

Status: Point in time view as at 17/07/1995.

Changes to legislation: There are currently no known outstanding effects for the Local Government etc. (Scotland) Act 1994, SCHEDULE 7. (See end of Document for details)

SCHEDULE 7

Section 62(2).

CONSTITUTION AND PROCEEDINGS ETC. OF A NEW WATER AND SEWERAGE AUTHORITY

Incorporation

- 1 A new water and sewerage authority (in this Schedule referred to as an “authority”) shall—
- (a) be a body corporate; and
 - (b) have a common seal.

Status

- 2 An authority shall not—
- (a) be regarded as a servant or agent of the Crown;
 - (b) have any status, immunity or privilege of the Crown;
 - (c) be exempt from any tax, duty, rate, levy or other charge whatsoever, whether general or local,
- and the property of an authority shall not be regarded as property of, or held on behalf of, the Crown.

Membership

- 3 The members of an authority shall be—
- (a) not fewer than seven, nor more than eleven, persons appointed under this sub-paragraph by the Secretary of State from persons who appear to him to have knowledge or experience relevant to the discharge of the functions of the authority; and
 - (b) the person who is for the time being the chief executive of the authority.
- 4 The Secretary of State shall satisfy himself—
- (a) before he appoints a person under paragraph 3(a) above, that the person has no financial or other interest likely to affect prejudicially performance as a member of the authority in question;
 - (b) from time to time, that each person so appointed continues, and has continued, to have no such interest.
- 5 A person in respect of whom the Secretary of State requires to be satisfied as is mentioned in paragraph 4(b) above shall, whenever requested by the Secretary of State to do so, furnish the Secretary of State with such information as the Secretary of State may consider necessary for the purposes of that requirement.
- 6 Subject to paragraphs 7 and 8 below, each member of an authority other than their chief executive—

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- (a) shall hold and vacate office in accordance with the terms of the instrument under which he is appointed a member;
- (b) may, by written notice to the Secretary of State, resign membership; and
- (c) after ceasing to hold office shall be eligible for reappointment to the authority.

7 The Secretary of State may remove a member, other than the chief executive, of an authority from office if satisfied that the member—

- (a) has had his estate sequestrated, has been adjudged bankrupt, has made an arrangement with his creditors, or has granted a trust deed for his creditors or a composition contract;
- (b) is incapacitated by physical or mental illness;
- (c) has been absent from meetings of the authority in question for a period longer than three consecutive months without the permission of the authority; or
- (d) is otherwise unable or unfit to discharge his functions as a member or is unsuitable to continue as a member.

Chairmen and deputy chairmen

8 (1) The Secretary of State shall appoint one of the members of an authority, other than their chief executive, to be their chairman and, after consulting the chairman, may appoint any one of the members to be deputy chairman; and a chairman, or as the case may be deputy chairman, shall hold and vacate the office in question in accordance with the terms of the instrument under which he is appointed to that office.

(2) A member of the authority may resign as chairman or deputy chairman by written notice to the Secretary of State; but a chairman or deputy chairman who ceases to be a member of the authority (whether or not on giving notice under paragraph 6(b) above) ceases to be their chairman or deputy chairman.

(3) Where a member of an authority becomes, or ceases to be, the chairman or deputy chairman of the authority, the Secretary of State may vary the terms of the instrument under which he is appointed a member so as to alter the date on which office as a member is to be vacated.

Remuneration, allowances and pensions

9 (1) An authority shall pay to their chairman, deputy chairman and members, other than the chief executive—

- (a) such remuneration as the Secretary of State may, with the approval of the Treasury, determine; and
- (b) such reasonable allowances as may be so determined in respect of expenses properly incurred in the performance (as chairman, deputy chairman or as the case may be members) of duties.

(2) Where a person (other than a chief executive) ceases to be a member of an authority otherwise than on the expiry of his term of office and it appears to the Secretary of

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State that there are special circumstances which might make it right for the person to receive compensation, the Secretary of State may, with the approval of the Treasury, direct the authority to pay to the person such amount as the Secretary of State may, with such approval, determine.

- 10 The Secretary of State may, with the consent of the Treasury, determine that in respect of any office held by a person as chairman, deputy chairman or member (other than the chief executive) of an authority, the authority in question shall pay—
- (a) such pension, allowance or gratuity to, or in respect of, that person on his retirement or death;
 - (b) such contribution or other payment towards provision for such pension, allowance or gratuity,
- as may be so determined.

