounts per pound from the amount per pound at which the domestic water rate would otherwise be payable, as the county council may from year to year determine to be equitable; and after the expiry of such period the domestic water rate shall be payable at a uniform amount per pound throughout the landward area of the county.

(4) The provisions of the last foregoing subsection shall, if the county council so determine, apply in relation to any part of the landward area which is constituted by a local enactment as a water supply area and in which immediately before the appointed day a domestic water rate was payable by owners and occupiers in equal proportions, in like manner as they apply in relation to areas which formed the special districts dissolved under this section.

(5) Notwithstanding the dissolution under this section of the special water supply districts, section forty-five of the Local Government (Scotland) Act, 1894 (which provides for distinguishing in the valuation roll lands and heritages in special water supply districts and for the separate valuation of portions of undertakings within such districts) shall, during such period as may be necessary for the purposes of subsection (3) of this section, continue to have effect in relation to areas which formed the special districts so dissolved.

(6) Where immediately before the appointed day a local water authority are entitled under any enactment or agreement to take a supply of water from any stream or other source for the purpose

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specified in the enactment or agreement being a purpose relating to the functions of the authority with respect to water supply, then, notwithstanding anything contained in the said enactment or agreement or in this Act, the authority shall be entitled to take that supply for any purpose relating to their functions with respect to water supply, so, however, that they shall not be entitled to take in any year thereafter an amount of water greater than the amount they were entitled to take in the year immediately preceding the appointed day.

(7) As from the appointed day the provisions of Part VII of the Local Government (Scotland) Act, 1947, so far as relating to the formation of special districts for the purposes of providing or maintaining a water supply and to the operation and dissolution of such districts, shall cease to have effect.

Expenses of  
joint water  
boards.

**10.**—(1) As from the appointed day any power conferred by or under any enactment on a joint water board to levy a water rate shall cease to be exercisable.

(2) For the purpose of defraying their expenses in so far as they fall to be defrayed out of rates a joint water board shall issue to each of the local authorities in whose district or in part of whose district the board are supplying water a requisition for the payment by that authority to the board of the sum specified in the requisition, being the authority's proportion, allocated as hereinafter provided, of the expenses of the board.

(3) The proportion of the expenses of a joint water board to be allocated for the purpose of a requisition under the last foregoing subsection to a local authority shall be such proportion thereof as is equal to the amount which would be produced in the authority's district or that part thereof which is within the limits of supply of the board if a public water rate and a domestic water rate were levied by the board in accordance with the provisions of this Part of this Act throughout their whole limits of supply for the purpose of defraying the said expenses:

Provided that where in the enactment or agreement under which the board is constituted provision is made for the payment during a specified period by the authorities concerned of specified proportions of the expenses of the board, the proportions of the said expenses to be allocated to those authorities shall during the specified period be the respective proportions specified in the enactment or agreement.

Expenses  
of local  
authority  
supplying  
water in  
district of  
another  
authority.

**11.**—(1) As from the appointed day any power conferred by or under any enactment on a local authority (in this and the two next succeeding sections referred to as a "supplying authority") who are supplying or are authorised to supply water in the district or in any part of the district of another local



authority to levy a water rate in the district or part of the district of that other authority in respect of their expenditure in supplying water therein, or to recover otherwise than in accordance with the provisions of this Part of this Act from that other authority their expenses in so supplying water, shall cease to be exercisable.

(2) The expenses of a supplying authority, in so far as they fall to be defrayed out of rates, in supplying water in the district or part of the district of another local authority and in their own district shall be defrayed—

- (a) as to such part of the said expenses as is equal to the amount which would be produced in the district or part of the district of that other authority if a public water rate and a domestic water rate were levied by the supplying authority in accordance with the provisions of this Part of this Act throughout their whole limits of supply for the purpose of defraying the said expenses, by that other authority ; and
- (b) as to the remainder of the said expenses, by the supplying authority ;

and the supplying authority shall issue to that other authority a requisition for the payment by that other authority of the part of the said expenses allocated to them as aforesaid.

(3) If in any particular case the authorities concerned are satisfied that the allocation in manner provided by the last foregoing subsection of the expenses of a supplying authority among the local authorities concerned would impose on any of those authorities (including the supplying authority) a financial burden greater than they should reasonably be expected to bear, they may enter into an agreement for the purpose of regulating the manner in which the expenses of the supplying authority in that case are to be defrayed, and if the Secretary of State, being satisfied as aforesaid, makes an order approving the agreement, the terms of the agreement shall during such period as may be specified in the agreement come in place of the provisions of the last foregoing subsection.

(4) If the Secretary of State is satisfied, on the application of any of the authorities concerned, that the allocation in any year in manner provided by subsection (2) or subsection (3) of this section of the expenses of a supplying authority among the local authorities concerned would impose on any of those authorities (including the supplying authority) a financial burden greater than they should reasonably be expected to bear, he may make an order directing that the sum to be defrayed in that year by that authority under this section shall be reduced by such amount as may be specified in the order and that the sum or sums to be defrayed by one or more of the other authorities concerned shall be adjusted accordingly.

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—cont.

(5) The provisions of Part II of the First Schedule to the principal Act shall apply to the making of an order under the last foregoing subsection.

(6) Any reference in any enactment to a sum payable in pursuance of a requisition under this section shall include a reference to a sum payable in pursuance of a requisition which has been increased or decreased by an order made under this section.

Provisions  
supplementary  
to ss. 10  
and 11.

**12.**—(1) For the purposes of the rates assumed to be levied in order to allocate expenses under subsection (3) of section ten or subsection (2) of section eleven of this Act, it shall be assumed that the joint water board or the supplying authority, as the case may be, have determined that one-quarter of their expenditure, in so far as it falls to be defrayed out of rates, is to be defrayed out of the public water rate.

(2) The provisions of section two hundred and sixteen of the Local Government (Scotland) Act, 1947, shall, subject to any necessary modifications, apply to the issue of requisitions by a local authority under section eleven of this Act as they apply to the issue of requisitions by a joint committee or joint board.

(3) The sum payable in pursuance of a requisition under section ten or section eleven of this Act shall, in so far as it falls to be defrayed out of rates, be defrayed by the local authority in like manner as if it were expenditure incurred by themselves in the exercise of functions in relation to water supply in their district.

(4) For the purpose of enabling a joint water board or a supplying authority to determine what sum should properly be specified by them in any requisition under section ten or section eleven of this Act, the clerk of the local authority responsible for the making up of the valuation roll relating to the district of the authority to whom the requisition falls to be issued shall on request and free of charge furnish to the clerk of the board or the supplying authority a copy of that roll.

