Water Act 1989

1989 CHAPTER 15

An Act to provide for the establishment and functions of a National Rivers Authority and of committees to advise that Authority; to provide for the transfer of the property, rights and liabilities of water authorities to the National Rivers Authority and to companies nominated by the Secretary of State and for the dissolution of those authorities; to provide for the appointment and functions of a Director General of Water Services and of customer service committees; to provide for companies to be appointed to be water undertakers and sewerage undertakers and for the regulation of the appointed companies; to make provision with respect to, and the finances of, the nominated companies, holding companies of the nominated companies and statutory water companies; to amend the law relating to the supply of water and the law relating to the provision of sewers and the treatment and disposal of sewage; to amend the law with respect to the pollution of water and the law with respect to its abstraction from inland waters and underground strata; to make new provision in relation to flood defence and fisheries; to transfer functions with respect to navigation, conservancy and harbours to the National Rivers Authority; and for connected purposes. [6th July 1989]

A.D. 1989.

BE IT ENACTED by the Queen'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

PRELIMINARY

The National Rivers Authority and the advisory committees

The National Rivers Authority.

1.—(1) There shall be a body corporate to be known as the National Rivers Authority (in this Act referred to as "the Authority") for the purpose of carrying out the functions assigned or transferred to it under this Act.

(2) The Authority shall consist of not less than eight nor more than fifteen members of whom—

(a) two shall be appointed by the Minister; and

(b) the others shall be appointed by the Secretary of State.

(3) The Secretary of State shall designate one of the members appointed by him as the chairman of the Authority and may, if he thinks fit, designate another member of the Authority (whether or not appointed by him) as the deputy chairman of the Authority.

(4) In appointing a person to be a member of the Authority, the Secretary of State or, as the case may be, the Minister shall have regard to the desirability of appointing a person who has experience of, and has shown capacity in, some matter relevant to the functions of the Authority.

(5) The Authority shall not be regarded as the servant or agent of the Crown, or as enjoying any status, immunity or privilege of the Crown, or, by virtue of any connection with the Crown, as exempt from any tax, duty, rate, levy or other charge whatsoever, whether general or local; and the Authority's property shall not be regarded as property of, or property held on behalf of, the Crown.

(6) The provisions of Schedule 1 to this Act shall have effect with respect to the Authority and its finances.

Regional rivers advisory committees.

2.—(1) It shall be the duty of the Authority—

(a) to establish and maintain advisory committees, consisting of persons who are not members of the Authority, for the different regions of England and Wales;

(b) to consult the advisory committee for any region as to any proposals of the Authority relating generally to the manner in which the Authority carries out its functions in that region; and

(c) to consider any representations made to it by the advisory committee for any region (whether in response to consultation under paragraph (b) above or otherwise) as to the manner in which the Authority carries out its functions in that region.

(2) The duty to establish and maintain advisory committees imposed by subsection (1) above is a duty—

(a) to establish and maintain an advisory committee for each area which the Authority considers it appropriate for the time being to regard as a region of England and Wales for the purposes of this section; and

(b) to ensure that the persons appointed by the Authority to each such committee are persons who appear to the Authority to have an interest in matters likely to be affected by the manner in which the Authority carries out any of its functions in the region in question;

and it shall be the duty of the Authority in determining the regions for which advisory committees are established and maintained to ensure that one of those regions consists wholly or mainly of, or of most of, Wales.

(3) There shall be paid by the Authority—

(a) to the chairman of an advisory committee established and maintained under this section such remuneration and such travelling and other allowances; and

(b) to any other members of that committee such sums reimbursing them for loss of remuneration, for travelling expenses or for any other out-of-pocket expenses,

as may, with the consent of the Treasury, be determined by the Secretary of State.

(4) For the purposes of this section functions of the Authority which are carried out in any area of Scotland or of the territorial sea which is adjacent to any region for which an advisory committee is maintained shall be regarded as carried out in that region.

Advisory Committee for Wales.

3.—(1) The Secretary of State shall establish and maintain a committee for advising him with respect to matters affecting or otherwise connected with the carrying out in Wales of the Authority's functions by virtue of this Act.

(2) The committee established and maintained under this section—

(a) shall consist of such persons as may be appointed by the Secretary of State; and

(b) shall meet at least once a year.

(3) The Secretary of State shall, out of money provided by Parliament, pay to the members of the committee established and maintained under this section such sums reimbursing them for loss of remuneration, for travelling expenses and for other out-of-pocket expenses as he may with the consent of the Treasury determine.

The transfer of the water authorities' functions etc.

Transfer of the water authorities' functions etc.

4.—(1) Subject to the following provisions of this Act, on such day as the Secretary of State may by order appoint as the transfer date—

(a) the functions of the water authorities shall, in accordance with those provisions, become functions of the Authority, of water undertakers or of sewerage undertakers; and

PART I

(b) schemes under Schedule 2 to this Act for the division of the property, rights and liabilities of those authorities between their successor companies and the Authority shall come into force.

(2) The Secretary of State shall, by order made before the transfer date, nominate a company in relation to each water authority as that authority's successor company; but a company shall not be so nominated unless it is a limited company and, at the time when the order is made, is wholly owned by the Crown.

(3) Subject to subsection (4) below, each water authority shall continue in existence after the transfer date until such time as they may be dissolved by order made by the Secretary of State.

(4) On the transfer date the chairman and members of each water authority shall cease to hold office; and on and after that date each such authority—

(a) shall consist only of a chairman appointed by the Secretary of State and, if the Secretary of State thinks fit, such one or more other persons as the Secretary of State may appoint as members of that authority; and

(b) shall have only the functions which fall to be carried out by that authority under any scheme under Schedule 2 to this Act with respect to that authority.

(5) The Secretary of State shall not make an order under subsection (3) above in relation to any water authority unless he is satisfied, after consultation with the water authority and with the Authority and the water authority's successor company, that nothing further remains to be done by the water authority under any scheme under Schedule 2 to this Act.

(6) The power to make an order under this section shall be exercisable by statutory instrument and such an order shall not be amended or revoked—

(a) in the case of an order under subsection (2) above, on or after the transfer date; or

(b) in the case of an order under subsection (3) above, after the dissolution of the water authority to which the order relates.

The Director General of Water Services and the customer service committees

The Director General of Water Services.

5.—(1) The Secretary of State shall appoint an officer to be known as the Director General of Water Services (in this Act referred to as "the Director") for the purpose of carrying out the functions assigned or transferred to him under this Act.

(2) An appointment of a person to hold office as the Director shall be for a term not exceeding five years; but previous appointment to that office shall not affect eligibility for re-appointment.

(3) The Director may at any time resign his office as the Director by notice addressed to the Secretary of State; and the Secretary of State may remove any person from that office on the ground of incapacity or misbehaviour.

(4) Subject to subsections (2) and (3) above, the Director shall hold and vacate office as such in accordance with the terms of his appointment.

(5) The provisions of Schedule 3 to this Act shall have effect with respect to the Director. PART I

Customer service committees.

6.—(1) The Director shall allocate every company holding an appointment under Chapter I of Part II of this Act to a committee established and maintained by him for the purpose, in relation to such companies as may be allocated to it, of carrying out—

(a) the functions assigned by this Act to such a committee; and

(b) such other functions as the committees established and maintained under this section may be required to carry out by the Director.

(2) The committees established and maintained under this section shall be known as customer service committees.

(3) There shall not at any time be more than ten customer service committees, but it shall be the duty of the Director so to exercise his powers under this section to establish and maintain customer service committees and to allocate companies to those committees as to secure—

(a) that such customer service committees are established, as soon as practicable after the transfer date, as he considers appropriate for the purpose of making allocations under subsection (1) above in respect of every company whose appointment under Chapter I of Part II of this Act comes into force on that date; and

(b) that at all times after that date such customer service committees are maintained, and such allocations under subsection (1) above are in force, as he considers appropriate for ensuring that the interests of the customers and potential customers of the companies for the time being holding appointments under that Chapter are effectively represented.

(4) A customer service committee shall consist of—

(a) a chairman appointed by the Director after consultation with the Secretary of State; and

(b) such number (not less than ten nor more than twenty) of other members appointed by the Director as the Director may determine.

(5) In appointing persons to be members of a customer service committee the Director shall have regard to—

(a) the desirability of the persons appointed being persons who have experience of, and have shown capacity in, some matter relevant to the functions of a water undertaker or sewerage undertaker or to the carrying out of those functions in relation to any area by a company which the Director has allocated, or is proposing to allocate, to that committee; and

(b) the desirability—

(i) of the committee including one or more persons with experience of work among, and the special needs of, disabled persons; and

(ii) of persons appointed by virtue of this paragraph including disabled persons.

PART I

(6) An appointment of a person to hold office as the chairman of a customer service committee shall be for a term not exceeding four years.

(7) Subject to subsection (6) above, the chairman and other members of a customer service committee shall hold and vacate office in accordance with the terms of their appointments and, notwithstanding that subsection, shall on ceasing to hold office be eligible for re-appointment.

(8) The provisions of Schedule 4 to this Act shall have effect with respect to customer service committees.

General duties

General duties with respect to water supply and sewerage services.

7.—(1) Subsections (2) and (3) below shall have effect, subject to subsection (5) below, for imposing duties on the Secretary of State and on the Director as to when and how they should exercise the following powers and perform the following duties, that is to say—

(a) in the case of the Secretary of State, the powers and duties conferred or imposed on him by virtue of provisions contained in Chapter I of Part II of this Act or in section 38, 68 or 162 below; and

(b) in the case of the Director, the powers and duties conferred or imposed on him by virtue of provisions mentioned in paragraph (a) above or by virtue of section 41, 43, 72 or 161 below.

(2) The Secretary of State or, as the case may be, the Director shall exercise and perform the powers and duties mentioned in subsection (1) above in the manner that he considers is best calculated—

(a) to secure that the functions of a water undertaker and of a sewerage undertaker are properly carried out as respects every area of England and Wales; and

(b) without prejudice to the generality of paragraph (a) above, to secure that companies holding appointments under Chapter I of Part II of this Act as water undertakers or sewerage undertakers are able (in particular, by securing reasonable returns on their capital) to finance the proper carrying out of the functions of such undertakers.

(3) Subject to subsection (2) above, the Secretary of State or, as the case may be, the Director shall exercise and perform the powers and duties mentioned in subsection (1) above in the manner that he considers is best calculated—

(a) to ensure that the interests of every person who is a customer or potential customer of a company which has been or may be appointed under Chapter I of Part II of this Act to be a water undertaker or sewerage undertaker are protected as respects the fixing and recovery by that company of—

(i) charges in respect of any services provided in the course of the carrying out of the functions of a water undertaker or sewerage undertaker; and

(ii) amounts of any other description which such an undertaker is authorised by or under any enactment to require such a person to pay;

and, in particular, that the interests of customers and potential customers in rural areas are so protected and that no undue preference is shown, and that there is no undue discrimination, in the fixing of those charges and amounts;

(b) to ensure that the interests of every such person are also protected as respects the other terms on which any services are provided by that company in the course of the carrying out of the functions of a water undertaker or sewerage undertaker and as respects the quality of those services;

(c) to ensure that the interests of every such person are further protected as respects benefits that could be secured for them by the application in a particular manner of any of the proceeds of a disposal (whether before, on or after the transfer date) of any of that company's protected land or of any interest or right in or over any of that land;

(d) to promote economy and efficiency on the part of any such company in the carrying out of the functions of a water undertaker or sewerage undertaker; and

(e) to facilitate effective competition, with respect to such matters as he considers appropriate, between persons holding or seeking appointments under that Chapter.

(4) In performing his duty under subsection (3) above, so far as it requires him to do anything in the manner which he considers is best calculated to ensure that the interests of the customers and potential customers of any company are protected as respects the quality of any services provided by that company in the course of the carrying out of the functions of a water undertaker or sewerage undertaker, the Secretary of State or, as the case may be, the Director shall take into account, in particular, the interests of those who are disabled or of pensionable age.

(5) The Secretary of State may give the Director directions of a general or specific character with respect to the exercise in relation to any company which is wholly owned by the Crown of any power conferred on the Director by or under the provisions of Part II of this Act; and it shall be the duty of the Director to comply with any such direction.

(6) It shall be the duty of the Authority, in exercising any of its powers under any enactment, to have particular regard to the duties imposed, by virtue of the provisions of Part II of this Act, on any water undertaker or sewerage undertaker which appears to the Authority to be or to be likely to be affected by the exercise of the power in question.

(7) It shall be the duty of the Secretary of State and of the Minister, in exercising—

(a) any power conferred by virtue of this Act in relation to, or to decisions of, the Authority; or

(b) any power which, but for any direction given by the Secretary of State or the Minister, would fall to be exercised by the Authority,

to take into account the duty imposed on the Authority by subsection (6) above.

PART I
General environmental and recreational duties.

8.—(1) It shall be the duty of each of the following, that is to say, the Secretary of State, the Minister, the Director and every relevant body, in formulating or considering any proposals relating to the functions of any relevant body or, as the case may be, that body—

(a) so far as may be consistent with the purposes of any enactment relating to the functions of that body and, in the case of the Secretary of State and the Director, with their duties under section 7 above, so to exercise any power conferred on him or it with respect to the proposals as to further the conservation and enhancement of natural beauty and the conservation of flora, fauna and geological or physiographical features of special interest;

(b) to have regard to the desirability of protecting and conserving buildings, sites and objects of archaeological, architectural or historic interest; and

(c) to take into account any effect which the proposals would have on the beauty or amenity of any rural or urban area or on any such flora, fauna, features, buildings, sites or objects.

(2) Subject to subsection (1) above, it shall be the duty of each of the following, that is to say, the Secretary of State, the Minister, the Director and every relevant body, in formulating or considering any proposals relating to the functions of a relevant body or, as the case may be, that body—

(a) to have regard to the desirability of preserving for the public any freedom of access to areas of woodland, mountains, moor, heath, down, cliff or foreshore and other places of natural beauty;

(b) to have regard to the desirability of maintaining the availability to the public of any facility for visiting or inspecting any building, site or object of archaeological, architectural or historic interest; and

(c) to take into account any effect which the proposals would have on any such freedom of access or on the availability of any such facility.

(3) Subject to obtaining the consent of any navigation authority, harbour authority or conservancy authority before doing anything which causes navigation which is subject to the control of that authority to be obstructed or otherwise interfered with, it shall be the duty of every relevant body to take such steps as are—

(a) reasonably practicable; and

(b) consistent with the purposes of the enactments relating to the functions of that body,

for securing, so long as that body has rights to the use of water or land associated with water, that those rights are exercised so as to ensure that the water or land is made available for recreational purposes and is so made available in the best manner.

(4) Without prejudice to its other duties under this section, it shall be the duty of the Authority, to such extent as it considers desirable, generally to promote—

(a) the conservation and enhancement of the natural beauty and amenity of inland and coastal waters and of land associated with such waters;

(b) the conservation of flora and fauna which are dependent on an aquatic environment; and

(c) the use of such waters and land for recreational purposes.

(5) It shall be the duty of a relevant body, in determining what steps to take in performance of any duty imposed by virtue of subsection (3) or (4)(c) above, to take into account the needs of persons who are chronically sick or disabled.

(6) Nothing in this section or the following provisions of this Act shall require recreational facilities made available by a relevant body to be made available free of charge.

(7) In this section—

"building" includes structure; and

"relevant body" means the Authority, a water undertaker, a sewerage undertaker or an internal drainage board;

and references in this section to a water undertaker or sewerage undertaker or to the functions of such an undertaker shall be construed as if those functions included the management, by the company holding an appointment as such an undertaker, of any land for the time being held by that company for any purpose whatever (whether connected with the carrying out of the functions of a water undertaker or sewerage undertaker or not).

Environmental duties with respect to sites of special interest.

9.—(1) Where the Nature Conservancy Council are of the opinion that any area of land—

(a) is of special interest by reason of its flora, fauna or geological or physiographical features; and

(b) may at any time be affected by schemes, works, operations or activities of a relevant body or by an authorisation given by the Authority,

the Council shall notify the fact that the land is of special interest for that reason to every relevant body whose works, operations or activities may affect the land or, as the case may be, to the Authority.

(2) Where a National Park authority or the Broads Authority is of the opinion that any area of land in a National Park or in the Broads—

(a) is land in relation to which the matters for the purposes of which section 8 above has effect are of particular importance; and

(b) may at any time be affected by schemes, works, operations or activities of a relevant body or by an authorisation given by the Authority,

the National Park authority or Broads Authority shall notify the fact that the land is such land, and the reasons why those matters are of particular importance in relation to the land, to every relevant body whose works, operations or activities may affect the land or, as the case may be, to the Authority.

PART I

(3) Where a relevant body has received a notification under subsection (1) or (2) above with respect to any land, that body shall consult the notifying body before carrying out, or (in the case of the Authority) carrying out or authorising, any works, operations or activities which appear to that relevant body to be likely—

(a) to destroy or damage any of the flora, fauna, or geological or physiographical features by reason of which the land is of special interest; or

(b) significantly to prejudice anything the importance of which is one of the reasons why the matters mentioned in subsection (2) above are of particular importance in relation to that land.

(4) Subsection (3) above shall not apply in relation to anything done in an emergency where particulars of what is done and of the emergency are notified to the Nature Conservancy Council, the National Park authority in question or, as the case may be, the Broads Authority as soon as practicable after that thing is done.

(5) In this section—

1988 c. 4.

"the Broads" has the same meaning as in the Norfolk and Suffolk Broads Act 1988;

"National Park authority" means a National Park Committee or a joint or special planning board for a National Park; and

"relevant body" has the same meaning as in section 8 above.

Codes of practice with respect to environmental and recreational duties.

10.—(1) The relevant Minister may by order approve any code of practice issued (whether by the relevant Minister or another person) for the purpose of—

(a) giving practical guidance to the Authority or to water undertakers and sewerage undertakers with respect to any of the matters for the purposes of which sections 8 and 9 above have effect; and

(b) promoting what appear to him to be desirable practices by the Authority or such undertakers with respect to those matters,

and may at any time by such an order approve a modification of such a code or withdraw his approval of such a code or modification.

(2) A contravention of a code of practice as for the time being approved under this section shall not of itself constitute a contravention of any requirement imposed by section 8 or 9 above or give rise to any criminal or civil liability, but the Secretary of State and the Minister shall each be under a duty to take into account whether there has been or is likely to be any such contravention in determining when and how he should exercise his powers by virtue of this Act in relation to the Authority or any water undertaker or sewerage undertaker.

(3) The power of the relevant Minister to make an order under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

(4) Except in the case of an order made before the transfer date, the relevant Minister shall not make an order under this section unless he has first consulted the Authority, the Countryside Commission, the Nature Conservancy Council, the Historic Buildings and Monuments

Commission for England, the Sports Council, the Sports Council for Wales and such water undertakers, sewerage undertakers and other persons as he considers it appropriate to consult.

(5) In this section "the relevant Minister" means—

(a) in relation to the Authority, the Secretary of State or the Minister; and

(b) in relation to a water undertaker or sewerage undertaker, the Secretary of State.

PART II

WATER SUPPLY AND SEWERAGE SERVICES

CHAPTER I

APPOINTMENT AND REGULATION OF WATER AND SEWERAGE UNDERTAKERS

Making and conditions of appointments

Appointment of undertakers.

11.—(1) Subject to the following provisions of this Chapter, a company may be appointed—

(a) by the Secretary of State; or

(b) with the consent of or in accordance with a general authorisation given by the Secretary of State, by the Director,

to be the water undertaker or sewerage undertaker for any area of England and Wales.

(2) Without prejudice to the obligation of a company holding an appointment under this Chapter to comply with the conditions of its appointment, the appointment of a company to be the water undertaker or sewerage undertaker for any area shall have the effect while the appointment remains in force—

(a) of requiring the company to perform any duty imposed by or under any enactment on an undertaker of the relevant description (that is to say, a water undertaker or, as the case may be, sewerage undertaker);

(b) of authorising the company, for the purposes of, or in connection with, the carrying out of any of the functions of an undertaker of the relevant description, to exercise any power conferred by or under any enactment on an undertaker of that description;

(c) of requiring enactments and subordinate legislation authorising or requiring anything to be done in relation to an undertaker of the relevant description to be construed as authorising or requiring that thing to be done in relation to that company; and

(d) of requiring other references in any enactment or subordinate legislation to an undertaker of the relevant description or to the area of that undertaker, to be construed, so far as necessary for the purposes of, or in connection with, the carrying out by that company of the functions of an undertaker of that description, as references to that company or, as the case may be, to that area.

PART II

(3) The appointment of a company to be a water undertaker or sewerage undertaker shall be by service on the company of an instrument in writing containing the appointment and describing the area for which it is made; and a single instrument may contain the appointment of a company to be the sewerage undertaker for an area and the appointment of the same company to be the water undertaker for the whole or any part of that area or for an area which includes the whole or any part of that area.

(4) It shall be the duty of the Secretary of State to make such appointments under this Chapter as will secure—

(a) that on the transfer date a statutory water company becomes the water undertaker for the area appointment for which will, in the opinion of the Secretary of State, ensure that the company continues to supply water for the same area on and after that date as immediately before; and

(b) that on the transfer date the successor companies become water undertakers for areas comprising so much of England and Wales as is not the subject of appointments by virtue of paragraph (a) above and sewerage undertakers for the areas which immediately before that date are the water authorities' areas for the purposes of section 14 of the 1973 Act (sewerage and sewage disposal);

and to secure that such appointments are made under this Chapter as will ensure that for every area of England and Wales there is at all times on and after the transfer date both a company holding an appointment under this Chapter as water undertaker and (whether or not the same company in relation to the whole or any part of that area) a company holding an appointment as sewerage undertaker.

(5) A company shall not be appointed to be a water undertaker unless it is a limited company or a statutory water company and shall not be appointed to be a sewerage undertaker unless it is a limited company.

(6) Subject to subsection (7) and section 12 below—

(a) the Secretary of State; and

(b) with the consent of or in accordance with a general authorisation given by the Secretary of State, the Director,

shall have power, by notice to a company holding an appointment under this Chapter, to terminate the appointment or to vary the area to which it relates.

(7) The appointment of a company to be a water undertaker or sewerage undertaker shall not be terminated or otherwise cease to relate to or to any part of any area except with effect from the coming into force of such appointments and variations to which section 12 below applies as secure either—

(a) that another company becomes the water undertaker or, as the case may be, sewerage undertaker for that area or part or for an area that includes that area or part; or

(b) that two or more companies each become the water undertaker or, as the case may be, sewerage undertaker for one of a number of different areas that together constitute or include that area or part.

(8) As soon as practicable after making an appointment under this Chapter or exercising any power to vary the area to which such an appointment relates, the Secretary of State shall send a copy of the appointment or variation to the Director.

(9) In the House of Commons Disqualification Act 1975, in Part III of Schedule 1 (other disqualifying offices), there shall be inserted (at the appropriate place) the following entry— 1975 c. 24.

> "Director of a company for the time being holding an appointment under Chapter I of Part II of the Water Act 1989 or of such a company's holding company, being a director nominated or appointed by a Minister of the Crown or by a person acting on behalf of the Crown.";

and the like insertion shall be made in Part III of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975. 1975 c. 25.

Restrictions on making replacement appointments.

12.—(1) This section applies—

(a) to any appointment of a company to be the water undertaker or sewerage undertaker for any area which is or includes the whole or any part of any one or more existing areas; and

(b) to any variation by virtue of which the area for which a company holds an appointment under this Chapter is modified so as to include the whole or any part of one or more existing areas.

(2) An appointment or variation to which this section applies shall not be made in relation to the whole or any part of an existing area except where—

(a) the existing appointee consents to the appointment or variation;

(b) the appointment or variation relates only to parts of that area none of the premises in which is served by the existing appointee; or

(c) the appointment or variation is made in such circumstances as may be set out for the purposes of this paragraph in the conditions of appointment of the existing appointee.

(3) In determining whether to make an appointment or variation by virtue of subsection (2)(b) above in relation to any part of an existing area, the Secretary of State or, as the case may be, the Director shall have regard, in particular, to any arrangements made or expenditure incurred by the existing appointee for the purpose of enabling premises in that part of that area to be served by the existing appointee.

(4) It shall be the duty of the Secretary of State or, as the case may be, of the Director, in making an appointment or variation to which this section applies and, where he makes such an appointment or variation, in determining what provision is to be made with respect to the fixing by the new appointee of—

(a) charges in respect of services provided in the course of the carrying out of the functions of a water undertaker or sewerage undertaker; and

PART II

(b) amounts of any other description which such an undertaker is authorised by or under any enactment to require any person to pay,

to ensure, so far as may be consistent with his duties under Part I of this Act, that the interests of the members and creditors of the existing appointee are not unfairly prejudiced as respects the terms on which the new appointee could accept transfers of property, rights and liabilities from the existing appointee.

(5) For the purposes of this section premises in a part of an existing area are served by the existing appointee—

(a) in relation to an appointment or variation by virtue of which that appointee would be replaced as the water undertaker for that part of that area, if those premises—

(i) are supplied with water by means of a connection with a distribution main of the existing appointee; or

(ii) consist in a building or part of a building which is situated within thirty metres of such a main;

and

(b) in relation to an appointment or variation by virtue of which that appointee would be replaced as the sewerage undertaker for that part of that area, if those premises—

(i) are drained by means of a relevant sewer; or

(ii) consist in a building or part of a building which is situated within thirty metres of such a sewer, not being a storm-water overflow sewer.

(6) In this section—

"distribution main" means a water main that is not a trunk main;

"existing area", in relation to the appointment of any company to be the water undertaker or sewerage undertaker for any area or the variation of any company's appointment as a water undertaker or sewerage undertaker, means an area for which, until the appointment or variation comes into force, another company ("the existing appointee") holds the appointment as water undertaker or, as the case may be, sewerage undertaker;

"new appointee", in relation to an appointment or variation to which this section applies, means the company which by virtue of the appointment or variation becomes the water undertaker or sewerage undertaker for the whole or any part of an existing area;

"relevant sewer", in relation to an appointment or variation to which this section applies, means any of the following, that is to say—

(a) a public sewer vested in the existing appointee;

(b) a sewer in relation to which the existing appointee has made, or is treated as having made, a declaration of vesting under section 17 of the Public Health Act 1936 (vesting declarations) which has not yet taken effect;

1936 c. 49.

(c) a drain or sewer in relation to which the existing appointee has, or is treated as having, entered into an agreement under section 18 of that Act.

PART II
Procedure for replacement appointments.

13.—(1) An application for an appointment or variation to which section 12 above applies shall be made in such manner as may be prescribed; and, within fourteen days after making any such application, the applicant shall—

(a) serve notice of the application on the existing appointee and on every local authority whose area includes the whole or any part of the area to which the application relates; and

(b) publish a copy of the notice in such manner as may be prescribed.

(2) Before making an appointment or variation to which section 12 above applies, the Secretary of State or the Director shall give notice—

(a) stating that he proposes to make the appointment or variation;

(b) stating the reasons why he proposes to make the appointment or variation; and

(c) specifying the period (not being less than twenty-eight days from the date of publication of the notice) within which representations or objections with respect to the proposed appointment or variation may be made,

and shall consider any representations or objections which are duly made and not withdrawn.

(3) A notice under subsection (2) above shall be given—

(a) by publishing the notice in such manner as the Secretary of State or, as the case may be, the Director considers appropriate for bringing it to the attention of persons likely to be affected by the making of the proposed appointment or variation; and

(b) by serving a copy of the notice on the existing appointee and on every local authority whose area includes the whole or any part of the area to which the proposed appointment or variation relates.

(4) Before making an appointment or variation to which section 12 above applies, the Secretary of State shall consult the Director.

(5) As soon as practicable after making an appointment or variation to which section 12 above applies, the Secretary of State or the Director shall—

(a) serve a copy of the appointment or variation on the existing appointee; and

(b) serve notice of the making of the appointment or variation on every local authority whose area includes the whole or any part of the area to which the appointment or variation relates.

(6) Schedule 5 to this Act shall have effect with respect to the making of transitional provision for the purposes of, or in connection with, the making of an appointment or variation to which section 12 above applies.

(7) In this section "the existing appointee", in relation to an appointment or variation to which section 12 above applies, means the company which is the existing appointee for the purposes of that section in relation to any area to the whole or any part of which the appointment or variation relates or, where there is more than one such company, each of them.

PART II
Conditions of appointment.

14.—(1) An appointment under this Chapter may include—

(a) such conditions (whether or not connected with the supply of water, the provision of sewerage services or the exercise or performance of any power or duty conferred or imposed by or under any enactment on water undertakers or sewerage undertakers) as appear to the Secretary of State or, as the case may be, the Director to be requisite or expedient having regard to the duties imposed on him by Part I of this Act;

(b) conditions for the purposes of section 12(2)(c) above; and

(c) conditions requiring the rendering to the Secretary of State of a payment on the making of an appointment, or payments while such an appointment is in force, or both, of such amount or amounts as may be determined by or under the conditions.

(2) Without prejudice to the generality of paragraph (a) of subsection (1) above, conditions included in an appointment by virtue of that paragraph may—

(a) require the appointed company to comply with any direction given by the Director as to such matters as are specified in the appointment or are of a description so specified;

(b) require the appointed company, except in so far as the Director consents to the company's doing or not doing them, not to do or to do such things as are specified in the appointment, or are of a description so specified; and

(c) provide for the reference to and determination by—

(i) the Secretary of State or the Director; or

(ii) on a reference by the Director, the Monopolies and Mergers Commission (in this Act referred to as "the Monopolies Commission"),

of such questions arising under the appointment and of such other matters, including (in the case of references to the Commission) disputes as to determinations by the Director, as are specified in the appointment or are of a description so specified.

(3) Conditions included in an appointment under this Chapter may contain provision for the conditions to cease to have effect or be modified at such times, in such manner and in such circumstances as may be specified in or determined by or under the conditions; and any provision included by virtue of this subsection in an appointment under this Chapter shall have effect in addition to the provision made by this Chapter with respect to the modification of the conditions of an appointment.

(4) Subsection (5) below applies in relation to the appointment of any company under this Chapter in pursuance of section 11(4)(a) above where provision is contained in that appointment by virtue of subsection (2) or (3) above for postponing the determination of, or of any of the terms of, the conditions of the appointment with respect to the fixing by the company of—

(a) charges in respect of any services provided by that company in the course of the carrying out of the functions of a water undertaker; or

(b) amounts of any other description which such an undertaker is authorised by or under any enactment to require any person to pay,

until a time after the transfer date and before the end of the financial year current on that date.

(5) Where this subsection applies in relation to a company's appointment, the conditions or terms mentioned in subsection (4) above shall not be determined in accordance with the provision so mentioned unless—

(a) notice of the proposed determination has been served on the company;

(b) the company has been allowed a period of at least twenty-eight days from the date of service of the notice for making representations or objections with respect to the proposed determination; and

(c) the Secretary of State has considered any such representations or objections which have been duly made and are not withdrawn.

(6) Where any question or other matter falls to be determined by the Monopolies Commission in pursuance of a provision contained in an appointment under this Chapter—

(a) it shall be the duty of the Director, on being required to do so by the company holding that appointment, to refer that question or matter to that Commission; and

(b) it shall be the duty of that Commission to determine any question or other matter referred by virtue of paragraph (a) above in accordance with any regulations under subsection (7) below and with the principles which apply, by virtue of Part I of this Act, in relation to determinations under this Chapter by the Director.

(7) The Secretary of State may by regulations make such provision as he considers appropriate for regulating the procedure to be followed with respect to the reference of any question or other matter to the Monopolies Commission in pursuance of provision contained in an appointment under this Chapter; and, without prejudice to the generality of that power, any such regulations may, in relation to any such reference, apply (with or without modifications) the provisions of any enactment relating to references to that Commission under the following provisions of this Act, the Fair Trading Act 1973 or the Competition Act 1980.

1973 c. 41.
1980 c. 21.

(8) For the purposes of this Act where the same instrument contains an appointment of the same company to be both a water undertaker and a sewerage undertaker (whether or not for the same area), all the conditions included in that instrument by virtue of this section shall have effect, irrespective of their subject-matter, as conditions of both appointments.

(9) Where an instrument of appointment has been served under subsection (3) of section 11 above on any company, the coming into force of the appointment for the purposes specified in subsection (2) of that section shall not be affected by any contravention of the requirements of this Act with respect to the provision contained by way of conditions of appointment in that instrument; and if the Secretary of State considers it appropriate to do so in consequence of any legal proceedings with respect to any such provision, he may by order made by statutory instrument

PART II

direct that such conditions as may be specified in the order are to be treated as included in the appointment in question until there is an opportunity for the provision to which the proceedings relate to be replaced by virtue of any of the other provisions of this Chapter.

(10) Any sums received by the Secretary of State in consequence of the provisions of any condition of an appointment under this Chapter shall be paid into the Consolidated Fund.

Modification of appointment conditions

Modification by agreement.

15.—(1) Subject to the following provisions of this section, the Director may modify the conditions of a company's appointment under this Chapter if the company consents to the modifications.

(2) Before making modifications under this section, the Director shall give notice—

(a) stating that he proposes to make the modifications and setting out their effect;

(b) stating the reasons why he proposes to make the modifications; and

(c) specifying the period (not being less than twenty-eight days from the date of publication of the notice) within which representations or objections with respect to the proposed modifications may be made,

and shall consider any representations or objections which are duly made and not withdrawn.

(3) A notice under subsection (2) above shall be given—

(a) by publishing the notice in such manner as the Director considers appropriate for the purpose of bringing the notice to the attention of persons likely to be affected by the making of the modifications; and

(b) by serving a copy of the notice on the company and on the Secretary of State.

(4) The Director shall not under this section make any modifications which the Secretary of State has, within the time specified in the notice under subsection (2) above, directed the Director not to make.

(5) The Secretary of State shall not give a direction under subsection (4) above in relation to any modification unless—

(a) the modification is a modification of provision contained in the appointment for the purposes of section 12(2)(c) above;

(b) the modification is a modification of a provision of the appointment which relates to the disposal of, or of interests or rights in or over, a company's protected land and is stated in the appointment to be a provision which cannot be modified; or

(c) it appears to the Secretary of State that the modification should be made, if at all, under section 18 below.

Modification references to Monopolies Commission.

16.—(1) The Director may make to the Monopolies Commission a reference which is so framed as to require the Commission to investigate and report on the questions—

(a) whether any matters which—

(i) relate to the carrying out of any function which is a function of any company by virtue of an appointment of that company under this Chapter; and

(ii) are specified in the reference,

operate, or may be expected to operate, against the public interest; and

(b) if so, whether the effects adverse to the public interest which those matters have or may be expected to have could be remedied or prevented by modifications of the conditions of the company's appointment.

(2) The Director may, at any time, by notice given to the Monopolies Commission vary a reference under this section by adding to the matters specified in the reference or by excluding from the reference some or all of the matters so specified; and on receipt of any such notice the Commission shall give effect to the variation.

(3) The Director may specify in a reference under this section, or a variation of such a reference, for the purpose of assisting the Monopolies Commission in carrying out the investigation on the reference—

(a) any effects adverse to the public interest which, in his opinion, the matters specified in the reference or variation have or may be expected to have; and

(b) any modifications of the conditions of any appointment mentioned in the reference or variation by which, in his opinion, those effects could be remedied or prevented.

(4) As soon as practicable after making a reference under this section or a variation of such a reference, the Director shall—

(a) serve a copy of the reference or variation on the company whose appointment is mentioned in the reference or variation; and

(b) publish particulars of the reference or variation in such manner as he considers appropriate for the purpose of bringing the reference or variation to the attention of persons likely to be affected by it.

(5) It shall be the duty of the Director, for the purpose of assisting the Monopolies Commission in carrying out an investigation on a reference under this section, to give to the Commission—

(a) any information in his possession which relates to matters falling within the scope of the investigation, and which is either—

(i) requested by the Commission for that purpose; or

(ii) information which, in his opinion, it would be appropriate for that purpose to give to the Commission without any such request;

and

(b) any other assistance which the Commission may require, and which it is within his power to give, in relation to any such matters;

and the Commission, for the purpose of carrying out any such investigation, shall take account of any information given to them for that purpose under this subsection.

PART II

(6) In determining for the purposes of this section whether any particular matter operates, or may be expected to operate, against the public interest, the Monopolies Commission shall have regard to the matters as respects which duties are imposed on the Secretary of State and the Director by Part I of this Act.

(7) Sections 70 (time limit for report on merger reference), 81 (procedure in carrying out investigations) and 85 (attendance of witnesses and production of documents) of the Fair Trading Act 1973, Part II of Schedule 3 to that Act (performance of functions of the Monopolies Commission) and section 24 of the Competition Act 1980 (modifications of provisions about performance of such functions) shall apply in relation to references under this section as if—

1973 c. 41.

1980 c. 21.

(a) the functions of the Commission in relation to those references were functions under the said Act of 1973;

(b) the expression "merger reference" included a reference under this section;

(c) in the said section 70, references to the Secretary of State were references to the Director and the reference to three months were a reference to six months;

(d) in paragraph 11 of the said Schedule 3, the reference to section 71 of the said Act of 1973 were a reference to subsection (2) above; and

(e) paragraph 16(2) of that Schedule were omitted.

(8) For the purposes of references under this section the Secretary of State shall appoint not less than eight additional members of the Monopolies Commission; and, if any functions of that Commission in relation to any such reference are performed through a group—

(a) the chairman of that Commission shall select one or more of those additional members to be members of the group; and

(b) the number of regular members to be selected by him under paragraph 10 of Schedule 3 to the Fair Trading Act 1973 shall be reduced by the number of additional members selected.

Reports on modification references.

17.—(1) In making a report on a reference under section 16 above, the Monopolies Commission—

(a) shall include in the report definite conclusions on the questions comprised in the reference together with such an account of their reasons for those conclusions as, in their opinion, is expedient for facilitating a proper understanding of those questions and of their conclusions;

(b) where they conclude that any of the matters specified in the reference operate, or may be expected to operate, against the public interest, shall specify in the report the effects adverse to the public interest which those matters have or may be expected to have; and

(c) where they conclude that any adverse effects so specified could be remedied or prevented by modifications of the conditions of a company's appointment under this Chapter, shall specify in the report modifications by which those effects could be remedied or prevented.

(2) Where, on a reference under section 16 above, the Monopolies Commission conclude that a company holding an appointment under this Chapter is a party to an agreement to which the Restrictive Trade Practices Act 1976 applies, the Commission, in making their report on that reference, shall exclude from their consideration the question whether the provisions of that agreement, in so far as they are provisions by virtue of which it is an agreement to which that Act applies, operate, or may be expected to operate, against the public interest; and paragraph (b) of subsection (1) above shall have effect subject to the provisions of this subsection. 1976 c. 34.

(3) Section 82 of the Fair Trading Act 1973 (general provisions as to reports) shall apply in relation to reports of the Monopolies Commission on references under section 16 above as it applies to reports of the Commission under that Act. 1973 c. 41.

(4) A report of the Monopolies Commission on a reference under section 16 above shall be made to the Director.

(5) Subject to subsection (6) below, the Director—

(a) shall, on receiving such a report, send a copy of it to the company to whose appointment under this Chapter the report relates and to the Secretary of State; and

(b) shall, not less than fourteen days after that copy is received by the Secretary of State, publish another copy of that report in such manner as he considers appropriate for bringing the report to the attention of persons likely to be affected by it.

(6) If it appears to the Secretary of State that the publication of any matter in such a report would be against the public interest or the commercial interests of any person, he may, before the end of the period of fourteen days mentioned in paragraph (b) of subsection (5) above, direct the Director to exclude that matter from every copy of the report to be published by virtue of that paragraph; and the Director shall comply with any such direction.

Modification following report.

18.—(1) Where a report of the Monopolies Commission on a reference under section 16 above—

(a) includes conclusions to the effect that any of the matters specified in the reference operate, or may be expected to operate, against the public interest;

(b) specifies effects adverse to the public interest which those matters have or may be expected to have;

(c) includes conclusions to the effect that those effects could be remedied or prevented by modifications of the conditions of a company's appointment under this Chapter; and

(d) specifies modifications by which those effects could be remedied or prevented,

the Director shall, subject to the following provisions of this section, make such modifications of the conditions of that appointment as appear to him requisite for the purpose of remedying or preventing the adverse effects specified in the report.

(2) Before making modifications under this section, the Director shall have regard to the modifications specified in the report.

PART II

(3) Before making modifications under this section, the Director shall give notice—

(a) stating that he proposes to make the modifications and setting out their effect;

(b) stating the reasons why he proposes to make the modifications; and

(c) specifying the period (not being less than twenty-eight days from the date of publication of the notice) within which representations or objections with respect to the proposed modifications may be made,

and shall consider any representations or objections which are duly made and not withdrawn.

(4) A notice under subsection (3) above shall be given—

(a) by publishing the notice in such manner as the Director considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by the making of the modifications; and

(b) by serving a copy of the notice on the company whose appointment it is proposed to modify.

(5) The Director shall not under this section make any modification of any provisions of a company's appointment under this Chapter which—

(a) are contained in that appointment for the purposes of section 12(2)(c) above; or

(b) being provisions relating to the disposal of, or of interests or rights in or over, a company's protected land, are stated in the appointment to be provisions which cannot be modified.

Modification by order under other enactments. 1973 c. 41. 1980 c. 21.

19.—(1) Subject to subsection (3) below, where in the circumstances mentioned in subsection (2) below the Secretary of State by order exercises any of the powers specified in Parts I and II of Schedule 8 to the Fair Trading Act 1973 or section 10(2)(a) of the Competition Act 1980, the order may also provide for the modification of the conditions of a company's appointment under this Chapter to such extent as may appear to him to be requisite or expedient for the purpose of giving effect to or taking account of any provision made by the order.

(2) Subsection (1) above shall have effect where—

(a) the circumstances are as mentioned in section 56(1) of the said Act of 1973 (order on report on monopoly reference) and the monopoly situation exists in relation to the carrying out of any of the functions of a water undertaker or sewerage undertaker;

(b) the circumstances are as mentioned in section 73(1) of that Act (order on report on merger reference) and the two or more enterprises which ceased to be distinct enterprises were both engaged in carrying out functions of a water undertaker or sewerage undertaker; or

(c) the circumstances are as mentioned in section 10(1) of the said Act of 1980 (order on report on competition reference) and the anti-competitive practice relates to the carrying out of any of the functions of a water undertaker or sewerage undertaker.

PART II

(3) No modification shall be made by virtue of this section of any provisions of a company's appointment under this Chapter which—

(a) are contained in that appointment for the purposes of section 12(2)(c) above; or

(b) being provisions relating to the disposal of, or of interests or rights in or over, a company's protected land, are stated in the appointment to be provisions which cannot be modified.

(4) In this section expressions which are also used in the said Act of 1973 or the said Act of 1980 have the same meanings as in that Act.

Enforcement orders

Orders for securing compliance with certain provisions.

20.—(1) Subject to subsections (2) and (5) and section 21 below, where in the case of any company holding an appointment under this Chapter the Secretary of State or the Director is satisfied—

(a) that that company is contravening—

(i) any condition of the company's appointment in relation to which he is the enforcement authority; or

(ii) any statutory requirement which is enforceable under this section and in relation to which he is the enforcement authority;

or

(b) that that company has contravened any such condition or requirement and is likely to do so again,

he shall by a final order make such provision as is requisite for the purpose of securing compliance with that condition or requirement.

(2) Subject to subsection (5) below, where in the case of any company holding an appointment under this Chapter—

(a) it appears to the Secretary of State or the Director as mentioned in paragraph (a) or (b) of subsection (1) above; and

(b) it appears to him that it is requisite that a provisional order be made,

he may (instead of taking steps towards the making of a final order) by a provisional order make such provision as appears to him requisite for the purpose of securing compliance with the condition or requirement in question.

(3) In determining for the purposes of subsection (2)(b) above whether it is requisite that a provisional order be made, the Secretary of State or, as the case may be, the Director shall have regard, in particular, to the extent to which any person is likely to sustain loss or damage in consequence of anything which, in contravention of any condition or of any statutory requirement enforceable under this section, is likely to be done, or omitted to be done, before a final order may be made.

(4) Subject to subsection (5) and section 21 below, where the Secretary of State or the Director has made a provisional order, he shall confirm it, with or without modifications, if—

(a) he is satisfied that the company to which the order relates—

(i) is contravening any condition or statutory requirement in relation to which he is the enforcement authority; or

PART II

(ii) has contravened any such condition or requirement and is likely to do so again;

and

(b) the provision made by the order (with any modifications) is requisite for the purpose of securing compliance with that condition or requirement.

(5) Neither the Secretary of State nor the Director shall be required to make a final order or provisional order in relation to any company or to confirm a provisional order so made if he is satisfied—

(a) that the contraventions were, or the apprehended contraventions are, of a trivial nature;

(b) that the company has given, and is complying with, an undertaking to take all such steps as it appears to him for the time being to be appropriate for the company to take for the purpose of securing or facilitating compliance with the condition or requirement in question; or

(c) that the duties imposed on him by Part I of this Act preclude the making or, as the case may be, the confirmation of the order.

(6) Where the Secretary of State or the Director, having notified a company that he is considering the making in relation to the company of a final order or provisional order or the confirmation of a provisional order so made, is satisfied as mentioned in paragraph (a), (b) or (c) of subsection (5) above, he shall—

(a) serve notice that he is so satisfied on the company;

(b) publish a copy of the notice in such manner as he considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by them; and

(c) in a case where the Secretary of State is satisfied as mentioned in the said paragraph (b), serve a copy of the notice and of the undertaking given for the purposes of that paragraph on the Director;

but the requirements of the preceding provisions of this subsection shall not apply, in the case of any proposed order or confirmation in respect of a direction under section 170 below, to the extent that the Secretary of State directs that they should not be complied with in the interests of national security.

(7) A final or provisional order—

(a) shall require the company to which it relates (according to the circumstances of the case) to do, or not to do, such things as are specified in the order or are of a description so specified;

(b) shall take effect at such time, being the earliest practicable time, as is determined by or under the order; and

(c) may be revoked at any time by the enforcement authority who made it.

(8) For the purposes of this section and the following provisions of this Act—

(a) the statutory requirements which shall be enforceable under this section in relation to a company holding an appointment under this Chapter shall be—

(i) such of the requirements of section 8 or 9 above as are imposed on that company in consequence of that appointment; and

(ii) such of the requirements of any other enactment or of any subordinate legislation as are so imposed and are made so enforceable by that enactment or subordinate legislation;

(b) the Director shall be the enforcement authority in relation to the conditions of an appointment under this Chapter;

(c) the Secretary of State shall be the enforcement authority in relation to the requirements imposed by sections 8 and 9 above; and

(d) the enforcement authority in relation to each of the other statutory requirements enforceable under this section shall be the Secretary of State, the Director or either of them, according to whatever provision is made by the enactment or subordinate legislation by which the requirement is made so enforceable;

and the requirement to comply with an undertaking given for the purposes of subsection (5)(b) above shall be treated as a statutory requirement enforceable under this section by the Secretary of State or, with the consent of or in accordance with a general authorisation given by the Secretary of State, by the Director.

(9) In this section and sections 21 and 22 below—

"final order" means an order under this section other than a provisional order;

"provisional order" means an order under this section which, if not previously confirmed in accordance with subsection (4) above, will cease to have effect at the end of such period (not exceeding three months) as is determined by or under the order.

(10) Where any act or omission constitutes a contravention of a condition of an appointment under this Chapter or of a statutory requirement enforceable under this section, the only remedies for that contravention, apart from those available by virtue of this section, shall be those for which express provision is made by or under any enactment and those that are available in respect of that act or omission otherwise than by virtue of its constituting such a contravention.

Procedural requirements.

21.—(1) Before making a final order or confirming a provisional order, the Secretary of State or the Director shall give notice—

(a) stating that he proposes to make or confirm the order and setting out the effect of the order;

(b) setting out—

(i) the condition or requirement for the purpose of securing compliance with which the order is to be made or confirmed;

(ii) the acts or omissions which, in his opinion, constitute or would constitute contraventions of that condition or requirement; and

(iii) the other facts which, in his opinion, justify the making or confirmation of the order;

and

PART II

(c) specifying the period (not being less than twenty-eight days from the date of publication of the notice) within which representations or objections with respect to the proposed order or proposed confirmation may be made,

and shall consider any representations or objections which are duly made and not withdrawn.

(2) A notice under subsection (1) above shall be given—

(a) by publishing the notice in such manner as the Secretary of State or, as the case may be, the Director considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by them; and

(b) by serving a copy of the notice, and a copy of the proposed order or of the order proposed to be confirmed, on the company to which the order relates and, where the notice is given by the Secretary of State, on the Director.

(3) Neither the Secretary of State nor the Director shall make a final order with modifications, or confirm a provisional order with modifications, except—

(a) with the consent to the modifications of the company to which the order relates; or

(b) after complying with the requirements of subsection (4) below.

(4) The requirements mentioned in subsection (3) above are that the Secretary of State or, as the case may be, the Director shall—

(a) serve on the company to which the order relates such notice as appears to him to be requisite of his proposal to make or confirm the order with modifications;

(b) in that notice specify the period (not being less than twenty-eight days from the date of the service of the notice) within which representations or objections with respect to the proposed modifications may be made; and

(c) consider any representations or objections which are duly made and not withdrawn.

(5) As soon as practicable after making a final order or making or confirming a provisional order, the Secretary of State or, as the case may be, the Director shall—

(a) serve a copy of the order on the company to which the order relates and, where this subsection applies in the case of an order made or confirmed by Secretary of State, on the Director; and

(b) publish such a copy in such manner as he considers appropriate for the purpose of bringing the order to the attention of persons likely to be affected by it.

(6) Before revoking a final order or a provisional order which has been confirmed, the Secretary of State or the Director shall give notice—

(a) stating that he proposes to revoke the order and setting out its effect; and

(b) specifying the period (not being less than twenty-eight days from the date of publication of the notice) within which representations or objections with respect to the proposed revocation may be made,

and shall consider any representations or objections which are duly made and not withdrawn.

(7) If, after giving a notice under subsection (6) above, the Secretary of State or the Director decides not to revoke the order to which the notice relates, he shall give notice of that decision.

(8) A notice under subsection (6) or (7) above shall be given—

(a) by publishing the notice in such manner as the Secretary of State or, as the case may be, the Director considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by them; and

(b) by serving a copy of the notice on the company to which the order relates and, where the notice is given by the Secretary of State, on the Director.

(9) The requirements of the preceding provisions of this section shall not apply, in the case of any order in respect of a contravention of a direction under section 170 below, to the extent that the Secretary of State directs that they should not be complied with in the interests of national security.

Validity and effect of orders.

22.—(1) If the company to which a final or provisional order relates is aggrieved by the order and desires to question its validity on the ground—

(a) that its making or confirmation was not within the powers of section 20 above; or

(b) that any of the requirements of section 21 above have not been complied with in relation to it,

the company may, within forty-two days from the date of service on it of a copy of the order, make an application to the High Court under this section.

(2) On any such application the High Court may, if satisfied that the making or confirmation of the order was not within those powers or that the interests of the company have been substantially prejudiced by a failure to comply with those requirements, quash the order or any provision of the order.

(3) Except as provided by this section, the validity of a final or provisional order shall not be questioned in any legal proceedings whatsoever.

(4) The obligation to comply with a final or provisional order shall be a duty owed to any person who may be affected by a contravention of the order.

(5) Where a duty is owed by virtue of subsection (4) above to any person any breach of the duty which causes that person to sustain loss or damage shall be actionable at the suit of that person.

PART II

(6) In any proceedings brought against any company in pursuance of subsection (5) above, other than proceedings in respect of so much of a contravention of any order as consists in a breach of the duty imposed by virtue of section 52(1)(a) below, it shall be a defence for the company to show that it took all reasonable steps and exercised all due diligence to avoid contravening the order.

(7) Without prejudice to any right which any person may have by virtue of subsection (5) above to bring civil proceedings in respect of any contravention or apprehended contravention of a final or provisional order, compliance with any such order shall be enforceable by civil proceedings by the relevant enforcement authority for an injunction or for any other appropriate relief.

(8) In subsection (7) above "the relevant enforcement authority", in relation to any final or provisional order, means the Secretary of State or the Director or either of them according to who is the enforcement authority in relation to the condition or requirement compliance with which was to be secured by the order.

Special administration orders

Special administration orders in relation to water or sewerage undertakers.

23.—(1) If, on an application made to the High Court by petition presented—

(a) by the Secretary of State; or

(b) with the consent of the Secretary of State, by the Director,

that Court is satisfied in relation to any company which holds an appointment under this Chapter that any one or more of the grounds specified in subsection (4) below is satisfied in relation to that company, that Court may make an order under this section.

(2) An order under this section is an order directing that, during the period for which the order is in force, the affairs, business and property of the company shall be managed, by a person appointed by the High Court, for the achievement of the purposes of the order and in a manner which protects the respective interests of the members and creditors of the company.

(3) The purposes of an order made under this section in relation to a company holding an appointment under this Chapter shall be—

(a) the transfer to another company, or (as respects different parts of the company's area or different parts of its undertaking) to two or more different companies, as a going concern, of so much of the company's undertaking as it is necessary to transfer in order to ensure that the functions which have been vested in the company by virtue of its appointment may be properly carried out; and

(b) the carrying out of those functions pending the making of the transfer and the vesting of those functions in the other company or companies (whether by virtue of the transfer or of an appointment or variation to which section 12 above applies).

(4) The grounds mentioned in subsection (1) above are, in relation to any company—

(a) that there has been, is or is likely to be such a contravention by the company of a requirement imposed on the company by section 37 or 67 below, not being a contravention in respect of

which a notice has been served under subsection (6) of section 20 above, as is serious enough to make it inappropriate for the company to continue to hold its appointment;

(b) that there has been, is or is likely to be such a contravention by the company of the provisions of any final order or provisional order under section 20 above, being an order which—

(i) is not for the time being the subject-matter of proceedings brought by virtue of section 22(1) above; and

(ii) if it is a provisional order, has been confirmed,

as is serious enough to make it inappropriate for the company to continue to hold its appointment;

(c) that the company is or is likely to be unable to pay its debts;

(d) that, in a case in which the Secretary of State has certified that it would be appropriate, but for section 24 below, for him to petition for the winding up of the company under section 440 of the Companies Act 1985 (petition by the Secretary of State following inspectors' report etc.), it would be just and equitable, as mentioned in that section, for the company to be wound up if it did not hold an appointment under this Chapter; or 1985 c. 6.

(e) that the company is unable or unwilling adequately to participate in arrangements certified by the Secretary of State or the Director to be necessary by reason of, or in connection with, a proposal for the making by virtue of subsection (2)(c) of section 12 above of any appointment or variation to which that section applies.

(5) Notice of the petition for an order under this section shall be given forthwith to such persons and in such manner as may be prescribed by rules made under section 411 of the Insolvency Act 1986; and no such petition shall be withdrawn except with the leave of the High Court. 1986 c. 45.

(6) Subsections (4) and (5) of section 9 of the said Act of 1986 (powers on application for administration order) shall apply on the hearing of the petition for an order under this section in relation to any company as they apply on the hearing of a petition for an administration order.

(7) Subsections (1), (2) and (4) of section 10 of the said Act of 1986 (effect of petition) shall apply in the case of a petition for an order under this section in relation to any company as if—

(a) the reference in subsection (1) to an administration order were a reference to an order under this section;

(b) paragraph (b) of that subsection did require the leave of the court for the taking of any of the steps mentioned in paragraphs (b) and (c) of subsection (2) (appointment of, and exercise of functions by, administrative receiver); and

(c) the reference in paragraph (c) of subsection (1) to proceedings included a reference to any proceedings under or for the purposes of section 20 above.

(8) Schedule 6 to this Act shall have effect with respect to orders under this section and Schedule 5 to this Act shall have effect with respect to the making of transitional provision for the purposes of an order under this section.

PART II

(9) In this section and section 24 below—

"business" and "property" have the same meanings as in the Insolvency Act 1986;

1986 c. 45.

"security" has the same meaning as in Parts I to VII of that Act;

and for the purposes of this section a company is unable to pay its debts if it is a limited company which is deemed to be so unable under section 123 of the Insolvency Act 1986 (definition of inability to pay debts) or if it is an unregistered company which is deemed, by virtue of any of sections 222 to 224 of that Act, to be so unable for the purposes of section 221 of that Act (winding up of unregistered companies).

Restriction on winding-up etc. of water or sewerage undertaker.

24.—(1) Where a company holds an appointment under this Chapter—

(a) the company shall not be wound up voluntarily;

(b) no administration order shall be made in relation to the company under Part II of the Insolvency Act 1986; and

(c) no step shall be taken by any person to enforce any security over the company's property except where that person has served fourteen days' notice of his intention to take that step on the Secretary of State and on the Director.

(2) On an application made to any court for the winding up of a company which holds an appointment under this Chapter—

(a) the court shall not make a winding-up order in relation to the company; but

(b) if the court is satisfied that it would be appropriate to make such an order if the company were not a company holding such an appointment, it shall, instead, make an order under section 23 above in relation to the company.

Government financial assistance where special administration orders made.

25.—(1) Where a special administration order is for the time being in force in relation to a company, the Secretary of State, may, with the consent of the Treasury—

(a) make to the company grants or loans of such sums as appear to him to be appropriate for the purpose of facilitating the achievement of the purposes of the order;

(b) agree to indemnify the person appointed to achieve the purposes of the order in respect of liabilities incurred and loss or damage sustained by that person in connection with the carrying out of his functions under the order.

(2) The Secretary of State may, with the consent of the Treasury, guarantee, in such manner and on such conditions as he may think fit, the repayment of the principal of, the payment of interest on and the discharge of any other financial obligation in connection with any sum which is borrowed from any person by a company in relation to which a special administration order is in force at the time when the guarantee is given.

(3) Without prejudice to any provision applied in relation to the company by Schedule 6 to this Act—

(a) the terms and conditions on which a grant is made to any company under this section may require the whole or part of the grant to be repaid to the Secretary of State if there is a contravention of the other terms and conditions on which the grant is made; and

(b) any loans which the Secretary of State makes to a company under this section shall be repaid to him at such times and by such methods, and interest thereon shall be paid to him at such rates and at such times, as he may, with the consent of the Treasury, from time to time direct.

(4) Any grant or loan made under this section and any sums required to be paid by the Secretary of State in respect of an indemnity given under this section shall be paid out of money provided by Parliament.

(5) Any sums received under subsection (3) above by the Secretary of State shall be paid into the Consolidated Fund.

(6) In this section "special administration order" means an order under section 23 above (whether made by virtue of that section or section 24 above).

Review of certain matters and investigation of complaints

Director's duty to keep matters under review and to consider certain matters.

26.—(1) It shall be the duty of the Director, so far as it appears to him practicable from time to time to do so, to keep under review the carrying on both in England and Wales and elsewhere of activities connected with the matters in relation to which water undertakers or sewerage undertakers carry out functions.

(2) It shall also be the duty of the Director, so far as it appears to him practicable from time to time to do so, to collect information with respect to—

(a) the carrying out by companies appointed under this Chapter of the functions of water undertakers or sewerage undertakers; or

(b) any such company,

with a view to his becoming aware of, and ascertaining the circumstances relating to, matters with respect to which any power or duty is conferred or imposed on him by or under any enactment.

(3) The Secretary of State may give general directions indicating—

(a) considerations to which the Director should have particular regard in determining the order of priority in which matters are to be brought under review in performing his duty under subsection (1) or (2) above; and

(b) considerations to which, in cases where it appears to the Director that any of his powers under this Part are exercisable, he should have particular regard in determining whether to exercise those powers;

and it shall be the duty of the Director to comply with any such directions.

(4) It shall be the duty of the Director, where either he considers it expedient or he is requested by the Secretary of State or the Director General of Fair Trading to do so, to give information, advice and assistance to the Secretary of State or that Director with respect to any

PART II

matter relating to the functions of water undertakers or sewerage undertakers or the carrying out of any such functions by a company holding an appointment under this Chapter.

Protection of customer interests.

27.—(1) It shall be the duty of a customer service committee—

(a) to keep under review all matters appearing to the committee to affect the interests of the persons who are customers or potential customers of the companies allocated to the committee, to consult each company so allocated about such of those matters as appear to affect the interests of the customers or potential customers of that company and to make to a company so allocated all such representations about any such matter as the committee considers appropriate;

(b) subject to paragraph (c) below, to investigate any complaint which—

(i) is made to the committee by any person who is a customer or potential customer of a company so allocated or is referred to the committee by the Director under subsection (2) below;

(ii) does not appear to the committee to be vexatious or frivolous; and

(iii) relates to the carrying out by that company of any of the functions of a water undertaker or sewerage undertaker;

(c) to refer to the Director every complaint which is made to the committee by any person in relation to a company allocated to the committee and consists in or amounts to a complaint which the Director would be required to investigate under section 162 below or an assertion that the company is contravening or has contravened—

(i) any condition of the company's appointment under this Chapter; or

(ii) any statutory or other requirement enforceable under section 20 above;

(d) where the committee considers it appropriate to do so in connection with any such complaint as is mentioned in paragraph (b) above, to make representations on behalf of the complainant to the company in question about any matter to which the complaint relates or which appears to the committee to be relevant to the subject-matter of the complaint; and

(e) to refer to the Director or, as the case may be, back to the Director any such complaint as is so mentioned which the committee is unable to resolve.

(2) It shall be the duty of the Director—

(a) to consider whether any complaint which—

(i) is made to him by a customer or potential customer of a company allocated to a customer service committee; and

(ii) does not consist in or amount to a complaint which he is required to investigate under section 162 below or such an assertion as is mentioned in subsection (1)(c) above,

should be referred to that committee instead of being dealt with by him;

(b) to consider whether any complaint which does consist in or amount to such an assertion and is either made to him by such a customer or potential customer or is referred to him by such a committee should be referred by him to the Secretary of State;

(c) to consider any such complaint as is mentioned in paragraph (b) above which is not referred by him to the Secretary of State;

(d) to consider any complaint referred to him by virtue of subsection (1)(e) above;

(e) to consider any complaint made to him by a customer or potential customer of a company allocated to a customer service committee that the committee has failed to perform any duty imposed on it by subsection (1) above; and

(f) to take such steps in consequence of his consideration of any matter falling within any of paragraphs (a) to (e) above (including in a case falling within paragraph (d) or (e) above any step which could have been taken by the committee) as he considers appropriate.

(3) The only remedy for a breach by a customer service committee of a duty imposed on it by subsection (1) above shall be the making of such a complaint to the Director as is mentioned in subsection (2)(e) above.

(4) It shall be the duty of the Director to make such arrangements as he considers appropriate for facilitating the provision by one customer service committee to another of any such information as that other committee may require for any purpose relating to the carrying out of its functions.

Provisions with respect to competition

Functions of Director with respect to competition. 1973 c. 41.

28.—(1) If and to the extent that he is requested by the Director General of Fair Trading to do so, it shall be the duty of the Director to exercise the functions of that Director under Part III of the Fair Trading Act 1973 so far as relating to courses of conduct which are or may be detrimental to the interests of persons who are consumers in relation to the supply of water by water undertakers or the provision of sewerage services by sewerage undertakers, whether those interests are economic or interests in respect of health, safety or other matters; and references in that Part to that Director shall be construed accordingly.

(2) There are hereby transferred to the Director (so as to be exercisable concurrently with the Director General of Fair Trading)—

(a) the functions of that Director under sections 44 and 45 of the Fair Trading Act 1973; and

(b) the functions of that Director under sections 50, 52, 53, 86 and 88 of that Act,

so far as relating to monopoly situations which exist or may exist in relation to commercial activities connected with the supply of water or the provision of sewerage services; and references in Part IV and sections 86, 88 and 133 of that Act to that Director shall be construed accordingly.

(3) There are hereby transferred to the Director (so as to be exercisable concurrently with the Director General of Fair Trading) the functions of that Director under sections 2 to 10 and 16 of the Competition Act 1980 so far as relating to courses of conduct which have or are intended to have or are likely to have the effect of restricting, distorting, or preventing

1980 c. 21.

PART II

competition in connection with the supply of water or securing a supply of water or with the provision or securing of sewerage services; and references in those sections and in section 19 of that Act to that Director shall be construed accordingly.

(4) Before either Director first exercises in relation to any matter functions transferred by any of the following provisions, namely—

(a) paragraph (a) of subsection (2) above;

(b) paragraph (b) of that subsection; and

(c) subsection (3) above,

he shall consult the other Director; and neither Director shall exercise in relation to any matter functions transferred by any of those provisions if functions transferred by that provision have been exercised in relation to that matter by the other Director.

(5) It shall be the duty of the Director, for the purpose of assisting the Monopolies Commission in carrying out an investigation on a reference made to them by the Director by virtue of subsection (2) or (3) above, to give to the Commission—

(a) any information which is in his possession and which relates to matters falling within the scope of the investigation, and which is either requested by the Commission for that purpose or is information which in his opinion it would be appropriate for that purpose to give to the Commission without any such request; and

(b) any other assistance which the Commission may require, and which it is within his power to give, in relation to any such matters;

and the Commission shall, for the purposes of carrying out any such investigation, take into account any information given to them for that purpose under this subsection.

(6) If any question arises as to whether subsection (2) or (3) above applies to any particular case, that question shall be referred to and determined by the Secretary of State; and no objection shall be taken to anything done under—

1973 c. 41. (a) Part IV or section 86 or 88 of the Fair Trading Act 1973; or

1980 c. 21. (b) sections 2 to 10 of the Competition Act 1980,

by or in relation to the Director on the ground that it should have been done by or in relation to the Director General of Fair Trading.

(7) Expressions used in this section which are also used in the Fair Trading Act 1973 or the Competition Act 1980 have the same meaning as in that Act.

Mergers of water or sewerage undertakings.

29.—(1) Subject to the following provisions of this section, it shall be the duty of the Secretary of State to make a merger reference to the Monopolies Commission if it appears to him that it is or may be the fact—

(a) that arrangements are in progress which, if carried into effect, will result in a merger of any two or more water enterprises; or

(b) that such a merger has taken place at any time on or after 11th January 1989 otherwise than as a result of the carrying into effect of arrangements that have been the subject of a reference by virtue of paragraph (a) above.

(2) For the purposes of this section an enterprise shall be regarded as a water enterprise—

(a) in relation to a merger on or after the transfer date, if it is carried on by a water undertaker or sewerage undertaker; and

(b) in relation to a merger on or after 11th January 1989 and before the transfer date, if it is or was carried on by a statutory water company within the meaning of the 1973 Act or by a water authority.

(3) The Secretary of State shall not make a merger reference under this section in respect of any actual or prospective merger of two or more water enterprises if it appears to him—

(a) that the take over from which the merger has resulted or, as the case may be, would result was initiated before 9 a.m. on 11th January 1989;

(b) that the value of the assets taken over does not exceed or, as the case may be, would not exceed the amount for the time being specified in section 64(1)(b) of the Fair Trading Act 1973 (condition of merger reference relating to amount of assets taken over); or 1973 c. 41.

(c) that the only water enterprises already belonging to the person making the take over are enterprises each of which has assets the value of which does not exceed or, as the case may be, would not exceed that amount.

(4) For the purposes of subsection (3) above a merger of two or more enterprises results from a take over initiated before 9 a.m. on 11th January 1989 if—

(a) the Secretary of State or the Director General of Fair Trading was given notice before that time on that date of the material facts about the proposed arrangements or transactions resulting in the merger; or

(b) the merger results exclusively from the acceptance of offers to acquire shares in a body corporate and those offers—

(i) were all made before that time on that date; or

(ii) in so far as they were not so made, consist in offers made, by the same person and in respect of the same shares, in substitution for offers made before that time on that date.

(5) In relation to a merger of two or more water enterprises—

(a) the value of the assets taken over shall, for the purposes of subsection (3) above, be determined in accordance with section 67 of the Fair Trading Act 1973 by reference only to assets employed in or appropriated to a water enterprise; and

(b) the value of the assets of a water enterprise belonging to the person making the take over shall be taken for those purposes to be the value of such assets employed in or appropriated to that enterprise as by virtue of the exceptions in paragraph (a) of subsection (2) of that section are disregarded in determining the value of the assets taken over;

and paragraph (b) of that subsection shall apply for determining the value of the assets referred to in paragraph (b) above as it applies in relation to the assets taken over.

PART II

(6) For the purposes of subsections (3) and (5) above and of any determination in accordance with those subsections—

(a) the assets treated as employed in or appropriated to a water enterprise carried on by a company holding an appointment under this Chapter, a statutory water company within the meaning of the 1973 Act or a water authority shall include all the assets for the time being of that company or authority;

(b) every water enterprise any of whose assets fall to be disregarded as mentioned in subsection (5)(b) above shall be treated as belonging to the person making the take over;

(c) the enterprises mentioned in paragraph (b) above shall be treated as separate enterprises in so far as they are carried on by different companies holding appointments under this Chapter or, in relation to any time before the transfer date, by different statutory water companies; and

1973 c. 41.

(d) subsections (3) and (4) of section 67 of the Fair Trading Act 1973 (assets treated as appropriated to an enterprise and mergers over a period) shall apply as they apply for the purposes of, and of any determination in accordance with, subsection (2) of that section.

(7) The Secretary of State shall not make a reference under this section in relation to the merger of any two or more enterprises, or in relation to any arrangements which will or may result in such a merger, if—

(a) the merger of those enterprises has been; or

(b) arrangements that might result in the merger of those enterprises have been,

the subject of a merger reference made before the passing of this Act under Part V of the Fair Trading Act 1973.

(8) Nothing in this section shall prejudice any power of the Secretary of State, in a case in which he is not required to make a reference under this section, to make a merger reference under Part V of the Fair Trading Act 1973 in respect of any actual or prospective merger of two or more water enterprises.

(9) In this section and section 30 below—

(a) "enterprise" has the meaning given for the purposes of sections 64 to 77 of the Fair Trading Act 1973 by section 63(2) of that Act; and

(b) references, in relation to any two or more enterprises, to the merger of those enterprises are references to those enterprises ceasing, within the meaning of Part V of that Act, to be distinct enterprises;

and sections 66 and 66A of that Act (time at which enterprises cease to be distinct) shall have effect for the purposes of this section and section 30 below as they have effect for the purposes of that Part.

(10) If the Secretary of State considers that it is appropriate for subsection (3) above to have effect with a reference in paragraph (b) to a different amount, or for the condition set out in that paragraph to be modified in any other respect, he may, in relation to mergers after the coming into force of the regulations, by regulations make such modifications of that paragraph and, for that purpose, of the other provisions of this section as may be prescribed.

PART II
References under section 29.
1973 c. 41.

30.—(1) Subject to subsections (2) to (5) below, the Fair Trading Act 1973 shall have the effect in relation to any reference under section 29 above as if—

(a) any such merger of two or more water enterprises as is required to be the subject of such a reference were a merger situation qualifying for investigation; and

(b) a reference under that section were made under section 64 of that Act or, as the case may be, under section 75 of that Act (references in anticipation of a merger).

(2) Nothing in subsection (1) above shall have the effect in relation to any reference under section 29 above of applying—

(a) so much of Part V of the Fair Trading Act 1973 as requires the Monopolies Commission to consider any of the matters set out in subsection (1) of section 64 of that Act; or

(b) the provisions of sections 69(2) to (4) and 75(3) of that Act (power to restrict matters referred).

(3) In determining on a reference under section 29 above whether any matter operates, or may be expected to operate, against the public interest the Monopolies Commission—

(a) shall have regard to the desirability of giving effect to the principle that the number of water enterprises which are under independent control should not be reduced so as to prejudice the Director's ability, in carrying out his functions by virtue of this Act, to make comparisons between different such water enterprises; and

(b) shall have regard to the desirability of achieving any other purpose so far only as they are satisfied—

(i) that that other purpose can be achieved in a manner that does not conflict with that principle; or

(ii) that the achievement of that other purpose is of substantially greater significance in relation to the public interest than that principle and cannot be brought about except in a manner that conflicts with that principle.

(4) No order shall be made under Part V of the Fair Trading Act 1973 in consequence of any merger reference made under section 29 above in respect of an actual merger unless the reference was made within the appropriate time limit; and if on such a reference the Monopolies Commission are satisfied that the reference was not made within that time limit their report on the reference shall state that fact and nothing else.

(5) For the purposes of subsection (4) above the appropriate time limit is—

(a) in the case of a reference in respect of a merger which took place before the passing of this Act, the period of six months beginning with the day on which this Act is passed; and

(b) in any other case of a merger which has taken place before the reference, the period of six months beginning with whichever is the later of—

(i) the day on which the merger took place; and

PART II

(ii) the day on which the material facts about the transactions which resulted in the merger first came to the notice of the Secretary of State or the Director General of Fair Trading or were made public within the meaning of section 64 of the Fair Trading Act 1973.

1973 c. 41.

(6) In this section "water enterprise" has the same meaning as in section 29 above; and the reference to the number of water enterprises under independent control is a reference to the number of water enterprises there would be if two or more water enterprises counted as one enterprise wherever they would be treated for the purposes of Part V of the Fair Trading Act 1973 as having ceased to be distinct enterprises.

The Director's register

The Director's register.

31.—(1) The Director shall, at such premises and in such form as he may determine, maintain a register for the purposes of this Chapter.

(2) Subject to any direction given under subsection (3) below, the Director shall cause to be entered in the register the provisions of—

(a) every appointment under this Chapter, every termination or transfer of any such appointment, every variation of the area for which any company holds any such appointment and every modification of the conditions of any such appointment;

(b) every direction, consent or determination given or made under any such appointment by the Secretary of State, the Monopolies Commission or the Director himself;

(c) every final order made under section 20 above, every provisional order made or confirmed under that section, every revocation of such a final or provisional order and every notice under subsection (6) of that section;

(d) every undertaking given to and accepted by the Secretary of State or the Director for the purposes of subsection (5)(b) of that section; and

(e) every special administration order and every discharge of such an order.

(3) If it appears to the Secretary of State that the entry of any provision in the register would be against the public interest, he may direct the Director not to enter that provision in the register; and the Director shall comply with any such direction.

(4) The contents of the register shall be available for inspection by the public at such times and subject to the payment of such charges as may be specified in an order made by the Secretary of State.

(5) Any person may, on the payment of such fee as may be specified in an order so made, require the Director to supply him with a copy of, or extract from, the contents of any part of the register, being a copy or extract which is certified by the Director to be a true copy or extract.

(6) The power to make an order under subsection (4) or (5) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

(7) Any sums received by the Director under this section shall be paid into the Consolidated Fund.

(8) In this section "special administration order" means an order under section 23 above (whether made by virtue of that section or section 24 above).

Information and reports

Duty of undertakers to furnish information to the Secretary of State.

32.—(1) It shall be the duty of a company holding an appointment under this Chapter and, in relation to any time before the transfer date, of any statutory water company within the meaning of the 1973 Act to furnish the Secretary of State with all such information relating to any matter which—

(a) is connected with, or with any proposals relating to, the carrying out by that company of the functions of a water undertaker or sewerage undertaker; or

(b) is material to the carrying out by the Secretary of State of any of his functions under this Act,

as the Secretary of State may reasonably require.

(2) Information required under this section shall be furnished in such form and manner, and be accompanied or supplemented by such explanations, as the Secretary of State may reasonably require.

(3) The information which a company may be required to furnish to the Secretary of State under this section shall include information which, although it is not in the possession of that company or would not otherwise come into the possession of that company, is information which it is reasonable to require that company to obtain.

(4) A requirement for the purposes of this section shall be contained in a direction which—

(a) may describe the information to be furnished in such manner as the Secretary of State considers appropriate;

(b) may require the information to be furnished on a particular occasion, in particular circumstances or from time to time; and

(c) may be given to a particular company, to companies of a particular description or to all the companies holding appointments under this Chapter.

(5) The obligations of a water undertaker or sewerage undertaker under this section shall be enforceable under section 20 above by the Secretary of State.

Power to require information etc. for enforcement purposes.

33.—(1) Where it appears to the Secretary of State or the Director that a company which holds an appointment under this Chapter may be contravening, or may have contravened—

(a) any condition of its appointment; or

(b) any statutory or other requirement enforceable under section 20 above,

he may, for any purpose connected with such of his powers under sections 20 to 23 above as are exercisable in relation to that matter, serve a notice under subsection (2) below on any person.

PART II

(2) A notice under this subsection is a notice signed by the Secretary of State or the Director and—

(a) requiring the person on whom it is served to produce, at a time and place specified in the notice, to the Secretary of State or the Director or to any person appointed by the Secretary of State or the Director for the purpose, any documents which are specified or described in the notice and are in that person's custody or under his control; or

(b) requiring that person, if he is carrying on a business, to furnish, at the time and place and in the form and manner specified in the notice, the Secretary of State or the Director with such information as may be specified or described in the notice.

(3) No person shall be required under this section to produce any documents which he could not be compelled to produce in civil proceedings in the High Court or, in complying with any requirement for the furnishing of information, to give any information which he could not be compelled to give in evidence in any such proceedings.

(4) A person who, without reasonable excuse, fails to do anything required of him by a notice under subsection (2) above shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.

(5) A person who intentionally alters, suppresses or destroys any document which he has been required by any notice under subsection (2) above to produce shall be guilty of an offence and liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum;

(b) on conviction on indictment, to a fine.

(6) If a person makes default in complying with a notice under subsection (2) above, the High Court may, on the application of the Secretary of State or the Director, make such order as the Court thinks fit for requiring the default to be made good; and any such order may provide that all the costs or expenses of and incidental to the application shall be borne by the person in default or by any officers of a company or other association who are responsible for its default.

(7) Nothing in this section shall be construed as restricting any power of the Secretary of State or the Director under section 32 above or the conditions of an appointment under this Chapter to require a company holding such an appointment to produce any document to him or to furnish him with any information.

Publication of information and advice.

34.—(1) The Secretary of State may arrange for the publication, in such form and in such manner as he considers appropriate, of such information relating to any matter which is connected with the carrying out by a company holding an appointment under this Chapter of the functions of a water undertaker or sewerage undertaker as it may appear to him to be in the public interest to publish.

(2) The Director may arrange for the publication, in such form and in such manner as he considers appropriate, of such information and advice as it may appear to him to be expedient to give to any customer or potential customer of a company holding an appointment under this Chapter.

(3) In arranging for the publication of any such information or advice the Secretary of State or the Director shall have regard to the need for excluding, so far as that is practicable—

(a) any matter which relates to the affairs of an individual, where the publication of that matter would or might, in the opinion of the Secretary of State or (as the case may be) of the Director, seriously and prejudicially affect the interests of that individual; and

(b) any matter which relates specifically to the affairs of a particular body of persons, whether corporate or unincorporate, where publication of that matter would or might, in the opinion of the Secretary of State or (as the case may be) of the Director, seriously and prejudicially affect the interests of that body.

Reports by Director.

35.—(1) The Director shall, as soon as practicable after the end of the year 1989 and of each subsequent calendar year, make to the Secretary of State a report on—

(a) his activities during that year; and

(b) the Monopolies Commission's activities during that year so far as relating to references made by him.

(2) Every such report shall—

(a) include a general survey of developments, during the year to which it relates, in respect of matters falling within the scope of the Director's functions; and

(b) set out any general directions given to the Director during that year under section 26(3) above.

(3) The Secretary of State shall lay a copy of every report made by the Director under subsection (1) above before each House of Parliament and shall arrange for copies of every such report to be published in such manner as he considers appropriate.

(4) The Director may also prepare such other reports as appear to him to be expedient with respect to any matters falling within the scope of his functions.

(5) The Director may arrange for copies of any report prepared under subsection (4) above to be published in such manner as he considers appropriate.

(6) In making or preparing any report under this section the Director shall have regard to the need for excluding, so far as that is practicable, the matters specified in section 34(3)(a) and (b) above.

Reports by customer service committees.

36.—(1) A customer service committee —

(a) shall prepare a report on any such matter as the Director may require; and

(b) may prepare a report concerning any matter which appears to the customer service committee to affect the interests of the customers or potential customers of a company allocated to the committee,

and, as soon as reasonably practicable after preparing a report under this subsection, a customer service committee shall send a copy of the report to the Director.

PART II

(2) As soon as reasonably practicable after the end of each financial year, a customer service committee shall prepare a report on its activities during that year and shall send a copy of that report to the Director.

(3) The Director may arrange for any report which has been sent to him by virtue of this section to be published in such manner as he considers appropriate.

(4) In publishing any report under this section the Director shall have regard to the need for excluding, so far as that is practicable, the matters specified in section 34(3)(a) and (b) above.

CHAPTER II

WATER SUPPLY

General duties of water undertakers

General duty with respect to water supply.

37.—(1) It shall be the duty of every water undertaker to develop and maintain an efficient and economical system of water supply within its area and to ensure that all such arrangements have been made—

(a) for providing supplies of water to premises in that area and for making such supplies available to persons who demand them; and

(b) for maintaining, improving and extending the water undertaker's water mains and other pipes,

as are necessary for securing that the undertaker is and continues to be able to meet its obligations under this Chapter.

(2) The duty of a water undertaker under this section shall be enforceable under section 20 above by the Secretary of State or, with the consent of or in accordance with a general authorisation given by the Secretary of State, by the Director.

Standards of performance in connection with water supply.

38.—(1) For the purpose—

(a) of facilitating the determination of the extent to which breaches of the obligations imposed by the following provisions of this Chapter are to amount to breaches of the duty imposed by section 37 above; or

(b) of supplementing that duty by establishing overall standards of performance in relation to that duty,

the Secretary of State may by regulations provide for contraventions of such requirements as may be prescribed to be treated for the purposes of this Act as breaches of that duty.

(2) The Secretary of State may by regulations prescribe such standards of performance in connection with the provision of supplies of water as, in his opinion, ought to be achieved in individual cases; and such regulations may provide that if a water undertaker fails to meet a prescribed standard it shall pay such amount as may be prescribed to any person who is affected by the failure and is of a prescribed description.

(3) Without prejudice to the generality of the power conferred by subsection (2) above, regulations under that subsection may—

(a) include in a standard of performance a requirement for a water undertaker, in prescribed circumstances, to inform a person of his rights by virtue of any such regulations;

(b) provide for any dispute under the regulations to be referred by either party to the dispute to the Director;

(c) make provision for the procedure to be followed in connection with any such reference and for the Director's determination on such a reference to be enforceable in such manner as may be prescribed;

(d) prescribe circumstances in which a water undertaker is to be exempted from requirements of the regulations.

(4) Subject to subsection (5) below, the Secretary of State shall not make any regulations under subsection (1) or (2) above unless—

(a) the Director has made a written application to the Secretary of State which—

(i) sets out draft provisions proposed by the Director for inclusion in such regulations;

(ii) specifies the water undertaker or undertakers in relation to which it is proposed those provisions should apply; and

(iii) summarises the Director's reasons for his proposals;

(b) the Secretary of State is satisfied that a copy of the application has been served by the Director on every water undertaker specified in the application;

(c) the regulations contain only the provisions proposed by the Director or those provisions with such modifications as the Secretary of State considers appropriate;

(d) the only modifications of the Director's proposals to which effect is given by the regulations are modifications the proposal to make which has been notified to the Director and to any water undertaker appearing to the Secretary of State to be likely to be affected by the modifications;

(e) such period as the Secretary of State considers appropriate has been allowed for the making by the Director and by any affected water undertaker of representations or objections with respect to the Director's proposals and any modifications proposed by the Secretary of State; and

(f) the Secretary of State has considered both the Director's reasons for his proposals and every representation or objection which has been duly made with respect to those proposals, or any proposed modifications of those proposals, and has not been withdrawn.

(5) Subsection (4) above shall not apply in relation to any regulations made under subsection (2) above before the transfer date.

(6) The obligations imposed on a water undertaker by the following provisions of this Chapter and the remedies available in respect of contraventions of those obligations shall be in addition to any duty imposed or remedy available by virtue of any provision of this section or section 37 above and shall not be in any way qualified by any such provision.

PART II

Bulk supplies of water

Bulk supply between water undertakers.

39.—(1) Where, on the application of a water undertaker—

(a) it appears to the Director that it is necessary or expedient for the purposes of this Chapter that another water undertaker should give a supply of water in bulk to the applicant; and

(b) he is satisfied that the giving and taking of such a supply cannot be secured by agreement,

the Director may by order require the undertakers to give and to take such a supply for such period and on such terms and conditions as may be provided in the order.

(2) An order under this section shall have effect as an agreement between the water undertakers in question but may be varied or revoked by a subsequent order made by the Director on the application of either of those undertakers, as well as by agreement between the undertakers.

(3) The Director shall not make an order under this section which he considers affects the carrying out by the Authority of any of its functions unless he has first consulted the Authority.

(4) In determining what provision to make by an order under this section in respect of the giving of any supply by a water undertaker the Director shall have regard to the desirability of the undertaker's recovering the expenses of complying with its obligations under this section and of securing a reasonable return on its capital.

Duties to provide supplies etc.

Requisitioning of water mains.

40.—(1) It shall be the duty of a water undertaker to provide a water main to be used for providing such supplies of water to premises in a particular locality in its area as (so far as those premises are concerned) are sufficient for domestic purposes, if—

(a) the undertaker is required to provide the main by a notice served on the undertaker by one or more of the persons who under subsection (2) below are entitled to require the provision of the main for that locality;

(b) the premises in that locality to which those supplies would be provided by means of that main are—

(i) premises consisting in buildings or parts of buildings; or

(ii) premises which will so consist when proposals made by any person for the erection of buildings or parts of buildings are carried out;

and

(c) the conditions specified in section 41 below are satisfied in relation to that requirement.

(2) Each of the following persons shall be entitled to require the provision of a water main for any locality, that is to say—

(a) the owner of any premises in that locality;

(b) the occupier of any premises in that locality;

(c) any local authority within whose area the whole or any part of that locality is situated;

(d) where the whole or any part of that locality is situated in a new town, within the meaning of the New Towns Act 1981—

1981 c. 64.

(i) the Commission for the New Towns; and

(ii) the Development Board for Rural Wales or the development corporation for the new town, according to whether or not the new town is situated within the area for which that Board is for the time being responsible;

and

(e) where the whole or any part of that locality is situated within an area designated as an urban development area under Part XVI of the Local Government, Planning and Land Act 1980, the urban development corporation. 1980 c. 65.

(3) A water undertaker shall not be in breach of a duty imposed by this section in relation to any locality unless—

(a) the period of three months beginning with the relevant day has expired; and

(b) the water undertaker has not, before the end of that period, so laid the water main to be provided as to enable service pipes to premises in that locality to connect with the main at the places determined under subsection (4) below;

and for the purposes of this subsection the period mentioned in paragraph (a) above may be extended by agreement between the undertaker and the person or persons who required the provision of the water main or, where there is a dispute as to whether the period should be extended, by an arbitrator on a reference under subsection (5) below.

(4) The places mentioned in subsection (3)(b) above shall be determined by agreement between the water undertaker and the person or persons who required the provision of the water main or, in default of agreement, shall be such places as are determined by an arbitrator, on a reference under subsection (5) below, to be the places at which it is reasonable, in all the circumstances, for service pipes to premises in the locality in question to connect with the water main.

(5) A reference for the purposes of subsection (3) or (4) above shall be to a single arbitrator appointed by agreement between the undertaker and the person or persons who required the provision of the water main or, in default of agreement, by the President of the Institution of Civil Engineers.

(6) The duty of a water undertaker under this section to provide a water main shall be owed to the person who requires the provision of the main or, as the case may be, to each of the persons who joins in doing so; and any breach by a water undertaker of any such duty which causes any person to whom the duty is owed to sustain loss or damage shall be actionable at the suit of that person.

(7) In any proceedings brought against a water undertaker in pursuance of subsection (6) above in respect of a breach of duty which has caused any person to sustain loss or damage it shall be a defence for the undertaker to show that it took all reasonable steps and exercised all due diligence to avoid the breach.

(8) In this section—

"local authority", in relation to the Inner Temple and the Middle Temple, includes, respectively, the Sub-Treasurer of the Inner Temple and the Under-Treasurer of the Middle Temple;

PART II

"relevant day", in relation to a requirement to provide a water main for any locality, means the day after whichever is the later of the following, that is to say—

(a) the day on which the conditions specified in section 41 below are satisfied in relation to the requirement; and

(b) the day on which the places where service pipes to premises in that locality will connect with the main are determined under subsection (4) above.

Financial conditions for water main requisition.

41.—(1) The conditions mentioned in section 40(1)(c) above are satisfied in relation to a requirement for the provision of a water main by a water undertaker if—

(a) such undertakings as the undertaker may have reasonably required in accordance with subsection (2) below have been given by the person or persons who have required the provision of the main; and

(b) such security as the undertaker may have reasonably required has been provided for the discharge of any obligations imposed by those undertakings on any person who—

(i) by virtue of section 40(2)(a) or (b) above required, or joined in requiring, the provision of the main; and

(ii) is not a public authority.

(2) The undertakings which a water undertaker may require for the purposes of subsection (1) above in respect of any water main are undertakings which bind the person or persons mentioned in that subsection (in the case of two or more persons, either jointly and severally or with liability to pay apportioned in such manner as those persons may agree) to pay to the undertaker, in respect of each of the twelve years following the provision of the main, an amount not exceeding the relevant deficit (if any) for that year on that main.

(3) For the purposes of this section the relevant deficit for any year on a water main is the amount (if any) by which the water charges payable for the use during that year of that main are exceeded by the annual borrowing costs of a loan of the amount required for the provision of that main.

(4) The annual borrowing costs of a loan of the amount required for the provision of a water main is the aggregate amount which would fall to be paid in any year by way of payments of interest and repayments of capital if an amount equal to so much of the costs reasonably incurred in providing that main as were not incurred in the provision of additional capacity had been borrowed, by the water undertaker providing the main, on terms—

(a) requiring interest to be paid and capital to be repaid in twelve equal annual instalments; and

(b) providing for the amount of the interest to be calculated at such rate, and in accordance with such other provision, as may have been determined either by the undertaker with the approval of the Director or, in default of such a determination, by the Director.

(5) The costs reasonably incurred in providing a water main ("the new main") shall include—

(a) the costs reasonably incurred in providing such other water mains and such tanks, service reservoirs and pumping stations as it is necessary to provide in consequence of the provision of the new main; and

(b) such proportion (if any) as is reasonable of the costs reasonably incurred in providing any such additional capacity in an earlier water main as falls to be used in consequence of the provision of the new main;

and in this subsection "earlier water main", in relation to the new main, means any water main which has been provided in the period of twelve years immediately before the provision of the new main and was so provided in pursuance of a requirement under section 40 above, under the provisions of section 36 or 37 of the 1945 Act or of section 29 of Schedule 3 to that Act (water main requisitions) or under any local statutory provision corresponding to section 40 above or to any of those provisions of the 1945 Act.

(6) Any reference in this section to the provision of additional capacity in a water main provided in pursuance of a requirement under any enactment is a reference to such works carried out or other things done in connection with the provision of that main as are carried out or done for the purpose of enabling that main to be used for purposes in addition to those for which it is necessary to provide the main in order to comply with the requirement.

(7) For the purposes of this section references to the water charges payable for the use during any year of any main provided by a water undertaker are references to so much of the aggregate of any charges payable to the water undertaker in respect of services provided in the course of that year as represents charges which—

(a) have been imposed by the undertaker in relation to premises which are connected with that main; and

(b) are reasonably attributable to the provision of a supply of water (whether or not for domestic purposes) to those premises by means of that main.

(8) Where for the purposes of subsection (1)(b) above any sums have been deposited with a water undertaker by way of security for the discharge of any obligation, the undertaker shall pay interest at such rate as may be determined either—

(a) by the undertaker with the approval of the Director; or

(b) in default of a determination under paragraph (a) above, by the Director,

on every sum of 50p so deposited for every three months during which it remains in the hands of the undertaker.

(9) An approval or determination given or made by the Director for the purposes of subsection (4) or (8) above—

(a) may be given or made in relation to the provision of a particular water main, in relation to the provision of mains of a particular description or in relation to the provision of water mains generally; and

PART II

(b) may be revoked at any time except, in the case of an approval or determination for the purposes of subsection (4) above, in relation to a water main that has already been provided.

(10) Any dispute between a water undertaker and any other person as to—

(a) the undertakings or security required by the undertaker for the purposes of this section; or

(b) the amount required to be paid in pursuance of any such undertaking,

shall be referred to the arbitration of a single arbitrator appointed by agreement between the undertaker and that person or, in default of agreement, by the President of the Institution of Civil Engineers.

Duty to make connections to water mains.

42.—(1) This section applies where the owner or occupier of any premises which are situated in the area of a water undertaker and are premises which consist in the whole or any part of a building or premises on which any person is proposing to erect any building or part of a building serves a notice on the undertaker which—

(a) requires the undertaker, for the purpose of providing a supply of water for domestic purposes to that building or part, to connect a service pipe to those premises with one of the undertaker's water mains; and

(b) is accompanied or supplemented by all such information as the undertaker may reasonably require and, if it has effect so that a requirement is imposed on the undertaker by virtue of subsection (3)(c) below, sets out the matters that have given rise to the imposition of that requirement;

and this section applies where a notice has been served for the purposes of this section whether or not the service pipe to which the notice relates has been laid when the notice is served.

(2) Subject to the following provisions of this section and to section 44 below, it shall be the duty of a water undertaker on whom a notice is served for the purposes of this section, at the expense of the person serving the notice, to make the required connection if—

(a) the main with which the service pipe is required to be connected is neither a trunk main nor a water main which is or is to be used solely for the purpose of supplying water otherwise than for domestic purposes; and

(b) such conditions as the undertaker may have imposed under section 43 below have been satisfied.

(3) Where a water undertaker is required to make a connection under subsection (2) above, it shall be the duty of the undertaker, at the expense of the person serving the notice, to carry out such of the following works as need to be carried out before the connection in question can be made, that is to say—

(a) to lay so much of the service pipe as it is necessary, for the purpose of making a connection with the main, to lay in a street;

(b) in a case where—

(i) the water main in question is situated in a street;

(ii) the premises consisting in the building or part of a building in question together with any land occupied with it abut on the part of the street where the main is situated; and

(iii) the service pipe to those premises will enter the premises otherwise than through an outer wall of a building abutting on the street and will have a stopcock fitted by the undertaker in the premises,

to lay so much of the service pipe as it is necessary for that purpose to lay in land between the boundary of the street and that stopcock;

(c) in a case where the notice for the purposes of this section is served in compliance with a requirement imposed by a notice served by a local authority under section 57 below, to lay so much of the service pipe as it is necessary for that purpose to lay in land owned or occupied by a person who is certified by that authority—

(i) to have unreasonably refused his consent to the laying of the service pipe; or

(ii) to have sought to make the giving of his consent subject to unreasonable conditions;

and it shall be the duty of any water undertaker making a connection under this section to ensure that a stopcock belonging to the undertaker is fitted to the service pipe which is connected.

(4) Where a water main is alongside a street and within eighteen metres of the middle of that street, subsection (3) above shall have effect in relation to the laying, for the purpose of making a connection with that main, of a service pipe to any premises as if the street included so much of the land between the main and the boundary of the street as is not comprised in those premises or in any land occupied with those premises.

(5) Subject to section 44(6) below, a water undertaker may comply with any duty under this section to lay a service pipe by laying a water main instead; but nothing in this section shall impose any duty on a water undertaker—

(a) to lay a water main where it has no power to lay a service pipe; or

(b) to connect a service pipe to any premises with a service pipe to other premises.

(6) Where a notice under this section is served in respect of any premises before the laying of so much of the service pipe to those premises as falls to be laid otherwise than by the water undertaker under subsection (3) above, the duties of the undertaker under this section shall not arise by virtue of that notice until the person serving the notice, having obtained the necessary consents from the owners and occupiers of any affected land, has, at his own expense, laid so much of the service pipe as it is necessary, for the purpose of making the connection, to lay otherwise than in a street or in land mentioned in subsection (3)(b) or (c) or (4) above.

Conditions of connection to water main. 1986 c. 45.

43.—(1) Subject to the following provisions of this section and without prejudice to the provisions of sections 233 and 372 of the Insolvency Act 1986 (conditions of supply after insolvency), where the owner or occupier of any premises serves a notice on a water undertaker under section 42

PART II above, the undertaker may make any one or more of the following a condition of complying with the duties to which it is subject by virtue of that notice, that is to say—

(a) that such security as the undertaker may reasonably require has been provided for the discharge of any obligations imposed by virtue of section 44(5) below on the person serving the notice;

(b) in a case where the connection required by the notice is necessary as a consequence of a disconnection made by reason of any person's failure to pay any charges, that the person serving the notice has paid any amount owed by him to the undertaker in respect of a supply of water to those premises or in respect of expenses incurred in the making of the disconnection;

(c) that a meter for use in determining the amount of any charges which have been or may be fixed in relation to those premises by reference to volume has been installed and connected either by the undertaker or in accordance with specifications approved by the undertaker;

(d) that so much of the service pipe to the premises as does not belong to, or fall to be laid by, the undertaker and the plumbing of the premises comply with specifications approved by the undertaker for the purpose of ensuring that it will be reasonably practicable for such a meter to be so installed and connected;

(e) that a separate service pipe has been provided to each house or building on the premises or, where different parts of a building on the premises are separately occupied, to each of those parts or to any of them;

(f) that such a requirement as may be imposed under subsection (5) of section 51 below has been complied with or, in a case where such a requirement could be imposed but for there already being such a cistern as is mentioned in that subsection, that the cistern and its float-operated valve are in good repair;

(g) that there is no contravention in relation to the water fittings used or to be used in connection with the supply of water to those premises, or with the use of water in those premises, of such of the requirements of regulations under section 62 below as are prescribed for the purposes of this paragraph; and

(h) that every such step has been taken as has been specified in any notice served under section 63 below in relation to those premises on any person.

(2) A condition shall not be imposed by an undertaker under this section on a person who has served a notice under section 42 above except by a counter-notice served on that person before the end of the period of fourteen days beginning with the day after the service of the notice under that section.

(3) Where for the purposes of subsection (1)(a) above any sums have been deposited with a water undertaker by way of security for the discharge of any obligation, the undertaker shall pay interest at such rate as may be determined either—

(a) by the undertaker with the approval of the Director; or

(b) in default of a determination under paragraph (a) above, by the Director,

on every sum of 50p so deposited for every three months during which it remains in the hands of the undertaker; and an approval or determination by the Director for the purposes of this subsection may be given or made in relation to a particular case or description of cases or generally and may be revoked at any time.

(4) The power conferred on a water undertaker by virtue of paragraphs (c) and (d) of subsection (1) above shall be exercisable in relation to any premises even if the undertaker has no immediate intention, when the power is exercised, of fixing charges in relation to those premises by reference to volume, but shall not be exercisable so as to require the alteration or removal of any pipe laid or plumbing installed before 1st April 1989.

(5) Specifications approved by any water undertaker for the purposes of either of the said paragraphs (c) and (d) may be approved in relation to particular premises or, by being published in such manner as the undertaker considers appropriate, in relation to premises generally or to any description of premises.

(6) Any dispute between a water undertaker and any other person as to the terms of any condition imposed by virtue of either of the said paragraphs (c) and (d) shall be referred to the arbitration of a single arbitrator appointed by agreement between the undertaker and that person or, in default of agreement, by the Secretary of State.

(7) Where the effect of a notice served on a water undertaker under section 42 above in respect of any house is to require a service pipe to that house to be connected with a water main with which it has previously been connected, the undertaker shall not be entitled to make the reconnection subject to any such condition as is mentioned in paragraph (e) of subsection (1) above unless the undertaker would have been entitled under section 50 below to require the provision of a separate service pipe if the reconnection had already been made.

(8) In this section "meter" means any apparatus for measuring or showing the volume of water supplied to, or of effluent discharged from, any premises; and any reference in this section to the fixing of charges in relation to any premises by reference to volume is a reference to the fixing of those charges by reference to the volume of water supplied to those premises, to the volume of effluent discharged from those premises, to both of those factors or to one or both of those factors taken together with other factors.

Enforcement of obligations under section 42.

44.—(1) Any duty imposed on a water undertaker by virtue of a notice under section 42 above shall be owed to the person who served the notice; and any breach by a water undertaker of any such duty which causes the person to whom the duty is owed to sustain loss or damage shall be actionable at the suit of that person.

(2) A water undertaker shall not be in breach of a duty imposed by virtue of a notice under section 42 above unless—

(a) in the case of a duty to lay any service pipe or to connect any service pipe to which such a duty relates, it has failed to lay that pipe or to make that connection as soon as reasonably practicable after the relevant day;

PART II

(b) in the case of a duty to connect a service pipe the whole of which has already been laid when the notice is served on the undertaker, it has failed to make the connection before the end of the period of fourteen days beginning with the relevant day.

(3) In any case in which a water undertaker is subject to any such duty as is mentioned in subsection (2)(a) above, it shall be presumed, unless the contrary is shown in relation to that case, that the period of twenty-one days beginning with the relevant day is the period within which it is reasonably practicable for a water undertaker—

(a) to lay so much of any service pipe; and

(b) to fit such stopcock,

as it is necessary to lay or fit in that case for connecting a water main in a street with a service pipe at the boundary of any premises which abut on the part of the street where the main is situated.

(4) In any proceedings brought against a water undertaker in pursuance of subsection (1) above in respect of a breach of duty which has caused any person to sustain loss or damage it shall be a defence for the undertaker to show that it took all reasonable steps and exercised all due diligence to avoid the breach.

(5) Where a water undertaker carries out any works which it is its duty to carry out under section 42 above at the expense of a person who has served a notice on the undertaker, the undertaker shall be entitled to recover from that person an amount equal to the expenses reasonably incurred by the undertaker in carrying out the works.

(6) Where a water undertaker exercises its power under section 42(5) above to lay a water main instead of a service pipe—

(a) paragraph (a) of subsection (2) above shall have effect as if any additional time reasonably required by reason of the laying of the main instead of the service pipe were included in the time allowed by that paragraph for the laying of the service pipe; but

(b) the expenses recoverable by virtue of subsection (5) above shall not exceed such amount as it would have been reasonable for the undertaker to have incurred in laying a service pipe instead of the main.

(7) In this section "the relevant day", in relation to a duty imposed on a water undertaker by virtue of a notice under section 42 above, means the day after whichever is the latest of the following days, that is to say—

(a) the day on which the notice was served on the undertaker;

(b) in a case where it is necessary for the person serving the notice to lay any service pipe after serving the notice, the day on which a notice stating that the pipe has been laid is served on the undertaker;

(c) the day on which all such conditions are satisfied as the undertaker has, under section 43 above, made conditions of its compliance with that duty.

Duty to supply water for domestic purposes.

45.—(1) This section applies to any premises which consist in the whole or any part of a building and which are connected by means of a service pipe to a water main if—

(a) that pipe was first connected with that main in pursuance of a notice served under section 42 above in respect of those premises;

(b) that pipe was the means by which a supply of water from that main was being supplied to those premises for domestic purposes immediately before the transfer date;

(c) the condition specified in paragraph (b) above would be satisfied in relation to the premises if any service pipe to those premises had not been temporarily disconnected for the purposes of any necessary works which were being carried out immediately before the transfer date; or

(d) the condition specified in any of the preceding paragraphs—

(i) has been satisfied in relation to those premises at any time on or after the transfer date; and

(ii) would continue to be satisfied in relation to those premises had not the whole or any part of a service pipe to those premises, or the main with which such a pipe had been connected, been renewed (on one or more previous occasions).

(2) Subject to the following provisions of this section, a water undertaker shall owe a domestic supply duty in relation to any premises to which this section applies and which are situated in the area of the undertaker if—

(a) a demand for a supply of water for domestic purposes has been made to the undertaker in respect of those premises—

(i) by the person who was the occupier of the premises at the time when the demand was made; or

(ii) by any person who was the owner of the premises at that time and agreed with the undertaker to pay all the undertaker's charges in respect of the supply demanded;

or

(b) those premises are premises to which this section applies by reason of a supply of water provided before the transfer date,

and there has been no interruption of the domestic supply duty in relation to those premises since that demand was made or, as the case may be, since the beginning of the transfer date.

(3) Where a water undertaker owes a domestic supply duty in relation to any premises, it shall be the duty of that undertaker, until there is an interruption of that duty—

(a) to provide to those premises such a supply of water as (so far as those premises are concerned) is sufficient for domestic purposes; and

(b) to maintain the connection between the undertaker's water main and the service pipe by which that supply is provided to those premises.

(4) For the purposes of this section—

(a) there is an interruption of the domestic supply duty owed by a water undertaker in relation to any premises if that supply is cut off by anything done by the undertaker in exercise of any power

PART II

conferred on the undertaker by section 49 or 63 below, other than a disconnection or cutting off for the purposes of the carrying out of any necessary works; and

(b) a domestic supply duty owed in relation to any premises shall not be treated for the purposes of this section as interrupted by reason only of a change of the occupier or owner of the premises.

(5) Nothing in this section shall impose any duty on a water undertaker—

(a) to provide a supply of water directly from, or maintain any connection with, a water main which is a trunk main or is or is to be used solely for the purpose of supplying water otherwise than for domestic purposes; or

(b) to provide a supply of water to any premises, or maintain the connection between a water main and a service pipe to any premises, during any period during which it is reasonable for the supply of water to those premises to be cut off or reduced, or for the pipe to be disconnected, for the purposes of the carrying out of any necessary works.

1986 c. 45.

(6) Without prejudice to the provisions of sections 233 and 372 of the Insolvency Act 1986 (conditions of supply after insolvency), where a demand for the purposes of subsection (2) above has been made to a water undertaker in respect of any premises, the undertaker may make any one or more of the following a condition of providing his first supply of water in compliance with that demand, that is to say—

(a) in a case where the demand is made as a consequence of a supply having been cut off by reason of any person's failure to pay any charges, that the person serving the notice has paid any amount owed by him to the undertaker in respect of a supply of water to those premises or in respect of expenses incurred in cutting off any such supply;

(b) that such a requirement as may be imposed under subsection (5) of section 51 below has been complied with or, in a case where such a requirement could be imposed but for there already being such a cistern as is mentioned in that subsection, that the cistern and its float-operated valve are in good repair;

(c) that there is no contravention in relation to the water fittings used or to be used in connection with the supply of water to those premises, or with the use of water in those premises, of such of the requirements of regulations under section 62 below as are prescribed for the purposes of this paragraph; and

(d) that every such step has been taken as has been specified in any notice served under section 63 below in relation to those premises on any person.

(7) Any duty imposed on a water undertaker under this section to provide a supply of water to any premises, or to maintain a connection between a water main and a service pipe by which such a supply is provided, shall be owed to the consumer; and any breach by a water undertaker of any duty imposed by this section which causes any person to whom the duty is owed to sustain loss or damage shall be actionable at the suit of that person.

(8) In any proceedings brought against a water undertaker in pursuance of subsection (7) above in respect of a breach of duty which has caused any person to sustain loss or damage it shall be a defence for the undertaker to show that it took all reasonable steps and exercised all due diligence to avoid the breach.

Supply of water for non-domestic purposes.

46.—(1) This section applies where the owner or occupier of any premises in the area of a water undertaker requests the undertaker to provide a supply of water to those premises and—

(a) the premises are premises which do not consist in the whole or any part of a building; or

(b) the requested supply is for purposes other than domestic purposes.

(2) Subject to the following provisions of this section and to sections 49 and 63 below, where this section applies, it shall be the duty of the undertaker, in accordance with such terms and conditions as may be determined under this section—

(a) to take any such steps as may be so determined in order to enable the undertaker to provide the requested supply; and

(b) having taken any such steps, to provide that supply.

(3) A water undertaker shall not be required by virtue of this section to provide a new supply to any premises, or to take any steps to enable it to provide such a supply, if—

(a) the provision of that supply or the taking of those steps would—

(i) require the undertaker, in order to meet all its existing obligations to supply water for domestic or other purposes, together with its probable future obligations to supply buildings and parts of buildings with water for domestic purposes, to incur unreasonable expenditure in carrying out works; or

(ii) otherwise put at risk the ability of the undertaker to meet any of the existing or probable future obligations mentioned in sub-paragraph (i) above;

or

(b) there is a contravention in relation to the water fittings used or to be used in connection with the supply of water to those premises, or with the use of water in those premises, of such of the requirements of regulations under section 62 below as are prescribed for the purposes of this paragraph.

1986 c. 45.

(4) Subject to subsection (5) below and without prejudice to the provisions of sections 233 and 372 of the Insolvency Act 1986 (conditions of supply after insolvency), any terms or conditions or other matter which falls to be determined for the purposes of a request made by any person to a water undertaker under subsection (2) above shall be determined by agreement between that person and the water undertaker or, in default of agreement, shall be determined by the Director according to what appears to him to be reasonable; and the Director shall also determine any dispute arising between such a person and a water undertaker by virtue of subsection (3) above.

PART II

(5) The Director may, instead of himself making a determination under subsection (4) above, refer any matter submitted to him for determination under that subsection to the arbitration of such person as he may appoint.

(6) For the purposes of any determination under this section by the Director or any person appointed by him—

(a) it shall be for a water undertaker to show that it should not be required to comply with a request for the purposes of subsection (2) above;

(b) the charges in respect of a supply provided in compliance with such a request shall not be determined by the Director or such a person except in so far as at the time of the request no provision is in force by virtue of a scheme under section 76 below in respect of supplies of the applicable description; and

(c) in so far as charges in respect of such a supply do fall to be determined they shall be determined having regard to the desirability of the undertaker's recovering the expenses of complying with its obligations under this section and of securing a reasonable return on its capital;

and, to the extent that paragraph (b) above excludes any charges from a determination under this section, those charges shall be fixed from time to time by a scheme under the said section 76 but not otherwise.

(7) Where—

(a) a request has been made by any person to a water undertaker for the purposes of subsection (2) above; and

(b) the steps which the undertaker is required to take by virtue of that request include steps for the purpose of obtaining any necessary authority for or agreement to any exercise by the undertaker of any of its powers or to the carrying out by the undertaker of any works,

the failure of the undertaker to acquire the necessary authority or agreement shall not affect any liability of that person, under any term or condition in accordance with which those steps are taken, to re-imburse the undertaker in respect of some or all of the expenses incurred by the undertaker in taking those steps.

(8) Nothing in this section shall impose any duty on a water undertaker to provide a supply of water to any premises during any period during which it is reasonable for the supply of water to those premises to be cut off or reduced for the purposes of the carrying out of any necessary works.

(9) The duty of a water undertaker to supply water under this section at the request of any person and any terms and conditions determined under this section in default of agreement between the undertaker and that person shall have effect as if contained in such an agreement.

Duty to provide a supply of water etc. for fire-fighting.

47.—(1) It shall be the duty of a water undertaker to allow any person to take water for extinguishing fires from any of its water mains or other pipes on which a fire-hydrant is fixed.

(2) Every water undertaker shall, at the request of the fire authority concerned, fix fire-hydrants on its water mains (other than its trunk mains) at such places as may be most convenient for affording a supply of water for extinguishing any fire which may break out within the area of the undertaker.

(3) A water undertaker shall, at the request of the owner or occupier of any factory or place of business, fix a fire-hydrant, to be used for extinguishing fires and not other purposes, at such place on any suitable water main or other pipe of the undertaker as is as near as conveniently possible to that factory or place of business.

(4) It shall be the duty of every water undertaker to keep every fire-hydrant fixed on any of its water mains or other pipes in good working order and, for that purpose, to replace any such hydrant when necessary.

(5) It shall be the duty of a water undertaker to ensure that a fire authority has been supplied by the undertaker with all such keys as the authority may require for the fire-hydrants fixed on the water mains or other pipes of the undertaker.