Staff

- 11 The Secretary of State shall, after consultation with an authority's chairman or chairman designate (if there is a person holding, or as the case may be designated to hold, that office) make the first appointment of their chief executive on such terms and conditions as the Secretary of State may, with the consent of the Treasury, determine; and the authority may, with the approval of the Secretary of State, make subsequent appointments to the office of chief executive on such terms and conditions as they may with the approval of the Secretary of State, given with the consent of the Treasury, determine.
- 12
- (1) Subject to any provision made by virtue of Chapter 2 of Part I of this Act, an authority may appoint on such terms and conditions as they may with the approval of the Secretary of State, given with the consent of the Treasury, determine, such other employees as they consider appropriate.
 - (2) An authority shall, as regards such of their employees as they may with the approval of the Secretary of State, given with the consent of the Treasury, determine, make such arrangements as they consider appropriate for providing, to or in respect of those employees, pensions, allowances or gratuities; and such arrangements may include the establishment and administration, by the authority or otherwise, of one or more pension schemes.
 - (3) The reference in sub-paragraph (2) above to the provision of pensions, allowances or gratuities includes a reference to their provision by way of compensation for loss of office or employment or loss or diminution of emoluments.
 - (4) If a person employed by an authority becomes a member of the authority and was by virtue of that employment a participant in a pension scheme administered by the authority for the benefit of their employees, the authority may determine that his service as a member shall be treated for the purposes of the scheme as service as an employee whether or not any benefits are to be payable to or in respect of him by virtue of paragraph 10 above; but if the authority do so determine, then any discretion as to the benefits payable to or in respect of the person which the scheme confers on them shall be exercisable only with the consent of the Secretary of State given with the approval of the Treasury.

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Committees

- 13 The authority may establish committees for or in connection with the discharge of such of their functions, or the exercise of such of their powers, as the authority may determine.

Proceedings

- 14 The quorum of an authority, and the arrangements for their meetings, shall be such as the authority in question may determine.

- 15 (1) A member of an authority who is directly or indirectly interested in—
 (a) a contract made or proposed to be made by them; or
 (b) any other matter whatsoever which falls to be considered by them,
 shall as soon as is practicable disclose the nature of his interest at a meeting of the authority; and the disclosure shall be recorded in the minutes of the meeting.

- (2) In the case mentioned in—
 (a) head (a) of sub-paragraph (1) above, the member shall not take part in any deliberation or decision of the authority with respect to the contract;
 (b) head (b) of that sub-paragraph, the member shall not take part in any deliberation or decision of the authority with respect to the matter if the authority decide that the interest in question might affect prejudicially his consideration of the matter.

- (3) For the purposes of this paragraph, a notice to the effect that a person is a member of a specified body corporate or firm and is to be regarded as interested in any contract which is made with the body corporate or firm after the date of the notice, and in any other matter whatsoever concerning the body corporate or firm which falls to be considered after that date, shall if given at a meeting of the authority be a sufficient disclosure of the person's interest to the authority.

- (4) For the purposes of this paragraph, disclosure at a meeting may be made without the attendance in person of the member in question provided that he takes reasonable steps to ensure that the matter disclosed is raised and taken into consideration at the meeting.

- 16 The validity of any proceedings of an authority shall not be affected by any vacancy among the members of the authority, or by any defect in the appointment of a member, or by any failure to comply with any requirement of paragraph 15 above.

- 17 (1) For a purpose other than is mentioned in sub-paragraph (2) below, a document is validly executed by an authority if signed on behalf of that authority by their chief executive, or by another of their members, or by a person authorised to sign the document on their behalf.

- (2) For the purposes of any enactment or rule of law relating to the authentication of documents, a document is validly executed by an authority if subscribed on

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behalf of the authority by being executed in accordance with the provisions of sub-paragraph (1) above.

- (3) A document which bears to have been executed by an authority in accordance with sub-paragraph (2) above shall, in relation to such execution, be a probative document if—
- (a) the subscription of the document bears to have been attested by at least one witness; or
 - (b) the document bears to be sealed with the seal of the authority.

Delegation of powers

- 18 (1) Anything authorised or required by or under any enactment to be done by the authority may be done by any of their committees which, or by any of their members or officers who, are authorised (whether generally or specially) for the purpose by them.
- (2) Nothing in sub-paragraph (1) above shall prevent the authority from doing anything that a committee, member or officer has been authorised to do.

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