(5) For the purpose of enabling a local authority to whom a requisition has been issued under section ten or section eleven of this Act to levy such rates as may be necessary to pay the amount due under the requisition, the requisitioning board or authority shall furnish the local authority with such information as to the premises in their district supplied with water, as to the terms on which such supply has been provided, and as to other matters as the local authority may reasonably require for that purpose.

(6) Where in pursuance of an enactment or an agreement a joint water board or a supplying authority are supplying water to premises outside their limits of supply, those premises shall

for the purposes of subsection (3) of section ten or of subsection (2) of section eleven of this Act be deemed to be within those limits.

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—cont.

(7) The provisions of subsection (2) of section nine of this Act (which subsection provides for the making of regulations with respect to the payment of compensation for loss of office or diminution of emoluments in the case of officers or servants employed for the purposes of special water supply districts) shall apply in relation to officers or servants of a joint water board or of a supplying authority who suffer loss of employment or diminution of emoluments by reasons of the provisions of subsection (1) of section ten of this Act or of subsection (1) of section eleven thereof as they apply in relation to the officers or servants mentioned in the said subsection (2) with the substitution, however, for references to the council of the county within which the special district was situated of references to the joint water board or the supplying authority as the case may be by whom the officers or servants concerned were employed.

**13.**—(1) If the Secretary of State, on a representation made to him by one of the authorities concerned, is satisfied that it will be impracticable for a supplying authority, notwithstanding the exercise by them of all due diligence, to obtain the information required to enable them in the year beginning on the appointed day to allocate within the required time their expenses in supplying water in the district or part of the district of another local authority and in their own district in manner provided by subsection (2) of section eleven of this Act and to furnish such information as under subsection (5) of section twelve of this Act they may be required to furnish, he may, subject to the provisions of this section, make an order modifying the provisions of this Part of this Act in relation to the defrayal of the expenses of that supplying authority.

Temporary provisions as to defrayal of expenses where requisite information etc., not available.

(2) An order made under this section shall provide that the expenses of the supplying authority in supplying water in the district or part of the district of another local authority and in their own district shall in the year beginning on the appointed day be defrayed—

- (a) as to such part of the said expenses as is equal to the total product of the water rate levied by the supplying authority in the district of that other authority in the year beginning on the sixteenth day of May, nineteen hundred and forty-eight, by that other authority; and
- (b) as to the remainder of the said expenses, by the supplying authority.

(3) An order made under this section shall provide for the issue by the supplying authority to any other authority to whom

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—cont.

part of the said expenses are under the order allocated as aforesaid, of a requisition for the payment by that other authority of that part of the said expenses, and any requisition so issued shall have the like force and effect as a requisition issued under subsection (2) of section eleven of this Act:

Provided that notwithstanding anything in the foregoing provisions of this Part of this Act any domestic water rate levied by a local authority to whom a requisition is issued in pursuance of an order made under this section shall in so far as it falls to be levied in respect of premises within the limits of supply of the supplying authority be levied only in respect of premises in respect of which a water rate was levied by the supplying authority in the year beginning on the sixteenth day of May, nineteen hundred and forty-eight.

(4) Where a supply of water for domestic purposes was provided in the year beginning on the sixteenth day of May, nineteen hundred and forty-eight, by a supplying authority to premises in the district of another local authority and no payment otherwise than by way of a charge calculated by reference to the amount of water consumed or payable under an agreement or otherwise was recovered in that year by the supplying authority in respect of that supply, an order made under this section in relation to the defrayal of the expenses of that supplying authority shall provide that, notwithstanding anything in this Part of this Act or in the principal Act, the supplying authority shall, for the purpose of defraying that part of their said expenses falling to be defrayed by them, be entitled to recover in the year beginning on the appointed day a charge calculated or payable as aforesaid in respect of that supply.

(5) An order made under this section may contain such incidental, consequential and supplementary provisions as the Secretary of State may consider necessary or expedient for the purposes of the order.

Adoption in  
counties of  
the House  
Letting and  
Rating  
(Scotland)  
Act, 1911.

**14.** Notwithstanding the provisions of section nine of this Act (which provides for the abolition of special water supply districts) it shall be lawful for the council of a county to adopt the House Letting and Rating (Scotland) Act, 1911, in the whole or in any part of the landward area of the county as if the whole landward area or such part thereof were a special district, and the said Act of 1911 shall have effect accordingly.

Ss. 72 and 73  
of 10 & 11  
Vict. c. 17, as  
incorporated  
in local Acts,  
to cease to  
have effect.

**15.** As from the appointed day sections seventy-two and seventy-three of the Waterworks Clauses Act, 1847, (which provide for the payment of water rates by the owners of houses of an annual value not exceeding ten pounds, and for the recovery by the owner from the occupier of such payments in certain cases) shall, so far as they are incorporated in any local enactment, cease to have effect.

16.—(1) For the purposes of section three of this Act (which requires the domestic water rate in respect of certain agricultural lands and heritages to be levied according to the gross annual value of any dwelling houses comprised therein and provided with a supply of water) the gross annual value of such lands and heritages shall be apportioned by the assessor between such dwelling houses and the remainder of such lands and heritages, and the gross annual value of each such dwelling house shall be shown separately in the valuation roll.

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—cont.  
Provisions as  
to valuation  
roll.

(2) In apportioning the gross annual value of such lands and heritages under the foregoing subsection the gross annual value of any such dwelling house shall be taken to be the amount at which, one year with another, the dwelling house might in its actual state be reasonably expected to let from year to year if it could not be occupied otherwise than as the dwelling house of a person who is engaged primarily in carrying on or directing agricultural operations on the lands and heritages comprising the dwelling house or who is employed as an agricultural worker thereon.

(3) For the purposes of subsection (3) of section four of this Act (which relates to the levy of the domestic water rate on premises to which that section applies and which are occupied in part as a dwelling house) the gross annual value of the premises shall be apportioned by the assessor between the part thereof occupied as a dwelling house and the remainder of the premises, and the gross annual value of such part and of such remainder shall be shown separately in the valuation roll.

(4) In apportioning the gross annual value of such premises as aforesaid under the last foregoing subsection, the gross annual value of the part of the premises occupied as a dwelling house shall be taken to be the amount at which, one year with another, that part might in its actual state be reasonably expected to let from year to year as a separate dwelling house.

(5) If in any year the apportionment mentioned in subsection (1) or subsection (3) of this section has not been completed on or before the fifteenth day of August as respects any premises to which subsection (1) of section three or, as the case may be, subsection (3) of section four of this Act relates, the domestic water rate, in so far as it is leviable in respect of those premises, shall be levied in that year according to the value according to which any water rate payable in respect of those premises was levied immediately before the appointed day or, in a case where no water rate was so levied, according to the rateable value (as defined in the Local Government (Scotland) Act, 1947) of those premises.