(6) The expenses incurred by a water undertaker in complying with its obligations under subsections (2) to (5) above shall be borne—

(a) in the case of a hydrant fixed in pursuance of a request made (whether before or after the transfer date) by the owner or occupier of a factory or place of business, by the owner or occupier for the time being of that factory or place, according to whether the person who made the original request did so in his capacity as owner or occupier; and

(b) in any other case, by the fire authority concerned.

(7) Nothing in this section shall require a water undertaker to do anything which it is unable to do by reason of the carrying out of any necessary works.

(8) The obligations of a water undertaker under this section shall be enforceable under section 20 above by the Secretary of State; and, in addition, where a water undertaker is in breach of a duty under this section the undertaker shall be guilty of an offence and liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum;

(b) on conviction on indictment, to a fine.

(9) In any proceedings against any water undertaker for an offence under subsection (8) above it shall be a defence for that undertaker to show that it took all reasonable steps and exercised all due diligence to avoid the commission of the offence.

(10) For the purposes of subsection (3) above a water main or other pipe is suitable, in relation to a factory or place of business, if—

(a) it is situated in a street which is in or near to that factory or place of business; and

(b) it is of sufficient dimensions to carry a hydrant and is not a trunk main.

PART II

(11) In this section—

1961 c. 34. "factory" has the same meaning as in the Factories Act 1961; and

1947 c. 41. "fire authority" has the same meaning as in the Fire Services Act 1947.

Duty to supply water for other public purposes.

48.—(1) A water undertaker shall, at the request of a sewerage undertaker, highway authority or local authority, provide, from such of its pipes as are of an appropriate capacity, a supply of water for cleansing sewers and drains, for cleansing and watering highways or, as the case may be, for supplying any public pumps, baths or wash-houses.

(2) A supply of water provided by a water undertaker under this section shall be provided upon such terms and conditions as may be reasonable.

(3) A water main or other pipe of a water undertaker shall be treated as of an appropriate capacity for the purposes of this section if and only if it has a fire-hydrant fixed on it.

(4) Nothing in this section shall require a water undertaker to do anything which it is unable to do by reason of the carrying out of any necessary works.

(5) The obligations of a water undertaker under this section shall be enforceable under section 20 above by the Director.

Powers to disconnect service pipes and cut off supplies.

49.—(1) Subject to the following provisions of this section and, in the case of a supply provided under section 46 above, to any terms or conditions determined under that section, a water undertaker may disconnect a service pipe which for the purposes of providing a supply of water to any premises is connected with any water main of that undertaker, or may otherwise cut off a supply of water to any premises, if—

(a) it is reasonable for the disconnection to be made, or the supply to be cut off, for the purposes of the carrying out of any necessary works;

(b) the occupier of the premises—

(i) is liable (whether in his capacity as occupier or under any agreement with the undertaker) to pay charges due to the undertaker in respect of the supply of water to those premises; and

(ii) has failed to do so before the end of the period of seven days beginning with the day after he is served with notice requiring him to do so;

or

(c) notice specifying the time after which a supply of water to those premises will no longer be required has been served on the undertaker by a consumer and that time has passed.

(2) The power of a water undertaker by virtue of paragraph (a) of subsection (1) above to cut off a supply of water shall include power to reduce a supply of water; and, except in an emergency or in the case of a reduction which is immaterial, the power of a water undertaker by virtue of that paragraph to cut off or reduce a supply shall be exercisable in

relation to any premises only after the undertaker has served reasonable notice on the consumer of the proposal for the carrying out of the necessary works.

(3) Where a water undertaker exercises its power by virtue of the said paragraph (a) to make any disconnection or to cut off or reduce a supply of water to any premises for the purposes of the carrying out of any necessary works, it shall owe a duty to the consumer to secure—

(a) that those works are carried out with reasonable dispatch; and

(b) that any supply of water to those premises for domestic purposes is interrupted for more than twenty-four hours for the purposes of the carrying out of those works only if an emergency supply has been made available (whether or not in pipes) within a reasonable distance of those premises;

and any breach by a water undertaker of that duty which causes any person to whom it is owed to sustain loss or damage shall be actionable at the suit of that person.

(4) Where a water undertaker has served a notice for the purposes of paragraph (b) of subsection (1) above on a person who, within the period of seven days mentioned in that paragraph, serves a notice on the undertaker stating that he disputes his liability to pay the charges in question, the undertaker shall not exercise his power by virtue of that paragraph in relation to any premises except at a time when that person is the occupier of the premises and—

(a) the undertaker is able to enforce a judgment against that person for the payment of the charges in question; or

(b) that person is in breach of an agreement entered into, since the service of his notice, for the purpose of avoiding or settling proceedings by the undertaker for the recovery of those charges.

(5) A water undertaker which exercises its power by virtue of the said paragraph (b) to disconnect any pipe or otherwise to cut off any supply of water may recover, from the person in respect of whose liability the power is exercised, any expenses reasonably incurred by the undertaker in making the disconnection or in otherwise cutting off the supply.

(6) Where—

(a) a water undertaker has power by virtue of the said paragraph (b) to disconnect any pipe to any premises, or otherwise to cut off any supply to any premises; and

(b) a supply of water is provided to those premises and to other premises wholly or partly by the same service pipe,

the undertaker may exercise that power so as to cut off the supply to those other premises if and only if the same person is the occupier of the premises in relation to which the charges are due and of the other premises.

(7) No person shall be liable to a water undertaker for any expenses incurred by the undertaker in exercising the power conferred on the undertaker by virtue of paragraph (c) of subsection (1) above.

PART II

(8) Where a water undertaker disconnects a service pipe to any inhabited house, or otherwise cuts off a supply of water to such a house, without restoring that supply before the end of the period of twenty-four hours beginning with the time when it is cut off, the undertaker shall, no later than forty-eight hours after that time, serve notice that it has cut off that supply on the local authority in whose area the house is situated.

(9) A water undertaker which —

(a) disconnects a service pipe to any premises, or otherwise cuts off a supply of water to any premises, in a case in which it has no power to do so under this section, section 63 below or any other enactment;

(b) in disconnecting any such pipe or cutting off any such supply fails, without reasonable excuse, to comply with any requirement of this section, that section or, as the case may be, the other enactment in pursuance of which it disconnects the pipe or cuts off the supply; or

(c) fails, without reasonable excuse, to serve a notice on a local authority as required by subsection (8) above,

shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

Power to require separate service pipes.

50.—(1) Subject to the following provisions of this section, a water undertaker may require the provision of a separate service pipe to any premises within its area which—

(a) consist in a house or any other building or part of a building, being, in the case of a part of a building, a part which is separately occupied; and

(b) are already supplied with water by the undertaker but do not have a separate service pipe.

(2) Where the supply of water to two or more houses was provided to those houses before 15th April 1981 wholly or partly by the same service pipe and continues to be so provided, the water undertaker shall not require the provision of separate service pipes to those houses until—

(a) the service pipe, in so far as it belongs to a person other than the undertaker, becomes so defective as to require renewal or is no longer sufficient to meet the requirements of those houses;

(b) a payment in respect of the supply of water to any of those houses remains unpaid after the end of the period for which it is due;

(c) the houses are, by structural alterations to one or more of them, converted into a larger number of houses;

(d) the owner or occupier of any of those houses has interfered with, or allowed another person to interfere with, the existing service pipe and thereby caused the supply of water to any house to be interfered with; or

(e) the undertaker has reasonable grounds for believing that such interference as is mentioned in paragraph (d) above is likely to take place.

(3) If, in the case of any such premises as are described in subsection (1) above, the water undertaker which provides a supply of water to those premises serves notice on the consumer requiring the provision of a separate service pipe and setting out the power of the undertaker under subsection (4) below—

(a) that consumer shall, within three months after the service of the notice, lay so much of the required pipe as the undertaker is not under a duty to lay by virtue of paragraph (b) below;

(b) sections 42 to 44 above shall apply as if that consumer had, by a notice under the said section 42, required the undertaker to connect the separate service pipe to those premises with the undertaker's water main;

(c) that consumer shall be presumed, without prejudice to his power to make further demands and requests—

(i) in so far as those premises were provided before the service of the notice with a supply of water for domestic purposes, to have made a demand for the purposes of section 45 above that such a supply is provided by means of the separate service pipe; and

(ii) in so far as those premises were provided before the service of the notice with a supply of water for other purposes, to have requested the undertaker to provide the same supply by means of that pipe as was provided before the service of the notice;

and

(d) on providing a supply of water to those premises by means of the separate service pipe, the undertaker may cut off any supply replaced by that supply and may make such disconnections of pipes by which the replaced supply was provided as it thinks fit.

(4) If a person upon whom a notice has been served for the purposes of subsection (3) above fails to comply with the notice, the water undertaker may itself carry out the works which that person was required to carry out and may recover the expenses reasonably incurred by the undertaker in doing so from that person.

(5) Without prejudice to the power of a water undertaker by virtue of paragraph (b) of subsection (3) above to impose conditions under section 43 above or to the power conferred by virtue of paragraph (d) of that subsection, any works carried out by a water undertaker by virtue of the provisions of the said paragraph (b) or of subsection (4) above shall be necessary works for the purposes of sections 45 to 49 above and section 51 below.

Constancy and pressure of water supplies

Duty as respects constant supply and pressure.

51.—(1) Subject to the following provisions of this section, it shall be the duty of a water undertaker to cause the water in such of its water mains and other pipes as—

(a) are used for providing supplies of water for domestic purposes; or

PART II

(b) have fire-hydrants fixed on them,

to be laid on constantly and at such a pressure as will cause the water to reach to the top of the top-most storey of every building within the undertaker's area.

(2) Nothing in subsection (1) above shall require a water undertaker to provide a supply of water at a height greater than that to which it will flow by gravitation through its water mains from the service reservoir or tank from which that supply is taken; and for the purposes of this section a water undertaker shall be entitled to choose the service reservoir or tank from which any supply is to be taken.

(3) Nothing in subsection (1) above shall impose any duty on a water undertaker to maintain the constancy or pressure of any supply of water during any period during which it is reasonable for that supply to be cut off or reduced for the purposes of the carrying out of any necessary works.

(4) The Secretary of State may by order modify the application of the preceding provisions of this section in relation to any water undertaker; but the Secretary of State shall not make such an order except—

(a) in accordance with Schedule 7 to this Act; and

(b) on an application made in accordance with that Schedule by the Director or by the water undertaker in relation to which the order is made.

(5) A water undertaker may—

(a) require that any premises consisting in—

(i) any building or part of a building the supply of water to which need not, in accordance with provision contained in or made under this Act, be constantly laid on under pressure; or

(ii) any relevant house to which water is required to be delivered at a height greater than 10.5 metres below the draw-off level of the service reservoir or tank from which a supply of water is being provided by the undertaker to those premises,

shall be provided with a cistern which has a float-operated valve and is fitted on the pipe by means of which water is supplied to those premises; and

(b) in the case of such a house as is mentioned in paragraph (a)(ii) above, require that the cistern shall be capable of holding sufficient water to provide an adequate supply to the house for a period of twenty-four hours.

(6) If, where a water undertaker provides a supply of water to any premises, the consumer, after having been required to do so by notice served on him by the undertaker, fails before the end of the period specified in the notice, being a period of not less than twenty-eight days beginning with the day after the service of the notice—

(a) to provide a cistern in accordance with a requirement under subsection (5) above; or

(b) to put any such cistern and its float-operated valve into good repair,

the water undertaker may itself provide a cistern, or execute any repairs necessary to prevent waste of water, and may recover the expenses reasonably incurred by it in doing so from the owner of the premises.

(7) The power of the Secretary of State to make an order under subsection (4) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament; and such an order may—

(a) require the payment of compensation by a water undertaker to persons affected by the order;

(b) make different provision for different cases, including different provision in relation to different persons, circumstances or localities; and

(c) contain such supplemental, consequential and transitional provision as the Secretary of State considers appropriate.

(8) The obligations of a water undertaker under this section shall be enforceable under section 20 above by the Secretary of State; and, in addition, where a water undertaker is in breach of a duty under this section the undertaker shall be guilty of an offence and liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum;

(b) on conviction on indictment, to a fine.

(9) In any proceedings against any water undertaker for an offence under subsection (8) above it shall be a defence for that undertaker to show that it took all reasonable steps and exercised all due diligence to avoid the commission of the offence.

(10) In this section "relevant house" means—

(a) a house the erection of which is commenced on or after the transfer date; or

(b) a house in relation to which any such requirement as is mentioned in subsection (5) above could have been imposed under any enactment having effect immediately before the transfer date in relation to the person who was supplying water to that house immediately before that date.

Quality and sufficiency of water supplies

Duties of water undertakers with respect to water quality.

52.—(1) It shall be the duty of a water undertaker—

(a) when supplying water to any premises for domestic purposes to supply only water which is wholesome at the time of supply; and

(b) so far as reasonably practicable, to ensure, in relation to each source or combination of sources from which that undertaker supplies water to premises for domestic purposes, that there is, in general, no deterioration in the quality of the water which is supplied from time to time from that source or combination of sources.

(2) For the purposes of this section and section 53 below and subject to subsection (3) below, water supplied by a water undertaker to any premises shall not be regarded as unwholesome at the time of supply where it has ceased to be wholesome only after leaving the undertaker's pipes.

(3) For the purposes of this section where water supplied by a water undertaker to any premises would not otherwise be regarded as unwholesome at the time of supply, that water shall be regarded as unwholesome at that time if—

PART II

(a) it has ceased to be wholesome after leaving the undertaker's pipes but while in a pipe which is subject to water pressure from a water main or which would be so subject but for the closing of some valve; and

(b) it has so ceased in consequence of the failure of the undertaker, before supplying the water, to take such steps as may be prescribed for the purpose of securing the elimination, or reduction to a minimum, of any prescribed risk that the water would cease to be wholesome after leaving the undertaker's pipes.

(4) The provisions of this section shall apply in relation to water which is supplied by a water undertaker whether or not the water is water which the undertaker is required to supply by virtue of any provision of this Act.

(5) The duties of a water undertaker under this section shall be enforceable under section 20 above by the Secretary of State.

Regulations for preserving water quality.

53.—(1) The Secretary of State may by regulations require a water undertaker to take all such steps as may be prescribed for the purpose of securing compliance with section 52 above; and, without prejudice to the generality of that power, regulations under this subsection may impose an obligation on a water undertaker—

(a) to take all such steps as may be prescribed for monitoring and recording whether the water which that undertaker supplies to premises for domestic purposes is wholesome at the time of supply;

(b) to take all such steps as may be prescribed for monitoring and recording the quality of the water from any source, or combination of sources, which that undertaker uses or is proposing to use for supplying water to any premises for domestic purposes;

(c) to ensure that a source which that undertaker is using or proposing to use for supplying water for domestic purposes is not so used until prescribed requirements for establishing the quality of water which may be supplied from that source have been complied with;

(d) to keep records of the localities within which all the premises supplied with water for domestic purposes by that undertaker are normally supplied from the same source or combination of sources;

(e) to comply with prescribed requirements with respect to the analysis of water samples or with respect to internal reporting or organisational arrangements.

(2) Without prejudice to subsection (1) above, the Secretary of State may by regulations make provision with respect to the use by water undertakers, for the purposes of or in connection with the carrying out of their functions, of such processes and substances, and of products that contain or are made with such substances or materials, as he considers might affect the quality of any water; and, without prejudice to the generality of that power, regulations under this subsection may—

(a) forbid the use by water undertakers of processes, substances and products which have not been approved under the regulations or which contravene the regulations;

(b) for the purposes of provision made by virtue of paragraph (a) above, require processes, substances and products used by water undertakers to conform to such standards as may be prescribed by or approved under the regulations;

(c) impose such other requirements as may be prescribed with respect to the use by water undertakers of prescribed processes, substances and products;

(d) provide for the giving, refusal and revocation, by prescribed persons, of approvals required for the purposes of the regulations, for such approvals to be capable of being made subject to such conditions as may be prescribed and for the modification and revocation of any such condition;

(e) impose obligations to furnish prescribed persons with information reasonably required by those persons for the purpose of carrying out functions under the regulations;

(f) provide for a contravention of the regulations to constitute—

(i) a summary offence punishable, on summary conviction, by a fine not exceeding level 5 on the standard scale or such smaller sum as may be prescribed; or

(ii) an offence triable either way and punishable, on summary conviction, by a fine not exceeding the statutory maximum and, on conviction on indictment, by a fine;

and

(g) require prescribed charges to be paid to persons carrying out functions under the regulations.

(3) The Secretary of State may by regulations require a water undertaker—

(a) to publish information about the quality of water supplied for domestic purposes to any premises by that undertaker; and

(b) to provide information to prescribed persons about the quality of water so supplied.

(4) Regulations under subsection (3) above—

(a) shall prescribe both the information which is to be published or provided in pursuance of the regulations and the manner and circumstances in which it is to be published or provided;

(b) may require the provision of information by a water undertaker to any person to be free of charge or may authorise it to be subject to the payment by that person to the undertaker of a prescribed charge; and

(c) may impose such other conditions on the provision of information by a water undertaker to any person as may be prescribed.

Offence of supplying water unfit for human consumption.

54.—(1) Subject to subsection (3) below, where a water undertaker supplies water by means of pipes to any premises and that water is unfit for human consumption, the undertaker shall be guilty of an offence and liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum;

(b) on conviction on indictment, to a fine.

PART II

(2) For the purposes of section 177 below and any other enactment under which an individual is guilty of an offence by virtue of subsection (1) above the penalty on conviction on indictment of an offence under this section shall be deemed to include imprisonment (in addition to or instead of a fine) for a term not exceeding two years.

(3) In any proceedings against any water undertaker for an offence under this section it shall be a defence for that undertaker to show that it—

(a) had no reasonable grounds for suspecting that the water would be used for human consumption; or

(b) took all reasonable steps and exercised all due diligence for securing that the water was fit for human consumption on leaving its pipes or was not used for human consumption.

(4) Proceedings for an offence under this section shall not be instituted except by the Secretary of State or the Director of Public Prosecutions.

Provision of water where piped supplies insufficient or unwholesome.

55.—(1) Where—

(a) it is not practicable at reasonable cost for a water undertaker, by supplying water in pipes, to provide or maintain such a supply of wholesome water to any particular premises in its area as (so far as those premises are concerned) is sufficient for domestic purposes;

(b) it is practicable at reasonable cost for the undertaker to provide such a supply to those premises otherwise than in pipes;

(c) the insufficiency or unwholesomeness of the supply of water for domestic purposes to those premises is such as to cause a danger to life or health; and

(d) the local authority in whose area those premises are situated notify the undertaker of that danger and require the undertaker to provide a supply otherwise than in pipes,

it shall be the duty of the undertaker, for such period as may be required by that local authority, to provide any supply to those premises which it is practicable at reasonable cost to provide otherwise than in pipes and which it is required to provide by that authority.

(2) Where under subsection (1) above a local authority require the provision by a water undertaker of a supply of water to any premises, that authority—

(a) shall be liable to the undertaker for any charges payable by virtue of Chapter IV of this Part in respect of the provision of that supply; but

(b) shall have power to recover the whole or any part of any charges paid by virtue of this subsection from the owner or occupier of the premises to which the supply is provided.

(3) In this section references to the provision of a supply of water to any premises otherwise than in pipes shall have effect, in a case in which it is practicable at reasonable cost to provide a supply (whether or not in pipes) to a place within a reasonable distance of those premises, as including references to the provision of a supply to that place.

(4) The duty of a water undertaker under subsection (1) above shall be enforceable under section 20 above by the Secretary of State.

General functions of local authorities in relation to water quality.

56.—(1) It shall be the duty of every local authority to take all such steps as they consider appropriate for keeping themselves informed about the wholesomeness and sufficiency of water supplies provided to premises in their area, including every private supply to any such premises.

(2) It shall be the duty of a local authority to notify any water undertaker of anything appearing to the authority to suggest—

(a) that any supply by that undertaker of water for domestic purposes to any premises in the area of that authority is, has been or is likely to become unwholesome or (so far as any such premises are concerned) insufficient for those purposes;

(b) that the unwholesomeness or insufficiency of any such supply is, was or is likely to be such as to cause a danger to life or health; or

(c) that the duty imposed on that undertaker by virtue of section 52(1)(b) above is being, has been or is likely to be so contravened as to affect any supply of water to premises in that area;

and it shall be the duty of a local authority to require the provision of a supply in pursuance of section 55 above whenever, in a case falling within paragraph (a) of subsection (1) of that section, they are satisfied, in relation to any premises in their area, as to the matters specified in paragraphs (b) and (c) of that subsection.

(3) Where a local authority have notified a water undertaker of any such matter as is mentioned in subsection (2) above, it shall be the duty of that authority, if they are not satisfied that all such remedial action as is appropriate will be taken by the undertaker, to inform the Secretary of State about the contents of the notification.

(4) It shall be the duty of a local authority to comply with any direction given by the Secretary of State to that authority, to authorities of a description applicable to that authority or to local authorities generally as to—

(a) the cases and circumstances in which they are or are not to exercise any of the powers conferred on them by this Chapter in relation to private supplies; and

(b) the manner in which those powers are to be exercised.

(5) The Secretary of State may by regulations make such provision, supplementing the provisions of this section, as he considers appropriate for—

(a) imposing duties and conferring powers on local authorities with respect to the acquisition of information about the quality and sufficiency of water supplies provided to premises in their areas; and

(b) regulating the performance of any duty imposed by or under this section.

PART II

(6) Without prejudice to the generality of subsection (5) above, regulations under that subsection may—

(a) prescribe the matters to be taken into account by a local authority in determining, for the purposes of subsection (1) above, what is appropriate;

(b) provide, for the purposes of the exercise or performance of any power or duty conferred or imposed on a local authority by or under this section, for such samples of water to be taken and analysed at such times and in such manner as may be prescribed;

(c) authorise local authorities to exercise or perform any such power or duty through prescribed persons;

(d) provide for the recovery by a local authority from prescribed persons of such amounts as may be prescribed in respect of expenses reasonably incurred by the authority in the exercise of any such power or the performance of any such duty.

Remedial powers of local authorities in relation to private supplies.

57.—(1) Subject to the following provisions of this section, where a local authority are satisfied in relation to any premises in their area which are supplied with water for domestic purposes by means of a private supply—

(a) that any water which is being, has been or is likely to be supplied for those purposes to those premises by means of that private supply is not, was not or, as the case may be, is likely not to be wholesome; or

(b) that that private supply is failing, has failed or is likely to fail to provide to any house on those premises such a supply of wholesome water as (so far as that house is concerned) is sufficient for domestic purposes,

the authority may serve a notice in relation to that private supply on one or more of the relevant persons.

(2) A notice under this section in relation to a private supply of water to any premises shall—

(a) give particulars of the matters mentioned in subsection (1) above in respect of which the notice is served;

(b) specify the steps which, in the opinion of the authority serving the notice, are required to be taken for ensuring that there is a supply of water to those premises which is both wholesome and (so far as any house on those premises is concerned) sufficient for domestic purposes;

(c) specify a period, ending not less than twenty-eight days after the day on which the notice is served, within which any representations or objections with respect to the notice must be received by that authority; and

(d) state the effect in relation to that notice of section 58(2) and (3) below.

(3) Subject to section 58 below, where a local authority serve a notice under this section on any relevant person they may do one or more of the following, that is to say—

(a) by that notice designate as steps to be taken by the authority themselves such of the steps specified in the notice as they consider it appropriate to so designate;

(b) by that notice require that person, within such reasonable period as may be specified in the notice, to take one or more of the steps so specified;

(c) by that notice require that person, at such times as may be determined in accordance with provision contained in the notice, to make to another relevant person or to that authority such payments as may be so determined in respect of expenses reasonably incurred by that other person or that authority in taking any step specified in the notice;

(d) by that notice undertake from time to time to make such payments to that person as may be so determined in respect of expenses reasonably incurred by that person in taking any step specified in the notice.

(4) The power of a local authority to serve a notice under this section specifying the steps which are required to be taken in relation to any source from which a private supply is provided both to premises in the area of that authority and to premises in the area of another local authority shall be exercisable only where—

(a) the other authority consent to the service of the notice; or

(b) the authorities act jointly in exercising their respective powers under this section in relation to that source.

(5) The powers conferred by this section and section 58 below shall be so exercised in relation to a private supply of water to any premises where there is no house as to secure that no local authority are required to bear any of the expenses incurred (whether by the authority or by any other person) in taking any steps for ensuring that the supply is wholesome which are specified in any notice under this section.

(6) The steps that a relevant person may be required by a notice under this section to take in relation to any premises shall include—

(a) requiring a supply of water to be provided to those premises by a water undertaker or by any other person; and

(b) taking such steps for the purpose of securing that such a requirement is complied with, and of enabling such a supply to be so provided, as may be specified in the notice.

(7) For the purposes of this section and section 58 below the relevant persons, in relation to a private supply of water to any premises in the area of a local authority, are the owners and occupiers of those premises and (whether or not the source of the private supply is in that authority's area) the owners and occupiers of the premises where that source is situated and any other person who exercises powers of management or control in relation to that source.

Effect, confirmation and variation of notice under section 57.

58.—(1) Subject to subsection (2) below, a notice served by a local authority under section 57 above shall not take effect until the end of the period specified in the notice as the period within which representations or objections with respect to the notice must be received by that authority.

(2) Where any written representation or objection with respect to a notice by a local authority under section 57 above is received by the authority, before the end of the period specified in the notice, from a person on whom the notice was served, that notice shall not take effect unless—

PART II

(a) the notice is submitted by the authority to the Secretary of State and is confirmed by him either with or without modifications; or

(b) the representation or objection is withdrawn.

(3) If a local authority submit a notice under section 57 above to the Secretary of State for confirmation, the Secretary of State—

(a) shall consider whether the notice should be confirmed and whether, if it is confirmed, it should be confirmed with or without modifications;

(b) may, with respect to the matters specified in the notice or any proposed modification of it, direct the local authority to serve a notice under section 57 above, in such terms as may be specified in the direction, on any relevant person who has not previously been so served;

(c) may, for the purposes of paragraph (a) or (b) above—

(i) cause a local inquiry to be held; or

(ii) afford to the local authority, and to every person who has made representations or objections with respect to the notice or a proposed direction under paragraph (b) above, an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose;

and

(d) if he is satisfied that the person on whom any notice to be served in pursuance of a direction under paragraph (b) above has had a proper opportunity of having his representations or objections with respect to the proposal for the direction considered, may dispense in relation to the notice so served with the provisions of subsections (1) and (2) above and of section 57(2)(c) and (d) above.

(4) Where the Secretary of State confirms a notice under section 57 above (whether with or without modifications)—

(a) he, or if he so directs, the local authority concerned shall serve notice of that confirmation on every person originally served with the notice under that section; and

(b) that notice shall take effect, with any modifications made by the Secretary of State, at such time as may be specified in the notice served under this subsection.

(5) Where any relevant person who is required by virtue of a notice under section 57 above to take any step in relation to any premises fails to take that step within the period specified in the notice, the authority which served the notice may, in accordance with any applicable provision having effect by virtue of section 59 below, take that step themselves.

(6) Where any step is taken by a local authority in relation to any premises by virtue of subsection (5) above—

(a) the authority may recover from the person who failed to take that step within the specified period any expenses reasonably incurred by the authority in taking that step; and

(b) for the purposes of any requirement under which payments are required to be made to that person by any person other than the authority, sums paid by virtue of paragraph (a) above in respect of the taking of any step shall be deemed to be expenses incurred in the taking of that step by the person who failed to take it.

(7) Nothing in this Act shall confer any right of action on any person in respect of any loss or damage sustained by that person in consequence of the failure by any other person to take any step specified in a notice under section 57 above; but any sum required to be paid to any person by virtue of any requirement or undertaking contained in such a notice shall be recoverable by that person from the person who is required to pay it.

(8) Any requirement which is imposed by virtue of a notice under section 57 above on the owner or occupier of any premises and is expressed to bind those premises in relation to the owners or occupiers from time to time shall bind successive owners or, as the case may be, occupiers of those premises and shall be a local land charge.

(9) Subject to subsection (10) below, a local authority may by notice served on any person modify or revoke the effect in relation to that person of any notice under section 57 above or this subsection (including a notice which has been confirmed, with or without modifications, by the Secretary of State).

(10) Section 57(2)(c) and (d) and subsections (1) to (4) above shall apply, as they apply in relation to a notice under section 57 above, in relation to any notice served by a local authority on any person under subsection (9) above except where the notice—

(a) extends the period within which any step is required to be taken by that person; or

(b) discharges, postpones or abates any obligation of that person to make a payment to the local authority.

Incidental powers of local authorities.

59.—(1) Subject to subsection (4) below, a local authority may serve on any person a notice requiring him to furnish that authority, within a period or at times specified in the notice and in a form and manner so specified, with such information as is reasonably required by that authority for the purpose of exercising or performing any power or duty conferred or imposed on that authority by or under any of sections 56 to 58 above.

(2) Any person designated in writing for the purpose by any local authority may—

(a) enter any premises for the purpose, in relation to any private supply, of—

(i) determining whether, and if so in what manner, any power or duty conferred or imposed on that authority by or under any of sections 56 to 58 above should be exercised or performed; or

(ii) exercising any such power or performing any such duty;

PART II

(b) enter any premises to which a supply of water is provided by a water undertaker for the purpose, in relation to a supply so provided, of determining whether, and if so in what manner, such a power should be exercised or such a duty performed or of exercising such a power or performing such a duty; or

(c) carry out such inspections, measurements and tests on premises entered by that person or of articles found on any such premises, and take away such samples of water or of any land or articles, as the local authority—

(i) consider appropriate for the purposes of any such power or duty; and

(ii) have authorised that person to carry out or take away.

(3) Without prejudice to any power exercisable by virtue of a warrant under section 178 below, no person shall make an entry into any premises by virtue of this section except—

(a) in an emergency; or

(b) at a reasonable time and after twenty-four hours' notice of the intended entry has been given to the occupier of the premises.

(4) The Secretary of State may by regulations make provision for restricting the information which may be required under subsection (1) above and for determining the form in which the information is to be so required.

(5) A person who fails without reasonable excuse to comply with the requirements of a notice served on him under subsection (1) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Assessors for the enforcement of water quality.

60.—(1) The Secretary of State may for the purposes of this section appoint persons to act on his behalf as technical assessors in relation to some or all of—

(a) the powers and duties conferred or imposed on him by or under sections 52 to 58 above and section 65 below; and

(b) such other powers and duties in relation to the quality and sufficiency of water supplied by a water undertaker as are conferred or imposed on him by or under other enactments.

(2) A person appointed under this section shall—

(a) carry out such investigations as the Secretary of State may require him to carry out for the purpose of—

(i) ascertaining whether any duty or other requirement imposed on that undertaker by or under any of sections 52 to 55 above is being, has been or is likely to be contravened; or

(ii) advising the Secretary of State as to whether, and if so in what manner, any of the powers of the Secretary of State in relation to such a contravention, or any of the powers (including the powers to make regulations) which are conferred on him by or under sections 52 to 58 above or section 65 below, should be exercised;

and

(b) make such reports to the Secretary of State with respect to any such investigation as the Secretary of State may require.

(3) Without prejudice to the powers conferred by subsection (4) below, it shall be the duty of a water undertaker to give a person appointed under this section all such assistance, and to provide a person so appointed with all such information, as that person may reasonably require for the purpose of carrying out any such investigation as is mentioned in subsection (2) above.

(4) Any person appointed under this section who is designated in writing for the purpose by the Secretary of State may—

(a) enter any premises for the purpose of carrying out any such investigation as is mentioned in subsection (2) above;

(b) carry out such inspections, measurements and tests on premises entered by that person or of articles or records found on any such premises, and take away such samples of water or of any land or articles, as that person considers appropriate for the purpose of enabling him to carry out any such investigation; or

(c) at any reasonable time require any water undertaker to supply him with copies of, or of extracts from, the contents of any records kept for the purpose of complying with any duty or other requirement imposed on that undertaker by or under any of sections 52 to 55 above.

(5) Without prejudice to any power exercisable by virtue of a warrant under section 178 below, no person shall make an entry into any premises by virtue of this section except—

(a) in an emergency; or

(b) at a reasonable time and after twenty-four hours' notice of the intended entry has been given to the occupier of the premises.

(6) Any water undertaker which fails to comply with the duty imposed on it by virtue of subsection (3) above shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.

Contamination, waste and misuse of water

Offences of contaminating, wasting and misusing water etc.

61.—(1) If any person who is the owner or occupier of any premises to which a supply of water is provided by a water undertaker intentionally or negligently causes or suffers any water fitting for which he is responsible to be or remain so out of order, so in need of repair or so constructed or adapted, or to be so used—

(a) that water in a water main or other pipe of a water undertaker or in a pipe connected with such a water main or pipe is or is likely to be contaminated by the return of any substance from those premises to that main or pipe;

(b) that water that has been supplied by the undertaker to those premises is or is likely to be contaminated before it is used; or

(c) that water so supplied is or is likely to be wasted or, having regard to the purposes for which it is supplied, misused or unduly consumed,

that person shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

PART II

(2) Any person who uses any water supplied to any premises by a water undertaker for a purpose other than one for which it is supplied to those premises shall, unless the other purpose is the extinguishment of a fire, be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

(3) Where a person has committed an offence under subsection (2) above the water undertaker in question shall be entitled to recover from that person such amount as may be reasonable in respect of any water wasted, misused or improperly consumed in consequence of the commission of the offence.

(4) For the purposes of this section the owner or occupier of any premises shall be regarded as responsible for every water fitting on the premises which is not a water fitting which a person other than the owner or, as the case may be, occupier is liable to maintain.

Regulations for preventing contamination, waste etc. and with respect to water fittings.

62.—(1) The Secretary of State may by regulations make such provision as he considers appropriate for any of the following purposes, that is to say—

(a) for securing that water in a water main or other pipe of a water undertaker is not contaminated, and that its quality and suitability for particular purposes is not prejudiced, by the return of any substance from any premises to that main or pipe;

(b) for securing that water which is in any pipe connected with any such main or other pipe or which has been supplied to any premises by a water undertaker is not contaminated, and that its quality and suitability for particular purposes is not prejudiced, before it is used;

(c) for preventing the waste, undue consumption and misuse of any water at any time after it has left the pipes of a water undertaker for the purpose of being supplied by that undertaker to any premises; and

(d) for securing that water fittings installed and used by persons to whom water is or is to be supplied by a water undertaker are safe and do not cause or contribute to the erroneous measurement of any water or the reverberation of any pipes.

(2) Without prejudice to the generality of subsection (1) above, regulations under this section may, for any of the purposes specified in that subsection, make provision in relation to such water fittings as may be prescribed—

(a) for forbidding the installation, connection or use of the fittings if they have not been approved under the regulations or if they contravene the regulations;

(b) for requiring the fittings, for the purposes of provision made by virtue of paragraph (a) above, to be of such a size, nature, strength or workmanship, to be made of such materials or in such a manner or to conform to such standards as may be prescribed by or approved under the regulations;

(c) for imposing such other requirements as may be prescribed with respect to the installation, arrangement, connection, testing, disconnection, alteration and repair of the fittings and with respect to the materials used in their manufacture;

(d) for the giving, refusal and revocation, by prescribed persons, of approvals required for the purposes of the regulations; and

(e) for such approvals to be capable of being made subject to such conditions as may be prescribed and for the modification and revocation of any such condition.

(3) Without prejudice as aforesaid, regulations under this section may—

(a) impose separate or concurrent duties with respect to the enforcement of the regulations on water undertakers, local authorities and such other persons as may be prescribed;

(b) confer powers on a water undertaker or local authority to carry out works and take other steps, in prescribed circumstances, for remedying any contravention of the regulations;

(c) provide for the recovery by a water undertaker or local authority of expenses reasonably incurred by the undertaker or authority in the exercise of any power conferred by virtue of paragraph (b) above;

(d) repeal or modify the provisions of section 61 above or section 63 below;

(e) provide for a contravention of the regulations to constitute a summary offence punishable, on summary conviction, by a fine not exceeding level 5 on the standard scale or such smaller sum as may be prescribed;

(f) require prescribed charges to be paid to persons carrying out functions under the regulations;

(g) enable the Secretary of State to authorise such relaxations of and departures from such of the requirements of the regulations as may be prescribed, to make any such authorisation subject to such conditions as may be prescribed and to modify or revoke any such authorisation or condition;

(h) enable the Secretary of State to authorise a water undertaker or local authority (either instead of the Secretary of State or concurrently with him) to exercise any power conferred on the Secretary of State by regulations made by virtue of paragraph (g) above; and

(i) require disputes arising under the regulations to be referred to arbitration and for determinations under the regulations to be subject to such rights of appeal as may be prescribed.

(4) Any person designated in writing for the purpose by any water undertaker or local authority or designated in writing for the purposes of this subsection in such other manner as may be prescribed may—

(a) enter any premises for the purpose of—

(i) ascertaining whether any provision contained in or made or having effect under this Act with respect to any water fittings or with respect to the waste or misuse of water is being or has been contravened;

(ii) determining whether, and if so in what manner, any power or duty conferred or imposed on any person by regulations under this section should be exercised or performed; or

PART II

(iii) exercising any such power or performing any such duty;

or

(b) carry out such inspections, measurements and tests on premises entered by that person or on water fittings or other articles found on any such premises, and take away such samples of water or of any land and such water fittings and other articles, as that person has been authorised to carry out or take away in accordance with regulations under this section.

(5) Without prejudice to any power exercisable by virtue of a warrant under section 178 below, no person shall make an entry into any premises by virtue of this section except—

(a) in an emergency; or

(b) at a reasonable time and after twenty-four hours' notice of the intended entry has been given to the occupier of the premises.

(6) Any sums received by the Secretary of State in consequence of the provisions of any regulations under this section shall be paid into the Consolidated Fund.

(7) In this section "safe" has the same meaning as in Part II of the Consumer Protection Act 1987.

1987 c. 43.

Power to prevent damage and to take steps to prevent contamination, waste etc.

63.—(1) Without prejudice to any power conferred on water undertakers by regulations under section 62 above, where a water undertaker which provides a supply of water to any premises has reason for believing—

(a) that damage to persons or property is being or is likely to be caused by any damage to, or defect in, any water fitting used in connection with the supply of water to those premises which is not a service pipe belonging to the undertaker;

(b) that water in a water main or other pipe of the undertaker is being or is likely to be contaminated by the return of any substance from those premises to that main or pipe;

(c) that water which is in any pipe connected with any such main or other pipe or which has been supplied by the undertaker to those premises is being or is likely to be contaminated before it is used; or

(d) that water which has been or is to be so supplied is being or is likely to be wasted or, having regard to the purposes for which it is supplied, misused or unduly consumed,

the undertaker may exercise the power conferred by subsection (2) below in relation to those premises.

(2) The power conferred by this subsection in relation to any premises is —

(a) where the case constitutes an emergency, power to disconnect the service pipe or otherwise to cut off the supply of water to those premises; and

(b) in any other case, power to serve notice on the consumer requiring him to take such steps as may be specified in the notice as necessary to secure that the damage, contamination, waste, misuse or undue consumption ceases or, as the case may be, does not occur.

(3) Where a water undertaker, in exercise of the power conferred by virtue of subsection (2)(a) above, disconnects a service pipe to any premises or otherwise cuts off any supply of water to any premises, the undertaker shall, as soon as reasonably practicable after the supply is disconnected or cut off, serve a notice on the consumer specifying the steps which that person is required to take before the undertaker will restore the supply.

(4) The steps specified in a notice under subsection (3) above shall be the steps necessary to secure that, as the case may be—

(a) the damage, contamination, waste, misuse or undue consumption; or

(b) the likelihood of damage, contamination, waste, misuse or undue consumption,

would not recur if the supply were restored; and a water undertaker which fails, without reasonable excuse, to serve a notice in accordance with that subsection shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

(5) A notice served for the purposes of subsection (2)(b) above shall—

(a) specify the period, not being less than the period of seven days beginning with the day after the service of the notice, within which the steps specified in the notice are to be taken; and

(b) set out the powers of the undertaker under subsections (6) and (7) below.

(6) Where a water undertaker has served a notice for the purposes of subsection (2)(b) above in relation to any premises and—

(a) the case becomes an emergency; or

(b) the premises appear to be unoccupied and the steps specified in the notice are not taken before the end of the period so specified,

the undertaker may disconnect the service pipe to those premises or otherwise cut off the supply of water to those premises; and subsections (3) and (4) above shall apply where a water undertaker exercises its power under this subsection as they apply where such an undertaker exercises its power by virtue of subsection (2)(a) above.

(7) Where, in a case not falling within subsection (6)(a) or (b) above, any steps specified in a notice served by a water undertaker for the purposes of subsection (2)(b) above have not been taken by the end of the period so specified, the water undertaker shall have power—

(a) to take those steps itself; and

(b) subject to subsection (8) below, to recover any expenses reasonably incurred by the undertaker in taking those steps from the person on whom the notice was served;

and any steps taken by a water undertaker by virtue of paragraph (a) above shall be necessary works for the purposes of sections 45 to 51 above.

PART II

(8) Where any steps are taken by virtue of this section and it is shown that, in the circumstances of the case, those steps were not necessary as mentioned in subsection (2) or, as the case may be, (4) above, the water undertaker in question—

(a) shall not be entitled to recover any expenses incurred by it in taking those steps; and

(b) shall be liable to pay to any other person who took any of those steps an amount equal to any expenses reasonably incurred by that person in taking any of those steps.

Supplemental provisions of Chapter II

Additional powers of entry for the purposes of Chapter II.

64.—(1) Without prejudice to the powers conferred by Part IV of this Act, any person designated in writing for the purpose by a water undertaker may enter any premises for any of the purposes specified in subsection (2) below.

(2) The purposes mentioned in subsection (1) above are—

(a) the carrying out of any survey or tests for the purpose of determining—

(i) whether it is appropriate and practicable for the undertaker to exercise any power under any provision of this Chapter to disconnect any pipe or cut off any supply of water to any premises or to carry out any works which it is authorised to carry out under section 50(4), 51(6) or 63 above; or

(ii) how any such power should be exercised;

(b) the exercise of any such power;

(c) the monitoring and recording of—

(i) whether water supplied to any premises for domestic purposes is wholesome at the time of supply; or

(ii) the quality of the water from any source, or combination of sources, which is or is to be used for supplying water to any premises for those purposes,

and the carrying out of any tests for that purpose.

(3) The power by virtue of subsection (1) above of a person designated by a water undertaker to enter any premises for the purpose of carrying out any survey or tests shall include power to take away such samples of water or effluent or of any land or articles as the undertaker—

(a) considers necessary for the purpose of determining any of the matters mentioned in subsection (2)(a) or (c) above; and

(b) has authorised that person to carry out or take away.

(4) Without prejudice to any power exercisable by virtue of a warrant under section 178 below, no person shall make an entry into any premises by virtue of this section except—

(a) in an emergency; or

(b) at a reasonable time and after the appropriate notice of the intended entry has been given to the occupier of the premises.

(5) In subsection (4) above "the appropriate notice"—

(a) in relation to an entry for a purpose mentioned in subsection (2)(c) above, means twenty-four hours' notice; and

(b) in any other case, means seven days' notice;

and subsections (2) and (3) of section 52 above shall apply for the purposes of any power conferred by virtue of subsection (2)(c)(i) above as they apply for the purposes of that section.

Standards of wholesomeness.

65.—(1) The Secretary of State may by regulations make provision that water that is supplied to any premises is or is not to be regarded as wholesome for the purposes of this Chapter if it satisfies or, as the case may be, fails to satisfy such requirements as may be prescribed.

(2) Without prejudice to the generality of subsection (1) above, regulations under this section may, for the purpose of determining the wholesomeness of any water—

(a) prescribe general requirements as to the purposes for which the water is to be suitable;

(b) prescribe specific requirements as to the substances that are to be present in or absent from the water and as to the concentrations of substances which are or are required to be present in the water;

(c) prescribe specific requirements as to other characteristics of the water;

(d) provide that the question whether prescribed requirements are satisfied may be determined by reference to such samples as may be prescribed;

(e) enable the Secretary of State to authorise such relaxations of and departures from the prescribed requirements (or from any of them) as may be prescribed, to make any such authorisation subject to such conditions as may be prescribed and to modify or revoke any such authorisation or condition; and

(f) enable the Secretary of State to authorise a local authority (either instead of the Secretary of State or concurrently with him) to exercise in relation to a private supply any power conferred on the Secretary of State by regulations made by virtue of paragraph (e) above.

Interpretation etc. of Chapter II.

66.—(1) In this Chapter—

"consumer", in relation to a supply of water provided by a water undertaker to any premises, means a person who is for the time being the person on whom liability to pay charges to the undertaker in respect of that supply of water would fall;

"necessary works" includes works carried out, in exercise of any power conferred by or under any enactment, by a person other than a water undertaker;

"private supply" means, subject to subsection (2) below, a supply of water provided otherwise than by a water undertaker (including a supply provided for the purposes of the bottling of water), and cognate expressions shall be construed accordingly;

"water fittings" includes pipes (other than water mains), taps, cocks, valves, ferrules, meters, cisterns, baths, water closets, soil pans and other similar apparatus used in connection with the supply and use of water;

PART II

"wholesome" and cognate expressions shall be construed subject to the provisions of any regulations made under section 65 above.

(2) For the purposes of any reference in this Chapter to a private supply, or to supplying water by means of a private supply, water shall be treated as supplied to any premises not only where it is supplied from outside those premises, but also where it is abstracted, for the purpose of being used or consumed on those premises, from a source which is situated on the premises themselves; and for the purposes of this subsection water shall be treated as used on any premises where it is bottled on those premises for use or consumption elsewhere.

(3) For the purposes of this Chapter a service pipe shall be treated as connected with a water main other than a trunk main even if the connection is an indirect connection made by virtue of a connection with another service pipe.

(4) The rights conferred by virtue of this Chapter as against the owner or occupier of any premises shall be without prejudice to any rights and obligations, as between themselves, of the owner and occupier of the premises in question.

CHAPTER III

PROVISION OF SEWERAGE SERVICES

General sewerage functions.

67.—(1) It shall be the duty of every sewerage undertaker—

(a) to provide, improve and extend such a system of public sewers (whether inside its area or elsewhere) and so to cleanse and maintain those sewers as to ensure that that area is and continues to be effectually drained; and

(b) to make provision for the emptying of those sewers and such further provision (whether inside its area or elsewhere) as is necessary from time to time for effectually dealing, by means of sewage disposal works or otherwise, with the contents of those sewers.

(2) It shall be the duty of a sewerage undertaker in performing its duty under subsection (1) above to have regard—

(a) to its existing and likely future obligations to allow for the discharge of trade effluent into its public sewers; and

(b) to the need to provide for the disposal of trade effluent which is so discharged.

(3) In subsection (2) above "trade effluent" has the same meaning as in the Public Health (Drainage of Trade Premises) Act 1937.

1937 c. 40.

(4) The duty of a sewerage undertaker under subsection (1) above shall be enforceable under section 20 above by the Secretary of State or, with the consent of or in accordance with a general authorisation given by the Secretary of State, by the Director.

Standards of performance in connection with provision of sewerage services.

68.—(1) For the purpose—

(a) of facilitating the determination of the extent to which breaches of the obligations imposed by virtue of the following provisions of this Chapter are to amount to breaches of the duty imposed by section 67 above; or

(b) of supplementing that duty by establishing overall standards of performance in relation to the provision of sewerage services by any sewerage undertaker,

the Secretary of State may by regulations provide for contraventions of such requirements as may be prescribed to be treated for the purposes of this Act as breaches of that duty.

(2) The Secretary of State may by regulations prescribe such standards of performance in connection with the provision of sewerage services as, in his opinion, ought to be achieved in individual cases; and such regulations may provide that if a sewerage undertaker fails to meet a prescribed standard it shall pay such amount as may be prescribed to any person who is affected by the failure and is of a prescribed description.

(3) Without prejudice to the generality of the power conferred by subsection (2) above, regulations under that subsection may—

(a) include in a standard of performance a requirement for a sewerage undertaker, in prescribed circumstances, to inform a person of his rights by virtue of any such regulations;

(b) provide for any dispute under the regulations to be referred by either party to the dispute to the Director;

(c) make provision for the procedure to be followed in connection with any such reference and for the Director's determination on such a reference to be enforceable in such manner as may be prescribed;

(d) prescribe circumstances in which a sewerage undertaker is to be exempted from requirements of the regulations.

(4) Subject to subsection (5) below, the Secretary of State shall not make any regulations under subsection (1) or (2) above unless—

(a) the Director has made a written application to the Secretary of State which—

(i) sets out draft provisions proposed by the Director for inclusion in such regulations;

(ii) specifies the sewerage undertaker or undertakers in relation to which it is proposed those provisions should apply; and

(iii) summarises the Director's reasons for his proposals;

(b) the Secretary of State is satisfied that a copy of the application has been served by the Director on every sewerage undertaker specified in the application;

(c) the regulations contain only the provisions proposed by the Director or those provisions with such modifications as the Secretary of State considers appropriate;

(d) the only modifications of the Director's proposals to which effect is given by the regulations are modifications the proposal to make which has been notified to the Director and to any sewerage undertaker appearing to the Secretary of State to be likely to be affected by the modifications;

PART II

(e) such period as the Secretary of State considers appropriate has been allowed for the making by the Director and by any affected sewerage undertaker of representations or objections with respect to the Director's proposals and any modifications proposed by the Secretary of State; and

(f) the Secretary of State has considered both the Director's reasons for his proposals and every representation or objection which has been duly made with respect to those proposals, or any proposed modifications of those proposals, and has not been withdrawn.

(5) Subsection (4) above shall not apply in relation to any regulations made under subsection (2) above before the transfer date.

(6) The obligations imposed on a sewerage undertaker by virtue of the following provisions of this Chapter and the remedies available in respect of contraventions of those obligations shall be in addition to any duty imposed or remedy available by virtue of any provision of this section or section 67 above and shall not be in any way qualified by any such provision.

Transfer of principal sewerage functions.

69. Schedule 8 to this Act shall have effect for transferring to sewerage undertakers the functions of water authorities relating to the provision of sewerage services and for making amendments of the enactments relating to the transferred functions.

Allocation of cross boundary sewers.

70.—(1) For the purposes of any scheme under Schedule 2 to this Act, so much of any sewer as is vested in a water authority immediately before the transfer date but is—

(a) situated in the area of another water authority; and

(b) maintained for the purpose of draining premises in that area,

shall be deemed to have vested in the other water authority before the coming into force of that scheme.

(2) Where any part of a water authority's sewer is deemed by virtue of this section to have vested in another water authority, anything which—

(a) has been done by or in relation to the first-mentioned authority for any purposes connected with that part of that sewer; and

(b) is in force or effective immediately before the transfer date,

shall have effect for the purposes of any transitional provision contained in this Act as if it had been done by or in relation to that other authority.

(3) Where any part of a sewer is vested in any sewerage undertaker by virtue of this section, the terms on which that part of that sewer—

(a) communicates with such parts of that sewer or of any other sewer; or

(b) discharges into any such sewage disposal works,

as immediately before the transfer date were vested in the same water authority as that part of that sewer but, by virtue of this section, are vested in another sewerage undertaker shall be determined, in default of agreement, by the Director.

(4) A determination by the Director under this section shall have effect as an agreement between the sewerage undertakers in question but may be varied or revoked by a subsequent determination made by the Director on the application of either of those undertakers, as well as by agreement between the undertakers.

(5) In making a determination under this section, the Director shall have regard to the desirability of a sewerage undertaker's recovering the costs resulting from its allowing the sewers of other sewerage undertakers to communicate with its sewers or to discharge into its sewage disposal works and of securing a reasonable return on its capital.

Requisitioning of sewers.

71.—(1) It shall be the duty of a sewerage undertaker to provide a public sewer to be used for the drainage for domestic purposes of premises in a particular locality in its area if—

(a) the undertaker is required to provide the sewer by a notice served on the undertaker by one or more of the persons who under subsection (3) below are entitled to require the provision of the sewer for that locality;

(b) the premises in that locality the drainage of which would be by means of that sewer are—

(i) premises on which there are buildings; or

(ii) premises on which there will be buildings when proposals made by any person for the erection of any buildings are carried out;

and

(c) the conditions specified in section 72 below are satisfied in relation to that requirement.

(2) In subsection (1) above the reference to domestic purposes, in relation to the drainage of premises in a particular locality to which a requirement under that subsection relates, is a reference—

(a) where there are buildings on premises in that locality, to such of the following purposes as are specified in the requirement, that is to say—

(i) the removal, from the buildings and from land occupied with and appurtenant to the buildings, of the contents of lavatories;

(ii) the removal, from the buildings and from such land, of water which has been used for cooking or washing, not being water used for the business of a laundry or for a business of preparing food or drink for consumption otherwise than on the premises; and

(iii) the removal, from the buildings and such land, of surface water;

and

(b) where any person is proposing to erect buildings on premises in the locality, to such of the purposes mentioned in paragraph (a) above as are specified in the requirement in relation to times after the erection of the buildings.

PART II

(3) Each of the following persons shall be entitled to require the provision of a public sewer for any locality, that is to say—

(a) the owner of any premises in that locality;

(b) the occupier of any premises in that locality;

(c) any local authority within whose area the whole or any part of that locality is situated;

(d) where the whole or any part of that locality is situated in a new town, within the meaning of the New Towns Act 1981— 1981 c. 64.

(i) the Commission for the New Towns; and

(ii) the Development Board for Rural Wales or the development corporation for the new town, according to whether or not the new town is situated within the area for which that Board is for the time being responsible;

and

(e) where the whole or any part of that locality is situated within an area designated as an urban development area under Part XVI of the Local Government, Planning and Land Act 1980, the urban development corporation. 1980 c. 65.

(4) A sewerage undertaker shall not be in breach of a duty imposed by this section in relation to any locality unless—

(a) the period of six months beginning with the relevant day has expired; and

(b) the sewerage undertaker has not, before the end of that period, so laid the public sewer to be provided as to enable drains and private sewers to be used for the drainage of premises in that locality to communicate with the public sewer at the places determined under subsection (5) below;

and for the purposes of this subsection the period mentioned in paragraph (a) above may be extended by agreement between the undertaker and the person or persons who required the provision of the public sewer or, where there is a dispute as to whether the period should be extended, by an arbitrator on a reference under subsection (6) below.

(5) The places mentioned in subsection (4)(b) above shall be determined by agreement between the sewerage undertaker and the person or persons who required the provision of the public sewer or, in default of agreement, shall be such places as are determined by an arbitrator on a reference under subsection (6) below to be the places at which it is reasonable, in all the circumstances, for drains or private sewers to be used for the drainage of premises in that locality to communicate with the public sewer.

(6) A reference for the purposes of subsection (4) or (5) above shall be to a single arbitrator appointed by agreement between the undertaker and the person or persons who required the provision of the public sewer or, in default of agreement, by the President of the Institution of Civil Engineers.

(7) The duty of a sewerage undertaker under this section to provide a public sewer shall be owed to the person who requires the provision of the sewer or, as the case may be, to each of the persons who joins in doing so; and any breach by a sewerage undertaker of any such duty which causes any person to whom the duty is owed to sustain loss or damage shall be actionable at the suit of that person.

(8) In any proceedings brought against a sewerage undertaker in pursuance of subsection (7) above in respect of a breach of duty which has caused any person to sustain loss or damage it shall be a defence for the undertaker to show that it took all reasonable steps and exercised all due diligence to avoid the breach.

(9) In this section—

"local authority", in relation to the Inner Temple and the Middle Temple, includes, respectively, the Sub-Treasurer of the Inner Temple and the Under-Treasurer of the Middle Temple;

"relevant day", in relation to a requirement to provide a public sewer for any locality, means the day after whichever is the later of the following, that is to say—

(a) the day on which the conditions specified in section 72 below are satisfied in relation to the requirement; and

(b) the day on which the places where drains or private sewers to be used for the drainage of premises in that locality will communicate with the public sewer are determined under subsection (5) above.

Financial conditions of sewer requisition.

72.—(1) The conditions mentioned in section 71(1)(c) above are satisfied in relation to a requirement for the provision of a public sewer by a sewerage undertaker if—

(a) such undertakings as the undertaker may have reasonably required in accordance with subsection (2) below have been given by the person or persons who have required the provision of the sewer; and

(b) such security as the undertaker may have reasonably required has been provided for the discharge of any obligations imposed by those undertakings on any person who—

(i) by virtue of section 71(3)(a) or (b) above required or joined in requiring the provision of the sewer; and

(ii) is not a public authority.

(2) The undertakings which a sewerage undertaker may require for the purposes of subsection (1) above in respect of any public sewer are undertakings which bind the person or persons mentioned in that subsection (in the case of two or more persons, either jointly and severally or with liability to pay apportioned in such manner as those persons may agree) to pay to the undertaker, in respect of each of the twelve years following the provision of the sewer, an amount not exceeding the relevant deficit (if any) for that year on that sewer.

(3) For the purposes of this section the relevant deficit for any year on a public sewer is the amount (if any) by which the drainage charges payable for the use during that year of that sewer are exceeded by the annual borrowing costs of a loan of the amount required for the provision of that sewer.

PART II

(4) The annual borrowing costs of a loan of the amount required for the provision of a public sewer is the aggregate amount which would fall to be paid in any year by way of payments of interest and repayments of capital if an amount equal to so much of the costs reasonably incurred in providing that sewer as were not incurred in the provision of additional capacity had been borrowed, by the sewerage undertaker providing the sewer, on terms—

(a) requiring interest to be paid and capital to be repaid in twelve equal annual instalments; and

(b) providing for the amount of the interest to be calculated at such rate, and in accordance with such other provision, as may have been determined either by the undertaker with the approval of the Director or, in default of such a determination, by the Director.

(5) The costs of providing a public sewer ("the new sewer") shall include—

(a) the costs reasonably incurred in providing such other public sewers and such pumping stations as it is necessary to provide in consequence of the provision of the new sewer; and

(b) such proportion (if any) as is reasonable of the costs reasonably incurred in providing any such additional capacity in an earlier public sewer as falls to be used in consequence of the provision of the new sewer;

and in this subsection "earlier public sewer", in relation to the new sewer, means any public sewer which has been provided in the period of twelve years immediately before the provision of the new sewer and was so provided in pursuance of a requirement under section 71 above, under section 16 of the 1973 Act (requisitioning of sewers) or under any local statutory provision corresponding to the said section 71 or 16.

(6) Any reference in this section to the provision of additional capacity in a public sewer provided in pursuance of a requirement under any enactment is a reference to such works carried out or other things done in connection with the provision of that sewer as are carried out or done for the purpose of enabling that sewer to be used for purposes in addition to those for which it is necessary to provide the sewer in order to comply with the requirement.

(7) For the purposes of this section references to the drainage charges payable for the use during any year of any sewer provided by a sewerage undertaker are references to so much of the aggregate of any charges payable to the sewerage undertaker in respect of services provided in the course of that year as represents charges which—

(a) have been imposed by the undertaker in relation to such of the premises connected with that sewer as are premises where there are buildings; and

(b) are reasonably attributable to the use of that sewer for the drainage for domestic purposes of those premises or to the disposal of effluent drained for domestic purposes from those premises;

and the references in this subsection to domestic purposes shall be construed as references to any of the purposes mentioned in subsection (2)(a) of section 71 above.

(8) Where for the purposes of subsection (1)(b) above any sums have been deposited with a sewerage undertaker by way of security for the discharge of any obligation, the undertaker shall pay interest at such rate as may be determined either—

(a) by the undertaker with the approval of the Director; or

(b) in default of a determination under paragraph (a) above, by the Director,

on every sum of 50p so deposited for every three months during which it remains in the hands of the undertaker.

(9) An approval or determination given or made by the Director for the purposes of subsection (4) or (8) above—

(a) may be given or made in relation to the provision of a particular public sewer, in relation to the provision of sewers of a particular description or in relation to the provision of sewers generally; and

(b) may be revoked at any time except, in the case of an approval or determination for the purposes of subsection (4) above, in relation to a public sewer that has already been provided.

(10) Any dispute between a sewerage undertaker and any other person as to—

(a) the undertakings or security required by the undertaker for the purposes of this section; or

(b) the amount required to be paid in pursuance of any such undertaking,

shall be referred to the arbitration of a single arbitrator appointed by agreement between the undertaker and that person or, in default of agreement, by the President of the Institution of Civil Engineers.

Performance of sewerage functions by local authorities etc.

73.—(1) A relevant authority may, in accordance with any arrangements which it has entered into for the purpose with any sewerage undertaker, carry out sewerage functions on that undertaker's behalf in relation to such area comprising the whole or any part of that authority's relevant area, together (where that authority are a local authority or an urban development corporation and the arrangements so provide) with parts of any adjacent relevant areas of other relevant authorities, as may be specified in the arrangements.

(2) Arrangements entered into for the purposes of this section may contain any such provision as may be agreed between the relevant authority and the sewerage undertaker but shall not affect the availability to any person, other than the relevant authority, of any remedy against the undertaker in respect of the carrying out of the undertaker's sewerage functions or of any failure to carry them out.

(3) It is hereby declared that, if arrangements entered into for the purposes of this section so provide, a relevant authority shall be entitled to exercise on behalf of a sewerage undertaker any power which by or under any enactment is exercisable by the undertaker for the purposes of, or in connection with, the carrying out of the undertaker's sewerage functions.

PART II

(4) Where arrangements entered into for the purposes of this section provide for a local authority to carry out the sewerage functions of a sewerage undertaker on the undertaker's behalf, section 101 of the Local Government Act 1972 (delegation of functions), so far as it relates to the carrying out of functions by a committee, sub-committee or officer of a local authority, shall have effect in relation to those sewerage functions only in so far as the arrangements do not otherwise provide.

1972 c. 70.

(5) In this section—

"new town" has the same meaning as in the New Towns Act 1981;

1981 c. 64.

"relevant area"—

(a) in relation to a local authority, means the area of the authority and the whole of any new town or urban development area any part of which is situated within the area of the authority;

(b) in relation to the Commission for the New Towns, means any new town;

(c) in relation to the development corporation for any new town, means that new town;

(d) in relation to the Development Board for Rural Wales, means any new town situated within the area for which the Board is for the time being responsible; and

(e) in relation to any urban development corporation for any urban development area, means that area;

"relevant authority" means any of the following, that is to say—

(a) a local authority;

(b) the Commission for the New Towns, a development corporation for a new town or the Development Board for Rural Wales;

(c) the urban development corporation for any urban development area;

"sewerage functions", in relation to a sewerage undertaker, means the functions of the undertaker by virtue of its appointment under Chapter I of this Part as a sewerage undertaker, other than—

(a) its functions relating to sewage disposal; and

(b) its functions by virtue of the Public Health (Drainage of Trade Premises) Act 1937, Part V of the Public Health Act 1961 and sections 43 to 45 of the Control of Pollution Act 1974;

1937 c. 40.
1961 c. 64.
1974 c. 40.

"urban development area" means any area so designated under Part XVI of the Local Government, Planning and Land Act 1980.

1980 c. 65.

Control of exercise of trade effluent functions in certain cases.

74.—(1) The provisions of the Public Health (Drainage of Trade Premises) Act 1937, Part V of the Public Health Act 1961 and sections 43 to 45 of the Control of Pollution Act 1974 shall have effect in relation to trade effluent to which this section applies subject to the provisions of Schedule 9 to this Act.

(2) This section applies to any trade effluent if—

(a) prescribed substances are present in the effluent or are present in the effluent in prescribed concentrations; or

(b) the effluent derives from a prescribed process or from a process involving the use of prescribed substances or the use of such substances in quantities which exceed the prescribed amounts. PART II

CHAPTER IV

CHARGING FOR SERVICES ETC. PROVIDED BY UNDERTAKERS

Powers of undertakers to charge.

75.—(1) Subject to the following provisions of this Chapter, the powers of every water undertaker and of every sewerage undertaker shall include power—

(a) to fix charges for any services provided in the course of carrying out its functions and, in the case of a sewerage undertaker, charges to be paid in connection with the carrying out of its trade effluent functions; and

(b) to demand and recover charges fixed under this section from any persons to whom the undertaker provides services or in relation to whom it carries out trade effluent functions.

(2) The powers conferred by subsection (1) above shall be exercisable—

(a) by or in accordance with a scheme under section 76 below; or

(b) by or in accordance with agreements with the persons to be charged;

but paragraph (b) above shall have effect in relation to the exercise of those powers with respect to charges in connection with the carrying out of a sewerage undertaker's trade effluent functions only in so far as provision for the fixing, demanding or recovery of such charges may be contained in an agreement entered into in accordance with section 7 of the Public Health (Drainage of Trade Premises) Act 1937. 1937 c. 40.

(3) Except in so far as this Chapter otherwise provides, a water undertaker or sewerage undertaker may fix charges under this section by reference to such matters, and may adopt such methods and principles for the calculation and imposition of the charges, as appear to the undertaker to be appropriate.

(4) The powers in relation to which this section has effect shall not be exercised so as to contravene any local statutory provision which expressly provides that no charge shall be made for a particular service.

(5) Nothing in subsections (1) to (4) above or in any scheme under section 76 below shall affect any power of a water undertaker or sewerage undertaker to fix charges under any power conferred otherwise than by virtue of this Chapter.

(6) References in this section to a sewerage undertaker's trade effluent functions are references to its functions under the Public Health (Drainage of Trade Premises) Act 1937, Part V of the Public Health Act 1961 and sections 43 to 45 of the Control of Pollution Act 1974. 1961 c. 64. 1974 c. 40.

Charges schemes.

76.—(1) A water undertaker or sewerage undertaker may make a scheme (in this section referred to as a "charges scheme") which does any one or more of the following, that is to say—

(a) fixes the charges to be paid for any services provided by the undertaker in the course of carrying out its functions;

PART II

(b) in the case of a sewerage undertaker, requires such charges as may be fixed by the scheme to be paid to the undertaker where, in the circumstances set out in the scheme—

(i) a trade effluent notice is served on the undertaker under the Public Health (Drainage of Trade Premises) Act 1937;

1937 c. 40.

(ii) such a consent as is necessary for the purposes of that Act is given by the undertaker; or

(iii) a discharge is made in pursuance of such a consent;

and

(c) makes provision with respect to the times and methods of payment of the charges fixed by the scheme.

(2) The persons who may be required by a charges scheme to pay any charge fixed by virtue of paragraph (b) of subsection (1) above shall be the person who serves the notice, the person to whom the consent is given or, as the case may be, any person who makes a discharge in pursuance of the consent at any time during the period to which, in accordance with the scheme, the charge relates; and a charges scheme which requires the payment of charges where a discharge has been made in pursuance of such a consent as is mentioned in that paragraph may impose—

(a) a single charge in respect of the whole period for which the consent is in force;

(b) separate charges in respect of different parts of that period; or

(c) both such a single charge and such separate charges.

(3) A charges scheme may—

(a) make different provision for different cases, including different provision in relation to different circumstances or localities; and

(b) contain supplemental, consequential and transitional provision for the purposes of the scheme;

and such a scheme may revoke or amend a previous charges scheme.

(4) Nothing in any charges scheme shall affect—

(a) any power of a water undertaker or sewerage undertaker to enter into such an agreement with any person in any particular case as determines the charges to be made for the services provided to that person by the undertaker; or

(b) the power of a sewerage undertaker to enter into any agreement under section 7 of the Public Health (Drainage of Trade Premises) Act 1937 (agreement as to discharges of trade effluent) on terms that provide for the making of payments to the undertaker.

Liability of occupiers etc. for charges.

77.—(1) Subject to the following provisions of this section and except in so far as provision to the contrary is made by any agreement to which the undertaker is a party—

(a) supplies of water provided by a water undertaker shall be treated for the purposes of this Chapter as services provided to the occupiers for the time being of any premises supplied; and

(b) sewerage services provided by a sewerage undertaker shall be treated for the purposes of this Chapter as provided to the occupiers for the time being of any premises which—

(i) are drained by a sewer or drain connecting, either directly or through an intermediate sewer or drain, with such a public sewer of the undertaker as is provided for foul water or surface water or both; or

(ii) are premises the occupiers of which have, in respect of the premises, the benefit of facilities which drain to a sewer or drain so connecting.

(2) Subject to subsection (3) below, charges which, under the preceding provisions of this Chapter, are fixed in relation to any premises by reference to volume may be imposed so that a person is made liable in relation to those premises to pay charges for services provided by a water undertaker or sewerage undertaker after that person has ceased to be the occupier of the premises.

(3) A person shall not be made liable by virtue of subsection (2) above for any charges fixed in relation to any premises by any water undertaker or sewerage undertaker, except where—

(a) he fails to inform the undertaker of the ending of his occupation of the premises at least two working days before he ceases to occupy them; and

(b) the charges are in respect of a period ending no later than with whichever of the following first occurs after he ceases to occupy the premises, that is to say—

(i) where he informs the undertaker of the ending of his occupation of the premises less than two working days before, or at any time after, he ceases to occupy them, the twenty-eighth day after he so informs the undertaker;

(ii) any day on which any meter would normally have been read in order for the amount of the charges to be determined;

(iii) any day on which any other person informs the undertaker that he has become the new occupier of the premises.

(4) Where—

(a) any person who is the occupier of any premises to which a supply of water is provided by a water undertaker has served notice on the undertaker for the purposes of section 49(1)(c) above; and

(b) that notice is given otherwise than in connection with that person's ceasing to be the occupier of the premises in a case in which provision is made by virtue of subsection (2) above for a person who has ceased to be the occupier of the premises to be made liable for any charges,

then, notwithstanding that that person continues to be the occupier of those premises, he shall not be liable to the undertaker (otherwise than in pursuance of a demand for a supply made since the service of the notice) for any charges in respect of any supply of water to those premises after whichever is the later of the expiry of the notice and the end of the period of two working days beginning with the service of the notice.

(5) In this section—

(a) any reference to the fixing of charges in relation to any premises by reference to volume is a reference to the fixing of those charges by reference to the volume of water supplied

PART II

to those premises, to the volume of effluent discharged from those premises, to both of those factors or to one or both of those factors taken together with other factors; and

(b) any reference to two working days is a reference to a period of forty-eight hours calculated after disregarding any time falling on a Saturday or Sunday or on Christmas Day, Good Friday or any day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971.

1971 c. 80.

Provisions relating to charging by volume.

78.—(1) Schedule 10 to this Act shall have effect for the purpose of securing the installation of meters and of making other provision in relation to meters and the premises where they are installed.

(2) The Secretary of State may by regulations make such provision, supplementing the provisions of this Chapter, as he considers appropriate with respect to the installation of meters, with respect to the connection, disconnection, use, maintenance, authentication and testing of meters and with respect to any related matters.

(3) Without prejudice to the generality of subsection (2) above, regulations under that subsection may—

(a) regulate the positioning, whether inside or outside the building or other premises in relation to which the meter is to be used, of any meter or of any pipes or apparatus appearing to any water undertaker or sewerage undertaker to be required for the purpose of facilitating the use of any meter;

(b) make any other provision which appears to the Secretary of State to be appropriate with respect to any such pipes or apparatus;

(c) provide for a reading from a meter to be proved in such manner as may be prescribed and for a reading from a meter to be such evidence as may be prescribed of the volume of water supplied to, or of effluent discharged from, any premises;

(d) fix the method of determining the amount of the charges to be paid where it appears that a meter has given, or may have given, an incorrect reading;

(e) require a person who is not a water undertaker or sewerage undertaker to pay the expenses incurred by a water undertaker or sewerage undertaker in doing anything under the regulations or to pay contributions towards those expenses;

(f) provide for the payment of compensation in respect of anything done by a water undertaker or sewerage undertaker under the regulations;

(g) require disputes arising under the regulations to be referred to arbitration;

(h) repeal or amend any local statutory provision.

(4) In this section "meter" means any apparatus for measuring or showing the volume of water supplied to, or of effluent discharged from, any premises.

Restrictions on power to make connection and certain other charges.

79.—(1) Subject to subsection (2) below, nothing in this Chapter or in any other enactment shall entitle any water undertaker or sewerage undertaker to fix, demand or recover an initial charge for its becoming, or for its taking steps for the purpose of becoming—

(a) the person who provides a supply of water for domestic purposes to any premises; or

(b) the person who provides sewerage services for the purposes of the drainage for domestic purposes of any premises.

(2) Subject to subsection (3) below, nothing in subsection (1) above or in any other enactment shall be construed as prohibiting the fixing, demand or recovery by a water undertaker or sewerage undertaker of—

(a) a charge for the connection to a water supply of premises which have never at any previous time (whether before or on or after the transfer date) been connected to a supply of water provided for domestic purposes by a water undertaker or by any other authority or body which at that time provided supplies of water in the course of carrying out functions under any enactment; or

(b) a charge for the connection to a public sewer of premises which have never at any previous time (whether before or on or after the transfer date) been connected to a sewer used for the drainage for domestic purposes of those premises by a sewerage undertaker or by any other authority or body which at that time provided sewerage services in the course of carrying out functions under any enactment.

(3) Nothing in this Chapter or in any other enactment or in the terms of any agreement under section 18 of the Public Health Act 1936 (agreements to adopt sewers and works) shall authorise a sewerage undertaker to require any payment to be made to the undertaker in respect of the making by the undertaker of any declaration of vesting under Part II of that Act or in respect of any agreement to make such a declaration. 1936 c. 49.

(4) Nothing in this Chapter or in any other enactment shall authorise a sewerage undertaker to require any payment to be made to the undertaker by a highway authority in respect of the drainage of any highway or the disposal of the contents of any drain or sewer used for draining any highway.

(5) The preceding provisions of this section, so far as they restrict the making of certain charges, are without prejudice—

(a) to enactments by virtue of which a water undertaker or sewerage undertaker may recover expenses incurred by it in carrying out works; and

(b) to the power of any such undertaker, by virtue of section 75(3) above, to fix the amount of any of its other charges by reference to such matters as it thinks appropriate.

(6) The references in this section to domestic purposes, in relation to the drainage of any premises, shall be construed as references to any of the purposes mentioned in subsection (2)(a) of section 71 above.

Prohibition on charging by rateable value.

80.—(1) Charges and other amounts to which this section applies shall not, by virtue of anything contained in this Chapter, in any local statutory provision, in any scheme under section 76 above or in any agreement entered into on or after the transfer date, be recoverable by a water undertaker or sewerage undertaker from any person if they have been fixed wholly or partly by reference to a rating valuation list or are otherwise determined, whether directly or indirectly, by reference to any value or other amount specified at any time in such a list.

PART II

(2) This section applies to—

(a) charges in respect of any services provided at any time after the end of 31st March 2000 by a water undertaker or sewerage undertaker in the course of carrying out its functions; and

(b) amounts of any other description which such an undertaker, in exercise of any power conferred by or under any enactment, requires any person to pay in respect of any period ending after that date or in respect of anything done after that date.

(3) In this section "rating valuation list" means a list which is or has at any time been maintained for the purposes of rating under section 41 or 52 of the Local Government Finance Act 1988, section 67 of the General Rate Act 1967 or any other enactment.

1988 c. 41.
1967 c. 9.

Exemption from charges for water for fire fighting.

81.—(1) Notwithstanding anything in section 75 above or in any scheme under section 76 above or in any agreement as to charges in respect of any supply of water, no charge may be made by any water undertaker in respect of—

(a) water taken for the purpose of extinguishing fires or taken by a fire authority for any other emergency purposes;

(b) water taken for the purpose of testing apparatus installed or equipment used for extinguishing fires or for the purpose of training persons for fire-fighting; or

(c) the availability of water for any purpose mentioned in paragraph (a) or (b) above.

(2) This section shall not prevent the making of charges in respect of work carried out at the request of or for the benefit of any person receiving a supply of water for the purposes mentioned in paragraph (a) or (b) of subsection (1) above.

(3) This section shall not have the effect, where any water is used or made available for any of the purposes mentioned in paragraph (a) or (b) of subsection (1) above, of requiring a reduction in the charges imposed in respect of the provision for other purposes of the supply from which that water is taken.

1947 c. 41.

(4) In this section "fire authority" has the same meaning as in the Fire Services Act 1947.

Fixing maximum charges for services provided with the help of undertakers' services.

82.—(1) The Director may from time to time by order fix maximum charges which a person who is not a water undertaker or sewerage undertaker may recover from another such person in respect of water supplies or sewerage services provided to that other person with the help of services provided by a water undertaker or sewerage undertaker.

(2) For the purposes of this section water supplies or sewerage services are provided to a person with the help of services provided by a water undertaker or sewerage undertaker if—

(a) a facility for that person to have access to a supply of water provided by a water undertaker in pipes, or to make use of sewerage services provided by a sewerage undertaker, is made available to that person otherwise than by the undertaker;

(b) that person is provided with a supply of water in pipes by a person to whom the water is supplied, directly or indirectly, by a water undertaker; or

(c) that person is provided with sewerage services by a person who, for the purpose of providing those services, makes use of sewerage services provided, directly or indirectly, by a sewerage undertaker.

(3) It shall be the duty of the Director to publish any order under this section in such manner as he considers appropriate for the purpose of bringing it to the attention of persons likely to be affected by it.

(4) An order under this section may make different provision for different cases, including different provision in relation to different persons, circumstances or localities, and may fix a maximum charge either by specifying the maximum amount of the charge or by specifying a method of calculating that amount.

(5) Where a person pays a charge in respect of anything to which an order under this section relates and the amount paid exceeds the maximum charge fixed by the order, the amount of the excess shall be recoverable by that person from the person to whom he paid the charge.

CHAPTER V

OWNERSHIP AND FINANCES OF SUCCESSOR COMPANIES ETC.

Initial Government holdings.

83.—(1) As a consequence of the vesting in accordance with any scheme under Schedule 2 to this Act of property, rights and liabilities of any water authority in that authority's successor company, that company shall issue such securities of the company as the Secretary of State may from time to time direct—

(a) to such limited company as may (whether before or after the transfer date) have been nominated by the Secretary of State by order made by statutory instrument as the nominated holding company of the successor company; or

(b) to the Secretary of State.

(2) As a consequence of the issue by virtue of any direction under subsection (1) above of any securities of a company to that company's nominated holding company, the latter company shall issue such securities of the nominated holding company as the Secretary of State may from time to time direct—

(a) to the Treasury or the Secretary of State; or

(b) to any person entitled to require the issue of the securities following their initial allotment to the Treasury or the Secretary of State.

(3) The Secretary of State shall not—

(a) make an order nominating any company as the nominated holding company of a successor company; or

(b) give a direction under subsection (1) or (2) above for the issue of securities,

except at a time when the company nominated by the order or, as the case may be, the company which is directed to issue securities is wholly owned by the Crown.

(4) Securities required to be issued in pursuance of this section shall be issued or allotted at such time or times and on such terms as the Secretary of State may direct.

PART II

(5) Shares in a company which are issued in pursuance of this section—

(a) shall be of such nominal value as the Secretary of State may direct; and

(b) shall be issued as fully paid and treated for the purposes of the application of the Companies Act 1985 in relation to that company as if they had been paid up by virtue of the payment to the company of their nominal value in cash.

1985 c. 6.

(6) The Secretary of State shall not exercise any power conferred on him by this section, or dispose of any securities issued or of any rights to securities initially allotted to him in pursuance of this section, without the consent of the Treasury.

(7) Any dividends or other sums received by the Treasury or the Secretary of State in right of or on the disposal of any securities or rights acquired by virtue of this section shall be paid into the Consolidated Fund.

Government financial assistance for companies wholly owned by the Crown.

84.—(1) Subject to section 92(1) below, the Secretary of State may, with the consent of the Treasury, lend such sums as he thinks fit to any company which is the nominated holding company of a successor company and is for the time being wholly owned by the Crown.

(2) The Secretary of State may, with the consent of the Treasury, guarantee, in such manner and on such conditions as he may think fit, the repayment of the principal of, the payment of interest on and the discharge of any other financial obligation in connection with any sum which is borrowed from any person by any company which—

(a) is a successor company or the nominated holding company of such a company; and

(b) is wholly owned by the Crown at the time when the guarantee is given.

(3) Subject to section 86 below, any loans which the Secretary of State makes to a company under this section shall be repaid to him at such times and by such methods, and interest thereon shall be paid to him at such rates and at such times, as he may, with the consent of the Treasury, from time to time direct.

(4) The Treasury may issue out of the National Loans Fund to the Secretary of State such sums as are required by him for making loans under this section.

(5) Any sums received under subsection (3) above by the Secretary of State shall be paid into the National Loans Fund.

(6) It shall be the duty of the Secretary of State as respects each financial year—

(a) to prepare, in such form as the Treasury may direct, an account of sums issued to him in pursuance of subsection (4) above and of sums received by him under subsection (3) above and of the disposal by him of the sums so issued or received; and

(b) to send the account to the Comptroller and Auditor General not later than the end of the month of August in the following financial year;

and the Comptroller and Auditor General shall examine, certify and report on the account and shall lay copies of it and of his report before each House of Parliament.

Transfer of successor company liabilities to holding companies.

85.—(1) The Secretary of State may by order made by statutory instrument transfer to that company's nominated holding company the liabilities of a successor company in respect of the principal of any relevant loan.

(2) Where the Secretary of State has made an order under subsection (1) above in respect of the liabilities of any successor company and he considers it appropriate to do so, he may give a direction under this subsection to that company and that company shall, as a consequence of the making of the order, issue such debentures of the company to its nominated holding company as may be specified or described in the direction.

(3) The Secretary of State—

(a) shall not exercise his power to make an order under this section except with the consent of the Treasury; and

(b) shall not make such an order transferring the liability of any company or give a direction under subsection (2) above to any company, except at a time when the company is wholly owned by the Crown.

(4) Subsection (4) of section 83 above shall apply for the purposes of this section as it applies for the purposes of that section.

(5) In this section "relevant loan", in relation to the successor company of a water authority, means any sum borrowed or treated as borrowed by the authority from the Secretary of State or the Public Works Loan Commissioners, being a sum the liability to repay which has vested in the authority's successor company in accordance with any scheme under Schedule 2 to this Act.

Conversion of certain loans.

86.—(1) The Secretary of State may by order made by statutory instrument extinguish all or any of the liabilities of the nominated holding company of a successor company in respect of the principal of any loan of either of the following descriptions, that is to say—

(a) a loan made to that company under section 84 above;

(b) a loan the liability to repay the principal of which has been transferred to that company under section 85 above;

and the assets of the National Loans Fund shall accordingly be reduced by amounts corresponding to any liabilities so extinguished.

(2) An order made under subsection (1) above in respect of any loan the liability to repay the principal of which was transferred to the nominated holding company of a successor company under section 85 above may extinguish all or any of the liabilities of that successor company under debentures issued in respect of the transfer under subsection (2) of that section.

PART II

(3) Where the Secretary of State has made an order under subsection (1) above and he considers it appropriate to do so, he may give a direction under this subsection to any nominated holding company whose liabilities are extinguished by the order and that company shall, as a consequence of the making of the order, issue such debentures of the company as may be specified or described in the direction—

(a) to the Treasury or the Secretary of State; or

(b) to any person entitled to require the issue of the debentures following their initial allotment to the Treasury or the Secretary of State.

(4) The Secretary of State shall not—

(a) make an order under subsection (1) above extinguishing the liability of any company; or

(b) give a direction under subsection (3) above for the issue of debentures,

except at a time when the company whose liability is extinguished by the order or, as the case may be, the company which is directed to issue debentures is wholly owned by the Crown.

(5) Except as may be agreed between the Secretary of State and a company which is directed to issue debentures in pursuance of this section—

(a) the aggregate of the principal sums payable under the debentures to which the direction relates shall be equal to the aggregate of the sums the liability to repay which is extinguished by the order; and

(b) the terms as to the payment of the principal sums payable under the debentures to which the direction relates, and as to the payment of interest thereon, shall be the same as the corresponding terms of the loans specified in the order.

(6) For the purposes of subsection (5) above any express or implied terms of a loan shall be disregarded in so far as they relate to the early discharge of liabilities to make repayments of principal and payments of interest.

(7) Subsection (4) and subsections (6) and (7) of section 83 above shall apply for the purposes of this section as they apply for the purposes of that section.

Government investment in securities of the nominated holding companies.

87.—(1) The Treasury or, with the consent of the Treasury, the Secretary of State may at any time acquire—

(a) securities of the nominated holding company of a successor company; or

(b) rights to subscribe for any such securities.

(2) The Secretary of State shall not dispose of any securities acquired under this section without the consent of the Treasury.

(3) Any expenses incurred by the Treasury or the Secretary of State in consequence of the provisions of this section shall be paid out of money provided by Parliament.

(4) Any dividends or other sums received by the Treasury or the Secretary of State in right of, or on the disposal of, any securities or rights acquired under this section shall be paid into the Consolidated Fund.

Exercise of functions through nominees.

88.—(1) The Treasury or, with the consent of the Treasury, the Secretary of State may for the purposes of section 83, 86 or 87 above appoint any person to act as the nominee, or one of the nominees, of the Treasury or, as the case may be, of the Secretary of State; but—

(a) the issue in pursuance of section 83 above of securities of a successor company to any nominee of the Secretary of State appointed for the purposes of that section;

(b) the issue in pursuance of section 83 or 86 above of securities of such a company's nominated holding company to such nominee of the Treasury or the Secretary of State as is appointed for the purposes of that section or to any person entitled to require the issue of the securities following their initial allotment to any such nominee; and

(c) the acquisition by any nominee of the Treasury or the Secretary of State who is appointed for the purposes of section 87 above of any securities or rights under that section,

shall be in accordance with such directions as may be given from time to time by the Treasury or, with the consent of the Treasury, by the Secretary of State.

(2) Any person holding any securities or rights as a nominee of the Treasury or the Secretary of State by virtue of the preceding provisions of this section shall hold and deal with them (or any of them) on such terms and in such manner as the Treasury or, with the consent of the Treasury, the Secretary of State may direct.

Target investment limit for Government shareholding.

89.—(1) The following provisions of this section shall apply separately in relation to each company which is the nominated holding company of a successor company.

(2) As soon as he considers it expedient and, in any case, not later than six months after the company ceases to be wholly owned by the Crown, the Secretary of State shall by order fix a target investment limit in relation to the aggregate of the shares in the company which are for the time being held, by virtue of any provision of this Chapter, by any of the following, that is to say, the Treasury, the Secretary of State or any nominee of the Treasury or the Secretary of State (in this section referred to as "the Government shareholding").

(3) The target investment limit for the Government shareholding in the company shall be expressed as a proportion of the voting rights which are exercisable in all circumstances at general meetings of the company (in this section referred to as "the ordinary voting rights").

(4) The first target investment limit fixed under this section for the Government shareholding in the company shall not exceed, by more than 0.5 per cent of the ordinary voting rights, the proportion of the ordinary voting rights which is in fact carried by the Government shareholding in the company at the time when the order fixing the limit is made.

PART II

(5) The Secretary of State may from time to time by order fix a new target investment limit for the Government shareholding in the company in place of the one previously in force under this section; but—

(a) any new limit must be lower than the one it replaces in relation to the company; and

(b) an order under this section may only be revoked by an order fixing a new limit.

(6) It shall be the duty of the Treasury and of the Secretary of State—

(a) so to exercise their powers under section 87 above, any power to dispose of any shares held by virtue of any provision of this Chapter and their power to give directions to their respective nominees as to secure that the Government shareholding in the company does not carry a proportion of the ordinary voting rights exceeding any target investment limit for the time being in force under this section in relation to the company; and

(b) not at any time on or after the fixing of the first target investment limit in relation to the company to exercise any power to acquire, or to authorise any nominee to acquire, any shares in the successor company of which the company is the nominated holding company.

(7) Notwithstanding subsection (6) above but subject to subsection (8) below, the Treasury or the Secretary of State may take up, or direct any nominee of the Treasury or of the Secretary of State to take up, any rights for the time being available to them or him, or to the nominee—

(a) as an existing holder of shares or other securities of the company; or

(b) by reason of the rescission of any contracts for the sale of any such shares or securities.

(8) If, as a result of anything done under subsection (7) above, the proportion of the ordinary voting rights carried by the Government shareholding in the company at any time exceeds the target investment limit for the time being in force under this section in relation to the company, it shall be the duty of the Treasury or, as the case may be, the Secretary of State to comply with subsection (6) above as soon after that time as is reasonably practicable.

(9) For the purposes of this section the temporary suspension of any of the ordinary voting rights shall be disregarded.

(10) The power to make an order under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

Responsibility for listing particulars of nominated holding companies.

90.—(1) Where—

(a) the same document contains listing particulars for securities of two or more nominated holding companies; and

(b) any person's responsibility for any information included in the document is stated in the document to be confined to its inclusion as part of the listing particulars for securities of any one of those companies,

that person shall not be treated as responsible for that information in so far as it is stated in the document to form part of the listing particulars for securities of any other of those companies.

(2) Sections 150 and 154 of the 1986 Act (advertisements etc. in connection with listing applications) shall have effect in relation to any information issued for purposes connected with any securities of a nominated holding company as if any reference to a person's incurring civil liability included a reference to any other person being entitled, as against that person, to be granted a civil remedy or to rescind or repudiate any contract.

(3) In this section—

"the 1986 Act" means the Financial Services Act 1986; 1986 c. 60.

"listing particulars" means any listing particulars or supplementary listing particulars within the meaning of the 1986 Act;

"responsible" means responsible for the purposes of Part IV of the 1986 Act and "responsibility" shall be construed accordingly.

Statutory accounts of the group.

91.—(1) For the purposes of any statutory accounts of a water authority's successor company—

(a) the vesting effected in accordance with any scheme under Schedule 2 to this Act shall be taken—

(i) to have been a vesting in that company of all the property, rights and liabilities to which that authority was entitled or subject immediately before the end of their last accounting date and which, at that time, were not property, rights and liabilities relating to Part III functions; and

(ii) to have been effected immediately after that date;

and

(b) the value of any asset and the amount of any liability of that authority which is taken by virtue of paragraph (a) above to have been vested in that company shall be taken to have been the value or (as the case may be) amount assigned to that asset or liability for the purposes of the corresponding statement of accounts prepared by that authority in respect of the complete accounting year ending with that date.

(2) For the purposes of any statutory accounts of a water authority's successor company the amount to be included in respect of any item shall be determined as if the company had done anything not relating to Part III functions which has been done by that authority (whether by way of acquiring, revaluing or disposing of any asset or incurring, revaluing or discharging any liability, or by carrying any amount to any provision or reserve, or otherwise).

PART II

Accordingly (but without prejudice to the generality of the preceding provision) the amount to be included from time to time in any reserves of a water authority's successor company as representing the company's accumulated realised profits shall be determined as if any profits realised and retained by that authority had been realised and retained by the company.

(3) For the purposes of any statutory accounts of the nominated holding company of a successor company—

(a) a successor company which becomes a subsidiary of the holding company in the course of an accounting reference period of that successor company shall be assumed to have become such a subsidiary at the beginning of that period; and

(b) the value, at the time of its issue, of any security issued to the holding company in pursuance of section 83 or 85 above shall be taken—

(i) in the case of a share, to have been equal to its nominal value; and

(ii) in the case of a debenture, to have been equal to the principal sum payable under the debenture.

(4) For the purposes of this section the question whether any property, right or liability of a water authority, or anything done by a water authority, relates to Part III functions shall be determined in accordance with such principles for determining whether anything so relates as the Secretary of State—

(a) considers appropriate to apply in the case of that authority's successor company; and

(b) has notified to that company in writing.

(5) References in this section to the statutory accounts of a company are references to any accounts prepared by the company for the purposes of any provision of the Companies Act 1985 (including group accounts); and in this section—

1985 c. 6.

"accounting reference period" has the same meaning, in relation to a successor company, as in that Act;

"complete accounting year," in relation to a water authority, means an accounting year of the authority ending on 31st March;

"the last accounting date", in relation to any water authority, means the last day of the last complete accounting year of that authority to end before the transfer date; and

"Part III functions", in relation to a water authority, means the functions of that authority which are transferred to the Authority by virtue of this Act or correspond to any functions assigned to the Authority under this Act.

Temporary restrictions on borrowings etc. by the group.

92.—(1) The aggregate amount outstanding in respect of the principal of the relevant borrowing of a group to which a successor company belongs shall not, at any time when the company is wholly owned by the Crown, exceed £1,400 million or such greater sum, not exceeding £1,800 million, as the Secretary of State may specify by order made by statutory instrument.

(2) The power to make an order under subsection (1) above shall include power to specify different amounts in relation to different groups; and no order shall be made under that subsection unless a draft of the order has been laid before the House of Commons and has been approved by a resolution of that House.

(3) If articles of association of a successor company or of such a company's nominated holding company confer on the Secretary of State powers exercisable with the consent of the Treasury for, or in connection with, restricting the sums of money which may be borrowed or raised during any period by the group to which that company belongs, those powers shall be exercisable in the national interest notwithstanding any rule of law and the provisions of any enactment.

(4) For the purposes of subsection (3) above an alteration of the articles of association of a successor company or of such a company's nominated holding company shall be disregarded if the alteration—

(a) has the effect of conferring or extending any such power as is mentioned in that subsection; and

(b) is made at a time when that company has ceased to be wholly owned by the Crown.

(5) In this section—

"group", in relation to a successor company, means that company's nominated holding company and all of the nominated holding company's subsidiaries (including the successor company and its subsidiaries) taken together; and

"relevant borrowing", in relation to a group to which a successor company belongs, means—

(a) such loans made or treated as made to any company in the group, including loans treated by virtue of the issue of debentures in pursuance of this Act as having been made to any such company, as are not loans made or treated as made by one company belonging to the group to another such company; and

(b) any sums borrowed or treated as borrowed by local authorities in respect of the repayment of which, or the payment of interest on which, the successor company is required to make contributions by virtue of the transfer of any liability in accordance with a scheme under Schedule 2 to this Act.

(6) Where any amount outstanding in respect of the principal of any relevant borrowing of a group—

(a) is treated as repaid or extinguished in connection with the issue of any securities of a company belonging to that group; or

(b) would fall to be so treated, in the case of an extinguishment under section 86 above, if the Secretary of State had given a direction under subsection (3) of that section,

that amount shall be deemed for the purposes of this section to continue to be outstanding except to the extent that any amount payable by the company by reason of the issue of securities in connection with the repayment or extinguishment itself falls to be treated for the purposes of this section as an amount outstanding in respect of the principal of any relevant borrowing of the group.

PART II
Reserves of the successor companies.

93.—(1) Where the Secretary of State, at any time before the company ceases to be wholly owned by the Crown, so directs in relation to any successor company, such sums as may be specified in the direction shall, instead of being applied in any other way, be carried by the company to a reserve for the purposes of this section.

(2) A company having a reserve for the purposes of this section shall not apply it except in paying up unissued shares of the company to be allotted to members of the company as fully paid bonus shares.

Application of Trustee Investments Act 1961 in relation to investment in the nominated holding companies. 1961 c. 62.

94.—(1) Subsection (2) below shall have effect for the purpose of applying paragraph 3(b) of Part IV of Schedule 1 to the Trustee Investments Act 1961 (which provides that shares and debentures of a company shall not count as wider-range and narrower-range investments respectively within the meaning of that Act unless the company has paid dividends in each of the five years immediately preceding that in which the investment is made) in relation to investment, during the first investment year or any following year, in shares or debentures of a company which is the nominated holding company of a successor company.

(2) The company shall be deemed to have paid a dividend as mentioned in the said paragraph 3(b)—

(a) in every year preceding the first investment year which is included in the relevant five years; and

(b) in the first investment year, if that year is included in the relevant five years and that company does not in fact pay such a dividend in that year.

(3) In this section—

"the first investment year", in relation to a company which is the nominated holding company of a successor company, means the calendar year in which shares in that successor company are first issued, in pursuance of section 83(1) above, to the nominated holding company; and

"the relevant five years" means the five years immediately preceding the year in which the investment in question is made or proposed to be made.

Tax provisions. 1968 c. 3.

95.—(1) The Secretary of State may, for the purposes of section 2 of the Capital Allowances Act 1968 (writing-down allowance), by order make provision specifying—

(a) the amount to be taken for the purposes of subsection (3) of that section as the residue on the transfer date of any expenditure in relation to which any property vested in a successor company in accordance with a scheme under Schedule 2 to this Act is a relevant interest for the purposes of that section; and

(b) the part of the period mentioned in subsection (3) of that section which is to be treated, in relation to any such property, as unexpired on that date.

1971 c. 68.

(2) For the purposes of Chapter I of Part III of the Finance Act 1971 (capital allowances in respect of machinery and plant) property which is vested in a successor company in accordance with a scheme under Schedule 2 to this Act shall be treated as if—

(a) it had been acquired by that company on the transfer date for the purposes for which it is used by that company on and after that date; and

(b) capital expenditure of such amount as may be specified for the purposes of this subsection in an order made by the Secretary of State had been incurred on that date by that company on the acquisition of the property for the purposes mentioned in paragraph (a) above.

(3) The Secretary of State shall not make an order under subsection (1) or (2) above in relation to any property of a successor company except with the consent of the Treasury and at a time when the company is wholly owned by the Crown; and the power to make such an order shall be exercisable by statutory instrument and shall include power to make different provision for different cases, including different provision in relation to different property or descriptions of property.

(4) Subject to subsection (5) below, for the purposes of the Capital Gains Tax Act 1979 ("the 1979 Act") the following securities of a successor company, that is to say— 1979 c. 14.

(a) those issued to that company's nominated holding company in pursuance of section 83 above;

(b) those issued to that company's nominated holding company in pursuance of section 85 above, so far as they are not extinguished under section 86 above; and

(c) those not issued in pursuance of section 83 or 85 above which are—

(i) held by that holding company, or any of its nominees, on the transfer date; or

(ii) held by the Secretary of State, or any of his nominees, on that date and transferred to that holding company at any time when that holding company is wholly owned by the Crown,

shall, together, be deemed to have been acquired by the nominated holding company on the transfer date for a consideration equal to whatever is the market value of the successor company's undertaking immediately after the coming into force, on that date, of the scheme under Schedule 2 to this Act in accordance with which property, rights and liabilities of a water authority are transferred to the successor company.

(5) For the purposes of the 1979 Act—

(a) any loan which is a relevant loan for the purposes of section 85 above shall be disregarded in determining the market value referred to in subsection (4) above; and

(b) where an apportionment of the aggregate amount for which securities of any company are treated under that subsection as having been acquired by any company falls to be made between different securities, any debenture to which that subsection applies shall be treated as having been acquired by that company for an amount equal to the principal sum payable under the debenture.

PART II

(6) Where—

(a) any debt owed to a water authority is transferred to its successor company in accordance with a scheme under Schedule 2 to this Act; and

(b) the authority would have been the original creditor in relation to that debt for the purposes of section 134 of the 1979 Act (disposal of debts),

the successor company shall be treated as the original creditor for those purposes.

1988 c. 1.

(7) For the purposes of Part VI of the Income and Corporation Taxes Act 1988 (company distributions) any securities of a company issued in pursuance of section 83, 85 or 86 above shall be treated as having been issued for new consideration equal—

(a) in the case of a share, to its nominal value; and

(b) in the case of a debenture, to the principal sum payable under the debenture.

(8) Subsection (1) of section 400 of the Income and Corporation Taxes Act 1988 (write-off of government investment: restriction of tax losses) shall not have effect in relation to any extinguishment, at a time when the nominated holding company of a successor company is wholly owned by the Crown, of any liabilities of that holding company.

(9) Subsection (6) of the said section 400 shall apply in relation to any such extinguishment of liabilities as is mentioned in subsection (8) above as if the reference to the body in question were a reference to the company whose liabilities are extinguished.

(10) Where any debentures of any company are issued in pursuance of section 83, 85 or 86 above, any annual payment secured by those debentures shall be treated for all purposes of corporation tax as if it were a charge on income of that company.

(11) The vesting in accordance with a scheme under Schedule 2 to this Act in a successor company of any liability for a loan made to a water authority shall not affect any direction in respect of the loan which has been given, or has effect as if given, under section 581 of the Income and Corporation Taxes Act 1988 (income tax exemption for interest on foreign currency securities).

Interpretation of Chapter V.

96. In this Chapter—

"debentures" includes debenture stock;

"nominated holding company", in relation to a successor company, means the company nominated under section 83(1) above as that successor company's nominated holding company;

"securities", in relation to a company, includes shares, debentures, bonds and other securities of the company, whether or not constituting a charge on the assets of the company; and

"shares" includes stock.

CHAPTER VI PART II

STATUTORY WATER COMPANIES

General powers of appointed companies.

97.—(1) Subject to the following provisions of this section, a statutory water company holding an appointment under Chapter I of this Part as a water undertaker for any area—

(a) shall have power to do anything (whether in that area or elsewhere) which, in the opinion of the company, is calculated to facilitate, or is conducive or incidental to, the carrying out of the functions which are functions of the company by virtue of the appointment;

(b) without prejudice to the generality of that power, shall have power, for the purposes of, or in connection with, the carrying out of those functions—

(i) to acquire and dispose of land and other property;

(ii) to carry out such engineering or building operations at such places (whether in that area or elsewhere) as the company considers appropriate; and

(iii) to supply water fittings to any person to whom they supply water and to install, repair and alter such a person's water fittings, whether or not supplied by the company;

and

(c) without prejudice as aforesaid, shall have power—

(i) to provide for any person outside the United Kingdom advice or assistance, including training facilities, as respects any matter in which the company has skill or experience;

(ii) to become a member of any body formed for the purpose of promoting the interests of water undertakers or any description of water undertakers; and

(iii) to make donations and incur expenditure for the benefit of its officers and employees and in particular to pay, or make provision (whether by contributory or non-contributory schemes or otherwise) for the payment of, pensions, allowances or gratuities to or in respect of any persons who have been or are officers or employees of the company.

(2) Nothing in this section with respect to the carrying out of works shall be construed as conferring any power otherwise than for the purpose of removing such a limitation on the capacity of a statutory water company as would, apart from this section, exist by virtue of the company's constitution; and, accordingly, without prejudice to the provisions of Part IV of this Act, this section shall be disregarded for the purpose of determining whether a statutory water company is liable, on grounds other than such a limitation, for any act or omission in exercise of a power to carry out works conferred by this section.

(3) Nothing in this section shall be construed as authorising a statutory water company to carry on the business of a manufacturer of water fittings.

PART II

(4) In this section—

"supply", in relation to water fittings, has the same meaning as it has in Part II of the Consumer Protection Act 1987 by virtue of section 46 of that Act; and

1987 c. 43.

"water fittings" has the same meaning as in Chapter II of this Part.

Relaxation of limits on capital, borrowing and dividends.

1915 c. 44.

98.—(1) Subject to the following provisions of this section, so much of any provision contained in any local statutory provision or having effect by virtue of anything done under any local statutory provision, under section 41(5) of the 1945 Act (rate of dividend or interest etc. on redeemable stock) or under the Statutory Companies (Redeemable Stock) Act 1915, as—

(a) imposes any limit to which this section applies in relation to any statutory water company; or

(b) otherwise relates to any such limit,

shall have effect subject to such modifications as may be approved by special resolution of the company.

(2) This section applies, in relation to a statutory water company, to the following limits (whether they are expressed by reference to a specified sum or percentage or by reference to the respective proportions of, or of different descriptions of, capital raised and sums borrowed or to any other matter), that is to say—

(a) a limit on the amount of capital, or of capital of a particular description, that may be raised by the company;

(b) a limit on the amount that may be borrowed, or borrowed in a particular way or in particular circumstances, by the company; and

(c) a limit on the dividends payable on shares or stock in the company, or on shares or stock of a particular description.

(3) Where there is a division of the shares or stock of a statutory water company into different classes, no modification of a limit falling within subsection (2)(c) above shall have effect by virtue of this section unless a consent to or approval of the modification has been given under subsection (4) below in respect of each class the rights attached to which are varied in consequence of the modification.

(4) A consent or approval is given for the purposes of subsection (3) above in respect of a class of shares or stock if—

(a) consent in writing to the modification has been given by not less than three-quarters, in nominal value, of the members of the company holding shares or stock of that class; or

(b) a resolution approving the modification is passed by not less than three-quarters, in nominal value, of the members of the company holding shares or stock of that class who are present

(whether in person or by proxy) at a meeting of which not less than twenty-one days' notice, specifying the intention to propose the resolution, has been duly given;

and for the purpose of determining whether the requirements of subsection (3) above are satisfied in relation to any two or more classes of shares or stock in a statutory water company, it shall be immaterial that consents and approvals have been given in respect of different classes in accordance with different paragraphs of this subsection.

(5) Where subsection (3) above applies in relation to a modification specified in a resolution passed for the purposes of this section, the holders of not less, in the aggregate, than fifteen per cent., in nominal value, of the issued shares or stock of any class of shares or stock of the company (being persons who have not for the purposes of this section consented to the modification or voted in favour of any resolution for the modification) may apply to the High Court to have the modification cancelled.

(6) An application to the High Court under subsection (5) above—

(a) may be made on behalf of the shareholders or stockholders entitled to make the application by such one or more of their number as they may appoint in writing for the purpose; but

(b) shall not be made in relation to any modification more than twenty-one days after the date of the giving of the last consent or approval to the modification to be given for the purposes of subsection (1) or (3) above.

(7) Where an application is made under subsection (5) above—

(a) the modification to which it relates shall have no effect unless and until it is confirmed by the High Court; and

(b) the High Court, after hearing the applicant and any other persons who apply to that Court to be heard and appear to that Court to be interested in the application—

(i) if satisfied, having regard to all the circumstances of the case, that the variation would unfairly prejudice the shareholders or stockholders of the class represented by the applicant, may disallow the modification; and

(ii) if not so satisfied, shall confirm it;

and the decision of the High Court on an application under subsection (5) above shall be final.

(8) Provision having effect by virtue of a resolution passed in accordance with this section may be modified by a subsequent such resolution.

(9) Without prejudice to the definition in section 189(1) below of "modifications" and cognate expressions, references in this section, in relation to a statutory water company, to the modification of any provision imposing a limit to which this section applies—

(a) include references to the removal of that limit and to the replacement of that provision with a provision imposing a different such limit in relation to that company; but

PART II

(b) do not include, in the case of a limit falling within subsection (2)(a) above, any modification having the effect of reducing the authorised share capital, or the authorised capital stock, of that company.

(10) In this section "special resolution", in relation to a statutory water company, means a resolution passed by a majority of not less than three-quarters of such of the members of the company as (being entitled to do so) vote (whether in person or by proxy) at a meeting of the company of which not less than twenty-one days' notice, specifying the intention to propose the resolution, has been duly given; and in computing any majority for the purposes of this subsection the regulations contained in any local statutory provision as to the number of votes to which each member is entitled shall apply.

Removal of restrictions on payment of interest and application of profits etc.

99.—(1) Nothing in so much of any local statutory provision as imposes a requirement as to the rate of interest at which sums may be borrowed by a statutory water company, or as to the rate at which interest on sums so borrowed is to be paid, shall apply in relation to any borrowing by a statutory water company after the coming into force of this subsection.

(2) Notwithstanding the provisions of any local statutory provision, every statutory water company shall have power to form and maintain reserve and contingency funds by setting apart such sums in such circumstances, and to invest those funds in such manner, as it thinks fit.

(3) Nothing in subsection (2) above shall authorise any failure by a statutory water company to meet any obligation imposed on it by virtue of any local statutory provision to pay any sum to any other person.

(4) Nothing in so much of any local statutory provision as imposes a limit on the amount that may be carried forward at the end of any period to the credit of the profit and loss (net revenue) account of a statutory water company shall apply in relation to any such company after the coming into force of this subsection.

Sale of shares or stock.

100. Nothing in any local statutory provision shall have effect at any time after the coming into force of this section so as to require any shares or stock in a statutory water company to be offered for sale to the public or so as to require any offer for the sale of any such shares or stock to be an offer for sale by auction or tender.

Registration of statutory water companies under the Companies Act 1985.

1985 c. 6.

101.—(1) Chapter II of Part XXII of the Companies Act 1985 (registration of companies not formed under that Act) shall have effect in relation to statutory water companies as if—

(a) any reference in that Chapter to a joint stock company included a reference to such a statutory water company as would not fall to be treated as a joint stock company for the purposes of that Chapter apart from this paragraph; and

(b) any reference in that Chapter to an Act of Parliament included a reference to a local statutory provision which is not contained in an Act of Parliament;

and it is hereby declared that nothing in this Act or in the said Act of 1985 shall be construed as requiring a statutory water company to which a certificate has been issued under section 688 of that Act (certificates of

registration under Chapter II of Part XXII) to be treated for the purposes of this Act or any other purposes as if it had been a different person in law before the issue of that certificate. PART II

(2) Where—

(a) provision for the constitution and regulation of a statutory water company holding an appointment under Chapter I of this Part—

(i) is contained in local statutory provisions having effect in accordance with paragraph 5 of Schedule 21 to the said Act of 1985 (enactments to have effect as if contained in memorandum and articles); or

(ii) would, apart from this subsection, be so contained if the company became a registered water company;

(b) the company has by special resolution proposed (whether before or after becoming a registered water company) that provision contained in a memorandum and articles shall have effect in substitution for those local statutory provisions;

(c) the proposal that a memorandum and articles shall so have effect in relation to the company has been approved by order made by the Secretary of State; and

(d) in the case of a company that has not already done so, the company becomes a registered water company,

those local statutory provisions shall cease to have effect on such date as may, for the purposes of this subsection, be specified or described in that order and the proposed memorandum and articles shall come into force on that date subject to any modifications, terms or conditions contained in any order made by the High Court under section 102 below.

(3) The Secretary of State shall not make an order for the purposes of subsection (2)(c) above in relation to a proposal by any company unless it appears to him—

(a) that neither an application under section 102 below with respect to the company's proposal nor an appeal with respect to the subject-matter of such an application is pending and that the time within which any such application or appeal may be made or brought has expired; and

(b) where there is —

(i) a division of the shares or stock of the company into different classes; and

(ii) such a proposed difference between the memorandum and articles and the local statutory provisions which they will replace as will vary the rights attached to any such class,

that a consent to or approval of the difference has been given under subsection (4) below in respect of each class the rights attached to which would be varied if the order were made.

(4) A consent to or approval of a proposal is given for the purposes of subsection (3)(b) above in respect of a class of shares or stock if—

(a) consent in writing to the proposal has been given by the holders of not less than three-quarters, in nominal value, of the issued shares or stock of that class; or

PART II

(b) an extraordinary resolution approving the proposal is passed at a separate general meeting of holders of shares or stock of that class;

and for the purpose of determining whether the requirements specified in subsection (3)(b) above are satisfied in relation to any two or more classes of shares or stock in a company, it shall be immaterial that consents and approvals have been given in respect of different classes in accordance with different paragraphs of this subsection.

(5) Where an order has been made for the purposes of subsection (2)(c) above in relation to any company—

(a) nothing in sections 97 to 100 above or in section 41 of the 1945 Act (power to issue redeemable stock) shall have effect on and after the date specified or described in the order so as to confer powers in relation to the company in addition to those conferred by virtue of the company's memorandum and articles;

(b) on and after that date, the memorandum and articles which come into force by virtue of the order shall have effect, in accordance with section 14 and the other provisions of the Companies Act 1985, as if they were the company's registered memorandum and articles; and

1985 c. 6.

(c) the company shall, before the end of the period of fifteen days beginning with the day after that date, deliver to the registrar of companies a printed copy of the memorandum and articles which have so come into force;

and subsection (3) of section 6 of the said Act of 1985 (penalty for default in delivering documents to the registrar of companies) shall apply in relation to the obligation imposed by paragraph (c) above as it applies in relation to the obligations imposed by subsection (1) of that section.

