Water (Scotland) Act 1980

1980 CHAPTER 45

An Act to consolidate the enactments relating to water in Scotland. [1st August 1980]

Modifications etc. (not altering text)

C1 The base date version of this Act is as revised to 1.12.1991 and takes into account the effects (if any) on it of consolidating legislation which came into force at that date.

C2 Act explained by National Heritage (Scotland) Act 1985 (c. 16, SIF 78), **s. 20**

C3 Act modified by Dockyard Services Act 1986 (c. 52, SIF 58), **s. 3(1)**(*c*)
Act modified (17.7.1995) by 1994 c. 39, **s. 65(2)** (with s. 74(4)); S.I. 1995/1898, art. 2(a), **Sch.**

C4 Act: definition (water authority) applied (1.12.1991) by Water Industry Act 1991. (c. 56, SIF 130), ss. 87(7)(a), 223(2) (with ss. 82(3), 186(1), 222(1), Sch. 14 para. 6)

Commencement Information

I1 Act wholly in force at Royal Assent

PART I

CENTRAL AUTHORITY

[F1[1 General duties of Secretary of State and of water authorities.

It shall be the duty of the Secretary of State and of **[**[F2]Scottish Water**]** when exercising their respective functions or powers under or by virtue of this Act—

(a) to promote the conservation and effective use of the water resources of, and the provision of adequate water supplies throughout, Scotland; and

(b) to secure the collection, preparation, publication and dissemination of information and statistics relating to such resources and supplies.**]**

Textual Amendments

F1 S. 1 substituted (1.4.1996) by 1994 c. 39, **s. 65(1)** (with s. 74(4)); S.I. 1996/323, art. 4(1)(a), **Sch. 1**

Status: *Point in time view as at 27/10/2017.*
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F2 Words in s. 1 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 2** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

2 . . . . . [F3]

Textual Amendments

F3 S. 2 repealed by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23, SIF 81:2), ss. 25, 41, Sch. 2 para. 38, **Sch. 4**

PART II

DUTIES OF WATER AUTHORITIES

[F4]**3** . . . . . .

Textual Amendments

F4 S. 3 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(2), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

[F5]**4** . . . . . .

Textual Amendments

F5 S. 4 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(2), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

[F6]**5** . . . . . .

Textual Amendments

F6 S. 5 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(2), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

6 Duty of authority to provide supply.

(1) It shall be the duty of **[**[F7]Scottish Water**]** to provide a supply of wholesome water to every part of **[**[F8]its**]** limits of supply where a supply of water is required for domestic purposes and can be provided at a reasonable cost.

(2) Without prejudice to the generality of subsection (1), **[**[F9]Scottish Water**]** shall provide a supply of wholesome water in pipes to every part of **[**[F10]its**]** limits of supply

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where a supply of water is required for domestic purposes and shall **[**[F11], subject to subsection (2A),**]** take the pipes affording that supply to such point or points as will enable the buildings for which a supply is required for domestic purposes to be connected thereto at a reasonable cost; but this subsection shall not require **[**[F12]Scottish Water**]** to do anything which is not practicable at a reasonable cost or to provide such a supply to any part of **[**[F10]its**]** limits of supply where such a supply is already available at such point or points.

[[F13](2A) Subsection (2), so far as requiring Scottish Water to take pipes to the point or points referred to in that subsection, shall not apply for so long as there is inforce an agreement between Scottish Water and some other person for that person to take the pipes referred to in that subsection to that point or those points.

(2B) Subsections (1) and (2), so far as excepting from the duties under those subsections things which cannot be done at a reasonable cost, shall not apply tosuch cases or descriptions of case as the Scottish Ministers may direct.

(2C) In determining what is a reasonable cost for the purpose of subsection (2) so far as excepting from the duty under that subsection things which cannot be done at areasonable cost, the costs to be taken into account include the costs of—

(a) constructing such other water mains, communication pipes and other waterworks, and

(b) carrying out such other work,

as Scottish Water considers necessary in consequence of the connection referred to in that subsection.

(2D) Subject to subsection (2C), any question as to what is a reasonable cost for the purposes of this section shall be determined in accordance with regulations madeby the Scottish Ministers.

(2E) Such regulations may, in particular, make provision as to—

(a) the matters to be taken into, or left out of, account,

(b) the criteria to be applied,

(c) the method of calculation to be adopted,

in determining what is a reasonable cost for those purposes, and may make different provision for different cases and descriptions of case.**]**

(3) If any question arises under this section as to—

[[F14](za) whether a reasonable cost has been properly determined in accordance with regulations made under subsection (2D), or**]**

(a) whether a supply of water can be provided at a reasonable cost, or

(b) whether anything is or is not practicable at a reasonable cost, or

(c) the point or points to which pipes must be taken in order to enable buildings to be connected therewith at a reasonable cost,

the **[**[F15]Water Industry Commission for Scotland**]**, if requested to do so by **[**[F16]any person aggrieved**]**, shall, after **[**[F16]consultation with that person and with **[**[F17]Scottish Water**]]**, determine that question and **[**[F18]Scottish Water**]** shall give effect to **[**[F19]its**]** determination.

[[F20](3A) The Commission—

(a) shall prepare a statement which specifies the procedure to be followed for the purposes of its determining questions under subsection (3), and

(b) may from time to time revise the statement.

(3B) In preparing or revising the statement, the Commission shall consult Scottish Water and such other persons as it considers appropriate.

(3C) The Commission shall, on payment of such reasonable fee (if any) as the Commission may determine, send a copy of the statement to any person who requests it.**]**

(4) **[**[F21]Scottish Water**]** shall also provide a supply of water for the purpose of complying with any other obligation imposed on **[**[F22]it**]** by this Act and may, if **[**[F23]it thinks**]** fit, provide a supply to enable **[**[F24]it**]** to exercise any of the powers conferred on **[**[F24]it**]** by this Act or for any other purpose which **[**[F25]it considers**]** is in the interests of the area comprising **[**[F26]its**]** limits of supply.

[[F27](5) The duties imposed by subsections (1), (2) and (4) shall not require Scottish Water to do anything which is prejudicial to its compliance with—

(a) any directions given to it under section 56 of the Water Industry (Scotland) Act 2002 (asp 3) so far as setting objectives of a type referred to in section 56A of that Act, or

(b) a statement of policy issued under section 29D of that Act.**]**

Textual Amendments

F7 Words in s. 6(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 3(2)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F8 Word in s. 6(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 3(2)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F9 Words in s. 6(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 3(3)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F10 Word in s. 6(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 3(3)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F11 Words in s. 6(2) inserted (6.3.2006) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), **s. 29(6)** (with s. 39(2)); S.S.I. 2006/55, **art. 2**

F12 Words in s. 6(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 3(3)(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F13 S. 6(2A)-(2E) inserted (6.3.2006) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), **s. 29(7)** (with s. 35(2)); S.S.I. 2006/55, **art. 2**

F14 S. 6(3)(za) inserted (6.3.2006) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), **s. 29(8)** (with s. 35(2)); S.S.I. 2006/55, **art. 2**

F15 Words in s. 6(3) substituted (1.4.2006) by Water Services etc. (Scotland) Act 2005 (asp 3), **ss. 23(2)(a)(i)**, 37(2) (with s. 36); S.S.I. 2006/167, **art. 2**, Sch. 1

F16 Words in s. 6(3) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(3)**; S.I. 1996/323, **art. 4(1)(c)**

F17 Words in s. 6(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 3(4)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F18 Words in s. 6(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 3(4)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F19 Word in s. 6(3) substituted (1.4.2006) by Water Services etc. (Scotland) Act 2005 (asp 3), **ss. 23(2)(a)(ii)**, 37(2) (with s. 36); S.S.I. 2006/167, **art. 2**, Sch. 1

F20 S. 6(3A)-(3C) inserted (1.4.2006) by Water Services etc. (Scotland) Act 2005 (asp 3), **ss. 23(2)(b)**, 37(2) (with s. 36); S.S.I. 2006/167, **art. 2**, Sch. 1

F21 Words in s. 6(4) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 3(5)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F22 Words in s. 6(4) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 3(5)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

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F23 Words in s. 6(4) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 3(5)(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F24 Word in s. 6(4) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 3(5)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F25 Words in s. 6(4) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 3(5)(d)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F26 Word in s. 6(4) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 3(5)(e)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F27 S. 6(5) added (1.7.2005) by Water Services etc. (Scotland) Act 2005 (asp 3), **s. 24(2)** (with s. 36); S.S.I. 2005/351, **art. 2**, Sch. 2

7 Supply of water for domestic purposes.

(1) In this Act a supply of water for domestic purposes means a sufficient supply for drinking, washing, cooking, central heating and sanitary purposes but not for any bath having a capacity in excess of 100 gallons, and includes—

(a) a supply for the purposes of any profession carried on in any premises the greater part of which is used as a house; and

(b) where the water is drawn from a tap inside a house and no hosepipe or similar apparatus is used, a supply for watering a garden, for horses kept for private use and for washing vehicles kept for private use.

(2) A supply of water under subsection (1) does not include a supply of water for the business of a laundry, or any business of preparing food or beverages for consumption otherwise than on the premises.

(3) "Domestic purposes" in any local enactment relating to the supply of water shall be construed in accordance with sub-sections (1) and (2).

8 Water supplied for domestic purposes to be wholesome.

[[F28]Scottish Water**]** shall provide in **[**[F29]its**]** mains and communication pipes a supply of wholesome water sufficient for the domestic purposes of all owners and occupiers of premises within **[**[F29]its**]** limits of supply who are entitled to a supply for those purposes.

Textual Amendments

F28 Words in s. 8 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 4(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F29 Word in s. 8 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 4(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

9 Supply of water for non-domestic purposes.

(1) Subject to the following provisions of this Act, **[**[F30]Scottish Water**]** shall give a supply of water on reasonable terms and conditions for purposes other than domestic purposes to the owner or occupier of any premises within **[**[F31]its**]** limits of supply who requests **[**[F32]it**]** to give such a supply to those premises.

(2) **[**[F33]Scottish Water**]** shall not be required to give a supply of water in accordance with subsection (1) if **[**[F34]its**]** ability to meet existing obligations to supply water for any purposes or probable future requirements to supply water for domestic purposes,

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without having to incur unreasonable expenditure in constructing new waterworks for the purpose, would thereby be endangered.

[[F35](2A) Where a supply of water has been made to premises under subsection (2) of section 16 of the Water Services etc. (Scotland) Act 2005 (asp 3)but—

(a) the arrangements for the supply (made between the occupier of the premises and the water services provider who made the related request under subsection (1)of that section in respect of the premises) are at an end, or are to come to an end, in consequence of non-payment of charges owed to the provider in relation to the watersupplied; or

(b) the supply is discontinued (or is to be discontinued) under section 18(5) of that Act,

Scottish Water shall not be required to give a supply of water to the premises in accordance with subsection (1) if it is of the opinion that there is noreasonable prospect of recovering the charges (or any significant proportion of the charges) which it would be entitled to recover in relation to that supply of waterwere it given.

(2B) Where Scottish Water decides, by virtue of subsection (2A), not to give a supply of water to premises, the occupier of the premises may by notice require the WaterIndustry Commission for Scotland to review that decision.

(2C) In a review under subsection (2B), the Commission may, having regard to any representations made to it by the parties—

(a) confirm the decision of Scottish Water; or

(b) direct Scottish Water to give a supply of water to the premises in accordance with subsection (1),

and the determination of the Commission in the review shall be final.**]**

(3) **[**[F36]Scottish Water**]** may require, as a condition of giving a supply of water under this section, that the person requesting the supply shall enter into an agreement undertaking to pay to **[**[F37]it**]** in respect of each year a sum not exceeding one-eighth of the cost of providing and laying the necessary mains (less any amounts received by **[**[F38]Scottish Water**]** in respect of water supplied whether for domestic or non-domestic purposes in that year from those mains) until the expiration of a period of 12 years or such lesser period as may appear to **[**[F38]Scottish Water**]** to be appropriate.

(4) Any question arising as to the terms and conditions on which water is to be supplied **[**[F39](not being a question as respect charges for the water which is to be supplied)**]** under this section and any question whether **[**[F40]Scottish Water is**]** justified in refusing to give a supply shall in default of agreement, be referred to the Secretary of State and the Secretary of State may determine it himself or, if he thinks fit, refer it for determination by arbitration.

(5) Where **[**[F41]Scottish Water is**]** required to give a supply of water under this section, the powers of **[**[F42]Scottish Water**]** and of persons supplied or proposed to be supplied by **[**[F43]it**]** to lay mains and pipes for providing a supply of water for domestic purposes and to break open **[**[F44]roads**]** for that purpose shall apply for the purpose of the provision of a supply under this section.

[F45](6) . . . . . .

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Textual Amendments

F30 Words in s. 9(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 5(2)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F31 Word in s. 91(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 5(2)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F32 Word in s. 9(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 5(2)(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F33 Words in s. 9(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 5(3)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F34 Word in s. 9(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 5(3)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F35 S. 9(2A)-(2C) inserted (7.9.2006) by Water Services etc. (Scotland) Act 2005 (asp 3), **s. 17(4)** (with s. 76); S.S.I. 2006/445, **art. 2**, Sch.

F36 Words in s. 9(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 5(4)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F37 Word in s. 9(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 5(4)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F38 Words in s. 9(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 5(4)(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F39 Words in s. 9(4) inserted (1.4.1996) by 1994 c. 39, **s. 105**; S.I. 1996/323, art. 4(1)(a), **Sch. 1**

F40 Words in s. 9(4) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 5(5)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F41 Words in s. 9(5) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 5(6)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F42 Words in s. 9(5) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 5(6)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F43 Word in s. 9(5) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 5(6)(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F44 Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 81(2)**

F45 S. 9(6) repealed (1.4.1996) by Local Government Finance Act 1992 (c. 14), s. 117(2), **Sch. 14** (with s. 118(1)(2)(4)); S.I. 1996/918, **art. 2(b)(ii)**

[F46 9A

[[F48 Notwithstanding anything in section 9**]** of this Act, no charge may be made by F47 (1)**]** [F49 Scottish Water**]** in respect of—

[F50 (a) water taken for the purpose of extinguishing fires or taken by **[**F51 the Scottish Fire and Rescue Service **]** 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:**]**

Provided that nothing in this section shall 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 said purposes.**]**

[F52 (2) Subsection (1) above 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 that subsection,

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of requiring a reduction in the charges imposed in respect of the provision for other purposes of the supply from which the water is taken.**]**

Textual Amendments

F46 S. 9A added by Local Government and Planning (Scotland) Act 1982 (c.43, SIF 81:2), **s. 59**

F47 S. 9A renumbered as s. 9A(1) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(4)(b)**; S.I. 1996/323, **art. 4(1)(c)**

F48 Words in s. 9A substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(4)(a)**; S.I. 1996/323, **art. 4(1)(c)**

F49 Words in s. 9A substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 6** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F50 S. 9A(a)(b)(c) substituted (6.3.1992) for paras. (a)(b) by Local Government Finance Act 1992 (c. 14), s. 107, **Sch. 11**, Pt. IV, para. 29(b) (with s. 118(1)(2)(4))

F51 Words in s. 9A(1)(a) substituted (1.4.2013) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **sch. 7 para. 51(2)**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

F52 S. 9A(2) added (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(4)(c)**; S.I. 1996/323, **art. 4(1)(c)**

10 Compensation for damage resulting from exercise of powers.

(1) Subject to the provisions of this section, a **[**[F53]local authority**]** or **[**[F54]Scottish Water**]**[F55] . . . shall make full compensation to any person who has sustained damage by reason of the exercise by them **[**[F56]or it**]** of any of their **[**[F57]or its**]** powers under this Act in relation to a matter as to which he has not himself been in default.

[[F58](1A) The escape of water, however caused, [F59] . . . from one of **[**[F60]Scottish Water's**]**[F59] . . . communication **[**[F61]or supply**]** pipes or mains shall for the purposes of subsection (1) above be taken to have been brought about by the exercise by **[**[F62]it**]** of powers under this Act.**]**

(2) Any question arising under this section as to the fact of damage or as to the amount of compensation shall, in case of dispute, be determined by arbitration.

(3) A claim for compensation under this section shall not be maintainable unless it is made within **[**[F63]24**]** months after the date on which it is alleged to have arisen.

(4) The provisions of this section shall be without prejudice to any other provisions in this Act relating to compensation.

[[F64](5) Without prejudice to any right to compensation other than under subsection (1) above, in that subsection "person" does not, as regards compensation payable under that subsection by virtue of subsection (1A) above, include—

(a) statutory undertakers as defined in **[**[F65]section 214 of the Town and Country Planning (Scotland) Act 1997**]**;

[[F66](b) roads authorities as defined in section 151(1) of the [M1] Roads (Scotland) Act 1984;**]**

(c) bridge authorities **[**[F67]as defined in section 147 of the New Roads and Street Works Act 1991;**]**

[[F68](d) road works authority as defined in section 108 of the New Roads and Street Works Act 1991;**]**

(e) persons on whom a right to compensation under section **[**[F69]141 of the said Act of 1991**]** is conferred.

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[F70](6) . . . . . .]

Textual Amendments

F53 Words in s. 10(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(5)(a)(i)**; S.I. 1996/323, **art. 4(1)(c)**

F54 Words in s. 10(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 7(a)(i)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F55 Words in s. 10(1) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(5)(a)(ii), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

F56 Words in s. 10(1) inserted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 7(a)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F57 Words in s. 10(1) inserted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 7(a)(iii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F58 S. 10(1A) inserted by Local Government and Planning (Scotland) Act 1982 (c. 43, SIF 81:2), **s. 57**(*a*)

F59 Words in s. 10(1A) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(5)(b)(i), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

F60 Words in s. 10(1A) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 7(b)(i)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F61 Words in s. 10(1A) inserted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(5)(b)(ii)**; S.I. 1996/323, **art. 4(1)(c)**

F62 Word in s. 10(1A) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 7(b)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F63 Words in s. 10(3) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(5)(c)**; S.I. 1996/323, **art. 4(1)(c)**

F64 S. 10(5)(6) inserted by Local Government and Planning (Scotland) Act 1982 (c. 43, SIF 81:2), **s. 57**(*b*)

F65 Words in s. 10(5)(a) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 30(1)**

F66 S. 10(5)(*b*) substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 81(3)**(*a*)

F67 Words in s. 10(5)(c) substituted (1.1.1993) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(1), **Sch. 8 Pt. IV para. 108(2)(a)**; S.I. 1992/2990, art. 2(2), **Sch. 2**

F68 S. 10(5)(d) substituted (1.1.1993) by virtue of New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(1), **Sch. 8**, Pt. IV, para. 108(2)(b); S.I. 1992/2990, art. 2(2), **Sch. 2**

F69 Words in s. 10(5)(e) substituted (4.1.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(5)(d)**; S.I. 1994/2850, **art. 3**

F70 S. 10(6) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(5)(e), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

Modifications etc. (not altering text)

C5 S. 10 modified (1.1.2015) by The Public Water Supplies (Scotland) Regulations 2014 (S.S.I. 2014/364), regs. 1(1), **45** (with reg. 1(3)(4))

Marginal Citations

M1 1984 c. 54 (**59, 108**).

11 Power of Secretary of State on default of authority or board.

(1) If—

(a) a complaint is made to the Secretary of State that **[**[F71]Scottish Water has**]** failed—

(i) to do anything which **[**[F72]it is**]** required to do by or under this Act,

(ii) to give an adequate supply of water either as respects quantity or quality within **[**[F73]its limits of supply, or has**]** failed to give any supply which **[**[F74]it has**]** been lawfully required to give, or

(iii) to take such steps as are in the circumstances reasonable to obtain new powers or to extend **[**[F75]its**]** existing powers for the purpose of remedying any such failure as is mentioned in paragraph (ii), or

(b) the Secretary of State is of opinion that an investigation should be made as to whether **[**[F76]Scottish Water has**]** failed in any of those matters,

he may cause a local inquiry to be held into the matter.

(2) If after a local inquiry has been held in pursuance of subsection (1), the Secretary of State is satisfied that there has been such a failure on the part of **[**[F77]Scottish Water**]** , he may make an order declaring **[**[F78]it**]** to be in default and directing **[**[F78]it**]** for the purpose of remedying the default to discharge such of **[**[F79]its**]** functions in such a manner and within such time or times as may be specified in the order or, as the case may be, to take such steps within such time or times as may be specified in the order to obtain new powers or to extend **[**[F80]its**]** existing powers.

(3) If **[**[F81]Scottish Water fails**]** to comply with any requirements of **[**[F82]an order made under subsection (2)**]** within the time specified therein for compliance with that requirement—

(a) [F83] . . . . . .

[[F84]or**]**

(b) the Court of Session may on the application of the Lord Advocate on behalf of the Secretary of State order specific performance of the functions and do otherwise as to the Court appears to be just.

(4) [F85] . . . . . .

(5) [F85] . . . . . .

(6) [F85] . . . . . .

(7) [F85] . . . . . .

Textual Amendments

F71 Words in s. 11(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 8(2)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F72 Words in s. 11(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 8(2)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F73 Words in s. 11(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 8(2)(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F74 Words in s. 11(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 8(2)(d)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F75 Word in s. 11(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 8(2)(e)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F76 Words in s. 11(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 8(2)(f)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F77 Words in s. 11(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 8(3)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F78 Word in s. 11(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 8(3)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

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Changes to legislation: *Water (Scotland) Act 1980 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

F79 Word in s. 11(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 8(3)(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F80 Word in s. 11(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 8(3)(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F81 Words in s. 11(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 8(4)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F82 Words in s. 11(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 8(4)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F83 S. 11(3)(a) repealed (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 8(4)(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F84 By Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 8(4)(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)** it is provided that the word "and" following s. 11(3)(a) is repealed (1.4.2002)

F85 S. 11(4)-(7) repealed (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 8(5)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

Modifications etc. (not altering text)

C6 S. 11 extended (1.10.1991) by Natural Heritage (Scotland) Act 1991 (c. 28, SIF 46:1, 130), **s. 20(6)(b)**

C7 S. 11: Transfer of functions (*temp.* from 6.5.1999 until 1.7.1999) by S.I. 1999/901, arts. 2, 5, **Sch.**; S.I. 1998/3178, **art. 3**

C8 S. 11 modified (1.1.2015) by The Public Water Supplies (Scotland) Regulations 2014 (S.S.I. 2014/364), regs. 1(1), **46(2)** (with reg. 1(3)(4))

PART III

POWERS OF WATER AUTHORITIES FOR THE PURPOSES OF WATER SUPPLY

Modifications etc. (not altering text)

C9 Pt. III (ss. 12 - 38): power to apply conferred (1.10.1991) by Natural Heritage (Scotland) Act 1991 (c. 28, SIF 46:1, 130), s. 20(10), **Sch. 7 para. 5(1)(b)**

12 Supply of water to premises outwith limits of supply.

[F86] . . . . . .

Textual Amendments

F86 S. 12 repealed (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 9** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

13 Supply of water in bulk.

(1) **[**[F87]Scottish Water**]**[F88] may enter into an agreement with any other persons [F89]. . . , for the giving by those other persons, and the taking by **[**[F90]Scottish Water**]**[F88], of a supply of water in bulk for any period and on any terms and conditions, [F91]. . .

(2) [F92]. . . . . .

(3) For the purpose of laying any pipes or installing any apparatus connected therewith, being pipes or apparatus required for giving or taking a supply of water in pursuance

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of an agreement [F93]. . . made under this section, **[**[F94]Scottish Water**]**[F95] may exercise, [F96]. . . [F95] the like powers with respect to laying mains and breaking open **[**[F97]roads**]** as are exercisable by **[**[F98]it**]** under this Act for the purpose of laying mains, but subject to the like conditions and obligations.

(4) [F99]. . . . . .

(5) [F99]. . . . . .

(6) Nothing in this section shall affect any right of a navigation authority under any enactment to prohibit, or impose restrictions on, the supply of water in bulk by **[**[F100]Scottish Water**]**[F101].

Textual Amendments

F87 Words in s. 13(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 10(2)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F88 Words in s. 13(1) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(7)(a), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

F89 Words in s. 13(1) repealed (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 10(2)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F90 Words in s. 13(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 10(2)(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F91 Words in s. 13(1) repealed (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 10(2)(d)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F92 S. 13(2) repealed (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 10(3)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F93 Words in s. 13(3) repealed (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 10(4)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F94 Words in s. 13(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 10(4)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F95 Words in s. 13(3) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(7)(c)(i), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

F96 Words in s. 13(3) repealed (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 10(4)(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F97 Word in s. 13(3) substituted (4.1.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(7)(c)(ii)**; S.I. 1994/2850, **art. 3**

F98 Word in s. 13(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 10(4)(d)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F99 S. 13(4)(5) repealed (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 10(5)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F100 Words in s. 13(6) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 10(6)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F101 Words in s. 13(6) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), **Sch. 13 para. 119(7)(d)**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

[[F102]**13A Supply of water for use outwith Scotland.**

(1) **[**[F103]Scottish Water**]** may, if for the time being **[**[F104]it is**]** satisfied that such supplies of water as are available to **[**[F105]it**]** are likely to be more than sufficient to enable **[**[F105]it**]** to fulfil **[**[F106]its**]** duties as respects the supply of water to premises in Scotland, enter into an agreement with any other person to give him, on such terms and conditions as **[**[F107]it thinks**]** and whether or not in bulk, a supply of water for use outwith Scotland.

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(2) For the purposes of laying any pipes or installing any apparatus connected therewith, being pipes or apparatus required for giving a supply of water in pursuance of an agreement entered into under subsection (1) above, **[**[F108]Scottish Water**]** may exercise, [F109]. . . , the like powers with respect to laying mains or breaking open roads as are exercisable by **[**[F110]it**]** under this Act for the purposes of laying mains, but subject to the like conditions and obligations.**]**

Textual Amendments

F102 S. 13A inserted (1.4.1996) by 1994 c. 39, **s. 107** (with s. 74(4)); S.I. 1996/323, art. 4(1)(a), **Sch. 1**

F103 Words in s. 13A(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 11(a)(i)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F104 Words in s. 13A(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 11(a)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F105 Word in s. 13A(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 11(a)(iii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F106 Word in s. 13A(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 11(a)(iv)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F107 Words in s. 13A(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 11(a)(v)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F108 Words in s. 13A(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 11(b)(i)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F109 Words in s. 13A(2) repealed (1.4.2002 subject to art. 3 of the commencing S.S.I.) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 11(b)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F110 Word in s. 13A(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 11(b)(iii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

14 Power of water authority to give guarantee for supply of water.

[[F111]Scottish Water**]** may undertake to pay to any person supplying water, or guarantee payment to any such person of, such periodical or other sums as may be agreed as a consideration for the giving by that person of a supply of water, so far as he can lawfully do so, within any part of the limits of supply of **[**[F112]Scottish Water**]**, and the execution by him of any works necessary for that purpose.

Textual Amendments

F111 Words in s. 14 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 12(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F112 Words in s. 14 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 12(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

[F113]15 . . . . . .

Textual Amendments

F113 S. 15 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(8), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

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16 Powers of survey and search for water on land.

[[F114](1) The Scottish Ministers may, on application made to them by Scottish Water, authorise it to survey, in accordance with this section—

(a) any land which it proposes to acquire for the purposes of its water undertaking or proposed water undertaking; or

(b) any land in, on or over which it is proposed to lay a water main.**]**

(2) Notice of any application under subsection (1) shall be given by **[**[F115]Scottish Water**]**[F116] to the owner and the occupier of the land, and the Secretary of State shall, before giving his authority under subsection (1), consider any representations made to him by any such owner or occupier within 14 days after the receipt of the notice.

(3) Where **[**[F117]Scottish Water is**]** authorised to survey any land under this section, any officer of **[**[F118]Scottish Water**]**[F116] authorised for the purpose shall, on producing if so required some duly authenticated document showing his authority, have a right at all reasonable hours to enter on and survey the land.

(4) Section 38(3) to (7) shall apply to any right of entry conferred by this section.

(5) Admission to any land shall not be demanded in the exercise of any right under subsection (3) unless 24 hours' notice of the intended entry has been given to the occupier; but where such notice has been given on the first occasion on which the right of entry is exercised, no further notice shall be required before entering on the land on a subsequent occasion in connection with the completion of the survey.

(6) The power to survey land under this section shall include power to carry out experimental borings or other works for the purpose of ascertaining the nature of the sub-soil or the presence of underground water therein or the quality or quantity of such water, and to reinstate the land after carrying out any such works.

(7) A person shall not carry out any works authorised by subsection (6) on land which is occupied unless at least seven days' notice of his intention to do so has been given to the occupier of the land; and if the occupier of the land objects to the proposed works on the ground that the carrying out thereof would be seriously detrimental to the carrying on of any undertaking, trade or business carried on by him on that land, the works shall not be carried out except with the authority of the Secretary of State.

(8) If any damage or injury is caused by the escape of water from any land on which works have been carried out in pursuance of this section, not being damage in respect of which compensation is payable under section 10, nothing in this section shall be construed as exonerating **[**[F119]Scottish Water**]** from any liability in respect of that damage to which **[**[F120]it**]** would be subject if the works had been carried out otherwise than in the exercise of statutory powers.

Textual Amendments

F114 S. 16(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 13(2)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F115 Words in s. 16(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 13(3)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F116 Words in s. 16(1)-(3)(8) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(9)(b), **Sch. 14**; S.I. 1996.323, art. 4(1)(c)(d), Sch. 2

F117 Words in s. 16(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 13(4)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

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F118 Words in s. 16(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 13(4)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F119 Words in s. 16(8) substituted (1.4.2002 subject to art. 3 of the commencing S.S.I.) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 13(5)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F120 Word in s. 16(8) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 13(5)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

Modifications etc. (not altering text)

C10 S. 16 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 3, Sch. 7 para. 2(1)(xxxviii), **Sch. 8 para. 33**

17 Acquisition of water rights.

(1) **[**[F121]Scottish Water**]**[F122] may acquire by agreement rights to take water from any stream or other source [F123]. . .

(2) The Secretary of State may, on the application of **[**[F124]Scottish Water**]**[F122], by order provide for the compulsorily acquisition by **[**[F125]it**]** of such rights to take water from any stream or other source as may be specified in the order; and the order may contain such incidental, consequential and supplementary provisions as the Secretary of State thinks necessary or expedient for the purposes of the order, and such provisions may (but without prejudice to the generality of this subsection) include provisions enabling **[**[F126]Scottish Water**]**[F122] to carry on any business or trade ancillary to taking of water; and where such provisions include a provision requiring the payment of compensation, the amount of such compensation shall, in case of dispute, be settled in the manner provided by the Lands Clauses Acts with reference to taking of land otherwise than by agreement.

(3) Where the acquisition of water rights by **[**[F127]Scottish Water**]**[F122] under this Part will result in the impounding of any stream—

(a) [F128]. . . . . .

(b) the Secretary of State shall, in any order for the compulsory acquisition of such rights, prescribe the quantity of compensation water to be provided by **[**[F129]Scottish Water**]**[F122], and shall incorporate in the order the appropriate provisions of **[**[F130]Part III of Schedule 4**]** subject to such modifications and adaptations as he thinks fit.

(4) Where the acquisition of water rights by **[**[F131]Scottish Water**]**[F122] under this Part will, in the opinion of the Secretary of State, substantially reduce the flow of any stream—

(a) [F132]. . . . . .

(b) the Secretary of State shall in any order for the compulsory acquisition of such rights prescribe the extent to which and the circumstances in which water may be taken.

(5) **[**[F133]Subject to subsections (5A) and (5B)**]** in assessing the quantity of compensation water to be provided under any such [F134]. . . order or in determining the extent to which and the circumstances in which water may be taken under any such [F134]. . . order, the Secretary or State shall have regard to all the circumstances of the particular case, including—

(a) the interests of public health;

(b) the character and flow of the stream;

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(c) the extent to which the stream is or may in the future be used for industrial purposes or for the purposes of any public undertaking or for fisheries, water supply by other undertakers, agriculture, transport and navigation;

(d) the effect on land drainage or on any canal or inland navigation of any alterations in the flow of the stream;

and shall secure, so far as practicable, the protection of the rights of riparian owners and of other owners of land or salmon fishings.

[[F135](5A) Before making an order for the compulsory acquisition of water rights, and in considering the matters referred to in subsections (3) to (5), the Scottish Ministers shall–

(a) obtain and have regard to the advice of the Scottish Environment Protection Agency on matters relating to the protection of the water environment (and in particular as to the extent to, and the circumstances in, which water may be taken and the quantity of compensation water to be provided); and

(b) have regard to the purposes of Part 1 of the Water Environment and Water Services (Scotland) Act 2003 (asp 3).

(5B) In the event that the provisions of an order for the compulsory acquisition of water rights which makes provision on matters relating to the protection of the water environment and the conditions of an authorisation granted under the Water Environment (Controlled Activities)(Scotland) Regulations 2005 differ, and cannot reasonably be reconciled, the relevant provisions of that order shall be treated as modified to the extent necessary to be consistent with the conditions of that authorisation.**]**

(6) [F136]. . . . . .

(7) The provisions of Part I of Schedule 1 shall apply to the making of applications and orders under subsection (2).

Textual Amendments

F121 Words in s. 17(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 14(2)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F122 Words in s. 17(1)-(4) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(10)(a)-(d), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

F123 Words in s. 17(1) omitted (1.4.2006) by virtue of The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181), art. 2, **Sch. Pt. IV** {para. 4(2)(a)} (with Sch. Pt. III para. 6)

F124 Words in s. 17(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 14(3)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F125 Word in s. 17(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 14(3)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F126 Words in s. 17(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 14(3)(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F127 Words in s. 17(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 14(4)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F128 S. 17(3)(a) and the following "or" omitted (1.4.2006) by virtue of The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181), art. 2, **Sch. Pt. IV** {para. 4(2)(b)(i)} (with Sch. Pt. III para. 6)

F129 Words in s. 17(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 14(4)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

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F130 Words in s. 17(3) substituted (1.4.2006) by The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181), art. 2, **Sch. Pt. IV** {para. 4(2)(b)(ii)} (with Sch. Pt. III para. 6)

F131 Words in s. 17(4) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 14(4)(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F132 S. 17(4)(a) and the following "or" omitted (1.4.2006) by virtue of The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181), art. 2, **Sch. Pt. IV** {para. 4(2)(c)} (with Sch. Pt. III para. 6)

F133 Words in s. 17(5) inserted (1.4.2006) by The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181), art. 2, **Sch. Pt. IV** {para. 4(2)(d)(i)} (with Sch. Pt. III para. 6)

F134 Words in s. 17(5) omitted (1.4.2006) by virtue of The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181), art. 2, **Sch. Pt. IV** {para. 4(2)(d)(ii)} (with Sch. Pt. III para. 6)

F135 S. 17(5A)(5B) inserted (1.4.2006) by The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181), art. 2, **Sch. Pt. IV** {para. 4(2)(e)} (with Sch. Pt. III para. 6)

F136 S. 17(6) omitted (1.4.2006) by virtue of The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181), art. 2, **Sch. Pt. IV** {para. 4(2)(f)} (with Sch. Pt. III para. 6)

18 Compulsory acquisition of land for water works.

(1) Subject to the provisions of this section, an order under section 17 may authorise **[**[F137]Scottish Water**]** to acquire compulsorily such land as may be necessary for the purposes of the order, being land which **[**[F138]Scottish Water**]**[F139] could be authorised to acquire under **[**[F140]section 47 of the Water Industry (Scotland) Act 2002 (asp 3)**]** .