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—cont.

(6) The provisions of the Lands Valuation (Scotland) Act, 1854 (including, without prejudice to the foregoing generality, the provisions with respect to notices to persons whose property is valued and with respect to appeals) shall apply with regard to any particular required by any provision of this section to be shown in the valuation roll in like manner as those provisions apply with regard to the particulars required by any other enactment to be so shown.

(7) For the purpose of enabling the assessor to effect any apportionment required to be effected by him under this section, the local water authority shall furnish him with such information as to the premises in their district supplied with water and as to such other matters as he may reasonably require for that purpose.

Transport  
and electricity  
hereditaments.

17.—(1) For the avoidance of doubt it is hereby declared that nothing in the foregoing provisions of this Part of this Act affects the exemption from liability to be rated or to be included in any valuation roll or in any rate conferred by Part V of the Local Government Act, 1948, on premises being a railway or canal hereditament or a hereditament occupied by the British Electricity Authority, an Area Electricity Board or the North of Scotland Hydro-Electric Board.

(2) Where a water rate was in the year 1947-48 levied in respect of premises being a railway or canal hereditament or a hereditament occupied by the British Electricity Authority, an Area Electricity Board or the North of Scotland Hydro-Electric Board, on the fifteenth day of May, nineteen hundred and forty-eight, and no charge calculated by reference to the amount of water consumed was made, no charge by way of meter or otherwise shall be made in the year 1948-49 or in any subsequent year during which the premises are occupied as such a hereditament as aforesaid in respect of a supply of water (whether for domestic purposes or otherwise) to those premises by a local water authority.

(3) Where no payment by way of water rate was made in the year 1947-48 in respect of any such premises as aforesaid, or where in that year a charge calculated in accordance with the amount of water consumed was made in respect of a supply of water to such premises (whether a water rate was levied in addition to such charge or not), the local water authority shall be entitled to make in the year 1948-49 or in any subsequent year in respect of any supply of water to those premises a charge calculated by reference to the amount of water consumed thereon.

(4) In estimating the amounts to be certified as the standard amounts in Scotland for the purposes of Part V of the Local Government Act, 1948, the Secretary of State shall not take into

account any amount paid by way of water rate in respect of any such premises as aforesaid if, in addition to payment by way of rate, a payment was also made in respect of a supply of water to the premises by way of a charge calculated according to the amount of water consumed; and Part V of that Act shall be deemed always to have had effect accordingly.

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—cont.

(5) In this section the expression “ railway or canal hereditament ” has the meaning assigned to it by the Local Government Act, 1948, for the purposes of Part V of that Act; and the expression “ 1947-48 ” and any corresponding expression in which two years are similarly mentioned have the meanings assigned to them by Part VIII of that Act.

18. Any moneys borrowed by a local water authority other than a local authority shall in so far as they were immediately before the appointed day secured on the rates leviable by the authority be deemed as from the appointed day to be secured to the like extent on the sums payable to the authority under requisitions issued by them under this Part of this Act.

Provisions as to moneys borrowed on security of rates.

19.—(1) Notwithstanding anything in the foregoing provisions of this Part of this Act, no domestic water rate shall be payable in respect of any premises to which a local water authority were immediately before the appointed day by virtue of any enactment or agreement under an obligation to provide a supply of water free of charge, and no charge or other payment shall be required by the authority to be made in respect of that supply.

Domestic water rate not payable or payable at reduced rate, in certain cases.

(2) Where by virtue of any local enactment in force immediately before the appointed day the domestic water rate was leviable in any area specified in the local enactment at an amount per pound determined by the local enactment (whether as an amount per pound specified therein or as an amount per pound being a proportion so specified of the amount per pound at which the domestic water rate would otherwise be payable, or otherwise), the domestic water rate shall during such period as is specified in the local enactment be payable in that area at the amount per pound so specified:

Provided that if in any year during the said period the domestic water rate levied generally in respect of lands and heritages within the district of the local authority is lower than the rate falling to be levied for that year in accordance with the foregoing provisions of this subsection, the rate to be levied in such area as aforesaid shall not exceed the amount of the rate levied generally within the district of the authority.

(3) Notwithstanding anything in the foregoing provisions of this Part of this Act, no domestic water rate shall be payable in respect of the provision of a supply of water to any premises

PART I  
—cont.

to which a local water authority were, by virtue of any enactment or agreement in force immediately before the appointed day, under an obligation to provide such a supply on terms more favourable to the person having the vested interest in the obligation than those which, apart from the obligation, would have been applicable under the enactments in force immediately before the appointed day relating to the supply of water by the authority in the area in which the premises are situated, and the supply shall continue to be provided on the following, and no other, terms, that is to say—

- (a) where immediately before the appointed day there was leviable under such an enactment a rate other than a public water rate, on such terms as may be agreed between the authority and the person having the vested interest in the obligation;
- (b) in any other case on the terms on which immediately before the appointed day it was provided under the enactment or agreement.

(4) In determining for the purposes of the foregoing provisions of this section whether a supply of water provided under any enactment or agreement in force immediately before the appointed day was provided free of charge or was such a supply as is mentioned in the last foregoing subsection, or in determining the sum which by virtue of that subsection is to be paid in respect of such a supply, no account shall be taken of any public water rate levied under any such enactment in respect of the premises so supplied or of any undertaking (other than an undertaking to pay a rate or a charge) entered into by the person having the vested interest in the obligation in consideration of which the supply was provided.

(5) Any question arising under this section whether a local water authority are required to provide a supply of water free of charge, or whether a supply is such a supply as is mentioned in subsection (3) of this section, or as to the terms on which a supply was provided immediately before the appointed day, or on which by virtue of this section a supply is to continue to be provided or otherwise, shall, in default of agreement, be referred to the Secretary of State, and the Secretary of State may determine it himself or, if he thinks fit, may refer it for determination by arbitration.

(6) In this section the expression “ public water rate ” means in relation to any supply any rate called the public water rate in the local enactment by virtue of which the supply is provided on special terms.

Provisions as to  
levying of, and  
exemptions  
from, rates.

**20.**—(1) The provisions of Part XI of the Local Government (Scotland) Act, 1947 (which relate to the levy and collection of rates and to requisitions) shall, in their application to the public



water rate and the domestic water rate levied under this Part of this Act, have effect subject to such adaptations and modifications as may be prescribed; and any reference in the said Act of 1947 (other than a reference in Part XI thereof) to a requisition shall include a reference to a requisition issued under section ten or section eleven of this Act.

PART I  
—cont.