(6) Where the Secretary of State makes an order for the purposes of subsection (2)(c) above in relation to any company and it appears to him to be appropriate to do so for the purposes of, or in consequence of, the approval contained in the order, he may by order repeal or amend any local statutory provision.

(7) The power to make an order for the purposes of subsection (2)(c) above or an order under subsection (6) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament; and an order under subsection (6) above may—

(a) make different provision for different cases, including different provision in relation to different persons, circumstances or localities; and

(b) contain such supplemental, consequential and transitional provision as the Secretary of State considers appropriate.

(8) In this section and section 102 below—

"extraordinary resolution"—

(a) in relation to a meeting held after the company in question has become a registered water company, means an extraordinary resolution within the meaning of the Companies Act 1985; and

(b) in relation to a meeting held before that company becomes a registered water company, means such a resolution as would be a special resolution within the meaning of section 98 above if the meeting were a meeting of the company;

"memorandum and articles" means a document containing only such provision as may be contained in a memorandum and articles of association registered under that Act;

"registrar of companies" has the same meaning as in that Act; and

"special resolution"—

(a) in relation to a time after the company in question has become a registered water company, means (subject to subsection (2) of section 102 below) a special resolution within the meaning of that Act; and

(b) in relation to a time before that company becomes a registered water company, means (subject to that subsection) a special resolution within the meaning of section 98 above;

and in this section and section 102 below a reference to a company's becoming a registered water company is a reference to the issue to that company (whether before or on or after the transfer date) of a certificate under section 688 of that Act.

Procedure for cancelling resolutions for substituting memorandum and articles.

102.—(1) Where a special resolution has been passed containing a proposal, in relation to a company, for a memorandum and articles to have effect as mentioned in subsection (2) of section 101 above, an application for the resolution to be cancelled may be made to the High Court—

(a) by the holders of not less, in the aggregate, than fifteen per cent., in nominal value of the company's issued share capital or issued stock;

(b) by the holders of not less, in the aggregate, than fifteen per cent., in nominal value, of the issued shares or stock of any class in respect of which a consent to or approval of the proposal to which the resolution relates is required for the purposes of subsection (3)(b) of that section; or

(c) if the resolution incorporates a modification of the company's objects, by the holders of not less than fifteen per cent. of such of the company's debentures as entitle the holders to object under this section to such a modification;

but an application under this section shall not be made by any person who has consented to or voted in favour of the proposal (whether for the purposes of subsection (2) or subsection (3)(b) of that section).

(2) Accordingly, in the case of such a special resolution for the purposes of section 101(2) above as incorporates a modification of the company's objects—

(a) the same notice as is given for the purposes of that resolution to members of the company is required to be given to the holders of debentures entitling the holders to object under this section to a modification of the company's objects; and

PART II

(b) in the absence of any local statutory provision regulating the giving of that notice, that notice shall be given in accordance with the provisions regulating the giving of the notice to the members.

(3) An application under this section—

(a) may be made on behalf of the persons entitled to make it by such one or more of their number as they may appoint in writing for the purpose; but

(b) shall not be made in relation to any special resolution more than twenty-one days after the date of the last resolution, consent or approval to be passed or given for the purposes of subsection (2)(b) or (3)(b) of section 101 above or for the purposes, in connection with the company's becoming a registered water company, of section 681 of the Companies Act 1985 (procedural requirements for registration).

1985 c. 6.

(4) The powers of the High Court on an application under this section shall be to do one or more of the following, that is to say—

(a) to make an order, on such terms and conditions as it thinks fit, cancelling the resolution to which the application relates or confirming the proposal contained in that resolution either subject to such modifications of the proposed memorandum and articles as may be specified in the order or without modifications;

(b) if it thinks fit, to adjourn the proceedings in order that arrangements may be made to the Court's satisfaction for the purchase of the interests of dissentient members or for the payment of compensation to such members;

(c) to give such directions and make such orders as it thinks expedient for facilitating or carrying into effect any such arrangement; and

(d) to require that provision contained in any memorandum and articles, as confirmed by the Court, shall not at any time be modified in the respects specified in the Court's order except with the leave of the Court.

(5) Without prejudice to the powers conferred by subsection (4)(c) above, an order of the High Court under this section may (if the Court thinks fit) provide for the purchase by a company of the shares or stock of any members of the company and for the reduction accordingly of the company's capital; and an order which so provides shall not confirm a proposal for a memorandum and articles to have effect in substitution for any local statutory provisions except subject to such modifications (if any) as may be required in consequence of that purchase and reduction.

(6) The High Court shall not on an application under this section confirm any proposal in so far as it incorporates such an alteration of a company's objects as could not be made under section 4 of the Companies Act 1985 (alteration of objects) if the company were entitled to alter its objects under that section.

(7) The debentures entitling the holders to object to a modification of a company's objects are any debentures secured on the company's undertaking which were issued or first issued before the day on which this Act is passed or which form part of the same series as any debentures so issued but have been issued on or after that date; and in this section "debentures" has the same meaning as in the said Act of 1985.

PART III

THE PROTECTION AND MANAGEMENT OF RIVERS AND OTHER WATERS

CHAPTER I

CONTROL OF POLLUTION

General provisions

Waters to which Chapter I applies.

103.—(1) This Chapter applies to any waters (in this Chapter referred to as "controlled waters") of any of the following classes—

(a) relevant territorial waters, that is to say, subject to subsection (5) below, the waters which extend seaward for three miles from the baselines from which the breadth of the territorial sea adjacent to England and Wales is measured;

(b) coastal waters, that is to say, any waters which are within the area which extends landward from those baselines as far as the limit of the highest tide or, in the case of the waters of any relevant river or watercourse, as far as the fresh-water limit of the river or watercourse, together with the waters of any enclosed dock which adjoins waters within that area;

(c) inland waters, that is to say, the waters of any relevant lake or pond or of so much of any relevant river or watercourse as is above the fresh-water limit;

(d) ground waters, that is to say, any waters contained in underground strata, or in—

(i) a well, borehole or similar work sunk into underground strata, including any adit or passage constructed in connection with the well, borehole or work for facilitating the collection of water in the well, borehole or work; or

(ii) any excavation into underground strata where the level of water in the excavation depends wholly or mainly on water entering it from the strata.

(2) The Secretary of State—

(a) shall deposit maps with the Authority showing what appear to him to be the fresh-water limits of every relevant river or watercourse; and

(b) may from time to time, if he considers it appropriate to do so by reason of any change of what appears to him to be the fresh-water limit of any river or watercourse, deposit a map showing a revised limit for that river or watercourse;

and in subsection (1) above "fresh-water limit", in relation to any river or watercourse, means the place for the time being shown as the fresh-water limit of that river or watercourse in the latest map deposited for that river or watercourse under this subsection.

PART III

(3) It shall be the duty of the Authority to keep any maps deposited with it under subsection (2) above available, at all reasonable times, for inspection by the public free of charge.

(4) In this section—

"miles" means international nautical miles of 1,852 metres;

"lake or pond" includes a reservoir of any description;

"relevant lake or pond" means (subject to subsection (5) below) any lake or pond which (whether it is natural or artificial or above or below ground) discharges into a relevant river or watercourse or into another lake or pond which is itself a relevant lake or pond;

"relevant river or watercourse" means (subject to subsection (5) below) any river or watercourse (including an underground river or watercourse and an artificial river or watercourse) which is neither a public sewer nor a sewer or drain which drains into a public sewer.

(5) The Secretary of State may by order provide—

(a) that any area of the territorial sea adjacent to England and Wales is to be treated as if it were an area of relevant territorial waters for the purposes of this Chapter;

(b) that any lake or pond which does not discharge into a relevant river or watercourse or into a relevant lake or pond is to be treated for those purposes as a relevant lake or pond;

(c) that a lake or pond which does so discharge and is of a description specified in the order is to be treated for those purposes as if it were not a relevant lake or pond;

(d) that a watercourse of a description so specified is to be treated for those purposes as if it were not a relevant river or watercourse.

(6) The power of the Secretary of State to make an order under subsection (5) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament; and such an order may—

(a) contain such supplemental, consequential and transitional provision as the Secretary of State considers appropriate; and

(b) make different provision for different cases, including different provision in relation to different persons, circumstances or localities.

Classification of quality of waters.

104.—(1) The Secretary of State may, in relation to any description of controlled waters (being a description applying to some or all of the waters of a particular class or of two or more different classes), by regulations prescribe a system of classifying the quality of those waters according to criteria specified in the regulations.

(2) The criteria specified in regulations under this section in relation to any classification shall consist of one or more of the following, that is to say—

(a) general requirements as to the purposes for which the waters to which the classification is applied are to be suitable;

(b) specific requirements as to the substances that are to be present in or absent from the water and as to the concentrations of substances which are or are required to be present in the water;

(c) specific requirements as to other characteristics of those waters;

and for the purposes of any such classification regulations under this section may provide that the question whether prescribed requirements are satisfied may be determined by reference to such samples as may be prescribed.

Water quality objectives.

105.—(1) For the purpose of maintaining and improving the quality of controlled waters the Secretary of State may, by serving a notice on the Authority specifying—

(a) one or more of the classifications for the time being prescribed under section 104 above; and

(b) in relation to each specified classification, a date,

establish the water quality objectives for any waters which are, or are included in, waters of a description prescribed for the purposes of that section.

(2) The water quality objectives for any waters to which a notice under this section relates shall be the satisfaction by those waters, on and at all times after each date specified in the notice, of the requirements which at the time of the notice were the requirements for the classification in relation to which that date is so specified.

(3) Where the Secretary of State has established water quality objectives under this section for any waters he may review objectives for those waters if—

(a) five years or more have elapsed since the service of the last notice under subsection (1) or (6) of this section to be served in respect of those waters; or

(b) the Authority, after consultation with such water undertakers and other persons as it considers appropriate, requests a review;

and the Secretary of State shall not exercise his power to establish objectives for any waters by varying the existing objectives for those waters except in consequence of such a review.

(4) Where the Secretary of State proposes to exercise his power under this section to establish or vary the objectives for any waters he shall—

(a) give notice setting out his proposal and specifying the period (not being less than three months from the date of publication of the notice) within which representations or objections with respect to the proposal may be made; and

(b) consider any representations or objections which are duly made and not withdrawn;

and, if he decides, after considering any such representations or objections, to exercise his power to establish or vary those objectives, he may do so either in accordance with the proposal contained in the notice or in accordance with that proposal as modified in such manner as he considers appropriate.

PART III

(5) A notice under subsection (4) above shall be given—

(a) by publishing the notice in such manner as the Secretary of State considers appropriate for bringing it to the attention of persons likely to be affected by it; and

(b) by serving a copy of the notice on the Authority.

(6) If, on a review under this section or in consequence of any representations or objections made following such a review for the purposes of subsection (4) above, the Secretary of State decides that the water quality objectives for any waters should remain unchanged, he shall serve notice of that decision on the Authority.

General duties to achieve and maintain objectives etc.

1974 c. 40.

106.—(1) It shall be the duty of the Secretary of State and of the Authority to exercise the powers conferred on him or it by or under the following provisions of this Chapter in such manner as ensures, so far as it is practicable by the exercise of those powers to do so, that the water quality objectives specified for any waters in a notice under section 105 above, or in a notice under section 30C of the Control of Pollution Act 1974, are achieved at all times.

(2) It shall be the duty of the Authority, for the purposes of the carrying out of its functions under this Chapter, to monitor the extent of pollution in controlled waters and to consult, in such cases as it may consider appropriate, with river purification authorities in Scotland.

Controlling and remedying pollution

Offences of polluting controlled waters etc.

107.—(1) Subject to section 108 below, a person contravenes this section if he causes or knowingly permits—

(a) any poisonous, noxious or polluting matter or any solid waste matter to enter any controlled waters; or

(b) any matter, other than trade effluent or sewage effluent, to enter controlled waters by being discharged from a drain or sewer in contravention of a relevant prohibition; or

(c) any trade effluent or sewage effluent to be discharged—

(i) into any controlled waters; or

(ii) from land in England and Wales, through a pipe, into the sea outside the seaward limits of controlled waters;

or

(d) any trade effluent or sewage effluent to be discharged, in contravention of any relevant prohibition, from a building or from any fixed plant on to or into any land or into any waters of a lake or pond which are not inland waters; or

(e) any matter whatever to enter any inland waters so as to tend (either directly or in combination with other matter which he or another person causes or permits to enter those waters) to impede the proper flow of the waters in a manner leading or likely to lead to a substantial aggravation of—

(i) pollution due to other causes; or

(ii) the consequences of such pollution.

(2) For the purposes of this section a discharge of any effluent or other matter is, in relation to any person, in contravention of a relevant prohibition if—

(a) the Authority has given that person notice prohibiting him from making or, as the case may be, continuing the discharge;

(b) the Authority has given that person notice prohibiting him from making or, as the case may be, continuing the discharge unless specified conditions are observed, and those conditions are not observed; or

(c) the effluent or matter discharged contains a prescribed substance or a prescribed concentration of such a substance or derives from a prescribed process or from a process involving the use of prescribed substances or the use of such substances in quantities which exceed the prescribed amounts;

but nothing in this subsection shall authorise the giving of such a notice in respect of discharges from a vessel and nothing in any regulations made by virtue of paragraph (c) above shall require any discharge from a vessel to be treated as a discharge in contravention of a relevant prohibition.

(3) A notice given for the purposes of subsection (2)(a) or (b) above shall expire at such time as may be specified in the notice; and that time shall not be before the end of the period of three months beginning with the day on which the notice is given except in a case where the Authority is satisfied that there is an emergency which requires the relevant prohibition in question to come into force at such time before the end of that period as may be so specified.

(4) Where, in the case of such a notice for the purposes of subsection (2)(a) or (b) above as (but for this subsection) would expire at a time which is or is after the end of the said period of three months, an application is made before that time for a consent under this Chapter in respect of the discharge to which the notice relates, that notice shall be deemed not to expire until the result of the application becomes final—

(a) on the grant or withdrawal of the application;

(b) on the expiration, without the bringing of an appeal with respect to the decision on the application, of any period prescribed as the period within which any such appeal must be brought; or

(c) on the withdrawal or determination of any such appeal.

(5) For the purposes of this section where—

(a) any sewage effluent is discharged as mentioned in subsection (1)(c) or (d) above from any sewer or works vested in a sewerage undertaker; and

(b) the undertaker did not cause or knowingly permit the discharge but was bound (either unconditionally or subject to conditions which were observed) to receive into the sewer or works matter included in the discharge,

the undertaker shall be deemed to have caused the discharge.

(6) A person who contravenes this section or the conditions of any consent given under this Chapter for the purposes of this section shall be guilty of an offence and liable—

(a) on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding the statutory maximum or to both;

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

PART III
Authority for discharges and other defences for the purposes of section 107.

108.—(1) A person shall not be guilty of an offence under section 107 above in respect of the entry of any matter into any waters or any discharge if the entry occurs or the discharge is made under and in accordance with, or as a result of any act or omission under and in accordance with—

(a) a consent given under this Chapter or under Part II of the Control of Pollution Act 1974; 1974 c. 40.

(b) a disposal licence;

(c) a licence granted under Part II of the Food and Environment Protection Act 1985; 1985 c. 48.

(d) any local statutory provision or statutory order which expressly confers power to discharge effluent into water; or

(e) any prescribed enactment;

but nothing in any disposal licence shall be treated for the purposes of this subsection as authorising any such entry or discharge as is mentioned in paragraphs (b) to (d) of section 107(1) above or as authorising any act or omission so far as it results in any such entry or discharge.

(2) A person shall not be guilty of an offence under section 107 above in respect of the entry of any matter into any waters or any discharge if—

(a) the entry is caused or permitted, or the discharge is made, in an emergency in order to avoid danger to life or health;

(b) that person takes all such steps as are reasonably practicable in the circumstances for minimising the extent of the entry or discharge and of its polluting effects; and

(c) particulars of the entry or discharge are furnished to the Authority as soon as reasonably practicable after it occurs.

(3) A person shall not be guilty of an offence under section 107 above by reason of his causing or permitting any discharge of trade or sewage effluent from a vessel.

(4) A person shall not be guilty of an offence under section 107 above by reason only of his permitting water from an abandoned mine to enter controlled waters.

(5) A person shall not, otherwise than in respect of the entry of any poisonous, noxious or polluting matter into any controlled waters, be guilty of an offence under section 107 above by reason of his depositing the solid refuse of a mine or quarry on any land so that it falls or is carried into inland waters if—

(a) he deposits the refuse on the land with the consent of the Authority;

(b) no other site for the deposit is reasonably practicable; and

(c) he takes all reasonably practicable steps to prevent the refuse from entering those inland waters.

(6) A highway authority or other person entitled to keep open a drain by virtue of section 100 of the Highways Act 1980 shall not be guilty of an offence under section 107 above by reason of his causing or permitting any discharge to be made from a drain kept open by virtue of that section unless the discharge is made in contravention of a relevant prohibition under section 107 above. 1980 c. 66.

(7) A sewerage undertaker shall not be guilty of an offence under section 107 above by reason only of the fact that a discharge from a sewer or works vested in the undertaker contravenes conditions of a consent relating to the discharge if—

(a) the contravention is attributable to a discharge which another person caused or permitted to be made into the sewer or works;

(b) the undertaker either was not bound to receive the discharge into the sewer or works or was bound to receive it there subject to conditions which were not observed; and

(c) the undertaker could not reasonably have been expected to prevent the discharge into the sewer or works.

(8) A person shall not be guilty of an offence under section 107 above in respect of a discharge which he caused or permitted to be made into a sewer or works vested in a sewerage undertaker if the undertaker was bound to receive the discharge there either unconditionally or subject to conditions which were observed.

(9) In this section—

"disposal licence" has the same meaning as in Part I of the Control of Pollution Act 1974; and 1974 c. 40.

"statutory order" means an order under section 155 below or any order, byelaw, scheme or award made under any other enactment, including an order or scheme confirmed by Parliament or brought into operation in accordance with special parliamentary procedure.

Deposits and vegetation in rivers etc.

109.—(1) A person shall be guilty of an offence under this section if, without the consent of the Authority, he—

(a) removes from any part of the bottom, channel or bed of any inland waters a deposit accumulated by reason of any dam, weir or sluice holding back the waters; and

(b) does so by causing the deposit to be carried away in suspension in the waters.

(2) A person shall be guilty of an offence under this section if, without the consent of the Authority, he—

(a) causes or permits a substantial amount of vegetation to be cut or uprooted in any inland waters, or to be cut or uprooted so near to any such waters that it falls into them; and

(b) fails to take all reasonable steps to remove the vegetation from those waters.

(3) A person guilty of an offence under this section shall be liable, on summary conviction, to a fine not exceeding level 4 on the standard scale.

(4) Nothing in subsection (1) above applies to anything done in the exercise of any power conferred by or under any enactment relating to land drainage, flood prevention or navigation.

(5) In giving a consent for the purposes of this section the Authority may make the consent subject to such conditions as it considers appropriate.

PART III

(6) The Secretary of State may by regulations provide that any reference to inland waters in subsection (1) or (2) above shall be construed as including a reference to such coastal waters as may be prescribed.

Requirements to take precautions against pollution.

110.—(1) The Secretary of State may by regulations make provision—

(a) for prohibiting a person from having custody or control of any poisonous, noxious or polluting matter unless prescribed works and prescribed precautions and other steps have been carried out or taken for the purpose of preventing or controlling the entry of the matter into any controlled waters;

(b) for requiring a person who already has custody or control of, or makes use of, any such matter to carry out such works for that purpose and to take such precautions and other steps for that purpose as may be prescribed.

(2) Without prejudice to the generality of the power conferred by subsection (1) above, regulations under that subsection may—

(a) confer power on the Authority—

(i) to determine for the purposes of the regulations the circumstances in which a person is required to carry out works or take any precautions or other steps; and

(ii) by notice to that person, to impose the requirement and to specify or describe the works, precautions or other steps which that person is required to carry out or take;

(b) provide for appeals to the Secretary of State against notices served by the Authority in pursuance of provision made by virtue of paragraph (a) above; and

(c) provide that a contravention of the regulations shall be an offence the maximum penalties for which shall not exceed the penalties specified in subsection (6) of section 107 above.

Water protection zones.

111.—(1) Where the Secretary of State, after consultation (in the case of an area wholly or partly in England) with the Minister, considers that it is appropriate, with a view to preventing or controlling the entry of any poisonous, noxious or polluting matter into controlled waters, to prohibit or restrict the carrying on in a particular area of activities which he considers are likely to result in the pollution of any such waters, he may by order make provision—

(a) designating that area as a water protection zone; and

(b) prohibiting or restricting the carrying on in the designated area of such activities as may be specified or described in the order.

(2) Without prejudice to the generality of the power conferred by virtue of subsection (1) above, an order under this section may—

(a) confer power on the Authority to determine for the purposes of the order the circumstances in which the carrying on of any activities is prohibited or restricted and to determine the activities to which any such prohibition or restriction applies;

(b) apply a prohibition or restriction in respect of any activities to cases where the activities are carried on without the consent of the Authority or in contravention of any conditions subject to which any such consent is given;

(c) provide that a contravention of a prohibition or restriction contained in the order or of a condition of a consent given for the purposes of any such prohibition or restriction shall be an offence the maximum penalties for which shall not exceed the penalties specified in subsection (6) of section 107 above;

(d) provide (subject to any regulations under subsection (4) below) for anything falling to be determined under the order by the Authority to be determined in accordance with such procedure and by reference to such matters and to the opinion of such persons as may be specified in the order;

(e) make different provision for different cases, including different provision in relation to different persons, circumstances or localities; and

(f) contain such supplemental, consequential and transitional provision as the Secretary of State considers appropriate.

(3) The power of the Secretary of State to make an order under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament; but the Secretary of State shall not make such an order except—

(a) in accordance with Schedule 7 to this Act; and

(b) on an application made in accordance with that Schedule by the Authority.

(4) The Secretary of State may, for the purposes of any orders under this section which require the consent of the Authority to the carrying on of any activities, by regulations make provision with respect to—

(a) applications for any such consent;

(b) the conditions of any such consent;

(c) the revocation or variation of any such consent;

(d) appeals against determinations on any such application;

(e) the exercise by the Secretary of State of any power conferred on the Authority by the orders;

(f) the imposition of charges where such an application has been made, such a consent has been given or anything has been done in pursuance of any such consent; and

(g) the registration of any such application or consent;

and, without prejudice to the generality of that power, regulations under this subsection may apply (with or without modifications) any enactment having effect in relation to consents under this Chapter.

(5) The reference in subsection (1) above to the entry of poisonous, noxious or polluting matter into controlled waters shall not include a reference to the entry of nitrate into controlled waters as a result of, or of anything done in connection with, the use of any land for agricultural purposes.

Nitrate sensitive areas.

112.—(1) Where the relevant Minister considers that it is appropriate to do so with a view to achieving the following purpose, that is to say, preventing or controlling the entry of nitrate into controlled waters as a result of, or of anything done in connection with, the use of any land for

PART III

agricultural purposes, he may by order make provision designating that land, together with any other land to which he considers it appropriate to apply the designation, as a nitrate sensitive area.

(2) Where any area has been designated as a nitrate sensitive area by an order under this section and the relevant Minister considers that it is appropriate to do so with a view to achieving the purpose mentioned in subsection (1) above, he may, subject to such restrictions (if any) as may be set out in the order, enter into an agreement under which, in consideration of payments to be made by the relevant Minister—

(a) the owner of the freehold interest in any agricultural land in that area; or

(b) where the owner of the freehold interest in any such land has given his written consent to the agreement being entered into by any person having another interest in that land, that other person,

accepts such obligations with respect to the management of that land or otherwise as may be imposed by the agreement.

(3) An agreement such as is mentioned in subsection (2) above between the relevant Minister and a person having an interest in any land shall bind all persons deriving title from or under that person to the extent that the agreement is expressed to bind that land in relation to those persons.

(4) Where it appears to the relevant Minister in relation to any area which is or is to be designated by an order under this section as a nitrate sensitive area that it is appropriate for provision for the imposition of requirements, prohibitions or restrictions to be contained in an order under this section (as well as for him to be able to enter into such agreements as are mentioned in subsection (2) above), he may, by a subsequent order under this section or, as the case may be, by the order designating that area—

(a) with a view to achieving the purpose mentioned in subsection (1) above, require, prohibit or restrict the carrying on on or in relation to any agricultural land in that area of such activities as may be specified or described in the order; and

(b) provide for such amounts (if any) as may be specified in or determined under the order to be paid by the Minister or the Secretary of State, to such persons as may be so specified or determined, in respect of the obligations imposed in relation to that area on those persons by virtue of paragraph (a) above.

(5) Without prejudice to the generality of subsection (4) above, provision contained in an order under this section by virtue of that subsection may—

(a) confer power on the Minister or the Secretary of State to determine for the purposes of the order the circumstances in which the carrying on of any activities is required, prohibited or restricted and to determine the activities to which any such requirement, prohibition or restriction applies;

(b) provide for any requirement to carry on any activity not to apply in cases where the Minister or the Secretary of State has consented to a failure to carry on that activity and any conditions on which the consent has been given are complied with;

(c) apply a prohibition or restriction in respect of any activities to cases where the activities are carried on without the consent of the Minister or the Secretary of State or in contravention of any conditions subject to which any such consent is given;

(d) provide that a contravention of a requirement, prohibition or restriction contained in the order or in a condition of a consent given in relation to or for the purposes of any such requirement, prohibition or restriction shall be an offence the maximum penalties for which shall not exceed the penalties specified in subsection (6) of section 107 above;

(e) provide for amounts paid in pursuance of any provision contained in the order to be repaid at such times and in such circumstances, and with such interest, as may be specified in or determined under the order; and

(f) provide (subject to any regulations under subsection (8) below) for anything falling to be determined under the order by any person to be determined in accordance with such procedure and by reference to such matters and to the opinion of such persons as may be specified in the order.

(6) An order under this section may—

(a) make different provision for different cases, including different provision in relation to different persons, circumstances or localities; and

(b) contain such supplemental, consequential and transitional provision as the relevant Minister considers appropriate.

(7) The power of the relevant Minister to make an order under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament; but the relevant Minister shall not make such an order except in accordance with any applicable provisions of Schedule 11 to this Act.

(8) The Secretary of State and the Minister, acting jointly, may, for the purposes of any orders under this section which require the consent of either of those Ministers to the carrying on of any activities or to any failure to carry on any activity, by regulations make provision with respect to—

(a) applications for any such consent;

(b) the conditions of any such consent;

(c) the revocation or variation of any such consent;

(d) the reference to arbitration of disputes about determinations on any such application;

(e) the imposition of charges where such an application has been made, such a consent has been given or there has been any act or omission in pursuance of any such consent; and

(f) the registration of any such application or consent.

(9) In this section and in Schedule 11 to this Act "the relevant Minister"—

(a) in relation—

(i) to the making of an order in relation to an area which is wholly in Wales; or

PART III

(ii) to an agreement with respect to land which is wholly in Wales,

means the Secretary of State;

(b) in relation to the making of an order in relation to an area which is wholly in England or which is partly in England and partly in Wales, means the Minister and the Secretary of State, acting jointly;

(c) in relation to an agreement with respect to land which is wholly in England, means the Minister; and

(d) in relation to an agreement with respect to land which is partly in England and partly in Wales, means the Secretary of State or the Minister.

Consents under Chapter I and application to the Authority.

113.—(1) Schedule 12 to this Act (which makes provision with respect to the making of applications for consents under this Chapter, the giving of such consents and appeals) shall have effect.

(2) The Secretary of State may by regulations—

(a) make provision modifying the provisions of this Chapter in relation to cases in which consents under this Chapter are required by the Authority; and

(b) for the purposes of the application of the provisions of this Chapter in relation to discharges by the Authority, make such other modifications of those provisions as may be prescribed.

(3) Without prejudice to the generality of subsection (2) above, regulations under that subsection may provide for such consents as are mentioned in paragraph (a) of that subsection to be required to be given by the Secretary of State (instead of by the Authority) and, in prescribed cases, to be deemed to have been so given.

(4) A person shall not be guilty of an offence under section 4 of the Salmon and Freshwater Fisheries Act 1975 or section 68 of the Public Health Act 1875 (offences of causing pollution of certain waters) in respect of any entry of matter into any controlled waters which occurs—

1975 c. 51.
1875 c. 55.

(a) under and in accordance with a consent under this Chapter or under Part II of the Control of Pollution Act 1974; or

1974 c. 40.

(b) as a result of any act or omission under and in accordance with such a consent.

Byelaws for preventing pollution of controlled waters.

114.—(1) The Authority may by byelaws make such provision as the Authority considers appropriate—

(a) for prohibiting or regulating the washing or cleaning in any controlled waters of things of a description specified in the byelaws;

(b) for prohibiting or regulating the keeping or use on any controlled waters of vessels of a description specified in the byelaws which are provided with water closets or other sanitary appliances.

(2) A person who contravenes any byelaws made by virtue of this section shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 4 on the standard scale or such smaller sum as may be specified in the byelaws.

(3) In this section "sanitary appliance", in relation to a vessel, means any appliance which, not being a sink, bath or shower bath, is designed to permit polluting matter to pass into the water where the vessel is situated and which is prescribed for the purposes of this section.

Anti-pollution works and operations.

115.—(1) Subject to subsection (2) below, where it appears to the Authority that any poisonous, noxious or polluting matter or any solid waste matter is likely to enter, or to be or to have been present in, any controlled waters, the Authority shall be entitled to carry out the following works and operations, that is to say—

(a) in a case where the matter appears likely to enter any controlled waters, works and operations for the purpose of preventing it from doing so; or

(b) in a case where the matter appears to be or to have been present in any controlled waters, works and operations for the purpose—

(i) of removing or disposing of the matter;

(ii) of remedying or mitigating any pollution caused by its presence in the waters; or

(iii) so far as it is reasonably practicable to do so, of restoring the waters, including any flora and fauna dependent on the aquatic environment of the waters, to their state immediately before the matter became present in the waters.

(2) Nothing in subsection (1) above shall entitle the Authority to impede or prevent the making of any discharge in pursuance of a consent given under this Chapter.

(3) Where the Authority carries out any such works or operations as are mentioned in subsection (1) above, it shall, subject to subsection (4) below, be entitled to recover the expenses reasonably incurred in doing so from any person who, as the case may be—

(a) caused or knowingly permitted the matter in question to be present at the place from which it was likely, in the opinion of the Authority, to enter any controlled waters; or

(b) caused or knowingly permitted the matter in question to be present in any controlled waters.

(4) No such expenses shall be recoverable from a person for any works or operations in respect of water from an abandoned mine which that person permitted to reach such a place as is mentioned in subsection (3) above or to enter any controlled waters.

Codes of good agricultural practice.

116.—(1) The Secretary of State and the Minister, acting jointly, may by order made by statutory instrument approve any code of practice issued (whether by those Ministers or by another person) for the purpose of—

(a) giving practical guidance to persons engaged in agriculture with respect to activities that may affect controlled waters; and

(b) promoting what appear to them to be desirable practices by such persons for avoiding or minimising the pollution of any such waters,

and may at any time by such an order approve a modification of such a code or withdraw their approval of such a code or modification.

PART III

(2) A contravention of a code of practice as for the time being approved under this section shall not of itself give rise to any criminal or civil liability, but the Authority shall take into account whether there has been or is likely to be any such contravention in determining when and how it should exercise—

(a) its power, by giving a notice under section 107(2)(a) or (b) above, to impose a relevant prohibition; and

(b) any powers conferred on the Authority by regulations under section 110 above.

(3) The Secretary of State and the Minister shall not make an order under this section unless they have first consulted the Authority.

Registers

Registers for the purposes of Chapter I.

117.—(1) It shall be the duty of the Authority to maintain, in accordance with regulations made by the Secretary of State, registers containing prescribed particulars of—

(a) any notices of water quality objectives or other notices served under section 105 above;

(b) applications made for consents under this Chapter;

(c) consents given under this Chapter and the conditions to which the consents are subject;

(d) certificates issued under paragraph 1(7) of Schedule 12 to this Act; and

(e) the following, that is to say—

(i) samples of water or effluent taken for the purposes of this Chapter by the Authority and information produced by analyses of those samples;

(ii) such information with respect to samples of water or effluent taken by any other person and the analyses of those samples as is acquired by the Authority from any person under arrangements made by the Authority for the purposes of this Chapter; and

(iii) the steps taken in consequence of any such information as is mentioned in sub-paragraph (i) or (ii) above.

(2) It shall be the duty of the Authority—

(a) to secure that the contents of registers maintained by the Authority under this section are available, at all reasonable times, for inspection by the public free of charge; and

(b) to afford members of the public reasonable facilities for obtaining from the Authority, on payment of reasonable charges, copies of entries in any of the registers.

Provision and acquisition of information etc.

Information and assistance.

118.—(1) It shall be the duty of the Authority, if and so far as it is requested to do so by the Secretary of State or the Minister, to give him all such advice and assistance as appears to it to be appropriate for facilitating the carrying out by the Secretary of State or the Minister of his functions under this Chapter.

(2) Subject to subsection (3) below, the Secretary of State, the Minister or the Authority may serve on any person a notice requiring him to furnish the Secretary of State, the Minister or, as the case may be, the Authority, within a period or at times specified in the notice and in a form and manner so specified, with such information as is reasonably required by the Secretary of State or the Minister or by the Authority for the purpose of carrying out any of his or, as the case may be, its functions under this Chapter.

(3) The Secretary of State or the Minister may by regulations make provision for restricting the information which may be required under subsection (2) above and for determining the form in which the information is to be so required.

(4) A person who fails without reasonable excuse to comply with the requirements of a notice served on him under this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Exchange of information with respect to pollution incidents etc.

119.—(1) It shall be the duty of the Authority to provide a water undertaker with all such information to which this section applies as is in the possession of the Authority and is reasonably requested by the undertaker for purposes connected with the carrying out of its functions; and information provided to a water undertaker under this subsection shall be provided in such form and in such manner and at such times as the undertaker may reasonably require.

(2) It shall be the duty of every water undertaker to provide the Authority with all such information to which this section applies as is in the possession of the undertaker and is reasonably requested by the Authority for purposes connected with the carrying out of any of its functions; and information provided to the Authority under this subsection shall be provided in such form and in such manner and at such times as the Authority may reasonably require.

(3) Information provided under subsection (1) or (2) above to a water undertaker or to the Authority shall be provided free of charge.

(4) The duties of a water undertaker under subsection (2) above shall be enforceable under section 20 above by the Secretary of State.

(5) This section applies to information about the quality of any controlled waters or of any other waters or about any incident in which any poisonous, noxious or polluting matter or any solid waste matter has entered any controlled waters or other waters.

Local inquiries for the purposes of Chapter I.

120. The Secretary of State may cause a local inquiry to be held in any case in which he considers it appropriate for such an inquiry to be held—

(a) for the purposes of the establishment or review under section 105 above of any water quality objectives or otherwise in connection with any provision of this Chapter;

(b) with a view to preventing or dealing with pollution of any controlled waters; or

(c) in relation to any other matter relevant to the quality of any such waters.

PART III

Criminal and civil liability

Offences under Chapter I.

121.—(1) Without prejudice to section 177 below, where the commission by any person of an offence under this Chapter is due to the act or default of some other person, that other person may be charged with and convicted of the offence whether or not proceedings for the offence are taken against the first-mentioned person.

1980 c. 43.

(2) Notwithstanding anything in section 127 of the Magistrates' Courts Act 1980 (time limit for summary proceedings), a magistrates' court may try any summary offence under this Chapter, or under any subordinate legislation made under this Chapter, if the information is laid not more than twelve months after the commission of the offence.

Civil liability and savings. 1978 c. 30.

122. Except in so far as this Chapter expressly otherwise provides and subject to the provisions of section 18 of the Interpretation Act 1978 (which relates to offences under two or more laws), nothing in this Chapter —

(a) confers a right of action in any civil proceedings (other than proceedings for the recovery of a fine) in respect of any contravention of this Chapter or any subordinate legislation, consent or other instrument made, given or issued under this Chapter;

(b) derogates from any right of action or other remedy (whether civil or criminal) in proceedings instituted otherwise than under this Chapter; or

(c) affects any restriction imposed by or under any other enactment, whether public, local or private.

Supplemental provisions of Chapter I

Application to radioactive substances. 1960 c. 34.

123.—(1) Except as provided by regulations made by the Secretary of State under this section, nothing in this Chapter shall apply in relation to radioactive waste within the meaning of the Radioactive Substances Act 1960.

(2) The Secretary of State may by regulations—

(a) provide for prescribed provisions of this Chapter to have effect with such modifications as he considers appropriate for dealing with such waste;

(b) make such modifications of the said Act of 1960 or, in relation to such waste, of any other Act as he considers appropriate in consequence of the provisions of this Chapter and of any regulations made by virtue of paragraph (a) above.

Interpretation of Chapter I.

124.—(1) In this Chapter, except in so far as the context otherwise requires—

"agriculture" and "agricultural" have the same meanings as in the Agriculture Act 1947;

1947 c. 48.

"coastal waters", "controlled waters", "ground waters", "inland waters" and "relevant territorial waters" have the meanings given by section 103(1) above;

"local authority" includes the council of any county;

"mine" and "quarry" have the same meanings as in the Mines and Quarries Act 1954; 1954 c. 70.

"sewage effluent" includes any effluent from the sewage disposal or sewerage works of a sewerage undertaker but does not include surface water;

"trade effluent" includes any effluent which is discharged from premises used for carrying on any trade or industry, other than surface water and domestic sewage.

(2) In this Chapter—

(a) any reference to the waters of any lake or pond or of any river or watercourse includes a reference to the bottom, channel or bed of any lake, pond, river or, as the case may be, watercourse which is for the time being dry; and

(b) any reference to water contained in underground strata is a reference to water so contained otherwise than in a sewer, pipe, reservoir, tank or other underground works constructed in any such strata.

(3) For the purposes of the definition of "trade effluent" in subsection (1) above any premises wholly or mainly used (whether for profit or not) for agricultural purposes or for the purposes of fish farming or for scientific research or experiment shall be deemed to be premises used for carrying on a trade.

CHAPTER II

WATER RESOURCES

General provisions

General functions in relation to water resources.

125.—(1) It shall be the duty of the Authority to take all such action as it may from time to time consider, in accordance (if any have been given for the purposes of this section) with the directions of the Secretary of State, to be necessary or expedient for the purpose—

(a) of conserving, redistributing or otherwise augmenting water resources in England and Wales; and

(b) of securing the proper use of water resources in England and Wales.

(2) Nothing in this section shall be construed as relieving any water undertaker of the obligation to develop water resources for the purpose of performing any duty imposed on it by virtue of section 37 above.

Water resources management schemes.

126.—(1) It shall be the duty of the Authority so far as reasonably practicable to enter into and maintain such arrangements with water undertakers for securing the proper management or operation of—

(a) the waters which are available to be used by water undertakers for the purposes of, or in connection with, the carrying out of their functions; and

(b) any reservoirs, apparatus or other works which belong to, are operated by or are otherwise under the control of water undertakers for the purposes of, or in connection with, the carrying out of their functions,

as the Authority from time to time considers appropriate for the purpose of carrying out its functions under section 125(1) above.

PART III

(2) Without prejudice to the power of the Authority and any water undertaker to include any such provision as may be agreed between them in arrangements under this section, such arrangements may—

(a) make provision by virtue of subsection (1)(a) above with respect to the construction or installation of any reservoirs, apparatus or other works which will be used by the undertaker in the carrying out of its functions;

(b) contain provision requiring payments to be made by the Authority to the undertaker; and

(c) require the reference to and determination by the Secretary of State or the Director of questions arising under the arrangements.

(3) The Authority shall send a copy of any arrangements entered into by it under this section to the Secretary of State; and the obligations of a water undertaker by virtue of any such arrangements shall be enforceable under section 20 above by the Secretary of State.

Minimum acceptable river flows. 1963 c. 38.

127.—(1) Section 19 of the Water Resources Act 1963 (minimum acceptable flows) shall be amended as follows.

(2) For subsections (1) and (3) (duty to determine minimum acceptable flows as soon as practicable) there shall be substituted the following subsections—

"(1) The National Rivers Authority may, if it thinks it appropriate to do so, submit a draft statement to the Secretary of State containing, in relation to any inland water (other than one falling within section 2(3) of this Act)—

(a) provision for determining the minimum acceptable flow for that inland water; or

(b) where any provision for determining such a flow is for the time being in force in relation to that inland water, provision for amending that provision or for replacing it with different provision for determining the minimum acceptable flow for that water.

(2) If the National Rivers Authority is directed by the Secretary of State to consider whether the minimum acceptable flow for any particular inland water ought to be determined or reviewed, that Authority shall consider that matter as soon as reasonably practicable after being directed to do so and, after considering it, shall submit to the Secretary of State with respect to that water either—

(a) such a draft statement as is mentioned in subsection (1) of this section; or

(b) a draft statement that no such flow ought to be determined for that water or, as the case may require, that the minimum acceptable flow for that inland water does not need to be changed.

(3) The provision contained in any statement for determining the minimum acceptable flow for any inland water shall, in relation to the inland water to which it relates, set out—

(a) the control points at which the flow in the water is to be measured and the method of measurement which is to be used at each control point; and

(b) the flow which is to be the minimum acceptable flow at each control point or, where appropriate, the flows which are to be the minimum acceptable flows at each such point for the different times or periods specified in the statement."

(3) In subsections (4) and (5) (procedure in relation to draft statements)—

(a) for any reference to a water authority there shall be substituted a reference to the Authority;

(b) for any reference to statutory water undertakers there shall be substituted a reference to a water undertaker.

(4) In subsection (5), for the words from "to the character" to "to time" there shall be substituted the words —

"(a) to the flow of water in the inland water from time to time;

(b) in the light of the duties of the National Rivers Authority under sections 8 and 9 of the Water Act 1989 (general environmental duties), to the character of the inland water and its surroundings; and

(c) to any water quality objectives established under Chapter I of Part III of that Act in relation to the inland water or any other inland water which may be affected by the flow in the inland water in question".

(5) In subsection (6) (application of provisions in Schedule 7 to draft statements), at the end there shall be inserted the words "; and, without prejudice to the generality of paragraph 7 of that Schedule, the power of the Secretary of State under that paragraph to alter a draft statement under this section before approving it shall include power to substitute a statement containing or amending any such provision as is mentioned in subsection (3) of this section for such a draft statement as is mentioned in subsection (2)(b) of this section."

(6) After subsection (6) there shall be inserted the following subsection—

"(7) The approval under Schedule 7 to this Act of a draft statement under this section shall bring into force, on the date specified in that approval, so much of that statement, as approved, as contains provision for determining, amending or replacing the minimum acceptable flow for any inland water; and in the following provisions of this Act any reference to the minimum acceptable flow, in relation to any inland water, is a reference to the minimum acceptable flow as for the time being contained in provisions which are in force under this subsection in relation to that water."

Modifications of the Water Resources Act 1963.
1963 c. 38.

128. Schedule 13 to this Act shall have effect for transferring the functions of water authorities under the provisions of the Water Resources Act 1963 (other than section 19) to the Authority and for making amendments of that Act, including amendments consequential on section 127 above.

PART III

Charges in respect of the carrying out of functions under the 1963 Act. 1963 c. 38.

129.—(1) Where—

(a) an application is made for any licence under the Water Resources Act 1963 or for the variation of, or of the conditions of, any such licence;

(b) a licence under that Act to abstract water is granted to any person or there is a variation of any such licence or of the conditions of any such licence; or

(c) a licence under that Act to abstract water is for the time being in force,

the Authority may require the payment to it of such charges as may be specified in or determined under a scheme made by it under this section.

(2) The persons who shall be liable to pay charges which are required to be paid by virtue of a scheme under this section shall be—

(a) in the case of a charge by virtue of subsection (1)(a) above, the person who makes the application; and

(b) in the case of a charge by virtue of subsection (1)(b) or (c) above, the person to whom the licence is granted or, as the case may be, the person holding the licence which is varied or is in force;

and provision made by a scheme for the purposes of subsection (1)(c) above may impose a single charge in respect of the whole period for which a licence is in force or separate charges in respect of different parts of that period or both such a single charge and such separate charges.

(3) Except in the case of a scheme made before the end of the period of two years beginning with the transfer date, the Authority shall not make a scheme under this section unless its provisions have been approved by the Secretary of State; and the consent of the Treasury shall be required for the giving of such an approval.

(4) Before submitting a scheme under this section to the Secretary of State for his approval the Authority shall, in such manner as it considers appropriate for bringing it to the attention of persons likely to be affected by it, publish a notice setting out its proposals and specifying the period within which representations or objections with respect to the proposals may be made to the Secretary of State.

(5) Where any proposed scheme has been submitted to the Secretary of State for his approval, it shall be the duty of the Secretary of State, in determining whether or not to approve the scheme or to approve it subject to modifications—

(a) to consider any representations or objections duly made to him and not withdrawn;

(b) to have regard to the desirability of ensuring that the amounts recovered by the Authority by way of charges fixed by or under schemes under this section are the amounts which, taking one year with another, are required by the Authority for recovering such amounts as the Secretary of State may consider it appropriate to attribute to the expenses incurred by the Authority in carrying out the functions of the Authority which are its water resources functions, within the meaning of the Water Resources Act 1963; and

(c) to have regard to the need to ensure that no undue preference is shown, and that there is no undue discrimination, in the fixing of charges by or under any scheme under this section.

(6) For the purposes of subsection (5)(b) above the Secretary of State shall take into account any directions given under paragraph 15 of Schedule 1 to this Act in determining the amounts which he considers it appropriate to attribute to the expenses incurred by the Authority in carrying out its water resources functions; and those amounts may include amounts in respect of the depreciation of, and the provision of a return on, such of the Authority's assets as are held by it for purposes connected with the carrying out of those functions.

(7) A scheme under this section may—

(a) make provision with respect to the times and methods of payment of the charges which are required to be paid by virtue of the scheme;

(b) make different provision for different cases, including different provision in relation to different circumstances or localities; and

(c) contain supplemental, consequential and transitional provision for the purposes of the scheme;

and such a scheme may revoke or amend a previous scheme under this section.

(8) It shall be the duty of the Authority to take such steps as it considers appropriate for bringing the provisions of any scheme under this section which is for the time being in force to the attention of persons likely to be affected by them.

(9) A scheme under this section shall have effect subject to any provision made by or under section 60, 63 or 64 of the said Act of 1963 (supplemental provision with respect to charging).

Provision of information about water flow etc.

130.—(1) It shall be the duty of the Authority—

(a) to provide a water undertaker with all such information to which this section applies as is in the possession of the Authority and is reasonably requested by the undertaker for purposes connected with the carrying out of its functions;

(b) to provide reasonable facilities to all persons—

(i) for the inspection of the contents of any records kept by the Authority and containing information to which this section applies; and

(ii) for the taking of copies of, or of extracts from, any such records;

and information provided to a water undertaker under this subsection shall be provided in such form and in such manner and at such times as the undertaker may reasonably require.

(2) It shall be the duty of every water undertaker to provide the Authority with all such information to which this section applies as is in the possession of the undertaker and is reasonably requested by the Authority for purposes connected with the carrying out of any of its functions; and information provided to the Authority under this subsection shall be provided in such form and in such manner and at such times as the Authority may reasonably require.

PART III

1963 c. 38.

(3) Where records of the flow, level or volume of any inland water, other than one falling within section 2(3) of the Water Resources Act 1963, are kept by a person other than a water undertaker, the Authority shall have the right at all reasonable times—

(a) to inspect the contents of any of those records; and

(b) to take copies of, or of extracts from, the contents of any of those records;

and any person who, without reasonable excuse, refuses or fails to permit the Authority to exercise its right under this subsection shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 1 on the standard scale.

(4) The duties of the Authority under subsection (1) above shall extend to information provided to or obtained by the Authority under subsection (2) or (3) above.

(5) Information or facilities provided under subsection (1) or (2) above to the Authority, to a water undertaker, to a local authority, county council or joint planning board or to an internal drainage board shall be provided free of charge; and facilities provided under subsection (1) above to other persons may be provided on terms requiring the payment by persons making use of the facilities of such reasonable charges as the Authority may determine.

(6) The duties of a water undertaker under subsection (2) above shall be enforceable under section 20 above by the Secretary of State.

(7) This section applies to information about the flow, level or volume of any inland water or any water contained in underground strata, about rainfall or any fall of snow, hail or sleet or about the evaporation of any water.

1971 c. 78.

(8) In this section "joint planning board" has the same meaning as in the Town and Country Planning Act 1971; and subsection (2) of section 124 above shall apply to the reference in subsection (7) above to water contained in underground strata as it applies to any reference to such water in Chapter I of this Part.

Drought etc.

General drought orders.

131.—(1) If the Secretary of State is satisfied that, by reason of an exceptional shortage of rain, a serious deficiency of supplies of water in any area exists or is threatened then, subject to the following provisions of this section and section 133 below, he may by order made by statutory instrument make such provision authorised by this section as appears to him to be expedient with a view to meeting the deficiency.

(2) Subject to subsection (6) below, the power to make an order under this section in relation to any area shall not be exercisable except where an application is made to the Secretary of State—

(a) by the Authority; or

(b) by a water undertaker which supplies water to premises in that area.

(3) An order made under this section on the application of the Authority may contain any of the following provisions, that is to say—

(a) provision authorising the Authority (or persons authorised to do so by the Authority) to take water from any source specified in the order subject to any conditions or restrictions so specified;

(b) provision authorising the Authority (or persons authorised to do so by the Authority) to discharge water to any place specified in the order subject to any conditions or restrictions so specified;

(c) provision authorising the Authority to prohibit or limit the taking by any person (including a water undertaker) of water from a source specified in the order if the Authority is satisfied that the taking of water from that source seriously affects the supplies available to the Authority, any water undertaker or any other person;

(d) provision suspending or modifying, subject to any conditions specified in the order, any restriction or obligation to which the Authority, any water undertaker or sewerage undertaker or any other person is subject as respects—

(i) the taking of water from any source;

(ii) the discharge of water;

(iii) the supply of water (whether in point of quantity, pressure, quality, means of supply or otherwise); or

(iv) the filtration or other treatment of water;

(e) provision authorising the Authority to suspend or vary, or attach conditions to, any consent specified in the order for the discharge of any effluent by any person, including any sewerage undertaker or water undertaker.

(4) An order made under this section on the application of a water undertaker may contain any of the following provisions, that is to say—

(a) provision authorising the water undertaker to take water from any source specified in the order subject to any conditions or restrictions so specified;

(b) provision authorising the water undertaker to prohibit or limit the use of water for any purpose specified in the order, being a purpose for the time being set out in a direction given by the Secretary of State to water undertakers generally as a purpose which may be specified by virtue of this paragraph in any order under this section;

(c) provision authorising the water undertaker to discharge water to any place specified in the order subject to any conditions or restrictions so specified;

(d) provision authorising the Authority to prohibit or limit the taking by any person of water from a source specified in the order if the Authority is satisfied that the taking of water from that source seriously affects the supplies available to the water undertaker;

(e) provision prohibiting or limiting the taking by the Authority of water from a source specified in the order if the taking of water from that source is determined, in accordance with provision made by the order, seriously to affect the supplies available to the water undertaker;

PART III

(f) provision suspending or modifying, subject to any conditions specified in the order, any restriction or obligation to which the water undertaker or any sewerage undertaker or other person is subject as respects—

(i) the taking of water from any source;

(ii) the discharge of water;

(iii) the supply of water (whether in point of quantity, pressure, quality, means of supply or otherwise); or

(iv) the filtration or other treatment of water;

(g) provision authorising the Authority to suspend or vary, or attach conditions to, any consent specified in the order for the discharge of any effluent by any person, including the company which applied for the order (whether in the capacity in which it made the application, in its capacity as a sewerage undertaker or in any other capacity).

(5) The following provisions apply where an order under this section contains a provision authorising a water undertaker to prohibit or limit the use of water, that is to say—

(a) the power may be exercised in relation to consumers generally, a class of consumer or a particular consumer;

(b) the water undertaker shall take such steps as it thinks appropriate for bringing the prohibition or limitation to the attention of the persons to whom the prohibition or limitation will apply and, in particular, shall (as the undertaker thinks appropriate)—

(i) cause notice of the prohibition or limitation to be published in one or more local newspapers circulating within that part of the water undertaker's area which would be affected by the provision of the order; or

(ii) send notice of the prohibition or limitation to the persons to whom the prohibition or limitation will apply;

(c) the prohibition or limitation shall not come into operation until the expiration of the period of seventy-two hours beginning with the day on which the notice is published or, as the case may be, sent to the person in question.

(6) The Secretary of State may revoke or vary any direction given by him for the purposes of subsection (4)(b) above by a further direction for those purposes; but, where any purpose set out in such a direction will cease, by virtue of the variation or revocation, to be one which may be specified in an order under this section, the Secretary of State shall (without an application having been made to him) exercise his power to vary or revoke orders under this section, in so far as any orders in force will be affected by the variation or revocation of the direction, so as to make those orders conform to the variation or reflect the revocation.

(7) The revocation or variation of a direction under subsection (6) above shall not affect the validity of anything done in pursuance of an order before the giving of the further direction or any obligation or liability accrued or incurred before the giving of the further direction.

(8) Schedule 14 to this Act shall have effect with respect to the procedure on an application for an order under this section and with respect to the payment of compensation where such an order has been made.

(9) The period for which—

(a) an authorisation given by or under an order under this section;

(b) a prohibition or limitation imposed by or under any such order; or

(c) a suspension or modification effected by or under any such order,

has effect shall expire before the end of the period of six months beginning with the day on which the order comes into operation unless that period of six months is extended, in relation to that order, by virtue of the exercise by the Secretary of State of his power to amend the order; and that power shall not be exercised so as to extend that period of six months beyond the end of the period of one year beginning with that day.

Emergency drought orders.

132.—(1) If the Secretary of State—

(a) is satisfied that, by reason of an exceptional shortage of rain, a serious deficiency of supplies of water in any area exists or is threatened; and

(b) is further satisfied that the deficiency is such as to be likely to impair the economic or social well-being of persons in the area,

then, subject to the following provisions of this section and section 133 below, he may by order made by statutory instrument make such provision authorised by this section as appears to him to be expedient with a view to meeting the deficiency.

(2) The power to make an order under this section in relation to any area shall not be exercisable except where an application is made to the Secretary of State—

(a) by the Authority; or

(b) by a water undertaker which supplies water to premises in that area.

(3) An order made under this section on the application of the Authority may contain any of the provisions which could be included, by virtue of subsection (3) of section 131 above, in an order under that section.

(4) An order made under this section on the application of a water undertaker may contain any of the following provisions, that is to say—

(a) any provision which could be included, by virtue of subsection (4) of section 131 above, in an order under that section, except provision authorised by paragraph (b) of that subsection;

(b) provision authorising the water undertaker to prohibit or limit the use of water for such purposes as the water undertaker thinks fit;

(c) provision authorising the water undertaker to supply water in its area or in any place within its area by means of stand-pipes or water tanks, and to erect or set up and maintain stand-pipes or water tanks in any street in that area.

(5) The following provisions apply where an order under this section contains a provision authorising a water undertaker to prohibit or limit the use of water, that is to say—

(a) the power may be exercised in relation to consumers generally, a class of consumer or a particular consumer;

PART III

(b) the water undertaker shall take such steps as it thinks appropriate for bringing the prohibition or limitation to the attention of the persons to whom the prohibition or limitation will apply and, in particular, shall (as the undertaker thinks appropriate)—

(i) cause notice of the prohibition or limitation to be published in one or more local newspapers circulating within that part of the water undertaker's area which would be affected by the provision of the order; or

(ii) send notice of the prohibition or limitation to the persons to whom the prohibition or limitation will apply;

(c) the prohibition or limitation shall not come into operation until the expiration of the period of seventy-two hours beginning with the day on which the notice is published or, as the case may be, sent to the person in question.

(6) Where powers have been conferred by an order under this section on any person—

(a) the Secretary of State may give to that person such directions as he considers necessary or expedient as to the manner in which, or the circumstances in which, any of those powers is or is not to be exercised;

(b) it shall be the duty of that person to comply with any such direction; and

(c) where that person is a water undertaker or sewerage undertaker, the duty to comply with any such direction shall be enforceable under section 20 above by the Secretary of State.

(7) The giving of a direction under subsection (6) above in relation to any power shall not affect the validity of anything done in the exercise of that power before the giving of the direction or any obligation or liability incurred before the giving of the direction.

(8) Any works to be carried out under the authority of an order under this section shall be included in the definition of emergency works in section 39(1) of the Public Utilities Street Works Act 1950.

1950 c. 39.

(9) Schedule 14 to this Act shall have effect with respect to the procedure on an application for an order under this section and with respect to the payment of compensation where such an order has been made.

(10) The period for which—

(a) an authorisation given by or under an order under this section;

(b) a prohibition or limitation imposed by or under any such order; or

(c) a suspension or modification effected by or under any such order,

has effect shall expire before the end of the period of three months beginning with the day on which the order comes into operation unless that period of three months is extended, in relation to that order, by virtue of the exercise by the Secretary of State of his power to amend the order; and that power shall not be exercised so as to extend that period of three months beyond the end of the period of five months beginning with that day.

PART III
Provisions supplemental to powers conferred by sections 131 and 132.

133.—(1) Any drought order which—

(a) authorises the taking of water from a source from which water is supplied to an inland navigation; or

(b) suspends or modifies—

(i) a restriction as respects the taking of water from a source from which water is supplied to an inland navigation; or

(ii) an obligation to discharge compensation water into a canal or into any river or stream which forms part of, or from which water is supplied to, an inland navigation,

may include provision for prohibiting or imposing limitations on the taking of water from the inland navigation or for the suspension or modification of any obligation to which a navigation authority are subject as respects the discharge of water from the inland navigation.

(2) A prohibition or limitation by or under a drought order on the taking of water from any source may be imposed so as to have effect in relation to a source from which a person to whom the prohibition or limitation applies has a right to take water whether by virtue of an enactment or instrument, an agreement or the ownership of land.

(3) Where a drought order made on the application of a water undertaker confers power on the Authority—

(a) to prohibit or limit the taking of water from any source; or

(b) to suspend or vary, or attach conditions to, any consent for the discharge of any effluent,

the Authority shall exercise that power in such manner as will ensure, so far as reasonably practicable, that the supplies of water available to the water undertaker are not seriously affected.

(4) Where—

(a) any drought order confers power on the Authority to suspend or vary, or attach conditions to, any consent for the discharge of any effluent; and

(b) the Authority exercises that power so as to restrict the discharge of effluent by a sewerage undertaker,

the sewerage undertaker may so modify any consents or agreements relating to the discharge by other persons of trade effluent as to enable it to comply with any requirements or conditions imposed on it by or under the order with respect to discharges from sewers or works of the undertaker.

(5) A drought order may authorise the Authority or a water undertaker, subject to any conditions and restrictions specified in the order, to execute any works required for the performance of any duty or the exercise of any power which is imposed or conferred by or under the order and—

(a) may authorise the Authority or that undertaker for that purpose to enter upon any land specified in the order and to occupy and use the land to such extent and in such manner as may be requisite for the execution and maintenance of the works; and

PART III

(b) may apply in relation to the execution of the works such of the provisions of Part IV of this Act as appear to the Secretary of State to be appropriate, subject to such modifications as may be specified in the order.

(6) The Secretary of State shall include in any drought order authorising the Authority or a water undertaker to enter any land provisions requiring the Authority or that undertaker to give to the occupier of the land and to such other persons concerned with the land as may be specified in the order not less than twenty-four hours' notice of any intended entry.

(7) A drought order may—

(a) make provision corresponding to sections 178 and 179 below in relation to any provisions of the order authorising any person to enter any land;

(b) make different provision for different cases, including different provision in relation to different persons, circumstances or localities; and

(c) contain such supplemental, consequential and transitional provision as the Secretary of State considers appropriate.

(8) Nothing in any drought order shall affect the right of the Authority, a water undertaker or a sewerage undertaker, in the event of an interruption or diminution of the supply of water, to recover any fixed or minimum charge which might have been recovered from any person by the Authority or that undertaker if there had been no such interruption or diminution.

Offences against drought orders.

134.—(1) If any person—

(a) takes or uses water in contravention of a prohibition or limitation imposed by or under any drought order or takes or uses water otherwise than in accordance with any condition or restriction so imposed; or

(b) discharges water otherwise than in accordance with any condition or restriction imposed by or under such an order,

he shall be guilty of an offence under this section.

(2) If any person—

(a) fails to construct or maintain in good order a gauge, weir or other apparatus for measuring the flow of water which he was required to construct or maintain by any drought order; or

(b) fails to allow some person authorised for the purpose by or under any such order to inspect and examine any such apparatus or any records made thereby or kept by that person in connection therewith or to take copies of any such records,

he shall be guilty of an offence under this section.

(3) In any proceedings against any person for an offence under this section it shall be a defence for that person to show that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(4) A person who is guilty of an offence under this section shall be liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum;

(b) on conviction on indictment, to a fine.

Interpretation of provisions relating to drought orders.

135.—(1) In sections 131 to 134 above and Schedule 14 to this Act—

"compensation water" means water which a water undertaker or the Authority is under an obligation to discharge—

(a) in accordance with the provisions of a licence under the Water Resources Act 1963, into a source of supply (within the meaning of that Act); or 1963 c. 38.

(b) under any local statutory provision, into any river, stream, brook or other running water or into a canal;

"drought order" means an order under section 131 or 132 above;

"inland navigation" includes any canal or navigable river;

"sewage effluent" and "trade effluent" have the same meanings as in Chapter I of this Part.

(2) In sections 131 to 134 above and Schedule 14 to this Act—

(a) references to the taking of water include references to the collection, impounding, diversion or appropriation of water; and

(b) references to an obligation or to a restriction include references to an obligation or, as the case may be, to a restriction which is imposed by or under any enactment or agreement.

CHAPTER III

FLOOD DEFENCE

Flood defence functions of the Authority.

136.—(1) Subject to subsection (3) below, the Authority shall in relation to England and Wales exercise a general supervision over all matters relating to flood defence and, for the purpose of carrying out its functions in relation to flood defence, shall from time to time carry out surveys of the areas in relation to which it carries out those functions.

(2) Schedule 15 to this Act shall have effect for transferring the functions of water authorities relating to flood defence to the Authority and for making amendments of the Land Drainage Act 1976 (in this Chapter referred to as "the 1976 Act"), including amendments consequential on the following provisions of this Chapter. 1976 c. 70.

(3) Without prejudice to any scheme for the appointment of local flood defence committees and subject to subsection (4) below, the Authority shall arrange for all its functions under the 1976 Act relating to flood defence to be carried out by regional flood defence committees established under section 137 below, so that those functions of the Authority are carried out—

(a) in relation to the area of each regional flood defence committee, by the committee for that area; and

PART III

(b) in cases involving the areas of more than one regional flood defence committee, by such committee, or jointly by such committees, as may be determined in accordance with arrangements made by the Authority.

(4) The Authority shall not make arrangements for the carrying out by any other body, or by any committee, of any of its functions with respect to—

1988 c. 41.

(a) the issuing of levies (within the meaning of the Local Government Finance Act 1988); or

(b) the making of drainage charges under the 1976 Act;

and nothing in this section shall enable the Authority to authorise any such other body or any committee to borrow money for purposes connected with the Authority's functions relating to flood defence.

(5) The Authority may give a regional flood defence committee a direction of a general or specific character as to the carrying out of any function relating to flood defence, other than one of their internal drainage functions, so far as the carrying out of that function appears to the Authority likely to affect materially the Authority's management of water for purposes other than flood defence; and a regional flood defence committee shall comply with any direction under this subsection.

(6) The Authority shall maintain a principal office for the area of each regional flood defence committee.

(7) The functions of the Authority by virtue of this Chapter extend to the territorial sea adjacent to England and Wales in so far as—

(a) the area of any regional flood defence committee includes any area of that territorial sea; or

(b) section 17(2) or (3) of the 1976 Act (works in the sea and in estuaries) provides for the exercise of any power in the territorial sea;

and where under the said section 17(2) or (3) any function of the Authority falls to be carried out at a place beyond the seaward boundaries of the area of any regional flood defence committee, that place shall be assumed for the purposes of this Chapter and that Act to be within the area of the regional flood defence committee to whose area the area of sea where that place is situated is adjacent.

(8) Where the functions of any water authority immediately before the transfer date include, by virtue of any local statutory provision, any functions relating to flood defence—

(a) those functions shall become functions of the Authority on that date; and

(b) subject to the power conferred by section 191 below, the local statutory provisions relating to the functions transferred by this subsection and everything done by or in relation to a water authority under any such provision shall have effect, so far as may be necessary for the purposes of, or in connection with, the transfer of functions under this subsection, as if—

(i) any reference in any such provision to a water authority were a reference to the Authority; and

(ii) any such thing had been done by or in relation to the Authority.

(9) In this section—

"flood defence" means the drainage of land (within the meaning of the 1976 Act) and the provision of flood warning systems;

"internal drainage functions" means the functions of the Authority under sections 10 to 16, 68(1) to (4) and (7) to (9), 69(2), (3) and (6), 84 and 86(1) of the 1976 Act.

Establishment of regional flood defence committees.

137.—(1) There shall, in accordance with the following provisions of this section and section 138 below, be committees, to be known as regional flood defence committees, for the purpose of carrying out the functions which fall to be carried out by such committees by virtue of this Chapter (being functions corresponding to those which immediately before the transfer date were functions of regional land drainage committees).

(2) Subject to Schedule 16 to this Act (which makes provision for the alteration of the boundaries of and the amalgamation of the areas of regional flood defence committees), there shall be a regional flood defence committee for each of the areas for which there was a regional land drainage committee immediately before the transfer date (being the areas which immediately before that date were the areas of water authorities for land drainage purposes).

(3) Subject to subsection (4) below, a regional flood defence committee shall consist of the following, none of whom shall be a member of the Authority, that is to say—

(a) a chairman and a number of other members appointed by the appropriate Minister;

(b) two members appointed by the Authority;

(c) a number of members appointed by or on behalf of the constituent councils.

(4) Subject to subsection (5) and section 138(1)(a) below, in the period beginning with the transfer date and ending with such day as the appropriate Minister may by order made by statutory instrument appoint for the purposes of this subsection, the regional flood defence committee for any area shall consist of—

(a) a chairman, being the person who, by reason of his appointment by the Secretary of State or the Minister, is the chairman of the regional land drainage committee for that area immediately before that date;

(b) every other person who, by reason of his appointment by the Secretary of State or the Minister, is a member of that regional land drainage committee immediately before that date;

(c) every person who, by reason of his appointment by or on behalf of any of the constituent councils of that regional land drainage committee, is a member of that committee immediately before that date; and

(d) two members appointed by the Authority;

and different days may be appointed for the purposes of this subsection in relation to different regional flood defence committees.

PART III

(5) A person who is the chairman or a member of a regional flood defence committee by virtue of paragraph (a), (b) or (c) of subsection (4) above shall hold and, subject to subsection (6) below, vacate office on the terms of the appointment mentioned in that paragraph; and where at any time in the period mentioned in subsection (4) above there is a vacancy in the chairmanship or membership of a regional flood defence committee, a person may be appointed to fill the vacancy—

(a) where the vacancy is in respect of a member appointed by the Authority, by the Authority;

(b) where the vacancy is in respect of a person who held or would have held office in respect of his appointment by or on behalf of any of the constituent councils of a regional land drainage committee (being either an appointment to that committee or an appointment by virtue of this subsection to the regional flood defence committee), by the council or councils which made that appointment; and

(c) in any other case, by the appropriate Minister.

(6) A person who is the chairman or a member of a regional flood defence committee by virtue of paragraph (a), (b) or (c) of subsection (4) above shall not cease to be the chairman or a member of that committee by reason only of the expiration before the end of the period mentioned in that subsection of his term of office under the appointment mentioned in that paragraph; but, without prejudice to his eligibility for re-appointment, every person who on the day with which that period ends is the chairman or a member of a regional flood defence committee by virtue of that subsection or subsection (5) above shall cease to be the chairman or, as the case may be, such a member of that committee at the end of that period.

(7) In appointing a person to be the chairman or a member of a regional flood defence committee under subsection (3)(a) or (c) or (5)(b) or (c) above, the appropriate Minister or, as the case may be, a constituent council shall have regard to the desirability of appointing a person who has experience of, and has shown capacity in, some matter relevant to the functions of the committee.

(8) Subject to the preceding provisions of this section, Schedule 1 to the 1976 Act (members and proceedings of regional land drainage committees) shall have effect in relation to regional flood defence committees as it had effect immediately before the transfer date in relation to regional land drainage committees.

1975 c. 24.

(9) In the House of Commons Disqualification Act 1975, in Part III of Schedule 1 (other disqualifying offices), there shall be inserted (at the appropriate place) the following entry—

"Chairman of a regional flood defence committee for any area of England and Wales."

(10) For the purposes of this Chapter and the 1976 Act the councils of every county, metropolitan district or London borough any part of which is in the area of a regional flood defence committee shall be the constituent councils for the regional flood defence committee for that area, and the Common Council of the City of London shall be a constituent council for the regional flood defence committee for any area which comprises any part of the City.

(11) In this section and section 138 below "the appropriate Minister"—

(a) in relation to the regional flood defence committee for an area the whole or the greater part of which is in Wales, means the Secretary of State; and

(b) in relation to any other regional flood defence committee, means the Minister.

Composition of regional flood defence committees.

138.—(1) Subject to the following provisions of this section and to any order under Schedule 16 to this Act amalgamating the areas of any two or more regional flood defence committees, on and after the transfer date—

(a) the total number of members of the regional flood defence committee for any area shall be the number which, whether under section 2 of the 1976 Act or by virtue of any determination or order made under that section, was for the purposes of that section the total number of members of the regional land drainage committee for that area immediately before that date; and

(b) the number of members to be appointed to a regional flood defence committee for any area by or on behalf of each of the constituent councils or, as the case may be, jointly by or on behalf of more than one of them shall be the number which, whether under section 3 of that Act or by virtue of an order made under that section, was the number to be appointed to the regional land drainage committee for that area by that council or those councils immediately before that date.

(2) The Authority may, in accordance with the following provisions of this section, from time to time make a determination varying the total number of members of a regional flood defence committee; but that number shall be not less than eleven and, except where an order under subsection (4) below otherwise provides, not more than seventeen.

(3) The Authority shall submit any determination under subsection (2) above to the appropriate Minister; and any determination by the Authority under subsection (2) above that a regional flood defence committee should consist of more than seventeen members shall be provisional and shall take effect only if the appropriate Minister makes an order under subsection (4) below.

(4) If the Authority submits a provisional determination to the appropriate Minister with respect to any regional flood defence committee and he considers that the committee should consist of more than seventeen members, he may by order made by statutory instrument—

(a) confirm it; or

(b) substitute for the number of members determined by the Authority some other number not less than seventeen.

(5) Subject to the following provisions of this section, whenever—

(a) the total number of members of a regional flood defence committee is varied under this section; or

PART III

(b) the appropriate Minister considers it necessary to make an order under this subsection in consequence of—

(i) the effect in relation to the whole or any part of the area of any regional flood defence committee of any regulations under section 69(7) of the Local Government Finance Act 1988 (definition of relevant population); or

1988 c. 41.

(ii) the alteration of the boundaries of the area of a regional flood defence committee,

the appropriate Minister shall by order made by statutory instrument specify, in relation to times after the coming into force of the variation, regulations or alteration, the number of members to be appointed to the committee by each of the constituent councils.

(6) An order under subsection (5) above shall be so framed that the total number of members appointed under section 137(3)(a) and (b) above is one less than the number of those appointed by or on behalf of constituent councils.

(7) For the purpose of determining for the purposes of subsection (5) above the number of persons to be appointed to a regional flood defence committee by or on behalf of each constituent council, the appropriate Minister—

(a) shall have regard to the relevant population of any relevant area of that council; and

(b) where, having regard to the proportion which that population bears to the aggregate of the relevant populations of the relevant areas of all the constituent councils—

(i) he considers it to be inappropriate that that council should appoint a member of the committee; or

(ii) he considers that one or more members should be appointed jointly by that council and one or more other constituent councils,

may include provision to that effect in the order.

(8) Where—

(a) the appointment of one or more members of a regional flood defence committee is, by virtue of subsection (1) above or an order under subsection (5) above, to be made jointly by more than one constituent council; and

(b) the councils by whom that appointment is to be made are unable to agree on an appointment,

the member or members in question shall be appointed by the appropriate Minister on behalf of those councils; and subsection (7) of section 137 above shall apply in relation to an appointment under this subsection as it applies in relation to an appointment under subsection (3)(a) of that section.

(9) In this section—

"member", in relation to a regional flood defence committee, includes the chairman of the committee;

"relevant area", in relation to a council which is a constituent council in relation to any regional flood defence committee, means so much of the council's area as is included in the area of the committee;

"relevant population" has the same meaning as it has for the purposes of section 69 of the Local Government Finance Act 1988 (precepted authorities). PART III 1988 c. 41.

Local flood defence schemes and local flood defence committees.

139.—(1) A scheme, to be known as a local flood defence scheme, may be made in accordance with section 4 of the 1976 Act—

(a) for the creation in the area of a regional flood defence committee of one or more districts, to be known as local flood defence districts; and

(b) for the constitution, membership, functions and procedure of a committee for each such district, to be known as the local flood defence committee for that district.

(2) Any local land drainage scheme which was made or continued in force under section 4 of the 1976 Act and which is in force immediately before the transfer date in relation to an area which becomes the area of a regional flood defence committee under this Chapter shall have effect on and after that date, and may be amended or revoked under that Act, as if it were a local flood defence scheme made in relation to the area of that committee; and, accordingly, subject to any such amendment or revocation—

(a) any local land drainage district created by that scheme and (however defined) in being immediately before that date shall be treated, on and after that date, as such a local flood defence district of the area of that regional flood defence committee as is defined by reference to the area of that local land drainage district; and

(b) any local land drainage committee created by that scheme for any such district and in being immediately before that date shall be treated, on and after that date, as the local flood defence committee for that district.

(3) Subject to subsection (4) below, section 5 of the 1976 Act (members and proceedings of local land drainage committees) shall have effect on and after the transfer date in relation to local flood defence committees as it had effect before that date in relation to local land drainage committees.

(4) For the purposes of subsection (3) above, any person who immediately before the transfer date is, by virtue of an appointment by a regional land drainage committee or any council, the chairman or a member of a local land drainage committee which becomes a local flood defence committee under this section shall be treated, on and after that date for the remainder of the period for which he would, under the terms of his appointment, have held office in relation to the local land drainage committee—

(a) as if he had been appointed to the local flood defence committee by the regional flood defence committee, or (as the case may be) by that council, on the same terms; and

(b) in the case of the chairman, as if he were a member of the regional flood defence committee.

(5) Without prejudice to his eligibility for re-appointment if he is a member of the regional flood defence committee, any person who on the day appointed for the purposes of subsection (4) of section 137 above in relation to any regional flood defence committee is, by virtue of subsection (4) above, the chairman of a local flood defence committee for

PART III

a district in the area of that regional flood defence committee shall cease to be the chairman of that local flood defence committee at the end of that day.

1975 c. 24.

(6) In the House of Commons Disqualification Act 1975, in Part III of Schedule 1 (other disqualifying offices), there shall be inserted (at the appropriate place) the following entry—

"Chairman of a local flood defence committee for any district in England and Wales."

Internal drainage districts and internal drainage boards.

140. For the purposes of the drainage of land the internal drainage districts within the areas of the water authorities shall continue on and after the transfer date, in accordance with section 6 of the 1976 Act, as internal drainage districts within the areas of the regional flood defence committees; and for each such district there shall continue, in accordance with that section, to be a board known as an internal drainage board, which shall be a body corporate.

CHAPTER IV

SALMON AND FRESHWATER FISHERIES

Functions of the Authority in relation to fisheries.

141.—(1) It shall be the duty of the Authority—

(a) to maintain, improve and develop salmon fisheries, trout fisheries, freshwater fisheries and eel fisheries;

(b) to establish and maintain advisory committees of persons who are not members of the Authority but appear to it to be interested in any such fisheries in the different parts of the area mentioned in subsection (4) below; and

(c) to consult those committees as to the manner in which the Authority is to perform its duty under paragraph (a) above.

(2) The duty to establish and maintain advisory committees imposed by paragraph (b) of subsection (1) above is a duty to establish and maintain—

(a) a regional advisory committee for each such region of the area mentioned in subsection (4) below as the Authority considers it appropriate for the time being to regard as a region of that area for the purposes of this section; and

(b) such local advisory committees as it considers necessary to represent the interests referred to in that paragraph in the different parts of each such region;

and it shall be the duty of the Authority in determining the regions for which regional advisory committees are established and maintained to ensure that one of those regions consists (apart from territorial waters) wholly or mainly of, or of most of, Wales.

(3) There shall be paid by the Authority—

(a) to the chairman of an advisory committee established and maintained under this section such remuneration and such travelling and other allowances; and

(b) to any other members of that committee such sums reimbursing them for loss of remuneration, for travelling expenses or for any other out-of-pocket expenses, PART III

as may, with the consent of the Treasury, be determined by the Minister or the Secretary of State.

(4) The area in respect of which the Authority shall carry out its functions relating to fisheries shall be the whole of England and Wales, together with—

(a) such part of the territorial sea adjacent to England and Wales as extends for six miles from the baselines from which the breadth of that sea is measured; and

(b) in the case of subsection (1) above, the Salmon and Freshwater Fisheries Act 1975 and the Diseases of Fish Act 1937, so much of the River Esk with its banks and tributary streams up to their source as is situated in Scotland, 1975 c. 51. 1937 c. 33.

but, in the case of that subsection and those Acts, excluding the River Tweed, that is to say, "the river" within the meaning of the Tweed Fisheries Amendment Act 1859, as amended by byelaws. 1859 c. lxx.

(5) Schedule 17 to this Act shall have effect for transferring the functions of water authorities relating to fisheries to the Authority and for making amendments of the enactments relating to the transferred functions and of corresponding enactments applying to fisheries in Scotland.

(6) Nothing in the preceding provisions of this section or in the following provisions of this Act shall authorise the Authority to acquire any land in Scotland compulsorily.

(7) In this section, "miles" means international nautical miles of 1,852 metres.

CHAPTER V

NAVIGATION, CONSERVANCY AND HARBOUR AUTHORITY FUNCTIONS

Navigation, conservancy and harbour authority functions.

142.—(1) Where—

(a) the functions of a water authority immediately before the transfer date include, by virtue of any local statutory provision, any functions of a navigation authority, conservancy authority or harbour authority; and

(b) those functions are not otherwise transferred by this Act,

those functions shall become functions of the Authority on that date.

(2) Subject to the power conferred by section 191 below, on and after the transfer date every local statutory provision relating to a function transferred by this section and everything done by or in relation to a water authority under any such provision shall have effect, so far as may be necessary for the purposes of, or in connection with, the transfer of functions made by subsection (1) above, as if—

(a) any reference in any such provision to a water authority were a reference to the Authority; and

(b) any such thing had been done by or in relation to the Authority.

PART III

CHAPTER VI

SUPPLEMENTAL PROVISIONS OF PART III

Research etc. duties of the Authority.

143.—(1) It shall be the duty of the Authority to make arrangements for the carrying out of research and related activities (whether by the Authority or others) in respect of matters to which the functions of the Authority relate.

(2) It shall be the duty of the Authority—

(a) to collate and publish information from which assessments can be made of the actual and prospective demand for water, and of actual and prospective water resources, in England and Wales; and

(b) so far as it considers it appropriate to do so, to collaborate with others in collating and publishing any such information or any similar information in relation to places outside England and Wales.

Overseas activities of the Authority.

144.—(1) Subject to subsection (2) below, the Authority may provide for any person outside the United Kingdom advice or assistance, including training facilities, as respects any matter in which the Authority has skill or experience.

(2) The power conferred by subsection (1) above shall not be exercised except—

(a) with the consent in writing of the Secretary of State; and

(b) if the exercise of that power involves capital expenditure by the Authority, or the guaranteeing by the Authority of any liability, with that consent given with the approval of the Treasury.

(3) Subsections (1) and (2) above are without prejudice to any power of the Authority apart from subsection (1) above to provide advice or assistance of the kind mentioned in that subsection.

(4) Any consent under this section may be given subject to such conditions as the Secretary of State thinks fit.

General powers of the Authority.

145.—(1) The Authority—

(a) shall have power to do anything which, in the opinion of the Authority is calculated to facilitate, or is conducive or incidental to, the carrying out of the Authority's functions;

(b) without prejudice to the generality of that power, shall have power, for the purposes of, or in connection with, the carrying out of those functions, to institute criminal proceedings, to acquire and dispose of land and other property and to carry out such engineering or building operations at such places as the Authority considers appropriate; and

(c) without prejudice as aforesaid and subject to any express provision with respect to charging by the Authority which is contained in any enactment, shall have power to fix and recover charges for services provided in the course of carrying out its functions.

(2) Without prejudice to subsection (1) above, the powers conferred by section 1 of the Local Authorities (Goods and Services) Act 1970 shall be exercisable by the Authority as if the Authority were a public body within the meaning of that section. 1970 c. 39.

(3) Nothing in this section with respect to the carrying out of works shall be construed as conferring any power to do anything otherwise than for the purpose of giving the Authority capacity as a corporation to do that thing; and, accordingly, without prejudice to the provisions of Part IV of this Act, this section shall be disregarded for the purpose of determining whether the Authority is liable, on grounds other than an incapacity by virtue of its constitution, for any act or omission in exercise of a power to carry out works conferred by this section.

Ministerial directions to the Authority.

146.—(1) Directions of a general or specific character may be given to the Authority—

(a) with respect to the carrying out of the Authority's functions by virtue of Chapter I, II or V of this Part (other than its functions in connection with the making of applications for orders under section 112 above), by the Secretary of State;

(b) with respect to the making of applications for orders under section 112 above or with respect to the carrying out of its functions by virtue of Chapter III or IV of this Part, by the Minister or the Secretary of State; and

(c) with respect to anything not falling within paragraph (a) or (b) above which is connected with the carrying on of the Authority's activities generally, by the Secretary of State and the Minister acting jointly;

and it shall be the duty of the Authority to comply with any such direction.

(2) Without prejudice to the generality of the power conferred by subsection (1) above, directions under that subsection may include such directions as the Secretary of State, the Minister or, as the case may be, both of them consider appropriate in order to enable Her Majesty's Government in the United Kingdom to give effect—

(a) to any Community obligations; or

(b) to any international agreement to which the United Kingdom is for the time being a party.

(3) The power to give a direction under this section shall be exercisable, except in an emergency, only after consultation with the Authority.

(4) Any power of the Secretary of State or the Minister otherwise than by virtue of this section to give directions to the Authority shall be without prejudice to the power conferred by this section.

Powers of entry etc.

147.—(1) Any person designated in writing for the purpose by the Secretary of State, the Minister or the Authority may—

(a) enter any premises or vessel for the purpose of—

(i) ascertaining whether any provision of an enactment to which this section applies, of any subordinate legislation or other instrument made by virtue of any such enactment or of any byelaws made by the Authority is being or has been contravened;

PART III

(ii) determining whether, and if so in what manner, any power or duty conferred or imposed on the Secretary of State, the Minister or the Authority by virtue of any enactment to which this section applies (including a power of the Secretary of State or the Minister to make subordinate legislation) should be exercised or, as the case may be, performed; or

(iii) exercising or performing any power or duty which is so conferred or imposed;

and

(b) carry out such inspections, measurements and tests on any premises or vessel entered by that person or of any articles found on any such premises or vessel, and take away such samples of water or effluent or of any land or articles, as the Secretary of State, the Minister or the Authority—

(i) considers appropriate for any purpose mentioned in paragraph (a) above; and

(ii) has authorised that person to carry out or take away.

(2) The powers which by virtue of subsection (1) above are conferred in relation to any premises for the purpose of enabling the Secretary of State, the Minister or the Authority to determine—

(a) whether any provision made by or under Chapter I of this Part is being or has been contravened; or

(b) whether or in what manner to exercise or perform any power or duty conferred or imposed on him or it by or under that Chapter,

shall include power, in order to obtain the information on which that determination may be made, to carry out experimental borings or other works on those premises and to install and keep monitoring and other apparatus there.

(3) Without prejudice to any power exercisable by virtue of a warrant under section 178 below, no person shall make an entry into any premises or vessel by virtue of this section except—

(a) in an emergency; or

(b) at a reasonable time and, if the premises are residential premises, the vessel is used for residential purposes or the entry is to be with heavy equipment, after seven days' notice of the intended entry has been given to the occupier of the premises or vessel.

1963 c. 38.
1976 c. 70.

(4) This section applies to any enactment contained in this Part, in the Water Resources Act 1963, in the Land Drainage Act 1976 or in any other enactment not contained in this Act under or for the purposes of which the Authority carries out functions.

Admissibility of analyses of samples.

148.—(1) Subject to subsection (2) below, the result of the analysis of any sample taken on behalf of the Authority in exercise of any power conferred by this Act shall not be admissible in any legal proceedings in respect of any effluent passing from any land or vessel unless the person who took the sample—

(a) on taking the sample notified the occupier of the land or the owner or master of the vessel of his intention to have it analysed;

(b) there and then divided the sample into three parts and caused each part to be placed in a container which was sealed and marked; and

(c) delivered one part to the occupier of the land or the owner or master of the vessel and retained one part, apart from the one he submitted to be analysed, for future comparison.

(2) If it is not reasonably practicable for a person taking a sample to comply with the requirements of subsection (1) above on taking the sample, those requirements shall be treated as having been complied with if they were complied with as soon as reasonably practicable after the sample was taken.

(3) In relation to any proceedings in respect of effluent passing from a public sewer or other outfall belonging to a sewerage undertaker into any water, this section shall have effect as if the references to the occupier of the land were references to the sewerage undertaker in which the sewer or outfall is vested.

Provision of information to the Ministers.

149.—(1) It shall be the duty of the Authority to furnish the Secretary of State or the Minister with all such information relating to—

(a) the Authority's property;

(b) the carrying out and proposed carrying out of its functions; and

(c) its responsibilities generally,

as he may reasonably require.

(2) Information required under this section shall be furnished in such form and manner, and be accompanied or supplemented by such explanations, as the Secretary of State or the Minister may reasonably require.

(3) The information which the Authority may be required to furnish to the Secretary of State or the Minister under this section shall include information which, although it is not in the possession of the Authority or would not otherwise come into the possession of the Authority, is information which it is reasonable to require the Authority to obtain.

(4) A requirement for the purposes of this section shall be contained in a direction which—

(a) may describe the information to be furnished in such manner as the Secretary of State or the Minister considers appropriate; and

(b) may require the information to be furnished on a particular occasion, in particular circumstances or from time to time.

(5) For the purposes of this section the Authority shall—

(a) permit any person authorised by the Secretary of State or the Minister for the purpose to inspect and make copies of the contents of any accounts or other records of the Authority; and

(b) give such explanation of them as that person or the Secretary of State or the Minister may reasonably require.

PART III
Annual report of the Authority.

150.—(1) As soon as reasonably practicable after the end of each financial year the Authority shall prepare a report on its activities during that year and shall send a copy of that report to the Secretary of State and to the Minister.

(2) Every such report shall set out any directions under section 146 above which have been given to the Authority during the year to which the report relates.

(3) The Secretary of State shall lay a copy of every such report before each House of Parliament and shall arrange for copies of every such report to be published in such manner as he considers appropriate.

(4) The Authority's annual report shall be in such form and contain such information as may be specified in any direction given to the Authority jointly by the Secretary of State and the Minister.

PART IV

POWERS IN RELATION TO LAND AND WORKS POWERS ETC.

Powers and duties in relation to land etc.

Compulsory purchase etc.

151.—(1) The Authority, a water undertaker or a sewerage undertaker may be authorised—

(a) in the case of the Authority, by the Secretary of State or the Minister; and

(b) in the case of a water undertaker or sewerage undertaker, by the Secretary of State,

to purchase compulsorily any land anywhere in England and Wales which is required by the Authority or, as the case may be, that undertaker for the purposes of, or in connection with, the carrying out of its functions.

(2) The power of the Secretary of State or the Minister under subsection (1) above shall include power—

(a) to authorise the acquisition of interests in and rights over land by the creation of new interests and rights; and

(b) by authorising the acquisition by the Authority or any water undertaker or sewerage undertaker of any rights over land which is to be or has been acquired by the Authority or that undertaker, to provide for the extinguishment of those rights.

(3) Without prejudice to the generality of subsection (1) above, the land which the Authority or a water undertaker or sewerage undertaker may be authorised under that subsection to purchase compulsorily shall include land which is or will be required for the purpose of being given in exchange for, or for any right over, any other land which for the purposes of the Acquisition of Land Act 1981 is or forms part of a common, open space or a fuel or field garden allotment.

1981 c. 67.

(4) Subject to section 159 below, the Acquisition of Land Act 1981 shall apply to any compulsory purchase under subsection (1) above of any land by the Authority, a water undertaker or a sewerage undertaker; and Schedule 3 to the said Act of 1981 shall apply to the compulsory acquisition under that subsection of rights by the creation of new rights.

(5) Schedule 18 to this Act shall have effect for the purpose of modifying enactments relating to compensation and the provisions of the Compulsory Purchase Act 1965 in their application in relation to the compulsory acquisition under subsection (1) above of a right over land by the creation of a new right.

1965 c. 56.

(6) The provisions of Part I of the Compulsory Purchase Act 1965 (so far as applicable), other than sections 4 to 8, 10, 21, 27(1) and 31 and Schedule 4, shall apply in relation to any power to acquire land by agreement which is conferred (whether by virtue of section 145(1) above or otherwise) on the Authority or (whether by virtue of the memorandum and articles of the company for the time being carrying out the functions of the undertaker or section 97(1) above or otherwise) on a water undertaker or sewerage undertaker, as if—

(a) any reference in those provisions to the acquiring authority were a reference to the Authority or, as the case may be, that undertaker; and

(b) any reference to land subject to compulsory purchase were a reference to land which may be purchased by agreement under that power.

Restriction on disposals of land.

152.—(1) The Authority shall not dispose of any of its compulsorily acquired land, or of any interest or right in or over any of that land, except with the consent of, or in accordance with a general authorisation given by, the Secretary of State or the Minister.

(2) A company holding an appointment under Chapter I of Part II of this Act shall not dispose of any of its protected land, or of any interest or right in or over any of that land, except with the consent of, or in accordance with a general authorisation given by, the Secretary of State.

(3) A consent or authorisation for the purposes of this section shall be set out in a notice served by the Secretary of State or the Minister on the person who is or may be authorised, by virtue of the provision contained in the notice, to dispose of land or of interests or rights in or over land or, as the case may be, on every such person.

(4) A consent or authorisation for the purposes of this section may be given on such conditions as the Secretary of State or, as the case may be, the Minister considers appropriate.

(5) Without prejudice to the generality of subsection (4) above and subject to subsection (6) below, the conditions of a consent or authorisation for the purposes of this section may include—

(a) a requirement that, before there is any disposal, an opportunity of acquiring the land in question, or an interest or right in or over that land, is to be made available, in such manner and on such terms as may be specified in or determined under provision contained in the notice setting out the consent or authorisation, to such person as may be so specified or determined;

(b) a requirement, in the case of a consent or authorisation for the purposes of subsection (2) above, that the company making the disposal has complied with such of the conditions of its appointment under Chapter I of Part II of this Act as relate to the disposal of its protected land or of any interest or right in or over that land;

PART IV

(c) a requirement that such a company, before making a disposal in a case in which the land in question is situated in a National Park, in the Broads or in an area of outstanding natural beauty or special scientific interest, should do one or both of the following, that is to say—

(i) consult with the Countryside Commission and, in the case of an area of special scientific interest, with the Nature Conservancy Council; and

(ii) enter into such agreements under section 39 of the Wildlife and Countryside Act 1981 (management agreements) or such covenants under subsection (7) below as the Secretary of State may determine;

1981 c. 69.

(d) provision requiring determinations under or for the purposes of the consent or authorisation to be made, in such cases as are mentioned in paragraph (c) above, either by the Countryside Commission or only after consultation with that Commission.

(6) A consent or authorisation shall not be given on any such condition as is mentioned in subsection (5)(a) above except where the Secretary of State or the Minister is satisfied that the condition will have effect in relation only to—

(a) land which, or any interest or right in or over which, was acquired by—

(i) the Authority;

(ii) the water undertaker or sewerage undertaker in question; or

(iii) any predecessor of the Authority or undertaker,

either compulsorily or at a time when the Authority, undertaker or predecessor was authorised to acquire it compulsorily; or

(b) land situated in a National Park, in the Broads or in an area of outstanding natural beauty or special scientific interest.

(7) Where a company holding an appointment under Chapter I of Part II of this Act is proposing, in such a case as is mentioned in subsection (5)(c) above, to dispose of, or of any interest or right in or over, any of its protected land, it may enter into a covenant with the Secretary of State by virtue of which it accepts obligations with respect to—

(a) the freedom of access to the land that is to be afforded to members of the public or to persons of any description; or

(b) the use or management of the land;

and a covenant under this subsection shall bind all persons deriving title from or under that company and shall be enforceable by the Secretary of State accordingly.

(8) Section 8 above shall have effect for the purposes of this section as if every proposal which—

(a) is made by a company holding an appointment as a water undertaker or sewerage undertaker with respect to land in a National Park, in the Broads or in an area of outstanding natural beauty or special scientific interest or with respect to any interest or right in or over any such land; and

(b) is a proposal for which the Secretary of State's consent or authorisation is required under this section, PART IV

were a proposal relating to the functions of that undertaker.

(9) In this section "compulsorily acquired land", in relation to the Authority, means any land of the Authority which—

(a) was acquired by the Authority compulsorily under the provisions of section 151 above or of section 155 below;

(b) was acquired by the Authority at a time when it was authorised under those provisions to acquire the land compulsorily;

(c) being land which has been transferred to the Authority in accordance with a scheme under Schedule 2 to this Act, was acquired by a predecessor of the Authority compulsorily under so much of any enactment in force at any time before the transfer date as conferred powers of compulsory acquisition; or

(d) being land which has been so transferred, was acquired by such a predecessor at a time when it was authorised to acquire the land by virtue of any such powers as are mentioned in paragraph (c) above.

(10) In this section—

"area of outstanding natural beauty or special scientific interest" means an area which—

(a) is for the time being designated as an area of outstanding natural beauty for the purposes of the National Parks and Access to the Countryside Act 1949; or 1949 c. 97.

(b) is an area in relation to which a notification given, or having effect as if given, under section 28 of the Wildlife and Countryside Act 1981 (areas of special scientific interest) for the time being has effect; 1981 c. 69.

and the reference in subsection (5)(c) above to an area of special scientific interest shall, accordingly, be construed as a reference to an area such as is mentioned in paragraph (b) of this definition; and

"the Broads" has the same meaning as in the Norfolk and Suffolk Broads Act 1988. 1988 c. 4.

Laying and vesting of pipes etc.

153.—(1) Schedule 19 to this Act (which confers powers on the Authority and on water undertakers and sewerage undertakers for the purpose of enabling them to lay pipes and sewers and carry out related works) shall have effect.

(2) Subject to subsection (4) below and to any provision to the contrary contained in an agreement between the Authority or undertaker and the person in whom an interest in the pipe or works is or is to be vested—

(a) every pipe which is a relevant pipe for the purposes of Schedule 19 to this Act and has been laid, in exercise of any power conferred by that Schedule or otherwise, by the Authority or a water undertaker or sewerage undertaker; and

(b) every sewage disposal works constructed by a sewerage undertaker,

shall vest in the Authority, the undertaker which laid it or, as the case may be, the undertaker which constructed them.

PART IV

(3) In addition to the sewers and works which vest in a sewerage undertaker by virtue of subsection (2) above, the following shall also vest in such an undertaker, that is to say—

(a) every sewer or sewage disposal works with respect to which a declaration of vesting made or having effect as if made by that undertaker under Part II of the Public Health Act 1936 takes effect; and

1936 c. 49.

(b) every sewer which is laid in the area of that undertaker under Part XI of the Highways Act 1980 (making up private streets) and is not a sewer belonging to a road maintained by a highway authority.

1980 c. 66.

(4) Subsection (2) above shall not apply to a service pipe laid in a street other than the street in which the water main with which it connects is situated and shall not apply to a service pipe laid otherwise than in a street where that pipe is laid—

(a) in pursuance of the duty imposed by virtue of section 42(3)(c) above; or

(b) in substitution for a service pipe belonging to a person other than the person who lays the replacement pipe.

(5) It is hereby declared that anything which, in pursuance of any arrangements under section 73 above, is done on behalf of a sewerage undertaker by a relevant authority within the meaning of that section is, subject to any provision to the contrary contained in any such arrangements, to be treated for the purposes of this section as done by the undertaker.

(6) The preceding provisions of this section are without prejudice to the vesting of anything in the Authority, or in a company appointed to be a water undertaker or sewerage undertaker, in accordance with a scheme under Schedule 2 or 5 to this Act or by virtue of the exercise by the Authority or any such undertaker of any power to acquire property by agreement or compulsorily.

Power to deal with foul water and pollution.

154.—(1) Without prejudice to the powers conferred by section 115 above or by Schedule 19 to this Act, the Authority and every water undertaker shall have power, on any land which belongs to the Authority or that undertaker or over or in which the Authority or that undertaker has acquired the necessary easements or rights, to construct and maintain drains, sewers, watercourses, catchpits and other works for the purpose—

(a) of intercepting, treating or disposing of any foul water arising or flowing upon that land; or

(b) of otherwise preventing the pollution—

(i) of any waters, whether on the surface or underground, which belong to the Authority or any water undertaker or from which the Authority or any water undertaker is authorised to take water;

(ii) without prejudice to sub-paragraph (i) above, of any reservoir which belongs to or is operated by the Authority or any water undertaker or which the Authority or any water undertaker is proposing to acquire or construct for the purpose of being so operated; or

(iii) of any underground strata from which the Authority or any water undertaker is for the time being authorised to abstract water in pursuance of a licence under the Water Resources Act 1963. 1963 c. 38.

(2) Where any water undertaker is proposing to carry out any such works as are mentioned in subsection (1) above and the proposed works will affect any watercourse, the undertaker shall consult the Authority before carrying out the works.

(3) Without prejudice to section 160 below, nothing in subsection (1) above shall authorise the Authority or any water undertaker, without the consent of the navigation authority in question, to intercept or take any water which a navigation authority are authorised to take or use for the purposes of their undertaking.

(4) Any dispute as to whether any consent for the purposes of subsection (3) above is being unreasonably withheld shall be referred to the arbitration of a single arbitrator to be appointed by agreement between the parties to the dispute or, in default of agreement, by the President of the Institution of Civil Engineers.

(5) Paragraphs 2 and 3 of Schedule 19 to this Act (street works) shall have effect as if any reference in those paragraphs to the laying of a relevant pipe, within the meaning of that Schedule, included a reference to the laying of any drain or sewer for any of the purposes mentioned in subsection (1)(a) and (b) above and to the construction of a watercourse for any of those purposes.

Compulsory powers for carrying out works.

155.—(1) Where the Authority or a water undertaker is proposing, for the purposes of, or in connection with, the carrying out of any of its functions—

(a) to carry out any engineering or building operations; or

(b) to discharge water into any inland water or underground strata,

the Authority or, as the case may be, the undertaker may apply to the appropriate Minister for an order under this section.

(2) Subject to the following provisions of this section, the appropriate Minister may, on an application under subsection (1) above, by order made by statutory instrument confer such compulsory powers and grant such authority as he considers necessary or expedient for the purpose of enabling any engineering or building operations or discharges of water to be carried out or made for the purposes of, or in connection with, the carrying out of the functions with respect to which the application was made.

(3) Schedule 20 to this Act shall have effect with respect to applications for orders under this section and with respect to such orders.

(4) Subject to the said Schedule 20, an order under this section may—

(a) without prejudice to section 151 above, confer power to acquire compulsorily any land, including—

(i) power to acquire interests in and rights over land by the creation of new rights and interests; and

PART IV

(ii) power, by the compulsory acquisition by the Authority or any water undertaker of any rights over land which is to be or has been acquired by the Authority or that undertaker, to extinguish any such rights;

(b) apply for the purposes of the order, either with or without modifications, any of the provisions of this Part of this Act which do not apply for those purposes apart from by virtue of this paragraph;

(c) make any authority granted by the order subject to such conditions as may be specified in the order;

(d) amend or repeal any local statutory provision;

(e) contain such supplemental, consequential and transitional provision as the appropriate Minister considers appropriate.

(5) Nothing in any order under this section shall exempt the Authority or any water undertaker from any restriction imposed by Part IV of the Water Resources Act 1963 (abstraction and impounding of water).

1963 c. 38.

(6) It is hereby declared that an order under this section may grant authority for discharges of water by the Authority or a water undertaker where the Authority or the undertaker has no power to take water, or to require discharges to be made, from the inland water or other source from which the discharges authorised by the order are intended to be made; but nothing in so much of any such order as grants authority for any discharges of water shall have the effect of conferring any such power.

(7) In this section and Schedule 20 to this Act "the appropriate Minister"—

(a) in relation to an application by the Authority for an order under this section or an order made on such an application, means the Secretary of State or the Minister; and

(b) in relation to an application by a water undertaker for an order under this section or an order made on such an application, means the Secretary of State.

Power to carry out surveys and to search for water.

156.—(1) Without prejudice to the power conferred by paragraph 10 of Schedule 19 to this Act any person designated in writing under this section by the Authority or any water undertaker may enter any premises for any of the purposes specified in subsection (2) below.

(2) The purposes mentioned in subsection (1) above are the carrying out of any survey or tests for the purpose of determining—

(a) whether it would be appropriate for the Authority or, as the case may be, the undertaker to acquire any land or any right over land for purposes connected with the carrying out of its functions; or

(b) whether it would be appropriate for the Authority or, as the case may be, the undertaker to apply for an order under section 155 above and what compulsory powers it would be appropriate to apply for under that section.

(3) The power by virtue of subsection (1) above of a person designated under this section to enter any premises for the purpose of carrying out any survey or tests shall include power—

(a) to carry out experimental borings or other works for the purpose of ascertaining the nature of the sub-soil, the presence of underground water in the sub-soil or the quantity or quality of any such water;

(b) to install and keep monitoring or other apparatus on the premises for the purpose of obtaining the information on which any such determination as is mentioned in subsection (2) above may be made; and

(c) to take away and analyse such samples of water or of any land or articles as the Authority or, as the case may be, the undertaker considers necessary for any of the purposes so mentioned and has authorised that person to take away and analyse.

(4) The powers conferred by this section shall not be exercised in any case for purposes connected with the determination of—

(a) whether, where or how a reservoir should be constructed; or

(b) whether, where or how a borehole should be sunk for the purpose of abstracting water from or discharging water into any underground strata,

unless the Secretary of State has, in accordance with subsection (5) below, given his written authorisation in relation to that case for the exercise of those powers for those purposes.

(5) The Secretary of State shall not give his authorisation for the purposes of subsection (4) above unless—

(a) he is satisfied that notice of the proposal to apply for the authorisation has been given to the owner and to the occupier of the premises in question; and

(b) he has considered any representation or objections which, within the period of fourteen days beginning with the day after the giving of the notice, have been duly made to him by the owner or occupier of those premises with respect to the proposed exercise of powers under this section and have not been withdrawn.

(6) Without prejudice to any power exercisable by virtue of a warrant under section 178 below, no person shall make an entry into any premises by virtue of this section except—

(a) in an emergency; or

(b) at a reasonable time and after seven days' notice of the intended entry has been given to the occupier of the premises.

Duties to make recreational facilities available when carrying out certain works.

157.—(1) Without prejudice to any duty imposed by virtue of subsection (2) below, where—

(a) the Secretary of State makes an order under section 155 above authorising the Authority or a water undertaker to carry out works for or in connection with the construction or operation of a reservoir or conferring compulsory powers for that purpose on the Authority or such an undertaker; and

PART IV

(b) it appears to him that the works to be carried out may permanently affect the area in which they are situated and are not primarily intended to benefit the inhabitants of that area,

he may include in the order provision with respect to facilities for recreation or other leisure-time occupation for the benefit of those inhabitants.

(2) Where the Authority or a water undertaker carries out any works for or in connection with the construction or operation of a reservoir in Wales which—

(a) permanently affect one or more communities; and

(b) are not primarily intended by the Authority or that undertaker to benefit the inhabitants of that or those communities,

it shall be the duty of the Authority or, as the case may be, that undertaker to make available facilities for recreation or other leisure-time occupation for the benefit of those inhabitants or to assist others to make such facilities available.

(3) It shall be the duty of the Authority and of every water undertaker, in performing its duty under subsection (2) above, to consult—

(a) the community councils of the communities affected, in the case of communities having such councils; and

(b) in any case, the council of any district in which any community affected is situated.

(4) The duties of a water undertaker under this section shall be enforceable under section 20 above by the Secretary of State.

Byelaws with respect to waterways etc. in which the Authority or undertakers have an interest.

158.—(1) Every relevant body shall have power to make such byelaws as are mentioned in subsection (3) below with respect to any waterway owned or managed by that body and with respect to any land held or managed with the waterway.

(2) The Authority shall also have power to make such byelaws as are so mentioned with respect to any inland waters in relation to which there is a public right of navigation, and with respect to any land associated with such waters, if navigation in those waters—

(a) is not for the time being subject to the control of any navigation authority, harbour authority or conservancy authority; or

(b) is subject to the control of such a navigation authority, harbour authority or conservancy authority as is prescribed for the purposes of this paragraph by reason of its appearing to the Secretary of State to be unable for the time being to carry out its functions.

(3) The byelaws referred to in subsections (1) and (2) above in relation to any waterway, to any inland waters or to any land held or managed with any such waterway or associated with any such waters are byelaws for any of the following purposes, that is to say—

(a) the preservation of order on or in any such waterway, waters or land;

(b) the prevention of damage to anything on or in any such waterway, waters or land or to any such land;

(c) securing that persons resorting to any such waterway, waters or land so behave as to avoid undue interference with the enjoyment of the waterway, waters or land by others.

(4) Without prejudice to the generality of any of the paragraphs of subsection (3) above or to the power conferred on the Authority by virtue of section 114 above, the byelaws mentioned in that subsection include byelaws—

(a) regulating sailing, boating, bathing and fishing and other forms of recreation;

(b) prohibiting the use of the waterway or, as the case may be, inland waters in question by boats which are not for the time being registered, in such manner as may be required by the byelaws, with the body making the byelaws;

(c) requiring the provision of such sanitary appliances as may be necessary for the purpose of preventing pollution;

(d) providing for a contravention of the byelaws to constitute a summary offence punishable, on summary conviction, by a fine not exceeding level 5 on the standard scale or such smaller sum as may be specified in the byelaws; and

(e) authorising the making of reasonable charges in respect of the registration of boats for the purposes of the byelaws.

(5) Byelaws made under this section otherwise than by the Authority shall cease to have effect at the end of the period of ten years beginning with the day on which they were made; but the Secretary of State may by order made by statutory instrument make provision in relation to any particular byelaws for those byelaws to continue to have effect for such period after the time when they would otherwise cease to have effect as may be specified in the order.

(6) In this section—

"boat" includes a vessel of any description, and "boating" shall be construed accordingly;

"relevant body" means the Authority or any water undertaker or sewerage undertaker; and

"waterway" has the same meaning as in the National Parks and Access to the Countryside Act 1949. 1949 c. 97.

Provisions supplemental to powers of acquisition and works powers

Mineral rights.

159. Schedule 21 to this Act (which makes provision with respect to the acquisition of mineral rights by the Authority and by water undertakers and sewerage undertakers and with respect to the working of mines and minerals where pipes, sewers or other related works are affected) shall have effect and, in the case of the compulsory acquisition of land by virtue of this Act, shall have effect instead of Schedule 2 to the Acquisition of Land Act 1981 (mineral rights etc. in relation to compulsory purchase orders). 1981 c. 67.

Protection of certain undertakings.

160.—(1) Nothing in this Act conferring power on the Authority, on a water undertaker or on a sewerage undertaker to carry out any works shall confer power to do anything, except with the consent of the persons carrying on an undertaking falling within subsection (3) below, which, whether directly or indirectly, so interferes or will so interfere—

PART IV

(a) with works or property vested in or under the control of the persons carrying on that undertaking, in their capacity as such; or

(b) with the use of any such works or property,

as to affect injuriously those works or that property or the carrying on of the undertaking.

(2) Nothing in any provision of this Act conferring power on the Authority, on a water undertaker or on a sewerage undertaker to carry out any works shall confer power to do anything which prejudices the exercise of any statutory power, authority or jurisdiction from time to time vested in or exercisable by any persons carrying on an undertaking falling within subsection (3) below.

(3) The following are the undertakings which fall within this subsection, that is to say—

(a) the undertakings of the Authority, the Civil Aviation Authority, the British Coal Corporation and the Post Office;

(b) the undertaking of any water undertaker or sewerage undertaker;

(c) any undertaking consisting in the running of a telecommunications code system, within the meaning of Schedule 4 to the Telecommunications Act 1984;

1984 c. 12.

1986 c. 31.

(d) any airport to which Part V of the Airports Act 1986 applies;

(e) the undertaking of any public gas supplier within the meaning of Part I of the Gas Act 1986;

1986 c. 44.

(f) the undertaking of the Central Electricity Generating Board or of any Area Board, within the meaning of the Electricity Act 1947;

1947 c. 54.

(g) the undertaking of any navigation, harbour or conservancy authority or of any internal drainage board;

(h) the undertaking of the British Railways Board, London Regional Transport or any other person authorised by any enactment to construct, work or carry on a railway;

(i) any public utility undertaking carried on by a local authority under any Act or under any order having the force of an Act;

and, in relation to any such airport as is mentioned in paragraph (d) above, any reference in subsection (1) or (2) above to the persons carrying on the undertaking is a reference to the airport operator.

(4) Without prejudice to subsections (1) and (2) above, nothing in this Act shall confer power on any person to do anything, except with the consent of the person who so uses them, which interferes—

(a) with any sluices, floodgates, groynes, sea defences or other works used by any person for draining, preserving or improving any land under any local statutory provision; or

(b) with any such works used by any person for irrigating any land.

(5) Where the Authority or any water undertaker or sewerage undertaker proposes, otherwise than in exercise of any compulsory powers, to construct or alter any relevant inland water in any internal drainage district or to construct or alter any works on or in any such inland water, the Authority or undertaker shall consult the internal drainage board for that district before doing so.

(6) A consent for the purposes of subsection (1) or (4) above may be given subject to reasonable conditions but shall not be unreasonably withheld.

(7) Subject to subsection (8) below, any dispute—

(a) as to whether anything done or proposed to be done interferes or will interfere as mentioned in subsection (1) or (4) above;

(b) as to whether any consent for the purposes of this section is being unreasonably withheld; or

(c) as to whether any condition subject to which any such consent has been given was reasonable,

shall be referred to the arbitration of a single arbitrator to be appointed by agreement between the parties or, in default of agreement, by the President of the Institution of Civil Engineers.

(8) Paragraph 23 of Schedule 2 to the Telecommunications Act 1984 (which provides a procedure for certain cases where works involve the alteration of telecommunication apparatus) shall apply to the Authority, to every water undertaker and to every sewerage undertaker for the purposes of any works carried out by that Authority or undertaker in exercise of any of the powers conferred by this Act (including the powers conferred by sections 97 and 145 above). 1984 c. 12.