(2) The provisions of Schedule 2 shall have effect in relation to an order under section 17 which authorises any such acquisition of land.

Textual Amendments

F137 Words in s. 18(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 15(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F138 Words in s. 18(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 15(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F139 Words in s. 18(1) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(11)(a), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

F140 Words in s. 18(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 15(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

19 . . . . . [F141]

Textual Amendments

F141 S. 19 repealed by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23, SIF 81:2), ss. 25, 41, Sch. 2 para. 39, **Sch. 4**

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[F142 20 . . . . . .

Textual Amendments

F142 S. 20 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(12), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

[F143 21 Power to carry out works.

[F144 **[** Without prejudice to any other powers which **[**F145 it**]** may have, **[**F146 Scottish Water**]** (1)**]** may, for the purposes of providing a supply of water under this Act and subject to its provisions—

(a) construct, alter, acquire by purchase, lease or otherwise, or renew or maintain, waterworks;

(b) so acquire any undertaking belonging to persons, F147 . . . , who are supplying or are authorised to supply water;

(c) so acquire premises to be used for the purposes of **[**F148 Scottish Water**]** and maintain such premises;

(d) contract with any person for a supply by him of water in bulk or otherwise; or

(e) erect and maintain a house for the use of a person employed by **[**F149 it**]** for the purposes of **[**F150 its**]** undertaking.

F151 **[** For the avoidance of doubt, all waterworks constructed in pursuance of subsection (1) (2) above (whether before or after the commencement of this subsection)vest in Scottish Water.**]]**

Textual Amendments

F143 S. 21 substituted (1.4.1996) by 1994 c, 39, s. 108 (with s. 74(4)); S.I. 1996/323, art. 4(1)(a), **Sch. 1**

F144 S. 21 renumbered as s. 21(1) (6.3.2006) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), **s. 32(1)(a)** (with s. 35(2)); S.S.I. 2006/55, **art. 2**

F145 Word in s. 21 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 16(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F146 Words in s. 21 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 16(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F147 Words in s. 21(b) repealed (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 16(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F148 Words in s. 21(c) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 16(d)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F149 Word in s. 21(e) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 16(e)(i)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F150 Word in s. 21(e) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 16(e)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F151 S. 21(2) inserted (6.3.2006) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), **s. 32(1)(b)** (with s. 35(2)); S.S.I. 2006/55, **art. 2**

22 Power to break open streets.

[F152 (1)**]** The provisions of Part I of Schedule 3 shall have effect in relation to the breaking open of **[**F153 roads**]** by **[**F154 Scottish Water**]**F155 for the purpose of carrying out any works

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which **[**[F156]it is**]** authorised to execute by or under this Act or any local enactment incorporating any provisions of Schedule 4.

[[F157](2) Paragraph 1 of Schedule 3 has effect in relation to works carried out by any person—

(a) in pursuance of an authorisation under section 23A(1), or

(b) in connection with the management, maintenance or renewal of a main or communication pipe laid by that person in pursuance of such an authorisation and vested in that person,

as it has in relation to works carried out by Scottish Water.**]**

Textual Amendments

F152 S. 22(1): s. 22 renumbered as s. 22(1) (10.7.2008) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 38(1), **sch. 4 para. 1(a)**; S.S.I. 2008/269, art. 2(d)

F153 Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 81(4)**

F154 Words in s. 22 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 17(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F155 Words in s. 22 repealed (1.4.1996) by 1994 c. 33, s. 180(1)(2), Sch. 13 para. 119(13), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

F156 Words in s. 22 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 17(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F157 S. 22(2) inserted (10.7.2008) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 38(1), **sch. 4 para. 1(b)**; S.S.I. 2008/269, art. 2(d)

23 Power to lay mains, etc.

(1) **[**[F158]Scottish Water**]** or [F159] ... may for the purposes of **[**[F160]its**]** functions lay a main—

(a) in, under or over any **[**[F161]roads**]** or under any cellar or vault below any **[**[F161]roads**]** after giving reasonable notice to **[**[F161]—

(i) where the road is a public road, the roads authority; and

(ii) in any other case, the authority or person responsible for the maintenance of the road, or, if no authority or person is so responsible, to the owners of the solum of the road,**]**, and

(b) in, on or over any land not forming part of a **[**[F162]road**]**, after giving reasonable notice to the owner and the occupier of that land;

and may from time to time inspect, repair, maintain, alter, or renew or may at any time remove a main previously laid whether by virtue of this section or otherwise.

[[F163](1ZA) Section 192 of the Local Government (Scotland) Act 1973 (c.65)(service of notices) shall apply to notices served by Scottish Water under subsection (1) above relating to land as it applies to notices served by a local authority relating to premises.**]**

[[F164](1A) If within two months after the service of a notice under subsection (1)(b) above the owner or occupier objects to **[**[F165]Scottish Water**]** about the proposed works (and that objection is not withdrawn), **[**[F166]Scottish Water**]** shall not proceed to lay the main but shall refer the matter by summary application to the sheriff, who may—

(a) grant consent to the proposed works, either unconditionally or subject to such terms and conditions as he thinks just; or

(b) withhold his consent;

and the decision of the sheriff on the matter shall be final.**]**

(2) Where **[**[F167]Scottish Water**]**[F159] ... in the exercise of **[**[F168]its**]** powers under this section lay a main in, on or over any land not forming part of a **[**[F169]road**]**, or inspect, repair, maintain, alter, renew or remove a main laid in or over any such land, **[**[F170]it**]** shall from time to time pay compensation to every person interested in that land for any damage done to or injurious affection of that land by reason of the laying, inspection, repair, maintenance, alteration, renewal or removal of the main; and any question as to the amount of compensation to be paid under this subsection shall, in case of dispute, be determined by arbitration.

[[F171](2A) In relation to a main not vested in Scottish Water, Scottish Water may recover from the person in whom the main is vested any expenses reasonably incurred by Scottish Water under subsection (1) or (2) in connection with the inspection, repair, maintenance, alteration, renewal or removal of the main.**]**

[[F171](2B) In relation to a main laid by any person in pursuance of an authorisation under section 23A(1), subsections (1) and (2) of this section, so far as relating to the inspection, repair, maintenance, alteration, renewal or removal of a main, apply to that person as they apply to Scottish Water.**]**

(3) **[**[F172]Scottish Water**]**[F159] ... may erect and maintain in any **[**[F173]road**]** notices indicating the position of underground water fittings used for controlling the flow of water through **[**[F174]its**]** mains whether laid by virtue of this section or otherwise and may affix such a notice to any house or other building, or any wall or fence.

[[F175](4) In the case of works in respect of which notice is required to be given under section 114 of the New Roads and Street Works Act 1991 (notice of starting date of road works), notice duly given to a person in accordance with that section and section 156 of that Act (service of notice) shall be treated as reasonable notice for the purposes of subsection **[**[F173](1)(a)**]** above.**]**

[[F176](5) For the avoidance of doubt, all mains laid in pursuance of subsection (1) above (whether laid before or after the commencement of this subsection) vestin Scottish Water.**]**

Textual Amendments

F158 Words in s. 23(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 18(2)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F159 Words in s. 23(1)-(3) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(14)(a)(b)(c), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

F160 Word in s. 23(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 18(2)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F161 Words substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 81(5)**(*a*)(i)

F162 Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 81(5)**(*a*)(ii)

F163 S. 23(1ZA) inserted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 18(3)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F164 S. 23(1A) inserted (1.4.1996) by 1994 c. 39, **s. 109** (with s. 74(4)); S.I. 1996/323, art. 4(1)(a), **Sch. 1**

F165 Words in s. 23(1A) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 18(4)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F166 Words in s. 23(1A) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 18(4)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F167 Words in s. 23(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 18(5)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

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F168 Word in s. 23(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 18(5)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F169 Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 81(5)**(*b*)

F170 Word in s. 23(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 18(5)(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F171 S. 23(2A)(2B) inserted (10.7.2008 for the insertion of s. 23(2B)) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), s. 38(1), **sch. 4 para. 2**; S.S.I. 2008/269, art. 2(e)

F172 Words in s. 23(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 18(6)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F173 Words in s. 23(3)(4) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119**(14(c)(ii)(d); S.I. 1996/323, **art. 4(1)(c)**

F174 Word in s. 23(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 18(6)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F175 S. 23(4) inserted (1.1.1993) by New Roads and Street Works Act 1991 (c.22, SIF 59, 108), s. 168(1), **Sch. 8**, Pt. IV, para. 108(4); S.I. 1992/2990, art. 2(2), **Sch. 2**

F176 S. 23(5) inserted (6.3.2006) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), **s. 32(2)** (with s. 35(2)); S.S.I. 2006/55, **art. 2**

[F177 23A Laying of mains and communication pipes by persons other than Scottish Water

(1) Without prejudice to sections 23 and 24 (including any power under those sections to authorise the laying of mains or communication pipes on its behalf), Scottish Water may authorise a person to lay a main or communication pipe which is to connect with a main vested in it—

(a) in, under or over any road or under any cellar or vault below any road, or

(b) in, on or over any land which does not form part of a road and is not land as respects which that person is owner, lessee or occupier.

(2) Where Scottish Water gives an authorisation to any person under subsection (1) in relation to a main, subsections (1) to (2) of section 23, so far as relating to the laying of a main shall apply in respect of that person as they apply in respect of Scottish Water.

(3) Where—

(a) a main or communication pipe (not being a main pipe or laid by or on behalf of Scottish Water) is laid by any person, and

(b) the main or pipe connects with a main vested in Scottish Water,

the main or, as the case may be, the communication pipe shall vest in Scottish Water.

(4) Notwithstanding subsection (3), Scottish Water may, before the completion of a main or communication pipe to which that subsection applies, determine that the main or pipe, or any part of it, shall vest in the person who laid it and that that person shall have sole responsibility for its management, maintenance and renewal.

(5) Scottish Water shall give notice of a determination under subsection (4) to the person who laid the main or communication pipe.

(6) Where—

(a) a main or communication pipe (not being a main or pipe laid by or on behalf of Scottish Water) is laid by any person, and

(b) the main or pipe does not connect with a main vested in Scottish Water,

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the main or, as the case may be, the communication pipe shall vest in the person who laid it, who shall have sole responsibility for its management, maintenance and renewal.

(7) Notwithstanding subsections (4) and (6), Scottish Water may at any time enter into an agreement under which the main or communication pipe in question, or any part of it, shall vest in it.

(8) An agreement under subsection (7) relating to a main or communication pipe to which subsection (3) applies—

(a) is subject to—

(i) the condition that the main or pipe shall vest in Scottish Water only if it complies with the construction standards specified by virtue of section 23B, so far as applicable,

(ii) such further conditions as Scottish Water may require to be included in the agreement by virtue of section 23C, and

(b) shall not take effect until the person who laid the main or pipe provides such security as Scottish Water may reasonably require for the performance of that person's obligations under the agreement by virtue of paragraph (a)(ii).**]**

Textual Amendments

F177 Ss. 23A-23C inserted (10.7.2008) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), **ss. 31**, 38(1) (with s. 35(2)); S.S.I. 2008/269, art. 2(b)

[F177 23B Construction standards for mains and communication pipes to vest in Scottish Water

(1) In relation to a main or communication pipe to which subsection (3) of section 23A applies, the construction standards referred to in subsection (8)(a)(i) of that section are such standards as the Scottish Ministers may, by regulations, specify.

(2) The standards which may be specified in regulations under subsection (1) include standards specified in or under other enactments.

(3) Regulations under subsection (1) may make different provision in relation to different cases or descriptions of case.

(4) Before making regulations under subsection (1) the Scottish Ministers must consult—

(a) Scottish Water, and

(b) such other persons as they consider appropriate.**]**

Textual Amendments

F177 Ss. 23A-23C inserted (10.7.2008) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), **ss. 31**, 38(1) (with s. 35(2)); S.S.I. 2008/269, art. 2(b)

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[F177 23C Vesting conditions for mains and communication pipes

(1) For the purposes of subsection (8)(a)(ii) of section 23A, Scottish Water may require the inclusion in an agreement under subsection (7) of that section of conditions ("vesting conditions") as to—

(a) any sum to be paid by Scottish Water to the person who laid the main or communication pipe in respect of its laying,

(b) the liability of that person to pay Scottish Water sums in respect of Scottish Water's costs in relation to the main or pipe, including in particular the costs of—

(i) maintaining, repairing and renewing the main or pipe and such water mains, communication pipes and other waterworks constructed, and work carried out, as are mentioned in sub-paragraph (iii),

(ii) connecting the main or pipe to a main vested in Scottish Water,

(iii) constructing such water mains, communication pipes and other waterworks, and carrying out such other work, as Scottish Water considers necessary in consequence of the connection.

(2) The Scottish Ministers may by regulations make provision as to—

(a) the provisions to be included, by virtue of subsection (1) of this section, as vesting conditions in an agreement under section 23A(7),

(b) cases in relation to which subsection (1) of this section does not apply, or applies with modifications.

(3) Regulations under subsection (2) may, in particular, make provision—

(a) for determining the sum (if any) to be paid by Scottish Water by virtue of subsection (1)(a),

(b) for determining the liability, by virtue of subsection (1)(b), of the person who laid the main or communication pipe by reference to such matters, criteria and methods of calculation as the regulations may specify,

(c) as to when sums due under the vesting conditions are payable,

(d) as to the security which Scottish Water is entitled to require under section 23A(8)(b).

(4) Regulations under subsection (2) may make different provision in relation to different descriptions of person and different cases or descriptions of case.]

Textual Amendments

F177 Ss. 23A-23C inserted (10.7.2008) by Water Environment and Water Services (Scotland) Act 2003 (asp 3), **ss. 31**, 38(1) (with s. 35(2)); S.S.I. 2008/269, art. 2(b)

24 Communication and supply pipes.

(1) Where a service pipe is required to be laid for the purpose of supplying water to premises for domestic purposes, the water authority providing the supply shall lay the communication pipe and also so much of the supply pipe as is to be laid in a [F178 road].

(2) The provisions of Part II of Schedule 3 shall apply to all water authorities.

(3) All communication pipes whether laid before or after the commencement of this Act shall vest in the water authority and the authority shall at their own expense carry out

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any necessary work of maintenance, repair or renewal of such pipes and any work on their mains incidental thereto.

(4) The water authority shall also carry out any such necessary works in the case of so much of any supply pipe as is laid in a **[**[F178]road**][**[F179]and is not, by virtue of any of subsections (5) to (8) below, vested in them**]** and may recover from the owner of the premises the expenses reasonably incurred by them in so doing, but without prejudice to the rights and obligations as between themselves of the owner and the occupier of the premises **[**[F180]and to the terms and conditions of any such agreement as is mentioned in subsection (8) below**]**.

[[F181](5) Where the laying of a supply pipe is completed after such day as the Secretary of State may under this subsection by order appoint, so much of that pipe as may lie between a communication pipe with which it connects and the curtilage of the premises supplied shall, on such completion, vest in the water authority in whom is vested the communication pipe as shall any apparatus used wholly or mainly in connection with that supply pipe; and a supply pipe in so far as so lying is, together with any apparatus so used in connection with it, referred to in the following provisions of this section as a "relevant supply pipe".

(6) Subject to subsection (7) below, on such day as the Secretary of State may by order appoint, a relevant supply pipe which is not then vested in any water authority (and whose laying is complete) shall vest in the water authority in whom the communication pipe is vested.

(7) Subsection (6) above shall have no effect in relation to any relevant supply pipe in respect of which notice is both given and not withdrawn, within the period of three months before the day appointed under that subsection—

(a) to the water authority in question by the person (or as the case may be any one of the persons) in whom the pipe is, or will immediately before that day be, vested stating that he does not wish the pipe to vest in the water authority under that subsection; or

(b) to such person (or as the case may be persons) by the water authority stating that the pipe is inappropriate for the purpose of supplying water to the premises, whether by reason of its state of repair or otherwise,

but at any time after the appointed day the person, or as the case may be persons, in whom the pipe is vested may by notice specify a day on which he desires (or they desire) that the pipe shall vest in the authority and if the pipe is on that specified day appropriate for the purpose of supplying water to the premises it shall vest accordingly.

(8) If a relevant supply pipe does not vest in a water authority by virtue of subsection (6) or (7) above, the pipe may nevertheless vest by agreement in the authority—

(a) on such terms and conditions; and

(b) as from such day after the appointed day,

as the person (or persons) and the water authority consider appropriate.

(9) The water authority shall, at their own expense, carry out any necessary work of maintenance, repair or renewal of relevant supply pipes vested in them by virtue of any of subsections (5) to (7) above; but this subsection is without prejudice to the terms and conditions of any such agreement as is mentioned in subsection (8) above.

(10) Any dispute arising under subsection (7) above as to whether—

(a) a notice under paragraph (b) of that subsection should be withdrawn as unjustified;

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(b) apparatus is used wholly or mainly in connection with a supply pipe; or

(c) on a specified day a relevant supply pipe is appropriate for the purpose of supplying water to the premises,

shall be referred by the person or persons in whom the pipe is vested to the Secretary of State, who may determine the dispute himself or, if he thinks fit, refer it for determination by arbitration.**]**

Textual Amendments

F178 Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 81(6)**

F179 Words in s. 24(4) inserted (1.4.1996) by 1994 c. 39, **s. 110(a)(i)** (with s. 74(4)); S.I. 1996/323, art. 4(1)(a), **Sch. 1**

F180 Words in s. 24(4) added (1.4.1996) by 1994 c. 39, **s. 110(a)(ii)** (with s. 74(4)); S.I. 1996/323, art. 4(1)(a), **Sch. 1**

F181 S. 24(5)-(10) added (1.4.1996) by 1994 c. 39, **s. 110(b)** (with s. 74(4)); S.I. 1996/323, art. 4(1)(a), **Sch. 1**

[F182 24A Keeping of map showing water mains, etc.

(1) **[F183** Scottish Water**]** shall keep deposited at **[F184** its**]** principal office a map showing and distinguishing so far as is reasonably practicable all water mains, communication pipes and supply pipes which are vested in **[F185** it**]** by virtue of this Act or of **[F186** the Water Industry (Scotland) Act 2002 (asp 3)**]**; and **[F187** Scottish Water**]** shall provide reasonable facilities at that office for inspection of the map by any person and shall permit a copy of the map, or of an extract of it, to be taken by a person on his paying such reasonable amount as **[F187** Scottish Water**]** may determine.

(2) **[F188** Scottish Water**]** shall keep deposited at such of **[F189** its**]** offices, other than **[F189** its**]** principal office, as **[F190** it considers**]** appropriate, a copy relevant to the office in question of part of the map mentioned in subsection (1) above; and **[F191** Scottish Water**]** shall provide the like facilities and permission in relation to the copy part, at the office at which that copy is deposited, as, under subsection (1) above, **[F192** it does**]** in relation to the map mentioned in that subsection at **[F189** its**]** principal office.

(3) For the purposes of subsection (2) above, a copy is relevant to an office if it is of such part of the map mentioned in subsection (1) above as appears to **[F193** Scottish Water**]** to be appropriate having regard to the geographical location of that office.**]**

Textual Amendments

F182 S. 24A inserted (1.4.1996) by 1994 c. 39, **s. 111** (with s. 74(4)); S.I. 1996/323, art. 4(1)(a), **Sch. 1**

F183 Words in s. 24A(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 19(2)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F184 Word in s. 24A(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 19(2)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F185 Words in s. 24A(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 19(2)(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F186 Words in s. 24A(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 19(2)(d)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F187 Words in s. 24A(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 19(2)(e)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

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F188 Words in s. 24A(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 19(3)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F189 Word in s. 24A(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 19(3)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F190 Words in s. 24A(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 19(3)(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F191 Words in s. 24A(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 19(3)(d)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F192 Words in s. 24A(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 19(3)(e)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F193 Words in s. 24A(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 19(4)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

[F194 24B Works in connection with metering

(1) This section applies where, in relation to any premises ("the premises concerned"), the conditions specified in subsection (2) are satisfied.

(2) The conditions referred to in subsection (1) are that—
- (a) Scottish Water is supplying or proposes to supply water to the premises,
- (b) such supply is or is to be by meter, and
- (c) there is a service pipe which is connected with a water main vested in Scottish Water and by which a supply of water is or could be provided to those premises.

(3) Where this section applies, Scottish Water may serve a notice on the owner of the premises concerned requiring the execution, within such period of not less than 3 months as the notice shall specify, of such of the works mentioned in subsection (4) as the notice may specify.

(4) The works referred to in subsection (3) are, in relation to the premises concerned—
- (a) works consisting of the installation and connection of any meter for use in determining the quantity of water supplied to the premises,
- (b) where a supply of water is or could be provided by the service pipe referred to in subsection (2)(c) to other premises as well as the premises concerned, works consisting of the installation, for any purpose connected with the installation or connection of such a meter, of a separate service pipe for the premises concerned, but only to the extent that such a pipe will constitute a supply pipe and is not required to be laid in a road,
- (c) works for the purpose of maintaining, repairing, disconnecting or removing—
  - (i) any meter which has been installed for use in determining the quantity of water supplied to the premises, or
  - (ii) any pipes or apparatus installed in the course of any works specified in this section, and
- (d) any other works appearing to Scottish Water to be necessary or expedient for any purpose connected with the carrying out of any works specified in paragraph (a), (b) or (c), 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.

(5) In the case of any of the works mentioned in paragraph (a) of subsection (4) and paragraph (c)(i) of that subsection so far as relating to maintenance and repair of a

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meter, Scottish Water may execute the works itself instead of requiring the owner, under subsection (3), to execute the works.

(6) If an owner upon whom a notice has been served under subsection (3) fails to comply with it, Scottish Water may itself execute the works which the owner was required by the notice to execute.

(7) Where Scottish Water has served a notice under that subsection requiring the execution of the works mentioned in paragraph (b) of subsection (4), it shall, within 14 days after those works have been executed, lay so much of the separate service pipe referred to in that paragraph as will constitute a communication pipe or a supply pipe to be laid in a road and shall make all necessary connections.

(8) Scottish Water may recover from the owner of the premises concerned any expenses reasonably incurred by it in executing any works under subsection (5), (6) or (7).

(9) Subsection (8) is without prejudice to the rights and obligations, as between themselves, of the owner and occupier of the premises.**]**

Textual Amendments

F194 S. 24B inserted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), **s. 64** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

25 Power of authority to provide public wells.

(1) A **[**[F195]local authority**]** or **[**[F196] Scottish Water**]** may construct and maintain public pumps, wells, stand-pipes or other works for supplying water for the use of the inhabitants within their **[**[F195]area**]** or, as the case may be, **[**[F197]its**]** limits of supply.

(2) **[**[F198]A local authority**]** may erect and maintain or authorise to be erected and maintained in any **[**[F199]road**]** or public place within their area [F200] any drinking fountain or trough; but **[**[F201]where the Secretary of State is the roads authority**][**[F202]there shall be no such erection by the **[**[F203]the local authority**]** without **[**[F204]his**]** consent**]** which consent shall not be unreasonably withheld.

Textual Amendments

F195 Words in s. 25(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(15)(a)**; S.I. 1996/323, **art. 4(1)(c)**

F196 Words in s. 25(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 20(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F197 Word in s. 25(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 20(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F198 Words in s. 25(2) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(15)(b)(i)**; S.I. 1996/323, **art. 4(1)(c)**

F199 Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 81(7)**(*a*)

F200 Words in s. 25(2) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(15)(b)(ii), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

F201 Words in s. 25(2) inserted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(15)(b)(iii)**; S.I. 1996/323, **art. 4(1)(c)**

F202 Words substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 81(7)**(*b*)

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F203 Words in s. 25(2) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(15)(b)(iv)**; S.I. 1996/323, **art. 4(1)(c)**

F204 Word in s. 25(2) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(15)(b)(v)**; S.I. 1996/323, **art. 4(1)(c)**

26 Power to close, or restrict use of, wells.

If a **[**[F205]local authority**]**[F206]are or Scottish Water is**]** satisfied that—

[F207](a) any public well, drinking fountain or other work within their **[**[F205]area**]** or, as the case may be, **[**[F208]its**]** limits of supply and vested in them **[**[F209]or, as the case may be, it**]** or any work constructed under section 25 is no longer required, or

(b) the water obtained therefrom is so polluted as to be injurious or dangerous to health and that it is not reasonably practicable to remedy the cause of the pollution,

they may close the well, fountain or other work or restrict the use of the water obtained from it.

Textual Amendments

F205 Words in s. 26 substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(16)(a)(b)**; S.I. 1996/323, **art. 4(1)(c)**

F206 Words in s. 26 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 21(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F207 By Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 21(b)(iii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**, it is provided that the words "or, as the case may be, it" be inserted after "they" in s. 26(a) (1.4.2002)

F208 Word in s. 26(a) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 21(b)(i)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F209 Words in s. 26(a) inserted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 21(b)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

27 Power to close, or restrict use of water from, polluted source.

(1) If **[**[F210]a local authority**]** are of opinion that the water in or obtained from any source of supply not vested in them, being water which is or is likely to be used within their area [F211] for domestic purposes or in the preparation of food or drink for human consumption, is or is likely to become so polluted as to be injurious or dangerous to health, **[**[F210]they**]** may apply to the sheriff who, after giving the person to whom the source of supply belongs and any other person alleged to have control of the source of supply an opportunity of being heard, may make—

(a) an order directing the source of supply to be permanently or temporarily closed or cut off, or

(b) an order directing the water from the the source of supply to be used for certain purposes only, or

(c) such other order as appears to him to be necessary to prevent injury or danger to the health of persons using the water or consuming food or drink prepared with or from the water.

(2) The sheriff shall hear any person using the water who claims to be heard and may cause the water to be analysed and examined at the cost of the **[**[F210]local authority**]**.

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(3) If a person on whom an order is made under this section fails to comply with it the sheriff may, on the application of the **[**[F210]local authority**]**, authorise **[**[F210]them**]** to do whatever may be necessary for giving effect to the order, and any expenses reasonably incurred by **[**[F210]them**]** in so doing may be recovered by them from the person in default.

Textual Amendments

F210 Words in s. 27(1)-(3) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(17)**; S.I. 1996/323, **art. 4(1)(c)**

F211 Words in s. 27(1) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(17)(a)(ii), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

28 Water works code.

(1) For the purpose of enabling **[**[F212]Scottish Water**]**[F213] to supply water under this Part the following provisions of Schedule 4 shall, subject to any necessary modifications, apply to this Part, that is to say—

(a) . . . . . [F214]

(b) Part V;

(c) Part VII;

(d) Part VIII; and

(e) sections 40, 41 and 45 of Part IX.

(2) For the purposes of construction of any reservoir, filter or distribution tank or works connected therewith, sections 25 to 37 of the [M2]Railways Clauses Consolidation (Scotland) Act 1845 (which relate to the temporary occupation of lands near the railway during its construction) shall apply to this Part subject to the modifications that for references to the company, to the railway and to the centre of the railway there shall be substituted respectively references to **[**[F215]Scottish Water**]**[F213], to the reservoir, filter, distribution tank or works and to the boundaries of the reservoir, filter, distribution tank or works, and for any reference to a justice or justices there shall be substituted a reference to the sheriff, and the prescribed limits shall be 200 yards from such boundaries.

Textual Amendments

F212 Words in s. 28(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 22(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F213 Words in s. 28(1)(2) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(18), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

F214 S. 28(1)(*a*) repealed by Telecommunications Act 1984 (c. 12, SIF 96), ss. 2, 109, **Sch. 7 Pt. I**

F215 Words in s. 28(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 22(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

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M2 1845 c. 33.

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29 Applications of enactments by order.

(1) The Secretary of State may by any order under section [F216]. . . 17 apply to any water undertaking to which the order relates such of the provisions contained in Schedule 4 as appear to him to be appropriate, subject to such modifications and adaptations as may be specified in the order.

(2) The Secretary of State may at any time by order apply the provisions of Schedule 4 or any of them to the undertaking of **[**[F217]Scottish Water**]**[F218], subject to such modifications and adaptations as may be specified in the order, and may by the order repeal any provision previously applicable to the undertaking to the extent to which it appears to him, having regard to the provisions of this Act which apply or are applied by the order to the undertaking, to be no longer required, or amend any provision previously applicable to the undertaking to any extent which appears to him necessary to bring it into conformity with the said provisions of this Act.

(3) The provisions of Part I of Schedule 1 shall apply to an order made under subsection (2) on the application of **[**[F219]Scottish Water**]** , and the provisions of Part II of that Schedule shall apply to an order so made without any such application.

Textual Amendments

F216 Words in s. 29(1) repealed (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 23(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F217 Words in s. 29(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 23(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F218 Words in s. 29(2)(3) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(19), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

F219 Words in s. 29(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 23(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

[F220]30 . . . . . .

Textual Amendments

F220 S. 30 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(20), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

31 Consultation with authorities in England.

(1) Where the limits of supply of **[**[F221]Scottish Water**]** adjoin any part of England and it appears to **[**[F222]Scottish Water**]** that there may be water in watercourses or underground strata in that part of England, or in the limits of supply, which could be transferred from that part of England to the limits of supply, or from the limits of supply to that part of England, as the case may be, **[**[F223]Scottish Water**]** shall, insofar as **[**[F224]it considers**]** it appropriate to do so, consult with

[[F225](a)**]** the **[**[F226]water undertakers**]** and other appropriate authorities in that part of England with a view to securing the best use of that water in the public interest **[**[F227]; and

[the Scottish Environment Protection Agency.**]]**

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[F228](b)

(2) In subsection (1) the reference to water in underground strata shall be construed as a reference to water contained in strata subjacent to the surface of any land otherwise than in a sewer, pipe, reservoir, tank or other underground works constructed in any such strata.

Textual Amendments

F221 Words in s. 31(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 24(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F222 Words in s. 31(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 24(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F223 Words in s. 31(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 24(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F224 Words in s. 31(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 24(d)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F225 "(a)" inserted (1.10.1991) by Natural Heritage (Scotland) Act 1991 (c. 28, SIF 46:1, 130), s. 27(1), **Sch. 10 para. 9(2)(a)**

F226 Words substituted by Water Act 1989 (c. 15, SIF 130), s. 190, **Sch. 25 para. 60(1)** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)

F227 Word ";and"and s. 31(1)(b) inserted (1.10.1991) by Natural Heritage (Scotland) Act 1991 (c. 28, SIF 46:1, 130), s. 27(1), **Sch. 10 para. 9(2)(b)**

F228 S. 31(1)(b) substituted (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 34(2)**; S.I. 1996/186, **art. 3**

32 Power of water undertakers to supply water to water authorities.

(1) Any person supplying water, whether under statutory powers or not, may—

(a) contract to supply water to **[**[F229]Scottish Water**]**; or

(b) [F230] sell or lease to **[**[F229]Scottish Water**]** all or any of his waterworks and all his rights, powers and privileges attaching thereto but subject to all liabilities attaching thereto.

[F231](2) . . . . . .

Textual Amendments

F229 Words in s. 32(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 25** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F230 Words in s. 32(1)(b) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(21)(a), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

F231 S. 32(2) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(21)(b), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

33 Temporary discharge of water into watercourses.

(1) Subject to this section **[**[F232]where Scottish Water is carrying out or is**]** about to carry out the construction, alteration, repair, cleaning or examination of any reservoir, well or borehole, line of pipes or other work forming part of **[**[F233]its**]** undertaking **[**[F234], it**]** may cause the water therein to be discharged into any available watercourse, and for that purpose may lay and maintain in any **[**[F235]road**]** or in any land not forming

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part of a **[**[F235]road**]**, [F236]. . . [F237], all necessary discharge pipes and apparatus; and such statutory provisions with respect to the breaking open of **[**[F235]roads**]** as are applicable to **[**[F238]Scottish Water**]**[F237] shall, with any necessary modifications and adaptations, apply accordingly.

(2) The power conferred by subsection (1) to lay and maintain discharge pipes and apparatus in land, other than land forming part of a **[**[F239]road**]**, shall not be exercised unless reasonable notice has been given to the owner and the occupier of that land.

(3) Except in a case of emergency and except insofar as may be otherwise agreed in writing between **[**[F240]Scottish Water**]**[F241] and the authority or board concerned, **[**[F240]Scottish Water**]**[F241] shall—

(a) not less than seven days before commencing to discharge any such water through a pipe exceeding nine inches in diameter, give notice of **[**[F242]its**]** intentions

[[F243](i)**]** to the fishery district board of any fishery district within which

[F244](ii) . . . . . .

any watercourse into which the water is to be discharged is situated; **[**[F245]and

(ii) to the Scottish Environment Protection Agency.**]**

(b) have due regard to any representations which may be made to **[**[F246]it**]** as to the time, mode and rate of discharge with a view to avoiding or minimising injury or inconvenience therefrom; and

(c) where the water is to be discharged into any river, canal or other inland navigation in respect of which a navigation authority exercise functions, not discharge the water without the written approval of the navigation authority, or except at such times as that authority may approve and in a manner approved by **[**[F247]it**]** as not likely to injure the river, canal or navigation or the banks thereof, or interfere with traffic thereon.

(4) Whenever **[**[F248]Scottish Water proposes**]** to discharge water on a number of occasions during a period, the giving by **[**[F249]it**]** of a general notice to that effect, accompanied by such particulars as it is reasonably practicable for **[**[F249]it**]** to give, shall constitute sufficient compliance by **[**[F250]it**]** with the provisions of subsection (3)(a).

(5) In the case of a river, subsection (3)(c) shall not apply if the point of discharge into the river is more than three miles above the limits within which the navigation authority exercise jurisdiction.

(6) An approval under subsection (3)(c)—

(a) shall not be withheld unreasonably, and any question whether it is withheld unreasonably or not shall be determined by the Secretary of State;

(b) shall be deemed to have been given unless notice of disapproval is given to **[**[F251]Scottish Water**]**[F252] within seven days after the making of the application for the approval.

(7) If **[**[F253]Scottish Water is**]** requested by—

(a) the owner or occupier or any land which abuts on a watercourse at a point within three miles of any work of **[**[F254]Scottish Water**]**[F252] from which water may be discharged into that watercourse under this section, or

(b) the clerk to any association of mill owners any of whose constituent members is such an owner or occupier, or

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(c) the owner or occupier of a salmon fishing on a watercourse at such a point if such watercourse is within a fishery district for which no fishery district board has been constituted,

to register him for the purposes of this section, **[**[F254]Scottish Water**]**[F252] shall enter his name and address in a register kept by **[**[F255]it**]** for the purpose and, so long as his name and address appear in the register, shall, except in a case of emergency and except insofar as may be otherwise agreed with him in writing, and unless the point at which the water is to be discharged is situated downstream of the land in respect of which he is so registered, send to him in respect of that watercourse the like notices as **[**[F256]it is**]**(in the absence of any emergency or agreement to the contrary) required under subsection (3)(a) to send to a fishery district board.

(8) Except insofar as may be otherwise agreed in writing, where **[**[F257]Scottish Water discharges**]** water during an emergency, **[**[F258]it**]** shall forthwith give to the boards, authorities and persons registered under subsection (7) notice of such discharge and such further particulars relating to it as may reasonably be required.

(9) **[**[F259]Scottish Water**]**[F252] shall take all necessary steps to secure that any water discharge by **[**[F260]it**]** under the provisions of this section shall be as free as reasonably practicable from mud and silt, from solid, polluting offensive or injurious matter and from any matter prejudicial to fish or spawn or to spawning beds or food of fish.

