



# Water (Scotland) Act 1980

## 1980 CHAPTER 45

### PART III

#### POWERS OF WATER AUTHORITIES FOR THE PURPOSES OF WATER SUPPLY

#### **12 Supply of water by water authority to premises outside limits of supply**

- (1) A water authority, with the consent of the water authority within whose limits of supply the premises are situated, may give a supply of water to premises situated outside their limits of supply.
- (2) Where a water authority are supplying water to premises outside their limits of supply, whether by virtue of subsection (1) or otherwise, the water authority within whose limits of supply those premises are situated may at any time give not less than three months' notice to the authority giving the supply that they are able and intend to give a supply of water to all the premises in that part of their limits of supply in which the premises in question are situated.
- (3) When, after the expiration of a notice given under subsection (2), the authority in whose limits of supply the premises are situated commence to supply water to the part of then-limits of supply in which those premises are situated, the authority previously giving the supply shall, except for the purpose of recovering any charges or expenses recoverable by them, and of removing any pipes, plant or apparatus belonging to them, cease to have any functions in respect of a supply to those premises.
- (4) The authority previously giving the supply shall not remove any pipes, plant or apparatus which they are required by the authority in whose limits of supply the premises are situated to leave in position, and any such pipes, plant or apparatus shall vest in the second-mentioned authority.
- (5) The authority in whose limits of supply the premises are situated shall pay to the authority previously giving the supply—
  - (a) such portion of any expenses reasonably incurred by them for the purpose of giving a supply to those premises, and

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- (b) such sum, in respect of any pipes, plant and apparatus vested in the authority in whose limits of supply the premises are situated, by subsection (4), as may be agreed, or in default of agreement, determined by arbitration.

### **13 Supply of water in bulk**

- (1) A water authority or water development board may enter into an agreement with any other persons, whether a water authority or water development board or not, for the giving by those other persons, and the taking by the authority or board, of a supply of water in bulk for any period and on any terms and conditions, and, where the supply is to be given by persons who are themselves such an authority or board, either within or outside their limits of supply or area as the case may be.
- (2) Where it appears to the Secretary of State that it is expedient that a water authority or water development board should give to any other such authority or board, and that that other authority or board should take, a supply of water in bulk, either within or outside the limits of supply or area of the authority or board by whom the supply is to be given, and he is satisfied that the giving and taking of such supply cannot be secured by agreement, he may by order require the respective authorities or boards to give and to take such supply for such period and on such terms and conditions as may be provided in the order.
- (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 of an agreement or order made under this section, a water authority or water development board may exercise, either within or outside their limits of supply or area, as the case may be, the like powers with respect to laying mains and breaking open streets as are exercisable by them under this Act for the purpose of laying mains, but subject to the like conditions and obligations.
- (4) Subject to subsection (5) the provisions of Part II of Schedule 1 shall apply to the making of orders under subsection (2).
- (5) If the Secretary of State is satisfied that, by reason of an exceptional shortage of rain or by reason of any accident or other unforeseen circumstances, a serious deficiency in the supply of water exists or is threatened in any locality, the provisions of Part II of Schedule 1 shall not apply to the making of an order under this section, and the Secretary of State may, if he considers that the interests of public health so require, direct that the provisions of this Act with respect to laying mains and breaking open streets and the street works code in the Public Utilities Street Works Act 1950 shall, in relation to any works to be carried out for the purposes of that order, have effect subject to such modifications as he may think necessary for the avoidance of delay, but any agreement or order to which this subsection applies shall cease to have effect at the expiration of such period not exceeding two years as the Secretary of State may direct.
- (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 a water authority or water development board.

### **14 Power of water authority to give guarantee for supply of water**

A water authority 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 the authority, and the execution by him of any works necessary for that purpose.

## **15 Power to acquire land**

- (1) A water authority or water development board shall have power under this section to acquire land (other than water rights) by agreement, whether by way of purchase, feu, lease, excambion or otherwise, for any of the purposes of their undertaking.
- (2) Without prejudice to the generality of subsection (1), a water authority or water development board may acquire land under that subsection for the purpose of erecting houses on the land for the use of persons employed by them for the purposes of their undertaking.
- (3) A water authority or water development board may be authorised by the Secretary of State to purchase land (other than water rights) compulsorily for any of the purposes of their water undertaking or proposed water undertaking.
- (4) A water authority or water development board may be authorised by the Secretary of State to purchase compulsorily, or may acquire by agreement, land for giving in exchange for land belonging to the National Trust for Scotland for Places of Historic Interest or Natural Beauty which is inalienable under section 22 of the order confirmed by the National Trust for Scotland Order Confirmation Act 1935, or for any land forming part of a common or open space, which they are authorised under this section to purchase compulsorily.