(9) In this section "relevant inland water" means any inland water other than one that forms part of a main river for the purposes of the Land Drainage Act 1976. 1976 c. 70.

Duty to move pipes etc. in certain cases.

161.—(1) Where any relevant pipe or other apparatus is for the time being kept installed by a water undertaker or sewerage undertaker on, under or over any land, any person with an interest in that land or in adjacent land may by notice to the undertaker require the undertaker to alter or remove that pipe or apparatus on the ground that the alteration or removal of that pipe or apparatus is necessary to enable that person to carry out a proposed improvement of the land in which he has an interest.

(2) Subject to subsections (3) and (4) below, where a notice is served on a water undertaker or sewerage undertaker under subsection (1) above, it shall be the duty of the undertaker to comply with the requirement contained in the notice except to the extent that that requirement is unreasonable.

(3) Nothing in this section shall require a water undertaker or sewerage undertaker to alter or remove any pipe or apparatus which is kept installed in, under or over any street.

(4) A water undertaker or sewerage undertaker may make it a condition of complying with the duty to which it is subject by virtue of a notice served by any person under subsection (1) above that such security as the undertaker may reasonably require has been provided for the discharge of any obligation of that person under subsection (5) below.

(5) Where a water undertaker or sewerage undertaker carries out any works under this section by virtue of a notice having been served by any person under subsection (1) above, the undertaker shall be entitled to recover any expenses reasonably incurred in carrying out those works from that person.

PART IV

(6) Where any sums have been deposited with a water undertaker or sewerage undertaker by way of security for the discharge of any obligation under subsection (5) above, the undertaker shall pay interest at such rate as may be determined either—

(a) by the undertaker with the approval of the Director; or

(b) in default of a determination under paragraph (a) above, by the Director,

on every sum of 50p so deposited for every three months during which it remains in the hands of the undertaker.

(7) An approval or determination by the Director for the purposes of subsection (6) above may be given or made in relation to a particular case or description of cases or generally and may be revoked at any time.

(8) The duty of a water undertaker or sewerage undertaker under this section shall be enforceable under section 20 above by the Director.

(9) In this section—

"improvement", in relation to any land, includes any development or change of use but does not include an improvement with respect to the supply of water or the provision of sewerage services to any premises; and

"relevant pipe" has the same meaning as in Schedule 19 to this Act.

Complaints with respect to the exercise of works powers on private land.

162.—(1) Subject to subsection (2) below, it shall be the duty of the Director to investigate any complaint made or referred to him with respect to the exercise by a water undertaker or sewerage undertaker of any powers conferred on that undertaker by or by virtue of paragraph 4 of Schedule 19 to this Act.

(2) The Director shall not be required to investigate any such complaint as is mentioned in subsection (1) above if—

(a) the complaint appears to the Director to be vexatious or frivolous;

(b) the Director is not satisfied that the complaint has been brought by the complainant to the attention of the water undertaker or sewerage undertaker in question and that that undertaker has been given a reasonable opportunity of investigating and dealing with it; or

(c) the complaint was first made to the Director or the appropriate customer service committee more than twelve months, or such longer period as the Director may for special reasons allow, after the matters to which the complaint relates first came to the notice of the complainant.

(3) Where the Director, in pursuance of his duty under this section, investigates a complaint with respect to the exercise of any powers by a water undertaker or sewerage undertaker—

(a) it shall be the duty of that undertaker to provide the Director with all such information and assistance as he may reasonably require for the purposes of his investigation; and

(b) it shall be the duty of the Director, before giving any direction under subsection (4) below, to consider any representations made to him by the complainant or by that undertaker with respect to the subject-matter of the complaint.

(4) If on a complaint under subsection (1) above with respect to the exercise of any powers by a water undertaker or sewerage undertaker, the Director is satisfied that that undertaker—

(a) has failed adequately to consult the complainant, before and in the course of exercising those powers, about the manner in which they are exercised; or

(b) by acting unreasonably in the manner of its exercise of those powers, has caused the complainant to sustain loss or damage or to be subjected to inconvenience,

the Director may direct the undertaker to pay to the complainant an amount, not exceeding £5,000, in respect of that failure, loss, damage or inconvenience.

(5) The Director shall not under subsection (4) above direct a water undertaker or sewerage undertaker to pay any amount to a complainant in respect of any loss, damage or inconvenience for which compensation is recoverable under any other enactment except in so far as it appears to him appropriate to do so by reason of any failure of the amount of any such compensation to reflect the fact that it was not reasonable for the undertaker to cause the complainant to sustain the loss or damage or to be subjected to the inconvenience.

(6) For the purposes of this section it shall be the duty of every company holding an appointment under Chapter I of Part II of this Act as a water undertaker or sewerage undertaker—

(a) as soon as reasonably practicable after its appointment takes effect, to submit to the Secretary of State for his approval a code of practice with respect to its exercise of any powers conferred by or by virtue of paragraph 4 of Schedule 19 to this Act; and

(b) if required to do so by the Secretary of State at any subsequent time, to submit proposed modifications of that code to the Secretary of State for his approval.

(7) The Secretary of State, if he considers it appropriate to do so for the purpose of promoting what appear to him to be desirable practices with respect to the exercise by any company holding an appointment under Chapter I of Part II of this Act as a water undertaker or sewerage undertaker of any powers conferred by or by virtue of paragraph 4 of Schedule 19 to this Act, may at any time by order made by statutory instrument, in relation to that company—

(a) approve any code of practice with respect to the exercise of those powers which has been submitted to him (whether or not under subsection (6) above) by that company for his approval;

(b) approve any modifications of such a code which have been so submitted; or

(c) withdraw his approval for any such code or modification.

(8) A contravention of a code of practice as for the time being approved under this section in relation to a company shall not affect the powers conferred on that company as a water undertaker or sewerage undertaker by Schedule 19 to this Act or of itself entitle any person to be paid any amount under subsection (4) above or give rise to any criminal or civil liability, but the Director shall take into account whether there has

PART IV

been any such contravention in determining whether to give a direction under that subsection to that company and in determining the amount to which any such direction relates.

(9) Except in the case of an order made before the transfer date or at any time in the period of three months beginning with that date, the Secretary of State shall not make an order under subsection (7) above unless he has first consulted all such persons as he considers it appropriate to consult.

(10) The duties of a water undertaker or sewerage undertaker under subsections (3)(a) and (6) above shall be enforceable under section 20 above—

(a) in the case of the duty subsection (3)(a) above, by the Director; and

(b) in the case of the duty under subsection (6) above, by the Secretary of State;

and any person to whom any amount is required, in pursuance of direction under subsection (4) above, to be paid by a water undertaker or sewerage undertaker shall be entitled to recover that amount from that undertaker by virtue of this section.

(11) The Secretary of State may by regulations substitute a different amount for the amount for the time being specified in subsection (4) above.

Saving for planning controls. 1971 c. 78.

163. Without prejudice to the operation of section 40 of the Town and Country Planning Act 1971 (planning permission deemed to be granted in certain cases) in relation to any provision made by or under this Act or any other enactment which by virtue of this Act relates to the functions of the Authority or of any water undertaker or sewerage undertaker, nothing in this Act or in any such enactment shall be construed as authorising the carrying out of any development (within the meaning of the said Act of 1971) without the grant of such planning permission as may be required by that Act.

Application of certain powers etc. to local authorities.

164.—(1) For the purposes of the taking of any steps falling to be taken by a local authority by virtue of a designation under subsection (3)(a) of section 57 above the provisions of this Part shall have effect—

(a) as if the powers conferred by Schedule 19 to this Act and section 154 above on a water undertaker for the purpose of carrying out its functions were also conferred on a local authority for the purpose of ensuring that a supply of water provided by means of a private supply to any premises in the authority's area is both wholesome and (so far as any house on those premises is concerned) sufficient for domestic purposes;

(b) as if any such power, so far as it is conferred on a water undertaker in relation to things belonging to or operated or used by the undertaker for the purposes of its functions, were conferred by virtue of paragraph (a) above on a local authority in relation to things belonging to or operated or used by that authority, or a relevant person, in connection with the provision of water by means of a private supply;

(c) as if references to a water undertaker in any provision of this Part of this Act relating to a power which is exercisable by a local authority by virtue of the preceding provisions of this subsection, except the references in section 162 above, included references to a local authority; and

(d) as if the making by any person in pursuance of a notice under section 57 above of any payment in respect of sums incurred in the laying of any pipe entitled that person, for the purposes of section 153(2) above, to an interest in the pipe.

(2) Where by virtue of this Act a local authority have power under Part VII of the Local Government Act 1972 (miscellaneous powers of a local authority) to acquire (whether compulsorily or otherwise) any land or right over land for the purpose of ensuring that private supplies of water to premises in their area are both wholesome and (so far as houses on those premises are concerned) sufficient for domestic purposes, that power shall include power to acquire land or rights over land in order, for that purpose, to dispose of the land or rights to a person who is a relevant person in relation to such a private supply. 1972 c. 70.

(3) In this section—

"private supply" and "wholesome" have the same meanings as in Chapter II of Part II of this Act; and

"relevant person", in relation to a private supply, means a person who is a relevant person in relation to that supply for the purposes of section 57 above.

Records of underground works

Maps of water mains etc.

165.—(1) Subject to subsections (4) and (5) below, it shall be the duty of the Authority and of every water undertaker to keep records of the location of—

(a) every resource main, water main or discharge pipe which is for the time being vested in the Authority or, as the case may be, that undertaker; and

(b) any other underground works, other than a service pipe, which are for the time being vested in the Authority or, as the case may be, that undertaker.

(2) It shall be the duty of the Authority and of every water undertaker to secure that the contents of any records for the time being kept by it under this section are available, at all reasonable times, for inspection by the public free of charge at an office of the Authority or, as the case may be, of the undertaker.

(3) Any information which is required under this section to be made available by the Authority or a water undertaker for inspection by the public shall be so made available in the form of a map.

(4) For the purpose of determining whether any failure to make a modification of any records kept under this section constitutes a breach of the duty imposed by subsection (1) above, that duty shall be taken to require any modification of the records to be made as soon as reasonably practicable after the completion of the works which make the modification necessary; and, where records kept under this section are modified, the date of the modification and of the completion of the works making the modification necessary shall be incorporated in the records.

PART IV

(5) Nothing in this section shall require the Authority or a water undertaker, at any time within the period of ten years beginning with the transfer date, to keep records of—

(a) any pipe which was laid before that date; or

(b) any underground works which were completed before that date,

unless those particulars were shown, immediately before that date, on a map kept by a water authority or statutory water company under section 12 of Schedule 3 to the 1945 Act (maps of underground works).

(6) The reference in subsection (5) above to section 12 of Schedule 3 to the 1945 Act shall have effect, without prejudice to section 20(2) of the Interpretation Act 1978 (references to enactments to include references to enactments as amended, extended or applied), as including a reference to that section as applied, with or without modifications, by any local statutory provision.

1978 c. 30.

(7) The duties of a water undertaker under this section shall be enforceable under section 20 above by the Secretary of State.

(8) In this section "resource main" and "discharge pipe" have the same meanings as in paragraph 1 of Schedule 19 to this Act.

Sewer maps.

166.—(1) Subject to subsections (6) and (7) below, it shall be the duty of every sewerage undertaker to keep records of the location and other relevant particulars—

(a) of every public sewer or disposal main which is vested in the undertaker;

(b) of every sewer in relation to which a declaration of vesting has been made, or is treated as having been made, by the undertaker under section 17 of the 1936 Act but has not taken effect; and

(c) of every drain or sewer to which an agreement to make such a declaration relates, being an agreement entered into, or treated as entered into, by the undertaker under section 18 of that Act.

(2) For the purposes of this section the relevant particulars of a drain, sewer or disposal main are (in addition to its location) particulars—

(a) of whether it is a drain, sewer or disposal main and of the descriptions of effluent for the conveyance of which it is or is to be used; and

(b) of whether it is vested in the undertaker or, if it is not, of whether it is a sewer in relation to which a declaration has been made under section 17 of the 1936 Act or a drain or sewer to which an agreement under section 18 of that Act relates;

and the records kept by a sewerage undertaker under this section shall be kept separately in relation to the area of each local authority within whose area there is any drain, sewer or disposal main of which that undertaker is required to keep records.

(3) It shall be the duty of every sewerage undertaker—

(a) so to provide local authorities, free of charge, with copies of the contents of records kept under this section, and with copies of any modifications of those records, as to ensure that every local authority to whose area any of those records relate are at all times informed of the contents for the time being of the records relating to their area; and

(b) to secure that the contents of all the records for the time being kept by the undertaker under this section are available, at all reasonable times, for inspection by the public free of charge at an office of the undertaker.

(4) A local authority shall secure that so much of any information provided to them by virtue of subsection (3)(a) above as consists in the contents for the time being of records kept by a sewerage undertaker under this section is available, at all reasonable times, for inspection by the public free of charge at an office of the authority.

(5) Any information which is required under this section to be provided to a local authority or to be made available by a sewerage undertaker or local authority for inspection by the public shall be so provided or made available in the form of a map.

(6) For the purpose of determining whether any failure to make a modification of any records kept under this section constitutes a breach of the duty imposed by subsection (1) above, that duty shall be taken to require any modification of the records to be made as soon as reasonably practicable after the completion of the works which make the modification necessary; and, where records kept under this section are modified, the date of the modification and of the completion of the works making the modification necessary shall be incorporated in the records.

(7) Nothing in this section shall require a sewerage undertaker—

(a) to keep records of any particulars of a drain, sewer or disposal main laid before the transfer date if—

(i) the undertaker does not know of or have reasonable grounds for suspecting the existence of the drain, sewer or disposal main; or

(ii) it is not reasonably practicable for the undertaker to discover the course of the drain, sewer or disposal main and it has not done so;

or

(b) at any time within the period of ten years beginning with the transfer date, to keep records of any particulars of any other drain, sewer or disposal main laid before that date unless—

(i) those particulars were shown, immediately before that date, on a map kept by a local authority under section 32 of the 1936 Act (sewer maps); or

(ii) it is a drain or sewer in relation to which a declaration of vesting, or an agreement to make such a declaration, has been made under section 17 or 18 of the 1936 Act since the beginning of that period.

(8) The duties of a sewerage undertaker under this section shall be enforceable under section 20 above by the Secretary of State.

(9) In this section—

"the 1936 Act" means the Public Health Act 1936; 1936 c. 49.

"disposal main" has the same meaning as in paragraph 1 of Schedule 19 to this Act;

"local authority", in relation to the Inner Temple and the Middle Temple, includes, respectively, the Sub-Treasurer of the Inner Temple and the Under-Treasurer of the Middle Temple.

PART IV *Offence of interference with works etc.*

Offence of interference with works etc.

167.—(1) Subject to subsection (2) below, if any person without the consent of the Authority or water undertaker—

(a) intentionally or recklessly interferes with any resource main, water main or other pipe vested in the Authority or any water undertaker or with any structure, installation or apparatus belonging to the Authority or any water undertaker; or

(b) by any act or omission negligently interferes with any such main or other pipe or with any such structure, installation or apparatus so as to damage it or so as to have an effect on its use or operation,

that person shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

(2) A person shall not be guilty of an offence under subsection (1) above—

(a) by reason of anything done in an emergency to prevent loss or damage to persons or property; or

(b) by reason of his opening or closing the stopcock fitted to a service pipe by means of which water is supplied to any premises if—

(i) he has obtained the consent of every consumer whose supply is affected by the opening or closing of that stopcock or, as the case may be, of every other consumer whose supply is so affected; and

(ii) in the case of opening a stopcock, the stopcock was closed otherwise than by the undertaker.

(3) Any person who without the consent of the Authority or water undertaker—

(a) attaches any pipe or apparatus—

(i) to any resource main, water main or other pipe vested in the Authority or a water undertaker; or

(ii) to any service pipe which does not belong to such an undertaker but which is a pipe by means of which water is supplied by such an undertaker to any premises;

(b) makes any alteration in a service pipe by means of which water is so supplied, or in any apparatus attached to any such pipe; or

(c) subject to subsection (4) below, uses any pipe or apparatus which has been attached or altered in contravention of this section,

shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

(4) In proceedings against any person for an offence by virtue of paragraph (c) of subsection (3) above it shall be a defence for that person to show that he did not know, and had no grounds for suspecting, that the pipe or apparatus in question had been attached or altered as mentioned in that subsection.

(5) An offence under subsection (1) or (3) above shall constitute a breach of a duty owed to the Authority or, as the case may be, the water undertaker in question; and any such breach of duty which causes the Authority or that undertaker to sustain loss or damage shall be actionable at the suit of the Authority or that undertaker.

(6) The amount recoverable by virtue of subsection (5) above from a person who has committed an offence under subsection (3) above shall include such amount as may be reasonable in respect of any water wasted, misused or improperly consumed in consequence of the commission of the offence.

(7) In this section—

"consumer" has the same meaning as in Chapter II of Part II of this Act; and

"resource main" has the same meaning as in paragraph 1 of Schedule 19 to this Act;

and the references in subsection (1) above to apparatus belonging to a water undertaker do not include references to any meter (within the meaning of Schedule 10 to this Act) which belongs to such an undertaker and is used by it for the purpose of determining the amount of any charges which have (within the meaning of that Schedule) been fixed by the undertaker by reference to volume.

PART V

PROVISIONS RELATING TO SCOTLAND

Water quality in Scotland.

168. Schedule 22 to this Act shall have effect to make provision for Scotland in relation to the quality of water.

Control of water pollution in Scotland.

169. Schedule 23 to this Act shall have effect to make provision for Scotland in relation to the control of pollution of water.

PART VI

MISCELLANEOUS AND SUPPLEMENTAL

Directions in the interests of national security etc.

Directions in the interests of national security etc.

170.—(1) The Secretary of State may, after consultation with a body to which this section applies, give to that body such directions of a general character as appear to the Secretary of State to be requisite or expedient in the interests of national security or for the purpose of mitigating the effects of any civil emergency which may occur.

(2) If it appears to the Secretary of State to be requisite or expedient to do so in the interests of national security or for the purpose of mitigating the effects of any civil emergency which has occurred or may occur, he may, after consultation with a body to which this section applies, give to that body a direction requiring it to do, or not to do, a particular thing specified in the direction.

(3) It shall be the duty of any body to which this section applies, notwithstanding any other duty imposed on it (whether or not by or under this Act), to comply with any direction given to it by the Secretary of State under this section; and the duty of a water undertaker or sewerage undertaker to comply with any such direction shall be enforceable under section 20 above by the Secretary of State.

PART VI

(4) The Secretary of State shall lay before each House of Parliament a copy of every direction given under this section unless he is of the opinion that disclosure of the direction is against the interests of national security.

(5) A person shall not disclose, or be required by virtue of any enactment or otherwise to disclose, anything done by virtue of this section if the Secretary of State has notified him that the Secretary of State is of the opinion that disclosure of that thing is against the interests of national security.

(6) Any person who discloses any matter in contravention of subsection (5) above shall be guilty of an offence and liable, on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

(7) The Secretary of State may, with the approval of the Treasury, make grants to bodies to which this section applies for the purpose of defraying or contributing towards any losses they may sustain by reason of compliance with directions given under this section in the interests of national security.

(8) Any sums required by the Secretary of State for making grants under subsection (7) above shall be paid out of money provided by Parliament.

(9) This section applies to the Authority, to every water undertaker and to every sewerage undertaker; and any reference in this section to a civil emergency is a reference to any natural disaster or other emergency which, in the opinion of the Secretary of State, is or may be likely in relation to any area—

(a) so to disrupt water supplies or sewerage services; or

(b) to involve such destruction of or damage to life or property in that area,

as seriously and adversely to affect all the inhabitants of that area, or a substantial number of them, whether by depriving them of any of the essentials of life or otherwise.

Power to give effect to international obligations

Power to give effect to international obligations.

171.—(1) The appropriate Minister may by regulations provide that the provisions to which this section applies shall have effect with such modifications as may be prescribed for the purpose of enabling Her Majesty's Government in the United Kingdom to give effect—

(a) to any Community obligations; or

(b) to any international agreement to which the United Kingdom is for the time being a party.

(2) This section applies —

(a) to the provisions of Chapter II of Part II of this Act;

(b) to the provisions of Chapter I of Part III of this Act; and

(c) to the provisions of Chapter IV of Part III of this Act and of any enactment relating to the carrying out by the Authority of such of its functions as relate to fisheries.

(3) In this section "the appropriate Minister" —

(a) in relation to the provisions mentioned in subsection (2)(a) and (b) above, means the Secretary of State; and

(b) in relation to the provisions mentioned in subsection (2)(c) above, means the Minister or the Secretary of State. PART VI

Indemnities in respect of fluoridation

Indemnities in respect of fluoridation.

172.—(1) The Secretary of State may, with the consent of the Treasury, agree to indemnify any statutory water undertaker in respect of such of any of the following as he thinks fit, that is to say—

(a) liabilities incurred by the undertaker in connection with anything done by the undertaker for the purpose of increasing the fluoride content of any water supplied by the undertaker;

(b) costs or expenses which are incurred by the undertaker, or for which the undertaker is liable, in connection with any proceedings which have been or may be brought by any person with respect to—

(i) things done for the purpose of increasing the fluoride content of any water; or

(ii) a proposal to increase the fluoride content of any water;

(c) expenditure incurred by the undertaker in complying with an order made in any such proceedings;

(d) liabilities transferred to the undertaker in accordance with a scheme under Schedule 2 or 5 to this Act which, in relation to the person from whom they were transferred, were liabilities falling within paragraph (a) above or liabilities in respect of costs, expenses or other expenditure mentioned in sub-paragraph (b) or (c) above.

(2) In this section "statutory water undertaker" means—

(a) any water undertaker or, in relation to any time before the transfer date, any water authority or any statutory water company within the meaning of the 1973 Act; or

(b) any water authority within the meaning of the Water (Scotland) Act 1980. 1980 c. 45.

Payments to existing pension fund

Payments to existing pension fund.

173.—(1) Subject to subsection (3) below, the Secretary of State may, with the consent of the Treasury, make such payments into any fund maintained for the purposes of any regulations under section 7 of the Superannuation Act 1972, as he may consider appropriate in respect of the actual and prospective liabilities falling from time to time to be met out of that fund to or in respect of persons, or classes of persons, who— 1972 c. 11.

(a) have ceased to be officers or employees of a water authority; or

(b) have ceased to be officers or employees of any person designated for the purposes of this paragraph by order made by the Secretary of State.

(2) The Secretary of State shall not make an order designating a person for the purposes of subsection (1)(b) above unless that person appears to him to be a person whose activities at any time before the transfer date consisted in, or were connected with, the carrying out of any function which is transferred by this Act or which corresponds to any such

PART VI

function or to any other function under this Act; and the power to make such an order shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

(3) It shall be the duty of the Secretary of State so to exercise the power conferred by subsection (1) above as to ensure that all such liabilities as are mentioned in that subsection are able to be met out of the fund out of which they fall to be met in accordance with any regulations under the said section 7.

(4) Any amount paid into any fund by the Secretary of State under this section shall be paid out of money provided by Parliament.

Information etc.

General restrictions on disclosure of information.

174.—(1) Subject to the following provisions of this section, no information with respect to any particular business which—

(a) has been obtained by virtue of any of the provisions of this Act; and

(b) relates to the affairs of any individual or to any particular business,

shall, during the lifetime of that individual or so long as that business continues to be carried on, be disclosed without the consent of that individual or the person for the time being carrying on that business.

(2) Subsection (1) above does not apply to any disclosure of information which is made—

(a) for the purpose of facilitating the carrying out by the Secretary of State, the Minister, the Authority, the Director, the Monopolies Commission or a local authority of any of his, its or, as the case may be, their functions by virtue of this Act;

(b) for the purpose of facilitating the performance by a water undertaker or a sewerage undertaker of any of the duties imposed on it by or under this Act;

(c) in pursuance of any arrangements made by the Director under section 27(4) above or of any duty imposed by section 119(1) or (2) or 130(1)(a) or (2) above;

(d) for the purpose of facilitating the carrying out by—

(i) any Minister of the Crown;

(ii) the Director General of Fair Trading;

(iii) the Monopolies Commission;

(iv) the Director General of Telecommunications;

(v) the Civil Aviation Authority;

(vi) the Director General of Gas Supply;

(vii) the Director General of Electricity Supply; or

(viii) a local weights and measures authority in England and Wales,

of any of his, its or, as the case may be, their functions under any of the enactments or instruments specified in subsection (3) below;

(e) for the purpose of enabling or assisting the Secretary of State to exercise any powers conferred on him by the Financial Services Act 1986 or by the enactments relating to companies, insurance

1986 c. 60.

companies or insolvency or for the purpose of enabling or assisting any inspector appointed by him under the enactments relating to companies to carry out his functions;

(f) for the purpose of enabling an official receiver to carry out his functions under the enactments relating to insolvency or for the purpose of enabling or assisting a recognised professional body for the purposes of section 391 of the Insolvency Act 1986 to carry out its functions as such; 1986 c. 45.

(g) for the purpose of facilitating the carrying out by the Health and Safety Commission or the Health and Safety Executive of any of its functions under any enactment or of facilitating the carrying out by any enforcing authority, within the meaning of Part I of the Health and Safety at Work etc. Act 1974, of any functions under a relevant statutory provision, within the meaning of that Act; 1974 c. 37.

(h) for the purpose of facilitating the carrying out by the Comptroller and Auditor General of any of his functions under any enactment;

(i) in connection with the investigation of any criminal offence or for the purposes of any criminal proceedings;

(j) for the purposes of any civil proceedings brought under or by virtue of this Act or any of the enactments or instruments specified in subsection (3) below or of any arbitration under this Act; or

(k) in pursuance of a Community obligation.

(3) The enactments and instruments referred to in subsection (2) above are—

(a) the Trade Descriptions Act 1968; 1968 c. 29.

(b) the Fair Trading Act 1973; 1973 c. 41.

(c) the Consumer Credit Act 1974; 1974 c. 39.

(d) the Restrictive Trade Practices Act 1976; 1976 c. 34.

(e) the Resale Prices Act 1976; 1976 c. 53.

(f) the Estate Agents Act 1979; 1979 c. 38.

(g) the Competition Act 1980; 1980 c. 21.

(h) the Telecommunications Act 1984; 1984 c. 12.

(i) the Airports Act 1986; 1986 c. 31.

(j) the Gas Act 1986; 1986 c. 44.

(k) the Consumer Protection Act 1987; 1987 c. 43.

(l) the Electricity Act 1989;

(m) any subordinate legislation made for the purpose of securing compliance with the Directive of the Council of the European Communities dated 10th September 1984 (No. 84/450/EEC) on the approximation of the laws, regulations and administrative provisions of the member States concerning misleading advertising.

PART VI

(4) Nothing in subsection (1) above shall be construed—

(a) as limiting the matters which may be published under section 34 above or may be included in, or made public as part of, a report of the Authority, the Director, a customer service committee or the Monopolies Commission under any provision of this Act; or

(b) as applying to any information which has been so published or has been made public as part of such a report or to any information exclusively of a statistical nature.

(5) Any person who discloses any information in contravention of this section shall be guilty of an offence and liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum;

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

(6) Subject to subsection (7) below, nothing in this section shall preclude the disclosure of information—

(a) if the disclosure is of information relating to a matter connected with the carrying out of the functions of a water undertaker or sewerage undertaker and is made by one Minister of the Crown or Government department to another; or

(b) if the disclosure is for the purpose of enabling or assisting any public or other authority for the time being designated for the purposes of this section by an order made by the Secretary of State to discharge any functions which are specified in the order.

(7) The power to make an order under subsection (6) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament; and where such an order designates an authority for the purposes of paragraph (b) of that subsection, the order may—

(a) impose conditions subject to which the disclosure of information is permitted by virtue of that paragraph; and

(b) otherwise restrict the circumstances in which disclosure is so permitted.

Making of false statements etc.

175.—(1) If any person, in furnishing any information or making any application under or for the purposes of any provision of this Act, makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular, he shall be guilty of an offence and liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum;

(b) on conviction on indictment, to a fine.

(2) Proceedings for an offence under subsection (1) above shall not be instituted except by or with the consent of the Secretary of State, the Minister or the Director of Public Prosecutions.

PART VI

Provision of supplementary information.

176. Where by virtue of this Act—

(a) any application or notice under any enactment is required to be supplemented by such information as the person to whom the application is made or on whom the notice is served may require; and

(b) that person is required to do anything within a specified period after the application or notice is made or served,

the failure to provide the information shall not invalidate the application or notice but, if the requirement to provide the information was made at such a time before the end of the period as gave the applicant or the person serving the notice a reasonable opportunity to provide it within the period, the person who required the information shall be entitled to delay doing that thing until a reasonable time after the required information is provided.

Offences

Offences by bodies corporate.

177.—(1) Where a body corporate is guilty of an offence under this Act and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) above shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

Powers of entry etc.

Warrant to exercise power.

178.—(1) This section applies to each of the powers conferred by sections 59(2), 60(4), 62(4), 64(1), 147(1) and 156 above and to each of the powers conferred by paragraph 1 of Schedule 10, paragraph 10 of Schedule 19 and paragraph 5 of Schedule 21 to this Act.

(2) If it is shown to the satisfaction of a justice of the peace on sworn information in writing—

(a) that there are reasonable grounds for the exercise in relation to any premises of a power to which this section applies; and

(b) that one or more of the conditions specified in subsection (3) below is satisfied in relation to those premises,

the justice may by warrant authorise the relevant authority to designate a person who shall be authorised to exercise the power in relation to those premises in accordance with the warrant and, if need be, by force.

(3) The conditions mentioned in subsection (2)(b) above are—

(a) that the exercise of the power in relation to the premises has been refused;

(b) that such a refusal is reasonably apprehended;

(c) that the premises are unoccupied;

(d) that the occupier is temporarily absent from the premises;

(e) that the case is one of urgency; or

PART VI

(f) that an application for admission to the premises would defeat the object of the proposed entry.

(4) A justice of the peace shall not issue a warrant under this section by virtue only of being satisfied that the exercise of a power in relation to any premises has been refused, or that a refusal is reasonably apprehended, unless he is also satisfied—

(a) that notice of the intention to apply for the warrant has been given to the occupier of the premises; or

(b) that the giving of such a notice would defeat the object of the proposed entry.

(5) A justice of the peace shall not issue a warrant under this section in a case to which subsection (4) of section 156 above applies unless he is satisfied that the Secretary of State has given his authorisation for the purposes of that subsection in relation to that case.

(6) Every warrant under this section shall continue in force until the purposes for which the warrant was issued have been fulfilled.

(7) In this section—

"premises", in relation to a power which is conferred in relation to vessels (as well as in relation to premises), includes a vessel; and

"relevant authority", in relation to a power to which this section applies, means the person who, by virtue of the provision by which the power is conferred, is entitled to designate the person by whom the power may be exercised.

Provisions supplementary to powers of entry etc.

179.—(1) This section applies to any power to which section 178 above applies and to any power conferred by virtue of that section.

(2) A person designated as the person who may exercise any power to which this section applies shall produce evidence of his designation and other authority before he exercises the power.

(3) A person authorised to enter any premises by virtue of any power to which this section applies shall be entitled, subject in the case of a power exercisable under a warrant to the terms of the warrant, to take with him on to the premises such other persons and such equipment as may be necessary.

(4) A person who enters any premises in the exercise of any power to which this section applies shall leave the premises as effectually secured against trespassers as he found them.

(5) Where any person exercises any power to which this section applies in relation to any premises, it shall be the duty of the relevant authority to make full compensation to any person who has sustained loss or damage by reason of—

(a) the exercise by the designated person of that power or of any power to take any person or equipment with him when entering the premises; or

(b) the performance of, or failure of the designated person to perform, the duty imposed by subsection (4) above,

not being loss or damage which is attributable to the default of the person who sustained it or loss or damage in respect of which compensation is payable by virtue of any other provision of this Act.

(6) Any dispute as to a person's entitlement to compensation under subsection (5) above, or as to the amount of any such compensation, shall be referred to the arbitration of a single arbitrator appointed by agreement between the relevant authority and the person who claims to have sustained the loss or damage or, in default of agreement—

(a) by the President of the Lands Tribunal where the relevant authority is the Secretary of State or the Minister; and

(b) by the Secretary of State or the Minister, in any other case;

and any compensation required to be paid by the Secretary of State or the Minister under that subsection shall be paid out of money provided by Parliament.

(7) For the purposes of subsections (4) and (5) above a person enters any premises by virtue of a power to which this section applies notwithstanding that he has failed (whether by virtue of the waiver of the requirement by the occupier of the premises or otherwise) to comply with the requirement imposed by subsection (2) above or with any requirement to enter those premises at a reasonable time or after giving notice of his intended entry.

(8) A person who intentionally obstructs another person acting in the exercise of any power to which this section applies shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

(9) In this section—

"premises", in relation to a power which is conferred in relation to vessels (as well as in relation to premises), includes a vessel; and

"relevant authority", in relation to a power to which this section applies, means the person who, by virtue of the provision by which the power is conferred or, as the case may be, the warrant, is entitled to designate the person by whom the power may be exercised.

Impersonation of persons exercising powers of entry.

180.—(1) A person who, without having been designated or authorised for the purpose by a relevant authority, purports to be entitled to enter any premises or vessel in exercise of a power exercisable in pursuance of any such designation or authorisation shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 4 on the standard scale.

(2) For the purposes of this section it shall be immaterial, where a person purports to be entitled to enter any premises or vessel, that the power which that person purports to be entitled to exercise does not exist or would not be exercisable even if that person had been designated or authorised by a relevant authority.

(3) In this section "relevant authority" means the Authority or any water undertaker or sewerage undertaker.

Local inquiries

Local inquiries. 1972 c. 70.

181.—(1) Subject to subsection (2) below, subsections (2) to (5) of section 250 of the Local Government Act 1972 (which contain supplementary provisions with respect to local inquiries held in pursuance of that section) shall apply to local inquiries under this Act as they apply to inquiries under that section.

PART VI

(2) Subsection (4) of the said section 250 shall apply in accordance with subsection (1) above in relation to such local inquiries under this Act as are held with respect to any matter affecting the carrying out of any function of the Authority as if the reference to a local authority in that subsection included a reference to the Authority.

Judicial disqualification

Judicial disqualification.

182. No judge of any court or justice of the peace shall be disqualified from acting in relation to any proceedings to which the Authority or a water undertaker or sewerage undertaker is a party by reason only that he is or may become liable to pay a charge to the Authority or that undertaker in respect of any service that is not the subject-matter of the proceedings.

Financial provisions

General financial provisions.

183. There shall be paid out of money provided by Parliament—

(a) any administrative expenses or charges incurred by any Minister of the Crown or Government department in consequence of the provisions of this Act; and

(b) any increase attributable to this Act in the sums payable out of money so provided under any other Act.

Government guarantees.

184.—(1) This section applies in relation to any guarantee given by the Secretary of State under section 25(2) or 84(2) above or by the Secretary of State or the Minister under paragraph 20 of Schedule 1 to this Act.

(2) Immediately after a guarantee to which this section applies is given, the guarantor shall lay a statement of the guarantee before each House of Parliament; and where any sum is paid out for fulfilling such a guarantee the guarantor shall, as soon as possible after the end of each financial year (beginning with that in which the sum is paid out and ending with that in which all liability in respect of the principal of the sum and in respect of the interest thereon is finally discharged), lay before each House of Parliament a statement relating to that sum.

(3) Any sums required by the Secretary of State or the Minister for fulfilling a guarantee to which this section applies shall be paid out of money provided by Parliament.

(4) Without prejudice, in the case of a guarantee given under section 25(2) above, to any provision applied in relation to the relevant person by Schedule 6 to this Act, if any sums are paid out in fulfilment of a guarantee to which this section applies, the relevant person shall make to the guarantor, at such times and in such manner as the guarantor may from time to time direct—

(a) payments of such amounts as the guarantor may so direct in or towards repayment of the sums so paid out; and

(b) payments of interest, at such rate as the guarantor may so direct, on what is outstanding for the time being in respect of sums so paid out;

and the consent of the Treasury shall be required for the giving of a direction under this subsection.

(5) Any sums received by the Secretary of State or the Minister under subsection (4) above shall be paid into the Consolidated Fund.

(6) In subsection (4) above "the relevant person", in relation to a guarantee, means the person who borrowed the sums in respect of which the guarantee was given.

Subordinate legislation

Powers to make regulations.

185.—(1) The powers of the Secretary of State, and those of the Minister, to make regulations under this Act shall be exercisable by statutory instrument subject (except in the case of regulations under section 13(1) above) to annulment in pursuance of a resolution of either House of Parliament.

(2) The provisions of any regulations made by the Secretary of State or the Minister under this Act may include—

(a) provision for any duty or other requirement imposed by the regulations on a water undertaker or sewerage undertaker to be enforceable under section 20 above by the Secretary of State, by the Director or by either of them and, where such a duty or requirement is enforceable by either of them, for enforcement by the Director to be subject to such consent or authorisation as may be prescribed;

(b) provision which, in relation to the furnishing of any information or the making of any application under the regulations, makes provision corresponding to section 175 above;

(c) provision for anything falling to be determined under the regulations to be determined by such persons, in accordance with such procedure and by reference to such matters and to the opinion of such persons as may be prescribed;

(d) different provision for different cases, including different provision in relation to different persons, circumstances or localities; and

(e) such supplemental, consequential and transitional provision as the Secretary of State or the Minister considers appropriate.

Byelaws.

186. Schedule 24 to this Act shall have effect with respect to any byelaws made by the Authority under any power conferred on it by virtue of this Act or any other enactment and with respect to any byelaws made under section 158 above by any water undertaker or sewerage undertaker.

Interpretation provisions

Interpretation of references to the service of documents.

187.—(1) Any document required or authorised by virtue of this Act to be served on any person may be served—

(a) by delivering it to him or by leaving it at his proper address or by sending it by post to him at that address; or

(b) if the person is a body corporate, by serving it in accordance with paragraph (a) above on the secretary or clerk of that body; or

(c) if the person is a partnership, by serving it in accordance with paragraph (a) above on a partner or a person having the control or management of the partnership business.

1978 c. 30.

(2) For the purposes of this section and section 7 of the Interpretation Act 1978 (which relates to the service of documents by post) in its application to this section, the proper address of any person on whom a document is to be served shall be his last known address, except that—

PART VI

(a) in the case of service on a body corporate or its secretary or clerk, it shall be the address of the registered or principal office of the body;

(b) in the case of service on a partnership or a partner or a person having the control or management of a partnership business, it shall be the address of the principal office of the partnership;

and for the purposes of this subsection the principal office of a company registered outside the United Kingdom or of a partnership carrying on business outside the United Kingdom is its principal office within the United Kingdom.

(3) If a person to be served by virtue of this Act with any document by another has specified to that other an address within the United Kingdom other than his proper address (as determined in pursuance of subsection (2) above) as the one at which he or someone on his behalf will accept documents of the same description as that document, that address shall also be treated as his proper address for the purposes of this section and for the purposes of the said section 7 in its application to this section.

(4) Where under any provision of this Act any document is required to be served on the owner or on the occupier of any premises then—

(a) if the name or address of the owner or, as the case may be, of the occupier of the premises cannot after reasonable inquiry be ascertained; or

(b) in the case of service on the occupier, if the premises appear to be or are unoccupied,

that document may be served either by leaving it in the hands of a person who is or appears to be resident or employed on the land or by leaving it conspicuously affixed to some building or object on the land.

(5) This section shall not apply to any document in relation to the service of which provision is made by rules of court.

Interpretation of certain references to functions.

188.—(1) The purposes to which this section applies shall be the construction of any enactment which, by reference to the functions of the Authority or of a water undertaker or sewerage undertaker, confers any power on or in relation to the Authority or, as the case may be, that undertaker.

(2) For the purposes to which this section applies the functions of the Authority, of every water undertaker and of every sewerage undertaker shall be taken to include—

(a) joining with one or more other relevant bodies; or

(b) acting on behalf of any other relevant body,

for the purpose of carrying out any works or acquiring any land which at least one of those other bodies or, as the case may be, that other body is authorised to carry out or acquire for the purposes of its functions under any enactment or of any function which is taken to be one of its functions for the purposes to which this section applies; and the Authority, every water undertaker and every sewerage undertaker shall be relevant bodies for the purposes of this subsection.

(3) For the purposes to which this section applies the functions of the Authority, of every water undertaker and of every sewerage undertaker shall be taken to include the protection against pollution—

(a) of any waters, whether on the surface or underground, which belong to the Authority or any water undertaker or from which the Authority or any water undertaker is authorised to take water;

(b) without prejudice to paragraph (a) above, of any reservoir which belongs to or is operated by the Authority or any water undertaker or which the Authority or any water undertaker is proposing to acquire or construct for the purpose of being so operated; and

(c) of any underground strata from which the Authority or any water undertaker is for the time being authorised to abstract water in pursuance of a licence under the Water Resources Act 1963. 1963 c. 38.

(4) For the purposes to which this section applies the functions of the Authority, of every water undertaker and of every sewerage undertaker shall be taken to include the furtherance of research into matters in respect of which functions are conferred by or under this Act on the Authority, on water undertakers or on sewerage undertakers.

(5) For the purposes to which this section applies the functions of the Authority, of every water undertaker and of every sewerage undertaker shall be taken to include the provision of houses and other buildings for the use of persons employed by the Authority or, as the case may be, that undertaker and the provision of recreation grounds for persons so employed.

(6) For the purposes to which this section applies the functions of the Authority and of every water undertaker shall be taken to include the provision of supplies of water in bulk, whether or not such supplies are provided for the purposes of, or in connection with, the carrying out of any other function of the Authority or undertaker.

(7) For the purposes to which this section applies the functions of every water undertaker shall be taken to include the doing of anything in pursuance of any arrangements under section 126 above between that undertaker and the Authority.

General interpretation.

189.—(1) In this Act, except in so far as the context otherwise requires—

"the 1945 Act" means the Water Act 1945; 1945 c. 42.

"the 1973 Act" means the Water Act 1973; 1973 c. 37.

"accessories", in relation to a water main, sewer or other pipe, includes any manholes, ventilating shafts, inspection chambers, settling tanks, wash-out pipes, pumps, ferrules or stopcocks for the main, sewer or other pipe, or any machinery or other apparatus which is designed or adapted for use in connection with the use or maintenance of the main, sewer or other pipe or of another accessory for it, but does not include any telecommunication apparatus (within the meaning of Schedule 2 to the Telecommunications Act 1984) unless it— 1984 c. 12.

(a) is or is to be situated inside or in the close vicinity of the main, sewer or other pipe or inside or in the close vicinity of another accessory for it; and

PART VI

(b) is intended to be used only in connection with the use or maintenance of the main, sewer or other pipe or of another accessory for it;

"analyse", in relation to any sample of land, water or effluent, includes subjecting the sample to a test of any description, and cognate expressions shall be construed accordingly;

"the Authority" means the National Rivers Authority;

"conservancy authority" means any person who has a duty or power by or under any enactment to conserve, maintain or improve the navigation of a tidal water, and is not a harbour authority or navigation authority;

"contravention" includes a failure to comply, and cognate expressions shall be construed accordingly;

"customer or potential customer", in relation to a company holding an appointment under Chapter I of Part II of this Act, means—

(a) any person for or to whom that company provides any services in the course of carrying out the functions of a water undertaker or sewerage undertaker; or

(b) any person who might become such a person on making an application for the purpose to the company;

"damage", in relation to individuals, includes personal injury and death;

"the Director" means the Director General of Water Services;

"disposal"—

(a) in relation to land or any interest or right in or over land, includes the creation of such an interest or right and a disposal effected by means of the surrender or other termination of any such interest or right; and

(b) in relation to sewage, includes treatment;

and cognate expressions shall be construed accordingly;

"domestic purposes", except in relation to sewers, shall be construed in accordance with subsections (2) and (3) below;

"drain" has, subject to subsection (4) below, the same meaning as in the Public Health Act 1936;

1936 c. 49.

"effluent" means any liquid, including particles of matter and other substances in suspension in the liquid;

"enactment" includes an enactment contained in this Act or in any Act passed after this Act;

"engineering or building operations", without prejudice to the generality of that expression, includes—

(a) the construction, alteration, improvement, maintenance or demolition of any building or structure or of any reservoir, watercourse, dam, weir, well, borehole or other works; and

(b) the installation, modification or removal of any machinery or apparatus;

"financial year" means the twelve months ending with 31st March;

PART VI

"functions", in relation to the Authority or a water undertaker or sewerage undertaker, means the functions of the Authority or, as the case may be, of such an undertaker under or by virtue of any enactment and shall be construed subject to section 188 above;

"harbour authority" means a person who is a harbour authority within the meaning of the Prevention of Oil Pollution Act 1971 and is not a navigation authority; 1971 c. 60.

"highway" has the same meaning as in the Highways Act 1980; 1980 c. 66.

"holding company" has the same meaning as in the Companies Act 1985; 1985 c. 6.

"house" means any building or part of a building which is occupied as a dwelling-house, whether or not a private dwelling-house, or which, if unoccupied, is likely to be so occupied;

"information" includes anything contained in any records, accounts, estimates or returns;

"inland waters", except in Chapter I of Part III of this Act, has the same meaning as in the Water Resources Act 1963; 1963 c. 38.

"limited company" means a company within the meaning of the Companies Act 1985 which is limited by shares;

"local authority" means the council of a district or of a London borough or the Common Council of the City of London;

"local statutory provision" means—

(a) a provision of a local Act (including an Act confirming a provisional order);

(b) a provision of so much of any public general Act as has effect with respect to a particular area, with respect to particular persons or works or with respect to particular provisions falling within any paragraph of this definition;

(c) a provision of an instrument made under any provision falling within paragraph (a) or (b) above; or

(d) a provision of any other instrument which is in the nature of a local enactment;

"micro-organism" includes any microscopic biological entity which is capable of replication;

"the Minister" means the Minister of Agriculture, Fisheries and Food;

"modifications" includes additions, alterations and omissions, and cognate expressions shall be construed accordingly;

"the Monopolies Commission" means the Monopolies and Mergers Commission;

"navigation authority" means any person who has powers under any enactment to work, maintain, conserve, improve or control any canal or other inland navigation, navigable river, estuary, harbour or dock;

"notice" means notice in writing;

"owner", in relation to any premises, means the person who—

PART VI

(a) is for the time being receiving the rack-rent of the premises, whether on his own account or as agent or trustee for another person; or

(b) would receive the rack-rent if the premises were let at a rack-rent,

and cognate expressions shall be construed accordingly;

"prescribed" means prescribed by or determined under regulations made by the Secretary of State or, in relation to regulations made by the Minister, those regulations;

"protected land", in relation to a company holding an appointment under Chapter I of Part II of this Act, means any land which, or any interest or right in or over which—

(a) was transferred to that company in accordance with a scheme under Schedule 2 to this Act or, where that company is a statutory water company, is or was held by that company at any time during the financial year current on the transfer date;

(b) is or has at any time on or after the transfer date been held by that company for purposes connected with the carrying out of its functions as a water undertaker or sewerage undertaker (including any functions which for the purposes for which section 188 above has effect are taken to be such functions by virtue of subsection (6) or (7) of that section); or

(c) has been transferred to that company in accordance with a scheme under Schedule 5 to this Act from another company in relation to which that land was protected land when the other company held an appointment under that Chapter;

"public authority" means any Minister of the Crown or government department, the Authority, any local authority or county council or any person certified by the Secretary of State to be a public authority for the purposes of this Act;

"public sewer" means a sewer for the time being vested in a sewerage undertaker in its capacity as such, whether vested in that undertaker by virtue of a scheme under Schedule 2 or 5 to this Act or under section 153 above or otherwise, and "private sewer" shall be construed accordingly;

"records" includes computer records and any other records kept otherwise than in a document;

"service pipe" means, subject to subsection (4) below, so much of a pipe which is, or is to be, connected with a water main for supplying water from that main to any premises—

(a) as is or is to be subject to water pressure from that main; or

(b) as would be so subject but for the closing of some valve,

and includes part of any service pipe;

"services" includes facilities;

"sewer" has, subject to subsection (4) below, the same meaning as in the Public Health Act 1936;

1936 c. 49.

"sewerage services" includes the disposal of sewage and any other services which are required to be provided by a sewerage undertaker for the purpose of carrying out its functions;

"sewerage undertaker" shall be construed in accordance with section 11 above;

"statutory water company" means any company which is a statutory water company for the purposes of the 1973 Act immediately before the transfer date;

"stopcock" includes any box or pit in which a stopcock is enclosed and the cover to any such box or pit;

"street" has, subject to subsection (5) below, the same meaning as in the Public Utilities Street Works Act 1950; 1950 c. 39.

"subordinate legislation" has the same meaning as in the Interpretation Act 1978; 1978 c. 30.

"subsidiary" has the same meaning as in the Companies Act 1985; 1985 c. 6.

"substance" includes micro-organisms and any natural or artificial substance or other matter, whether it is in solid or liquid form or in the form of a gas or vapour;

"successor company" means a company nominated in accordance with section 4 above as the successor company of a water authority and, in relation to any water authority, means the company so nominated in relation to that authority;

"supply of water in bulk" means a supply of water for distribution by a water undertaker taking the supply;

"surface water" includes water from roofs;

"transfer date" means the day appointed as the transfer date in accordance with section 4 above;

"trunk main" means a water main which is or is to be used by a water undertaker for the purpose of—

(a) conveying water from a source of supply to a filter or reservoir or from one filter or reservoir to another filter or reservoir; or

(b) conveying water in bulk, whether in the course of taking a supply of water in bulk or otherwise, between different places outside the area of the undertaker, from such a place to any part of that area or from one part of that area to another part of that area;

"underground strata" means strata subjacent to the surface of any land;

"vessel" includes a hovercraft within the meaning of the Hovercraft Act 1968; 1968 c. 59.

"water authority" means an authority established in accordance with section 2 of the 1973 Act;

"water main" means, subject to subsection (4) below, any pipe, not being a pipe for the time being vested in a person other than the undertaker, which is used or to be used by a water undertaker for the purpose of making a general supply of water available to customers or potential customers of the undertaker, as distinct from for the purpose of providing a supply to particular customers;

PART VI

"water undertaker" shall be construed in accordance with section 11 above;

"watercourse" includes all rivers, streams, ditches, drains, cuts, culverts, dykes, sluices, sewers and passages through which water flows except mains and other pipes which belong to the Authority or a water undertaker or are used by a water undertaker or any other person for the purpose only of providing a supply of water to any premises.

(2) Subject to subsection (3) below, in this Act references to domestic purposes, in relation to a supply of water to any premises or in relation to any cognate expression, are references to the drinking, washing, cooking, central heating and sanitary purposes for which water supplied to those premises may be used; and, where the whole or any part of the premises are or are to be occupied as a house, those purposes shall be taken to include—

(a) the purposes of a profession carried on in that house or, where that house and another part of the premises are occupied together and the house comprises the greater part of what is so occupied, in that other part; and

(b) such purposes outside the house (including the washing of vehicles and the watering of gardens) as are connected with the occupation of the house and may be satisfied by a supply of water drawn from a tap inside the house and without the use of a hosepipe or similar apparatus.

(3) No such reference to domestic purposes shall be taken to include a reference—

(a) to the use of a bath having a capacity, measured to the centre line of overflow or in such other manner as may be prescribed, of more than two hundred and thirty litres;

(b) to the purposes of the business of a laundry; or

(c) to any purpose of a business of preparing food or drink for consumption otherwise than on the premises.

(4) References in this Act to a pipe, including references to a main, a drain or a sewer, shall include references to a tunnel or conduit which serves or is to serve as the pipe in question and to any accessories for the pipe; and, accordingly, references to the laying of a pipe shall include references to the construction of such a tunnel or conduit, to the construction or installation of any such accessories and to the making of a connection between one pipe and another.

(5) It is hereby declared that a reference in this Act to a street includes, where the street is a highway which passes over a bridge or through a tunnel, that bridge or tunnel.

(6) A company shall be regarded for the purposes of this Act as wholly owned by the Crown at any time when each of the issued shares is held by, or by a nominee of, the Treasury, the Secretary of State or another company which is wholly owned by the Crown.

(7) For the purposes of any provision of this Act by or under which power is or may be conferred on any person to recover the expenses incurred by that person in doing anything, those expenses shall be assumed to include such sum as may be reasonable in respect of establishment charges or overheads.

(8) References in this Act to the later or latest of two or more different times or days are, in a case where those times or days coincide, references to the time at which or, as the case may be, the day on which they coincide.

(9) Where by virtue of any provision of this Act any function of a Minister of the Crown is exercisable concurrently by different Ministers, that function shall also be exercisable jointly by any two or more of those Ministers.

(10) References in this Act to anything done under or for the purposes of any enactment contained in this Act or to anything done by or in relation to any person shall include references to anything which, by virtue of any provision made by or under this Act, has effect as if done under or for the purposes of that enactment or, as the case may be, by or in relation to that person.

Other supplemental provisions

Amendments, transitional provisions, savings and repeals.

190.—(1) The enactments mentioned in Schedule 25 to this Act shall have effect subject to the amendments there specified (being minor amendments or amendments consequential on the preceding provisions of this Act); and, without prejudice to any power conferred by any other provision of this Act, the Secretary of State and the Minister shall each have power by regulations to make such additional consequential amendments—

(a) of public general enactments not mentioned in that Schedule but passed before, or in the same Session as, this Act; and

(b) of subordinate legislation made before the passing of this Act,

as he considers necessary or expedient by reason of the coming into force of any provision of this Act.

(2) The transitional provisions and savings contained in Schedule 26 to this Act shall have effect; but those provisions and savings are without prejudice to sections 16 and 17 of the Interpretation Act 1978 (effect of repeals) or to the transfer, in accordance with a scheme under Schedule 2 to this Act, of any rights or liabilities saved by virtue of those sections. 1978 c. 30.

(3) The enactments mentioned in Schedule 27 to this Act (which include some which are spent or no longer of practical utility) are hereby repealed to the extent specified in the third column of that Schedule.

(4) Subject to paragraphs 17, 46 and 53 of Schedule 26 to this Act, any reference in that Schedule or in Schedule 27 to this Act to a provision of Schedule 3 to the 1945 Act shall have effect, without prejudice to section 20(2) of the Interpretation Act 1978 (references to enactments to include references to enactments as amended, extended or applied), as including a reference to that provision as applied, with or without modifications, by any local statutory provision.

Local statutory provisions: consequential amendments etc.

191.—(1) If it appears to the Secretary of State or the Minister to be appropriate to do so—

(a) for the purposes of, or in consequence of, the coming into force of any enactment contained in this Act; or

PART VI

(b) in consequence of the effect or operation at any time after the transfer date of any such enactment or of anything done under any such enactment,

he may by order repeal, amend or re-enact (with or without modifications) any local statutory provision, including, in the case of an order by virtue of paragraph (b) above, a provision amended by virtue of paragraph (a) above.

(2) An order made by the Secretary of State or the Minister under subsection (1) above may—

(a) make provision applying generally in relation to local statutory provisions of a description specified in the order;

(b) make different provision for different cases, including different provision in relation to different persons, circumstances or localities;

(c) contain such supplemental, consequential and transitional provision as the Secretary of State or, as the case may be, the Minister considers appropriate; and

(d) in the case of an order made after the transfer date, require provision contained in the order to be treated as if it came into force on that date.

(3) The power under this section to repeal or amend a local statutory provision shall include power to modify the effect in relation to any local statutory provision of any provision of Schedule 26 to this Act.

(4) Nothing in any order under this section may abrogate or curtail the effect of so much of any local statutory provision as confers any right of way or confers on or preserves for the public—

(a) any right of enjoyment of air, exercise or recreation on land; or

(b) any right of access to land for the purposes of exercise or recreation.

(5) The power to make an order under subsection (1) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

(6) Subject to the provisions of Schedule 26 to this Act, nothing in any local statutory provision passed or made before the transfer date shall be construed as relieving any water undertaker or sewerage undertaker from any liability arising by virtue of this Act in respect of any act or omission occurring on or after that date.

Application to Crown land etc.

192.—(1) Subject to the following provisions of this section, the provisions of this Act shall have effect in relation to land in which there is a Crown or Duchy interest as they have effect in relation to land in which there is no such interest.

(2) Subject to subsection (3) below, a power which is conferred by or under this Act in relation to land shall be exercisable in relation to any land in which there is a Crown or Duchy interest only with the consent of the appropriate authority.

(3) Subsection (2) above shall not require any consent to be given—

(a) for the exercise of any power in relation to any land in which there is a Crown or Duchy interest to the extent that that power would be so exercisable apart from subsection (1) above;

(b) for the imposition in relation to any premises in which there is a Crown or Duchy interest of any charges for a service provided by a water undertaker or sewerage undertaker in the course of carrying out its functions; or

(c) for the purposes of any provision having effect by virtue of so much of section 155 above and Schedule 20 to this Act as relates to the granting of authority for discharges of water;

but nothing in this section shall be construed as authorising the Authority to require the Crown to make any payment to the Authority in respect of any premises.

(4) A consent given for the purposes of subsection (2) above may be given on such financial and other conditions as the appropriate authority giving the consent may consider appropriate.

(5) In this section—

"the appropriate authority" has the same meaning as in section 266 of the Town and Country Planning Act 1971; and 1971 c. 78.

"Crown or Duchy interest" means an interest belonging to Her Majesty in right of the Crown or of the Duchy of Lancaster, or to the Duchy of Cornwall, or belonging to a government department or held in trust for Her Majesty for the purposes of a government department;

and the provisions of subsection (7) of the said section 266 as to the determination of questions shall apply for the purposes of this section.

Application to Isles of Scilly.

193.—(1) Subject to the provisions of any order under this section, nothing in this Act shall require or authorise any function, duty or power to be carried out, performed or exercised in relation to the Isles of Scilly by the Authority, a water undertaker or sewerage undertaker; and references in the preceding provisions of this Act to England and Wales shall not include references to those Isles.

(2) The Secretary of State may, on the application of the Council of the Isles of Scilly, by order make provision with respect to the carrying out in those Isles of functions falling under this Act to be carried out in relation to other parts of England and Wales by the Authority, by a water undertaker or by a sewerage undertaker; and, without prejudice to the generality of that power, an order under this section may apply any provision of this Act in relation to the Isles of Scilly with or without modifications.

(3) The power of the Secretary of State to make an order under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament; and such an order may—

(a) make different provision for different cases, including different provision in relation to different persons, circumstances or localities; and

PART VI

(b) contain such supplemental, consequential and transitional provision as the Secretary of State considers appropriate, including provision saving provision repealed by or under any enactment.

Short title, commencement and extent.

194.—(1) This Act may be cited as the Water Act 1989.

(2) This section, so much of this Act as confers any power to make subordinate legislation or makes provision with respect to the exercise of any such power and sections 29 and 30 above shall come into force on the passing of this Act.

(3) The following provisions of this Act, except in so far as they are already in force in accordance with subsection (2) above, shall come into force on the transfer date, namely—

(a) sections 15 to 28 (including Schedules 5 and 6), section 31 and sections 33 to 36;

(b) Chapters II to V of Part II, except section 79;

(c) section 97;

(d) Parts III and IV, except so far as relating to the amendment, in Schedule 17, to the Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951;

1951 c. 26.

(e) Part V, except so far as relating to sections 33, 47 and 48 of the Control of Pollution Act 1974;

1974 c. 40.

(f) Schedule 26 and section 190 so far as relating to that Schedule; and

(g) Part I of Schedule 27 and section 190 so far as relating to that Part of that Schedule.

(4) The provisions of this Act not brought into force on the passing of this Act or on the transfer date by subsection (2) or (3) above shall come into force on such day (whether that date or a day before or after that date) as the Secretary of State may by order made by statutory instrument appoint; and different days may be so appointed for different provisions or for different purposes.

(5) An order made by the Secretary of State under subsection (4) above may make such transitional provisions and savings in connection with the bringing into force by that order of any provision of this Act as the Secretary of State considers appropriate.

(6) This section and the following provisions of this Act shall extend to the whole of the United Kingdom, namely—

(a) Schedules 2 and 5 and sections 4, 13 and 23 so far as relating to any scheme under either of those Schedules;

(b) section 95; and

(c) any amendment or repeal by this Act of any provision contained in the Parliamentary Commissioner Act 1967, the Capital Allowances Act 1968,the House of Commons Disqualification Act 1975 or the Northern Ireland Assembly Disqualification Act 1975.

1967 c. 13.
1968 c. 3.
1975 c. 24.
1975 c. 25.

PART VI

(7) Subject to any enactment by virtue of which a provision of this Act has effect in relation to any part of the territorial sea adjacent to or to any part of Great Britain, the following provisions of this Act shall extend to Great Britain only, namely—

(a) section 136 and Schedule 15 so far as they amend section 32 of the Land Drainage Act 1976; 1976 c. 70.

(b) subsections (1) to (4), (6) and (7) of section 141 and, so far as they amend the Diseases of Fish Act 1937 or section 39 of the Salmon and Freshwater Fisheries Act 1975 (border rivers), subsection (5) of the said section 141 and Schedule 17; 1937 c. 33. 1975 c. 51.

(c) section 172;

(d) section 190 and Schedule 25 so far as they relate to the Agriculture Act 1970, the Health and Safety at Work etc. Act 1974 and the Employment Protection (Consolidation) Act 1978; and 1970 c. 40. 1974 c. 37. 1978 c. 44.

(e) section 190 and Schedule 27 so far as they relate to the Diseases of Fish Act 1937, the Border Rivers (Prevention of Pollution) Act 1951, section 126 of the Water Resources Act 1963 (border rivers), section 39(4) of the Salmon and Freshwater Fisheries Act 1975 and the Diseases of Fish Act 1983. 1951 c. 7. (15 & 16 Geo. 6 and 1 Eliz. 2). 1963 c. 38. 1983 c. 30.

(8) The following provisions of this Act shall extend to Scotland only (subject, in the case of paragraph (a) below, to the application of sections 21 and 22 of the Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951 to any provision of that Act), namely— 1951 c. 26.

(a) subsection (5) of section 141 above and Schedule 17 to this Act, so far as they amend section 15 of the Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951;

(b) Part V;

(c) section 190 and Schedule 25 so far as they amend the Public Health (Scotland) Act 1897, the Agricultural Holdings (Scotland) Act 1949, the Rivers (Prevention of Pollution) (Scotland) Act 1951, the Valuation and Rating (Scotland) Act 1956 and the Water (Scotland) Act 1980; 1897 c. 38. 1949 c. 75. 1951 c. 66. 1956 c. 60. 1980 c. 45.

(d) section 190 and Part I of Schedule 27 so far as they relate to section 104 of the Control of Pollution Act 1974. 1974 c. 40.

(9) Subject to subsections (6) to (8) above, to any enactment by virtue of which a provision of this Act has effect in relation to any part of the territorial sea adjacent to England and Wales and to the application of section 39(1) of the Salmon and Freshwater Fisheries Act 1975 (border rivers) to any provision of this Act in so far as it amends or repeals an enactment contained in the said Act of 1975, this Act shall extend to England and Wales only.

SCHEDULES

Section 1.

SCHEDULE 1

THE NATIONAL RIVERS AUTHORITY

PART I

ORGANISATION AND PROCEEDINGS ETC. OF AUTHORITY

Membership

1.—(1) Subject to the following provisions of this paragraph, a member shall hold and vacate office in accordance with the terms of his appointment and shall, on ceasing to be a member, be eligible for re-appointment.

(2) A member may at any time by notice to the appropriate Minister resign his office.

(3) The appropriate Minister may remove a member if he is satisfied—

(a) that that member has been absent from meetings of the Authority for a period of more than three consecutive months without the permission of the Authority;

(b) that that member has been adjudged bankrupt, that his estate has been sequestrated or that he has made a composition or arrangement with, or granted a trust deed for, his creditors; or

(c) that that member is unable or unfit to carry out the functions of a member.

(4) In this paragraph and paragraph 2 below "the appropriate Minister" means —

(a) in relation to a member appointed under section 1(2)(a) of this Act, the Minister; and

(b) in relation to any other member, the Secretary of State.

Remuneration, pensions etc.

2.—(1) The Authority shall pay to its members such remuneration, and such travelling and other allowances, as may be determined by the appropriate Minister.

(2) The Authority shall, if so required by the appropriate Minister, pay such pension, allowances or gratuities to or in respect of a person who has been or is a member, or such payments towards provision for the payment of a pension, allowances or gratuities to or in respect of such a person, as may be determined by the appropriate Minister.

(3) If, when any member ceases to hold office, the appropriate Minister determines that there are special circumstances which make it right that that member should receive compensation, the Authority shall pay to him a sum by way of compensation of such amount as may be so determined.

(4) The approval of the Treasury shall be required for the making of a determination under this paragraph.

Staff

3.—(1) The Authority may, with the approval of the Secretary of State as to terms and conditions of service, appoint such officers and employees as it may determine.

(2) No member or other person shall be appointed by the Authority to act as chief executive of the Authority unless the Secretary of State has consented to the appointment of that person.

(3) The Authority may—

(a) pay such pensions, allowances or gratuities to or in respect of any persons who have been or are its officers or employees as it may, with the approval of the Secretary of State, determine;

(b) make such payments as it may so determine towards provision for the payment of pensions, allowances or gratuities to or in respect of any such persons;

(c) provide and maintain such schemes as it may so determine (whether contributory or not) for the payment of pensions, allowances or gratuities to or in respect of any such persons.

(4) Any reference in sub-paragraph (3) above to pensions, allowances or gratuities to or in respect of any such persons as are mentioned in that sub-paragraph includes a reference to pensions, allowances or gratuities by way of compensation to or in respect of any of the Authority's officers or employees who suffer loss of office or employment or loss or diminution of emoluments.

(5) If any person—

(a) on ceasing to be an officer or employee of the Authority becomes a member; and

(b) was by reference to his office or employment by the Authority a participant in a pension scheme maintained by the Authority for the benefit of any of its officers or employees,

the Authority may, with the approval of the Secretary of State, make provision for him to continue to participate in that scheme, on such terms and conditions as it may with the consent of the Secretary of State determine, as if his service as a member were service as an officer or employee of the Authority; and any such provision shall be without prejudice to paragraph 2 above.

(6) The consent of the Treasury shall be required for the giving of an approval under this paragraph.

Proceedings of Authority

4. Subject to the following provisions of this Schedule and to section 136(3) and (4) of this Act, the Authority may regulate its own procedure (including quorum).

Delegation of powers

5. Subject to section 136(3) and (4) of this Act, anything authorised or required by or under any enactment to be done by the Authority may be done by any member, officer or employee of the Authority who has been authorised for the purpose, whether generally or specially, by the Authority or may be done by any committee or sub-committee of the Authority which has been so authorised.

Interests of members

6.—(1) A member who is in any way directly or indirectly interested in any matter that is brought up for consideration at a meeting of the Authority shall disclose the nature of his interest to the meeting; and, where such a disclosure is made, the disclosure shall be recorded in the minutes of the meeting and the member shall not take any part in any deliberation or decision of the Authority, or of any of its committees or sub-committees, with respect to that matter.

(2) For the purposes of sub-paragraph (1) above, a general notification given at a meeting of the Authority by a member to the effect that he is a member of a specified company or firm and is to be regarded as interested in any matter involving that company or firm shall be regarded as a sufficient disclosure of his interest in relation to any such matter.

SCH. 1

(3) A member need not attend in person at a meeting of the Authority in order to make a disclosure which he is required to make under this paragraph if he takes reasonable steps to secure that the disclosure is made by a notice which is taken into consideration and read at the meeting.

(4) The Secretary of State may, subject to such conditions as he considers appropriate, remove any disability imposed by virtue of this paragraph in any case where the number of members of the Authority disabled by virtue of this paragraph at any one time would be so great a proportion of the whole as to impede the transaction of business.

(5) The power of the Secretary of State under sub-paragraph (4) above includes power to remove, either indefinitely or for any period, a disability which would otherwise attach to any member, or members of any description, by reason of such interests, and in respect of such matters, as may be specified or described by the Secretary of State.

(6) Nothing in this paragraph precludes any member from taking part in the consideration or discussion of, or voting on, any question whether an application should be made to the Secretary of State for the exercise of the power conferred by sub-paragraph (4) above.

(7) In this paragraph references to a meeting of the Authority include references to a meeting of any of its committees or sub-committees.

Vacancies and defective appointments

7. The validity of any proceedings of the Authority shall not be affected by a vacancy amongst the members or by a defect in the appointment of a member.

Minutes

8.—(1) Minutes shall be kept of proceedings of the Authority, of its committees and of its sub-committees.

(2) Minutes of any such proceedings shall be evidence of those proceedings if they are signed by a person purporting to have acted as chairman of the proceedings to which the minutes relate or of any subsequent proceedings in the course of which the minutes were approved as a correct record.

(3) Where minutes of any such proceedings have been signed as mentioned in sub-paragraph (2) above, those proceedings shall, unless the contrary is shown, be deemed to have been regularly convened and constituted.

Application of seal and proof of instruments

9.—(1) The application of the seal of the Authority shall be authenticated by the signature of any member, officer or employee of the Authority who has been authorised for the purpose, whether generally or specially, by the Authority.

(2) In this paragraph the reference to the signature of a person includes a facsimile of a signature by whatever process reproduced; and, in paragraph 10 below, the word "signed" shall be construed accordingly.

Documents served etc. by the Authority

10.—(1) Any document which the Authority is authorised or required by or under any enactment to serve, make or issue may be signed on behalf of the Authority by any member, officer or employee of the Authority who has been authorised for the purpose, whether generally or specially, by the Authority.

(2) Every document purporting to be an instrument made or issued by or on behalf of the Authority and to be duly executed under the seal of the Authority, or to be signed or executed by a person authorised by the Authority for the purpose, shall be received in evidence and be treated, without further proof, as being so made or issued unless the contrary is shown.

11. In the Parliamentary Commissioner Act 1967, in Schedule 2 (departments and authorities subject to investigation)— 1967 c. 13.

(a) there shall be inserted (at the appropriate place) the following entry—

"National Rivers Authority.";

and

(b) after Note 8 there shall be inserted the following Note—

"9. The reference to the National Rivers Authority is a reference to that Authority in relation to all its functions other than its flood defence functions (that is to say, its functions by virtue of Chapter III of Part III of the Water Act 1989, including all its functions under the Land Drainage Act 1976)." 1976 c. 70.

The Local Commissioners

12. In section 25(1) of the Local Government Act 1974 (authorities subject to investigation by Local Commissioners), for paragraph (d) there shall be substituted the following paragraph— 1974 c. 7.

"(d) in relation to the flood defence functions of the National Rivers Authority (that is to say, its functions by virtue of Chapter III of Part III of the Water Act 1989, including all its functions under the Land Drainage Act 1976), the National Rivers Authority and any regional flood defence committee."

Parliamentary disqualification etc.

13. In the House of Commons Disqualification Act 1975, in Part II of Schedule 1 (bodies of which all the members are disqualified), there shall be inserted (at the appropriate place) the following entry— 1975 c. 24.

"The National Rivers Authority.";

and the like insertion shall be made in Part II of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975. 1975 c. 25.

Interpretation

14. In this Part of this Schedule "member" means any member of the Authority, including the chairman and the deputy chairman.

PART II

FINANCIAL PROVISIONS

General financial duties

15.—(1) Subject to paragraph 16 below, the relevant Ministers may, after consultation with the Authority and with the Treasury's approval, determine the financial duties of the Authority, and different determinations may be made for different functions and activities of the Authority.

(2) The relevant Ministers shall give the Authority notice of every determination under this paragraph, and such a determination may—

(a) relate to a period beginning before the date on which it is made;

(b) contain supplemental provisions;

(c) be varied by a subsequent determination.

SCH. 1

(3) Where it appears to the Secretary of State that the Authority has a surplus, whether on capital or revenue account, the Secretary of State may, after consultation with the Treasury and the Authority, direct the Authority to pay to him such amount not exceeding the amount of that surplus as may be specified in the direction; and it shall be the duty of the Authority to comply with any such direction.

(4) Any revenue to which sub-paragraph (1) of paragraph 16 below applies (including so much of any such revenue as falls within sub-paragraph (2) of that paragraph) and any funds to which section 88(1) of the Water Resources Act 1963 (funds held for fisheries purposes under local statutory provisions) applies shall be disregarded in determining the amount of any surplus for the purposes of sub-paragraph (3) above.

1963 c. 38.

(5) Any sum received by the Secretary of State under sub-paragraph (3) above shall be paid into the Consolidated Fund.

Financial duties in relation to flood defence revenue

16.—(1) Revenue raised by the Authority in a local flood defence district—

(a) under or by virtue of sections 45 to 49 of the Land Drainage Act 1976 (revenue raised from local authorities) or any regulations under section 74 of the Local Government Finance Act 1988 (power to issue levies);

1976 c. 70.

1988 c. 41.

(b) by contributions required under section 84(1) of the said Act of 1976 (contributions from internal drainage boards); or

(c) by special drainage charges under section 50 of the said Act of 1976,

shall, except for any amount falling within sub-paragraph (2) below, be spent only in the carrying out of the Authority's flood defence functions in or for the benefit of that district.

(2) An amount falls within this sub-paragraph if it is an amount which the Authority considers it appropriate—

(a) to set aside towards research or related activities or towards meeting the Authority's administrative expenses; or

(b) to be paid by way of contribution towards expenses incurred by the Authority or any regional flood defence committee under arrangements made for the purposes of section 136(3)(b) of this Act.

(3) Any amount specified in a resolution under section 86(1) of the Land Drainage Act 1976 in relation to any local flood defence district (allocation of revenue in lieu of contributions) shall be treated for the purposes of sub-paragraph (1) above as if it were revenue actually raised by contributions required under section 84(1) of that Act.

(4) Any sums held by the Authority by virtue of any transfer of property, rights or liabilities from a water authority in accordance with a scheme under Schedule 2 to this Act shall, in so far as those sums represent amounts which the water authority was required by virtue of paragraph 31 of Schedule 3 to the 1973 Act to spend only in the discharge of their land drainage functions in or for the benefit of a particular local land drainage district, be treated for the purposes of this paragraph as revenue raised by the Authority as mentioned in sub-paragraph (1) above in or for the benefit of the corresponding local flood defence district.

(5) In this paragraph—

"flood defence functions", in relation the Authority, means its functions by virtue of Chapter III of Part III of this Act, including all its functions under the Land Drainage Act 1976;

"local flood defence district" has the same meaning as in the said Act of 1976;

and for the purposes of this paragraph so much of a regional flood defence area as is an area in relation to which no local flood defence scheme is in force shall be treated as a single local flood defence district.

Grants to the Authority

17.—(1) The Secretary of State may, with the approval of the Treasury, make to the Authority out of money provided by Parliament grants of such amounts as he thinks fit.

(2) The payment by the Secretary of State of a grant under this paragraph shall be on such terms as he may, with the approval of the Treasury, provide.

(3) The Secretary of State shall—

(a) prepare in respect of each financial year an account of the sums paid by him to the Authority under this paragraph; and

(b) before the end of September in the following financial year send that account to the Comptroller and Auditor General;

and the form of the account and the manner of preparing it shall be such as the Treasury may direct.

(4) The Comptroller and Auditor General shall examine, certify and report on each account sent to him under this paragraph and shall lay copies of it and of his report before each House of Parliament.

Borrowing

18.—(1) The Authority shall be entitled to borrow in accordance with the following provisions of this paragraph but not otherwise.

(2) Subject to sub-paragraph (4) below, the Authority may, with the consent of the Secretary of State or the Minister and with the approval of the Treasury, borrow temporarily in sterling, by way of overdraft or otherwise, from a person other than the Secretary of State or the Minister, such sums as it may require for meeting its obligations and carrying out its functions.

(3) Subject to sub-paragraph (4) below, the Authority may borrow, otherwise than by way of temporary loan, such sums in sterling from the Secretary of State or the Minister as it may require for capital purposes in connection with the carrying out of its flood defence functions.

(4) The aggregate amount outstanding in respect of the principal of sums borrowed under this paragraph by the Authority shall not at any time exceed £100 million or such greater sum, not exceeding £160 million, as the relevant Ministers may specify by order made by statutory instrument.

(5) No order shall be made under sub-paragraph (4) above unless a draft of the order has been laid before the House of Commons and has been approved by a resolution of that House.

(6) In this paragraph "flood defence functions" has the same meaning as in paragraph 16 above.

Loans to the Authority

19.—(1) The Secretary of State and the Minister shall each have power, with the approval of the Treasury, to lend any sums to the Authority which the Authority has power to borrow under paragraph 18(3) above.

SCH. 1

(2) Any loan made by the Secretary of State or the Minister under this paragraph shall be repaid to him at such times and by such methods, and interest on the loan shall be paid to him at such rates and at such times, as the Secretary of State or, as the case may be, the Minister may with the approval of the Treasury from time to time determine.

(3) Any sums required by the Secretary of State or the Minister for making a loan under this paragraph shall be paid out of money provided by Parliament; and any sums received by the Secretary of State or the Minister in pursuance of sub-paragraph (2) above shall be paid into the Consolidated Fund.

(4) The Secretary of State and the Minister shall each—

(a) prepare in respect of each financial year an account of the sums lent by him to the Authority under this paragraph; and

(b) before the end of September in the following financial year send that account to the Comptroller and Auditor General;

and the form of the account and the manner of preparing it shall be such as the Treasury may direct.

(5) The Comptroller and Auditor General shall examine, certify and report on each account sent to him under this paragraph and shall lay copies of it and of his report before each House of Parliament.

Guarantees

20. The Secretary of State or the Minister may, with the consent of the Treasury, guarantee, in such manner and on such conditions as he may think fit, the repayment of the principal of, the payment of interest on and the discharge of any other financial obligation in connection with any sum which the Authority borrows from any person.

Accounts

21.—(1) It shall be the duty of the Authority—

(a) to keep proper accounts and proper records in relation to the accounts; and

(b) to prepare in respect of each accounting year a statement of accounts giving a true and fair view of the state of affairs and the income and expenditure of the Authority.

(2) Every statement of accounts prepared by the Authority in accordance with this paragraph shall comply with any requirement which the relevant Ministers have, with the consent of the Treasury, notified in writing to the Authority and which relates to any of the following matters, namely—

(a) the information to be contained in the statement;

(b) the manner in which that information is to be presented;

(c) the methods and principles according to which the statement is to be prepared;

and such a requirement may impose an obligation on the Authority to prepare accounts in respect of the financial year current when section 1 of this Act comes into force on such assumptions as may be specified in the requirement.

(3) Subject to sub-paragraph (4) below, in this paragraph and paragraph 22 below "accounting year", in relation to the Authority, means a financial year.

(4) If the Secretary of State so directs in relation to any accounting year of the Authority, that accounting year shall end with such date other than the next 31st March as may be specified in the direction; and, where the Secretary of State has given such a direction, the following accounting year shall begin with the day after the date so specified and, subject to any further direction under this sub-paragraph, shall end with the next 31st March.

Audit SCH. 1

22.—(1) The accounts of the Authority, shall be audited by auditors appointed for each accounting year by the Secretary of State.

(2) A person shall not be qualified for appointment for the purposes of sub-paragraph (1) above unless he is—

(a) a member of a body of accountants established in the United Kingdom and recognised for the purposes of section 389(1)(a) of the Companies Act 1985; or 1985 c. 6.

(b) a member of the Chartered Institute of Public Finance and Accountancy;

but a firm may be so appointed if each of its members is qualified to be so appointed.

(3) A copy of any accounts of the Authority which are audited under sub-paragraph (1) above and of the report made on those accounts by the auditors shall be sent to the Secretary of State and to the Minister as soon as reasonably practicable after the report is received by the Authority; and the Secretary of State shall lay a copy of any accounts or report sent to him under this sub-paragraph before Parliament.

(4) The Comptroller and Auditor General shall be entitled to inspect the contents of all books, papers and other records of the Authority relating to, or to matters dealt with in, the accounts required to be kept by virtue of paragraph 21 above; and, accordingly, section 6 of the National Audit Act 1983 (examinations of economy, efficiency and effectiveness) shall apply to the Authority. 1983 c. 44.

(5) In this paragraph "accounts", in relation to the Authority, includes any statement under paragraph 21 above.

Meaning of "the relevant Ministers"

23. In this Part of this Schedule "the relevant Ministers" means the Secretary of State and the Minister, acting jointly.

SCHEDULE 2

Section 4.

SCHEMES PROVIDING FOR THE INITIAL TRANSFERS

Making and modification of schemes

1.—(1) Each of the water authorities shall make a scheme under this Schedule for the division of all their property, rights and liabilities between their successor company and the Authority.

(2) Where a scheme under this Schedule is made by a water authority it shall not take effect unless it is approved by the Secretary of State.

(3) Where a scheme under this Schedule is submitted to the Secretary of State for his approval, he may modify the scheme before approving it.

(4) If—

(a) a water authority fail, before such time as may be notified by the Secretary of State to that water authority as the latest time for the submission of a scheme under this Schedule, to submit such a scheme for the approval of the Secretary of State; or

(b) the Secretary of State decides not to approve a scheme that has been submitted to him by a water authority (either with or without modifications),

the Secretary of State may himself make a scheme under this Schedule for the division of that water authority's property, rights and liabilities between the water authority's successor company and the Authority.

SCH. 2

(5) If at any time after a scheme under this Schedule has come into force in relation to the property, rights and liabilities of any water authority the Secretary of State considers it appropriate to do so and either—

(a) the water authority's successor company has consented to the making of the order; or

(b) that company is for the time being wholly owned by the Crown and has been consulted by the Secretary of State,

the Secretary of State may by order provide that that scheme shall for all purposes be deemed to have come into force with such modifications as may be specified in the order.

(6) An order under sub-paragraph (5) above may make, with effect from the coming into force of the scheme to which it relates, any such provision as could have been made by the scheme and, in connection with giving effect to that provision from that time, may contain such supplemental, consequential and transitional provision as the Secretary of State considers appropriate.

(7) In determining whether and in what manner to exercise any power conferred on him by this paragraph the Secretary of State shall have regard to the need to ensure—

(a) that any division of property, rights and liabilities between a successor company and the Authority which is effected under this Schedule allocates property, rights and liabilities to them in such proportions as appear to him to be appropriate in the context of the different functions which will, by virtue of this Act, be carried out by the company and the Authority; and

(b) that the scheme contains all such provision as he considers should take effect on the transfer date in relation to the property, rights or liabilities allocated by the scheme as provision contained in arrangements under section 126 of this Act.

(8) It shall be the duty of a water authority to provide the Secretary of State with all such information and other assistance as he may reasonably require for the purposes of, or in connection with, the exercise of any power conferred on him by this paragraph.

Transfers by scheme

2.—(1) Where a scheme under this Schedule for the division of a water authority's property, rights and liabilities comes into force on the transfer date, this paragraph shall have effect on that date so as, in accordance with the scheme's provisions and without further assurance—

(a) to transfer to the Authority such of the property, rights and liabilities as are allocated to the Authority for the purposes of the division made by the scheme; and

(b) to transfer to the water authority's successor company the remainder of the property, rights and liabilities;

and accordingly the said remainder shall be treated for the purposes of this Act as allocated to that company.

(2) For the purpose of making a division of any property, rights or liabilities between a successor company and the Authority the provisions of a scheme under this Schedule may—

(a) allocate to the Authority such property, rights and liabilities to which the water authority may become entitled or subject after the making of the scheme and before the transfer date as may be described in the scheme;

(b) create for the successor company or the Authority an interest in or right over property transferred in accordance with the scheme to the other;

(c) create new rights and liabilities as between the successor company and the Authority; and SCH. 2

(d) in connection with any provision made by virtue of paragraph (b) or (c) above, make incidental provision as to the interests, rights and liabilities of other persons with respect to the subject-matter of the division.

(3) The property, rights and liabilities of a water authority that shall be capable of being transferred in accordance with a scheme under this Schedule shall include—

(a) property, rights and liabilities that would not otherwise be capable of being transferred or assigned by the water authority;

(b) property situated anywhere in the United Kingdom or elsewhere;

(c) rights and liabilities under enactments, including—

(i) such rights and liabilities as may arise after the transfer date by virtue of enactments amended or repealed by this Act and, in pursuance of provision contained in Schedule 26 to this Act, may be the subject of an allocation made by a scheme under this Schedule; and

(ii) other rights and liabilities under enactments which are amended or repealed by this Act subject to a saving;

(d) rights and liabilities under the law of any part of the United Kingdom or of any country or territory outside the United Kingdom.

(4) The rights and liabilities that may be created by virtue of paragraph (c) of sub-paragraph (2) above shall include rights and liabilities which, with effect from the transfer date, shall have effect as if contained in arrangements under section 126 of this Act; and the provision that may be made by virtue of that paragraph includes—

(a) provision for treating any person who is entitled by virtue of a scheme under this Schedule to possession of a document as having given another person an acknowledgement in writing of the right of that other person to the production of the document and to delivery of copies thereof; and

(b) provision applying section 64 of the Law of Property Act 1925 (production and safe custody of documents) in relation to any case in relation to which provision falling within paragraph (a) above has effect. 1925 c. 20.

(5) For the avoidance of doubt, it is hereby declared that the transfers authorised by paragraph (a) of sub-paragraph (3) above include transfers which, by virtue of that paragraph, are to take effect as if there were no such contravention, liability or interference with any interest or right as there would be, in the case of a transfer or assignment otherwise than by virtue of this Schedule, by reason of any provision having effect (whether under any enactment or agreement or otherwise) in relation to the terms on which a water authority is entitled or subject to the property, right or liability in question.

(6) Where apart from this sub-paragraph any person would have power, in consequence of anything done or likely to be done by or under this Act, to terminate or modify an interest or right which is vested in a water authority at the passing of this Act, then—

(a) for the purposes of the transfer of the interest or right in accordance with a scheme under this Schedule, that power shall not be exercisable in relation to that interest or right at any time before its transfer in accordance with such a scheme; and

SCH. 2

(b) without prejudice to the preceding provisions of this paragraph or to paragraph 3(2)(a) below, that power shall be exercisable in relation to the interest or right after its transfer only in so far as the scheme provides for it to be transferred subject to the power.

Supplemental provisions of schemes

3.—(1) A scheme under this Schedule may contain supplemental, consequential and transitional provision for the purposes of, or in connection with, the division or any other provision made by the scheme.

(2) Without prejudice to the generality of sub-paragraph (1) above, a scheme under this Schedule may provide—

(a) that for purposes connected with any transfers made in accordance with the scheme (including the transfer of rights and liabilities under an enactment) a body to which anything is transferred in accordance with the scheme is to be treated as the same person in law as the water authority from which it is transferred;

(b) that, so far as may be necessary for the purposes of or in connection with any such transfers, agreements made, transactions effected and other things done by or in relation to a water authority from which anything is transferred in accordance with the scheme are to be treated as made, effected or done by or in relation to the body to which it is transferred;

(c) that, so far as may be necessary for the purposes of or in connection with any such transfers, references in any agreement (whether or not in writing) or in any deed, bond, instrument or other document to, or to any member or officer of, a water authority from which anything is transferred in accordance with the scheme are to have effect with such modifications as are specified in the scheme;

(d) that proceedings commenced by or against a water authority are to be continued by or against the water authority's successor company or the Authority;

(e) that the effect of any transfer under the scheme in relation to contracts of employment with a water authority is not to be to terminate any of those contracts but is to be that periods of employment with that authority are to count for all purposes as periods of employment with the water authority's successor company or, as the case may require, with the Authority;

(f) that disputes as to the effect of the scheme between the Authority and the successor company to which property, rights and liabilities are transferred in accordance with the scheme are to be referred to such arbitration as may be specified in or determined under the scheme;

(g) that determinations on such arbitrations and certificates given jointly by the Authority and a successor company as to the effect of the scheme as between the Authority and that company are to be conclusive for all purposes.

Duties of water authorities after the scheme comes into force

4.—(1) A scheme under this Schedule may provide for the imposition of duties on the water authority from which transfers are made by virtue of the scheme, and on the successor company of that authority and on the Authority, to take all such steps as may be requisite to secure that the vesting in the successor company or the Authority, by virtue of the scheme, of any foreign property, right or liability is effective under the relevant foreign law.

(2) The provisions of a scheme under this Schedule may require a water authority to comply with any directions of their successor company or of the Authority in performing any duty imposed on the water authority by virtue of a provision included in the scheme under sub-paragraph (1) above.

SCH. 2

(3) A scheme under this Schedule may provide that, until the vesting of any foreign property, right or liability of a water authority in the successor company of that authority or in the Authority is effective under the relevant foreign law, it shall be the duty of the water authority to hold that property or right for the benefit of, or to discharge that liability on behalf of, the successor company or, as the case may be, the Authority.

(4) Nothing in any provision included by virtue of this paragraph in a scheme under this Schedule shall be taken as prejudicing the effect under the law of any part of the United Kingdom of the vesting by virtue of the scheme in a successor company, or in the Authority, of any foreign property, right or liability.

(5) A water authority shall have all such powers as may be requisite for the performance of any duty imposed on them by any provision included by virtue of this paragraph in a scheme under this Schedule; but such a scheme may require a successor company or the Authority to act on behalf of a water authority (so far as possible) for the purposes of, or in connection with, the performance of any such duty.

(6) A scheme under this Schedule may provide that any foreign property, rights or liabilities that are acquired or incurred by a water authority after the scheme comes into force are immediately to become property, rights or liabilities of the water authority's successor company or of the Authority; and such a scheme may make the same provision in relation to any such property, rights or liabilities as can be made, by virtue of the preceding provisions of this paragraph, in relation to foreign property, rights and liabilities vested in a water authority when the scheme comes into force.

(7) References in this paragraph to any foreign property, right or liability are references to any property, right or liability as respects which any issue arising in any proceedings would have to be determined (in accordance with the rules of private international law) by reference to the law of a country or territory outside the United Kingdom.

(8) Any expenses incurred by a water authority in consequence of any provision included by virtue of this paragraph in a scheme under this Schedule shall be met, in such proportions as may be determined by or under the scheme, by the water authority's successor company and the Authority.

SCHEDULE 3

Section 5.

THE DIRECTOR GENERAL OF WATER SERVICES

Remuneration, pensions etc.

1.—(1) There shall be paid to the Director such remuneration, and such travelling and other allowances, as the Secretary of State may determine.

(2) In the case of any such holder of the office of the Director as may be determined by the Secretary of State, there shall be paid such pension, allowances or gratuities to or in respect of him, or such payments towards provision for the payment of a pension, allowances or gratuities to or in respect of him, as may be so determined.

(3) If, when any person ceases to hold office as the Director, the Secretary of State determines that there are special circumstances which make it right that he should receive compensation, there may be paid to him a sum by way of compensation of such amount as may be determined by the Secretary of State.

(4) The approval of the Treasury shall be required for the making of a determination under this paragraph.

Staff

2.—(1) The Director may, with the approval of the Treasury as to numbers and terms and conditions of service, appoint such staff as he may determine.

SCH. 3

(2) Anything authorised or required by or under any enactment to be done by the Director may be done by any member of the staff of the Director who has been authorised for the purpose, whether generally or specially, by the Director.

Expenses of the Director and his staff

3. There shall be paid out of money provided by Parliament—

(a) the remuneration of, and any travelling or other allowances payable under this Act to, the Director and any staff of the Director;

(b) any sums payable under this Act to or in respect of the Director; and

(c) any expenses duly incurred by the Director or by any of his staff in consequence of the provisions of this Act.

Official seal

4. The Director shall have an official seal for the authentication of documents required for the purposes of his functions.

Documentary evidence

1868 c. 37.

5. The Documentary Evidence Act 1868 shall have effect as if the Director were included in the first column of the Schedule to that Act, as if the Director and any person authorised to act on behalf of the Director were mentioned in the second column of that Schedule, and as if the regulations referred to in that Act included any document issued by the Director or by any such person.

The Parliamentary Commissioner

1967 c. 13.

6. In the Parliamentary Commissioner Act 1967, in Schedule 2 (departments and authorities subject to investigation), there shall be inserted (at the appropriate place) the following entry—

"Office of the Director General of Water Services."

Parliamentary disqualification etc.

1975 c. 24.

7. In the House of Commons Disqualification Act 1975, in Part III of Schedule 1 (other disqualifying offices), there shall be inserted (at the appropriate place) the following entry—

"Director General of Water Services."

1975 c. 25.

and the like insertion shall be made in Part III of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975.

Section 6.

SCHEDULE 4

CUSTOMER SERVICE COMMITTEES

Sub-committees

1. A customer service committee may, with the approval of the Director —

(a) establish local and other sub-committees through which the customer service committee may carry out such of its functions as it may determine;

(b) appoint such persons as it may determine (including persons who are not members of the committee) to be members of any such sub-committee; and

(c) regulate the procedure of any such sub-committee and, subject to paragraph 3 below, the terms and conditions of service of any person appointed to be a member of any such sub-committee.

Remuneration, pensions etc. of the chairman of a customer service committee SCH. 4

2.—(1) There shall be paid to the chairman of a customer service committee such remuneration, and such travelling and other allowances, as the Director may determine.

(2) There shall be paid such pension, allowances or gratuities to or in respect of a person who has held or holds office as the chairman of a customer service committee, or such payments towards provision for the payment of a pension, allowances or gratuities to or in respect of such a person, as may be determined by the Director.

(3) If, when any person ceases to hold office as such a chairman, the Director determines that there are special circumstances which make it right that that person should receive compensation, there may be paid to him a sum by way of compensation of such amount as may be determined by the Director.

(4) The approval of the Treasury shall be required for the making of a determination under this paragraph.

Expenses of other members of a customer service committee etc.

3. Subject to paragraph 2 above, neither the members of a customer service committee nor the members of any sub-committee of any such committee shall be paid any sums by the Director for or in respect of their services except—

(a) in the case of services as a member of a customer service committee, sums reimbursing the member for loss of remuneration, for travelling expenses or for any other out-of-pocket expenses; and

(b) in the case of services as a member of a sub-committee of a customer service committee, sums reimbursing the member for travelling expenses or for any other out-of-pocket expenses which do not relate to loss of remuneration.

Staff

4.—(1) The Director may, with the approval of the Treasury as to numbers and terms and conditions of service, appoint such officers and employees of a customer service committee or of any sub-committee of a customer service committee as he may determine.

(2) Anything authorised or required by or under this Act to be done by a customer service committee may be done by any of the officers or employees of the committee, or of any of its sub-committees, who has been authorised for the purpose, whether generally or specially, by the committee or, in accordance with the terms of its appointment, by a sub-committee of the committee.

Financial provisions

5.—(1) The following shall be paid by the Director out of money provided by Parliament, that is to say—

(a) any sums required to be paid to or in respect of any person under paragraph 2 or 3 above; and

(b) any expenses incurred by a customer service committee in accordance with any statement approved under sub-paragraph (3) below.

(2) A customer service committee shall prepare in respect of each financial year a statement of the expenses which it expects to incur in respect of that year—

(a) in relation to officers and employees of the committee and its sub-committees; or

SCH. 4

(b) otherwise for the purposes of, or in connection with, the carrying out of its functions;

and that statement shall be sent to the Director, in the case of the statement in respect of the financial year current at the establishment of the committee, as soon as practicable after the establishment of the committee and, in any other case, before the beginning of the financial year to which the statement relates.

(3) The Director shall consider any statement sent to him under sub-paragraph (2) above and shall either approve the statement or approve it with such modifications as he considers appropriate.

Parliamentary disqualification etc.

1975 c. 24.

6. In the House of Commons Disqualification Act 1975, in Part III of Schedule 1 (other disqualifying offices), there shall be inserted (at the appropriate place) the following entry—

"Chairman of a customer service committee established under section 6 of the Water Act 1989.";

1975 c. 25.

and the like insertion shall be made in Part III of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975.

Sections 13 and 23.

SCHEDULE 5

TRANSITIONAL PROVISION ON TERMINATION OF APPOINTMENTS

Cases where Schedule applies

1.—(1) This Schedule shall apply in each of the cases specified in sub-paragraphs (2) and (3) below.

(2) The first case in which this Schedule applies is where—

(a) the Secretary of State or the Director is proposing to make an appointment or variation to which section 12 of this Act applies; and

(b) by virtue of that appointment a company ("the new appointee") will hold an appointment as the water undertaker or sewerage undertaker for an area which is or includes the whole or any part of the area for which until the relevant date another company ("the existing appointee") holds an appointment as the water undertaker or, as the case may be, sewerage undertaker.

(3) The second case in which this Schedule applies is where—

(a) the High Court has made a special administration order in relation to any company ("the existing appointee"); and

(b) it is proposed that on and after the relevant date another company ("the new appointee") should, without any such appointment or variation as is mentioned in sub-paragraph (2) above having been made, hold an appointment as water undertaker or sewerage undertaker for an area which is or includes the whole or any part of the area for which until that date the existing appointee holds an appointment as water undertaker or, as the case may be, sewerage undertaker.

(4) In this Schedule—

"existing appointee" and "new appointee" shall be construed in accordance with sub-paragraph (2) or (3) above according to whether this Schedule is applying in the case mentioned in the first or second of those sub-paragraphs;

"other appointees" means any companies, other than the existing appointee and the new appointee, which are likely on or at a time after the relevant date to be holding appointments as water undertakers or sewerage

undertakers for any area which is or includes any part of the area for which the existing appointee has at any time held an appointment as water undertaker or sewerage undertaker;

"the relevant date" means—

(a) where this Schedule applies by virtue of sub-paragraph (2) above, the coming into force of the appointment or variation mentioned in paragraph (a) of that sub-paragraph; and

(b) where this Schedule applies by virtue of sub-paragraph (3) above, such day, being a day before the discharge of the special administration order takes effect, as the High Court may appoint for the purposes of this Schedule;

"special administration order" means an order under section 23 of this Act (whether made by virtue of that section or section 24 of this Act); and

"special administrator", in relation to a company in relation to which a special administration order has been made, means the person for the time being holding office for the purposes of section 23(2) of this Act.

Making and modification of transfer schemes

2.—(1) The existing appointee, acting with the consent of the new appointee and, in relation to the matters affecting them, of any other appointees, may make a scheme under this Schedule for the transfer of property, rights and liabilities from the existing appointee to the new appointee.

(2) A scheme under this Schedule shall not take effect unless it is approved by the Secretary of State or the Director.

(3) Where a scheme under this Schedule is submitted to the Secretary of State or the Director for his approval, he may, with the consent of the new appointee, of the existing appointee and, in relation to the matters affecting them, of any other appointees, modify the scheme before approving it.

(4) If at any time after a scheme under this Schedule has come into force in relation to the property, rights and liabilities of any company the Secretary of State considers it appropriate to do so and the existing appointee, the new appointee and, in relation to the provisions of the order which affect them, any other appointees consent to the making of the order, the Secretary of State may by order provide that that scheme shall for all purposes be deemed to have come into force with such modifications as may be specified in the order.

(5) An order under sub-paragraph (4) above may make, with effect from the coming into force of the scheme to which it relates, any such provision as could have been made by the scheme and, in connection with giving effect to that provision from that time, may contain such supplemental, consequential and transitional provision as the Secretary of State considers appropriate.

(6) In determining, in accordance with his duties under Part I of this Act, whether and in what manner to exercise any power conferred on him by this paragraph the Secretary of State or the Director shall have regard to the need to ensure that any provision for the transfer of property, rights and liabilities in accordance with a scheme under this Schedule allocates property, rights and liabilities to the different companies affected by the scheme in such proportions as appear to him to be appropriate in the context of the different functions which will, by virtue of this Act, be carried out at different times on and after the relevant date by the new appointee, by the existing appointee and by any other appointees.

(7) It shall be the duty of the new appointee, of the existing appointee and of any other appointees to provide the Secretary of State or the Director with all such information and other assistance as he may reasonably require for the purposes of, or in connection with, the exercise of any power conferred on him by this paragraph.

SCH. 5

(8) A company which without reasonable excuse fails to do anything required of it by virtue of sub-paragraph (7) above shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.

(9) Without prejudice to the other provisions of this Act relating to the special administrator of a company, anything which is required by this paragraph to be done by a company shall, where that company is a company in relation to which a special administration order is in force, be effective only if it is done on the company's behalf by its special administrator.

Transfers by scheme

3.—(1) A scheme under this Schedule for the transfer of the existing appointee's property, rights and liabilities shall come into force on the relevant date and, on coming into force, shall have effect, in accordance with its provisions and without further assurance, so as to transfer the property, rights and liabilities to which the scheme relates to the new appointee.

(2) For the purpose of making any division of property, rights or liabilities which it is considered appropriate to make in connection with the transfer of property, rights and liabilities in accordance with a scheme under this Schedule, the provisions of that scheme may—

(a) create for the existing appointee, the new appointee or any other appointees an interest in or right over any property to which the scheme relates;

(b) create new rights and liabilities as between any two or more of those companies; and

(c) in connection with any provision made by virtue of paragraph (a) or (b) above, make incidental provision as to the interests, rights and liabilities of other persons with respect to the subject-matter of the scheme.

(3) A scheme under this Schedule may contain provision for the consideration to be provided by the new appointee and by any other appointees in respect of the transfer or creation of property, rights and liabilities by means of the scheme; and any such provision shall be enforceable in the same way as if the property, rights and liabilities had been created or transferred, and (if the case so requires) had been capable of being created or transferred, by agreement between the parties.

(4) The property, rights and liabilities of the existing appointee that shall be capable of being transferred in accordance with a scheme under this Schedule shall include—

(a) property, rights and liabilities that would not otherwise be capable of being transferred or assigned by the existing appointee;

(b) such property, rights and liabilities to which the existing appointee may become entitled or subject after the making of the scheme and before the relevant date as may be described in the scheme;

(c) property situated anywhere in the United Kingdom or elsewhere;

(d) rights and liabilities under enactments;

(e) rights and liabilities under the law of any part of the United Kingdom or of any country or territory outside the United Kingdom.

(5) Where a scheme under this Schedule is made in the case specified in paragraph 1(3) above, the scheme may provide for the transfer to the new appointee, with such modifications as may be specified in the scheme, of the appointment under Chapter I of Part II of this Act which is held by the existing appointee; and in such a case different schemes under this Schedule may provide for the transfer of such an appointment to different companies as respects different parts of the area to which the appointment relates.

SCH. 5

(6) The provision that may be made by virtue of sub-paragraph (2)(b) above includes—

(a) provision for treating any person who is entitled by virtue of a scheme under this Schedule to possession of a document as having given another person an acknowledgement in writing of the right of that other person to the production of the document and to delivery of copies thereof; and

(b) provision applying section 64 of the Law of Property Act 1925 (production and safe custody of documents) in relation to any case in relation to which provision falling within paragraph (a) above has effect. 1925 c. 20.

(7) For the avoidance of doubt, it is hereby declared that the transfers authorised by paragraph (a) of sub-paragraph (4) above include transfers which, by virtue of that paragraph, are to take effect as if there were no such contravention, liability or interference with any interest or right as there would be, in the case of a transfer or assignment otherwise than in accordance with a scheme under this Schedule, by reason of any provision having effect (whether under any enactment or agreement or otherwise) in relation to the terms on which the existing appointee is entitled or subject to the property, right or liability in question.

Supplemental provisions of schemes

4.—(1) A scheme under this Schedule may contain supplemental, consequential and transitional provision for the purposes of, or in connection with, the provision for the transfers or any other provision made by the scheme.

(2) Without prejudice to the generality of sub-paragraph (1) above, a scheme under this Schedule may provide—

(a) that for purposes connected with any transfers made in accordance with the scheme (including the transfer of rights and liabilities under an enactment) the new appointee is to be treated as the same person in law as the existing appointee;

(b) that, so far as may be necessary for the purposes of or in connection with any such transfers, agreements made, transactions effected and other things done by or in relation to the existing appointee are to be treated as made, effected or done by or in relation to the new appointee;

(c) that, so far as may be necessary for the purposes of or in connection with any such transfers, references in any agreement (whether or not in writing) or in any deed, bond, instrument or other document to, or to any officer of, the existing appointee are to have effect with such modifications as are specified in the scheme;

(d) that proceedings commenced by or against the existing appointee are to be continued by or against the new appointee;

(e) that the effect of any transfer under the scheme in relation to contracts of employment with the existing appointee is not to be to terminate any of those contracts but is to be that periods of employment with the existing appointee are to count for all purposes as periods of employment with the new appointee;

(f) that disputes as to the effect of the scheme between the existing appointee and the new appointee, between either of them and any other appointee or between different companies which are other appointees are to be referred to such arbitration as may be specified in or determined under the scheme;

(g) that determinations on such arbitrations and certificates given jointly by two or more such appointees as are mentioned in paragraph (f) above as to the effect of the scheme as between the companies giving the certificates are to be conclusive for all purposes.

SCH. 5

Duties of existing appointee after the scheme comes into force

5.—(1) A scheme under this Schedule may provide for the imposition of duties on the existing appointee and on the new appointee to take all such steps as may be requisite to secure that the vesting in the new appointee, by virtue of the scheme, of any foreign property, right or liability is effective under the relevant foreign law.

(2) The provisions of a scheme under this Schedule may require the existing appointee to comply with any directions of the new appointee in performing any duty imposed on the existing appointee by virtue of a provision included in the scheme under sub-paragraph (1) above.

(3) A scheme under this Schedule may provide that, until the vesting of any foreign property, right or liability of the existing appointee in the new appointee is effective under the relevant foreign law, it shall be the duty of the existing appointee to hold that property or right for the benefit of, or to discharge that liability on behalf of, the new appointee.

(4) Nothing in any provision included by virtue of this paragraph in a scheme under this Schedule shall be taken as prejudicing the effect under the law of any part of the United Kingdom of the vesting by virtue of the scheme in the new appointee of any foreign property, right or liability.

(5) A scheme under this Schedule may provide that, in specified cases, foreign property, rights or liabilities that are acquired or incurred by an existing appointee after the scheme comes into force are immediately to become property, rights or liabilities of the new appointee; and such a scheme may make the same provision in relation to any such property, rights or liabilities as can be made, by virtue of the preceding provisions of this paragraph, in relation to foreign property, rights and liabilities vested in the existing appointee when the scheme comes into force.

(6) References in this paragraph to any foreign property, right or liability are references to any property, right or liability as respects which any issue arising in any proceedings would have to be determined (in accordance with the rules of private international law) by reference to the law of a country or territory outside the United Kingdom.

(7) Any expenses incurred by an existing appointee in consequence of any provision included by virtue of this paragraph in a scheme under this Schedule shall be met by the new appointee.

(8) Duties imposed on a company by virtue of this paragraph shall be enforceable in the same way as if they were imposed by a contract between the existing appointee and the new appointee.

Further transitional provision and local statutory provisions

6.—(1) The Secretary of State may, if he thinks it appropriate to do so for the purposes of, or in connection with, any appointment or variation to which section 12 of this Act applies or any scheme under this Schedule, by order made by statutory instrument—

(a) make any provision which corresponds in relation to any enactment mentioned in Schedule 26 to this Act to any provision made by that Schedule or makes similar provision in relation to any other enactment;

(b) amend or repeal any local statutory provision.

(2) An order under this paragraph may—

(a) make provision applying generally in relation to local statutory provisions of a description specified in the order;

(b) make different provision for different cases, including different provision in relation to different persons, circumstances or localities; and

(c) contain such supplemental, consequential and transitional provision as the Secretary of State considers appropriate. SCH. 5

SCHEDULE 6

Section 23.

SPECIAL ADMINISTRATION ORDERS

PART I

MODIFICATIONS OF THE 1986 ACT

General application of provisions of 1986 Act

1. Where a special administration order has been made, sections 11 to 15, 17 to 23 and 27 of the 1986 Act (which relate to administration orders under Part II of that Act) shall apply, with the modifications specified in the following provisions of this Part of this Schedule—

(a) as if references in those sections to an administration order were references to a special administration order and references to an administrator were references to a special administrator; and

(b) where the company in relation to which the order has been made is a statutory water company that is not a limited company, as if references to a company included references to such a company.

Effect of order

2. In section 11 of the 1986 Act (effect of order), as applied by this Part of this Schedule—

(a) the requirement in subsection (1)(a) that any petition for the winding up of the company shall be dismissed shall be without prejudice to the special administration order in a case where the order is made by virtue of section 24 of this Act;

(b) the references in subsections (1)(b), (3)(b) and (4) to an administrative receiver, in relation to a statutory water company that is not a limited company, shall include references to any receiver whose functions in relation to that company correspond to those of an administrative receiver in relation to a limited company; and

(c) the reference in subsection (3)(d) to proceedings shall include a reference to any proceedings under or for the purposes of section 20 of this Act.

Appointment of special administrator

3. In section 13 of the 1986 Act (appointment of administrator), as applied by this Part of this Schedule, for subsection (3) there shall be substituted the following subsection—

"(3) An application for an order under subsection (2) may be made—

(a) by the Secretary of State;

(b) with the consent of the Secretary of State, by the Director General of Water Services;

(c) by any continuing special administrator of the company; or

(d) where there is no such special administrator, by the company, the directors or any creditor or creditors of the company."

SCH. 6

General powers of special administrator

4. In section 14 of the 1986 Act (general powers of administrator), as applied by this Part of this Schedule—

(a) in subsection (1)(b), the reference to the powers specified in Schedule 1 to that Act shall be deemed to include a reference to a power to act on behalf of the company for the purposes of this Act, any local statutory provision or the exercise or performance of any power or duty which is conferred or imposed on the company by virtue of its holding an appointment under Chapter I of Part II of this Act; and

(b) in subsection (4), the reference to a power conferred by the company's memorandum or articles of association shall be deemed to include a reference to a power conferred by a local statutory provision or by virtue of the company's holding such an appointment.

Power to deal with charged property

5.—(1) Section 15 of the 1986 Act (power to deal with charged property), as applied by this Part of this Schedule, shall have effect as follows.

(2) In subsection (5)(b) (amount to be paid to chargeholder not to be less than open market value), for the words "in the open market by a willing vendor" there shall be substituted the words "for the best price which is reasonably available on a sale which is consistent with the purposes of the special administration order".

(3) Subsections (7) and (8) (notice to registrar) shall not apply where the company in relation to which the special administration order is made is a statutory water company that is not a limited company.

Duties of special administrator

6.—(1) Section 17 of the 1986 Act (duties of administrator), as applied by this Part of this Schedule, shall have effect as follows.

(2) For subsection (2) there shall be substituted the following subsection—

"(2) Subject to any directions of the court, it shall be the duty of the special administrator to manage the affairs, business and property of the company in accordance with proposals, as for the time being revised under section 23, which have been prepared for the purposes of that section by him or any predecessor of his."

(3) In subsection (3), paragraph (a) (right of creditors to require the holding of a creditors' meeting) shall be omitted.

Discharge of order

7.—(1) Section 18 of the 1986 Act (discharge and variation of administration order), as applied by this Part of this Schedule, shall have effect as follows.

(2) For subsections (1) and (2) there shall be substituted the following subsection—

"(1) An application for a special administration order to be discharged may be made—

(a) by the special administrator, on the ground that the purposes of the order have been achieved; or

(b) by the Secretary of State or, with the consent of the Secretary of State, the Director General of Water Services, on the ground that it is no longer necessary that those purposes are achieved."

(3) In subsection (3), the words "or vary" shall be omitted.

(4) In subsection (4), the words "or varied" and "or variation" shall be omitted and for the words "to the registrar of companies" there shall be substituted—

(a) where the company in relation to which the special administration order is made is a statutory water company that is not a limited company, the words "to the Director General of Water Services"; and

(b) in any other case, the words "to the registrar of companies and to the Director General of Water Services".