(10) A power conferred by this section shall not be exercised so as to damage or injuriously affect any works or other property of a railway company or navigation authority or so as to flood or damage any **[**[F261]public road**]**.

(11) In the exercise of the powers conferred by this section **[**[F262]Scottish Water**]**[F252]shall do as little damage as possible and shall pay compensation to all persons for any damage sustained by them or liability to which they may become subject by reason of the exercise of those powers; and for the purposes of this subsection any extra expenditure which it becomes reasonably necessary for any public authority to incur for the purpose of properly discharging their statutory functions shall be deemed to be damage sustained by them.

(12) Any question as to the amount of the compensation to be paid under subsection (11) shall in case of dispute be determined by arbitration.

Textual Amendments

F232 Words in s. 33(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 26(2)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F233 Word in s. 33(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 26(2)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F234 Word in s. 33(1) inserted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 26(2)(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F235 Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 81(8)(a)**

F236 Words in s. 33(1) repealed (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 26(2)(d)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F237 Words in s. 33(1) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(22)(a), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

F238 Words in s. 33(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 26(2)(e)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F239 Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 81(8)(b)**

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F240 Words in s. 33(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 26(3)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F241 Words in s. 33(3) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(22)(b), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

F242 Word in s. 33(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 26(3)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F243 "(i)" inserted (1.10.1991) by Natural Heritage (Scotland) Act 1991 (c. 28, SIF 46:1, 130), s. 27(1), **Sch. 10 para. 9(3)(a)**

F244 S. 33(3)(a)(ii) and preceding word "and" (which were inserted (1.10.1991) by Natural Heritage (Scotland) Act 1991 (c. 28, SIF 46:1, 130), s. 27(1), **Sch. 10 para. 9(3)(b)**) repealed (1.4.1996) by 1995 c. 25, s. 120, Sch. 22 para. 34(3)(a), **Sch. 24**; S.I. 1996/186, **art. 3**

F245 S. 33(3)(a): sub-para. (ii) and preceding word "and" inserted at the end of para. (a) (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 34(3)(b)**; S.I. 1996/186, **art. 3**

F246 Word in s. 33(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 26(3)(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F247 Words in s. 33(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 26(3)(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F248 Words in s. 33(4) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 26(4)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F249 Word in s. 33(4) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 26(4)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F250 Words in s. 33(4) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 26(4)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F251 Words in s. 33(6)(b) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 26(5)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F252 Words in s. 33(6)(b)(7)(9)(11) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(22)(c), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

F253 Words in s. 33(7) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 26(6)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F254 Words in s. 33(7) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 26(6)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F255 Word in s. 33(7) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 26(6)(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F256 Words in s. 33(7) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 26(6)(d)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F257 Words in s. 33(8) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 26(7)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F258 Word in s. 33(8) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 26(7)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F259 Words in s. 33(9) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 26(8)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F260 Word in s. 33(9) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 26(8)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F261 Words substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 81(8)(c)**

F262 Words in s. 33(11) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 26(9)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

34 Persons supplying water to supply to authority.

Any person supplying water within the limits of supply of **[**[F263]Scottish Water**]** shall furnish such supply to **[**[F264]Scottish Water**]** as **[**[F265]it**]** may require and as it is reasonably practicable for that person to provide, and that on such terms and conditions as may be

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agreed between him and [F266Scottish Water] ; and, if they fail to agree, the amount of the supply and terms and conditions of the supply shall be determined by the Secretary of State or if he thinks fit, referred for determination to an arbiter appointed by him.

Textual Amendments

F263 Words in s. 34 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 27(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F264 Words in s. 34 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 27(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F265 Word in s. 34 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 27(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F266 Words in s. 34 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 27(d)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

35 Power to supply water fittings.

(1) [F267Scottish Water] may, on the request of any person to whom [F268it supplies or proposes] to supply water, supply to him F269 any such water fittings as are required or allowed by [F270its] byelaws and may, on such request, install, repair or alter (but not manufacture) any such water fittings, whether supplied by [F271it] or not, and may provide any materials and do any work required in connection with installation, repair or alteration of water fittings.

[F272Scottish Water] may make such charges as may be agreed, or in default of agreement as may be reasonable, for any fittings supplied, or any materials provided or work done under this subsection, and may recover such charges.

(2) If any fittings [F273supplied otherwise than by sale] by [F274Scottish Water] bear either a distinguishing plate affixed thereto, or a distinguishing brand or other mark conspicuously impressed or made thereon, sufficiently indicating [F274Scottish Water] as the actual owners of the fittings, those fittings—

(a) shall, notwithstanding that they fixed to some part of the premises in which they are situated or that they be laid in the soil thereunder, continue to be the property of, and removable by, [F275Scottish Water] ; and

(b) shall not be subject to [F276any] diligence or to the landlord's hypothec for rent, or be liable to be taken under any process of law or in any proceedings in bankruptcy against the persons in whose possesion they may be.

(3) Nothing in subsection (2) shall affect the valuation for rating of any lands and heritages.

F277(4) . . . . . .

[F278(5) If any person—

(a) so interferes with a meter used by [F279Scottish Water] 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 [F280Scottish Water] , 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

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(c) otherwise wilfully or negligently injures or suffers to be injured any water fitting belonging to **[**[F279]Scottish Water**]** ,

he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.**]**

Textual Amendments

F267 Words in s. 35(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 28(a)(i)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F268 Words in s. 35(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 28(a)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F269 Words in s. 35(1) ceased to have effect (1.4.1993) by virtue of Local Government Finance Act 1992 (c. 14), s. 107, **Sch. 11**, Pt. IV, para. 30(a) (with s. 118(1)(2)(4)); S.I. 1993/575, **art. 2(b)**

F270 Word in s. 35(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 28(a)(iii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F271 Word in s. 35(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 28(a)(iv)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F272 Words in s. 35(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 28(a)(v)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F273 Words in s. 35(2) substituted (1.4.1993) by Local Government Finance Act 1992 (c. 14), s. 107, **Sch. 11**, Pt. IV, para. 30 (b) (with s. 118(1)(2)(4)); S.I. 1993/575, **art. 2(b)**

F274 Words in s. 35(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 28(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F275 Words in s. 35(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 28(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F276 Word in s. 35(2)(b) substituted (30.12.2002) by Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17), ss. 61, 64(2), **Sch. 3 Pt. 1 para. 12** (with s. 63)

F277 S. 35(4) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(23), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

F278 S. 35(5) substituted (1.4.1993) by Local Government Finance Act 1992 (c. 14), s. 107, **Sch. 11**, Pt. IV, para. 30(c) (with s. 118(1)(2)(4)); S.I. 1993/575, **art. 2(b)**

F279 Words in s. 35(5) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 28(c)(i)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F280 Words in s. 35(5) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 28(c)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

36 Power to execute work on behalf of owner or occupier.

[[F281]Scottish Water**]** may by agreement with the owner or occupier of any premises execute at his expense any work in connection with the laying, maintenance, repair, alteration, renewal or removal of any water pipe, cock or meter which he is required or entitled to execute by or under this Act or any local enactment incorporating any provisions of Schedule 4, and for that purpose shall have all such rights as he has and may provide necessary materials.

Textual Amendments

F281 Words in s. 36 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 29** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

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37 Power to require occupier to permit works to be executed by owner.

If on a complaint by the owner of any premises it appears to the sheriff that the occupier of those premises prevents the owner from executing any work which he is required to execute by or under this Act or any local enactment incorporating any provisions contained in Schedule 4 or by or under any byelaws made under this Act or under any such enactment, the sheriff may authorise the owner to enter for the purpose of executing the work.

38 Entry of premises.

(1) Subject to the provisions of this section, an authorised officer of **[**[F282]Scottish Water**]**[F283] . . . shall, on producing if so required some duly authenticated document showing his authority, have a right to enter any premises at all reasonable hours—

[[F284](aa) where the conditions set out in subsection (2) of section 24B are satisfied in relation to the premises, for the purpose of carrying out any survey or tests to determine—

(i) whether the carrying out of any works by virtue of paragraph (a) or (b) of subsection (4) of that section 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 subsection should be carried out;

(ab) for the purpose of inspecting, examining or testing—

(i) any meter which is on the premises and which is used by Scottish Water for measuring the quantity of water supplied, or

(ii) any pipes or apparatus installed in the course of any works which were carried out for any purpose which is connected with the installation, connection, testing, maintenance or repair of any such meter;

(ac) for the purpose of ascertaining from any such meter the quantity of water supplied to the premises;**]**

(b) for the purpose of ascertaining whether there is or has been on or in connection with the premises any contravention of the provisions of this Act or of any byelaws made thereunder;

(c) for the purpose of ascertaining whether or not circumstances exist which would authorise **[**[F285]Scottish Water**]**[F283] . . . to take any action or execute any work under this Act or any such byelaws;

(d) for the purpose of taking any action or executing any work authorised or required by this Act or any such byelaws to be taken or executed by **[**[F285]Scottish Water**]**[F283] . . . .

(2) Admission to any premises, not being a factory within the meaning of the [M3]Factories Act 1961 or a place in which persons are employed otherwise than in domestic service, shall not be demanded as of right unless 24 hours' notice of the intended entry has been given to the occupier.

(3) If it is shown to the satisfaction of the sheriff, or a justice having jurisdiction in the place, on a sworn information in writing—

(a) that admission to any premises which any person is entitled to enter by virtue of such a right of entry has been refused to that person, or that refusal is apprehended, or that the premises are unoccupied, or the occupier is

temporarily absent, or that the case is one of urgency, or that the application for admission would defeat the object of the entry; and

(b) that there is reasonable ground for entry into the premises for any purpose for which the right of entry is exercisable;

the sheriff or justice may by warrant under his hand authorise that person to enter the premises if need be by force:

Provided that such a warrant shall not be issued unless the sheriff or justice is satisfied either that notice of intention to apply for a warrant has been given to the occupier, or that the premises are unoccupied, or that the occupier is temporarily absent, or that the case is one of urgency, or that the giving of such notice would defeat the object of the entry.

(4) Any person entitled to enter any premises by virtue of such a right of entry, or of a warrant issued under this section, may take with him such other persons as may be necessary, and on leaving any unoccupied premises which he has entered by virtue of such a warrant shall leave them as effectually secured against trespassers as he found them.

(5) Every warrant granted under this section shall continue in force until the purpose for which the entry is necessary has been satisfied.

(6) If any person who, in compliance with any of the provisions of this Act or with a warrant issued thereunder, is admitted into any premises makes use of or discloses to any person any information obtained by him there with regard to any manufacturing process or trade secret, he shall, unless such use or disclosure was made in the performance of his duty, be liable in respect of each offence—

(a) on summary conviction, to a fine not exceeding **[**[F286]the statutory maximum**]** or to imprisonment for a term not exceeding three months or to both such fine and imprisonment;

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

(7) Any person who wilfully obstructs any person upon whom a right of entry has been conferred by any of the provisions of this Act or by a warrant issued under this section shall in respect of each offence be liable on summary conviction to a fine not exceeding **[**[F287]level 3 on the standard scale**]**.

(8) This section, except subsection (6), shall not apply to any right conferred by section 93.

[[F288](9) This section does not apply in relation to the purposes mentioned in section 76M(1).**]**

Textual Amendments

F282 Words in s. 38(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 30(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F283 Words in s. 38(1)(a)(c)(d) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(24), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

F284 S. 38(1)(aa)-(ac) substituted for s. 38(1)(a) (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 30(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F285 Words in s. 38(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 30(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F286 Words substituted by Criminal Justice Act 1982 (c. 48, SIF 39:1), **Sch. 15 para. 23**

Status: *Point in time view as at 27/10/2017.*
Changes to legislation: *Water (Scotland) Act 1980 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

F287 Words in s. 38(7) substituted by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21), ss. 289G, 289H, **Sch. 7D** (as inserted by Criminal Justice Act 1982 (c. 48), s. 54, **Sch. 6**, which Sch. 6 was repealed (1.4.1996) by 1995 c. 40, ss. 6, 7(2), **Sch. 5**) and those same words substituted (1.4.1996) by 1995 c. 40, ss. 3, 7(2), Sch. 1 para. 10, **Sch. 2 Pt. III**

F288 S. 38(9) inserted (10.6.2013 for specified purposes, 21.12.2013 in so far as not already in force) by Water Resources (Scotland) Act 2013 (asp 5), **ss. 30(1)**, 56(1)(2); S.S.I. 2013/163, art. 3, sch., S.S.I. 2013/342, at. 2(b)

Modifications etc. (not altering text)

C11 S. 38(1)–(7) applied with modifications by Local Government (Scotland) Act 1973 (c. 65, SIF 81:2), **s. 170B(2)** (as inserted by Electricity Act 1989 (c. 29, SIF 44:1), s. 102, **Sch. 13**)

Marginal Citations

M3 1961 c. 34.

PART IV

FINANCE

39 . . . . . F289

Textual Amendments

F289 S. 39 repealed by Abolition of Domestic Rates Etc. (Scotland) Act 1987 (c. 47, SIF 81:2, 103:2), s. 34, **Sch. 6**

F290 40 . . . . . .

Textual Amendments

F290 S. 40 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(25), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

F291 41 . . . . . .

Textual Amendments

F291 S. 41 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(25), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

[F292 41A Supply of water by meter.

The occupier of premises to which water is supplied shall have the option, provided that he has (if he is not himself the owner of the premises) the consent of the owner, of taking the supply by meter; but the exercise of that option shall be conditional upon—

Status: *Point in time view as at 27/10/2017.*
Changes to legislation: *Water (Scotland) Act 1980 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) the payment by the occupier of any reasonable charges made by **[**[F293]Scottish Water**]** under section 35 of this Act; and

(b) the acceptance by him of such reasonable terms and conditions as may be published by **[**[F294]Scottish Water**]** 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 to arbitration.**]**

Textual Amendments

F292 S. 41A substituted (1.4.1996) by 1994 c. 39, **s. 112** (with s. 74(4)); S.I. 1996/323, **art. 4(1)(c)**

F293 Words in s. 41A(a) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 31(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F294 Words in s. 41A(b) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 31(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

[F295]42 . . . . . .

Textual Amendments

F295 S. 42 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(26), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

[F296]43 . . . . . .

Textual Amendments

F296 S. 43 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(26), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

44, 45. . . . . . .[F297]

Textual Amendments

F297 Ss. 44, 45 repealed by Abolition of Domestic Rates Etc. (Scotland) Act 1987 (c. 47, SIF 81:2, 103:2), s. 34, **Sch. 6**; and ss. 44, 45 expressed to be repealed (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1996/323, art. 4(1)(d), **Sch. 2**

[F298]46 . . . . . .

Status: *Point in time view as at 27/10/2017.*
Changes to legislation: *Water (Scotland) Act 1980 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F298 S. 46 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(26), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

47 Domestic water rate in certain cases.

[[F299](1) Subject to section 41A of this Act, no charge shall be fixed, demanded or recovered for a supply of water to premises to which a water authority were, immediately before 16th May 1949, by virtue of any enactment or agreement, under an obligation to provide such a supply free of charge.**]**

(2) Where by virtue of any local enactment in force immediately before 16th May 1949 the domestic water rate was **[**[F300], for a period specified in that enactment, leviable in any area so specified**]** at an amount per pound determined by the local enactment (whether as an amount per pound **[**[F300]so specified**]** or as an amount per pound being a proportion so specified of the amount per pound at which the domestic water rate would otherwise be payable, or otherwise), **[**[F301]any charge payable in the area in question for a supply of water in any period commencing after 31st March 1996 (the "transfer date" for the purposes of Part II of the Local Government etc. (Scotland) Act 1994 and of this subsection) shall, during the period so specified, bear the same proportion to the charge which (but for this subsection) would be payablefor that supply under a charges scheme, as the non-domestic water rate payable there as at the transfer date by virtue of the local enactment and of this subsection (as it had effect on the transfer date) bore to the non-domestic water rate which would otherwise have been payable.**]**

(3) **[**[F302]Where, by virtue of any enactment or agreement in force immediately before 16th May 1949, a water authority were under an obligation to provide a supply of water to any premises**]** on terms more favourable to the person having the vested interest in the obligation than those which, apart from the obligation, would have been applicable under the enactments in force immediately before that date relating to the supply of water by the authority in the limits of supply in which the premises are situated, [F303] the supply shall continue to be provided on the following, and no other, terms, that is to say—

(a) where immediately before 16th May 1949 there was leviable under such an enactment a rate other than a public water rate, on such terms as may be agreed between the authority and the person having the vested interest in the obligation;

(b) in any other case on the terms on which immediately before that date it was provided under the enactment or agreement.

(4) In determining for the purposes of the foregoing provisions of this section whether a supply of water provided under any enactment or agreement in force immediately before 16th May 1949 was provided free of charge or was such a supply as is mentioned in subsection (3), or in determining the sum which by virtue of that subsection is to be paid in respect of such a supply, no account shall be taken of any public water rate levied under any such enactment in respect of the premises so supplied or of any undertaking (other than an undertaking to pay a rate or a charge) entered into by the person having the vested interest in the obligation in consideration of which the supply was provided.

(5) Any question arising under this section whether a water authority are required to provide a supply of water free of charge, or whether a supply is such a supply as is mentioned in subsection (3), or as to the terms on which a supply was provided immediately before 16th May 1949, or on which by virtue of this section a supply is to continue to be provided or otherwise, shall, in default of agreement, be referred to the Secretary of State, and the Secretary of State may determine it himself or, if he thinks fit, may refer it for determination by arbitration.

(6) In this section the expression "public water rate" means in relation to any supply any rate called the public water rate in the local enactment by virtue of which the supply is provided on special terms.

[[F304](7) Nothing in subsection (1) shall be construed as continuing any exemption, and nothing in subsection (3) as continuing any advantage, where under the enactment or agreement in question the obligation which gives rise to the exemption or advantage ceases to exist.**]**

Textual Amendments

F299 S. 47(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(27)(a)**; S.I. 1996/323, **art. 4(1)(c)**

F300 Words in s. 47(2) substituted (1.4.1996) by 1996 c. 39, s. 180(1), **Sch. 13 para. 119(27)(b)(i)(ii)**; S.I. 1996/323, **art. 4(1)(c)**

F301 Words in s. 47(2) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(27)(b)(iii)**; S.I. 1996/323, **art. 4(1)(c)**

F302 Words in s. 47(3) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(27)(c)(i)**; S.I. 1996/323, **art. 4(1)(c)**

F303 Word in s. 47(3) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(27)(c)(ii), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

F304 S. 47(7) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(27)(d)**; S.I. 1996/323, **art. 4(1)(c)**

[F305]48 . . . . . .

Textual Amendments

F305 S. 48 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(28), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

[F306]49 . . . . . .

Textual Amendments

F306 S. 49 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(28), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

50 Power to require supply by meter.

Status: *Point in time view as at 27/10/2017.*
Changes to legislation: *Water (Scotland) Act 1980 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[[F307](1)**]** **[**[F308]Scottish Water**]** shall not be bound to supply with water otherwise than by meter—

(a) any premises whereof part is used as a dwelling house and part for any business, trade or manufacturing purpose for which water is required;

(b) any public institution, hospital, asylum [F309]. . . , sanatorium, school, club, hostel, camp, assembly hall, place of public entertainment, hotel or restaurant or any licensed premises for which a licence is required under the Licensing (Scotland) Act **[**[F310]2005 (asp 16)**]**;

[[F311](bb) accommodation provided by a care home service (as defined by **[**[F312]paragraph 2 of schedule 12 to the Public Services Reform (Scotland) Act 2010**]** (asp 8);**]**

(c) any boarding-house capable of accommodating 12 or more persons, including the persons usually resident therein; [F313]. . .

(d) any premises which are used solely for business, trade or manufacturing purposes and in which a supply of water for domestic purposes only is required.**[**[F314]; or

(e) any other premises specified, or of a description specified, in an order made by the Scottish Ministers.

(2) Before making an order under subsection (1)(e) the Scottish Ministers shall consult such persons as they think fit.

(3) The power to make such an order shall be exercisable by statutory instrument; and a statutory instrument containing such an order shall be subject to annulment in pursuance of a resolution of the Scottish Parliament.**]**

Textual Amendments

F307 S. 50 renumbered as s. 50(1) (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 32(2)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F308 Words in s. 50(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 32(3)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F309 Words in s. 50(b) repealed (1.4.2002) by 2001 asp 8, s. 79, Sch. 3 para. 8(a); S.S.I. 2002/162, arts. 1(1), **2(f)(h)**

F310 Words in s. 50(1)(b) substituted (1.9.2009 at 5.00 a.m.) by Licensing (Scotland) Act 2005 (asp 16), s. 150(2), **sch. 6 para. 4** (with s. 143); S.S.I. 2007/472, art. 3

F311 S. 50(bb) inserted (1.4.2002) by 2001 asp 8, s. 79, Sch. 3 para. 8(b); S.S.I. 2002/162, arts. 1(1), **2(f)(h)**

F312 Words in s. 50(1)(bb) substituted (1.4.2011) by The Public Services Reform (Scotland) Act 2010 (Consequential Modifications) Order 2011 (S.S.I. 2011/211), art. 1, **sch. 1 para. 4**

F313 Word in s. 50(1) repealed (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 32(3)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F314 S. 50(1)(e)(2)(3) and preceding word inserted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 32(4)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

51 Power to require supplies for refrigerating apparatus, etc., to be taken by meter.

Where a person who takes a supply of water for domestic purposes from **[**[F315]Scottish Water**]** otherwise than by meter desires to use any of the water so supplied—

(a) for operating a water-cooled or refrigerating apparatus;

(b) for operating any apparatus depending while in use upon a supply of continuously running water, not being an apparatus used solely for heating the water; or

Status: *Point in time view as at 27/10/2017.*
Changes to legislation: *Water (Scotland) Act 1980 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(c) for cleaning, regenerating or supplying motive power to an apparatus used for softening water,

[[F316]Scottish Water**]** may require that all water so supplied shall be taken by meter.

Textual Amendments

F315 Words in s. 51 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 33(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F316 Words in s. 51 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 33(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

52 Power to require supply for hose pipe to be taken by meter.

Where water which **[**[F317]Scottish Water supplies**]** for domestic purposes is used by means of a hosepipe or similar apparatus for watering a garden or for horses, washing vehicles or other purposes in stables, garages or other premises where horses or vehicles are kept, **[**[F318]Scottish Water**]** may require that all water so supplied shall be taken by meter.

Textual Amendments

F317 Words in s. 52 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 34(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F318 Words in s. 52 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 34(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

53 Provision as to supply to tents, vans, sheds, etc.

(1) No person shall be entitled to demand or to continue to receive from **[**[F319]Scottish Water**]** a supply of water to any habitation to which this subsection applies unless he has—

(a) agreed with **[**[F320]Scottish Water**]** to take a supply of water by meter and to pay to **[**[F321]it**]** such minimum annual sum as will give **[**[F321]it**]** a reasonable return on the capital expenditure incurred by **[**[F321]it**]** in providing the required supply and will cover other standing charges incurred by **[**[F321]it**]** in order to meet the possible maximum demand for his habitation, and will yield a reasonable return on the cost of the water supplied; and

(b) secured to the reasonable satisfaction of **[**[F322]Scottish Water**]** by way of deposit or otherwise, payment of such a sum as may be reasonable having regard to his possible maximum demand for water.

The annual sum to be so paid and the security to be so given shall be determined, in default of agreement, by the sheriff, whose decision shall be final.

(2) The habitations to which subsection (1) applies are tents, vans or other conveyances, whether on wheels or not, and sheds or similar structures.

(3) . . . . . [F323]

Status: *Point in time view as at 27/10/2017.*
Changes to legislation: *Water (Scotland) Act 1980 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F319 Words in s. 53(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 35(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F320 Words in s. 53(a) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 35(b)(i)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F321 Word in s. 53(1)(b) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 35(b)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F322 Words in s. 53(1)(b) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 35(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F323 S. 53(3) repealed by Abolition of Domestic Rates Etc. (Scotland) Act 1987 (c. 47, SIF 81:2, 103:2), s. 34, **Sch. 6**

54 Register of meter to be evidence.

(1) Where **[**[F324]Scottish Water supplies**]** water by meter, the register of the meter shall be **[**[F325]sufficient**]** evidence of the quantity of water supplied

[F326](2) . . . . . .

(3) If the meter on being tested is proved to register incorrectly to any degree exceeding **[**[F327]five per cent**][**[F327]the relevant percentage**]**—

(a) the meter shall be deemed to have registered incorrectly to that degree since the last occasion but one before the date of the test on which a reading of the index of the meter was taken by **[**[F328]Scottish Water**]** , unless it is proved to have begun to register incorrectly on some later date; and

(b) the amount of any refund to be made to, or of any extra payment to be made by, the consumer shall be paid or allowed by **[**[F328]Scottish Water**]** or paid by the consumer, as the case may be, [F329].

[[F330](4) In subsection (3), "the relevant percentage" means—

(a) in the case of a high flow rate, 2.5%,

(b) in the case of a low flow rate, 6%.**]**

[[F330](5) The Scottish Ministers, by regulations—

(a) must define "high flow rate" and "low flow rate" for the purpose of subsection (4),

(b) may amend a percentage figure appearing in subsection (4).**]**

Textual Amendments

F324 Words in s. 54(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 36(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F325 Word substituted by Abolition of Domestic Rates Etc. (Scotland) Act 1987 (c. 47, SIF 81:2, 103:2), s. 25, **Sch. 5 Pt. IV para. 43**

F326 S. 54(2) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(29)(a), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

F327 Words in s. 54(3) substituted (10.6.2013 for specified purposes) by Water Resources (Scotland) Act 2013 (asp 5), **ss. 29(a)**, 56(1)(2); S.S.I. 2013/163, art. 3, sch.

F328 Word in s. 54(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 36(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F329 Words in s. 54(3)(b) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(29)(b), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

F330 S. 54(4)(5) inserted (10.6.2013 for specified purposes) by Water Resources (Scotland) Act 2013 (asp 5), **ss. 29(b)**, 56(1)(2); S.S.I. 2013/163, art. 3, sch.

55 Charges for water supplied by meter.

(1) **[**[F331]Scottish Water**]** shall prepare and maintain a schedule of the terms and conditions **[**[F332], other than as respects charges,**]** on which **[**[F333]it is**]** prepared in general to give a supply of water by meter or otherwise, and that schedule shall be published in such manner as in the opinion of **[**[F334]Scottish Water**]** will secure adequate publicity for it.

(2) Nothing in the foregoing subsection shall be construed as prejudicing the rights or duties under section 9 of **[**[F335]Scottish Water**]** or of any person supplied or proposed to be supplied by **[**[F336]it**]** under that section.

(3) [F337]. . . . . .

(4) [F337]. . . . . .

Textual Amendments

F331 Words in s. 55(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 37(2)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F332 Words in s. 55(1) inserted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(30)(a)**; S.I. 1996/323, **art. 4(1)(c)**

F333 Words in s. 55(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 37(2)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F334 Words in s. 55(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 37(2)(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F335 Words in s. 55(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 37(3)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F336 Words in s. 55(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 37(3)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F337 S. 55(3)(4) repealed (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 37(4)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

56 Provisions as to supply of water to agricultural subjects.

(1) Where a supply of water for purposes other than domestic purposes is provided for premises being agricultural lands and heritages, **[**[F338]Scottish Water**]** shall require the supply to be taken either by meter or on other specified terms as **[**[F339]it**]** may from time to time in **[**[F340]its**]** discretion determine.

(2) Where **[**[F341]Scottish Water supplies**]** water by meter for purposes other than domestic purposes to any premises being agricultural lands and heritages and also **[**[F342]supplies**]** water for domestic purposes to any dwelling house comprised in such premises, **[**[F343]Scottish Water**]** shall, if it is reasonably practicable so to do, provide the whole supply of water to such premises and dwelling house through a single meter.

Status: *Point in time view as at 27/10/2017.*
Changes to legislation: *Water (Scotland) Act 1980 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F338 Words in s. 56(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 38(a)(i)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F339 Word in s. 56(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 38(a)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F340 Word in s. 56(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 38(a)(iii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F341 Words in s. 56(2) substituted (1.4.2002 subject to art. 3 of the commencing S.S.I.) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 38(b)(i)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F342 Word in s. 56(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 38(b)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F343 Words in s. 56(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 38(b)(iii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

[F344 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.]

Textual Amendments

F344 S. 56A inserted (1.4.1993) by Local Government Finance Act 1992 (c. 14), s. 107, **Sch. 11**, Pt. IV, para. 35 (with s. 118(1)(2)(4)); S.I. 1993/575, **art. 2(b)**

57 . . . . . F345

Textual Amendments

F345 S. 57 repealed by Abolition of Domestic Rates Etc. (Scotland) Act 1987 (c.47, SIF 81:2, 103:2), s. 34, **Sch. 6**

58 Termination of right to supply of water on special terms.

(1) Where by virtue of any enactment including any enactment in this Act) or of any agreement [F346 Scottish Water is] under an obligation to which this section applies, [F347 Scottish Water] and the person having the vested interest in the obligation may F348 . . . enter into an agreement to terminate the obligation on such terms and conditions as to compensation or otherwise as they may agree; and any such agreement shall be enforceable against any person deriving title from the person who entered into the agreement.

(2) The Secretary of State may, on the application of [F349 Scottish Water] and after affording to the person having the vested interest in the obligation an opportunity of making representations to the Secretary of State, whether in writing or on being heard by a person appointed by the Secretary of State, by order provide for the termination compulsorily of an obligation to which this section applies on payment of compensation, the amount of which shall, in default of agreement, be determined

in manner provided by the Lands Clauses Acts with references to the taking of lands otherwise than by agreement, and the order may contain such incidental, consequential and supplementary provisions, including provisions for the amendment and repeal of any local enactment, as the Secretary of State thinks necessary or expedient.

(3) The amount of the compensation to be paid under subsection (2) shall be assesed by reference to the value of the rights secured under the obligation as at the date of the making of the order, and in assessing that value regard shall be had to **[**[F350]the amount of any charge**][**[F351]for a supply of water**]** which may reasonably be expected to become payable as a result of the termination of the obligation.

(4) This section applies to any obligation on the part of **[**[F352]Scottish Water**]** providing to any person other than a **[**[F353]local authority**]**. . . a supply of water (whether for domestic purposes or for purposes other than domestic purposes) to provide that supply free of charge or on terms more favourable to the person having the vested interest in the obligation than those which apart from the obligation would be applicable.

(5) **[**[F354]Scottish Water**]** shall **[**[F355]— **]**

[[F355](a) register in the Land Register of Scotland any agreement entered into, or order made, under the foregoing provisions of this section terminating an obligation to which this section applies if the obligation was itself registered in the Land Register, or**]**

[[F355](b) record in the Register of Sasines any such agreement or order if the obligation was itself recorded in the Register of Sasines. **]**

(6) [F356]. . . . . .

(7) An obligation to furnish a supply of water or to grant a wayleave for pipes or to give any other benefit or advantage to **[**[F357]Scottish Water**]** entered into in consideration of an obligation to which this section applies shall not be deemed to be terminated by reason only of the termination under this section of the last mentioned obligation.

[F358](8) . . . . . .

Textual Amendments

F346 Words in s. 58(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 39(2)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F347 Words in s. 58(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 39(2)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F348 Words repealed by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23, SIF 81:2), Sch. 2 para. 40, **Sch. 4**

F349 Words in s. 58(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 39(3)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F350 Words substituted by Abolition of Domestic Rates Etc. (Scotland) Act 1987 (c. 47, SIF 81:2, 103:2), s. 25, **Sch. 5 Pt. IV para. 46**

F351 Words in s. 58(3) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(31)(a)**; S.I. 1996/323, **art. 4(1)(c)**

F352 Words in s. 58(4) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 39(4)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F353 Words in s. 58(4) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(31)(b)**; S.I. 1996/323, **art. 4(1)(c)**

F354 Words in s. 58(5) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 39(5)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

Status: *Point in time view as at 27/10/2017.*
Changes to legislation: *Water (Scotland) Act 1980 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

F355 Words in s. 58(5) substituted (8.12.2014) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **sch. 5 para. 21(2)** (with s. 121, sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2

F356 S. 58(6) repealed (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 39(6)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F357 Words in s. 58(7) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 39(7)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F358 S. 58(8) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(31)(d), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

59 Limitation of liability of water authority to supply water on special terms.

(1) Notwithstanding anything in any such obligation as is mentioned in section 58(4) **[**[F359]Scottish Water**]** shall not be liable under the obligation to provide to any premises in any year a quantity of water greater than the quantitiy supplied thereto in the year immediately preceding 27th October 1948, or to provide to any premises not provided by them with a supply of water on that day a supply otherwise than on the terms on which the supply would, apart from the obligation, have been provided under the [M4]Water (Scotland) Act 1946 and the [M5]Water (Scotland) Act 1949.

(2) Any question arising under the foregoing subsection shall in case of dispute be determined by arbitration.

Textual Amendments

F359 Words in s. 59 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 40** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

Marginal Citations

M4 1946 c. 42.

M5 1949 c. 31.

[F360]60 . . . . . .

Textual Amendments

F360 S. 60 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(32), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

[F361]61 . . . . . .

Textual Amendments

F361 S. 61 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(32), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

62 . . . . . [F362]

Status: *Point in time view as at 27/10/2017.*
Changes to legislation: *Water (Scotland) Act 1980 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F362 S. 62 repealed by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c.23, SIF 81:2), s. 41, **Sch. 4**

PART V

HOUSES, ETC., TO BE SUPPLIED WITH WATER

63 Provision of water supply for new buildings and houses.

(1) Subject to the provisions of this section, it shall be the duty of any person erecting or causing to be erected a building the erection of which is begun after 15th May 1946 to make adequate provision to the satisfaction of the local authority for a sufficient supply of wholesome water in pipes for the domestic purposes of the persons occupying or using the building.

[[F363](1A) In determining adequacy for the purposes of subsection (1), the local authority shall consult, and have regard to the views of, **[**[F364]Scottish Water**]** .**]**

(2) In the case of a building being a factory within the meaning of the [M6]Factories Act 1961, other than a factory in which the production or the preparation of food or drink for human consumption is carried on by way of trade, where the Secretary of State, after consulting **[**[F365]Scottish Water**]** is satisfied—

(a) that **[**[F366]Scottish Water**]** would be unable to provide a sufficient supply of wholesome water in pipes for the purposes aforesaid without endangering **[**[F367]its**]** ability to meet existing obligations to supply water for any purpose or probable future requirements to supply water for domestic purposes or without having to incur unreasonable expense, and

(b) that it would not be reasonably practicable to obtain a sufficient supply as aforesaid from any other source,

it shall be a sufficient compliance with the requirements of this section if adequate provision is made to the satisfaction of the local authority for the installation of a sufficient supply of wholesome water in pipes for drinking, cooking and personal ablution and of a sufficient supply of suitable water in pipes for sanitary and other domestic purposes.

(3) Subject to, and without prejudice to the generality of, the provisions of this section, no person shall after 15th May 1946 erect or cause to be erected a house or shall use or permit to be used as a house any building the erection of which is begun after that date, unless there is provided within the house or building a sufficient supply of wholesome water for domestic purposes in pipes.

(4) For the purposes of this section a building or house shall be deemed to be erected where the building or house is re-erected after an outer wall of the building or house has been broken or pulled or burned down to within 10 feet of the surface of the ground adjoining the lowest storey.

