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SCHEDULES

SCHEDULE 5

Section 35.

AMENDMENT OF THE WATER (SCOTLAND) ACTS 1946 AND 1949

PART I

AMENDMENTS HAVING EFFECT AS FROM 16TH MAY 1968

The Water (Scotland) Act 1946 c. 42

- 1 In section 9, the words " and in any local enactment relating to the supply of water " shall be omitted.
- 2 In section 11 (1A) (which empowers a local water authority to impose conditions on the giving of a supply of water), the words from " until the aggregate amount" to " or " shall be omitted, and for the words " whichever first " occurs " there shall be substituted the words " or such lesser period as may appear to the authority to be appropriate ".
- 3 In section 26(1), for the words from " within their limits of supply" to " outside those limits" there shall be substituted the words " for the purposes of their functions " ; and in subsection (1)(a), after the words " below any street" there shall be inserted the words " after giving reasonable notice to the persons having control or management of the street ".
- 4 Section 27 shall cease to have effect.
- 5 In section 28(1), the words " at the expense of the owner of the premises " shall be omitted.
- 6 In section 32(1), after the word " premises" there shall be inserted the words " , but there may, in respect of that supply, be a fixed minimum charge of such amount as from time to time may be determined by the regional water board. " ; and the proviso shall be omitted.
- 7 Section 34 shall cease to have effect.
- 8 In section 35, for the words " so used " there shall be substituted the words " so supplied " ; and the proviso shall be omitted.
- 9 In section 36—
 - (a) the words from " and the consumer" to " other than domestic " shall be omitted ; and
 - (b) for the words from " used by him " to " apparatus " there shall be substituted the words " so supplied ".
- 10 In section 38(1) and (2), for the word " consumed " there shall be substituted the word " supplied ".

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- 11 Section 48 shall cease to have effect.
- 12 In section 50(1), after the word " street", there shall be inserted the words " or in any land not forming part of a street " ; and after that subsection there shall be inserted the following subsection—
- “(1A) The power conferred by the foregoing subsection to lay and maintain discharge pipes and apparatus in land, other than land forming part of a street, shall not be exercised unless reasonable notice thereof has been given to the owner and the occupier of that land.”
- 13 In section 73(1), for the words " this section " there shall be substituted the words " subsections (2) to (9) of section 355 of the Local Government (Scotland) Act 1947 " .
- 14 In section 74(2), for the words " section seventy-three of this Act " there shall be substituted the words " section 355 of the Local Government (Scotland) Act 1947 " .
- 15 Section 85 shall cease to have effect.
- 16 In Schedule 1—
- (a) for paragraph 7, there shall be substituted the following paragraph—
- “7 After considering the report of any local inquiry under the last foregoing paragraph, and before making the order, the Secretary of State shall give to any person who has duly objected thereto, and has not withdrawn his objection, notice as to the order which he proposes to make, and shall not make the order until the expiration of 28 days from the date of the notice and, if within that period that person gives notice to the Secretary of State that he objects to the proposed order, and the objection is not withdrawn, the order shall be subject to special parliamentary procedure.”;
- (b) for paragraph 16, there shall be substituted the following paragraph—
- “16 After considering the report of any local inquiry under the last foregoing paragraph, and before making the order, the Secretary of State shall give to any person who has duly objected thereto, and has not withdrawn his objection, notice as to the order which he proposes to make, and shall not make the order until the expiration of 28 days from the date of the notice and, if within that period that person gives notice to the Secretary of State that he objects to the proposed order, and the objection is not withdrawn, the order shall be subject to special parliamentary procedure.”; and
- (c) for paragraph 22, there shall be substituted the following paragraph.—
- “22 After considering the report of any local inquiry under the last foregoing paragraph, and before making the order approving the agreement, the Secretary of State shall give to any person who has objected thereto under the said paragraph, and has not withdrawn his objection, notice as to the order which he proposes to make, and shall not make the order until the expiration of 28 days from the date of the notice and, if within that period that person gives notice to the Secretary of State that he objects to the proposed order and the objection is not withdrawn, the order shall be subject to special parliamentary procedure.”