Notice of making of order

8. In section 21(2) of the 1986 Act (notice of order to be given by administrator), as applied by this Part of this Schedule, for the words "to the registrar of companies" there shall be substituted—

(a) where the company in relation to which the special administration order is made is a statutory water company that is not a limited company, the words "to the Director General of Water Services"; and

(b) in any other case, the words "to the registrar of companies, to the Director General of Water Services".

Statement of proposals

9. In section 23 of the 1986 Act (statement of proposals), as applied by this Part of this Schedule, for subsections (1) and (2) there shall be substituted the following subsections—

"(1) Where a special administration order has been made, the special administrator shall, within 3 months (or such longer period as the court may allow) after the making of the order send a statement of his proposals for achieving the purposes of the order—

(a) to the Secretary of State and to the Director General of Water Services;

(b) so far as he is aware of their addresses, to all creditors of the company; and

(c) except where the company in relation to which the special administration order is made is a statutory water company that is not a limited company, to the registrar of companies;

and may from time to time revise those proposals.

(2) If at any time—

(a) the special administrator proposes to make revisions of the proposals for achieving the purposes of the special administration order; and

(b) those revisions appear to him to be substantial,

the special administrator shall, before making those revisions, send a statement of the proposed revisions to the Secretary of State, to the Director General of Water Services, (so far as he is aware of their addresses) to all creditors of the company and, except where the company in relation to which the special administration order is made is a statutory water company that is not a limited company, to the registrar of companies.

(2A) Where the special administrator is required by subsection (1) or (2) to send any person a statement before the end of any period or before making any revision of any proposals, he shall also, before the end of that period or, as the case may be, before making those revisions either—

(a) send a copy of the statement (so far as he is aware of their addresses) to all members of the company; or

SCH. 6

(b) publish in the prescribed manner a notice stating an address to which members should write for copies of the statement to be sent to them free of charge."

Applications to court

10.—(1) Section 27 of the 1986 Act (protection of interests of creditors and members), as applied by this Part of this Schedule, shall have effect as follows.

(2) After subsection (1) there shall be inserted the following subsection—

"(1A) At any time when a special administration order is in force the Secretary of State or, with the consent of the Secretary of State, the Director General of Water Services may apply to the High Court by petition for an order under this section on the ground that the special administrator has exercised or is exercising, or proposing to exercise, his powers in relation to the company in a manner which—

(a) will not best ensure the achievement of the purposes of the order; or

(b) without prejudice to paragraph (a) above, involves either a contravention of the conditions of the company's appointment under Chapter I of Part II of the Water Act 1989 or of any statutory or other requirement imposed on the company in consequence of that appointment."

(3) In subsection (3) (order not to prejudice or prevent voluntary arrangements or administrator's proposals), for paragraphs (a) and (b) there shall be substituted the words "the achievement of the purposes of the order".

(4) Subsections (4)(d) and (6) (power of court to order discharge) shall be omitted.

PART II

SUPPLEMENTAL

General adaptations and saving

11.—(1) Subject to the preceding provisions of this Schedule, references in the 1986 Act (except in sections 8 to 10 and 24 to 26) or in any other enactment passed before this Act to an administration order under Part II of that Act, to an application for such an order and to an administrator shall include references, respectively, to a special administration order, to an application for a special administration order and to a special administrator.

(2) Subject as aforesaid and to sub-paragraph (3) below, references in the 1986 Act or in any other enactment passed before this Act to an enactment contained in Part II of that Act shall include references to that enactment as applied by section 23 of this Act or Part I of this Schedule.

(3) Sub-paragraphs (1) and (2) above shall apply in relation to a reference in an enactment contained in Part II of the 1986 Act only so far as necessary for the purposes of the operation of the provisions of that Part as so applied.

(4) The provisions of this Schedule shall be without prejudice to the power conferred by section 411 of the 1986 Act (company insolvency rules), as modified by sub-paragraphs (1) and (2) above.

Interpretation

1986 c. 45.

12.—(1) In this Schedule "the 1986 Act" means the Insolvency Act 1986.

SCH. 6

(2) In this Schedule and in any modification of the 1986 Act made by this Schedule—

"special administration order" means an order under section 23 of this Act (whether made by virtue of that section or section 24 of this Act); and

"special administrator", in relation to a special administration order, means any person appointed in relation to that order for the purposes of section 23(2) of this Act.

SCHEDULE 7

Sections 51 and 111.

PROCEDURE FOR CERTAIN ORDERS

Orders to which Schedule applies

1. This Schedule applies to orders under section 51 or 111 of this Act; and in this Schedule—

"a relevant authority"—

(a) in relation to an order under section 51 of this Act, means the Director or a water undertaker; and

(b) in relation to an order under section 111 of this Act, means the Authority;

and

"the relevant locality"—

(a) in relation to a proposed order under section 51 of this Act, means the locality which would be affected by the provision proposed to be made by the order; and

(b) in relation to a proposed order under section 111 of this Act, means the area proposed to be designated as a water protection zone by the order.

Applications for orders

2.—(1) Where a relevant authority applies to the Secretary of State for an order to which this Schedule applies, the applicant shall—

(a) submit to the Secretary of State a draft of the order applied for;

(b) publish a notice with respect to the application, at least once in each of two successive weeks, in one or more newspapers circulating in the relevant locality;

(c) not later than the date on which that notice is first published serve a copy of the notice on every local authority and water undertaker whose area includes the whole or any part of that locality; and

(d) publish a notice in the London Gazette which—

(i) states that the draft order has been submitted to the Secretary of State;

(ii) names every local authority on whom a notice is required to be served under this paragraph;

(iii) specifies a place where a copy of the draft order and of any relevant map or plan may be inspected; and

(iv) gives the name of every newspaper in which the notice required by virtue of paragraph (b) above was published and the date of an issue containing the notice.

(2) The notice required by virtue of sub-paragraph (1)(b) above to be published with respect to an application for an order shall—

(a) state the general effect of the order applied for;

SCH. 7

(b) specify a place where a copy of the draft order and of any relevant map or plan may be inspected by any person free of charge at all reasonable times during the period of twenty-eight days beginning with the date of the first publication of the notice; and

(c) state that any person may, within that period, by notice to the Secretary of State object to the making of the order.

Supply of copies of draft orders

3. The applicant for an order to which this Schedule applies shall, at the request of any person and on payment by that person of such charge (if any) as the applicant may reasonably require, furnish that person with a copy of the draft order submitted to the Secretary of State under paragraph 2 above.

Modifications of proposals

4.—(1) On an application for an order to which this Schedule applies, the Secretary of State may make the order either in the terms of the draft order submitted to him or, subject to sub-paragraph (2) below, in those terms as modified in such manner as he thinks fit, or may refuse to make an order.

(2) The Secretary of State shall not make such a modification of a draft order submitted to him as he considers is likely adversely to affect any persons unless he is satisfied that the applicant for the order has given and published such additional notices, in such manner, as the Secretary of State may have required.

(3) Subject to sub-paragraph (2) above and to the service of notices of the proposed modification on such local authorities as appear to him to be likely to be interested in it, the modifications that may be made by the Secretary of State of a draft order under section 111 of this Act include any modification of the area designated by the draft order as a water protection zone.

Consideration of objections etc.

5. Without prejudice to section 120 of this Act, where an application for an order to which this Schedule applies has been made, the Secretary of State may, if he considers it appropriate to do so, hold a local inquiry before making any order on the application.

Section 69.

SCHEDULE 8

SEWERAGE FUNCTIONS

General

1.—(1) Subject to the following provisions of this Schedule and to any repeal made by this Act, in the provisions to which this sub-paragraph applies, for any reference which falls to be construed as a reference to a water authority there shall be substituted a reference to a sewerage undertaker, and references falling to be construed as references to the area of a water authority shall have effect accordingly.

(2) Sub-paragraph (1) above applies to—

1936 c. 49.

(a) sections 17 to 19, 21 and 22, 30 and 31, 34, 36, 42 and 48 of the Public Health Act 1936 (in this Schedule referred to as "the 1936 Act");

(b) the following provisions of Part XII of the 1936 Act so far as they relate to any of the sections specified in paragraph (a) above or to section 27 of that Act, that is to say, sections 275, 276, 278, 283, 291 to 294, 298, 300 to 302, 330 to 334, 339 and 341;

1937 c. 40.

(c) the Public Health (Drainage of Trade Premises) Act 1937 (in this Schedule referred to as "the 1937 Act"); and

(d) Part V of the Public Health Act 1961 (in this Schedule referred to as "the 1961 Act"). SCH. 8 1961 c. 64.

(3) Sections 284, 290, 304, 305 and 322 to 325 of the 1936 Act (authentication of documents, works notices, judicial disqualification, protection of officers etc. and enforcement powers), so far as they have effect as modified by section 14 of the 1973 Act for the purposes of or in relation to any of the provisions of the 1936 Act to which sub-paragraph (1) above applies, shall have effect as from the transfer date without the modifications made by the said section 14.

The Public Health Act 1936 (c. 49)

2.—(1) In section 18 of the 1936 Act (agreements to adopt sewers), after subsection (3) there shall be inserted the following subsections—

"(4) Where—

(a) a person constructing or proposing to construct a drain or sewer or any sewage disposal works has made an application to a sewerage undertaker requesting the undertaker to enter into an agreement under this section;

(b) that application has been accompanied or supplemented by all such information as the undertaker may have reasonably required; and

(c) the undertaker refuses the application, offers to grant it on terms to which that person objects or fails before the expiration of two months from the making of the application either to refuse the application or to give notice to the applicant of the terms on which it is prepared to grant the application,

that person may appeal to the Minister under this subsection.

(5) On the hearing of an appeal under the preceding subsection, the Minister may uphold the refusal of the undertaker to grant the application or to modify the terms offered or may, on behalf of the undertaker—

(a) refuse the application; or

(b) enter into any agreement into which the undertaker might have entered on the application;

and where under this subsection the Minister enters into any agreement on behalf of a sewerage undertaker, he may do so on such terms as he considers reasonable or, as the case may be, on the terms offered by the undertaker subject to such modifications as he considers appropriate for ensuring that the terms of the agreement are reasonable.

(6) Subsection (4) of the preceding section shall apply with the necessary modifications in relation to an appeal under subsection (4) of this section as it applies in relation to an appeal under subsection (3) of that section."

(2) In section 19 of the 1936 Act (power to require sewer or drain to be constructed so as to form part of the general system)—

(a) the words in subsection (2) from "and if" onwards (which confer jurisdiction on magistrates' courts with respect to the recovery of expenses incurred by virtue of that section) shall be omitted; and

(b) for subsection (3) (which makes it an offence not to comply with requirements imposed under that section) there shall be substituted the following subsection—

"(3) The duty under this section to comply with the requirements of a sewerage undertaker shall be owed to the undertaker; and any breach of that duty which causes the undertaker to sustain loss or damage shall be actionable at the suit of the undertaker."

SCH. 8

(3) The power conferred by section 21(1)(a) of the 1936 Act (use of certain drains and sewers for conveying surface water) on local authorities, within the meaning of that Act, shall continue to be exercisable by those authorities, as well as, by virtue of paragraph 1 above, by sewerage undertakers.

(4) In section 22 of the 1936 Act (power to alter or close public sewers), for the words from the beginning to "such public sewer" there shall be substituted the words "A sewerage undertaker may discontinue and prohibit the use of any public sewer vested in the undertaker".

(5) Section 24 of the 1936 Act (power to recover cost of maintaining certain lengths of sewer) shall cease to have effect.

(6) In section 34 of the 1936 Act (right of owners and occupiers to drain into public sewers)—

(a) in subsection (1), for the words from "or the owner" to "thereby" there shall be substituted the words "in the area of a sewerage undertaker or the owner of any private sewer draining premises in the area of such an undertaker shall be entitled to have his drains or sewer communicate with the public sewers of that undertaker and thereby"; and

(b) for subsection (2) (power of owner or occupier to break open any streets) there shall be substituted the following subsection—

"(2) For the purpose of exercising his rights under this section or of examining, repairing or renewing any drain or private sewer draining his premises into a public sewer, the owner or occupier of any premises shall be entitled to exercise the same powers as, for the purpose of carrying out its functions, are conferred on a sewerage undertaker by paragraph 2 of Schedule 19 to the Water Act 1989 (street works); and the provisions of that Act shall apply, with the necessary modifications, in relation to the power conferred by this subsection as they apply in relation to the power conferred by that paragraph."

(7) In section 36(2) of the 1936 Act (right to demand security for costs of carrying out connection works), for the words from "until" onwards there shall be substituted the words "until either—

(a) there has been paid to the sewerage undertaker any such sum, not exceeding the undertaker's reasonable estimate of the cost of the work, as the undertaker may have required to be paid to it; or

(b) there has been given to the undertaker such security for the payment of the cost of the work as it may reasonably have required."

(8) In section 50(1) of the 1936 Act (overflowing and leaking cesspools), the words "or the water authority for the area" shall be omitted.

(9) Section 287 of the 1936 Act (powers of entry) shall apply in relation to a sewerage undertaker for the purposes of the provisions of that Act to which paragraph 1(1) above applies and of section 27 of that Act as it applies in relation to a local authority for the purposes of the other provisions of that Act but as if—

(a) the reference in that section to an authorised officer of a local authority were a reference to a person designated in writing for the purposes of that section by a sewerage undertaker; and

(b) the words "if so required," were omitted.

(10) Section 181 of this Act shall apply in relation to a local inquiry held by virtue of this Schedule under section 318 of the 1936 Act (local inquiries) as it applies to local inquiries under this Act.

SCH. 8

(11) Without prejudice to the powers conferred by virtue of Chapter IV of Part II of this Act, no liability shall arise at any time on or after the transfer date to make a payment by virtue of section 337 of the 1936 Act (saving for certain yearly payments).

(12) In section 343 of the 1936 Act (interpretation), for the definition of "public sewer" there shall be substituted the following definition—

> "'public sewer' means a sewer for the time being vested in a sewerage undertaker in its capacity as such, whether vested in that undertaker by virtue of a scheme under Schedule 2 or 5 to the Water Act 1989 or under section 153 of that Act or otherwise;".

The Public Health (Drainage of Trade Premises) Act 1937 (c. 40)

3.—(1) In section 2 of the 1937 Act (trade effluent notices and consents)—

(a) in subsection (1), for the words from the beginning to "in accordance with", in the first place where it occurs, there shall be substituted the words "An application to a sewerage undertaker for a consent to discharge trade effluent from any trade premises into the public sewer of a sewerage undertaker shall be by";

(b) in subsection (3), for the words from the beginning to "that consent" there shall be substituted the words "The power of a sewerage undertaker to give a consent on an application under subsection (1) of this section shall be a power to give a consent"; and

(c) after subsection (5) of that section there shall be substituted the following subsection—

> "(5A) A person guilty of an offence under subsection (5) above shall be liable—
>
> (a) on summary conviction, to a fine not exceeding the statutory maximum; and
>
> (b) on conviction on indictment, to a fine."

(2) On and after the transfer date—

(a) appeals under section 3 of the 1937 Act (appeals in respect of trade effluent notices);

(b) references under section 4 of that Act (disputes under section 43 of the Control of Pollution Act 1974); and 1974 c. 40.

(c) applications under section 7(5) of the 1937 Act (cancellation of pre-1937 Act agreements),

shall be made to the Director, instead of to the Secretary of State; and, accordingly, references in those provisions and in sections 61, 66 and 68 of the 1961 Act to the Secretary of State shall have effect on and after that date, in relation to any such appeal, reference or application, as references to the Director.

(3) Subject to paragraph 1(6) of Schedule 9 to this Act, the initial period for the purposes of section 3 of the 1937 Act (appeals) shall, in relation to any trade effluent notice, be the period of two months beginning with the day after service of the notice.

(4) On any appeal or reference under section 3 or 7(5) of 1937 Act—

(a) conditions providing for the payment of charges to the sewerage undertaker in question shall not be determined by the Director except in so far as no provision is in force by virtue of a scheme under section 76 of this Act in respect of any such receptions, discharges, removals or disposals of effluent or substances as are of the same description as the reception, discharge, removal or disposal which is the subject-matter of the appeal or reference; and

SCH. 8

(b) in so far as any such conditions do fall to be determined by the Director, they shall be determined having regard to the desirability of that undertaker's recovering the expenses of complying with its obligations in consequence of the consent or agreement to which the conditions relate and of securing a reasonable return on its capital;

and, to the extent that paragraph (a) above excludes any charges from a determination on such an appeal or reference, those charges shall be fixed from time to time by a scheme under the said section 76 but not otherwise.

(5) After section 7 of the 1937 Act (certified copies of agreements to be made available for inspection) there shall be inserted the following section—

"Inspection of consents etc.

7A.—(1) It shall be the duty of every sewerage undertaker to secure that copies of—

(a) every consent given or having effect as if given by the undertaker under this Act;

(b) every agreement entered into or having effect as if entered into by the undertaker under section 7 of this Act;

(c) every direction given or having effect as if given by the undertaker under Part V of the Public Health Act 1961; 1961 c. 64.

(d) every direction given or having effect as if given by the undertaker in pursuance of section 43(3) of the Control of Pollution Act 1974; and 1974 c. 40.

(e) every notice served on the undertaker under paragraph 3 of Schedule 9 to the Water Act 1989,

are kept available, at all reasonable times, for inspection by the public free of charge at the offices of the undertaker.

(2) It shall be the duty of every sewerage undertaker, on the payment of such sum as may be reasonable, to furnish a person who requests it with a copy of, or of an extract from, anything kept available for inspection under this subsection.

(3) The duties of a sewerage undertaker under this section shall be enforceable under section 20 of the Water Act 1989 by the Director General of Water Services."

(6) In section 9(3) of the 1937 Act (offence of failure to provide information etc.), the words from "and to a further" onwards shall be omitted.

(7) The provisions of Part XII of the 1936 Act so far as they have effect by virtue of section 14(2) of the 1937 Act in relation to any enactment contained in the 1937 Act shall so have effect as they have effect, by virtue of the preceding provisions of this Schedule, in relation to the sections specified in paragraph 1(2)(a) above; and, accordingly, the references in section 10 of the 1937 Act to an officer of a water authority shall have effect as references to any such person as is mentioned in paragraph 2(9) above.

The Public Health Act 1961 (c. 64)

4.—(1) Sections 12 to 14 of and Schedule 2 to the 1961 Act (contributions to costs of sewering highways etc.) shall cease to have effect.

(2) On and after the transfer date—

(a) appeals under section 60 of the 1961 Act (power to vary conditions); and

(b) applications under section 62 of that Act (power to vary directions), SCH. 8

shall be made to the Director, instead of to the Secretary of State; and, accordingly, references in those provisions and in sections 66 and 68 of that Act to the Secretary of State shall have effect on and after that date, in relation to any such appeal or application, as references to the Director.

(3) Sub-paragraph (4) of paragraph 3 above shall apply with the necessary modifications in relation to an appeal under section 60 of the 1961 Act as it applies in relation to such an appeal or reference as is mentioned in that sub-paragraph.

(4) On and after the transfer date the power under subsection (5) of section 60 of the 1961 Act to give permission for an appeal under that section to be brought more than two months after the giving of a notice of any direction under subsection (1) of that section shall be exercisable only by the Director.

(5) In section 63(1)(a) of the 1961 Act (extension of definition of "trade"), after the words "horticultural purposes" there shall be inserted the words "or for the purposes of fish farming", and after the word "horticulture" in the words after paragraph (b) there shall be inserted the words "fish farming".

(6) The provisions of Part XII of the 1936 Act so far as they have effect by virtue of section 1(3) of the 1961 Act in relation to any enactment contained in Part V of the 1961 Act shall so have effect as they have effect, by virtue of the preceding provisions of this Schedule, in relation to the sections specified in paragraph 1(2)(a) above.

The Control of Pollution Act 1974 (c. 40)

5.—(1) In section 43 of the Control of Pollution Act 1974 (control of discharges into sewers)—

(a) for the references in subsections (1) and (6) to a water authority there shall, in relation to any time on or after the transfer date, be substituted references to a sewerage undertaker;

(b) for the references in subsections (3) and (5) to the water authority whose consent for any discharge is deemed to be given by virtue of subsection (2) of that subsection there shall, in relation to any such time, be substituted references to the sewerage undertaker for the area which immediately before that date was that water authority's area for the purposes of section 14 of the 1973 Act; and

(c) for the references in subsection (5) (appeals to the Secretary of State) to the Secretary of State there shall, in relation to any such time, be substituted references to the Director;

and any regulations made under the said subsection (5) and in force immediately before that date shall have effect on and after that date (subject to any revocation or amendment in exercise of the power conferred by that subsection) with such modifications as may be necessary in consequence of paragraphs (a) and (b) above or for the purpose of enabling appeals made on or after that date to be made to and determined by the Director.

(2) In section 44(3) of the said Act of 1974 (regulations with respect to arbitrations) and in any regulations made under that section and in force immediately before the transfer date, for references to a water authority there shall be substituted references to a sewerage undertaker.

(3) In section 45 of the said Act of 1974 (early variations of conditions of discharges), for references to a water authority there shall be substituted references to a sewerage undertaker.

(4) On and after the transfer date appeals under subsection (4) of the said section 45 shall be made to the Director, instead of to the Secretary of State; and, accordingly, references in that subsection to the Secretary of State shall have effect on and after that date as references to the Director.

SCH. 8 *The Building Act 1984 (c. 55)*

6.—(1) In subsection (1) of section 18 of the Building Act 1984 (building over a sewer etc.), for the words in paragraph (b) from "sewer or drain" to "sewers" there shall be substituted the words "drain, sewer or disposal main that is shown on any map of sewers or to erect it on such a site or in such a manner as would result in its interfering with the use of any such drain, sewer or disposal main or in its obstructing the access of any person to any such drain, sewer or disposal main".

(2) In subsection (2) of that section (notification to water authority)—

(a) for the words in paragraph (b) from "a water" to "sewers" there shall be substituted the words "a drain, sewer or disposal main that is shown on any map of sewers and is vested in a sewerage undertaker or to erect it on such a site or in such a manner as would result in its interfering with the use of any such drain, sewer or disposal main or in its obstructing the access of any person to any such drain, sewer or disposal main"; and

(b) for the words "the water authority" there shall be substituted the words "the sewerage undertaker".

(3) For subsection (3) of that section (directions by water authority) there shall be substituted the following subsection—

"(3) Subject to subsection (4) below, where a sewerage undertaker notifies a local authority of its requirements as to the manner in which the authority are to exercise their functions under subsection (1) above in relation to any case or description of cases affecting any of the undertaker's drains, sewers or disposal mains and those requirements are reasonable, it shall be the duty of the council so to exercise those functions in accordance with those requirements."

(4) In subsection (4) of that section (appeal to magistrates' court), in paragraph (a) for the words "sewer or drain" there shall be substituted the words "drain, sewer or disposal main" and for paragraph (b) there shall be substituted the following paragraphs—

"(b) whether the site on which or the manner in which it is proposed to erect a building or an extension of a building is such as would result in the building or extension interfering with the use of any such drain, sewer or disposal main or in its obstructing the access of any person to any such drain, sewer or disposal main; or

(c) whether, and if so on what conditions, a consent ought to be given by a local authority; or

(d) whether, for the purposes of paragraph (c) above, any requirements notified to a local authority by a sewerage undertaker under subsection (3) above are reasonable,".

(5) In subsection (5) of that section (interpretation)—

(a) before the definition of "drain" there shall be inserted the following definition—

"'disposal main' has the same meaning as in paragraph 1 of Schedule 19 to the Water Act 1989;"

(b) for paragraph (a) of the definition of "map of sewers" there shall be substituted the following paragraph—

"(a) any records kept by a sewerage undertaker under section 166 of the Water Act 1989 (sewer maps)".

7. In section 60(4) of the said Act of 1984 (notice of contravention of provisions with respect to the use and ventilation of soil pipes), the words "or the water authority for the area" shall be omitted.

SCHEDULE 9

Section 74.

CONTROL OF EXERCISE OF TRADE EFFLUENT FUNCTIONS IN CERTAIN CASES

References to the Secretary of State

1.—(1) Subject to sub-paragraph (2) below, where—

(a) a trade effluent notice with respect to discharges of any trade effluent to which section 74 of this Act applies is served on a sewerage undertaker under the 1937 Act by the owner or occupier of any trade premises; or

(b) a sewerage undertaker and the owner or occupier of any trade premises are proposing to enter into any agreement under section 7 of that Act with respect to, or to any matter connected with, the reception or disposal of any such effluent,

it shall be the duty of the undertaker to refer to the Secretary of State the question whether the proposed operations should be prohibited and the question whether, if they are not prohibited, any requirements should be imposed as to the conditions on which they are carried out.

(2) Where a trade effluent notice is served on a sewerage undertaker, the reference required to be made by virtue of sub-paragraph (1)(a) above shall be made before the end of the period of two months beginning with the day after service of the notice, but there shall be no obligation to make such a reference if, before the end of that period, there is a refusal by the sewerage undertaker to give any consent on the application contained in the notice.

(3) If, on an appeal under section 3 of the 1937 Act, it appears to the Director—

(a) that the case is one in which the sewerage undertaker in question is required to make a reference under sub-paragraph (1) above before giving a consent under that Act; and

(b) that the undertaker has not made such a reference, whether because the case falls within sub-paragraph (2) above or otherwise,

the Director shall not be entitled to determine the appeal, otherwise than by upholding a refusal, except where he has himself referred the questions mentioned in sub-paragraph (1) above to the Secretary of State and has been sent a copy of the notice of the Secretary of State's determination on the reference.

(4) Every reference made under this paragraph shall be made in writing and shall be accompanied—

(a) in the case of a reference by virtue of paragraph (a) of sub-paragraph (1) above or sub-paragraph (3) above, by a copy of the trade effluent notice in respect of which the reference is made; and

(b) in the case of a reference by virtue of paragraph (b) of sub-paragraph (1) above, by a copy of the proposed agreement;

and it shall be the duty of a sewerage undertaker where a reference has been made under this paragraph not to give any consent or enter into any agreement with respect to the proposed operations until the Secretary of State serves notice on the sewerage undertaker of his determination on the reference.

(5) It shall be the duty of a sewerage undertaker and of the Director, on making a reference under this paragraph, to serve a copy of the reference on the relevant person; and it shall also be the duty of the Director, on making such a reference, to serve a copy of the reference on the sewerage undertaker in question.

(6) Where a reference is made to the Secretary of State by virtue of sub-paragraph (1)(a) above, the initial period for the purposes of section 3 of the 1937 Act shall not begin to run in relation to the trade effluent notice in respect of which the reference is made until the beginning of the day after the Secretary of State serves notice on the sewerage undertaker in question of his determination on the reference.

SCH. 9

Reviews by the Secretary of State

2.—(1) Where any person, as the owner or occupier of any trade premises, is (whether or not in accordance with a notice under paragraph 3 below) either—

(a) for the time being authorised by virtue of a consent under the 1937 Act to make discharges of any trade effluent to which section 74 of this Act applies from those premises into any public sewer of a sewerage undertaker; or

(b) for the time being a party to any agreement under section 7 of that Act with respect to, or to any matter connected with, the reception or disposal of any such effluent,

the Secretary of State may review the question whether the authorised operations should be prohibited and the question whether, if they are not prohibited, any requirements should be imposed as to the conditions on which they are carried out.

(2) Subject to sub-paragraph (3) below, the Secretary of State shall not review any question under this paragraph unless—

(a) a period of more than two years has elapsed since the relevant time;

(b) the consent, agreement or variation by virtue of which the authorised operations are carried out—

(i) was given, entered into or made either before the transfer date or in contravention of paragraph 4 below; and

(ii) has not previously been the subject-matter of a review;

or

(c) there has since the relevant time been a contravention of any provision which was included in that consent, agreement or variation in compliance with a requirement of a notice under paragraph 3 below.

(3) Sub-paragraph (2) above shall not apply if the review is carried out—

(a) for the purpose of enabling Her Majesty's Government in the United Kingdom to give effect to any Community obligation or to any international agreement to which the United Kingdom is for the time being a party; or

(b) for the protection of public health or of flora and fauna dependent on an aquatic environment.

Determinations on a reference or review

3.—(1) On a reference or review under paragraph 1 or 2 above, it shall be the duty of the Secretary of State, before determining the questions which are the subject-matter of the reference or review—

(a) to give an opportunity of making representations or objections to the Secretary of State to the sewerage undertaker in question and to the relevant person; and

(b) to consider any representations or objections which are duly made to him with respect to those questions by that undertaker or by the relevant person and are not withdrawn.

(2) On determining any question on a reference or review under paragraph 1 or 2 above, the Secretary of State shall serve notice on the sewerage undertaker in question and on the relevant person, stating, according to what has been determined—

(a) that the proposed or authorised operations, or such of them as are specified in the notice, are to be prohibited; or

(b) that those operations, or such of them as are so specified, are to be prohibited except in so far as they are carried out in accordance with conditions which consist in or include conditions so specified; or

(c) that the Secretary of State has no objection to those operations and does not intend to impose any requirements as to the conditions on which they are carried out.

(3) Without prejudice to paragraph 4 below, a notice under this paragraph, in addition to containing such provision as is specified in sub-paragraph (2) above, may do one or both of the following, that is to say—

(a) vary or revoke the provisions of a previous notice with respect to the proposed or authorised operations; and

(b) for the purpose of giving effect to any prohibition or other requirement contained in the notice, vary or revoke any actual or deemed consent under the 1937 Act or any agreement under section 7 of that Act.

(4) The Secretary of State shall send a copy of every notice served under this paragraph to the Director.

Effect of determination

4.—(1) Where a notice under paragraph 3 above has been served on a sewerage undertaker, it shall be the duty of the undertaker and, in relation to that undertaker, of the Director so to exercise the powers to which this paragraph applies as to secure compliance with the provisions of the notice.

(2) This paragraph applies to the following powers, that is to say—

(a) in relation to a sewerage undertaker, any of its powers under section 2 of the 1937 Act (trade effluent consents) or section 60 of the 1961 Act (variation of conditions) and any power to enter into or vary an agreement under section 7 of the 1937 Act; and

(b) in relation to the Director, any of his powers under the 1937 Act, Part V of the 1961 Act or section 43 of the Control of Pollution Act 1974. 1974 c. 40.

(3) Nothing in section 59 of the 1961 Act (conditions of consent) shall be construed as restricting the power of the Secretary of State, by virtue of sub-paragraph (2)(b) of paragraph 3 above, to specify such conditions as he considers appropriate in a notice under that paragraph or restricting the power of a sewerage undertaker, for the purpose of complying with this paragraph, to impose any condition specified in such a notice.

Enforcement

5. Any duty of a sewerage undertaker under this Schedule shall be enforceable under section 20 of this Act by the Secretary of State; but where an application is made to the Secretary of State under that section in respect of a failure by a sewerage undertaker to make a reference under paragraph 1 above, the Secretary of State may, instead of making an order under that section, proceed with the matter as if the application were the reference.

Compensation

6.—(1) Subject to sub-paragraph (2) below, the Secretary of State shall be liable to pay compensation to the relevant person in respect of any loss or damage sustained by that person as a result of any notice under paragraph 3 above containing the Secretary of State's determination on a review which—

(a) has been carried out by virtue of sub-paragraph (3)(b) of paragraph 2 above; and

(b) but for the said sub-paragraph (3)(b), would have been prohibited by virtue of sub-paragraph (2) of that paragraph.

(2) The Secretary of State shall not be required to pay any compensation under sub-paragraph (1) above if the determination in question is shown to have been given in consequence of—

SCH. 9

(a) a change of circumstances which could not reasonably have been foreseen at the relevant time; or

(b) consideration by the Secretary of State of material information which was not reasonably available to him at that time.

(3) Any compensation required to be paid by the Secretary of State under this paragraph shall be paid out of money provided by Parliament.

(4) No person shall be entitled to any compensation under section 45 of the
1974 c. 40. Control of Pollution Act 1974 (early variation of conditions) in respect of anything done in pursuance of paragraph 4 above.

Power of entry

1936 c. 49. 7. Section 287 of the Public Health Act 1936 and section 10 of the 1937 Act (powers of entry) shall have effect in relation to the provisions of this Schedule as they have effect, in accordance with paragraph 3(7) of Schedule 8 to this Act, in relation to the 1937 Act but as if the designation required by virtue of paragraph 2(9)(a) of that Schedule were a designation by the Secretary of State.

Power to disclose information obtained under the 1937 Act

8. In section 68(1) of the 1961 Act (restriction on disclosure of information), the references in paragraphs (b) and (c) to the 1937 Act shall include references to this Schedule.

Interpretation

9. In this Schedule—

1937 c. 40. "the 1937 Act" means the Public Health (Drainage of Trade Premises) Act 1937;

1961 c. 64. "the 1961 Act" means the Public Health Act 1961;

"the authorised operations"—

(a) in relation to a case in which there is a review by virtue of sub-paragraph (1)(a) of paragraph 2 above, means the discharges to which the review relates; and

(b) in relation to a case in which there is a review by virtue of sub-paragraph (1)(b) of that paragraph, means such operations for the purposes of, or in connection with, the reception and disposal of trade effluent as are carried out in pursuance of the agreement to which the review relates;

"the proposed operations"—

(a) in relation to a case in which there is a reference by virtue of sub-paragraph (1)(a) or (3) of paragraph 1 above, means the discharges to which the reference relates; and

(b) in relation to a case in which there is a reference by virtue of sub-paragraph (1)(b) of that paragraph, means such operations for the purposes of, or in connection with, the reception and disposal of trade effluent as would be carried out in pursuance of the proposed agreement;

"the relevant person", in relation to a reference or review under paragraph 1 or 2 above, means the owner or occupier of the trade premises in question, according to whether the authorised or proposed operations to which the reference or review relates are operations by the owner or occupier or, as the case may be, to whether it is the owner or occupier who is proposing to be or is a party to the agreement to which the reference or review relates;

"the relevant time", in relation to a review of any consent or agreement, means the time or last time when notice of the Secretary of State's determination, on a reference or review under paragraph 1 or 2 above of any question relating to that consent or agreement, was served on the owner or occupier of the trade premises in question; SCH. 9

"trade effluent" and "trade premises" have the same meanings as in the 1937 Act.

SCHEDULE 10

Section 78.

PROVISIONS RELATING TO METERS ETC.

Power of entry for installation etc. of meter

1.—(1) Subject to the following provisions of this paragraph, where—

(a) any water undertaker or sewerage undertaker has fixed any charges in relation to any premises by reference to volume or has given notice of its intention of so fixing any charges within the period specified in the notice; and

(b) there is either—

(i) a service pipe which is connected with a water undertaker's water main and by which a supply of water is or could be provided to those premises or to any building in which those premises are contained; or

(ii) a drain or private sewer which connects those premises with a public sewer,

the water undertaker or, as the case may be, the sewerage undertaker shall have power to carry out any works specified in sub-paragraph (3) below; and any person designated in writing for the purpose by the undertaker may enter those premises, or any land occupied with those premises, for any of the purposes specified in sub-paragraph (4) below.

(2) The power under sub-paragraph (1) to carry out works specified in sub-paragraph (3) below shall include power to carry out such works in a street; and the power conferred by virtue of sub-paragraph (1)(d) of paragraph 2 of Schedule 19 to this Act and sub-paragraphs (4) to (6), (8) and (9) of that paragraph and paragraph 3 of that Schedule shall apply in relation to the power conferred by this sub-paragraph as they apply in relation to the powers conferred by the said paragraph 2.

(3) The works mentioned in sub-paragraphs (1) and (2) above are, in relation to any premises—

(a) works consisting in the installation and connection of any meter for use in determining the amount of any charges which have been or may be fixed in relation to the premises;

(b) where the premises comprise a house which is one of two or more houses to which the supply of water is wholly or partly by the same service pipe, works consisting in the installation and connection, for any purpose connected with the installation or connection of such a meter, of a separate service pipe for that house;

(c) works for the purpose of maintaining, repairing, disconnecting or removing—

(i) any meter which has been installed for use in determining the amount of any charges which have been or may be fixed in relation to the premises; or

(ii) any pipes or apparatus installed in the course of any works specified in this paragraph;

and

SCH. 10

(d) any other works appearing to the undertaker to be necessary or expedient for any purpose connected with the carrying out of any works specified in paragraph (a), (b) or (c) above, including the installation and connection of any pipes or other apparatus on the premises and the alteration or removal of any of the plumbing of the premises.

(4) The purposes mentioned in sub-paragraph (1) above are—

(a) the carrying out of any survey or tests for the purpose of determining—

(i) whether the carrying out of any works by virtue of paragraph (a) or (b) of sub-paragraph (3) above is practicable;

(ii) whether it is necessary or expedient for any purpose connected with the carrying out of any works by virtue of either of those paragraphs for any other works to be carried out; or

(iii) how any works specified in that sub-paragraph should be carried out;

(b) the carrying out of any works so specified;

(c) the inspection, examination or testing of any meter which is on those premises or of any pipes or apparatus installed in the course of any works which were carried out for any purpose that is connected with the installation, connection, testing, maintenance or repair of any such meter;

(d) the ascertainment from any meter of the volume of water supplied to, or of effluent discharged from, those premises.

(5) A notice given for the purposes of sub-paragraph (1)(a) above may relate to particular premises or to any description of premises and shall be given—

(a) by publishing the notice in the locality in which the premises to which it relates are situated in such a manner as the undertaker considers appropriate for bringing it to the attention of the persons likely to be affected by it; and

(b) by serving a copy of the notice on the Secretary of State.

(6) Without prejudice to any power exercisable by virtue of a warrant under section 178 of this Act, no person shall make an entry into any premises by virtue of this paragraph except at a reasonable time and after seven days' notice of the intended entry has been given to the occupier of the premises.

(7) Any works carried out by a water undertaker by virtue of the provisions of this paragraph shall be necessary works for the purposes of sections 45 to 51 of this Act; but nothing in this paragraph shall prevent the exercise by a water undertaker of its power by virtue of subsection (3)(b) of section 50 of this Act to impose a condition under subsection (1)(c) or (d) of section 43 of this Act in a case where it has, under the said section 50, required the provision of a separate service pipe to any premises.

Expenses of installation etc.

2.—(1) Subject to sub-paragraphs (2) and (3) and paragraph 3(6) below, where any meter to be used in determining the amount of any charges is installed by or at the request of any water undertaker or sewerage undertaker then, notwithstanding the provisions of any enactment not contained in this Schedule or of any agreement to the contrary between the undertaker and any other person, the undertaker shall bear—

(a) the expenses of installing and connecting the meter;

(b) any expenses incurred in maintaining, repairing, disconnecting or removing the meter in accordance with any requirements of the undertaker; and

(c) any expenses incurred in carrying out any works for purposes connected with the installation and connection of the meter or with the maintenance, repair, disconnection or removal of the meter in accordance with any such requirements.

(2) Sub-paragraph (1) above shall not require any water undertaker or sewerage undertaker to bear, or prevent any such undertaker from recovering from any other person—

(a) any expenses incurred for the purpose of enabling a condition imposed under section 43(1)(c) or (d) of this Act to be satisfied;

(b) any sums which it is entitled to recover in pursuance of any terms or conditions determined under section 46 of this Act;

(c) any sums which it is entitled to recover from that person by virtue of section 50(3)(b) of this Act;

(d) any expenses incurred in relation to a meter which is or is to be used in determining the amount of—

(i) any charges which are to be paid in connection with the carrying out of a sewerage undertaker's trade effluent functions; or

(ii) any charges provision for which is contained in an agreement entered into in accordance with section 7 of the Public Health (Drainage of Trade Premises) Act 1937; 1937 c. 40.

(e) any expenses incurred in consequence of the exercise by the occupier of any premises of any option to be charged by the undertaker in relation to any premises by reference to volume rather than by reference to other matters,

except, in the case of expenses falling within paragraph (a) above, where the conditions could not have been imposed but for the exercise by the undertaker of its power by virtue of paragraph (a), (b), (d) or (e) of section 50(2) of this Act to require the provision of a separate service pipe to any premises.

(3) The occupier of any premises where any water undertaker or sewerage undertaker installs or has installed a meter shall in all cases bear so much of the expenses referred to in sub-paragraph (1) above as is attributable to compliance with a request made by him in accordance with any regulations under section 78(2) of this Act for the positioning, in a place other than that reasonably proposed by the undertaker, either of the meter or of any pipe or apparatus installed for the purpose of facilitating the use of the meter.

(4) Without prejudice to the preceding provisions of this paragraph or to section 179(5) of this Act, where a person authorised by any water undertaker or sewerage undertaker carries out any works by virtue of paragraph 1 above on any premises, the undertaker shall make good, or pay compensation for, any damage caused by that person or by any person accompanying him by or in connection with the carrying out of the works.

(5) The reference in sub-paragraph (2) above to a sewerage undertaker's trade effluent functions is a reference to its functions under the Public Health (Drainage of Trade Premises) Act 1937, Part V of the Public Health Act 1961 and sections 43 to 45 of the Control of Pollution Act 1974. 1961 c. 64. 1974 c. 40.

Offences of tampering with meters etc.

3.—(1) If any person—

(a) so interferes with a meter used by any water undertaker or sewerage undertaker in determining the amount of any charges fixed in relation to any premises as intentionally or recklessly to prevent the meter from showing, or from accurately showing, the volume of water supplied to, or of effluent discharged from, those premises; or

SCH. 10

(b) carries out any works which he knows are likely to affect the operation of such a meter or which require the disconnection of such a meter,

he shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

(2) A person shall not be guilty of an offence under sub-paragraph (1) above in respect of anything done by him with the consent of the undertaker who uses the meter.

(3) Where an application is made to any water undertaker or sewerage undertaker for a consent for the purposes of sub-paragraph (2) above, the undertaker—

(a) shall give notice of its decision with respect to the application as soon as reasonably practicable after receiving it; and

(b) may make it a condition of giving any consent that the undertaker itself should carry out so much of any works to which the application relates as is specified in the notice of its decision;

but on such an application the undertaker shall not refuse its consent, or impose any such condition as is mentioned in paragraph (b) above, unless it is reasonable to do so.

(4) Where any water undertaker or sewerage undertaker has given a notice to any person imposing any such condition as is mentioned in sub-paragraph (3)(b) above, then, unless that person notifies the undertaker that the carrying out of the works to which the condition relates is no longer required, the undertaker—

(a) shall carry out those works as soon as reasonably practicable after giving the notice; and

(b) may recover from that person any expenses reasonably incurred by it in doing so.

(5) Any person who sustains any loss or damage in consequence of any failure by any water undertaker or sewerage undertaker—

(a) to comply with any obligation imposed on it by this paragraph; or

(b) to exercise reasonable care in the performance of the duty imposed by sub-paragraph (4)(a) above,

shall be entitled to recover compensation from the undertaker.

(6) A water undertaker or sewerage undertaker which carries out any works made necessary by the commission of an offence under sub-paragraph (1) above shall be entitled to recover any expenses reasonably incurred in carrying out those works from the person who committed the offence.

Duty of undertakers to inform other undertakers of meter readings

4.—(1) Where—

(a) different services are provided in relation to the same premises by different undertakers;

(b) one of those undertakers has obtained a reading from a meter used in determining the amount of any charges fixed in relation to those premises;

(c) the charges in relation to those premises of another of those undertakers are fixed by reference to any matter to which the reading is relevant; and

(d) that other undertaker has agreed to bear a reasonable proportion of the expenses of obtaining the reading together with the reasonable expenses of the disclosure of the reading to it,

it shall be the duty of the undertaker who obtained the reading to disclose the reading to the other undertaker.

(2) The duties of an undertaker under this paragraph shall be enforceable under section 20 of this Act by the Secretary of State.

(3) In this paragraph "undertaker" means a water undertaker or sewerage undertaker.

Arbitration

5. Any dispute between a water undertaker or sewerage undertaker and any other person (including another such undertaker)—

(a) as to the exercise of any power under paragraph 1 above to carry out any works on any premises;

(b) as to whether the undertaker or that other person should bear any expenses under paragraph 2 or 3 above;

(c) as to the terms to be contained in any agreement for the purposes of paragraph 4(1)(d) above;

(d) as to whether the undertaker should pay any compensation under paragraph 2 or 3 above; or

(e) as to the amount of any expenses to be borne by any person under paragraph 2 or 3 above or under any such agreement or as to the amount of any such compensation,

shall be referred to the arbitration of a single arbitrator appointed by agreement between the undertaker and that person or, in default of agreement, by the Director.

Interpretation

6.—(1) In this Schedule "meter" means any apparatus for measuring or showing the volume of water supplied to, or of effluent discharged from, any premises.

(2) In this Schedule any reference to the fixing of charges in relation to any premises by reference to volume is a reference to the fixing of those charges by reference to the volume of water supplied to those premises, to the volume of effluent discharged from those premises, to both of those factors or to one or both of those factors taken together with other factors.

SCHEDULE 11

Section 112.

ORDERS DESIGNATING NITRATE SENSITIVE AREAS

PART I

APPLICATIONS BY THE AUTHORITY FOR DESIGNATION ORDERS

Orders made only on application

1.—(1) Subject to sub-paragraphs (2) and (3) below, the relevant Minister shall not make an order under section 112 of this Act by virtue of which any land is designated as a nitrate sensitive area, except with the consent of the Treasury and on an application which—

(a) has been made by the Authority in accordance with paragraph 2 below; and

(b) by virtue of sub-paragraph (2)(a) of that paragraph identifies the controlled waters with respect to which that land is so comprised by the order.

(2) This paragraph shall not apply to an order which reproduces or amends an existing order without adding any land appearing to the relevant Minister to constitute a significant area to the land already comprised in the areas for the time being designated as nitrate sensitive areas.

SCH. 11

(3) An application by the Authority shall not be required by virtue of this paragraph in the case of any order made before the end of the period of six months beginning with the transfer date.

Procedure for applications

2.—(1) The Authority shall not for the purposes of paragraph 1 above apply for the making of any order under section 112 of this Act by which any land would be comprised in the areas for the time being designated as nitrate sensitive areas unless it appears to the Authority—

(a) that pollution is or is likely to be caused by the entry of nitrate into controlled waters as a result of, or of anything done in connection with, the use of particular land in England and Wales for agricultural purposes; and

(b) that the provisions for the time being in force in relation to those waters and that land are not sufficient, in the opinion of the Authority, for preventing or controlling such an entry of nitrate into those waters.

(2) An application under this paragraph shall identify—

(a) the controlled waters appearing to the Authority to be waters which the nitrate is or is likely to enter; and

(b) the land appearing to the Authority to be the land the use of which for agricultural purposes, or the doing of anything in connection with whose use for agricultural purposes, is resulting or is likely to result in the entry of nitrate into those waters.

(3) An application under this paragraph shall be made—

(a) where the land identified in the application is wholly in Wales, by serving a notice containing the application on the Secretary of State; and

(b) in any other case, by serving such a notice on the Secretary of State and on the Minister.

PART II

ORDERS CONTAINING MANDATORY PROVISIONS ETC.

Publication of proposal for order containing mandatory provisions

3.—(1) This paragraph applies where the relevant Minister proposes to make an order under section 112 of this Act which—

(a) makes or modifies any such provision as is authorised by subsection (4)(a) of that section; and

(b) in doing so, contains provision which is not of one of the following descriptions, that is to say—

(i) provision reproducing existing provisions without modification and in relation to substantially the same area; and

(ii) provision modifying any existing provisions so as to make them less onerous.

(2) The relevant Minister shall, before making any such order as is mentioned in sub-paragraph (1) above—

(a) publish a notice with respect to the proposed order, at least once in each of two successive weeks, in one or more newspapers circulating in the locality in relation to which the proposed order will have effect;

(b) not later than the date on which that notice is first published, serve a copy of the notice on—

(i) the Authority;

(ii) every local authority and water undertaker whose area includes the whole or any part of that locality; and

(iii) in the case of an order containing any such provision as is authorised by section 112(4)(b) of this Act, such owners and occupiers of agricultural land in that locality as appear to the relevant Minister to be likely to be affected by the obligations in respect of which payments are to be made under that provision;

and

(c) publish a notice in the London Gazette which—

(i) names every local authority on whom a notice is required to be served under this paragraph;

(ii) specifies a place where a copy of the proposed order and of any relevant map or plan may be inspected; and

(iii) gives the name of every newspaper in which the notice required by virtue of paragraph (a) above was published and the date of an issue containing the notice.

(3) The notice required by virtue of sub-paragraph (2)(a) above to be published with respect to any proposed order shall—

(a) state the general effect of the proposed order;

(b) specify a place where a copy of the proposed order, and of any relevant map or plan, may be inspected by any person free of charge at all reasonable times during the period of forty-two days beginning with the date of the first publication of the notice; and

(c) state that any person may, within that period, by notice to the Secretary of State or, as the case may be, to the Secretary of State or the Minister object to the making of the order.

Supply of copies of proposed orders

4. The Secretary of State and, in a case where he is proposing to join in making the order, the Minister shall, at the request of any person and on payment by that person of such charge (if any) as the Secretary of State or the Minister may reasonably require, furnish that person with a copy of any proposed order of which notice has been published under paragraph 3 above.

Modifications of proposals

5.—(1) Where notices with respect to any proposed order have been published and served in accordance with paragraph 3 above and the period of forty-two days mentioned in sub-paragraph (3)(b) of that paragraph has expired, the relevant Minister may make the order either in the proposed terms or, subject to sub-paragraph (2) below (but without any further compliance with paragraph 3 above), in those terms as modified in such manner as he thinks fit, or may decide not to make any order.

(2) The relevant Minister shall not make such a modification of a proposed order of which notice has been so published and served as he considers is likely adversely to affect any persons unless he has given such notices as he considers appropriate for enabling those persons to object to the modification.

(3) Subject to sub-paragraph (2) above and to the service of notices of the proposed modification on such local authorities as appear to him to be likely to be interested in it, the modifications that may be made by the relevant Minister include any modification of the area designated by the proposed order as a nitrate sensitive area.

(4) For the purposes of this Schedule it shall be immaterial, in a case in which a modification such as is mentioned in sub-paragraph (3) above incorporates land in England in an area which (but for the modification) would have been wholly in Wales, that any requirements of paragraph 3 above in relation to the proposed order have been complied with by the Secretary of State, rather than by the Secretary of State and the Minister.

SCH. 11

Consideration of objections etc.

6. Without prejudice to section 120 of this Act, where notices with respect to any proposed order have been published and served in accordance with paragraph 3 above, the Secretary of State or, as the case may be, the Secretary of State and the Minister may, if he or they consider it appropriate to do so, hold a local inquiry before deciding whether or not to make the proposed order or to make it with modifications.

Consent of Treasury for payment provisions

7. The consent of the Treasury shall be required for the making of any order under section 112 of this Act the making of which does not require the consent of the Treasury by virtue of paragraph 1 above but which contains any such provision as is authorised by subsection (4)(b) of that section.

Section 113.

SCHEDULE 12

CONSENTS TO CERTAIN DISCHARGES

Applications for consents

1.—(1) An application for a consent for the purposes of section 108(1)(a) of this Act for any discharges shall be made to the Authority; and such an application shall be accompanied or supplemented by all such information as the Authority may reasonably require.

(2) An application made in accordance with this paragraph which relates to proposed discharges at two or more places may be treated by the Authority as separate applications for consents for discharges at each of those places.

(3) Where an application is made in accordance with this paragraph the Authority shall—

(a) publish notice of the application, at least once in each of two successive weeks, in a newspaper or newspapers circulating in—

(i) the locality or localities in which the places are situated at which it is proposed in the application that the discharges should be made; and

(ii) the locality or localities appearing to the Authority to be in the vicinity of any controlled waters which the Authority considers likely to be affected by the proposed discharges;

(b) publish a copy of that notice in an edition of the London Gazette published no earlier than the day after the publication of the last of the notices to be published by virtue of paragraph (a) above;

(c) send a copy of the application to every local authority or water undertaker within whose area any of the proposed discharges is to occur;

(d) in the case of an application which relates to proposed discharges into coastal waters, relevant territorial waters or waters outside the seaward limits of relevant territorial waters, serve a copy of the application on the Secretary of State and on the Minister.

(4) The Authority shall be entitled, on an application made in accordance with this paragraph, to disregard the provisions of paragraphs (a) to (c) of sub-paragraph (3) above if it proposes to give the consent applied for and considers that the discharges in question will have no appreciable effect on the waters into which it is proposed that they should be made.

(5) It shall be the duty of the Authority to consider any written representations or objections with respect to an application under this paragraph which are made to it in the period of six weeks beginning with the day of the publication of notice of the application in the London Gazette and are not withdrawn.

(6) Where notice of an application under this paragraph is published by the Authority under sub-paragraph (3) above, the Authority shall be entitled to recover the expenses of publication from the applicant.

(7) If a person who proposes to make or has made an application under this paragraph ("the relevant application")—

(a) applies to the Secretary of State within the prescribed period for a certificate providing that the provisions of sub-paragraph (3) above and of section 117(1) of this Act shall not apply to—

(i) the relevant application;

(ii) any consent given or conditions imposed on the relevant application;

(iii) any sample of effluent taken from a discharge for which consent is given on the relevant application; or

(iv) information produced by analysis of such a sample;

and

(b) satisfies the Secretary of State that it would be contrary to the public interest or would prejudice, to an unreasonable degree, some private interest, by disclosing information about a trade secret, if a certificate were not issued under this paragraph,

the Secretary of State may issue a certificate to that person providing that those provisions shall not apply to such of the things mentioned in paragraph (a) above as are specified in the certificate.

Consents on applications under paragraph 1

2.—(1) On an application under paragraph 1 above the Authority shall be under a duty, if the requirements of that paragraph are complied with, to consider whether to give the consent applied for, either unconditionally or subject to conditions, or to refuse it.

(2) Subject to paragraph 3(5) below, on an application made in accordance with paragraph 1 above, the consent applied for shall be deemed to have been refused if it is not given within the period of four months beginning with the day on which the application is received or within such longer period as may be agreed in writing between the Authority and the applicant.

(3) The conditions subject to which a consent may be given under this paragraph shall be such conditions as the Authority may think fit and, in particular, may include conditions—

(a) as to the places at which the discharges to which the consent relates may be made and as to the design and construction of any outlets for the discharges;

(b) as to the nature, origin, composition, temperature, volume and rate of the discharges and as to the periods during which the discharges may be made;

(c) as to the steps to be taken, in relation to the discharges or by way of subjecting any substance likely to affect the description of matter discharged to treatment or any other process, for minimising the polluting effects of the discharges on any controlled waters;

(d) as to the provision of facilities for taking samples of the matter discharged and, in particular, as to the provision, maintenance and use of manholes, inspection chambers, observation wells and boreholes in connection with the discharges;

(e) as to the provision, maintenance and testing of meters for measuring or recording the volume and rate of the discharges and apparatus for determining the nature, composition and temperature of the discharges;

SCH. 12

(f) as to the keeping of records of the nature, origin, composition, temperature, volume and rate of the discharges and, in particular, of records of readings of meters and other recording apparatus provided in accordance with any other condition attached to the consent; and

(g) as to the making of returns and the giving of other information to the Authority about the nature, origin, composition, temperature, volume and rate of the discharges;

and it is hereby declared that a consent may be given under this paragraph subject to different conditions in respect of different periods.

(4) A consent for any discharges which is given under this paragraph is not limited to discharges by a particular person and, accordingly, extends to discharges which are made by any person.

Notification of proposal to give consent

3.—(1) This paragraph applies where the Authority proposes to give its consent under paragraph 2 above on an application in respect of which such representations or objections as the Authority is required to consider under paragraph 1(5) above have been made.

(2) It shall be the duty of the Authority to serve notice of the proposal on every person who made any such representations or objection; and any such notice shall include a statement of the effect of sub-paragraph (3) below.

(3) Any person who made any such representations or objection may, within the period of twenty-one days beginning with the day on which the notice of the proposal is served on him, in the prescribed manner request the Secretary of State to give a direction under paragraph 4(1) below in respect of the application.

(4) It shall be the duty of the Authority not to give its consent on the application before the end of the period of twenty-one days mentioned in sub-paragraph (3) above and, if within that period—

(a) a request is made under sub-paragraph (3) above in respect of the application; and

(b) the person who makes that request serves notice of it on the Authority,

the Authority shall not give its consent on the application unless the Secretary of State has served notice on the Authority stating that he declines to comply with the request.

(5) Any period during which the Authority is prohibited by virtue of sub-paragraph (4) above from giving its consent on the application shall be disregarded in determining whether the application is deemed to have been refused under paragraph 2(2) above.

Reference to Secretary of State of certain applications for consent

4.—(1) The Secretary of State may, either in consequence of representations or objections made to him or otherwise, direct the Authority to transmit to him for determination such applications for consent under paragraph 1 above as are specified in the direction or are of a description so specified.

(2) Where a direction is given to the Authority under this paragraph, the Authority shall comply with the direction and inform every applicant to whose application the direction relates of the transmission of his application to the Secretary of State.

(3) Paragraph 1(3) to (6) above shall have effect in relation to an application transmitted to the Secretary of State under this paragraph with such modifications as may be prescribed.

(4) Where an application is transmitted to the Secretary of State under this paragraph, the Secretary of State may at any time after the application is transmitted and before it is granted or refused—

(a) cause a local inquiry to be held with respect to the application; or

(b) afford the applicant and the Authority an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

(5) The Secretary of State shall exercise his power under sub-paragraph (4) above in any case where a request to be heard with respect to the application is made to him in the prescribed manner by the applicant or by the Authority.

(6) Where under this paragraph the Secretary of State affords to an applicant and the Authority an opportunity of appearing before, and being heard by, a person appointed for the purpose, it shall be the duty of the Secretary of State to afford an opportunity of appearing before, and being heard by, that person to every person who has made any representations or objection to the Secretary of State with respect to the application in question.

(7) It shall be the duty of the Secretary of State, if the requirements of this paragraph and of any regulations made under it are complied with, to determine an application for consent transmitted to him by the Authority under this paragraph by directing the Authority to refuse its consent or to give its consent under paragraph 2 above (either unconditionally or subject to such conditions as are specified in the direction); and the Authority shall comply with any direction under this sub-paragraph.

(8) In complying with a direction under sub-paragraph (7) above to give a consent the Authority shall not be required to comply with any requirement imposed by paragraph 3 above.

(9) Without prejudice to any of the preceding provisions of this paragraph, the Secretary of State may by regulations make provision for the purposes of, and in connection with, the consideration and disposal by him of applications transmitted to him under this paragraph.

Consents without applications

5.—(1) If it appears to the Authority—

(a) that a person has caused or permitted effluent or other matter to be discharged in contravention of any relevant prohibition under section 107 of this Act or of the obligation imposed by virtue of subsection (1)(c) of that section; and

(b) that a similar contravention by that person is likely,

the Authority may, if it thinks fit, serve on him an instrument in writing giving its consent, subject to any conditions specified in the instrument, for discharges of a description so specified.

(2) A consent given under this paragraph shall not relate to any discharge which occurred before the instrument containing the consent was served on the recipient of the instrument.

(3) Sub-paragraphs (3) and (4) of paragraph 2 above shall have effect in relation to a consent given under this paragraph as they have effect in relation to a consent given under that paragraph.

(4) Where a consent has been given under this paragraph, the Authority shall, as soon as practicable after giving it—

(a) publish notice of the consent, at least once in each of two successive weeks, in a newspaper or newspapers circulating in—

(i) the locality or localities in which the places are situated at which discharges may be made in pursuance of the consent; and

SCH. 12

(ii) the locality or localities appearing to the Authority to be in the vicinity of any controlled waters which it considers likely to be affected by the discharges;

(b) publish a copy of that notice in an edition of the London Gazette published no earlier than the day after the publication of the last of the notices to be published by virtue of paragraph (a) above;

(c) send a copy of the instrument containing the consent to every local authority within whose area any of the discharges authorised by the consent may occur;

(d) in the case of a consent which relates to discharges into coastal waters, relevant territorial waters or waters outside the seaward limits of relevant territorial waters, serve a copy of the instrument containing the consent on the Secretary of State and on the Minister.

(5) It shall be the duty of the Authority to consider any written representations or objections with respect to a consent under this paragraph which are made to it in the period of six weeks beginning with the day of the publication of notice of the consent in the London Gazette and are not withdrawn.

(6) Where notice of a consent is published by the Authority under sub-paragraph (4) above, the Authority shall be entitled to recover the expenses of publication from the person on whom the instrument containing the consent was served.

Revocation of consents and alteration and imposition of conditions

6.—(1) It shall be the duty of the Authority to review from time to time the consents given under paragraphs 2 and 5 above and the conditions (if any) to which the consents are subject.

(2) Subject to such restrictions on the exercise of the power conferred by this sub-paragraph as are imposed under paragraph 7 below, where the Authority has reviewed a consent under this paragraph, it may by a notice served on the person making a discharge in pursuance of the consent—

(a) revoke the consent;

(b) make modifications of the conditions of the consent; or

(c) in the case of an unconditional consent, provide that it shall be subject to such conditions as may be specified in the notice.

(3) If on a review under sub-paragraph (1) above it appears to the Authority that no discharge has been made in pursuance of the consent to which the review relates at any time during the preceding twelve months, the Authority may revoke the consent by a notice served on the owner or occupier of the land from which discharges would be made in pursuance of the consent.

(4) If it appears to the Secretary of State appropriate to do so—

(a) for the purpose of enabling Her Majesty's Government in the United Kingdom to give effect to any Community obligation or to any international agreement to which the United Kingdom is for the time being a party;

(b) for the protection of public health or of flora and fauna dependent on an aquatic environment; or

(c) in consequence of any representations or objections made to him or otherwise,

he may, subject to such restrictions on the exercise of the power conferred by virtue of paragraph (c) above as are imposed under paragraph 7 below, at any time direct the Authority, in relation to a consent given under paragraph 2 or 5 above, to do anything mentioned in sub-paragraph (2)(a) to (c) above; and the Authority shall comply with any such direction.

(5) The Authority shall be liable to pay compensation to any person in respect of any loss or damage sustained by that person as a result of the Authority's compliance with a direction given in relation to any consent by virtue of sub-paragraph (4)(b) above if—

(a) in complying with that direction the Authority does anything which, apart from that direction, it would be precluded from doing by a restriction imposed under paragraph 7 below; and

(b) the direction is not shown to have been given in consequence of—

(i) a change of circumstances which could not reasonably have been foreseen at the beginning of the period to which the restriction relates; or

(ii) consideration by the Secretary of State of material information which was not reasonably available to the Authority at the beginning of that period.

(6) For the purposes of sub-paragraph (5) above information is material, in relation to a consent, if it relates to any discharge made or to be made by virtue of the consent, to the interaction of any such discharge with any other discharge or to the combined effect of the matter discharged and any other matter.

Restriction on variation and revocation of consent and previous variation

7.—(1) Each instrument signifying the consent of the Authority under paragraph 2 or 5 above shall specify a period during which no notice by virtue of paragraph 6(2) or (4)(c) above shall be served in respect of the consent.

(2) Each notice served by the Authority by virtue of paragraph 6(2) or (4)(c) above (except a notice which only revokes a consent) shall specify a period during which a subsequent such notice which alters the effect of the first-mentioned notice shall not be served.

(3) The period specified under sub-paragraph (1) or (2) above in relation to any consent shall not, unless the person who proposes to make or makes discharges in pursuance of the consent otherwise agrees, be less than the period of two years beginning—

(a) in the case of a period specified under sub-paragraph (1) above, with the day on which the consent takes effect; and

(b) in the case of a period specified under sub-paragraph (2) above, with the day on which the notice specifying that period is served.

(4) A restriction imposed under sub-paragraph (1) or (2) above shall not prevent the service by the Authority of a notice by virtue of paragraph 6(2) or (4)(c) above in respect of a consent given under paragraph 5 above if—

(a) the notice is served not more than three months after the beginning of the period specified in paragraph 5(5) above for the making of representations and objections with respect to the consent; and

(b) the Authority or, as the case may be, the Secretary of State considers, in consequence of any representations or objections received by it or him within that period, that it is appropriate for the notice to be served.

Appeals

8.—(1) This paragraph applies where the Authority has, otherwise than in pursuance of a direction of the Secretary of State—

(a) refused a consent under paragraph 2 above for any discharges;

(b) in giving a consent under paragraph 2 or 5 above for any discharges or description of discharges, made that consent subject to conditions;

SCH. 12

(c) revoked a consent under paragraph 2 or 5 above for any discharges or description of discharges, modified the conditions of any such consent or provided that any such consent which was unconditional shall be subject to conditions;

(d) for the purposes of paragraph 7(1) or (2) above, specified a period in relation to a consent under paragraph 2 or 5 above without the agreement of the person who proposes to make, or makes, discharges in pursuance of that consent;

(e) refused a consent for the purposes of section 108(5)(a) of this Act for any deposit;

(f) refused a consent for the purposes of section 109 of this Act for the doing of anything by any person or, in giving any such consent, made that consent subject to conditions.

(2) The person, if any, who applied for the consent in question, or any person whose deposits, discharges or other conduct is or would be authorised by the consent may appeal against the decision to the Secretary of State.

(3) The Secretary of State may by regulations provide for the conduct and disposal of appeals under this paragraph; and, without prejudice to the generality of the power conferred by this sub-paragraph, regulations under this sub-paragraph may, with prescribed modifications, apply any provision of paragraphs 1(3) to (6) above and 4(4) to (6) above in relation to appeals under this paragraph.

(4) If, on an appeal under this paragraph, the Secretary of State is of the opinion that the decision of the Authority should be modified or reversed, he may give the Authority such directions as he thinks appropriate for requiring it—

(a) to give a consent, either unconditionally or, in the case of a consent under paragraph 2 or 5 above or a consent under section 109 of this Act, subject to such conditions as may be specified in the direction;

(b) to modify the conditions of any consent under paragraph 2 or 5 above or section 109 of this Act or to provide that any consent under the said paragraph 2 or 5 which is unconditional shall be subject to such conditions as may be specified in the direction;

(c) to modify in accordance with the direction any provision specifying a period for the purposes of paragraph 7 above;

and the Authority shall comply with any such direction.

(5) In complying with a direction under sub-paragraph (4) above to give a consent the Authority shall not be required to comply with any requirement imposed by paragraph 3 above.

(6) Nothing in any direction under sub-paragraph (4) above or in anything done in pursuance of any such direction shall be taken to affect the lawfulness or validity of anything which was done—

(a) in pursuance of any decision of the Authority which is to be modified or reversed under the direction; and

(b) before the direction is complied with.

Charges in respect of applications and consents

9.—(1) Where—

(a) an application is made to the Authority for a consent for the purposes of section 108(1)(a) or (5)(a) or 109 of this Act;

(b) the Authority gives a consent under paragraph 5 above or a consent for the purposes of section 108(5)(a) or 109 of this Act; or

(c) a consent for the purposes of section 108(1)(a) or (5)(a) or 109 of this Act is for the time being in force,

the Authority may require the payment to it of such charges as may be specified in or determined under a scheme made by it under this paragraph.

(2) The persons who shall be liable to pay charges which are required to be paid by virtue of a scheme under this paragraph shall be—

(a) in the case of a charge by virtue of sub-paragraph (1)(a) above, the person who makes the application;

(b) in the case of a charge by virtue of sub-paragraph (1)(b) above, any person who is authorised to do anything by virtue of the consent and on whom the instrument giving the consent is served; and

(c) in the case of a charge by virtue of sub-paragraph (1)(c) above, any person who makes a discharge in pursuance of the consent at any time during the period to which, in accordance with the scheme, the charge relates;

and provision made by a scheme for the purposes of paragraph (c) above may impose a single charge in respect of the whole period for which the consent is in force or separate charges in respect of different parts of that period or both such a single charge and such separate charges.

(3) The Authority shall not make a scheme under this paragraph unless its provisions have been approved by the Secretary of State; and the consent of the Treasury shall be required for the giving of such an approval.

(4) Before submitting a scheme under this paragraph to the Secretary of State for his approval the Authority shall, in such manner as it considers appropriate for bringing it to the attention of persons likely to be affected by it, publish a notice setting out its proposals and specifying the period within which representations or objections with respect to the proposals may be made to the Secretary of State.

(5) Where any proposed scheme has been submitted to the Secretary of State for his approval, it shall be the duty of the Secretary of State, in determining whether or not to approve the scheme or to approve it subject to modifications—

(a) to consider any representations or objections duly made to him and not withdrawn; and

(b) to have regard to the matters specified in sub-paragraph (6) below.

(6) The matters mentioned in sub-paragraph (5) above are—

(a) the desirability of ensuring that the amount recovered by the Authority by way of charges fixed by or under schemes under this paragraph does not exceed, taking one year with another, such amount as appears to the Secretary of State to be reasonably attributable to the expenses incurred by the Authority in carrying out its functions under this Schedule and otherwise in relation to discharges into controlled waters; and

(b) the need to ensure that no undue preference is shown, and that there is no undue discrimination, in the fixing of charges by or under the scheme.

(7) A scheme under this paragraph may—

(a) make provision with respect to the times and methods of payment of the charges which are required to be paid by virtue of the scheme;

(b) make different provision for different cases, including different provision in relation to different persons, circumstances or localities; and

SCH. 12

(c) contain supplemental, consequential and transitional provision for the purposes of the scheme;

and such a scheme may revoke or amend a previous scheme under this paragraph.

(8) It shall be the duty of the Authority to take such steps as it considers appropriate for bringing the provisions of any scheme under this paragraph which is for the time being in force to the attention of persons likely to be affected by them.

Section 128.

SCHEDULE 13

AMENDMENTS OF THE WATER RESOURCES ACT 1963

General

1.—(1) Subject to the following provisions of this Schedule and to any repeal made by this Act, in the Water Resources Act 1963 (in this Schedule referred to as "the 1963 Act") and in any subordinate legislation made under that Act, for any reference (however framed) to any one or more water authorities and for any reference which falls to be construed as such a reference there shall be substituted a reference to the Authority.

1963 c. 38.

(2) Sub-paragraph (1) above does not apply to section 19 of the 1963 Act (which is amended, instead, by section 127 of this Act).

(3) It is hereby declared that the amendments made by paragraphs 23(2), 25 and 32(11) below have effect in place of any provision which has effect immediately before the transfer date under the Ministers of the Crown Act 1975 for determining the Minister or Ministers by whom functions under that Act are exercisable and which makes different provision according to the water authority in relation to which the functions are exercised.

1975 c. 26.

Section 2(1) of the 1963 Act

2. For subsection (1) of section 2 of the 1963 Act (meaning of "water resources" and "source of supply") there shall be substituted the following subsection—

> "(1) In this Act 'source of supply' means any inland water, other than one falling within subsection (3) of this section, or any underground strata in which water is or at any time may be contained."

Section 17 of the 1963 Act

3. In section 17 of the 1963 Act (gauges and records kept by certain persons), in subsection (1), for the words from "on or after" to "other than", in the second place where they occur, there shall be substituted the words "to install a gauge for measuring and recording the flow, level or volume of any inland water, other than".

Section 22 of the 1963 Act

4. In section 22 of the 1963 Act (measurement of volume instead of or in addition to flow), for the references in subsections (1) and (2) to sections 19 and 20 of that Act there shall be substituted references to section 19 of that Act.

Section 23 of the 1963 Act

5. In section 23(1) of the 1963 Act (general restrictions), for the words from "as from" to "or cause" there shall be substituted the words "no person shall abstract from any source of supply or cause".

Section 24 of the 1963 Act

6.—(1) In subsection (1) of section 24 of the 1963 Act (exceptions from general restrictions), for the words "one thousand gallons", in each place where they occur, there shall be substituted the words "five cubic metres".

(2) After that subsection there shall be inserted the following subsection—

"(1A) The restriction imposed by subsection (1) of the last preceding section does not apply to any abstraction of a quantity of water not exceeding twenty cubic metres if the abstraction is with the consent of the National Rivers Authority and does not form part of a continuous operation, or of a series of operations, whereby in the aggregate more than twenty cubic metres of water are abstracted."

(3) In subsection (2) of that section (exception for abstraction for domestic purposes or agricultural purposes), after paragraph (b) there shall be inserted the words—

"unless the abstraction is such that the quantity of water abstracted from that inland water by or on behalf of the occupier by virtue of this subsection exceeds twenty cubic metres, in aggregate, in any period of twenty-four hours."

(4) In subsection (3) of that section (exception for abstraction from underground strata for domestic purposes), at the end there shall be inserted the words—

"unless the abstraction is such that the quantity of water abstracted from the strata by or on behalf of that individual by virtue of this subsection exceeds twenty cubic metres, in aggregate, in any period of twenty-four hours."

(5) Sub-paragraphs (3) and (4) above shall not have effect until the end of the period of twelve months beginning with the transfer date.

Section 25 of the 1963 Act

7.—(1) In subsection (1) of section 25 of the 1963 Act (power to apply to the Minister for an order excepting a source of supply from restrictions), for the words from "in a" to "from" there shall be substituted the word "from".

(2) In subsection (6) of that section (application of Schedule 7 to the 1963 Act to that section), in paragraph (a) for the words from "unless" to "shall be" there shall be substituted the words "shall be".

(3) In subsection (7) of that section (directions of Minister relating to draft order), for the words before paragraph (a) there shall be substituted the words "If, in the case of a source of supply—".

Section 28 of the 1963 Act

8.—(1) In subsection (1) of section 28 of the 1963 Act (publication of application for a licence)—

(a) in paragraph (b), after the word "served" there shall be inserted the words "on any water undertaker within whose area any proposed point of abstraction is situated,"; and

(b) after that paragraph there shall be inserted the words "and

(c) where the licence applied for is for abstraction from underground strata, that a copy of the notice has, not later than the date mentioned in the preceding paragraph, been served on any water undertaker within whose area any proposed point of abstraction is situated."

(2) After subsection (3) of that section there shall be inserted the following subsection—

SCH. 13

"(3A) Where—

(a) an application for a licence under this Act to abstract water is made to the National Rivers Authority; and

(b) the application proposes that the quantity of water abstracted in pursuance of the licence should not in any period of twenty-four hours exceed, in aggregate, twenty cubic metres or any lesser amount specified in the application,

the Authority may dispense with the requirements imposed by virtue of the preceding provisions of this section if and to the extent that it appears to the Authority appropriate to do so."

Section 29 of the 1963 Act

9.—(1) In subsection (2) of section 29 of the 1963 Act (licence not to be granted in derogation of protected rights), at the end there shall be inserted the words "except with the consent of the person entitled to those rights."

(2) In subsection (6) of that section (duty to have regard to minimum acceptable flow), after the word "secure" there shall be inserted the words "(or, as the case may be, secure in relation to the different times or periods for which the flow is determined)".

Section 30(3) of the 1963 Act

10. In section 30(3) of the 1963 Act (matters to be specified in licence), for the words from "or to" to "undertakers", in the second place where it occurs, there shall be substituted the words "to a water undertaker or sewerage undertaker or to any person (not being a water undertaker) who proposes to abstract the water for the purpose of supplying it to others".

Section 32 of the 1963 Act

11. In subsection (2) of section 32 of the 1963 Act (notification of succession to licence), except in relation to a person who, under that subsection, has ceased more than one month before the transfer date to be the holder of the licence in question, for the words "one month" there shall be substituted the words "fifteen months".

Section 36(1) of the 1963 Act

12. In section 36(1) of the 1963 Act (general restriction on impounding works), for the words from "after" to "(not being" there shall be substituted the words "begin, or cause or permit any other person to begin, to construct or alter any impounding works at any point in an inland water (not being".

Section 38(1) of the 1963 Act

13. In section 38(1) of the 1963 Act (reference of applications to the Minister), after the word "directions" there shall be inserted the words "to the National Rivers Authority".

Section 41 of the 1963 Act

14.—(1) In subsection (1) of section 41 of the 1963 Act (provisions supplementary to sections 38 to 40), for the words after paragraph (a) there shall be substituted the words "; and

(b) appeals to the Minister under section 39 of this Act."

(2) In subsection (2) of that section (application of certain provisions to references and appeals to the Minister), for the words "and (3) of section 28" there shall be substituted the words "(3) and (3A) of section 28".

Section 45(1)(a) of the 1963 Act

15. In section 45(1)(a) of the 1963 Act (special provisions as to spray irrigation), for the words from "source" to "authorising" there shall be substituted the words "source of supply, authorising".

Section 48(1) of the 1963 Act

16. In section 48(1) of the 1963 Act (revocation or variation of authorisations under certain statutory provisions)—

(a) for the words "statutory water undertakers or other persons are" there shall be substituted the words "any water undertaker or sewerage undertaker to which rights under that provision have been transferred in accordance with a scheme under Schedule 2 or 5 to the Water Act 1989 or any other person is"; and

(b) for the words "those undertakers or other persons" there shall be substituted the words "that undertaker or other person".

Section 53 of the 1963 Act

17.—(1) In subsection (1) of section 53 of the 1963 Act (register of applications and licences), for the words "a register" there shall be substituted the word "registers".

(2) In subsection (2) of that section (register of applications by water authority etc.), for the words from "applications" to "in", in the first place where it occurs, there shall be substituted the words "applications made in".

(3) In subsection (3) of that section (availability of register for inspection)—

(a) at the beginning there shall be inserted the words "The contents of"; and

(b) after the word "available" there shall be inserted the words "at such place as may be prescribed".

(4) Subject to any regulations under the 1963 Act, the information which the Authority is required to keep in registers kept under that section shall include any information which immediately before the transfer date was contained in a register kept under that section by a water authority.

Section 60 of the 1963 Act

18.—(1) In subsection (2) of section 60 of the 1963 Act (exemption from, and reduction of, charges)—

(a) in paragraph (a), for the words "functions conferred on the water authority by section 9 of the Water Act 1973" there shall be substituted the words "functions of the National Rivers Authority under any enactment"; and

(b) paragraph (bb) (duty to have regard to need to conserve energy) shall be omitted.

(2) After subsection (5) of that section there shall be inserted the following subsection—

"(5A) No charges, other than those for the purpose of recovering administrative expenses attributable to the exercise by the National Rivers Authority of its functions in relation to the application for the licence, shall be levied in respect of water authorised by a licence to be abstracted for use in the production of electricity or any other form of power by any generating station or apparatus of a capacity of not more than five megawatts."

(3) In subsection (6) of that section, at the end there shall be inserted the words "and the quantity of water authorised to be abstracted from the strata in any period of twenty-four hours does not exceed twenty cubic metres in aggregate."

SCH. 13

Section 64 of the 1963 Act

19. For section 64 of the 1963 Act (enforcement of charges) there shall be substituted the following section—

"Revocation for non-payment of charges.

64.—(1) If the charges payable in respect of a licence under this Act are not paid within twenty-eight days after notice demanding them has been served on the holder of the licence, the National Rivers Authority may revoke the licence by the service of a notice of revocation on the holder of the licence.

(2) A notice demanding the payment of any charges which is served for the purposes of subsection (1) of this section shall—

(a) state that the licence in question may be revoked if the charges are not paid within twenty-eight days after the service of the notice;

(b) set out the effect of revocation; and

(c) state that no compensation is payable in respect of a revocation under this section.

(3) Revocation of a licence under this section shall take effect at such time, not being a time before the end of the period of twenty-eight days after notice of revocation is served on the holder of the licence, as may be specified in that notice and shall so take effect only if the charges in question are not paid before that time.

(4) A notice of revocation served under this section shall—

(a) set out the reason for the revocation; and

(b) state that the revocation will take effect only if the charges in question are not paid before the time specified in the notice."

Section 78 of the 1963 Act

20.—(1) In subsection (1) of section 78 of the 1963 Act (borings not requiring licences), for the words from "at any time" to "a well" there shall be substituted the words "any person proposes to construct a well".

(2) In subsection (2) of that section, for the words from "after" to "for the" there shall be substituted the words "a person proposes to construct or extend a boring for the".

Section 79 of the 1963 Act

21.—(1) In subsection (3) of section 79 of the 1963 Act (byelaws preventing use of boats on inland waters), for the words from "their new" to "their area" there shall be substituted the words "any of the water resources functions of the National Rivers Authority or any of that Authority's functions by virtue of Chapter III or IV of Part III of the Water Act 1989, that Authority may make byelaws prohibiting such inland waters".

(2) In subsection (4)(d) of that section (byelaws not to apply to reservoir belonging to statutory water undertakers), for the words "statutory water undertakers other than the water authority" there shall be substituted the words "a water undertaker".

Section 81 of the 1963 Act

22.—(1) In subsection (1) of section 81 of the 1963 Act (agreements for particular purposes)—

(a) for the words from the beginning to "statutory water undertakers" there shall be substituted the words "The powers of the National Rivers Authority by virtue of section 145 of the Water Act 1989 shall (without prejudice to the generality of those powers) include power, subject to the next following subsection, to enter into an agreement with any water undertaker, with any sewerage undertaker";

(b) for the words in paragraph (a) from "within" onwards there shall be substituted the words "which that Authority considers necessary or expedient in connection with the carrying out of any of the water resources functions of that Authority;"

(c) for the words in paragraph (c) from "within" onwards there shall be substituted the words "for any purpose connected with the carrying out of any of the functions mentioned in paragraph (a) of this subsection"; and

(d) for the words in paragraph (d) from "in the" onwards there shall be substituted the words "is to be operated."

(2) For subsection (2) of that section (directions with respect to agreements under subsection (1)) there shall be substituted the following subsection—

"(2) The Minister may by a direction to the National Rivers Authority direct that, in such cases or classes of cases as are specified in the direction, that Authority shall not enter into any such agreement as is mentioned in subsection (1) of this section except with his consent."

(3) In subsections (3) and (5) of that section, for the words "under this section" there shall be substituted the words "such as is mentioned in subsection (1) of this section"; and in subsection (4) of that section for the words "is made under this section" there shall be substituted the words "such as is mentioned in subsection (1) of this section is made".

Section 82 of the 1963 Act

23.—(1) In subsection (1) of section 82 of the 1963 Act (transfers of certain property and functions and of reservoirs, wells, boreholes, etc.), for the words from "any one" to the end of the subsection there shall be substituted the words "any of the functions or property of a navigation authority, conservancy authority or harbour authority."

(2) For subsection (9) of that section (definition of "the Ministers") there shall be substituted the following subsection—

"(9) In this section and Schedule 10 to this Act 'the Ministers' means the Minister, the appropriate Minister and (except where all the functions in question are exercisable in Wales and all the property in question is situated there) the Minister of Agriculture, Fisheries and Food and, in the case of anything falling to be done by the Ministers, means those Ministers acting jointly."

(3) Any functions which immediately before the transfer date are functions of a water authority by virtue of an order or agreement under that section shall on that date become functions of the Authority; and, on and after the transfer date, any provision made with respect to the transfer of any functions by such an order and in force or effective immediately before that date shall have effect, with the necessary modifications, in relation to the Authority as it had effect in relation to the water authority in whom those functions were vested before that date.

SCH. 13

Section 91 of the 1963 Act

24.—(1) In subsection (1) of section 91 of the 1963 Act (contributions to navigation, harbour or conservancy authorities), for the words from "purposes" to "contribute" there shall be substituted the words "purposes of the water resources functions of the National Rivers Authority, that Authority shall contribute".

(2) In subsection (2) of that section (contributions from navigation, harbour or conservancy authorities), for the words from "performance", in the first place where it occurs, to "performance", in the second place where it occurs, there shall be substituted the words "carrying out by the National Rivers Authority of its water resources functions have made, or will make, a beneficial contribution towards the carrying out".

Section 106(1) of the 1963 Act

25. In section 106(1) of the 1963 Act (compensation for officers and servants), for the words from the beginning to "jointly" there shall be substituted the words "The Ministers (within the meaning of section 82 of this Act)".

Section 109 of the 1963 Act

26. For subsections (2) and (3) of section 109 of the 1963 Act (local inquiries) there shall be substituted the following subsection—

"(2) Section 181 of the Water Act 1989 (local inquiries) shall apply in relation to any local inquiry by virtue of this Act as it applies in relation to local inquiries under that Act."

Section 126(3) of the 1963 Act

27. In subsection (3) of section 126 of the 1963 Act (border rivers), for the words from the beginning to "shall" there shall be substituted the words "The provisions of this Act relating to the water resources functions of the National Rivers Authority shall".

Section 128 of the 1963 Act

28. In section 128(2) of the 1963 Act (savings for drought orders), for the words from "in a" to "holders" there shall be substituted the words "shall be treated as if it had been authorised to be so abstracted by a licence granted under this Act, whether the water undertaker to which the order relates is the holder".

Section 131 of the 1963 Act

29. In section 131(2)(a) of the 1963 Act (licence in respect of waters owned or managed by the British Waterways Board), after "Act" there shall be inserted the words "and no person other than the Board or a person authorised for the purpose by the Board may be given a consent for the purposes of section 24 (1A) of this Act".

Section 132 of the 1963 Act

30. In section 132 of the 1963 Act (ecclesiastical property)—

(a) in subsection (1)(d), for the words from "any reference" to "Church Commissioners" there shall be substituted the words "the licence shall be deemed for all purposes to be held by the Church Commissioners at any time when the benefice in question is vacant;" and

(b) in subsection (6), for the words from the beginning to "so modified" there shall be substituted the words "Where by virtue of subsection (1)(d) of this section".

Section 135 of the 1963 Act SCH. 13

31.—(1) In subsection (1) of section 135 of the 1963 Act (definitions)—

(a) in the definition of "abstraction", for the words from "in", in the third place where it occurs, to "in that area" there shall be substituted the words "means the doing of anything whereby any of that water is removed from that source of supply, whether temporarily or permanently, including where it is so removed for the purpose of being transferred to another source of supply";

(b) for paragraphs (a) to (c) of the definition of "inland water" there shall be substituted the following paragraphs—

"(a) any river, stream or other water course, whether natural or artificial and whether tidal or not;

(b) any lake or pond, whether natural or artificial, or any reservoir or dock, in so far as the lake, pond, reservoir or dock does not fall within paragraph (a) of this definition; and

(c) so much of any channel, creek, bay, estuary or arm of the sea as does not fall within paragraph (a) or (b) of this definition;"

(c) for the definition of "the Minister" there shall be substituted the following definition—

"'the Minister' means the Secretary of State;"

(d) for the definition of "water resources" there shall be substituted the following definition—

"'water resources functions', in relation to the National Rivers Authority, means the functions of that Authority under this Act or any other enactment which are functions of that Authority by virtue of Chapter II of Part III of the Water Act 1989, other than functions which have been transferred to the Authority by paragraph 23(3) of Schedule 13 to that Act or otherwise by virtue of an order under section 82 of this Act;"

(e) for paragraph (a) of the definition of "water course" there shall be substituted the following paragraph—

"(a) mains and other pipes which belong to the Authority or a water undertaker or are used by a water undertaker or any other person for the purpose only of providing a supply of water to any premises;".

(2) In subsection (2)(a) of that section, for the words from "new" to "pollution" there shall be substituted the words "water resources functions of the National Rivers Authority".

(3) In subsection (3) of that section, for paragraph (a) there shall be substituted the following paragraph—

"(a) a sewerage undertaker".

Schedule 7 to the 1963 Act

32.—(1) In paragraph 1 of Schedule 7 to the 1963 Act (draft statements to which Part I of Schedule applies), for the words "or section 20(1)(a) of this Act" there shall be substituted the words "of this Act other than a draft statement for amending provision for determining the minimum acceptable flow for any inland water."

(2) In paragraph 2(b) of that Schedule (inspection of proposed draft statement), for the words from "a place" to "where" there shall be substituted the words "the place where".

SCH. 13

(3) In sub-paragraph (a) of paragraph 3 of that Schedule (notice in newspapers), for the words from "circulating" to the end of the sub-paragraph there shall be substituted the words "circulating in the locality in which the inland water to which the draft statement relates is situated; or".

(4) In paragraph 4 of that Schedule (persons to be served with notice)—

(a) in sub-paragraph (b), for the words "statutory water undertakers" there shall be substituted the words "water undertaker"; and

(b) in sub-paragraph (c), for the words "statutory water undertakers who were" there shall be substituted the words "water undertaker which was".

(5) In paragraph 6 of that Schedule (duty to furnish copy of draft statement), for the words from "not exceeding" onwards there shall be substituted the words "as the National Rivers Authority thinks reasonable."

(6) In paragraph 10 of that Schedule (draft statements for amending minimum acceptable flows)—

(a) for the words from "prepared" to "section 20(1)(b) of this Act" there shall be substituted the words "contained in a draft statement for amending provision for determining the minimum acceptable flow for any inland water"; and

(b) the words from "subject" onwards shall be omitted.

(7) In paragraph 11 of that Schedule (amendment of statement of minimum acceptable flows), for the words "amend the statement of" there shall be substituted the words "approve the statement for amending the provision for determining any".

(8) In paragraph 12 of that Schedule (procedure in relation to objections), for the words from "amending" to "relate" there shall be substituted the words "determining whether to approve the statement".

(9) In paragraph 13 of that Schedule (procedure after amendment made), for the words from "amended", in the first place where it occurs, to "amended", in the second place where it occurs, there shall be substituted the words "to be amended by virtue of the approval (with or without alterations) of proposals submitted to the Minister, the Minister shall give notice to the National Rivers Authority—

(a) stating that he has given his approval to an amendment".

(10) In paragraph 16(b) of that Schedule (cases to which paragraph 17 applies), for the words "or section 20 of this Act or by Part III of this Schedule" there shall be substituted the words "of this Act".

(11) In paragraph 17(1) of that Schedule (meaning of "Minister" in certain cases), for the words "the Ministers" there shall be substituted the words "the Minister and the Minister of Agriculture, Fisheries and Food, acting jointly."

Schedule 10 to the 1963 Act

33. In paragraph 2(b) of Schedule 10 to the 1963 Act (persons to be notified of proposal to make order under section 82), for the words "harbour authority or statutory water undertakers" there shall be substituted the words "or harbour authority".

SCHEDULE 14

Sections 131 and 132.

DROUGHT ORDERS

PART I

PROCEDURE FOR MAKING ORDERS

Applications for orders

1.—(1) The applicant for a drought order shall—

(a) cause notice of the application to be served on the persons specified in the Table set out in sub-paragraph (2) below;

(b) cause a notice of the application to be published in one or more local newspapers circulating within the area affected by the order; and

(c) cause a notice of the application to be published in the London Gazette.

(2) The said Table is as follows—

Table

All orders	(a) The Authority (where it is not the applicant). (b) Every local authority or water undertaker (not being the applicant) whose area would be affected by the order.
Orders which suspend or modify any enactment or any order or scheme made or confirmed under any enactment.	Such persons (if any) as are specified by name in the enactment, order or scheme as being persons for whose protection it was enacted or made.
Orders concerning the taking of water from a source or the discharge of water or effluent to a place.	(a) Every local authority and every internal drainage board in whose area or district the source, or the place at which water or effluent is to be discharged, is situated. (b) Every navigation authority exercising functions over any watercourse affected by the order. (c) If the order concerns any consent relating to the discharge of sewage effluent or trade effluent, the person to whom the consent was given.
Orders which authorise the execution of any works.	(a) Every local authority within whose area the works are situated. (b) If the order authorises the execution of works in, under or over a watercourse, every internal drainage board within whose district the works, or any part of the works, are situated.
Orders which authorise the occupation and use of land.	Every owner, lessee and occupier of the land.
Orders which prohibit or limit the taking of water.	Every named person to whom the prohibition or limitation applies.

(3) A notice for the purposes of this paragraph of an application for a drought order—

(a) shall state the general effect of the application;

SCH. 14

(b) shall specify a place within the area affected by the order where a copy of any relevant map or plan may be inspected by any person free of charge at all reasonable times within a period of seven days from the date on which it is served or, as the case may be, published;

(c) shall state that objections to the application may be made to the Secretary of State within seven days from the date on which it is served or, as the case may be, published; and

(d) in the case of an application for an order authorising the occupation and use of land, shall specify the land to which the application relates.

(4) A notice sent in a letter in pursuance of section 187 of this Act to an address to which it may be sent in pursuance of that section shall not be treated as having been properly served for the purposes of this paragraph unless the sender takes such steps as are for the time being required to secure that the letter is transmitted in priority to letters of other descriptions.

Objections to and making of orders

2.—(1) If any objection is duly made with respect to an application for a drought order and is not withdrawn, then, subject to the provisions of this paragraph, the Secretary of State shall, before making the order, either—

(a) cause a local inquiry to be held; or

(b) afford an opportunity—

(i) to the objector; and

(ii) if the objector avails himself of the opportunity, to the applicant and to any other persons to whom it appears to the Secretary of State expedient to afford the opportunity,

of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

(2) Subject to sub-paragraph (3) below, where, on an application for a drought order, it appears to the Secretary of State that a drought order is required to be made urgently if it is to enable the deficiency of supplies of water to be effectively met, he may direct that the requirements of sub-paragraph (1) above shall be dispensed with in relation to the application.

(3) Nothing in sub-paragraph (2) above shall authorise the Secretary of State to fail to consider any objection to a proposed drought order which has been duly made and not withdrawn.

(4) Notwithstanding anything in sub-paragraph (1) above, the Secretary of State may—

(a) require any person who has made an objection to a proposed drought order to state in writing the grounds of his objection; and

(b) disregard the objection for the purposes of this paragraph if the Secretary of State is satisfied—

(i) that the objection relates exclusively to matters which can be dealt with on a reference under Part II of this Schedule or by any person by whom compensation is to be assessed; or

(ii) in a case where the order is one confined to the extension of a period specified in a previous order, that the objection is one that has in substance been made with respect to the application for that previous order.

(5) Subject to the requirements of this paragraph, the Secretary of State, upon being satisfied that the proper notices have been published and served, may, if he thinks fit, make the order in respect of which the application is made with or without modifications.

(6) The Secretary of State may hold a local inquiry on any application for an order under this Act notwithstanding that he is not required to do so by this paragraph.

3. After a drought order has been made, the person on whose application it was made shall cause to be published (in the manner in which notice of the application was required under paragraph 1 above to be published) a notice stating that the order has been made and naming a place where a copy of it may be inspected.

PART II

COMPENSATION

Right to compensation limited

4. Except as provided by the following provisions of this Part of this Schedule, neither the Authority nor any water undertaker or sewerage undertaker shall incur any liability to any person for loss or damage sustained by reason of anything done in pursuance of any drought order or of any omission in pursuance of such an order.

Compensation to be made in the case of all drought orders

5. Where a drought order has been made, compensation in respect of the entry upon or occupation or use of land shall be made by the applicant for the order to—

(a) the owners and occupiers of the land; and

(b) all other persons interested in the land or injuriously affected by the entry upon, occupation or use of the land,

for loss or damage sustained by reason of the entry upon, occupation or use of the land.

Compensation to be made in the case of section 131 orders only

6.—(1) This paragraph shall apply for determining the compensation to be made, in addition to any made under paragraph 5 above, where an order has been made under section 131 of this Act.

(2) Compensation in respect of the taking of water from a source or its taking from a source otherwise than in accordance with a restriction or obligation which has been suspended or modified shall be made by the applicant for the order to—

(a) the owners of the source of water; and

(b) all other persons interested in the source of water or injuriously affected by the taking of the water,

for loss or damage sustained by reason of the taking of the water.

(3) Compensation in respect of water's being discharged or not discharged to any place or its being discharged otherwise than in accordance with a restriction or obligation (whether relating to the treatment or discharge of the water) which has been suspended or modified shall be made by the applicant for the order to—

(a) the owners of the place of discharge; and

(b) all other persons interested in the place of discharge or injuriously affected by the discharge or lack of discharge,

for loss or damage sustained by reason of the water being discharged or not discharged or being discharged otherwise than in accordance with the restriction or obligation.

SCH. 14

(4) Compensation in respect of the imposition of a prohibition or limitation on the taking of water from a source shall be made by the applicant for the order, to any persons to whom the prohibition or limitation applies, for loss or damage sustained by reason of the prohibition or limitation.

(5) Compensation in respect of a power to make discharges of sewage effluent or trade effluent in pursuance of any consent shall be made by the applicant for the order, to any person who has been exercising that power, for loss or damage sustained by reason of the suspension or variation of the consent or the attachment of conditions to the consent.

Claims for compensation: general

7.—(1) A claim for compensation under this Part of this Schedule shall be made by serving upon the applicant a notice stating the grounds of the claim and the amount claimed.

(2) Any question as to the right of a claimant to recover compensation, or as to the amount of compensation recoverable, shall, in default of agreement, be referred to, and determined by, the Lands Tribunal.

Claims for compensation under paragraph 6

8.—(1) A claim for compensation under paragraph 6 above may be made at any time not later than six months after the end of the period for which the order authorises, as the case may be—

(a) the taking or discharge of water;

(b) the imposition of a prohibition or limitation on the taking of water;

(c) the suspension or modification of any restriction or obligation; or

(d) the suspension or variation of, or attachment of conditions to, any consent relating to the discharge of sewage effluent or trade effluent.

(2) Where a claim for compensation under paragraph 6 above is made during the continuance of the order under section 131 of this Act, the Lands Tribunal may, if it thinks fit, award a sum representing the loss or damage which is likely to be sustained by the claimant in respect of each day on which, as the case may be—

(a) water is taken or discharged;

(b) water is not discharged or is discharged otherwise than in accordance with an obligation or restriction; or

(c) sewage effluent or trade effluent is discharged otherwise than in accordance with a consent originally given.

(3) In assessing the compensation to be made under paragraph 6(2) above the Lands Tribunal may, if it thinks fit, have regard to the amount of water which, on an equitable apportionment of the water available from the source between the claimant, the applicant and other persons taking water from the source, may fairly be apportioned to the claimant.

(4) In assessing the compensation to be made under paragraph 6(3) above in respect of the lack of discharge of compensation water, the Lands Tribunal may, if it thinks fit, have regard to the amount of water which, under the conditions existing by reason of the shortage of rain, would have been available to the claimant during the period during which the deficiency of supplies of water is continued, if the applicant in relation to whom the obligation was imposed had never carried on its undertaking.

SCHEDULE 15

Section 136.

AMENDMENTS OF THE LAND DRAINAGE ACT 1976

General

1.—(1) Subject to the following provisions of this Schedule and to any repeal made by this Act—

(a) for any reference in the 1976 Act (however framed) to any one or more water authorities there shall be substituted a reference to the Authority;

(b) for any reference in that Act to a regional land drainage committee there shall be substituted a reference to a regional flood defence committee;

(c) for any reference in that Act to a local land drainage scheme there shall be substituted a reference to a local flood defence scheme;

(d) for any reference in that Act to a local land drainage committee there shall be substituted a reference to a local flood defence committee; and

(e) for any reference in that Act to a local land drainage district there shall be substituted a reference to a local flood defence district.

(2) Subject as aforesaid, any function of a Minister of the Crown under any provision of the 1976 Act shall, in so far as immediately before the transfer date it is exercisable by different Ministers according to the water authority in relation to which it is exercised, be exercisable on and after that date concurrently by the Minister of Agriculture, Fisheries and Food and by the Secretary of State.

(3) Any function which is a function of a water authority immediately before the transfer date by virtue of any scheme or order made under the 1976 Act shall, subject to the provisions of that Act, be a function of the Authority on and after that date.

(4) In the 1976 Act, for the words "the main river", wherever they occur (except where they occur in the expression "the main river map"), there shall be substituted the words "a main river".

Section 4 of the 1976 Act

2.—(1) In subsection (2)(a) of section 4 of the 1976 Act (local land drainage schemes and local land drainage committees), for the word "that" there shall be substituted the word "their".

(2) For subsection (5) of that section there shall be substituted the following subsection—

"(5) A local flood defence scheme may define a local flood defence district—

(a) by reference to the districts which were local land drainage districts immediately before the date which is the transfer date for the purposes of the Water Act 1989;

(b) by reference to the area of the regional flood defence committee in which that district is situated;

(c) by reference to a map;

or partly by one of those means and partly by another or the others."

Section 5 of the 1976 Act

3. For subsection (6) of section 5 of the 1976 Act (appointment of members and proceedings of local land drainage committees) there shall be substituted the following subsection—

SCH. 15

"(6) In appointing a person to be a member of a local flood defence committee, the regional flood defence committee shall have regard to the desirability of appointing a person who has experience of, and has shown capacity in, some matter relevant to the functions of the committee to which he is appointed."

Section 9 of the 1976 Act

4.—(1) Section 9 of the 1976 Act (main river maps) shall be amended as follows.

(2) In subsection (1), for the words "of a water authority area relating to the water authority's land drainage functions" there shall be substituted the words "relating to the area of a regional flood defence committee".

(3) In subsection (3), for the words "the main river map of the authority's area" there shall be substituted the words "a main river map".

(4) For subsection (5) there shall be substituted the following subsection—

"(5) Where—

(a) the area of a regional flood defence committee is altered so as to affect any of the particulars shown on the main river map for that area, or

(b) the Minister confirms a scheme under section 50 below, or

(c) the National Rivers Authority applies to the Minister for the variation of a main river map, so far as it shows the extent to which any watercourse is to be treated as a main river or part of a main river,

the Minister shall take such action as he considers appropriate either—

(i) by requiring the National Rivers Authority to send him any part of the main river map in question, altering it and sending it back to the National Rivers Authority; or

(ii) by preparing a new main river map and sending it to the National Rivers Authority, or

(iii) by notifying the National Rivers Authority that he does not intend to vary the main river map in question."

(5) For subsections (7) and (8) there shall be substituted the following subsections—

"(7) The National Rivers Authority shall, subject to subsection (5) above, keep the main river map for the area of a regional flood defence committee at the principal office of the National Rivers Authority for that area, and shall provide reasonable facilities for inspecting that map and taking copies of and extracts from it.

(8) Any local authority whose area is wholly or partly within the area of a regional flood defence committee shall, on application to the National Rivers Authority, be entitled to be furnished with copies of the main river map for the area of that committee on payment of such sum as the authority and the National Rivers Authority may agree."

Section 17 of the 1976 Act

5.—(1) Section 17 of the 1976 Act (general drainage powers) shall be amended as follows.

(2) In subsection (1)—

(a) for the words "acting within their area" there shall be substituted the words "(in the case of an internal drainage board, acting within their district)"; and

(b) in paragraph (c), for the words "of their area" there shall be substituted the words "of any land".

(3) For subsection (2) there shall be substituted the following subsection—

"(2) Subsection (1) above shall not be taken as authorising the National Rivers Authority to do any work otherwise than in connection with a main river, save that the power of that Authority to maintain, improve or construct drainage works for the purpose of defence against sea water or tidal water shall be exercisable below the low-water mark and shall be exercisable (both above and below the low-water mark) irrespective of whether they are works in connection with a main river."

(4) For subsection (3) there shall be substituted the following subsection—

"(3) The National Rivers Authority may construct all such works and do all such things in the sea or in any estuary as may, in its opinion, be necessary to secure an adequate outfall for a main river."

(5) In subsection (4)—

(a) for the words "a drainage authority", in both places where they occur, there shall be substituted the words "an internal drainage board"; and

(b) for the word "area", in each place where it occurs, there shall be substituted the word "district".

(6) For subsection (7) there shall be substituted the following subsection—

"(7) In this Act 'drainage authority' means the National Rivers Authority or an internal drainage board."

Section 21 of the 1976 Act

6.—(1) In subsection (1) of section 21 of the 1976 Act (arrangements between drainage authorities), the words from "and which" onwards shall be omitted.

(2) For subsections (2) and (3) of that section there shall be substituted the following subsections—

"(2) Notwithstanding the provisions of section 17(2) above, the National Rivers Authority may, with the consent of an internal drainage board, execute and maintain in that board's district any works which the board might execute or maintain, on such terms as to payment or otherwise as may be agreed between the board and the Authority, or may agree to contribute to the expense of the execution or maintenance of any works by any internal drainage board.

(3) An internal drainage board may, with the consent of an internal drainage board for any other district, execute and maintain in that other district any works which the first-mentioned board might execute or maintain within their own district, on such terms as to payment or otherwise as may be agreed between the boards, or may agree to contribute to the expense of the execution or maintenance of any works by the internal drainage board for any other district.

(4) Any expense incurred by an internal drainage board under subsection (3) above shall be defrayed as if the expense had been incurred in their own district."

Section 22 of the 1976 Act

7. In section 22 of the 1976 Act (arrangements with other persons generally), for the words "whether within or outside their area" there shall be substituted the words "(in the case of an internal drainage board, whether within or outside their district)".

SCH. 15

Section 23 of the 1976 Act

8. In section 23(2) of the 1976 Act (arrangements with certain authorities for the carrying out of works etc.), for the words "their area" there shall be substituted the words "any land (being, in the case of an internal drainage board, land situated in their district)".

Section 24 of the 1976 Act

9.—(1) In subsection (2) of section 24 of the 1976 Act (enforcement of obligations to repair watercourses, bridges etc.)—

(a) for the words "the drainage authority in whose area" there shall be substituted the words "the National Rivers Authority or any internal drainage board in whose district"; and

(b) for the words "the authority" there shall be substituted the words "the Authority or board".

(2) Subsection (4) of that section (watercourses in London) shall cease to have effect.

Section 26 of the 1976 Act

10. In section 26(11) of the 1976 Act (records to be kept of charges)—

(a) for the words "the clerk of the water authority or" there shall be substituted the words "an authorised officer of the National Rivers Authority or of the"; and

(b) for the words "the said clerk" there shall be substituted the words "such an officer".

Section 27 of the 1976 Act

11. In section 27(2) of the 1976 Act (power of Minister to make an order varying navigation rights), for the words "drainage authorities within whose areas" there shall be substituted the words "National Rivers Authority and every internal drainage board within whose district any of".

Section 28 of the 1976 Act

12.—(1) In subsection (1) of section 28 of the 1976 Act (obstructions in watercourses), for the words "the drainage authority" there shall be substituted the words "the National Rivers Authority or, in the case of works in the district of an internal drainage board, of that Authority or the board."

(2) After subsection (1) of that section there shall be inserted the following subsection—

"(1A) A drainage authority may require the payment of an application fee by a person who applies to them for their consent under this section; and the amount of that fee shall be £50 or such other sum as may be specified by order made jointly by the Minister of Agriculture, Fisheries and Food and the Secretary of State."

(3) In subsection (2), for the words "receipt of the application" there shall be substituted the words "relevant day".

(4) After subsection (11), there shall be inserted the following subsection—

"(11A) In this section 'relevant day', in relation to an application for a consent under this section, means whichever is the later of—

(a) the day on which the application is made; and

(b) if at the time when the application is made an application fee is required to be paid, the day on which the liability to pay that fee is discharged."

(5) Subsection (12) of that section (watercourses in London) shall cease to have effect. SCH. 15

Section 29 of the 1976 Act

13.—(1) In section 29 of the 1976 Act (structures in, over or under watercourses), after subsection (2) there shall be inserted the following subsection—

"(2A) The National Rivers Authority may require the payment of an application fee by a person who applies to it for its consent under this section; and the amount of that fee shall be £50 or such other sum as may be specified by order made jointly by the Minister of Agriculture, Fisheries and Food and the Secretary of State."

(2) In subsection (3) of that section, for paragraph (b) and the word "and" immediately preceding it there shall be substituted the following paragraphs—

"(b) any such consent shall, if neither given nor refused within 2 months after the relevant day, be deemed to have been given; and

(c) any such approval shall, if neither given nor refused within 2 months after application for approval is made, be deemed to have been given."

(3) After subsection (8) there shall be inserted the following subsection—

"(9) In this section 'relevant day', in relation to an application for a consent under this section, means whichever is the later of—

(a) the day on which the application is made; and

(b) if at the time when the application is made an application fee is required to be paid, the day on which the liability to pay that fee is discharged."

Section 32 of the 1976 Act

14.—(1) For subsection (1) of section 32 of the 1976 Act (power of water authorities to provide flood warning systems) there shall be substituted the following subsection—

"(1) Without prejudice to its powers by virtue of Chapter VI of Part III and Part IV of the Water Act 1989, the National Rivers Authority shall have power—

(a) to provide and operate flood warning systems;

(b) to provide, install and maintain apparatus required for the purposes of such systems;

(c) to carry out any other engineering or building operations so required."

(2) In subsection (4) of that section, for the words from the beginning to "authority's area" there shall be substituted the words "The National Rivers Authority may exercise the powers conferred by subsection (1)(b) or (c) above in an area in Scotland as if its functions in relation to the areas of the regional flood defence committees whose areas are adjacent to Scotland were functions in relation to that area in Scotland and as if that area in Scotland were included in the areas of each of those committees, but".

Section 34 of the 1976 Act

15.—(1) For subsection (1) of section 34 of the 1976 Act (byelaws) there shall be substituted the following subsection—

SCH. 15

"(1) Subject to the provisions of this Act—

(a) the National Rivers Authority may make such byelaws in relation to any particular locality or localities as it considers necessary for securing the efficient working of any drainage system, including the proper defence of any land against sea or tidal water; and

(b) an internal drainage board may make such byelaws as they consider necessary for securing the efficient working of the drainage system in their district."

(2) In subsection (3) of that section, at the end there shall be inserted the words "by an internal drainage board; and Schedule 24 to the Water Act 1989 has effect with respect to the making of such byelaws by the National Rivers Authority".

Section 36 of the 1976 Act

16. In section 36(1) of the 1976 Act (power of water authorities to acquire accretions of land resulting from drainage works), for the words from "the water authority" to "compulsorily" there shall be substituted the words "the powers of the National Rivers Authority by virtue of the Water Act 1989 to acquire land by agreement or compulsorily for the purpose of carrying out any of its functions shall include power so to acquire".

Section 37 of the 1976 Act

17. In section 37(1) of the 1976 Act (power of internal drainage boards to acquire land), for the word "area" there shall be substituted the word "district".

Section 45 of the 1976 Act

18. In section 45(3) of the 1976 Act (definitions for the purposes of revenue raising provisions), in the definition of "relevant expenditure", for the words from "of the expenses" to the end of the definition there shall be substituted the words "and of the expenses of the Authority's research and related activities".

Section 46 of the 1976 Act

19. In section 46(6) of the 1976 Act (aggregate amount for which precepts in respect of a local land drainage district may be issued in a case where a water authority borrows or proposes to borrow money under the 1973 Act), for the words "the Water Act 1973" there shall be substituted the words "the Water Act 1989".

Section 48 of the 1976 Act

20. In section 48(2) of the 1976 Act (raising of general drainage charges in respect of any local land drainage district), for the words "for the authority's area" there shall be substituted the words "for the area in which that district is situated".

Section 49 of the 1976 Act

21. In section 49(3) of the 1976 Act (application of order relating to amount of general drainage charge), for the words from "water authority areas", where they first occur, to "and there specified" there shall be substituted the words "local flood defence districts specified in the order".

Section 50 of the 1976 Act

22.—(1) In subsection (1) of section 50 of the 1976 Act (special drainage charges in interests of agriculture), for the words "that area" there shall be substituted the words "the area of any regional flood defence committee".

(2) For subsection (2) of that section there shall be substituted the following subsection—

"(2) Any such scheme shall designate for the purposes of the special drainage charge so much of the area of the regional flood defence committee as consists of land which, in the opinion of the National Rivers Authority, is agricultural land that would benefit from drainage works in connection with the designated watercourses."

Section 51 of the 1976 Act

23.—(1) In subsection (2) of section 51 of the 1976 Act (levying and amount of special drainage charge), for the words "authority's regional land drainage committee" there shall be substituted the words "regional flood defence committee for the area which includes that land".

