

SCHEDULES

SCHEDULE 11

Section 107.

WATER AND SEWERAGE CHARGES: SCOTLAND

PART I

CHARGES FOR WATER SERVICES

- 1 Subject to the provisions of this Part of this Schedule, the expenditure incurred by the council of a region or islands area (in this Schedule referred to as a “local authority”) in meeting any requisition under Part IV or VIII of the 1980 Act and in the exercise of any of their functions under any enactment (within the meaning of section 109(1) of that Act) in relation to water supply in their area shall, insofar as not otherwise met, be met out of—
- (a) the charges (hereinafter in this Schedule referred to as “direct charges”) made under section 49 (payment of water supplies by meter) of the 1980 Act;
 - (b) the council water charge mentioned in paragraph 6 below; and
 - (c) the non-domestic water rate mentioned in paragraph 12 below.

Estimation and apportionment of expenditure

- 2 In respect of the financial year 1993-94 and each subsequent financial year, each local authority shall, before such date as may be prescribed in relation to each of those years—
- (a) subject to paragraph 3 below, estimate the amount of the expenditure mentioned in paragraph 1 above which they will incur in respect of that year; and
 - (b) subject to paragraph 4 below, determine what proportion of that expenditure is to be met from each of the sources mentioned in subparagraphs (a) to (c) of paragraph 1 above.
- 3 In estimating the expenditure mentioned in paragraph 1 above which they will incur in respect of any financial year a local authority shall take into account—
- (a) such additional sum as is in their opinion required—
 - (i) to cover expenses previously incurred;
 - (ii) to meet contingencies; and
 - (iii) to meet any expenses which may fall to be met before the money to be received from the sources mentioned in paragraph 1 above in respect of the next following financial year will become available; and
 - (b) any means by which any part of that expenditure may otherwise be met or provided for.

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- 4 A local authority may apportion their estimated expenditure under paragraph 2 above on whatever basis they consider appropriate, but they shall ensure that the apportionment is not such as to show undue preference to, or discriminate unduly against, any class or classes of person liable to pay—
- (a) the direct charges;
 - (b) the council water charge; or
 - (c) the non-domestic water rate,
- respectively.

Direct charges

- 5 After a local authority have, under paragraph 2 above, determined what proportion of their estimated expenditure in respect of a particular financial year is to be met out of direct charges, they shall, before such date as may be prescribed in relation to that year, determine such rate or rates of direct charges in respect of that year as will, when calculated in accordance with the provisions of section 49 (payment for water supplied by meter) of the 1980 Act, produce sufficient money to meet the said proportion; and different rates of direct charges may be determined for different circumstances.

Council water charge

- 6 Each local authority shall impose a water charge, which—
- (a) shall be known as the regional council water charge or the islands council water charge, depending upon which authority impose it; and
 - (b) shall be payable in respect of dwellings situated in that authority's area.

Liability to pay council water charge

- 7 (1) The council water charge shall be payable in respect of any dwelling which is not an exempt dwelling and in respect of which the qualifying conditions are met.
- (2) For the purposes of this Schedule—
- “dwelling” has the meaning assigned to it by section 72(2) of this Act;
 - “chargeable dwelling” means any dwelling in respect of which council water charge is payable; and
 - “exempt dwelling” means any dwelling of a class prescribed by an order made by the Secretary of State.
- (3) For the purposes of sub-paragraph (2) above, a class of dwelling may be prescribed by reference to—
- (a) the physical characteristics of dwellings;
 - (b) the fact that dwellings are unoccupied or are occupied for prescribed purposes or are occupied or owned by persons of prescribed descriptions; or
 - (c) such other factors as the Secretary of State thinks fit.
- 8 The qualifying conditions for the purposes of paragraph 7 above are—
- (a) that a water authority provide a supply of water to that dwelling;
 - (b) that the water is not supplied wholly by meter; and
 - (c) that the supply is not one which the water authority—
 - (i) were, immediately before 16th May 1949; and

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(ii) continue to be,
under an obligation to provide free of charge.

Setting of council water charge

9 After a local authority have, under paragraph 2 above, determined what proportion of their estimated expenditure in respect of a particular financial year is to be met out of the council water charge, they shall, before such date as may be prescribed in relation to that year—

- (a) set an amount of regional council water charge or islands council water charge, as appropriate, to be paid for that year in respect of a chargeable dwelling in their area listed in valuation band D (whether or not there is such a dwelling in their area) as specified in section 74(2) of this Act;
- (b) determine the amount of council water charge to be paid in respect of a chargeable dwelling in each of the other valuation bands specified in that section in accordance with the proportion mentioned in subsection (1) of that section,

and references in this Schedule to the setting of an amount of council water charge shall be construed as references to the setting of the amount mentioned in paragraph (a) above.