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17 In Schedule 3, in paragraph 9(2), there shall be inserted, at the beginning, the words " The whole, or such part as the regional water board may think fit, of ".

18 In Schedule 4, in section 26, after subsection (1), there shall be inserted the following subsection—

“(1A) Where, in the case of any house—

- (i) the erection of which was begun on or after the 16th May 1968, or
- (ii) to which a supply of piped water was given for the first time on or after that date, or
- (iii) in which water fittings likely to lead, in the opinion of the board, to an increase in the consumption of water were installed after that date,

the undertakers consider that, in order to provide for an adequate supply of water throughout any twenty-four hour period, a cistern requires to be fitted, they shall serve a notice on the owner of the house requiring that the house shall be provided with a cistern capable of providing an adequate supply of water as aforesaid to that house, and that a ball-tap and stopcock shall be fitted on the pipe conveying water to it; and that notice shall include an intimation that any person aggrieved by the notice may, within 28 days of the service thereof, appeal against it to the Secretary of State ; and, where such an appeal is made, the Secretary of State shall give such directions in the matter as may seem to him proper; and, subject to any such directions, the next following subsection shall have effect in relation to this subsection:

Provided that the undertakers shall not exercise any power conferred on them by that subsection until the determination by the Secretary of State of any appeal under this subsection.”.

The Water (Scotland) Act 1949 c. 31

19 In section 1(1) there shall be inserted after the words " local authority " the words "in meeting any requisition under Part II of the Water (Scotland) Act 1967 or "; and for the words from " not exceeding" to " determine," there shall be substituted the words " as may be determined under section 8(1) of this Act. "

20 In section 2—

(a) after subsection (1), there shall be inserted the following subsection—

“(1A) The domestic water rate shall not be leviable in respect of any premises to which water is supplied wholly by meter.”; and

(b) in subsection (2), after the words " is comprised ; " there shall be inserted the following paragraph—

“(b) in the case of premises occupied by a regional water board or a water development board, a supply of water provided by some other such board is used within the premises ; and”.

21 In section 4(2), the words from "and if" to the end of the subsection shall be omitted.

22 Section 7 shall cease to have effect.

23 In section 8, for subsection (1) there shall be substituted the following subsection—

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“(1) In any year a local authority may defray, out of the county or, as the case may be, the burgh rate, such part, as they think fit, of the expenditure incurred by them in meeting any requisition under Part II of the Water (Scotland) Act 1967 or in reforming any of their functions under any enactment in relation to water supply in their district, to an amount which, unless the Secretary of State otherwise approves, shall not exceed the amount requisitioned from them in respect of that year under subsection (2) of section 12 of that Act, or under that subsection as modified by virtue of subsection (5) of that section.”

24 Section 9 shall cease to have effect.

PART II

AMENDMENTS HAVING EFFECT AS FROM THE FIRST APPOINTED DAY

25 In the Water (Scotland) Act 1946, in section 24(1), after paragraph (d), there shall be inserted the following paragraph—

“(e) acquire by purchase, lease or otherwise premises to be used for the purposes of the board and maintain such premises.”

PART III

AMENDMENT HAVING EFFECT AS FROM THE SECOND APPOINTED DAY

The Water (Scotland) Act 1946 c. 42

26 For section 18, there shall be substituted the following section—

“18 Supply of water by regional water board to premises outside their region.

