

SCHEDULES

SCHEDULE 4

PROVISIONS TO BE INCORPORATED IN ORDERS RELATING TO WATER UNDERTAKINGS

Modifications etc. (not altering text)

- C1 Sch. 4 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 3, Sch. 7 para. 2 (1) (xxxviii), Sch. 8 para. 33
- C1 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)

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 [F1road] no such limits are shown, the boundaries of the [F1road] (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

- F1 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)

- C1 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

**Changes to legislation:** *Water (Scotland) Act 1980, Part II is up to date with all changes known to be in force on or before 10 April 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) View outstanding changes*

- 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  
**C2** [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.

*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 [<sup>F2</sup>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**

- F2** 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)**

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#### Textual Amendments

- F3** 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 [<sup>F4</sup>level 1 on the standard scale].

#### Textual Amendments

- F4** 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.
- (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 <sup>F5</sup> . . . 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.

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#### **Textual Amendments**

- F5** 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.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 24(1A) inserted by [2003 asp 3 sch. 4 para. 3\(3\)](#)
- s. 110A certain functions transferred by [S.I. 1999/1750 art. 3Sch. 2](#) (This amendment not applied to legislation.gov.uk. The insertion of s. 110A by 1995 c. 25, Sch. 21 para. 5 has not yet been brought into force)
- s. 110A inserted by [1995 c. 25 Sch. 21 para. 5](#)
- s. 110A(7) words substituted by [1997 c. 11 Sch. 2 para. 30\(2\)\(a\)](#) (This amendment not applied to legislation.gov.uk. The insertion of s. 110A by 1995 c. 25, Sch. 21 para. 5 has not yet been brought into force)
- s. 110A(8) words substituted by [1997 c. 11 Sch. 2 para. 30\(2\)\(b\)](#) (This amendment not applied to legislation.gov.uk. The insertion of s. 110A by 1995 c. 25, Sch. 21 para. 5 has not yet been brought into force)
- Sch. 3 para. 4(3)(4) inserted by [2003 asp 3 sch. 4 para. 4\(2\)](#)
- Sch. 3 para. 6(1A) inserted by [2003 asp 3 sch. 4 para. 4\(3\)](#)
- Sch. 4 s. 34(3) inserted by [2003 asp 3 sch. 4 para. 5](#)