(2) For subsection (4) of that section there shall be substituted the following subsection—

"(4) An order under subsection (2)(b) above may be made so as to apply—

(a) to special drainage charges in general, or

(b) to the special drainage charges proposed to be raised in respect of such areas of regional flood defence committees as may be specified in the order, or

(c) to special drainage charges proposed to be raised in pursuance of one or more schemes made under section 50 above and so specified;

and any such order applying to the charges proposed to be raised in respect of more than one area of a regional flood defence committee or authorised by more than one such scheme may make different provision for the charges in respect of different areas or, as the case may be, the charges authorised by the different schemes."

Section 54 of the 1976 Act

24.—(1) In subsection (3) of section 54 of the 1976 Act (arrangements for payment of drainage charges by owners), for the words from the beginning to "section" there shall be substituted the words "Where arrangements are made under this section it shall be the duty of the National Rivers Authority".

(2) In subsection (6) of that section, for the words from the beginning to "above" there shall be substituted the words "Where notice is given to the National Rivers Authority under subsection (5) above it shall be the duty of that Authority".

Section 59 of the 1976 Act

25.—(1) In subsection (1) of section 59 of the 1976 Act (specified authorities in relation to agreements for assessment to and recovery of drainage charges), the word "chargeable" shall be omitted.

(2) In subsection (2) of that section, for the words from "wholly" onwards there shall be substituted the words "and the drainage board of any internal drainage district; and the land referred to in subsection (1) above is, in relation to any such council, the chargeable land within the area of the council and, in relation to any drainage board, such land as may be specified in the agreement."

Section 62 of the 1976 Act

26. Section 62 of the 1976 Act (power to make water charges option orders) shall cease to have effect.

SCH. 15

Section 64 of the 1976 Act

27. In section 64(1) of the 1976 Act (assessment of drainage charges on the basis of annual value), for the words "the area" there shall be substituted the words "their district".

Section 68 of the 1976 Act

28.—(1) In each of subsections (1) and (4) of section 68 of the 1976 Act (power to make orders relating to differential drainage rates), for the words "the district" there shall be substituted the words "their district".

(2) In subsection (5) of that section, for the word "area" there shall be substituted the word "district".

Section 88 of the 1976 Act

29. In section 88(1) of the 1976 Act (power of drainage authorities to levy navigation tolls)—

(a) for the words "within a drainage authority area" there shall be substituted the words "in England and Wales or in so much of the territorial sea adjacent to England and Wales as is included in the area of a regional flood defence committee"; and

(b) for the words "the drainage authority for the area" there shall be substituted the words "the National Rivers Authority or, in the case of waters within the district of an internal drainage board, that Authority or that board".

Section 89 of the 1976 Act

30.—(1) In subsection (1) of section 89 of the 1976 Act (interpretation of Part IV), in the definition of "chargeable land", for the words "the area" there shall be substituted the words "the area of a regional flood defence committee".

(2) In subsection (2) of that section, for the words "a water authority area" there shall be substituted the words "the area of a regional flood defence committee".

Section 90 of the 1976 Act

31. In paragraph (a) of section 90(6) of the 1976 Act (grants to water authorities for the acquisition of land and rights over land), for the words from "conferred" to the end of the paragraph there shall be substituted the words "of the National Rivers Authority by virtue of the Water Act 1989 to acquire land by agreement or compulsorily".

Section 93 of the 1976 Act

32. In section 93(3) of the 1976 Act (notice of application for authority to execute drainage works to be given to persons including a drainage authority), for the words "any drainage authority having jurisdiction in any district or area" there shall be substituted the words "the National Rivers Authority and to the internal drainage board for any district".

Section 94 of the 1976 Act

33. In section 94(3)(d) of the 1976 Act (compensation for loss attributable to a scheme under section 11 of the 1976 Act), for the words "such water authority as may be" there shall be substituted the words "the National Rivers Authority if it is".

Section 100 of the 1976 Act

34. In section 100(1) of the 1976 Act (schemes for drainage of small areas), for the words "as it applies to a water authority" there shall be substituted the words "in relation to their area as it applies to the National Rivers Authority in relation to any such land as is mentioned in that section".

Section 109 of the 1976 Act

35.—(1) In subsection (2) of section 109 of the 1976 Act (regulations and orders), for the words "section 46" there shall be substituted the words "section 28(1A), 29(2A), 46".

(2) In subsection (3) of that section, after "27," there shall be inserted "28(1A), 29(2A),".

Section 110 of the 1976 Act

36. In section 110(1)(c) of the 1976 Act (apportionment of expenses of local authorities), for the words "water authority area" there shall be substituted the word "county".

Section 112 of the 1976 Act

37. In section 112(2) of the 1976 Act (protection of certain undertakings), for paragraph (b) there shall be substituted the following paragraph—

"(b) the undertakings of the National Rivers Authority and of any water undertaker or sewerage undertaker;".

Section 116 of the 1976 Act

38. In section 116(1) of the 1976 Act (general interpretation)—

(a) for the definition of "constituent council" there shall be substituted the following definition—

"'constituent council', in relation to a regional flood defence committee, has the meaning provided by section 137(10) of the Water Act 1989 and, in relation to a local flood defence committee, has the meaning provided by section 5(8) above;";

and

(b) for the definitions of "local land drainage committee", "local land drainage district" and "local land drainage scheme" there shall be substituted the following definitions—

"'local flood defence committee' has the meaning provided by section 139(1) of the Water Act 1989;

'local flood defence district' has the meaning (subject to section 89(2) above) provided by section 139(1) of the said Act of 1989;

'local flood defence scheme' has the meaning provided by section 139(1) of the said Act of 1989;".

Schedule 1 to the 1976 Act

39.—(1) Schedule 1 to the 1976 Act (members and proceedings of regional and local land drainage committees) shall be amended as follows.

(2) In paragraph 5 (vacation of office upon the happening of certain events), for paragraph (a) of sub-paragraph (1) there shall be substituted the following paragraph—

"(a) is adjudged bankrupt, is a person whose estate is sequestrated or makes a composition or arrangement with, or grants a trust deed for, his creditors; or".

SCH. 15

(3) In paragraph 8 (disqualification for appointment as a member of a committee)—

(a) for paragraph (b) of sub-paragraph (1) there shall be substituted the following paragraph—

"(b) is a person who has been adjudged bankrupt, or whose estate has been sequestrated or who has made a composition or arrangement with, or granted a trust deed for, his creditors; or";

(b) after sub-paragraph (2) there shall be inserted the following sub-paragraph—

"(2A) Where a person is disqualified under sub-paragraph (1) above by reason of having had his estate sequestrated, the disqualification shall cease—

(a) unless the sequestration is recalled or reduced, on the person's discharge under section 54 of the Bankruptcy (Scotland) Act 1985; and

(b) if the sequestration is recalled or reduced, on the date of the recall or reduction."

(c) in sub-paragraph (3), after the words "arrangement with" there shall be inserted the words "or having granted a trust deed for" and after the word "arrangement", in the second place where it occurs, there shall be inserted the words "or of the trust deed".

(4) In paragraph 10 (payments to members of committees of amounts determined by the appropriate Minister)—

(a) in sub-paragraph (1), for the words from "not being" to "committees" there shall be substituted the words "is a chairman of a regional flood defence committee or of a local flood defence committee";

(b) in sub-paragraph (2), for the words "the regional" there shall be substituted the words "a regional";

(c) in sub-paragraph (3), for the words from "not being" to "committees" there shall be substituted the words "is a member of a regional flood defence committee or of a local flood defence committee"; and

(d) in sub-paragraph (4), for the definition of "the appropriate Minister" there shall be substituted the following definition—

"'the appropriate Minister' means—

(a) in relation to the regional flood defence committee for an area the whole or the greater part of which is in Wales and in relation to any local flood defence committee for any district comprised in the area of such a regional flood defence committee, the Secretary of State; and

(b) in relation to any other regional flood defence committee or local flood defence committee, the Minister;".

(5) For paragraph 14 (proceedings) there shall be substituted the following paragraph—

"14. A regional flood defence committee or a local flood defence committee may, with the approval of the appropriate Minister (within the meaning of paragraph 10 above), make rules for regulating the proceedings of the committee; and nothing in section 136 of the Water Act 1989 shall entitle the National Rivers Authority to make any arrangements or give any directions for regulating the proceedings of any such committee."

SCH. 15

(6) In paragraph 15 (disqualification for paid office of water authority), for the words from "water authority's" onwards there shall be substituted the words "regional flood defence committee or a local flood defence committee, be disqualified from being appointed to any paid office by the National Rivers Authority or by any regional flood defence committee other than the office of chairman of a local flood defence committee."

(7) For paragraph 16 (interpretation) there shall be substituted the following paragraph—

"16. In this Schedule—

(a) any reference to a member of a committee shall include a reference to the chairman of that committee; and

(b) any reference to an officer of a regional or local flood defence committee shall be construed as a reference to an officer of the National Rivers Authority."

Schedule 2 to the 1976 Act

40.—(1) In paragraph (b) of the proviso to paragraph 3 of Schedule 2 to the 1976 Act (termination of office of members of a board), for the words "becomes bankrupt or makes a composition or arrangement with" there shall be substituted the words "is adjudged bankrupt, or his estate is sequestrated, or he makes a composition or arrangement with, or grants a trust deed for,".

(2) In paragraph 6 of that Schedule (disqualification), after the word "with" there shall be inserted the words "or granted a trust deed for".

Schedule 4 to the 1976 Act

41. In Schedule 4 to the 1976 Act (byelaws made by drainage authorities)—

(a) in paragraphs 1 and 11, for the words "a drainage authority" there shall be substituted the words "an internal drainage board"; and

(b) in paragraphs 2 to 6, 8 to 10 and 11(a), for the word "authority", in each place where it occurs, there shall be substituted the words "internal drainage board".

SCHEDULE 16

Section 137.

BOUNDARIES OF REGIONAL FLOOD DEFENCE AREAS

Power to make order

1.—(1) The appropriate Minister may by order made by statutory instrument alter the boundaries of the area of any regional flood defence committee or provide for the amalgamation of any two or more such areas.

(2) Where an order under this Schedule makes provision by reference to anything shown on a main river map (within the meaning of the 1976 Act) that map shall be conclusive evidence for the purposes of the order of what is shown on the map.

(3) The power to make an order under this Schedule shall include power to make such supplemental, consequential and transitional provision as the appropriate Minister considers appropriate.

(4) In the case of an order under this Schedule amalgamating the areas of any two or more regional flood defence committees, the provision made by virtue of sub-paragraph (3) above may include provision determining the total number of members of the amalgamated committee and the total number of such members to be appointed by the constituent councils of that committee; and subsections (6) and (7) of section 138 of this Act shall apply in relation to so much of an order under this Schedule as is made by virtue of this sub-paragraph as they apply in relation to an order under subsection (5) of that section.

SCH. 16

(5) In this Schedule "the appropriate Minister" —

(a) in relation—

(i) to any alteration of the boundaries of an area where the whole or any part of that area is in Wales; or

(ii) to the amalgamation of any two or more areas where the whole or any part of any one of those areas is in Wales,

means the Secretary of State and the Minister acting jointly; and

(b) in any other case, means the Minister.

Consultation and notice of intention to make order

2.—(1) Before making an order under this Schedule, the appropriate Minister shall—

(a) consult such persons or representative bodies as he considers it appropriate to consult at that stage;

(b) prepare a draft order;

(c) publish a notice complying with sub-paragraph (2) below in the London Gazette and in such other manner as he considers appropriate for bringing the draft order to the attention of persons likely to be affected by it if it is made.

(2) A notice for the purposes of sub-paragraph (1)(c) above with respect to a draft order shall—

(a) state the appropriate Minister's intention to make the order and its general effect;

(b) specify the places where copies of the draft order and of any map to which it refers may be inspected by any person free of charge at all reasonable times during the period of twenty-eight days beginning with the date on which the notice is first published otherwise than in the London Gazette; and

(c) state that any person may within that period by notice in writing to the appropriate Minister object to the making of the order.

(3) The appropriate Minister shall also cause copies of the notice and of the draft order to be served on every person carrying out functions under any enactment who appears to him to be concerned.

Objections to draft order and making of order

3.—(1) Before making an order under this Schedule, the appropriate Minister shall consider any representations or objections which are duly made with respect to the draft order and are not withdrawn, and may, if he thinks fit, cause a local inquiry to be held with respect to any such representations or objections.

(2) Where notice of a draft order has been published and given in accordance with paragraph 2 above and any representations or objections considered under sub-paragraph (1) above, the appropriate Minister may make the order either in the terms of the draft or in those terms as modified in such manner as he thinks fit, or may decide not to make the order.

(3) The appropriate Minister shall not make a modification of a draft order in so far as the modification is such as to include in the area of any regional flood defence committee any tidal waters which, if the order had been made in the form of the draft, would have been outside the area of every regional flood defence committee.

Procedure for making of order

4.—(1) Where the appropriate Minister makes an order under this Schedule, he shall serve notice of the making of the order on every person (if any) on whom notice is required to have been served under paragraph 2(3) above and who has duly made an objection to the making of the order that has not been withdrawn.

(2) Where a notice is required to be served under sub-paragraph (1) above with respect to any order, the order shall not have effect before the end of a period of twenty-eight days from the date of service of the last notice served under that sub-paragraph.

(3) If before an order takes effect under sub-paragraph (2) above—

(a) any person who has been served with a notice under sub-paragraph (1) above with respect to that order serves notice objecting to the order on the Minister (or, in the case of an order made jointly by the Minister and the Secretary of State, on either of them); and

(b) the objection is not withdrawn,

the order shall be subject to special parliamentary procedure.

(4) A statutory instrument containing an order under this Schedule which is not subject to special parliamentary procedure under sub-paragraph (3) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Notice after making of order

5.—(1) Subject to sub-paragraph (2) below, after making an order under this Schedule, the appropriate Minister shall publish in the London Gazette, and in such other manner as he considers appropriate for bringing the order to the attention of persons likely to be affected by it, a notice stating that the order has been made and naming the places where a copy of the order may be inspected at all reasonable times.

(2) In the case of an order to which sub-paragraph (2) of paragraph 4 above applies, the notice shall not be published until the end of the period of twenty-eight days referred to in that sub-paragraph, and shall state whether or not the order is to be subject to special parliamentary procedure.

Questioning of order in courts

6.—(1) Subject to sub-paragraph (3) below, if any person desires to question the validity of an order under this Schedule on the ground—

(a) that it is not within the powers of this Schedule; or

(b) that any requirement of this Schedule has not been complied with,

he may, within six weeks after the date of the first publication of the notice required by paragraph 5 above, make an application for the purpose to the High Court.

(2) On an application under this paragraph the High Court, if satisfied—

(a) that the order is not within the powers of this Schedule; or

(b) that the interests of the applicant have been substantially prejudiced by a failure to comply with any of the requirements of this Schedule,

may quash the order either generally or in so far as it affects the applicant.

(3) Sub-paragraph (1) above shall not apply to any order which is confirmed by Act of Parliament under section 6 of the Statutory Orders (Special Procedure) Act 1945 and shall have effect in relation to any other order which is subject to special parliamentary procedure by virtue of the provisions of this Schedule as if

1945 c. 18. (9 & 10 Geo. 6)

SCH. 16

the reference to the date of the first publication of the notice required by paragraph 5 above were a reference to the date on which the order becomes operative under the said Act of 1945.

(4) Except as provided by this paragraph the validity of an order under this Schedule shall not, either before or after the order has been made, be questioned in any legal proceedings whatsoever.

Section 141.

SCHEDULE 17

TRANSFER OF FISHERIES FUNCTIONS TO THE AUTHORITY

General modifications of references to water authorities

1.—(1) Subject to the following provisions of this Schedule and to any repeal made by this Act, any provision to which this paragraph applies which contains, or falls to be construed as containing, a reference (however framed and whether or not in relation to an area) to any one or more water authorities, or to a particular water authority, shall have effect on and after the transfer date as if that reference were a reference to the Authority.

(2) Subject as aforesaid, any provision to which this paragraph applies which contains, or falls to be construed as containing, a reference (however framed) to the area of a water authority shall have effect on and after the transfer date as if that reference were a reference—

(a) in the case where the provision is contained in a local statutory provision or in subordinate legislation and the reference is in relation to a particular water authority, to the area which, immediately before the transfer date, was the area of that authority for the purposes of their functions relating to fisheries; and

(b) in any other case, to the whole area in relation to which the Authority carries out its functions relating to fisheries.

1937 c. 33.

(3) Subject as aforesaid, any function of a Minister of the Crown under any provision to which this paragraph applies or under the Diseases of Fish Act 1937 shall, in so far as immediately before the transfer date it is exercisable by different Ministers according to the water authority or water authority area in relation to which it is exercised, be exercisable on and after that date concurrently by the Minister of Agriculture, Fisheries and Food and by the Secretary of State; and references in any enactment (including a reference inserted by this Act) to a Minister, so far as they have effect for the purposes of, or in connection with, the exercise of any function under a provision to which this paragraph applies or the said Act of 1937, shall have effect accordingly.

(4) The provisions to which this paragraph applies are the provisions of—

1966 c. 38.

(a) the Sea Fisheries Regulation Act 1966;

1975 c. 51.

(b) the Salmon and Freshwater Fisheries Act 1975; and

(c) any local statutory provision or subordinate legislation which is in force immediately before the transfer date and—

(i) relates to the carrying out by a water authority of any function relating to fisheries; or

(ii) in the case of subordinate legislation, was made by virtue of any provision to which this paragraph applies or under the Diseases of Fish Act 1937.

(5) The modifications made by this paragraph shall be subject to any power by subordinate legislation to revoke or amend any provision to which this paragraph applies; and, accordingly, any such power, including the powers conferred by section 191 of this Act and paragraph 2 below, shall be exercisable so as to exclude the operation of this paragraph in relation to the provisions in relation to which the power is conferred.

Power to amend subordinate legislation etc SCH. 17

2.—(1) If it appears to the Minister or the Secretary of State to be appropriate to do so for the purposes of, or in consequence of, the coming into force of any provision of this Schedule, he may by order revoke or amend any subordinate legislation.

(2) An order under this paragraph may—

(a) make different provision for different cases, including different provision in relation to different persons, circumstances or localities; and

(b) contain such supplemental, consequential and transitional provision as the Minister or the Secretary of State considers appropriate.

(3) The power conferred by virtue of this paragraph in relation to subordinate legislation made under any enactment shall be without prejudice to any other power to revoke or amend subordinate legislation made under that enactment, but—

(a) no requirement imposed with respect to the exercise of any such other power shall apply in relation to any revocation or amendment of that legislation by an order under this paragraph; and

(b) the power to make an order under this paragraph shall be exercisable (instead of in accordance with any such requirement) by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

The Diseases of Fish Act 1937 (c. 33)

3.—(1) In the Diseases of Fish Act 1937, the words "water authority", wherever they occur, and any reference which in England and Wales falls to be construed as a reference to a water authority shall have effect—

(a) in relation to the area which by virtue of subsection (4) of section 141 of this Act is the area in relation to which the Authority carries out functions under the said Act of 1937, as a reference to the Authority;

(b) in relation to the area comprising the districts of district salmon fishery boards (within the meaning of the Salmon Act 1986), as a reference to any such board; and 1986 c. 62.

(c) in relation to the River Tweed (as defined in that subsection), as a reference to the council constituted under section 6 of the Tweed Fisheries Act 1969; 1969 c. xxiv.

and references to an area, in relation to the Authority, any such board or that council, shall have effect as references to the area so described, to the district of that board or, as the case may be, to the River Tweed (as so defined).

(2) In section 8(3) of the said Act of 1937 (offences in relation to the Esk), for the words "North West Water Authority" there shall be substituted the words "National Rivers Authority".

(3) Nothing in this paragraph or in the said Act of 1937 shall authorise the Authority to take legal proceedings in Scotland in respect of any offence.

The Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951 (c. 26)

4. In section 15 of the Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951 (power of Secretary of State to obtain information)—

(a) for paragraph (b) of subsection (1) there shall be substituted the following paragraph—

"(b) to make orders requiring any proprietor or occupier of a salmon fishery to furnish him with such statistics relating to salmon or to fishing for salmon as he may specify, in such form and at such

SCH. 17

times as he may specify; and he may make different provision for different cases, including different provision in relation to different persons, circumstances or areas; and";

(b) after subsection (2), there shall be added the following subsection—

"(3) The power under this section to make orders shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament."

The Sea Fisheries Regulation Act 1966 (c. 38)

5.—(1) The provisions of section 1 of the Sea Fisheries Regulation Act 1966 (establishment of fisheries committees) which provide that an order under that section modifying a previous such order is to be made only on such an application and after such consultation as is mentioned in that section shall not apply to an order under that section which contains a statement that the only provision made by the order is provision which appears to the Minister making the order to be appropriate in consequence of any of the provisions of this Act.

(2) In section 2(2) of that Act (constitution of local fisheries committee), for the words from "each" to "committee" there shall be substituted the words "the National Rivers Authority".

(3) In section 18(3) of that Act (provision where a water authority or harbour authority have the powers of a local fisheries committee), for the words from "section 36(3)" to "authority)" there shall be substituted the words "section 186 of the Water Act 1989 (procedure relating to byelaws made by the National Rivers Authority)".

The Sea Fish (Conservation) Act 1967 (c. 84)

6. In section 18(1) of the Sea Fish (Conservation) Act 1967 (enforcement of orders relating to salmon and migratory trout)—

(a) for the words from "for the purposes" to the beginning of paragraph (a) there shall be substituted the words "are included in the area which by virtue of subsection (4) of section 141 of the Water Act 1989 is the area in relation to which the National Rivers Authority carries out functions relating to fisheries under the Salmon and Freshwater Fisheries Act 1975 or on landing salmon or migratory trout"; and

(b) for paragraph (b) there shall be substituted the following paragraph—

"(b) the provisions of section 147 and, in relation to that section, sections 178 and 179 of the Water Act 1989 (which confer powers of entry) shall apply as if section 4 of this Act, and any order under section 5 or 6 of this Act, were an enactment to which the said section 147 applies."

The Salmon and Freshwater Fisheries Act 1975 (c. 51)

7.—(1) The Salmon and Freshwater Fisheries Act 1975 shall be amended as follows.

(2) In section 5(5), for paragraph (c) (exemption from section 31(1)(a) of the Control of Pollution Act 1974) there shall be substituted the following paragraph— 1974 c. 40.

"(c) section 107(1)(a) of the Water Act 1989;".

(3) In section 6(3) (definition of "unauthorised fixed engine"), at the end of paragraph (c) there shall be inserted the words "or

(d) a fixed engine which is placed and used by the National Rivers Authority with the consent of, or in accordance with a general authorisation given by, the Minister or the Secretary of State."

(4) In section 21(2)(b) (authorisation required in certain cases for eel fishing to be given with the consent of the Minister), the words "with the consent of the Minister" shall be omitted.

(5) In section 25(2) (licences to fish), for the words "of a description, in an area and for a period" there shall be substituted the words "of such a description, in such area or areas and for such period as is".

(6) In section 26(1) (limitation of fishing licences)—

(a) after the word "may", in the first place where it occurs, there shall be inserted the words "in relation to any such area or areas as are specified in the order,"; and

(b) in paragraph (a), for the words "any part of their area" there shall be substituted the words "that area or those areas".

(7) In section 28 (general powers and duties of water authorities and Minister)—

(a) in subsection (3), for the words from "by", in the first place where it occurs, onwards there shall be substituted the words "on an application made to him by the National Rivers Authority, by order made by statutory instrument make provision in relation to an area defined by the order—

(a) for the imposition on the owners and occupiers of fisheries in that area of requirements to pay contributions to that Authority of such amounts as may be determined under the order in respect of the expenses of the carrying out in relation to that area of that Authority's functions with respect to fisheries;

(b) for such contributions to be paid or recovered in such manner and to be refundable in such circumstances as may be specified in or determined under the order;

(c) for the modification, in relation to the fisheries in that area, of any provisions of this Act relating to the regulation of fisheries or of any provisions of a local Act relating to any fishery in that area;

and an order under this subsection may contain such supplemental, consequential and transitional provision, including provision for the payment of compensation to persons injuriously affected by the order, as may appear to be necessary or expedient in connection with the other provisions of the order."; and

(b) in subsection (8), for the words "Section 36(3) of the Water Act 1973 and Schedule 7" there shall be substituted the words "Section 186 of the Water Act 1989 and Schedule 24".

(8) In section 32(1) (power of water bailiffs and other persons to enter lands), for the words "waters within a water authority area" there shall be substituted the words "any waters".

(9) In section 35 (power to require production of fishing licences)—

(a) in subsection (1), for the words "in a water authority area" there shall be substituted the words "in any area";

(b) in subsection (2), for the words "water authority area" there shall be substituted the word "area";

(c) in subsection (3), for the words "the office of the water authority" there shall be substituted the words "the appropriate office of the National Rivers Authority"; and

(d) after subsection (3) there shall be inserted the following subsection—

"(4) In subsection (3) above, 'the appropriate office of the National Rivers Authority' means—

SCH. 17

(a) in a case where the person requiring the production of the licence or other authority specifies a particular office of the National Rivers Authority for its production, that office; and

(b) in any other case, any office of that Authority;

and for the purposes of that subsection where a licence or other authority which any person has been required to produce is sent by post to an office of that Authority that licence or other authority shall be treated as produced by that person at that office."

(10) In section 39(5) (no power to bring criminal proceedings in Scotland), after the words "this section" there shall be inserted the words "or the Water Act 1989".

(11) In section 41(1) (interpretation), in the definition of "authorised officer", the words "acting within the water authority area" shall be omitted.

(12) In paragraph 1 of Schedule 1 (close seasons and close times), for the words "their area or the respective parts of it" there shall be substituted the words "the respective parts of the area in relation to which the National Rivers Authority carries out its functions under this Act".

(13) In Schedule 2 (duty on licences)—

(a) in paragraph 3 (notice of intention to increase duties), at the end of the paragraph there shall be inserted the words "and such a notice shall set out the amount of any duty as proposed to be fixed or altered.";

(b) for paragraph 6 (fixing or alteration to take effect from the beginning of the following year) there shall be substituted the following paragraph—

"6. Where the fixing or alteration of any duty takes effect under this Schedule at any time, no alteration or, as the case may be, further alteration of that duty shall so take effect within the period of twelve months beginning with that time."

(14) In Schedule 3 (administration)—

(a) for paragraph 7 there shall be substituted the following paragraph—

"7. Before he makes an order the Minister shall—

(a) send to the National Rivers Authority a copy of the draft order; and

(b) notify the Authority of the time within which, and the manner in which, objections to the draft order may be made to him;

and the Minister shall not make an order unless the Authority has caused notice of the Minister's intention to make the order, of the place where copies of the draft order may be inspected and obtained and of the matters notified under sub-paragraph (b) above to be published in the London Gazette and, if it is directed to do so by the Minister, in such other manner as the Minister thinks best adapted for informing persons affected."

(b) for paragraphs 9 to 11 (orders subject to special parliamentary procedure, etc.) there shall be substituted the following paragraph—

"9. A statutory instrument containing an order shall be subject to annulment in pursuance to a resolution of either House of Parliament; and, where a statutory instrument is laid before Parliament for the purposes of this paragraph, a copy of the report of any local inquiry held with respect to objections considered in connection with the making of the order contained in that instrument shall be so laid at the same time.";

(c) in paragraph 21A (byelaws with respect to fixed engines), after the word "not" there shall be inserted the words "without the consent of the local fisheries committee in question";

(d) for paragraph 32 (returns to be made by persons fishing), there shall be substituted the following paragraph—

"32. Requiring persons to send to the National Rivers Authority returns, in such form, giving such particulars and at such times as may be specified in the byelaws, of the period or periods during which they have fished for salmon, trout, freshwater fish or eels, of whether they have taken any and, if they have, of what they have taken.";

(e) in paragraph 37 (power of water authority to acquire certain interests etc.), for the words from "paragraph 2" to "water authority" there shall be substituted the words "section 145 of the Water Act 1989, the powers conferred on the National Rivers Authority by that section, by section 151 of that Act and by section 155 of that Act include power";

(f) in paragraph 38 (powers of water authorities), for the words "paragraph 2" there shall be substituted the words "section 145"; and

(g) in paragraph 39 (powers of water authorities)—

(i) in sub-paragraph (1), in the words before paragraph (a), for the words "paragraph 2" there shall be substituted the words "section 145"; and

(ii) in paragraph (a) of that sub-paragraph, for the words "the fisheries in their area" there shall be substituted the words "any fisheries".

(15) In paragraph 9 of Part II of Schedule 4 (disqualification of offenders)—

(a) the words "and is subsequently convicted of any such offence" shall be omitted;

(b) for the words "or for fishing in a water authority area" there shall be substituted the words "for having his name entered on a licence in pursuance of paragraphs 9 to 14 of Schedule 2 to this Act or for fishing (either in a particular area or generally)"; and

(c) for the words "one year" there shall be substituted the words "five years".

(16) Section 181 of this Act shall apply in relation to any local inquiry under the said Act of 1975 as it applies in relation to local inquiries under this Act.

The Diseases of Fish Act 1983 (c. 30)

8. In section 9(1)(d) of the Diseases of Fish Act 1983 (disclosure of information for the purpose of enabling a water authority to carry out their functions), for the words "a water authority to carry out any of their" there shall be substituted the words "the National Rivers Authority to carry out any of its".

The Salmon Act 1986 (c. 62)

9.—(1) In section 37(3) of the Salmon Act 1986 (byelaws requiring consent of water authority), for the words from "the water" to "have" there shall be substituted the words "the National Rivers Authority has".

(2) In section 39(3) of that Act (areas in respect of which a review of certain salmon net fishing is to be made), the reference to the areas of the Yorkshire and Northumbrian water authorities shall be construed on and after the transfer date as a reference to the areas which, immediately before that date, were the areas of those authorities for the purposes of their functions relating to fisheries.

Section 151.

SCHEDULE 18

MODIFICATION OF COMPENSATION PROVISIONS ETC. IN RELATION TO THE CREATION OF NEW RIGHTS

Compensation enactments

1. Subject to the following provisions of this Schedule, the enactments for the time being in force with respect to compensation for the compulsory purchase of land shall apply with the necessary modifications as respects compensation in the case of a compulsory acquisition under section 151 of this Act of a right by the creation of a new right as they apply as respects compensation on the compulsory purchase of land and interests in land.

Adaptation of the Compulsory Purchase Act 1965

1965 c. 56.

2.—(1) The Compulsory Purchase Act 1965 (in the following provisions of this Schedule referred to as "the 1965 Act") shall have effect with the modifications necessary to make it apply to the compulsory acquisition under section 151 of this Act of a right by the creation of a new right as it applies to the compulsory acquisition under that section of land, so that, in appropriate contexts, references in that Act to land are to be read (according to the requirements of the particular context) as referring to, or as including references to—

(a) the right acquired or to be acquired; or

(b) the land over which the right is or is to be exercisable.

(2) Without prejudice to the generality of sub-paragraph (1) above, Part I of the 1965 Act shall apply in relation to the compulsory acquisition under section 151 of this Act of a right by the creation of a new right with the modifications specified in the following provisions of this Schedule.

Section 7 of the 1965 Act

3. For section 7 of the 1965 Act (measure of compensation) there shall be substituted the following section—

"7. In assessing the compensation to be paid by the acquiring authority under this Act regard shall be had not only to the extent (if any) to which the value of the land over which the right is to be acquired is depreciated by the acquisition of the right but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of his, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act."

Section 8 of the 1965 Act

4. For subsection (1) of section 8 of the 1965 Act (protection for vendor against severance of house, garden, etc.) there shall be substituted the following subsections—

"(1) No person shall be required to grant any right over part only—

(a) of any house, building or manufactory; or

(b) of a park or garden belonging to a house,

if he is willing to sell the whole of the house, building, manufactory, park or garden, unless the Lands Tribunal determine that—

(i) in the case of a house, building or manufactory, the part over which the right is proposed to be acquired can be made subject to that right without material detriment to the house, building or manufactory; or

(ii) in the case of a park or garden, the part over which the right is proposed to be acquired can be made subject to that right without seriously affecting the amenity or convenience of the house;

and, if the Lands Tribunal so determine, the Tribunal shall award compensation in respect of any loss due to the acquisition of the right, in addition to its value; and thereupon the party interested shall be required to grant to the acquiring authority that right over the part of the house, building, manufactory, park or garden.

(1A) In considering the extent of any material detriment to a house, building or manufactory, or any extent to which the amenity or convenience of a house is affected, the Lands Tribunal shall have regard not only to the right which is to be acquired over the land, but also to any adjoining or adjacent land belonging to the same owner and subject to compulsory purchase."

Effect of deed poll

5. The following provisions of the 1965 Act (being provisions stating the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), that is to say—

(a) section 9(4) (refusal by owners to convey);

(b) paragraph 10(3) of Schedule 1 (owners under incapacity);

(c) paragraph 2(3) of Schedule 2 (absent and untraced owners); and

(d) paragraphs 2(3) and 7(2) of Schedule 4 (common land),

shall be so modified as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired is vested absolutely in the acquiring authority.

Section 11 of the 1965 Act

6. Section 11 of the 1965 Act (powers of entry) shall be so modified as to secure that, as from the date on which the acquiring authority have served notice to treat in respect of any right, they have power, exercisable in the like circumstances and subject to the like conditions, to enter for the purpose of exercising that right (which shall be deemed for this purpose to have been created on the date of service of the notice); and sections 12 (penalty for unauthorised entry) and 13 (entry on sheriff's warrant in the event of obstruction) shall be modified correspondingly.

Section 20 of the 1965 Act

7. Section 20 of the 1965 Act (protection for interests of tenants at will etc.) shall apply with the modifications necessary to secure that persons with such interests as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition under section 151 of this Act of that land, but taking into account only the extent (if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right in question.

Section 22 of the 1965 Act

8. Section 22 of the 1965 Act (protection of acquiring authority's possession where by inadvertence an estate, right or interest has not been got in) shall be so modified as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue entitled to exercise the right acquired, subject to compliance with that section as respects compensation.

Section 153.

SCHEDULE 19

POWERS WITH RESPECT TO THE LAYING AND MAINTENANCE OF PIPES ETC.

Construction of Schedule

1.—(1) In this Schedule references to a relevant pipe shall be construed—

(a) in relation to the Authority, as references to a resource main or discharge pipe;

(b) in relation to a water undertaker, as references to a water main (including a trunk main), resource main, discharge pipe or, subject to paragraph 4(2) below, service pipe;

(c) in relation to a sewerage undertaker, as references to any sewer or disposal main.

(2) In this Schedule "relevant waterworks" means any waterworks which contain water which is or may be used by a water undertaker for providing a supply of water to any premises; and in this sub-paragraph "waterworks" includes any relevant pipe and any spring, well, adit, borehole, service reservoir or tank.

(3) The powers conferred by this Schedule on a water undertaker or sewerage undertaker shall be exercisable both inside and outside the undertaker's area and, in so far as they authorise the removal of any pipe or the alteration of its size or course, shall be subject to such obligations by virtue of which the undertaker is required to maintain a pipe or a connection with it, or to alter a pipe only where certain conditions are satisfied, as are imposed on the undertaker by or under any enactment.

(4) In this Schedule references to maintaining a pipe include references to cleansing it and references to altering a pipe include references to altering its size or course, to moving or removing it and to replacing it with a pipe which is of the same description of relevant pipe as the pipe replaced.

(5) Without prejudice to paragraph 1(2) of Schedule 10 to this Act, nothing in this Schedule shall authorise the installation of any apparatus for measuring or showing the volume of water supplied to, or of effluent discharged from, any premises where that apparatus is to be used for the purpose only of determining the amount of any charges fixed, or to be fixed, in relation to those premises wholly or partly by reference to the volume of that water or effluent.

(6) In this paragraph—

"discharge pipe" means a pipe from which discharges are or are to be made under paragraph 8 below;

"disposal main" means any outfall pipe or other pipe which—

(a) is a pipe for the conveyance of effluent to or from any sewage disposal works, whether of a sewerage undertaker or of any other person; and

(b) is not a public sewer;

and

"resource main" means any pipe, not being a trunk main, which is or is to be used for the purpose of—

(a) conveying water from one source of supply to another, from a source of supply to a regulating reservoir or from a regulating reservoir to a source of supply; or

(b) giving or taking a supply of water in bulk.

Street works SCH. 19

2.—(1) Subject to the following provisions of this paragraph and to paragraph 3 below, the Authority, every water undertaker and every sewerage undertaker shall, for the purpose of carrying out its functions, have power—

(a) to lay a relevant pipe in, under or over any street and to keep that pipe there;

(b) to inspect, maintain, adjust, repair or alter any relevant pipe which is in, under or over any street;

(c) to carry out in a street all such works as are requisite for securing that the water in any relevant waterworks is not polluted or otherwise contaminated; and

(d) to carry out any works requisite for, or incidental to, the purposes of any works falling within paragraph (a), (b) or (c) above, including for those purposes the following kinds of works, that is to say—

(i) breaking up or opening a street;

(ii) tunnelling or boring under a street;

(iii) breaking up or opening a sewer, drain or tunnel;

(iv) moving or removing earth and other materials.

(2) Without prejudice to the generality of sub-paragraph (1)(d) above, the Authority and every water undertaker shall have power to erect and keep in any street notices indicating the position of such underground accessories for its relevant pipes as may be used for controlling the flow of water in those pipes; and that power shall include power to attach any such notice to any building, fence or other structure which is comprised in premises abutting on the street.

(3) A stopcock fitted to any service pipe in a street shall be situated as near as reasonably practicable to the boundary of the street; and the Authority or a water undertaker shall consult with the highway authority concerned before determining in accordance with this sub-paragraph where to fit a stopcock in a highway.

(4) It shall be the duty of the Authority, of every water undertaker and of every sewerage undertaker—

(a) to do as little damage as possible in the exercise of the powers conferred on it by this paragraph; and

(b) to pay compensation for any loss caused or damage done in the exercise of those powers.

(5) Any dispute as to whether compensation should be paid under sub-paragraph (4) above, or as to the amount of any such compensation, shall be referred to the arbitration of a single arbitrator appointed by agreement between the parties to the dispute or, in default of agreement, by the Secretary of State.

(6) For the purposes of section 32 of the Public Utilities Street Works Act 1950 (provisions against duplication of compensation) a payment of compensation under sub-paragraph (4) above shall be treated as made under an enactment passed before that Act. 1950 c. 39.

(7) Where a water undertaker exercises its powers under this paragraph for the purpose of carrying out works of maintenance, repair or renewal in relation to a service pipe belonging to a person other than the undertaker, the undertaker shall be entitled to recover from the occupier of the premises supplied by means of that pipe the expenses reasonably incurred by that undertaker in so exercising that power.

(8) The reference in section 20 of the Highways Act 1980 (works in special roads) to a power under any enactment to lay down or erect apparatus includes a reference to any power to lay any pipe which is conferred by this paragraph. 1980 c. 66.

SCH. 19

(9) The restrictions contained in paragraphs (1) to (5) of section 32 of the
1870 c. 78. Tramways Act 1870 (protection of tramways) shall apply in relation to any exercise of a power conferred by this paragraph as they apply in relation to the powers mentioned in that section and as if references in that section to a tramway included references to a trolley vehicle system.

Street works: railway companies, navigation authorities etc.

3.—(1) Subject to the following provisions of this paragraph and without prejudice to section 160 of this Act, the powers conferred by paragraph 2 above to break up or open a street shall not be exercisable where the street, not being a
1980 c. 66. highway maintainable at public expense (within the meaning of the Highways Act 1980)—

(a) is under the control or management of, or is maintainable by, a railway company or navigation authority; or

(b) forms part of a level crossing belonging to such a company or authority or to any other person,

except with the consent of the company or authority or, as the case may be, of the person to whom the level crossing belongs.

(2) Sub-paragraph (1) above shall not apply to any exercise of the powers conferred by paragraph 2 above for the carrying out of emergency works, within
1950 c. 39. the meaning of the Public Utilities Street Works Act 1950.

(3) A consent given for the purposes of this paragraph may be made subject to such reasonable conditions as may be specified by the person giving it but shall not be unreasonably withheld.

(4) Any dispute as to whether a consent for the purposes of this paragraph should be given or withheld, or as to whether the conditions to which any such consent is made subject are reasonable, shall be referred to the arbitration of a single arbitrator appointed by agreement between the parties to the dispute or, in default of agreement, by the President of the Institution of Civil Engineers.

(5) If the Authority or any water undertaker or sewerage undertaker contravenes, without reasonable excuse, the requirements of sub-paragraph (1) above, it shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

(6) In this paragraph "railway company" means the British Railways Board, London Regional Transport or any other person authorised by any enactment to construct, work or carry on a railway.

Powers in relation to other land

4.—(1) Subject to the following provisions of this paragraph, the Authority, every water undertaker and every sewerage undertaker shall, for the purpose of carrying out its functions, have power—

(a) to lay a relevant pipe (whether above or below the surface) in any land which is not in, under or over a street and to keep that pipe there;

(b) to inspect, maintain, adjust, repair or alter any relevant pipe which is in any such land;

(c) to carry out on any such land all such works as are requisite for securing that the water in any relevant waterworks is not polluted or otherwise contaminated; and

(d) to carry out any works requisite for, or incidental to, the purposes of any works falling within paragraph (a), (b) or (c) above.

(2) Nothing in sub-paragraph (1) above shall authorise a water undertaker to lay a service pipe in, on or over any land except where—

(a) there is already a service pipe where that pipe is to be laid; or

(b) the undertaker is required to lay the pipe in, on or over that land by virtue of subsection (3)(b) or (c) or (4) of section 42 of this Act.

(3) The power conferred by virtue of paragraph (b) of sub-paragraph (1) above, and the power conferred in relation to that paragraph by virtue of paragraph (d) of that sub-paragraph, shall be exercisable in relation to a service pipe irrespective of the person to whom the pipe belongs; but expenses incurred in exercising those powers in relation to any pipe shall be recoverable from the person to whom the pipe belongs only if and to the extent that that person has agreed to pay them.

(4) The powers conferred by this paragraph shall be exercisable only after reasonable notice of the proposed exercise of the power has been given to the owner and to the occupier of the land where the power is to be exercised.

(5) Subject to sub-paragraph (6) below, in relation to any exercise of the powers conferred by this paragraph for the purpose of laying or altering a relevant pipe, the minimum period that is capable of constituting reasonable notice for the purposes of sub-paragraph (4) above shall be deemed—

(a) where the power is exercised for the purpose of laying a relevant pipe otherwise than in substitution for an existing pipe of the same description, to be three months; and

(b) where the power is exercised for the purpose of altering an existing pipe, to be forty-two days.

(6) Sub-paragraph (5) above shall not apply in the case of any notice given within the period of one year beginning with the transfer date or in the case of any notice given with respect to the exercise of any power in an emergency or for the purpose of—

(a) laying or altering a service pipe; or

(b) complying with a duty imposed under section 40 or 71 of this Act.

Stopcocks

5.—(1) Subject to sub-paragraph (2) below and without prejudice to paragraph 4 above, a water undertaker shall have power, at its own expense, to fit a stopcock to any service pipe by which a supply of water is or is to be provided to any premises by the undertaker, whether that pipe belongs to the undertaker or to any other person.

(2) A stopcock fitted in private premises by a water undertaker to any service pipe shall be situated as near as practicable to any street from which that pipe enters those premises.

Compensation for works other than street works

6.—(1) If the value of any interest in any relevant land is depreciated by virtue of the exercise by the Authority, or by any water undertaker or sewerage undertaker, of any power conferred by virtue of paragraph 4 or 5 above, the person entitled to that interest shall be entitled to compensation from the Authority or, as the case may be, the undertaker of an amount equal to the amount of the depreciation.

(2) Where the person entitled to an interest in any relevant land sustains loss or damage which—

(a) is attributable to the exercise by the Authority or by any water undertaker or sewerage undertaker of any power conferred by virtue of paragraph 4 or 5 above;

(b) does not consist in depreciation of the value of that interest; and

SCH. 19

(c) is loss or damage for which he would have been entitled to compensation by way of compensation for disturbance, if his interest in that land had been compulsorily acquired under section 151 of this Act,

he shall be entitled to compensation from the Authority or, as the case may be, the undertaker in respect of that loss or damage, in addition to compensation under sub-paragraph (1) above.

(3) Where any damage to, or injurious affection of, any land which is not relevant land is attributable to the exercise by the Authority, or by any water undertaker or sewerage undertaker, of any power conferred by virtue of paragraph 4 or 5 above, the Authority or, as the case may be, the undertaker shall pay compensation in respect of that damage or injurious affection to every person entitled to an interest in that land.

(4) Any question of disputed compensation under this paragraph, shall be referred to and determined by the Lands Tribunal; and in relation to the determination of any such compensation the provisions of sections 2 and 4 of the Land Compensation Act 1961 shall apply, subject to any necessary modifications.

1961 c. 33.

(5) For the purpose of assessing any compensation under this paragraph, so far as that compensation is in respect of loss or damage consisting in depreciation of the value of an interest in land, the rules set out in section 5 of the Land Compensation Act 1961 shall, so far as applicable and subject to any necessary modifications, have effect as they have effect for the purpose of assessing compensation for the compulsory acquisition of an interest in land.

(6) Where the interest in land in respect of which any compensation falls to be assessed in accordance with sub-paragraph (5) above is subject to a mortgage—

(a) the compensation shall be assessed as if the interest were not subject to the mortgage;

(b) a claim for compensation may be made by any mortgagee of the interest, but without prejudice to the making of a claim by the person entitled to the interest;

(c) no such compensation shall be payable in respect of the interest of the mortgagee (as distinct from the interest which is subject to the mortgage); and

(d) any such compensation which is payable in respect of the interest which is subject to the mortgage shall be paid to the mortgagee, or, if there is more than one mortgagee, to the first mortgagee, and shall in either case be applied by him as if it were proceeds of sale.

(7) Where, apart from this sub-paragraph, any person entitled to an interest in any land would be entitled under this paragraph to an amount of compensation in respect of any works, there shall be deducted from that amount an amount equal to the amount by which the carrying out of the works has enhanced the value of any other land which—

(a) is contiguous or adjacent to that land; and

(b) is land to an interest in which that person is entitled in the same capacity.

(8) The Secretary of State may by regulations make provision requiring the Authority or any water undertaker or sewerage undertaker, where it is proposing or has begun to exercise any power conferred by virtue of paragraph 4 or 5 above in a prescribed case, to make advance payments on account of compensation that will become payable in respect of the exercise of that power.

(9) In this paragraph "relevant land", in relation to any exercise of a power conferred by virtue of paragraph 4 or 5 above, means the land where the power is exercised or land held with that land.

Works below high water mark

7. Nothing in the preceding provisions of this Schedule shall authorise the Authority or any water undertaker or sewerage undertaker to carry out any works at any place below the place to which the tide flows at mean high water springs, except in accordance with such plans and sections, and subject to such restrictions, as may, before the works are commenced, have been approved by the Secretary of State by notice served on the Authority or, as the case may be, that undertaker.

Discharges for works purposes

8.—(1) Subject to the following provisions of this paragraph and to paragraph 9 below, where the Authority or any water undertaker—

(a) is exercising or about to exercise any power conferred by any of the preceding provisions of this Schedule; or

(b) is carrying out, or is about to carry out, the construction, alteration, repair, cleaning, or examination of any reservoir, well, borehole, or other work belonging to or used by the Authority or that undertaker for the purposes of, or in connection with, the carrying out of any of its functions,

the Authority or, as the case may be, that undertaker may cause the water in any relevant pipe or in any such reservoir, well, borehole or other work to be discharged into any available watercourse.

(2) It shall be the duty of the Authority and of every water undertaker—

(a) to cause as little loss and damage as possible in the exercise of the powers conferred on it by this paragraph; and

(b) to pay compensation for any loss caused or damage done in the exercise of those powers.

(3) For the purposes of sub-paragraph (2) above any extra expenditure—

(a) which it becomes reasonably necessary for any water undertaker, sewerage undertaker or public authority (other than the one making the discharge) to incur for the purpose of properly carrying out any statutory functions; and

(b) which is attributable to any discharge of water under this paragraph,

shall be deemed to be a loss sustained by the undertaker or public authority and to have been caused in exercise of the powers conferred by this paragraph.

(4) Any dispute as to whether compensation should be paid under sub-paragraph (2) above, or as to the amount of any such compensation, shall be referred to the arbitration of a single arbitrator appointed by agreement between the parties to the dispute or, in default of agreement, by the President of the Institution of Civil Engineers.

(5) If the Authority or any water undertaker fails to take all necessary steps to secure that any water discharged by it under this paragraph is as free as may be reasonably practicable from—

(a) mud and silt;

(b) solid, polluting, offensive or injurious substances; and

(c) any substances prejudicial to fish or spawn, or to spawning beds or food of fish,

the Authority or, as the case may be, the undertaker shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

SCH. 19

(6) Nothing in this paragraph shall authorise any discharge which—

(a) damages or injuriously affects the works or property of any railway company or navigation authority; or

(b) floods or damages any highway.

(7) Sections 107 and 108 of this Act shall have effect as if this paragraph and paragraph 9 below were prescribed enactments for the purposes of subsection (1)(e) of the said section 108.

(8) In this paragraph "railway company" has the same meaning as in paragraph 3 above.

Consents for certain discharges

9.—(1) Except in an emergency, no discharge through any pipe the diameter of which exceeds two hundred and twenty-nine millimetres shall be made under paragraph 8 above except—

(a) in the case of a discharge by the Authority, with such consent as may be prescribed; and

(b) in the case of a discharge by a water undertaker, with the consent of the Authority and of any navigation authority which carries out functions in relation to—

(i) the part of the watercourse where the discharge is made; or

(ii) any part of that watercourse which is less than three miles downstream from the place of the discharge.

(2) For the purposes of this paragraph, the Authority and every water undertaker shall keep a register of persons and premises and shall enter the name and address of any person in that register in respect of any premises which abut on any watercourse if that person has requested to be so registered and is either—

(a) the owner or occupier of those premises; or

(b) an officer of an association of owners or occupiers of premises which abut on that watercourse and include those premises.

(3) Where any person makes an application to any other person for a consent for the purposes of this paragraph—

(a) that application shall be accompanied or supplemented by all such information as that other person may reasonably require; and

(b) the applicant shall serve a copy of the application, and of any consent given on that application, on every person who—

(i) is registered with the applicant in respect of any premises which are within three miles of the place where the discharge to which the application relates is proposed to be made and are not upstream from that place; and

(ii) has not agreed in writing that he need not be served with such a copy.

(4) An application for a consent for the purposes of this paragraph shall be determined—

(a) in the case of an application with respect to a particular discharge, before the end of the period of seven days beginning with the day after the application is made; and

(b) in any other case, before the end of the period of three months beginning with that day;

and where an application for any consent is required to be determined within the period specified in paragraph (a) above and is not so determined, the consent applied for shall be deemed to have been given unconditionally.

(5) A consent for the purposes of this paragraph may relate to a particular discharge or to discharges of a particular description and may be made subject to such reasonable conditions as may be specified by the person giving it; but a consent for those purposes shall not be unreasonably withheld.

(6) Any dispute as to whether a consent for the purposes of this paragraph should be given or withheld, or as to whether the conditions to which any such consent is made subject are reasonable, shall be referred to the arbitration of a single arbitrator appointed by agreement between the parties to the dispute or, in default of agreement, by the President of the Institution of Civil Engineers.

(7) Where any discharge under paragraph 8 above is made in an emergency without the consent which, if there were no emergency, would be required by virtue of this paragraph, the Authority or, as the case may be, the undertaker which made the discharge shall, as soon as practicable after making the discharge, serve a notice which—

(a) states that the discharge has been made; and

(b) gives such particulars of the discharge and of the emergency as the persons served with the notice might reasonably require,

on every person on whom the Authority or that undertaker would have been required to serve the application for that consent or any copy of that application.

(8) If the Authority or any water undertaker contravenes, without reasonable excuse, any of the requirements of this paragraph or any condition of a consent given for the purposes of this paragraph, the Authority or, as the case may be, the undertaker shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

Powers of entry

10.—(1) Any person designated in writing for the purpose by the Authority or by a water undertaker or sewerage undertaker may enter any premises for any of the purposes specified in sub-paragraph (2) below.

(2) The purposes mentioned in sub-paragraph (1) above are—

(a) the carrying out of any survey or tests for the purpose of determining—

(i) whether it is appropriate and practicable for the Authority or, as the case may be, the undertaker to exercise any power conferred by this Schedule;

(ii) how any such power should be exercised; or

(b) the exercise of any such power.

(3) The power by virtue of sub-paragraph (1) above of a person designated by the Authority, or by a water undertaker or sewerage undertaker, to enter any premises for the purposes of carrying out any survey or tests shall include power—

(a) to carry out experimental borings or other works for the purpose of ascertaining the nature of the sub-soil; and

(b) to take away and analyse such samples of water or effluent or of any land or articles as the Authority or, as the case may be, the undertaker considers necessary for the purpose of determining either of the matters mentioned in sub-paragraph (2)(a) above and has authorised that person to take away and analyse.

(4) Without prejudice to any power exercisable by virtue of a warrant under section 178 of this Act, no person shall make an entry into any premises by virtue of this paragraph except—

(a) in an emergency; or

(b) at a reasonable time and after seven days' notice of the intended entry has been given to the occupier of the premises.

SCH. 19

(5) The reference in sub-paragraph (4) above to an emergency—

(a) in relation to any entry to premises for the purposes of, or for purposes connected with, the exercise or proposed exercise of any power conferred by paragraph 2 above, includes a reference to any circumstances requiring the carrying out of emergency works within the meaning of the Public Utilities Street Works Act 1950; and

1950 c. 39.

(b) in relation to any other entry to premises, includes a reference to any danger to property and to any interruption of a supply of water provided to any premises by any person and to any interruption of the provision of sewerage services to any premises.

Exhaustive nature of powers

11. This Schedule shall be without prejudice to any powers conferred by virtue of Schedule 10 or 20 to this Act or otherwise by virtue of this Act or any agreement; but nothing in Part II of this Act by virtue of which a water undertaker or sewerage undertaker owes a duty to any particular person to lay any relevant pipe shall be construed—

(a) as conferring any power on the undertaker in addition to those conferred by this Schedule; or

(b) as requiring the undertaker to carry out any works which it has no power to carry out.

Section 155.

SCHEDULE 20

ORDERS CONFERRING COMPULSORY WORKS POWERS

Applications for orders

1.—(1) Where the Authority or a water undertaker applies to the appropriate Minister for an order under section 155 of this Act, the Authority or, as the case may be, the undertaker shall—

(a) submit to the appropriate Minister a draft of the order applied for;

(b) publish a notice with respect to the application, at least once in each of two successive weeks, in one or more newspapers circulating in each relevant locality;

(c) not later than the date on which that notice is first published—

(i) serve a copy of the notice on each of the persons specified in relation to the application in sub-paragraph (3) below; and

(ii) in the case of a draft order which would authorise the stopping-up or diversion of a footpath or bridleway, cause such a copy, together with a plan showing the general effect of the draft order so far as it relates to the footpath or bridleway, to be displayed in a prominent position at the ends of the part of the path or way to be stopped up or diverted;

and

(d) publish a notice in the London Gazette which—

(i) states that the draft order has been submitted to the appropriate Minister;

(ii) names every local authority on whom a notice is required to be served under this paragraph;

(iii) specifies a place where a copy of the draft order and of any relevant map or plan may be inspected; and

(iv) gives the name of every newspaper in which the notice required by virtue of paragraph (b) above was published and the date of an issue containing the notice.

SCH. 20

(2) The notice required by virtue of sub-paragraph (1)(b) above to be published with respect to an application for an order shall—

(a) state the general effect of the order applied for;

(b) in the case of an application made wholly or partly for the purpose of enabling any discharges of water to be made—

(i) contain particulars of the proposed discharges, stating the purposes of the discharges and specifying each place of discharge;

(ii) specify the places at which the water to be comprised in the proposed discharges is to be taken and the treatment (if any) which the draft order proposes to require the water, or any of it, to receive before being discharged under the order;

(iii) state the effect which, in the opinion of the applicant, the proposed discharges would have on the flow, level and quality of water in any inland water or underground strata;

(c) specify a place where a copy of the draft order and of any relevant map or plan may be inspected by any person free of charge at all reasonable times during the period of twenty-eight days beginning with the date of the first publication of the notice; and

(d) state that any person may, within that period, by notice to the appropriate Minister object to the making of the order.

(3) The persons mentioned in sub-paragraph (1)(c) above in relation to an application for a draft order submitted to the appropriate Minister are—

(a) every local authority whose area is or includes the whole or any part of a relevant locality and every water undertaker, not being the applicant, whose area is or includes the whole or any part of such a locality;

(b) every navigation authority, harbour authority and conservancy authority which would be affected by, or has functions in relation to any inland water which would be affected by, any provision proposed to be made by the order;

(c) in the case of an application by a water undertaker, the Authority;

(d) every owner, lessee or occupier (except tenants for a month or for any period of less than a month) of any land in relation to which compulsory powers would become exercisable if the order were made in the terms of the draft order;

(e) every person who has given notice to the Authority or, as the case may be, the water undertaker requiring it to notify him of applications for orders under section 155 of this Act and has paid such reasonable charge as the Authority or undertaker may have required him to pay for being notified by virtue of this paragraph;

(f) such other persons as may be prescribed.

(4) In this paragraph "relevant locality", in relation to an application for an order a draft of which is submitted to the appropriate Minister, means—

(a) any locality which would be affected by any provision proposed to be made by the order for the purpose of enabling any engineering or building operations to be carried out; and

(b) where provision is proposed to be made by the order for the purpose of enabling discharges of water to be made, each locality in which the place of any of the proposed discharges is situated or in which there appears to the applicant to be any inland water or underground strata the flow, level or quality of water in which may be affected by any of the proposed discharges.

SCH. 20

Supply of copies of draft orders

2. The applicant for an order under section 155 of this Act shall, at the request of any person and on payment by that person of such charge (if any) as the applicant may reasonably require, furnish that person with a copy of the draft order submitted to the appropriate Minister under paragraph 1 above and of any relevant map or plan.

Powers on an application

3.—(1) On an application for an order under section 155 of this Act, the appropriate Minister may make the order either in the terms of the draft order submitted to him or, subject to sub-paragraphs (2) and (3) below, in those terms as modified in such manner as he thinks fit, or may refuse to make an order.

(2) The appropriate Minister shall not make such a modification of a draft order submitted to him as he considers is likely adversely to affect any persons unless he is satisfied that the applicant for the order has given and published such additional notices, in such manner, as the appropriate Minister may have required.

(3) The appropriate Minister shall not, unless all interested parties consent, make an order under section 155 of this Act so as to confer in relation to any land any powers of compulsory acquisition which would not have been conferred in relation to that land if the order were made in the terms of the draft order submitted to him under paragraph 1 above.

(4) Where, on an application for an order under section 155 of this Act, the appropriate Minister refuses to make an order, the applicant shall, as soon as practicable after the refusal, notify the refusal to every person on whom the applicant was, by virtue of paragraph 1(1)(c)(i) above, required to serve a copy of the notice with respect to the application.

(5) The duty of a water undertaker under sub-paragraph (4) above shall be enforceable under section 20 of this Act by the Secretary of State.

Consideration of objections etc.

4.—(1) If where an application for an order under section 155 of this Act has been made notice of an objection to it is received by the appropriate Minister before the end of the relevant period from—

(a) any person on whom a notice under paragraph 1 or 3 above is required to be served; or

(b) from any other person appearing to the appropriate Minister to be affected by the order as submitted to him or as proposed to be modified under paragraph 3 above,

then, unless the objection is withdrawn, the appropriate Minister shall, before making the order, either cause a local inquiry to be held or afford to the objector and to the applicant for the order an opportunity of appearing before, and being heard by, a person appointed by the appropriate Minister for the purpose.

(2) Where any objection received by the appropriate Minister as mentioned in sub-paragraph (1) above relates to any powers of compulsory acquisition, the appropriate Minister may require the objector to state in writing the grounds of his objection; and if the appropriate Minister is satisfied that the objection relates exclusively to matters that can be dealt with in the assessment of compensation, he may disregard the objection for the purposes of that sub-paragraph.

(3) In this paragraph "the relevant period", in relation to an application for any order, means the period ending with whichever is the later of—

(a) the end of the period of twenty-eight days beginning with the date of the first publication of the notice published with respect to the application for the purposes of paragraph 1(1)(b) above; and

(b) the end of the period of twenty-five days beginning with the date of the publication in the London Gazette of the notice published for the purposes of the application by virtue of paragraph 1(1)(d) above,

together, in the case of an application for an order modifications to which have been proposed by the appropriate Minister, with any further periods specified with respect to the modifications in notices under paragraph 3(2) above.

Notice after making of order

5.—(1) As soon as practicable after an order under section 155 of this Act has been made, the applicant for the order shall—

(a) publish a notice of the making of the order, at least once in each of two successive weeks, in one or more newspapers circulating in each relevant locality; and

(b) not later than the date on which that notice is first published—

(i) serve a copy of the notice on every person on whom the applicant was, by virtue of paragraph 1(1)(c)(i) above, required to serve a copy of the notice with respect to the application for the order;

(ii) in the case of an order authorising the stopping-up or diversion of a footpath or bridleway, cause such a copy, together with a plan showing the general effect of the order so far as it relates to the footpath or bridleway, to be displayed in a prominent position at the ends of the appropriate part of the path or way.

(2) The notice required by virtue of sub-paragraph (1)(a) above to be published with respect to an order under section 155 of this Act shall—

(a) state the general effect of the order;

(b) in the case of an order made wholly or partly for the purpose of enabling any discharges of water to be made—

(i) contain particulars of the discharges, stating the purposes of the discharges and specifying each place of discharge;

(ii) specify the places at which the water to be comprised in the discharges is to be taken and the treatment (if any) which the order requires the water, or any of it, to receive before being discharged under the order;

(iii) state the effect which, in the opinion of the applicant, the discharges would have on the flow, level and quality of water in any inland water or underground strata; and

(c) specify a place where a copy of the order and of any relevant map or plan may be inspected by any person free of charge at all reasonable times.

(3) Where an order under section 155 of this Act has been made, the applicant for the order shall, at the request of any person and on payment by that person of such charge (if any) as the applicant may reasonably require, furnish that person with a copy of the order and of any relevant map or plan.

(4) The duties of a water undertaker under this paragraph shall be enforceable under section 20 of this Act by the Secretary of State.

(5) In this paragraph "relevant locality", in relation to an order made under section 155 of this Act, means—

(a) any locality which is affected by any provision made by the order for the purpose of enabling any engineering or building operations to be carried out; and

SCH. 20

(b) where provision is made by the order for the purpose of enabling discharges of water to be made, each locality in which the place of any of the discharges is situated or in which there appears to the applicant to be any inland water or underground strata the flow, level or quality of water in which may be affected by any of the discharges.

Compulsory acquisition provisions

6.—(1) Without prejudice to the provisions of Schedule 21 to this Act—

1965 c. 56. (a) Part I of the Compulsory Purchase Act 1965;

1981 c. 67. (b) section 4 and Part III of, and Schedule 3 to, the Acquisition of Land Act 1981; and

(c) the enactments for the time being in force with respect to compensation for the compulsory purchase of land,

shall apply in relation to so much of an order under section 155 of this Act as confers powers of compulsory acquisition as they apply in relation to a compulsory purchase order made by virtue of section 151 of this Act and, accordingly, shall so apply, where the case so requires, with the modifications made by Schedule 18 to this Act.

(2) Subject to the provisions of sub-paragraph (6) below, if any person aggrieved by an order under section 155 of this Act containing powers of compulsory acquisition, or by a certificate given under the special land provisions in connection with such an order, desires—

(a) to question the validity of the order, or of any provision of the order, on the grounds that any powers of compulsory acquisition conferred by the order are not authorised by this Act to be so conferred, or that any of the relevant requirements have not been complied with in relation to the order; or

(b) to question the validity of the certificate on the grounds that any of the relevant requirements have not been complied with in relation to the certificate,

he may make an application for the purpose to the High Court at any time before the end of the period of six weeks beginning with the date on which notice of the making of the order is first published in accordance with paragraph 5 above or, as the case may be, notice of the giving of the certificate is first published in accordance with the special land provisions.

(3) On any application under sub-paragraph (2) above with respect to any order or certificate, the High Court—

(a) may by interim order suspend the operation of the order, or any provision of the order, or of the certificate (either generally or in so far as it affects any property of the applicant to the High Court) until the final determination of the proceedings; and

(b) if satisfied—

(i) that any powers of compulsory acquisition conferred by the order are not authorised by this Act to be so conferred; or

(ii) that the interests of that applicant have been substantially prejudiced by a failure to comply with any of the relevant requirements in relation to the order or the certificate,

may quash the order, or any provision of the order, or the certificate (either generally or in so far as it affects any property of that applicant).

(4) Except as provided by sub-paragraph (2) above, the validity of any such order or certificate as is mentioned in that sub-paragraph shall not, either before or after the order or certificate has been made or given, be questioned in any legal proceedings whatsoever.

(5) Subject to any order of the High Court under sub-paragraph (3) above, any such order or certificate as is mentioned in sub-paragraph (2) above shall become operative (except, in the case of an order, where it is subject by virtue of the special land provisions to special parliamentary procedure) on the date on which notice of the making or giving of the order or certificate is published as mentioned in the said sub-paragraph (2).

(6) Where an order such as is mentioned in sub-paragraph (2) above is subject to special parliamentary procedure, sub-paragraphs (2) to (4) of this paragraph—

(a) shall not apply to the order if it is confirmed by Act of Parliament under section 6 of the Statutory Orders (Special Procedure) Act 1945; and 1945 c. 18 (9 & 10 Geo. 6).

(b) in any other case, shall have effect as if the reference in sub-paragraph (2) of this paragraph to the date on which notice of the making of the order is first published in accordance with paragraph 5 above were a reference to the date on which the order becomes operative under the said Act of 1945.

(7) In this paragraph—

"the special land provisions" means the provisions, as applied by virtue of sub-paragraph (1) above, of Part III of the Acquisition of Land Act 1981 or, as the case may require, of Part II of Schedule 3 to that Act; and 1981 c. 67.

"the relevant requirements", in relation to an order or certificate, means the requirements of this Schedule and such requirements of the special land provisions or of any other enactment as are applicable to that order or certificate by virtue of this paragraph.

Compensation in certain cases of compulsory acquisition

7. Where—

(a) in connection with any engineering or building operations to which an order under section 155 of this Act relates, a licence under the Water Resources Act 1963 is granted, or is deemed to be granted, to the Authority or, as the case may be, to the water undertaker in question; and 1963 c. 38.

(b) that licence is a licence to abstract water or to obstruct or impede the flow of an inland water,

no compensation shall be payable by virtue of sub-paragraph (1) of paragraph 6 above in respect of any land or interest injuriously affected by the carrying out of those operations, in so far as that land or interest is injuriously affected by the abstraction of water, or the obstruction or impeding of the flow, in accordance with the provisions of the licence.

Compensation in respect of powers other than acquisition powers

8.—(1) If the value of any interest in any relevant land is depreciated by the coming into force of so much of any order under section 155 of this Act as—

(a) confers compulsory powers, other than powers of compulsory acquisition, for the purpose of enabling any engineering or building operations to be carried out; and

(b) grants authority for the carrying out of the operations,

the person entitled to that interest shall be entitled to compensation from the applicant for the order of an amount equal to the amount of the depreciation.

(2) Where the person entitled to an interest in any relevant land sustains loss or damage which—

(a) is attributable to so much of any order under section 155 of this Act as—

SCH. 20

(i) confers compulsory powers, other than powers of compulsory acquisition, for the purpose of enabling any engineering or building operations to be carried out; and

(ii) grants authority for the carrying out of the operations;

(b) does not consist in depreciation of the value of that interest; and

(c) is loss or damage for which he would have been entitled to compensation by way of compensation for disturbance, if his interest in that land had been compulsorily acquired under section 151 of this Act in pursuance of a notice to treat served on the date on which the order comes into force,

he shall be entitled to compensation from the applicant for the order in respect of that loss or damage, in addition to compensation under sub-paragraph (1) above.

(3) Where any damage to, or injurious affection of, any land which is not relevant land is attributable to so much of any order under section 155 of this Act as—

(a) confers compulsory powers, other than powers of compulsory acquisition, for the purpose of enabling any engineering or building operations to be carried out; and

(b) grants authority for the carrying out of the operations,

the applicant for the order shall pay compensation in respect of that damage or injurious affection to every person entitled to an interest in that land.

(4) A person who sustains any loss or damage which is attributable to any discharge of water made by the Authority or a water undertaker in pursuance of an order under section 155 of this Act shall be entitled to recover compensation from the Authority or undertaker in respect of the loss or damage.

(5) For the purposes of sub-paragraph (4) above any extra expenditure—

(a) which it becomes reasonably necessary for any water undertaker or public authority (other than the one making the discharge) to incur for the purpose of properly carrying out any statutory functions; and

(b) which is attributable to any such discharge of water as is mentioned in that sub-paragraph,

shall be deemed to be a loss sustained by the undertaker or public authority and to be so attributable.

(6) Any question of disputed compensation under this paragraph, shall be referred to and determined by the Lands Tribunal; and in relation to the determination of any such compensation the provisions of sections 2 and 4 of the Land Compensation Act 1961 shall apply, subject to any necessary modifications.

1961 c. 33.

(7) For the purpose of assessing any compensation under this paragraph, so far as that compensation is in respect of loss or damage consisting in depreciation of the value of an interest in land, the rules set out in section 5 of the Land Compensation Act 1961 shall, so far as applicable and subject to any necessary modifications, have effect as they have effect for the purpose of assessing compensation for the compulsory acquisition of an interest in land.

(8) Where the interest in land in respect of which any compensation falls to be assessed in accordance with sub-paragraph (7) above is subject to a mortgage—

(a) the compensation shall be assessed as if the interest were not subject to the mortgage;

(b) a claim for compensation may be made by any mortgagee of the interest, but without prejudice to the making of a claim by the person entitled to the interest;

(c) no such compensation shall be payable in respect of the interest of the mortgagee (as distinct from the interest which is subject to the mortgage); and

(d) any such compensation which is payable in respect of the interest which is subject to the mortgage shall be paid to the mortgagee, or, if there is more than one mortgagee, to the first mortgagee, and shall in either case be applied by him as if it were proceeds of sale.

(9) In this paragraph "relevant land", in relation to an order under section 155 of this Act, means any land which is not land in relation to which powers of compulsory acquisition are conferred by the order but is—

(a) land where any operations for which authority is granted by the order are to be carried out; or

(b) land in relation to which compulsory powers are conferred by the order; or

(c) land held with any land falling within paragraph (a) or (b) above.

Protection of public undertakings

9. Section 160 of this Act shall apply, as it applies in relation to the carrying out of works in exercise of a power conferred by this Act, in relation to the carrying out of works by virtue of an authority granted by so much of any order under section 155 of this Act as makes provision other than provision conferring powers of compulsory acquisition.

Interpretation

10. In this Schedule—

"bridleway" and "footpath" have the same meanings as in the Highways Act 1980; 1980 c. 66.

"powers of compulsory acquisition" means any such powers as are mentioned in subsection (4)(a) of section 155 of this Act;

and references to a tenant for a month or for any period of less than a month include references to a statutory tenant, within the meaning of the Landlord and Tenant Act 1985, and to a licensee under an assured agricultural occupancy, within the meaning of Part I of the Housing Act 1988. 1985 c. 70. 1988 c. 50.

SCHEDULE 21

Section 159.

MINERAL RIGHTS

Acquisition of mineral rights

1.—(1) This paragraph applies in each of the following cases, that is to say—

(a) where a relevant body acquires any land (whether compulsorily in exercise of any power conferred by or under this Act or otherwise); and

(b) where a relevant body carries out any works in relation to any land for the purposes of, or in connection with, the carrying out of any of its functions.

(2) Subject to sub-paragraph (3) below, a relevant body shall not, by virtue only of its acquisition of the land or the carrying out of the works, become entitled to any mines or minerals lying under the land; and, accordingly, any such mines or minerals shall be deemed to be excepted from any instrument by virtue of which the land vests in the relevant body unless express provision to the contrary is contained—

(a) where the land vests in the relevant body by virtue of a conveyance, in the conveyance; or

SCH. 21

(b) where the land is acquired by the relevant body in pursuance of any power of compulsory acquisition conferred by or under this Act, in the order authorising the acquisition.

(3) A relevant body shall be entitled to such parts of any mines or minerals that lie under the land as it may be necessary for it to dig, carry away or use in carrying out any works for the purposes of constructing, making, erecting or laying any part of its undertaking.

Notice required for the working of underlying mines

2.—(1) If the owner of any mines or minerals underlying any part of a relevant body's undertaking proposes to work them, he shall, not less than thirty days before the commencement of working, serve notice of his intention to do so on the relevant body.

(2) On receipt of a notice under sub-paragraph (1) above the relevant body may cause the mines or minerals to be inspected by a person designated by it for the purpose.

(3) Subject to sub-paragraph (5) and paragraph 3 below, if, where notice has been served under this paragraph, the relevant body—

(a) considers that the working of the underlying mines or minerals is likely to damage any part of that body's undertaking;

(b) is willing to compensate the owner of the mines or minerals for the restriction imposed by virtue of this sub-paragraph; and

(c) serves notice to that effect on the owner of the mines or minerals before the end of the period of thirty days mentioned in sub-paragraph (1) above,

the owner shall not work the mines or minerals except to such extent as may be determined by the relevant body, and the relevant body shall so compensate the owner.

(4) Any dispute as to the amount of any compensation payable by virtue of sub-paragraph (3) above shall be referred to and determined by the Lands Tribunal.

(5) If before the end of the period of thirty days mentioned in sub-paragraph (1) above, no notice has been served under sub-paragraph (3)(c) above by the relevant body, the entitlement of the owner of the mines and minerals to work them shall be an entitlement to work them by proper methods and in the usual manner of working such mines or minerals in the district in question.

(6) If any damage to the undertaking of a relevant body is caused by the working otherwise than as authorised by this paragraph of any mines or minerals underlying any part of that body's undertaking—

(a) the owner of the mines or minerals shall, at his own expense, forthwith repair the damage; and

(b) the relevant body may, without waiting for the owner to perform his duty, repair the damage and may recover the expenses reasonably incurred by it in doing so from the owner.

Mining communications

3.—(1) If the working of any mines or minerals is prevented by reason of any of the preceding provisions of this Schedule, the owner of the mines or minerals may cut and make such communication works through the mines or minerals, or the strata in which they are situated, as are required for the ventilation, drainage and working of mines or minerals which are not underlying any part of the undertaking of the relevant body in question.

(2) Communication works cut or made under this paragraph—

(a) shall not, in a case where—

(i) the part of the undertaking in question was constructed, made, erected or laid in pursuance of an order made under any enactment or is situated on land acquired by the relevant body in pursuance of any powers of compulsory acquisition; and

(ii) the order authorising the works or acquisition designates dimensions or sections for the communication works,

exceed those dimensions or fail to conform to those sections; and

(b) in any other case, shall not be more than 2.44 metres high or more than 2.44 metres wide.

(3) Communication works cut or made under this paragraph shall not be cut or made on the land where the part of the undertaking is situated so as to cause damage to that part of the undertaking.

(4) Where works carried out under this paragraph by the owner of any mines or minerals cause loss or damage to the owner or occupier of land lying over the mines or minerals, the relevant body shall pay full compensation to him for the loss or damage.

(5) Sub-paragraph (4) above shall not apply where the person sustaining the loss or damage is the owner of the mines.

(6) In this paragraph "communication works" means airways, headways, gateways or water levels.

Compensation relating to severance

4.—(1) Where mines or minerals underlying any part of a relevant body's undertaking are situated so as, on two or more sides of that land, to extend beyond the land on which that part of the undertaking is situated, the relevant body shall from time to time pay to the owner of the mines or minerals (in addition to any compensation under paragraph 2 above) any expenses and losses incurred by him in consequence of—

(a) the severance by the undertaking of the land lying over the mines;

(b) the interruption of continuous working of the mines in consequence of paragraph 2(3) above;

(c) the mines being so worked in accordance with restrictions imposed by virtue of this Act or any order made under this Act,

and shall pay for any minerals not purchased by the relevant body which cannot be got or won by reason of the part of the undertaking in question being situated where it is or by reason of the requirement to avoid damage to any part of the relevant body's undertaking.

(2) Any dispute as to whether any sum should be paid under this paragraph or as to the amount payable shall be referred to the arbitration of a single arbitrator appointed by agreement between the relevant body and the owner of the mines or minerals or, in default of agreement, by the Secretary of State.

Powers of entry

5.—(1) Any person designated in writing for the purpose by a relevant body may, for any purpose specified in sub-paragraph (2) below—

(a) enter on any land in which the mines or minerals are, or are thought to be, being worked, and which is in or near to the land where any part of that body's undertaking is situated; and

(b) enter the mines and any works connected with the mines.

SCH. 21

(2) The purposes mentioned in sub-paragraph (1) above are—

(a) carrying out any inspection under paragraph 2(2) above;

(b) ascertaining whether any mines or minerals have been worked so as to damage the undertaking of the relevant body in question; and

(c) carrying out any works and taking any other steps which the relevant body in question is authorised to carry out under paragraph 2(6) above.

(3) A person authorised to enter any premises under this paragraph may—

(a) make use of any equipment belonging to the owner of the mines or minerals in question; and

(b) use all necessary means for discovering the distance from any part of the undertaking of the relevant body to the parts of the mines or the minerals which are, or are about to be, worked.

(4) Without prejudice to any power exercisable by virtue of a warrant under section 178 of this Act, no person shall make an entry into any premises by virtue of this section except—

(a) in an emergency; or

(b) at a reasonable time and after seven days' notice of the intended entry has been given to the occupier of the premises.

No exemption for injury to mines and minerals

6. Nothing in any provision of this Act or of any order made under this Act shall be construed as exempting a relevant body from any liability to which it would, apart from that provision, have been subject in respect of any damage to any mines or minerals underlying any part of its undertaking or in respect of any loss sustained in relation to any such mines or minerals by a person having an interest therein.

Interpretation

7.—(1) In this Schedule—

1925 c. 20.

"conveyance" has the same meaning as in the Law of Property Act 1925;

"designated distance", in relation to any part of a relevant body's undertaking, means, where—

(a) that part of the undertaking was constructed, made, erected or laid in pursuance of an order made under any enactment or is situated on land acquired by the relevant body in pursuance of any powers of compulsory acquisition; and

(b) the order authorising the works or acquisition designates the distance for the purposes of any enactment relating to mines or minerals underlying that part of the undertaking,

that distance, and, in any other case, thirty-seven metres;

"mines" means mines of coal, ironstone, slate or other minerals;

"owner", in relation to mines and minerals, includes a lessee or occupier;

"relevant body" means the Authority or any water undertaker or sewerage undertaker; and

"underlying", in relation to any part of the undertaking of a relevant body, means lying under, or within the designated distance from, that part of that undertaking.

(2) For the purposes of this Schedule the undertaking of a relevant body shall be taken to consist of so much of any of the following as is for the time being vested in or held by that body for the purposes of, or in connection with, the carrying out of any of its functions, that is to say—

(a) any buildings, reservoirs, wells, boreholes or other structures; and

(b) any pipes or other underground works particulars of which fall or would fall to be incorporated in any records kept under section 165 or 166 of this Act. SCH. 21

(3) References in this Schedule to the working of any mines or minerals include references to the draining of mines and to the winning or getting of minerals.

(4) For the purposes of this Schedule land shall be treated as acquired by a relevant body in pursuance of powers of compulsory acquisition if it—

(a) was so acquired by a water authority or any predecessor of a water authority or by a predecessor of a statutory water company; and

(b) is now vested in that body in accordance with a scheme under Schedule 2 or 5 to this Act or otherwise.

(5) In relation—

(a) to any land treated by virtue of sub-paragraph (4) above as acquired in pursuance of powers of compulsory acquisition; or

(b) to any land acquired by a statutory water company before the transfer date in pursuance of any such powers,

references in this Schedule to the order authorising the acquisition include references to any local statutory provision which immediately before the transfer date has effect in relation to that land for the purposes of any provisions corresponding to the provisions of this Schedule.

SCHEDULE 22

Section 168.

WATER QUALITY IN SCOTLAND

1. In the Water (Scotland) Act 1980, after section 76, there shall be inserted the following Part— 1980 c. 45.

"PART VI A

QUALITY OF WATER

Duties of water authorities with respect to water quality.

76A.—(1) It shall be the duty of a water authority—

(a) when supplying water to any premises for domestic purposes to supply only water which is wholesome at the time of supply; and

(b) so far as reasonably practicable, to ensure, in relation to each source or combination of sources from which that authority supplies water to premises for domestic purposes, that there is, in general, no deterioration in the quality of the water which is supplied from time to time from that source or combination of sources.

(2) For the purposes of this section and section 76B below and subject to subsection (3) below, water supplied by a water authority to any premises shall not be regarded as unwholesome at the time of supply where it has ceased to be wholesome only after leaving the authority's pipes.

(3) For the purposes of this section where water supplied by a water authority to any premises would not otherwise be regarded as unwholesome at the time of supply, that water shall be regarded as unwholesome at that time if—

(a) it has ceased to be wholesome after leaving the authority's pipes but while in a pipe which is subject to water pressure from a main or which would be so subject but for the closing of some valve; and

SCH. 22

(b) it has so ceased in consequence of the failure of the authority, before supplying the water, to take such steps as may be prescribed for the purpose of securing the elimination or reduction to a minimum of any prescribed risk that the water would cease to be wholesome after leaving the authority's pipes.

(4) The provisions of this section shall apply in relation to water which is supplied by a water authority whether or not the water is water which the authority is required to supply by virtue of any provision of this Act.

Regulations for preserving water quality.

76B.—(1) The Secretary of State may by regulations require a water authority to take all such steps as may be prescribed for the purpose of securing compliance with section 76A above; and, without prejudice to the generality of that power, regulations under this subsection may impose an obligation on a water authority—

(a) to take all such steps as may be prescribed for monitoring and recording whether the water which that authority supplies to premises for domestic purposes is wholesome at the time of supply;

(b) to take all such steps as may be prescribed for monitoring and recording the quality of the water from any source, or combination of sources, which that authority uses or is proposing to use for supplying water to any premises for domestic purposes;

(c) to ensure that a source which that authority is using or proposing to use for supplying water for domestic purposes is not so used until prescribed requirements for establishing the quality of water which may be supplied from that source have been complied with;

(d) to keep records of the localities within which all the premises supplied with water for domestic purposes by that authority are normally supplied from the same source or combination of sources;

(e) to comply with prescribed requirements with respect to the analysis of water samples or with respect to internal reporting or organisational arrangements.

(2) Without prejudice to subsection (1) above, the Secretary of State may by regulations make provision with respect to the use by water authorities, for the purposes of or in connection with the carrying out of their functions, of such processes and substances, and of products that contain or are made with such substances or materials, as he considers might affect the quality of any water; and, without prejudice to the generality of that power, regulations under this subsection may—

(a) forbid the use by water authorities of processes, substances and products which have not been approved under the regulations or which contravene the regulations;

(b) for the purposes of provision made by virtue of paragraph (a) above, require processes, substances and products used by water authorities to conform to such standards as may be prescribed by or approved under the regulations;

(c) impose such other requirements as may be prescribed with respect to the use by water authorities of prescribed processes, substances and products;

(d) provide for the giving, refusal and revocation, by prescribed persons, of approvals required for the purposes of the regulations, for such approvals to be capable of being made subject to such conditions as may be prescribed and for the modification and revocation of any such condition;

(e) impose obligations to furnish prescribed persons with information reasonably required by those persons for the purpose of carrying out functions under the regulations;

(f) provide for a contravention of the regulations to constitute—

(i) an offence punishable on summary conviction by a fine not exceeding level 5 on the standard scale or such smaller sum as may be prescribed; or

(ii) an offence triable either summarily or on indictment and punishable, on summary conviction, by a fine not exceeding the statutory maximum and, on conviction on indictment, by a fine; and

(g) require prescribed charges to be paid to persons carrying out functions under the regulations.

(3) The Secretary of State may by regulations require a water authority—

(a) to publish information about the quality of water supplied for domestic purposes to any premises by that authority; and

(b) to provide information to prescribed persons about the quality of water so supplied.

(4) Regulations under subsection (3) above—

(a) shall prescribe both the information which is to be published or provided in pursuance of the regulations and the manner and circumstances in which it is to be published or provided;

(b) may require the provision of information by a water authority to any person to be free of charge or may authorise it to be subject to the payment by that person to the authority of a prescribed charge; and

(c) may impose such other conditions on the provision of information by a water authority to any person as may be prescribed.

Offence of supplying water unfit for human consumption.

76C.—(1) Subject to subsection (4) below, where a water authority supplies water by means of pipes to any premises and that water is unfit for human consumption the authority shall be guilty of an offence and liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum;

(b) on conviction on indictment, to a fine.

SCH. 22

(2) Where an offence under this section is proved to be attributable to any neglect on the part of an employee of the water authority, he as well as the water authority shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(3) For the purposes of subsection (2) above, the penalty on conviction on indictment shall include imprisonment (in addition to or instead of a fine) for a term not exceeding two years.

(4) In any proceedings for an offence under this section it shall be a defence to show that—

(a) there were no reasonable grounds for suspecting that the water would be used for human consumption; or

(b) all reasonable steps had been taken and all due diligence exercised for securing that the water was fit for human consumption on leaving the pipes or was not used for human consumption.

Provision of water where piped supplies insufficient or unwholesome.

76D.—(1) Where—

(a) it is not practicable at reasonable cost for a water authority, by supplying water in pipes, to provide or maintain such a supply of wholesome water to any particular premises in its limits of supply as (so far as those premises are concerned) is sufficient for domestic purposes;

(b) it is practicable at reasonable cost for the authority to provide such a supply to those premises otherwise than in pipes;

(c) the insufficiency or unwholesomeness of the supply of water for domestic purposes to those premises is such as to cause a danger to life or health; and

(d) the local authority in whose area those premises are situated notify the water authority of that danger and require the water authority to provide a supply otherwise than in pipes,

it shall be the duty of the water authority, for such period as may be required by that local authority, to provide any supply to those premises which it is practicable at reasonable cost to provide otherwise than in pipes and which it is required to provide by that local authority.

(2) Where under subsection (1) above a local authority require the provision by a water authority of a supply of water to any premises, that local authority—

(a) shall be liable to the water authority for any charges payable in respect of the provision of that supply; but

(b) shall have power to recover the whole or any part of any charges paid by virtue of this subsection from the owner or occupier of the premises to which the supply is provided.

(3) In this section references to the provision of a supply of water to any premises otherwise than in pipes shall have effect, in a case in which it is practicable at reasonable cost to provide a supply (whether or not in pipes) to a place within a reasonable distance of those premises, as including references to the provision of a supply to that place.

Enforcement of

76E.—(1) This section applies to enforcement of the duties of

sections 76A to 76D.

water authorities under sections 76A and 76D(1) and under regulations made under section 76B. SCH. 22

(2) Without prejudice to its generality, section 11 above (power of Secretary of State to make a default order) shall have effect, subject to the following provisions of this section, for the enforcement by the Secretary of State of the duties referred to in subsection (1) above.

(3) The Secretary of State may make an order under subsection (2) of section 11 without having caused a local inquiry to be held into the matter.

(4) If he is satisfied that a water authority has failed in any of the duties referred to in subsection (1) above, the Secretary of State shall make an order under subsection (2) of section 11 unless he is satisfied—

(a) that the failures complained of were of a trivial nature; or

(b) that the water authority have given, and are complying with, an undertaking to take all such steps as it appears to the Secretary of State to be appropriate, for the time being, for them to take for the purpose of securing or facilitating compliance with these duties.

General functions of local authorities in relation to water quality.

76F.—(1) It shall be the duty of every local authority to take all such steps as they consider appropriate for keeping themselves informed about the wholesomeness and sufficiency of water supplies provided to premises in their area, including every private supply to any such premises.

(2) It shall be the duty of a local authority to notify any water authority of anything appearing to the local authority to suggest—

(a) that any supply by that water authority of water for domestic purposes to any premises in the area of that local authority is, has been, or is likely to become unwholesome or (so far as any such premises are concerned) insufficient for those purposes;

(b) that the unwholesomeness or insufficency of any such supply is, was or is likely to be such as to cause a danger to life or health; or

(c) that the duty imposed on that water authority by virtue of section 76A(1)(b) above is being, has been or is likely to be so contravened as to affect any supply of water to premises in that area;

and it shall be the duty of a local authority to require the provision of a supply in pursuance of section 76D above whenever, in a case falling within paragraph (a) of subsection (1) of that section, they are satisfied, in relation to any premises in their area, as to the matters specified in paragraphs (b) and (c) of that subsection.

(3) Where a local authority have notified a water authority of any such matter as is mentioned in subsection (2) above, it shall be the duty of that local authority, if they are not satisfied that all such remedial action as is appropriate will be taken by the water authority, to inform the Secretary of State about the contents of the notification.

SCH. 22

(4) It shall be the duty of a local authority to comply with any direction given by the Secretary of State to that local authority or to local authorities generally as to—

(a) the cases and circumstances in which they are or are not to exercise any of the powers conferred on them by this Part in relation to private supplies; and

(b) the manner in which those powers are to be exercised.

(5) The Secretary of State may by regulations make such provision, supplementing the provisions of this section, as he considers appropriate for—

(a) imposing duties and conferring powers on local authorities with respect to the acquisition of information about the quality and sufficiency of water supplies provided to premises in their areas; and

(b) regulating the performance of any duty imposed by or under this section.

(6) Without prejudice to the generality of subsection (5) above, regulations under that subsection may—

(a) prescribe the matters to be taken into account by a local authority in determining, for the purposes of subsection (1) above, what is appropriate;

(b) provide, for the purposes of the exercise or performance of any power or duty conferred or imposed on a local authority by or under this section, for such samples of water to be taken and analysed at such times and in such manner as may be prescribed;

(c) authorise local authorities to exercise or perform any such power or duty through prescribed persons;

(d) provide for the recovery by a local authority, from prescribed persons, of such amounts as may be prescribed in respect of expenses reasonably incurred by the authority in the exercise of any such power or the performance of any such duty.

Remedial powers of local authorities in relation to private supplies.

76G.—(1) Subject to the following provisions of this section, where a local authority are satisfied in relation to any premises in their area which are supplied with water for domestic purposes by means of a private supply—

(a) that any water which is being, has been or is likely to be supplied for those purposes to those premises by means of that private supply is not, was not or, as the case may be, is likely not to be wholesome; or

(b) that that private supply is failing, has failed or is likely to fail to provide to any house on those premises such a supply of wholesome water as (so far as that house is concerned) is sufficient for domestic purposes,

the local authority may serve a notice in relation to that private supply on one or more of the relevant persons.

(2) A notice under this section in relation to a private supply of water to any premises shall—

(a) give particulars of the matters mentioned in subsection (1) above in respect of which the notice is served;

(b) specify the steps which, in the opinion of the local authority serving the notice, are required to be taken for ensuring that there is a supply of water to those

premises which is both wholesome and (so far as any house on those premises is concerned) sufficient for domestic purposes;

(c) specify a period ending not less than 28 days after the day on which the notice is served within which any representations or objections with respect to the notice must be received by that local authority; and

(d) state the effect in relation to that notice of section 76H(2) and (3) below.

(3) Subject to section 76H below, where a local authority serve a notice under this section on any relevant person they may do one or more of the following, that is to say—

(a) by that notice designate as steps to be taken by the authority themselves such of the steps specified in the notice as they consider it appropriate to so designate;

(b) by that notice require that person, within such reasonable period as may be specified in the notice, to take one or more of the steps so specified;

(c) by that notice require that person, at such times as may be determined in accordance with provision contained in the notice, to make to another relevant person or to that authority such payments as may be so determined in respect of expenses reasonably incurred by that other person or that authority in taking any step specified in the notice;

(d) by that notice undertake from time to time to make such payments to that person as may be so determined in respect of expenses reasonably incurred by that person in taking any step specified in the notice.

(4) The power of a local authority to serve a notice under this section specifying the steps which are required to be taken in relation to any source from which a private supply is provided both to premises in the area of that authority and to premises in the area of another local authority shall be exercisable only where—

(a) the other authority consent to the service of the notice; or

(b) the authorities act jointly in exercising their respective powers under this section in relation to that source.

(5) The powers conferred by this section and section 76H below shall be so exercised in relation to a private supply of water to any premises where there is no house as to secure that no local authority are required to bear any of the expenses incurred (whether by the authority or by any other person) in taking any steps for ensuring that the supply is wholesome which are specified in any notice under this section.

(6) The steps that a relevant person may be required by a notice under this section to take in relation to any premises shall include—

(a) requiring a supply of water to be provided to those premises by a water authority or by any other person; and

SCH. 22

(b) taking such steps for the purpose of securing that such a requirement is complied with, and of enabling such a supply to be so provided, as may be specified in the notice.

(7) For the purposes of this section and section 76H below the relevant persons, in relation to a private supply of water to any premises in the area of a local authority, are the owners and occupiers of those premises and (whether or not the source of the private supply is in that authority's area) the owners and occupiers of the premises where that source is situated and any other person who exercises powers of management or control in relation to that source.

Effect, confirmation and variation of notice under section 76G.

76H.—(1) Subject to subsection (2) below, a notice served by a local authority under section 76G above shall not take effect until the end of the period specified in the notice as the period within which representations or objections with respect to the notice must be received by that authority.

(2) Where any written representation or objection with respect to a notice by a local authority under section 76G above is received by the authority, before the end of the period specified in the notice, from a person on whom the notice was served, that notice shall not take effect unless—

(a) the notice is submitted by the authority to the Secretary of State and is confirmed by him either with or without modifications; or

(b) the representation or objection is withdrawn.

(3) If a local authority submit a notice under section 76G above to the Secretary of State for confirmation, the Secretary of State—

(a) shall consider whether the notice should be confirmed and whether, if it is confirmed, it should be confirmed with or without modifications;

(b) may, with respect to the matters specified in the notice or any proposed modification of it, direct the local authority to serve a notice under section 76G above, in such terms as may be specified in the direction, on any relevant person who has not previously been so served;

(c) may, for the purposes of paragraph (a) or (b) above—

(i) cause a local inquiry to be held; or

(ii) afford to the local authority and to every person who has made representations or objections with respect to the notice or a proposed direction under paragraph (b) above an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose;

and

(d) may, if he is satisfied that the person on whom any notice to be served in pursuance of a direction under paragraph (b) above has had a proper opportunity of having his representations or objections with respect to the proposal for the direction considered, dispense in relation to the notice so served with the provisions of subsections (1) and (2) above and of section 76G(2)(c) and (d) above.

(4) Where the Secretary of State confirms a notice under section 76G above (whether with or without modifications)—

(a) he, or if he so directs, the local authority concerned shall serve notice of that confirmation on every person originally served with the notice under that section; and

(b) that notice shall take effect, with any modifications made by the Secretary of State, at such time as may be specified in the notice served under this subsection.

(5) Where any relevant person who is required by virtue of a notice under section 76G above to take any step in relation to any premises fails to take that step within the period specified in the notice, the authority which served the notice may, in accordance with any applicable provision having effect by virtue of section 76I below, take that step themselves.

(6) Where any step is taken by a local authority in relation to any premises by virtue of subsection (5) above—

(a) the authority may recover from the person who failed to take that step within the specified period any expenses reasonably incurred by the authority in taking that step; and

(b) for the purposes of any requirement under which payments are required to be made to that person by any person other than the authority, sums paid by virtue of paragraph (a) above in respect of the taking of any step shall be deemed to be expenses incurred in the taking of that step by the person who failed to take it.

(7) Nothing in this Act shall confer any right of action on any person in respect of any loss or damage sustained by that person in consequence of the failure by any other person to take any step specified in a notice under section 76G above; but any sum required to be paid to any person by virtue of any requirement or undertaking contained in such a notice shall be recoverable by that person from the person who is required to pay it.

(8) Any requirement which is imposed by virtue of a notice under section 76G above on the owner or occupier of any premises and is expressed to bind those premises in relation to the owners or occupiers from time to time shall bind successive owners or, as the case may be, occupiers of those premises; and section 65 above (power of local authority to make a charging order in respect of costs) shall apply to a requirement under section 76G above as if that requirement were a requirement under section 64 above.

(9) Subject to subsection (10) below, a local authority may by notice served on any person modify or revoke the effect in relation to that person of any notice under section 76G above or this subsection (including a notice which has been confirmed, with or without modifications, by the Secretary of State).

(10) Section 76G(2)(c) and (d) and subsections (1) to (4) above shall apply, as they apply in relation to a notice under section 76G above, in relation to any notice served by a local authority on any person under subsection (9) above except where the notice—

(a) extends the period within which any step is required to be taken by that person; or

SCH. 22

(b) discharges, postpones or abates any obligation of that person to make a payment to the local authority.

Incidental powers of local authorities.

76I.—(1) Subject to subsection (5) below, a local authority may serve on any person a notice requiring him to furnish that authority, within a period or at times specified in the notice and in a form and manner so specified, with such information as is reasonably required by that authority for the purpose of exercising or performing any power or duty conferred or imposed on that authority by or under any of sections 76F to 76H above.

(2) Any person designated in writing for the purpose by any local authority may—

(a) enter any premises for the purpose, in relation to any private supply, of—

(i) determining whether, and if so in what manner, any power or duty conferred or imposed on that authority by or under any of sections 76F to 76H above should be exercised or performed; or

(ii) exercising any such power or performing any such duty;

(b) enter any premises to which a supply of water is provided by a water authority for the purpose, in relation to a supply so provided, of determining whether, and if so in what manner, such a power should be exercised or such a duty performed or of exercising such a power or performing such a duty; or

(c) carry out such inspections, measurements and tests on premises entered by that person or of articles found on any such premises, and take away such samples of water or of any land or articles, as the local authority—

(i) consider appropriate for the purposes of any such power or duty; and

(ii) have authorised that person to carry out or take away,

and the provisions of subsections (3) to (7) of section 38 shall apply to the right of entry given by this subsection to any person designated by a local authority as they apply to the right of entry of an authorised officer of a water authority.

(3) Entry into any premises shall not be demanded as of right by virtue of this section except—

(a) in an emergency, or

(b) at a reasonable time and after 24 hours' notice of the intended entry has been given to the occupier of the premises.

(4) The Secretary of State may by regulations make provision for restricting the information which may be required under subsection (1) above and for determining the form in which the information is to be so required.

(5) A person who fails to comply with the requirements of a notice served on him under subsection (1) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale; and it shall be a defence for a person charged with an offence under this subsection to show that he had a reasonable excuse.

SCH. 22

Standards of wholesomeness.

76J.—(1) The Secretary of State may by regulations make provision that water that is supplied to any premises is or is not to be regarded as wholesome for the purposes of this Part if it satisfies or, as the case may be, fails to satisfy such requirements as may be prescribed.

(2) Without prejudice to the generality of subsection (1) above, regulations under this section may, for the purpose of determining the wholesomeness of any water—

(a) prescribe general requirements as to the purposes for which the water is to be suitable;

(b) prescribe specific requirements as to the substances that are to be present in or absent from the water and as to the concentrations of substances which are or are required to be present in the water;

(c) prescribe specific requirements as to other characteristics of the water;

(d) provide that the question whether prescribed requirements are satisfied may be determined by reference to such samples as may be prescribed;

(e) enable the Secretary of State to authorise such relaxations of and departures from the prescribed requirements (or from any of them) as may be prescribed, to make any such authorisation subject to such conditions as may be prescribed and to modify or revoke any such authorisation or condition; and

(f) enable the Secretary of State to authorise a local authority (either instead of the Secretary of State or concurrently with him) to exercise in relation to a private supply any power conferred on the Secretary of State by regulations made by virtue of paragraph (e) above.

Power to give effect to international obligations.

76K. The Secretary of State may by regulations provide that the provisions of this Part shall have effect with such modifications as may be prescribed for the purpose of enabling Her Majesty's Government in the United Kingdom to give effect to—

(a) any Community obligations; or

(b) any international agreement to which the United Kingdom is for the time being a party.

Interpretation etc. of Part VI A.

76L.—(1) In this Part—

"analyse", in relation to any sample of land or water, includes subjecting the sample to a test of any description, and cognate expressions shall be construed accordingly;

"local authority" means an islands or district council;

"micro-organism" includes any microscopic biological entity which is capable of replication;

"private supply" means, subject to subsection (2) below, a supply of water provided otherwise than by a water authority (including a supply provided for the purposes of the bottling of water) and cognate expressions shall be construed accordingly;

"substance" includes micro-organisms and any natural or artificial substance or other matter, whether it is in solid or liquid form or in the form of a gas or vapour;

SCH. 22

"wholesome" and cognate expressions shall be construed subject to the provisions of any regulations made under section 76J.

(2) For the purposes of any reference in this Part to a private supply, or to supplying water by means of a private supply, water shall be treated as supplied to any premises not only where it is supplied from outside those premises, but also where it is abstracted, for the purpose of being used or consumed on those premises, from a source which is situated on the premises themselves; and for the purposes of this subsection water shall be treated as used on any premises where it is bottled on those premises for use or consumption elsewhere.

(3) The rights conferred by virtue of this Part as against the owner or occupier of any premises shall be without prejudice to any rights and obligations, as between themselves, of the owner and occupier of the premises in question."

Section 168.

SCHEDULE 23

CONTROL OF WATER POLLUTION IN SCOTLAND

1974 c. 40.

1. The Control of Pollution Act 1974 as it applies to Scotland is amended in accordance with the provisions of this Schedule.

2. In subsection (4) of section 4 (meaning of "land"), for the words "in a stream" there shall be substituted the words "in inland waters".

3. In subsection (9) of section 11, for the words "relevant waters" there shall be substituted the words "controlled waters".

4. For sections 31 to 42 there shall be substituted the following sections—

"General provisions

Waters to which Part II applies.

30A.—(1) This part applies to any waters (in this Part referred to as "controlled waters") of any of the following classes—

(a) relevant territorial waters, that is to say, subject to subsection (5) below, the waters which extend seaward for three miles from the baselines from which the breadth of the territorial sea adjacent to Scotland is measured;

(b) coastal waters, that is to say, any waters which are within the area which extends landward from those baselines as far as the limit of the highest tide or, in the case of the waters of any relevant river or watercourse, as far as the fresh-water limit of the river or watercourse, together with the waters of any enclosed dock which adjoins waters within that area;

(c) inland waters, that is to say, the waters of any relevant loch or pond or of so much of any relevant river or watercourse as is above the fresh-water limit;

(d) ground waters, that is to say, any waters contained in underground strata, or in—

(i) a well, borehole or similar work sunk into underground strata, including any adit or passage constructed in connection with the well, borehole or work for facilitating the collection of water in the well, borehole or work; or

(ii) any excavation into underground strata where the level of water in the excavation depends wholly or mainly on water entering it from the strata.

(2) The Secretary of State—

(a) shall deposit maps with each river purification authority showing what appear to him to be the fresh-water limits of every relevant river or watercourse in the area of that authority; and

(b) may from time to time, if he considers it appropriate to do so by reason of any change of what appears to him to be the fresh-water limit of any river or watercourse, deposit a map showing a revised limit for that river or watercourse;

and in subsection (1) above "fresh-water limit", in relation to any river or watercourse, means the place for the time being shown as the fresh-water limit of that river or watercourse in the latest map deposited for that river or watercourse under this subsection.

(3) It shall be the duty of each river purification authority to keep any maps deposited with it under subsection (2) above available, at all reasonable times, for inspection by the public free of charge.

(4) In this section—

"miles" means international nautical miles of 1,852 metres;

"loch or pond" includes a reservoir of any description;

"relevant loch or pond" means (subject to subsection (5) below) any loch or pond which (whether it is natural or artificial or above or below ground) discharges into a relevant river or watercourse or into another loch or pond which is itself a relevant loch or pond;

"relevant river or watercourse" means any river or watercourse (including an underground river or watercourse and an artificial river or watercourse) which is neither a public sewer nor a sewer or drain which drains into a public sewer.

(5) The Secretary of State may by order provide—

(a) that any area of the territorial sea adjacent to Scotland is to be treated as if it were an area of relevant territorial waters for the purposes of this Part;

(b) that any loch or pond which does not discharge into a relevant river or watercourse or into a relevant loch or pond is to be treated for those purposes as a relevant loch or pond.

(6) The power of the Secretary of State to make an order under subsection (5) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament; and such an order may—

(a) contain such supplemental, consequential and transitional provision as the Secretary of State considers appropriate; and

SCH. 23

(b) make different provision for different cases, including different provision in relation to different persons, circumstances or localities.

Classification of quality of waters.

30B.—(1) The Secretary of State may, in relation to any description of controlled waters (being a description applying to some or all of the waters of a particular class or of two or more different classes), by regulations prescribe a system of classifying the quality of those waters according to criteria specified in the regulations.

(2) The criteria specified in regulations under this section in relation to any classification shall consist of one or more of the following, that is to say—

(a) general requirements as to the purposes for which the waters to which the classification is applied are to be suitable;

(b) specific requirements as to the substances that are to be present in or absent from the water and as to the concentrations of substances which are or are required to be present in the water;

(c) specific requirements as to other characteristics of those waters;

and, for the purposes of any such classification, regulations under this section may provide that the question whether prescribed requirements are satisfied may be determined by reference to such samples as may be prescribed.

Water quality objectives.

30C.—(1) For the purpose of maintaining and improving the quality of controlled waters the Secretary of State may, by serving a notice on a river purification authority specifying—

(a) one or more of the classifications for the time being prescribed under section 30B above; and

(b) in relation to each specified classification, a date,

establish the water quality objectives for any waters within the area of that authority which are, or are included in, waters of a description prescribed for the purposes of that section.

(2) The water quality objectives for any waters to which a notice under this section relates shall be the satisfaction by those waters, on and at all times after each date specified in the notice, of the requirements which at the time of the notice were the requirements for the classification in relation to which that date is so specified.

(3)Where the Secretary of State has established water quality objectives under this section for any waters he may review objectives for those waters if—

(a) five years or more have elapsed since the service of the last notice under subsection (1) or (6) of this section to be served in respect of those waters; or

(b) the river purification authority on which that notice has been served, after consultation with such persons as it considers appropriate, requests a review;

and the Secretary of State shall not exercise his power to establish objectives for any waters by varying the existing objectives for those waters except in consequence of such a review.

SCH. 23

(4)Where the Secretary of State proposes to exercise his power under this section to establish or vary the objectives for any waters in the area of a river purification authority he shall—

(a) give notice to that authority setting out his proposal and specifying the period (not being less than three months from the date of publication of the notice) within which representations with respect to the proposal may be made; and

(b) consider any representations which are duly made;

and if he decides, after considering any such representations, to exercise his power to establish or vary those objectives, he may do so either in accordance with the proposal contained in the notice or in accordance with that proposal as modified in such manner as he considers appropriate.

(5) A notice under subsection (4) above shall be given—

(a) by publishing the notice in such manner as the Secretary of State considers appropriate for bringing it to the attention of persons likely to be affected by it; and

(b) by serving a copy of the notice on the authority.

(6) If, on a review under this section or in consequence of any representations made following such a review for the purposes of subsection (4) above, the Secretary of State decides that the water quality objectives for any waters in the area of a river purification authority should remain unchanged, he shall serve notice of that decision on that authority.

General duties to achieve and maintain objectives etc.

30D.—(1) It shall be the duty of the Secretary of State and of each river purification authority to exercise the powers conferred on him or it by or under the following provisions of this Part or the provisions of the Rivers (Prevention of Pollution) (Scotland) Acts 1951 and 1965 in such manner as ensures, so far as it is practicable by the exercise of those powers to do so, that the water quality objectives specified for any waters in a notice under section 30C above, or in a notice under section 105 of the Water Act 1989, are achieved at all times.

(2) It shall be the duty of each river purification authority, for the purposes of the carrying out of its functions under the following provisions of this Part or the provisions of the Rivers (Prevention of Pollution) (Scotland) Acts 1951 and 1965, to monitor the extent of pollution in controlled waters.

Consultation and collaboration.

30E. In the performance of their functions in relation to waters partly in Scotland and partly in England river purification authorities shall, in matters of common interest, consult and collaborate with the National Rivers Authority.

Control of entry of polluting matter and effluents into water

Control of pollution of rivers and coastal waters etc.

31.—(1) Subject to subsections (2) and (3) of this section, a person shall be guilty of an offence if he causes or knowingly permits—

(a) any poisonous, noxious or polluting matter to enter controlled waters; or

(b) any matter to enter any inland waters so as to tend (either directly or in combination with other matter which he or another person causes or permits to enter those waters) to impede the proper flow of the waters

SCH. 23

in a manner leading or likely to lead to a substantial aggravation of pollution due to other causes or of the consequences of such pollution; or

(c) any solid waste matter to enter controlled waters.

(2) A person shall not be guilty of an offence by virtue of the preceding subsection if—

(a) the entry in question is authorised by, or is a consequence of an act authorised by, a disposal licence or a consent given by the Secretary of State or a river purification authority in pursuance of this Act and the entry or act is in accordance with the conditions, if any, to which the licence or consent is subject; or

(b) the entry in question is authorised by, or is a consequence of an act authorised by—

1980 c. 45.

(i) section 33 of the Water (Scotland) Act 1980 (which among other things relates to temporary discharges by water authorities in connection with the construction of works) or any prescribed enactment, or

(ii) any provision of a local Act or statutory order which expressly confers power to discharge effluent into water, or

1985 c. 48.

(iii) any licence granted under Part II of the Food and Environment Protection Act 1985; or

(iv) any consent given under Chapter I of Part III of the Water Act 1989; or

(c) the entry in question is caused or permitted in an emergency in order to avoid danger to life or health and—

(i) he takes all such steps as are reasonably practicable in the circumstances for minimising the extent of the entry in question and of its polluting effects; and

(ii) as soon as reasonably practicable after the entry occurs, particulars of the entry are furnished to the river purification authority in whose area it occurs; or

(d) the matter in question is trade or sewage effluent discharged as mentioned in paragraph (a) of subsection (1) of section 32 or matter discharged as mentioned in paragraph (b) or (c) of that subsection and the entry in question is not from a vessel;

and a person shall not be guilty of an offence by virtue of the preceding subsection by reason only of his permitting water from an abandoned mine to enter controlled waters.

(3) A person shall not by virtue of paragraph (b) or (c) of subsection (1) of this section be guilty of an offence by reason of his depositing the solid refuse of a mine or quarry on any land so that it falls or is carried into inland waters if—

(a) he deposits the refuse on the land with the consent (which shall not be unreasonably withheld) of the river purification authority in whose area the land is situated; and

(b) no other site for the deposit is reasonably practicable; and

(c) he takes all reasonably practicable steps to prevent the refuse from entering those inland waters.

(4) Where it appears to the Secretary of State that, with a view to preventing poisonous, noxious or polluting matter from entering any controlled waters, it is appropriate to prohibit or restrict the carrying on in a particular area of activities which he considers are likely to result in pollution of the waters, then, subject to subsection (5) below, he may by regulations—

(a) designate that area; and

(b) provide that prescribed activities shall not be carried on at any place within the area except with the consent (which shall not be unreasonably withheld) of the river purification authority in whose area the place is situated and in accordance with any reasonable conditions to which the consent is subject;

(c) provide that a contravention of the regulations shall be an offence and prescribe the maximum penalty for the offence; and

(d) make provision for the imposition by river purification authorities of charges in respect of the consent mentioned in paragraph (b) above.