(5) If any person contravenes any of the provisions of this section, **[**[F368]except section (1A),**]** he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding **[**[F369]level 3 on the standard scale**]** and in the case of a house or building being occupied as a house contrary to the provisions of subsection (3) he

shall be liable to a further fine not exceeding £25 for each day on which the house or building is occupied as a house after conviction; and without prejudice to proceedings for the recovery of any such fine, the local authority may institute civil proceedings for the purpose of interdicting the occupation of any building in the case of which the provisions of subsection (1) are not complied with, or the occupation of a house as a house or the use of a building as a house in the case of which the provisions of subsection (3) are not complied with.

[F370](6) . . . . . .

Textual Amendments

F363 S. 63(1A) inserted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(33)(a)**; S.I. 1996/323, **art. 4(1)(c)**

F364 Words in s. 63(1A) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 41(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F365 Words in s. 63(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 41(b)(i)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F366 Words in s. 63(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 41(b)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F367 Word in s. 63(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 41(b)(iii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F368 Words in s. 63(5) inserted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(33)(b)**; S.I. 1996/323, **art. 4(1)(c)**

F369 Words substituted by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **ss. 289F**, 289G

F370 S. 63(6) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(33)(c), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

Marginal Citations

M6 1961 c. 34.

[F371]64 . . . . . .

Textual Amendments

F371 S. 64 repealed (4.1.1995) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(34), **Sch. 14**; S.I. 1994/2850, art. 3(d), **Sch. 3**

[F372]65 . . . . . .

Textual Amendments

F372 S. 65 repealed (4.1.1995) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(34), Sch. 14 (with s. 179); S.I. 1994/2850, art. 3(d), Sch. 3 (also amended (28.11.2004) by 2000 asp 5, ss. 71, 76(1)(2), 77, Sch. 12 para. 42(2)(a)-(c), Sch. 13 Pt. 1 (with ss. 58, 62, 75); S.S.I. 2003/456, **art. 2**)

Status: *Point in time view as at 27/10/2017.*
Changes to legislation: *Water (Scotland) Act 1980 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[F373]66 . . . . . .

Textual Amendments

F373 s. 66 repealed (4.1.1995) by 1994 c. 39, s. 180(1), Sch. 13 para. 119(34), **Sch. 14** (with s. 179); S.I. 1994/2850, art. 3(d), **Sch. 3**

[F374]67 . . . . . .

Textual Amendments

F374 S. 67 repealed (4.1.1995) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(34), **Sch. 14** (with s. 179); S.I. 1994/2850, art. 3(d), **Sch. 3**

PART VI

CONSERVATION AND PROTECTION OF WATER RESOURCES

68 Agreements as to drainage.

(1) **[**[F375]Scottish Water**]**[F376] . . . may enter into agreements—

(a) with the owners and occupiers of any land, in so far as their interest enables them to bind it, or

(b) with a **[**[F377]local authority**]**,

with respect to the execution and maintenance by any party to the agreement of such works as **[**[F378]Scottish Water considers**]** necessary for the purpose of draining that land, or for more effectually **[**[F379]collecting or conveying**]** water which **[**[F380]it is**]** for the time being authorised to take:

Provided that where the execution of any such works would result in the discharge of water, otherwise than through public sewers, into any watercourse which is within a fishery district or is subject to the jurisdiction of a navigation authority or from which any public undertakers are authorised by any enactment to take or use water, **[**[F381]Scottish Water**]**[F376] . . . shall, before entering into the agreement, consult with the fishery district board or the navigation authority or the undertakers concerned.

(2) An agreement under this section with an owner of land shall, if it is so expressed therein, on being **[**[F382]registered in the Land Register of Scotland or recorded in the**]** Register of Sasines, be binding upon and enforceable against any person subsequently acquiring the land or any estate or interest therein.

[F383](3) . . . . . .

Textual Amendments

F375 Words in s. 68(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 42(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F376 Words in s. 68(1) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(35)(a)(i), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

F377 Words in s. 68(1)(b) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119**(35(a)(ii); S.I. 1996/323, **art. 4(1)(c)**

F378 Words in s. 68(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 42(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F379 Words in s. 68(1) substituted (21.12.2013) by Water Resources (Scotland) Act 2013 (asp 5), **ss. 31(1)**, 56(1)(2); S.S.I. 2013/342, art. 2(b)

F380 Words in s. 68(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 42(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F381 Words in s. 68(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 42(d)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F382 Words in s. 68(2) substituted (8.12.2014) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **sch. 5 para. 21(3)** (with s. 121, sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2

F383 S. 68(3) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(35)(b), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

[[F384]68A Agreements for water quality

(1) With respect to the matters mentioned in subsection (2), Scottish Water may enter into agreements with—

(a) the owners and occupiers of any land (in so far as their interest enables them to bind it), or

(b) a local authority.

(2) The matters are—

(a) the carrying out by a party to the agreement of such activities as Scottish Water considers necessary for the purpose of protecting or improving the quality of any raw water,

(b) the refraining by a party to the agreement from such activities as Scottish Water considers detrimental to the purpose of protecting or improving the quality of any raw water.

(3) In subsection (2), the references to protecting or improving the quality of water include—

(a) preventing any deterioration in the quality of the water,

(b) reducing or eliminating the amount of any treatment that the water requires in order to be wholesome.

(4) Section 68(2) applies to an agreement under this section as it applies to an agreement to which that section relates (if the agreement under this section is with the owners of the land).

(5) In this section, "raw water" has the same meaning as in section 76M.**]**

Textual Amendments

F384 S. 68A inserted (21.12.2013) by Water Resources (Scotland) Act 2013 (asp 5), **ss. 31(2)**, 56(1)(2); S.S.I. 2013/342, art. 2(b)

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[F385]69 Power to restrict use of hose pipes.

. . . . . .

Textual Amendments

F385 S. 69 repealed (10.6.2013) by Water Resources (Scotland) Act 2013 (asp 5), s. 56(1)(2), **sch. 4 para. 1(1)**; S.S.I. 2013/163, art. 3, sch.

70 Byelaws for preventing misuse of water.

(1) **[**[F386]Scottish Water**]**[F387] may make byelaws for preventing waste, undue consumption, misuse or contamination of water supplied by **[**[F388]it**]**, and such byelaws may, without prejudice to the foregoing generality, include provisions—

(a) prescribing the size, nature, design, materials, strength and workmanship, and the mode of arrangement, connection, disconnection, alteration and repair of the water fittings to be used; and

(b) forbidding the use of any water fittings which are of such a nature or design or are so arranged or connected as to cause or permit, or be likely to cause or permit, waste, undue consumption, misuse, erroneous measurement or contamination of water, or reverberation in pipes.

(2) If a person contravenes the provisions of any byelaw made under this section, **[**[F389]Scottish Water**]**[F387] may, whether proceedings have been taken in respect of the offence or not, cause any water fittings belonging to or used by that person which are not in accordance with the requirements of the byelaws to be altered, repaired or replaced, and may recover the expenses reasonably incurred by **[**[F390]it**]** in so doing from the person in default.

(3) Nothing in this section, or in any byelaw made thereunder, shall apply to any fittings used on premises which belong to a railway company and are held or used by them for the purposes of their railway, so long as those fittings are not of such a nature or design or so arranged or connected as to cause or permit waste, undue consumption, misuse or contamination of water supplied by **[**[F391]Scottish Water**]** or board or reverberation in pipes:

Provided that the exemption conferred by this subsection shall not extend to fittings used in hotels or dwelling houses or in offices not forming part of a railway station.

[[F392](4) Where **[**[F393]Scottish Water considers**]** that a byelaw made by **[**[F394]it**]** under this section ought not to operate in relation to any particular case or class of cases **[**[F395]it**]** may, with the consent of the Secretary of State, relax the requirements of, or dispense with compliance with, that byelaw accordingly:

Provided that **[**[F396]Scottish Water**]**[F387] shall, in such manner and to such person, if any, as the Secretary of State may direct, give notice of any such proposed relaxation or dispensation; and the Secretary of State—

(a) shall not give his consent before the expiration of one month from the giving of the notice; and

(b) shall, before giving his consent, take into consideration any relevant objection which may have been received by him.**]**

Status: *Point in time view as at 27/10/2017.*
Changes to legislation: *Water (Scotland) Act 1980 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F386 Words in s. 70(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 44(2)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F387 Words in s. 70(1)(2)(4) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(37)(a)-(d), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

F388 Word in s. 70(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 44(2)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F389 Words in s. 70(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 44(3)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F390 Word in s. 70(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 44(3)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F391 Words in s. 70(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 44(4)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F392 S. 70(4) added by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23, SIF 81:2), **s. 33**

F393 Words in s. 70(4) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 44(5)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F394 Word in s. 70(4) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 44(5)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F395 Word in s. 70(4) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 44(5)(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F396 Words in s. 70(4) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 44(5)(d)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

Modifications etc. (not altering text)

C12 S. 70 amended (27.8.1993) by 1993 c. 12, s. 40(4), **Sch. 3 Pt. II para. 17** (with ss. 42, 46)

71 Byelaws for preventing pollution of water.

(1) If it appears to **[**[F397]Scottish Water**]**[F398] to be necessary for the purpose of protecting against pollution any water whether on the surface or underground, which belongs to **[**[F399]it**]** or which **[**[F400]it is**]** for the time being authorised to take, **[**[F401]it**]** may by byelaws—

(a) define the area within which **[**[F402]it deems**]** it necessary to exercise control; and

(b) prohibit or regulate the doing within that area of any act specified in the byelaws.

Byelaws made under this section may contain different provisions for different parts of the area defined by the byelaws.

(2) Where an area has been defined by byelaws under this section, **[**[F403]Scottish Water**]** may by notice require either the owner or the occupier of any premises within that area to execute and keep in good repair such works as **[**[F404]it considers**]** necessary for preventing pollution of **[**[F405]its**]** water, and, if he fails to comply with any such requirement, he shall be liable on summary conviction to the same penalties as if he had committed an act prohibited by the byelaws:

Provided that an owner or occupier who considers that a requirement made on him under this subsection is unreasonable may, within 28 days after service on him of the requirement, appeal to the sheriff who may, if he decides that the requirement is unreasonable, modify or disallow the requirement.

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(3) **[**[F406]Scottish Water**]** shall pay compensation to the owners and occupiers of, and other persons interested in, any premises within the area defined by byelaws made under this section in respect of—

(a) any curtailment or injurious affection of their legal rights by restrictions imposed by the byelaws; and

(b) any expenses incurred by them in complying with a requirement to construct and maintain any works the construction of which could not, apart from this section, lawfully have been required otherwise than upon payment of compensation by **[**[F407]Scottish Water**]** ;

and any question as to the amount of compensation to be paid shall in case of dispute be determined by arbitration.

In this subsection the expression "legal rights" includes the use of land in respect of which proceedings might have been taken by **[**[F408]Scottish Water**]** or otherwise under any public general Act or under byelaws made thereunder, but have not been so taken, either by reason of the character or situation of the land or for some other reason.

(4) Where any person has failed to comply with a requirement made on him under subsection (2) and either—

(a) he has not appealed to the sheriff against that requirement and the time for appealing has expired, or

(b) his appeal has been dismissed or the requirement has been modified on his appeal and he has failed to comply with the requirement as so modified,

[[F409]Scottish Water**]** may, whether proceedings have been taken in respect of such failure or not, execute and keep in good repair the works specified in the requirement as originally made or, as the case may be, as modified on appeal, and may recover the expenses reasonably incurred by **[**[F410]it**]** in so doing from the person in default, except expenses incurred in respect of works the construction of which could not, apart from this section, lawfully have been required otherwise than upon payment of compensation by **[**[F409]Scottish Water**]**.

(5) [F411] . . . . . .

(6) Nothing in this section shall be construed as empowering **[**[F412]Scottish Water**]**[F413] to make any byelaws restricting the rights of a navigation authority under any enactment.

Textual Amendments

F397 Words in s. 71(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 45(2)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F398 Words in s. 71(1) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(38)(a), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

F399 Word in s. 71(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 45(2)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F400 Words in s. 71(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 45(2)(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F401 Word in s. 71(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 45(2)(d)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F402 Words in s. 71(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 45(2)(e)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F403 Words in s. 71(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 45(3)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F404 Words in s. 71(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 45(3)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F405 Word in s. 71(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 45(3)(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F406 Words in s. 71(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 45(4)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F407 Words in s. 71(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 45(4)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F408 Words in s. 71(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 45(4)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F409 Words in s. 71(4) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 45(5)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F410 Word in s. 71(4) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 45(5)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F411 S. 71(5) repealed (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 45(6)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F412 Words in s. 71(6) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 45(7)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F413 Words in s. 71(5)(6) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(38)(e)(ii)(f), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

Modifications etc. (not altering text)

C13 S. 71 amended (27.8.1993) by 1993 c. 12, s. 40(4), **Sch. 3 Pt. II para. 17** (with ss. 42, 46)

72 General provisions as to byelaws.

(1) The Secretary of State shall be the confirming authority as respects byelaws made under either of the last two foregoing sections, and the provisions of Part IV of Schedule 1 shall apply to the making and confirming of such byelaws.

(2) It shall be the duty of **[**[F414]Scottish Water to enforce such**]** byelaws, so however that nothing in this subsection shall be construed as authorising **[**[F415]Scottish Water**]** to institute proceedings for any offence against those byelaws.

(3) Any such byelaws may contain provisions for imposing on any person contravening the bylaws a fine, recoverable on summary conviction, not exceeding the sum of **[**[F416]**[**[F417]level 5**]** on the standard scale**]** in respect of each offence, and in the case of a continuing offence a further fine not exceeding £50 for each day during which the offence continues after conviction therefor.

[[F418](3A) Subject to subsection (3B), proceedings for any offence against such byelaws may be commenced at any time—

(a) within 6 months after the date on which evidence sufficient in the opinion of the procurator fiscal to justify the proceedings came to the procurator fiscal'sknowledge, or

(b) where such evidence was reported to the procurator fiscal by Scottish Water, within 6 months after the date on which it came to Scottish Water's knowledge.

(3B) No such proceedings shall be commenced more than 3 years after—

(a) the date of the commission of the offence, or

(b) in the case of a continuing offence, the last date on which the offence was committed.

(3C) Subsection (3) of section 136(time limit for certain offences) of the Criminal Procedure (Scotland) Act 1995 (c.46) applies for the purposes of this section as it applies for thepurposes of that section.

(3D) For the purposes of subsection (3A), a certificate signed by or on behalf of the procurator fiscal or, as the case may be, Scottish Water, and stating the date onwhich evidence such as is mentioned in that subsection came to the procurator fiscal's or, as the case may be, Scottish Water's knowledge shall be conclusive evidenceof that fact.

(3E) A certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.**]**

(4) Any byelaw made under either of the last two foregoing sections shall cease to have effect on the expiration of the period of 10 years beginning with the date on which it was made; but the Secretary of State may by order extend the period during which any such byelaw is to remain in force.

Subordinate Legislation Made

P1 S. 72: power previously exercised by S.I. 1981/1801, 1988/327 and 1990/2250.

P2 S. 72(4): s. 72(4) power exercised (12.11.1991) by S.I. 1991/2573
S. 72(4): s. 72(4) power exercised (20.11.1991) by S.I. 1991/2639

Textual Amendments

F414 Words in s. 72(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 46(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F415 Words in s. 72(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 46(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F416 Words in s. 72(3) substituted by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21), s. 289G, 289H, **Sch. 7D** (as inserted by Criminal Justice Act 1982 (c. 48), s. 54, **Sch. 6**, which Sch. 6 was repealed (1.4.1996) by 1995 c. 40, ss. 6, 7(2), **Sch. 5**) and those same words substituted (1.4.1996) by 1995 c. 40, ss. 3, 7(2), Sch. 1 para. 10, **Sch. 2 Pt. III**

F417 Words in s. 72(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), **s. 65(2)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F418 S. 72(3A)-(3E) inserted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), **s. 65(3)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

73 Power of Secretary of State to require the making of byelaws.

(1) The Secretary of State may by notice require **[**[F419]Scottish Water**]**[F420] to make byelaws under section 70 or 71 in relation to such matters as he may specify, and, in the case of byelaws made under section 71, he shall specify the area for which the byelaws are to be made, and if **[**[F421]Scottish Water does**]** not within three months after such requirement make in relation to the matters specified byelaws satisfactory to him, the Secretary of State may himself make byelaws with respect to those matters.

(2) If, after they have been in operation for a period of not less than three years, the Secretary of State considers unsatisfactory any byelaws made by **[**[F422]Scottish Water**]**[F420] under section 70 or 71 or any byelaws or regulations made by **[**[F422]Scottish Water**]**[F420] under any other enactment conferring power to make byelaws or regulations for purposes similar to the purposes for which byelaws may be made under either of the said sections, he may by notice require **[**[F423]Scottish Water**]**[F420] to revoke those

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byelaws or regulations and to make such new byelaws under section 70 or 71 as he considers necessary; and if **[**[F424]Scottish Water does**]** not within three months after such requirement comply therewith, the Secretary of State may himself revoke the byelaws or regulations and make such new byelaws under section 70 or 71 as he considers necessary.

(3) Any byelaws made by the Secretary of State under this section shall have effect as if they had been made by **[**[F425]Scottish Water**]** and confirmed by the Secretary of State.

Textual Amendments

F419 Words in s. 73(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 47(a)(i)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F420 Words in s. 73(1)-(3) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(40), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

F421 Words in s. 73(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 47(a)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F422 Words in s. 73(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 47(b)(i)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F423 Words in s. 73(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 47(b)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F424 Words in s. 73(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 47(b)(iii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F425 Words in s. 73(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 47(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

74 Regulations to prevent waste, misuse or contamination of water.

(1) The Secretary of State may make regulations for any of the purposes for which byelaws may be made under section 70 (byelaws for the prevention of waste, misuse or contamination of water); and any such regulations shall have effect in substitution for any such byelaws in force immediately before the coming into force of these regulations.

(2) Any reference in this Act to a byelaw made under the said section 70 (other than a reference in section 72(1), (2) and (4) to byelaws) shall include a reference to a regulation made under this section.

(3) Regulations made under this section may be made so as to apply in all parts of Scotland or to apply only in such part or parts as may be specified in the regulations, and may contain different provisions for different parts, or for different circumstances in any such part.

75 Penalty for polluting water.

(1) If any person is guilty of any act or neglect whereby any spring, well or adit, the water from which is used or likely to be used for human consumption or domestic purposes or for manufacturing food or drink for human consumption, is polluted or likely to be polluted, he shall be guilty of an offence.

(2) Nothing in this section shall be construed as prohibiting or restricting—

(a) any method of cultivation or use of land which is in accordance with the principles of good husbandry; or

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(b) the reasonable use of oil or tar on any [F426public road, so long as the roads] authority take all reasonable steps for preventing the oil or tar, or any liquid or matter resulting from the use thereof, from polluting any such spring, well or adit.

(3) Any person guilty of an offence by virtue of this section shall be liable in respect of each offence—

(a) on summary conviction, to a fine not exceeding [F427£40,000] and, in the case of a continuing offence, to a further fine not exceeding £50 for every day during which the offence is continued after conviction;

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both a fine and such imprisonment.

(4) F428. . . . . .

Textual Amendments

F426 Words substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 81(9)**

F427 Words in s. 75(3)(a) substituted (28.10.2004) by Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8), s. 66, **Sch. 2 para. 3(a)**; S.S.I. 2004/420, arts. 2, **3**, Sch. 1 (as amended by S.S.I. 2005/553 and 2006/104)

F428 S. 75(4) repealed (28.10.2004) by Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8), s. 66, **Sch. 2 para. 3(b)**; S.S.I. 2004/420, arts. 2, **3**, Sch. 1 (as amended by S.S.I. 2005/553 and 2006/104)

Modifications etc. (not altering text)

C14 S. 75 amended (27.8.1993) by 1993 c. 12, s. 40(4), **Sch. 3 Pt. II para. 17** (with ss. 42, 46)

76 Acquisition of land for protection of water.

(1) For the purpose of any provision of this Act [F429, or of the [F430Water Industry (Scotland) Act 2002 (asp 3)] ,] conferring power on [F431Scottish Water]F432 to acquire land for the purposes of [F433its] undertaking [F429or functions], there shall be deemed to be included among those purposes the purpose of protecting against pollution any water, whether on the surface or underground, which belongs to [F434Scottish Water]F432 or which [F435it is] for the time being authorised to take.

(2) [F436Scottish Water]F437 may on any land belonging to [F438it], or over or in which [F439it has] acquired the necessary servitudes or rights, construct or maintain drains, sewers, watercourses, catchpits and other works for intercepting, treating or disposing of any foul water arising or flowing upon that land, or for otherwise preventing water which belongs to [F440Scottish Water]F437or which [F441it is] for the time being authorised to take from being polluted:

Provided that—

(a) before constructing any such works [F440Scottish Water]F437 shall, if the proposed works will affect any watercourses in a fishery district or which is subject to the jurisdiction of a navigation authority, consult with the fishery district board or the navigation authority concerned;

(b) nothing in this subsection shall authorise [F442Scottish Water]F437 to intercept or take any water which a navigation authority or any public undertakers are authorised by any enactment to take or use for the purposes of their

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undertaking without the consent of that navigation authority or those public undertakers.

(3) **[**[F443]Where Scottish Water proposes**]** to construct any drain, sewer or water-course for the purposes mentioned in subsection (2) **[**[F444]it**]** may, with the consent of the **[**[F445]roads**]** authority concerned, which may be given subject to such conditions as the **[**[F445]roads**]** authority think fit, carry the drain, sewer or water-course under, across or along any **[**[F446]road**]**. . . [F447], and such statutory provisions with respect to the breaking open of **[**[F446]roads**]** as are applicable to **[**[F448]Scottish Water**]**[F447] shall, with any necessary modifications and adaptations, apply accordingly:

Provided that the consent of the **[**[F445]roads**]** authority shall not be required by virtue of this subsection for the carrying by **[**[F449]Scottish Water**]**[F450] of any drain, sewer or water-course under any **[**[F451]public road**]** which is within the limits of supply of **[**[F452]Scottish Water**]**[F450].

(4) A consent required for the purposes of subsection (2) or (3) shall not be unreasonably withheld nor shall any unreasonable conditions be attached to such a consent, and any question whether or not such a consent is unreasonably withheld or whether any condition which it is sought to impose is unreasonable shall in case of dispute be determined by arbitration.

Textual Amendments

F429 Words in s. 76(1) inserted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(41)(a)(i)(iii)**; S.I. 1996/323, **art. 4(1)(c)**

F430 Words in s. 76(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 48(2)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F431 Words in s. 76(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 48(2)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F432 Words in s. 76(1) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(41)(a)(ii), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

F433 Word in s. 76(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 48(2)(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F434 Words in s. 76(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 48(2)(d)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F435 Words in s. 76(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 48(2)(e)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F436 Words in s. 76(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 48(3)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F437 Words in s. 76(2) repealed (1.4.1996) by 1994 c. 39, **s. 180(1)(2)**, SCh. 13 para. 119(41)(b), Sch. 14; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

F438 Word in s. 76(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 48(3)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F439 Words in s. 76(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 48(3)(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F440 Words in s. 76(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 48(3)(d)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F441 Words in s. 76(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 48(3)(e)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F442 Words in s. 76(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 48(3)(d)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F443 Words in s. 76(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 48(4)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F444 Word in s. 76(3) inserted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 48(4)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
F445 Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 81(10)(a)**
F446 Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 81(10)(b)**
F447 Words in s. 76(3) repealed (1.4.1996) by 1994 c. 39, **s. 180(1)(2)**, SCh. 13 para. 119(41)(c), Sch. 14; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**
F448 Words in s. 76(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 48(4)(d)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
F449 Words in s. 76(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 48(4)(e)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
F450 Words in the proviso to s. 76(3) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(41)(d), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**
F451 Words substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 81(10)(c)**
F452 Words in s. 76(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 48(4)(f)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

[F453] PART VIA

QUALITY OF WATER

Textual Amendments

F453 Pt. VIA (ss. 76A–76L) inserted by Water Act 1989 (c. 15, SIF 130), s. 168, **Sch. 22** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)

76A Duties of water authorities with respect to water quality.

(1) It shall be the duty of **[**[F454]Scottish Water**]**—

(a) when supplying water to any premises for **[**[F455]domestic or food production 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 **[**[F456]Scottish Water**]** supplies water to premises for **[**[F455]domestic or food production 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 **[**[F457]Scottish Water**]** to any premises shall not be regarded as unwholesome at the time of supply where it has ceased to be wholesome only after leaving **[**[F458]Scottish Water's**]** pipes.

(3) For the purposes of this section where water supplied by **[**[F459]Scottish Water**]** 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 **[**[F460]Scottish Water'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

(b) it has so ceased in consequence of the failure of **[**[F461]Scottish Water**]** , before supplying the water, to take such steps as may be prescribed for the purpose of

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securing the elimination or reduction to a minimum of any prescribed risk that the water would cease to be wholesome after leaving **[**[F460]Scottish Water's**]** pipes.

(4) The provisions of this section shall apply in relation to water which is supplied by **[**[F462]Scottish Water**]** whether or not the water is water which **[**[F463]Scottish Water**]** is required to supply by virtue of any provision of this Act.

Subordinate Legislation Made

P3 S. 76A: s. 76B (with ss. 76A, 76J, 101(1) and 109(1)) power exercised by S.I.1991/1333
S. 76A power previously exercised by S.I. 1990/119

Textual Amendments

F454 Words in s. 76A(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 49(2)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F455 Words substituted by Food Safety Act 1990 (c. 16, SIF 53:1, 2), **s. 56(2)**

F456 Words in s. 76A(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 49(2)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F457 Words in s. 76A(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 49(3)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F458 Words in s. 76A(2) substituted (1.4.2002 subject to art. 3 of the commencing S.S.I.) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 49(3)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F459 Words in s. 76A(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 49(4)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F460 Words in s. 76A(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 49(4)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F461 Words in s. 76A(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 49(4)(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F462 Words in s. 76A(4) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 49(5)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F463 Words in s. 76A(4) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 49(5)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

76B Regulations for preserving water quality.

(1) The Secretary of State may by regulations require **[**[F464]Scottish Water**]** 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 **[**[F464]Scottish Water**]**—

(a) to take all such steps as may be prescribed for monitoring and recording whether the water which **[**[F465]Scottish Water**]** supplies to premises for **[**[F466]domestic or food production 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 **[**[F465]Scottish Water**]** uses or is proposing to use for supplying water to any premises for **[**[F466]domestic or food production purposes**]**;

(c) to ensure that a source which **[**[F465]Scottish Water**]** is using or proposing to use for supplying water for **[**[F466]domestic or food production 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;

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(d) to keep records of the localities within which all the premises supplied with water for **[**[F466]domestic or food production purposes**]** by **[**[F465]Scottish Water**]** 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 **[**[F467]Scottish Water**]** , for the purposes of or in connection with the carrying out of **[**[F468]its**]** 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 **[**[F467]Scottish Water**]** 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 **[**[F467]Scottish Water**]** 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 **[**[F467]Scottish Water**]** 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 **[**[F469]Scottish Water**]**—

(a) to publish information about the quality of water supplied for **[**[F466]domestic or food production purposes**]** to any premises by **[**[F470]Scottish Water**]** ; 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 **[**[F471]Scottish Water**]** to any person to be free of charge or may authorise it to be subject to the payment by that person to **[**[F472]Scottish Water**]** of a prescribed charge; and

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(c) may impose such other conditions on the provision of information by **[**[F471]Scottish Water**]** to any person as may be prescribed.

Subordinate Legislation Made

P4 S. 76B: s. 76B (with ss. 76A, 76J, 101(1) and 109(1)) power exercised by S.I.1991/1333
S. 76B power previously exercised by S.I. 1990/119

Textual Amendments

F464 Words in s. 76B(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 50(2)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F465 Words in s. 76B(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 50(2)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F466 Words substituted by Food Safety Act 1990 (c. 16, SIF 53:1, 2), **s. 56(2)**

F467 Words in s. 76B(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 50(3)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F468 Word in s. 76B(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 50(3)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F469 Words in s. 76B(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 50(4)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F470 Words in s. 76B(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 50(4)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F471 Words in s. 76B(4) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 50(5)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F472 Words in s. 76B(4) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 50(5)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

76C Offence of supplying water unfit for human consumption.

(1) Subject to subsection (4) below, where **[**[F473]Scottish Water**]** supplies water by means of pipes to any premises and that water is unfit for human consumption **[**[F474]Scottish Water**]** 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) Where an offence under this section is proved to be attributable to any neglect on the part of an employee of **[**[F475]Scottish Water**]** , he as well as **[**[F475]Scottish Water**]** 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.

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Textual Amendments

F473 Words in s. 76C(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 51(a)(i)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F474 Words in s. 76C(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 51(a)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F475 Words in s. 76C(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 51(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

76D Provision of water where piped supplies insufficient or unwholesome.

(1) Where—

(a) it is not practicable at reasonable cost for **[**[F476]Scottish Water**]** , 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 **[**[F477]Scottish Water**]** 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 **[**[F478]Scottish Water**]** of that danger and require **[**[F478]Scottish Water**]** to provide a supply otherwise than in pipes, it shall be the duty of **[**[F478]Scottish Water**]** , 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 **[**[F479]Scottish Water**]** of a supply of water to any premises, that local authority—

(a) shall be liable to **[**[F480]Scottish Water**]** 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.

Textual Amendments

F476 Words in s. 76D(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 52(a)(i)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F477 Words in s. 76D(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 52(a)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F478 Words in s. 76D(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 52(a)(iii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F479 Words in s. 76D(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 52(b)(i)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F480 Words in s. 76D(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 52(b)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

76E Enforcement of sections 76A to 76D.

(1) This section applies to enforcement of the duties of **[**[F481]Scottish Water**]** under sections 76A and 76D(1) and under regulations made under section 76B.

(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.

[[F482](2A) The reference in subsection (2) of section 11 to "such a failure on the part of Scottish Water" is to be construed as a reference to a failure by Scottish Water in any 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.

[[F483](3A) Before making an order under subsection (2) of section 11, the Scottish Ministers must consult the Drinking Water Quality Regulator for Scotland.**]**

[F484](4) . . . . . .

Textual Amendments

F481 Words in s. 76E(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 53(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F482 S. 76E(2A) inserted (1.1.2015) by The Public Water Supplies (Scotland) Regulations 2014 (S.S.I. 2014/364), regs. 1(1), **48(a)(i)** (with reg. 1(3)(4))

F483 S. 76E(3A) inserted (1.1.2015) by The Public Water Supplies (Scotland) Regulations 2014 (S.S.I. 2014/364), regs. 1(1), **48(a)(ii)** (with reg. 1(3)(4))

F484 S. 76E(4) repealed (1.1.2015) by The Public Water Supplies (Scotland) Regulations 2014 (S.S.I. 2014/364), regs. 1(1), **48(a)(iii)** (with reg. 1(3)(4))

76F General functions of local authorities in relation to water quality.

(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 **[**[F485]Scottish Water and the Drinking Water Quality Regulator for Scotland**]** of anything appearing to the local authority to suggest—

(a) that any supply by **[**[F486]Scottish Water**]** of water for **[**[F487]domestic or food production 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 **[**[F488]domestic 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

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(c) that the duty imposed on **[**[F486]Scottish Water**]** 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 **[**[F489]Scottish Water**]** 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 **[**[F490]Scottish Water, to notify the Drinking Water Quality Regulator for Scotland of that fact and**]** , 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 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) **[**[F491]Without prejudice to subsection (7) below,**]** the Secretary of State may by regulations make such provision, supplementing the **[**[F491]foregoing**]** 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.

[[F492](7) The Secretary of State may by regulations require a local authority—

(a) to publish information about the quality of private supplies of water for domestic or food production purposes to any premises in their area; and

(b) to provide information to prescribed persons about the quality of water so supplied.

(8) Regulations under subsection (7) 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;

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(b) may require the provision of information by a local 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 local authority to any person as may be prescribed.**]**

Textual Amendments

F485 Words in s. 76F(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 54(a)(i)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F486 Words in s. 76F(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 54(a)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F487 Words substituted by Food Safety Act 1990 (c. 16, SIF 53:1, 2), **s. 56(3)**

F488 Words substituted by Food Safety Act 1990 (c. 16, SIF 53:1, 2), **s. 56(3)**

F489 Words in s. 76F(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 54(b)(i)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F490 Words in s. 76F(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 54(b)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F491 Words in s. 76F(5) inserted (4.1.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(42)**; S.I. 1994/2850, **art. 3(c)**

F492 S. 76F(7)(8) added (4.1.1995) by 1994 c. 39, **s. 114** (with s. 74(4)); S.I. 1994/2850, art. 3(a), **Sch. 2**

[F494]76FA[F493]Domestic distribution failures where water is supplied to the public by private supply]

. . . . . .

Textual Amendments

F493 S. 76FA title substituted (1.1.2015) by The Public Water Supplies (Scotland) Regulations 2014 (S.S.I. 2014/364), regs. 1(1), **48(c)** (with reg. 1(3)(4))

F494 S. 76FA omitted (27.10.2017) by virtue of The Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017 (S.S.I. 2017/282), reg. 1(1), **sch. 10 para. 1(2)** (with reg. 2)

[F495]76FB[Remedial powers of local authorities where domestic distribution failure affects supply to public

(1) This section applies where a local authority

[F496][F497](a)] . . . . . .

[F498](b) receive a report on the findings of an investigation in accordance with regulation 19(1)(c) of the Public Water Supplies (Scotland) Regulations 2014 (SSI 2014/364).**]**

(2) A local authority must serve a notice on the person who owns or is otherwise responsible for the domestic distribution system of the premises affected by [F499]... **[**[F500]the failure or apprehended failure which is the subject of the investigation,**]** (the "responsible person") for the purposes of ensuring a wholesome supply and protecting human health.

(3) A notice served under this section must—

Status: *Point in time view as at 27/10/2017.*
Changes to legislation: *Water (Scotland) Act 1980 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) give particulars of [F501]... **[**[F502]the failure or apprehended failure**]** in respect of which the notice is served;

(b) specify any steps which the local authority require to be taken for the purposes of ensuring a wholesome supply and protecting human health;

(c) specify a period for the performance of each step;

(d) specify the advice (if any) which the local authority require the responsible person to communicate to consumers of the supply;

(e) specify any steps which the local authority require to be taken for the purpose of communicating such advice;

(f) 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 the local authority; and

(g) state the effect in relation to that notice of section 76FC below.

(4) Where the local authority consider that [F503]... **[**[F504]a relevant failure**]** (including [F503]... **[**[F504]a relevant failure**]** relating to an indicator parameter) constitutes a potential risk to human health, the local authority must—

(a) require the taking of such steps under subsection (3)(b) above as the authority consider necessary to protect human health; and

(b) require advice to be given to consumers under subsection (3)(d).

(5) In requiring the taking of such steps as may be necessary to comply with subsection (4)(a) above, the local authority and the Scottish Ministers must take into account the risks to human health which would be caused by an interruption of the supply or a restriction in the use of water intended for human consumption (within the meaning of Article 2.1 of Council Directive 98/83/EC on the quality of water intended for human consumption).

(6) The provisions of section 76G(3) below shall have effect in relation to notices served under this section and the reference to a "relevant person" in that subsection shall be construed as a reference to a "responsible person" for the purposes of this section.

(7) Once the period specified for performance of a step required by a notice under this section has expired, a local authority must notify the Scottish Ministers as soon as possible of any actions taken by the responsible person and the local authority pursuant to, or in consequence of, the requirement to take the step.

(8) Unless a local authority consider [F505]... **[**[F506]a relevant failure**]** to be of a trivial nature, the authority must take such steps as the authority consider necessary to ensure that consumers are notified of any remedial action taken under, or pursuant to, a notice served under this section.