10 The amounts mentioned in paragraph 9(a) and (b) above shall be such as will provide sufficient money to meet such proportion of the authority's estimated expenditure for that year as they have determined under paragraph 2 above is to be met out of the council water charge.

Application of provisions relating to council tax

11 The provisions of sections 71, 75 to 81, 96, 97 and 99(3) of this Act shall have effect, subject to such adaptations, exceptions and modifications as may be prescribed, in relation to the council water charge as they have effect in relation to the council tax.

Non-domestic water rate

12 The provisions of section 40 of the 1980 Act shall continue to have effect in relation to the non-domestic water rate.

PART II

CHARGES FOR SEWERAGE SERVICES

13 The expenditure incurred by a local authority in carrying out any of their functions under the 1968 Act shall, insofar as not otherwise met, be met out of—

- (a) the council tax; and
- (b) the non-domestic sewerage rate described in paragraphs 19 to 22 below.

Estimation and apportionment of expenditure

14 In respect of the financial year 1993-94 and each subsequent financial year, each local authority shall, before such date as may be prescribed in relation to each of those years—

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- (a) subject to paragraph 15 below, estimate the amount of the expenditure mentioned in paragraph 13 above which they will incur in respect of that year; and
 - (b) subject to paragraphs 16 and 17 below, determine what proportion of that expenditure is to be met out of—
 - (i) the council tax; and
 - (ii) the said non-domestic sewerage rate,
 respectively.
- 15 In estimating the expenditure mentioned in paragraph 13 above which they will incur in respect of any financial year a local authority shall take into account—
- (a) such additional sum as is in their opinion required—
 - (i) to cover expenses previously incurred;
 - (ii) to meet contingencies; and
 - (iii) to meet any expenses which may fall to be met before the money to be received from the sources mentioned in paragraph 13 above in respect of the next following financial year will become available; and
 - (b) any means by which any part of that expenditure may otherwise be met or provided for.
- 16 The proportion of the expenditure mentioned in paragraph 13 above which is to be met out of the council tax shall be such proportion as the local authority consider to be reasonably attributable to the provision by them of the sewerage services mentioned in section 1(1) of the 1968 Act to dwellings in their area, and no part of that proportion shall be met out of any other charge or rate leviable by the local authority.
- 17 Subject to paragraph 16 above, a local authority may apportion their estimated expenditure mentioned in paragraph 14(a) above on whatever basis they consider appropriate, but they shall ensure that the apportionment is not such as to show undue preference to, or discriminate unduly against, any class or classes of person liable to pay—
- (a) the council tax; or
 - (b) the non-domestic sewerage rate,
- respectively.

- 18 Where a local authority have determined in respect of any financial year what proportion of their estimated expenditure under the 1968 Act falls to be met out of the council tax, that amount shall form part of the total estimated expenses in respect of that year which are mentioned in section 93(3) of this Act.
- Non-domestic sewerage rate*
- 19 Each local authority shall, in respect of the financial year 1993-94 and each subsequent financial year, determine, before such date as may be prescribed in relation to each of those years, such amount of the non-domestic sewerage rate as will provide sufficient money to meet the proportion of their estimated expenditure under the 1968 Act for that year which they have determined under paragraph 14 above is to be met out of that rate.