(5) It shall be the duty of the Secretary of State, before he makes any regulations under subsection (4) above—

(a) to publish in the Edinburgh Gazette and in at least one newspaper circulating in the area in question a copy of the proposed regulations and a notice specifying—

(i) a period of not less than twenty-eight days, beginning with the date on which the notice is first published, within which objections to the proposed regulations may be made, and

(ii) the person to whom such objections may be made; and

(b) to consider any objections to the proposed regulations which are made within that period and, if such an objection is so made by a prescribed person and is not withdrawn, to cause a local inquiry to be held in pursuance of section 96 of this Act with respect to the proposed regulations;

and the Secretary of State may, after considering any such objections as are mentioned in paragraph (b) of this subsection and the report of any person appointed to hold a local inquiry with respect to the proposed regulations, make the regulations either in the form in which a copy of them was published in pursuance of this subsection or in that form with such modifications as he considers appropriate.

(6) A river purification authority may by byelaws make such provision as the authority considers appropriate for prohibiting or regulating the washing or cleaning, in any controlled waters in its area, of things of a kind specified in the byelaws; and a person who contravenes any byelaws made by virtue of this subsection shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale or such smaller sum as is specified in the byelaws.

SCH. 23

(7) A person guilty of an offence by virtue of subsection (1) of this section shall be liable—

(a) on summary conviction, to imprisonment for a term not exceeding three months or a fine not exceeding the statutory maximum or both;

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.

(8) The maximum penalty prescribed in pursuance of subsection (4) of this section shall not exceed the penalties specified in paragraphs (a) and (b) of the preceding subsection.

(9) In subsection (4) of this section, the reference to the entry of poisonous, noxious or polluting matter into controlled waters shall not include a reference to the entry of nitrate into controlled waters as a result of, or of anything done in connection with, the use of any land for agricultural purposes.

(10) In subsection (2) of this section—

"disposal licence" has the same meaning as in Part I of this Act;

"local Act" includes enactments in a public general Act which amend a local Act;

"statutory order" means an order, byelaw, scheme or award made under an Act of Parliament, including an order or scheme confirmed by Parliament or brought into operation in accordance with special parliamentary procedure.

Requirements to take precautions against pollution.

31A.—(1) The Secretary of State may by regulations make provision—

(a) for prohibiting a person from having custody or control of any poisonous, noxious or polluting matter unless prescribed works and prescribed precautions and other steps have been carried out or taken for the purpose of preventing the matter from entering controlled waters;

(b) for requiring a person who already has custody or control of, or makes use of, any such matter to carry out such works for that purpose and to take such precautions and other steps for that purpose as may be prescribed.

(2) Without prejudice to the generality of the power conferred by subsection (1) above, regulations under that subsection may—

(a) confer power on the river purification authorities—

(i) to determine for the purposes of the regulations the circumstances in which a person is required to carry out works or take any precautions or other steps; and

(ii) by notice to that person, to impose the requirement and to specify or describe the works, precautions or other steps which that person is required to carry out or take;

(b) provide for appeals to the Secretary of State against notices served by a river purification authority in pursuance of provision made by virtue of paragraph (a) above; and

(c) provide that a contravention of the regulations shall be an offence the penalty for which shall be—

(i) on summary conviction, imprisonment for a term not exceeding three months or to a fine not exceeding the statutory maximum or to both;

(ii) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or both.

Nitrate sensitive areas.

31B.—(1) Where the Secretary of State considers that it is appropriate to do so with a view to achieving the following purpose, that is to say, preventing or controlling the entry of nitrate into controlled waters as a result of, or of anything done in connection with, the use of any land for agricultural purposes, he may by order designate that land, together with any other land to which he considers it appropriate to apply the designation, as a nitrate sensitive area.

(2) Where any area has been designated as a nitrate sensitive area by an order under this section and the Secretary of State considers that it is appropriate to do so with a view to achieving the purpose mentioned in subsection (1) above, he may, subject to such restrictions (if any) as may be set out in the order, enter into an agreement under which, in consideration of payments to be made by him—

(a) the absolute owner (within the meaning of section 93 of the Agricultural Holdings (Scotland) Act 1949) of any agricultural land in that area; or

(b) where any such owner has given his written consent to the agreement being entered into by any person having another interest in that land, that other person,

accepts such obligations with respect to the management of that land or otherwise as may be imposed by the agreement.

(3) Where it appears to the Secretary of State in relation to any area which is, or is to be, designated by an order under this section as a nitrate sensitive area that it is appropriate for provision for the imposition of requirements, prohibitions or restrictions to be contained in an order under this section (as well as for him to be able to enter into such agreements as are mentioned in subsection (2) above), he may, by a subsequent order under this section or, as the case may be, by the order designating that area—

(a) with a view to achieving the purpose mentioned in subsection (1) above, require, prohibit or restrict the carrying on on or in relation to any agricultural land in that area of such activities as may be specified or described in the order; and

(b) provide for such amounts (if any) as may be specified in or determined under the order to be paid by the Secretary of State, to such persons as may be so specified or determined, in respect of the obligations imposed in relation to that area on those persons by virtue of paragraph (a) above.

(4) Without prejudice to the generality of subsection (3) above, provision contained in an order under this section by virtue of that subsection may—

SCH. 23

(a) confer power upon the Secretary of State to determine for the purposes of the order the circumstances in which the carrying on of any activities is required, prohibited or restricted and to determine the activities to which any such requirement, prohibition or restriction applies;

(b) provide for any requirement to carry on any activity not to apply in cases where the Secretary of State has consented to a failure to carry on that activity and any conditions on which the consent has been given are complied with;

(c) apply a prohibition or restriction in respect of any activities to cases where the activities are carried on without the consent of the Secretary of State or in contravention of any conditions subject to which any such consent is given;

(d) provide that a contravention of a requirement, prohibition or restriction contained in the order or in a condition of a consent given in relation to or for the purposes of any such requirement, prohibition or restriction shall be an offence the maximum penalties for which shall not exceed the maximum penalties specified in subsection (7) of section 31 above;

(e) provide for amounts paid in pursuance of any provision contained in the order to be repaid at such times and in such circumstances and with such interest as may be specified in or determined under the order;

(f) provide (subject to any regulations under subsection (6) below) for anything falling to be determined under the order by any person to be determined in accordance with such procedure and by reference to such matters and to the opinion of such persons as may be specified in the order.

(5) The Secretary of State shall not make an order under this section except in accordance with any applicable provisions of Schedule 1A to this Act.

(6) The Secretary of State may, for the purposes of any orders under this section which require his consent to the carrying on of any activities or to any failure to carry on any activity, by regulations make provision with respect to—

(a) applications for any such consent;

(b) the conditions of any such consent;

(c) the revocation or variation of any such consent;

(d) the reference to arbitration of disputes about determinations on any such application;

(e) the imposition of charges where such an application has been made, such a consent has been given or there has been any act or omission in pursuance of any such consent; and

(f) the registration of any such application or consent.

Registering of agreement.

31C.—(1) An agreement under subsection (2) of section 31B above may—

(a) where the land is registered in the Land Register of Scotland, be registered in that register;

SCH. 23

(b) in any other case, be recorded in the appropriate Division of the General Register of Sasines.

(2) An agreement registered or recorded under subsection (1) above shall be enforceable at the instance of the Secretary of State against persons deriving title to the land (including any person acquiring right to a tenancy by assignation or succession) from the person who entered into the agreement; provided that such an agreement shall not be enforceable against a third party who shall have in good faith and for value acquired right (whether completed by infeftment or not) to the land prior to the agreement being registered or recorded as aforesaid, or against any person deriving title from such third party.

(3) Notwithstanding the terms of any agreement registered or recorded under subsection (1) above, the parties to the agreement or any persons deriving title from them may at any time agree to terminate it; and such an agreement to terminate it shall be registered or recorded in the same manner as was the original agreement.

Powers of entry in relation to agreements under section 31B.

31D. The powers which by virtue of subsection (1) of section 91 of this Act are conferred in relation to any premises for the purpose—

(a) of enabling the Secretary of State to determine whether or in what manner to exercise any power conferred on him by or under section 31B of this Act or to determine whether any provision of an order under that section is being or has been contravened; or

(b) of enabling a river purification authority to determine whether to make an application for the purpose of paragraph 1 of Schedule 1A to this Act,

shall include power, in order to obtain information on which that determination may be made, to carry out experimental borings or other works on those premises and to install and keep monitoring and other apparatus there.

Control of discharges of trade and sewage effluent etc. into rivers and coastal waters etc.

32.—(1) Subject to subsections (3) to (5) of this section, a person shall be guilty of an offence if he causes or knowingly permits—

(a) any trade effluent or sewage effluent to be discharged—

(i)into any controlled waters, or

(ii) from land in Scotland through a pipe into the sea outside the seaward limits of controlled waters, or

(iii) from a building or from plant on to or into any land or into any waters of a loch or pond which are not inland waters; or

(b) any matter other than trade or sewage effluent to be discharged into controlled waters from a sewer as defined by section 59(1) of the Sewerage (Scotland) Act 1968 or from a drain as so defined; or 1968 c. 47.

(c) any matter other than trade or sewage effluent to be discharged into controlled waters from a drain which a roads authority is obliged or entitled to keep open by virtue of section 31 of the Roads (Scotland) Act 1984, and in respect of which the river purification authority in whose area the discharge occurs has, not later than the beginning of the period of three months 1984 c. 54.

SCH. 23

ending with the date of the discharge, served on the roads authority a notice stating that this paragraph is to apply to the drain,

unless the discharge is made with the consent in pursuance of section 34 of this Act of the river purification authority in whose area the discharge occurs (or, in a case falling within paragraph (a)(ii) of this subsection, of the river purification authority whose area includes the point at which the pipe passes or first passes into or under controlled waters from the sea outside them) and is in accordance with the conditions, if any, to which the consent is subject.

(2) Where any sewage effluent is discharged as mentioned in paragraph (a) of the preceding subsection from any works or sewer vested in a local authority and the authority did not cause or knowingly permit the discharge but was bound to receive into the works or sewer, either unconditionally or subject to conditions which were observed, matter included in the discharge, the authority shall be deemed for the purposes of that subsection to have caused the discharge.

(3) The Secretary of State may—

(a) by an order made before subsection (1) of this section comes into force provide that that subsection shall not, while the order is in force, apply to discharges which are of a kind or in an area specified in the order and for which, if this Act had not been passed, consent in pursuance of the Rivers (Prevention of Pollution) (Scotland) Acts 1951 and 1965 would not have been required;

(b) by order vary or revoke any order in force by virtue of the preceding paragraph;

and an order made by virtue of this subsection may require any river purification authority specified in the order to publish in a manner so specified such information about the order as is so specified.

(4) Subsection (1) of this section shall not apply to any discharge which—

(a) is from a vessel; or

(b) is authorised by a licence granted under Part II of the Food and Environment Protection Act 1985,

1985 c. 48.

and a person shall not be guilty of an offence under subsection (1) if—

(i) the discharge is caused or permitted in an emergency in order to avoid danger to life or health;

(ii) he takes all such steps as are reasonably practicable in the circumstances for minimising the extent of the discharge and of its polluting effects; and

(iii) as soon as reasonably practicable after the discharge occurs, particulars of the discharge are furnished to the river purification authority in whose area it occurs.

(5) A local authority shall not be guilty of an offence by virtue of subsection (1) of this section by reason only of the fact that a discharge from a sewer or works vested in the authority contravenes conditions of a consent relating to the discharge if—

SCH. 23

(a) the contravention is attributable to a discharge which another person caused or permitted to be made into the sewer or works; and

(b) the authority either was not bound to receive the discharge into the sewer or works or was bound to receive it there subject to conditions but the conditions were not observed; and

(c) the authority could not reasonably have been expected to prevent the discharge into the sewer or works;

and a person shall not be guilty of such an offence in consequence of a discharge which he caused or permitted to be made into a sewer or works vested in a local authority if the authority was bound to receive the discharge there either unconditionally or subject to conditions which were observed.

(6) In subsection (2) of this section and the preceding subsection, "local authority" means a local authority within the meaning of the Sewerage (Scotland) Act 1968. 1968 c. 47.

(7) A person who is guilty of an offence by virtue of subsection (1) of this section shall be liable—

(a) on summary conviction, to imprisonment for a term not exceeding three months or a fine not exceeding the statutory maximum or both;

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.

Control of sanitary appliances on vessels.

33.—(1) A river purification authority may by byelaws make such provision as the authority considers appropriate for prohibiting or regulating the keeping or use, on any controlled waters in the area of the authority, of vessels of a kind specified in the byelaws which are provided with sanitary appliances; and a person who contravenes any byelaw made by virtue of this section shall be guilty of an offence.

(2) The Secretary of State may by order provide that any byelaws specified in the order which were made by virtue of section 25(1)(c) of the Rivers (Prevention of Pollution) (Scotland) Act 1951 (byelaws) shall have effect, with such modifications (if any) as are so specified, as if made by virtue of the preceding subsection. 1951 c. 66.

(3) In this section "sanitary appliance" means a water closet or other prescribed appliance (except a sink, bath and a shower-bath) which is designed to permit polluting matter to pass into the water on which the vessel in question is for the time being situated.

(4) A person guilty of an offence by virtue of any of the preceding provisions of this section shall be liable on summary conviction to a fine of an amount not exceeding level 4 on the standard scale or such smaller sum as may be specified in the byelaws.

Consents for discharges

Consents for discharges of trade and sewage effluent etc.

34.—(1) An application to a river purification authority for consent in pursuance of this section for discharges of any effluent or other matter shall be accompanied or supplemented

SCH. 23

by all such information as the authority may reasonably require; and the authority may if it thinks fit treat an application for consent for discharges at two or more places as separate applications for consent for discharges at each of those places.

(2) Subject to the following section, it shall be the duty of a river purification authority to which an application for consent is made in pursuance of this section—

(a) to give the consent either unconditionally or subject to conditions or to refuse it; and

(b) not to withhold the consent unreasonably;

and if within the period of three months beginning with the date when an application for consent is received by the authority, or within such longer period as may at any time be agreed upon in writing between the authority and the applicant, the authority has neither given nor refused the consent nor informed the applicant that the application has been transmitted to the Secretary of State in pursuance of the following section, the authority shall be deemed to have refused the consent.

(3) If it appears to the authority that a person has, without the authority's consent, caused or permitted matter to be discharged in its area in contravention of section 32(1) of this Act and that a similar contravention by that person is likely, the authority may if it thinks fit serve on him an instrument in writing giving its consent, subject to conditions specified in the instrument, for discharges of a kind so specified; but consent given in pursuance of this subsection shall not relate to any discharge which occurred before the instrument giving the consent was served on the recipient of the instrument.

(4) The conditions subject to which the authority may give its consent in pursuance of this section shall be such reasonable conditions as the authority thinks fit; and without prejudice to the generality of the preceding provisions of this subsection those conditions may include reasonable conditions—

(a) as to the places at which the discharges to which the consent relates may be made and as to the design and construction of any outlets for the discharges;

(b) as to the nature, origin, composition, temperature, volume and rate of the discharges and as to the period during which the discharges may be made;

(c) as to the provision of facilities for taking samples of the matter discharged and in particular as to the provision, maintenance and use of manholes, inspection chambers, observation wells and boreholes in connection with the discharges;

(d) as to the provision, maintenance and testing of meters for measuring the volume and rate of the discharges and apparatus for determining the nature, composition and temperature of the discharges;

(e) as to the keeping of records of the nature, origin, composition, temperature, volume and rate of the discharges and in particular of records of readings of meters and other recording apparatus provided in accordance with any other condition attached to the consent;

SCH. 23

(f) as to the making of returns and the giving of other information to the authority about the nature, origin, composition, temperature, volume and rate of the discharges; and

(g) as to the steps to be taken, in relation to the discharges or by way of subjecting any substance likely to affect the description of matter discharged to treatment or any other process, for minimising the polluting effects of the discharges on any controlled waters;

and it is hereby declared that consent may be given in pursuance of this section subject to different conditions in respect of different periods.

(5) A person who, in an application for consent in pursuance of this section, makes any statement which he knows to be false in a material particular or recklessly makes any statement which is false in a material particular shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum or on conviction on indictment to a fine.

Reference to Secretary of State of certain applications for consent.

35.—(1) The Secretary of State may, either in consequence of representations made to him or otherwise, direct a river purification authority to transmit to him for determination applications for consent in pursuance of the preceding section which are specified in the direction or are of a kind so specified, and it shall be the duty of the authority to comply with the direction and to inform each relevant applicant that his application has been transmitted to the Secretary of State.

(2) Before determining an application transmitted to him by a river purification authority in pursuance of this section the Secretary of State may if he thinks fit, and shall if a request to be heard with respect to the application is made to him in accordance with regulations by the applicant or the authority, cause a local inquiry to be held in pursuance of section 96 of this Act into the application or afford to the applicant and the authority an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

(3) Where in pursuance of the preceding subsection the Secretary of State affords to an applicant and a river purification authority an opportunity of appearing before and being heard by a person with respect to the application in question, it shall be the duty of the Secretary of State to afford an opportunity of appearing before and being heard by that person to any person who, in pursuance of subsection (1)(c) or (5) of the following section, has made representations relating to the application.

(4) It shall be the duty of the Secretary of State to determine an application transmitted to him by a river purification authority in pursuance of this section by directing the authority to refuse its consent in pursuance of the preceding section in consequence of the application or to give the consent either unconditionally or subject to such conditions as are specified in the direction, and it shall be the duty of the authority to comply with the direction.

Provisions supplementary to ss. 34 and 35.

36.—(1) Where a river purification authority receives an application for consent in pursuance of section 34 of this Act or serves an instrument in pursuance of subsection (3) of that section, it shall be the duty of the authority, before deciding

SCH. 23

whether to give or refuse consent in pursuance of the application or, as the case may be, after serving the instrument—

(a) to publish in the prescribed form notice of the application or instrument in two successive weeks in a newspaper or newspapers circulating in—

(i) the area or areas in which the places are situated at which it is proposed in the application that the discharges should be made or, as the case may be, at which discharges are the subject of consent given by the instrument, and

(ii) the area or areas appearing to the authority to be in the vicinity of any controlled waters which the authority considers likely to be affected by the discharges,

and, not earlier than the day following that on which the first publication of the notice is completed in all relevant areas in pursuance of the preceding provisions of this paragraph, to publish such a notice in the Edinburgh Gazette;

(b) to send copies of the application or instrument to each local authority in whose area it is proposed in the application that a discharge should be made or in whose area a discharge is the subject of consent given by the instrument and, in the case of an application or instrument relating to coastal waters, relevant territorial waters or an application relating to waters outside the seaward limits of relevant territorial waters, to the Secretary of State; and

(c) to consider any written representations relating to the application or instrument which are made to the authority by any person within the period of six weeks beginning with the date on which the notice of the application or instrument is published in the Edinburgh Gazette.

(2) For the purposes of subsection (1) above, "local authority" means a regional or district council, and any place at sea at which it is proposed in an application that a discharge should be made shall be treated as situated at the point on land nearest to that place.

(3) Where notice of an application is published by a river purification authority in pursuance of subsection (1)(a) of this section, the authority shall be entitled to recover the cost of publication from the applicant.

(4) A river purification authority shall be entitled to disregard the provisions of subsection (1) of this section in relation to an application (except so much of paragraph (b) of that subsection as requires copies of the application to be sent to the Secretary of State) if the authority proposes to give consent in pursuance of the application and considers that the discharges in question will have no appreciable effect on the water into which they are proposed to be made.

(5) The preceding provisions of this section shall have effect with prescribed modifications in relation to an application which is the subject of a direction in pursuance of subsection (1) of the preceding section.

(6) Where a river purification authority proposes to give consent in pursuance of section 34 of this Act in consequence of an application in respect of which representations have been made in pursuance of subsection (1)(c) of this section then—

(a) it shall be the duty of the authority to serve notice of the proposal on the person who made the representations and to include in the notice a statement of the effect of the following paragraph; and

(b) that person may, within the period of twenty-one days beginning with the day on which the notice of the proposal is served on him, request the Secretary of State in accordance with regulations to give a direction in pursuance of subsection (1) of the preceding section in respect of the application; and

(c) it shall be the duty of the authority not to give consent in consequence of the application before the expiration of that period and, if within that period the said person makes a request in pursuance of the preceding paragraph and serves notice of the request on the authority, not to give consent in pursuance of the application unless the Secretary of State has given notice to the authority that he declines to comply with the request;

and in calculating in the case of any application the period of three months mentioned in section 34(2) of this Act or a longer period there mentioned there shall be disregarded any period during which the authority to which the application was made is prohibited by virtue of paragraph (c) of this subsection from giving consent in consequence of the application.

(7) A consent for any discharges which is given in pursuance of section 34 of this Act is not limited to discharges by a particular person and accordingly extends to the discharges in question which are made by any person.

Revocation of consents and alteration and imposition of conditions.

37.—(1) It shall be the duty of a river purification authority by which a consent is given in pursuance of section 34 of this Act to review from time to time the consent and the conditions, if any, to which the consent is subject; and subject to the following section the authority may, by a notice served on the person making a discharge in pursuance of the consent, revoke the consent if it is reasonable to do so or make reasonable modifications of the said conditions or, in the case of an unconditional consent, provide that it shall be subject to reasonable conditions specified in the notice.

(2) Subject to the following section, the Secretary of State may—

(a) for the purpose of enabling Her Majesty's Government in the United Kingdom to give effect to any Community obligation or to any international agreement to which the United Kingdom is for the time being a party;

(b) for the protection of public health or of flora and fauna dependent on an aquatic environment; or

(c) in consequence of any representations made to him or otherwise,

direct a river purification authority to serve a notice in pursuance of the preceding subsection containing such provisions as are specified in the direction and it shall be the

SCH. 23

duty of the authority to comply with the direction; and if the authority fails to serve the notice within such period as the Secretary of State may allow he may serve the notice on behalf of the authority, and it is hereby declared that for the purposes of this Part of the Act a notice served on behalf of an authority by virtue of this subsection is served by the authority.

Restriction on variation and revocation of consent and of previous variation.

38.—(1) Each instrument signifying the consent of a river purification authority in pursuance of section 34 of this Act shall specify a period during which no notice in pursuance of subsection (1) or (2)(c) of the preceding section is to be served in respect of the consent without the written agreement of a person making a discharge in pursuance of the consent; and the said period shall be a reasonable period of not less than two years beginning with the day on which the consent takes effect.

(2) Each notice served by a river purification authority in pursuance of subsection (1) or (2)(c) of the preceding section (except a notice which only revokes a consent or conditions) shall specify a period during which a subsequent notice in pursuance of that subsection which alters the effect of the first-mentioned notice is not to be served without the written agreement of a person making a discharge in pursuance of the consent to which the first-mentioned notice relates; and the said period shall be a reasonable period of not less than two years beginning with the day on which the first-mentioned notice is served.

(3) The authority shall be liable to pay compensation to any person in respect of any loss or damage sustained by that person as a result of the authority's compliance with a direction given in relation to any consent by virtue of section 37(2)(b) of this Act if—

(a) in complying with that direction the authority does anything which, apart from that direction, it would be precluded from doing by a restriction imposed under subsection (1) or (2) above; and

(b) the direction is not shown to have been in consequence of—

(i) a change of circumstances which could not reasonably have been foreseen at the beginning of the period to which the restriction relates; or

(ii) consideration by the Secretary of State of material information which was not reasonably available to the authority at the beginning of that period;

and in this paragraph information is material, in relation to a consent, if it relates to any discharge made or to be made by virtue of the consent, to the interaction of any such discharge with any other discharge or to the combined effect of the matter discharged and any other matter.

(4) A restriction imposed under subsection (1) or (2) of this section shall not prevent the service by the authority of a notice by virtue of section 37(1) or (2)(c) of this Act in respect of a consent given under section 34(3) of this Act if—

(a) the notice is served not more than three months after the beginning of the period specified in section 36(1)(c) of this Act for the making of representations with respect to the consent; and

(b) the authority or, as the case may be, the Secretary of State considers, in consequence of any representations received by it or him within that period, that it is appropriate for the notice to be served.

Appeals to Secretary of State.

39.—(1) Any questions as to whether—

(a) a river purification authority has unreasonably withheld its consent in pursuance of section 31(3) or 34 of this Act or regulations made by virtue of section 31(4) of this Act or has given its consent in pursuance of the said section 34 or such regulations subject to conditions which are unreasonable; or

(b) a notice served in pursuance of section 37(1) of this Act contains terms (other than a term required by subsection (2) of the preceding section) which are unreasonable; or

(c) the period specified in any instrument or notice in pursuance of subsection (1) or (2) of the preceding section is unreasonable,

shall be determined for the purposes of this Part of this Act by the Secretary of State; but no question relating to a determination of the Secretary of State in pursuance of section 35(4) of this Act shall be referred to him in pursuance of this subsection and any such determination shall be final.

(2) Provision may be made by regulations as to the manner in which and the time within which a question may be referred or a request may be made in pursuance of the preceding provisions of this section and as to the procedure for dealing with such a reference or request.

(3) In any case where—

(a) a question as to whether a river purification authority has unreasonably withheld its consent in pursuance of section 34 of this Act, or has given its consent in pursuance of that section subject to conditions which are unreasonable, is referred to the Secretary of State in pursuance of this section; and

(b) representations relating to the application for the consent in question were made to the authority in pursuance of section 36(1)(c) of this Act,

it shall be the duty of the Secretary of State, before he determines the question, to secure that the authority has served notice of the reference on the persons who made the representations and to take account of any further written representations relating to the application which are received by him from those persons within a prescribed period.

(4) Where a question is referred to the Secretary of State in pursuance of subsection (1) of this section and he determines that the consent in question was unreasonably withheld or that the conditions or terms or period in question are or is unreasonable, he shall give to the relevant river purification authority such a direction as he thinks fit with regard to the consent, conditions, terms or period and it shall be the duty of the authority to comply with the direction.

SCH. 23

(5) The withholding by a river purification authority of such a consent as is mentioned in subsection (1) of this section, the conditions subject to which such a consent is given and such terms and period as are so mentioned shall be treated as reasonable for the purposes of this Part of this Act until the contrary is determined in pursuance of subsection (1) of this section except that where a question as to the reasonableness of the conditions of a consent given in pursuance of regulations made by virtue of section 31(4) of this Act is referred to the Secretary of State in pursuance of this section the consent shall be treated for those purposes as unconditional while the reference is pending.

(6) At any stage of the proceedings on a reference to the Secretary of State in pursuance of this section he may, and shall if so directed by the Court of Session, state in the form of a special case for the decision of the court any question of law arising in those proceedings.

Transitional provisions relating to consents.

40.—(1) Regulations may provide—

(a) for any consent for discharges which was given in pursuance of the Rivers (Prevention of Pollution) (Scotland) Acts 1951 and 1965 to have effect for any of the purposes of this Part of this Act as if given in pursuance of prescribed provisions of section 34 of this Act; and

(b) for any conditions to which such a consent was subject in pursuance of any of those enactments to have effect for any of those purposes as if attached to the consent in pursuance of prescribed provisions of this Part of this Act.

(2) Regulations may provide for the terms of a consent for an outlet which was given in pursuance of the Rivers (Prevention of Pollution) (Scotland) Act 1951 and for conditions to which such a consent was subject in pursuance of that Act or which were imposed with respect to the outlet in pursuance of section 28(4) of that Act—

(a) to have effect, with or without modifications, for any of the purposes of this Part of this Act as if the terms or conditions were conditions attached to a consent given in pursuance of section 34 of this Act for discharges from the outlet; or

(b) to be treated, with or without modifications, for any of those purposes in such other manner as may be prescribed.

(3) An application for such a consent as is mentioned in subsection (1) of this section which is pending immediately before the relevant day shall be treated on and after that day as an application for consent in pursuance of section 34 of this Act which was made on the day on which it was actually made.

(4) Where an application for consent in pursuance of section 34 of this Act in respect of any discharge is duly made to a river purification authority before the relevant day and the discharge in question is not such as is mentioned in section 32(3)(a) of this Act and is substantially a continuation of a previous discharge which during the year ending with the 30th April 1974 was lawfully made without such consent as is so mentioned (any reduction of the temperature, volume or rate of the discharge as

compared with that of the previous discharge being disregarded), the authority shall be deemed to have given unconditionally the consent applied for—

(a) until the authority actually gives the consent unconditionally; or

(b) if the authority decides to refuse consent or to give it subject to conditions, until the expiration of the period of three months beginning with the date when the authority serves on the applicant notice of the decision; or

(c) if during that period the applicant appeals to the Secretary of State against the decision in pursuance of the preceding section, until the determination of the appeal.

(5) Regulations may provide for any appeal which immediately before the relevant day is pending in pursuance of the Rivers (Prevention of Pollution) (Scotland) Acts 1951 and 1965 to be treated on and after that day as an appeal in pursuance of prescribed provisions of this Part of this Act.

(6) In this section "the relevant day" means 31st January 1985.

Ancillary provisions relating to control of discharges

Registers.

41.—(1) It shall be the duty of river purification authorities to maintain in accordance with regulations, registers containing prescribed particulars of—

(a) any notices of water quality objectives or other notices served under section 30C above;

(b) application for consents—

(i) made to the authorities in pursuance of this Part of this Act;

(ii) sent to the Secretary of State in pursuance of section 34 of this Act (as modified by regulations made under section 55 of this Act);

(c) consents given in pursuance of any provision of this Part of this Act (except section 40(4)) and the conditions to which the consents are subject;

(d) samples—

(i) of effluent taken by the authorities in pursuance of section 19 of the Rivers (Prevention of Pollution) (Scotland) Act 1951;

(ii) of effluent taken by islands councils from discharges made by them in their own areas for the purposes of their functions relating to the pollution of controlled waters; and

(iii) of water taken by the authorities;

and information produced by analyses of the samples and the steps taken in consequence of the information;

(e) certificates issued in pursuance of the following section.

SCH. 23

(2) It shall be the duty of a river purification authority—

(a) to secure that registers maintained by the authority in pursuance of the preceding subsection are, after such date as is prescribed with respect to the registers, open to inspection by the public free of charge at all reasonable hours; and

(b) to afford members of the public reasonable facilities for obtaining from the authority, on payment of reasonable charges, copies of entries in the register.

Power of Secretary of State to exempt applications, consents and conditions etc. from publicity.

42.—(1) If a person who proposes to make or has made an application to a river purification authority for any consent in pursuance of section 34 of this Act (hereafter in this subsection referred to as "the relevant application")—

(a) applies to the Secretary of State within a prescribed period for a certificate providing that section 36(1) of this Act and paragraphs (b) to (d) of subsection (1) of the preceding section shall not apply to the relevant application or to any consent given or conditions imposed in consequence of the relevant application or to any sample of effluent taken from a discharge for which consent is given in consequence of the relevant application or to information produced by analysis of such a sample; and

(b) satisfies the Secretary of State that it would—

(i) prejudice to an unreasonable degree some private interest by disclosing information about a trade secret, or

(ii) be contrary to the public interest,

if a certificate were not issued in pursuance of his application to the Secretary of State,

the Secretary of State may issue a certificate to that person providing that section 36(1) of this Act and those paragraphs shall not apply to such of the things mentioned in paragraph (a) of this subsection as are specified in the certificate.

(2) If a person who is making or proposes to make a discharge which is the subject of a consent given in pursuance of the Rivers (Prevention of Pollution) (Scotland) Acts 1951 and 1965—

(a) applies to the Secretary of State for a certificate providing that subsection (1)(c) or (d) of the preceding section shall not apply to the consent or any conditions to which the consent is subject or any sample of effluent taken from a discharge to which the consent relates or any information produced by analysis of such a sample; and

(b) satisfies the Secretary of State as mentioned in paragraph (b) of the preceding subsection,

the Secretary of State may issue a certificate to that person providing that the said subsection (1)(c) or (d) shall not apply to such of the things mentioned in paragraph (a) of this subsection as are specified in the certificate.".

5. For sections 46 to 51 there shall be substituted the following sections—

"Miscellaneous

Operations by river purification authorities to

46.—(1) Where it appears to a river purification authority that any poisonous, noxious or polluting matter or any solid

remedy or forestall pollution of water.

waste matter is likely to enter, or is or was present in, any controlled waters in its area, the authority may carry out in its area or elsewhere such operations as it considers appropriate—

(a) in a case where the matter appears likely to enter such waters, for the purpose of preventing it from doing so; and

(b) in a case where the matter appears to be or to have been present in such waters, for the purpose of removing or disposing of the matter or of remedying or mitigating any pollution caused by its presence in the waters or of restoring the waters (including the fauna and flora dependent on the aquatic environment of the waters), so far as it is reasonably practicable to do so, to the state in which they were immediately before the matter became present in the waters;

but nothing in this subsection empowers a river purification authority to impede or prevent the making of any discharge in pursuance of a consent given by any authority by virtue of section 34 of this Act.

(2) Where a river purification authority carries out any operations in pursuance of this section the authority shall, subject to the following subsection, be entitled to recover the costs of doing so from any persons who caused or knowingly permitted the matter in question to be present at the place from which it was likely in the opinion of the authority to enter the controlled waters or, as the case may be, to be present in the controlled waters.

(3) No such costs shall be payable by a person—

(a) in so far as he satisfies the court in which it is sought to recover the costs that the costs were incurred unnecessarily; or

(b) for any operations in respect of water from an abandoned mine which that person permitted to reach such a place as is mentioned in the preceding subsection or to enter the controlled waters.

(4) In determining the damage which a person has suffered in consequence of pollution in respect of which operations have been or may be carried out in pursuance of this section, account shall be taken of the extent to which it is shown that the damage has been reduced by operations in pursuance of this section and of the extent to which it is shown that the damage is likely to be so reduced.

Duty of river purification authorities to deal with waste from vessels etc.

47.—(1) It shall be the duty of each river purification authority—

(a) to arrange for the collection and disposal of waste from vessels in its area which appears to the authority to need collection in consequence of the provisions of section 33 of this Act; and

(b) to arrange for the provision of facilities for the washing out of prescribed appliances from vessels in its area.

(2) A river purification authority may arrange for the provision of facilities by way of water closets, urinals and wash basins for the use of persons from vessels in the authority's area.

SCH. 23

(3) A port local authority constituted under Part X of the Public Health (Scotland) Act 1897 shall have power to make arrangements with a river purification authority for the purposes of any of the preceding provisions of this section.

Power of river purification authorities to exclude unregistered vessels from rivers etc.

48.—(1) Where it appears to a river purification authority to be appropriate to do so for the purpose of preventing the pollution of inland waters in its area, the authority may make byelaws providing that vessels shall not be on any such waters which are specified in the byelaws unless the vessels are registered by the authority in accordance with the byelaws or are exempted by the byelaws from registration; and a person who causes or knowingly permits a vessel to be on inland waters in contravention of byelaws made by virtue of this subsection shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale or such smaller sum as may be specified in the byelaws.

(2) Byelaws made by a river purification authority in pursuance of the preceding subsection may authorise the authority to make reasonable charges in respect of the registration of vessels in pursuance of the byelaws; and no charges shall be payable, by persons in or from vessels registered by the authority in pursuance of the byelaws, in respect of the use by those persons of facilities provided in pursuance of the preceding section by or by arrangement with the authority.

Deposits and vegetation in rivers etc.

49.—(1) If without the consent of the relevant river purification authority, which shall not be unreasonably withheld,—

(a) a person removes from any part of the bottom, channel or bed of any inland waters a deposit accumulated by reason of any dam, weir or sluice holding back the waters and does so by causing the deposit to be carried away in suspension in the waters; or

(b) any substantial amount of vegetation cut or uprooted in any inland waters, or so near to any such waters that it falls into it, is allowed to remain in the waters by the wilful default of any person,

then, subject to the following subsection, that person shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(2) Nothing in paragraph (a) of the preceding subsection applies to anything done in the exercise of statutory powers conferred by or under any enactment relating to land drainage, flood prevention or navigation.

(3) Regulations may provide that any reference to inland waters in subsection (1) of this section shall be construed as including a reference to such coastal waters as are prescribed for the purposes of that subsection.

(4) Any question as to whether the consent of a river purification authority in pursuance of subsection (1) of this section is unreasonably withheld shall be determined by the Secretary of State; and any consent given in pursuance of section 24 of the Rivers (Prevention of Pollution) (Scotland) Act 1951 (which is superseded by this section) shall be treated for the purposes of this section as given in pursuance of this section.

SCH. 23

Investigation of water pollution problems arising from closure of mines.

50. Each river purification authority shall have power to carry out studies for the purpose of ascertaining—

(a) what problems relating to the pollution of controlled waters may arise or have arisen in consequence of the abandonment of any mine in its area or might arise if any such mine were abandoned; and

(b) what steps are likely to be appropriate for the purpose of dealing with the problems and what the cost of taking those steps would be.

Codes of good agricultural practice.

51.—(1) The Secretary of State may by order made by statutory instrument approve any code of practice issued (whether by him or by another person) for the purpose of—

(a) giving practical guidance to persons engaged in agriculture with respect to activities that may affect controlled waters; and

(b) promoting what appear to him to be desirable practices by such persons for avoiding or minimising the pollution of any such waters,

and may at any time by such an order approve a modification of such a code or withdraw his approval of such a code or modification.

(2) A contravention of a code of practice as for the time being approved under this section shall not of itself give rise to any criminal or civil liability, but a river purification authority shall take into account whether there has been or is likely to be any such contravention in determining when and how it should exercise any powers conferred on it by regulations under section 31A of this Act.

(3) The Secretary of State shall not make an order under this section unless he has first consulted the river purification authorities.".

6. For sections 53 to 56 there shall be substituted the following sections—

"Charges in respect of consents, etc.

53.—(1) Where—

(a) an application is made to a river purification authority for a consent for the purposes of sections 31(3), 32 or 49 of this Act;

(b) the authority gives a consent under section 34(3) of this Act or a consent for the purposes of section 31(3) or 49 of this Act; or

(c) a consent for the purposes of sections 31(3), 32 or 49 of this Act is for the time being in force,

the authority may require the payment to it of such charges as may be specified in or determined under a scheme made by it under this section.

(2) The persons who shall be liable to pay charges which are required to be paid by virtue of a scheme under this section shall be—

(a) in the case of a charge by virtue of subsection (1)(a) above, the person who makes the application;

(b) in the case of a charge by virtue of subsection (1)(b) above, any person who is authorised to do anything by virtue of the consent and on whom the instrument giving the consent is served; and

SCH. 23

(c) in the case of a charge by virtue of subsection (1)(c) above, any person who makes a discharge in pursuance of the consent at any time during the period to which, in accordance with the scheme, the charge relates;

and provision made by a scheme for the purposes of paragraph (c) above may impose a single charge in respect of the whole period for which the consent is in force or separate charges in respect of different parts of that period or both such a single charge and such separate charges.

(3) An authority shall not make a scheme under this section unless its provisions have been approved by the Secretary of State; and the consent of the Treasury shall be required for the giving of such an approval.

(4) Before submitting a scheme under this section to the Secretary of State for his approval an authority shall, in such manner as it considers appropriate for bringing it to the attention of persons likely to be affected by it, publish a notice setting out its proposals and specifying the period within which representations with respect to the proposals may be made to the Secretary of State.

(5) Where any proposed scheme has been submitted to the Secretary of State for his approval, it shall be the duty of the Secretary of State, in determining whether or not to approve the scheme or to approve it subject to modifications—

(a) to consider any representations duly made to him; and

(b) to have regard to the matters specified in subsection (6) below.

(6) The matters mentioned in subsection (5)(b) above are—

(a) the desirability of ensuring that the amount recovered by the authority by way of charges fixed by or under schemes under this section does not exceed, taking one year with another, such amount as appears to the Secretary of State to be reasonably attributable to the expenses incurred by the authority in carrying out its functions under sections 34 to 38 and 49 of this Act and otherwise in relation to discharges into controlled waters; and

(b) the need to ensure that no undue preference is shown, and that there is no undue discrimination, in the fixing of charges by or under the scheme.

(7) A scheme under this section may—

(a) make provision with respect to the times and methods of payment of the charges which are required to be paid by virtue of the scheme;

(b) make different provision for different cases, including different provision in relation to different persons, circumstances or localities; and

(c) contain supplemental, consequential and transitional provision for the purposes of the scheme;

and such a scheme may revoke or amend a previous scheme under this section.

SCH. 23

(8) It shall be the duty of a river purification authority to take such steps as it considers appropriate for bringing the provisions of any scheme under this section which is for the time being in force to the attention of persons likely to be affected by them.

Directions to the river purification authority.

54.—(1) Directions of a general or specific character may be given to each river purification authority by the Secretary of State with respect to the carrying out of its functions and it shall be the duty of each river purification authority to comply with any such direction.

(2) Without prejudice to the generality of the power conferred by subsection (1) of this section, directions under that subsection may include such directions as the Secretary of State considers appropriate in order to enable Her Majesty's Government in the United Kingdom to give effect to—

(a) any Community obligations; or

(b) any international agreement to which the United Kingdom is for the time being a party.

(3) Any power of the Secretary of State otherwise than by virtue of this section to give direction to a river purification authority shall be without prejudice to the power conferred by this section.

Supplemental

Discharges by islands councils.

55.—(1) This part of this Act shall have effect with prescribed modifications in relation to discharges by an islands council in its area.

(2) Without prejudice to the generality of the power to make regulations conferred by the preceding subsection, any regulations made in pursuance of that subsection may provide for consents required by islands councils for the purposes of this Part of this Act as modified by virtue of that subsection to be or be deemed to be given by the Secretary of State.

Interpretation etc. of Part II.

56.—(1) Except where the context otherwise requires, in this Part of this Act—

"agriculture" and "agricultural" have the same meanings as in the Agriculture (Scotland) Act 1948; 1948 c. 45.

"coastal waters", "controlled waters", "ground waters", "inland waters" and "relevant territorial waters" have the meanings given by section 30A(1) above;

"effluent" means any liquid, including particles of matter and other substances in suspension in the liquid;

"micro-organism" includes any microscopic biological entity which is capable of replication;

"sewage effluent" includes any effluent from the sewage disposal or sewerage works of a local authority within the meaning of the Sewerage (Scotland) Act 1968; 1968 c. 47.

"substance" includes micro-organisms and any natural or artificial substance or other matter, whether it is in solid or liquid form or in the form of a gas or vapour;

"trade effluent" includes any effluent which is discharged from premises used for carrying on any trade or industry, other than surface water and domestic sewage;

SCH. 23

"underground strata" means strata subjacent to the surface of any land;

"water authority" means an authority established in accordance with section 3 of the Water (Scotland) Act 1980;

1980 c. 45.

"watercourse" includes all rivers, streams, ditches, drains, cuts, culverts, dykes, sluices, sewers, and passages through which water flows except mains and other pipes which belong to the water authority or are used by a water authority or any other person for the purposes only of providing a supply of water to any premises.

(2) In this Part of this Act—

(a) any reference to the waters of any loch or pond or of any river or watercourse includes a reference to the bottom, channel or bed of any loch, pond, river or, as the case may be, watercourse which is for the time being dry; and

(b) any reference to water contained in underground strata is a reference to water so contained otherwise than in a sewer, pipe, reservoir, tank or other underground works constructed in any such strata.

(3) For the purposes of the definition of "trade effluent" in subsection (1) above any premises (whether on land or not) wholly or mainly used (whether for profit or not) for agricultural purposes or for the purposes of fish farming or for scientific research or experiment shall be deemed to be (and in the case of fish farms, always to have been) premises used for carrying on a trade.

(4) For the purposes of this Part of this Act the area of a river purification authority shall include all controlled waters off the coast of the area which is the authority's area apart from this subsection; and any question as to whether any place is included in the area of a river purification authority by virtue of this subsection shall be determined by the Secretary of State.

(5) For the purposes of this Part of this Act a notice imposing conditions with respect to discharges which was given by a river purification authority in pursuance of—

(a) section 28(4) of the Rivers (Prevention of Pollution) (Scotland) Act 1951; or

(b) section 1(5) of the Rivers (Prevention of Pollution) (Scotland) Act 1965,

shall be treated as having given the authority's consent in pursuance of the Act in question for those discharges subject to those conditions.

(6) Section 30(5) of this Act shall have effect in relation to this Part of this Act as if for any reference to Part I of this Act there were substituted a reference to this Part of this Act."

7. In subsection (1) of section 104 (orders and regulations), for the words "section 33(4), 44(5), 52, 53 or 109(2)" there shall be substituted the words "section 44(5) or 109(2)".

8. After Schedule 1 there shall be inserted the following Schedule—

"SCHEDULE 1A SCH. 23

ORDERS DESIGNATING NITRATE SENSITIVE AREAS: SCOTLAND

PART I

APPLICATIONS BY RIVER PURIFICATION AUTHORITIES FOR DESIGNATION ORDERS

Orders made only on application

1.—(1) Subject to sub-paragraph (2) below, the Secretary of State shall not make an order under section 31B of this Act by virtue of which any land is designated as a nitrate sensitive area, except with the consent of the Treasury and on an application which—

(a) has been made by a river purification authority in accordance with paragraph 2 below; and

(b) by virtue of sub-paragraph (2)(a) of that paragraph identifies the controlled waters with respect to which that land is so comprised by the order.

(2) This paragraph shall not apply to an order which reproduces or amends an existing order without adding any land appearing to the Secretary of State to constitute a significant area to the land already comprised in the areas for the time being designated as nitrate sensitive areas.

Procedure for applications

2.—(1) A river purification authority shall not, for the purposes of paragraph 1 above, apply for the making of any order under section 31B of this Act, by which any land would be comprised in the areas for the time being designated as nitrate sensitive areas unless it appears to the authority—

(a) that pollution is or is likely to be caused by the entry of nitrate into controlled waters as a result of, or of anything done in connection with, the use of particular land for agricultural purposes; and

(b) that the provisions for the time being in force in relation to those waters and that land are not sufficient, in the opinion of the authority, for preventing or controlling such an entry of nitrate into those waters.

(2) An application under this paragraph shall identify—

(a) the controlled waters appearing to the authority to be the waters which the nitrate is entering or is likely to enter; and

(b) the land appearing to the authority to be the land the use of which for agricultural purposes, or the doing of anything in connection with whose use for agricultural purposes, is resulting or is likely to result in the entry of nitrate into those waters.

(3) An application under this paragraph shall be made by serving a notice containing the application on the Secretary of State.

PART II

ORDERS CONTAINING MANDATORY PROVISIONS ETC.

Publication of proposal for order containing mandatory provisions

3.—(1) This paragraph applies where the Secretary of State proposes to make an order under section 31B of this Act which—

(a) makes or modifies any such provision as is authorised by subsection (3)(a) of that section; and

SCH. 23

(b) in doing so, contains provision which is not of one of the following descriptions, that is to say—

(i) provision reproducing existing provisions without modification and in relation to substantially the same area; and

(ii) provision modifying any existing provisions so as to make them less onerous.

(2) The Secretary of State shall, before making any such order as is mentioned in sub-paragraph (1) above—

(a) publish a notice with respect to the proposed order at least once in each of two successive weeks, in one or more newspapers circulating in the locality in relation to which the proposed order will have effect;

(b) not later than the date on which that notice is first published, serve a copy of the notice on—

(i) the river purification authority;

(ii) every local authority whose area includes the whole or any part of that locality; and

(iii) in the case of an order containing any such provision as is authorised by section 31B(3)(b) of this Act, such owners and occupiers of agricultural land in that locality as appear to the Secretary of State to be likely to be affected by the obligations in respect of which payments are to made under that provision;

and

(c) publish a notice in the Edinburgh Gazette which—

(i) names every local authority on whom a notice is required to be served under this paragraph;

(ii) specifies a place where a copy of the proposed order and of any relevant map or plan may be inspected; and

(iii) gives the name of every newspaper in which the notice required by virtue of paragraph (a) above was published and the date of an issue containing the notice.

(3) The notice required by virtue of sub-paragraph (2)(a) above to be published with respect to any proposed order shall—

(a) state the general effect of the proposed order;

(b) specify a place where a copy of the proposed order and of any relevant map or plan may be inspected by any person free of charge at all reasonable times during the period of forty-two days beginning with the date of the first publication of the notice; and

(c) state that any person may, within that period, by notice to the Secretary of State object to the making of the order.

Supply of copies of proposed orders

4. The Secretary of State shall, at the request of any person and on payment by that person of such charge (if any) as the Secretary of State may reasonably require, furnish that person with a copy of any proposed order of which notice has been published under paragraph 3 above.

Modifications of proposals

5.—(1) Where notices with respect to any proposed order have been published and served in accordance with paragraph 3 above and the period of forty-two days mentioned in sub-paragraph (3)(b) of that paragraph has expired, the Secretary of State may make the order either in the proposed

terms or, subject to sub-paragraph (2) below (but without any further compliance with paragraph 3 above), in those terms as modified in such manner as he thinks fit, or may decide not to make any order.

(2) The Secretary of State shall not make such a modification of a proposed order of which notice has been so published and served as he considers is likely adversely to affect any persons unless he has given such notices as he considers appropriate for enabling those persons to object to the modification.

(3) Subject to sub-paragraph (2) above and to the service of notices of the proposed modification on such local authorities as appear to him to be likely to be interested in it, the modifications that may be made by the Secretary of State include any modification of the area designated by the proposed order as a nitrate sensitive area.

Consideration of objections etc.

6. Without prejudice to section 96 of this Act, where notices with respect to any proposed order have been published and served in accordance with paragraph 3 above, the Secretary of State may, if he considers it appropriate to do so, hold a local inquiry before deciding whether or not to make the proposed order or to make it with modifications.

Consent of Treasury for payment provisions

7. The consent of the Treasury shall be required for the making of any order under section 31B of this Act the making of which does not require the consent of the Treasury by virtue of paragraph 1 above but which contains any such provision as is authorised by subsection (3)(b) of that section.

8. In this Part, "local authority" means a regional, islands or district council."

SCHEDULE 24

Section 186.

PROCEDURE RELATING TO BYELAWS

1.—(1) No byelaw made by a relevant body shall have effect until confirmed by the appropriate Minister under this Schedule.

(2) A relevant body shall, at least one month before it applies for the confirmation of any byelaw—

(a) cause a notice of its intention to make the application to be published in the London Gazette and in such other manner as it considers appropriate for the purpose of bringing the proposed byelaw to the attention of persons likely to be affected by it; and

(b) cause copies of the notice to be served on any persons carrying out functions under any enactment who appear to it to be concerned.

(3) For at least one month before an application is made by a relevant body for the confirmation of any byelaw, a copy of it shall be deposited at one or more of the offices of the relevant body, including (if there is one) at an office in the area to which the byelaw would apply.

(4) A relevant body shall provide reasonable facilities for the inspection free of charge of a byelaw deposited under sub-paragraph (3) above.

(5) Every person shall be entitled, on application to a relevant body, to be furnished free of charge with a printed copy of a byelaw so deposited.

SCH. 24

2.—(1) Subject to sub-paragraph (2) below, the appropriate Minister, with or without a local inquiry, may refuse to confirm any byelaw submitted to him by a relevant body for confirmation under this Schedule, or may confirm the byelaw either without or, if the relevant body consents, with modifications; and the relevant body which submitted the byelaw shall, if so directed by the appropriate Minister, cause notice of any proposed modifications to be given in accordance with his directions.

(2) A byelaw made by the Authority under section 114 of this Act shall be confirmed without a local inquiry only if—

(a) no written objection to its confirmation has been received by the appropriate Minister;

(b) every objection to its confirmation which has been so received has been withdrawn; or

(c) in the opinion of that Minister the person making the objection has no material interest in the controlled waters (within the meaning of Chapter I of Part III of this Act) to which the byelaw relates;

and in relation to any such byelaw sub-paragraph (1) above shall have effect with the substitution for the words "if the relevant body consents" of the words "after consultation with the relevant body" .

3. The appropriate Minister may fix the date on which any byelaw confirmed under this Schedule is to come into force, and if no date is so fixed the byelaw shall come into force at the end of the period of one month beginning with the date of confirmation.

4.—(1) Every byelaw made by a relevant body and confirmed under this Schedule shall be printed and deposited at one or more of the offices of the relevant body, including (if there is one) at an office in the area to which the byelaw applies; and copies of the byelaw shall be available at those offices, at all reasonable times, for inspection by the public free of charge.

(2) Every person shall be entitled, on application to a relevant body and on payment of such reasonable sum as the relevant body may determine, to be furnished with a copy of any byelaw so deposited by that body.

5. If it appears to the appropriate Minister that the revocation of a byelaw is necessary or expedient, he may, after giving notice to the relevant body which made the byelaw and considering any representations or objections made by that body, and, if required by that body, after holding a local inquiry, revoke that byelaw.

6. The production of a printed copy of a byelaw purporting to be made by a relevant body upon which is indorsed a certificate, purporting to be signed on its behalf, stating—

(a) that the byelaw was made by that body;

(b) that the copy is a true copy of the byelaw;

(c) that on a specified date the byelaw was confirmed under this Schedule; and

(d) the date, if any, fixed under paragraph 3 above for the coming into operation of the byelaw,

shall be prima facie evidence of the facts stated in the certificate, and without proof of the handwriting or official position of any person purporting to sign the certificate.

7.—(1) In this Schedule "the appropriate Minister"—

(a) in relation to byelaws made by virtue of any provision of Chapter III of Part III of this Act and having effect in the area of a regional flood defence committee the whole or the greater part of whose area is in England, means the Minister;

(b) in relation to byelaws made by virtue of any provision of Chapter IV of Part III of this Act, means the Secretary of State or the Minister; and SCH. 24

(c) in relation to any other byelaws, means the Secretary of State.

(2) In this Schedule "relevant body" means the Authority or any water undertaker or sewerage undertaker.

SCHEDULE 25

Section 190.

MINOR AND CONSEQUENTIAL AMENDMENTS

Adaptation of enactments relating to statutory undertakers etc.

1.—(1) Each of the following, that is to say—

(a) the Authority;

(b) every water undertaker; and

(c) every sewerage undertaker,

shall be deemed to be statutory undertakers, and its undertaking a statutory undertaking, for the purposes of the enactments specified in sub-paragraph (2) below.

(2) The enactments mentioned in sub-paragraph (1) above are—

(i) the Public Health Act 1925;	1925 c. 71.
(ii) the Public Health Act 1936;	1936 c. 49.
(iii) section 4 of the Requisitioned Land and War Works Act 1948;	1948 c. 17.
(iv) the National Parks and Access to the Countryside Act 1949;	1949 c. 97.
(v) sections 20 and 30 of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951;	1951 c. 65.
(vi) the Landlord and Tenant Act 1954;	1954 c. 56.
(vii) the Coal-Mining (Subsidence) Act 1957;	1957 c. 59.
(viii) the Opencast Coal Act 1958;	1958 c. 69.
(ix) section 17(10) of the Public Health Act 1961;	1961 c. 64.
(x) the Pipe-lines Act 1962;	1962 c. 58.
(xi) Schedule 3 to the Harbours Act 1964;	1964 c. 40.
(xii) Schedule 6 to the Gas Act 1965;	1965 c. 36.
(xiii) section 40 of the Forestry Act 1967;	1967 c. 10.
(xiv) section 2 of the Countryside Act 1968, in so far as references in that section to a public body are to be construed as references to a statutory undertaker, and sections 13 and 16 of, and Schedule 2 to, that Act;	1968 c. 41.
(xv) section 5 of the Development of Tourism Act 1969;	1969 c. 51.
(xvi) sections 1B, 22, 40, 48, 49, 58F, 118(2), 127 to 129, 132, 149, 165(3), 181 to 183, 186, 192, 206(6), 209(3), 210(2), 216, 222, 223, 225 to 241, 245(7)(a), 255, 281(6)(b) and 290(2) of, and Schedule 10, paragraphs 1 to 3 of Schedule 19 and Schedule 20 to, the Town and Country Planning Act 1971;	1971 c. 78.
(xvii) paragraph 36 of Schedule 16 to the Local Government Act 1972;	1972 c. 70.
(xviii) sections 51 and 71 of the Land Compensation Act 1973;	1973 c. 26.
(xix) section 73 of the Control of Pollution Act 1974;	1974 c. 40.
(xx) the Welsh Development Agency Act 1975;	1975 c. 70.
(xxi) Part I of the Local Government (Miscellaneous Provisions) Act 1976;	1976 c. 57.
(xxii) the Development of Rural Wales Act 1976;	1976 c. 75.
(xxiii) the Ancient Monuments and Archaeological Areas Act 1979;	1979 c. 46.

SCH. 25

1980 c. 65. (xxiv) Parts XII and XVI of the Local Government, Planning and Land Act 1980;

1980 c. 66. (xxv) the Highways Act 1980;

1981 c. 64. (xxvi) subject to sub-paragraph (5) below, the New Towns Act 1981;

1981 c. 67. (xxvii) the Acquisition of Land Act 1981;

1982 c. 16. (xxviii) the Civil Aviation Act 1982;

1982 c. 30. (xxix) section 30 of the Local Government (Miscellaneous Provisions) Act 1982;

1984 c. 38. (xxx) section 2(2)(c) of the Cycle Tracks Act 1984;

1984 c. 55. (xxxi) the Building Act 1984;

1985 c. 68. (xxxii) Part IX and section 611 of the Housing Act 1985.

1927 c. 36. (3) The Authority, a water undertaker or a sewerage undertaker shall be deemed to be a statutory company for the purposes of the Landlord and Tenant Act 1927.

1939 c. 31. (4) The references in the Civil Defence Act 1939 to public utility undertakers do not include references to the Authority or to any water undertaker or sewerage undertaker and, accordingly, references in that Act to a public utility undertaking do not include references to the undertaking of the Authority or of such an undertaker.

(5) The references in section 39 of the New Towns Act 1981 (power of development corporation to transfer undertakings) to statutory undertakers do not include references to any water undertaker or sewerage undertaker and, accordingly, references in that section to a statutory undertaking do not include references to the statutory undertaking of such an undertaker.

1973 c. 26. (6) References in section 26 of the Land Compensation Act 1973 (acquisition of land in connection with public works) to a responsible authority shall not include references to the National Rivers Authority, a water undertaker or a sewerage undertaker.

1978 c. 50. (7) A water undertaker or sewerage undertaker shall be deemed to be statutory undertakers for the purposes of section 9(3) of the Inner Urban Areas Act 1978 (loans for site preparation).

(8) A water undertaker or sewerage undertaker shall be deemed to be public utility undertakers for the purposes of the Highways Act 1980; and the Authority, a water undertaker or a sewerage undertaker shall be deemed to be undertakers for the purposes of section 160 of that Act (powers as respects certain unnecessary obstructions of highways).

(9) In the enactments specified in sub-paragraph (10) below, "the appropriate Minister", in relation to statutory undertakers, means—

(a) in the case of the Authority, the Secretary of State or the Minister; and

(b) in the case of a water undertaker or sewerage undertaker, the Secretary of State.

(10) The enactments mentioned in sub-paragraph (9) above are—

1958 c. 69. (i) the Opencast Coal Act 1958;

1964 c. 40. (ii) Schedule 3 to the Harbours Act 1964;

1965 c. 36. (iii) paragraph 2 of Schedule 6 to the Gas Act 1965;

1971 c. 78. (iv) sections 1B, 58C, 58M, 58N, 206(6), 225 to 238, 281(6)(b) and 290(2) of, and Schedules 10 and 20 to, the Town and Country Planning Act 1971;

1975 c. 70. (v) the Welsh Development Agency Act 1975;

1976 c. 75. (vi) the Development of Rural Wales Act 1976;

SCH. 25

(vii) sections 121 and 290 of the Highways Act 1980;

(viii) the New Towns Act 1981; 1980 c. 66.

(ix) the Acquisition of Land Act 1981. 1981 c. 64. 1981 c. 67.

(11) References to a local authority in the following enactments (which define "local authority" by reference to the Local Loans Act 1875) shall not include references to the National Rivers Authority, namely— 1875 c. 83.

(i) the Opencast Coal Act 1958; 1958 c. 69.

(ii) the Town and Country Planning Act 1971; 1971 c. 78.

(iii) Part I of Schedule 6 to the Highways Act 1980;

(iv) the New Towns Act 1981;

(v) the Acquisition of Land Act 1981.

Adaptation of enactments referring to the Drought Act 1976

2. Any reference in any enactment to the Drought Act 1976, including any reference by virtue of section 5(8) of that Act (general adaptation of references), shall have effect, in relation to any time on and after the transfer date, as a reference to the provisions of sections 131 to 135 of and Schedule 14 to this Act; and any reference to a particular enactment contained in that Act shall have effect, in relation to any such time, as a reference to the corresponding provision of those sections or that Schedule. 1976 c. 44.

The Public Health Act 1875 (Support of Sewers) Amendment Act 1883 (c. 37)

3.—(1) Nothing in the Public Health Act 1875 (Support of Sewers) Amendment Act 1883 shall apply, on or after the transfer date, in relation to any sanitary work of a person other than a local authority or in relation to any sanitary work by virtue of section 73 of this Act.

(2) In this paragraph "local authority" and "sanitary work" have the same meanings as in the said Act of 1883.

The Public Health (Scotland) Act 1897 (c. 38)

4. In section 16 of the Public Health (Scotland) Act 1897 (definition of nuisance), in the proviso, after paragraph (b) there shall be inserted the following paragraph—

"(c) paragraphs (2) and (3) above shall not apply in relation to the supply of water for domestic purposes within the meaning of section 7 of the Water (Scotland) Act 1980."

The Public Health Act 1936 (c. 49)

5. In section 227 of the Public Health Act 1936 (power of local authority to lay pipes for the purposes of baths), at the end there shall be inserted the words "and for the purposes of the provision, laying down or maintenance in any street of any such pipes or apparatus—

(a) the authority shall be entitled in relation to any such pipes or apparatus to exercise the same powers as, for the purpose of carrying out its functions, are conferred on a water undertaker in relation to relevant pipes by paragraph 2 of Schedule 19 to the Water Act 1989 (street works); and

(b) the provisions of that Act shall apply, with the necessary modifications, in relation to the power conferred by virtue of paragraph (a) above as they apply in relation to the power conferred by the said paragraph 2;

and in this section 'street' has the same meaning as in that Schedule."

SCH. 25 *The Rural Water Supplies and Sewerage Act 1944 (c. 26)*

6.—(1) In subsection (1) of section 1 of the Rural Water Supplies and Sewerage Act 1944 (government contributions to expenses of water authorities for the purposes of rural water supplies and sewerage), for the words from "by a" to "in making" there shall be substituted the words—

"(a) by a water undertaker in providing a supply, or improving an existing supply, of water in a rural locality;

(b) by a sewerage undertaker in making".

(2) In subsection (4) of that section, for the words "water authority", wherever occurring, there shall be substituted the words "water undertaker or sewerage undertaker".

The Water Act 1945 (c. 42)

7.—(1) In section 14 of the 1945 Act (waste of water from wells and boreholes)—

(a) in subsection (10), for the words from "application" to "take" there shall be substituted the words "application of the National Rivers Authority, authorise that Authority to take"; and

(b) in subsection (12)—

(i) for the words from the beginning to "the authority", in the first place where they occur, there shall be substituted the words "Any person authorised for the purpose by the National Rivers Authority";

(ii) the words "if so required," shall be omitted; and

(iii) for the words "the authority or undertakers have" there shall be substituted the words "the National Rivers Authority has".

(2) In section 15(1) of the 1945 Act (agreements as to drainage of land)—

(a) for the words "Statutory water undertakers", "undertakers consider", "undertakers are" and "undertakers shall" there shall be substituted, respectively, the words "A water undertaker", "undertaker considers", "undertaker is" and "undertaker shall"; and

(b) for paragraph (a) of the proviso there shall be substituted the following paragraph—

"(a) consult the National Rivers Authority; and".

(3) In section 16 of the 1945 Act (power to prohibit or restrict the use of hosepipes)—

(a) in subsection (1), for the words "statutory water undertakers are", "distribution by them", "they may", "they think", "their limits of supply" and "supplied by them" there shall be substituted, respectively, the words "water undertaker is", "distribution by the undertaker", "it may", "it thinks", "its area" and "supplied by the undertaker";

(b) in subsections (2) and (4), for the word "undertakers", in each place where it occurs, there shall be substituted the words "water undertaker";

(c) in subsection (4), the words "to be settled in case of dispute by a court of summary jurisdiction" and the words from "The procedure" onwards shall be omitted; and

(d) in subsection (5)—

(i) for the words "any officer of the undertakers" there shall be substituted the words "any person authorised for the purpose by the water undertaker."; and

(ii) the words "if so required" shall be omitted.

SCH. 25

(4) In section 21 of the 1945 Act (penalty for polluting water used for human consumption)—

(a) in subsection (1)—

(i) for the words "any spring, well, borehole or adit, the water from" there shall be substituted the words "the water in any waterworks"; and

(ii) for the words "any such spring, well, borehole or adit" there shall be substituted the words "the water in any waterworks";

(b) in subsection (2), for the words from the beginning to "adit", in the second place where it occurs, there shall be substituted the words "Any person authorised for the purpose by any local authority or water undertaker within whose area any such waterworks are situated, or by any water undertaker which takes water from any such waterworks, shall, on producing some duly authenticated document showing his authority, have a right at all reasonable hours to enter any premises for the purpose of ascertaining whether there is or has been any contravention of this section in relation to those waterworks";

(c) after subsection (2) there shall be inserted the following subsection—

"(2A) Nothing in subsection (2) of this section shall entitle any person authorised for the purposes of that subsection by a local authority to have access to any waterworks belonging to a water undertaker.";

and

(d) after subsection (3) there shall be inserted the following subsection—

"(4) In this section "waterworks" includes—

(a) any spring, well, adit, borehole, service reservoir or tank; and

(b) any main or other pipe or conduit of a water undertaker."

(5) In section 35 of the 1945 Act (property in and damage to water fittings)—

(a) in subsection (2), for the words "fittings let for hire by the undertakers", "undertakers as the actual owners" and "by, the undertakers" there shall be substituted, respectively, the words "water fittings let for hire by a water undertaker", "water undertaker as the actual owner" and "by, the undertaker"; and

(b) in subsection (4), for the words "the undertakers" there shall be substituted, in the first place where they occur, the words "a water undertaker" and, in the second place, the words "the water undertaker".

(6) In section 41 of the 1945 Act (power of companies to issue redeemable stock)—

(a) in subsection (1), for the words "all" to "may have" there shall be substituted the words "every statutory water company (within the meaning of the Water Act 1989) which has created and issued any redeemable stock or has";

(b) in subsections (2) to (6), for the word "undertakers", wherever it occurs, there shall be substituted the word "company"; and

(c) in paragraph (b) of the proviso to subsection (3), after the word "enactment" there shall be inserted the words "or resolution".

(7) In section 43 of the 1945 Act (appointment of officers as directors), for the words from the beginning to "then" there shall be substituted the words "Subject to any provision of a memorandum and articles having effect by virtue of an order made for the purposes of section 101(2)(c) of the Water Act 1989 (substitution of memorandum and articles) and to any modification of any such memorandum and articles, the following provisions shall have effect in relation to any statutory water company (within the meaning of that Act)".

SCH. 25

(8) In section 45 of the 1945 Act (false information), for the words "record or journal or in furnishing any return, abstract or" there shall be substituted the words "journal or in furnishing any".

(9) Section 46 of the 1945 Act (restriction on right to prosecute) shall cease to have effect.

(10) In section 56 of the 1945 Act (service of notices etc.), for the words from "consent" to "either" there shall be substituted the words "which is required by any provision of this Act to be given to any person may be given".

(11) In section 59(1) of the 1945 Act (interpretation), in the definition of "watercourse", for the words "local authority or a water authority" there shall be substituted the words "sewerage undertaker".

The Requisitioned Land and War Works Act 1945 (c. 43)

8. In section 17(1) of the Requisitioned Land and War Works Act 1945 (publication of proposed orders relating to highways)—

(a) in paragraph (b), after the word "water," there shall be inserted the word "sewerage,"; and

(b) after that paragraph there shall be inserted the following paragraph—

"(bb) to be sent to the National Rivers Authority where the National Rivers Authority has any mains or pipes laid along, across, over or under any such highways as aforesaid; and".

The Fire Services Act 1947 (c. 41)

9.—(1) Subject to the following provisions of this paragraph, references in the Fire Services Act 1947 to statutory water undertakers or to water undertakers shall have effect as references to a water undertaker.

(2) In section 14 of that Act (supply of water by water undertakers)—

(a) in subsection (3), for the words before paragraph (a) there shall be substituted the words—

"The following provisions shall have effect in relation to any fire-hydrant for the time being provided by a water undertaker by being fixed on any pipe of the undertaker, that is to say";

(b) for subsection (4) there shall be substituted the following subsection—

"(4) The obligations of a water undertaker under subsections (1) to (3) of this section or any agreement under subsection (1) of this section shall be enforceable under section 20 of the Water Act 1989 by the Secretary of State."

(3) In section 15(2) of that Act (provision of water supply otherwise than by water undertakers), after the words "foregoing subsection" there shall be inserted the words "and without prejudice to sections 47(1) and 81(1) of the Water Act 1989".

(4) In section 16 of that Act (notice to be given of proposed works affecting water supply and fire-hydrants)—

(a) in subsection (1), for paragraphs (a) and (b) there shall be substituted the words "not less than six weeks before the works are begun."; and

(b) after subsection (2) there shall be inserted the following subsection—

"(3) Any authority or other person who, without reasonable excuse, fails within the required period to give any notice which he is required to give under this section shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 5 on the standard scale."

SCH. 25

(5) After subsection (4) of section 30 of that Act (requirement by senior fire officer to provide a greater supply or pressure of water) there shall be inserted the following subsection—

"(4A) Any water undertaker which, without reasonable excuse, fails to take any step which it is obliged to take by virtue of subsection (4) of this section shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 5 on the standard scale."

The Requisitioned Land and War Works Act 1948 (c. 17)

10. In section 15(4)(c) of the Requisitioned Land and War Works Act 1948 (power to make regulations applying street works provisions of the 1945 Act), for the words "Part VI of the Third Schedule to the Water Act, 1945" there shall be substituted the words "paragraphs 2 and 3 of Schedule 19 to the Water Act 1989".

The Coast Protection Act 1949 (c. 74)

11.—(1) In section 2 of the Coast Protection Act 1949 (constitution of coast protection boards)—

(a) in subsection (2)(b), for the words from the beginning to "drainage authority" there shall be substituted the words "the National Rivers Authority and any sea defence commissioners, internal drainage board"; and

(b) in subsection (8)(a), for the words from the beginning to "drainage authority" there shall be substituted the words "in relation to the National Rivers Authority, an internal drainage board".

(2) In section 5 of that Act (objections to, and approval of, proposals to carry out coast protection work)—

(a) in subsection (1), for the words from "on any" to "whose area" there shall be substituted the words "on the National Rivers Authority and on any internal drainage board in whose district"; and

(b) in subsection (6), for the words from "in the area" onwards there shall be substituted the words "the coast protection authority shall, before or as soon as possible after the commencement of the work, give notice of the nature of the work—

(a) to the National Rivers Authority where it is not represented on the coast protection authority; and

(b) to any internal drainage board which are not so represented and in whose district the work is to be or has been carried out."

(3) In section 8(1) of that Act (notice to be given where a coast protection authority prepares a works scheme), for the words from "on any" to "whose area" there shall be substituted the words "on the National Rivers Authority and on any internal drainage board in whose district".

(4) In section 16(4) of that Act (notice to be given to a coast protection authority for an adjoining area before an application relating to coast protection work is determined), for the words from "and to any" onwards there shall be substituted the words "and to the National Rivers Authority and to any internal drainage board whose district comprises the whole or any part of their area, and shall consider any representations made by the National Rivers Authority or by any such authority or board."

(5) In section 17 of that Act (notification to coast protection authority of coast protection work to be carried out by certain authorities)—

(a) in subsection (3), for the words from "and to any" to "whose area" there shall be substituted the words "to the National Rivers Authority and to any internal drainage board whose district"; and

SCH. 25

(b) in subsection (9), for the words from "served" to "drainage authority" there shall be substituted the words "served by the National Rivers Authority or an internal drainage board".

(6) In section 45(1)(b) of that Act (service of notices and other documents), for the words from "or a coast" to "drainage authority" there shall be substituted the words "including the National Rivers Authority and an internal drainage board, or a coast protection board".

(7) In section 47 of that Act (savings), for paragraph (c) there shall be substituted the following paragraph—

"(c) authorise or require any person—

(i) to carry out any work of alteration, improvement, repair, maintenance, demolition or removal on any works constructed or maintainable by the National Rivers Authority or an internal drainage board, or

(ii) to carry out any work on land on which the sowing or planting of vegetation is carried out or vegetation is maintained by the National Rivers Authority or an internal drainage board,

unless the National Rivers Authority or the internal drainage board consents or the work is done by, or under a scheme prepared by, a coast protection board on which the National Rivers Authority or the internal drainage board is represented and is to be carried out in the area of that coast protection board;".

(8) In paragraph 1(b) of Schedule 1 to that Act (procedure for making orders), for the words from the beginning to "drainage authority" there shall be substituted the words "on the National Rivers Authority and on any sea defence commissioners, coast protection board, internal drainage board".

(9) In Schedule 2 to that Act (provisions as to orders restricting excavation of materials from the seashore), in each of paragraphs 2 and 12, for the words from "any catchment" to "whose area" there shall be substituted the words "the National Rivers Authority and on any catchment board, conservancy authority, harbour authority or navigation authority whose area, and on any internal drainage board whose district,".

The Agricultural Holdings (Scotland) Act 1949 (c. 75)

12. In section 28 of the Agricultural Holdings (Scotland) Act 1949 (Land Court may grant certificate of failure to fulfil responsibilities to farm in accordance with rules of good husbandry), at the end there shall be added the words—

"Provided that in determining whether to grant a certificate under this section, the Land Court shall disregard any practice adopted by the tenant in compliance with any obligation imposed on him by or accepted by him under section 31B of the Control of Pollution Act 1974."

The National Parks and Access to the Countryside Act 1949 (c. 97)

13.—(1) In section 20(2) of the National Parks and Access to the Countryside Act 1949 (byelaws for protection of nature reserves), in the proviso, for the words from "undertakers" to "drainage authority" there shall be substituted the words "undertakers, or an internal drainage board".

(2) In section 99(6) of that Act (contributions by local authorities), for the words from "incurred by" to "being" there shall be substituted the words "incurred by the National Rivers Authority or an internal drainage board being".

SCH. 25

(3) In Schedule 1 to that Act (provisions as to making, confirmation, coming into operation and validity of certain instruments), in paragraph 2(4)—

(a) for the words "the persons carrying on a statutory undertaking, being a water undertaking," there shall be substituted the words "the National Rivers Authority or a water undertaker"; and

(b) for the words "the undertaking" there shall be substituted the words "the statutory undertaking carried on by that Authority or, as the case may be, undertaker".

The Public Utilities Street Works Act 1950 (c. 39)

14. In section 39(1) of the Public Utilities Street Works Act 1950 (interpretation), in the definition of "sewer authority", for the words "the authority" there shall be substituted the words "the person".

The Border Rivers (Prevention of Pollution) Act 1951 (c. 7)

15. The Border Rivers (Prevention of Pollution) Act 1951 shall cease to have effect.

The Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 (c. 65)

16. In section 20(4) of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 (modifications of Rent Acts as respects occupation by employees), for the words from "or to provide" onwards there shall be substituted the words "or being powers or duties of an internal drainage board."

The Rivers (Prevention of Pollution) (Scotland) Act 1951 (c. 66)

17. In section 18(6) and section 19(3) of the Rivers (Prevention of Pollution) (Scotland) Act 1951, for the words from "tidal waters" to "an authority" there shall be substituted the words "controlled waters within the meaning of section 30A of the Control of Pollution Act 1974" and for the word "authority's" there shall be substituted the words "river purification authority's".

The Finance Act 1952 (c. 33)

18. Subsections (1)(a) and (2) of section 74 of the Finance Act 1952 (stamp duties in relation to the transfer of undertakings of any water undertakers) shall cease to have effect.

The Town Development Act 1952 (c. 54)

19.—(1) In section 2(2) of the Town Development Act 1952 (contributions to specified expenses)—

(a) for paragraph (e) there shall be substituted the following paragraph—

"(e) payments under section 41 of the Water Act 1989 in respect of the provision of a water main needed for the purposes or in consequence of the development;"

(b) in paragraph (ee), for the words "section 16 of the Water Act 1973" there shall be substituted the words "section 72 of the Water Act 1989"; and

(c) in paragraph (f), for the words from "to a" to "drainage authority", in the second place where those words occur, there shall be substituted the words "to the National Rivers Authority or to an internal drainage board in respect of expenses incurred by the National Rivers Authority or the internal drainage board".

SCH. 25

(2) In section 8(1)(b) of that Act (the kinds of action for which provision for participation by agreement may be made), for the words from "participating council" to "being action" there shall be substituted the words "participating council, being action".

(3) In section 16 of that Act (contributions to expenses of land drainage works), for the words from "incurred by" to "drainage authority" there shall be substituted the words "incurred by the National Rivers Authority or by an internal drainage board".

The Local Government (Miscellaneous Provisions) Act 1953 (c. 26)

20. Section 6(2) of the Local Government (Miscellaneous Provisions) Act 1953 (which makes provision as to access to sewers and other apparatus) shall have effect as if the references to water undertakers included references to the Authority, a water undertaker and a sewerage undertaker.

The Rural Water Supplies and Sewerage Act 1955 (c. 13)

21. In section 1(1) of the Rural Water Supplies and Sewerage Act 1955 (Government contributions to expenses of a water authority), for the words "water authority" there shall be substituted the words "water undertaker or sewerage undertaker".

The Valuation and Rating (Scotland) Act 1956 (c. 60)

22. In section 22A of the Valuation and Rating (Scotland) Act 1956 (exemption of certain fishings from rates), in subsection (1)(c)(ii) for the words from "paragraph 1(a)" onwards there shall be substituted the words "section 28(3)(a) of that Act".

The Coal-Mining (Subsidence) Act 1957 (c. 59)

23. In section 5(7) of the Coal-Mining (Subsidence) Act 1957 (special provisions with respect to damage affecting land drainage), for the words from "that Act" to "in whose area" there shall be substituted the words "that Act, the National Rivers Authority or, in any other case, the internal drainage board (as defined as aforesaid) in whose district".

The Manoeuvres Act 1958 (c. 7)

24.—(1) In section 1(3)(a) of the Manoeuvres Act 1958 (notice to certain bodies where provision to authorise execution of manoeuvres is proposed in parts of their areas), for sub-paragraph (i) there shall be substituted the following sub-paragraph—

> "(i) to the National Rivers Authority and to any local authority or parish or community council any part of whose area is included in the manoeuvres area;".

(2) In section 2(1) of that Act (powers exercisable for purposes of manoeuvres)—

(a) in the proviso, for the words "source of supply belonging to a private owner or public authority" there shall be substituted the words "relevant source of supply"; and

(b) after the proviso there shall be inserted the words—

> "In this section 'relevant source of supply' means a source of supply which belongs to the National Rivers Authority, a water undertaker or a private owner, or from which the National Rivers Authority, a water undertaker or a private owner is authorised to take water."

The Finance Act 1958 (c. 56) SCH. 25

25. Subsection (5) of section 35 of the Finance Act 1958 (miscellaneous amendments in connection with stamp duty) shall cease to have effect.

The Opencast Coal Act 1958 (c. 69)

26.—(1) In section 7 of the Opencast Coal Act 1958 (limitation on compulsory rights orders)—

(a) in subsection (2)(c), for the words from "or of the body" to "drainage authority," there shall be substituted the words "or of any internal drainage board"; and

(b) for subsection (8) there shall be substituted the following subsection—

"(8) In this section 'statutory water undertakers' means the National Rivers Authority, a water undertaker or a sewerage undertaker and 'local enactment' means any local statutory provision within the meaning of the Water Act 1989."

(2) In section 12(1) of that Act (removal and disposal of chattels from land comprised in compulsory rights order), in the proviso, for the words from "or to the body" to "that authority" there shall be substituted the words "and used by those undertakers for the purposes of their undertaking or belonging to an internal drainage board and used by that board".

(3) In section 13(2) of that Act (apparatus of statutory undertakers and other bodies), for paragraph (b) there shall be substituted the following paragraph—

"(b) as if any reference in those provisions to the person carrying on a statutory undertaking included a reference to an internal drainage board and, in relation to an internal drainage board, any reference to the carrying on of the undertaking were a reference to the performance of the functions of the board."

(4) In section 39(6)(b) of that Act (restrictions on powers to enter land for the purpose of carrying out operations), for the words from "a sewerage" to "drainage authority, to" there shall be substituted the words "by an internal drainage board, and those persons or that board object to the proposed operations on the ground that the carrying out of the operations would be seriously detrimental to the carrying on of their undertaking, or, in the case of an internal drainage board, to".

(5) In section 51(1) of that Act (interpretation), in the definition of "appropriate Minister", in paragraph (e), for the words "drainage authority" there shall be substituted the words "internal drainage board".

The Radioactive Substances Act 1960 (c. 34)

27.—(1) In section 8(2) of the Radioactive Substances Act 1960 (Ministers to consult before granting an authorisation of disposal of radioactive waste), for the words from "such local authorities" to "local fisheries" there shall be substituted the words "such local authorities, local fisheries".

(2) In section 9 of that Act (provisions as to functions of public and local authorities)—

(a) in subsection (2)(b)(ii), for the words from "any local authority" to "local fisheries" there shall be substituted the words "any local authority, local fisheries"; and

(b) in subsection (3), for the words from "a local authority" to "local fisheries" there shall be substituted the words "a local authority, local fisheries".

SCH. 25

(3) In section 19(1) of that Act (interpretation), for the definition of "statutory water undertakers" there shall be substituted the following definition—

" 'statutory water undertakers' means the National Rivers Authority, a water undertaker or a sewerage undertaker;".

(4) In Part I of Schedule 1 to that Act (enactments to which section 9(1) applies)—

(a) for paragraph 6 there shall be substituted the following paragraph—

"6. Section 21 of the Water Act 1945.";

and

(b) after paragraph 8E there shall be inserted the following paragraph—

"8F. Section 111 of, or paragraph 57(2)(b) of Schedule 26 to, the Water Act 1989."

The Public Bodies (Admission to Meetings) Act 1960 (c. 67)

28. In paragraph 1 of the Schedule to the Public Bodies (Admission to Meetings) Act 1960 (bodies to which Act applies in England and Wales), at the end there shall be inserted the following sub-paragraphs—

"(i) regional and local flood defence committees;

(j) advisory committees established and maintained under section 2 or 141 of the Water Act 1989;

(k) customer service committees established and maintained under section 6 of that Act.";

and the functions of those committees shall be regarded as public functions for the purposes of that Act.

The Trustee Investments Act 1961 (c. 62)

29.—(1) In section 11(4)(a) of the Trustee Investments Act 1961 (authorities who may invest property in accordance with Local Authority investment schemes), for the words from "parish" to "the Common" there shall be substituted the words "parish, the Common".

(2) Paragraph 10 of Part II of Schedule 1 to that Act (investments in debentures or in guaranteed or preference stock of a statutory water company to be narrower-range investment) shall cease to have effect except in so far as it relates to the debentures or guaranteed or preference stock of a company which is a statutory water undertaker within the meaning of an enactment in force in Northern Ireland.

(3) Sub-paragraph (2) above shall not require any property which immediately before the coming into force of this paragraph is, by virtue of the said paragraph 10, comprised in a particular part of any fund to be treated, for the purposes of that Act or any other purpose, as comprised in a different part of that fund.

The Pipe-lines Act 1962 (c. 58)

30.—(1) In section 37 of the Pipe-lines Act 1962 (fire brigades, police etc. to be notified of certain pipe-line accidents and to be furnished with information)—

(a) in subsection (1)—

(i) in paragraph (b), for the words from the beginning to "statutory water" there shall be substituted the words "to all statutory water"; and

(ii) in paragraph (c), for the words "sewerage authorities" there shall be substituted the words "sewerage undertakers";

(b) in subsection (2)—

SCH. 25

(i) in paragraph (b), for the words from the beginning to "statutory water" there shall be substituted the words "in the case of any statutory water"; and

(ii) in paragraph (c), for the words "sewerage authority" there shall be substituted the words "sewerage undertaker".

(2) In section 66(1) of that Act (interpretation)—

(a) in the definition of "statutory undertakers", for the words "hydraulic power or water" there shall be substituted the words "or hydraulic power"; and

(b) for the definition of "statutory water undertakers" there shall be substituted the following definition—

"'statutory water undertakers' means the National Rivers Authority or a water undertaker;".

The Harbours Act 1964 (c. 40)

31.—(1) References in the Harbours Act 1964 to river works powers shall include references to any powers of the Authority to carry out works which are conferred by section 145 of this Act or by or under Part IV of this Act.

(2) In section 58 of that Act (drainage and river authorities not to be harbour authorities for purposes of that Act if not possessing exceptional powers), for the words "a water authority" there shall be substituted the words "the National Rivers Authority, a water undertaker".

(3) In paragraph 6(2) of Schedule 3 to that Act (procedure for making harbour revision and empowerment orders), in the definition of "statutory undertakers", for the words "hydraulic power or water" there shall be substituted the words "or hydraulic power".

The Gas Act 1965 (c. 36)

32.—(1) In section 8(5) of the Gas Act 1965 (liability to pay compensation where consent to controlled operations is refused), for the words from "or by" to "it shall" there shall be substituted the words "or by the National Rivers Authority, it shall".

(2) In section 9(5) of that Act (compensation for withdrawal of consent or variation of conditions), for the words from "or by" to "it shall" there shall be substituted the words "or by the National Rivers Authority, it shall".

(3) In section 15 of that Act (responsibility of public gas supplier for interference with supplies of water)—

(a) in subsection (2)(a), for the words from "undertakers" to "shall" there shall be substituted the words "undertakers or the National Rivers Authority, the public gas supplier shall";

(b) in subsection (3), for the words from "undertakers", in the first place where it occurs, to "provide" there shall be substituted the words "undertakers or the National Rivers Authority, the public gas supplier shall, if the statutory water undertakers or the National Rivers Authority provide";

(c) in subsection (4), for the words from "undertakers" to "shall" there shall be substituted the words "undertakers or the National Rivers Authority, the public gas supplier shall";

(d) in subsection (5)(b), for the words from "charges", in the first place where it occurs, to "so payable" there shall be substituted the words "amounts payable—

(i) by virtue of section 129 of the Water Act 1989; and

SCH. 25

(ii) in respect of the alternative supply of water to which subsection (3) or subsection (4) of this section relates,

having regard to the amount, if any, which would have been payable as mentioned in sub-paragraph (i) above"; and

(e) in subsection (10), for the words from "undertakers" to "or any" there shall be substituted the words "undertakers, the National Rivers Authority or any".

(4) In section 17(5) of that Act (duty of public gas supplier to make arrangements with various bodies on the occurrence of any accident), in paragraph (a) for the words from the beginning to "undertakers" there shall be substituted the words "for the National Rivers Authority and for every police force, fire authority, statutory water undertakers and sewerage undertaker".

(5) In section 28 of that Act (interpretation)—

(a) in subsection (1), in the definition of "Minister concerned with water resources", for paragraphs (a) to (c) there shall be substituted the following paragraph—

"(a) in relation to England and Wales, the Secretary of State;"

and

(b) for the definition of "statutory water undertakers" in that subsection there shall be substituted the following definition—

"'statutory water undertakers' means any water undertaker";

and subsection (5) shall have effect as if the reference in that subsection to section 56(1)(b) of the Water Resources Act 1963 included a reference to paragraph 32(1)(a) of Schedule 26 to this Act.

1963 c. 38.

(6) In Schedule 2 to that Act (storage authorisation orders), in each of paragraphs 4(2), 7(3), 12(1) and 16(2)—

(a) in paragraph (a), for the words from "authority, every" to "within" there shall be substituted the words "authority and every local authority who are not a local planning authority, being, in either case, an authority within";

(b) in paragraph (b), for the words "limits of supply" there shall be substituted the word "area"; and

(c) after paragraph (b) there shall be inserted the following paragraph—

"(bb) on the National Rivers Authority, and";

and, in paragraph 12(6), after the words "paragraph (b)" there shall be inserted the words "or paragraph (bb)".

(7) In Schedule 3 to that Act (certificates as respects planning permission and grant of statutory licences to abstract water)—

(a) in paragraph 4—

(i) in sub-paragraph (1), for the words from "apply to" onwards there shall be substituted the words "apply to the National Rivers Authority for a certificate under this Schedule as respects those controlled operations.";

(ii) in sub-paragraph (2), for the words from the beginning to "shall" there shall be substituted the words "Where such an application is made, the National Rivers Authority shall";

(iii) in sub-paragraph (3), for the words from the beginning to "statutory" there shall be substituted the words "Where, in the opinion of the National Rivers Authority, a statutory"; and

(iv) in sub-paragraph (4), for the words from the beginning to "shall" there shall be substituted the words "On issuing the certificate, the National Rivers Authority shall";

(b) in paragraph 5—

(i) in sub-paragraph (1), for the words from the beginning to "have issued" there shall be substituted the words "Where the National Rivers Authority has issued";

(ii) in sub-paragraph (3), for the words from "and to" to "opportunity" there shall be substituted the words "and to the National Rivers Authority an opportunity"; and

(iii) in sub-paragraph (4), for the words from the beginning to "had issued" there shall be substituted the words "Where an application is made to the National Rivers Authority for a certificate under this Schedule and at the expiry of any period prescribed by regulations under this Schedule (or if an extended period is at any time agreed upon in writing by the applicant and the National Rivers Authority, at the end of that period) no certificate has been issued by the National Rivers Authority in accordance with this Schedule, the foregoing provisions of this paragraph shall apply as if the National Rivers Authority had issued";

and

(c) in paragraph 6, for the words from "Schedule, the" to "or as" there shall be substituted the words "Schedule, the National Rivers Authority or as".

(8) In Part II of Schedule 4 to that Act (compulsory purchases affecting supplies of water), in paragraph 5—

(a) in sub-paragraph (1), for the words from "undertakers or a" to "provide" there shall be substituted the words "undertakers or the National Rivers Authority, the public gas supplier shall, if the statutory water undertakers or the National Rivers Authority provide";

(b) in sub-paragraph (2), for the words from "undertakers" to "shall" there shall be substituted the words "undertakers or the National Rivers Authority, the public gas supplier shall"; and

(c) in sub-paragraph (4)(b), for the words from "charges", in the first place where it occurs, to "fees", in the fourth place where it occurs, there shall be substituted the words "amounts payable, by virtue of section 129 of the Water Act 1989, in respect of an alternative supply of water to which the foregoing provisions of this paragraph relate exceed the amounts payable by virtue of that section in respect of the protected right (or where amounts are payable by virtue of that section in respect of an alternative supply but no amounts".

(9) In Schedule 6 to that Act (power to enter on land and to prospect and survey land), in paragraph 2—

(a) for sub-paragraph (3) there shall be substituted the following sub-paragraph—

"(3) If notice of intention to carry out any such operations is given as respects land which is held by statutory undertakers or by an internal drainage board, and the statutory undertakers or the internal drainage board object to the proposed operations on the ground that the carrying out of the operations would be seriously detrimental to the carrying on of their undertaking or, in the case of an internal drainage board, to the performance of their functions, the operations shall not be carried out except with the consent of the appropriate Minister."

(b) in sub-paragraph (4), for the words from "statutory" to "the undertakers" there shall be substituted the words "the National Rivers Authority or by statutory water undertakers unless he complies with any reasonable requirements imposed by the National Rivers Authority or, as the case may be, by the undertakers"; and

SCH. 25

(c) in sub-paragraph (6), for paragraph (c) there shall be substituted the following paragraph—

"(c) when used in relation to an internal drainage board, means the Secretary of State or the Minister of Agriculture, Fisheries and Food."

The Nuclear Installations Act 1965 (c. 57)

33. In section 3(3) of the Nuclear Installations Act 1965 (service of notices on specified bodies in connection with grant of nuclear site licences), for paragraph (b) there shall be substituted the following paragraph—

"(b) the National Rivers Authority, any water undertaker or any local fisheries committee;".

The Agriculture Act 1967 (c. 22)

34. In section 50(3) of the Agriculture Act 1967 (bodies which are excepted from control of sale of certain land), for paragraph (g) there shall be substituted the following paragraph—

"(g) the National Rivers Authority or any water undertaker or sewerage undertaker;".

The Leasehold Reform Act 1967 (c. 88)

35. In section 28(5) of the Leasehold Reform Act 1967 (retention or resumption of land required for public purposes), after paragraph (e) there shall be inserted the following paragraph—

"(ee) to the National Rivers Authority;".

The Capital Allowances Act 1968 (c. 3)

36. In section 7 of the Capital Allowances Act 1968 (definition of industrial building or structure)—

(a) in subsection (1)(b), after the word "water" there shall be inserted the word "sewerage"; and

(b) in subsection (5), after the definition of "water undertaking" there shall be inserted the following definition—

"'sewerage undertaking' means an undertaking for the provision of sewerage services within the meaning of the Water Act 1989;".

The Countryside Act 1968 (c. 41)

37.—(1) In section 8(4) of the Countryside Act 1968 (local authority to consult various bodies before providing certain recreational facilities), for the words from "of, any" to "such other" there shall be substituted the words "of, the National Rivers Authority and such".

(2) In section 12(4) of that Act (local planning authorities to consult various bodies before providing facilities in or near National Parks), for the words from "of, any" to "such other" there shall be substituted the words "of the National Rivers Authority and such".

(3) In section 13(7) of that Act (lakes in National Parks - exemption from the making of byelaws for lakes owned by certain bodies), for the words from "managed" onwards there shall be substituted the words "managed by any statutory undertakers".

(4) In section 16(7) of that Act (local planning authorities to consult certain bodies before making agreement or order relating to access to open country), for the words from "of, any" to "question and" there shall be substituted the words "of the National Rivers Authority, and".

SCH. 25

(5) In section 38 of that Act (avoidance of pollution), for the words "statutory water undertakers or which statutory water undertakers are" there shall be substituted the words "the National Rivers Authority or a water undertaker or which that Authority or a water undertaker is".

The Transport Act 1968 (c. 73)

38.—(1) In section 109 of the Transport Act 1968 (powers to maintain or take over waterways and connected works)—

(a) in subsection (2)—

(i) for paragraph (b) there shall be substituted the following paragraph—

"(b) the National Rivers Authority;"

(ii) for paragraph (h) there shall be substituted the following paragraph—

"(h) a water undertaker;"

(b) in subsection (3), for paragraph (b) there shall be substituted the following paragraph—

"(b) the National Rivers Authority unless the Ministers (as defined in section 82(9) of the Water Resources Act 1963) have consented to the agreement or transfer;"

and

(c) in subsection (5)—

(i) for the words from "authority or" to "may" there shall be substituted the words "authority may"; and

(ii) for the words from "authorities (whether" to "who" there shall be substituted the words "authorities who".

(2) In section 112 of that Act (power to extinguish statutory rights and obligations in respect of canals not comprised in undertaking of Waterways Board)—

(a) in subsection (2), for the words from "any local" to "in whose" there shall be substituted the words "the National Rivers Authority or any local authority in whose"; and

(b) in subsection (3)(a), for the words from "local authority" to "or the" there shall be substituted the words "local authority, the National Rivers Authority or the".

(3) In section 113(5) of that Act (byelaws in respect of waterways owned or managed by certain bodies), in the definition of "relevant authority", for the words from "means" to "order)" there shall be substituted the words "means, except in a case where it is itself the applicant for the order, the National Rivers Authority or any local authority".

(4) In paragraph 5(2) of Schedule 13 to that Act (inquiries in connection with proposed orders relating to inland waterways), in paragraph (a), for the words from "authority or" onwards there shall be substituted the words "authority or the National Rivers Authority".

The Post Office Act 1969 (c. 48)

39. In section 7(1A) of the Post Office Act 1969 (power of the Post Office to perform services for various bodies), for paragraph (c) there shall be substituted the following paragraph—

"(c) the National Rivers Authority or any water undertaker or sewerage undertaker;".

SCH. 25 *The Local Authorities (Goods and Services) Act 1970 (c. 39)*

40. The powers conferred by section 1 of the Local Authorities (Goods and Services) Act 1970 (supply of goods and services by local authorities to public bodies) shall be exercisable by a local authority, within the meaning of that section, as if the Authority were a public body within the meaning of that section; and the powers of a local authority under that Act shall be deemed to include power to enter into an agreement for the collection and recovery by the authority, on behalf of any water undertaker or sewerage undertaker, of any charges fixed by the undertaker under Chapter IV of Part II of the Water Act 1989.

The Agriculture Act 1970 (c. 40)

41.—(1) In section 98 of the Agriculture Act 1970 (extent of Part VI of that Act), for the words from "regional" to "1973" there shall be substituted the words "National Rivers Authority".

(2) Where before the transfer date there is power, by virtue of any saving under Part I of Schedule 3 to that Act, for grants to be made for any purposes to statutory water undertakers, then on and after that date that power shall be exercisable by virtue of that saving as a power to make grants for those purposes to water undertakers.

The Town and Country Planning Act 1971 (c. 78)

42.—(1) In section 215 of the Town and Country Planning Act 1971 (procedure for making of orders by Secretary of State)—

(a) in subsection (2)(a), after the word "mains," there shall be inserted the word "sewers,"; and

(b) after subsection (7) there shall be inserted the following subsection—

"(7A) In subsection (2) of this section the reference to water undertakers shall be construed as a reference to the National Rivers Authority or any water undertaker or sewerage undertaker."

(2) In section 223(2)(b) of that Act (cases in which land is to be treated as not being operational land), for the words "1986 or" there shall be substituted the words "1986, the Water Act 1989 or".

(3) In section 290(1) of that Act (interpretation)—

(a) in the definition of "local authority", for the words from "includes" to "any drainage" there shall be substituted the words "includes any drainage"; and

(b) in the definition of "statutory undertakers", for the words "hydraulic power or water" there shall be substituted the words "or hydraulic power".

The Local Government Act 1972 (c. 70)

43.—(1) In section 223(2) of the Local Government Act 1972 (appearance of local authorities in legal proceedings), for the words "a water authority" there shall be substituted the words "the National Rivers Authority".

(2) In Schedule 13 to that Act (borrowing and lending by local authorities)—

(a) in paragraph 1(a), for the words from "police" to "harbour" there shall be substituted the words "police or harbour"; and

(b) in paragraph 13(2), for the words from "police" onwards there shall be substituted the words "police authority".

The Land Compensation Act 1973 (c. 26) SCH. 25

44.—(1) In section 44(2) of the Land Compensation Act 1973 (compensation for injurious affection), after the words "Gas Act 1986" there shall be inserted the words "paragraph 3 of Schedule 18 to the Water Act 1989".

(2) In section 58(2) of that Act (determination of material detriment where part of house etc. proposed for compulsory acquisition), after the words "Gas Act 1986" there shall be inserted the words "paragraph 4 of Schedule 18 to the Water Act 1989".

The Fair Trading Act 1973 (c. 41)

45.—(1) The Director General of Fair Trading shall consult with the Director before publishing under section 124 of the Fair Trading Act 1973 (publication of information or advice) any information or advice which the Director has power to publish under section 34(2) of this Act.

(2) Section 125(1) of that Act (annual and other reports) shall not apply to activities of the Monopolies Commission on which the Director is required to report by section 35(1) of this Act.

(3) In section 133(2)(a) of that Act (exceptions to general restriction on disclosure of information), after the words "the Civil Aviation Authority," there shall be inserted the words "the Director General of Water Services," and after the words "the Airports Act 1986," there shall be inserted the words "or the Water Act 1989,". 1986 c. 31.

(4) In Part I of Schedule 7 to that Act (goods and services wholly excluded from section 50 of that Act), paragraph 4 (water) shall be omitted.

The Health and Safety at Work etc. Act 1974 (c. 37)

46. In section 28 of the Health and Safety at Work etc. Act 1974 (restrictions on disclosure of information)—

(a) in subsection (3)(c), for sub-paragraph (ii) there shall be substituted the following sub-paragraph—

"(ii) an officer of the National Rivers Authority or of a water undertaker, sewerage undertaker, water authority or water development board who is authorised by that Authority, undertaker, authority or board to receive it,";

and

(b) in subsection (5)(b), for the words from "local authority" to "or board" there shall be substituted the words "body which is a local authority, the National Rivers Authority, a water undertaker, a sewerage undertaker, a water authority, a river purification board or a water development board, the purposes of the body".

The Consumer Credit Act 1974 (c. 39)

47. In section 174(3)(a) of the Consumer Credit Act 1974 (exceptions to restrictions on disclosure of information), after the words "Consumer Protection Act 1987" there shall be inserted the words "or the Water Act 1989" and after the words "the Civil Aviation Authority," there shall be inserted the words "the Director General of Water Services,".

The Control of Pollution Act 1974 (c. 40)

48.—(1) In section 2(3)(a) of the Control of Pollution Act 1974 (duty of a disposal authority to consult various bodies in preparing or revising a waste disposal plan), for sub-paragraph (i) there shall be substituted the following sub-paragraph—

"(i) the National Rivers Authority, and".

SCH. 25

(2) In section 3 of that Act (prohibition on unlicensed disposal of waste), after subsection (4) there shall be inserted the following subsection—

"(5) In this section and subsections (5) and (6) of the following section 'land' includes land covered with waters where the land is above the low-water mark of ordinary spring tides and the waters are not inland waters (within the meaning of Chapter I of Part III of the Water Act 1989)."

(3) In section 5(4) of that Act (duty imposed on disposal authority where it proposes to issue disposal licence)—

(a) in paragraph (a), for the words "any water authority whose area includes any part of the relevant land" there shall be substituted the words "the National Rivers Authority"; and

(b) in the words following paragraph (b), for the words "a water authority to which the proposal is referred" there shall be substituted the words "the National Rivers Authority".

(4) In section 11 of that Act (special provisions for land occupied by disposal authorities)—

(a) in subsection (3)—

(i) in paragraph (c), for the words "any water authority whose area includes any of the land in question" there shall be substituted the words "the National Rivers Authority";

(ii) in paragraph (d), for the words "a water authority," there shall be substituted the words "the National Rivers Authority, a";

(b) in subsection (5), for the words "a water authority" there shall be substituted the words "the National Rivers Authority";

(c) in subsection (9), for the words from the beginning to the word "request" there shall be substituted the words "If it appears to the National Rivers Authority that activities to which a resolution in pursuance of this section relates are causing or are likely to cause pollution to controlled waters, the National Rivers Authority may, without prejudice to the provisions of the preceding subsection or of Chapter I of Part III of the Water Act 1989, request"; and

(d) for subsection (11) there shall be substituted the following subsection—

"(11) In this section—

(a) 'land' has the same meaning as in section 3 of this Act; and

(b) 'controlled waters' has the same meaning as in Chapter I of Part III of the Water Act 1989."

(5) In section 14 of that Act (disposal of waste in England and Wales)—

(a) in subsection (9), for the words "water authority", wherever they occur, there shall be substituted the words "sewerage undertaker";

(b) in subsection (10)—

(i) for the words "water authority", in both places where they occur, there shall be substituted the words "sewerage undertaker"; and

(ii) for the words "the authority" there shall be substituted the words "the undertaker";

and

(c) for subsection (11) there shall be substituted the following subsection—

SCH. 25

"(11) For the purposes of so much of the Water Act 1989 as relates to charging by sewerage undertakers the reception and disposal by a sewerage undertaker or other person of matter delivered to it or him by another sewerage undertaker in pursuance of subsection (9) of this section shall be treated as a service provided for that other undertaker by the sewerage undertaker in the course of carrying out its functions."

(6) In section 28(1) of that Act (supplementary provisions relating to pipes), for the words "21(4) or 26" there shall be substituted the words "or 21(4)".

(7) In section 62(2)(a) of that Act (exceptions to restrictions on the use of loudspeakers in a street), for the words "a water authority" there shall be substituted the words "the National Rivers Authority, a water undertaker or a sewerage undertaker".

(8) In section 73(1) of that Act (interpretation of Part III of that Act), in the definition of "statutory undertakers", for the words "hydraulic power or water" there shall be substituted the words "or hydraulic power".

(9) In section 90(2) of that Act (establishment charges and interest in respect of certain expenses of authorities), for the words from the beginning to "any other" there shall be substituted the words "Where a sum is payable to a".

(10) For section 95 of that Act there shall be substituted the following section—

"Service of documents on and by certain undertakers.

95. Section 187 of the Water Act 1989 (service of documents) shall apply for the purposes of the service of any document required or authorised by virtue of this Act to be served on or by a water undertaker or sewerage undertaker as it applies for the purposes of the service of any document required or authorised by virtue of that Act to be served on or by any person."

(11) In section 98 of that Act (interpretation of Part V of that Act), in the definition of "relevant authority", after the words "Middle Temple" there shall be inserted the words "and, for the purposes of sections 91 to 93 of this Act, a sewerage undertaker".

The Reservoirs Act 1975 (c. 23)

49. In section 1(4)(a) of the Reservoirs Act 1975 (meaning of "undertakers" for the purposes of that Act), for the words "a water authority, that authority" there shall be substituted the words "the National Rivers Authority or a water undertaker, that Authority or, as the case may be, undertaker".

The Coal Industry Act 1975 (c. 56)

50. Paragraph 5(3) of Schedule 1 to the Coal Industry Act 1975 (supplementary provisions relating to right to withdraw support) shall have effect as if the reference to a company or other body or person carrying on an undertaking primarily for the supply of water for public purposes or to members of the public included a reference to the Authority, a water undertaker and a sewerage undertaker.

The Welsh Development Agency Act 1975 (c. 70)

51. In section 27(1) of the Welsh Development Agency Act 1975 (interpretation), in the definition of "statutory undertakers", for the words "hydraulic power or water" there shall be substituted the words "or hydraulic power".

SCH. 25

The Local Land Charges Act 1975 (c. 76)

52. In section 1(1)(a) of the Local Land Charges Act 1975 (local land charges), after the words "water authority" there shall be inserted the words "sewerage undertaker".

The Restrictive Trade Practices Act 1976 (c. 34)

53. In section 41(1)(a) of the Restrictive Trade Practices Act 1976 (disclosure of information), after the words "the Civil Aviation Authority," there shall be inserted the words "the Director General of Water Services," and after the words "or the Airports Act 1986" there shall be inserted the words "or the Water Act 1989".

The Development of Rural Wales Act 1976 (c. 75)

54. In section 34(1) of the Development of Rural Wales Act 1976 (interpretation), in paragraph (a) of the definition of "statutory undertakers", for the words "hydraulic power or water" there shall be substituted the words "or hydraulic power".

The Interpretation Act 1978 (c. 30)

55.—(1) Schedule 1 to the Interpretation Act 1978 (definitions of words and expressions) shall be amended as follows.

(2) After the definition of "Secretary of State" there shall be inserted the following definition—

> "'Sewerage undertaker', in relation to England and Wales, shall be construed in accordance with section 11 of the Water Act 1989."

(3) For the definitions of "Water authority" and "water authority area" there shall be substituted the following definition—

> "'Water undertaker', in relation to England and Wales, shall be construed in accordance with section 11 of the Water Act 1989."

The Employment Protection (Consolidation) Act 1978 (c. 44)

56. In section 29(1)(f) of the Employment Protection (Consolidation) Act 1978 (time off for public duties), for the words "a water authority or, in Scotland," there shall be substituted the words "the National Rivers Authority or, in Scotland, a".

The Estate Agents Act 1979 (c. 38)

57. In section 10(3)(a) of the Estate Agents Act 1979 (exceptions to restrictions on disclosure of information), after the words "Consumer Protection Act 1987" there shall be inserted the words "or the Water Act 1989" and after the words "the Civil Aviation Authority," there shall be inserted the words "the Director General of Water Services,".

The Ancient Monuments and Archaeological Areas Act 1979 (c. 46)

58. In section 61(2) of the Ancient Monuments and Archaeological Areas Act 1979 (meaning of "statutory undertakers" for the purposes of that Act), in paragraph (a), for the words "hydraulic power or water" there shall be substituted the words "or hydraulic power".

The Competition Act 1980 (c. 21) SCH. 25

59.—(1) For paragraph (c) of section 11(3) of the Competition Act 1980 (references of public bodies etc. to the Monopolies Commission) there shall be substituted the following paragraph—

"(c) the National Rivers Authority;".

(2) In section 19 of that Act (restriction on disclosure of information)—

(a) in subsection (2)(a), after the words "the Civil Aviation Authority," there shall be inserted the words "the Director General of Water Services,"; and

(b) in subsection (3), after paragraph (k) there shall be inserted the following paragraph—

"(l) the Water Act 1989."

The Water (Scotland) Act 1980 (c. 45)

60.—(1) In section 31 of the Water (Scotland) Act 1980 (consultation with authorities in England), for the words "water authorities" there shall be substituted the words "water undertakers".

(2) In section 65 of that Act (power of council to make charging order)—

(a) in subsection (1) after the words "Register of Sasines" there shall be added the words "or registering it in the Land Register of Scotland, as the case may be";

(b) in subsection (3) after the words "Register of Sasines" there shall be inserted the words "or registering it in the Land Register of Scotland, as the case may be";

(c) in subsection (4) after the words "Register of Sasines" there shall be inserted the words "or (as the case may be) in the Land Register of Scotland in a case where the interest in land affected by the order is registered in that Register";

(d) in subsection (5) after the words "Register of Sasines" there shall be inserted the words "or registered in the Land Register of Scotland, as the case may be";

(e) in subsection (6) after the words "Register of Sasines" there shall be inserted the words "or registered in the Land Register of Scotland, as the case may be";

(f) in subsection (9) at the end there shall be added the words "and shall, on request, be entitled to receive a discharge in respect of the redemption which may be registered, notwithstanding its form, in the Register of Sasines or Land Register of Scotland, as the case may be.";

(g) in subsection (10) after the word "order" there shall be inserted the words "or discharge".

The Local Government, Planning and Land Act 1980 (c. 65)

61.—(1) In section 4 of the Local Government, Planning and Land Act 1980 (power to direct bodies to publish information)—

(a) for paragraph (c) of subsection (4) there shall be substituted the following paragraph—

"(c) the National Rivers Authority."

(b) after subsection (5) there shall be inserted the following subsection—

"(5A) In this section 'the relevant Minister' means, in relation to the National Rivers Authority, the Secretary of State or the Minister of Agriculture, Fisheries and Food."

and

SCH. 25

(c) in subsection (6), for the words "subsection (5)" there shall be substituted the words "subsections (5) and (5A)".

(2) In section 8(1)(b) of that Act (meaning of "functional work"), for sub-paragraph (ii) there shall be substituted the following sub-paragraph—

"(ii) a sewerage undertaker; or".

(3) In section 108(1) of that Act (meaning of "statutory undertakers" for the purposes of Part XII of that Act), in paragraph (a) for the words "hydraulic power or water" there shall be substituted the words "or hydraulic power".

(4) In section 170(1) of that Act (meaning of "statutory undertakers" for the purposes of Part XVI of that Act), in paragraph (a) for the words "hydraulic power or water" there shall be substituted the words "or hydraulic power".

(5) In section 185(2)(b) of that Act (byelaws in relation to the operation of pleasure boats or vessels on inland waters), for the words "a water authority" there shall be substituted the words "the National Rivers Authority".