(9) In this section "indicator parameter" means a parameter listed in—

[[F507](a) Part 2 of Table B in Schedule 1 to the Public Water Supplies (Scotland) Regulations 2014 (SSI 2014/364);**]**[F508]or**]**

[[F507](b) Table C in Schedule 1 to those Regulations **[**[F509].**]]**

[F510](c) . . . . . .

[F510](d) . . . . . .

[In subsections (4) and (8) "a relevant failure" means a failure or apprehended failure [F511](10) which is the subject of an investigation to which subsection (1)(b) applies.**]]**

Status: *Point in time view as at 27/10/2017.*
Changes to legislation: *Water (Scotland) Act 1980 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F495 Ss. 76FA-76FC inserted (20.4.2010) by The Water Quality (Scotland) Regulations 2010 (S.S.I. 2010/95), regs. 1(1), **2**

F496 S. 76FB(1)(a) omitted (27.10.2017) by virtue of The Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017 (S.S.I. 2017/282), reg. 1(1), **sch. 10 para. 1(3)(a)** (with reg. 2)

F497 Words in s. 76FB(1) renumbered as s. 76FB(1)(a) (1.1.2015) by The Public Water Supplies (Scotland) Regulations 2014 (S.S.I. 2014/364), regs. 1(1), **48(d)(i)** (with reg. 1(3)(4))

F498 S. 76FB(1)(b) and word inserted (1.1.2015) by The Public Water Supplies (Scotland) Regulations 2014 (S.S.I. 2014/364), regs. 1(1), **48(d)(ii)** (with reg. 1(3)(4))

F499 Words in s. 76FB(2) omitted (27.10.2017) by virtue of The Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017 (S.S.I. 2017/282), reg. 1(1), **sch. 10 para. 1(3)(b)** (with reg. 2)

F500 Words in s. 76FB(2) inserted (1.1.2015) by The Public Water Supplies (Scotland) Regulations 2014 (S.S.I. 2014/364), regs. 1(1), **48(e)** (with reg. 1(3)(4))

F501 Words in s. 76FB(3)(a) omitted (27.10.2017) by virtue of The Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017 (S.S.I. 2017/282), reg. 1(1), **sch. 10 para. 1(3)(c)** (with reg. 2)

F502 Words in s. 76FB(3)(a) inserted (1.1.2015) by The Public Water Supplies (Scotland) Regulations 2014 (S.S.I. 2014/364), regs. 1(1), **48(f)** (with reg. 1(3)(4))

F503 Words in s. 76FB(4) omitted (27.10.2017) by virtue of The Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017 (S.S.I. 2017/282), reg. 1(1), **sch. 10 para. 1(3)(d)** (with reg. 2)

F504 Words in s. 76FB(4) inserted (1.1.2015) by The Public Water Supplies (Scotland) Regulations 2014 (S.S.I. 2014/364), regs. 1(1), **48(g)** (with reg. 1(3)(4))

F505 Words in s. 76FB(8) omitted (27.10.2017) by virtue of The Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017 (S.S.I. 2017/282), reg. 1(1), **sch. 10 para. 1(3)(e)** (with reg. 2)

F506 Words in s. 76FB(8) inserted (1.1.2015) by The Public Water Supplies (Scotland) Regulations 2014 (S.S.I. 2014/364), regs. 1(1), **48(g)** (with reg. 1(3)(4))

F507 S. 76FB(9)(a)(b) substituted (1.1.2015) by The Public Water Supplies (Scotland) Regulations 2014 (S.S.I. 2014/364), regs. 1(1), **48(h)** (with reg. 1(3)(4))

F508 Word in s. 76FB(9)(a) inserted (27.10.2017) by The Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017 (S.S.I. 2017/282), reg. 1(1), **sch. 10 para. 1(3)(f)(i)** (with reg. 2)

F509 S. 76FB(9)(b): punctuation substituted (27.10.2017) by The Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017 (S.S.I. 2017/282), reg. 1(1), **sch. 10 para. 1(3)(f)(ii)** (with reg. 2)

F510 S. 76FB(9)(c)(d) omitted (27.10.2017) by virtue of The Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017 (S.S.I. 2017/282), reg. 1(1), **sch. 10 para. 1(3)(f)(iii)** (with reg. 2)

F511 S. 76FB(10) inserted (1.1.2015) by The Public Water Supplies (Scotland) Regulations 2014 (S.S.I. 2014/364), regs. 1(1), **48(i)** (with reg. 1(3)(4))

[F495 76FŒffect, confirmation and variation of a notice under section 76FB

(1) The provisions of section 76H(1) to (10) below shall have effect in relation to notices served under section 76FB above subject to the modifications set out in subsection (2) below.

(2) The modifications to section 76H are—

(a) subsections (3)(c), (5)(b) and (5A) do not apply;

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(b) for "76G" in each place where it occurs substitute "76FB";

(c) for "relevant person" in both places where it occurs substitute "responsible person";

(d) for "76G(2)(c) and (d)" in both places where it occurs substitute "76FB(3)(f) and (g)"; and

(e) in subsection (5)(a), omit the words ", except where the case is one to which paragraph (b) below applies,".

(3) Any responsible person on whom a notice is served under section 76FB above, who fails without reasonable excuse to take any step as specified in the notice within the period so specified shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.**]**

Textual Amendments

F495 Ss. 76FA-76FC inserted (20.4.2010) by The Water Quality (Scotland) Regulations 2010 (S.S.I. 2010/95), regs. 1(1), **2**

76G Remedial powers of local authorities in relation to private supplies.

(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 **[**[F512]domestic or food production 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.

[F513](1A) . . . . . .

(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—

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(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 **[**[F514]Scottish Water**]** 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 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.

Textual Amendments

F512 Words substituted by Food Safety Act 1990 (c. 16, SIF 53:1, 2), **s. 56(4)**

F513 S. 76G(1A) omitted (27.10.2017) by virtue of The Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017 (S.S.I. 2017/282), reg. 1(1), **sch. 10 para. 1(4)** (with reg. 2)

F514 Words in s. 76G(6)(a) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 55** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

Status: *Point in time view as at 27/10/2017.*
Changes to legislation: *Water (Scotland) Act 1980 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

76H Effect, confirmation and variation of notice under section 76G.

(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 **[**[F515]—

(a) may, except where the case is one to which paragraph (b) below applies, take that step themselves in accordance with any applicable provision having effect by virtue of section 76I below; and

(b) may, in a case to which this paragraph applies, take that step themselves and for that purpose exercise the powers which **[**[F516]Scottish Water**]** may, under this Act, exercise for the purpose of **[**[F517]its**]** water undertaking.**]**

[[F518](5A) Paragraph (b) of subsection (5) above applies to any case where the local authority are satisfied that the failure arose because the person was unable on reasonable terms to acquire any necessary rights—

(a) to take water from a suitable source;

(b) to lay pipes through any land not belonging to him; or

(c) to do any other work.**]**

(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 [F519].

(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

(b) discharges, postpones or abates any obligation of that person to make a payment to the local authority.

Status: *Point in time view as at 27/10/2017.*
Changes to legislation: *Water (Scotland) Act 1980 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F515 Words in s. 76H(5) substituted (4.1.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(43)(a)**; S.I. 1994/2850, **art. 3(c)**

F516 Words in s. 76H(5)(b) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 56(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F517 Word in s. 76H(5)(b) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 56(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F518 S. 76H(5A) inserted (4.1.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(43)(b)**; S.I. 1994/2850, **art. 3(c)**

F519 Words in s. 76H(8) repealed (4.1.1995) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(43)(c), **Sch. 14**; S.I. 1994/2850, **art. 3(c)**

[F520 76HA Application of sections 76G and 76H to certain private supplies

(1) In their application to a private supply which is a [F521 supply of water to which the Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017] apply, sections 76G and 76H above have effect subject to the modifications in subsections (2) and (3).

(2) In section 76G–

[F522 (a) in subsection (1), for "water for domestic or food production purposes" substitute "water intended for human consumption (within the meaning of the Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017)";]

(b) in subsection (2)(d), for "section 76H(2) and (3)" substitute " section 76H(2), (3) and (11) ";

F523 (ba) . . . . . .

F523 (c) . . . . . .

F523 (d) . . . . . .

(e) for subsection (7), substitute–

"(7) For the purposes of this section and section 76H below [F524 a "relevant person"], in relation to a private supply [F525 which is a supply of water to which the Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017 apply, has the same meaning as it has in those Regulations."]; and

F526 (f) . . . . . .

(3) In section 76H, after subsection (10), insert–

"(11) Any relevant person on whom a notice is served under section 76G above, who fails without reasonable excuse to take any step as specified in the notice within the period so specified shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.".]

Textual Amendments

F520 S. 76HA inserted (3.7.2006) by The Private Water Supplies (Notices) (Scotland) Regulations 2006 (S.S.I. 2006/297), **art. 2**

Status: *Point in time view as at 27/10/2017.*
Changes to legislation: *Water (Scotland) Act 1980 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

F521 Words in s. 76HA(1) substituted (27.10.2017) by The Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017 (S.S.I. 2017/282), reg. 1(1), **sch. 10 para. 1(5)(a)** (with reg. 2)

F522 S. 76HA(2)(a) substituted (27.10.2017) by The Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017 (S.S.I. 2017/282), reg. 1(1), **sch. 10 para. 1(5)(b)(i)** (with reg. 2)

F523 Ss. 76HA(2)(ba)-(d) omitted (27.10.2017) by virtue of The Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017 (S.S.I. 2017/282), reg. 1(1), **sch. 10 para. 1(5)(b)(ii)** (with reg. 2)

F524 Words in s. 76HA(2)(e) substituted (27.10.2017) by The Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017 (S.S.I. 2017/282), reg. 1(1), **sch. 10 para. 1(5)(b)(iii)(aa)**, (with reg. 2)

F525 Words in s. 76HA(2)(e) substituted (27.10.2017) by The Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017 (S.S.I. 2017/282), reg. 1(1), sch. 10 para. 1(5)(b)(iii)(bb), (with reg. 2)

F526 S. 76HA(2)(f) omitted (27.10.2017) by virtue of The Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017 (S.S.I. 2017/282), reg. 1(1), **sch. 10 para. 1(5)(b)(ii)** (with reg. 2)

76I Incidental powers of local authorities.

(1) Subject to **[**[F527]subsections (5) and (6)**]** 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) **[**[F528]Subject to subsection (6) below,**]** 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 **[**[F529]Scottish Water**]** 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 **[**[F530]Scottish Water**]** .

(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.

[[F531](6) The foregoing provisions of this section do not apply as respects, but are without prejudice to the exercise of, a power conferred by section 76H(5)(b) above.**]**

Textual Amendments

F527 Words in s. 76I(1) substituted (4.1.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(44)(a)**; S.I. 1994/2850, **art. 3(c)**

F528 Words in s. 76I(2) inserted (4.1.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(44)(b)**; S.I. 1994/2850, **art. 3(c)**

F529 Words in s. 76I(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 57** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F530 Words in s. 76I(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 57** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F531 S. 76I(6) added (4.1.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(44)(c)**; S.I. 1994/2850, **art. 3(c)**

76J Standards of wholesomeness.

(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 **[**[F532]Act**]** 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.

Textual Amendments

F532 Word in s. 76J(1) substituted (4.1.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(45)**; S.I. 1994/2850, **art. 3(c)**

76K Power to give effect to international obligations.

[[F533](1)**]** 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

[[F534](a) to give effect to any **[**[F535] EU**]** obligation or exercise any related right; or

(b) to give effect to any obligation or exercise any related right under any international agreement to which the United Kingdom is for the time being a party.**]**

[[F536](2) In this section—

"modifications" includes additions, alterations and omissions; and

"related right", in relation to an obligation, includes any derogation or other right to make more onerous provisions available in respect of that obligation.**]**

Textual Amendments

F533 S. 76K renumbered (1.10.1991) by Natural Heritage (Scotland) Act 1991 (c. 28, SIF 46:1, 130), s. 27(1), **Sch. 10 para. 9(4)**

F534 Words substituted (1.10.1991) by Natural Heritage (Scotland) Act 1991 (c. 28, SIF 46:1, 130), s. 27(1), **Sch. 10 para. 9(4)(a)**

F535 Words in Act substituted (22.4.2011) by The Treaty of Lisbon (Changes in Terminology) Order 2011 (S.I. 2011/1043), arts. 2, **3**, 6 (with arts. 3(2)(3), 4(2), 6(4)(5))

F536 S. 76K(2) added (1.10.1991) by Natural Heritage (Scotland) Act 1991 (c. 28, SIF 46:1, 130), s. 27(1), **Sch. 10 para. 9(4)(b)**

76L Interpretation etc. of Part VIA.

(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;

[[F537]"domestic distribution system" has the same meaning as it has in the Public Water Supplies (Scotland) Regulations 2014;**]**

[[F538]"food production purposes" shall be construed in accordance with subsection (1A) below;**]**

[F539] …

"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 **[**[F540]Scottish Water**]** (including a supply provided

for the purposes of the bottling of water) and cognate expressions shall be construed accordingly;

[F541]…

[[F542]"responsible person" has the meaning given by section 76FB(2) above;]

"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;

[F543]…

[[F544](1A) In this Part references to food production purposes are references to the manufacturing, processing, preserving or marketing purposes with respect to food or drink for which water supplied to food production premises may be used; and in this subsection 'food production premises' means premises used for the purposes of a business of preparing food or drink for consumption [F545]… .]

(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.

Textual Amendments

F537 Words in s. 76L substituted (27.10.2017) by The Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017 (S.S.I. 2017/282), reg. 1(1), **sch. 10 para. 1(6)(a)** (with reg. 2)

F538 Definition inserted by Food Safety Act 1990 (c. 16, SIF 53:1, 2), **s. 56(5)**

F539 Definition in s. 76L(1) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(46), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

F540 Words in s. 76L in definition of "private supply" substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 58** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F541 Words in s. 76L omitted (27.10.2017) by virtue of The Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017 (S.S.I. 2017/282), reg. 1(1), **sch. 10 para. 1(6)(b)** (with reg. 2)

F542 Words in s. 76L inserted (20.4.2010) by The Water Quality (Scotland) Regulations 2010 (S.S.I. 2010/95), regs. 1(1), **5**

F543 Definition in s. 76L(1) repealed (4.1.1995) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(46), **Sch. 14**; S.I. 1994/2850, **art. 3(c)**

F544 S. 76L(1A) inserted by Food Safety Act 1990 (c. 16, SIF 53:1, 2), **s. 56(6)**

F545 Words in s. 76L(1A) repealed (1.1.2015) by The Public Water Supplies (Scotland) Regulations 2014 (S.S.I. 2014/364), regs. 1(1), **48(j)** (with reg. 1(3)(4))

Status: *Point in time view as at 27/10/2017.*
Changes to legislation: *Water (Scotland) Act 1980 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[F546][F546]PART VIB

RAW WATER QUALITY

Textual Amendments

F546 Pt. 6B inserted (10.6.2013 for specified purposes, 21.12.2013 in so far as not already in force) by Water Resources (Scotland) Act 2013 (asp 5), **ss. 30(2)**, 56(1)(2); S.S.I. 2013/163, art. 3, sch., S.S.I. 2013/342, art. 2(b)

76M Power to enter

(1) Scottish Water may—
- (a) enter any premises for the purposes of—
  - (i) assessing or monitoring the quality of any raw water, or
  - (ii) investigating or isolating anything that appears to be affecting, or may affect, the quality of any raw water,
- (b) take any steps at the premises which are reasonably required for those purposes.

(2) Subsection (1)—
- (a) authorises entry only if the occupier of the premises has been given at least 24 hours' notice of the intended entry for those purposes,
- (b) does not authorise entry into a house.

(3) Subsection (1) has effect whether the water or thing is located at the premises or elsewhere.

(4) In subsection (1), the reference to affecting the quality of the water is to affecting its quality adversely (directly or indirectly).

(5) In this section, "raw water"—
- (a) means water contained in any bodies of water—
  - (i) identified by an order made under section 6(1) of the Water Environment and Water Services (Scotland) Act 2003, or
  - (ii) specified by an order made under section 76R(1),
- (b) also includes water that flows or drains into any bodies of water so identified or specified (or is capable of doing so).

(6) But excluded from the definition given by subsection (5) is any water that is used or available as or for a private water supply within such meaning as the Scottish Ministers may by order prescribe for the purpose of this subsection.

76N Entry warrants

(1) Scottish Water may apply to the sheriff for a warrant authorising it to—
- (a) enter particular premises for the purposes mentioned in section 76M(1),
- (b) take any steps at the premises which are reasonably required for those purposes.

(2) The sheriff may grant the warrant sought if satisfied—

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(a) that there are reasonable grounds for entering the premises for those purposes, and

(b) that—

(i) the first and second conditions are met, or

(ii) the third condition is met.

(3) The first condition is that—

(a) admission to the premises has been refused,

(b) the taking of steps at the premises has been obstructed, or

(c) such refusal or obstruction may reasonably be expected.

(4) The second condition is that notice of the intention to seek a warrant has been given to the occupier of the premises.

(5) The third condition is that the premises are unoccupied.

(6) A warrant under subsection (1)—

(a) remains valid until the purposes mentioned in section 76M(1) are fulfilled,

(b) allows the use of reasonable force (if required),

(c) does not authorise entry into a house.

(7) Subsection (1) has effect whether the water or thing is located at the premises or elsewhere.

76O Approved persons

(1) Subsection (2) applies to the authority conferred on Scottish Water by—

(a) section 76M(1), or

(b) a warrant under section 76N(1).

(2) The authority is exercisable on behalf of Scottish Water by any person approved (in writing) by Scottish Water for the purposes mentioned in section 76M(1).

76P Taking steps

(1) Subsections (2) to (6) apply in relation to the exercise of the authority mentioned in section 76O(1)(a) or (b).

(2) An approved person must, if required by the occupier of the premises—

(a) produce evidence of the approved person's identity (and approval), and

(b) explain the nature of the authority by (as the case may be)—

(i) reference to section 76M, or

(ii) showing a copy of the warrant.

(3) An approved person may take onto the premises—

(a) other persons acting under the approved person's direction,

(b) such equipment as is necessary in connection with the steps that may be taken there.

(4) The steps that may be taken by an approved person at the premises include—

(a) inspecting or measuring any water found there,

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(b) carrying out tests on or taking samples from any soil, water or other substance found there,

(c) installing or maintaining any measuring, testing or sampling equipment for use there.

(5) An approved person may enter the premises only at a reasonable time.

(6) If the premises are unoccupied, an approved person must leave them as effectively secured against entry as they were when that person entered them.

(7) In subsections (2) to (6), "approved person" means person approved as mentioned in section 76O(2).

76Q Obstruction offence

(1) A person commits an offence if the person intentionally obstructs an approved person in the exercise of the authority mentioned in section 76O(1)(b).

(2) In subsection (1), "approved person" means person approved as mentioned in section 76O(2).

(3) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

76R Specifying bodies of water

(1) For the purpose of section 76M(5)(a)(ii), the Scottish Ministers may by order specify any bodies of water that are—

(a) used for the abstraction of water intended for human consumption, or

(b) intended to be used as mentioned in paragraph (a).

(2) An order under subsection (1) may specify any bodies of water by reference to a map prepared in connection with the order (and laid along with it).

(3) The Scottish Ministers must send to the Scottish Environment Protection Agency a copy of—

(a) an order made under subsection (1), and

(b) any map prepared in pursuance of subsection (2).

76S Orders under this Part

An order under section 76M(6) or 76R(1) is subject to the negative procedure.**]**

PART VII

POWERS TO SUPPLY WATER DURING DROUGHT

77—79. . . . . . F547

Status: *Point in time view as at 27/10/2017.*
Changes to legislation: *Water (Scotland) Act 1980 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F547 Ss. 77–79 repealed (1.10.1991) by Natural Heritage (Scotland) Act 1991 (c. 28, SIF 46:1, 130), s. 27(2), **Sch. 11**; S.I. 1991/2187, **art. 3**,Schedule

[F548]PART VIII

WATER DEVELOPMENT BOARDS

Textual Amendments

F548 ss. 80-92 (Pt. VIII) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(47), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

PART IX

GENERAL

93 Obtaining of information as to underground water.

(1) Any person who proposes to sink, for the purpose of searching for or abstracting water, a well or borehole intended to reach a depth of more than 50 feet below the surface shall, before he begins to do so, give to the Natural Environmental Research Council notice in writing of his intention to do so, and shall keep a journal of the progress of the work, which shall include measurements of the strata passed through, and all the levels at which water is struck and subsequently rests, and shall allow any person authorised by the said council for the purpose, on the production of some duly authenticated document showing his authority, at all reasonable times—

(a) to have free access to any such well or borehole;

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(b) to inspect the well or borehole and the material excavated therefrom;

(c) to take specimens of such material and of water abstracted from the well or borehole; and

(d) to inspect and take copies of or extracts from the journal required to be kept under this section.

(2) The person sinking any such well or borehole shall, on completion or abandonment of the work, send a complete copy of the journal kept under subsection (1) to the council and shall also send them particulars of any test made, before such completion or abandonment, of the flow of water, specifying the rate of flow throughout the test and the duration of the test, and also, where practicable, specifying the water levels during the test and thereafter until the water has returned to its natural level.

(3) Where any such well or borehole is sunk in connection with an existing pumping station, the particulars of any test to be supplied to the council shall also include the rate of pumping at the existing works during the test.

(4) Where the person sinking a well or borehole on any land is not the occupier of the land, the obligation to allow a person authorised by the council to exercise the rights specified in paragraphs (a) to (d) of subsection (1) shall be the obligation of the occupier as well as of the person sinking the well or borehole.

(5) Where any person contracts to sink any well or borehole on land belonging to or occupied by any other person and the execution of the work is under the control of the contractor, the contractor and no other person shall be deemed for the purposes of this section to be the person sinking the well or borehole.

(6) The person sinking a well or borehole or (if a different person) the owner or occupier of the land on which it is sunk may give notice in writing to the council requiring them to treat as confidential any copy of or extract from the journal required to be kept under subsection (1) or any specimen taken under that subsection, and the council shall thereupon not allow that copy, extract or specimen, except in so far as it contains or affords information as to water resources and supplies, to be published or shown to any person not being an officer of the council or of the Secretary of State, unless the person giving the notice consents thereto:

Provided that, if at any time the council give notice to that person that in their opinion his consent is unreasonably withheld, then that person may, within three months after the notice is given by the council, appeal to the Court of Session, but if at the expiration of that period no such appeal has been made, or if after hearing the appeal the Court does not make an order restraining them from doing so, the council may proceed as if such consent had been given.

(7) Any person who fails to comply with any obligation imposed on him by the provisions of this section shall be guilty of an offence against this Act and shall on summary conviction be liable to a fine not exceeding **[**[F549]level 4 on the standard scale**]** and, where the offence continues after conviction, to a further fine of £20 for every day during which it so continues.

[[F550](8) Any person who in keeping a journal under subsection (1) or in furnishing information under subsection (2) or (3) makes any statement which he knows to be false or misleading in a material particular or recklessly makes any statement which is false or misleading in a material particular shall be guilty of an offence and shall be liable—

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

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(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or to both.**]**

Textual Amendments

F549 Words in s. 93(7) substituted by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21), s. 289G, 289H, **Sch. 7D** (as inserted by Criminal Justice Act 1982 (c. 48), s. 54, **Sch. 6**, which Sch. 6 was repealed (1.4.1996) by 1995 c. 40, ss. 6, 7(2), **Sch. 5**) and those same words substituted (1.4.1996) by 1995 c. 40, ss. 3, 7(2), Sch. 1 para. 10, **Sch. 2 Pt. III**

F550 S. 93(8) inserted (1.4.1996) by 1995 c. 25, s. 112, **Sch. 19 para. 2(2)**; S.I. 1996/186, **art. 3**

94 False information.

Any person who, in keeping any record or journal or in furnishing any return, abstract or information which he is required by or under this Act **[**[F551](other than by or under section 93)**]** to keep or furnish, knowingly or recklessly makes any statement which is false in a material particular shall be liable in respect of each offence—

(a) on summary conviction, to a fine not exceeding **[**[F552]the statutory maximum**]** or to imprisonment for a term not exceeding three months or to both such fine and imprisonment;

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

Textual Amendments

F551 Words in s. 94 inserted (1.4.1996) by 1995 c. 25, s. 112, **Sch. 19 para. 2(3)**; S.I. 1996/186, **art. 3**

F552 Words substituted by Criminal Justice Act 1982 (c. 48, SIF 39:1), **Sch. 6**

95 Penalties for offences.

Any person guilty of an offence under this Act shall, except where the provision by or under which the offence is created provides for the penalty to be imposed, be liable in respect of each offence—

(a) on summary conviction, to a fine not exceeding **[**[F553]the statutory maximum**]** and in the case of a continuing offence to a further fine not exceeding £25 for every day during which the offence is continued after conviction;

(b) on conviction on indictment, to imprisonment for a period not exceeding three months or to a fine, and in the case of a continuing offence to a fine for every day during which the offence is continued after conviction.

Textual Amendments

F553 Words substituted by Criminal Justice Act 1982 (c. 48, SIF 39:1), **Sch. 15 para. 26**

96 . . . . . [F554]

Status: *Point in time view as at 27/10/2017.*
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Textual Amendments

F554 S. 96 repealed by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73, SIF 36:1), s. 59(2), **Sch. 4**

97 Continuing offences and penalties.

Where provision is made by or under this Act or any local enactment incorporating any provisions of Schedule 4 for the imposition of a daily penalty in respect of a continuing offence, the court by which a person is convicted may fix a reasonable period from the date of the conviction for compliance by that person with any directions given by the court, and, where the court has fixed such a period, the daily penalty shall not be recoverable in respect of any day before the expiration thereof.

98 Local inquiries.

The Secretary of State may cause such local inquiries to be held as he may consider necessary or proper in connection with the discharge by him of any of his functions under this Act or under any other enactment with respect to water supplies or water undertakings, and the provisions of section 210(2) to (9) of the [M10]Local Government (Scotland) Act 1973 shall apply to any such local inquiry and to any other local inquiry which he is required by this Act or any other such enactment to cause to be held.

Marginal Citations

M10 1973 c. 65.

99 Orders subject to special parliamentary procedure.

(1) Any inquiry in relation to an order under this Act which in certain events becomes subject to special parliamentary procedure shall, if the Secretary of State so directs, be held by commissioners under the [M11]Private Legislation Procedure (Scotland) Act 1936; and any direction so given shall be deemed to have been given under section 2, as read with section 10, of the [M12]Statutory Orders (Special Procedure) Act 1945.

(2) Nothing in section 210(2) to (9) of the Local Government (Scotland) Act 1973 shall apply to any inquiry under this section by commissioners under the Private Legislation Procedure (Scotland) Act 1936.

(3) The provisions of the [M13]Statutory Orders (Special Procedure) Act 1945 with regard to the publication of notices in the Edinburgh Gazette and in a newspaper shall, notwithstanding anything in that Act contained, not apply to any order under this Act which is subject to special parliamentary procedure.

Marginal Citations

M11 1936 c. 52.
M12 1945 c. 18.
M13 1945 c. 18.

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100 Orders.

(1) Any power to make orders under this Act may be exercisable by statutory instrument.

[[F555](2) Before making, on his own initiative, an order under section 107, the Secretary of State shall consult **[**[F556]Scottish Water**]** .**]**

Textual Amendments

F555 S. 100(2) substituted (1.4.1996) by 1994 c. 39, **s. 180(1) Sch. 13 para. 119(48)**; S.I. 1996/323, **art. 4(1)(c)**

F556 Words in s. 100(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 59** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

101 Regulations.

(1) The Secretary of State may make regulations prescribing anything required to be prescribed for the purpose of any provision of this Act.

[[F557](1A) Regulations made under this Act may make—

(a) such supplemental, consequential or transitional provision as the Secretary of State thinks fit;

(b) different provision for different cases or classes of case.**]**

[[F558](1B) The Secretary of State may by regulations make provision as to—

(a) the manner in which and the time within which a question or dispute may be referred (other than by him for determination by arbitration), or a request may be made, in pursuance of section 6(3), 9(4) or 24(10) of this Act and as to the procedure for dealing with any such reference or request; and

(b) the manner in which, subject to sections 76G and 76H of this Act, written representation or objection may be made, submitted or withdrawn under subsection (2) of the said section 76H.**]**

(2) Any power to make regulations under this Act shall be exercisable by statutory instrument; and any instrument containing any such regulations shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Textual Amendments

F557 S. 101(1A) inserted (1.10.1991) by Natural Heritage (Scotland) Act 1991 (c. 28, SIF 46:1, 130), s. 27(1), **Sch. 10 para. 9(5)**

F558 S. 101(1B) added (4.1.1995) by 1994 c. 39, **s. 115** (with s. 74(4)); S.I. 1994/2850, art. 3(a), **Sch. 2**

102 Expenses.

There shall be paid out of moneys provided by Parliament any expenses incurred by the Secretary of State in the exercise of his functions under this Act.

103 Notices to be in writing.

All notices, consents, approvals, demands and other documents authorised or required by or under this Act or any local enactment incorporating any provisions of Schedule 4

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to be given, made or issued by the Secretary of State or any **[**[F559]local authority**]**, or **[**[F560]Scottish Water**]**[F561], and all notices and applications authorised or required by or under this Act or any such local enactment to be given or made to the Secretary of State or to, or to any officer of, any **[**[F559]local authority**]**, or **[**[F560]Scottish Water**]**[F561], shall **[**[F562], subject to section 23(4) of and paragraph 4(1) of Schedule 3 to this Act,**]** be in writing.

Textual Amendments

F559 Words in s. 103 substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(49)(a)(c)**; S.I. 1996/323, **art. 4(1)(c)**

F560 Words in s. 103 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 60** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F561 Words in s. 103 repealed (1.4.1996) by 1994 c. 39, s. 180(1), Sch. 13 para. 119(49)(b), **Sch. 14**; S.I. 1994/323, art. 4(1)(c)(d), **Sch. 2**

F562 Words in s. 103 inserted (1.1.1993) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(1), **Sch. 8**, Pt. IV, para. 108(5); S.I. 1992/2990, art. 2(2), **Sch. 2**

104 Appeal to sheriff-principal.

(1) It shall be competent to appeal to the sheriff-principal against the decision of a sheriff on any application to him under this Act **[**[F563](other than an application under section 23(1A))**]** within 21 days after the date of that decision, but subject thereto the decision of the sheriff-principal or sheriff shall be final.

(2) The provisions of this section shall also apply in the case of applications to the sheriff-principal under any local enactment incorporating any provisions of Schedule 4.

Textual Amendments

F563 Words in s. 104(1) inserted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(50)**; S.I. 1996/323, **art. 4(1)(c)**

105 Reference to arbitration.

In arbitrations under this Act or under any local enactment incorporating any provisions contained in Schedule 4, the reference shall, except where otherwise expressly provided, be to a single arbiter to be appointed by agreement between the parties or in default of agreement by the Secretary of State.

106 Supplementary provisions relating to determination of disputes.

(1) Where for the purposes of this Act the Secretary of State or an arbiter is required to determine a dispute, the following provisions of this section shall apply in relation to that determination.

(2) Any such arbiter shall have the like powers for securing the attendance of witnesses and the production of documents, and with regard to the examination of witnesses on oath and the awarding of expenses, as if the arbitration were under a submission.

(3) The arbiter may, and if so directed by the Court of Session shall, state a case for the opinion of that Court on any question of law arising in the proceedings.

(4) Any award of the Secretary of State or, as the case may be, of an arbiter, under **[**[F564]this Act**]** may be recorded in the Books of Council and Session for execution, and may be enforced accordingly.

Textual Amendments

F564 Words in s. 106(4) substituted (4.1.1995) by 1994 c. 39, **s. 180(1)**, SCh. 13 para. 119(51); S.I. 1994/2850, **art. 3(c)**

107 Repeal, amendment and adaptation of local enactments.

(1) The Secretary of State may by order—

(a) on his own initiative, repeal or amend any local enactment relating to the supply of water, or

(b) on the application of **[**[F565]Scottish Water**]**[F566], repeal or amend any local enactment relating to the supply of water—

(i) by or to **[**[F567]Scottish Water**]** , or

(ii) [F568]. . . . . .

(2) The power conferred on the Secretary of State by the foregoing subsection shall include power to consolidate any such local enactments as aforesaid, with or without amendments.

(3) Any order under this section may include such transitional, incidental, supplementary and consequential provisions as the Secretary of State may consider necessary or expedient.

(4) The provisions of this scetion shall have effect without prejudice to the exercise of any power to repeal, amend or adapt local enactments which is conferred by any other enactment, including any enactment contained in this Act.

(5) The provisions of Part I of Schedule 1 shall apply to orders made under this section on the application of **[**[F569]Scottish Water**]**[F566].

Textual Amendments

F565 Words in s. 107(1)(b) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 61(a)(i)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F566 Words in s. 107(1)(b)(5) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(52), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

F567 Words in s. 107(1)(b)(i) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 61(a)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F568 S. 107(1)(b)(ii) repealed (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 61(a)(iii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F569 Words in s. 107(5) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 61(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

108 Transitional provisions and savings.

The transitional provisions and savings contained in Schedule 9 shall have effect.

Status: *Point in time view as at 27/10/2017.*
Changes to legislation: *Water (Scotland) Act 1980 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

109 Interpretation.

(1) In this Act the following expressions shall subject to any express provision or anything in the context to the contrary have the meanings hereby respectively assigned to them, that is to say—

F570 . . . . . .

[F571"agricultural lands and heritages" means any lands and heritages used for agricultural or pastoral purposes only or as woodlands, market gardens, orchards, allotments or allotment gardens and any lands exceeding 1011.75 square metres used for the purpose of poultry farming, but does not include any lands occupied together with a house as a park, garden or pleasure ground or any land kept or preserved mainly or exclusively for sporting purposes**]**

[F572"area", in relation to Scottish Water, means the area comprising all of the local government areas established by virtue of section 1 of the Local Government etc. (Scotland) Act 1994 (c.39);**]**

F570 . . . . . .

F570 . . . . . .

F573 . . . . . .

F570 . . . . . .

"communication pipe", subject to section 110, means—

(a) where the premises supplied with water abut on the part of the **[**F574road**]** in which the main is laid and the service pipe enters those premises otherwise than through the outer wall of a building abutting on the **[**F574road**]** and has a stopcock placed in those premises and as near to the boundary of that **[**F574road**]** as is reasonably practicable, so much of the service pipe as lies between the main and that stopcock;

(b) in any other case, so much of the service pipe as lies between the main and the boundary of the part of the **[**F574road**]** in which the main is laid; and includes the ferrule at the junction of the service pipe with the main, and also—

(i) where the communication pipe ends at a stopcock, that stopcock; and

(ii) any stopcock fitted on the communication pipe between the end thereof and the main;

F575 . . . . . .

F570 . . . . . .

"contravention" includes failure to comply, and "contravene" shall be construed accordingly;

F570 . . . . . .

F576 . . . . . .

F570 . . . . . .

"enactment" means any Act of Parliament, whether public general, local or private, any statutory order or any provision in an Act of Parliament or statutory order;

F577 . . . . . .

"fishery district" means a district for the purposes of the M14Salmon Fisheries (Scotland) Act 1862; and

"fishery district board" means the district board for a fishery district and for the purposes of this Act the Commissioners appointed under the M15Tweed Fisheries Act 1969 shall be deemed to be a fishery district board, and the river, as defined by the said Act of 1969, shall be deemed to be their fishery district;

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"functions" includes powers and duties;

F578 . . . . . .