In this subsection—

- (a) "common" includes any town or village green;
  - (b) "open space" means any land laid out as a public garden or used for the purposes of public recreation, and any disused burial ground.
- (5) The following enactments are, subject to any necessary adaptations and modifications, incorporated with this section, that is to say—
- (a) the Lands Clauses Acts (except the provisions relating to the acquisition of land otherwise than by agreement, the provisions relating to access to the special Act, sections 93 to 98 and 120 to 125 of the Lands Clauses Consolidation (Scotland) Act 1845);
  - (b) section 6 of the Railway Clauses Consolidation (Scotland) Act 1845 ; and
  - (c) Part IV of Schedule 4.

## **16 Powers of survey and search for water on land**

- (1) The Secretary of State may, on application made to him by any water authority or water development board who propose to acquire any land for the purposes of their water undertaking or proposed water undertaking, authorise them to survey that land in accordance with the provisions of this section.
- (2) Notice of any application under subsection (1) shall be given by the authority or board 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 an authority or board are authorised to survey any land under this section, any officer of the authority or board authorised for the purpose shall, on producing if so

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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 the authority or board on whose behalf the works were carried out from any liability in respect of that damage to which they would be subject if the works had been carried out otherwise than in the exercise of statutory powers.

## **17 Acquisition of water rights**

- (1) A water authority or water development board may acquire by agreement rights to take water from any stream or other source, but no such agreement shall have effect unless the Secretary of State has made an order approving it.
- (2) The Secretary of State may, on the application of a water authority or water development board, by order provide for the compulsory acquisition by them 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 the authority or board 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 a water authority or water development board under this Part will result in the impounding of any stream—
  - (a) the Secretary of State shall not approve any agreement for the acquisition of such rights unless he is satisfied that the agreement requires the authority or board to provide an adequate amount of compensation water and incorporates the appropriate provisions of Part III of Schedule 4 subject to such modifications and adaptations as he may approve; or

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- (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 the authority or board, and shall incorporate in the order the appropriate provisions of the said Part III subject to such modifications and adaptations as he thinks fit.
- (4) Where the acquisition of water rights by a water authority or water development board under this Part will, in the opinion of the Secretary of State, substantially reduce the flow of any stream—
- (a) the Secretary of State shall not approve any agreement for the acquisition of such rights unless he is satisfied that the agreement contains adequate provisions for limiting the extent to which and the circumstances in which water may be taken from the stream ; or
  - (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) In assessing the quantity of compensation water to be provided under any such agreement or order or in determining the extent to which and the circumstances in which water may be taken under any such agreement or order, the Secretary of 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 ;
  - (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.
- (6) The provisions of Part III of Schedule 1 shall apply to the approval of agreements under this section.
- (7) The provisions of Part I of Schedule 1 shall apply to the making of applications and orders under subsection (2).

## **18 Compulsory acquisition of land for water works**

- (1) Subject to the provisions of this section, an order under section 17 may authorise an authority or board to which that section applies to acquire compulsorily such land as may be necessary for the purposes of the order, being land which an authority or board could be authorised to acquire under section 15.
- (2) The provisions of Schedule 2 shall have effect in relation to an order under section 17 which authorises any such acquisition of land.

## **19 Transfer from one authority to another**

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

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- (2) Where an order is made under subsection (1), the authority or board to which a part of the undertaking of another authority or board is so transferred shall make to that other authority or board such payment by way of consideration as, failing agreement between them, may be settled by arbitration.
- (3) An order made under subsection (1) shall provide for the transfer of all rights to take water which are exercised for the purposes of the part of the undertaking transferred by the order and, on the coming into force of that order, those rights shall be transferred to and vest in the authority or board to which the part of the undertaking is transferred.
- (4) An order under subsection (1) may for the purposes of the order contain any such provision as an order made under section 82 may contain.
- (5) The provisions of Part I of Schedule 1 shall apply to an order made under subsection (1) on the application of an authority or board concerned, and the provisions of Part II of Schedule 1 shall apply to an order so made without any such application.

## **20 Power to hold and dispose of land**

Notwithstanding anything in the Lands Clauses Acts, a water authority or water development board may hold and use for the purposes of their water undertaking for such time as they think fit any land acquired or appropriated by them for such purposes, and may from time to time sell, feu, lease, excamb or otherwise dispose of any such land in such manner, for such consideration and on such terms and conditions as they think fit and, in particular, may reserve to themselves any water rights or other servitudes in, over or belonging to the land disposed of and may dispose of the land subject to such other reservations, conditions, restrictions and provisions with respect to the use of water, the carrying on of noxious trades or the discharge or deposit of manure, sewage or any other foul matter as they think fit:

Provided that, subject to Part II of the Town and Country Planning (Scotland) Act 1959, the consent of the Secretary of State shall be required—

- (a) in the case of any sale or feu, otherwise than by public roup;
- (b) in the case of any such excambion ;
- (c) in the case of any such let where the let is for a period exceeding 21 years.