- 20 Subject to paragraphs 21 and 23 below, the non-domestic sewerage rate shall be levied in respect of lands and heritages whose drains or private sewers are connected with public sewers or public sewage treatment works and which are—
- (a) subjects (other than part residential subjects) in respect of which there is an entry in the valuation roll, according to the rateable value of those subjects; or
 - (b) part residential subjects, according to that part of their rateable value which is shown in the apportionment note as relating to the non-residential use of those subjects.
- 21 (1) Where, in respect of a financial year, the non-domestic sewerage rate is leviable under paragraph 20 above in respect of lands and heritages which are both—
- (a) church or charity premises; and
 - (b) premises to which, by virtue of subsection (4) of section 41 of the 1980 Act, that section applies, whether or not they are premises in respect of which the non-domestic water rate is leviable,
- the non-domestic sewerage rate shall be levied not according to the rateable value of those lands and heritages or that part thereof which is shown in the apportionment note as relating to their non-residential use but instead in accordance with sub-paragraph (2) below.
- (2) Where—
- (a) the water authority, in a resolution under subsection (1) of the said section 41, made with respect to the lands and heritages mentioned in sub-paragraph (1) above or to a class of premises which includes those lands and heritages, have specified for the purposes of that subsection in respect of that year a fraction of net annual value smaller than one half, then the non-domestic sewerage rate shall be levied according to that smaller fraction of the rateable value of those lands and heritages or, as the case may be, that part thereof; and
 - (b) the water authority have not so specified a smaller fraction, then the non-domestic sewerage rate shall be levied according to one half of the rateable value of those lands and heritages or, as the case may be, that part thereof.
- (3) In sub-paragraph (1) above “church or charity premises” means—
- (a) premises to the extent to which, under section 22(1) of the 1956 Act (exemption from non-domestic rates of church premises etc.), no non-domestic rate is leviable on them in respect of the financial year; or
 - (b) lands and heritages in respect of which relief in respect of the non-domestic rate is given in respect of the financial year under subsection (2) of section 4 of the Local Government (Financial Provisions etc.) (Scotland) Act 1962 (relief for premises occupied by charities); or
 - (c) lands and heritages in respect of which a reduction of or remission from the non-domestic rate has effect in respect of the financial year under subsection (5) of the said section 4.
- 22 The person who is liable to pay the non-domestic sewerage rate in respect of any premises shall be the person who is liable to pay the non-domestic rate in respect of those premises, or who would be liable to pay the non-domestic rate but for any enactment which exempts those premises from that rate or by or under which relief or remission from liability for that rate is given.
- 23 The provisions of—
- (a) Part XI of the 1947 Act;

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- (b) Part VII of the 1973 Act; and
 - (c) sections 7, 8, 9 and 10 of the 1975 Act,
- (all of which relate to rating) shall apply, subject to such adaptations and modifications as may be prescribed, to the levying, collection and recovery of the non-domestic sewerage rate.

PART III

MISCELLANEOUS PROVISIONS

Accounts

- 24 Without prejudice to section 96(1) of the 1973 Act (which relates to the keeping of accounts by local authorities), each local authority shall prepare and maintain separate accounts in respect of its functions under the 1968 and 1980 Acts respectively.
- 25 The provisions of sections 96(2) to (4) (which impose requirements as to the accounts mentioned in section 96(1)) and 105(1) (which empowers the Secretary of State to make regulations as to the said accounts) of the 1973 Act shall apply in relation to the accounts mentioned in paragraph 24 above as they apply to the accounts mentioned in the said section 96(1).

Tariff of charges

- 26 Each local authority shall, in respect of the financial year 1993-94 and each subsequent financial year, and before such date as may be prescribed in relation to each of those years, prepare a statement, to be known as a tariff of charges, indicating—
- (a) the basis upon which they have apportioned their estimated expenditure under paragraph 2 above as between—
 - (i) the direct charges,
 - (ii) the council water charge, and
 - (iii) the non-domestic water rate;
 - (b) the amount determined or set by them in respect of that year as—
 - (i) the rate or rates of the direct charges under paragraph 5 above,
 - (ii) the council water charge under paragraph 9 above, and
 - (iii) the non-domestic water rate under section 40 of the 1980 Act;
 - (c) the basis upon which they have apportioned their estimated expenditure for that year under paragraph 14 above as between—
 - (i) the council tax, and
 - (ii) the non-domestic sewerage rate; and
 - (d) the amount determined by them for that year as the non-domestic sewerage rate.
- 27 Each local authority shall make their tariff of charges available for public inspection at all reasonable hours at such places within their area as they may determine, and shall send a copy of the tariff to the Secretary of State.

PART IV

AMENDMENTS TO THE 1980 ACT

- 28 The 1980 Act shall be amended in accordance with the following provisions of this Part.
- 29 In section 9A (which relates to the exemption from charges of water for fire fighting)—
- (a) for the words “community water charges” there shall be substituted the words “council water charge”; and
 - (b) for paragraphs (a) and (b) there shall be substituted the following paragraphs—
 - “(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.”.
- 30 In section 35 (which relates to the power to supply water fittings)—
- (a) in subsection (1) the words “by way either of sale or hire” shall cease to have effect;
 - (b) in subsection (2), for the words “let for hire” there shall be substituted the words “supplied otherwise than by sale”; and
 - (c) for subsection (5) there shall be substituted the following subsection—
 - “(5) If any person—
 - (a) so interferes with a meter used by the authority 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 those premises; or
 - (b) carries out, without the consent of the water authority, any works which he knows are likely to affect the operation of such a meter or which require the disconnection of such a meter; or
 - (c) otherwise wilfully or negligently injures or suffers to be injured any water fitting belonging to the authority,he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.”
- 31 In section 40 (which provides for liability to the non-domestic water rate)—
- (a) in subsection (2)(a), for the words “the water authority” there shall be substituted the words “a water authority”; and
 - (b) in subsection (4), for the words “5 to the Abolition of Domestic Rates Etc. (Scotland) Act 1987” there shall be substituted the words “11 to the 1992 Act”.
- 32 After section 41 there shall be inserted—