"house" means a dwelling-house, whether a private dwelling-house or not, and includes any part of a building if that part is occupied as a separate dwelling-house;

"land" includes land covered with water and any interest in land and any right or servitude in, to or over land and shall be interpreted accordingly for the purposes of any provisions of any Act incorporated with this Act;

[F579"limits of supply", in relation to Scottish Water, means the area of Scottish Water;**]**

"local enactment" means any local Act of Parliament, any statutory order or any provision in any such Act of Parliament or statutory order;

"main" means a pipe laid for the purpose of giving a general supply of water as distinct from a supply to individual consumers, and includes any apparatus used in connection with such a pipe;

"navigation authority" means any persons or body of persons, whether incorporated or not, having powers under an enactment to work, maintain, conserve, improve or control any canal or other inland navigation, navigable river, estuary, harbour or dock;

F570 . . . . . .

"occupier" means the tenant or sub-tenant or any person in the actual occupation of premises, but does not include a lodger or person in the occupation as tenant of a furnished house let for a period of less than a year, but includes the person by whom such a furnished house is let;

"outer wall", in relation to a building abutting on a street, does not include the outer wall of a cellar, or other structure, belonging to that building but situated beneath the street;

"owner" F580includes in relation to any land or other premises any person who under the Lands Clauses Acts would be enabled to sell and convey the land or other premises to the promoters of an undertaking;

F570 . . . . . .

"performance", in relation to functions, includes the exercise of powers as well as the performance of duties, and "perform" shall be construed accordingly;

"premises" includes land and also tents, vans, sheds and similar structures;

"prescribed" means prescribed by **[**F581or determined under**]** regulations made by the Secretary of State under this Act;

[F582"private road" and "public road" have the same meanings as in the Roads (Scotland) Act 1984;**]**

[F583"protection of the water environment" has the same meaning as in section 1(2) of the Water Environment and WaterServices (Scotland) Act 2003 (asp 3)**]**

"reasonably practicable" means reasonably practicable in all the circumstances, including in any case where works are involved the expense involved in executing the works;

"repeal", in relation to a local enactment not contained in an Act, means revoke;

F584 . . . . . .

F584 . . . . . .

[F585"road" has the same meaning as in the **[**F586Part IV of the New Roads and Street Works Act 1991**]**;**]**

Status: *Point in time view as at 27/10/2017.*
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[[F585]"roads authority" has the same meaning as in the Roads (Scotland) Act 1984;**]**

"service pipe" means so much of any pipe for supplying water from a main to any premises as is subject to water pressure from that main, or would be so subject but for the closing of some tap;

"statutory order" means an order or scheme made under an Act of Parliament, including an order or scheme confirmed by Parliament;

"stream" includes a river, burn, spring or other running water;

[F587] . . . . . .

"a supply of water for domestic purposes" has the meaning assigned to it in section 7, and any reference to domestic purposes in relation to the supply of water shall be construed accordingly;

"supply of water in bulk" means a supply of water for distribution by **[**[F588]Scottish Water**]**;

"supply pipe" means so much of any service pipe as is not a communication pipe;

[F589] . . . . . .

"watercourse" includes all rivers, streams, ditches, drains, cuts, culverts, dykes, sluices and passages through which water flows;

"water development board" means a board established by virute of section 82(1)(a) and includes the Central Board;

[[F590]"the water environment" has the same meaning as in section 3 of the Water Environment and Water Services (Scotland)Act 2003 (asp 3)**]**

"water fittings" includes pipes (other than mains), taps, cocks, valves, ferrules, meters, cisterns, baths, sinks, water-closets, soil-pans and other similar apparatus used in connection with the supply and use of water;

"waterworks" includes streams, springs, wells, pumps, reservoirs, cisterns, tanks, aqueducts, cuts, sluices, mains, pipes, culverts, engines and all machinery, lands, buildings and things for supplying, or used for supplying, water or used for protecting sources of water supply.

[[F591]"wholesome" and cognate expressions shall be construed subject to the provisions of any regulations made under section 76J**]**

[F592](2) . . . . . .

(3) In the construction of any enactment incorporated with this Act, the expressions "the promoters of the undertaking" or "the company", and "the special Act", shall be construed as meaning respectively the **[**[F593]Scottish Water**]**[F594] . . . , and this Act.

(4) In this Act, except where otherwise indicated—

(a) a reference to a numbered Part, section or Schedule is a reference to the Part or section of, or the Schedule to, this Act so numbered, and

(b) a reference in a section to a numbered subsection is a reference to the subsection of that section so numbered, and

(c) a reference in a section, subsection or Schedule to a numbered paragraph is a reference to the paragraph of that section, subsection or Schedule so numbered.

[F595](5) . . . . . .

Textual Amendments

F570 Definitions in s. 109(1) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(53)(a)(i), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

F571 Definition in s. 109(1) substituted (19.5.1997) by 1997 c. 29, s. 33(1), **Sch. 3 para. 16**; S.I. 1997/1097, **art. 3**

F572 In s. 109(1) definition of "area" substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 62(a)(i)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F573 Definition repealed by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1)(3), Sch. 9 para. 81(12)(a)(i), **Sch. 11**

F574 Words substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 81(12)(a)(ii)**

F575 S. 109(1): definition repealed (1.4.1993) by Local Government Finance Act 1992 (c. 14), s. 117(2), **Sch. 14** (with s. 118(1)(2)(4)); S.I. 1993/575, art. 2(d), **Sch.**

F576 Definitions repealed by Abolition of Domestic Rates Etc. (Scotland) Act 1987 (c. 47, SIF 81:2, 103:2), s. 34, **Sch. 6**

F577 Words in s. 109(1) repealed (1.4.2013) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **sch. 8 Pt. 2**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

F578 Definitions repealed by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1)(3), Sch. 9 para. 81(12)(a)(iii), **Sch. 11**

F579 In s. 109(1) definition of "limits of supply" substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 62(a)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F580 Words in definition in s. 109(1) repealed (4.1.1995) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(53)(a)(iv), **Sch. 14** (with s. 127); S.I. 1994/2850, art. 3(c)(d), **Sch. 3**

F581 Words in definition of 'prescribed' in s. 109(1) inserted (6.3.1992) by Local Government Finance Act 1992 (c. 14), s. 107, **Sch. 11**, Pt. IV, para. 38(f) (with s. 118(1)(2)(4))

F582 Definition inserted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 81(12)(a)(iv)**

F583 In s. 109(1) definition of "protection of the water environment" inserted (1.4.2006) by virtue of The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181), art. 2, **Sch. Pt. IV** {para. 4(3)} (with Sch. Pt. III para. 6)

F584 Definitions in s. 109(1) repealed (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 34(4)**; S.I. 1996/186, **art. 3**

F585 Definitions inserted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 81(12)(a)(v)**

F586 Words in s. 109(1) in definition of 'road' substituted (1.1.1993) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(1), **Sch. 8 para. 108(6)**; S.I. 1992/2990, art. 2(2), **Sch. 2**

F587 Definition repealed by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1)(3), Sch. 9 para. 81(12)(a)(vi), **Sch. 11**

F588 Words in s. 109(1) in definition of "supply of water in bulk" substituted (1.4.2002 subject to art. 3 of the commencing S.S.I.) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 62(a)(iv)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F589 In s. 109(1) definition of "water authority" repealed (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 62(a)(iii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F590 In s. 109(1) definition of "the water environment" inserted (1.4.2006) by virtue of The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181), art. 2, **Sch. Pt. IV** {para. 4(3)} (with Sch. Pt. III para. 6)

F591 Definition in s. 109(1) added (4.1.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(53)(a)(vi)**(with s. 127); S.I. 1994/2850, **art. 3(c)**

F592 S. 109(2) repealed by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1)(3), Sch. 9 para. 81(12)(b), **Sch. 11**

F593 Words in s. 109(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 62(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

Status: *Point in time view as at 27/10/2017.*
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F594 Words in s. 109(3) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(53)(b), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

F595 S. 109(5) repealed (8.12.2014) by Land Registration etc. (Scotland) Act 2012 (asp 5), ss. 122, 123, **sch. 5 para. 21(4)** (with s. 121, sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2

Modifications etc. (not altering text)

C15 S. 109: definitions applied (1.10.1991) by Natural Heritage (Scotland) Act 1991 (c. 28, SIF 46:1, 130), **s. 22(1)**, S.I. 1991/2187, art. 3, Sch.

Marginal Citations

M14 1862 c. 97.

M15 1969 c. xxiv.

110 Further provisions as to communication pipes, etc.

(1) Where any main is laid alongside and within 60 feet of the middle of a **[**[F596]road**]**, then, for the purposes of the definition of "communication pipe" contained in section 109(1), the land in which the main is laid, and any land between the main and the **[**[F596]road**]**, shall be deemed to form part of the **[**[F596]road**]**, and references in that definition to the part of the **[**[F596]road**]** in which the main is laid, and to the boundary of the **[**[F596]road**]** in which the main is laid, shall be construed accordingly;

Provided that where the premises supplied with water lie between any such main as aforesaid and the **[**[F596]road**]**, only that land in which the main is laid together with any land between the main and those premises shall be deemed to form part of the **[**[F596]road**]**.

(2) Where any main is laid as mentioned in subsection (1), the power of **[**[F597]Scottish Water**]** to lay service pipes, stopcocks and other fittings under paragraph 4 of Schedule 3 shall include power, with the consent of every owner and occupier of the land, and subject to payment of compensation for any damage done by **[**[F598]Scottish Water**]** , to lay such pipes, stopcocks and fittings in, on or over any land which is deemed to form part of a **[**[F596]road**]** for the purposes specified in subsection (1).

(3) Any consent required for the purposes of subsection (2) shall not be unreasonably withheld, and any question whether such consent is, or is not, unreasonably withheld shall be referred to and determined by the Secretary of State; and any dispute as to the amount of compensation to be paid under subsection (2) shall be determined by arbitration in the manner provided by section 105.

(4) For the avoidance of doubt, it is hereby declared that the provisions of section 24(3) apply to any pipe laid before the commencement of this Act which, by virtue of this section, is deemed to be a communication pipe.

Textual Amendments

F596 Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 81(13)**

F597 Words in s. 110(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 63(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F598 Words in s. 110(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 63(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

Status: *Point in time view as at 27/10/2017.*
Changes to legislation: *Water (Scotland) Act 1980 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

111 Saving for protective clauses in other Acts.

Except with the consent of the persons interested, no order made under section 29 shall abrogate or affect—

(a) any provision contained in a local enactment for the protection or benefit of any specified person or class of persons or body of persons whether incorporated or not, other than a provision with respect to the discharge of compensation water into any watercourse;

(b) any provision contained in a local enactment for conferring on or preserving to the public rights of enjoyment of air, exercise and recreation on land or rights of access to land for those purposes or for conferring any right of way.

112 Amendments and repeals.

(1) The enactments specified in Schedule 10 shall have effect subject to the amendments specified in that Schedule, being amendments consequential upon the provisions of this Act.

(2) The enactments specified in Schedule 10 shall have effect subject to the amendments specified in that Schedule, being amendments consequential upon the provisions of this Act.

Modifications etc. (not altering text)

C16 The text of s. 112(2) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

113 Short title and extent.

(1) This Act may be cited as the Water (Scotland) Act 1980.

(2) This Act shall extend to Scotland only.

Status: *Point in time view as at 27/10/2017.*
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SCHEDULES

SCHEDULE 1

Sections 13, 17, 19 29, 72, 107.

PROCEDURE FOR MAKING ORDERS AND MAKING AND CONFIRMING BYELAWS

PART I

Orders made by the Secretary of State under section 17(2) and (if made on application of water authority or water development board) sections 19, 29(2) and 107(1)).

1 **[**[F599]Where Scottish Water proposes to apply**]** for any order to which this part of this Schedule applies **[**[F600]it**]** shall submit to the Secretary of State a draft of the order which **[**[F601]it desires**]** him to make and shall publish once at least in each of two successive weeks in one or more local newspapers circulating in the area affected by the order a notice—

(a) stating the general effect of the order;

(b) specifying a place in or near the said area 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 hours during a period of 28 days from the date of the first publication of the notice;

(c) stating that within the said period any person may by notice to the Secretary of State object to the application.

Textual Amendments

F599 Words in Sch. 1 para. 1 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 64(2)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F600 Word in Sch. 1 para. 1 inserted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 64(2)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F601 Words in Sch. 1 para. 1 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 64(2)(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

2 Not later than the date on which the said notice is first published, **[**[F602]Scottish Water**]** shall serve a copy thereof—

(i) on the [F603]. . . **[**[F604]local authority**]** for every area affected by the order along with a copy of the draft order;

(ii) where it is proposed that the order shall authorise the acquisition of rights to take water, on the fishery district board of any fishery district from which water is to be taken under the rights acquired, on any navigation authority exercising functions in relation to any watercourse from which water is to be taken under the rights acquired and on any public undertakers **[**[F605]or licence holder within the meaning of Part I of the Electricity Act 1989**]** known by **[**[F606]Scottish Water**]** to be authorised by **[**[F605]or by virtue of**]** any enactment to take or use water from any such watercourse and in the case

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of an order under section 17(2) **[**[F607]on the Scottish Environment Protection Agency**]**.

Textual Amendments

F602 Words in Sch. 1 para. 2 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 64(3)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F603 Words in Sch. 1 para. 2(i) repealed (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 64(3)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F604 Words in Sch. 1 para. 2(i) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(54)(i)**; S.I. 1996/323, **art. 4(1)(c)**

F605 Words inserted by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), **Sch. 16 para. 26(2)(a)**

F606 Words in Sch. 1 para. 2(ii) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 64(3)(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F607 Words in Sch. 1 para. 2(ii) substituted (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 34(5)(a)**; S.I. 1996/186, **art. 3**

3 **[**[F608]Scottish Water**]** shall also publish in the Edinburgh Gazette a notice stating that **[**[F609]it is**]** about to apply for an order under the appropriate section, [F610]. . . and of any relevant map or plan may be inspected, and giving the name and date of issue of a local newpaper in which the notice explaining the effect of the order applied for will be found.

Textual Amendments

F608 Words in Sch. 1 para. 3 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 64(4)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F609 Words in Sch. 1 para. 3 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 64(4)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F610 Words in Sch. 1 para. 3 repealed (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 64(4)(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

4 **[**[F611]Scottish Water**]** shall, at the request of any person interested, furnish to him a copy of the draft order upon payment of such charge [F612] as **[**[F613]it thinks**]** reasonable.

Textual Amendments

F611 Words in Sch. 1 para. 4 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 64(5)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F612 Words repealed by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23, SIF 81:2), s. 41, **Sch. 4**

F613 Words in Sch. 1 para. 4 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 64(5)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

5 The Secretary of State may make an order in the terms of the draft submitted to him or in those terms as modified in such manner as he thinks fit, but, where he proposes to make any modification and considers that persons other than **[**[F614]Scottish Water**]** may be adversely affected thereby, he shall require **[**[F614]Scottish Water**]** to give and publish additional notices in such manner as he thinks best adapted for informing all persons so affected of the modification proposed.

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Changes to legislation: *Water (Scotland) Act 1980 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F614 Words in Sch. 1 para. 5 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 64(6)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

6 If before the expiration of the 28 days referred to in paragraph 1 of this Schedule or of 25 days from the publication of the said notice in the Edinburgh Gazette, or before the expiration of any period specified in notices given under the last foregoing paragraph, an objection is received by the Secretary of State from any authority or board or undertakers **[**[F615]or licence holder**]** on whom a notice is required to be served under paragraph 2 of this Schedule, or from any other person appearing to him to be affected by the application, or, as the case may be, by the proposed modification, and the objection is not withdrawn, the Secretary of State, before making any order on the application, shall cause a local inquiry to be held.

Textual Amendments

F615 Words inserted by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), **Sch. 16 para. 26(2)(b)**

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.

8 The expenses incurred by the Secretary of State in connection with the making, notification and confirmation of an order under this Part of this Schedule shall be paid by **[**[F616]Scottish Water**]**[F617]. . . .

Textual Amendments

F616 Words in Sch. 1 para. 8 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 64(7)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F617 Words in Sch. 1 para. 8 repealed (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 64(7)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

9 . . . . . [F618]

Textual Amendments

F618 Sch. 1 para. 9 repealed by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23, SIF 81:2), s. 41, **Sch. 4**

Status: *Point in time view as at 27/10/2017.*
Changes to legislation: *Water (Scotland) Act 1980 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

PART II

Orders made by the Secretary of State under section 13(2) and (if no application by the water authority or water development board) sections 19 and 29(2).

10 Before making an order to which this Part of this Schedule applies, the Secretary of State shall publish once at least in each of two successive weeks in one or more local newspapers circulating in the area affected by the order, a notice—

(a) stating the general effect of the order;

(b) specifying a place in or near the said area 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 hours during a period of 28 days from the date of the first publication of the notice; and

(c) stating that within the said period any person may by notice to the Secretary of State object to the making of the order.

11 Not later than the date on which the said notice is first published the Secretary of State shall serve a copy thereof—

(i) on **[**[F619]Scottish Water and on the**]**[[F620]local authority**]** for every area affected by the order along with a copy of the draft order;

(ii) where it is proposed that the order shall authorise the transfer of rights to take water, on the fishery district board of any fishery district, and on any navigation authority [F621] exercising functions in relation to any watercourse, from which water is taken under the rights transferred [F622] and on any public undertakers **[**[F623]or licence holder within the meaning of Part I of the Electricity Act 1989**]** known by the Secretary of State to be authorised by **[**[F623]or by virtue of**]** any enactment to take or use water from any such watercourse **[**[F624]and on the Scottish Environment Protection Agency**]**;

(iii) where it is proposed that the order shall provide for the furnishing of a supply of water in bulk, on the fishery district board of any fishery district from which water is taken by the persons who are to give the bulk supply.

Textual Amendments

F619 Words in Sch. 1 para. 11(i) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 64(8)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F620 Words in Sch. 1 para. 11(i) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119**(54(c)(i); S.I. 1996/323, **art. 4(1)(c)**

F621 Words in Sch. 1 para. 11(ii) repealed (1.4.1996) by 1995 c. 25, s. 120, Sch. 22 para. 34(5)(b), **Sch. 24**; S.I. 1996/186, **art. 3**

F622 Words in Sch. 1 para. 11(ii) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 54(c)(ii), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

F623 Words inserted by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), **Sch. 16 para. 26(2)(c)**

F624 Words in Sch. 1 para. 11(ii) added (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 34(5)(b)**; S.I. 1996/186, **art. 3**

12 The Secretary of State shall also publish in the Edinburgh Gazette a notice stating that he is about to make the order, [F625]. . . and of any relevant map or plan may be inspected, and giving the name and date of issue of a local newpaper in which the notice explaining the effect of the order will be found.

Status: *Point in time view as at 27/10/2017.*
Changes to legislation: *Water (Scotland) Act 1980 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F625 Words in Sch. 1 para. 12 repealed (1.4.2002 subject to art. 3 of the commencing S.S.I.) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 64(9)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

13 The Secretary of State shall, at the request of any person interested, furnish him with a copy of the draft order upon payment of such charge [F626] as the Secretary of State thinks reasonable.

Textual Amendments

F626 Words in Sch. 1 para. 13 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(54)(e), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

14 The Secretary of State may make the order either in the terms of the draft or in those terms as modified in such manner as he thinks fit, but, where he proposes to make any modification and considers that persons other than **[**[F627]Scottish Water**]** may be adversely affected thereby, he shall give and publish additional notices in such manner as he thinks best adapted for informing all persons likely to be affected by the modification proposed.

Textual Amendments

F627 Words in Sch. 1 para. 14 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 64(10)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

15 If before the expiration of the 28 days referred to in paragraph 10 of this Schedule, or of 25 days from the publication of the said notice in the Edinburgh Gazette, or before the expiration of any period specified in notices given under the last foregoing paragraph, an objection is received by the Secretary of State from **[**[F628]Scottish Water or**]** any authority or board or undertakers **[**[F629]or licence holder**]** on whom a notice is required to be served under paragraph 11 of this Schedule or from any person appearing to him to be affected by the order or, as the case may be, by the proposed modification, and the objection is not withdrawn, the Secretary of State before making the order shall cause a local inquiry to be held.

Textual Amendments

F628 Words in Sch. 1 para. 15 inserted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 64(11)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F629 Words inserted by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), **Sch. 16 para. 26(2)(d)**

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.

Status: *Point in time view as at 27/10/2017.*
Changes to legislation: *Water (Scotland) Act 1980 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

17 The expenses incurred by the Secretary of State in connection with the making, notification and confirmation of an order under this Part of this Schedule shall be paid by **[**[F630]Scottish Water**]**

Textual Amendments

F630 Words in Sch. 1 para. 17 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 64(12)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

18 . . . . . [F631]

Textual Amendments

F631 Sch. 1 para. 18 repealed by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23, SIF 81:2), s. 41, **Sch. 4**

[F632][F632]PART III

Textual Amendments

F632 Sch. 1 Pt. III repealed (1.4.2006) by The Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181), art. 2, **Sch. Pt. I** (with Sch. Pt. III)

Agreements made by water authorities or water development boards under section 17

. . . . . .

19 Where Scottish Water proposes to enter into an agreement to which this Part of this Schedule applies itshall publish once at least in each of two successive weeks in one or more local newspapers circulating within its limits of supply a notice explaining the effect of the proposals and stating that objections thereto may be made to the Secretary of State within 28 days after the first publication of the notice, and shall send a copy of the notice to the . . . local authority for any area, the fishery district board of any fishery district, and any navigation authority exercising jurisdiction in relation to any water course, from which water is proposed to be taken under the rights to be acquired, and where the river purification authority within whose area the stream affected is situated are not the same authority as Scottish Water, to that authority, and to any public undertakers known by the water authority to be authorised by any enactment to take or use water from any such watercourse.

. . . . . .

20 Scottish Water shall also publish in the Edinburgh Gazette a notice stating that it proposes to enter into such an agreement as aforesaid with the persons specified in the notice and giving the name and date of issue of a local newpaper in which the notice explaining the effect of the proposals will be found.

. . . . . .

Status: *Point in time view as at 27/10/2017.*
Changes to legislation: *Water (Scotland) Act 1980 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

21 The Secretary of State shall not approve the agreement before the expiration of the said 28 days or before the expiration of 25 days from the publication of the said notice in the Edinburgh Gazette, and before approving it shall consider any objections which may have been received by him before the expiration of either of the said periods, and if before such expiration an objection is received by the Secretary of State from any authority or board or undertakers to whom a notice is required to be sent under paragraph 19 of this Schedule or who appear to him to be affected by the proposed agreement and the objection is not withdrawn, the Secretary of State shall, before approving the agreement, cause a local inquiry to be held.

. . . . . .

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 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.

. . . . . .

23 The expenses incurred by the Secretary of State in connection with the approval of agreements under this Part of this Schedule (whether by order or otherwise) and the confirmation of orders thereunder shall be paid by Scottish Water .

PART IV

Byelaws made by water authorities or water development boards under sections 70 and 71

24 Byelaws to which this Part of this Schedule applies [F644]. . . shall not have effect until they are confirmed by the Secretary of State.

Textual Amendments

F644 Words in Sch. 1 para. 24 repealed (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 64(16)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

25 At least one month before application for confirmation of the byelaws is made—

(a) notice of the intention to apply for confirmation shall be published in the Edinburgh Gazette and in one or more local newspapers circulating in the area to which the byelaws apply, and

(b) a copy of the byelaws shall be sent to the **[**[F645]local authority for any area**]** wholly or partly comprised in the area to which the byelaws apply.

Status: *Point in time view as at 27/10/2017.*
Changes to legislation: *Water (Scotland) Act 1980 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F645 Words in Sch. 1 para. 25(b) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(54)(l)**; S.I. 1996/323, **art. 4(1)(c)**

26 For at least one month before such application is made, a copy of the byelaws shall be deposited at the offices of **[**[F646]Scottish Water**]**[F647] and shall at all reasonable hours be open to public inspection without payment.

Textual Amendments

F646 Words in Sch. 1 para. 26 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 64(17)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F647 Words in Sch. 1 para. 26 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(54)(k), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

27 **[**[F648]Scottish Water**]**[F649] shall, at the request of any person interested, furnish to him a copy of the proposed byelaws upon payment of such sum [F650] as **[**[F651]it**]** may determine.

Textual Amendments

F648 Words in Sch. 1 para. 27 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 64(18)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F649 Words in Sch. 1 para. 27 repealed (1,4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(54)(k), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

F650 Words repealed by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23, SIF 81:2), s. 41, **Sch. 4**

F651 Word in Sch. 1 para. 27 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 64(18)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

28 Any person aggrieved by any such byelaws may, within one month after the publication of the notice required by paragraph 25 hereof, notify his objection and the ground of his objection to the Secretary of State who shall consider them before confirming the byelaws.

29 The Secretary of State may confirm with or without modification or refuse to confirm any byelaws submitted to him under this Part of this Schedule for confirmation, and may fix a date on which the byelaws are to come into operation and if no date is so fixed the byelaws shall come into operation at the expiration of one month from the date of their confirmation.

30 A copy of the byelaws when confirmed shall be printed and deposited at the offices of **[**[F652]Scottish Water**]**[F653] and shall at all reasonable hours be open to public inspection without payment, and a copy thereof shall, on application, be furnished to any person on payment of such sum [F654], as **[**[F655]Scottish Water**]**[F653] may determine.

Textual Amendments

F652 Words in Sch. 1 para. 30 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 64(19)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

Status: *Point in time view as at 27/10/2017.*
Changes to legislation: *Water (Scotland) Act 1980 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

F653 Words in Sch. 1 para. 30 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(54)(m), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

F654 Words repealed by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23, SIF 81:2), s. 41, **Sch. 4**

F655 Words in Sch. 1 para. 30 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 64(19)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

31 The production of a printed copy of the byelaws on which is endorsed a certificate purporting to be signed by **[**[F656]a duly authorised**]** officer of **[**[F657]Scottish Water**]**[F658], stating—

(a) that the byelaws were made by **[**[F657]Scottish Water**]**[F658];

(b) that the copy is a true copy of the byelaws;

(c) that on a specified date the byelaws were confirmed by the Secretary of State; and

(d) the date, if any, fixed by the Secretary of State for the coming into operation of the byelaws;

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 a certificate in pursuance of this paragraph.

Textual Amendments

F656 Words in Sch. 1 para. 31 substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(54)(n)(i)**; S.I. 1996/323, **art. 4(1)(c)**

F657 Words in Sch. 1 para. 31 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 64(20)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F658 Words in Sch. 1 para. 31 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(54)(n)(ii), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

SCHEDULE 2

Section 18.

ORDERS UNDER SECTION 17 AUTHORISING COMPULSORY ACQUISITION OF LAND

1 The order shall incorporate the Lands Clauses Acts and section 6 of the [M16]Railways Clauses Consolidation (Scotland) Act 1845, and those Acts and the enactments relating to the compensation payable in respect of the compulsory acquisition of land shall apply accordingly subject to the exceptions and modifications specified in Parts I and II of Schedule 2 to the Act of 1947, and to such other exceptions and modifications (if any) as may be specified in the order.

Marginal Citations

M16 1845 c. 33.

2 A copy of the notice required by paragraph 1 or 10 of Schedule 1 to be published shall be served in accordance with the provisions of paragraph 2 or 11 of that Schedule on every owner, lessee and occupier (except tenants for a month or for any period less than a month) of any land authorised by the draft order to be compulsorily acquired.

Status: *Point in time view as at 27/10/2017.*
Changes to legislation: *Water (Scotland) Act 1980 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

3 Where any such objection as is mentioned in paragraph 6 or 15 of Schedule 1 relates to the compulsory acquisition of land, the Secretary of State may require the objector to state in writing the grounds thereof, and if it is certified by the Secretary of State that the objection relates exclusively to matters that can be dealt with by the tribunal by whom the compensation for the compulsory acquisition is to be assessed—

(a) the Secretary of State may disregard the objection for the purposes of the said paragraph 6 or 15, as the case may be; and

(b) where paragraph 7 or 16 of Schedule 1 applies to the order, the objection shall be disregarded for the purposes of that paragraph.

4 Notwithstanding anything in paragraph 5 or 14 of Schedule 1, the order as made by the Secretary of State shall not, unless all persons interested consent, authorise **[**[F659]Scottish Water**]**[F660] to acquire compulsorily any land which **[**[F661]it**]** would not have been so authorised to acquire if it had been made in terms of the draft submitted to or prepared by him.

Textual Amendments

F659 Words in Sch. 2 para. 4 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 65(a)(i)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F660 Words in Sch. 2 para. 4 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(55), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

F661 Word in Sch. 2 para. 4 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 65(a)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

5 Subject as hereinafter provided, Part III of Schedule 1 to the Act of 1947 (which makes special provision with respect to land of local authorities and statutory undertakers, inalienable land of the National Trust for Scotland, and land being a common or open space or the site of an ancient monument) shall apply to the order as it applies to a compulsory purchase order:

Provided that where paragraph 7 or 16 of Schedule 1 applies to the order, this paragraph shall have effect as if for the reference to Part III of Schedule 1 to the Act of 1947 there were substituted a reference to paragraph 10 of the last mentioned Schedule.

6 As soon as may be after the order has been made, **[**[F662]Scottish Water**]**[F663] shall publish in one or more newspapers circulating in the locality in which the land authorised to be acquired is situated a notice describing the land and stating that the order has been made authorising **[**[F662]Scottish Water**]**[F663] to acquire it compulsorily, and naming a place where a copy of the order as made may be inspected at all reasonable hours, and shall serve a like notice and a copy of the order as made on any persons on whom notices with respect to the land were required to be served by virtue of paragraph 2 above.

Textual Amendments

F662 Words in Sch. 2 para. 6 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 65(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F663 Words in Sch. 2 para. 6 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(55), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

Status: *Point in time view as at 27/10/2017.*
Changes to legislation: *Water (Scotland) Act 1980 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

7 Part IV of Schedule 1 to the Act of 1947 (which relates to the validity and date of operation of compulsory purchase orders under that Act) shall apply to the order as if it were a compulsory purchase order and as if this Act were included among the enactments specified in section 1(1) of that Act; and paragraph 15(1) of that Schedule shall have effect accordingly in relation to the order as if for the words "this Act", in the third place where those words occur, there were substituted the words "Schedule 2 to the Water (Scotland) Act 1980", and as if after the words "this Schedule", in the second place where those words occur, there were inserted the words "or Schedule 2 to the Water (Scotland) Act 1980":

Provided that nothing in this paragraph shall prohibit or restrict the taking of legal proceedings for questioning the order so far as it relates to matters other than the compulsory acquisition of land.

8 In this Schedule the expression "the Act of 1947" means the [M17]Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947.

Marginal Citations

M17 1947 c. 42.

SCHEDULE 3

Sections 22, 24.

PROVISIONS AS TO BREAKING OPEN STREETS AND LAYING COMMUNICATION AND SUPPLY PIPES

Modifications etc. (not altering text)

C17 Sch. 3: power to apply conferred (1.10.1991) by Natural Heritage (Scotland) Act 1991 (c. 28, SIF 46:1, 130), s. 20(10), **Sch. 7 para. 5(1)(b)**

PART I

Modifications etc. (not altering text)

C18 Sch. 3 Pt. I (paras. 1–3) applied with modifications by Local Government (Scotland) Act 1973 (c. 65, SIF 81:2), **s. 170A(5)** (as inserted by Electricity Act 1989 (c. 29, SIF 44:1), s. 102, **Sch. 13**)

Provisions as to breaking open streets, etc.

Power to break open streets.

1 Subject to the provisions of this Part of this Schedule, **[**[F664]Scottish Water**]**[F665] may, [F665] for the purpose of laying, constructing, inspecting, repairing, altering, renewing or removing mains, service pipes, plant or other works, [F665], break open **[**[F666]a road**]**, and any cellar or vault below any **[**[F667]road**]**, and any sewer, drain or tunnel in or

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under any such **[**[F668]road**]**, and may remove and use the soil or other materials in or under any such **[**[F668]road**]**:

Provided that **[**[F669]it**]** shall in the exercise of the powers conferred by this paragraph cause as little inconvenience and do as little damage as may be, and for any damage done shall pay compensation to be determined, in case of dispute, by arbitration.

Textual Amendments

F664 Words in Sch. 3 para. 1 substituted (1.4.2002 subject to art. 3 of the commencing S.S.I.) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 66(2)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F665 Words in Sch. 3 para. 1 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(56)(a), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

F666 Words substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 81(14)(a)(i)**

F667 Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 81(14)(a)(ii)**

F668 Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 81(14)(a)(iii)**

F669 Word in Sch. 3 para. 1 in proviso substituted (1.4.2002 subject to art. 3 of the commencing S.S.I.) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 66(2)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

Protection for railway companies, navigation authorities, tramway undertakers, etc.

2 (1) Except in cases of emergency arising from defects in existing pipes, plant or works, **[**[F670]a private road**]** under the control or management of, or maintainable by, a railway company or navigation authority shall not be broken open without their consent, but that consent shall not be unreasonably withheld, and any question whether or not consent is unreasonably withheld shall be referred to and determined by the Secretary of State.

(2) Where **[**[F671]Scottish Water proposes**]** to break open **[**[F672]any length of road**]** which forms a level-crossing belonging to persons not being a railway company or navigation authority and which is not under the control or management of a railway company or navigation authority, **[**[F673]it**]** shall give to those persons the like notice as is referred to in **[**[F674]section 114 of the New Roads and Street Works Act 1991**]** and, if and in so far as the proposed work is likely to affect the structure of any bridge or other works belonging to those persons, shall carry out the work to the reasonable satisfaction of the engineer or other authorised officer acting on behalf of those persons in accordance with plans approved by him.

Any dispute arising under this sub-paragraph between **[**[F675]Scottish Water**]**[F676] and those persons shall be determined by arbitration.

(3) For the protection of persons entitled to the benefit of section 32 of the [M18]Tramways Act 1870 (which relates to the rights of authorities and companies, etc., to open roads) that section shall be construed as applying to operations authorised by the special Act, and in the said section as so applied any reference to a tramway shall be construed as including a reference to a trolley vehicle system.

(4) Nothing contained in this paragraph for the protection of owners of level-crossings shall affect the decision of any question which may arise as to the legality of the construction of, or the right to continue, any level-crossing.

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Textual Amendments

F670 Words substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 81(14)(b)(i)**

F671 Words in Sch. 3 para. 2(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 66(3)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F672 Words substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 81(14)(b)(ii)**

F673 Word in Sch. 3 para. 2(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 66(3)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F674 Words in Sch, 3 para. 2 substituted (1.1.1993) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(1), **Sch. 8**, Pt. IV, para. 108(7)(a); S.I. 1992/2990, art. 2(2), **Sch. 2**

F675 Words in Sch. 3 para. 2(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 66(3)(c)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F676 Words in Sch. 3 para. 2(2) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(56)(b), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

Marginal Citations

M18 1870 c. 78.

3 . . . . . **F677**

Textual Amendments

F677 Sch. 3 para. 3 repealed by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1)(3), **Sch. 9 para. 81(14)**(*c*), Sch. 11

PART II

Modifications etc. (not altering text)

C19 Sch. 3 Pt. II (paras. 4–9) applied with modifications by Local Government (Scotland) Act 1973 (c. 65, SIF 81:2), **s. 170A(5)** (as inserted by Electricity Act 1989 (c. 29, SIF 44:1), s. 102, **Sch. 13**)

Provisions as to laying communication and supply pipes, etc.