## **21 Power to carry out works**

- (1) For the purpose of providing the whole or part of their limits of supply or their area with a supply of water under this Act, a water authority or water development board may, subject to the provisions of this Act and without prejudice to any other powers they may have—
  - (a) construct, or alter or acquire by purchase, lease or otherwise, or renew or maintain waterworks ;
  - (b) acquire by purchase, lease or otherwise any undertaking belonging to persons, not being a water authority or a water development board, who are supplying or are authorised to supply water in any part of their limits of supply or their area as the case may be;
  - (c) contract with any person for a supply by that person of water in bulk or otherwise ;
  - (d) erect and maintain houses for the use of persons employed by them for the purposes of their undertaking; and

- (e) acquire by purchase, lease or otherwise premises to be used for the purposes of the authority or board and maintain such premises.
- (2) Where under this section a water authority or water development board propose to acquire the water undertaking of persons who are supplying or are authorised to supply water outside their limits of supply or their area as the case may be, they shall give notice in writing to every water authority and water development board whose limits of supply or area, as the case may be, lie wholly or partly within the area in which those persons are supplying or are authorised to supply water, and shall not proceed with their proposal unless the consent of each such authority or board has been obtained.
- (3) The consent of an authority or board under subsection (2) shall not be unreasonably withheld, and any question whether or not a consent is unreasonably withheld shall be referred to and determined by the Secretary of State.

## **22 Power to break open streets**

The provisions of Part I of Schedule 3 shall have effect in relation to the breaking open of streets by a water authority or water development board for the purpose of carrying out any works which they are authorised to execute by or under this Act or any local enactment incorporating any provisions of Schedule 4.

## **23 Power to lay mains, etc.**

- (1) A water authority or water development board may for the purposes of their functions lay a main—
  - (a) in, under or over any street or under any cellar or vault below any street after giving reasonable notice to the persons having control or management of the street, and
  - (b) in, on or over any land not forming part of a street, 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.
- (2) Where an authority or board in the exercise of their powers under this section lay a main in, on or over any land not forming part of a street, or inspect, repair, maintain, alter, renew or remove a main laid in or over any such land, they 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.
- (3) A water authority or water development board may erect and maintain in any street notices indicating the position of underground water fittings used for controlling the flow of water through their 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.

## **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 street.

- (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 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 street 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.

## **25 Power of authority to provide public wells**

- (1) A district council or a water authority may construct and maintain public pumps, wells, stand-pipes or other works for supplying water for the use of the inhabitants within their district or, as the case may be, their limits of supply.
- (2) An islands or district council may erect and maintain or authorise to be erected and maintained in any street or public place within their area or district any drinking fountain or trough; but if the council are not the highway authority in relation to any street no such fountain or trough shall be erected in that street without the consent of the highway authority which consent shall not be unreasonably withheld.

## **26 Power to close, or restrict use of, wells**

If a district council or a water authority are satisfied that—

- (a) any public well, drinking fountain or other work within their district or, as the case may be, their limits of supply and vested in them 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.

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

- (1) If an islands or district council 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 or district 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, the council 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 source of supply to be used for certain purposes only, or



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- (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 council.
- (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 council, authorise the council to do whatever may be necessary for giving effect to the order, and any expenses reasonably incurred by the council in so doing may be recovered by them from the person in default.

## **28 Water works code**

- (1) For the purpose of enabling a water authority or a water development board 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) section 5 of Part II;
  - (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 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 the water authority or water development board, 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.

## **29 Application of enactments by order**

- (1) The Secretary of State may by any order under section 13 or 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 any water authority or water development board, 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 the authority or board concerned, and the provisions of Part II of that Schedule shall apply to an order so made without any such application.

### **30 Exemption from stamp duty**

—Any conveyance, lease, standard security, mortgage, assignation, agreement, receipt or other document granted or made for any of the purposes of this Act by to or in favour of a water authority or water development board shall be exempt from all stamp duties.

### **31 Consultation with authorities in England**

- (1) Where the limits of supply of a water authority adjoin any part of England and it appears to that water authority 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, the water authority shall, insofar as they consider it appropriate to do so, consult with the water authorities and other appropriate authorities in that part of England with a view to securing the best use of that water in the public interest
- (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.