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“41A Supply of water by meter

- (1) Where premises to which water is supplied are premises in respect of which there is an entry on the valuation roll, the occupier shall have the option of taking the supply by meter.
- (2) Where premises to which water is supplied constitute a dwelling within the meaning of section 72(2) of the 1992 Act—
 - (a) the owner of the dwelling; or
 - (b) the person or persons who, in terms of section 75 of that Act—
 - (i) are liable to pay council tax on the dwelling; or
 - (ii) would have been so liable had the building not been exempt from council tax under section 72(6) of that Act,
 shall have the option of taking the supply by meter.
- (3) Neither of the parties mentioned in paragraph (a) or (b) of subsection (2) above may exercise the option mentioned in that subsection without the consent of the other.
- (4) The exercise of the option mentioned in subsections (1) and (2) above is subject to—
 - (a) the payment by the person exercising the option of any reasonable charges made by the authority under section 35 of this Act; and
 - (b) the acceptance by him of such reasonable terms and conditions as may be published by the authority under section 55(1) of this Act,
 and any question as to whether any such charges or terms and conditions are reasonable shall, in default of agreement, be referred to the Secretary of State who may determine it himself or, if he thinks fit, refer it for arbitration.”

33 In section 46(2) (which relates to transport hereditaments), for the words “community water charge” there shall be substituted the words “council water charge”.

34 For section 49 (which relates to payment for water supplied by meter) there shall be substituted—

“49 Payment for supplies by meter

- (1) Subject to the provisions of this section, where water is supplied by meter by a water authority, they may make—
 - (a) such a standing charge as they may from time to time consider appropriate, irrespective of whether any water is consumed on the premises; and
 - (b) charges calculated on the amount of water, if any, actually so consumed.
- (2) Charges payable under this section shall be payable—
 - (a) in the case of premises (other than premises constituting the residential part of part residential subjects) in respect of which there is an entry on the valuation roll, by the occupier of the premises in respect of which they are due; or

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- (b) in the case of a dwelling within the meaning of section 72(2) of the 1992 Act, by the person or persons who—
 - (i) are liable to pay council tax on the dwelling; or
 - (ii) would have been so liable had the building not been exempt from council tax under section 72(6) of that Act.

(3) Charges payable under this section, including charges for any meter supplied by the authority, shall be recoverable in the manner in which non-domestic rates are recoverable.

(4) No charges shall be made under this section in relation to any lands and heritages such as are mentioned in section 5 (rebates for institutions in Scotland for the disabled) of the Rating (Disabled Persons) Act 1978 during any rebate period (within the meaning of section 6(2) of that Act)”.
35

After section 56 there shall be inserted—

“56A Regulations as to meters

The Secretary of State may make regulations under this Act as to the installation, connection, use, maintenance, authentication and testing of meters, and as to any related matters.”

36 In section 58(3) (which relates to the termination of the right to the supply of water on special terms), for the words “community water charge” there shall be substituted the words “council water charge”.

37 In section 61(1)(b) (which relates to the calculation of the amount to be requisitioned by water authorities), for the words “community water charges” there shall be substituted the words “the council water charge”.

38 In section 109(1) (which defines terms used in the Act)—

- (a) before the definition of “agricultural lands and heritages” there shall be inserted—

““the 1992 Act” means the Local Government Finance Act 1992;”

- (b) in the definition of “apportionment note”, for the words “2 of Schedule 1 to the Abolition of Domestic Rates Etc. (Scotland) Act 1987” there shall be substituted the words “1 of Schedule 5 to the 1992 Act”;

- (c) after the definition of “contributing authority” there shall be inserted—

““council water charge” shall be construed in accordance with the provisions of paragraph 6 of Schedule 11 to the 1992 Act.”;

- (d) after the definition of “enactment” there shall be inserted—

““fire authority” has the same meaning as in the Fire Services Act 1947.”;

- (e) in the definition of “part residential subjects” for the words from “section” to the end there shall be substituted the words “section 99 (interpretation of Part II etc.) of the 1992 Act.”; and

- (f) in the definition of “prescribed”, after “prescribed by” there shall be inserted the words “or determined under”.