(2) The amount of the annual value of any lands and heritages according to which the domestic water rate is leviable in accordance with the foregoing provisions of this Part of this Act shall, if it contains a fractional part of a pound, be subject for the purpose of the levy of that rate to the following adjustments, that is to say—

- (a) in the case of lands and heritages in the district of a county council in which there is in force a local enactment with respect to the adjustment of annual values containing a fractional part of a pound for the purpose of the levy of rates, it shall be subject to adjustment in accordance with the provisions of that local enactment;
- (b) in the case of lands and heritages in the district of a county council in which no such local enactment as aforesaid is in force, it shall, if it includes a fraction of five shillings, be increased or reduced as the case may be to the nearest complete five shillings, or if the fraction is two shillings and six pence the fraction shall be disregarded;
- (c) in the case of lands and heritages in the district of any other local authority, it shall be subject to any adjustment required to be made in accordance with the provisions of section forty-five of the Burgh Police (Scotland) Act, 1903; or of any corresponding provision of a local Act in force in that district.

(3) Nothing in this Part of this Act shall affect the total exemption from any rates conferred in respect of any lands and heritages by or under any enactment in force at the passing of this Act.

## PART II

### EXCHEQUER GRANTS FOR WATER SUPPLIES

21.—(1) The aggregate of the contributions which may be made by the Secretary of State under section one, as read with section seven, of the Rural Water Supplies and Sewerage Act, 1944 (which provides for the making of government contributions towards the expenses of local authorities for rural water supplies and sewerage) shall be increased to twenty million

Exchequer contributions towards expenses of local authorities for rural water supplies and sewerage.

PART II  
—cont.

pounds, and accordingly subsection (5) of the said section one shall have effect with the substitution for the words “ six million three hundred and seventy-five thousand pounds ” of the words “ twenty million pounds ”.

(2) There shall be paid out of moneys provided by Parliament any increase attributable to the passing of this section in the contributions authorised by subsection (5) of the said section one to be defrayed out of moneys so provided.

## PART III

PROVISIONS AS TO THE SUPPLY OF WATER AND AMENDMENTS OF  
THE WATER (SCOTLAND) ACT, 1946Provisions  
as to orders  
under s. 16  
of the  
principal Act

**22.**—(1) Subject to the provisions of this section, an order under section sixteen of the principal Act providing for the combination of local water authorities may in addition to providing for any of the matters specified in that section, also provide—

- (a) for requiring any local water authority to give to the joint committee or joint board constituted by the order (hereinafter referred to as “ the combined body ”) or for the combined body to give to any local water authority a supply of water in bulk either within or outside the limits of supply of the authority or the combined body by whom the supply is to be given, and for requiring the combined body or the authority, as the case may be, to take such a supply;
- (b) for authorising the compulsory acquisition by the combined body of such rights to take water from any stream or other source as may be specified in the order;
- (c) for authorising the combined body to exercise any of the powers which the Secretary of State may, by an order under section forty-two of the principal Act, authorise a local water authority providing or authorised to provide a supply of water under a local enactment to exercise ;
- (d) for transferring to the combined body, whether by agreement or compulsorily, the undertaking or part of the undertaking of any other person supplying water, whether under an enactment or otherwise.

(2) An order under section sixteen of the principal Act which makes provision for any purpose authorised by this section may contain such incidental, consequential and supplementary provisions as the Secretary of State thinks necessary or expedient for that purpose, including provisions for the amendment or repeal of any local enactment and for the transfer of property and liabilities :

Provided that no such order shall, except as provided by the next following section of this Act, empower the combined body to acquire compulsorily any land or shall vary compulsorily the amount of compensation water required by any enactment to be discharged into any watercourse or the periods during which and the manner in which such compensation water is required to be discharged.

(3) Subsections (3) to (5) of section twenty-one of the principal Act (which provide for securing the provision of compensation water and for restricting the taking of water in relation to the acquisition of water rights under that section) shall have effect as if references therein to the acquisition of rights to take water under that section included references to the acquisition of the like rights in pursuance of an order made under section sixteen of that Act.

(4) Subsection (5) of section sixteen of the principal Act (which precludes the constitution under that section of any joint committee or joint board which could be constituted under section fourteen or fifteen of that Act) shall cease to have effect.

**23.**—(1) Subject to the provisions of this section, an order under section sixteen or under section forty-two of the principal Act authorising a local water authority to construct, alter, renew or maintain waterworks, or an order under section sixteen or under section twenty-one of the principal Act authorising a local water authority to acquire rights to take water from any stream or other source, may authorise that authority to acquire compulsorily any land required for the construction or alteration of those works, or for the construction of such works as may be necessary for the purpose of exercising the powers to take water conferred by the order, as the case may be, being land which a local water authority could be authorised to acquire under section twenty of the principal Act.

Compulsory acquisition of land for construction of waterworks.

(2) The provisions of the First Schedule to this Act shall have effect in relation to an order under the said section sixteen, the said section twenty-one or the said section forty-two which authorises any such acquisition of land as aforesaid.

**24.**—(1) The Secretary of State may, on application made to him by any local water authority who propose to acquire any land for the purposes of their water undertaking or proposed water undertaking, authorise them to survey that land in accordance with the provisions of this section:

Power to survey and search for water on land proposed to be purchased.

Provided that notice of any such application shall be given by the authority to the owner and the occupier of the land, and the Secretary of State shall, before giving his authority under this subsection, consider any representations made to him by any such owner or occupier within fourteen days after the receipt of the notice.

**PART III**  
—cont.

(2) Where an authority are authorised as aforesaid to survey any land under this section, any officer of the authority authorised for the purpose shall, on producing if so required some duly authenticated document showing his authority, have a right at all reasonable hours to enter on and survey the land; and subsections (3) to (7) of section seventy-two of the principal Act (which makes provision with respect to the exercise of certain powers of entry conferred by that Act) shall apply to any right of entry conferred by this section.

(3) Admission to any land shall not be demanded as of right in the exercise of such right as aforesaid unless twenty-four hours notice of the intended entry has been given to the occupier:

Provided that where notice is given in accordance with this subsection on the first occasion on which the right of entry is exercised, no further notice shall be required before entering on the land on a subsequent occasion in connection with the completion of the survey.

(4) The power to survey land conferred by this section shall include power to carry out experimental borings or other works for the purpose of ascertaining the nature of the subsoil or the presence of underground water therein, or the quality or quantity of such water, and to reinstate the land after carrying out any such works:

Provided that a person shall not carry out any works authorised by this subsection on land which is occupied unless at least seven days notice of his intention so to do has been given to the occupier of the land; and if the occupier of the land objects to the proposed works on the ground that the carrying out thereof would be seriously detrimental to the carrying on of any undertaking, trade or business carried on by him on that land, the works shall not be carried out except with the authority of the Secretary of State.