Power to lay service pipes, etc.

4 (1) **[**[F678]Scottish Water**]** may in any **[**[F679]road**]** lay such service pipes with such stopcocks and other fittings as **[**[F680]it deems**]** necessary for supplying water to premises [F681], and may from time to time inspect, repair, alter or renew and may at any time remove any service pipe laid in a **[**[F679]road**]** whether by virtue of this section or otherwise:

Provided that before exercising any of the powers conferred by this paragraph, **[**[F682]Scottish Water**]** shall, except in cases of emergency arising from defects in any existing pipes, plant or works, give **[**[F683]such**]** notice, to **[**[F684]—

(i) where the road is a public road, the roads authority; and

(ii) in any other case, the authority or person responsible for the maintenance of the road, or, if no authority or person is so responsible, to the owners of the solum of the road**][**[F685]as would require to be given by an undertaker under section 114

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of the New Roads and Street Works Act 1991 (notice of starting date of works) in accordance with that section and with section 156 of that Act (service of notice)**]**.

(2) Where a service pipe has been lawfully laid in, on or over any land not forming part of a **[**[F686]road**]**, **[**[F687]Scottish Water**]** may from time to time enter upon that land and inspect, repair, alter, renew or remove the then existing pipe or lay a new pipe in substitution therefor, but shall pay compensation for any damage done by them.

Any dispute as to the amount of compensation to be paid under this sub-paragraph shall be determined by arbitration.

Textual Amendments

F678 Words in Sch. 3 para. 4(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 66(4)(a)(i)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F679 Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 81(14)(d)(i)**

F680 Words in Sch. 3 para. 4(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 66(4)(a)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F681 Words in Sch. 3 para. 4(1) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(56)(c), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

F682 Words in Sch. 3 para. 4(1) in proviso substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 66(4)(a)(iii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F683 Word "such" in Sch. 3 para. 4 substituted (1.1.1993) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(1), **Sch. 8**, Pt. IV, para. 108(7)(b); S.I. 1992/2990, art. 2(2), **Sch. 2**

F684 Words substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 81(14)(d)(i)**

F685 Words in Sch. 3 para. 4 added (1.1.1993) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(1), **Sch. 8**, Pt. IV, para. 108(7)(b); S.I. 1992/2990, art. 2(2), **Sch. 2**

F686 Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 81(14)(d)(ii)**

F687 Words in Sch. 3 para. 4(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 66(4)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

Laying of supply pipes, etc.

5 An owner or occupier of any premises [F688] who desires to have a supply of water for his domestic purposes from the waterworks of **[**[F689]Scottish Water**]** shall, subject as hereinafter provided, comply with the following requirements:

(a) he shall give to **[**[F690]Scottish Water**]** 14 days' notice of his intention to lay the necessary supply pipe; and

(b) he shall lay the supply pipe at his own expense, having first obtained, as respects any land not forming part of a **[**[F691]road**]**, the consent of the owners and occupiers thereof:

Provided that, where any part of the supply pipe is to be laid in a **[**[F691]road**]**, he shall not himself break open the **[**[F691]road**]** or lay that part of the pipe.

Textual Amendments

F688 Words in Sch. 3 para. 5 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(56)(d)(i), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

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F689 Words in Sch. 3 para. 5 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 66(5)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
F690 Words in Sch. 3 para. 5 substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 66(5)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
F691 Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 81(14)(e)**

Laying of communication pipes, etc.

6 (1) Upon receipt of such a notice as is referred to in the last foregoing paragraph, **[**[F692]Scottish Water**]** shall, within 14 days after the person by whom the notice was given has laid a supply pipe in accordance with the provisions of the last foregoing paragraph, lay the necessary communication pipe and any part of the supply pipe which is to be laid in a **[**[F693]road**]** and shall connect the communication pipe with the supply pipe:

Provided that, where any part of the supply pipe is to be laid in a **[**[F693]road**]**, **[**[F694]it**]** may elect to lay a main in the **[**[F693]road**]** for such distance as **[**[F695]it thinks**]** fit in lieu of a supply pipe, and in that case shall lay a communication pipe from that main and connect it with the supply pipe.

(2) The whole, or such part as **[**[F696]Scottish Water**]** may think fit, of the expenses reasonably incurred by **[**[F697]Scottish Water**]** in executing the work which **[**[F698]it is**]** required or authorised by this paragraph to execute shall be repaid to **[**[F699]it**]** by the person by whom the notice was given and may be recovered by **[**[F699]it**]** from him:

Provided that, if under the provisions of this paragraph **[**[F700]Scottish Water lays**]** a main in lieu of part of a supply pipe, the additional cost incurred in laying a main instead of a supply pipe shall be borne by **[**[F699]it**]** .

(3) Notwithstanding anything in the foregoing provisions of this paragraph, **[**[F701]where such a notice as aforesaid is given to Scottish Water, it**]** may, within seven days after the receipt thereof, require the person giving the notice either to pay to **[**[F702]it**]** in advance the cost of the work, as estimated by **[**[F703]its**]** engineer, or to give security for payment thereof to **[**[F703]its**]** satisfaction, and, where **[**[F704]it makes**]** such a requirement, the period of 14 days referred to in sub-paragraph (1) of this paragraph shall not commence to run until the requirement has been complied with.

If any payment so made to **[**[F705]Scottish Water**]** exceeds the expenses which under the foregoing provisions of this paragraph **[**[F706]it**]** would be entitled to recover from the person giving the notice, the excess shall be repaid by **[**[F702]it**]** , and, if and so far as those expenses are not covered by the payment, **[**[F706]it**]** may recover the balance from him.

Textual Amendments

F692 Words in Sch. 3 para. 6(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 66(6)(a)(i)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
F693 Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 81(14)(e)**
F694 Word in Sch. 3 para. 6(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 66(6)(a)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

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F695 Words in Sch. 3 para. 6(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 66(6)(a)(iii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
F696 Words in Sch. 3 para. 6(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 66(6)(b)(i)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
F697 Words in Sch. 3 para. 6(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 66(6)(b)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
F698 Words in Sch. 3 para. 6(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 66(6)(b)(iii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
F699 Word in Sch. 3 para. 6(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 66(6)(b)(iv)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
F700 Words in Sch. 3 para. 6(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 66(6)(b)(v)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
F701 Words in Sch. 3 para. 6(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 66(6)(c)(i)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
F702 Word in Sch. 3 para. 6(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 66(6)(c)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
F703 Word in Sch. 3 para. 6(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 66(6)(c)(iii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
F704 Words in Sch. 3 para. 6(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 66(6)(c)(iv)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
F705 Words in Sch. 3 para. 6(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 66(6)(c)(v)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**
F706 Word in Sch. 3 para. 6(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 66(6)(c)(vi)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

Power of authority to require separate service pipes.

7 (1) Subject to the provisions of this paragraph **[**[F707]Scottish Water**]** may require the provision of a separate service pipe for each house supplied, or to be supplied by **[**[F708]it**]** , with water.

(2) If, in the case of a house already supplied with water but not having a separate service pipe, **[**[F709]Scottish Water gives**]** notice to the owner of the house, requiring the provision of such a pipe, the owner shall within **[**[F710]such period of not less than three months as the notice shall specify**]** lay so much of the required pipe as will constitute a supply pipe and is not required to be laid in a **[**[F711]road**]**, and **[**[F712]Scottish Water**]** shall, within 14 days after he has done so, lay so much of the required pipe as will constitute a communication pipe or a supply pipe to be laid in a **[**[F711]road**]** and make all necessary connections.

(3) If an owner upon whom a notice has been served under the last foregoing sub-paragraph fails to comply therewith, **[**[F713]Scottish Water**]** may **[**[F714]itself**]** execute the work which he was required to execute.

(4) The expenses reasonably incurred by **[**[F715]Scottish Water**]** in executing the work which **[**[F716]it is**]** required by sub-paragraph (2) to execute, or which **[**[F716]it is**]** empowered by the last foregoing sub-paragraph to execute, shall be repaid to **[**[F717]it**]** by the owner of the house and may be recovered by **[**[F717]it**]** from him, but without prejudice to the rights and obligations as between themselves, of the owner and occupier of the house.

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(5) Where two or more houses are being supplied with water by a single service pipe, **[**[F718]Scottish Water**]** shall not require the provision of separate service pipes for those houses until [F719]—

(a) the existing supply pipe becomes so defective as to require renewal, or is no longer sufficient to meet the requirements of the houses; or

(b) the houses are, by structural alterations to one or more of them, converted into a larger number of houses. **[**[F720]; or

(c) the owner or occupier of any of the houses has interfered with, or allowed another person to interfere with, the existing service pipe or the stop-cock fixed to that pipe and has thereby caused the supply of water to any of the houses to be interfered with; or

(d) **[**[F721]Scottish Water has**]** reasonable grounds to believe that such interference as is mentioned in (*c*) above is likely to take place.**]**

Textual Amendments

F707 Words in Sch. 3 para. 7(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 66(7)(a)(i)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F708 Word in Sch. 3 para. 7(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 66(7)(a)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F709 Words in Sch. 3 para. 7(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 66(7)(b)(i)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F710 Words in Sch. 3 para. 7(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 66(7)(b)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F711 Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 81(14)(e)**

F712 Words in Sch. 3 para. 7(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 66(7)(b)(iii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F713 Words in Sch. 3 para. 7(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 66(7)(c)(i)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F714 Word in Sch. 3 para. 7(3) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 66(7)(c)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F715 Words in Sch. 3 para. 7(4) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 66(7)(d)(i)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F716 Words in Sch. 3 para. 7(4) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 66(7)(d)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F717 Word in Sch. 3 para. 7(4) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 66(7)(d)(iii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F718 Words in Sch. 3 para. 7(5) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 66(7)(e)(i)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F719 Word repealed by Local Government and Planning (Scotland) Act 1982 (c. 43, SIF 81:2), s. 58(a), **Sch. 4 Pt. I**

F720 Word and subparas.(c)(d) added by Local Government and Planning (Scotland) Act 1982 (c. 43, SIF 81:2), **s. 58(b)**

F721 Words in Sch. 3 para. 7(5) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 66(7)(e)(ii)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

[F722]8 . . . . . .

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Textual Amendments

F722 Sch. 3 para. 8 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(56)(e), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

Provisions as to the position of stopcocks.

9 (1) On every service pipe laid after 16th May 1946 **[**[F723]Scottish Water**]** shall, and on every service pipe laid before that date **[**[F723]Scottish Water**]** may, fit a stopcock enclosed in a covered box, or pit, of such size as may be reasonably necessary.

(2) Every stopcock fitted on a service pipe after 16th May 1946 shall be placed in such position as **[**[F724]Scottish Water deems**]** most convenient:

Provided that—

(a) a stopcock in private premises shall be placed as near as is reasonably practicable to the **[**[F725]road**]** from which the service pipe enters those premises; and

(b) a stopcock in a **[**[F725]road**]** shall, after consultation with the **[**[F726]roads**]** authority concerned, be placed as near to the boundary thereof as is reasonably practicable.

Textual Amendments

F723 Words in Sch. 3 para. 9(1) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 66(8)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F724 Words in Sch. 3 para. 9(2) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 66(8)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F725 Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 81(14)(f)(i)**

F726 Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 81(14)(f)(ii)**

SCHEDULE 4

PROVISIONS TO BE INCORPORATED IN ORDERS RELATING TO WATER UNDERTAKINGS

Modifications etc. (not altering text)

C20 Sch. 4 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 3, **Sch. 7 para. 2** (1) (xxxviii), Sch. 8 para. 33

C21 Sch. 4: power to apply conferred (1.10.1991) by Natural Heritage (Scotland) Act 1991 (c. 28, SIF 46:1, 130), s. 20(10), **Sch. 7 para. 5(1)(b)**

Status: *Point in time view as at 27/10/2017.*
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PART I

INTERPRETATION

Definitions, etc.

1 (1) In this Schedule the following expressions shall, unless the context otherwise requires, have the meanings hereby respectively assigned to them, that is to say:

"authorised" means authorised by the special Act;

"consumer" means a person supplied, or about to be supplied, with water by the undertakers;

"factory" means factory within the meaning of the [M19]Factories Act 1961;

[[F727]"prescribed" means prescribed by the special Act;

"special Act" means the Act or Part of an Act, or order with which any provisions of this Schedule are incorporated, with or without modification, and includes those provisions as so incorporated;

. . . . . [F728]

"trunk main" means a main constructed for the purpose of conveying water from a source of supply to a filter or reservoir, or from one filter or reservoir to another filter or reservoir, or for the purpose of conveying water in bulk from one part of the limits of supply to another part of those limits, or for the purpose of giving or taking a supply of water in bulk;

undertakers" means the persons whose water undertaking is authorised or regulated by the special Act.

(2) Other expressions in this Schedule have the respective meanings assigned to them in this Act.

(3) References in this Schedule to any enactment shall be construed as including references to that enactment as amended by any subsequent enactment including this Act.**]**

Textual Amendments

F727 Words in Sch. 4 para. 1(1) repealed (1.4.2013) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **sch. 8 Pt. 2**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

F728 Definition repealed by Telecommunications Act 1984 (c. 12, SIF 96), ss. 2, 109, **Sch. 7 Pt. I**

Marginal Citations

M19 1961 c. 34.

PART II

WORKS AND LANDS

Permissible limits of deviation.

2 In the construction of any authorised works the undertakers may deviate laterally to any extent not exceeding the limits of deviation shown on the plans submitted to the Secretary of State and, where on any **[**[F729]road**]** no such limits are shown, the

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boundaries of the **[**[F729]road**]** (including for this purpose any verge or roadside waste adjoining it) shall be deemed to be such limits, and they may also deviate vertically from the levels shown on the deposited sections to any extent:

Provided that—

(a) no embankment for a reservoir shall be constructed at a greater height above the general surface of the ground than that shown on the said plans and six feet in addition thereto; and

(b) except for the purpose of crossing a stream, canal, dyke, watercourse or railway, or of crossing any lands where the consent of all persons interested in those lands has been obtained, no pipe or other conduit or aqueduct shall be raised above the surface of the ground otherwise than in accordance with the said plans.

Textual Amendments

F729 Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 81(15)(a)**

Modifications etc. (not altering text)

C22 Sch. 4 para. 2 applied (with modifications) (15.1.1992) by S.I. 1992/30, art. 3, **Sch. 2**
Sch. 4 para. 2 applied (with modifications) (3.3.1992) by S.I. 1992/393, art. 3, **Sch. 2**
Sch. 4 para. 2 applied (with modifications) (20.4.1992) by S.I. 1992/998, art. 3, **Sch. 2**
Sch. 4 para. 2 applied (with modifications) (17.6.1994) by S.I. 1994/1556, art. 3, **Sch. 2**
Sch. 4 para. 2 applied (with modifications) (1.1.1995) by S.I. 1994/3308, art. 3, **Sch. 2**
Sch. 4 para. 2 applied (with modifications) (3.4.1997) by S.I. 1997/1115, art. 3, **Sch. 2**
Sch. 4 para. 2 applied (with modifications) (12.11.1999) by S.S.I 1999/127, art. 3, Sch. 2
Sch. 4 para. 2 applied (with modifications) (9.10.2001) by S.S.I. 2001/369, art. 3, **Sch. 1**
Sch. 4 para. 2 applied (with modifications) (14.10.2005) by S.S.I. 2005/508, **art. 3**, Sch. 2
Sch. 4 para. 2 applied (with modifications) (14.10.2005) by S.S.I. 2005/509, **art. 3**, Sch. 2
Sch. 4 para. 2 applied (with modifications) (21.10.2005) by S.S.I. 2005/513, **art. 3**, Sch. 2
Sch. 4 para. 2 applied (with modifications) (11.11.2005) by S.S.I. 2005/576, **art. 3**, Sch. 2
Sch. 4 para. 2 applied (with modifications) (11.11.2005) by S.S.I. 2005/577, **art. 3**, Sch. 2
Sch. 4 para. 2 applied (with modifications) (11.11.2005) by S.S.I. 2005/578, **art. 3**, Sch. 2
Sch. 4 para. 2 applied (with modifications) (23.12.2005) by S.S.I. 2005/649, **art. 3**, Sch. 2
Sch. 4 para. 2 applied (with modifications) (14.3.2006) by S.S.I. 2006/152, **art. 3**, Sch. 2
Sch. 4 para. 2 applied (with modifications) (14.3.2006) by S.S.I. 2006/153, **art. 3**, Sch. 2
Sch. 4 para. 2 applied (with modifications) (2.6.2006) by S.S.I. 2006/296, **art. 3**, Sch. 2
Sch. 4 para. 2 applied (with modifications) (21.6.2006) by S.S.I. 2006/360, **art. 3**, Sch. 2
Sch. 4 para. 2 applied (with modifications) (21.6.2006) by S.S.I. 2006/361, **art. 3**, Sch. 2

C23 Sch. 4 para. 2 applied (with modifications) (18.12.2008) by The Scottish Water (Loch of Boardhouse) Water Order 2008 (S.S.I. 2008/429), arts. 1, 3, **sch. 2**

Limit on powers of undertakers to take water.

3 The undertakers shall not construct any works for taking or intercepting water (other than works for intercepting foul water) from any lands acquired by them, unless the works are authorised by, and the lands on which the works are to be constructed are specified in, the special Act or some other enactment.

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General power to construct subsidiary works.

4 Subject to the provisions of the last foregoing section and to any other provisions of the special Act limiting the powers of the undertakers to abstract water, the undertakers, in addition to any works specifically authorised, may, in, on or over any land for the time being held by them in connection with their water undertaking construct, lay or erect for the purposes thereof or in connection therewith, and may maintain such reservoirs, sluices, tanks, cisterns, aqueducts, tunnels, culverts, mains, pipes, filters, engines, pumps, machinery, buildings and things for or in connection with the supply of water as they deem necessary:

Provided that any electrical works or apparatus constructed, laid or erected under this section shall be so constructed, laid or erected and so maintained and used, as to prevent interference with any **[**[F730]electronic communications apparatus kept installed for the purposes of an electronic communications code network or with the service provided by any such network**]** .

Textual Amendments

F730 Words in Sch. 4 para. 4 substituted (17.9.2003) by The Communications Act 2003 (Consequential Amendments) Order 2003 (S.I. 2003/2155), art. 3(1), **Sch. 1 para. 9(2)**

5 . . . . . [F731]

Textual Amendments

F731 Sch. 4 sect. 5 repealed by Telecommunications Act 1984 (c. 12, SIF 96), ss. 2, 109, Sch. 4 para. 74(2)(5), Sch. 5 para. 45, **Sch. 7 Pt. I**

Penalty for obstructing construction of works.

6 Any person who wilfully obstructs a person engaged by or under authority of the undertakers in setting out the line or site of any authorised works, or knowingly pulls up any peg or stake driven into the ground for the purpose of setting out such line or site or knowingly defaces or destroys anything made or erected for that purpose, shall be liable to a fine not exceeding **[**[F732]level 1 on the standard scale**]**.

Textual Amendments

F732 Words substituted by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **ss. 289G**, 457A

Power to acquire servitudes for underground work.

7 (1) Where the undertakers are authorised by the special Act to acquire any land compulsorily for the purpose of executing any underground works, they may, instead of purchasing the land, purchase only such servitudes and rights over or in the land as may be sufficient for the purpose, and the Lands Clauses Acts and the enactments relating to the compensation payable in respect of the compulsory acquisition of land shall apply accordingly subject to any exceptions and modifications with which those enactments are incorporated with the special Act and to any other necessary adaptations.

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(2) The undertakers shall not be required or, except by agreement, be entitled to fence off or sever from adjoining lands any lands in respect of which they have acquired only servitudes or rights under the provisions of this section, and subject to those servitudes or rights and to any other restrictions imposed by the special Act, the owners or occupiers for the time being of those lands shall have the same rights of using and cultivating them as if that Act had not been passed.

Persons under disability may grant servitudes, etc.

8 Persons empowered by the Lands Clauses Acts to sell, convey and dispose of any lands may, subject to the provisions of those Acts and of the special Act, grant to the undertakers any servitude or right required for the purposes of the special Act over or in those lands, and the provisions of the Lands Clauses Acts with respect to lands and [F733]. . . rents or other annual or recurring payments shall, so far as applicable, apply in relation to such grants and to such servitudes and rights:

Provided that nothing in this section shall be construed as empowering persons to grant any servitude or right of water in which any other person has an interest, unless that other person concurs in the grant.

Textual Amendments

F733 Words in Sch. 4 para. 8 repealed (28.11.2004) by 2000 asp 5, ss. 71, 76(1)(2), 77(2), Sch. 12 para. 42(3), Sch. 13 Pt. 1 (with ss. 58, 62, 75); S.S.I. 2003/456, **art. 2**

Extinction of private rights of way.

9 (1) Any private right of way over land which the undertakers are authorised to acquire compulsorily shall, if they so resolve and give notice of their resolution to the owner of the right, be extinguished as from the acquisition by them of the land, or as from the expiration of one month from the service of the notice, whichever may be the later.

(2) The undertakers shall pay compensation to all persons interested in respect of any such right so extinguished, and such compensation shall, in case of dispute, be settled in manner provided by the Lands Clauses Acts with respect to the taking of lands otherwise than by agreement.

PART III

COMPENSATION WATER

Provisions as to compensation water.

10 (1) During the construction of any authorised impounding reservoir the undertakers may, subject as hereinafter provided, take from any stream to be impounded thereby such water as they may require:

Provided that before taking any water from the stream they shall, on an approved site, construct an approved gauge to gauge the flow of the stream, and, while the flow of water through or over the gauge is less than the prescribed flow, they shall not take any water.

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(2) After the completion of the reservoir the undertakers shall, at an approved point within such limits as may be prescribed, discharge into the stream from, or from streams feeding, the reservoir during every day of 24 hours reckoned from midnight in a uniform and continuous flow a quantity of water not less than the prescribed quantity, and, for the purpose of gauging such discharge, they shall construct and maintain in good order approved gauges on approved sites.

(3) If the undertakers—

(a) fail to construct or maintain in good order any such gauge as aforesaid, or refuse to allow any person interested to inspect and examine any such gauge or any records made thereby or kept by them in connection therewith or to take copies of any such records; or

(b) take any water from the stream contrary to the provisions of subsection (1) of this section, or fail to comply with the requirements of subsection (2) of this section with respect to the discharge of water into the stream,

they shall, without prejudice to their civil liability, if any, to a person aggrieved, be liable, in the case of an offence under paragraph (a) of this subsection, on summary conviction to a fine not exceeding **[**[F734]level 3 on the standard scale**]**, and in the case of an offence under paragraph (b) of this subsection—

(i) on summary conviction, to a fine not exceeding **[**[F735]the statutory maximum**]** ; and

(ii) on conviction on indictment, to a fine [F736].

(4) In this section, the expression "gauge" includes a gauge weir or other apparatus for measuring the flow of water, and the expression "approved" means approved by the Secretary of State; and for the purposes of this section a fishery district board and a navigation authority shall be deemed to be interested in the flow of water in, and the discharge of water into, any stream within their fishery district or, as the case may be, any part of their system of navigation or any stream feeding such a stream or any part of that system, and shall be deemed to be aggrieved by the commission of an offence under this section in relation to any such stream.

(5) The foregoing provisions of this section shall be deemed to have been accepted by all persons interested as providing full compensation for all water impounded by the authorised works, except in respect of any land between the foot of the embankment of the reservoir and the point of discharge approved for the purposes of subsection (2) of this section.

Textual Amendments

F734 Words in Sch. 4 para. 10(3) substituted by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21), s. 289G, 289H, **Sch. 7D** (as inserted by Criminal Justice Act 1982 (c. 48), s. 54, **Sch. 6**, which Sch. 6 was repealed (1.4.1996) by 1995 c. 40, ss. 6, 7(2), **Sch. 5**) and those same words substituted (1.4.1996) by 1995 c. 40, ss. 3, 7(2), Sch. 1 para. 10, **Sch. 2 Pt. III**

F735 Words substituted by Criminal Justice Act 1982 (c. 48, SIF 39:1), **Sch. 15 para. 27(a)**

F736 Words repealed by Criminal Justice Act 1982 (c. 48, SIF 39:1), **Sch. 15 para. 27(b)**

Modifications etc. (not altering text)

C24 Sch. 4 para. 10(3) applied (with modifications) (3.4.1997) by S.I. 1997/1115, art. 3, **Sch. 2**
Sch. 4 para. 10(3) applied (with modifications) (12.11.1999) by S.S.I. 1999/127, art. 3, **Sch. 2**
Sch. 4 para. 10(3) applied (with modifications) (12.11.1999) by S.S.I. 1999/128, art. 3, **Sch. 2**

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Sch. 4 para. 10(3) applied (with modifications) (28.8.2000) by S.S.I. 2000/294, **arts. 1(1)**, 3
Sch. 4 para. 10(3) applied (with modifications) (17.7.2000) by S.S.I. 2000/236, arts. 1(1)(3), **Sch. 2**
Sch. 4 para. 10(3) applied (with modifications) (1.8.2000) by S.S.I. 2000/237, art. 3, **Sch. 2**
Sch. 4 para. 10(3) applied (with modifications) (14.10.2005) by S.S.I. 2005/508, **art. 3**, Sch. 2
Sch. 4 para. 10(3) applied (with modifications) (14.10.2005) by S.S.I. 2005/509, **art. 3**, Sch. 2
Sch. 4 para. 10(3) applied (with modifications) (21.10.2005) by S.S.I. 2005/513, **art. 3**, Sch. 2
Sch. 4 para. 10(3) applied (with modifications) (11.11.2005) by S.S.I. 2005/577, **art. 3**, Sch. 2
Sch. 4 para. 10(3) applied (with modifications) (11.11.2005) by S.S.I. 2005/578, **art. 3**, Sch. 2
Sch. 4 para. 10(3) applied (with modifications) (23.12.2005) by S.S.I. 2005/649, **art. 3**, Sch. 2
Sch. 4 para. 10(3) applied (with modifications) (14.3.2006) by S.S.I. 2006/152, **art. 3**, Sch. 2
Sch. 4 para. 10(3) applied (with modifications) (14.3.2006) by S.S.I. 2006/153, **art. 3**, Sch. 2
Sch. 4 para. 10(3) applied (with modifications) (2.6.2006) by S.S.I. 2006/296, **art. 3**, Sch. 2

C25 Sch. 4 para. 10(3)(4) applied (with modifications) (15.1.1992) by S.I. 1992/30, art. 3, **Sch. 2**
Sch. 4 para. 10(3)(4) applied (with modifications) (3.3.1992) by S.I. 1992/393, art. 3, **Sch. 2**
Sch. 4 para. 10(3)(4) applied (with modifications) (20.4.1992) by S.I. 1992/998, art. 3, **Sch. 2**
Sch. 4 para. 10(3)(4) applied (with modifications) (9.10.2001) by S.S.I. 2001/369, art. 3, **Sch. 1**
Sch. 4 para. 10(3)(4) applied (with modifications) (11.11.2005) by S.S.I. 2005/576, **art. 3**, Sch. 2
Sch. 4 para. 10(3)(4) applied (with modifications) (21.6.2006) by S.S.I. 2006/360, **art. 3**, Sch. 2
Sch. 4 para. 10(3)(4) applied (with modifications) (21.6.2006) by S.S.I. 2006/361, **art. 3**, Sch. 2

C26 Sch. 4 para. 10(3)(4)(5) applied (with modifications) (17.6.1994) by S.I. 1994/1556, art. 3, **Sch. 2**

C27 Sch. 4 para. 10(3)(5) applied (with modifications) (1.1.1995) by S.I. 1994/3308, art. 3, **Sch. 2**

C28 Sch. 4 para. 10(3)(4) applied (with modifications) (10.12.2007) by The Scottish Water (Loch Horn and Loch Lunndaidh) Water Order 2007 (S.S.I. 2007/554), **art. 3**, Sch. 2

C29 Sch. 4 para. 10(3) applied (with modifications) (18.12.2008) by The Scottish Water (Loch of Boardhouse) Water Order 2008 (S.S.I. 2008/429), arts. 1, 3, **sch. 2**

PART IV

MINERALS UNDERLYING WATERWORKS

Modifications etc. (not altering text)

C30 Sch. 4 Pt. IV incorporated (with modifications) (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), **s. 46(3)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

Undertakers not entitled to underlying minerals unless expressly purchased.

11 When the undertakers purchase any land, they shall become entitled to such parts of any mines of coals, ironstone, slate or other minerals under that land as it may be necessary for them to dig, carry away or use in the construction of any waterworks authorised by the special Act, but, save as aforesaid, they shall not by virtue only of their purchase of the land become entitled to any such mines or minerals which shall, save as aforesaid, be deemed to be excepted from the conveyance of the land unless expressly mentioned therein as conveyed thereby.

Map of underground works to be prepared and kept up to date.

12 (1) The undertakers shall, within six months after the first occasion on which any pipes or other conduits or underground works are laid or constructed by them after this section is incorporated with their enactments, cause the course and situation of all

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existing pipes or other conduits for the collection, passage or distribution of water and underground works belonging to them to be marked on a map (drawn on a scale of not less than six inches to one mile), and shall, from time to time within six months after the making of any alterations or additions, cause the said map to be so corrected as to show the course and situation of all such pipes and conduits and underground works for the time being belonging to them, and the map or a copy thereof bearing the date of its preparation and of the last occasion on which it was corrected shall be kept at the office of the undertakers.

In this subsection the expression "pipes" does not include service pipes.

(2) The said map shall at all reasonable hours be open to inspection by any person interested free of charge.

Mines lying near the works not to be worked without notice to undertakers.

13 Subject to any agreement to the contrary, if the owner, lessee or occupier of any mines of coal, ironstone, slate or other minerals lying under the reservoirs or buildings of the undertakers or any of their pipes or other conduits or underground works shown on the map referred to in the last foregoing section, or lying within the prescribed distance therefrom, or, if no distance be prescribed, within 40 yards therefrom, desires to work the said mines or minerals, he shall give to the undertakers 30 days' notice of his intention so to do.

If undertakers unwilling to pay compensation, mines may be worked in usual manner.

14 (1) Upon receipt of such a notice as aforesaid, the undertakers may cause the said mines or minerals to be inspected by any person appointed by them for the purpose, and if it appears to them that the working thereof is likely to damage any of their reservoirs or buildings or pipes or other conduits or underground works shown on the said map, and if they are willing to pay compensation for the mines or minerals to the owner, lessee or occupier thereof, then he shall not work them, and the amount of the compensation to be paid shall, in case of dispute, be determined by the Lands Tribunal for Scotland.

(2) If the undertakers have not, before the expiration of the said 30 days, stated their willingness to treat with the owner, lessee or occupier for the payment of compensation, it shall be lawful for him to work the said mines and minerals and to drain them by means of pumps or otherwise as if the special Act had not been passed, so however that no wilful damage be done to any of the said property or works of the undertakers and that the mines and minerals be not worked in an unusual manner.

(3) Any damage or obstruction occasioned to any of the said property or works of the undertakers by the working of such mines or minerals in an unusual manner shall be forthwith repaired or removed and the damage made good by the owner, lessee or occupier of the mines or minerals, and if such repair or removal be not effected forthwith, or if the undertakers deem it necessary to take action without waiting for the work to be done by the owner, lessee or occupier, the undertakers may execute the work and recover from the owner, lessee or occupier the expenses reasonably incurred by them in so doing.

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Power to make mining communication where continuous working is prevented.

15 If the working of any such mines or minerals as aforesaid lying under the reservoirs or buildings of the undertakers or any of their pipes or other conduits or underground works shown on the map referred to in section 12 of this Schedule or lying within the abovementioned distance therefrom mentioned in section 13 of this Schedule, be prevented as aforesaid by reason of apprehended injury thereto, the respective owners, lessees and occupiers of the mines or minerals may cut and make such and so many airways, headways, gateways or water levels through the mines, measures or strata the working whereof is so prevented as may be requisite to enable them to ventilate, drain and work any mines or minerals on each or either side thereof, but no such airway, headway, gateway, or water level shall be of greater dimensions or sections than the prescribed dimensions or sections, or, if no dimensions are prescribed eight feet wide and eight feet high, nor be cut or made upon any part of the said property or works of the undertakers so as to cause injury thereto.

Undertakers to pay compensation for expenses incurred by reason of severance.

16 (1) Subject to any agreement to the contrary, the undertakers shall from time to time pay compensation to the owner, lessee or occupier of any mines of coal, slate, ironstone and other minerals lying on both sides of any reservoir, building, pipe or other conduit or other works of the undertakers for any loss and additional expense incurred by him by reason of the severance of the lands above such mines or minerals by the reservoir or other works, or by reason of the continuous working of such mines or minerals being interrupted as aforesaid, or by reason of their being worked under the restrictions imposed by the special Act, and also for any such mines or minerals not purchased by the undertakers as cannot be worked or won by reason of the making and continuance of the said works, or by reason of such apprehended injury from the working thereof as aforesaid.

(2) The amount of any such compensation shall, in case of dispute, be determined by the Lands Tribunal for Scotland.

Undertakers may enter and inspect the working of mines.

17 For the purpose of ascertaining whether any such mines or minerals as aforesaid are being, have been or are about to be, worked so as to damage any of their said works, any authorised officer of the undertakers, after giving 24 hours' notice and on producing, if so required, some duly authenticated document showing his authority, may enter upon any lands in, on or near which the works are situate and under which they know or suspect that any such mines are being, have been or are about to be, worked, and may enter any such mines and the works connected therewith, using for his entry, inspection and return any apparatus or machinery belonging to the owner, lessee or occupier of the mines, and may use all necessary means for discovering the distance from the said works to the parts of the mines which are being, have been, or are about to be, worked.

Undertakers not exempted from liability for injury to mines.

18 Nothing in the special Act shall exempt the undertakers from liability to any action or other legal proceeding to which they would have been liable in respect of any damage or injury done or occasioned to any mines by means, or in consequence, of their waterworks, if those works had been constructed or maintained otherwise than by virtue of the special Act.

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PART V

SUPPLY OF WATER FOR PUBLIC PURPOSES

Undertakers to fix and maintain fire hydrants on pipes.

19 The undertakers shall, at the request of **[**[F737]the Scottish Fire and Rescue Service **]** concerned, fix fire hydrants on their mains (other than 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 limits of supply, and shall keep in good order and from time to time renew every such hydrant.

Textual Amendments

F737 Words in Sch. 4 para. 19 substituted (1.4.2013) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **sch. 7 para. 51(3)**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

Modifications etc. (not altering text)

C31 Sch. 4 paras. 19-22 applied (2.8.2005) by virtue of Fire (Scotland) Act 2005 (asp 5), **s. 21(1)** (with s. 77); S.S.I. 2005/392, **art. 2**

Undertakers to deposit keys of hydrants at certain places.

20 As soon as any such hydrant is complete, the undertakers shall, if required by the **[**[F738]Scottish Fire and Rescue Service**]**, deposit a key thereof at each place within the limits of supply where any public fire engine is kept, and in such other places as may be appointed by the **[**[F738]Scottish Fire and Rescue Service**]**.

Textual Amendments

F738 Words in Sch. 4 para. 20 substituted (1.4.2013) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **sch. 7 para. 51(4)**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

Modifications etc. (not altering text)

C32 Sch. 4 paras. 19-22 applied (2.8.2005) by virtue of Fire (Scotland) Act 2005 (asp 5), **s. 21(1)** (with s. 77); S.S.I. 2005/392, **art. 2**

Cost of hydrants.

