

*Status: Point in time view as at 01/10/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Natural Heritage (Scotland) Act 1991, SCHEDULE 9. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 9

Section 20.

#### COMPENSATION IN RESPECT OF DROUGHT ORDERS

- 1 Except as provided by section 24(9) of this Act and the following provisions of this Schedule, no liability shall attach to a water authority or a water development board for loss or damage sustained by any person by reason of anything done in pursuance of any drought order or of any omission in pursuance of such an order.

#### Commencement Information

**I1** Sch. 9 para. 1 wholly in force at 1.10.1991 see s. 28(2) and S.I. 1991/2187, art. 3, Sch.

- 2 The provisions of this Schedule shall not apply to compensation in respect of the entry upon or occupation or use of land in the exercise of powers conferred—
- (a) by section 24 of this Act; or
  - (b) by a drought order by virtue of paragraph 5 of Schedule 7 to this Act.

#### Commencement Information

**I2** Sch. 9 para. 2 wholly in force at 1.10.1991 see s. 28(2) and S.I. 1991/2187, art. 3, Sch.

- 3
- (1) This paragraph shall apply for determining the compensation to be made, in addition to any made under section 24(9) of this Act, where an ordinary drought order has been made.
  - (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,

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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.

- (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.

**Commencement Information**

**I3** Sch. 9 para. 3 wholly in force at 1.10.1991 see s. 28(2) and S.I. 1991/2187, art. 3, Sch.

- 4 (1) A claim for the compensation under 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 for Scotland.

**Commencement Information**

**I4** Sch. 9 para. 4 wholly in force at 1.10.1991 see s. 28(2) and S.I. 1991/2187, art. 3, Sch.

- 5 (1) A claim for compensation under paragraph 3 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; or
  - (c) the suspension or modification of any restriction or obligation.
- (2) Where a claim for compensation under paragraph 3 above is made during the continuance of the ordinary drought order, the Lands Tribunal for Scotland 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; or
  - (b) water is not discharged or is discharged otherwise than in accordance with an obligation or restriction.
- (3) In assessing the compensation to be made under paragraph 3(2) above the Lands Tribunal for Scotland 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 3(3) above in respect of the lack of discharge of compensation water, the Lands Tribunal for Scotland 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.

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**Commencement Information**

**I5** Sch. 9 para. 5 wholly in force at 1.10.1991 see s. 28(2) and S.I. 1991/2187, art. 3, Sch.

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