(5) The provisions of section twelve of the principal Act (which relates to compensation for damage resulting from the exercise of powers under that Act) shall apply in relation to damage resulting from the exercise of any power conferred by this section as they apply in relation to damage resulting from the exercise of any power under that Act.

(6) If any damage or injury is caused by the escape of water from any land on which works have been carried out in pursuance of this section (not being damage in respect of which compensation is payable under the last foregoing subsection) nothing in this section shall be construed as exonerating the authority on whose behalf the works were carried out from any liability in respect of that damage to which they would be subject if the works had been carried out otherwise than in the exercise of statutory powers.

**25.**—(1) Every local water authority shall prepare and maintain a schedule of the terms and conditions on which they are prepared in general to give a supply of water by meter or otherwise, and that schedule shall be published in such manner as in the opinion of the authority will secure adequate publicity for it.

PART III  
—cont.

Charges for  
water supplied  
by meter.

(2) Nothing in the foregoing subsection shall be construed as prejudicing the rights or duties under section eleven of the principal Act of a local water authority or of any person supplied or proposed to be supplied by them under that section.

(3) Every local water authority shall keep a register in which they shall enter particulars of every agreement entered into by them after the commencement of this Act for the giving of a supply of water for purposes other than domestic purposes to any person on terms and conditions other than the terms and conditions for the time being set forth in the schedule maintained by them under subsection (1) of this section.

(4) The register kept under the last foregoing subsection shall be kept at the office of the authority and shall be open at all reasonable hours to the inspection of all ratepayers within the district of the authority without payment of any fee.

**26.**—(1) Where a supply of water for purposes other than domestic purposes is provided for premises being agricultural lands and heritages, the local water authority shall require the supply to be taken either by meter or on other specified terms as they may from time to time in their discretion determine.

Provisions as  
to supply of  
water to  
agricultural  
subjects.

(2) Where a local water authority supply water by meter for purposes other than domestic purposes to any premises being agricultural lands and heritages and also supply water for domestic purposes to any dwelling house comprised in such premises, the authority shall, if it is reasonably practicable so to do, provide the whole supply of water to such premises and dwelling house through a single meter.

(3) The duty imposed by subsection (1) of this section upon a local water authority shall, in relation to premises being agricultural lands and heritages on the appointed day, be exercised by them as soon as may be after the appointed day and in any case not later than the fifteenth day of May, nineteen hundred and fifty-four.

**27.**—(1) Notwithstanding anything in section fifty-two or section sixty-seven of the principal Act, where water is supplied by meter by a local water authority, the authority shall not be entitled to impose any charge in respect of the provision, installation, repair or maintenance of the meter or of the taking of readings of the meter in any case where the meter is on a pipe not exceeding three-quarters of an inch in diameter.

Charge not  
to be made  
for provision,  
etc., of  
small meters.

PART III  
—cont.

(2) The provisions of this section shall have effect notwithstanding anything in the terms and conditions on which the supply of water was agreed to be given, or in any byelaws relating to such supply of water.

(3) Nothing in this section shall be construed as affecting the right conferred by subsection (4) of section fifty-two of the principal Act on a local water authority of recovering the cost of repairing any damage wilfully or negligently done to any water fitting belonging to the authority.

Termination  
of right to  
supply of  
water on  
special terms.

**28.**—(1) Where by virtue of any enactment (including any enactment in this Act) or of any agreement a local water authority are under an obligation to which this section applies, the authority and the person having the vested interest in the obligation may, with the approval of the Secretary of State, enter into an agreement to terminate the obligation on such terms and conditions as to compensation or otherwise as they may agree; and any such agreement shall be enforceable against any person deriving title from the person who entered into the agreement.

(2) The Secretary of State may, on the application of the local water authority and after affording to the person having the vested interest in the obligation an opportunity of making representations to the Secretary of State, whether in writing or on being heard by a person appointed by the Secretary of State, by order provide for the termination compulsorily of an obligation to which this section applies on payment of compensation, the amount of which shall, in default of agreement, be determined in manner provided by the Lands Clauses Acts with reference to the taking of lands otherwise than by agreement, and the order may contain such incidental, consequential and supplementary provisions, including provisions for the amendment and repeal of any local enactment, as the Secretary of State thinks necessary or expedient.

(3) The amount of the compensation to be paid under the last preceding subsection shall be assessed by reference to the value of the rights secured under the obligation as at the date of the making of the order, and in assessing that value regard shall be had to the amount of the rate or charge or of the rate and charge, as the case may be, which may reasonably be expected to become payable as a result of the termination of the obligation.

(4) This section applies to any obligation on the part of any local water authority providing to any person other than a local authority or a local water authority a supply of water (whether for domestic purposes or for purposes other than domestic purposes) to provide that supply free of charge or on terms more

favourable to the person having the vested interest in the obligation than those which apart from the obligation would be applicable.

PART III  
—cont.

(5) The local water authority shall record in the appropriate Register of Sasines any agreement entered into or order made under the foregoing provisions of this section terminating an obligation to which this section applies if the obligation was itself recorded in the Register of Sasines.

(6) Where an application under subsection (2) of this section relates to an obligation under which the local water authority making the application are required to provide a supply of water to premises in the district of another local water authority or of a local authority, the order may, with the concurrence of the authorities concerned, contain provisions for the payment by that other local water authority or by that local authority of such part of the compensation payable by virtue of the order as the order may prescribe.

(7) An obligation to furnish a supply of water or to grant a wayleave for pipes or to give any other benefit or advantage to a local water authority entered into in consideration of an obligation to which this section applies shall not be deemed to be terminated by reason only of the termination under this section of the last mentioned obligation.

(8) No local water authority shall after the appointed day by agreement or otherwise incur any obligation of the kind to which this section applies.

**29.**—(1) Notwithstanding anything in any such obligation as is mentioned in subsection (4) of the last preceding section a local water authority shall not be liable under the obligation to provide to any premises in any year a quantity of water greater than the quantity supplied thereto in the year immediately preceding the twenty-seventh day of October, nineteen hundred and forty-eight, or to provide to any premises not provided by them with a supply of water on that day a supply otherwise than on the terms on which the supply would, apart from the obligation, be provided under the principal Act and this Act.

Limitation of liability of local water authority to supply water on special terms.

(2) Any question arising under the foregoing subsection shall in case of dispute be determined by arbitration.

**30.** Section twenty-one of the principal Act (which relates to the acquisition of water rights) shall have effect subject to the following amendments, that is to say—

Amendment of s. 21 of the principal Act.