21 The cost of such hydrants as aforesaid and of fixing, maintaining and renewing them, and of providing such keys as aforesaid shall be defrayed by the **[**[F739]Scottish Fire and Rescue Service**]**.

Textual Amendments

F739 Words in Sch. 4 para. 21 substituted (1.4.2013) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **sch. 7 para. 51(5)**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

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Modifications etc. (not altering text)

C33 Sch. 4 paras. 19-22 applied (2.8.2005) by virtue of Fire (Scotland) Act 2005 (asp 5), **s. 21(1)** (with s. 77); S.S.I. 2005/392, **art. 2**

[F740 21A The Scottish Ministers may by regulations make provision as to—

(a) the persons (other than Scottish Water) from whom; or

(b) the circumstances in which,

[F741 the Scottish Fire and Rescue Service] may recover costs defrayed under section 21 of this Schedule.]

Textual Amendments

F740 Sch. 4 para. 21A inserted (2.8.2005) by virtue of Fire (Scotland) Act 2005 (asp 5), **s. 22(2)** (with s. 77); S.S.I. 2005/392, **art. 2**

F741 Words in Sch. 4 para. 21A substituted (1.4.2013) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **sch. 7 para. 51(6)**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

Hydrants to be placed near factories, etc., at request of owners or occupiers.

22 The undertakers shall, at the request and expense of the owner or occupier of any factory or place of business situated in, or near to, a [F742 road] in which a pipe of the undertakers is laid (not being a trunk main, and being of sufficient dimensions to carry a hydrant) fix on the pipe and keep in good order and from time to time renew one or more fire hydrants, to be used only for extinguishing fires, as near as conveniently may be to that factory or place of business, and shall also at his expense comply as respects each such hydrant with the requirements of [F743 section 20 of this Schedule].

Textual Amendments

F742 Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 81(15)(b)**

F743 Words in Sch. 4 s. 22 substituted (2.8.2005) by Fire (Scotland) Act 2005 (asp 5), **s. 22(3)** (with s. 77); S.S.I. 2005/392, **art. 2**

Modifications etc. (not altering text)

C34 Sch. 4 paras. 19-22 applied (2.8.2005) by virtue of Fire (Scotland) Act 2005 (asp 5), **s. 21(1)** (with s. 77); S.S.I. 2005/392, **art. 2**

23 . . . . . F744

Textual Amendments

F744 Sch. 4 para. 23 repealed by Local Government and Planning (Scotland) Act 1982 (c. 43, SIF 81:2), s. 66(2), **Sch. 4 Pt. I**

Status: *Point in time view as at 27/10/2017.*
Changes to legislation: *Water (Scotland) Act 1980 is up to date with all changes known to be in force on or before 28 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Supply of water for cleansing sewers, etc., and for other public purposes.

24 (1) In every pipe on which a hydrant is fixed the undertakers shall provide a supply of water for cleansing sewers and drains, for cleansing and watering **[**[F745]roads**]** and for supplying any public pumps, baths or washhouses.

(2) A supply of water for the said purposes shall be provided at such rates, in such quantities and upon such terms and conditions as may be agreed between the **[**[F746]local**]** authority concerned and the undertakers **[**[F747]or, in relation to roads for which the Secretary of State is roads authority, between the Secretary of State and the undertakers**]**.

Textual Amendments

F745 Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 81(15)**(*c*)(i)

F746 Word in Sch. 4 section 24(2) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(57)(a)(i)**; S.I. 1996/323, **art. 4(1)(c)**

F747 Words in Sch. 4 section 24(2) added (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(57)(a)(ii)**; S.I. 1996/323, **art. 4(1)(c)**

PART VI

CONSTANCY AND PRESSURE OF SUPPLY

Duty of undertakers as respects constant supply and pressure.

25 Subject as hereinafter provided, the undertakers shall cause the water in all pipes on which hydrants are fixed, or which are used for giving supplies for domestic purposes, to be laid on constantly and at such a pressure as will cause the water to reach to the topmost storey of every building within the limits of supply:

Provided that—

(a) nothing in this section shall require them to deliver water at a height greater than that to which it will flow by gravitation through their existing mains from the service reservoir or tank from which the supply in question is taken;

(b) they may in their discretion determine the service reservoir or tank from which any supply is to be taken; and

(c) the provisions of this section shall not apply if the undertakers are prevented from complying therewith by reason of frost, drought, unavoidable accident, or other unavoidable cause, or during the execution of necessary works.

PART VII

PROVISIONS AS TO WASTE AND AS TO METERS

Power to require provision of cisterns in certain cases.

26 (1) The undertakers may require that—

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(a) any building the supply of water to which need not under the special Act be constantly laid on under pressure, and

(b) any house the erection of which was not commenced before 16th May 1946 and to which water is required to be delivered at a height greater than 35 feet below the draw-off level of the service reservoir from which a supply of water is being or is to be furnished by them,

shall be provided with a cistern having a ball-tap and stopcock fitted on the pipe conveying water to it and, in the case of such a house as is mentioned in paragraph (b) of this subsection, may require that the cistern shall be capable of holding sufficient water to provide an adequate supply to the house for a period of 24 hours.

(2) Where, in the case of any house—

(a) the erection of which was begun on or after the 16th May 1968, or

(b) to which a supply of piped water was given for the first time on or after that date, or

(c) in which water fittings likely to lead, in the opinion of the undertakers, 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 24-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.

(3) If the owner of the building or house whom the undertakers have in accordance with the foregoing provisions required to provide a cistern fails to comply with the requirement, or if any cistern in use in the building or house or the ball-tap and stopcock pertaining to that cistern are not kept in good repair, the undertakers may themselves provide a cistern or execute any repairs necessary to prevent waste of water, and may recover the expenses reasonably incurred by them in so doing as a civil debt from the owner of the building or house, but without predudice to the rights and obligations, as between themselves, of the owner and the occupier.

Power to test water fittings.

27 The undertakers may test any water fittings used in connection with water supplied by them.

Power to enter premises to detect waste or misuse of water.

28 An authorised officer of the undertakers may, between the hours of eight in the forenoon and eight in the afternoon, on producing, if required, evidence of his authority, enter any premises supplied with water by the undertakers in order to ascertain if there be any waste or misuse of such water, and, if, after production of

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his authority, he is refused admittance to the premises or is obstructed in making his examination, the person refusing him admittance or so obstructing him shall be liable on summary conviction to a fine not exceeding **[**[F748]level 3 on the standard scale**]**.

Textual Amendments

F748 Words in Sch. 4 para. 28 substituted by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21), s. 289G, 289H, **Sch. 7D** (as inserted by Criminal Justice Act 1982 (c. 48), s. 54, **Sch. 6**, which Sch. 6 was repealed (1.4.1996) by 1995 c. 40, ss. 6, 7(2), **Sch. 5**) and those same words substituted (1.4.1996) by 1995 c. 40, ss. 3, 7(2), Sch. 1 para. 10, **Sch. 2 Pt. III**

Power to repair supply pipes.

29 (1) If the undertakers have reason to think that some injury to or defect in a pipe which they are not under obligation to maintain is causing, or is likely to cause, waste of water or injury to person or property, they may execute such work as they think necessary or expedient in the circumstances of the case without being requested so to do, and, if any injury to or defect in the pipe is discovered, the expenses reasonably incurred by the undertakers in discovering it and in executing repairs shall be recoverable by them as a civil debt from the owner of the premises supplied, but without prejudice to the rights and obligations, as between themselves, of the owner and occupier of the premises.

(2) Where several houses in the ownership of different persons are supplied with water by one common supply pipe, the amount of any such expenses as aforesaid reasonably incurred from time to time by the undertakers in the maintenance and repair of that pipe may be recovered by them from those owners in such proportions as, in case of dispute, may be settled by arbitration.

Penalty for waste, etc., of water by non-repair of pipes, etc.

30 (1) If any person wilfully or negligently causes or suffers any water fitting which he is liable to maintain to—

(a) be or remain so out of order, or so in need of repair; or

(b) be or remain so constructed or adapted, or be so used,

that the water supplied by the undertakers is, or is likely to be, wasted, misused or unduly consumed, or contaminated before use, or that foul air or any impure matter is likely to return into any pipe belonging to, or connected with a pipe belonging to, the undertakers, he shall be liable to a fine not exceeding **[**[F749]level 3 on the standard scale**]**.

(2) If any water fitting is in such a condition, or so constructed or adapted, or so used, as aforesaid, the undertakers, whether proceedings have or have not been taken in respect of the offence, may require the owner or the occupier of the premises to carry out repairs or alterations or to substitute another type of fitting, as they may reasonably consider necessary, and, if he fails to do so within 48 hours, may themselves carry out the work and recover from him as a civil debt the expenses reasonably incurred by them in so doing, but without prejudice to the rights and obligations, as between themselves, of the owner and the occupier.

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Textual Amendments

F749 Words substituted by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **ss. 289G**, 457A

Penalty for misuse of water.

31 (1) An owner or occupier of premises supplied with water by the undertakers who without their consent supplies any of that water to another person for use in other premises, or wilfully permits another person to take any of that water for use in other premises, shall be liable to a fine not exceeding **[**[F750]level 1 on the standard scale**]**, unless that other person requires the water for the purpose of extinguishing a fire, or is a person supplied with water by the undertakers but temporarily unable, through no default of his own to obtain water.

(2) If a person wrongfully takes, uses or diverts water from a reservoir, watercourse, conduit, pipe or other apparatus belonging to the undertakers, or from a pipe leading to or from any such reservoir, watercourse, conduit, pipe or other apparatus, or from a cistern or other receptacle containing water belonging to the undertakers or supplied by them for the use of a consumer of water from them, he shall be liable to a fine not exceeding **[**[F750]level 1 on the standard scale**]**.

(3) Any person who, having from the undertakers a supply of water otherwise than by meter, uses any water so supplied to him for a purpose not being a purpose for which he is entitled to use it shall be liable to a fine not exceeding **[**[F750]level 1 on the standard scale**]**, without prejudice to the right of the undertakers to recover from him the value of the water misused.

Textual Amendments

F750 Words substituted by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **ss. 289G**, 457A

Penalty for injuring water fittings, etc., or for fraudulent use of water.

32 (1) If any person wilfully or negligently injures, or suffers to be injured, any water fitting belonging to the undertakers, or fraudulently alters the index of any meter used by them for measuring the water supplied by them, or prevents any such meter from registering correctly the quantity of water supplied, or fraudulently abstracts or uses water of the undertakers, he shall, without prejudice to any right or remedy competent to the undertakers in the matter, be liable to a fine not exceeding **[**[F751]level 1 on the standard scale**]**, and the undertakers may do all such work as is necessary for repairing any injury done, or for securing the proper working of the meter, and may recover the expenses seasonably incurred by them so doing from the offender.

(2) For the purpose of this section, if it is proved that a consumer has altered the index of a meter, it shall rest upon him to prove that he did not alter it fraudulently, and the existence of any artificial means under the control of a consumer for preventing a meter from registering correctly or for enabling him fraudulently to abstract or use water, shall be evidence that he has fraudulently prevented the meter from registering correctly, or, as the case may be, has fraudulently abstracted or used water.

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Textual Amendments

F751 Words substituted by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **ss. 289G**, 457A

Penalty for interference with valves and apparatus.

33 If any person either—

(a) wilfully and without the consent of the undertakers, or

(b) negligently,

turns on, opens, closes, shuts off or otherwise interferes with any valve, cock or other work or apparatus belonging to the undertakers and thereby causes the supply of water to be interfered with, he shall be liable to a fine not exceeding **[**[F752]level 3 on the standard scale**]** and, whether proceedings have been taken in respect of his offence or not, the undertakers may recover from him the amount of any damage sustained by them:

Provided that this section shall not apply to a consumer closing the stopcock fixed on the service pipe supplying his premises, so long as he has obtained the consent of any other consumer whose supply will be affected thereby.

Textual Amendments

F752 Words substituted by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **ss. 289G**, 457A

Penalty for extension or alteration of pipes, etc.

34 (1) Any person who without the consent of the undertakers attaches any pipe or apparatus to a pipe belonging to the undertakers, or to a supply pipe, or makes any alteration in a supply pipe or in any apparatus attached to a supply pipe, shall be liable to a fine not exceeding **[**[F753]level 1 on the standard scale**]**, and any person who uses any pipe or apparatus which has been so attached or altered shall be liable to the same penalty, unless he proves that he did not know and had no grounds for suspecting that it had been so attached or altered.

(2) When an offence under this section has been committed, then, whether proceedings have been taken in respect of his offence or not, the undertakers may recover from the offender the amount of any damage sustained by them and the value of any water wasted, misused or improperly consumed.

Textual Amendments

F753 Words substituted by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **ss. 289G**, 457A

Meters to be connected, or disconnected by undertakers.

35 (1) A person who has not obtained the consent of the undertakers shall not connect or disconnect any meter by means of which water supplied by the undertakers is intended to be, or has been, measured for the purposes of the payment to be made to them, but, if he requires such a meter to be connected or disconnected, shall give to the undertakers not less than 24 hours' notice of his requirements and of the time

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when the work can be commenced, and thereupon the undertakers shall carry out the necessary work and may recover from him the expenses reasonably incurred by them in so doing.

(2) A person who contravenes any of the provisions of this section and undertakers who fail to carry out with all reasonable despatch any such work as aforesaid, shall be liable to a fine not exceeding **[**[F754]level 1 on the standard scale**]**.

Textual Amendments

F754 Words substituted by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **ss. 289G**, 457A

Meters, etc., to measure water or detect waste.

36 Subject to the provisions of the special Act with respect to the breaking open of **[**[F755]roads**]**, the undertakers may, for the purpose of measuring the quantity of water supplied, or preventing and detecting waste, affix and maintain meters and other apparatus on their mains and service pipes, and may insert in any **[**[F755]road**]**, but as near as is reasonably practicable to the boundary thereof, the necessary covers or boxes for giving access and protection thereto, and may for that purpose temporarily obstruct, break open, and interfere with **[**[F755]roads**]**, tramways, sewers, pipes, wires and apparatus:

Provided that the undertakers shall not under the powers of this section interfere with —

[[F756](a) any **[**[F757]electronic communications apparatus**]** kept installed for the purposes of **[**[F758]an electronic communications code network**]** , except in accordance with, and subject to the provisions of, **[**[F759]the electronic communications code**]** ; or**]**

(b) any works or apparatus of any **[**[F760]public electricity supplier (within the meaning of Part I of the Electricity Act 1989) or any person authorised by a licence under that Part to generate or **[**[F761]participate in the transmission of**]** electricity.**]**, except in accordance with the provisions of **[**[F762]the code in Part II of the [M20]Public Utilities Street Works Act 1950**]**[[F762]Part IV of the New Roads and Street Works Act 1991**]**; or

(c) any pipes or apparatus of any **[**[F763]public gas transporter (within the meaning of Part I of the Gas Act 1986)**]**, except under the supervision (if given) of an authorised officer of **[**[F763]such public gas transporter**]** and in accordance with plans approved by them or by such officer or in case of any difference as determined by the sheriff.

Textual Amendments

F755 Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 81(15)(d)**

F756 Para. (a) of the proviso substituted by Telecommunications Act 1984 (c. 12, SIF 96), ss. 2, 109, Sch. 4 para. 74(4)(5), **Sch. 5 para. 45**

F757 Words in Sch. 4 para. 36(a) substituted (17.9.2003) by The Communications Act 2003 (Consequential Amendments) Order 2003 (S.I. 2003/2155), art. 3(1), **Sch. 1 para. 9(3)(a)**

F758 Words in Sch. 4 para. 36(a) substituted (17.9.2003) by The Communications Act 2003 (Consequential Amendments) Order 2003 (S.I. 2003/2155), art. 3(1), **Sch. 1 para. 9(3)(b)**

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F759 Words in Sch. 4 para. 36(a) substituted (17.9.2003) by The Communications Act 2003 (Consequential Amendments) Order 2003 (S.I. 2003/2155), art. 3(1), **Sch. 1 para. 9(3)(c)**

F760 Words substituted by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), **Sch. 16 para. 26(3)(b)**

F761 Sch. 4 section 36: words in para. (b) of proviso substituted (1.9.2004) by Energy Act 2004 (c. 20), s. 143, **Sch. 19 para. 1**; S.I. 2004/2184, **art. 2(2)**, Sch. 2

F762 Words "Part IV of the New Roads and Street Works Act 1991" substituted (1.1.1993) for words from "the code" to the end of paragraph (b) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(1), **Sch. 8**, Pt. IV para. 108(8)(b); S.I. 1992/2990, art. 2(2), **Sch. 2**

F763 Sch. 4 section 36: words in para. (c) of proviso substituted (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 12**; S.I. 1996/218, **art. 2**

Marginal Citations

M20 1950 c. 39.

PART VIII

POLLUTION OF WATER BY MANUFACTURE OF GAS, ETC.

Provisions as to pollution by liquids resulting from manufacture of gas, etc.

37 Any person engaged in the manufacture or supply of gas, whether under statutory authority or not, or in any of the manufactures or trades mentioned in this subsection who—

(a) causes or suffers any washing or other liquid produced in, or resulting from, the manufacture or supply of gas, or the treatment of any residual products of the manufacture of gas, or any product, washing or other substance produced in the manufacture of naphtha, vitriol, paraffin, dye stuffs or other deleterious substance or in any trade in which the refuse produced in any such manufacture is used, to run or be conducted—

(i) into, or into any drain communicating with, any stream, reservoir, aqueduct or other waterworks belonging to the undertakers; or

(ii) into any depression in the ground or excavation in such proximity to any spring, well or adit belonging to the undertakers that contamination of water there is reasonably probable; or

(b) wilfully does any other act connected with the manufacture or supply of gas or the treatment of any such residual products as aforesaid, or connected with any of the other manufactures or trades specified as aforesaid whereby any water of the undertakers is fouled,

shall be liable—

(a) on summary conviction to a fine not exceeding **[**[F764]the statutory maximum**]** and to a further fine not exceeding £25 for each day during which his offence continues after conviction therefor; or

(b) on conviction on indictment to imprisonment for a period not exceeding three months or to a fine and to a further fine for each such day as aforesaid.

Textual Amendments

F764 Words substituted by Criminal Justice Act 1982 (c. 48, SIF 39:1), **Sch. 15 para. 28**

Status: *Point in time view as at 27/10/2017.*
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Provision as to pollution by gas.

38 If water belonging to the undertakers is fouled by gas belonging to any person manufacturing or supplying gas, he shall be liable to a fine not exceeding **[**[F765]level 2 on the standard scale**]**, and to a further fine not exceeding £25 for each day during which his offence continues after conviction therefor.

Textual Amendments

F765 Words substituted by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **ss. 289G**, 457A

Power to examine pipes and other works to ascertain source of pollution.

39 (1) For the purpose of ascertaining whether water belonging to them is being fouled by gas or otherwise, the undertakers may open the ground, and examine any pipes or other works from which they have reason to suspect that their water is being fouled:

Provided that, before proceeding so to do, they shall give 24 hours' notice of the time at which the examination is intended to take place both to the owners of the pipes or other works and also **[**[F766]—

(a) where the ground is, or comprehends, part of—

(i) a public road, to the roads authority; or

(ii) any other road, to the person responsible for the maintenance of that road, or, if no authority or person is so responsible, to the owners of the solum of that part; and

(b) where or in so far as the ground is not mentioned in head (a) above, to the person having the control or management of the ground;

and the undertakers**]** shall be subject to the like obligations and liable to the same penalties in relation to reinstatement, maintenance and other matters as those to which they are subject and liable when breaking open **[**[F767]roads**]** for the purpose of laying water pipes.

(2) If, upon such examination as aforesaid, it appears that water of the undertakers has been fouled by gas or otherwise from pipes or other works, the undertakers may recover from the owner of such pipes or other works the expenses reasonably incurred by them in connection with the examination and the repair of the **[**[F768]road**]** or place disturbed in the examination, but otherwise the undertakers shall pay all expenses of the examination and repair, and shall also make good to the said owner any injury which may be occasioned to his pipes or other works by the examination.

The amount of the expenses of any such examination and repair, and of any injury so occasioned, shall in case of dispute be determined by arbitration.

Textual Amendments

F766 Words substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 81(15)**(*e*)(i)

F767 Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 81(15)**(*e*)(i)

F768 Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 81(15)**(*e*)(ii)

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PART IX

GENERAL AND MISCELLANEOUS

Notice of discontinuance.

40 A consumer who wishes the supply of water to his premises to be discontinued shall give not less than **[**[F769]48**]** hours' notice to the undertakers.

Textual Amendments

F769 Words in Sch. 4 section 40 substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(57)(b)**; S.I. 1996/323, **art. 4(1)(c)**

Duty of undertakers to give notice of certain works.

41 The undertakers before commencing to execute repairs or other work which will cause any material interference with the supply of water shall, except in a case of emergency, give to all consumers likely to be affected such notice as is reasonably practicable and shall complete the work with all reasonable dispatch.

Penalty for obstucting execution of special Act.

42 A person who wilfully obstructs any person acting in the execution of the special Act or of any byelaw or warrant made or issued thereunder shall be liable to a fine not exceeding **[**[F770]level 1 on the standard scale**]** and to a further fine not exceeding £25 for each day on which the offence continues after conviction therefor.

Textual Amendments

F770 Words substituted by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **ss. 289G**, 457A

Proceedings for offences.

43 (1) Save as otherwise expressly provided, all offences and fines under the special Act or any byelaws made thereunder may be prosecuted and recovered under the [M21]Criminal Procedure (Scotland) Act 1975 **[**[F771]but all such offences shall be triable only summarily.**]**

(2) Any offence under the special Act or under any byelaws made thereunder (other than an offence in respect of which, if it is continued, a further penalty may be imposed) for which the maximum penalty that may be imposed does not exceed **[**[F772]level 1 on the standard scale**]** may be prosecuted in any court of summary jurisdiction within the meaning of the Criminal Procedure (Scotland) Act 1975, having jurisdiction in the place where the offence was committed.

[[F773](3) For the avoidance of doubt it is declared that conduct in respect of which a person is made liable to a fine by or under the provisions of this Schedule is an offence.**]**

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Textual Amendments

F771 Words inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 77, **Sch. 15 para. 29**(*a*)

F772 Words substituted by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **ss. 289G**, 457A

F773 Sch. 4 sect. 43(3) inserted by Criminal Justice Act 1982 (c.48, SIF 39:1), s. 80(2), s. 77, **Sch. 15 para. 29**(*b*)

Marginal Citations

M21 1975 c. 21.

Liability of undertakers to pay compensation.

44 In any case where no express provision with respect to compensation is made by the special Act, the undertakers shall pay to the owners and occupiers of, and all other persons interested in, any lands or streams taken or used for the purposes of that Act, or injuriously affected by the construction or maintenance of the works thereby authorised or otherwise by the execution of the powers thereby conferred, compensation for the value of the lands or streams so taken or used and for all damage sustained by those owners, occupiers and other persons by reason of the exercise as to those lands and streams of the powers conferred on the undertakers by the special Act or any Act incorporated therewith.

The amount of such compensation shall, in case of dispute, be settled in manner provided by the Lands Clauses Acts with reference to the taking of lands otherwise than by agreement.

Protection for works of navigation authorities and for railways.

45 (1) Subject to the provisions of this section and to any provisions of the special Act empowering the undertakers to execute works specified therein, nothing in the special Act shall authorise the undertakers without the consent of the navigation authority concerned—

(a) to interfere with any river, canal, dock, harbour, basin, lock or reservoir so as injuriously to affect navigation thereon or the use thereof or the access thereto, or to interfere with any towing path so as to interrupt the traffic thereon;

(b) to interfere with any bridge crossing any river, canal, dock, harbour or basin;

(c) to execute any works in, across or under any dock, harbour, basin, wharf, quay or lock, or any land which belongs to a navigation authority and is held or used by them for the purposes of their undertaking;

(d) to execute any works which will interfere with the improvement of or the access to any river, canal, dock, harbour, basin, lock, reservoir, or towing path or with any works pertaining thereto or any land necessary for the enjoyment or improvement thereof;

or, without the consent of the railway company concerned, to execute any works along, across or under any railway of a railway company:

Provided that consent under this section shall not be unreasonably withheld, and any question as to whether or not consent is unreasonably withheld shall be determined by arbitration.

(2) Upon an arbitration under this section, the arbiter shall determine—

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(i) whether any works which the undertakers propose to execute are such works as under the last foregoing sub-section they are not entitled to execute without consent; and

(ii) if they are such works, whether the injury, if any, to the navigation authority or railway company will be of such a nature as to admit of being fully compensated by money; and

(iii) if the works are of such a nature, the conditions including conditions of a financial character with respect to the payment of compensation, future liabilities and otherwise, subject to which—

(a) the navigation authority or railway company shall, if they so elect, carry out the works on behalf of the undertakers; or

(b) in default of such election, the undertakers may themselves carry out the works.

If the arbiter should determine that the proposed works are such works as the undertakers are not entitled to execute without consent and that the works would cause injury to the navigation authority or railway company of such a nature as not to admit of being fully compensated by money, the undertakers shall not proceed to execute the works, but in any other case they may execute the works, subject to compliance with such conditions, including the payment of such compensation, as the arbiter may have determined.

(3) For the purposes of this section, a navigation authority shall be deemed to be concerned with any river, canal, dock, harbour, basin, lock, reservoir, towing path, wharf, quay or land if it belongs to them and forms part of their undertaking or if they have statutory rights of navigating on or using it or of demanding tolls or dues in respect of navigation thereon or the use thereof.

(4) Nothing in this section shall be construed as limiting the powers of the undertakers under the special Act in respect of the opening and breaking up of streets and bridges.

Copies of special Act to be deposited.

46 The undertakers shall, at all times after the expiration of six months from the date on which the special Act was passed or made, keep at their principal office a copy thereof printed by the Queen's printer, **[**[F774]or the Queen's Printer for Scotland**]** and shall also within the said six months deposit such a copy with the sheriff clerk of every sheriff court district and with the **[**[F775]local authority for every area**]** within which they supply, or propose to supply, water or have or propose to construct any waterworks.

Textual Amendments

F774 Words in Sch. 4 section 46 inserted (1.7.1999) by S.I 1999/1820 arts. 1(2), 4, Sch. 2, Pt. 1, para. 64; S.I. 1998/3178; art. 2(1)

F775 Words in Sch. 4 section 46 substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 119(57)(c)**; S.I. 1996/323, **art. 4(1)(c)**

Status: *Point in time view as at 27/10/2017.*
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[F776]SCHEDULES 5 AND 6.

Textual Amendments

F776 Schs. 5 and 6 repealed (1.10.1991) by Natural Heritage (Scotland) Act 1991 (c. 28, SIF 46:1, 130), s. 27(2), **Sch. 11**; S.I. 1991/2187, **art. 3**,Schedule

[F777]SCHEDULE 7

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Textual Amendments

F777 Sch. 7 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(58), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

[F778]SCHEDULE 8

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Textual Amendments

F778 Sch. 8 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 119(58), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

SCHEDULE 9

Section 108.

TRANSITIONAL PROVISIONS AND SAVINGS

1 In so far as anything done under an enactment repealed by this Act could have been done under a corresponding provision of this Act it shall not be invalidated by the repeal but shall have effect as if done under that provision.

2 Where any period of time specified in an enactment repealed by this Act is current at the commencement of this Act, this Act shall have effect as if the corresponding provision thereof had been in force when that period began to run.

3 Any reference in any enactment or document, whether express or implied, to an enactment repealed by this Act shall, unless the context otherwise requires, be construed as a reference to the corresponding enactment in this Act.

4 (1) Nothing in this Act shall affect the enactments repealed by this Act in their operation in relation to offences committed before the commencement of this Act.

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(2) Where an offence, for the continuance of which a penalty may be provided, has been committed under an enactment repealed by this Act, proceedings may be taken under this Act in respect of the continuance of the offence after the commencement of this Act in the same manner as if the offence had been committed under the corresponding provision of this Act.

SCHEDULE 10

Section 112.

AMENDMENT OF ENACTMENTS

F779F779PART I

GENERAL

Textual Amendments

F779 Sch. 10 Pt. I repealed (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(1), **Sch. 6 para. 67** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F779 . . . . . .

PART II

SPECIFIC ENACTMENTS.

Modifications etc. (not altering text)

C35 The text of Sch. 10 Pt. II is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Fire Services Act 1947 (c. 41.)

In section 36(2), for the words “local authority”, “1946” and “Fourth Schedule” there shall be substituted respectively the words “ water authority ”, “ 1980 ” and “ Schedule 4 ”.

Requisitioned Land and War Works Act 1948 (c. 17)

In section 18(3)(c), for the words “section 70”, “Third Schedule” and “1946” there shall be substituted respectively the words “ sections 95 and 96 ”, “ Schedule 3 ” and “ 1980 ”.

Prevention of Damage by Pests Act 1949 (c. 55).

In section 7(4), for the words from “55”, to “capacity)” there shall be substituted the words “ 65 to 67 of the Water (Scotland) Act 1980 ”, and for the words “a local authority” where those

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words last occur in the subsection there shall be substituted the words " an islands or district council ".

Rivers (Prevention of Pollution) (Scotland) Act 1951 (c. 66)

In section 35(7), for the words "section fifty of the Water (Scotland) Act 1946" and "said section fifty" there shall be substituted respectively the words " section 33 of the Water (Scotland) Act 1980 " and " said section 33 ".

In section 35(8), for the words "61 to 63" and "1946" there shall be substituted respectively the words " 71 to 73 " and " 1980 ".

Town and Country Planning (Scotland) Act 1959 (c. 70)

In Schedule 4, for paragraph 3 there shall be substituted the following paragraph—

" 3. A water authority within the meaning of section 109(1) of the Water (Scotland) Act 1980. "

Water Officers Compensation Act 1960 (c. 15)

In section 1(1), in paragraphs (e) and (f), for the words "2 or 4", "1967" and "section 5 of the said Act of 1967" there shall be substituted respectively the words " 81 ", " 1980 " and " section 4 or 82 of the said Act of 1980 ".

F780.

Textual Amendments
F780 Sch. 10 Pt. II: entry repealed (27.8.1993) by 1993 c. 12, s. 50, **Sch. 6 Pt.I** (with ss. 42, 46)

Local Government (Financial Provisions etc.) (Scotland) Act 1962 (c. 9)

In section 3(d), for the word "1946" there shall be substituted the word " 1980 ".

Spray Irrigation (Scotland) Act 1964 (c. 90)

In section 1(2), for the word "1946" there shall be substituted the word " 1980 ".

Airports Authority Act 1965 (c. 16)

In section 19(5), for the words "1946" and "local water authority" wherever those words occur there shall be substituted respectively the words " 1980 " and " water authority ".

Gas Act 1965 (c. 36)

In section 15(11)(d), for the word "1946" there shall be substituted the word " 1980 ".

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In section 23(5) for the words "Acts 1946 and 1949" there shall be substituted the words " Act 1980 ".

In section 28(1)—

(a) in the definition of "limits of supply", for the words "5" and "1946" there shall be substituted respectively the words " 109(1) " and " 1980 ";

(b) for the definition of "local water authority" there shall be substituted the words—

> ""local water authority" means a water authority within the meaning of section 109(1) of the Water (Scotland) Act 1980";

(c) in the definition of "statutory right to take water" for the words "21" and "1946" there shall be substituted respectively the words " 17 " and " 1980 ".

In Schedule 3, in paragraph 9(b), for the words "21(1)" and "1946" there shall be substituted respectively the words " 17(1) " and " 1980 ".

Countryside (Scotland) Act 1967 (c. 86)

In section 63(1), (10) and (11), for the words "1946", "61(6)", "62", "61" and "1967" wherever those words occur there shall be substituted respectively the words " 1980 ", " 72 ", " 71 " and " 1980 ".

In section 65(5), for paragraph (f) there shall be substituted the words—

> "(f) water authorities within the meaning of section 109(1) of the Water (Scotland) Act 1980;"

and in paragraph (g), for the word "1967" there shall be substituted the word " 1980 ".

Sewerage (Scotland) Act 1968 (c. 47)

In section 47, for the words "55", "56", "57", "1946" and "Part III" (wherever those words occur) there shall be substituted the respectively the words " 65 ", " 66 ", " 67 ", " 1980 " and " Part V ".

Town and Country Planning (Scotland) Act 1972 (c. 52)

In section 88(4), for the words "1946", "57", "Part III" and "68" there shall be substituted respectively the words " 1980 ", " 67 ", " Part V " and " 37 ".

Control of Pollution Act 1974 (c. 40)

In section 31(2)(b)(i), for the words "50" and "1946" there shall be substituted the words " 33 " and " 1980 ".

In section 33(7), for the word "1946" there shall be substituted the word " 1980 ".

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Local Government (Scotland) Act 1975 (c. 30)

[F781]In Schedule 6, in paragragh 53(b), for the words "60 or 61" and "1946" there shall be substituted respectively the words " 70 or 71 " and " 1980 ".

Textual Amendments

F781 Entry repealed by Local Government Finance Act 1988 (c. 41, SIF 81:1, 103:2), s. 149, **Sch. 13 Pt. IV**

Airports Authority Act 1975 (c. 78)

In section 19(4), for the word "1946" there shall be substituted the word " 1980 ".

SCHEDULE 11

Section 112.

REPEALS

Modifications etc. (not altering text)

C36 The text of Sch. 11 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Chapter	Short Title	Extent of Repeal
9 & 10 Geo.6. c. 42.	The Water (Scotland) Act 1946.	The whole Act
9 & 10 Geo.6. c. 49.	The Acquisition of Land (Authorisation Procedure) Act 1946.	In Schedule 4, the entry relating to the Water (Scotland) Act 1946.
12 & 13 Geo.6. c. 31	The Water (Scotland) Act 1949.	The whole Act.
14 Geo. 6. c. 39.	The Public Utilities Street Works Act 1950.	In Schedule 5, the entry relating to the Water (Scotland) Act 1946.
4 & 5 Eliz. 2. c. 60.	The Valuation and Rating (Scotland) Act 1956.	Section 18.
6 & 7 Eliz. 2. c. 67.	The Water Act 1958.	The whole Act.
7 & 8 Eliz. 2. c. 24.	The Building (Scotland) Act 1959.	In Schedule 9, paragraph 5.
1965 c. 4.	The Science and Technology Act 1965.	In Schedule 2, the entry relating to the Water (Scotland) Act 1946.
1967 c. 78.	The Water (Scotland) Act 1967.	The whole Act except section 4(3) and, in

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		Schedule 2, paragraphs 14, 17 and 18.
1969 c. 48.	The Post Office Act 1969.	In Schedule 4, paragraph 40.
1970 c. 38.	The Building (Scotland) Act 1970.	In Schedule 1, in Part II, paragraph 4.
1973 c. 65.	The Local Government (Scotland) Act 1973.	Section 148(2) to (7) and (9).
		In Schedule 15, paragraph 27.
		In Schedule 17, paragraphs 3 to 63.
		In Schedule 23, paragraph 5(c).
		In Schedule 25, paragraphs 18 to 23 and 39.
		In Schedule 27, paragraph 158(b).
1974 c. 40.	The Control of Pollution Act 1974.	In Schedule 2, paragraphs 17 and 18.
1975 c. 30.	The Local Government (Scotland) Act 1975.	In Schedule 6, paragraphs 10, 15, 16, 39 and 56(b).

Status:
Point in time view as at 27/10/2017.

Changes to legislation:
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