(6) In Schedule 16 to that Act (bodies to whom Part X of that Act applies)—

(a) after paragraph 17 there shall be inserted the following paragraph—

"17A. The National Rivers Authority";

and

(b) in the definition of "statutory undertakers", for the words "hydraulic power or water" there shall be substituted the words "or hydraulic power".

(7) In paragraph 2 of Schedule 19 to that Act (public authorities defined for the purposes of section 103(5) of that Act), for the words "hydraulic power or water" there shall be substituted the words "or hydraulic power".

The Highways Act 1980 (c. 66)

62.—(1) After subsection (4) of section 21 of the Highways Act 1980 (extinguishment of rights of statutory undertakers as to apparatus etc.) there shall be inserted the following subsection—

"(4A) Subsection (4) above shall not apply in the case of the removal of a public sewer but where such a sewer is removed in pursuance of such a notice or order as is mentioned in that subsection, any person who is—

(a) the owner or occupier of premises the drains of which communicated with that sewer; or

(b) the owner of a private sewer which communicated with that sewer,

is entitled to recover from the special road authority compensation in respect of expenditure reasonably incurred by him, in consequence of the removal, for the purpose of making his drain or sewer communicate with any other public sewer or with a private sewage disposal plant."

(2) In section 73 of that Act (power to prescribe improvement line for widening streets)—

(a) in subsection (3), after the word "main," there shall be inserted the word "sewer,"; and

(b) in subsection (11)(c), at the end there shall be inserted the words "or by sewerage undertakers as a pumping station or sewage disposal works".

(3) In section 74 of that Act (power to prescribe a building line)—

(a) in subsection (3)—

(i) for the words "or water undertakers" there shall be substituted the words "water undertakers or sewerage undertakers"; and

(ii) after the word "main," there shall be inserted the word "sewer,";

SCH. 25

(b) in subsection (11)(b), at the end there shall be inserted the words "or by sewerage undertakers as a pumping station or sewage disposal works".

(4) In section 100 of that Act (drainage of highways)—

(a) in subsection (5), for the words from "water authority" onwards there shall be substituted the words "sewerage undertaker under Schedule 19 to the Water Act 1989 for the purposes of the drainage of highways within the area of that undertaker"; and

(b) in subsection (6)—

(i) for the words "under the Public Health Act 1936" there shall be substituted the words "under Schedule 19 to the Water Act 1989"; and

(ii) for the words "water authority", in both places where they occur, there shall be substituted the words "sewerage undertaker".

(5) In section 107(4) of that Act (orders and schemes providing for construction of bridges or tunnels to be subject to special parliamentary procedure), for the words "any navigation authority or water authority" there shall be substituted the words "the National Rivers Authority or any navigation authority".

(6) In section 121(6) of that Act (definition of "appropriate Minister"), in paragraph (a) for the words "hydraulic power or water" there shall be substituted the words "or hydraulic power".

(7) In section 185(3)(b) of that Act (protection of undertakings where power to install refuse or storage bins in streets is exercised), for the words "or water undertakers" there shall be substituted the words "water or sewerage undertakers".

(8) In section 241(2) of that Act (acquisition of land between improvement line and boundary of street), after the words "removal of" there shall be inserted the word "sewers,".

(9) In section 254(4) of that Act (drainage of highway into watercourse)—

(a) in paragraph (a), for the words "water authority without the consent of that board or authority" there shall be substituted the words "the National Rivers Authority without the consent of that board or that Authority"; and

(b) in paragraph (b), after the word "culvert," there shall be inserted the word "sewer,".

(10) In section 264(3)(c) of that Act (determination of differences between various bodies relating to use of sewers), for the words "water authority" there shall be substituted the words "sewerage undertaker".

(11) In section 276 of that Act (contributions to land drainage works which will benefit trunk roads)—

(a) for the words "a water authority" there shall be substituted the words "the National Rivers Authority"; and

(b) for the words "the authority" there shall be substituted the words "that Authority".

(12) In section 329(1) of that Act (further provision as to interpretation)—

(a) in the definition of "drainage authority", for the words "a water authority" there shall be substituted the words "the National Rivers Authority"; and

(b) for the definition of "water undertakers" there shall be substituted the following definition—

"'water undertakers' means the National Rivers Authority or a water undertaker."

SCH. 25

(13) In section 339 of that Act (saving for works etc. of drainage authorities etc.)—

(a) in subsection (1)—

(i) for the words "a water authority" there shall be substituted the words "the National Rivers Authority"; and

(ii) for the words "that authority or" there shall be substituted the words "the National Rivers Authority or that";

and

(b) in subsection (4), for the words "a water authority" there shall be substituted the words "the National Rivers Authority".

(14) In Schedule 1 to that Act (procedures for making or confirming certain orders and schemes)—

(a) in item (ii) of the Table set out at the end of paragraph 3, for the words "Every navigation authority and water authority" there shall be substituted the words "The National Rivers Authority and every navigation authority"; and

(b) in paragraph 11(b), for the words "every navigation authority and water authority" there shall be substituted the words "the National Rivers Authority and every navigation authority".

(15) In Schedule 11 to that Act (provisions as to orders under section 93 of that Act), in paragraph 13(1), after the word "mains," there shall be inserted the word "sewers,".

The Water Act 1981 (c. 12)

63. In section 6 of the Water Act 1981 (civil liability of statutory water undertakers for escapes of water)—

(a) in subsection (1), for the words "a communication pipe or main of" there shall be substituted the words "any pipe which is vested in"; and

(b) in subsection (7)—

(i) in paragraph (c), after sub-paragraph (i) of the definition of "excepted undertakers" there shall be inserted the following sub-paragraph—

"(ia) the National Rivers Authority, any water undertaker or sewerage undertaker;";

and

(ii) for paragraph (e) there shall be substituted the following paragraph—

"(e) 'statutory water undertakers' means the National Rivers Authority or a water undertaker."

The New Towns Act 1981 (c. 64)

64.—(1) In section 5(5)(a) of the New Towns Act 1981 (restrictions on powers of development corporations), after the words "or gas" there shall be inserted the words "or for the provision of sewerage services".

(2) In section 79(1)(a) of that Act (meaning of "statutory undertakers"), in sub-paragraph (iii) for the words "hydraulic power or water" there shall be substituted the words "or hydraulic power".

The Acquisition of Land Act 1981 (c. 67)

65. In section 8(1)(a)(iii) of the Acquisition of Land Act 1981 (definition of "statutory undertakers"), for the words "hydraulic power or water" there shall be substituted the words "or hydraulic power".

The Wildlife and Countryside Act 1981 (c. 69) SCH. 25

66.—(1) In section 27(1) of the Wildlife and Countryside Act 1981 (interpretation of Part I of that Act), in the definition of "authorised person", after paragraph (c) there shall be inserted the following paragraph—

"(d) any person authorised in writing by the National Rivers Authority, a water undertaker or a sewerage undertaker;".

(2) In section 36(7) of that Act (marine nature reserves), in the definition of "relevant authority", for the words "a water authority or any other statutory water undertakers," there shall be substituted the words "the National Rivers Authority, a water undertaker, a sewerage undertaker,".

The Civil Aviation Act 1982 (c. 16)

67.—(1) In section 46(2)(d) of the Civil Aviation Act 1982 (power to exercise control over land in interests of civil aviation), after the word "mains," there shall be inserted the word "sewers,".

(2) In section 48 of that Act (power of Secretary of State to stop up and divert highways etc. in interests of civil aviation)—

(a) in each of subsections (3)(e) and (6)(c), after the word "mains," there shall be inserted the word "sewers,"; and

(b) at the end of paragraph (b) of subsection (7) there shall be inserted the words "and

(c) the reference in paragraph (c) to water undertakers is a reference to the National Rivers Authority, a water undertaker or a sewerage undertaker."

The Telecommunications Act 1984 (c. 12)

68.—(1) In section 98 of the Telecommunications Act 1984 (use of certain conduits)—

(a) in subsection (7)(b), for the word "authority" there shall be substituted the word "person";

(b) in subsection (8)—

(i) in paragraph (a), for the words "another authority" there shall be substituted the words "another person"; and

(ii) for the words "other authority", wherever they occur, there shall be substituted the words "other person";

and

(c) in subsection (9)—

(i) for paragraph (a) of the definition of "water authority" there shall be substituted the following paragraph—

"(a) in England and Wales, means the National Rivers Authority or a water undertaker;"

(ii) for paragraph (a) of the definition of "water main" there shall be substituted the following paragraph—

"(a) in England and Wales, means a water main within the meaning of the Water Act 1989 or any resource main within the meaning of paragraph 1 of Schedule 19 to that Act;".

(2) In section 101 of that Act (general restrictions on disclosure of information)—

(a) in subsection (2)(b), after the words "Director General of Fair Trading" there shall be inserted the words "the Director General of Water Services"; and

SCH. 25

(b) in subsection (3), after paragraph (i) there shall be inserted the following paragraph—

"(j) the Water Act 1989."

(3) In paragraph 23(10) of Schedule 2 to that Act (undertaker's works), in paragraph (a)(i) of the definition of "relevant undertaker", after the word "undertaking;" there shall be inserted the word "or".

The Road Traffic Regulation Act 1984 (c. 27)

69. In paragraph 4 of Schedule 5 to the Road Traffic Regulation Act 1984 (buildings in relation to which a Secretary of State is the appropriate authority for the purposes of section 74 of that Act), for the words "a water authority or by a statutory water company as defined in section 38 of the Water Act 1973" there shall be substituted the words "the National Rivers Authority, a water undertaker or a sewerage undertaker".

The Building Act 1984 (c. 55)

70.—(1) In section 25 of the Building Act 1984 (provision of water supply), after subsection (6) there shall be inserted the following subsection—

"(7) Section 65 of the Water Act 1989 (standards of wholesomeness of water) and any regulations made under that section shall apply for the purposes of subsection (1) above as they apply for the purposes of Chapter II of Part II of that Act."

(2) In section 82 of that Act (notices under section 81 of that Act relating to demolition)—

(a) in subsection (4), for the words "gas or water" there shall be substituted the words "or gas or with apparatus or works of a water undertaker or sewerage undertaker"; and

(b) in subsection (5)(a), for the words from "section 67" onwards there shall be substituted the words "section 167 of the Water Act 1989 (interference with water supplies or with waterworks)".

(3) In section 101 of that Act (incorporation of Part VI of Schedule 3 to the 1945 Act)—

(a) in subsection (1), for the words from "Part VI" onwards there shall be substituted the words "paragraphs 2 and 3 of Schedule 19 of the Water Act 1989 (street works) shall apply, with the necessary modifications, as they apply for the purpose of conferring power on a water undertaker or sewerage undertaker to lay a relevant pipe, within the meaning of that Schedule."; and

(b) for subsection (2) there shall be substituted the following subsection—

"(2) Those paragraphs shall also so apply so far as necessary for the purposes of any power to lay or maintain a sewer or drain which is conferred by this Act on a person other than a local authority."

(4) In section 126 of that Act, for the definition of "public sewer" there shall be substituted the following definition—

"'public sewer' has the same meaning as in the Public Health Act 1936;".

The Companies Act 1985 (c. 6)

71.—(1) In sections 425(6)(a) and 460(2) of the Companies Act 1985 (compromises with creditors and protection of minorities by the Secretary of State), any reference to a company or body corporate which is liable to be wound up includes a reference to a company or body corporate which would be so liable but for section 24 of this Act.

SCH. 25

(2) Part XIII of that Act (arrangements and reconstructions) shall have effect in relation to statutory water companies that are not limited companies with such modifications as may be prescribed; and in this paragraph "statutory water companies", in relation to any time before the transfer date, has the same meaning as in the 1973 Act.

(3) In section 459 of that Act (order on application of company member), after subsection (2) there shall be inserted the following subsection—

"(3) In this section (and so far as applicable for the purposes of this section, in section 461(2)) 'company' means any company within the meaning of this Act or any company which is not such a company but is a statutory water company within the meaning of the Water Act 1989."

The Business Names Act 1985 (c. 7)

72. In section 1(1)(c) of the Business Names Act 1985 (persons subject to Act), the reference to a company capable of being wound up includes a reference to a company which would be so capable but for section 24 of this Act.

The Water (Fluoridation) Act 1985 (c. 63)

73. In section 5 of the Water (Fluoridation) Act 1985 (interpretation)—

(a) in subsection (1), in the definition of "statutory water undertaker", for the words "water authority or statutory water company within the meaning of the Water Act 1973" there shall be substituted the words "water undertaker"; and

(b) in subsection (2), for the words "water authority", in both places where they occur, there shall be substituted the words "water undertaker".

The Housing Act 1985 (c. 68)

74.—(1) In section 573(1) of the Housing Act 1985 (meaning of "public sector authority"), for the words "a water authority" there shall be substituted the words "the National Rivers Authority".

(2) In paragraph 4(6) of Schedule 8 to that Act (calculation of rent in relation to shared ownership leases), for the words from "for services" onwards there shall be substituted the words "in respect of any services provided by a water undertaker or sewerage undertaker in the course of the carrying out of its functions".

(3) In item 2 of Part II of Schedule 14 to that Act (debits to the Housing Revenue Account of amounts equal to rents, rates etc.), for the words "water rates or charges" there shall be substituted the words "charges for the supply of water or for the provision of sewerage services".

The Agricultural Holdings Act 1986 (c. 5)

75. In Part II of Schedule 3 to the Agricultural Holdings Act 1986—

(a) in paragraph 9 (provisions applicable to Case C—failure to farm in accordance with rules of good husbandry), after sub-paragraph (2) there shall be inserted the following sub-paragraph—

"(3) In determining whether to grant a certificate under this paragraph, the Tribunal shall disregard any practice adopted by the tenant in compliance with any obligation accepted by or imposed on the tenant under section 112 of the Water Act 1989.";

and

(b) in each of paragraphs 10 and 11 (provisions applicable to Cases D and E), after sub-paragraph (2) there shall be inserted the following sub-paragraph—

SCH. 25

"(3) For the purposes of that Case compliance with any obligation accepted by or imposed on the tenant under section 112 of the Water Act 1989 shall not be capable of constituting a breach by the tenant of the terms or conditions of his tenancy."

The Airports Act 1986 (c. 31)

76. In section 74 of the Airports Act 1986 (restriction on disclosure of information)—

(a) in subsection (2)(a), after the words "Director General of Fair Trading" there shall be inserted the words " the Director General of Water Services"; and

(b) in subsection (3), after paragraph (j) there shall be inserted the following paragraph—

"(k) the Water Act 1989."

The Gas Act 1986 (c. 44)

77. In section 42 of the Gas Act 1986 (general restrictions on disclosure of information)—

(a) in subsection (2)(b), after the words "Director General of Fair Trading" there shall be inserted the words "the Director General of Water Services"; and

(b) in subsection (3), after paragraph (k) there shall be inserted the following paragraph—

"(l) the Water Act 1989."

The Insolvency Act 1986 (c. 45)

78.—(1) In each of sections 233(3)(c) and 372(4)(c) of the Insolvency Act 1986 (supplies of gas, water etc. in a case of insolvency), for the words "statutory water undertakers" there shall be substituted the words "a water undertaker".

(2) In section 413(2) of that Act (consultation with the Insolvency Rules Committee), at the end there shall be inserted the words "other than rules which contain a statement that the only provision made by the rules is provision applying rules made under section 411, with or without modifications, for the purposes of provision made by section 23 or 24 of or Schedule 6 to the Water Act 1989."

The Local Government Act 1988 (c. 9)

79.—(1) In section 3(3) of the Local Government Act 1988 (qualification of definition of works contract for the purposes of Part I of that Act), for the words "water authority" there shall be substituted the words "sewerage undertaker".

(2) In section 25(2) of that Act (assistance not requiring consent), for paragraph (b) there shall be substituted the following paragraph—

"(b) the assistance or benefit is provided in consequence of, or in connection with, the making by the authority, or by persons who include the authority, of a requirement under section 40 or 71 of the Water Act 1989 for the provision of a water main or public sewer;".

The Local Government Finance Act 1988 (c. 41)

80.—(1) Section 74 of the Local Government Finance Act 1988 (power to issue levies) shall have effect as if the Authority were a levying body, within the meaning of that section, for the purposes of its functions by virtue of Chapter III of Part III of this Act (including all its functions under the Land Drainage Act 1976).

1976 c. 70.

SCH. 25

(2) The power of the Secretary of State to make regulations under section 119 of the said Act of 1988 (statutory references to rating), his power by virtue of sub-paragraph (1) above to make regulations under section 74(2) of that Act and his power to make an order under section 147 of that Act (power to make supplementary provision) shall each include power to make such modifications of any provision of this Act relating to the said functions, or of any enactment amended by any such provision, as the Secretary of State considers appropriate for the purposes for which those powers are conferred.

(3) In paragraph 10(1)(b) of Schedule 5 to that Act (exemption for hereditaments subject to contributions under paragraph 1(a) of Schedule 3 to the Salmon and Freshwater Fisheries Act 1975), for the words from "paragraph 1(a)" onwards there shall be substituted the words "section 28(3)(a) of that Act." 1975 c. 51.

SCHEDULE 26

Section 190.

TRANSITIONAL PROVISIONS AND SAVINGS

PART I

WATER AUTHORITIES

Water authority members

1.—(1) Notwithstanding the repeals made by this Act, any regulations under paragraph 3 of Part I of Schedule 3 to the 1973 Act which are in force immediately before the transfer date and paragraphs 4 to 7 of that Part of that Schedule shall continue, to such extent as the Secretary of State may direct, to have effect on and after that date in the case of any person who is or who has been (whether before, on or after the transfer date) chairman or member of a water authority.

(2) The Secretary of State may by regulations provide for any liability which is—

(a) saved by virtue of this paragraph; and

(b) transferred in accordance with a scheme under Schedule 2 to this Act to a successor company,

to be transferred, at a time when that company is wholly owned by the Crown, to that company's nominated holding company.

Pensions etc.

2.—(1) The repeal by this Act of section 27 of the 1973 Act (superannuation of employees of statutory water undertakers) shall not, subject to any transfer in accordance with a scheme under Schedule 2 to this Act of any rights or liabilities which have arisen or might arise under the scheme, affect the operation on and after the transfer date, in relation to any period of employment before that date, of any scheme made or designated under that section.

(2) The Secretary of State may by regulations make such transitional provisions and savings as he considers appropriate in relation to so much of any provision having effect immediately before the transfer date by or under any enactment as provides for or relates to the payment by a water authority of pensions, allowances or gratuities to or in respect of persons who have been—

(a) officers or employees of any person whose activities at any time before the transfer date appear to the Secretary of State to have consisted in, or to have been connected with, the carrying out of any function which is transferred by this Act or which corresponds to any such function or to any other function under this Act; or

(b) chairmen or members of any body whose activities at any such time so appear to the Secretary of State.

SCH. 26

(3) Without prejudice to the generality of sub-paragraph (2) above or to any transfer in accordance with a scheme under Schedule 2 to this Act of any liability saved by regulations under that sub-paragraph, such regulations may—

(a) subject to sub-paragraphs (4) and (5) below, impose requirements on the Authority, on any successor company or on the nominated holding company of any successor company;

(b) modify any such provision as is mentioned in sub-paragraph (2) above;

(c) in the case of regulations made after the transfer date, require provision contained in the regulations to be treated as if it came into force on that date.

(4) No requirement shall be imposed on any company by any regulations under sub-paragraph (2) above made after the company has ceased to be wholly owned by the Crown; but a company's ceasing to be wholly owned by the Crown shall not affect any requirement imposed on it by any regulations under that sub-paragraph made before the company ceased to be so wholly owned.

(5) It shall be the duty of the Secretary of State to pay to the Authority out of money provided by Parliament all such sums as the Authority may require for fulfilling requirements imposed on it by regulations under sub-paragraph (2) above.

(6) The reference in sub-paragraph (2) above to the payment of pensions, allowances or gratuities includes a reference to the payment of compensation for loss of office or of any such compensation as is payable for any other reason to or in respect of any person who holds or has held any such office or employment as is mentioned in that sub-paragraph.

The Local Government Act 1974 (c. 7)

3.—(1) Nothing in this Act shall prevent the completion on or after the transfer date by a Local Commissioner of any investigation which he began to conduct before that date and which is an investigation under Part III of the Local Government Act 1974 in pursuance of a complaint made in relation to a water authority.

(2) Nothing in this Act shall prevent the making on or after the transfer date of a complaint under the said Part III in respect of any action which was taken by or on behalf of a water authority before that date.

(3) Notwithstanding the amendment of the said Part III by paragraph 12 of Schedule 1 to this Act, the provisions of that Part shall have effect on and after the transfer date in relation to any complaint to which sub-paragraph (1) or (2) above applies and to its investigation as they would have had effect before that date; but, in so far as the provisions of a scheme under Schedule 2 to this Act allocate a water authority's rights or liabilities in relation to any such complaint to any person, that person shall, on and after that date, stand in the place of the water authority for the purposes of this paragraph.

PART II

WATER AND SEWERAGE SERVICES

Arrangements with statutory water companies

4.—(1) Subject to sub-paragraph (2) below, where any arrangements for the purposes of section 12 of the 1973 Act (supply by statutory water companies on behalf of water authorities) are in force immediately before the transfer date, those arrangements shall cease to have effect on that date but their so ceasing to have effect shall not affect their operation on and after that date (subject to the transfer of rights and liabilities in accordance with a scheme under Schedule 2 to this Act) in relation to—

(a) proceedings for, or any indemnity in respect of or of proceedings for, any breach of duty occurring before the transfer date (whether or not any right of action has arisen in respect of that breach before that day); and

(b) claims for, or the payment of any sums in respect of, a contribution payable under section 1 of the Rural Water Supplies and Sewerage Act 1944. 1944 c. 26.

(2) In so far as any such arrangements relate to matters for which provision could have been made by an agreement under section 12 of the 1945 Act (supply of water in bulk) those arrangements shall (in accordance with paragraph 5 below) continue to have effect on and after the transfer date as if they had been contained in such an agreement.

Agreements for water supply in bulk

5.—(1) Any agreement made or having effect as if made under section 12 of the 1945 Act (supply of water in bulk) which is in force immediately before the transfer date shall continue in force on and after that date notwithstanding the repeal of that section but subject to the transfer of rights and liabilities under the agreement in accordance with a scheme under Schedule 2 to this Act.

(2) In the case of any agreement which continues in force under sub-paragraph (1) above and to which a statutory water company is a party, the agreement shall so continue in force as if entered into by that company in pursuance of any power conferred on that company by virtue of section 97(1) of this Act.

(3) Any order made under section 12 of the 1945 Act by a water authority, or jointly by two or more such authorities, which is in force immediately before the transfer date shall have effect on and after that date (subject to the transfer in accordance with a scheme under Schedule 2 to this Act of rights and liabilities of the authority under the order) as if it were an order made by the Director under section 39 of this Act.

(4) Any order made by the Secretary of State under section 12 of the 1945 Act which is in force immediately before the transfer date shall have effect on and after that date (subject to any such transfer) as if it were an order made by the Director under the said section 39.

Water main requisitions

6.—(1) Where—

(a) any water authority have, at any time before the transfer date, been required for the purposes of any of the provisions of sections 36 or 37 of the 1945 Act or of section 29 of Schedule 3 to that Act (water main requisitions) to lay any main or do any other thing for bringing water to any place; and

(b) the requirement has not been complied with before the transfer date,

then, notwithstanding any repeal made by this Act, the provisions of that Act shall have effect for the purpose of making the water undertaker for the area in which that place is situated liable for any contravention of that requirement occurring on or after the transfer date (including so much of any continuing contravention as occurs on or after that date), and for the purpose of preserving on and after that date the effect of any obligation to make payments, to pay interest or to comply with any undertaking.

(2) Provisions which have effect for any purpose by virtue of sub-paragraph (1) above shall so have effect as if the water undertaker in question were the same person in law as the water authority and as if any reference in the 1945 Act to water rates or to charges payable under Part III of the 1973 Act included a reference to any charges imposed by virtue of this Act in respect of the supply of water by that undertaker.

SCH. 26

Domestic connections

7. Any notice served on a water authority or statutory water company under section 40 of Schedule 3 to the 1945 Act which is effective immediately before the transfer date in relation to any premises shall have effect on and after that date, with the appropriate modifications—

(a) as if it had been served under section 42 of this Act on the water undertaker in whose area those premises are situated; and

(b) as if any condition imposed by the water authority or statutory water company in respect of the performance of their duties under Part X of that Schedule had been imposed by that undertaker under section 43 of this Act.

Non-domestic supplies

8.—(1) Any duty to which a water authority or statutory water company are subject immediately before the transfer date under section 27 of the 1945 Act (non-domestic supplies) shall have effect on and after the transfer date as if it had been imposed under section 46 of this Act on the water undertaker for the area in which the premises in relation to which that duty is owed are situated.

(2) Where any matter has been referred to any Minister of the Crown or any arbitrator for the purposes of the said section 27 and that reference is outstanding on the transfer date, then, for the purposes of this paragraph, a determination on that reference may be made on or after that date notwithstanding the repeal of that section.

(3) Any determination under the said section 27 which is effective immediately before the transfer date and any determination made by virtue of sub-paragraph (2) above shall have effect on and after that date or, as the case may be, after it is made as a determination of the Director under section 46 of this Act.

Disconnections etc.

9. Any demand or notice which has in relation to any premises been served by or on a water authority or statutory water company for the purposes of section 38(3) of or section 79 of Schedule 3 to the 1945 Act (disconnections and discontinuance) and is effective immediately before the transfer date shall have effect on and after that date as if it had been served for the purposes of the corresponding provision of section 49 of this Act by or on the water undertaker for the area in which those premises are situated.

Separate service pipes

10. Any notice served in relation to any premises by a water authority or statutory water company under section 42 of Schedule 3 to the 1945 Act which is effective immediately before the transfer date in relation to any premises shall have effect on and after that date, with the appropriate modifications, as if it had been served for the purposes of section 50(3) of this Act by the water undertaker in whose area those premises are situated.

Constancy and pressure requirements

11.—(1) Where immediately before the transfer date section 39 of Schedule 3 to the 1945 Act (constancy and pressure requirements)—

(a) has effect with respect to water in a water main or other pipe of a water authority or statutory water company; and

(b) so has effect subject to any provision made by or under any enactment,

that provision shall have effect, on and after that date, as if it were contained (in so far as it would qualify any duty imposed by section 51 of this Act) in an order made under subsection (4) of section 51 of this Act in relation to the water undertaker in which that main or other pipe is vested on that date.

SCH. 26

(2) So much of any local statutory provision, other than a provision applying or modifying the effect of the said section 39, as has the effect, immediately before the transfer date, that there are different requirements as to the pressure of water in a water main or other pipe of a water authority or statutory water company from those imposed by section 51 of this Act, shall have effect, on and after that date, as if it were contained (in so far as it would qualify the duty imposed by that section) in an order made under subsection (4) of that section in relation to the water undertaker in which that main or other pipe is vested on that date.

(3) Any requirement imposed in relation to any premises under section 60(1) of Schedule 3 to the 1945 Act (power to require provision of cisterns in certain cases) and effective immediately before the transfer date shall have effect on and after that date as if it had been imposed by the water undertaker for the area in which the premises are situated under section 51(5) of this Act or, as the case may be, under section 43(1)(f) or 45(6)(b) of this Act.

(4) Where any work commenced by virtue of the said section 60(1) by a water authority or statutory water company in relation to any premises is not completed before the transfer date, the work may be completed on and after that date by the water undertaker for the area in which those premises are situated as if the requirements of subsection (6) of section 51 of this Act with respect to the service of a notice and the expiration of the period specified in that notice had been satisfied before that date.

Consents by water authorities

12. Any consent given before the transfer date for the purposes of section 65, 67 or 68 of Schedule 3 to the 1945 Act (consents to certain uses of water or to interference with waterworks etc.) shall have effect on and after that date as if given for the purposes of the corresponding provision of Chapter II of Part II of this Act or of section 167 of this Act and, if given by a water authority, as if given by that authority's successor company.

Sewerage functions under the Public Health Acts

13.—(1) Where an appointment under Chapter I of Part II of this Act of the successor company of a water authority as the sewerage undertaker for any area comes into force on the transfer date, then, without prejudice to the transfer of any statutory rights or liabilities in accordance with a scheme under Schedule 2 to this Act or to the following provisions of this paragraph, the following enactments, that is to say—

(a) the Public Health Act 1936; 1936 c. 49.

(b) the Public Health (Drainage of Trade Premises) Act 1937; and 1937 c. 40.

(c) Part V of the Public Health Act 1961, 1961 c. 64.

shall have effect on and after that date as if any declaration or application made, notice given or other thing done by or in relation to that authority for the purposes of, or in connection with, the carrying out of any of the functions under those enactments which are conferred on sewerage undertakers by virtue of this Act had been made, given or done by or in relation to the sewerage undertaker for the area which immediately before that date is the water authority's area for the purposes of section 14 of the 1973 Act.

(2) The provisions of Schedule 8 to this Act which vest functions of the Secretary of State in the Director in relation to appeals, references and applications under—

(a) the said Act of 1937;

(b) the said Part V; or

SCH. 26
1974 c. 40.

(c) section 43(5) or 45(4) of the Control of Pollution Act 1974,

shall not, on and after the transfer date, affect the powers and duties of the Secretary of State in relation to any such appeal, reference or application which was made before that date; and any written permission given before the transfer date for the purposes of section 60(5) of the Public Health Act 1961 (extension of time) shall have effect in relation to any appeal made on or after that date as if given by the Director.

(3) So much of any provision of the said Act of 1936 as, by virtue of section 338 of that Act (sewers and drains of collegiate and other corporate bodies and Government departments), has effect in accordance with that section shall continue so to have effect on and after the transfer date notwithstanding the amendments and repeals made by this Act, but shall so have effect subject to the power conferred by section 191(1) of this Act.

Sewer requisitions

14.—(1) Where immediately before the transfer date any water authority are under a duty by virtue of a requirement under section 16 of the 1973 Act (sewer requisitions) to provide a sewer, that duty shall continue on and after that date as if it—

(a) were a duty under section 71 of this Act owed to the person who required the provision of the sewer or, as the case may be, to each of the persons who joined in doing so; and

(b) were so owed by the sewerage undertaker for the area which immediately before that date is the water authority's area for the purposes of section 14 of that Act.

(2) Where—

(a) any person has under section 16 of the 1973 Act at any time before the transfer date required a water authority to provide a sewer; but

(b) no duty has arisen under that section before that date in respect of that requirement,

that requirement shall have effect on and after that date as a requirement under section 71 of this Act for the provision of a public sewer by the sewerage undertaker for the area which immediately before that date is the water authority's area for the purposes of section 14 of that Act.

(3) Subject to sub-paragraph (4) below, where any rights or liabilities of a water authority in respect of any agreement or undertaking entered into before the transfer date for the purposes of section 16 of the 1973 Act, or in respect of any sums deposited with them before that date for those purposes, are transferred in accordance with a scheme under Schedule 2 to this Act to the authority's successor company, those rights and liabilities shall continue to have effect, on and after that date, as rights and liabilities of that company and, in the case of any such right which was subject to subsection (5) of that section (twelve year limit on payments), shall continue to be so subject notwithstanding the repeal of that section.

(4) On and after the transfer date subsection (8) of section 72 of this Act shall apply, as it applies in relation to the sums mentioned in that subsection, in relation to sums deposited under subsection (6) of section 16 of the 1973 Act.

(5) Notwithstanding the repeal by this Act of section 16 of the 1973 Act, subsection (10) of that section (determination of certain matters by referee) shall continue to have effect on and after the transfer date for the purposes of anything saved by sub-paragraph (1) or (3) above.

Arrangements for carrying out sewerage functions SCH. 26

15.—(1) This paragraph applies to any arrangements between a water authority and a relevant authority which have been made under section 15 of the 1973 Act (arrangements for carrying out sewerage functions) and are in force immediately before the transfer date.

(2) Subject to the following provisions of this paragraph, the arrangements shall continue in force on and after the transfer date, with the necessary modifications and any alterations or variations made before that date under paragraph 3 or 5 of Schedule 4A to the 1973 Act, as if—

(a) the relevant authority had entered into them for the purposes of section 73 of this Act with the sewerage undertaker for the relevant area, that is to say, the area which immediately before that date is the water authority's area for the purposes of section 14 of that Act; and

(b) any reference in the arrangements to any enactment which is repealed by this Act and to which any provision made by this Act corresponds were a reference to the corresponding provision of this Act.

(3) Subject to sub-paragraph (5) below, on and after the transfer date the arrangements shall be varied only by agreement between the sewerage undertaker for the relevant area and the relevant authority and shall be brought to an end only by such agreement or under sub-paragraph (4) below.

(4) Subject to sub-paragraph (6) below, the arrangements may be brought to an end by the sewerage undertaker for the relevant area or the relevant authority giving reasonable notice to the other.

(5) Any reasonable notice with respect to the arrangements which has been given before the transfer date under paragraph 5(1)(b) of Schedule 4A to the 1973 Act (termination of arrangements by relevant authority) shall, if it expires after the transfer date, take effect when it expires as if it had been reasonable notice given under sub-paragraph (4) above to the sewerage undertaker for the relevant area.

(6) The sewerage undertaker for the relevant area shall not give any notice under sub-paragraph (4) above which expires before 1st April 1992.

(7) Section 101(2) of the Local Government Act 1972 (delegation by committee or sub-committee) shall apply for the purposes of the arrangements only if and to the extent that the sewerage undertaker for the relevant area does not otherwise direct. 1972 c. 70.

(8) In this paragraph "relevant authority" has the same meaning as in section 73 of this Act.

Water charges etc.

16.—(1) Subject to the following provisions of this paragraph and to any transfers having effect in accordance with a scheme under Schedule 2 to this Act, where any scheme made under section 31 of the 1973 Act (charges schemes) by a water authority or statutory water company has effect immediately before the transfer date or, having been made before that date, is due to come into force after that date, that scheme shall have effect on and after the transfer date or, as the case may be, the date on which it would have come into force, in relation to every locality to which it applies—

(a) in so far as it relates to services which are provided on or after the transfer date by a water undertaker in the course of carrying out its functions, as if it were a scheme made under section 76 of this Act by the water undertaker for the area in which that locality is situated; and

SCH. 26

(b) in so far as it relates to services which are provided on and after that date by a sewerage undertaker in the course of carrying out its functions or to any other matter in relation to which a sewerage undertaker is entitled to fix charges under this Act, as if it were a scheme made under section 76 of this Act by the sewerage undertaker for that area.

(2) Subject as aforesaid, where by virtue of this Act the Authority has any power to fix and recover charges in respect of the carrying out of any of its functions, any charges which —

(a) have been fixed by a water authority in relation to any locality under any power conferred by an enactment repealed by this Act; and

(b) would apply immediately before the transfer date to the carrying out by the water authority of a corresponding function,

shall be recoverable by the Authority in respect of the carrying out of its functions on and after that date as if fixed in relation to that locality by the Authority in exercise of the power conferred by virtue of this Act.

(3) So much of any such scheme as is mentioned in sub-paragraph (1) above as has effect immediately before the transfer date and relates to charges in respect of anything which does not fall to be done on and after that date in the course of the carrying out of the functions of the Authority or any water undertaker or sewerage undertaker shall have effect on and after that date, in relation to the doing of that thing by the successor company of the water authority which made the scheme, as if it were contained in an agreement for the doing of that thing between that company and the person who would have been liable to the charge under the scheme.

(4) The repeal by this Act of section 30 of the 1973 Act (charges) and the preceding provisions of this paragraph shall not affect the liability of any person for any charge which—

(a) has been fixed before the transfer date by virtue of subsection (1)(b)(ii) of that section (environmental services charge); and

(b) is due to a water authority immediately before that date or would have become due to such an authority on or after that date in respect of a period ending no later than with the end of the financial year current on that date;

and such a charge shall, subject to the provisions of the scheme, be payable on or after that date to the person to whom the right to receive it is transferred in accordance with a scheme under Schedule 2 to this Act.

1988 c. 15.

(5) Notwithstanding its repeal by this Act, section 4 of the Public Utility Transfers and Water Charges Act 1988 (approval of metering trials schemes) shall apply, with the necessary modifications, to so much of any scheme made by a water undertaker under section 76 of this Act as amends or revokes any scheme which—

(a) was made in accordance with the said section 4 before the transfer date and is either in force immediately before that date or due to come into force after that date; and

(b) continues in force, in accordance with this paragraph, as a scheme under the said section 76.

(6) Any regulations made under section 5 of the Public Utility Transfers and Water Charges Act 1988 (regulations made in connection with metering) and in force immediately before the transfer date shall have effect on and after that date as if made under the power conferred by section 78 of this Act, as if that power included power to make or revoke any such provision as may be made by virtue of section 5(3)(e) of that Act and as if for any reference in those regulations to a water authority or statutory water company there were substituted a reference to a water undertaker or sewerage undertaker.

SCH. 26

(7) Where any notice served, consent given, reference to arbitration made or other thing done under any provision of Schedule 1 to the Public Utility Transfers and Water Charges Act 1988 (provisions with respect to meters) is in force or effective immediately before the transfer date, that notice, consent, reference or other thing shall have effect on and after that date— 1988 c. 15.

(a) as if it had been served, given, made or done under the corresponding provision of Schedule 10 to this Act; and

(b) in so far as it was served, given, made or done by or in relation to a water authority, as if it had been served, given, made or done by or in relation to that authority's successor company.

(8) The repeal by this Act of section 123 of the Public Health Act 1936 (power of local authorities to give guarantees to water companies) shall not affect any liability arising under any undertaking given under that section before the transfer date to a water authority or statutory water company; but any such undertaking given before that date to a water authority shall have effect on and after that date as if given to the water undertaker for the area to which, or to any part of which, the undertaking relates. 1936 c. 49.

(9) The repeal by this Act of subsection (4) of section 38 of the 1945 Act (liability for charges etc.) shall not affect the right under that subsection of the occupier of any premises to deduct from his rent at any time on or after the transfer date any sum paid by him (whether or not before that date) in respect of any charge arising under Part III of the 1973 Act in respect of services performed, facilities provided or rights made available before that date.

(10) Where, in the case of any premises—

(a) the person who is liable, immediately before the transfer date, to pay charges in respect of a supply of water to those premises is the owner of those premises, rather than the occupier; and

(b) that person is so liable (under section 54 of Schedule 3 to the 1945 Act or any other local statutory provision) otherwise than by virtue of an agreement,

then, on and after that date, the person who is the owner from time to time of those premises shall continue, until the person who is in fact the occupier of the premises immediately before that date ceases to be the occupier of those premises, to be the person liable and, accordingly, shall be treated for the purposes of section 77 of this Act as if he were the occupier of the premises.

Joint water boards and joint water committees

17. Subject to any transfer of property, rights or liabilities in accordance with a scheme under Schedule 2 to this Act, nothing in this Act shall affect—

(a) the existence or constitution of any joint water board or joint water committee constituted by virtue of an order made under section 9 of the 1945 Act before the transfer date;

(b) any rights or liabilities arising by virtue of any agreement made in pursuance of such an order; or

(c) the application in relation to any such board or committee of any provision of Schedule 3 to the 1945 Act or the operation of Part V of that Act in relation to any such provision.

The Rural Water Supplies and Sewerage Act 1944 (c. 26)

18. Any expenditure incurred before the transfer date by a water authority, being expenditure in respect of which a contribution may be made under section 1 of the Rural Water Supplies and Sewerage Act 1944, shall for the purposes of that Act be treated on and after that date as if it had been incurred by the water authority's successor company.

SCH. 26 *Byelaws under section 17 of the Water Act 1945*

19.—(1) Subject to sub-paragraph (2) below, any byelaws made or having effect as if made under section 17 of the 1945 Act and in force immediately before the transfer date and section 19 of that Act so far as it relates to any such byelaws shall, notwithstanding any repeal made by this Act, have effect on and after that date as they had effect before that date but as if—

(a) for any reference (however framed) in those byelaws or in section 19(2), (4) or (5) of that Act to the undertakers who made the byelaws there were substituted, in relation to each locality to which those byelaws relate, a reference to the water undertaker for the area in which that locality is situated; and

(b) every duty imposed on a water undertaker by virtue of paragraph (a) above were enforceable under section 20 of this Act by the Secretary of State;

and, notwithstanding any repeal by this Act, Part V of that Act shall accordingly have effect in relation to any provisions having effect under this paragraph as it had effect in relation to those provisions immediately before the transfer date.

(2) The power of the Secretary of State under section 62 of this Act to make regulations with respect to the matters specified in that section shall include power, by regulations under that section—

(a) to modify the operation of sub-paragraph (1) above in relation to any byelaws made under section 17 of the 1945 Act and having effect by virtue of that sub-paragraph; and

(b) to revoke or amend any such byelaws.

(3) So long as any byelaws under section 17 of the 1945 Act have effect by virtue of this paragraph, the references in the provisions of sections 43(1)(g), 45(6)(c) and 46(3)(b) of this Act to such regulations under section 62 of this Act as are prescribed for the purposes of those provisions shall include references to any byelaws which have effect by virtue of this paragraph.

The Building Act 1984 (c. 55)

20.—(1) Any directions given before the transfer date by a water authority under subsection (3) of section 18 of the Building Act 1984 which are effective immediately before that date in relation to any drain or sewer shall have effect on and after that date as if they were notifications given under that subsection by the sewerage undertaker for the area which immediately before that date is the water authority's area for the purposes of section 14 of the 1973 Act.

(2) Notwithstanding its repeal by this Act, section 69 of the Building Act 1984 (notices requiring provision of water supply to occupied house), except subsection (7), shall continue to have effect on and after the transfer date for the purposes of any notice served under that section before that date; but, in relation to any such notice, the water undertaker for the area in which the house in question is situated shall, on and after that date, stand in the place of the statutory water undertakers on whom any obligation or power is imposed or conferred by virtue of the notice.

PART III

CONTROL OF POLLUTION

General provisions for Chapter I of Part III of this Act

21.—(1) Subject to the following provisions of this Part of this Schedule, any subordinate legislation or application made, consent given or deemed to have

been given, certificate issued or other thing done which is in force or effective immediately before the transfer date under or for the purposes of any provision of Part II of the 1974 Act shall have effect on and after that date—

(a) as if it was made, given, issued or done under or for the purposes of the corresponding provision of Chapter I of Part III of this Act; and

(b) where it was made, given, deemed to have been given, issued or done by or in relation to a water authority, as if it was made, given, issued or done by or in relation to the Authority.

(2) Where by virtue of this paragraph any matter falls to be determined on or after the transfer date by the Secretary of State otherwise than under paragraph 8 of Schedule 12 to this Act, that matter shall, if the Secretary of State refers the matter to the Authority for determination, be determined by the Authority instead.

Order under section 32(3) of the 1974 Act

22.—(1) Except in so far as the Secretary of State by order otherwise provides, section 107(1) of this Act shall not apply to any discharges which are of a kind or in any area specified in an order which was made under subsection (3) of section 32 of the 1974 Act (preservation of existing exemptions) and is in force immediately before the transfer date.

(2) The Secretary of State may by order require the Authority to publish in a manner specified in the order such information about the operation of any provision made by or under this paragraph as may be so specified; and so much of any order under the said subsection (3) as is in force immediately before the transfer date and requires a water authority to publish information shall have effect on and after that date as if it had been made by virtue of this sub-paragraph and as if that requirement were a requirement that the Authority publish the information.

(3) The power to make an order under this paragraph shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

Recovery of costs under section 36(3) or 46(5) of the 1974 Act

23. Nothing in this Part of this Schedule shall prejudice any provision of a scheme under Schedule 2 to this Act in accordance with which any right which accrued under section 36(3) or 46(5) of the 1974 Act (recovery of costs) to a water authority before the transfer date is transferred to the water authority's successor company.

Existing transitional provisions

24.—(1) Where anything to which paragraph 21 above applies has effect immediately before the transfer date with modifications specified in regulations made under section 40 of the 1974 Act (transitional provisions), it shall continue to have effect on and after that date with those modifications notwithstanding the repeal of that section by this Act.

(2) A consent which by virtue of section 40(4) of the 1974 Act, or of any provision of any order under section 32(3) of that Act, is deemed to have been given under that Act in respect of any application which by virtue of paragraph 21 above has effect on and after the transfer date as an application made under Schedule 12 to this Act shall cease to have effect on the disposal of that application by—

(a) the giving of an unconditional consent on that application;

SCH. 26

(b) the expiration, without an appeal under paragraph 8 of that Schedule to this Act being brought, of the period of three months beginning with the date on which notice is served on the applicant that the consent applied for is refused or is given subject to conditions; or

(c) the withdrawal or determination of any such appeal.

(3) Particulars of consents to which sub-paragraph (2) above applies shall not be required to be contained in any register maintained under section 117 of this Act.

Section 55 of the 1974 Act

25.—(1) Nothing in this Part of this Schedule shall have the effect of providing that any regulations made under section 55 of the 1974 Act (discharges by water authorities) continue in force after the transfer date.

(2) Subject to sub-paragraphs (3) to (5) below, where any application has been made or other thing done by any water authority by virtue of any provision of the 1974 Act as modified by any such regulations and is pending or effective immediately before the transfer date, that application or other thing shall have effect on and after the transfer date—

(a) so far as necessary for the purposes of, or in connection with, the allocation to the water authority's successor company by a scheme under Schedule 2 to this Act of any rights or liabilities in respect of the application or thing, as if it had been made or done by that company under the provision of Schedule 12 to this Act corresponding to the provision modified by those regulations and, where it was made or done in relation to the Secretary of State, as if it had been made or done in relation to the Authority; and

(b) in relation to such rights and liabilities in respect of the application or other thing as are allocated by such a scheme to the Authority, only to the extent that a saving is made in relation to that application or thing by regulations under section 113(2) of this Act.

(3) If the Secretary of State determines that this sub-paragraph is to apply in relation to any application which is deemed by virtue of sub-paragraph (2)(a) above to have been made by a successor company to the Authority—

(a) that application shall be treated as having been transmitted to the Secretary of State in accordance with a direction under paragraph 4 of Schedule 12 to this Act; but

(b) the Authority shall not be required, by virtue of sub-paragraph (2) of that paragraph, to inform that company that the application is to be so treated.

(4) Where an application is deemed to have been so made by a successor company, then (whether or not it is treated under sub-paragraph (3) above as having been transmitted to the Secretary of State) the following provisions shall apply in relation to the application and, except in so far as the Secretary of State otherwise directs, shall so apply instead of paragraph 1(3) to (6) or 4(3) of Schedule 12 to this Act, that is to say—

(a) the application shall not be considered by the Secretary of State or the Authority unless the company has complied with such directions (if any) as may be given by the Secretary of State with respect to the publicity to be given to the application;

(b) the Secretary of State or, as the case may be, the Authority shall be under a duty to consider only such representations and objections with respect to the application as have been made in writing to the Secretary of State or the Authority before the end of such period as he may determine and as are not withdrawn; and

(c) the Secretary of State shall have power to direct the Authority (pending compliance with any direction under paragraph (a) above or pending his or, as the case may be, its consideration of the application, representations and objections) to give such a temporary consent under Chapter I of Part III of this Act, or to make such temporary modifications of the conditions of any existing consent, as may be specified in the direction;

and it shall be the duty of the Authority to comply with any direction given to it by virtue of this sub-paragraph.

(5) The power of the Secretary of State to make a determination or give a direction under sub-paragraph (3) or (4) above shall be exercisable generally in relation to applications of any such description as he may consider appropriate (as well as in relation to a particular application) and, in the case of a direction to give a temporary consent or to make a temporary modification, shall include—

(a) power to require a temporary consent to be given either unconditionally or subject to such conditions falling within paragraph 2(3) of Schedule 12 to this Act as may be specified in the direction;

(b) power, where the direction relates to a description of applications, to require the temporary consent given in pursuance of the direction to be a general consent relating to cases of such a description as may be so specified; and

(c) power, where the direction is in respect of an application falling to be considered by the Authority, to require the consent or modification to be given or made so as to continue to have effect until the Authority's determination on the application becomes final—

(i) on the expiration, without the bringing of an appeal against the determination, of the prescribed period for the bringing of such an appeal; or

(ii) on the withdrawal or determination of any such appeal;

(6) Where any consent has been given or deemed to have been given by virtue of any provision of the 1974 Act as modified by any regulations made under section 55 of that Act and is in force immediately before the transfer date, that consent shall have effect on and after that date as if it had been given under the provision of Schedule 12 to this Act corresponding to the provision modified by those regulations, but shall so have effect—

(a) in relation to discharges, deposits and other things done by a successor company or by the Authority, only so far as necessary for the purposes of, or in connection with, the transfer to that company or, as the case may be, the Authority in accordance with a scheme under Schedule 2 to this Act of rights and liabilities in respect of the consent; and

(b) in relation to the Authority, subject to any regulations under section 113(2) of this Act.

(7) Where the rights and liabilities in respect of any such consent are transferred to a water authority's successor company in accordance with a scheme under Schedule 2 to this Act and the conditions of that consent include one or more of the following, that is to say—

(a) a condition that requires that authority to take samples of any matter discharged;

(b) a condition that requires that authority to furnish any person with information about samples taken by that authority; or

SCH. 26

(c) a condition that is contravened where there is a failure by more than a specified number of samples taken by that authority to satisfy specified requirements,

then any such condition as is mentioned in paragraph (a) or (b) above shall cease to have effect on the transfer date and any such condition as is mentioned in paragraph (c) above shall have effect on and after that date as if any samples taken on behalf of the Authority in exercise, at any time on or after that date, of a power conferred by this Act, but no other samples, were the samples falling to be taken into account for the purposes of that condition.

Byelaws

1951 c. 64.

26.—(1) The Secretary of State may by order provide that any byelaws specified in the order which were made by virtue of section 5(1)(c) of the Rivers (Prevention of Pollution) Act 1951 (keeping on streams and other waters of vessels provided with sanitary appliances) and are in force immediately before the transfer date shall have effect, on and after that date, with such modifications (if any) as are so specified, as if made by the Authority under section 114 of this Act.

(2) The power to make an order under sub-paragraph (1) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

Appeals

27. Where before the transfer date any matter has been referred to the Secretary of State under section 39 of the 1974 Act (appeals) and has not been determined by him before that date, the reference of that matter shall have effect on and after that date as an appeal to him under paragraph 8 of Schedule 12 to this Act.

Supplemental

1974 c. 40.

28.—(1) In this Part "the 1974 Act" means the Control of Pollution Act 1974.

(2) Sections 123 and 124 of this Act shall apply in relation to this Part of this Schedule as they apply in relation to Chapter I of Part III of this Act.

PART IV

WATER RESOURCES

General transitional provision

29.—(1) Without prejudice to paragraph 23(3) of Schedule 13 to this Act, any licence granted, notice given or other thing done by or in relation to a water authority under any provision of the 1963 Act, being a provision which continues in force after the transfer date, shall have effect on and after that date, in so far as the licence, notice or other thing is in force or effective immediately before that date—

(a) so far as necessary for the purposes of, or in connection with, the allocation to the water authority's successor company by a scheme under Schedule 2 to this Act of any rights or liabilities which have arisen or might arise under that Act, as if it had been granted, given or done by or in relation to that company; and

(b) subject to paragraph (a) above, as if it had been granted, given or done by or in relation to the Authority.

(2) Without prejudice to the generality of sub-paragraph (1) above, any subordinate legislation made under the 1963 Act which is in force immediately before the transfer date and has effect in relation to a water authority shall, subject to the provisions of that Act and any necessary modifications, have effect on and after that date in relation to the Authority as it had effect immediately before that date in relation to that water authority.

(3) Where—

(a) an application for a licence under the 1963 Act has been made before the transfer date to the Secretary of State by a water authority in pursuance of any regulations under section 52 of that Act (modification of Act in the case of water authority abstractions etc.); and

(b) that application is pending on that date and is an application the rights and liabilities in respect of which are allocated by a scheme under Schedule 2 to this Act to the water authority's successor company,

the Secretary of State shall refer that application to the Authority to be determined on or after that date as if it were an application made to the Authority under that Act and may direct, in relation to such an application, that specified requirements of that Act with respect to procedure and publicity are not to apply, or are to be deemed to have been complied with if the requirements set out in the direction are complied with.

(4) Subject to sub-paragraph (1) above, a licence of right, within the meaning of the 1963 Act, which is in force under that Act immediately before the transfer date shall continue in force under that Act on and after that date notwithstanding the repeals made by this Act.

Section 24(2) and (3) of the 1963 Act

30.—(1) Subject to the following provisions of this paragraph, where a person—

(a) has, in pursuance of section 24(2) or (3) of the 1963 Act, abstracted water from a source of supply at any time within the period of five years ending with the transfer date; and

(b) establishes to the reasonable satisfaction of the Authority, on an application made at any time before the coming into force of the amendment made by sub-paragraph (3) or (4) of paragraph 6 of Schedule 13 to this Act, that his requirements involve such abstractions of water after the coming into force of that amendment from that source of supply as are required to be licensed under that Act by reason only of that amendment,

that person shall be entitled to the grant by the Authority of such a licence under the 1963 Act as will authorise those abstractions.

(2) Subject to the following provisions of this paragraph, any quantity specified in a licence granted by virtue of this paragraph as a quantity of water authorised to be abstracted in pursuance of the licence during a period or periods so specified shall be determined by reference to the requirements of the applicant.

(3) For the purposes of sub-paragraphs (1) and (2) above the requirements of an applicant for the grant by virtue of this paragraph of a licence under the 1963 Act shall be those indicated by (and shall not, except by virtue of sub-paragraph (4) below, be taken to exceed) the quantities of water established to the reasonable satisfaction of the Authority—

(a) to have been abstracted, in pursuance of section 24(2) or (3) of the 1963 Act, from the source of supply in question by the applicant, or any of his predecessors, from time to time during the relevant period; and

SCH. 26

(b) to have been so abstracted for use on the land on which, and for the purposes for which, water abstracted in pursuance of the licence is authorised by the licence to be used.

(4) In determining any person's requirements for the purposes of sub-paragraph (1) or (2) above or the period or other terms to be specified in a licence granted by virtue of this paragraph the Authority shall have regard to such of the following matters as are established to its reasonable satisfaction (in addition to the quantities of water established to have been abstracted as mentioned in sub-paragraph (3) above), that is to say—

(a) the provisions of any local statutory provision or agreement in accordance with which those quantities of water have been abstracted as so mentioned during the relevant period;

(b) any variations according to the seasons of the year in the quantities of water abstracted as so mentioned during the relevant period;

(c) the extent to which the abstraction of water has been or would have been limited during the relevant period to special occasions when, by reason of accident or other emergency, there was a temporary deficiency of water from other sources of supply;

(d) the extent to which works, machinery or apparatus were reasonably provided by the applicant or any of his predecessors in anticipation of future requirements.

(5) Any provision made by a licence granted by virtue of this paragraph as to the quantity of water authorised to be abstracted shall be such as will not permit the abstraction of water in excess of the quantity established to the reasonable satisfaction of the Authority to be capable of being abstracted by means of works, machinery or apparatus which—

(a) were constructed or installed before the transfer date; or

(b) were in the course of being constructed or installed on that date,

not being (in either case) works, machinery or apparatus provided for use only in the event of an accident or other emergency involving a total or partial failure of other works, machinery or apparatus.

(6) Nothing in—

(a) sections 27 to 29 or 38 of the 1963 Act (applications for licences);

(b) any regulations under section 54(3) of that Act (applications in respect of National Parks); or

(c) section 131(2) of that Act (applications by the British Waterways Board),

shall apply in relation to an application for the grant of a licence by virtue of this paragraph; but, save as aforesaid and subject to the following provisions of this Part of this Schedule, that Act shall have effect as if such an application were an application under that Act.

(7) The preceding provisions of this paragraph, and not section 41(5) of the 1963 Act (procedure on appeal to the Secretary of State), shall apply, as they apply in relation to an application to the Authority for the grant of a licence by virtue of this paragraph, in relation to an appeal under section 39 of that Act in respect of a decision on such an application; but in their application in relation to any such appeal the preceding provisions of this paragraph shall have effect as if in those provisions—

(a) references to the Authority were references to the Secretary of State; and

(b) the requirement in sub-paragraph (1)(b) above as to the period within which an application must be made applied to the application the decision on which is the subject-matter of the appeal (rather than to the appeal itself).

(8) Nothing in—

(a) section 46(3) of the 1963 Act (compensation for revocation or variation confined to work carried out after grant of licence); or

(b) section 47 of that Act (application by owner of fishing rights for revocation or variation of licence),

shall apply in relation to a licence granted by virtue of this paragraph; but, save as aforesaid and subject to sub-paragraphs (6) and (7) above and the following provisions of this Part of this Schedule, that Act shall apply in relation to any such licence as it applies in relation to any other licence under that Act.

(9) For the purposes of this paragraph water abstracted by the former incumbent of a benefice (within the meaning of section 132 of the 1963 Act) shall be treated as having been abstracted by the person who is for the time being the incumbent thereof or, if the benefice is vacant, by the Church Commissioners.

(10) No application for the grant of a licence by virtue of this paragraph shall be made in respect of any abstraction which is the subject of such a contract of sale as is mentioned in paragraph 31 below; and no licence may be granted by virtue of this paragraph in relation to any waters to which section 131 of the 1963 Act (waters owned or managed by the British Waterways Board) applies unless—

(a) the application for the licence was accompanied by the prescribed evidence that notice of the application was served on the British Waterways Board; and

(b) the Authority has considered any representations or objections made by that Board within the period of twenty-eight days beginning with the day on which the application was made or such longer period as the Authority may allow.

Waters owned or managed by the British Waterways Board

31.—(1) Where the British Waterways Board establishes to the reasonable satisfaction of the Authority, on an application made before the coming into force of the amendment made by sub-paragraph (3) of paragraph 6 of Schedule 13 to this Act—

(a) that a contract for the sale of water by that Board to any other person has been entered into at any time before the coming into force of that amendment; and

(b) that that contract requires or authorises such an abstraction of any water from any inland water to which section 131 of the 1963 Act (inland waters owned or managed by the British Waterways Board) applies as is required to be licensed under that Act by reason only of that amendment,

that Board shall be entitled to the grant by the Authority of such a licence under the 1963 Act as will authorise the abstraction required or authorised by that contract.

(2) Nothing in—

(a) sections 27 to 29 or 38 of the 1963 Act (applications for licences); or

(b) any regulations under section 54(3) of that Act (applications in respect of National Parks),

shall apply in relation to an application for the grant of a licence by virtue of this paragraph; but, save as aforesaid and subject to the following provisions of this Part of this Schedule, that Act shall have effect as if such an application were an application under that Act.

SCH. 26

(3) The preceding provisions of this paragraph, and not section 41(5) of the 1963 Act (procedure on appeal to the Secretary of State), shall apply, as they apply in relation to an application to the Authority for the grant of a licence by virtue of this paragraph, in relation to an appeal under section 39 of that Act in respect of a decision on such an application; but in their application in relation to any such appeal the preceding provisions of this paragraph shall have effect as if in those provisions—

(a) references to the Authority were references to the Secretary of State; and

(b) the requirement in sub-paragraph (1) above as to the period within which an application must be made applied to the application the decision on which is the subject-matter of the appeal (rather than to the appeal itself).

(4) Nothing in—

(a) section 46(3) of the 1963 Act (compensation for revocation or variation confined to work carried out after grant of licence); or

(b) section 47 of that Act (application by owner of fishing rights for revocation or variation of licence),

shall apply in relation to a licence under that Act granted by virtue of this paragraph; but, save as aforesaid and subject to sub-paragraphs (2) and (3) above and the following provisions of this Part of this Schedule, that Act shall apply in relation to any such licence as it applies in relation to any other licence under that Act.

Transitional provision in respect of licences under paragraph 30 or 31

32.—(1) Where an application for the grant of a licence by virtue of paragraph 30 or 31 above is made before the end of the period within which such an application is required to be made under that paragraph, then—

1965 c. 36.

(a) sections 23, 26, 31 and 49 of the 1963 Act and Part II of the Gas Act 1965 shall have effect, until the application is disposed of, as if the licence had been granted on the date of the application and the provisions of the licence had been in accordance with the proposals contained in the application; and

(b) for the purposes of those sections and Part II of the said Act of 1965 any licence granted on the application shall be treated as not having effect until the application has been disposed of.

(2) Subsection (1) of section 31 of the 1963 Act (effect of licence) shall not afford any defence to an action brought before the end of the period of three years beginning with the transfer date if the licence referred to in that subsection is a licence granted by virtue of paragraph 30 or 31 above; and that subsection as applied by sub-paragraph (1) above shall not afford any defence to such an action.

(3) No compensation shall be payable under section 46 of the 1963 Act (compensation for revocation or variation of a licence) in respect of the revocation or variation of a licence granted by virtue of paragraph 30 or 31 above if the revocation or variation is for giving effect to the decision of the court in an action in respect of which sub-paragraph (2) above has effect or in any proceedings in consequence of such an action.

(4) For the purposes of this paragraph an application for the grant of a licence by virtue of paragraph 30 or 31 above shall be taken to be disposed of on (but not before) the occurrence of whichever of the following events last occurs, that is to say—

(a) the grant, on the determination of the application by the Authority, of a licence the provisions of which are in accordance with the proposals contained in the application;

(b) the expiry, without a notice of appeal having been given, of the period (if any) within which the applicant is entitled to give notice of appeal against the decision on the application;

(c) the determination or withdrawal of an appeal against that decision;

(d) the grant, variation or revocation, in compliance with a direction given by the Secretary of State in consequence of such an appeal, of a licence under the 1963 Act;

and in this sub-paragraph any reference to a decision includes a reference to a decision which is to be treated as having been made by virtue of section 40 of that Act (appeal in default of decision).

Actions against the Authority in respect of rights protected by licences under paragraph 30 or 31

33.—(1) Section 50(2) of the 1963 Act (action against the Authority where Authority acts on direction of the Secretary of State) shall not apply to a direction given in consequence of an appeal against the decision of the Authority on an application for the grant of a licence under that Act by virtue of paragraph 30 or 31 above.

(2) Where the plaintiff in any action brought against the Authority at any time after the transfer date in pursuance of section 50(1) of the 1963 Act (action in respect of licences derogating from protected rights) is entitled to a protected right under the 1963 Act by reason only that he is the holder of a licence granted by virtue of paragraph 30 or 31 above or has applied for a licence to be so granted, it shall be a defence for the Authority to show—

(a) that the plaintiff could have carried out permissible alterations in the means whereby he abstracted water from the source of supply in question; and

(b) that, if he had carried out such alterations, the abstraction (or, as the case may be, the obstruction or impeding of the flow of the inland water) authorised by the licence to which the action relates would not have derogated from his protected right under that Act.

(3) In sub-paragraph (2) above "permissible alterations"—

(a) in relation to a person who is the holder of a licence granted by virtue of paragraph 30 or 31 above, means any alteration of works, or modification of machinery or apparatus, which would fulfil the requirements of the licence as to the means whereby water is authorised to be abstracted;

(b) in relation to a person who is not the holder of such a licence but has applied for one as being entitled to it by virtue of that paragraph, means any alteration of the works, or modification of the machinery or apparatus, by means of which he abstracted water from the source of supply in question during the period of five years ending with the transfer date, being an alteration or modification which would be within the scope of the licence if granted in accordance with the application.

Saving for the Drought Act 1976

34. The repeal by this Act of the Drought Act 1976 shall not affect— 1976 c. 44.

(a) any order under that Act which is in force immediately before the transfer date;

(b) any power to make an order under that Act on an application (whether made before, on or after that date) of which notice was given before that date; or

SCH. 26

(c) the operation of the provisions of that Act in relation to any such order or application;

but, in relation to any time on or after that date, that Act and anything done under it shall have effect by virtue of this paragraph as if references to a water authority were references to the successor company of that water authority.

Interpretation of Part IV

35.—(1) In this Part of this Schedule—

1963 c. 38.

"the 1963 Act" means the Water Resources Act 1963;

"contract for the sale of water", in relation to the British Waterways Board, includes any arrangements by virtue of which the Board, for valuable consideration, abstracts or authorises the abstraction of water from any inland water for use by some other person, whether or not the water is returned after use;

"the relevant period", in relation to an application or appeal by virtue of paragraph 30 above, means whichever is the shorter of—

(a) the period of five years ending with the transfer date; and

(b) the period beginning with the date on which the applicant or any of his predecessors began to abstract water from the source of supply in question and ending with the transfer date.

(2) Expressions used in this Part of this Schedule and in the 1963 Act have the same meanings in this Part as in that Act.

PART V

FLOOD DEFENCE

General

36.—(1) Without prejudice to paragraph 1(3) of Schedule 15 to this Act, any scheme made, precept issued, resolution passed, notice given or other thing done by or in relation to—

(a) a water authority;

(b) the regional land drainage committee for any area; or

(c) the local land drainage committee for any district,

under any provision of the 1976 Act, being a provision which continues in force after the transfer date, shall have effect on and after that date, in so far as the scheme, precept, resolution, notice or other thing is in force or effective immediately before that date, as if it had been made, issued, passed, given or done by or in relation to the Authority or, as the case may be, the regional flood defence committee for that area or the local flood defence committee for that district.

(2) Without prejudice to the generality of sub-paragraph (1) above, any subordinate legislation made under the 1976 Act which is in force immediately before the transfer date and has effect in relation to a water authority shall, subject to the provisions of that Act and any necessary modifications, have effect on and after that date in relation to the Authority as it had effect immediately before that date in relation to that water authority.

Precepts

37. In relation to any time before 31st March 1990, the reference in section 136(4) of this Act to levies (within the meaning of the Local Government Finance Act 1988) shall include a reference to precepts.

1988 c. 41.

Main river maps SCH. 26

38. Any map which, immediately before the transfer date, is or is deemed to be the main river map for the purposes of the 1976 Act in relation to any water authority area shall have effect on and after that date as the main river map for the purposes of that Act in relation to that area in so far as it is, on and after that date, the area of a regional flood defence committee.

Interpretation of Part V

39. In this Part of this Schedule "the 1976 Act" means the Land Drainage Act 1976. 1976 c. 70.

PART VI

FISHERIES

40.—(1) Subject to the following provisions of this paragraph, any byelaw or appointment made, permission given, licence granted or other thing done by a water authority which—

(a) is made, given, granted or done under any enactment or subordinate legislation which relates to the functions of the authority relating to fisheries; and

(b) is in force or effective immediately before the transfer date,

shall have effect on and after that date as if it were made, given, granted or done by the Authority.

(2) On and after the transfer date an advisory committee established by a water authority under paragraph (b) of subsection (1) of section 28 of the Salmon and Freshwater Fisheries Act 1975 (general powers and duties) shall be treated as if it had been established by the Authority, and the area by reference to which that committee was established had been determined by the Authority, in accordance with section 141 of this Act. 1975 c. 51.

(3) Where an application for an order under subsection (3) of section 28 of the Salmon and Freshwater Fisheries Act 1975 has been made before the transfer date and no order has been made on that application before that date, then on and after that date—

(a) that application shall be treated for the purposes of that subsection as if it had been made by the Authority; and

(b) the requirements of paragraph 7 of Schedule 3 to that Act shall be deemed to have been complied with in relation to that application if the provisions of that paragraph, as it had effect before the transfer date, had been complied with before that date;

and nothing in paragraph 7(7) or (14) of Schedule 17 to this Act shall affect the validity or effect of any order under that subsection which is in force immediately before the transfer date.

(4) Nothing in this Act shall be construed as preventing so much of any order under section 28(3) of the Salmon and Freshwater Fisheries Act 1975 or of any licence under Part I of Schedule 3 to that Act as—

(a) is in force immediately before the transfer date; and

(b) has the effect for the purposes of section 6 of that Act (prohibition on placing and use of unauthorised fixed engines) of authorising the placing or use of any fixed engine,

from continuing to have that effect on and after that date.

SCH. 26

PART VII

COMPULSORY PURCHASE AND WORKS POWERS

Compulsory purchase orders and works orders

41.—(1) Where—

(a) any compulsory purchase order made by virtue of any enactment repealed by this Act;

1963 c. 38.
1971 c. 34.

(b) any order made under section 23 of the 1945 Act, section 67 of the Water Resources Act 1963 or section 1 of the Water Resources Act 1971 (compulsory works orders etc.); or

(c) any resolution for extinguishing a right of way under section 9 of Schedule 3 to the 1945 Act,

is in force or effective immediately before the transfer date, then, notwithstanding any repeal made by this Act, that order or resolution, and any enactment repealed by this Act in so far as it relates to that order or resolution, shall continue to have effect on and after that date, as they had effect before that date, subject to such modifications as are necessary for the purposes of sub-paragraph (4) below.

(2) Any application for an order under the said section 23, section 67 or section 1 which is pending immediately before the transfer date shall have effect on and after that date, subject to any such modifications, as an application for an order under section 155 of this Act.

(3) Any notice served or published or other thing done before the transfer date for the purposes of any enactment repealed by this Act, so far as it related to any such application as is mentioned in sub-paragraph (2) above, shall, accordingly, have effect on and after that date as if served, published or done for the purposes of the corresponding enactment contained in this Act.

(4) In so far as the provisions of a scheme under Schedule 2 to this Act allocate a water authority's rights or liabilities in relation to any order or application saved by sub-paragraph (1) or (2) above to any person, that person shall, on and after the transfer date, stand in the place of that water authority for the purposes of the provision made by that sub-paragraph.

(5) On and after the transfer date, any obligation of a water authority by virtue of section 20(5) of the 1973 Act (obligation to provide recreational facilities etc.) which, in accordance with this paragraph and a scheme under Schedule 2 to this Act, becomes an obligation of a water undertaker shall be enforceable under section 20 of this Act by the Secretary of State.

Notices, consents and arbitrations for the purposes of works

42. Where before the transfer date any water authority was proposing to carry out, or was carrying out, any works and the Authority or any water undertaker or sewerage undertaker proposes to carry out or to continue to carry out those works on or after that date—

(a) any notice of an intention to carry out the works which had been served on any person before that date and any other notice served in connection with the carrying out of those works on the person proposing to carry out the works or on any other person;

(b) any consent given before that date for the purposes of those works; and

(c) any determination made before that date by any arbitration in relation to those works and any step taken for the purposes of any such arbitration, SCH. 26

shall have effect on and after that date as if it had been served, given, made or taken for the purposes of the carrying out of those works by the Authority or, as the case may be, that undertaker in accordance with any power conferred by this Act and, in the case of a notice served by or on a water authority, as if it had been served by or on the Authority or, as the case may be, that undertaker.

Section 34 of the 1945 Act

43.—(1) Nothing in paragraph 9 of Schedule 19 to this Act shall require any consent to be obtained, or any notice to be served, in respect of any discharge on or after the transfer date if the requirements of section 34 of the 1945 Act (temporary discharges into watercourses) in relation to that discharge had been satisfied before that date.

(2) Where any register has been kept by a water authority under the said section 34 of the 1945 Act, any name and address which immediately before the transfer date is entered in that register in respect of any premises abutting on a watercourse shall be deemed on and after that date to be entered in any register which is required under paragraph 9 of Schedule 19 to this Act to be kept by the Authority or by any water undertaker—

(a) whose area includes the whole or any part of that watercourse; or

(b) whose pipes and other works include a pipe, reservoir, well, borehole or other work which is within three miles of that watercourse.

Authority under section 8 of the Water Act 1948

44.—(1) Subject to sub-paragraph (2) below, any authority in force and effective immediately before the transfer date under section 8 of the Water Act 1948 (power to survey and to search for water on land proposed to be purchased) and any notice given for the purposes of that section shall have effect on and after that date as an authorisation or notice given for the purposes of section 156 of this Act. 1948 c. 22.

(2) In so far as the provisions of a scheme under Schedule 2 to this Act allocate to any person a water authority's rights and liabilities in relation to any authority given under the said section 8, that person shall, on and after the transfer date, stand in the place of that water authority for the purposes of any authority having effect by virtue of sub-paragraph (1) above.

Mines etc.

45.—(1) Any notice given in relation to any mines or minerals for the purposes of any provision of Part IV of Schedule 3 to the 1945 Act which is effective immediately before the transfer date shall have effect on and after that date as if given for the purposes of any corresponding provision of Schedule 21 to this Act to the relevant body under part of whose undertaking those mines or minerals are situated.

(2) Where before the transfer date any water authority or statutory water company have for the purposes of section 14(2) of Schedule 3 to the 1945 Act stated their willingness to treat with any person for the payment of compensation, that person shall be deemed on and after that date to have been served with a notice in accordance with paragraph 2(3)(c) of Schedule 21 to this Act for the purposes of the application of that Schedule in relation to any notice having effect in accordance with sub-paragraph (1) above.

(3) In this paragraph "relevant body" and "undertaking" have the same meanings as in the said Schedule 21.

SCH. 26 *The Public Health Act 1875 (Support of Sewers) Amendment Act 1883 (c. 37)*

46.—(1) The repeal by this Act of Part IV of Schedule 3 to the 1945 Act (minerals underlying waterworks) shall not affect the operation of that Part, as incorporated, by virtue of the Public Health Act 1875 (Support of Sewers) Amendment Act 1883, in any enactment or order making provision in relation to any sanitary work of a local authority.

(2) In this paragraph "local authority" and "sanitary work" have the same meanings as in the said Act of 1883.

Maps of sewers etc.

47. Where immediately before the transfer date a local authority keep a map deposited at their offices under section 32 of the Public Health Act 1936 (sewer maps), it shall be the duty of that authority— 1936 c. 49.

(a) to provide a copy of that map to every sewerage undertaker which is required, by virtue of the coming into force on that date of an appointment under Chapter I of Part II of this Act, to include information shown on the map in records to be kept by that undertaker under section 166 of this Act; and

(b) themselves to keep a copy of that map until they have performed the duty imposed by paragraph (a) above.

PART VIII

MISCELLANEOUS AND GENERAL

Notifications by Nature Conservancy Council etc.

48. Anything which has been done by or in relation to a water authority under or for the purposes of any provision of section 22 of the 1973 Act (duties with regard to nature, conservation and amenity) and is effective immediately before the transfer date shall have effect on and after that date—

(a) as if it had been done by or in relation to both the Authority and every company whose appointment under Chapter I of Part II of this Act as the water undertaker or sewerage undertaker for the whole or any part of the water authority's area comes into force on the transfer date; and

(b) as if it had been so done under or for the purposes of the corresponding provision of section 8 or 9 of this Act.

Recreational activities

49. The repeal by this Act of subsections (2) to (5) of section 22 of the Countryside Act 1968 and of subsections (1) and (3) of section 20 of the 1973 Act (powers with respect to recreation) shall not be construed as affecting the power— 1968 c. 41.

(a) of the Authority; or

(b) of any water authority's successor company or of any statutory water company,

to continue, subject to any transfer in accordance with a scheme under Schedule 2 to this Act of any rights or liabilities which have arisen or might arise under any of those subsections, to do anything on and after the transfer date, in accordance with any powers conferred by virtue of section 8 or 157 of this Act or otherwise by virtue of this Act, which a water authority or statutory water company were doing under any of those subsections immediately before the transfer date.

Overseas activities

50. Any consent given to a water authority for the purposes of section 5 of the Water Act 1983 (overseas activities) and effective immediately before the transfer date shall have effect on and after that date as a consent given to the Authority under section 144 of this Act. 1983 c. 23.

Arrangements with local authorities

51. Where any arrangements made by virtue of section 7 of the 1973 Act between a local authority and a water authority are in force immediately before the transfer date, then, subject to any transfer in accordance with a scheme under Schedule 2 to this Act of any rights or liabilities under those arrangements, those arrangements shall continue to have effect on and after that date notwithstanding the repeal by this Act of that section; and, accordingly, a local authority shall have all such powers on and after that date for giving effect to any such arrangements as they would have had by virtue of that section.

(2) In this paragraph "local authority" has the same meaning as in section 1 of the Local Authorities (Goods and Services) Act 1970. 1970 c. 39.

Treasury guarantees

52. The repeal by this Act of paragraph 36 of Schedule 3 to the 1973 Act (Treasury guarantees of water authority liabilities) shall have effect subject, in the case of a guarantee given before that date, to the application on and after that date in relation to that guarantee (with such modifications as are necessary in consequence of any transfer in accordance with a scheme under Schedule 2 to this Act of any liability to which the guarantee applies) of sub-paragraphs (2) to (5) of that paragraph.

Enactments applying particular provisions of Schedule 3 to the 1945 Act

53. The repeals made by this Act shall not affect the operation of the following enactments (each of which applies provisions of Schedule 3 to the 1945 Act), namely—

(a) sections 12(7) and 14(5) of the Control of Pollution Act 1974; and 1974 c. 40.

(b) sections 11(5) and 12(2) of the Local Government (Miscellaneous Provisions) Act 1976. 1976 c. 57.

Local statutory provisions

54.—(1) Where any order made under the 1945 Act has effect immediately before the transfer date in relation to a statutory water company or water authority as a local statutory provision, the repeal by this Act of the power under which that order was made and the repeal of any provision of Part V of that Act shall not, subject to sub-paragraph (2) below, affect the operation on and after that date of that order or, in relation to that order, of that Part.

(2) Any order which has effect by virtue of sub-paragraph (1) above shall so have effect as if any reference in that order to a particular water authority were a reference to that authority's successor company; and nothing in that sub-paragraph shall affect the exercise in relation to such an order of the power conferred by section 191 of this Act or prejudice the effect, in relation to any such order of—

(a) any repeal by this Act of provisions of Schedule 3 to the 1945 Act applied (with or without modifications) by that order;

(b) any saving made by the preceding provisions of this Schedule in relation to any such repeal; or

SCH. 26

(c) in the case of an order making such provision as is mentioned in section 23(1)(c) of that Act or applying, or making provision corresponding to, any of sections 74 to 77 of Schedule 3 to that Act, the provisions of Chapter VI of Part II of this Act.

(3) Without prejudice to any amendment made by or under this Act, the repeal by this Act of subsection (2) of section 6 of the Public Utility Transfers and Water Charges Act 1988 shall not affect any modification made before the transfer date by an order made before that date under that subsection.

1988 c. 15.

The Town and Country Planning Act 1959 (c. 53)

55. The repeal by this Act of paragraphs 6 and 10 to 12 of Part I of Schedule 4 to the Town and Country Planning Act 1959 shall not affect the operation on and after the transfer date of any enactment in relation to which Part II of that Act has effect and which confers powers on any internal drainage board or any joint board or joint committee.

Transitory provision relating to rating

56.—(1) In relation to the period beginning with the transfer date and ending with 31st March 1990, the provisions of section 31 of and Schedule 4 to the General Rate Act 1967 (valuation of water hereditaments) shall have effect—

1967 c. 9.

(a) as if references in those provisions to any statutory water undertakers or to their undertaking included references to a water undertaker or to the undertaking of a water undertaker;

(b) as if the successor company of a water authority were the same person in law as the water authority; and

(c) as if any hereditament which—

(i) is occupied on and after that date by the Authority; and

(ii) was occupied, immediately before that date, by a water authority for the purposes of their functions with respect to the supply of water,

were a water hereditament occupied by that water authority's successor company for the purposes of the company's functions (as a water undertaker) with respect to the supply of water.

(2) Where any hereditament allocated to the Authority by a scheme under Schedule 2 to this Act will fall on and after the transfer date to be treated for the purposes of the provisions mentioned in sub-paragraph (1) above as occupied by a successor company, that scheme may require the Authority to make payments to the successor company, of such amounts and at such times as may be determined in accordance with the scheme, by way of contributions in respect of any liability of the successor company in consequence of those provisions.

(3) In relation to the period mentioned in sub-paragraph (1) above—

(a) section 19 of the said Act of 1967 (general rule as to ascertainment of rateable value) shall have effect as if the reference in the definition of "non-industrial building" in that section to premises forming part, and taken into account in the valuation for rating purposes, of a water undertaking included a reference to any such premises transferred in accordance with a scheme under Schedule 2 to this Act to the Authority or a successor company; and

(b) section 43 of that Act (exemption of property of certain authorities) shall have effect, subject to that sub-paragraph, as if the references in that section to a water authority and to a drainage authority included references, respectively, to the Authority and to an internal drainage board.

Byelaws SCH. 26

57.—(1) Where any power to make byelaws is exercisable before the transfer date by a water authority or by any statutory water company, then in so far as that power is by virtue of this Act conferred (whether by being amended or by being re-enacted with modifications) on the Authority or on any other body—

(a) any byelaws made by a water authority or statutory water company in exercise of that power and in force immediately before that date shall have effect on and after the transfer date as if they had been made by the relevant body under the power conferred by virtue of this Act; and

(b) anything done under any provision of Schedule 7 to the 1973 Act or Schedule 4 to the Land Drainage Act 1976 shall have effect on and after that date as if it had been done under the corresponding provision of Schedule 24 to this Act and, if it was done (in the case of byelaws made by a water authority) by or in relation to that authority, as if it had been done by or in relation to the relevant body; 1976 c. 70.

and references (however framed) in any byelaws which have effect by virtue of this paragraph to the body which made the byelaws shall have effect accordingly.

(2) For the purposes of this paragraph any byelaws in force immediately before the transfer date by virtue of—

(a) paragraph (c) of section 22(6) of the Countryside Act 1968 (byelaws preventing sewage etc. from entering a waterway); or 1968 c. 41.

(b) section 18 of the 1945 Act (byelaws preventing pollution of water of undertakers),

shall have effect on and after that date as if the power to make byelaws under section 158 of this Act included power to make such byelaws as could be made under the said paragraph (c) or the said section 18.

(3) Notwithstanding any repeal by this Act, the provisions of subsections (2) to (5) of section 18 of the 1945 Act and of subsection (2), (4) and (5) of section 19 of that Act and, in relation to those provisions, the provisions of Part V of that Act shall have effect in relation to any byelaws under section 18 of that Act having effect by virtue of sub-paragraphs (1) and (2) above—

(a) as they had effect in relation to those byelaws immediately before the transfer date; but

(b) as if any references in those provisions of sections 18 and 19 of the 1945 Act to the statutory water undertakers who made the byelaws were references to the relevant body;

and every duty imposed on a water undertaker by virtue of paragraph (b) above shall be enforceable under section 20 of this Act by the Secretary of State.

(4) Without prejudice to the power of the Secretary of State under the Control of Pollution Act 1974 to bring the repeal of section 18 of the 1945 Act into force, the power of the Secretary of State under section 111 of this Act to make an order for the purposes specified in that section shall include power, by an order under that section— 1974 c. 40.

(a) to modify the operation of sub-paragraphs (1) to (3) above in relation to any byelaws made under the said section 18 and having effect by virtue of those sub-paragraphs; and

(b) to revoke or amend any such byelaws.

(5) Without prejudice to the power conferred by virtue of sub-paragraph (4) above, the Secretary of State shall not be required to hold a local inquiry before exercising his power under paragraph 5 of Schedule 24 to this Act to revoke any byelaw having effect by virtue of sub-paragraph (2) above.

(6) Nothing in this Act shall, in relation to any byelaws made before the transfer date and continuing to have effect on and after that date, alter the area in relation to which those byelaws have effect.

SCH. 26

(7) In this paragraph "the relevant body", in relation to any byelaws—

(a) in the case of byelaws made by a statutory water company, means that company;

(b) in the case of byelaws made by a water authority under section 22(6) of the Countryside Act 1968 (byelaws with respect to certain waterways) with respect to any waterway or land which on and after the transfer date is owned by the water authority's successor company or (without being owned by the Authority) is managed by that company, means that company; and

1968 c. 41.

(c) in any other case, means the Authority.

Saving for criminal liability of water authorities

58. Nothing in this Act or in any scheme under Schedule 2 to this Act shall have the effect, in relation to any criminal liability of a water authority in respect of an offence committed before the transfer date, of transferring that liability to the Authority or to the water authority's successor company.

Periods of time

59. Where any period of time—

(a) is specified in any enactment to which a provision of this Act corresponds (whether by virtue of its being the re-enactment, with or without modifications, of the whole or any part of that enactment or by virtue of any provision having effect for the purposes of this Schedule); or

(b) is specified in an enactment any function under which is transferred by virtue of any provision of this Act from a water authority to any other person,

then, if any period is current for the purposes of that enactment on the day on which the said provision of this Act comes into force, so much of the period as has expired before that day shall be taken into account, in relation to anything done before that day which is treated as done under that provision or, as the case may be, by or in relation to that person, as if that provision had been in force when the period began to run.

SCHEDULE 27

Section 190.

REPEALS

PART I

REPEALS COMING INTO FORCE ON THE TRANSFER DATE

Chapter	Short title	Extent of repeal
33 & 34 Vict. c. 78.	The Tramways Act 1870.	In section 32, the words "or water".
15 & 16 Geo. 5. c. 71.	The Public Health Act 1925.	In section 7(3), the word "water,".
17 & 18 Geo. 5. c. 36.	The Landlord and Tenant Act 1927.	In section 25(1), in the definition of "statutory company", the word "water,".
26 Geo. 5 & 1 Edw. 8. c. 49.	The Public Health Act 1936.	Section 15. In section 19(2), the words from "and if" onwards. Section 20. Sections 23 and 24. Section 29. Section 32. In section 36(1), the words "or by an arbitrator". In section 50(1), the words "or the water authority for the area". Section 123. In section 227, the words from the beginning to "streets". Section 278(4). Section 279. Section 306. Section 337. In section 343(1), in the definition of "statutory undertakers", the word "water".
1 Edw. 8 & 1 Geo. 6. c. 33.	The Diseases of Fish Act 1937.	In section 4, in subsection (5), the words "This subsection does not apply to Scotland", and subsection (6). In section 8(2), the words "in their area". In section 10, in subsection (1), the definition of "district board", and subsection (3). Section 11.
1 Edw. 8 & 1 Geo. 6. c. 40.	The Public Health (Drainage of Trade Premises) Act 1937.	In section 2, in subsection (1), the words after paragraph (c), subsection (2) and in subsection (5), the words "(if any)", the

SCH. 27

Chapter	Short title	Extent of repeal
1 Edw. 8 & 1 Geo. 6. c. 40.—*cont.*	The Public Health (Drainage of Trade Premises) Act 1937.—*cont.*	words "direction or" and the words from "and liable" onwards. In section 3(1), the words from "by a direction" to "or", in the first place where it occurs. Section 7(3). In section 9(3), the words from "and to a further" onwards.
8 & 9 Geo. 6. c. 42.	The Water Act 1945.	Sections 9 and 10. Sections 12 to 13A. In section 14(12), the words "if so required," and in paragraph (a), the words "in the water authority area". In section 16, in subsection (4), the words "to be settled in case of dispute by a court of summary jurisdiction" and the words from "The procedure" onwards and in subsection (5), the words "if so required". Section 17. Sections 19 and 20. Sections 22 to 25. Section 27. Sections 32 to 34. Section 35(1). Sections 36 to 39. Section 42. Sections 46 and 47. Sections 49 to 52. Sections 54 and 55. Sections 57 and 58. In section 59(1), the definitions of "cut off", "limits of supply", "Minister", "prescribed", "railway company", "street" and "supply of water in bulk". Sections 60 to 62. Schedules 1 and 2. In Schedule 3, sections 1 to 4, 6 to 9, 11 to 46, 52 to 58, 60 to 65, 67, 68, 70 to 73, 78 to 80 and 82 to 94. In Schedule 4, the entries relating to subsections (1) and (2) of section 279 of the Public Health Act 1936.

SCH. 27

Chapter	Short title	Extent of repeal
9 & 10 Geo. 6 c. 18.	The Statutory Orders (Special Procedure) Act 1945.	Section 8(2). In Schedule 2, the entries relating to the Water Act 1945.
9 & 10 Geo. 6 c. 49.	The Acquisition of Land (Authorisation Procedure) Act 1946.	In Schedule 4, the entries relating to the Public Health Act 1936 and the Water Act 1945.
10 & 11 Geo 6. c. 41.	The Fire Services Act 1947.	In section 14, in subsection (1), the words from "Any question" onwards, and subsection (7). In section 15, the proviso to subsection (2).
11 & 12 Geo. 6. c 22.	The Water Act 1948.	Sections 2 and 3. Section 4(1). Sections 7 to 11. Sections 14 and 15. The Schedule.
12, 13 & 14 Geo. 6. c. 60.	The Housing Act 1949.	Sections 46 and 51.
12, 13 & 14 Geo. 6. c. 74.	The Coast Protection Act 1949.	In the Second Schedule, paragraph 3.
14 Geo. 6. c. 39.	The Public Utilities Street Works Act 1950.	In Schedule 5, the entries relating to the Water Act 1945.
15 & 16 Geo. 6 and 1 Eliz. 2. c. 7.	The Border Rivers (Prevention of Pollution) Act 1951.	The whole Act.
15 & 16 Geo. 6 and 1 Eliz. 2. c. 33.	The Finance Act 1952.	In section 74, subsections (1)(a) and (2).
15 & 16 Geo. 6 and 1 Eliz. 2. c. 54.	The Town Development Act 1952.	Section 7(d). Section 23(2)(b).
1 & 2 Eliz. 2. c. 26.	The Local Government (Miscellaneous Provisions) Act 1953.	Sections 12 and 13. The Schedule.
3 & 4 Eliz. 2. c. 13.	The Rural Water Supplies and Sewerage Act 1955.	Section 1(4)(a).
6 & 7 Eliz. 2. 56.	The Finance Act 1958.	In section 35, subsections (4)(a) and (c) and (5).
6 & 7 Eliz. 2. 69.	The Opencast Coal Act 1958.	In section 7, in subsection (2)(b), the words "relating to the supply of water". In section 13(1)(c), the words from "any reference to a" to "disposal undertaking and".

SCH. 27

Chapter	Short title	Extent of repeal
6 & 7 Eliz. 2. 69.—*cont.*	The Opencast Coal Act 1958.—*cont.*	In section 51(1), in the definition of "appropriate Minister", paragraph (f), and the definitions of "sewage disposal undertaking" and "sewerage undertaking".
7 & 8 Eliz. 2. c. 53.	The Town and Country Planning Act 1959.	In Part I of Schedule 4, paragraphs 6 and 10 to 12.
8 & 9 Eliz. 2. c. 34.	The Radioactive Substances Act 1960.	In Part I of Schedule 1, in paragraph 6, the word "seventeen".
9 & 10 Eliz. 2. c. 64.	The Public Health Act 1961.	Sections 12 to 14. In section 60, in subsection (1), the words "under subsection (3) of section 2 of the Act of 1937", and subsection (3). In section 61, in subsection (1), the words from "by a direction" to "date, or" and in subsection (5), the words from "or vary" to "against". In section 62(1), the words "the Act of 1937 or". Section 70. Schedule 2.
10 & 11 Eliz. 2. c. 46.	The Transport Act 1962.	Section 61(4).
10 & 11 Eliz. 2. c. 58.	The Pipe-lines Act 1962.	Section 37(4)(c).
1963 c. 33.	The London Government Act 1963.	Section 40(4)(c) and (d). In Part II of Schedule 9, paragraph 6. In Part I of Schedule 11, paragraphs 26 and 29.
1963 c. 38.	The Water Resources Act 1963.	Section 1. Section 3(5). Section 16(2) and (3). In section 17, subsection (2) and in subsection (3), the words from "or who" to "preceding subsection". In section 19(6), the words "Part I, and, where applicable, Part IV, of". Section 20. Section 21(3) and (4). In section 22, in subsection (2), the words "section 21(3) and", and subsection (3). In section 23(2), the words "after the end of the initial period".

SCH. 27

Chapter	Short title	Extent of repeal
1963 c. 38.—*cont.*	The Water Resources Act 1963.—*cont.*	In section 25, the proviso to subsection (2) and in subsection (3)(a), the words "in their area". In section 27(1), the words from the beginning to "licences of right,". In section 28(1), the words "other than a licence of right,". In section 29, in subsections (1) and (8), the words "other than a licence of right". Section 31(2). In section 32, subsection (5) and in subsection (6), the words from "or any person" to "become the holder of the licence". Sections 33 to 35. Section 37(4). In section 38, in subsection (1), the words "other than licences of right," and in subsection (2), paragraph (a). Section 41(6). In section 47(1), the words "not being a licence of right". In section 50(2), the proviso. In section 52(1), the words "in their areas", in both places where they occur. In section 53(1), the words "to that authority". In section 54(3) the words "other than licences of right". Section 56. Section 60(2)(bb). In section 63, in subsection (8), paragraph (d) and the word "and" immediately preceding it, and subsections (9) and (12). Sections 65 to 70. In section 71, subsections (1), (2), (4) and (6). Section 77. In section 79(3), the word "such", in the second place where it occurs.

SCH. 27

Chapter	Short title	Extent of repeal
1963 c. 38.—*cont.*	The Water Resources Act 1963.—*cont.*	In section 82, subsection (8) and in subsection (10), the words "and in Schedule 10 to this Act". Sections 107 and 108. Sections 111 to 113. In section 114, in subsection (1)(a), the words "in their area" and in subsection (4)(b), the words from "in" onwards. In section 118(1), the words from "in" onwards. In section 120, in subsections (1) and (5), the words "or the Water Act 1973". In section 123, subsections (2) and (3) and in subsection (5), the words from "and 'the appropriate authority'" onwards. Section 126(1) and (2). Section 128(3). Section 130. In section 131, in subsection (2), the words "other than a licence of right", wherever they occur, and paragraphs (c) and (d), subsections (3) to (5), the proviso to subsection (8), and subsection (9). In section 132, in subsection (1), paragraph (e), subsections (2) and (3), in subsection (5), the words "subsection (3) or", and the proviso to subsection (7). In section 134, in subsection (1), the words "33(5)", the proviso to subsection (4), subsection (5), and the proviso to subsection (6). In section 135, in subsection (1), the definitions of "Anglo-Welsh water authority", "financial year", "hydrometric scheme", "local authority members", "new functions", "re-distribution" and "re-distribute", "second appointed day",

SCH. 27

Chapter	Short title	Extent of repeal
1963 c. 38.—*cont.*	The Water Resources Act 1963.—*cont.*	"transferred functions", "Wales" and "Welsh water authority", in subsection (2), paragraphs (b) and (d) together with the word "and" immediately preceding paragraph (d), and subsection (4). In Schedule 7, in paragraph 4(c), the words from "(including" to "Part III of this Act)", in paragraph 10, the words from "subject" onwards, in paragraph 13, in the words after sub-paragraph (b), the words "under this Schedule", paragraph 15 and in paragraph 16(b)(ii), the words from "or if" to "such an interest". Schedules 8 and 9. In Schedule 10, paragraph 8. In Schedule 13, paragraph 3.
1964 c. 40.	The Harbours Act 1964.	In section 57(1), the words "or under section 67 or by section 69 of the Water Resources Act 1963".
1965 c. 36.	The Gas Act 1965.	Section 15(7). In section 28, in subsection (1), the definitions of "limits of supply" and "river authority" and in the definition of "statutory undertakers", the words "or water" and in subsection (5), the words from "and the said" onwards.
		In Schedule 6, paragraph 2(6)(b).
1965 c. 56.	The Compulsory Purchase Act 1965.	Section 33. Section 36. In Schedule 6, the entry relating to the Water Act 1945.
1966 c. 38.	The Sea Fisheries Regulation Act 1966.	In section 18(1), the words before the words "the Minister shall".
1967 c. 10.	The Forestry Act 1967.	In section 40(2)(d), the word "water".

SCH. 27

Chapter	Short title	Extent of repeal
1967 c. 88.	The Leasehold Reform Act 1967.	In section 28(5)(f), the words "or a statutory water undertaker for purposes of the Water Act 1945" and the words "or statutory water undertaker".
1968 c. 34.	The Agriculture (Miscellaneous Provisions) Act 1968.	In section 47, the words from the beginning to "accordingly".
1968 c. 41.	The Countryside Act 1968.	Section 16(6)(b). Section 22. Part I of Schedule 3.
1968 c. 73.	The Transport Act 1968.	In section 109, in subsection (3), the words from "and the powers" onwards and in subsection (5), the words "or (b)(i)" and the words "in the case of a local authority,".
1971 c. 34.	The Water Resources Act 1971.	The whole Act.
1971 c. 78.	The Town and Country Planning Act 1971.	In section 224 (1), paragraphs (dd) and (e). In Schedule 23, the entry relating to the Water Resources Act 1963.
1972 c. 70.	The Local Government Act 1972.	In section 236(2), the words from "by statutory" to "1945 or". In section 271(1), paragraph (b) and the word "or" immediately preceding it. In Schedule 15, paragraph 1. In Schedule 29, paragraph 20(1).
1973 c. 37.	The Water Act 1973.	Sections 1 to 3. Section 5. Sections 7 to 13. In section 14, subsections (1) to (3), (5) and (8). Sections 15 to 17. Sections 20 to 22. Sections 24 and 24A. Section 26(1). Sections 27 to 31. Sections 32A and 33. Section 36(3). Sections 37 to 39. Schedules 1 and 2. Parts I and III of Schedule 3. Schedules 4 and 4A. Schedule 7. In Schedule 8, paragraphs 32 to 36, 40, 45 to 48, 51 to 62, 65(1), 66, 68, 76, 77, 80(2), 81, 82, 84, 91 to 93 and 98.

SCH. 27

Chapter	Short title	Extent of repeal
1973 c. 41.	The Fair Trading Act 1973.	In Part I of Schedule 7, paragraph 4.
1974 c. 7.	The Local Government Act 1974.	Section 38.
1974 c. 40.	The Control of Pollution Act 1974.	Section 4(4). Section 26. Sections 31 to 42. In section 43(1), paragraph (a) and the words after paragraph (b). Section 44(2) and (4). Sections 46 to 56. Section 86. In section 90, subsection (1) and in subsection (2) (a) and (b), the words "or further sum", in both places where they occur. In section 96(2), the words from "but as if" onwards. In section 98, in the definition of "relevant authority", the words "a water authority". In section 104, in subsection (2), the words "or 53", and subsection (3). In Schedule 2, paragraph 13. In Schedule 3, paragraphs 20, 21 and 27 to 30.
1975 c. 51.	The Salmon and Freshwater Fisheries Act 1975.	In section 1(2), the words "for the area in which the act was done". In section 2(5), the words "for the area". In section 4(3), the words "for the area". In section 5, in subsection (2)(b), the words "for the area", and subsection (6). In section 6(2), the words "for the area". In section 8(4), the words "for the area". In section 9(1), the words "for the area". In section 12(2), the words "in whose area the dam is or was situated". In section 13(1), the words "for the area". In section 14(1), the words "for the area". In section 19(3) and (5), the words "in whose area the act was done", in both places where they occur.

SCH. 27

Chapter	Short title	Extent of repeal
1975 c. 51.—*cont.*	The Salmon and Freshwater Fisheries Act 1975.—*cont.*	In section 21(2)(b), the words from "for the area" onwards. In section 25(1), the words "in their area", in both places where they occur. Section 26(8). Section 28(1) to (2A). In section 30, the words "within whose area any part of that water is situated". In section 35(1), the words "for the area". Section 39(4). In section 41, in subsection (1), in the definition of "authorised officer", the words "acting within the water authority area" and in the definition of "the Minister", the words "subject to subsection (2) below", and subsections (2) and (2A). Section 42(7). In Schedule 1, paragraph 2. In Schedule 3, paragraphs 1 to 6 and 12, in paragraph 16 the words "the whole or", in the first place where they occur, in paragraph 17 the words "within the water authority area", in paragraph 21A the words "in the water authority area", in paragraph 36 the words "in a water authority area", and paragraph 39(1)(b).
		In Schedule 4, in paragraph 6(b) the words "within whose area the offence in question was committed", in paragraph 9 the words "and is subsequently convicted of any such offence", in paragraph 11(a) the words "within whose area the offence was committed", and in paragraph 12 the words "for the area in which the offence was committed".

SCH. 27

Chapter	Short title	Extent of repeal
1976 c. 9.	The Water Charges Act 1976.	The whole Act.
1976 c. 44.	The Drought Act 1976.	The whole Act.
1976 c. 57.	The Local Government (Miscellaneous Provisions) Act 1976.	In section 44(1), in the definition of "statutory undertakers", the words from "any public" to "sewerage)".
1976 c. 70.	The Land Drainage Act 1976.	Sections 1 to 3. In section 4, subsection (1) and in subsection (2), the words "for their area". Section 6(1) and (4). In section 9, subsections (2), (4) and (9). In section 11, in subsection (1), in paragraph (c) the words from "or" to the end of the paragraph and in paragraph (e) the words "within the water authority area", and in subsection (2), the words "submitting the scheme". In section 12, the words "of any area". In section 14(1), the words "within whose area the district is situated". In section 15, in subsection (1), the words "within the water authority area" and in subsection (2)(a), the words "within the water authority area" and "within that area". In section 16, in subsection (1), the words "in the water authority area" and in subsection (5), the words "wholly or partly within the water authority area" and "or that part of the area". In section 18, in subsection (2)(b), the words "for the area in which the watercourse is situated". Section 20. In section 21(1), the words from "and which" onwards. In section 23(4), the words "in their area". Section 24(4).

SCH. 27

Chapter	Short title	Extent of repeal
1976 c. 70.—*cont.*	The Land Drainage Act 1976.—*cont.*	In section 25(1), the words "in a water authority area" and "in the water authority area". In section 26, in subsection (1), the words "for the area concerned", in both places where they occur, and the words "'the area concerned' means the water authority area where the work falls to be done and". In section 27(1), the words "within any water authority area or internal drainage district". In section 28, in subsection (1), the words "in any drainage authority area", and subsection (12). Section 29(6)(a). In section 30(1), the words "in their area". Section 32(3). Section 36(2). In section 46(1), the words "in their area". In section 47(1), the words "in their area". In section 48(1), the words "in their area".
		In section 50, in subsection (1), the words "in the water authority's area or any part of it", in subsection (5), the words "water authority area or, as the case may be, the part of that" and in subsection (7), the words "of the water authority concerned or, as the case may be, any part of it". In section 54(5), the words "in whose area the land is situated". In section 59(1), the word "chargeable". In section 60, in subsections (1) and (2), the words "in their area", wherever they occur. Section 62. In section 63(1), the words "for their area".

SCH. 27

Chapter	Short title	Extent of repeal
1976 c. 70.—*cont.*	The Land Drainage Act 1976.—*cont.*	In section 68, in each of subsections (1) and (4), the words "for their district". In section 69(3), the words "in whose area the drainage district is comprised". In section 84, in subsection (1), the words "whose district is within the authority's area" and in subsection (6)(b), the words "wholly or partly within the water authority area". In section 86(3), in paragraph (b), the words "wholly or partly within the water authority area". In section 89(1), in the definition of "chargeable land", the words "in relation to a water authority area". In section 94(3), in paragraph (a), the words "to whom the transfer effected by the scheme or order is made" and in paragraph (b), the words "from whom the transfer effected by the order is made". In section 97(3), the words "in a water authority area". In section 98(5A), the words "for the area concerned". In section 100(2), the words "for the area concerned". In section 109, in subsection (3), the words "2, 3," and "62", in subsection (4), the words from the beginning to "procedure and" and in subsection (5)(a), the words "other than an order under section 62". In section 110, in each of subsections (1)(b) and (2), the words "within the water authority area".

SCH. 27

Chapter	Short title	Extent of repeal
1976 c. 70.—*cont.*	The Land Drainage Act 1976.—*cont.*	In section 116, in subsection (1), the definition of "water charges option order" and in subsection (4), the word "20,". Section 117(4). In Schedule 1, in paragraph 3 the words "regional or" and the words "resolution of", in paragraph 5(1)(c) the words "or water authority", in paragraph 8(1)(e) the words "or water authority", and in paragraph 10(2) the words "of a water authority" and the words "(whether or not he becomes or remains a member of the authority)". In Schedule 5, paragraph 7. In Schedule 7, paragraphs 1 and 4.
1976 c. 75.	The Development of Rural Wales Act 1976.	In Schedule 3, paragraphs 51 and 52 and in paragraph 56, in the Table at the end of sub-paragraph (3), the entry numbered 5.
1976 c. 86.	The Fishery Limits Act 1976.	In Schedule 2, paragraph 19.
1977 c. 45.	The Criminal Law Act 1977.	In Schedule 1, paragraphs 7 and 8. In Schedule 6, the entries relating to sections 64(1) and 67 of Schedule 3 to the Water Act 1945.
1980 c. 65.	The Local Government, Planning and Land Act 1980.	In section 1(2)(a), the words "water authorities". Section 105. Section 158. In Schedule 15, paragraph 21.
1980 c. 66.	The Highways Act 1980.	In section 14(2), paragraph (b) and the word "or" immediately preceding it. In section 18(2), paragraph (b) and the word "or" immediately preceding it. Section 20(7). Section 22. In section 35, in subsections (11)(c) and (12), the words "sewerage authorities", in both places where they occur.

SCH. 27

Chapter	Short title	Extent of repeal
1980 c. 66.—*cont.*	The Highways Act 1980.—*cont.*	In section 73(11)(c), the word "or", in the second place where it occurs. In section 74(11)(b), the word "or", in the second place where it occurs. In section 115D(c), the words "or sewerage authorities". In section 142(5), the words "sewerage authorities". In section 144(6), in the definition of "statutory undertakers", the words from "any public" to "sewerage)". In section 169(4), the words from "any public" to "sewerage)". In section 170(3), in the definition of "statutory undertakers", the words from "any public" to "sewerage)". In section 181, in subsection (5), the words "or sewerage authority", in subsection (7), the words "or sewerage authority" and the words "or that authority, as the case may be", and in subsection (8), the words "or sewerage authorities".
		In section 182, in subsection (1), the words "and sewerage authorities" and in paragraphs (a) and (b) of that subsection, the words "or sewerage authority", in both places where they occur, and in subsection (5), the words "or sewerage authority". In section 290, in subsection (5), the words "water authority or", in both places where they occur, in subsection (7) the words "water authority or" and the words from "or, in the" to "enactment", and subsection (10)(a).

SCH. 27

Chapter	Short title	Extent of repeal
1980 c. 66.—*cont.*	The Highways Act 1980.—*cont.*	In section 329(1), in the definition of "public utility undertakers", the word "water", the definition of "sewerage authority" and, in the definition of "statutory undertakers", the word "water". In Schedule 24, paragraphs 4(a) and 24(b).
1981 c. 12.	The Water Act 1981.	Sections 2 to 4. Section 6(7)(a).
1981 c. 17.	The Energy Conservation Act 1981.	Section 16.
1981 c. 54.	The Supreme Court Act 1981.	In Schedule 5, the entry relating to the Control of Pollution Act 1974.
1981 c. 64.	The New Towns Act 1981.	Section 34. Section 40. Section 41(3). Section 78(1)(e). In Schedule 10, paragraph 3(3)(b).
1981 c. 67.	The Acquisition of Land Act 1981.	In section 1(2), the words "section 306 of the Public Health Act 1936" and the words from "section 24(4)" onwards. In section 7(1), in paragraph (a) of the definition of "local authority", the words "water authority or". In Schedule 4, in the table in paragraph 1, the entry relating to the Water Resources Act 1963, paragraphs 4 and 12 and in paragraph 14, in sub-paragraph (7), the reference to section 33(1) of the Compulsory Purchase Act 1965 and sub-paragraph (8).
1981 c. 69.	The Wildlife and Countryside Act 1981.	In section 27(1), in paragraph (c) of the definition of "authorised person", the words "a water authority or any other statutory water undertakers,". Section 48.

SCH. 27

Chapter	Short title	Extent of repeal
1982 c. 16.	The Civil Aviation Act 1982.	In section 105(1), in the definition of "statutory undertaker", paragraph (c). In Schedule 2, paragraph 3.
1982 c. 30.	The Local Government (Miscellaneous Provisions) Act 1982.	In section 30(1)(b), the words "or the supply of water".
1982 c. 32.	The Local Government Finance Act 1982.	Section 32. In section 33(4), paragraph (c) and the word "and" immediately preceding it. Schedule 4. In Schedule 5, paragraph 6.
1983 c. 23.	The Water Act 1983.	Section 1(1) and (3). Section 2. Sections 5 to 7. Schedule 1. Schedule 3. In Schedule 4, paragraphs 1 to 4.
1983 c. 29.	The Miscellaneous Financial Provisions Act 1983.	In Schedule 2, the entry relating to the Water Act 1973.
1983 c. 30.	The Diseases of Fish Act 1983.	In section 4(2), the definition of "district board". In the Schedule, paragraph 9.
1983 c. 44.	The National Audit Act 1983.	In Schedule 4, the entries relating to the Regional Water Authorities and the Welsh Water Authority.
1984 c. 12.	The Telecommunications Act 1984.	In Schedule 2, in paragraph 23(10), in paragraph (a) of the definition of "relevant undertaker", sub-paragraph (iii) and the word "or" immediately preceding it. In Schedule 4, paragraphs 22 and 42.
1984 c. 38.	The Cycle Tracks Act 1984.	In section 2(3), the words "any sewerage authority within the meaning of that Act" and the words from "and in" onwards.
1984 c. 55.	The Building Act 1984.	In section 25(1)(a), the word "statutory". In section 60(4), the words "or the water authority for the area". In section 67, in subsection (3)(b), the words from "vested in" onwards and, in subsection (4), paragraph (a). Section 69.

SCH. 27

Chapter	Short title	Extent of repeal
1984 c. 55.—*cont.*	The Building Act 1984.—*cont.*	In section 126, the definitions of "limits of supply" and "statutory water undertakers" and, in the definition of "statutory undertakers", the word "water". In Schedule 6, paragraphs 18 and 22.
1985 c. 9.	The Companies Consolidation (Consequential Provisions) Act 1985.	In Schedule 2, the entry relating to the Water Act 1973.
1985 c. 48.	The Food and Environment Protection Act 1985.	Section 15(4)(a).
1985 c. 51.	The Local Government Act 1985.	In Schedule 7, in paragraph 2, the words "2(6)" and paragraphs 3 and 4. In Schedule 8, paragraph 24.
1985 c. 68.	The Housing Act 1985.	In section 283(3), the word "water". In section 296(4)(a), the word "water". In section 523(3), the word "statutory". In section 611(6)(a), the word "water".
1986 c. 31.	The Airports Act 1986.	In Schedule 2, paragraph 3.
1986 c. 44.	The Gas Act 1986.	In Schedule 7, in paragraph 2, sub-paragraph (1)(iii) and (vi) and sub-paragraph (9)(a), and paragraph 3.
1988 c. 15.	The Public Utility Transfers and Water Charges Act 1988.	Sections 2 to 7. Section 8(2). Schedules 1 to 3.

PART II

OTHER REPEALS

Chapter	Short title	Extent of repeal
8 & 9 Geo. 6. c. 42.	The Water Act 1945.	Section 41(7). Section 59(3). In Schedule 3, sections 74 to 77 and 81.
4 & 5 Eliz. 2. c. 9.	The Rating and Valuation (Miscellaneous Provisions) Act 1955.	Section 11.
9 & 10 Eliz. 2. c. 62.	The Trustee Investments Act 1961.	In Schedule 4, paragraph 3.

SCH. 27

Chapter	Short title	Extent of repeal
1973 c. 37.	The Water Act 1973.	Section 34. Section 35. Section 36(1) and (2). Schedule 6. In Schedule 8, paragraph 50.
1974 c. 40.	The Control of Pollution Act 1974.	In Schedule 2, paragraph 15.
1975 c. 24.	The House of Commons Disqualification Act 1975.	In Part II of Schedule 1, the entries relating to a regional water authority established in accordance with section 2 of the Water Act 1973 and to the Welsh Water Authority.
1983 c. 23.	The Water Act 1983.	Section 1(2).
1988 c. 15.	The Public Utility Transfers and Water Charges Act 1988.	Section 1. Section 8(1) and (3).