(a) in subsection (1) the words from “ and the enactments ” to the end of the subsection shall be omitted;

(b) in subsection (2) the words from “ and such order ” to the end of the subsection shall be omitted, and at

PART III  
—cont.

the end of the subsection there shall be added the words “and the order may contain such incidental, consequential and supplementary provisions as the Secretary of State thinks necessary or expedient for the purposes of the order, and where such provisions include a provision requiring the payment of compensation, the amount of such compensation shall, in case of dispute, be settled in manner provided by the Lands Clauses Acts with reference to the taking of lands otherwise than by agreement”;

(c) in subsection (3) in paragraph (a) the words from “or (as the case may be)” to “a stated rate”, and in paragraph (b) the words from “or (as the case may be)” to “be maintained”, shall be omitted; and

(d) in subsection (5) the words “or the maximum quantity of water to be abstracted or the minimum rate of flow to be maintained” shall be omitted.

Amendment  
of s. 24 of the  
principal Act.

**31.** Where under subsection (1) of section twenty-four of the principal Act (which relates to the power of local authorities to carry out works) the Secretary of State gives consent to the construction by a local authority of works, the consent may be given either unconditionally or subject to such conditions or restrictions as may appear to the Secretary of State to be expedient for the purpose of or in connection with the carrying out of those works.

Provisions as  
to authorities  
combined  
under s. 14,  
s. 15 or s. 16 of  
the principal  
Act.

**32.** Where an order has been made under section fourteen or section fifteen of the principal Act combining two or more local authorities, or under section sixteen thereof combining two or more local water authorities, for any of the purposes of that Act, the combined body shall be deemed for those purposes to be a local water authority and to have such limits of supply as may be specified by the order, and shall have the functions conferred by that Act or by this Act on a local water authority for those purposes.

Limits of  
supply of  
certain burghs.

**33.** Any premises outside a burgh, being premises to which the town council of the burgh are supplying water and to which they were on the sixteenth day of May, nineteen hundred and forty-six, supplying water in exercise of the powers conferred on them by section two hundred and sixty-four of the Burgh Police (Scotland) Act, 1892, shall for the purposes of any enactment relating to the supply of water be deemed to be within the limits of supply of that town council.

Amendment of  
definition of  
“communica-  
tion pipe”, &c.

**34.**—(1) Where any main is laid alongside and within sixty feet of the middle of a street, then, for the purposes of the definition of “communication pipe” contained in subsection (1) of section eighty-four of the principal Act, the land in which the



main is laid, and any land between the main and the street, shall be deemed to form part of the street, and references in that definition to the part of the street in which the main is laid, and to the boundary of the street in which the main is laid, shall be construed accordingly :

PART III  
—*cont.*

Provided that where the premises supplied with water lie between any such main as aforesaid and the street, only that land in which the main is laid together with any land between the main and those premises shall be deemed to form part of the street.

(2) Where any main is laid as mentioned in the foregoing subsection, the power of the local water authority to lay service pipes, stopcocks and other fittings under paragraph 7 of the Third Schedule to the principal Act shall include power, with the consent of every owner and occupier of the land, and subject to payment of compensation for any damage done by the authority, to lay such pipes, stopcocks and fittings in, on or over any land which is deemed to form part of a street for the purposes specified in the foregoing subsection.

(3) Any consent required for the purposes of the last foregoing subsection shall not be unreasonably withheld, and any question whether such consent is, or is not, unreasonably withheld shall be referred to and determined by the Secretary of State ; and any dispute as to the amount of compensation to be paid under the last foregoing subsection shall be determined by arbitration in the manner provided by section eighty-three of the principal Act.

(4) For the avoidance of doubt, it is hereby declared that the provisions of subsection (3) of section twenty-eight of the principal Act (which subsection relates to the vesting in the local water authority of communication pipes) apply to any pipe laid before the commencement of this Act which, by virtue of this section, is deemed to be a communication pipe.

**35.**—(1) The power conferred on the Secretary of State by section eighty-eight of the principal Act to repeal or amend, on the application of any local water authority, any local enactment relating to the supply of water by that authority shall include power to consolidate any such local enactments as aforesaid, with or without amendments. Miscellaneous provisions.

(2) The Interpretation Act, 1889, shall apply to the interpretation of any order made under the principal Act or this Act after the commencement of this Act as it applies to the interpretation of an Act of Parliament, and for the purposes of section thirty-eight of the said Act of 1889 (which relates to the effect of repeals) any such order and any order repealed thereby shall be deemed to be an Act of Parliament.

PART III  
—cont.  
Minor and  
consequential  
amendments.

36.—(1) Section six of the principal Act (which relates to the discharge by local water authorities of the functions of local authorities) shall have effect as if for the words from “any functions” to the end of the section there were substituted the words “those functions”.

(2) Section eleven of the principal Act (which relates to the supply of water for purposes other than domestic purposes) shall have effect as if after subsection (1) there were inserted the following subsection:—

“(1A) The local water authority may require, as a condition of giving a supply of water under this section, that the person requesting the supply shall enter into an agreement undertaking to pay to them in respect of each year a sum not exceeding one-eighth of the cost of providing and laying the necessary mains (less any amounts received by the authority in respect of water supplied whether for domestic or non-domestic purposes in that year from those mains) until the aggregate amount of the charges and the domestic water rates payable annually in respect of the provision of that supply and of the supply of water to any other premises connected with those mains exceeds such sum as aforesaid or until the expiration of a period of twelve years, whichever first occurs.”

(3) Section nineteen of the principal Act (which authorises the making of arrangements for the supply of water in bulk) shall have effect as if in subsection (2) after the words “such supply as aforesaid” there were inserted the words “for such period”.

(4) Section twenty-six of the principal Act (which relates to the power of a local water authority to lay mains) shall have effect as if in subsection (1) after the word “repair” there were inserted the word “maintain”, and as if in subsection (2) after the word “repair”, where it first occurs, there were inserted the word “maintain” and after the word “repair”, in the second place where that word occurs, there were inserted the word “maintenance”.

(5) Subsection (1) of section twenty-eight of the principal Act shall have effect as if after the words “local water authority” there were inserted the words “providing the supply”.

(6) In section thirty-two of the principal Act (which relates to the charges to be made for water supplied by meter)—

(a) for the proviso to subsection (1) there shall be substituted the following proviso—

“Provided that any such charge shall be payable only in so far as it exceeds the produce of any

domestic water rate leviable in respect of the premises to which the supply is provided”;

(b) after subsection (1) there shall be inserted the following subsection—

“(1A) In this section the expression ‘domestic water rate’ means—

(a) in relation to premises to which the supply is furnished by the local authority of the district in which the premises are situated, the domestic water rate levied by that local authority;

(b) in relation to premises to which the supply is furnished by a joint water board or by a local authority other than the local authority of the district in which the premises are situated, the domestic water rate which is assumed to be levied by the board or authority under subsection (3) of section ten or subsection (2) of section eleven of the Water (Scotland) Act, 1949, for the purpose of determining the sum to be requisitioned from the local authority concerned”.

