
Changes to legislation: There are currently no known outstanding effects for the Water Act 1989, Paragraph 6. (See end of Document for details)

SCHEDULES

SCHEDULE 23

CONTROL OF WATER POLLUTION IN SCOTLAND

6 For sections 53 to 56 there shall be substituted the following sections—

“53 Charges in respect of consents, etc.

(1) Where—

- (a) an application is made to a river purification authority for a consent for the purposes of sections 31(3), 32 or 49 of this Act;
- (b) the authority gives a consent under section 34(3) of this Act or a consent for the purposes of section 31(3) or 49 of this Act; or
- (c) a consent for the purposes of sections 31(3), 32 or 49 of this Act is for the time being in force,

the authority may require the payment to it of such charges as may be specified in or determined under a scheme made by it under this section.

(2) The persons who shall be liable to pay charges which are required to be paid by virtue of a scheme under this section shall be—

- (a) in the case of a charge by virtue of subsection (1)(a) above, the person who makes the application;
- (b) in the case of a charge by virtue of subsection (1)(b) above, any person who is authorised to do anything by virtue of the consent and on whom the instrument giving the consent is served; and
- (c) in the case of a charge by virtue of subsection (1)(c) above, any person who makes a discharge in pursuance of the consent at any time during the period to which, in accordance with the scheme, the charge relates;

and provision made by a scheme for the purposes of paragraph (c) above may impose a single charge in respect of the whole period for which the consent is in force or separate charges in respect of different parts of that period or both such a single charge and such separate charges.

(3) An authority shall not make a scheme under this section unless its provisions have been approved by the Secretary of State; and the consent of the Treasury shall be required for the giving of such an approval.

(4) Before submitting a scheme under this section to the Secretary of State for his approval an authority shall, in such manner as it considers appropriate for bringing it to the attention of persons likely to be affected by it, publish a notice setting out its proposals and specifying the period within which representations with respect to the proposals may be made to the Secretary of State.

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- (5) Where any proposed scheme has been submitted to the Secretary of State for his approval, it shall be the duty of the Secretary of State, in determining whether or not to approve the scheme or to approve it subject to modifications—
- (a) to consider any representations duly made to him; and
 - (b) to have regard to the matters specified in subsection (6) below.
- (6) The matters mentioned in subsection (5)(b) above are—
- (a) the desirability of ensuring that the amount recovered by the authority by way of charges fixed by or under schemes under this section does not exceed, taking one year with another, such amount as appears to the Secretary of State to be reasonably attributable to the expenses incurred by the authority in carrying out its functions under sections 34 to 38 and 49 of this Act and otherwise in relation to discharges into controlled waters; and
 - (b) the need to ensure that no undue preference is shown, and that there is no undue discrimination, in the fixing of charges by or under the scheme.
- (7) A scheme under this section may—
- (a) make provision with respect to the times and methods of payment of the charges which are required to be paid by virtue of the scheme;
 - (b) make different provision for different cases, including different provision in relation to different persons, circumstances or localities; and
 - (c) contain supplemental, consequential and transitional provision for the purposes of the scheme;
- and such a scheme may revoke or amend a previous scheme under this section.
- (8) It shall be the duty of a river purification authority to take such steps as it considers appropriate for bringing the provisions of any scheme under this section which is for the time being in force to the attention of persons likely to be affected by them.

54 Directions to the river purification authority.

- (1) Directions of a general or specific character may be given to each river purification authority by the Secretary of State with respect to the carrying out of its functions and it shall be the duty of each river purification authority to comply with any such direction.
- (2) Without prejudice to the generality of the power conferred by subsection (1) of this section, directions under that subsection may include such directions as the Secretary of State considers appropriate in order to enable Her Majesty's Government in the United Kingdom to give effect to—
- (a) any Community obligations; or
 - (b) any international agreement to which the United Kingdom is for the time being a party.

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- (3) Any power of the Secretary of State otherwise than by virtue of this section to give direction to a river purification authority shall be without prejudice to the power conferred by this section.

Supplemental

55 Discharges by islands councils.

- (1) This part of this Act shall have effect with prescribed modifications in relation to discharges by an islands council in its area.
- (2) Without prejudice to the generality of the power to make regulations conferred by the preceding subsection, any regulations made in pursuance of that subsection may provide for consents required by islands councils for the purposes of this Part of this Act as modified by virtue of that subsection to be or be deemed to be given by the Secretary of State.

56 Interpretation etc. of Part II.

- (1) Except where the context otherwise requires, in this Part of this Act—
- “agriculture” and “agricultural” have the same meanings as in the Agriculture (Scotland) Act 1948;
 - “coastal waters”, “controlled waters”, “ground waters”, “inland waters” and “relevant territorial waters” have the meanings given by section 30A(1) above;
 - “effluent” means any liquid, including particles of matter and other substances in suspension in the liquid;
 - “micro-organism” includes any microscopic biological entity which is capable of replication;
 - “sewage effluent” includes any effluent from the sewage disposal or sewerage works of a local authority within the meaning of the Sewerage (Scotland) Act 1968;
 - “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;
 - “trade effluent” includes any effluent which is discharged from premises used for carrying on any trade or industry, other than surface water and domestic sewage;
 - “underground strata” means strata subjacent to the surface of any land;
 - “water authority” means an authority established in accordance with section 3 of the Water (Scotland) Act 1980;
 - “watercourse” includes all rivers, streams, ditches, drains, cuts, culverts, dykes, sluices, sewers, and passages through which water flows except mains and other pipes which belong to the water authority or are used by a water authority or any other person for the purposes only of providing a supply of water to any premises.
- (2) In this Part of this Act—

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- (a) any reference to the waters of any loch or pond or of any river or watercourse includes a reference to the bottom, channel or bed of any loch, pond, river or, as the case may be, watercourse which is for the time being dry; and
 - (b) any reference to water contained in underground strata is a reference to water so contained otherwise than in a sewer, pipe, reservoir, tank or other underground works constructed in any such strata.
- (3) For the purposes of the definition of “trade effluent” in subsection (1) above any premises (whether on land or not) wholly or mainly used (whether for profit or not) for agricultural purposes or for the purposes of fish farming or for scientific research or experiment shall be deemed to be (and in the case of fish farms, always to have been) premises used for carrying on a trade.
- (4) For the purposes of this Part of this Act the area of a river purification authority shall include all controlled waters off the coast of the area which is the authority’s area apart from this subsection; and any question as to whether any place is included in the area of a river purification authority by virtue of this subsection shall be determined by the Secretary of State.
- (5) For the purposes of this Part of this Act a notice imposing conditions with respect to discharges which was given by a river purification authority in pursuance of—
 - (a) section 28(4) of the Rivers (Prevention of Pollution) (Scotland) Act 1951; or
 - (b) section 1(5) of the Rivers (Prevention of Pollution) (Scotland) Act 1965,shall be treated as having given the authority’s consent in pursuance of the Act in question for those discharges subject to those conditions.
- (6) Section 30(5) of this Act shall have effect in relation to this Part of this Act as if for any reference to Part I of this Act there were substituted a reference to this Part of this Act.”

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