



Water (Scotland) Act 1980

1980 CHAPTER 45

PART III

POWERS OF WATER AUTHORITIES FOR THE PURPOSES OF WATER SUPPLY

17 Acquisition of water rights.

- (1) [^{F1}Scottish Water]^{F2} may acquire by agreement rights to take water from any stream or other source ^{F3} . . .
- (2) The Secretary of State may, on the application of [^{F4}Scottish Water]^{F2}, by order provide for the compulsory acquisition by [^{F5}it] of such rights to take water from any stream or other source as may be specified in the order; 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 such provisions may (but without prejudice to the generality of this subsection) include provisions enabling [^{F6}Scottish Water]^{F2} to carry on any business or trade ancillary to taking of water; 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 the manner provided by the Lands Clauses Acts with reference to taking of land otherwise than by agreement.
- (3) Where the acquisition of water rights by [^{F7}Scottish Water]^{F2} under this Part will result in the impounding of any stream—
 - (a) ^{F8}
 - (b) the Secretary of State shall, in any order for the compulsory acquisition of such rights, prescribe the quantity of compensation water to be provided by [^{F9}Scottish Water]^{F2}, and shall incorporate in the order the appropriate provisions of [^{F10}Part III of Schedule 4] subject to such modifications and adaptations as he thinks fit.
- (4) Where the acquisition of water rights by [^{F11}Scottish Water]^{F2} under this Part will, in the opinion of the Secretary of State, substantially reduce the flow of any stream—
 - (a) ^{F12}

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- (b) the Secretary of State shall in any order for the compulsory acquisition of such rights prescribe the extent to which and the circumstances in which water may be taken.
- (5) ^{F13}Subject to subsections (5A) and (5B)] in assessing the quantity of compensation water to be provided under any such ^{F14} . . . order or in determining the extent to which and the circumstances in which water may be taken under any such ^{F14} . . . order, the Secretary or State shall have regard to all the circumstances of the particular case, including—
- (a) the interests of public health;
 - (b) the character and flow of the stream;
 - (c) the extent to which the stream is or may in the future be used for industrial purposes or for the purposes of any public undertaking or for fisheries, water supply by other undertakers, agriculture, transport and navigation;
 - (d) the effect on land drainage or on any canal or inland navigation of any alterations in the flow of the stream;
- and shall secure, so far as practicable, the protection of the rights of riparian owners and of other owners of land or salmon fishings.
- ^{F15}(5A) Before making an order for the compulsory acquisition of water rights, and in considering the matters referred to in subsections (3) to (5), the Scottish Ministers shall—
- (a) obtain and have regard to the advice of the Scottish Environment Protection Agency on matters relating to the protection of the water environment (and in particular as to the extent to, and the circumstances in, which water may be taken and the quantity of compensation water to be provided); and
 - (b) have regard to the purposes of Part 1 of the Water Environment and Water Services (Scotland) Act 2003 (asp 3).
- (5B) In the event that the provisions of an order for the compulsory acquisition of water rights which makes provision on matters relating to the protection of the water environment and the conditions of an authorisation granted under the Water Environment (Controlled Activities)(Scotland) Regulations 2005 differ, and cannot reasonably be reconciled, the relevant provisions of that order shall be treated as modified to the extent necessary to be consistent with the conditions of that authorisation.]
- (6) ^{F16}
- (7) The provisions of Part I of Schedule 1 shall apply to the making of applications and orders under subsection (2).

Textual Amendments

- F1** Words in s. 17(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 14\(2\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F2** Words in s. 17(1)-(4) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), [Sch. 13 para. 119\(10\)\(a\)-\(d\), Sch. 14; S.I. 1996/323, art. 4\(1\)\(c\)\(d\), Sch. 2](#)
- F3** Words in s. 17(1) omitted (1.4.2006) by virtue of [The Water Environment \(Consequential and Savings Provisions\) \(Scotland\) Order 2006 \(S.S.I. 2006/181\), art. 2, Sch. Pt. IV {para. 4\(2\)\(a\)}](#) (with Sch. Pt. III para. 6)
- F4** Words in s. 17(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(1\), Sch. 6 para. 14\(3\)\(a\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)

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- F5** Word in s. 17(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 14(3)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F6** Words in s. 17(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 14(3)(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F7** Words in s. 17(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 14(4)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F8** S. 17(3)(a) and the following "or" omitted (1.4.2006) by virtue of The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181), art. 2, **Sch. Pt. IV** {para. 4(2)(b)(i)} (with Sch. Pt. III para. 6)
- F9** Words in s. 17(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 14(4)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F10** Words in s. 17(3) substituted (1.4.2006) by The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181), art. 2, **Sch. Pt. IV** {para. 4(2)(b)(ii)} (with Sch. Pt. III para. 6)
- F11** Words in s. 17(4) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 14(4)(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
- F12** S. 17(4)(a) and the following "or" omitted (1.4.2006) by virtue of The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181), art. 2, **Sch. Pt. IV** {para. 4(2)(c)} (with Sch. Pt. III para. 6)
- F13** Words in s. 17(5) inserted (1.4.2006) by The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181), art. 2, **Sch. Pt. IV** {para. 4(2)(d)(i)} (with Sch. Pt. III para. 6)
- F14** Words in s. 17(5) omitted (1.4.2006) by virtue of The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181), art. 2, **Sch. Pt. IV** {para. 4(2)(d)(ii)} (with Sch. Pt. III para. 6)
- F15** S. 17(5A)(5B) inserted (1.4.2006) by The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181), art. 2, **Sch. Pt. IV** {para. 4(2)(e)} (with Sch. Pt. III para. 6)
- F16** S. 17(6) omitted (1.4.2006) by virtue of The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181), art. 2, **Sch. Pt. IV** {para. 4(2)(f)} (with Sch. Pt. III para. 6)

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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. 24(1A) inserted by [2003 asp 3 sch. 4 para. 3\(3\)](#)
- s. 110A certain functions transferred by [S.I. 1999/1750 art. 3Sch. 2](#) (This amendment not applied to legislation.gov.uk. The insertion of s. 110A by 1995 c. 25, Sch. 21 para. 5 has not yet been brought into force)
- s. 110A inserted by [1995 c. 25 Sch. 21 para. 5](#)
- s. 110A(7) words substituted by [1997 c. 11 Sch. 2 para. 30\(2\)\(a\)](#) (This amendment not applied to legislation.gov.uk. The insertion of s. 110A by 1995 c. 25, Sch. 21 para. 5 has not yet been brought into force)
- s. 110A(8) words substituted by [1997 c. 11 Sch. 2 para. 30\(2\)\(b\)](#) (This amendment not applied to legislation.gov.uk. The insertion of s. 110A by 1995 c. 25, Sch. 21 para. 5 has not yet been brought into force)
- Sch. 3 para. 4(3)(4) inserted by [2003 asp 3 sch. 4 para. 4\(2\)](#)
- Sch. 3 para. 6(1A) inserted by [2003 asp 3 sch. 4 para. 4\(3\)](#)
- Sch. 4 s. 34(3) inserted by [2003 asp 3 sch. 4 para. 5](#)