(7) In section thirty-three of the principal Act (which authorises the local water authority to require the supply of water to be taken by meter in certain cases) for paragraph (a) there shall be substituted the following paragraph—

“(a) any premises whereof part is used as a dwelling house and part for any business, trade or manufacturing purpose for which water is required;”

(8) Subsection (3) of section thirty-seven of the principal Act shall have effect as if after the word “provided” there were inserted the words “by a local water authority”; as if for the words from “of which no account” to “forms part” there were substituted the words “which forms part of a holding within the meaning of the Small Landholders (Scotland) Acts, 1886 to 1931”, and as if after the words “such annual sum” there were inserted the words “not being less than fifteen shillings”.

(9) Subsection (1) of section forty-two of the principal Act shall have effect as if after the words “Provided that” there were inserted the words “except as otherwise provided by the Water (Scotland) Act, 1949”.

(10) Subsection (1) of section forty-four of the principal Act shall have effect as if after the words “section nineteen” there were inserted the words “section twenty-one”.

PART III  
—cont.

(11) In subsection (1) of section eighty-four of the principal Act (which relates to the interpretation of that Act)—

(a) in paragraph (b) of the definition of “communication pipe” the words “of the part” shall be inserted after the word “boundary”;

(b) for the definitions of “enactment” and “local enactment” there shall be substituted respectively the following definitions—

“‘enactment’ means any Act of Parliament, whether public general, local or private, any statutory order or any provision in an Act of Parliament or statutory order;” and

“‘local enactment’ means any local Act of Parliament, any statutory order or any provision in any such Act of Parliament or statutory order”;

(c) the definition of “fishery district board” shall have effect as if at the end there were added the words “and for the purposes of this Act the Commissioners appointed under the Tweed Fisheries Act, 1857, shall be deemed to be a fishery district board, and the river, as defined by the Tweed Fisheries (Amendment) Act, 1859, and any byelaw amending that definition, shall be deemed to be their fishery district”;

(d) the definition of “joint water board” shall have effect as if the words “and consisting exclusively of persons appointed by local authorities” were omitted.

(12) Subsection (2) of section eighty-eight of the principal Act shall have effect as if for the words “the limits of supply” there were substituted the words “the district”.

(13) Section seven of the Fourth Schedule to the principal Act (which enables the undertakers to acquire servitudes for underground works) shall have effect as if for subsection (1) of that section there were substituted the following subsection—

“(1) Where the undertakers are authorised by the special Act to acquire any land compulsorily for the purpose of executing any underground works, they may, instead of purchasing the land, purchase only such servitudes and rights over or in the land as may be sufficient for the purpose, and the Lands Clauses Acts and the enactments relating to the compensation payable in respect of the compulsory acquisition of land shall apply accordingly subject to any exceptions and modifications with which those enactments are incorporated with the special Act and to any other necessary adaptations.”

## PART IV

## GENERAL

**37.** Any increase attributable to this Act in the sums payable out of moneys provided by Parliament under Part II of the Local Government Act, 1948, shall be defrayed out of moneys so provided. Expenses.

**38.—**(1) The provisions of this Act and of the principal Act shall have effect in substitution for the provisions of any local enactment with respect to the manner in which expenditure incurred in providing a supply of water is to be defrayed (whether by the levying of a rate or rates or by the imposition of charges or otherwise), and any such enactment or any agreement made thereunder shall, in so far as it is inconsistent with the provisions of this Act or of the principal Act, cease to have effect. Provisions as to local enactments.

(2) If it appears to the Secretary of State that any provision of a local enactment, such as is mentioned in the foregoing subsection, in force immediately before the appointed day is inconsistent with any of the provisions of this Act or of the principal Act, or is no longer required, or requires to be amended, having regard to the provisions of this Act and of the principal Act, he may by order repeal or amend that provision as he may consider appropriate.

(3) The provisions of Part II of the First Schedule to the principal Act shall apply to orders made under subsection (2) of this section.

(4) Any order under subsection (2) of this section made after the expiry of five years from the appointed day shall be subject to special parliamentary procedure.

**39.—**(1) In this Act the following expressions have the meanings hereby respectively assigned to them, that is to say:— Interpretation, construction and repeals.

“agricultural lands and heritages” has the like meaning as in the Rating and Valuation (Apportionment) Act, 1928;

“appointed day” means the sixteenth day of May, nineteen hundred and forty-nine;

“domestic water rate” and “public water rate” have the meanings assigned to them by section one of this Act;

“gross annual value” has the like meaning as in the Local Government (Scotland) Act, 1947;

“principal Act” means the Water (Scotland) Act, 1946.

(2) Except where the context otherwise requires, references in this Act to any enactment shall be construed as references to that enactment as amended by any subsequent enactment, including this Act.

PART IV  
—cont.

(3) This Act shall be construed as one with the principal Act, and, without prejudice to the generality of the foregoing provision, references in the principal Act to any provision of that Act shall be construed as references to that provision as amended by this Act.

(4) The enactments specified in the Second Schedule to this Act are hereby repealed, in the case of enactments specified in Part I of that Schedule as from the appointed day, and in the case of enactments specified in Part II of that Schedule as from the passing of this Act, to the extent specified in relation thereto in the third column of that Schedule.

Citation  
and extent.

**40.**—(1) This Act may be cited as the Water (Scotland) Act, 1949, and the principal Act and this Act may be cited together as the Water (Scotland) Acts, 1946 and 1949.

(2) This Act shall extend to Scotland only.

## SCHEDULES

Section 23.

## FIRST SCHEDULE

ORDERS UNDER SECTION 16, SECTION 21 OR SECTION 42 OF THE  
PRINCIPAL ACT AUTHORISING COMPULSORY ACQUISITION OF LAND

1. The order shall incorporate the Lands Clauses Acts and section six of the Railways Clauses Consolidation (Scotland) Act, 1845, and those Acts and the enactments relating to the compensation payable in respect of the compulsory acquisition of land shall apply accordingly subject to the exceptions and modifications specified in Parts I and II of the Second Schedule to the Act of 1947, and to such other exceptions and modifications (if any) as may be specified in the order.

2. A copy of the notice required by paragraph 1 or paragraph 10 of the First Schedule to the principal Act to be published shall be served in accordance with the provisions of paragraph 2 or paragraph 11 of that Schedule on every owner, lessee and occupier (except tenants for a month or for any period less than a month) of any land authorised by the draft order to be compulsorily acquired.