- (1) A regional water board, with the consent of the Secretary of State, may give a supply of water to premises situated outside their region.
- (2) The Secretary of State shall not give his consent under the last foregoing subsection unless he is satisfied that the regional water board of the region in which the premises are situated are unable to give a supply to those premises.
- (3) Nothing in subsection (1) of this section shall affect the giving by a regional water board of a supply of water where that supply was being given immediately before the coming into effect of this section.
- (4) Where a regional water board are supplying water to premises outside their region, whether by virtue of subsection (1) of this section or otherwise, the regional water board of the region in which those premises are situated may at any time give not less than three months' notice to the board giving the supply that they are able and intend to give a supply of water to all the premises in that part of their region in which the premises in question are situated.
- (5) When, after the expiration of a notice given under the last foregoing subsection, the board in whose region the premises are situated commence to supply water to the part of their region in which those premises are

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situated, the board previously giving the supply shall, except for the purpose of recovering any charges or expenses recoverable by them, and of removing any pipes, plant or apparatus belonging to them, cease to have any functions in respect of a supply to those premises.

(6) The board previously giving the supply shall not remove any pipes, plant or apparatus which they are required by the board in whose region the premises are situated to leave in position, and any such pipes, plant or apparatus shall vest in the second-mentioned board.

(7) The board in whose region the premises are situated shall pay to the board previously giving the supply such portion of any expenses reasonably incurred by them for the purpose of giving a supply to those premises, and such sum, in respect of any pipes, plant and apparatus vested in the board in whose region the premises are situated, by the last foregoing subsection, as may be agreed, or in default of agreement, determined by arbitration.”

27 In section 21(2), after the words " purposes of the order " there shall be inserted the words " and such provisions may (but without prejudice to the generality of this subsection) include provisions enabling the board to carry on any business or trade ancillary to the taking of water ".

28 After section 21. there shall be inserted the following section—

“21A Transfer of part of water undertaking of one board to another board.

(1) Where the Secretary of State, whether on the application of a board or not, considers that such a transfer would be in the public interest, he may by order authorise the transfer of a part of the undertaking of one board to another board.

(2) Where an order is made under the foregoing subsection, the board, to which a part of another board's undertaking is so transferred, shall make to that other board such payment by way of consideration as, failing agreement between them, may be settled by arbitration.

(3) An order made under this section shall provide for the transfer of all rights to take water, which are exercised for the purposes of the part of the undertaking transferred by the order, and, on the coming into force of that order, those rights shall be transferred to, and vest in, the board to which the part of the undertaking is transferred.

(4) An order under this section may for the purposes of the order contain any such provision as an order made under section 5 of the Water (Scotland) Act 1967.

(5) The provisions of Part I of the First Schedule to this Act shall apply to an order made, under subsection (1) of this section, on the application of a board concerned, and the provisions of Part II of the said Schedule shall apply to an order so made without any such application.

(6) In this section " board" means a regional water board or a water development board.”

29 In section 84(1), after the definition of " reasonably practicable " , there shall be inserted the following definition—

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“" river purification authority " has the meaning assigned to it by section 17 of the Rivers (Prevention of Pollution) (Scotland) Act 1951.”

- 30 In Schedule 1, in paragraph 11(ii), for the words from " execution " to " proposed to be executed " there shall be substituted the words " transfer of rights to take water, on the fishery district board of any fishery district, and on any navigation authority and any river purification authority exercising functions in relation to any watercourse, from which water is taken under the rights transferred

The Water (Scotland) Act 1949 c. 31

- 31 In section 4, in subsections (1), (2) and (4), for the words " local authority" there shall be substituted the words " regional water board providing a supply of water to the premises ".

- 32 In section 19, at the end there shall be added the following subsection—

“(7) Nothing in the provisions of subsection (1) or (3) of (this section shall be construed as continuing any exemption conferred by either of these subsections from the payment in whole or in part of domestic water rate, where the regional water board have ceased to be under the obligation which gave rise to that exemption.”

- 33 In section 23, in subsection (1), for the words from " section sixteen " to " as the case may be " there shall be substituted the words " section 21 of the principal Act (authorisation of acquisition of water rights) may authorise a board to which that section applies to acquire compulsorily such land as may be necessary for the purposes of the order " ; and in subsection (2), for the words from " said section sixteen" to the word " forty-two" there shall be substituted the words " said section 21 ".

- 34 Section 38 shall cease to have effect.