### **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 a water authority ; or
  - (b) subject to subsection (2), sell or lease to a water authority all or any of his waterworks and all his rights, powers and privileges attaching thereto but subject to all liabilities attaching thereto.
- (2) A sale by a company under subsection (1) must be authorised by special resolution of the members passed in the manner provided in Part IV of the Companies Act 1948 if the company is a company within the meaning of that Act, and if the company is not such a company, by resolution passed by three-fourths in number and value of the members present, either personally or by proxy at a meeting specially convened for the purpose with a notice of the business to be transacted.

### **33 Temporary discharge of water into watercourses**

- (1) Subject to this section a water authority or water development board who are carrying out or are 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 their undertaking may cause the water therein to be discharged into any available watercourse, and for that purpose may lay and maintain in any street or in any land not forming part of a street, whether within or outside their limits of supply or their area, as the case may be, all necessary discharge pipes and apparatus; and such statutory provisions with respect to the breaking open of streets as are applicable to the authority or board 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 street, 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 the water authority or water development board and the authority or board concerned, the water authority or water development board 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 their intentions to the fishery district board of any fishery district within which any watercourse into which the water is to be discharged is situated;
  - (b) have due regard to any representations which may be made to them 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 them as not likely to injure the river, canal or navigation or the banks thereof, or interfere with traffic thereon.
- (4) Whenever the authority or board propose to discharge water on a number of occasions during a period, the giving by them of a general notice to that effect, accompanied by such particulars as it is reasonably practicable for them to give, shall constitute sufficient compliance by them 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 the authority or board within seven days after the making of the application for the approval.
- (7) If the authority or board are requested by—
- (a) the owner or occupier of any land which abuts on a watercourse at a point within three miles of any work of the authority or board 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
  - (c) the owner or occupier of a salmon fishing on a water course 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, the authority or board shall enter his name and address in a register kept by them 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 they are (in the absence of any emergency or agreement to the contrary) required under subsection (3)(a) to send to a fishery district board.

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- (8) Except insofar as may be otherwise agreed in writing, where the authority or board discharge water during an emergency, they 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) The authority or board shall take all necessary steps to secure that any water discharged by them 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 highway.
- (11) In the exercise of the powers conferred by this section the authority or board 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.

#### **34 Persons supplying water to supply to authority**

Any person supplying water within the limits of supply of a water authority shall furnish such supply to that authority as they may require and as it is reasonably practicable for that person to provide, and that on such terms and conditions as may be agreed between him and the authority; and, if they fail to agree, the amount of the supply and the 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.

#### **35 Power to supply water fittings**

- (1) A water authority may, on the request of any person to whom they supply or propose to supply water, supply to him by way either of sale or hire any such water fittings as are required or allowed by their byelaws and may, on such request, install, repair or alter (but not manufacture) any such water fittings, whether supplied by them or not, and may provide any materials and do any work required in connection with such installation, repair or alteration of water fittings.

The authority 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 let for hire by the authority bear either a distinguishing plate affixed thereto, or a distinguishing brand or other mark conspicuously impressed or made thereon, sufficiently indicating the authority as the actual owners of the fittings, those fittings—
  - (a) shall, notwithstanding that they be 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, the authority; and

- (b) shall not be subject to pouncing or other 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 possession they may be.
- (3) Nothing in subsection (2) shall affect the valuation for rating of any lands and heritages.
- (4) The authority shall so adjust the charges to be made by them under this section as to meet any expenditure by them thereunder, including interest upon any moneys borrowed for the purposes thereof and any sums carried to a sinking fund or otherwise required for repayment of moneys so borrowed, and the total sums expended and received by the authority in connection with the purposes of this section in each year, including interest and any sums carried to a sinking fund or otherwise required for repayment of moneys borrowed, shall be separately shown in the published accounts of the authority for that year.
- (5) If any person wilfully or negligently injures or suffers to be injured any water fitting belonging to the authority, he shall be liable on summary conviction to a fine not exceeding £25 and the authority may do all such work as is necessary for repairing any injury done and may recover the expenses reasonably incurred by them in so doing from the offender.

### **36 Power to execute work on behalf of owner or occupier**

A water authority 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.

### **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 a water authority or water development board shall, on producing if so required some duly authenticated document showing his authority, have a right to enter any premises at all reasonable hours—
  - (a) for the purpose of inspecting and examining meters used by the authority or board for measuring the water supplied by them and of ascertaining therefrom the quantity of water consumed ;
  - (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;

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*Status: This is the original version (as it was originally enacted).*

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- (c) for the purpose of ascertaining whether or not circumstances exist which would authorise the authority or board 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 the authority or board.
- (2) Admission to any premises, not being a factory within the meaning of the 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 £50 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 £25.

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