3. Where any such objection as is mentioned in paragraph 6 or paragraph 15 of the First Schedule to the principal Act relates to the compulsory acquisition of land, the Secretary of State may require the objector to state in writing the grounds thereof, and if it is certified by the Secretary of State that the objection relates exclusively to matters that can be dealt with by the tribunal by whom the compensation for the compulsory acquisition is to be assessed—

- (a) the Secretary of State may disregard the objection for the purposes of the said paragraph 6 or paragraph 15, as the case may be; and
- (b) where paragraph 7 or paragraph 16 of the said First Schedule applies to the order, the objection shall be disregarded for the purposes of that paragraph.

4. Notwithstanding anything in paragraph 5 or paragraph 14 of the First Schedule to the principal Act, the order as made by the Secretary of State shall not, unless all persons interested consent, authorise the local water authority to acquire compulsorily any land which they would not have been so authorised to acquire if it had been made in terms of the draft submitted to or prepared by him.

5. Subject as hereinafter provided, Part III of the First Schedule to the Act of 1947 (which makes special provision with respect to land of local authorities and statutory undertakers, inalienable land of the National Trust for Scotland, and land being a common or open space or the site of an ancient monument) shall apply to the order as it applies to a compulsory purchase order:

Provided that where paragraph 7 or paragraph 16 of the First Schedule to the principal Act applies to the order, this paragraph shall have effect as if for the reference to Part III of the First Schedule to the Act of 1947 there were substituted a reference to paragraph 10 of the last mentioned Schedule.

6. As soon as may be after the order has been made, the local water authority shall publish in one or more newspapers circulating in the locality in which the land authorised to be acquired is

1st Sch.  
—cont.

situated a notice describing the land and stating that the order has been made authorising the local water authority to acquire it compulsorily, and naming a place where a copy of the order as made may be inspected at all reasonable hours, and shall serve a like notice and a copy of the order as made on any persons on whom notices with respect to the land were required to be served by virtue of paragraph 2 of this Schedule.

7. Part IV of the First Schedule to the Act of 1947 (which relates to the validity and date of operation of compulsory purchase orders under that Act) shall apply to the order as if it were a compulsory purchase order and as if this Act were included among the enactments specified in subsection (1) of section one of that Act; and subparagraph (1) of paragraph 15 of that Schedule shall have effect accordingly in relation to the order as if for the words “this Act”, in the third place where those words occur, there were substituted the words “the First Schedule to the Water (Scotland) Act, 1949”, and as if after the words “this Schedule”, in the second place where those words occur, there were inserted the words “or the First Schedule to the Water (Scotland) Act, 1949”:

Provided that nothing in this paragraph shall prohibit or restrict the taking of legal proceedings for questioning the order so far as it relates to matters other than the compulsory acquisition of land.

8. In this Schedule the expression “the Act of 1947” means the Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947.

SECOND SCHEDULE  
ENACTMENTS REPEALED

PART I

ENACTMENTS REPEALED AS FROM APPOINTED DAY

Section 39

Session and Chapter	Short Title	Extent of Repeal
54 & 55 Vict. c. 52.	The Public Health (Scotland) Amendment Act, 1891.	The whole Act.
16 & 17 Geo. 5. c. 47.	The Rating (Scotland) Act, 1926.	Section twelve, so far as relating to the valuation of lands and heritages for the purposes of the domestic water rate.
19 & 20 Geo. 5. c. 25.	The Local Government (Scotland) Act, 1929.	In section forty-four, subsection (3). In section forty-nine, subsection (2).
10 & 11 Geo. 6. c. 43.	The Local Government (Scotland) Act, 1947.	Part VII, so far as relating to the formation, operation and dissolution of special water supply districts. In section two hundred and twenty-four, in subsection (1), paragraph (i) of the proviso. In section two hundred and twenty-five, in subsection (1), the words “Special district water rate or” and “water supply and”.



## PART II

2ND SCH.  
—cont.

## ENACTMENTS REPEALED AS FROM PASSING OF THIS ACT

Session and Chapter	Short Title	Extent of Repeal
9 & 10 Geo. 6. c. 42.	The Water (Scotland) Act, 1946.	<p>In section sixteen, subsection (5).</p> <p>In section twenty-one, in subsection (1), the words from “and the enactments” to the end of the subsection; in subsection (2) the words from “and such order” to the end of the subsection; in subsection (3) in paragraph (a) the words from “or (as the case may be)” to “a stated rate”, and in paragraph (b) the words from “or (as the case may be)” to “be maintained”; in subsection (4) in paragraph (a) the words from “and incorporates” to the end of the paragraph, and in paragraph (b) the words from “and shall incorporate” to the end of the paragraph; and in subsection (5) the words from “or the maximum” to “be maintained”.</p> <p>Section thirty-nine.</p> <p>Section forty-five.</p> <p>In section eighty-four, in subsection (1), in the definition of “joint water board” the words “and consisting exclusively of persons appointed by local authorities”.</p> <p>In section eighty-eight, in subsection (1), the words “any provision in any local enactment, being a provision relating”; and in subsection (2) the words “provision in a” and the words “being a provision”.</p>

*Table of Statutes Referred to in this Act*

Short Title	Session and Chapter
Railways Clauses Consolidation (Scotland) Act, 1845.	8 & 9 Vict. c. 33.
Waterworks Clauses Act, 1847 ... ..	10 & 11 Vict. c. 17.
Lands Valuation (Scotland) Act, 1854 ... ..	17 & 18 Vict. c. 91.
Tweed Fisheries Act, 1857... ..	20 & 21 Vict. c. cxlviii.
Tweed Fisheries (Amendment) Act, 1859 ... ..	22 & 23 Vict. c. lxx.
Interpretation Act, 1889 ... ..	52 & 53 Vict. c. 63.
Burgh Police (Scotland) Act, 1892 ... ..	55 & 56 Vict. c. 55.
Local Government (Scotland) Act, 1894... ..	57 & 58 Vict. c. 58.
Burgh Police (Scotland) Act, 1903 ... ..	3 Edw. 7. c. 33.
House Letting and Rating (Scotland) Act, 1911	1 & 2 Geo. 5. c. 53.
Rating and Valuation (Apportionment) Act, 1928	18 & 19 Geo. 5. c. 44.
Rural Water Supplies and Sewerage Act, 1944 ...	7 & 8 Geo. 6. c. 26.
Water (Scotland) Act, 1946 ... ..	9 & 10 Geo. 6. c. 42.
Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947.	10 & 11 Geo. 6. c. 42.
Local Government (Scotland) Act, 1947... ..	10 & 11 Geo. 6. c. 43.
Local Government Act, 1948 ... ..	11 & 12 Geo. 6. c. 26.

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